

Multiculturalism and Religious Freedom

Code: 102249
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OT	4	2

Contact

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Use of Languages

Principal working language: spanish (spa)
Some groups entirely in English: No
Some groups entirely in Catalan: No
Some groups entirely in Spanish: Yes

Other comments on languages

any question that students ask in catalan, verbally or in writing, will be answered in catalan

Prerequisites

Multiculturalism and religious freedom. Prof. Iván Aybar Jiménez (Phd).

Subject language: Spanish. Notice: any question that students ask in Catalan, verbally or in writing, will be answered in Catalan.

It is recommended a special predilection for the study of human rights, as well as learn how to defend them at the Courts of Justice.

Objectives and Contextualisation

- 1.- Study the concept, basis and development of the right of religious freedom in the context of human rights.
- 2.- Analyze the challenges of multiculturalism and diversity of religions from the legal perspective.
- 3.- Study of the legal regulation of religious freedom in Europe from a comparative perspective.
- 4.- Exercise legal actions in different national and european jurisdictional instances (European Court of Human Rights), through REAL cases about religious freedom.
- 5.- Learn how to work in a legal team though the method of the real case and the ficticial trials.

Competences

- Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
- Identifying the underlying conflicts of interest in disputes and real cases.
- Identifying, knowing and applying the basic and general principles of the legal system.
- Presenting in front of an audience the problems of a concrete law suit, the applicable legal regulations, and the most consistent solutions.
- Students must be capable of communicating their points of view in a compelling way.

- Students must be capable of perceiving the impact and implications of the decisions taken.
- Using the main constitutional principles and values as a working tool in the interpretation of the legal system.
- Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

Learning Outcomes

1. Associating the demands of multiculturalism with the constitutionally recognised rights.
2. Contextualising in a hermeneutic level the different general institutions of the legal system.
3. Critically reasoning the legal discourse explained in the ad casum resolution of the different factual cases.
4. Defining the religious diversity and the community and individual reasons underlying in the exercise of freedom of religion.
5. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
6. Describing from a theoretical perspective the Law institutions that guide axiologically the legal applicable solutions.
7. Describing the historical trajectory of the modern State and its progressive deconfessionalisation in connection with the religious institutional factor.
8. Showing the existing connections between political power, constitutional tradition, religious tolerance, and its later stage: religious freedom and equality.
9. Students must be capable of communicating their points of view in a compelling way.
10. Students must be capable of perceiving the impact and implications of the decisions taken.
11. Technically summarising the acquisition of theoretical knowledge through oral reflection.
12. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

Content

1.- Management models of multiculturalism in modern societies: integration, assimilation, coexistence, accommodation, etc.

2.- Models of relationship between the State and religious confessions in modern societies: accommodation in the USA and Canada, non-denominationalism and cooperation in Spain and Italy, secularism in France, etc.

3.- Religious freedom in the context of international legal protection of human rights.

4.- Religious freedom in Spain: from tolerance to freedom of worship.

5.- Religious freedom in the 1978 Constitution: the difficult balance between the principles of secularism and cooperation.

6.- The competences of the autonomous communities and municipalities in the field of religious freedom. Special reference to the Statute of Autonomy and the Catalan Law on Centers of Worship.

7.- Freedom of expression and hate / discriminatory speech based on race, religion, ethnic and national origin, etc. Special reference to speeches and political propaganda in electoral campaigns.

8.- The manifestations of religious freedom in the public sphere and its legal problems: the use of the Islamic veil at school and in identity documents; the use of the full veil (burka, nikab) in public spaces; the controversy over the construction of places of worship (Islamic mosques and cemeteries, evangelical churches, etc.) and the "NIMBY effect" (Not In My Back Yard), etc.

9.- The conciliation between work life and the practice of religion: use of religious symbols at work (Islamic veil, Jewish kippah), leave of absence from work to pray or to celebrate religious holidays, etc. Study of real cases.

10.- Religious marriages and their legal efficacy: the "public order clause": its special impact on polygamous marriages. Study of real cases.

11.- Religious beliefs and disobedience of the law: conscientious objection: for example, the refusal of the Jehovah's Witnesses to blood transfusions. Study of real cases.

12.- Religious freedom and animal rights: ritual sacrifices, religious freedom or animal abuse? Study of real cases.

13.- Radicalism and terrorism of religious origin and their relationship with the right to religious freedom. Study of real cases.

14.- The legal protection of religious freedom in criminal, civil and contentious-administrative areas. The appeal for amparo and the appeal before the European Court of Human Rights. Work on real cases: mock trials.

Methodology

1.- The distinction between theory and practice will only be formal, and not material, since the theory will be explained while working on the real cases that Professor Dr. Iván Aybar will propose.

2.- The methodology is based on the concept of 'practical classroom', in which each one of the epigraphs of the agenda (contents) will be introduced by one or several real cases, culled from the daily reality generated by the coexistence of different cultures and religions in the public space of democratic societies. From them, the theoretical knowledge necessary to find the most appropriate solution to Law in each of them will be extracted and explained. Because we must not forget that all practice begins with a good theory.

