

RELIGIOUS FREEDOM: COMPARATIVE AND INTERNATIONAL PERSPECTIVES
Indiana University Robert H. McKinney School of Law (Draft for New Course)
Prof. Mohamed A. ‘Arafa

Contact Information

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Office Hours: Before and after class and by appointment

Course Materials

The text for the course is Durham and Scharffs, *Law and Religion: National, International and Comparative Perspectives*. Additional reading materials will be posted on the course website at blackboard.valpo.edu.

In a few instances, readings will be drawn from the textbook’s web-based supplement. You should establish a free account at <http://www.iclrs.org/casebook/login.php> in order to access these materials.

Course Information and Requirements

The course will operate in a classic seminar fashion. Each meeting of the seminar will have one or more students assigned to serve as discussion leaders. Discussion leaders will open class with a 10 minute presentation that introduces key issues from the readings and raises questions to be considered. We will then pursue a communal class discussion about the materials in which it is expected that all students will actively participate.

In addition to carefully reading the assigned materials, each student is to write a “response paper” in advance of each meeting of the seminar. *The weekly seminar leader(s) does not need to complete a response paper.* The purpose of this paper, which should be 1-2 double-spaced pages in length (and under no circumstances more than 2 pages), is not to summarize the readings – it is assumed that you can do this – but rather to critically and constructively engage the material. You should view this as an opportunity to wrestle with arguments advanced in the readings, to interrogate the logic of cases, to think more deeply about issues that you find interesting or troubling or unclear, and to raise questions that you think demand further attention in class. Papers should be distributed *no later than 5pm on the Monday before class.*

Finally, all students must complete a final research paper of approximately 20 double-spaced pages (no fewer than 20 and no more than 23), inclusive of footnotes (completed according to Bluebook format). The paper should be a work of original scholarship that addresses a topic pertinent to the themes of the course. In particular, the paper should consider religious freedom from the perspective of history or theory, a case study, or an examination of national, international or regional legal systems.

In thinking about potential topics, it should be noted that there are many important issues that we cannot cover in class, and you should not feel bound to write on a subject that we have discussed. The textbook is an excellent resource for discovering potential topics not addressed in class (e.g. the history of religious freedom, philosophical discussions of the idea of religious freedom, religion and education, religious displays on public property, funding of religious institutions, religious autonomy, etc.). In all cases, the paper should aim to address religious freedom in a manner that incorporates international and comparative perspectives. The topic should be selected and approved in consultation with the professor. The final paper must be received *no later than 5pm on Friday, December 20*. The paper must be sent by email attachment to marafa@iupui.edu. Extensions cannot be granted and failure to submit the paper on time will result in a reduction of the final grade.

The final grade will be calculated according to following criteria:

Final Research Paper – 70%

Class Participation/Weekly Response Papers/Seminar Leadership – 30%

Class Reading Assignments

8/23 Introduction

8/30 Religious Freedom: History, Theory, and Status

Textbook, pp. 1-26; 39-56; 56-76; 77-91; 113-122;
UN CCPR, General Comment No. 22
Pew Forum Report: Global Restrictions on Religion

9/6 No Class (Labour Day)

9/13 European Court of Human Rights

Textbook, pp. 91-98; 170-171; 231-242
Cases: *Sahin v. Turkey*; *Lautsi v. Italy*
Calo, Pluralism, Secularism, and the European Court of Human Rights
Evans and Thomas, Church-State Relations in the European Court of Human Rights

9/20 International Religious Freedom Act

Overview, U.S. Efforts to Promote International Religious Freedom
HR 2431, Act Establishing IRFA
Calo, The Internationalization of Church-State Issues
Farr, The Diplomacy of Religious Freedom
Gunn, A Preliminary Response to Criticisms of the International Religious Freedom Act of 1998

9/27 Islam, Secularism and Human Rights

Textbook, pp. 108-110; 130-132; 174-176; 306-314

Hirschl, Constitutional Courts vs. Religious Fundamentalism: Three Middle Eastern Tales

Stahnke & Blitt, The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries

Survey Constitutions of Islamic Countries on Textbook Web Supplement, <http://www.iclrs.org/casebook/login.php>

10/4 Defamation of Religion and Religious Hate Speech

Textbook, pp. 183-202

Blitt, The Challenge of ‘Defamation of Religion’

Langer, The Rise (and Fall?) of Defamation of Religions

Temperman, Protection Against Religious Hatred under the United Nations ICCPR and the European Convention System

United States Commission on International Religious Freedom, The Dangerous Idea of Protecting Religions from ‘Defamation’

10/11 New Religious Movements

Textbook, pp. 293-299; 314-329

Case: *Church of Scientology v. Russia*

Carlson, China’s New Regulations on Religion

Ferrari, New Religious Movements in Europe

Kravchouk, New Religious Movements and the Problem of Extremism in Modern Russia

Williams, America’s Opposition to New Religious Movements

10/18 Proselytism and the Right to Change Religion

Textbook, pp. 26-37; 171-183

Stahnke, Proselytism and the Freedom to Change Religion in International Human Rights Law

Witte, Evangelism/Proselytism and International Religious Liberties

10/25 The Limits of Religious Freedom and Autonomy

Textbook, pp. 205-258; 338-368

Case: *EEOC v. Hosanna-Tabor Church*

News Articles: “Birth Control Coverage Proposed for Most Health Insurance Plans”; “In California, Efforts to Ban Circumcision Gain Momentum”

11/1 Religious Law and Religious Courts

Textbook, pp. 352-354

Skillen, *Shari‘a* and Pluralism

Williams, Civil and Religious Law in England

Cardiff Report on Social Cohesion, Civil Law and Religious Courts

News Articles: Blond, “Integrating Islam into the West”; Fish, “Serving Two Masters”

11/8 The Application of the *Shari‘a* in American Courts

The Non-Application of Islamic Law by American Courts Decisions 2011 (*Awad v. Ziriax dist. ct. Decision 1*)

The Non-Application of Islamic Law by American Courts Decisions 2011 (*Awad v. Ziriax dist. ct. Decision 2*)

Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (1999), Chapter 8: Freedom of Religion in Islamic Human Rights Schemes

‘Isha Khan, *Islamic Human Rights: Islamic Law and International Human Rights Standards*, 5 *APPEAL: REV. CURRENT L. & L. REFORM* 74 (1999)

11/15 Freedom of Religion and Conflict of Rights in International Law

John Finnis, *Why Religious Liberty is a Special, Important and Limited Right*, 49 *HARV. INT’L L. J.* 2 (2008)

Peter Danchin, *Who is the ‘Human’ in Human Rights? The Claims of Culture and Religion*, 24 *MARYLAND J. INT’L L.* (2009)

Asma Uddin, *Sharing Lessons on Religious Freedom: U.S. and Muslim-Majority Countries* (2012)

11/22 No Class (Thanksgiving Break)

11/29 Review of the Course

12/20 Final Paper Due