

RELIGION & THE WORK OF A LAWYER

Georgetown University Law Center | Fall 2019 (2 credit seminar)
Thursdays, 10:00 a.m. – 12:00 p.m. | Class Meets in McDonough 342
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Office Hours: Thursdays 12:45 – 2:45, and by appointment.

Course Description: For some, the ways in which we think about legal questions, and about our own work as lawyers, are related to our religious or spiritual outlook. The seminar will explore the content of that relation, and such questions as: is such a connection appropriate only as a private matter, not to be brought into the evaluation of policy questions or even into conversation, except with one's chosen intimates? Can its importance to our legal thinking be honored in a manner that honors too our political commitment to pluralism and freedom of conscience? What is the difference, if any, between religious and secular sources of values? How may one integrate a religious commitment with a career as a lawyer? Note that the focus of this seminar is neither the law of the First Amendment, nor the intersection of religion and controversial issues. If you are interested in a course on religion and controversial issues, the team-taught seminar in *Religion, Morality and Contested Claims for Justice* will be offered in Spring 2020. **Note also that this course does not fulfill the upper class legal writing requirement.**

This course is a Doyle Seminar, part of the Doyle Engaging Difference Program, a campus-wide curricular initiative, and gives faculty the opportunity to enhance the student writing component of upper-level seminars that address questions of national, social, cultural, religious, moral, and other forms of difference. The Doyle seminars are intended to deepen student learning about diversity and difference through enhanced interaction with thought leaders, and dialogue with the Georgetown community and beyond.

Required text: HOWARD LESNICK, *RELIGION IN LEGAL THOUGHT AND PRACTICE* (2010)
Other required and optional materials available on Westlaw's TWEN, folders organized by class number. Optional books will be placed on reserve.

Course Requirements:

- 1) Thoughtful preparation for and active participation in class discussion each week. Attendance is extremely important.
- 2) Required Weekly Written Submissions, generally due at 9AM on Wednesday prior to class.
 - According to the scheme in this syllabus, submissions of various lengths should thoughtfully engage the reading material. The topics, questions, tensions and connections that you present in your submissions will also help to help to shape our seminar discussion agenda.
 - Within some two-week blocks, you may choose which week to write a longer reflection, and in the off-week you must submit a one-page (300-350 words) "response blurb." When noted, some two-week blocks require 800-word submissions for both weeks.
 - **DEADLINE: WEEKLY REFLECTIONS AND RESPONSES MUST BE SUBMITTED TO THE TWEN ASSIGNMENT DROPBOX NO LATER THAN 9:00 AM ON THE WEDNESDAY BEFORE OUR THURSDAY CLASS.** Deadlines are firm because timely submissions are needed to shape the class discussion agenda for the following day.
- 3) Final 6-8 Page Reflection Paper (not a research project).
- 4) Note that I may add an additional very brief (2-page) reflection exercise that has been helpful for past groups. This will depend on how our conversation unfolds. If so, I will adjust the workload slightly, and it would likely be due in November.

TOPICS FOR READINGS AND CLASS DISCUSSION

Note that the course meets 12 instead of 13 times because there will be two three-hour sessions for topics that, based on past experience, are conducive to leaving more time for discussion. For these extended classes, the default meeting time will be an hour prior to our class time (9:00 a.m.). I realize that some students may have schedules or commitments that may make it difficult to arrive early. Be assured that we will organize ourselves in such a way to build in flexibility for these students.

September 5, 2019 – Introduction

Class 1: Religion and the Life of a Lawyer (no reflection or reaction paper required)

- Lesnick, xix-xx, 3-28

SECTION I (Choose – one long, one short)

September 12 - Class 2: Does the Moral Force of Law Depend on Religious Belief?

- Lesnick, 31-65

September 19 - Class 3: Does Religious Belief Necessarily Have Moral Content? Does Religious Belief Have Any Necessary Moral Content?

- Lesnick, 66-104

SECTION II (Choose – one long, one short)

September 26 - Class 4: What are the Bases of Resistance to Religiously Grounded Morality?

