

LAW, RELIGION AND POLITICS
Seminar in Interdisciplinary Studies

S Y L L A B U S

Fall 2009
Room 04
Friday, 2-3:50 p.m.

Professor Marie A. Failing
Dean's Office (651) 523-2124
mfailing@hamline.edu

LEARNING OUTCOMES: The Learning Outcomes of this seminar are three-fold:

1. Learn to train your skills in close reading, analysis, and evaluation to synthesize your legal knowledge with your personal moral, political and religious perspectives on some key contemporary debates in law, religion and politics.
2. Develop in-depth expertise on one specific area of law and religion
3. Learn how to make a persuasive argument about the issue that you have become expert on. It should be analyzed and evaluated, both orally and in writing.

The beginning of the seminar will focus on several key issues at the intersection of law, religion, politics and society in American culture. Using a variety of texts, please consider some recurring issues in law and religion:

- (1) What are the various national and cultural visions about the relationship between religion and law, church and state, and to what extent do citizens of diverse religious and secular traditions share those views?
- (2) How do key tensions in modern American culture—conscience and order, individual and community, freedom and responsibility, private and public—play out in American political, legal and religious life? How do they affect our understandings of the role of religion in political and social life, both in the U.S. and internationally?
- (3) How do law, religion, and ethics help to resolve difficult political choices?

Classroom Activity: At the beginning of the semester, you will have assigned readings that raise a variety of concerns within the area of law, religion and ethics. Most weeks, theoretical readings will be focused on a concrete legal issue or jurisprudential problem that requires that practical decisions be made about how theory should be applied in controversies between individuals and the state, or among individual rights-holders.

Each meeting of the seminar will be devoted to the effort of *fostering a conversation* within the seminar on the issues raised by the readings. See Prof. Vogel's explanation of what this means in the course supplement.

There will be two weekly performing roles that rotate among members of the seminar:

1. Presenter - reading about 10 minutes from typed text (approx. 2 pages). The presenter describes and critiques a portion of reading assigned for the week (what portion is the presenter's choice), considering how it sheds light on the theme of our conversation. **The Presenter has the responsibility for delivering a copy of the presentation to the Respondent's box downstairs or email address NOT LATER than noon on Wednesday of the week for which the Presentation has been prepared, unless the presenter and respondent make other arrangements for a later time or delivery method.** (An example will be provided in the first class meeting.)
2. Respondent - reading about 5 minutes from typed text (approx. 1 page.) The respondent's comments are directed at the presenter's view of the reading. The respondent may go beyond the presenter's chosen material or critique and forge new ground, though the primary effort is to engage the presenter in conversation.
3. Both papers are provided to the students in hard copy so they can follow along.
4. The floor is then open for discussion.

Participants presenting/responding have two options for duplicating these papers for class:

1. Hamline copies the texts: Word-processed texts are due to Susan Curran in the dean's office **not later than Friday at 9 a.m. prior to the class Friday** to permit duplication prior to scheduled class sessions.
2. You copy the texts: Please bring sufficient photocopies to class for each person.

Class Presentation Dates: In the second portion of the course, each student will present his/her paper topic in about 30 minutes (roughly 4 persons/week) and lead the class in a discussion of his or her topic. Students may utilize lecture, group discussion, videos, or any other creative means of presenting their work that engages the students with the material in an intellectually sound way. Students with similar topics may pair up (e.g., with panels, debates, etc.) Assignment of presentation days will be made later when topics are chosen to permit some grouping of related topics.

Required Reading Materials:

Noah Feldman, *Divided by God: America's Church-State Problem and What We Should do About It*, Farrar Strauss (2005) ISBN 089-38429131 in paper.

John Kelsey, *Arguing the Just War in Islam*, Harvard Univ. Press (2007) ISBN 978-0674032347 in paper.

Elizabeth Mensch and Alan Freeman: *The Politics of Virtue: Is Abortion Debatable?* Duke U. Press (1993) ISBN 0822313499 in paper.

Kent Greenawalt, *Does God Belong in Public Schools?* Princeton U. Press (2005) ISBN0691121117 in paper.

Shawn Peters, *When Prayer Fails: Faith Healing, Children and the Law*, Oxford U. Press, ISBN 9780195306354 in hardback.

Short supplement of photocopied materials which will be available in the bookstore for a small purchase price.

The required reading materials for the course will serve as the common texts for our discussion in the weekly meetings of the seminar. They should not, however, be viewed as limiting the range of our discussion. Collateral reading from other sources chosen by members of the seminar as an additional aid in preparation of presentations is fine.

Classroom Attendance and Participation: Attendance is required for satisfactory completion of the course. Students who miss more than two full class periods are potentially subject to withdrawal or make-up work, depending on circumstances. The chief expectation of this class is that every member will be actively engaged in the discussion going on regarding the day's topic, whether he or she is speaking or only thinking critically about the topic at hand. (It's fun, trust me.) Therefore, grade raises may be given for truly exceptional participation (quality and quantity) and grade reductions may be given for substantial failure to participate.

Laptop Policy: While laptops are welcome for those who learn and think best by taking notes, students should not be primarily engaged in passive note-taking, nor should they be using laptops to access outside materials unless they directly relate to the materials under discussion that day. Students who are spending time on irrelevant activities including accessing the web may receive a grade reduction for non-participation, see above.

Seminar Paper: Students will write a paper in which they critically examine a subject, scholarly work, or line of argument of their choice related to law, religion and/or politics, though they need not follow any particular topic or text or case study in the materials. Sample papers will be on reserve in the library. Papers should be word-processed, double-spaced, a minimum of 20 pages in length. To get **seminar credit for graduation**, you **MUST** submit an outline, a first draft (which will be critiqued and returned), and a final (rewritten) draft. (If you don't need seminar credit, you are still encouraged but not required to do an outline and draft.)

TOPIC and OUTLINE or ARGUMENT SUMMARY due September 18 in class. The outline (or argument summary) need not be of any particular length, but should be specific enough to enable the instructor to understand your paper's thesis and how you plan to develop it. (You may, of course, change your direction, viewpoint and even your topic after that time but you need to leave yourself enough time to complete the paper.)

FIRST DRAFT of the paper due **NOT LATER THAN October 23 in class.** A written critique will be returned to you as soon as possible, and you may schedule a conference with the instructor to discuss the first draft at your option. You are welcome to submit additional drafts, but please allow sufficient time for the instructor to read and critique, and then for you to redraft.

FINAL DRAFT of the paper to Professor Failing on **December 5, 2009**, to the course TWEN site or the Registrar's office.

Evaluation: Your grade will be based on your seminar paper and presentation (80% on final written paper; 20% on presentation). The outline and draft are not graded or considered in the final grade.

READING ASSIGNMENTS FOR SEMINAR IN LRP 2009

- Session 1: August 21 **Are America and American Law Secular?**
Feldman 3-56, 186-234 (Introduction and chapters 1, 6, 7)
Van Orden and McCreary County case excerpts (Supplement)
Case Study: The Ten Commandments Monuments and Christmas in the Public Square
- Session 2: August 28 **Religion in Public Schools**
Greenawalt, Does God Belong in Public Schools? 13-76, 152-73
Feldman 206-219 (optional 57-92)
Religion in Public Schools Cases (Supplement – 1 page)
Case Study: Religion in Public Schools
- Session 3: Sept. 4 **Religion, Children, Parents and State**
Peters, When Prayer Fails, 27-152, 193-end
Case Study: Faith Healing and the Rights of Religious Groups to Control Children's Lives
- Session 4: Sept. 11 **Religion, Terrorism, Peace and Conscientious Objection**
Kelsay, Arguing the Just War in Islam, 43-124, 198-224
(You are encouraged to read the whole book.)
Cardinal Ratzinger interview (Supplement)
Michael Baxter article (Supplement)
Case Study: The Just War Tradition
- Session 5: Sept. 18 **Science, Religion and the Law**
Greenawalt 79-125
Feldman 111-149
Mensch 74-82
Case Study: Intelligent Design and Values Education in Schools
- Session 6: Sept. 25 **Religion, Marriage and the State**
Feldman 99-110
Collett article (Supplement)
Strasser article (Supplement)
Case Study: Same-Sex Marriage and Its Implications

Session 7: Oct. 2 **Law and the Debate over Life**
Mensch 1-47, 98-157
Case Study: Abortion

Session 8: Oct. 9 **Civil Disobedience and Challenges to the State**
Bezdek article (Supplement)
Quigley article (Supplement)

October 16: Fall break

Optional: Attend the Journal of Law and Religion Symposium on the global economic crisis and the faith traditions (see JLR website for more details.)

Session 9: Oct. 23 **Religion, Natural Law, and International Human Rights**
Smolin article (Supplement)
Tebbe book review (Supplement)
Lerner article (Supplement)
Case Study: Clashes between National Law, Human Rights Law and Religion

Session 10: Oct. 30 **PAPER PRESENTATIONS**
(If we do not need all of this session for presentations, the class can choose a topic they want to discuss and I will provide supplementary materials.)

Session 11: Nov. 6 **PAPER PRESENTATIONS**

Session 12: Nov. 13 **PAPER PRESENTATIONS**

Session 13: Nov. 20 **PAPER PRESENTATIONS**

November 27: Thanksgiving Break

Session 14: Dec. 2 **PAPER PRESENTATIONS**

ASSESSMENT CRITERIA

CRITERIA FOR GRADING CLASS PRESENTATIONS

Format (e.g., lecture, debate, presentation, etc.)

Materials Used, if any (clarity and quality of materials).

Intellectual Content (How strong was the intellectual content of the presentation? How significant or complex was the presentation? Did it make the audience think, reconsider their views, or engage each other? Did it only convey information? Did it convey information the class was not likely to know?)

Preparation of Presenter (Did the presentation demonstrate that the presenter had spent significant time considering what he/she was going to say and how?)

Organization of Material (How well was the material organized? Was the logic of the argument or presentation of information clear and easy to follow? Was it clear how one part of the presentation related to another?)

Presentation of Material (Was the material presented in an interesting and engaging manner?)

Engagement of Students in presentation (Were students asked to be involved in some way that engaged their intellect? How?)

CRITERIA FOR GRADING PAPERS

Focus: Does the paper offer a clearly stated, interesting thesis to which the body of the paper is tightly directed?

Intellectual content/Complexity of development: Is any theory proposed or interpretations of a theory complex supported with adequate argumentation and evidence? How significant is the question engaged? Does the paper make the audience think and question old assumptions?

Style: Is the writing itself good? Grammar and punctuation should be flawless, and there should be no more than a few typographical errors. The writing style should be persuasive, lively, well-paced, interesting.

Organization: Is the paper well-organized? Does it flow well—do ideas seem to move logically from one point to another toward a conclusion? Does the paper adequately signal its order by using good opening and concluding paragraphs, good topic sentences and conclusions at the end of paragraphs that transition into the next thought? Does the introduction describe what you are discussing, give your thesis or argument concisely, and interest your reader in a question that needs to be answered in the paper. Your conclusion should usually summarize your argument and sometimes speculate on further questions that need to be answered.

Persuasiveness: Does your paper spend the most time on what most needs proving? Do you offer proof or argument for your points in a way calculated to persuade the reader to your point of view, or do you just make conclusory statements? “Proof” may include authority (e.g., case precedent, other convincing theoretical work), logical or analogical argument, hypothetical or real examples, argument from consequences, empirical evidence and other forms of evidence. Do you also consider alternative interpretations or objections to your argument, and take into consideration your audience and their concerns?

Innovation: Does the paper develop some new ideas or a new critique of current ideas or law, or does it bring together two legal ideas or rules or principles that have not previously been compared? Or does it simply report on what others have said or what courts or legislatures have done?

SEMINAR WRITING RESOURCES

<http://webster.commmnet.edu/grammar/index.htm>

This site will help you with sentences as well as the general writing process and organization. It also includes quizzes and PowerPoints.

<http://users.ipfw.edu/blythes/teach/toolkit/language.htm>

This is a good grammar website if you need help with such things as independent and dependent clauses, phrases, active/passive voice, whole lessons on commas and other punctuation.

<http://owl.english.purdue.edu/>

This is a writing lab approach to typical writing problems.

<http://www.pcnineoneone.com/howto/bettercomm2.html>

This site covers typical mistakes in grammar and spelling, such as “it, it’s and its.”