**Course Description:** This interdisciplinary seminar will examine theories of justice and the relationship between law and morality in light of religious and theological visions of the good life and accounts of order. Materials and discussions will probe questions such as: What are the moral values underlying the law? How does the law achieve justice or fall short of this goal? How can moral judgments be brought to bear, if at all, in modern, secular legal institutions and in the formation of public policies?

Throughout the class we will have opportunities to consider how morality and ideas of justice shape, and are shaped by, contemporary legal problems such as: the legal regulation of sexual activity and marriage, controversies regarding federally mandated health insurance, abortion, euthanasia and physician assisted suicide, immigration, regulation of financial institutions, and/or other issues which emerge as topics of particular student interest.

Particular attention will be paid to understanding methods for dialogue across differing thought systems and disciplines and to developing the skills for communication across claims that would otherwise tend to generate religious and political polarization.

This seminar requires a series of short reflection and reaction papers which aim to facilitate thoughtful and active student participation in seminar discussions throughout the course. This course does not satisfy the JD Upper Level Writing Requirement.

**Required Texts:** All of the readings will be posted on TWEN (the Westlaw class management system). If you do not have a Westlaw password, please see one of the professors.

**Course Requirements:**
1) Thoughtful preparation for and participation in class discussion each week.
2) Required Weekly Written Submissions:
   - According to the scheme and guidelines at the end of this syllabus, choose five class discussion topics on which you will write five “reflection” papers that thoughtfully engage the material, and raise issues and questions that should enrich our class discussion.
   - With the exception of the first class, for the “off” weeks in which you do not write a reflection paper, you must submit a one-page (300-500 words) “reaction” to the reading assignments in which you may raise issues you hope the class discussion will probe, pose questions, draw connections with material in your other classes, point out tensions and contradictions, etc. For the last block, Class 12 and Class 13 (Section 6), write short reactions for both.
   - **DEADLINE:** WEEKLY REFLECTIONS AND REACTIONS MUST BE SUBMITTED TO THE TWEN ASSIGNMENT DROPBOX NO LATER THAN 9AM ON THE WEDNESDAY BEFORE OUR THURSDAY CLASS.

3) FOR LAW STUDENTS: Final 6-8 Page (double-spaced) Reflection Paper (not a research project).
   FOR MAIN CAMPUS STUDENTS ENROLLED IN THE 3 CREDIT GOVT CLASS: You will be required to write a 15 page final paper more typical of a graduate seminar. Further details should be discussed with the instructors.
TOPICS FOR READINGS AND CLASS DISCUSSION

Notice that the syllabus lists only twelve course meetings. Our thirteenth session will be covered by extending two of our class sessions with an hour for small group discussions, dates to be determined. The default will be to arrive an hour earlier (9:00 a.m.), with a possibility for groups to decide on an alternative time prior to class that works well for all members of the group.

Within each section (a block of two classes), do one short and one longer reflection, according to the scheme at the end of this syllabus. Please be sure to follow the formatting instructions.

Additional readings may be added as our conversations (and political events) evolve over the course of the semester.

INTRODUCTION

August 31, 2017 (no paper required)
Class 1: Methodologies for Communication across Profound Cultural and Religious Difference
- Martin Luther King, Jr., “Letter from a Birmingham Jail” (1963)

SECTION I: Further Discussion of Foundations and Methodology

September 7, 2017
Class 2: Freedom of Expression and Sensitivity to Difference: An Exercise in Empathy
- Robert Cover, “Nomos and Narrative” (Foreword to “The Supreme Court: 1982 Term”) (1983): read as much as you are able of this classic piece, concentrating on pp. 4-11, 25-35, 40-53, 60-68.
- Two brief reviews of HARPER LEE, GO SET A WATCHMAN:
  o Amy Uelmen, “Facing the prejudices within,” Living City (October 2015)