- Lesnick, 105-141 (selection may be edited and/or supplemented in order to update)

October 3 – Class 5: Concepts of God, Scripture and Revelation: The Meanings of “Divine Inspiration”

- Lesnick, 142-176 (the selection and variety is helpful, but prioritize Hartman)
- “When Scripture is the Problem,” pp.111-136, Chapter 5 in DONNIEL HARTMAN, *PUTTING GOD SECOND: HOW TO SAVE RELIGION FROM ITSELF* (2016) (CORE)

SECTION III (800 words each in this block of 3)

October 10 – Class 6

Religious Values and Law Practice: Introduction an Overview – 800 words

- Overview: Lesnick, 573-582, 590-596 (CORE)
- Russell G. Pearce and Amelia J. Uelmen, *Religious Lawyering in a Liberal Democracy: A Challenge and an Invitation*, 55 CASE WESTERN LAW REV. 127-160 (2004) (CORE)

Optional / Pick One

- Russell G. Pearce and Amelia J. Uelmen, *Religious Lawyering’s Second Wave*, 21 J. LAW & RELIGION 269-281 (2005-2006)
- Amelia J. Uelmen, *“Millennial Momentum” for Revising the Rhetoric of Lawyers’ Relationships and Roles*, U. St. Thomas L.J. (2011)
- Nancy B. Rapoport, *Living Top-Down in a Bottom-Up World: Musings on the Relationship between Jewish Ethics and Legal Ethics*, 78 Neb. L. Rev. 18-36 (1999)

**October 17 – Class 7: Religious Values and Law Practice World Café Exercise - 800 words
2 hour class (regular time), optional closing lunch with alumni**

Circulating “speed dating” style discussions with alumni (2012 – 2019) from the *Religion and the Work of a Lawyer* seminar and other attorneys who have participated in the “religious lawyering” conversation over the years – on their choice of practice sector; how they have integrated their religious values into their practice; what challenges they have faced; their experience of family life and maintaining other commitments, etc. BRIEF ASSIGNMENT GUIDANCE TBA

**October 24 – Class 8: “Render Unto Caesar” / Professional Conscience Clauses – 800 words
EXTRA HOUR OF CLASS FOR SMALL GROUP DISCUSSION**

An exploration of the ethics questions that arise when religious and/or personal conviction clashes directly with professional expectations or obligations. Response should be in the form of taking a position on the case before the Tennessee Board of Professional Responsibility. We will break into smaller discussion groups for some portion of this class.

Core Required Texts

- Lesnick, 389-398
- Ernest F. Lidge, III, *Moral Autonomy & Formal Opinion 140*, Tennessee Bar Journal (January 1997) (analysis includes a more extensive excerpt of the Tennessee ethics opinion discussed in Lesnick)
- Excerpts from KENT GREENAWALT, EXEMPTIONS: NECESSARY, JUSTIFIED OR MISGUIDED? (2016)

Then, if you have time / interest: you may wish to consider these analogies to discussion of exemptions (or not) for medical professionals, with arguments for and against conscience clauses

- Edmund Pellegrino, “The Physician’s Conscience, Conscience Clauses, and Religious Belief: A Catholic Perspective,” 30 *Fordham Urban L.J.* 221-244 (2002)
- Joseph Raz, “Death in Our Life,” 30 *Journal of Applied Philosophy* 1-11 (2013)

And if you are really into this topic, optional further excellent reading:

- ROBERT VISCHER, CONSCIENCE AND THE COMMON GOOD, chapter on The Legal Profession (2010)

SECTION IV (return to choice – pick one long, one short)

October 31 – Class 9: Muslim Perspectives

Conversation Partners

Lala Qadir, Esq. Associate at Covington & Burling, Washington, DC

Allison Carpenter, Esq., former Senior Asst. Public Defender for Arlington County & Falls Church

Aimen Mir, Freshfields

A Note on the Reading for this Week (paper is short or long, you choose):

For the reading, I would like to you to feel free to gauge your reading based on your exposure (or lack thereof) to Islam, and potential areas of interest. As you read, consider what might be a helpful springboard for you to be in conversation with our Muslim colleagues, and also to formulate some questions for them.

