

**Religion and the Law in Modern European History**

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Office hours: Tuesdays and Thursdays 5-6 pm in H&amp;SS Room 4084, &amp; by appointment

**Course Requirements:**

In-class tests	60%
[These will be given at classes 2-10; the lowest <u>two</u> test scores will be dropped]	
Final exam:	30%
Selection and presentation of media readings:	10%

**\*\*NOTE:** To pass this class you must reasonably satisfy all the course requirements with a reasonable and good-faith effort. Failure to satisfy *any* one of the course requirements will result in a grade of F for the course. While the lowest two test scores on the weekly exam will be dropped, failure to take at least SIX of the weekly tests with a reasonable and good-faith effort will result in an F for the course.

**Work expectations:** While class attendance is absolutely essential, this is not a course that you can do well in just by coming to class. (And no class at a university this good should be, for that matter!) You should expect to work hard outside of class. Please keep in mind the UCSD policy on hours per week expected of students:

- **Units:** Enter the units of the course. If the course has variable units, enter minimum, maximum, and by increment (e.g., 4–12 by 2).
- **Full title:** Enter the complete course title exactly as it will appear in the catalog.
- **Hours per week expected of student:** Enter numbers in the appropriate boxes.
  - A total of three hours of course work per week for each unit of credit is standard (e.g., 4-unit courses require 12 hours of work).
  - Most 4-unit courses have three hours of lecture and 9 hours of outside preparation.
  - If a course will have required discussion sections/ labs/ etc., include the number of hours needed in the appropriate box.
- **Grade reports:** Check the appropriate box.

My target for reading and other assignments is, on average, 7 hours per week. I have very carefully put together the syllabus with that in mind, taking account of the length and difficulty of the assignments, and this 7 hours is a very "real" number. If the prospect of a forty-hour "work week" devoted to school freaks you out, then I'm probably not your guy, and this is probably not your class. What you will get in return for that work, however, is a course of study calculated to ensure that you will learn a lot.

**Exams:** The final exam will include a substantial, wide-ranging essay or essays that will ask you to analyze the assigned course material in light of the major themes of the course, the varying methodological perspectives from which we will approach those issues, and the critical interpretative problems that we will study. Other elements such as short-answer questions or IDs may be included. I will discuss the exams in more detail in class.

**\*\*Make up exams:** Make-up exams will be given only in the case of a valid, documented excuse beyond the student's control (e.g., medical problems). Any make-up exam may be given in a different form and include different content. For example, the make-up test may be in the form of an oral exam!

**\*\*We cannot** make arrangements for alternate exam times due to multiple exams scheduled closely together, plans to leave campus early, etc. Check your exam schedule now -- they're available to you through TritonLink -- and make sure you've chosen a course schedule that you can live with throughout the course and at finals time!!

### **Selection of supplemental class readings and oral presentation**

The relationship between law, history, and religion is very much a matter of hot public controversy in contemporary Europe. A close examination of media representations of the subject can offer us a richer, more comprehensive perspective on the historical and social-scientific findings that are presented in the assigned readings. In the latter weeks of the course, teams of students will be responsible for selecting 20-25 pages (or approximately 45 minutes' worth) of additional readings from journalistic coverage. These readings should be selected, copied or scanned, and made available to all class members by the agreed-upon date (we will agree on this in class) prior to the meeting when they are to be discussed. Each student on the team for a given week should be prepared to lead the class discussion after making a presentation of approximately 10 minutes about the readings he/she has selected, focusing on important questions raised in materials, connections to the week's assignments, and the broader course themes. I will, of course, be available for consultation about the presentation and the reading selections.

The LEXIS/NEXIS database, accessible through the UCSD library web site, is a superb place to find the kind of precisely targeted, high-quality journalism that this assignment seeks. (Even *low*-quality journalism can be useful as a component of this assignment, *if* it is carefully and deliberately chosen and recognized as such. Bad journalism with inaccurate information and heavy bias can be, obviously, very influential. But proceed with caution! Every item should be selected with an eye to what it will teach the class about the issues under discussion that week.)

**Academic Integrity and Plagiarism:** It is your responsibility to know and observe all university rules concerning academic integrity and plagiarism. Any student found to have committed a substantial violation of the university rules concerning academic integrity will fail the entire course. I view it as one of my chief responsibilities to help each of you produce first-rate academic work that reflects your own original thinking about the course themes and material. If you have any questions whatsoever about what constitutes plagiarism, how to properly credit the work and ideas of others, how to evaluate sources for quality and reliability, and so forth, please feel free to talk to your TA and to come see me. I reserve the right to require students to submit any assignment to turnitin.com for investigation of possible plagiarism or other academic misconduct.

**Recording of class sessions and lectures is not allowed:** Audio or video recording of class is not permitted without express written permission from me, based on a documented special need for the recording (e.g., a student with disabilities). Attendance at all classes is essential for good performance.

**Required readings:** Note: You should have read and thought about the course readings by the dates indicated. Books are available for purchase at the UCSD Bookstore and on reserve at Geisel Library.

