

Religion and Law in the United States
AMST 325/POL 325
Spring 2016

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Office hours TR 4:30-5:30 and by appt

Course Description:

This course introduces students to Church-State jurisprudence in the United States, with particular attention to the difficulty of defining religion. We begin by mastering constitutional concepts that underlie religion jurisprudence. Then, by studying key Supreme Court cases, we gain perspective on the development and present state of the law. In the final part of the course, students engage in a group project concerning on a case or controversy that highlights the limitations of, contradictions in, and prospects for “religion” as a constitutional concept. Your final paper will be your own opinion on the issue presented by your group.

Student Learning Outcomes:

The intersection of religion and law represents an important dimension of American history and politics; the course will provide a detailed knowledge of this dimension. Moreover, the conflicts embedded in these court cases are signally illuminating in relation to the challenges of American multiculturalism. By studying these cases, students will practice various methods of managing cultural change and conflict within a constitutional framework. Students will master this history, learn to read Supreme Court decisions, and critically analyze the discourses of religion that have been and remain highly influential in the United States.

Ethics Focus:

This course has a Contemporary Ethical Issues (E) Focus designation. The minimum standard for Ethics Focus courses is that ethical issues comprise at least 30% of course content and take up at least 8 hours of class time, but in this course we exceed these minimums. Contemporary ethical questions will woven into the cases we will study throughout the semester, and Part III of the course will be devoted entirely to ethical deliberation based on the religion clauses. Through lectures, discussions, and debates, students will develop basic competency in (A) recognizing and analyzing the ethical issues embedded in church-state cases; (B) deliberating those ethical issues and (C) applying the religion clauses to other issues that arise in American public life.

Requirements

- 1) 20% On-line objective exam based on material from Part I.
- 2) 20% Case presentation. Each student will be responsible for a 20 minute presentation of one assigned case. In the presentation, you identify the key

facts, findings, and rationale of the case. Your presentation must be accompanied by either printed or power point materials.

3) 20% Seminar attendance and informed participation, especially when called upon. If you miss more than 3 classes, absences will detract from your grade at a rate of 2 points per class. (For example, if you miss 5 classes, 4 points are deducted from your final grade).

4) 15% Issues project. In teams, you are going to work on a current church-state issue.. Each team will be researching their issue, providing the class with background materials, and arguing the case in class.

5) 25% Final paper. Each student will write a final paper formulating your own opinion on the issue studied by your team.

Texts:

David Currie. 2000. The Constitution of the United States: A Primer for the People. University of Chicago Press.

Thomas Jefferson "A Bill for Establishing Religious Freedom" Online at http://www.religioustolerance.org/virg_bil.htm

James Madison, "Memorial and Remonstrance" Online at http://religiousfreedom.lib.virginia.edu/sacred/madison_m&r_1785.html

Additional readings will be posted on course website and/or through electronic reserves.

Online sources for Supreme Court decisions. There are several good sources:

The Oyez project - Excellent for its listing of decisions, recordings of oral arguments, breakdown of votes, and links to briefs.

Available online at <http://www.oyez.org/issues>

The official site for the Supreme Court. Good for recent opinions (since 2002), oral arguments, finding case citations, etc.

Online at <http://www.supremecourtus.gov/http://www.supremecourtus.gov/>

Course Calendar

Part I - Founding Documents and Historical Overview

Tu. 1/12 Course Introduction. The First Amendment religion clauses; Impossibility of Defining Religion.

Th. 1/14 Read U.S. Constitution and Currie Ch. 1 -2 (Structure of federal government; Judicial Review)

Tu. 1/19 Read Currie Ch. 3 - 4 (Federalism and Separation of Powers)

Th. 1/21 Read Currie Ch. 5-6 (Due Process and Equal Protection)

Tu. 1/26 Read Currie Ch. 7-8 (Freedom of Speech and Press; Church and State)

Th. 1/28 History of Church-State Read Thomas Jefferson, "A Bill for Establishing Religious Freedom;" James Madison, "Remonstrance and Memorial Against Religious Assessments"

Tu. 2/2 Read Sands, "Original Confusion: The Wall, the Foundation, and the Framers." Six Guiding Principles.

