JURISPRUDENCE

Jurisprudence—the study of legal philosophies, theories and perspectives—plays an important role in intellectual life of the Law Center. The word “jurisprudence” derives from jurisprudentia, a Latin term meaning the science or knowledge of law. The Georgetown jurisprudence curriculum encompasses at least three broad areas of study.

One area consists of studies of natural law, positivism, realism, and other centuries-old secular and religious legal philosophies, including the legal philosophies of major world religions and cultures. A second area consists of studies of modern American legal thought, including studies of legal realism, and law and literature, along with recent theories of law emphasizing the interests and perspectives of individual social groups, especially feminist legal theory, critical race theory, and gay legal studies. A third area consists of studies of legal, social, political, ethical, and bioethical concepts pertinent to an understanding of judicial process and public policy. In some instances a single jurisprudence course or seminar may include materials touching on all three areas of study.

Jurisprudence is not a required course at the Law Center. First-year students enrolled in Curriculum A may elect to take one of several jurisprudence courses that may be offered as first year electives. These relate to such topics as comparative legal philosophies, theories of economic reasoning, modern legal thought, and the concept of subordination. Two of the first year courses in Curriculum B have a substantial jurisprudential content: the Legal Justice Seminar and Democracy and Coercion. Democracy and Coercion looks at themes of consensual participation and collective force suggested by constitutional principles and case law. The Legal Justice Seminar provides an overview of major nineteenth and twentieth century American legal theories, highlighting scholarly expositions and judicial application of formalism, realism, legal process theory, law and economics, critical legal studies, critical race theory, feminist legal theory, and law and literature.

Second- or third-year students may elect to take the basic upperclass jurisprudence course typically offered each year under the name Jurisprudence. Although the precise content of the basic jurisprudence course will vary from instructor to instructor and from year to year, the course typically features a survey of natural law, legal positivism, and realism. These three competing accounts of the nature of legal authority, obligation, and reasoning once framed most discussions of jurisprudence in the United States. Georgetown’s basic Jurisprudence courses generally extend beyond the triad of natural law, positivism and realism to include discussion of critical legal studies, feminism, and critical race theory. Some of the material covered in the basic jurisprudence course will be familiar to students who elected Curriculum B in their first-year of law school or who chose to take certain Curriculum A electives in the second semester of their first year. But all upperclass students are encouraged to deepen their understandings of jurisprudential issues through the upperclass Jurisprudence elective or other upperclass courses and seminars.

The Law Center offers a rich array of upperclass jurisprudence courses and seminars in addition to the basic course. Some of these examine the philosophical assumptions of the doctrines of common law, constitutional law, or statutory interpretation. Others trace the intellectual traditions that have helped to shape the law. Still others closely analyze particular law-related concepts and values—including liberty, equality, neutrality, privacy, progress, community, rationality, due process, democracy, human rights, the social contract, and the market. The “isms” critical to understanding of American law, notably, liberalism, conservatism, republicanism, federalism, majoritarianism, and racism, have also earned a central place in jurisprudence courses or seminars. Competing moral and ethical perspectives are examined in a number of jurisprudence courses, as is the relationship between law and morality. Epistemology, metaphysics, and the philosophy of language appear in jurisprudence courses to illuminate questions of knowledge, evidence, personhood, and meaning. Finally, jurisprudence courses tackle controversial public policy concerns, such as the death penalty, affirmative action, and environmental protection. Students who wish to satisfy their upperclass writing requirements in jurisprudence should consider one of many special interest jurisprudence seminars, including African-American Critical Thought, Conservatism in Law and Politics in America, Great Philosophers on Law (offered as a course or seminar), International Legal Philosophy (offered on the main campus, with a legal writing option), and Jewish Law Seminar.

Search Jurisprudence Courses (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20103%20v00)  
LAW 103 v00 Conservatism in Law in America Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20103%20v00)  
J.D. Seminar | 3 credit hours  
This writing seminar explores various themes running through conservatism in American law. In the course of examining the meaning of American legal conservatism, it touches on certain basic questions about the nature and purpose of law both generally and in the United States in particular, as well as assumptions and beliefs about how human beings behave and how they learn to order their dealings with one another. It explores the relationship of conservatism in society to conservatism in American law, occasionally using current and past controversies to illustrate different ways of understanding conservatism in law as well as competing approaches.

Recommended: Constitutional Law I: The Federal System or Democracy and Coercion.

LAW 599 v00 Critical Legal Theory Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%20599%20v00)  
J.D. Seminar | 2 credit hours  
This seminar focuses on radical challenges to traditional legal thought in the areas of race, gender and sexuality, including work from legal realism, critical legal studies, radical feminist jurisprudence, critical race theory and queer theory. No prior background in jurisprudence or philosophy is necessary.
This class satisfies the Upperclass Legal Writing Requirement.

feminism, African-American feminism, and post-modern feminism. perspectives, including liberal feminism, radical feminism, cultural law, constitutional law, torts, and contracts—from a range of feminist subordination. We will look at various areas of law—including criminal and the potential and perils of using law to challenge or end that This seminar focuses on the role of law in the subordination of women and the potential and perils of using law to challenge or end that subordination. We will look at various areas of law—including criminal law, constitutional law, torts, and contracts—from a range of feminist perspectives, including liberal feminism, radical feminism, cultural feminism, African-American feminism, and post-modern feminism. This class satisfies the Upperclass Legal Writing Requirement.

This 2 credit seminar focuses on critical race theory, a jurisprudential movement that examines the relationship among race, racism, and the U.S. legal system. The coverage is broad, including contemporary legal scholarship on race and the law, and the legal and political interventions that could perhaps guide successful racial reform. This course will provide students with an overview of critical race theory and more intensive exposure to certain subtopics, such as race-based critiques of liberalism, storytelling and the construction of identity, critical race feminism, critical white studies, and global approaches to critical race theory. With a focus on interpretive or critical dimensions of the law, as opposed to a primarily case based approach, this seminar will help students gain an understanding of how race reform theory works and fails, and how culture and historical forces have shaped that body of law. Students of all backgrounds and political persuasions are welcome.

Please see the Federal Legislation Clinic website (https://www.law.georgetown.edu/experiential-learning/clinics/federal-legislation-clinic) for more detailed information about the program.


Mutually Excluded Courses: Students may not concurrently enroll in this clinic and an externship or a practicum course.

This seminar focuses on two of the formative periods of Jewish law – biblical law and rabbinic law – as well as the transition between these periods. We will highlight some of the main legal themes which were formed and crystallized during these periods, and which still possess the power to provoke creative legal thought even today. Among the topics we will discuss are the following: the jurisprudential tension between revelation and wisdom; the status of natural law; various theoretical models of legal development; the role of legal pluralism; the difference between a rights-based discourse and a duty-based discourse; and the models of legal development; the role of legal pluralism; the difference between a rights-based discourse and a duty-based discourse; and the concept of ownership.

The purpose of the course is to analyze Hebraic jurisprudence on these topics, while comparing it to contemporary jurisprudential theories. In this manner, we shall attempt to provoke new directions of thought on familiar legal issues.

Note: This course will meet on Mondays and Wednesdays, 9:00 a.m. - 11:00 a.m. on the following dates: 1/29, 1/31, 2/5, 2/7, 2/12, 2/14 and Thursday, 2/22 (Monday classes meet on this day).
Legal thought is influenced by political, intellectual and cultural trends and fashions. The aim of this course is to provide an overview of the history of modern legal thought, in Europe and North America, and link developments in legal thought to political and cultural changes. The first part of the course will focus on the emergence of modern legal thought in continental Europe and England in the last decades of the eighteenth century and the first half of the nineteenth century. Among the topics that will be discussed will be codification, the Historical School of Law, and mid-nineteenth century evolutionary theories of law. Most of the second part of the course will be devoted to the history of American legal thought, discussing late-nineteenth century legal science, early twentieth century anti-formalist approaches, and finally interwar and postwar American legal thought. Grades will be based on class participation and a take-home exam. The course may be taken on a pass/fail basis.

Note: This course will meet in Fall 2016 on Wednesdays and Fridays, 9:00 am - 11:00 am on the following dates: 10/5, 10/7, 10/14, 10/19, 10/21 (class will meet from 9:00 am - 12:00 pm), and 10/26.

This seminar compares Jewish and American non-religious law. It examines the concepts, structure, and methodology underlying the Jewish legal system, as found in the Bible and as developed by Jewish courts, legislation, and legal writers down to the present. Particular attention is paid to sources of American legal concepts that may be found in the Jewish legal system; to the analogies between the two systems as they are today; and to the insight which Jewish law provides on contemporary legal issues, such as evidence, privacy, abortion, contracts, property, torts, and legal ethics. Primary source materials in translation are used, as are secondary materials prepared by noted authorities.

This is a colloquium-style seminar: most sessions will involve distinguished guest speakers presenting their own research. These will include both philosophers and legal scholars. The seminar is offered jointly to law students and graduate students in philosophy. It is a writing seminar that satisfies the WR requirement at the law school. Although most sessions will take place at the Law Center, some will be held on the main campus.

