

JURISPRUDENCE (JUGL)

JUGL 0104. Philosophical Perspective on Law. (2 Credits)

This seminar will concentrate on three broad sets of questions. The first set concerns the fundamental issue: what does the moral rightness or wrongness of a putative law have to do whether it is really the law? We will focus on the most prominent version of this debate in Anglo-American Legal Philosophy in the past several decades: the debate between H.L.A. Hart and Ronald Dworkin. The second set of questions pertains to the nature of justice: What does justice require of a legal and political system in the modern era? John Rawls' A Theory of Justice will be the primary emphasis in this part. The third and final part of the course will examine the relation among justice, mercy, and forgiveness, particularly within the criminal law: If justice requires that wrongdoers be punished, how could it be virtuous to forgive wrongdoers or show them mercy? Hampton and Murphy's book, *Forgiveness and Mercy*, will be the primary text.

Attributes: JD, LAWJ, LLM.

JUGL 0129. Electoral College. (2 to 3 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> Paper Required.

Attributes: INLJ, LLM, LWR.

JUGL 0203. Judges, Justice and the Rule of Law. (3 Credits)

This introductory jurisprudence class will address basic questions about the structure of our legal system through the writings of legal scholars, judges, justices, and philosophers. Its most basic problematic predates the founding of our nation but strikes many Americans as especially pressing today: what is the rule of law, how can we best adhere to it, and how important is adherence to the rule of law relative to other values? Is there really a tension between justice and the rule of law, and, if so, how should legal officials resolve this tension? Do judges compromise or advance the rule of law when they aim to bring our constitutional order into the present day? Answering these questions will involve exploration of classic debates regarding the nature of law, legal interpretation, and the rule of law. Classes will be a mix of lecture and discussion. There are no prerequisites. There will be a take-home final.
 (counts as equivalent to Introduction to Jurisprudence for purposes of the Concentration in Public Interest and Service: PIF)

Attributes: INLJ, LLM, PIF.

JUGL 0216. Race, Sex, and 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 and the American Democracy. (2 Credits)

We will study the constitutional, statutory and practical framework for elections in the United States. Cases and excerpts from law review articles, books and other popular writings will be assigned.

Attributes: INLJ, LWR, 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? 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. September 9 – Attorneys Steven Molo, Esq.; Gerald B. Lefcourt, Esq. September 16 – Hon. Shira A. Scheindlin (Ret.); Hon. Vaughn Walker (Ret.) September 23 – Hon. Denny Chin September 30 – class rescheduled to October 10 from 8:30 am to 10:20 am room 3-07; Hon. Richard Berman October 7 – Hon. Colleen McMahon October 21 – Hon. Doris Ling-Cohan October 28 – Hon. Rolando Acosta; Hon. David B. Saxe (ret.) November 4 – Hon. Michael Garcia; Hon. Arthur Engoron November 11 – Hon. George B. Daniels; Hon. Karen Peters (ret.) November 18 – Magistrate Judge James Orenstein; Robert Tembeckjian, Esq. November 25 – Hon. Lizbeth Gonzalez December 2 – Hon. Loretta Preska .

Attribute: LIDR.

JUGL 0302. Race and Structural Inequality. (3 Credits)**JUGL 0305. Philosophical Perspectives on Law . (2 Credits)****JUGL 0320. Law of Democracy. (4 Credits)**

This course examines the laws that govern our democratic process, including campaign finance reform, voting rights, redistricting, ballot access, election administration, campaign advertising and the role of SuperPACs. The course is a blend of constitutional law, legal history and legal theory. We will focus attention on the different legal theories and the empirical assumptions used by lawyers and judges in key Law of Democracy cases. Because of the centrality of constitutional law, we conduct a series of mock Supreme Court arguments around the key cases. There is a take home exam, but students who wish to do so may write a 30 page research paper. Four-credit courses that meet for 150 minutes per week require three additional hours of class preparation per week on the part of the student in lieu of an additional hour of formal instruction.

Attributes: INLJ, LAWJ, LLM.

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, Juris. (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, HECH, 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 array of topics that will include intimate partner violence, sexual harassment, sexual assault, and trafficking. 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 intersectionality of gender and race, the politics of gender, and remaining gendered assumptions in legal responses to violence. 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. There will be no text book for this class; readings are a selection of articles and cases, and may adjust during the semester to respond to current events where appropriate.

Attributes: INLJ, LLM, PIF.

