

POL 310: Religion and Politics in the U.S.

Lecture 4 - The (Messy) Relationships Between Church and State (cont.)

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Plan for Today

1. Religion in the Supreme Court
2. The “Rules” of Separation of Church and State in the U.S.

The Establishment Clause

What about funding for private religious education or social services provided by religious non-profits? Does that violate the Establishment Clause?

The **Lemon test** (three-pronged approach) 

1. The law must have a secular purpose
2. Its primary effect must not inhibit nor advance religion
3. It should not create “excessive government entanglement” with religion

The Free Exercise Clause

Individuals are free to practice their religion ... to an extent

Strict scrutiny (*Sherbert v. Verner*, 1963) means that laws should not infringe upon someone's right to practice their religion by placing undue burden, except for when there is a compelling state interest

- ▶ Burden of proof shifted after *Employment Division v. Smith* (1990). No need to demonstrate a compelling state interest if the restriction of free exercise of religion is an unintended consequence.
- ▶ But it can still rule in favor of free exercise: *Lukumi Babaly Aye v. City of Hialeah* (1993)
- ▶ The Religious Freedom Restoration Act (1993) brought back strict scrutiny

The *Kennedy v. Bremerton School District* (2022) Tested the Courts Once More



Figure 1: Coach Joseph Kennedy prays at the 50-yard line with students after football game.

The Course Essentially Overturned the Lemon Test Last Year



- ▶ The school district had argued that allowing the prayers violated the **Establishment Clause**.
- ▶ The Court decided that the school district had violated Kennedy's rights to **free speech** and to the **free exercise of religion**.
- ▶ Lemon Test was essentially overturned.¹

¹Amy Howe. 2022. "Justices side with high school football coach who prayed on the field with students," *SCOTUSblog*.

Understanding the Relationship Between Church and State

“The American system must be understood as embracing three distinct, yet interrelated sets of rules: separation of church and state, integration of religion and politics, and accommodation of civil religion” — Davis (2001, 5)

- ▶ **Separation** of church and state refers to the separation of both institutions. They are not dependent on each other and their functions are not related to each other.
- ▶ **Integration** of religion into the political system: Religious groups and individuals can enter the public debate on issues.
- ▶ **Accommodation** of civil religion

Let's discuss church and state

Activity

In groups of three or four, discuss and answer three of the following questions:

1. Does the U.S. have separation of church and state?
2. Is a strict separation of *religion* and politics possible?
3. Should courts use the strict scrutiny principle for free exercise of religion cases?
4. How should religious individuals and groups engage in politics in a pluralistic, secular society?

When writing your answer, do the following:

- ▶ Define your terms
- ▶ Support your positions using the concepts and frameworks we have learned in class
- ▶ Provide a thesis statement!

We're done!

Questions or comments?

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References

Davis, D. H. 2001. "Editorial: Separation, Integration, and Accommodation: Religion and State in America in a Nutshell." Journal of Church and State 43(1):5-17.