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Course title: Law and Religion

Language of instruction: English

The course invites students to undertake an interdisciplinary and comparative study of the relationship between law and religion and its implications for 21st century multicultural societies. More specifically, the course will focus on the manner in which law mitigates the challenges and complexities posed by religious and cultural practices in modern democracies. The variety of issues here include questions of religious freedom; public and private morality; the relationship of institutional religions; legal norms; religious laws; and the nexus of religion and politics both nationally and globally.

Through four different sections the course will unpack if and how law defines religion and/or religion defines law through specific legal sources, histories and examples. The first and more theoretical part is divided into 1) concepts, ideas and possible approaches to both religion and law and 2) examines the implication of secularism and secularisation on both religion and law. The second which is also divided into two will discuss concrete examples in 1) different national contexts and 2) international frameworks.

Course Objectives:

Students in this course will: (a) demonstrate a developed knowledge of different religious perspectives on the law; (b) unpack what is meant by secularism and by religion (i.e. the interaction between secular and religious/divine law); how the law both protects and limits religious practice; judicial responses to conflicts between freedom of religion and other rights; (c) gain an understanding of the Western legal system in religious perspectives and backgrounds (d) appreciate the notion of free exercise of religion: source of the right, nature of the “balancing process”, intersection of freedom of religion with other fundamental human rights and general legal regulation of behaviour (e) acquire an appreciation of religious diversity and its implications on national and international law.

Student profile

MA students

Prerequisites

None

Course Requirements

Term-Paper (70%) By the semester’s break (“*Weihnukka*”) all students should “meet” with the professor through zoom to identify a suitable topic they would like to write their term paper on. Topics must be approved by the professor. This is not meant to limit the range of topics addressed by students, but instead to ensure that students have chosen a manageable topic that involves both law and religion. The topic can be a specific issue/legal incident that relates to the intersectionality between law and religion or then a more

theoretical issue that implicates the law and religion. Before the holidays the students will submit a brief written outline of their chosen topic as well as a list of sources consulted to date (1-2 pages these will of course be used in the final paper). Outlines must be submitted electronically (if you do not hear back from me in 24 hours it means I have not received it). Students are welcome to have bilateral zoom sessions with the professor in order to discuss their topics or any related issues. All papers must be typed, in 12 font, with 1 inch margins, double-spaced, on one side only, on letter sized paper. The length of your paper (excluding appendices and bibliography) must not be less than 10 or more than 12 pages.

Class Participation (15%) Students are expected to “come” to class (appear in the zoom sessions) having read the materials and must be prepared to engage actively in class discussion.

Class Presentation (15%) Each student will present at least 1 and no more than 2 of the reading to the rest of the students at the beginning of each session. This includes 3-5 slides.

Teaching Method: This course is a seminar course and will proceed primarily by class discussions that will take place as scheduled every 2 weeks online. Students are expected to “come to class” having read the materials and must be prepared to engage actively in class/zoom discussion. Each topic of the four will be discussed during at least 2 sections.

Literature: as specified below

Topics	Readings, etc.
Concepts, ideas, possible approaches (or why should we study the intersectionality between law and religion?)	1) Christine Hayes, <i>What’s Divine about Divine Law? Early Perspectives</i> , Princeton University Press, <i>Princeton and Oxford</i> , 2017, 1-9. 3) In God’s Name: A Special Report on religion and public life. In <i>The Economist</i> , (2007) https://www.economist.com/sites/default/files/special-reports-pdfs/10015148.pdf 4) Jonathan Z. Smith, “Religion, Religions, Religious,” pp. 269-284 https://womrel.sitehost.iu.edu/Rel433%20Readings/SearchableTextFiles/Smith_ReligionReligionsReligious.pdf 5) Tomoko Masuzawa, “Culture,” in Mark C. Taylor, ed., <i>Critical Terms for Religious Studies</i> , 70-93. University of Chicago Press, (1998) 70-93.
Secularism, secularisation, religion & law (or how secular is secular government? Can religious freedom be secured by secularism?)	1) Jürgen Habermas, “Religion in the public sphere”. <i>European Journal of Philosophy</i> , 14/1, (2006) 1-25 2) Richard Rorty, “Religion as Conversation-Stopper.” <i>Common Knowledge</i> 3:1 (Spring), 1–6, (1994) 3) Winnifred Fallers Sullivan Source, “We Are All Religious Now”, <i>Social Research</i> , WINTER 2009, Vol. 76, No. 4, <i>The Religious-Secular Divide: The U.S. Case</i> (WINTER 2009), pp. 1181-1198, The Johns Hopkins University Press. Available at: https://www.jstor.org/stable/pdf/40972209.pdf?refreqid=excelsior%3A933fbbb8f719453790cd682cf6efe9aa

