

HERTOG 2021 SUMMER COURSES

RELIGION & POLITICS

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What is the proper role of religion in public life? To what extent should religious belief shape our political discourse? How should religious leaders approach politics? How should political leaders approach religion? These questions have only gained salience in recent history.

This online course will examine the ways in which religion and politics intersect in a liberal democracy. Among the questions students will ask are: What is the role of religion in a liberal democracy? How has the American experience been exceptional, and is the decline in religious affiliation, especially among younger generations, a cause for concern? What are the limits of religious tolerance and liberty in a diverse society?

This seminar will meet online from **1 PM to 3 PM ET on June 7–11, 2021.**

Course Materials:

- John Locke, *A Letter Concerning Toleration*, ed. James H. Tully (Hackett Publishing Company, 1983)
- Course Reader

Discussion Papers: Each fellow will be responsible for completing a brief discussion paper (1-2 pages, single spaced). See below for your assignment. **Papers are due the day before your assigned session by 5 PM ET.** They should be posted on the course Slack channel and will be part of the assigned readings for the session. Paper-writers should be ready to briefly present their ideas during the seminar.

Resources:

To learn more about the ideas and figures discussed in this course, we encourage you to explore a project supported by the Hertog Foundation: **The Great Thinkers** (<http://thegreatthinkers.org/>) and **Contemporary Thinkers** (<http://contemporarythinkers.org/>) websites. These sites are aimed at introducing important thinkers in Western thought, with a particular emphasis on politics and philosophy.

Relevant pages include [Locke](#), [Rousseau](#), and [Tocqueville](#).

Monday, June 7, 2021

1 PM – 3 PM ET

Session I: Principles of Religious Toleration

Readings:

- John Locke, *A Letter Concerning Toleration* (1689)
- James Madison, “Memorial & Remonstrance against Religious Assessments” (1785)

Discussion Questions:

1. According to Locke, why is the care of souls not the business of civil society?
2. In what does the act of tolerating consist? Is it only a negative “action”?
3. What is Locke’s argument against theocracy? [**Discussant:** Elan Wilson]
4. What goes into Locke’s distinction between practical and speculative articles of faith?
5. According to Madison, why is the exercise of religion a natural right? What is the relationship between the religious person’s right and duties?
6. What are Madison’s principled or deductive arguments against religious tests? What are his empirical or inductive arguments against them? Why does he use both?

Tuesday, June 8, 2021

1 PM – 3 PM ET

Session II: Civil Religion

Readings:

- Livy, *The History of Rome*, Book I, Chs. 18–21
- Jean-Jacques Rousseau, *Social Contract*, Book IV, Ch. 8 (1762)

Discussion Questions:

1. Livy describes fear of the gods as “a principle of the greatest efficacy with the multitude, in that rude and ignorant age.” How did Numa use that principle for political ends? What political functions did religious rituals serve under Numa?

2. Why was Numa unconcerned with the dangers of theocracy? Should he have been concerned?
3. In this chapter, Rousseau argues that theological and civil intolerance are the same. What is his argument for this claim? Is it effective?
4. According to Rousseau, what are the three kinds of religion and how do they fit (or not fit) with civil society?
5. Why does Rousseau claim that religious and civil obligations are necessarily incompatible? Is he correct?

Wednesday, June 9, 2021

1 PM – 3 PM ET

Session III: Religion as an Institution

Readings:

- Alexis de Tocqueville, *Democracy in America* (1835–40)
 - Vol. 1, Part 1, Ch. 2
 - Vol. 1, Part 2, Ch. 9 (only the sections titled “Religion considered as a political institution...” and “On the principal causes of religion’s power...”)
 - Vol. 2, Part 1, Chs. 5–8

Discussion Questions:

1. How – both in practice and in theory – does the spirit of religion and the spirit of freedom combine in early New England? Where the combination falters, is there a solution that does not require diluting either spirit?
2. How does the separation of church and state contribute to the co-reign of the spirit of religion and the spirit of freedom? How does it contribute to the individual benefit of each?
3. What is the utility of religion? What is its special utility among democratic peoples?
4. What did Tocqueville mean by “pantheism,” and why did he think democratic citizens were likely to find it attractive?

Thursday, July 10, 2021

1 PM – 3 PM ET

Session IV: Free Exercise of Religion

Readings:

- U.S. Constitution, Amendment I
- Selections from *Religion and the Constitution*
 - *Wisconsin v. Yoder* (1972)
 - *Employment Division v. Smith* (1990)
 - *The Religious Freedom Restoration Act* (1993)
 - *Burwell v. Hobby Lobby Stores, Inc.* (2014)

Discussion Questions:

1. *Yoder* stands for the proposition that the Free Exercise Clause bars enforcement even of laws that are “neutral on their face,” if they conflict with religious exercise and fail to serve a sufficiently important governmental interest. But what does it mean to say that “some” accommodations are mandatory? Do you think *Yoder* suggests that accommodations for religious conduct must be granted readily, or only sparingly?
2. Are the Court’s findings in *Yoder* and *Smith* consistent with one another? Do the rulings depend on the justices’ judgments about the civic or moral value of the religious practices being evaluated, or of the religious communities themselves? Do you think that allowing people special exemption to laws because of their religious beliefs could ever amount to a state “establishment” of religion? Why or why not?
3. Is Judge Ginsberg correct that the majority’s interpretation of RFRA is far more powerful than the old compelling-interest test? Are her fears about a proliferation of exemptions reasonable? Are they criticisms of RFRA itself? What plausible interpretation of RFRA would head off this “parade of horrors”?

Friday, July 11, 2021

1 PM – 3 PM ET

Session V: Freedom of Religion & Other First Amendment Rights

Readings:

- Selections from *Religion and the Constitution*
 - *Board of Education v. Barnette* (1943)
 - *Lee v. Weisman* (1992)
 - *United States v. Seeger* (1965)
 - *Welsh v. United States* (1970)

Discussion Questions:

1. Examine closely Justice Frankfurter's dissent in *West Virginia Board of Education v. Barnette*. What is his view of the Court's proper role? What reason does he give for this view? Is he right?
2. In *Seeger*, Congress defined "[r]eligious training and belief" as "an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but [not including] essentially political, sociological, or philosophical views of a merely personal moral code." Is that a good definition?
3. Is there any substantial difference between *Seeger* and *Welsh*? Did the elimination of the term "Supreme Being" from the exemption statute make any real difference?