



WSBA World Peace Through Law Section

May 2008

**"Equal
Justice
Under
Law"**

**- Engraved on
the front of the
United States
Supreme Court
building.**

American Exceptionalism A Challenge to Peace through Law

Tuesday – May 20, 2008

On Tuesday, May 20th, the World Peace Through Law Section of the Washington State Bar Association Section presents "*American Exceptionalism: A Challenge to Peace through Law*" featuring attorneys Martha L. Schmidt and Marcel Green, noon to 1:00 pm, at the WSBA offices in Seattle.

Please note the date – this is NOT the last Tuesday of the month.

The doctrine of American exceptionalism challenges the international law regime established under the United Nations which rests on sovereign equality and collective security.

The origins, meaning and effect of American exceptionalism have been the topic of historical scholarship for some time, e.g., Tocqueville's *Democracy in America* (1835) and Turner's *The Frontier in American History* (1921). The notion that one nation's story differs qualitatively from others because of unique origins, national credo, historical evolution, and distinctive political and religious institutions doesn't adequately address why our country treats

international law, including international human rights law, as differently as we do from all other countries, including those with political and economic systems which are similar to ours such as Canada, the UK, and France.

The program focuses on:

- 1) Exemption of the U.S. from treaty obligations by reservation, non-ratification and noncompliance, known as *exemptionalism*;
- 2) *Double standards* in applying international law to the United States and U.S. allies; and
- 3) *Denial of jurisprudence* for enforcement of human rights in U.S. courts, including deprivation of remedies and ignoring decisions of other states on international human rights law.

Part of the presentation will analyze the recent U.S. Supreme Court decision in *Medellin v. Texas* (25 March 2008) as an example of legal exceptionalism.

Pre-registration for this event is recommended! Members of the WPTL Section, free; non-members, \$25; law students, \$8. Fee includes membership in the Section. 1.0 CLE credit approved! We hope to see you there!

WPTL Section Seeks Chair to Complete 2008 Term

Dear WPTL Section Members:

I have recently accepted an offer to join the *Rural Development Institute* as state director in Andhra Pradesh, India. Since I will be moving to India in June, I am unable to complete my term as chair of this section. Therefore, we need someone to take my place for the second half of 2008. Please volunteer by contacting me or another section officer.

- Darryl Vhugen, Chair, World Peace Through Law Section (January - May 2008)



2008

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Committee**

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[www.wsba.org/lawyers/
groups/worldpeace](http://www.wsba.org/lawyers/groups/worldpeace)

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WSBA Service Center
800-945-WSBA (9722)

Coming in June to WPTL...

**Unlawful Imprisonment of Arab Americans
Case Study**

Hamoui v. Ashcroft, 389 F.3d 821 (9th Cir. 2004)

Attorney Bernice Funk will discuss *Hamoui v. Ashcroft* at the Section's June meeting. In the very early morning of February 22, 2002, the Islamic High Holy Day, three members of the Hamoui family were arrested at gunpoint by government agents, purportedly pursuant to the *Alien Absconder Initiative* of Attorney General Ashcroft. They were kept in civil jail for many months, leaving the two youngest family members without their parents and an older sister. The family was represented by paid counsel and had lived at the same address known to the government for about 10 years. Safouh Hamoui, a pilot, claimed asylum in 1992 based on a well-founded fear of persecution because the Syrian government falsely accused him of attempted assassination in 1991 when he landed a plane in extreme weather conditions (no one was hurt, but the plane was badly damaged).

Mr. Hamoui's first counsel did not properly prepare his life and death asylum claim and filed an insufficient appeal late, resulting in summary dismissal. Mr. Hamoui's second lawyer prepared an insufficient appeal before the 9th Circuit and failed to advise his client of a six-month window of opportunity to apply for relief under the *UN Convention Against Torture*, albeit the Syrian government is known to torture "political opponents" such as Mr. Hamoui. Mr. Hamoui's third counsel made numerous mistakes with the case in *legal extremis*, including advising Mr. Hamoui to ignore the government's "bag and baggage" letter.

When the facts and life-and-death stakes for the Hamoui family were brought to the attention of the government, the doors were shut tight, resulting in four years of intense litigation and family trauma.

Seattle attorney Bernice Funk will discuss the case. In particular, she will address:

- The facts and law and the government response;
- The prejudicial ineffective assistance of immigration counsel and the WSBA's response; and
- WSBA grievances against lawyers – *are immigrants protected persons?*

Speaker Bernice Funk has been successful in litigating immigrants' rights with an emphasis on the prejudicial ineffective assistance of counsel, notably in the Hamoui case, and in that of a local Iranian-American family in 1995. She prevailed in *Clemente v. INS*, 2001 U.S.App. LEXIS 6135, immigrant slavery, and *Goldeshtein v. INS*, 8 F.3d 645 (9th Cir. 1993), defining a crime of moral turpitude.

To facilitate discussion, section members are urged to read *Hamoui v. Ashcroft* (although this is not required – please come regardless)! To have a copy emailed to you, contact Randy Winn, rewinn2003@yahoo.com.

About the World Peace Through Law Section

The World Peace Through Law Section is a section of the WSBA whose subject matter is law and peace and how each can promote the other. Our events are open to all and include a broad discussion of many views. Join us for lively learning and networking!