	<p>4) Reut Yael Paz, <i>A Gateway Between a Distant God and a Cruel World: The Contribution of Jewish German Scholars to International Law</i>. Brill: Martinus Nijhoff Publishers, 2012. Chapter 2: Historical Background pp. 43-84.</p> <p>4) Karl Marx, "On the Jewish Question," pp. 26-46, available at https://www.marxists.org/archive/marx/works/1844/jewish-question/</p> <p>5) John Locke, <i>A Letter Concerning Toleration</i>, pp. 11-12, 13-22, 26-49, 54-69, available at https://socialsciences.mcmaster.ca/~econ/ugcm/3ll3/locke/tolerati on.pdf</p>
<p>3. Specific examples I: or how secular is the secular government in Germany, France, UK and the USA</p>	<p>1) Reut Yael Paz, "The Cologne Circumcision Judgment: A Blow Against Liberal Legal Pluralism?" in <i>Verfassungsblog</i>, on Matters Constitutional, Recht/Kontext, Wissenschaftskolleg zu Berlin, 24 July 2012. Available at: https://verfassungsblog.de/cologne-circumcision-judgment-blow-liberal-legal-pluralism/</p> <p>2) Marieke Riedel, "An Uneasy Encounter: Male Circumcision, Jewish Difference, and German Law", <i>Studies in Law, Politics, and Society (Studies in Law, Politics, and Society, Vol. 79 (2019))</i>, Emerald Publishing Limited, pp. 55-84. https://doi.org/10.1108/S1059-433720190000079005 Download as .RIS</p> <p>3) Heather M. Rubens, "Something has Gone Wrong": The JFS Case and Defining Jewish Identity in the Courtroom, 29 <i>Md. J. Int'l L.</i> 366 (2014). Available at: http://digitalcommons.law.umaryland.edu/mjil/vol29/iss1/15</p> <p>4) J.H.H. Weiler, "Discrimination and Identity in London: The Jewish Free School Case," <i>Jewish Review of Books</i> no. 1 (Spring 2010) Available at: https://cpb-us-e1.wpmucdn.com/sites.northwestern.edu/dist/c/1549/files/2019/01/weiler_discrimination-uggvqo.pdf</p> <p>5) Patrick Weil, "Why the French Laïcité is Liberal", <i>Cardozo Law Review</i>, 30:6, 2699–2714 (2008–9) Available at: http://enfrancaisclasse.com/wp-content/uploads/2012/08/PatrickWeilLaiciteLiberal.pdf</p> <p>6) Winnifred Fallers Sullivan, <i>The Impossibility of Religious Freedom</i>, Princeton University Press 2002, Introduction and Chapters 1-2, pp. 1-33.</p> <p>7) Jason Horowitz, <i>In Shift for Church, Pope Francis Voices Support for Same-Sex Civil Unions</i>, <i>New-York Times</i>, Oct. 21, 2020 Available at: https://www.nytimes.com/2020/10/21/world/europe/pope-francis-same-sex-civil-unions.html</p> <p>8) Jenna Reinbold, "Traditional Marriage on Trial: The Supreme Court, Same-Sex Marriage, and the Fate of Secular Argumentation", <i>Journal of Church and State</i>, Volume 59, Issue 1, February 2017, Pages 81–101, Available at: https://doi.org/10.1093/jcs/csv100</p>

<p>4. Specific examples II: or how secular are the international bodies & organizations?</p>	<p>1) Alexander Tischbirek, "A Double Conflict of Laws: The Emergence of an EU 'Staatskirchenrecht'"? <i>German Law Journal</i> (2019), 20, pp. 1066–1078, Available at https://www.cambridge.org/core/journals/german-law-journal/article/double-conflict-of-laws-the-emergence-of-an-eu-staatskirchenrecht/3EB033DF565F9B03EAD8CD30AFC8F511</p> <p>2) Martti Koskenniemi, "Empire and International Law: The Real Spanish Contribution" 61 <i>The University of Toronto Law Journal</i> (2011) 1–36.</p> <p>3) Reut Yael Paz, "Religion, Secularism and International Law", in <i>Oxford Handbook of International Legal Theory</i>, Eds. Anne Orford and Florian Hofmann (2016) pp. 923-938</p> <p>4) Robbie Sabel, "A Role for International Law in Combating Antisemitism?", <i>Israel Journal of Foreign Affairs</i>, 10:3,451-456, (2016), Available at https://www.tandfonline.com/doi/abs/10.1080/23739770.2016.1247317?scroll=top&needAccess=true&journalCode=rifa20</p> <p>5) Reut Yael Paz, "'If I forget thee, O Jerusalem' in <i>International Law, Religion and Empire</i>," Eds. Mónica García-Salmones and Paolo Amorosa, Oxford University Press (2018), pp. 275-286.</p> <p>6) Ronan McCrea, "Secularism Before the Strasbourg Court: Abstract Constitutional Principles as a Basis for Limiting Rights", <i>The Modern Law Review</i>, (2016) Vol. 79, Issue 4, pp. 691-705. Available at https://onlinelibrary.wiley.com/doi/abs/10.1111/1468-2230.12206</p>
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