Strongly recommended especially for those with less exposure to Islam: Seyyed Hossein Nasr, *The Heart of Islam* (2002), Chapter 1 (Overview) and Chapter 3 (Divine and Human Laws)

Some of the seminal and more focused scholarship on how Muslims have engaged the concept of "religious lawyering" pre-dates 9/11, so in addition to be very old, it does not account for what Muslim attorneys have experienced in the wake of massive political shifts over the past 20 years. Our conversations partners will definitely help to flesh that out, but conceptually I believe that the earlier scholarship is still generally helpful, especially if the articles touch on areas of interest for you.

- Lesnick, 582-586 (Azizah al-Hibri, *On Being a Muslim Corporate Lawyer*, 27 Tex. Tech. L. Rev. 947 (1996)) (the PDF is also posted on TWEN)
- Azizah al-Hibri, *Faith and the Attorney-Client Relationship: A Muslim Perspective*, 66 Fordham L. Rev. 1131-1140 (1997-1998)
- Rau'ouf M. Abdullah, "Can a Person be a Believer and a Secular Government Lawyer Too?" 4 J. Islamic Law 11-20 (1999) (Symposium on the Islamic Legitimacy of Muslim Participation in American Law, Politics and Military Service)

For a good cultural overview, generally, this piece by Dr. Sherman Jackson is very helpful for a perspective on how Islamic values connect with US culture and constitutional values: Dr. Sherman Jackson, "Politically Speaking, Who Am I, And What Do I Want As An American Muslim?" <https://www.alimprogram.org/articles/politically-speaking-who-am-i-and-what-do-i-want-as-an-american-muslim/>

I think it might be helpful also to dip into the work of Univ. of Wisconsin Law School Prof. Asifa Quraishi-Landes (who is also my friend, we serve together on the board of CORAL, the Council on Religion and Law). Here is a link for a 20 minute interview that I found very helpful for dispelling some of the myths about Islamic legal systems: Wisconsin PBS "Noon Wednesday" with guest Asifa Quraishi-Landes - Clip: Season 1700 Episode 1741 | 19m 11s | Asifa Quraishi-Landes is professor of U.S. constitutional law and of Islamic law. Despite these two systems being very different from one another, many think that Islamic law has to do with the government. As a Muslim American and expert in these two fields, Quraishi-Landes talks about where misinformation about Islamic law lies, as well as what Islamic law is - and is not. <https://www.pbs.org/video/noon-wednesday-guest-asifa-quraishi-landes-gtgs9/>

- Then, a more extended scholarly argument is in the attached, Asifa Quraishi-Landes, "Islamic Constitutionalism: Not Secular. Not Theocratic. Not Impossible." 16 Rutgers Journal of Law and Religion 553 (2015) (I will also post the PDF in the TWN folder).

Two other pieces in the folder might also catch your eye, depending on your areas of interest:

- Asifa Quraishi-Landes, "Rumors of the Sharia Threat Are Greatly Exaggerated: What American Judges Really Do with Islamic Family Law in Their Courtrooms," 57 N.Y. L. Sch. L. Rev. 245-257 (2012-2013)
- Irshad Abdal-Haqq, "The Role of the Muslim Lawyer in Establishing Islamic Community Life," 3 J. Islamic Law 105-150 (1998)

Finally, in the wake of our 10/17 discussion, it might be interesting at some point to talk about how people of different communities have organized into supportive and encouraging networks. Here is a quick snapshot of the history of the National Association of Muslim Lawyers - I find it interesting for the trajectory before and after 9/11: <https://naml.wildapricot.org/About-NAML/>

November 7 - Class 10: Buddhist Perspectives

Conversation partner: Prof. Deborah J. Cantrell, University of Colorado, Boulder (via Skype)

Required:

- Deborah J. Cantrell, "Love, Anger & Lawyering," 19 RICHMOND J. LAW & PUBLIC INTEREST, 283-297 (2016)
- Deborah J. Cantrell, *Can Compassionate Practice also be Good Legal Practice? Answers from the Lives of Buddhist Lawyers*, 12 RUTGERS J. LAW & RELIGION 1-75 (2010)
- Lesnick, 202-205 (Thich Nhat Hanh)
- RITA GROSS, SOARING AND SETTLING: BUDDHIST PERSPECTIVES ON CONTEMPORARY SOCIAL AND RELIGIOUS ISSUES (excerpt, 55-59)

Optional:

- Ran Kuttner, "From Adversity to Relationality: A Buddhist-Oriented Relational View of Integrative Negotiation and Mediation," 25 Ohio St. J. Dispute Resolution 931-974 (2010)
- Huston Smith & Philip Novak, BUDDHISM: A CONCISE INTRODUCTION (2003) (on reserve under our course).

SECTION V (Note assigned pattern: Long, Short)

November 14 – Class 11: Religion and Legal Education

LONG, DUE ON TUES 11/12, 9AM

EXTRA HOUR OF CLASS FOR SMALL GROUP DISCUSSION

REQUIRED:

- Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. Legal Ed. 247 (1978)
- Roger C. Cramton, *Beyond the Ordinary Religion*, 37 J. Legal Ed. 509 (1987)

FEEL FREE TO PICK JUST ONE IF YOU ARE SHORT ON TIME

- Amelia J. Uelmen, *An Explicit Connection Between Faith and Justice in Catholic Legal Education: Why Rock the Boat?* 81 UNIV. DETROIT-MERCY L. REV. 921-938 (2004)
- Amelia J. Uelmen, *Sparks and Bridges: Catalysts of a Catholic Higher Education that Works*, 26 CURRENT ISSUES IN CATHOLIC HIGHER EDUCATION 59-64 (2007)

November 21 – Class 12: Responding to Religious Diversity—Religion, Truth and Pluralism

CONCLUSION / SHORT BLURBS

- Lesnick, 489-505, 512-521

NO CLASS ON December 5 (unless needed to make up for a snow day) – because scheduled class hours will have been completed because of the two 3-hour sessions.

Policy for inclement weather, illness, other emergencies:

I cannot emphasize enough how important attendance is for this class. Nothing can replace your physical presence and participation in this discussion-based seminar. In addition, we will have several group discussion exercises, and there is no way to make up for that dynamic interaction with each other.

If because of some extraordinary circumstance, you absolutely cannot be physically present in class, but would otherwise be able to participate, we can make plans to **video you into our classroom via Zoom**. Here are some examples of when students have Zoomed into the seminar: impossible ice or snow in one's neighborhood; caring for a sick child; travel for a funeral but not occupied during our class time; too sick to come in, but feeling well enough in that moment to Zoom, etc.

If you cannot participate via Zoom, the last resort is to watch the Panopto tape of our discussion, which is available on the Canvas site (where there is nothing else). As you watch, please make notes of what you would have contributed and/or your further questions, and then **set up a time to touch base** with me in person so that you can give me that input.

If the school is closed due to snow or ice, our contingency plan will depend on the day. If we had originally planned for some small group discussion, we may try to arrange for virtual small groups and then look for an additional hour for the report back. After we receive news of a closure, I will be in touch with all students via email to communicate the contingency plan. If necessary we will use the last official class meeting time as a make-up session.

REFLECTION PAPER REQUIREMENTS AND GUIDELINES

HEADER:

In the header of the first page of your reflections and responses, please include your first and last name, the date of submission, the class number (e.g., "Class 7"), and if there is an option, whether it is short or long. For the longer essays, please number your pages.

PAGE REQUIREMENT:

- Your longer essays should be two full pages single-spaced (about 1300 words, aim so that it is printable on one page, double-sided), in Times New Roman 12 point font, 1 inch margins (about 1300 words).
- For medium submissions, aim for 800 words.
- For response blurbs, aim for about 300-350 words.

CITATIONS:

Keep in mind that the essays are not research papers. However, if you are drawn to pulling in specific cases or law review articles as a basis for your discussion, a simplified notation with the most basic information – just enough to orient me – will be fine. For citations from the Lesnick reader, it would be sufficient to note "L" and the page number: (L32).

AVOID FOOTNOTES:

If you are tempted to drop into a long and extended discussion in a footnote, at least consider whether the thought might be better integrated into the text.