

Law and Religion
Prof. Bowman
Spring 2021

SYLLABUS

I. Themes

This course utilizes works of literature, and in some cases scripture, as catalysts to facilitate a conversation about the intersections of faith and justice. There are, of course, a nearly infinite number of directions this conversation could take. I expect (and hope) it will move in directions I do not now anticipate. Nonetheless, even an open-ended educational conversation ought to have some basic structure. Hence, I propose to examine a series of themes which seem to present themselves in what I'll refer to broadly as Western and Near Eastern religious and legal culture. These include:

1. *The Nature of Divinity; Divine Intervention in Human Affairs*: Because this class is about the intersection of human law and faith in some sort of divinity, we will begin by considering the nature of divinity. For example, is/are god(s) the creator(s) or first cause(s) of the universe inhabited by humans, and if so, what is his/her/its/their relationship to his/her/its/their creation? Is/are god(s) omnipotent and omniscient? Is/are god(s) good or bad? How would we know? Regardless of his/her/its/their inherent goodness or lack thereof, do/does god(s) care about human affairs? In particular, does divinity care about how humans behave and order their relationships with one another? Do/does god(s) intervene directly in human affairs to produce, or coerce, just outcomes (or perhaps simply outcomes that the divine being(s) desire for reasons unfathomable to mankind)? If not, why should humans care about what god(s) think? Why, in short, do we assume that there is any relationship between law and the divine?

To think about these questions, we will start by considering the religious traditions and literary work of the ancient Greeks, beginning with some myths, continuing with some parts of Homer's *Iliad*, and concluding with the series of plays written by the Greek tragedian Sophocles about Oedipus, particularly *Oedipus the King* and *Oedipus at Colonus*. Thereafter, we'll look at the *Book of Job* from the Old Testament. Finally, we may consider the question of how to think about issues in which our modern moral intuition may conflict with God's law or God's behavior by thinking about the problem of collective punishment.

2. *God as Lawgiver / God's Law as a Code for Everyday Life*: Here I want to reflect on the idea that, at least at points in the history of certain cultures, God is held to have laid down quite specific sets of rules for the conduct of human life and social interaction. The most obvious of these occasions in the Judeo-Christian tradition is Moses' encounter with Yahweh, which produced the Ten Commandments and the social/legal code detailed in Exodus and Leviticus. As part of this section, we will read Chaim Potok's *The Chosen* as a window into the persistence of the Law and rabbinical interpretation of Torah in the Jewish tradition down to modern times.

3. *The New Testament: Render Unto Caesar -- A God Outside of History*

In this section, I want to think about what I understand to be the perspective of at least early Christianity on God and law. That is, one quite reasonable interpretation of Jesus' own view of his mission and of the early church's view of its role was that of preparation for an imminent end to history. Thus, it may be that the view of early Christianity about the role of God in more mundane questions of social ordering was markedly different from than that of contemporary Jews or pagans, and indeed from that of modern Christians long used to wrestling with the fact that the world has not yet ended and thus God's commands have to be integrated into a scheme for living. Romans, Chapt. 13, touches on this theme, but we'll look at other material, as well.

4. *Upon This Rock -- The Rise of the Church*

The rise of an institutional, and for a long while universal, Catholic Church as the dominant religious institution of Western Europe has obvious interest for anyone considering law and religion. I hope we can watch the movie version of Umberto Eco's, *The Name of the Rose*. We will read and discuss portions of the novel, which has a trial and lots of interesting byplay about witchcraft, heresy, institutional power struggles between Franciscans and Dominicans, debates about the poverty of Christ, etc. We may also dip into the *Rule of St. Benedict*, which prescribes how monastic life is to be conducted.

5. *Thomas More – The Intersection of Individual Conscience, the Law of the Church & the Law of the State*

We will spend several sessions taking a look at Sir (and Saint) Thomas More. More lived his life on the threshold of the modern western world, and More's story wonderfully illustrates myriad cross-cutting currents in that fascinating period, as well as the particular difficulties that face a lawyer trying to reconcile his allegiance to his God and his church with his duty to his country. We'll read portions of Peter Ackroyd's *Life of Thomas More*, and Robert Bolt's famous contemporary play about More, *A Man for All Seasons*. We will take a lawyer's look at More's trial, conviction, and execution.