Th. 2/4 Review for Driver's Test.

Online Exam Th. 2/4 - Fr. 2/5

Part II – Establishment Clause Jurisprudence in the Supreme Court

Tu. 2/9 The Incorporation of Establishment and the Advent of Legal Secularism
Read: Everson v. Board of Education (1947) - read majority opinion and two dissents.

Th. 2/11 Abington v. Schempp (1963) read majority opinion and Stewart dissent.

Tu. 2/16 Religion in the Classroom and the Town Square
Edwards v. Aguillard (1987) Read majority opinion and dissent by Scalia.

Th. 2/18 Lynch v. Donnelly (1984) Read Syllabus, O'Connor concurrence, and Brennan dissent.

Tu. 2/23 Prayer in Public Space
Lee v. Weisman (1992) Read syllabus and dissent; Town of Greece v. Galloway (2014) Read majority opinion and dissent by Kagan.

Th. 2/25 The Ten Commandments and American Public Religion.
Van Order v. Perry (2005) Read everything - majority opinion, concurrences, and dissents.

Tu. 3/1 McCreary v. ACLU (2005). Read majority opinion, concurrence, and dissent.

Th. 3/3 Summary of Establishment clause jurisprudence

PART III – Free Exercise Jurisprudence in the Supreme Court

Tu. 3/8 Reynolds v. U.S. (1878)

Th. 3/10 U.S. v. Ballard (1944) Read majority opinion plus dissents.

Tu. 3/15 All Read Torcaso v. Watkins (1961) and Sherbert v Verner (1963)

Th. 3/17 Wisconsin v. Yoder (1972) all read syllabus

Spring Break

- Tu. 3/29 Oregon v. Smith (1990) All read majority opinion and O’C dissent.
- Th. 3/31 Snyder v. Phelps (2011) all read majority opinion.
- Tu. 4/5 Burwell v. Hobby Lobby (2014) – all read majority opinion and dissent.
- Th. 4/7 Church of Lakumi Babalu Aye v. City of Hialeah, Florida (1993).
Summary: Free Exercise jurisprudence today

Part IV – Group Cases

- Tu. 4/12 Chooses cases; form groups.
- Th. 4/14 Preparation of group cases.
- Tu. 4/19 Group 1 case presentation
- Th. 4/21 Group 2 case presentation
- Tu. 4/26 Group 3 case presentation
- Th. 4/28 Group 4 case presentation
- Tu. 5/3 Opinion writing workshop

FINAL PAPER IS DUE ON Friday 5/5

Resources and Policies for UH Manoa Students:

I. Disability accommodations – (From the Kokua Office)

Any student who feels s/he may need an accommodation based on the impact of a disability is invited to contact the KOKUA Program (Office for Students with Disabilities) to ensure reasonable accommodations in this course. KOKUA can be reached at (808) 956-7511 or (808) 956-7612 (voice/text) in Room 013 of the Queen Lili’uokalani Center for Student Services.

II. Counseling Services

Counseling Services are available to UH students free of charge, and can be useful at times of personal crisis or career uncertainty. Go to the Queen Lili’oukalani Center for Student Services, room 312 or call 956-7927

III. Academic Integrity (from the UH catalog)

The integrity of a university depends upon academic honesty, which consists of independent learning and research. Academic dishonesty includes cheating and plagiarism. The following are examples of violations of the Student Conduct Code that may result in suspension or expulsion from UH Manoa.

Cheating - Cheating includes, but is not limited to, giving unauthorized help during an examination, obtaining unauthorized information about an examination before it is administered, using inappropriate sources of information during an examination, altering the record of any grade, altering an answer after an examination has been submitted, falsifying any official UH Manoa record, and misrepresenting the facts in order to obtain exemptions from course requirements.

Plagiarism - Plagiarism includes, but is not limited to, submitting, to satisfy an academic requirement, any document that has been copied in whole or in part from another individual's work without identifying that individual; neglecting to identify as a quotation a documented idea that has not been assimilated into the student's language and style; paraphrasing a passage so closely that the reader is misled as to the source; submitting the same written or oral material in more than one course without obtaining authorization from the instructors involved.