September 14, 2017
Class 3: Conversing about Morality and Religion after the Breakdown (?) of Universal Claims
We realize the reading for this day is robust, but we encourage you to make the investment, as this work will be foundational for the rest of the semester. The core texts are three different positions on how moral claims grounded in tradition could / should interact with law and public policy:
- Richard Rorty, Contingency, Irony, and Solidarity, Chapter 1, pp. 1-11 and Chapter 3, pp. 44-69
To make our discussions on this issue more concrete, we think it will be helpful to consider the role of morality in the analysis of Bowers and Lawrence. (We assume many of you have already read these cases): Bowers v. Hardwick, 478 U.S. 186 (1986) and Lawrence v. Texas, 539 U.S. 558 (2003) (as excerpted in Barnett, Constitutional Law, 2008).
CONTESTED CLAIMS IN CONTEXT:

SECTION II

September 21, 2017
Class 4: Economic Inequality: A Ground for Obligations to Respond?
An exploration of how moral arguments might inform policy debates regarding regulatory strategies to increase economic mobility:

- TBD further "white paper" reflections on how changing credit score models and private mortgage insurance policies can help to open housing markets

Coupled with: Religious Reflection on Responses to Economic Injustice
The broad selection is intended to give you options—please select one or two traditions to delve into, as a springboard for further consideration of how religious values and perspectives might ground obligations to respond to economic injustice.

- Thich Nhat Hanh, Interbeing, “Mindfulness Training 9-13,” (pp 20-21, 41-51)
- Dieter F. Uchtdorf, “Providing in the Lord’s Way” (Gen. Conf. 10/2011, LDS – Latter Day Saints)
- Dr. Interjit N. Kaur, “Addressing Inequality – An Expanded Interpretation of the 3-Pillars Sikh Theory in Guru Granth Sahib” (Sept. 2013)

In the “Roman Catholic” folder:
- Pope Francis, Evangelii Gaudium (The Joy of the Gospel) (2013) paragraph numbers 176-216

In the “Islamic Perspectives” folder:
- Sayyid Qutb, Social Justice in Islam, Ch.4 (Methods) (orig. 1949, trans version 2000)
- Afif A. Tabbarah, The Spirit of Islam, Ch.2 (Charity) (1993)
- Paul Heck (GU Theology Prof), The Moral Economy of Islam

September 28, 2017
Class 5: The Migrant Crisis and the Obligations of Bystanders

- Other shorter readings, TBD
SECTION III

October 5, 2017
Class 6: Environmental Justice: Rights for Non-Human Animals?

Core readings are two perspectives on the rights rhetoric and analysis as applied to non-human animals:

You may also be interested in weaving in one or more of the following perspectives:
- Message of Ecumenical Patriarch Bartholomew (September 1, 2011) (2pgs) (Greek Orthodox Christian)
- 2 short blogs: Camosy on Pope Francis, Laudato Si’ (2015) – with citations to relevant passages of Laudato Si’

(This list may be supplemented by additional optional suggestions from varying perspectives)

October 12, 2017
Class 7: Euthanasia

Exploring Contrasting Values and World Views on the Meaning of Suffering and End of Life Care:

An examination of social context / social pressures when euthanasia intersects with disability:
- Bouvia v. Superior Court (Cal. App. 1986)
SECTION IV


October 19, 2017

Class 8: Abortion – the obligation of pharmacists and police officers
Case Studies in Requests for Exemptions: Pharmacists, Police Protection
Stormans v. Selecky (9th Cir. 2015) (pharmacist accommodation for not stocking contraceptives)
Rodriguez v. Chicago, 156 F.3d 771 (7th Cir. 1998) (police accommodation re protecting abortion clinic)

Analysis of pharmacist conscience / refusal clauses and how they intersection with market constraints:
Robert Vischer, Conscience and the Common Good, Chapter 6 – Pharmacists (2010)

NARAL and USCCB background on conscience / refusal clauses:
http://www.prochoiceamerica.org/media/fact-sheets/abortion-refusal-current-laws.pdf
http://www.prochoiceamerica.org/media/fact-sheets/abortion-refusal-claims-dangerous.pdf

Background on the variety of contexts that inform the decision:
http://dish.andrewsullivan.com/threads/its-so-personal/ A series of letters to Andrew Sullivan's The Dish from a variety of perspectives in response to the murder of late-term abortion provided Dr. George Tiller.