6. *John Brown & The Problem of American Slavery*

Chattel slavery in North America, the institution that has been described as the United States' "original sin," deserves serious attention from any American thinking about law and religion in the modern world. American slavery was both attacked and vigorously defended on religious grounds and the argument split not only the country but religious denominations. We'll look at some of the contemporary arguments on both sides.

Less abstractly, the life and death of John Brown – abolitionist, freedom fighter, martyr, religious fanatic, murderer -- provide a terrific canvas for exploring the question of whether and to what extent religious objections to human law can justify disobedience to

law that extends beyond passive resistance into violent conduct that injures or even kills others. We will read excerpts from accounts of Brown's life, exploits, trial, and execution, as well as contemporary and modern commentary on those events.

7. *Can there be law without God?*

Finally, time permitting, we will consider the fundamental question of whether human law has any moral basis unless it is ultimately grounded in divine command. We will consider St. Thomas Aquinas writings on types of law – divine, natural and human – and then ask the ultimate question – can there be law without God?

II. **Required books:**

- Homer, *The Iliad* (We will consider only a small section of the Iliad, so I'd recommend finding a library copy or picking something up at a used bookstore. They are also available cheaply on Amazon or at Barnes & Noble. If you don't want to buy any book at all – though the Iliad should be on the bookshelf of any educated person – translations are available on the Web, e.g., at <http://classics.mit.edu/Homer/iliad.html>)
- Sophocles, *Oedipus the King*; *Oedipus at Colonnus* (We will talk about *Oedipus the King* in detail, and touch more briefly on *Oedipus at Colonnus*. I recommend that you buy the paperback *Three Theban Plays*, which has an accessible translation of all three plays in the Oedipus trilogy, including *Antigone*. Those of you who had me for Criminal Law should already have a copy of *Three Theban Plays*.)
- *The Bible* (Old Testament/Hebrew Bible and New Testament). I don't care which translation you use. I like the King James for the unrivaled poetry of its language, and the Revised Standard Edition for a reasonable compromise between antique elegance of expression and comprehensibility. Indeed, for reasons that will become apparent, it will be useful to have students using several different versions.
- Peter Ackroyd, *The Life of Thomas More*
- Robert Bolt, *A Man for All Seasons*
- Chaim Potok, *The Chosen*
- Umberto Eco, *The Name of the Rose* (The MU Bookstore may not have copies currently available. If not, it's easy, and probably cheaper, to order online through Barnes & Noble or Amazon or other online bookseller.)
- Dorff and Rosett, *A Living Tree: The Roots and Growth of Jewish Law*

There will also be other readings posted on LexisNexis Canva for a number of our sessions.

III. Grading

Your grade in this course will be based on two components – a final paper worth 60% of your grade, and class participation of various sorts (including attendance), worth 40% of your grade.

Some of you may be taking this class as a “paper course” in order to satisfy your writing requirement for graduation. If so, please let me know early in the course so that all the requirements for receiving writing credit can be timely met.

The Paper

The final paper must be at least 20 double-spaced typed pages in length, or at least 6600 words, not counting footnotes. There is no maximum length. It should be formatted like a law review article in the sense that footnotes, rather than endnotes, should be used and the Blue Book citation format should be employed.

You should begin thinking immediately about the subject of your paper. It can be on virtually any subject within the very broad scope of things we will talk about in this course, subject to my advance approval of the topic.

By the end of the fourth week of class (Thurs, Feb 11), you will be required to provide me with a proposed subject and a one or two sentence description of the paper you propose to write. I will review your proposal, consult with you, and advise you whether the topic is suitable.

By the end of the fifth week of class (Thurs, Feb 18), you will be required to submit a research plan for your paper.

By the end of the eighth week of class (Thurs, March 11), you will be required to submit a 2-3 page outline of your paper.

By Friday, April 8, you will be required to submit a well-developed draft of your paper. I will review it, make comments, and we will meet via Zoom and discuss it.

The last week of the course will be devoted to presentation in class of your papers. That is, you will have an allotment of class time to present your paper to the class, which will have an opportunity to ask questions and discuss what you’ve done.

The final version of the paper will be due on the first day of the spring exam period, May 4, 2021.

All these dates are, of course, subject to some adjustment depending on events during this peculiar and unpredictable time. But you should strive to adhere to schedule. Doing so will be a component of your grade. And, for both your sake and mine, I do NOT want to see people scrambling at the end to produce a creditable paper.

IV. Reading: First Two Weeks

Tues, Jan 19 The Nature of God(s) and Divine Intervention in Human Affairs, Part I

Read: Greek Myths (handout) – Available on LexisNexis Canvas under “Course Documents / Greek Myths.”

I will post some discussion questions in advance of the first day. Stay tuned.

Thurs, Jan 21 The Nature of God(s) and Divine Intervention in Human Affairs, Part II

Read: Homer, *The Iliad* – If you can read all or most of the poem, great. But it’s hundreds of pages long, so I don’t really expect that if you’ve never encountered it before. *At a minimum, do the following two things:*

(1) Know the main characters, the plot, and the main themes.

(2) *Read:* Book 1 in its entirety; Book 9, lines 136-193, 760-785; and Book 18, lines 500-592.

Tues, Jan 26 The Nature of God(s) and Divine Intervention in Human Affairs, Part III

Read: Sophocles, OEDIPUS THE KING, in "Three Theban Plays"

Thurs, Jan 28 The Nature of God(s) and Divine Intervention in Human Affairs, Part IV

We may not finish our discussion of Oedipus the King in one session. If we don’t, we’ll continue it today. If we do, we’ll move on to the next play in the Oedipus cycle – Oedipus at Colonus.

Read: Sophocles, *Oedipus at Colonus*, in Robert Fagles, "Three Theban Plays." Try to read the entire play. If you have the Robert Fagles translation, read his introduction on pp. 255-277. In any case, note in particular LINES 245-317, 469-518, 600-617, 1095-1140 from the play itself.

V. Lexis Nexis Canvas

Throughout the semester, I will use the Canvas system on LexisNexis to provide you with announcements, weekly reading assignments, supplemental materials, and so forth. ***You must self-enroll in the course on LexisNexis to access the material.*** If you are not familiar with Canvas, please follow the following instructions to get yourself enrolled:

NOTE: This is NOT the University Canvas system. It is basically the same platform, but can ONLY be accessed through LexisNexis. You will need your LexisNexis password to enroll in the course, and to access materials in the course.

Enrollment Instructions for LexisNexis Webcourses

1. Log into the LexisNexis® Law School Home page at <http://www.lexisnexis.com/lawschool/>.
2. Scroll to Lexis Classroom in the right pane.
3. Click Add a Course.
4. Locate the professor's name.

Note: the professor's name only appears if the course is available and published.

5. Click the professor's name to see all the courses published by the professor.
6. Click the course name to enroll in the course.
7. Enter the course code if you are prompted. *The course code for Criminal Law should be FWCAPG.* If for some reason that doesn't work, let me know.

Technical Questions or Problems?

Please contact the UMC Law Help Desk at umclawhelpdesk@missouri.edu, or at 573-884-7800.

VI. Academic Honesty

Academic integrity is fundamental to the activities and principles of a university. All members of the academic community must be confident that each person's work has been responsibly and honorably acquired, developed, and presented. Any effort to gain an advantage not given to all students is dishonest whether or not the effort is successful. The academic community regards breaches of the academic integrity rules as extremely serious matters. Sanctions for such a breach may include academic sanctions from the instructor, including failing the course for any violation, to disciplinary sanctions ranging from probation to expulsion. When in doubt about plagiarism, paraphrasing, quoting, collaboration, or any other form of cheating, consult the course instructor.

VII. Americans With Disabilities Act

If you have emergency medical information to share with me, or if you need special arrangements in case the building must be evacuated, please inform me immediately. Please talk to me privately outside of class by calling or emailing me. (Obviously, the evacuation consideration is unlikely to arise this semester so long as we are learning synchronously online. However, medical conditions can affect on-line learning and you should feel free to share such information with me to the extent you feel appropriate.)

If you need academic accommodations because of a disability, please contact Associate Dean Ben Trachtenberg or Registrar Denise Boessen who will work with you to determine an appropriate response to your needs.

To request academic accommodations (for example, a notetaker), students must also register with the [Office of Disability Services](http://disabilityservices.missouri.edu), (http://disabilityservices.missouri.edu), S5 Memorial Union, 882-4696. It is the campus office responsible for reviewing documentation provided by students requesting academic accommodations, and for accommodations planning in cooperation with students and instructors, as needed and consistent with course requirements. For other MU resources for students with disabilities, click on "Disability Resources" on the MU homepage.