Prospectus:
Religion, Liberalism and the State: the Case of Islam

Fall 2012
Professor Fadel
Wednesday, 2:10 – 4:00
FA3

General Orientation

This seminar seeks first to explore issues related generally to understanding the relationship of religious belief and practice to the politics of a liberal state and second to apply these understandings to understanding the place of Islam and Muslims in liberal states.

The initial meeting will set up the general problem of pluralism, liberalism and Islam through a series of articles taken from the New York Times on Muslims in Europe. The next three sessions (Meetings 2 – 4) of the seminar will focus on how liberal political philosophy understands the relationship of religion and the liberal state. We will begin by reading selections from John Rawls’ *Political Liberalism* in order to understand a prominent liberal political philosopher’s conception of kinds of arguments are “legitimate” in a liberal state, and what this framework implies for the role of religion in the public life of the state, the role of the state in shaping the religious life of its citizens, and the role of religion in shaping the lives of liberal citizens. We will then consider some alternative views on the role of religion in a liberal state, including the views of authors critical of Rawls.

The next three seminar meetings (Meetings 5-7) will be devoted to issues surrounding the liberal “practice” of freedom of religion, including multiculturalism. We will explore these issues by reading seminal constitutional cases involving questions of freedom of religion in Canada and the United States. We will conclude this topic by considering the issue of multiculturalism (understood broadly as including some kind of duty to accommodate the religious practices of minority groups), and whether multiculturalism is consistent with liberal theory.

The next seminar (Meeting 8) will be devoted to challenges liberal theory poses to traditional Islamic concepts of the religious and political community, and possible responses to those challenges.

The next seminar (Meeting 9) will focus on the political thought of pre-modern Muslims in an attempt to give students a certain background on the nature of pre-modern Islamic political discourse and to introduce them to some of the questions which will become the object of reform (or attempts at reform) in the 19th and 20th centuries. The next seminar (Meeting 10) will focus on Muslim responses to liberalism and modernity by reading selections of various Muslim authors from the 19th and 20th centuries.
Meetings 11 and 12 will return to the issue of practice, this time looking at liberal “practice” of religious freedom as experienced by Muslims in Europe and in Canada as illustrated by the Ontario shari’a law arbitration controversy of 2004 – 2005.

Objectives

After this seminar, I hope that you will be able to:

- Understand how liberal commitments such as equality, autonomy and freedom of religion are often in tension and what kind of political solutions are available to resolve these tensions; and
- Understand basic issues faced by Muslims living in liberal states.

Participation

Because this is a seminar, active participation is required for each session. If you will not be able to attend a session, please provide me with advance notice. I have usually divided the readings between mandatory readings and additional background readings. Two (or more) students will be on call for each meeting beginning with week 4 of the seminar. Students who are on call will be responsible for both the mandatory and the additional background readings. They will present the arguments developed in the additional background readings to the class, with one of the students having the responsibility to defend the author’s argument, and the other student having the task of critiquing it.

Materials

- Required materials for this course consist of a three volumes of materials which may be found in the law school bookstore.

You will be expected to be familiar with the readings prior to class.

Blackboard

You will need to sign up for access for the course’s Blackboard site as soon as practicable. Class-related announcements will typically be made on Blackboard and I will generally respond to e-mail questions to the entire class by using Blackboard.

Evaluation

Students, at their option, may either (1) write 10, 750-word reaction papers (to be submitted 24 hours prior to class) or (2) write a single 40-page extended paper, the final version of which must be handed in no later than 10:00 am on December 20, along with three-reaction papers of your choice. Preliminary drafts should be submitted by November 21 to allow me sufficient time to provide comments before the last class meeting on November 28. Ninety percent of your mark will be determined based on your written work product, with the remaining 10% determined by the level and quality of your participation.
Office Hours and Contact Information

Feel free to approach me during breaks or immediately after class, or to come to my office during regularly scheduled office hours, which are Tuesday 9:00 – 11:00 am. You should also feel free to come by at any other time as well, but in that case you might wish to contact me in advance to confirm that I will be present.

My office is located at 403 Flavelle. You may also send me questions via e-mail at mohammad.fadel@utoronto.ca. The office of my assistant, Nancy Buecher (nancy.buecher@utoronto.ca), is located on the second floor of Flavelle. Her phone number is 416.978.5587.
Meeting 1 – September 5

Topic 1: Welcome and Introduction: Muslims in Western Democracies

Mandatory Readings:


Meeting 2 – September 12

Topic 2: John Rawls and Political Liberalism

Mandatory Readings:

- *Political Liberalism*, Lecture IV (in its entirety).

Meeting 3 – September 19

Topic 2, continued

Mandatory Readings:

- *Political Liberalism*, Lecture IV (in its entirety).

September 26 – No Class Yom Kippur
Meeting 4 – October 3

Topic 3: Other Views on Religious Discourse in a Liberal Democracy

Mandatory Readings:


Additional Background Readings:

- Phillip L. Quinn, *Political Liberalisms and Their Exclusions of the Religious*.

Meeting 5 – October 10

Topic 4: Constitutional Law of Religious Freedom – the Canadian and United States Experiences: Basic Doctrines

Mandatory Readings:

- *Reynolds v. United States*
- *United States v. Seeger*
- *Employment Division v. Smith*

Meeting 6 – October 17


Mandatory Readings:

- *Multani v. Commission scolaire Marguerite-Bourgeoys and Attorney General of Quebec*
- *Religious Freedom Restoration Act*

**Additional Background Readings:**


**Meeting 7 – October 24**

*Topic 5: Multiculturalism and Politically Liberal States*

**Mandatory Readings:**


**Additional Background Readings:**


**Meeting 8 and Meeting 9– October 26, FA1, 12:00 – 4:00 pm (make up days)**

*Topic 6: Islamic Law, Muslim Minorities and Liberal Citizenship*

**Mandatory Readings:**

• Khaled Abou el Fadl, *Islamic Law and Muslim Minorities: the Juristic Discourse on Muslim Minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries* 1 Islamic Law and Society no. 2, pp. 141 – 187.

**Additional Background Readings:**

Manditory Readings:


Additional Background Readings:


November 7 – class cancelled (Reading Week)

Meeting 10 – November 14

*Mandatory Readings:*


*Additional Background Readings:*


Meeting 11 – November 21

Topic 9: Muslims, Islamic Law and Europe

Mandatory Readings:

• Refah Partisi (Welfare Party) and Others v. Turkey, European Court of Human Rights
• Layla Şahin v. Republic of Turkey, European Court of Human Rights
• The Formation of a European Shari’a, Mathias Rohe in Muslims in Europe: From the Margin to the Centre, Jamal Malik (ed.)
• Unveiling Distribution: Muslim Women with Headscarves in France and Germany, Pascale Fournier and Gökçe Yurdakul in Migration, Citizenship, Ethnos Y. Michal Bodemann and Gökçe Yurdakul (eds.)

Additional Background Readings:

• Fearful Symbols: The Islamic Headscarf and the European Court of Human Rights in Şahin v. Turkey, T. Jeremy Gunn.

Meeting 12 – November 28

Topic 10: The Ontario Shari’a Arbitration Controversy of 2004 – 2005

Mandatory Readings:

• Submission of Muslim Canadian Congress to Ms. Marion Boyd, August 26, 2004.
• Submission of Women’s Legal Education and Action Fund to Ms. Marion Boyd, September 17, 2004.

Additional Readings: