Course Description

In many ways, the hallmark achievement of the American founding was creating a democratic system that protected individual rights, notably freedom of religion and conscience. The 1st Amendment aimed to protect citizens from encroachment by the state upon their conscience, to prevent a religious group from hijacking the political order, and to ensure religions had the freedom to pursue their noble ends unfettered by state administration. This course will examine the history and context of the Constitution's protections for religious freedom and the ways that these principles have played out over time--in cases, popular opinion, and political wrangling.

The course will be structured around four units. In the first unit, we will explore the idea of religious freedom at the time of the drafting and ratification of the Constitution so as to glean some understanding of the meaning of the text. We will explore philosophers, theologians, and the writings of some of the leading intellectuals of the founding era, as well as gain a sociological and historical view of the diverse practices of religion in America. In the second unit, we will examine how the so-called establishment clause was interpreted over the past two hundred years, by reading cases in state and federal courts. In the third unit, likewise, we will explore how the free exercise of religion was interpreted over the past two hundred years, by reading cases in state and federal courts. In the fourth unit, we will read a few contemporary theorists who challenge us to think more carefully about how to protect religious freedom.

Our goal is not to decipher the particular legal issues of the cases we read so much as to understand how a political system like that in the US can deal with the problems of religion and morality that the legal cases expose. We shall attempt to comprehend how political and legal theorists have understood the relationship between “Church and State” and whether religious and moral activity should be regulated and then to see how political and legal institutions have grappled with these questions in real-life conflicts.

The course will be conducted through lectures, discussion, and presentations by students. Students should be prepared to participate actively, based on a thoughtful reading of the texts.

Course Goals

- To explore and understand the intellectual, material, and historical context of the US Constitution’s protection of religious freedom
To cover the basic history and theory of legal protections of religious freedom and prohibitions on establishment of religion by reading and analyzing cases in state and federal courts

To explore and understand basic theoretical positions defining new potential paths for political and legal approaches to protecting religious freedom in the US

To conduct an in-depth research project on a specific topic within this issue area, culminating in a 20-25 page paper of significant substance and form.

Expectations and Assignments

- Students should be prepared to participate actively in class discussions (25% of total grade)
- You should strive to achieve the ideals of a liberal arts education: free and candid exchange of ideas, rigorous critique of claims, and toleration for considering variant positions. This portion of the grade will take into account familiarity with the readings, your active and keen questioning of the text and your colleagues, attendance, and the quality of your class participation in general.
- Students must adhere to the principles of conduct set forth in the Georgetown University Undergraduate Honor System.
- Attend the class. If you have a legitimate excuse, I need to know it (by email). Otherwise, be there.
- Thoughtful reading of the texts in advance of class.
- We will have very active class conversations. I will ask students to take on and defend positions. You will be encouraged to ask questions, make critiques of other’s claims, and you therefore need to be prepared for every class as if you may be asked about any of the material.

The course is a department research seminar; as such, the majority of a student’s written work will consist in a major research paper of about 20-25 pages (75% of total grade). We will work together to complete each major stage of the paper writing process, including topic identification, research, outlining, drafting, and critical editing.

Course Schedule

Sept. 3: First Class
Read: Browse whole Constitution, esp. Arts. 1-4, and read closely Amendments 1-10

Background Materials:

Sept. 10: From Ellis Sandoz, Political Sermons of the American Founding, vol.
#3, Elisha Williams (1744)
#8, Jonathan Mayhew (1766)--self-government, law of nature
Materials from John Witte, Religion and the American Constitutional Experiment: Essential Rights and Liberties
Sept. 17: Continue discussing materials from Sept. 10
Paper deadline #1: By this class, you should have discussed (email or in person) your research topic.

Religious Freedom:

Sept. 24: Reynolds v. US (1878); Sherbert v. Verner (1963)

Oct. 1: Employment Division, Department of Human Resources of Oregon v. Smith (1990) and Religious Freedom Restoration Act

Oct. 8: Church of Lukumi Babalu Aye v. City of Hialeah (1993)
Paper deadline #2: By this class, you will submit a draft outline, including summary of major research highlights

Oct. 15: Warner v. City of Boca Raton (we will use some materials from Sullivan, The Impossibility of Religious Freedom)

Prohibiting Establishment:


Nov. 5: Marsh v. Chambers (1983); Lee v. Weisman (1992)
Paper deadline #3: By this class, you will submit your comprehensive and annotated outline.

Nov. 12: McCreary County v. ACLU of Kentucky (2005); Van Orden v. Perry (2005)

New Directions:

Nov. 19: Read and discuss Winnifred Sullivan, The Impossibility of Religious Freedom (selections), selections from Michael McConnell

Nov. 26: NO CLASS

Dec. 3: Last Class
Read and discuss Noah Feldman, Divided by God

Final Paper due by 5pm on December 18.