Course Description: Two clauses in the American Bill of Rights address “religion,” enshrining in law a particularly fraught concept, one for which scholars can agree on no definition, which actors define in interested and contested ways, and one which religious individual and communities often understand as representing a level of authority and even a monopoly on truth at odds with the authority and claims of the legal system. This class will examine American judicial and social history in relation to “religious freedom” and “disestablishment,” turn to select international examples, and work at theorizing, the interconnections of “religion” and “law”—as traditions of thought as well as sets of practices, modes of relation as well as constellations of values. Our work will range from untangling the nuanced logic of specific United States Supreme Court decisions to tracing out the genealogies of key concepts in history such as “secularism,” “tolerance,” and “religious liberty,” as well as the policing of borders around “religion” and “rule of law” via the concepts of “race” and “civilization.” Our discussions will always cast an eye toward practical concerns of civil society: policy-making, judicial arbitration, and law enforcement. As we will be wrestling with issues, terms, and dynamics central to the larger question of American democracy, occasional topical readings (news items, legal decisions, executive orders) may be added to the syllabus for the purposes of class discussion.

Required Texts:
- Winnifred Fallers Sullivan, *The Impossibility of Religious Freedom*
- Joan Wallach Scott, *Politics of the Veil*
- David Garland, *Peculiar Institution*
- W. Paul Reeve, *Religion of a Different Color*
- Benjamin Berger, *Law’s Religion*
- All other readings will be distributed or (as in the case of Supreme Court decisions) are available on-line.
Grading:
Grading will be on a point system, with 90+ points equaling an A; 80-89=B, etc.

Requirements:

- Active and informed participation is expected.
  - Bring notes and marked-up copies of the readings to class with you daily. We will be making frequent reference to the sources and your notes on them in class. I may occasionally ask to see them to get a measure of how you are engaging with the material.

- “Slide Presentations”
  - You will each create a “poster” in the form of a single PowerPoint slide, explaining the core issues of a given reading.
  - You must send me a copy of this slide by 8 am the day before your presentation is due.
  - When you slide is “screened” in class, you will have ten minutes to explain and supplement the material therein.
  - Each presenter will face questions from the professor and the class.
  - This assignment will be worth 10 points toward your final grade.

- Mid-term Exam
  - Comprehensive exam on all material covered before mid-term, with emphasis on content and engagement with theoretical issues.
  - Worth up to 15 points toward your final grade.

- Final Exam
  - A comprehensive exam featuring identification and essays.
  - Worth up to 15 points toward your final grade.

- Essays on the Sullivan, Wallach, Garland, Reeve, and Berger books plus the Kao and Copulsky article.
  - Identify and respond to the thesis of each work, citing at least three pieces of evidence, from the text, in support of that thesis as well as at least two pieces of evidence from other course readings in either support or opposition to that argument.
  - These papers should be roughly 700 words each, due by 9 am the day before class discussion of the book. Late work will not be accepted.
  - Each of these six assignments will be worth up to 10 point toward your final grade

Class Schedule

Wednesday, January 4: For our first meeting, please read:

- The “Religion Clauses” of the First Amendment to the Constitution: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”
- Thomas Jefferson: selections from “Notes on the State of Virginia,” “An Act for
Establishing Religious Freedom,” and “Letter to the Danbury Baptists” (pdf)

- “How to Read a Supreme Court Opinion”
- “The Long Argument Over Religious Freedom,”
  http://religion.ua.edu/blog/2015/12/the-long-argument-over-religious-freedom/

Monday, January 9: Religious Freedom on the Ground
- “Reynolds v. US” (1879)
- “Cantwell v. Connecticut” (1940)
- “Rosati v. Toledo, Ohio Catholic Diocese” (2002)

Wednesday, January 11: Defining “Conscience” and “Religion”
- “U.S. v. Seeger” (1965)
- Robert Bellah, “Civil Religion in America”

Monday, January 16: NO CLASS

Wednesday, January 18: Consequences of Judicial Decisions
- “Wisconsin v. Yoder” (1972)
- “Heffron v. ISKCON” (1983)
- “Shepp v Shepp” (PA 2006)

Sunday, January 22: Essay on Sullivan due by 9 am, via email

Monday, January 23: “Warner v Boca Raton”
- Sullivan, The Impossibility of Religious Freedom

Wednesday, January 25: Accommodations, Limits, and Law
- “Lemon v. Kurtzman” (1971)
- “Sherbert v. Verner” (1963)
- “Employment Division v. Smith” (1990)

Sunday, January 29: Essay on Reeve due by 9 am, via email

Monday, January 30: Race, Religion, and Law
- Reeve, Religion of a Different Color

Wednesday, February 1: Public Good as a Limit to Religious Freedom
- “Prince v. Massachusetts” (1944)
Monday, February 7: Presentations:
   1) “Goldman v. Weinberger” (1986)
   2) “O’Lone v. Estate of Shabazz” (1987)

Wednesday, February 8: Presentations:
   5) “Allegheny County v. ACLU” (1989)

Monday, February 13: Presentations:
   9) “Kedroff v. St. Nicholas Cathedral” (1952)

Wednesday, February 15: Presentations:
   10) “Hull Church v. Presbyterian Church” (1969)

Monday, February 20: Presentations:

Wednesday, February 22: Midterm Exam

Monday, February 27: NO CLASS

Wednesday, March 1: NO CLASS

Monday, March 6:
   • “Greece v. Galloway” (2014)

Wednesday, March 8:
   • “Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment” (2012)
   • “Burwell v. Hobby Lobby” (2014)

Sunday, March 12, Essay on Berger due by 9 am, via email

Monday, March 13: Law and/as Religion
   • Berger, *Law’s Religion*
Wednesday, March 15: Religion and Law in the Middle East
- Saba Mahmood, “Religious Freedom, the Minority Question, and Geopolitics in the Middle East”
- Kathleen Foody, “Interiorizing Islam: Religious Experience and State Oversight in the Islamic Republic”

Monday, March 20: Religion and Law in South Asia
- Asad Ali Ahmed, “Specters of Macaulay: Blasphemy, the Indian Penal Code, and Pakistan’s Postcolonial Predicament”

Tuesday, March 21: Essay on Garland due by 9 am, via email

Wednesday, March 22: The Death Penalty
- Garland, *Peculiar Institution*

Monday, March 27: Free Speech / Hate Speech
- “Snyder v Phelps”
- Selections of current news articles

Wednesday, March 29: Varieties of Establishment in Europe
- Selections from Danish and French Constitutions

Sunday, April 2: Essay on Scott due by 9 am, via email

Monday, April 3: Veils and French Law
  - Scott, *Politics of the Veil*

Wednesday, April 5: Rhetoric and Authority
- Reinbold, “Traditional Marriage on Trial”

Sunday, April 9: Essay on Kao and Copulsky due by 9 am, via email

Monday, April 10: (Dis)Establishment, Civil Religion, and Religious Freedom Reconsidered
- Kao and Copulsky, “The Pledge of Allegiance and the Meanings and Limits of Civil Religion”

Wednesday, April 12: Further Question of/for Democracy
- Sullivan, “The World That Smith Made”
- Ann Pellegrini, “Everson’s Children”
- Wendy Brown, “Religious Freedom’s Oxymoronic Edge”

Monday, April 17: Conclusions and Review

*Take-Home Final Exam Due by April 28th at 11 am.*