Course Description

The course focuses on law & religion, from a comparative perspective. The first theme of the course is what is the separation of church and state? What does it mean for religion, religious organizations and the government? What does it mean to be a separationist,
accommodationist, or a non-preferentialist? This course will cover all aspects of church/state separation: what it is, the difference between secular and religious institutions, major court cases and precedents, what sorts of positions exist, and more. The second theme would focus on the questions is secularism a nonnegotiable aspect of liberal constitutionalism and can non-secular state–church relationship models guarantee freedom of religion as an indispensable condition of liberal constitutionalism? Finally, the course would focus its attention to Israel, a liberal democracy with a very special accommodationist model, discussing the constitutional conflict between Jewish and the democratic character of the State of Israel.

Course Goals

The goal of the course is to help students understand how law and religion interact, how law shapes religion and how religion shapes law, particularly in the United States and in Israel, by using a comparative perspective.

Grading

Exam – 100%

Reading List

Class 1-

Reading:

IRS Checklist for defining a church


Class 2-

An introduction to First Amendment Jurisprudence and Law and Religion

Reading:

The Free Exercise Clause and The Establishment Clause: Developments in Jurisprudence

Cantwell v. Connecticut, 310 U.S. 296 (1940)


Trinity Lutheran Church of Columbia, Inc. v. Comer, 582 U.S. ___ (2017)

**Class 3-**

The “First Amendentization” of Religion- Religious Law in American Law

Reynolds v. United States, 98 U.S. (8 Otto.) 145 (1878)

Handout (will be handed out during Class 2)

American and Israeli Reflections on a Jewish Democratic State

Avot 3:14

JT Nedarim 30b

BT Sotah 14a

Israeli Declaration of Independence


**Class 4 - Law and Religion in a Comparative Perspective**


**Class 5 – Jewish & Democratic and the Nation State Law**


Optional:


Class 6 – European Court of Human Rights Perspective


Optional:

Howard Schweber, Text and textualism: religious establishment in the United States Supreme Court and the European Court of Human Rights, in Comparative Constitutional Theory (Gary Jacobsohn and Miguel Schor eds., EE, 2018), 248–268


Class 7 – Religions, Secularism and Eternity

Reading:


Optional: