

## **Civic Versus Religious Identity in the Philosophy of Law**

### **Course Description**

What values and goals must citizens share in order to ensure a flourishing society? In a liberal democracy, what must be shared to ensure the preservation of core principles such as liberty and self-government? This course proposes to examine the relationship between civic and religious identity and, more specifically, how religious identity contributes to or detracts from the common life of a polity. John Rawls famously

off share in order for it to flourish. Given his view of the non-public nature of comprehensive doctrines, those goods are perhaps all that can be shared.

Two scholars who depart strongly from Rawls (explicitly or implicitly) yet themselves offer sharply different visions for the relationship between civic and religious identity are David Novak and Jeff Stout. Contrary to towering Jewish thinkers such as Benedict Spinoza and Moses Mendelssohn, Novak considers religion to be a truly public

a puzzling formulation, to be sure they must do so as Jews. For Novak, religion is not to be tolerated only insofar as it presents no danger to civic life; rather, it is to be embraced

conception of the common weal because he thinks citizens are inauthentic and even

values and goals must citizens share in order to ensure a flourishing society? In a liberal

class. After approval for accommodations is granted, please submit your accommodations letter to us as soon as possible to ensure the successful implementation of those accommodations.

### **Course Evaluation**

Written Assignment 1	20%
Written Assignment 2	30%
Written Assignment 3	40%
Participation	10%

### **Course Outline**

#### I. Shared Values: The Thin Version

HLA Hart, *The Concept of Law*, chapter nine

John Rawls, *A Theory of Justice*, chapters two, three, and four; *Political Liberalism*, part four

#### II. Shared Values: The Thick Version, Part I Religious Identity

David Novak, *The Jewish Social Contract*, chapters one, six, seven, and eight;

*Covenantal Rights*, introduction, chapters three, five, six, and seven

Timothy Jackson, *The Priority of Love*, introduction, chapters three and five

Lon Fuller, *The Morality of Law*, chapters two and four

#### III. Shared Values: The Thick Version, Part II Civic Identity

Ronald Dworkin, *Taking Rights Seriously*, chapters seven and eight

Jeffrey Stout, *Democracy and Tradition*, introduction, part two

#### IV. Universal Values

John Finnis, *Natural Law and Natural Rights*, chapters three, four, six, and eight

David Novak,

*Everson v. Board of Education* (1947)  
*Lee v. Weisman* (1992)  
*McCreary County v. ACLU of Kentucky* (2005)  
*Van Orden v. Perry* (2005)  
*Cutter v. Wilkinson* (2005)

#### VIII. The Naked Public Square?

Alasdair MacIntyre, *After Virtue*, preface, chapters one, two, seven, nine, fifteen, sixteen, eighteen, nineteen  
Richard Niebuhr, *Christ and Culture*, chapters one, two, four, and seven  
Richard John Neuhaus, *The Naked Public Square*, chapters two, four, five, six, and eight

#### IX. Liberalism and State Neutrality

Amy Gutmann, *Identity in Democracy*, chapter four, conclusion  
Stephen Macedo, *Diversity and Distrust*, chapters four, five, ten, and eleven  
Steven Smith, *Getting Over Equality*, introduction, chapters seven and eight

#### X. Multiculturalism

Will Kymlicka, *Liberalism, Community, and Culture*, introduction, chapters two, three, seven, and eight, conclusion  
Will Kymlicka and Wayne Norman, *Citizenship in Diverse Societies*, chapters one, two, three, six, and seven  
Ayelet Shacha

#### XI. Civil Religion, Trying Again

Jurgen Habermas, *The Inclusion of the Other*, selections; *Between Facts and Norms*, postscript  
Anna Stilz, *Liberal Loyalty*, chapter six

#### XII. Political Theology

Carl Schmitt, *Political Theology*, chapters three and four  
Stanley Hauerwas, *Resident Aliens*, chapters one, two, and four