3.- Some of these real cases will only serve to introduce and serve as a script to explain the theoretical concepts (subject content). Others, however, will also be resolved in class, working in groups based on documentation of real (and current) cases that Professor Dr. Iván Aybar - who combines his research and teaching work with the practice of law - is leading. at that moment. It worked; They will act as if it were a large law firm, first exposing the facts, and then identifying the object of the litigation and the right or rights affected. Afterwards, each of the groups will be assigned a specific role, depending on the jurisdictional order in question - plaintiffs or defendants, accusation or defense, etc. - Once the roles have been assigned, each group will have to search and analyze the jurisprudence it considers of application, to later prepare in writing the arguments that will be presented in the subsequent oral trial, which will take place in the courtroom of our Law School. Of course, Prof. Dr. Iván Aybar will accompany and advise each of the groups throughout the process.

By way of example, in recent years real cases such as the following have been worked on in class: denials of licenses for places of worship to mosques (contentious-administrative); prohibition of the use of the Islamic headscarf at school (contentious-administrative); patrimonial liability of the Administration for refusal to carry out an operation without blood transfusion to a Jehovah's Witness (contentious-administrative); violation of the right to honor and religious freedom through news that appeared in the media (civil lawsuit against a national newspaper); denial of permission, by the employer, so that two workers can go to pray on Fridays (social jurisdictional order); accusation for animal crime against members of the Santeria religion (criminal process); accusation for apology of terrorism against young woman of Muslim religion (criminal process).

4.- Likewise, students will also be asked to work on two cases individually, by writing a complaint (or administrative appeal) and preparing an opinion.

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Classroom practices	22.5	0.9	4, 6, 3, 1

Master classes	22.5	0.9	2, 4, 6, 7, 8
Type: Supervised			
Appeal unto Constitucional Court or TEDH	22.5	0.9	4, 6, 3, 11
Drafting of a written complaint to the Spanish Ombudsman or Catalan Catalan Ombudsman (or equivalent institution)	5	0.2	4, 6, 3, 1
Legal opinion	20	0.8	4, 6, 3, 1
Trial	40	1.6	4, 6, 3, 11, 1
Type: Autonomous			
Work outside of aula	12.5	0.5	5, 3, 10, 12, 1

Assessment

1.- The purpose of this activity is to teach the student how to report a violation of a fundamental right to these two institutions. Individual work.

2.- The purpose of this activity is to teach the student how to prepare a legal report about a real case. Individual work.

3.- The purpose of this activity is to teach students how to prepare these appeals, always about real cases. Group work.

4.- The purpose of this activity is to teach the students how to prepare the legal arguments, the procedural strategy and the conclusions about a real case. Group work.

The specific date or week of the evaluable activities will be published on the Virtual Campus before the start of the teaching, without prejudice to the fact that, exceptionally and for reasons of force majeure, these may be modified with sufficient notice and in advance.

A Student who submits a paper or practical in which there is evidence of plagiarism will have a 0 as a mark and will receive a warning. In case of repetition, the students will fail the subject.

There will be no reevaluation.

Attendance to classes is not compulsory. However, active and constant participation in classes throughout the course will be highly valued. On the other hand, students are asked responsibility when enrolling in this subject: if you know in advance that the course schedule will never allow you to attend, please do not take the place of a colleague who could have attended.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
1.- Appeal to Defensor del Pueblo or Síndic de Greuges	10 %	1	0.04	9, 2, 4, 5, 6, 7, 8, 3, 10, 11, 12, 1

2.- Legal report about a real case	20 %	1	0.04	9, 5, 3, 10, 1
3.- Appeal to the Constitutional Court or appeal to the European Court of Human Rights	30 %	1	0.04	9, 5, 3, 10, 12, 1
4.- Ficticial trial.	40 %	2	0.08	9, 5, 3, 10, 11, 12, 1

Bibliography

León Benítez, María Reyes / Leal Adorna, María del Mar: Derecho y factor religioso. Editorial Delta. Madrid 2008.

Consell de l'Audiovisual de Catalunya / Universitat Autònoma de Barcelona: Mitjans de comunicació i pluralisme religiós. Barcelona 2010.

Seglers Gómez-Quintero, Àlex: Libertad religiosa y Estado autonómico. Editorial Comares. Granada 2005.

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Rodríguez Blanco, Miguel / Cano Ruiz, Isabel: La libertad religiosa en el ámbito de las relaciones de trabajo; Observatorio del pluralismo religioso en España, abril de 2021:
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Rodríguez Blanco, Miguel: Código de Libertad Religiosa, BOE, junio 2022: www.boe.e/biblioteca_juridica/

Castro Jover, Adoración / Uriarte Ricote, Maite: La situación urbanística de los lugares de culto; Observatorio del pluralismo religioso en España, enero de 2021:
https://www.observatorioreligion.es/informes/la_situacion_urbanistica_de_los_lugares_de_culto/index.html

Software

The subject does not require any specific software.