

**Freedom of Religion**  
*Law Today Series*  
*Georgian Triangle Lifelong Learning Institute*

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**Outline**

The following outline sets out the shape of the talk that I will be giving. Under each heading, I have noted a couple of the key cases I will be discussing, should you be interested in reading them after the lecture. All cases can be accessed by typing the name and/or citation number into the database of the Canadian Legal Information Institute (CANLII) at [www.canlii.org](http://www.canlii.org).

**1. Law and Religion: A Story to Think With and Some Unsettled Questions**

**2. Law and Religion in Canadian Constitutional History**

- *Saumur v City of Quebec*, [1953] 2 SCR 299

**3. Freedom of Religion Under the *Charter*: Interpreting and Defining Religion**

- *R v Big M Drug Mart*, [1985] 1 SCR 295
- *Syndicat Northcrest v Amselem*, 2004 SCC 47

**4. Freedom of Religion Under the *Charter*: Key Themes**

**a. The Public/Private Divide**

- *Re Marriage Commissioners Appointed under the Marriage Act*, 2011 SKCA 3
- *Trinity Western University v The Law Society of Upper Canada*, 2016 ONCA 518
- *Trinity Western University v The Law Society of British Columbia*, 2016 BCCA 423

**b. The Individual and the Collective**

- *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37
- *Loyola High School v Quebec (Attorney General)*, 2015 SCC 12

**c. What is State Neutrality?**

- *Mouvement laïque québécois v Saguenay (City)*, 2015 SCC 16

## 5. A Final Case to Think With: *Ktunaxa Nation v British Columbia*

- *Ktunaxa Nation v British Columbia (Forests, Lands and Natural Resource Operations)*, 2017 SCC 54

## 6. Concluding Thoughts

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As requested by the organizers, I offer the following short selection of pieces, should you be interested in some of my written work on the topic of law and religion in Canada.

*Law's Religion: Religious Difference and the Claims of Constitutionalism* (Toronto: University of Toronto Press, 2015).

- This book is my most extensive treatment of the subject. It is available on [amazon.com](https://www.amazon.com).

Benjamin L. Berger and Richard Moon, *Religion and the Exercise of Public Authority* (London, UK: Hart Publishing, 2016).

- This edited collection includes a range of essays that take up the question of religion's place in public institutions and for public decision-makers.

"Freedom of Religion" in Nathalie Des Rosiers, Patrick Macklem and Peter Oliver, eds., *Oxford Handbook of the Canadian Constitution* (Oxford: Oxford University Press, 2017) 755-776.

- This chapter is a general treatment of freedom of religion and roughly mirrors the structure of this talk, so it is a good resource if you want to refresh on key points from the lecture.

"Belonging to Law: Religious Difference, Secularism, and the Conditions of Civic Inclusion" (2015) 24(1) *Social & Legal Studies* 47-63.

- This article wrestles with the meaning of "secularism" by examining some recent Canadian controversies and debates (Shari'a arbitration, wearing the niqab, etc) that engage with that concept.

"Religious Diversity, Education, and the 'Crisis' in State Neutrality" (2014) 29:1 *Canadian Journal of Law and Society* 103-122.

- This piece addresses the important role that public education plays in issues of law and religion in Canada, and how that topic complicates the idea of "state neutrality".