**Required viewings:** Video materials for the course may be watched via streaming video (go to the library's e-reserves page for the course, and follow the links for Digital Media) or in the Arts Library at Geisel.

Required books include:

Peter Berger, Grace Davie, and Effie Fokas, *Religious America, Secular Europe? A Theme and Variations* (Ashgate, 2008)

René Rémond, *Religion and Society in Modern Europe* (Wiley-Blackwell, 1999)  
ISBN-10: 0631208186      ISBN-13: 978-0631208181

Renata Uitz, *Europeans and Their Rights: Freedom of Religion* (Council of Europe, 2007)  
ISBN-10: 9287162018      ISBN-13: 978-9287162014

### **About e-mail correspondence:**

1. E-mails to you: From time to time, we may send important course announcements to the class via e-mail. To do that, we will need to use your official UCSD e-mail address. Please be sure that your account is always in working order, and check it regularly. We cannot send these course e-mails to gmail, hotmail, yahoo, and similar accounts.
2. E-mails to me: Try to come talk with me instead! Please use e-mail only for scheduling and other very brief communications. E-mail is a great tool for that sort of message, but I just don't feel that I can respond properly to substantive questions about the course using it. I will very much enjoy *talking with you* about the course material and any questions or concerns you may have, and our discussions will be much more efficient, spontaneous, and helpful for you if you come to speak with me in person. I encourage all of you to visit during my office hours or, if that time does not work, to schedule a meeting with me.

## Class 1 – March 31

### **Introduction: Law, Religion, and the Western Liberal Tradition: Key Concepts, Actors, and Problems**

#### Readings:

*none required -- introduction to the course*

## Class 2 – April 7

**NOTE: The in-class TESTS begin with THIS class session!!!!!!!**

### **Europe Is Not America: Continuities, Contrasts, and the Distinctiveness of the American Case**

#### Readings:

Berger, Davie, and Fokas, *Religious America, Secular Europe?*, chs 1, 2, and 3, pp 1-46

Sophie C. van Bijsterveld, "Church and State in Western Europe and the United States: Principles and Perspectives," 2000 *B.Y.U.L. Rev.* 989 (2000).

~~Philip Hamburger, *Separation of Church and State*, Introduction, pp. 1-17~~

James Q. Whitman, "Separation of Church and State: Why Are Europe and America So Different?," paper presented at Boalt Hall School of Law, UC Berkeley

Patrick Hyder Patterson, "A Kinder, Gentler Europe? Islam, Christianity, and the Divergent Multiculturalisms of the New West," *American Multiculturalism after 9/11: Transatlantic Perspectives*, eds. Derek Rubin and Jaap Verheul, vol. 1 of the series New Debates in American Studies (Amsterdam: Amsterdam University Press, 2009), 147-164.

Transcript of workshop on Legislating International Religious Freedom, sponsored by the Pew Forum on Religion & Public Life, 20 November 2006, at <http://pewforum.org/events/index.php?EventID=133>

#### Optional:

Winnifred Fallers Sullivan, *The Impossibility of Religious Freedom* (Princeton: Princeton University Press, 2007), Introduction [Download directly from <http://press.princeton.edu/chapters/i7977.pdf> (file can't be posted to our course site for copyright reasons)]

### **Class 3 – April 14**

#### **The Protestant Reformation, the Religious Wars, and Their Legacies: Ongoing State Entanglement**

##### Readings:

René Rémond, *Religion and Society in Modern Europe*, Part I and Part II, pp. 1-125

Nicholas Atkin and Frank Tallett, *Priests, Prelates, and People: A History of European Catholicism since 1750* [\*\* available online from UCSD Libraries web site/link via Roger/use campus computer or proxy server], Introduction and ch. 1 ("Catholicism in Retrenchment: the Eighteenth Century"), pp. 1-46

John T.S. Madeley, "A Framework for the Comparative Analysis of Church-State Relationships in Europe," *West European Politics* 26, no. 1 (2003): 23-50.

### **Class 4 – April 21**

#### **The Enlightenment and Its Legacy: Disengagement, Secularization, and (Limited) Secularism**

##### Readings:

René Rémond, *Religion and Society in Modern Europe*, 125-152

Nicholas Atkin and Frank Tallett, *Priests, Prelates, and People: A History of European Catholicism since 1750* [\*\* available online from UCSD Libraries web site/link via Roger/use campus computer or proxy server], chs. 2 ("Catholicism in Revolution: 1789-1815") and 3 ("Catholicism Restored: 1815-50"), 47-128

Berger, Davie, and Fokas, *Religious America, Secular Europe?*, ch. 4 ("Different Intellectual Traditions"), 47-70

## **Class 5 – April 28**

### **New Challenges:**

### **Liberalism, Secularism, and Religious Freedom from the French Revolution to World War II**

#### Readings:

René Rémond, *Religion and Society in Modern Europe*, 153-218

Nicholas Atkin and Frank Tallett, *Priests, Prelates, and People: A History of European Catholicism since 1750* [\*\* available online from UCSD Libraries web site/link via Roger/use campus computer or proxy server], chs. 4 ("Catholicism Retuned: 1850-1914") and 5 ("Catholicism and Reaction: 1914-45), pp. 129-264