OPTIONAL Background
Casey Excerpts (we assume most of you have explored these in other classes)
Readings from Howard Lesnick, Religion in Legal Thought and Practice: the selections are somewhat dated, but provide background on the variety of religious positions on the issue of abortion

October 26, 2017

Class 9: Accommodations and Theological Claims regarding Cooperation / Complicity in Evil
- HHS Proposed Exemptions to the ACA (August 2011)
- Burwell v. Hobby Lobby (excerpts) (2014)
- Briefing from Zubik v. Burwell (2 petitioners Reply Briefs; Government’s Response Brief)
- Abdi Noor Dolal v. Metropolitan Airports Commission (Hennepin County District Court, MN, 2008)
SECTION V

November 2, 2017
Class 10: Discrimination, Exemptions & Artistic Expression

  
  Issue(s): Whether applying Colorado’s public accommodations law to compel the petitioner to create expression that violates his sincerely held religious beliefs about marriage violates the free speech or free exercise clauses of the First Amendment.

- *Elane Photography* (New Mexico Supreme Court, 2013)
- Chai R. Feldblum, “Moral Conflict and Conflicting Liberties,” in *Same-Sex Marriage and Religious Liberty: Emerging Conflicts* (Laycock, Picarello & Wilson, eds., 2008)

November 9, 2017
Class 11: Race: Rallies & Resistance

Readings TBA: possibly will include: Malcom X, Reflections on Black Lives Matter, discussion of the problem of hate speech / hate groups and the limits of freedom of expression in these contexts

Class 12: CONCLUDING DINNER / short blurb to prepare for conversation

Strategies for Carrying the conversation forward, into other contexts

Either Monday 11/13 or Tuesday 11/14 or both (one or two groups, depending on schedules)

We will discuss as a group the option to bring your closest conversation partners (spouse, partner or close friend) with whom you converse about this difficult questions, and together determine how best to present to others outside of our class the methods that we have practiced over the course of the semester.

More details closer to the time.

[As noted as the beginning of the syllabus, Class 13 will be covered by adding to two different class sessions an hour for small group discussions].
Reflection papers (long) and blurbs (short) Paper Requirements and Guidelines

HEADER:
Please be sure to include your name, date and the class (e.g., Class 2) on the actual document. Also indicate in the header the intended length (e.g., “long” or “short”). For long submissions, please number your pages.

LENGTH:
• The long reflection essays should be about **1300-1400 words**. Please **SINGLE SPACE**. Using Times New Roman 12 point font and one inch margins; it should be about two full pages.
• The short “blurb” should be about 300-400 words, about one page (double-spaced).

CITATIONS:
Keep in mind that the essays are not research papers. However, if you are drawn to pulling in specific materials as a basis for your discussion, a simplified notation with the most basic information – just enough to orient us – will be fine. For example, for a citation from Cover, (C650) would be sufficient.

AVOID FOOTNOTES:
In such a short essay, if you are tempted to drop into a long and extended discussion in a footnote, at least consider whether the thought might be better integrated into the text.

**Distribution of assignments for longer reflection papers**
The distribution helps to insure even and active participation of students throughout the semester, and also facilitates the process of professors’ feedback. Please follow this scheme carefully. On the “off” weeks, when you are not writing a long reflection, do the short blurb.

Reflection #1 - Choose 1 set of materials from Section I
Reflection #2 – Choose 1 set of materials from Section II
Reflection #3 – Choose 1 from Section III
Reflection #4 - Choose 1 from Section IV
Reflection #5 - Choose 1 from Section V

Concluding class: just a blurb

**INSTRUCTIONAL CONTINUITY IN CASE OF INCLEMENT WEATHER**
**WILL CHECK ON THIS**
If the Law Center is closed due to inclement weather, we plan to meet via the Zoom web conferencing option. Please familiarize yourself with this technology. A short tutorial on how to use Zoom is available at: https://lecturecontent.georgetown.edu/ess/echo/presentation/8626686a-4caa-4d82-bc10-55f9f3ec34178c.

Students do not need a Zoom account. You will be able to access the meeting by clicking the link we send to “join a meeting.” **The Meeting ID number for our class is Professor Uelmen’s office number: 202.661.6681.**

The Georgetown Law instructional sheet for Zoom may be accessed [here](https://lecturecontent.georgetown.edu/ess/echo/presentation/8626686a-4caa-4d82-bc10-55f9f3ec34178c).

**Best Practices**
(1) Use the mute function when you are not speaking as this helps to eliminate ambient noise.
(2) Use the “Raise Hand” function to signal participation.
SOCIAL JUSTICE, DEMOCRATIC EDUCATION, AND THE SILENCING OF WORDS THAT WOUND
BARBARA APPLEBAUM

A classroom encounter illustrates the dilemma that is at the heart of this essay. This was a course on democratic education and diversity and at one point in the curriculum I assigned some readings about the lives of gays, lesbians and bisexuals in public schools. One of the white, Christian, heterosexual students in the class, a prospective assistant principal, declared that she would have no problem with homosexual students in her school because she has learned to “love the sinner but hate the sin.” When I challenged her remark by asking how she thinks gay or lesbian students would feel having been referred to, by her, as “sinners,” her defensive response was to claim adamantly her right to express her religious belief.

I continued to query her. “As an assistant principal, how would you respond to a gay adolescent in your school who confides to you that he was contemplating suicide? What would you tell a student who asks you whether all gays are abomination in the eyes of God and will go to hell? Would you support the inclusion of books that include discussion of children with same-sexed parents in your First Grade curriculum when you know that the aim of these books is to convey a positive message about these families to your students?” Rather than respond directly to my questions, my student accused me of trying to silence her and anyone who holds the view that homosexuality is morally wrong. She claimed that she certainly does not discriminate against anyone, nor does she have any hateful feelings against homosexuals. Moreover, she was incensed that schools, in the name of “tolerance,” silence all objections to open homosexuality. The biggest insult, according to my student, was the hypocrisy demonstrated. “Where is the ‘respect’ demanded by homosexuals for those who are ‘different’ from them?” she contended. While my religious student felt entitled to voice her view in our classroom, I could not help but notice that the student who told me he was gay remained silent.
In a number of provocative articles, John Petrovic presents a compelling argument for the censorship of teachers whose religious views preclude their ability to give positive recognition to the "worldview" of gay, lesbian, and bisexual students based on the democratic principles of recognition and non-oppression. By summoning Charles Taylor's powerful defence for a "politics of recognition," Petrovic contends that justice demands the recognition of the value of different cultures. As Taylor puts it,

our identity is partly shaped by recognition or its absence, often by the misrecognition of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves. Nonrecognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being.

John Beck, however, is not persuaded by Petrovic's argument. Beck charges Petrovic with self-contradiction. According to Beck, one cannot make the recognition of the worth of different worldviews central to one's conception of democracy and, then, prohibit the expression of some of these views and the endorsement of competing views by schools and teachers all in the name of democracy. Beck's argument is particularly notable because he accuses Petrovic of assuming that all religious individuals committed to the immorality of homosexuality are unreasonable, dogmatic and moralistic.

Certain speech acts have been shown to be more than mere pronouncement of beliefs. Hate speech and particularly fighting words, for example, are prohibited legally because they do more than express a belief; they incite violence. Yet my student's declarations do not fall easily under such categories because they are not spoken as a slur or form of hateful invective (indeed, she claims to love the "sinner"). I hesitate to use the term "offensive" to describe such speech acts as this trivialises the harms that such speech gives rise to by reducing the speech and its concomitant harms to mere rudeness or of being insulted or offended. As Charles Lawrence explains,

Moral Obligation and Religious Belief

There is a great difference between the offensiveness of words that you would rather not hear because they are labeled dirty, impolite, or personally demeaning and the injury inflicted by words that remind the world that you are fair game for physical attack, that evoke in you all of the millions of cultural lessons regarding your inferiority that you have so painstakingly repressed, and that imprint upon you a badge of servitude and subservience for all the world to see.

I use the term assaultive speech or words that wound to describe these speech acts because I want to highlight the type of harms these utterances occasion. In her discussion of racist words that wound, Mari Matsuda explains how these words "all hit the gut of those in the target group." The physiological consequences for the victim include symptoms of emotional distress such as rapid pulse rate, difficulty breathing, nightmares, hypertension, psychosis and even suicide. One of my pre-service teachers recently told me that during her practicum at a Toronto high school, a student in her class made a derogatory comment about Chinese businessmen. Although my student is Korean, she told me she was psychologically stunned and could not continue with her lesson with equanimity.
In addition, such speech has the ability to restrict the victim’s personal freedom by placing the victim in double binds where the exercise of the right of speech may result in the loss of one’s job, one’s opportunity for an education, or even one’s life. As the student who came out to me explained later, even if he had the courage to respond to my religious student’s comment in class, while he may not necessarily “out” himself, at a minimum he puts himself under the risk of being suspected as gay. If he does speak, he may also feel that he must mendaciously make some kind of reference to his supposed heterosexuality. At the same time, if my gay student remains silent his freedom to be who he is has been forfeited. My religious student unintentionally uses language that forces a choice and puts my gay student in a double bind. Her freedom of expression constrains his; her freedom to speak silences him and, perhaps, others like him. Her integrity compels him to waive his.

Words that wound, I contend, do more than this. In order to see what such discourse does and how, one must look beyond the isolated speech act and look at the broader social context in which such speech is uttered. If we perceive the vocalised expression of my religious student’s belief as an illustration of a speech act that supports and is supported by dominant systems of heterosexist ideology, it becomes exceedingly clear why, for example, she can in comfort say that homosexuals, but not Jews, are “sinners.” The norm of heterosexism is still deeply ingrained in western society in ways that anti-Semitism is not (and that is not to imply that anti-Semitism has become extinct).

Similarly, I submit that part of the reason that my religious student felt free to refer to gays and lesbians as “sinners” was because on some level she recognizes that this belief is supported by and supports the dominant ideology. My student’s speech, I am arguing, is an instrument of subordination as much as it is an expression of her viewpoint. Not only does such speech harm gay, lesbian or bisexual students who may be present in my class, but it also leaves a remnant on all the heterosexual students as well. Such utterances legitimise particular interpretations concerning what it means to be homosexual and strengthen we/they boundaries.

The religious are not oppressed or discriminated against because they believe that homosexual behaviour is a sin but rather, in this one aspect, they concur with the heterosexist

What Are the Bases of Resistance to Religiously Grounded Morality?

norm prevalent in western secular society. Thus, the charge of reverse cultural imperialism on the part of religious teachers does not hold at least when the focus is the curtailing of the expression of heterosexist beliefs.

The reasonable religious student is one who is willing to listen and be open to learning and understanding worlds that are different from the one he/she knows to be true. Moreover, the reasonable religious will be honest when they are hiding their homophobia behind religious beliefs. Some of my religious students admit that their fierce opposition to homosexuality is more than a product of religious conviction and may also stem from fear, although not hatred. In addition, reasonable religious students can appreciate the institutional and cultural barriers that gay, lesbian and bisexual people encounter because of the norm of heterosexism. Perhaps, the heterosexist presumption that everyone is heterosexual unless one is told otherwise could have contributed to part of my religious student’s comfort to proclaim her love for the “sinner.” Could she have assumed that there were no gays, lesbians or bisexuals in our class, and therefore she would not be offending anyone?