JUGL 0399. Philosophical Perspectives on Law . (2 Credits)**JUGL 0523. Colloquium in Law and Philosophy. (4 Credits)**

This seminar will be a unique opportunity to engage with leading legal and philosophical theorists from around the continent. Each week, Fordham Law School will host a visiting professor who will discuss a working paper in subjects including (but not limited to) constitutional law, criminal law, private law, and moral and political philosophy. On Tuesdays in advance of each session, Professors Bagchi and Zipursky will meet with students to exchange ideas about the paper to be presented. Students will submit a short response paper prior to the Tuesday discussions (responses papers will be 1-2 pages, every other week). On Thursday, professors and students will engage the author directly about the paper in an extended session. Students will gain exposure to live philosophical questions in many areas, and develop skills to defend and critique philosophical arguments in the legal and political domain. They will practice these skills in a research paper of their own (20-25 pages) in a subject of their choice. Students who wish to utilize the seminar for the writing requirement may do so. There are no prerequisites.

JUGL 0529. Race, Gender and Crime. (2 Credits)

It is well known that racial minorities are disproportionately represented in our carceral system. The same observation, however, can also be made with respect to men. This course goes beyond these easy observations to examine the how and why of these disparities. How does the historical context of race and sex relations in this country impact this disparity? And what role has the law played in all of this? To what extent have race and gender informed criminal law and criminal procedure? And what role have criminal law and criminal procedure played in policing and maintaining racial and sexual boundaries? To answer these questions, this seminar examines various criminal law and criminal procedure issues, as well as race-based and gender-based critiques of those issues. The goal of the seminar is two-fold. The first goal is to provide students a deeper understanding of criminal law and criminal procedure issues, putting such issues in historical context. The second goal is to provide students an opportunity to challenge – critically and collegially – basic assumptions about crime, race, and gender. <p> The course is limited to 20 students. <p> There are no prerequisites, but it is recommended that students who enroll in the course have taken Criminal Procedure <p> This is a laptop free course. <p> Grading: Students will be graded on class participation, and their written work. With respect to the latter, students are required to write four reading response papers (each paper being 5-6 pages) over the course of the semester. Students can also use this seminar to satisfy the Upperclass Writing Requirement. Students seeking to fulfill the Upperclass Writing Requirement will be required to write a 25-page paper.

Attributes: LLM, LWR.

JUGL 0601. Education Law. (2 to 3 Credits)

This course surveys the law governing schools in the United States. The course will cover the following topics: basic school finance; equality and nondiscrimination with respect to race, sex, and gender identity; the regulation of student and faculty expression; the intersection of schools and religion; the education of children with disabilities; the regulation of private schools; school choice; and the regulation of the ed-tech sector. A small number of additional topics will be covered based upon student interest. The primary focus of the class is K-12 education; higher education will be treated briefly and not comprehensively. 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 0612. The Presidency. (2 Credits)

The Presidency. Professors Andrew Kent and Jed Shugerman. 2 credits. Paper required. Supervised writing credit available. Online course. This seminar will examine contemporary legal and policy issues about the U.S. Presidency. We will cover issues such as the power to go to war; relations between the White House and the Department of Justice; control over foreign affairs; impeachment; executive privilege and control of information; the pardon power; civil liability of the president; problems with the presidency revealed by the Trump years; and potential post-Trump reforms of the presidency. Our texts will be several recent books by notable legal scholars, recent Supreme Court decisions, and other scholarship and legal materials. Some classes will be traditional seminar-style discussion among the two faculty members and students, while others will feature outside authors discussing their work with the class.

Attribute: LWR.

Prerequisite: FCGL 0102.

JUGL 0622. Islamic, Catholic and Jewish Laws of War, Economic Regulation, and 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 0691. Comparative Elect Law. (2 Credits)

The course will cover various topics in comparative election law, including voter suppression, discrimination, free speech and disinformation, social media, elections during the pandemic, money and elections, electoral disputes, election law drafting, voting by mail or via the Internet, international election standards, and observation. This is a discussion-based seminar, and active participation is encouraged. Each student will prepare a final paper (4,000–6,000 words) on a chosen topic relevant to comparative election law. Students will orally present their papers' arguments in class, and discuss their colleagues' arguments. A student may choose to write a book review as their paper. The class offers students unique opportunities to publish their papers. Students who write book reviews will be given guidance on how to publish them. Students who write papers on selected countries' election law may be invited by the professor to publish them as chapters of a book now being compiled. Students will also have an opportunity to present their research at an international online academic conference. Students are welcome to email the professor to ask for more information about these activities and opportunities. Grading: the paper is 75% and the presentation is 25%. Active class participation increases the grade by up to 15%. The course will be taught by a lawyer who has worked as a consultant to governments and international organizations, including OSCE, the European Union, Council of Europe, Greco, and UNDP in Uganda, Canada, the United States, France, Finland, Latvia, Monaco, Malta, Romania, and elsewhere. He has led successful impact litigation projects in national and international courts. He co-edited *The Routledge Handbook of Election Law* (2022, with David Schultz).

