

[For discussion of issues related to this syllabus, please see W. Sullivan, "On Using Legal Materials in Teaching Religion," *Teaching Theology and Religion* 3 (2000)::33-41]

HR 40600: RELIGION, LAW & CULTURE

Spring 2002

TTh 1:30-2:50 Swift 204

SYLLABUS

Instructor: Winnifred Sullivan

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Office hours: By appointment

Description

"Religion" and "Law" denote human cultural and social phenomena that are virtually universal. In this course, we will consider how to talk about these two and their intersection in, for example, the construction of individual and group identities, the development of ideas and institutions, the legitimation of power, and the regulation of the social order. We will examine materials from a range of modern and pre-modern societies and will engage different academic disciplines with a view to understanding and evaluating various approaches to the study of "law and religion."

Course Requirements

The student will write a five-hundred word essay each week (excepting the first and the last, for a total of eight) responding to assigned questions distributed on Thursday of each week. The essays may be submitted by email and will be due on Mondays by 5 pm. Selected essays will be copied and circulated to the class as a basis for class discussion. (These essays as a group as well as participation in class discussions will be 50% of the grade.)

There will be a take-home final examination. (50% of final grade)

All assignments, including preparation for class, are expected to be timely, unless prior approval is given.

Texts Available for Purchase (also on 2-hr reserve at Regenstein Library)

Brian Barry, Culture & Equality

Rebecca French, The Golden Yoke

Lon Fuller, The Morality of Law

Gerald Larson, ed., Religion and Personal Law in Secular India

Edward Levi, Introduction to Legal Reasoning

Henry Maine, Ancient Law

Mitchell Merback, The Thief, The Cross and the Wheel

Lawrence Rosen, The Anthropology of Justice

The remaining readings will be available on reserve.

Schedule of Lectures & Assignments

wk 1

3/26 Introductory Lecture

3/28 Reading: In My Father's Court pp. 1-74 (on reserve)

wk 2 **Anthropology/Religious Studies: Islam**

4/1 Essay #1 due

4/2 Reading: Lawrence Rosen, The Anthropology of Justice

4/4 Reading: Brinkley Messick, "Written Identities: Legal Subjects in an Islamic State" HR Journal 38:1, on reserve)

Ebrahim Moosa, "Allegory of the Rule (*Hukm*): Law as Simulacrum in Islam" HR Journal 38:1, on reserve)

wk 3 **Anthropology/Religious Studies: Buddhism**

4/8 Essay #2 due

4/9 Reading: Rebecca French, The Golden Yoke pp 55-191

4/11 Reading: Andrew Huxley, "Buddhism and Law: The View from Mandalay" Buddhist Studies 18:1, on reserve)

Gregory Schopen, "Monastic Law Meets the Real World: A Monk's Continuing Right to Inherit Family Property in Classical India" (HR Journal 35:2, on reserve)

[4/12-13 "Doing Justice to Mercy" Conference at Divinity School, Attendance at one session required for Essay #3]

wk 4 **History: Law in the West**

4/15 Essay #3 due

4/16 Reading: Maine, Ancient Law chs. I-VII

4/18 Reading: J.G.A. Pocock, "Religious Freedom and the Desacralization of Politics: From the English Civil Wars to the Virginia Statute." (In Peterson & Vaughan, The Virginia Statute for Religious Freedom (Cambridge 1988), on reserve)

Mark deWolfe Howe, The Garden & The Wilderness (Chicago, 1965, on

reserve)

wk 5 **Law and Morality**

4/22 Essay #4 due

4/23 Reading: H.L.A. Hart, "Positivism and the Separation of Law and Morals" 71 Harvard Law Review 593 (1958) (available on LexisNexis)

4/25 Reading: Lon Fuller, The Morality of Law

wk 6 **Law and Rhetoric: American Style**

4/29 Essay #5 due

4/30 Reading: Levi, Introduction to Legal Reasoning (Chicago, 1948)

5/2 Reading: Robert Cover, "Nomos and Narrative" 97 Harvard Law Review 4 (1983) (available on Lexis/Nexis)

wk 7 **Law and Rhetoric: American Style continued**

5/6 Essay #6 due

5/7 Reading: Marbury v. Madison 1 Cranch 137 (1803) (available on LexisNexis)
Lewis LaRue, Constitutional Law as Fiction ch x (on reserve)

5/9 Reading: Planned Parenthood v. Casey 505 U.S. 833 (1992) (available on LexisNexis)
James Boyd White, "Hale's 'Considerations Touching the Amendment or Alteration of Lawes': Determining the Authority of the Past" and
"Planned Parenthood v. Casey: Legal Judgment as an Ethical and Cultural Art" (in White, Acts of Hope (Chicago, 1994)) (on reserve)

wk 8 **Antinomianism**

5/13 Essay #7 due

5/14 Reading: Gillian Rose, "Athens and Jerusalem: A Tale of Three Cities." (In Rose, Mourning Becomes the Law: Philosophy and Representation (Cambridge, 1996) (on reserve)

5/16 Reading: Trial of Joan of Arc excerpts (on reserve)

wk 9 **Art, Law and Violence**

5/20 Essay #8 due

5/21 Reading: Mitchell Merback, The Thief, The Cross & the Wheel pp 1-157

5/28 Reading: Merback pp 158-308

wk 10 **Sacred/secular**

5/28 Reading: Gerald Larson, Religion and Personal Law in Secular India (selections to be announced)

5/30 no class

wk 11

6/4 Reading: Brian Barry, Culture and Equality (selections to be announced)

Final due 6/7 at noon