**RELIGIOUS LIBERTY:**

**HISTORICAL, LEGAL, AND GEOPOLITICAL**

Fall 2015

T/Th 9:30 – 10:45

Armstrong Browning Lecture Hall

Professors:

Dr. David D. Corey

Dr. Elizabeth Corey

Hon. Frank Wolf

With Guest Speakers:

Dr. Rouven Steeves, Professor of Political Science, U.S. Air Force Academy

Dr. Barry Hankins, Professor of History at Baylor

Dr. Jeremiah Russell, Assistant Professor of Political Science, Jacksonville State

Dr. James R. Stoner, Hermann Moyse, Jr. Professor of Political Science at LSU

Dr. Nathan S. Chapman, Assistant Professor of Law at University of Georgia

Dr. Jerold Waltman, Morrison Professor of Constitutional Law at Baylor

Fr. Timothy Vaverek, Priest at Our Lady of Lourdes Catholic Church in Gatesville

Mr. Marion Smith, Executive Director, Victims of Communism Memorial Fund

**COURSE BIBLIOGRAPHY**

(Books required for purchase are preceded by an asterisk)

1. John Allen, *The Global War on Christians: Dispatches from the Front Lines of Anti-Christian Persecution* (Image, 2013)
2. \*John Coffee, *Persecution and Toleration in Protestant England* (Routledge, 2000)
3. \*Daniel Dreisbach and Mark David Hall, eds., *The Sacred Rights of Conscience*, Vol. I and II (Liberty Fund, 2010)
4. \*Malcolm D. Evans, *Religious Liberty and International Law in Europe* (Cambridge, 2008)
5. \*Thomas Farr, *World of Faith and Freedom: Why International Religious Liberty Is Vital to American National Security* (Oxford, 2008)
6. Brad Gregory, *The Unintended Reformation* (Harvard, 2012)
7. \*Benjamin J. Kaplan, *Divided by Faith: Religious Conflict and the Practice of Toleration in Early Modern Europe* (Harvard, 2009)
8. Mark Lilla, *Stillborn God* (Vintage, 2008)
9. \*John Locke, *Letter Concerning Toleration*
10. \*Edward Peters, *Inquisition* (California, 1989)
11. \*Noel B. Reynolds and W. Cole Durham, Jr., eds., *Religious Liberty in Western Thought* (Eerdmans, 1996)
12. \*Steven D. Smith, *The Rise and Decline of American Religious Freedom* (Harvard, 2014)
13. James Stoner, “Christianity, Common Law and the Constitution” in Gary Gregg, ed., *Vital Remnants: America’s Founding and the Western Tradition* (ISI, 1999)
14. Jerold Waltman, *Congress, The Supreme Court, and Religious Liberty: The Case of Beorne v. Flores* (Palgrave, 2013)

**Other Useful Resources:**

* The United States Commission on International Religious Freedom (IRFA)

<http://www.uscirf.gov/about-uscirf/message-from-the-chair>

* The ACLU approach to Religious Liberty

<https://www.aclu.org/issues/religious-liberty>

* The Becket Fund

<http://www.becketfund.org>

* North American Religious Liberty Association

<http://religiousliberty.info>

* Religious Liberties.org

<http://www.religiousliberties.org/>

* Pew Forum

<http://www.pewforum.org/>

* [United States Conference of Catholic Bishops](http://www.usccb.org/issues-and-action/religious-liberty/foundational-documents-on-religious-liberty.cfm)

<http://www.usccb.org/issues-and-action/religious-liberty/foundational-documents-on-religious-liberty.cfm>

* “Limits of Religious Liberty” in *New York Times Magazine* (July 7, 2015)

<http://www.nytimes.com/2015/07/12/magazine/what-are-the-limits-of-religious-liberty.html?_r=0>

**COURSE OVERVIEW**

Religious liberty was the first of a long line of liberties to be gradually institutionalized in Western European nations. It was achieved from the 16th through the 18th centuries and was the “first freedom” articulated in the American Bill of Rights. But religious liberty is in peril today, not only in the United States, but also around the world. Moreover, the decline of religious liberty has led to terrible political conflicts. It has produced humanitarian crises of significant magnitude, and threatened the long-term strategic interests of the United States. These are the basic facts about religious liberty.

But behind these facts lurk a number of questions that are at once necessary and difficult to answer: What conditions led initially to the rise of religious liberty in the West? What *is* religious liberty: what does it include or not include? What are the primary reasons for its decline in the 21st century? What if anything should be done to halt or reverse this decline? And, finally, what are the geopolitical implications of a world with or without a robust practice of religious liberty—what does the future portend?

While these are frequent topics of political debate around the world today, they are also questions of a historical and political-philosophical nature; and this is how we shall approach them in this course. Our classroom is not a debating society, much less a platform for sermonizing. Our goal is rather to seek clarity and insight into the questions surrounding religious liberty by using the most rigorous methods we can. We shall have to be historians in part, but also philosophers of history and of law. In the end we shall have to learn to think also like statesmen, as we use “prudence” or “practical wisdom” to link insights and principles with potential action in the world.

The syllabus is divided into three sections, each with its own style of analysis. We begin with historical questions and historical methods in order to figure out how and why religious liberty arose in the West. We turn next to the legal or institutionalized practice of religious liberty as this comes to light in US Supreme Court jurisprudence and international law. Finally, we turn our gaze to the present state of religious liberty in the world, using statistical measures to survey the problem and prudential reflection to suggest a way forward.

**ATTENDANCE AND TECHNOLOGY**

As the fruits of this course come not only through our readings but also through original lectures and classroom conversations, attendance is required. Any student who misses more than 3 classes (excused or unexcused) will see his or her grade substantially affected. Any student who misses more than seven classes will automatically fail.

Our lecture hall will be a sacred space for intellectual exploration and conversation, a space set apart not only from polemics, but also from distracting technologies. Thus no screens will be allowed in class, except for students who have a documented special need.

**CLASS FORMAT AND GRADE STRUCTURE**

The purpose of our class sessions is not to repeat what is in the readings, but to understand the readings more deeply and to consider what they teach us about religious liberty as a political phenomenon. We do this through conversation, and our conversations will be only as fruitful as you are prepared to offer insights and appreciate the insights of others. All this presupposes careful reading and reflection at home before every class.

Participation: 10%, based on the contributions you make to classroom conversations. “Contributions” refers not only to the frequency with which you speak, but also to the quality of your reflections. It will moreover be based on attendance, insofar as repeated absences will subtract substantially from this grade.

Midterm (October 13): 35%, will cover factual material from the readings and lectures.

Essay: 20%, topics to be assigned.

Final Exam: 35%, will cover factual material from the readings and lectures; it will be cumulative.

**CALENDAR**

INTRODUCTION

25-Aug Dr. D. Corey, “Religious Liberty as a philosophical problem: What, Why, When, Where, and How?”

Reading: Brian Tierney, “Religious Rights: A Historical Perspective,” in Noel B. Reynolds and W. Cole Durham, Jr., eds., *Religious Liberty in Western Thought* (Eerdmans, 1996), pp. 29-57; John Coffee, *Persecution and Toleration in Protestant England* (Routledge, 2000), pp. 1-21

I. RELIGIOUS FREEDOM HISTORICALLY EXAMINED

27-Aug Dr. D. Corey, “The Nature and Effects of The Inquisitions”

Reading: Peters, *Inquisition*, pp. 1-74

1-Sep Mr. Wolf, “Personal Reflections on Religious Liberty”

Reading, Peters, *Inquisitions*, pp. 74-188

3-Sep Mr. Wolf, “Religious Persecution in History and Today,”

Reading: Reynolds and Durham, *Religious Liberty in Western Thought*,chapters 3-4

8-Sep Dr. Rouven Steeves, “Religious Liberty in the Reformation”

Reading: Benjamin Kaplan, *Divided by Faith*, Introduction and Chapters 3-4 and 12

10-Sep Dr. D. Corey, “Religious Liberty in Reformation England”

Reading: John Coffee, Persecution and Toleration in Protestant England, selections

15-Sep Dr. Jeremiah Russell, “Religious Liberty in the Enlightenment”

 Reading: Brad Gregory, *The Unintended* Reformation, chapter 3; and Mark Lilla, *Stillborn God*, chapter 2

17-Sep Dr. Jeremiah Russell, “The Lockean Wager”

 Reading: John Locke, *Letter Concerning Toleration*

22-Sep Dr. Hankins, “Religious Liberty in the American Founding”

Reading: Ellis Sandoz, “Religious Liberty and Religion in the American Founding Reconsidered,” in Reynolds and Durham, *Religious Liberty in Western Thought*,chapter 9; primary documents from Dreisbach and Hall, *The Rights of Conscience*

24-Sep Fr. Timothy Vaverek: “Dignitatis Humanae: Whence it Came and What it Means”

 Reading: Dignitatis Humanae

II. RELIGIOUS FREEDOM IN DOMESTIC AND INTERNATIONAL LAW

29-Sep Dr. E. Corey, “First Amendment Overview”

Reading: Steven D. Smith, *The Rise and Decline of American Religious Freedom*, Prologue and Chapter 1

1-Oct Dr. E. Corey, “The Establishment Clause”

Reading: *Emerson v. Board of Education* (1947)

6-Oct Dr. E. Corey, “School Prayer”

Reading: *Engel v. Vitale* (1962); *Wallace v. Jaffree* (1985); *Lee v. Weisman* (1992)

8-Oct Dr. E. Corey, “Displays”

 Reading: *Lynch v. Donnelly* (1984); *Van Orden v. Perry* (2005)

13-Oct **MIDTERM EXAM**

15-Oct Dr. E. Corey, “Free Exercise I”

Reading: *Reynolds v. United States* (1878); *West Virginia State Board of Education v. Barnette* (1943) *Sherbert v. Verner* (1963); *Wisconsin v. Yoder* (1972)

20-Oct Dr. E. Corey, “Free Exercise II”

Reading: *Employment Division v. Smith* (1990); Steven D. Smith, *The Rise and Decline of American Religious Liberty,* Chapter 2

22-Oct Dr. Jerold Waltman, “The Religious Freedom Restoration Act (RFRA)”

Reading: Jerold Waltman, “The Road To RFRA,” in *Congress, The Supreme Court and Religious Liberty*, chapter 1

27-Oct Dr. E. Corey, “Free Exercise III”

Reading: *Hosanna Tabor v. EEOC* (2012); Steven D. Smith, *The Rise and Decline of American Religious Liberty,* Chapter 3

29-Oct Dr. James R. Stoner, “Religious Liberty and the Common Law”

Reading: James R. Stoner, “Christianity, Common Law and the Constitution” (PDF)

3-Nov Dr. E. Corey, “Hobby Lobby”

Reading: *Burwell v. Hobby Lobby* (2014); Steven D. Smith, *The Rise and Decline of American Religious Liberty*, Chapter 4

5-Nov Dr. E. Corey, “Gay Rights and Religious Liberty: The Road to Obergefell”

Reading: *Bowers v. Hardwick* (1986); *Romer v. Evans* (1996); *Lawrence v. Texas* (2003)

10-Nov Dr. E. Corey, “Obergefell”

 Reading: *Obergefell v. Hodges* (2015)

12-Nov Nathan S. Chapman, JD, “Understanding the Trajectory of Religious Liberty Jurisprudence”

 Reading: Steven D. Smith, *The Rise and Decline of American Religious Freedom*, Chapter 5 and the Epilogue

17-Nov Mr. Marion Smith, “Religious Liberty in International Law”

Reading: Malcolm D. Evans, *Religious Liberty and International Law in Europe*, (Cambridge: Cambridge University Press, 2008), 172-182

19-Nov Mr. Marion Smith, “Religious Liberty in International Law”

Reading: Malcolm D. Evans, *Religious Liberty and International Law in Europe*, 182-377

III. RELIGIOUS FREEDOM, GLOBAL PERSECUTION AND GEOPOLITICAL IMPLICATIONS

24-Nov Dr. D. Corey, “Global Persecution and John Allen Jr.’s *The Global War on Christians: Dispatches from the Front Lines of Anti-Christian Persecution*”

 Reading: Thomas Farr, *World of Faith and Freedom*, pp. 1-53

26-Nov Thanksgiving Break

 Reading: Thomas Farr, *World of Faith and Freedom,* pp. 53-111

1-Dec Mr. Wolf, “The Story Behind the International Religious Freedom Act of 1998”

 Reading: <http://www.state.gov/documents/organization/2297.pdf>;

 Thomas Farr, *World of Faith and Freedom,* pp. 111-217

3-Dec Mr. Wolf, “Religious Freedom and American Leadership in the World”

 Reading: Thomas Farr, *World of Faith and Freedom*, pp. 273-313