## **Class 6 – May 5**

### **The Liberal Legal Order of an Evolving Democratic Europe: Developments after 1945 and 1989**

#### Readings:

Nicholas Atkin and Frank Tallett, *Priests, Prelates, and People: A History of European Catholicism since 1750* [\*\* available online from UCSD Libraries web site/link via Roger/use campus computer or proxy server], chs. 6 ("Catholicism Revised") and 7 ("Conclusion: Catholicism Reviewed"), pp. 265-333

Berger, Davie, and Fokas, *Religious America, Secular Europe?*, ch. 5 ("Institutional Carriers"), 71-96

Renata Uitz, *Europeans and Their Rights: Freedom of Religion*, ch. 1, pp. 1-22

Agustine José Menéndez, "A Pious Europe? Why Europe Should Not Define Itself as Christian," ARENA Center for European Studies Working Paper, 2004

## **Class 7 – May 12**

### **Critical Problems in Post-1945 Europe, Part I: The Definition of Religion, State Support for Religion, and Religious Education in State-Funded Schools**

#### Readings:

Renata Uitz, *Europeans and Their Rights: Freedom of Religion*, ch. 2 and 3, pp. 23-146

*Hasan and Chaush v. Bulgaria*, European Court of Human Rights, 2000

*Tsirlis and Kouloumpas v. Greece*, European Court of Human Rights, 1997

*Biserica Adevarat Ortodoxa din Moldova v. Moldova*, European Court of Human Rights, 2007

Video clip/news story on Greek neo-pagans: <http://news.bbc.co.uk/2/hi/europe/6285397.stm> (video link is at upper right)

*Lautsi v. Italy*, European Court of Human Rights, 2009

#### Optional:

*Lemon v. Kurtzman (Lemon I)*, 403 U.S. 602 (1971)

## **Class 8 – May 19**

### **Critical Problems in Post-1945 Europe, Part II: The Protection of Religious Minorities**

#### Readings:

Berger, Davie, and Fokas, *Religious America, Secular Europe?*, ch. 6 ("Religion and Social Difference"), pp. 97-122

*Larissis and Others v. Greece*, European Court of Human Rights, 1998

*Cha'are Shalom Ve Tsedek v. France*, European Court of Human Rights, 2000

*Mann Singh v. France*, European Court of Human Rights (press release only), 2008

Patrick Weil, "Why the French Laïcité Is Liberal," 30 *Cardozo Law Review* (2009): 2699-2714.

#### Optional:

*Murphy v. Ireland*, European Court of Human Rights, 2003

*Kokkinakis v. Greece*, European Court of Human Rights, 1993

## Class 9 – May 26

### **Critical Problems in Post-1945 Europe, Part III: Anti-Blasphemy Laws and Their Hate-Speech Helpers**

#### Readings:

Renata Uitz, *Europeans and Their Rights: Freedom of Religion*, ch. 4/Section 4.1, pp. 147-164

Kathryn A. O'Brien, "Ireland's Secular Revolution: The Waning Influence of the Catholic Church and the Future of Ireland's Blasphemy Law," *18 Conn. J. Int'l L.* 395-430 (Fall 2002)

"Swedish Anti-Gay Pastor Acquitted," BBC News, 29 Nov. 2005, [news.bbc.co.uk/2/hi/europe/4477502.stm](http://news.bbc.co.uk/2/hi/europe/4477502.stm)

Fred Phelps, "God Hates Fags" video announcement (.flv file/on WebCT)

Theo van Gogh, film *Submission* (video on WebCT site)

*Klein v. Slovakia*, European Court of Human Rights, 2006

*Otto-Preminger-Institut v. Austria*, European Court of Human Rights, 1994

#### Recommended:

*Snyder v. Phelps*, U.S. Supreme Court opinion, March 2011

## Class 10 – June 2

### **Critical Problems in Post-1945 Europe, Part IV: Can Islam Fit in (Post-)Christian Europe?**

#### Readings:

Patrick Hyder Patterson, "On the Ruin of Christendom: Religious Politics and the Challenge of Islam in the New West," in *Christianity and Modernity in Eastern Europe*, Bruce Berglund and Brian Porter-Szucs, editors, (Budapest/New York: Central European University Press, 2010), pp. 293-327.

Berger, Davie, and Fokas, *Religious America, Secular Europe?*, ch. 7 ("So What? Policy Implications"), 123-144

Renata Uitz, *Europeans and Their Rights: Freedom of Religion*, ch. 4/Section 4.2, pp. 164-178

*Leila Sahin v. Turkey*, European Court of Human Rights, 2005

*Dogru v. France* and *Kervanci v. France*, European Court of Human Rights, 2008

*Case of Refah Partisi (The Welfare Party) and Others v. Turkey*, European Court of Human Rights, 2003

The Muhammad cartoons controversy: images from Denmark's *Jyllands Posten* newspaper and suite of articles, on the course web site

Geert Wilders, *Fitna* film (video on WebCT site)