

# JURISPRUDENCE (JUGL)

## JUGL 0129. ELECTORAL COLLEGE. (2 Credits)

This course will explore the origins of the system; the American context in 1787; the impact on the college of political parties; the hidden defects and dangers in the system that manifested themselves; the workings of the system prior to the Civil War; the post-Civil War history and the rise of close elections and faithless presidential electors; and the engagement of lawyers in changing the system, resulting in passage of a popular vote constitutional amendment by the House of Representatives in 1969. <p> The course will analyze current proposals to reform the system, including the national popular vote plan; the impact of the media and polls in the functioning of the system; and the understanding of the Electoral College system by the American people. It will also discuss the intersection of the Electoral College with the presidential succession system. <p> The course will be taught by Professor John D. Feerick, who served as advisor to the 1966-67 American Bar Association Commission on Electing the President and provided the views of the ABA in testimony before Congress during the period 1967-79. He participated in the drafting of the 1969 proposed amendment, is the author of a major article on the subject for the Fordham Law Review, and has spoken widely on the subject before citizen and other groups. <p> Professor Feerick will be assisted by adjunct Professor John Rogan, who currently co-teaches a clinic on the presidential succession system and is a graduate of Fordham Law School, Class of 2014. There will be several guest speakers. <p> There will be a take home examination or, alternatively, a paper on some aspect of the system.

**Attribute:** LLM.

## JUGL 0216. RACE, SEX, & LOVE. (2 to 3 Credits)

The U.S. Supreme Court rendered its landmark decision in *Loving v. Virginia* invalidating prohibitions on interracial marriage more than 40 years ago. But race still plays a significant role in the intimate lives of most Americans. Decisions regarding whom we date, marry, or with whom we enter into other long-term intimate commitments are very much colored by race and prevailing racial norms. This course will consider why this is so by exploring the role that state laws and practices regarding the family and intimate associations have played in the social construction of race and racial identity. We will also consider the influence of race and racial norms on our attitudes about sexual intimacy, gender roles, and commonly-held conceptions of and approaches to issues such as marriage, reproduction, and parenting. Students will be encouraged to explore a range of issues relating to race and intimate associations, including how structural issues affect our intimate choices; the role that state laws bearing on family and intimate relations have played in policing racial identity; and the utility of analogies drawn between race and gender-based restrictions on marriage in the current debate concerning the extension of marriage rights to same-sex couples.

**Attribute:** INLJ.

## JUGL 0227. ELECTION LAW. (2 Credits)

We will address the basic issues of Election Law, including: the two-party system as the foundation of American politics, the constitutional rights of political parties and their members, the rights of minor parties and independent bodies, ballot access issues, voting rights and representative democracy, and election administration. We will also focus on issues relating to the nomination and election of the President of the United States, including: the electoral college, eligibility requirements, impeachment of the President, and succession and disability issues. A paper will be required, and class participation will be factored into the student's grade.

**Attributes:** INLJ, PIE.

## JUGL 0293. HOW JUDGES DECIDE. (2 Credits)

This class will explore fundamental questions about judging through conversations with and interviews of judges, lawyers and journalists. Whether a case is a civil or criminal matter, one which will be decided by a jury or a judge, the question of how judges decide any of the myriad of issues they confront is critical. The subject is not often explored beyond the simplistic formulation that judges research the law, apply the facts and then reach a conclusion. But this description ignores all of the essential inputs about just what guides a judge in figuring out the law, and finding the facts and applying one to the other. How does a judge's personal background influence the decision making process? What choices does a judge have when trying to decide how to interpret a statute? Does popular opinion influence how judges decide cases? Should it? <p> Rather than try to understand these and related questions solely from what academics and critics of the system have said, this class will explore these issues and ideas by talking to judges, and lawyers who appear before them. Federal and state court Judges will participate in class and will be interviewed by us and you about cases the judges have selected. They are largely cases which could have "gone either way". You will be required to interview judges in class about the assigned readings, and each of you will have an opportunity to be the "lead" questioner during the semester. The goal is to try to get some understanding of the judge's values, his or her assessment of the equities and personalities in the case, and any other psychological or human factors that went into their decision-making. <p> The final exam shall consist of a paper addressing an issue from class which you found interesting and worthy of more developed analysis and study. <p> Materials: *Blindfolds Off: Judges on How They Decide*, by Joel Cohen [https://www.amazon.com/dp/B00L0R1YS/ref=dp-kindle-redirect?\\_encoding=UTF8&btcr=1](https://www.amazon.com/dp/B00L0R1YS/ref=dp-kindle-redirect?_encoding=UTF8&btcr=1) <br> September 6 – Attorneys Steven Molo, Esq.; Gerald Lefcourt, Esq. <br> September 13 – Hon. Rolando Acosta; Hon. John M. Leventhal <br> September 20 – Hon. John E. Jones III; Hon. David Wecht <br> September 27 – Hon. Brian Cogan <br> October 4 – Hon. Angela Mazzarelli; Hon. Rosalyn Richter <br> October 11 – Hon. Denny Chin <br> October 18 – Hon. Vincent Briccetti <br> October 25 – Hon. Jed S. Rakoff; David Lat, Esq. <br> November 1 – Hon. Michael Garcia <br> November 8 – Hon. Nancy Gertner (Ret.) <br> November 15 – Hon. William Kuntz <br> November 29 – Hon. Paul Crotty .

**Attribute:** LIDR.

## JUGL 0321. LEGAL ISSUES IN GAMING. (2 Credits)

This seminar will explore the legal aspects, both practical and policy-oriented, of gaming (including gambling) in the United States from the varied perspectives of game developers and operators, game players and the public interest. In some respects, a gaming business encounters the same issues facing any enterprise, but in other respects unique or at least highly specialized legal issues are confronted by this multi-billion-dollar industry. A major focus of the course will be intellectual property rights in characters and images, logos, programming and "look and feel" which present copyright, trademark and patent issues. We also will explore contract and licensing issues in some depth as they relate to distribution and monetization. Additional topics will include: data privacy, terms of use, government regulation, free speech issues, Indian gaming law and liability issues. A paper on an approved topic will be required.

**Attributes:** IPIE, JD, LAW, LLM.

**JUGL 0347. JEWISH LAW: SOURC, PRIN, JUSRI. (2 to 3 Credits)**

The five legal sources of Jewish law (Halakhah), namely, interpretation, codification, custom, precedent and reason provide the framework for the course. Amongst the major topics are: the tension between the lexical meaning of a text and its legal significance; the definition and significance of the categories of Biblical Law (Deorayta) and Rabbinic Law (Derabbanan); Rabbinic legislation running counter to Biblical law; important legislative landmarks in Jewish family law; the "chained wife" (Agunah); the use of reason as a justificatory principle; questions of life and death, and the balancing of competing claims to life in tragic choice situations.

**Attributes:** CEED, CETH, ICE, INLJ, LLM.

**JUGL 0358. JURISPRUDENCE. (2 to 3 Credits)**

The first part of this seminar is a survey of several major theories and approaches to jurisprudence in the 20th century, theories such as those of H.L.A. Hart, Lon Fuller, John Rawls, and Ronald Dworkin, plus other related topics. We will then turn to some contemporary issues that bear on jurisprudence in a broader sense: Dworkin's recent attempt to resolve conflicts over human rights and terrorism, religion and the state, and redistributive justice, based on principles of human dignity; and Cass Sunstein's warnings about the dangers of "radical judges" and the legal theories they and other judges follow, comparing and contrasting Fundamentalism (originalism), Perfectionism, Minimalism, and Majoritarianism as competing models for court decisions. Other short readings may be assigned. Take-home exam.

**Attributes:** CEED, CETH, INLJ, PIF.

**JUGL 0359. GENDER, VIOLENCE AND THE LAW. (2 Credits)**

This class will discuss the ways in which the law is used to address the intersection between gender and violence. We will cover a broad area that includes intimate partner violence, sexual harassment, sexual assault, and stalking. The course will open with a discussion of the current legal framework to respond to intimate partner violence and sexual assault, then move through evolving conversations on related topics such as the #MeToo movement, sexual harassment, and revenge porn. This class will emphasize critical thinking, with a particular focus on analyzing whether civil and/or criminal legal systems are the most appropriate or effective tools to address what are often very intimate harms.

**Attributes:** INLJ, LLM, PIF.

**JUGL 0601. EDUCATION LAW. (3 Credits)**

This course surveys the law governing K-12 schools in the United States. Topics covered will be determined to some extent by student interest, but we will cover at least to some extent school governance, basic school finance, the regulation of student and faculty speech, the regulation of religious expression, the education of children with disabilities, the regulation of private schools, homeschooling, and school choice. Students must write some combination of weekly response papers and a final paper. The course may be used to fulfill the JD writing requirement.

**Attributes:** INLJ, LLM, PIE.

**JUGL 0622. ISLAMIC, CATHOLIC & JEWISH LAWS OF WAR, ECONOMIC REGULATION & THE ENVIRONMENT. (2 Credits)**

This seminar will use a conceptually based comparative law approach to explore the major legislative and juridical approaches of Islamic, Jewish and Canon (Catholic) Law toward the issues of (i) war and violence, (ii) social welfare and economic development, and (iii) the environment. The course will begin with an introductory unit examining the norms, structures and history of each legal system. Students will be introduced to legal, ethical and religious concepts that typify, unite and distinguish the three systems and will also become familiar with key historical developments of each. <p> The course will then explore the rich troves of legal rules and approaches of each system in the important areas of the law of war, social welfare and the environment. Each system has a well-developed approach and body of rules regarding these spheres. At the end of this course, students will be able to articulate and compare the approaches each legal system takes and offer examples of how those views have entered into, shaped or have been rejected by American or International Law. <p> Students will have the option to write a paper or complete a take home exam.

**Attributes:** INLJ, LLM.

**JUGL 0709. INTIMATE PARTNER VIOLENCE AND THE LAW. (2 Credits)**

This seminar will provide an overview of the "special victims" offenses of domestic violence (DV) and sex crimes. In the first half of the course, students will be exposed to the evolution of domestic violence law and the many difficult issues involved in the prevention, identification, and prosecution of domestic violence crimes, such as orders of protection, successfully building cases against offenders with reluctant witnesses, and providing services to victims. In the second half of the course, we will focus on sex-based offenses, exploring legal developments and issues faced by sex crimes prosecutors and others, such as how to work with sexual assault victims, the role of forensics and DNA, evidentiary issues including rape shield laws, expert witnesses, and Title IX issues at educational institutions.

**Attributes:** INLJ, LLM.

**JUGL 0730. CONFLICTS OF INTEREST. (2 Credits)**

Often we can't believe what we hear or trust what we buy. This seminar will consider an important reason for these problems, conflicts of interest. A conflict of interest is present when a person can derive personal benefit from a decision that the person is responsible for making based on other criteria. The law addresses conflicts in many areas and in several ways. Professional regulation, anti-corruption law, securities regulation, antitrust law, and evidence law all address conflicts either explicitly or implicitly. And some conflicts rules ban the relationships that create conflicts, some seek to constrain the decision-making process, and some require only disclosure of the conflict. Surprisingly, however, there is very little systematic analysis of conflicts. In this seminar we will discuss conflicts generally and seek to determine whether the relevant legal rules are appropriate in light of the nature and seriousness of various types of conflicts. We will also consider problems like fake news that are not currently regulated but to which conflicts principles might fruitfully be applied.

**JUJL 0781. GENDER, SEXUALITY AND THE LAW. (2 Credits)**

This seminar will examine how the law has dealt with, applied to, and been enforced on issues relating to sexual orientation and gender identity, and how sexual orientation and gender identity influence the application of legal rules to individuals in our society. The seminar will address the role of the law in shaping the social meaning of sexuality and identity, and how legal rights, protections, and deprivations have evolved based on identities as heterosexual, lesbian, gay, bisexual, and transgender in a number of contexts including employment, education, marriage, sexual expression, family relationships and the military. Throughout the course, we will examine the extent to which assumptions about morality, gender, and race have shaped the law's approach, and the ways in which the movement for lesbian, gay, bisexual, and transgender rights is different from and similar to other rights movements. The course will emphasize constitutional doctrines, including equal protection, due process/privacy, and freedom of speech and association. Our primary text will be *Sexuality, Gender and the Law* by William N. Eskridge, Jr. and Nan D. Hunter.

**Attributes:** INLJ, PIE.

**JUJL 0807. FEMINISM AND THE LAW. (2 Credits)**

In this collaborative seminar, we will explore current trends at the intersection of feminist theory and the law. Through readings, student led-discussions, guest speakers, and short papers, the seminar participants will explore and come to a view on how feminist theory has, and should, shape the law. The seminar will begin with an overview of feminist legal theory, introducing the students to the landscape of the field. After grounding the discussion in the field's foundational texts, students will pick a topic to design a student-led class. Students will be responsible for finding appropriate readings and, if desired, a guest speaker. At the end of the semester, students should be able to produce their own distinct vision for the future of feminist legal theory and the study of this area. Please note that enrolled students are expected to take an unusual level of responsibility for their learning and for guiding the content and discussion in each class meeting.

**JUJL 0929. MARKET STRUCTURE AND DEMOCRACY. (2 or 3 Credits)**

This course will explore the debates in economic and political theory about the appropriate kinds of market structure that support or undermine democracy. We will read Brandeis, Robert Bork, Shumpeter, and other key theorists of market structure and democracy, and then apply these different theories to modern day structural questions, such as net neutrality, merger rules for cable companies, laws governing electrical utilities, and laws governing separation of functions within banking. It is primarily a theory course, not a practice course, and the student needs no background in antitrust, banking, or telecom. Students must stay abreast of the reading assignments and actively participate in class discussions. Informed discussions and dialogue between and among the students and instructor is the center of the course. Classes will proceed on the assumption that everyone has done the readings and has opinions and perspectives worth sharing. Students will be required to write a term paper of 5,000-8,000 words.

**Attributes:** LLM, PIF.