Attributes: ICE, INLJ, LWR.

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.

JUGL 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.

JUGL 0785. Department of Justice and National Security. (2 Credits)

This course will examine the history of the Department of Justice and its role in national security policy in the 21st century. Discussion and readings will focus on the legal and policy responses to the attacks of 9/11, the George Floyd protests, the January 6th Capitol Riot and more. We will examine, in historical perspective, the role of the Attorney General and the Solicitor General, the Department's relationship with the White House, and the available mechanisms for oversight and accountability. (This course can be used for the writing assignment)

JUGL 0807. Feminism and the Law. (2 Credits)

This seminar introduces students to feminist legal theory and its intersections with critical race as well as other critical perspectives. The class focuses on these perspectives to offer both a method for understanding historical and ongoing gender discrimination and tools for achieving gender equality and redressing gender inequality, in the present and future. By highlighting the intersection of gender, race, and other vectors of inequality, the course analyses the ways feminism has traveled (or should travel further) to recognize a variety of intersections, including also sexuality, gender identity, class, disability, religion, ethnic identity, and more. Thus, the seminar is intended to be a space for exploring ways gender discrimination can be compounded—based on race and other forms of discrimination—and, more broadly, intersectional dimensions of feminism. In the wake of *Roe v. Wade's* reversal—and given emerging restrictions on other rights (beyond reproductive freedom)—the seminar will also explore the possibilities and limitations of feminism for rule of law and democracy as a whole. Having been offered previously (under the prior name, "Feminism and the Law"), this collaborative seminar is a new iteration, building on a foundation that was initially developed by a student-led team of students and faculty. The seminar is intended to be about as participant-driven as our rules and norms permit. After an orientation to some of the canonical texts in the field during the first four weeks, students will collaborate to choose and present the remaining topics of study. The default focus is domestic, but students are welcome to explore topics that address gender equality in other countries or through comparative analysis.

Attributes: INLJ, LLM, PIE, PIF.

JUJL 0813. Movement Lawyering: How Lawyers Work with Social Justice Activists & Organizations. (2 Credits)

This seminar will explore how lawyers best contribute to movement for racial, economic, gender, environmental and social justice. We will consider various theoretical and strategic perspectives on law and organizing. We will pay close attention to contemporary practice models and issue as well as lawyers' historic roles, especially in the Black freedom struggle and the labor movement. <p> Permission of instructor required. Please send resume and brief statement of interest to bglick@fordham.edu.

Attribute: PIE.

JUJL 0915. Gender Law and Policy. (3 Credits)

This course examines the law and public policies of gender equality. The course will begin with the historical evolution and constitutional frameworks of legal feminism, within and beyond the United States. It will then explore policy areas in which gender equality has been defined and contested, and the laws that implement or constrain these policies. Topics will include employment (e.g., discrimination, equal pay, low-wage work, and economic security), family (e.g., care giving and social welfare), reproductive rights and justice (including pregnancy, abortion, surrogacy, and childcare policy), gender violence (including sexual harassment, and rape, domestic violence), regulation of free expression and markets (e.g. pornography and sex work), measures to overcome women's under representation in positions of economic and political power, and the intersections of legal feminism with anti-racist and LGBTQ agendas in law and public policy for equality. Course requirements: One short paper (1500-2500 words) commenting on a recent case, and a final exam.

Attribute: LLM.

JUJL 0929. Market Structure and Democracy. (2 or 3 Credits)

This course will explore the connections between the laws that govern market structure and democratic theory. It begins in American history, where we read a sampling of writers from the founding era and the late 19th and early 20th century. We then move to the modern day, where we apply the market structure framework to contemporary issues of labor, communications infrastructure, race, politics, and big data. Paper required.

Attributes: LLM, PIF.

JUJL 0939. Market Structure and the Pandemic. (1 Credit)