In this seminar, students will analyze Supreme Court justices’ doctrinal tendencies and judicial philosophies in light of each justice’s personal history and early career. The course will focus on twentieth-century justices who no longer serve on the Court. Throughout the course of the semester, each student will write an original paper that aims to identify key elements of a justice’s life and core values and discusses the extent to which the justice’s history contributes to his or her judicial opinions (or fails to). After an introductory/overview class, each week two students will lead discussions on their selected justices based on the materials the students assemble—primarily the students’ papers and 2-3 key opinions by each selected justice. The professors will work with students to review their papers and materials prior to their presentations. Students also will have the opportunity to discuss various issues related to judges’ lives and their decision-making. We plan to invite a member of the judiciary to one of the classes to discuss his or her insights on these issues with the students. Evaluation will be based primarily on the student’s paper and presentation, plus contribution to the class discussions.

Prerequisite: Constitutional Law I: The Federal System (or Democracy and Coercion).

Note: This course will be enrolled via waitlist.

First Class Attendance is mandatory. All enrolled and waitlisted students must be in attendance at the first class session in order to be eligible for a seat in the class.

Criminal justice is in disarray, and in recent years crime and punishment have come under searching scrutiny. Specific issues include over-punishment, mass incarceration and its consequences in minority communities, the role of race, the morality of specific punishment practices (long-term solitary confinement, life without parole, adult punishments for juveniles, the death penalty). What are the alternatives to punishment? These raise old philosophical questions in new form: what is punishment for? What are the roles of deterrence, retribution, rehabilitation, and providing closure to crime victims? How should the law respond to genuine evil? These are not only U.S. controversies – there are similar controversies in debates over international criminal justice.

This is a colloquium-style seminar: most sessions will involve distinguished guest speakers presenting their own research. These will include both philosophers and legal scholars. The seminar is offered jointly to law students and graduate students in philosophy. It is a writing seminar that satisfies the WR requirement at the law school. Although most sessions will take place at the Law Center, some will be held on the main campus.
LAW 1658 v00 Law and Philosophy: Hannah Arendt: Evil, Human Rights, and Law

J.D. Seminar (cross-listed) | 3 credit hours
This seminar will focus on Hannah Arendt, one of the 20th century’s great political philosophers. Arendt is best known for the phrase “banality of evil,” which she coined to describe ordinary people who participate in extraordinary evils. Her questions about how the law should respond to radical evil are central to modern international criminal law. Arendt’s writings also include penetrating discussions of nationalism, human rights, personal responsibility under dictatorship, moral judgment, and the nature of political action. A stateless person herself for almost 20 years after she fled Hitler’s Germany, Arendt was one of the first philosophers to analyze the plight of refugees. Above all, Arendt was interested in how freedom and pluralism can be preserved in “dark times,” her name for periods of crisis when politics and morality both seem in danger of collapse.

The seminar will focus on Arendt’s writings, but students will be encouraged to link them to current issues, both in class and in their seminar papers. We will explore both the strengths and weaknesses of Arendt’s ideas. Readings will include The Origins of Totalitarianism, Eichmann in Jerusalem, Responsibility and Judgment, selections from Arendt’s other books and correspondence, and writing by other relevant philosophers.

A background in philosophy or political theory is not a prerequisite for this seminar; a willingness to engage with philosophical ideas is essential.

LAW 274 v00 Law, Conscience, and Nonviolence Seminar

J.D. Seminar | 2 credit hours
This seminar develops the student’s awareness of nonviolence as a personal and political force and examines the law and conscience as exercised by such peacemakers as Gandhi, Dorothy Day, Martin Luther King, Einstein, A.J. Muste, Tolstoy, and others. The course texts include “Strength Through Peace: The Ideas and People of Nonviolence” and “Solutions to Violence.” Course topics cover civil disobedience, the death penalty, Gandhian conflict resolution, pacifism and warism, nonviolence towards animals, and the difference between legal violence done by the state (war, executions, habitat destruction) and illegal violence done by an individual (murder, property destruction, stealing). The class is discussion-based, with dissent welcome.

LAW 1196 v00 Religion, Morality and Contested Claims for Justice Seminar

J.D. Seminar (cross-listed) | 2 credit hours
This interdisciplinary seminar will examine theories of justice and the relationship between law and morality in light of religious and theological visions of the good life and accounts of order. Materials and discussions will probe questions such as: What are the moral values underlying the law? How does the law achieve justice or fail short of this goal? How can moral judgments be brought to bear, if at all, in modern, secular legal institutions and in the formation of public policies? Throughout the class we will have opportunities to consider how morality and ideas of justice shape, and are shaped by, contemporary legal problems such as: the legal regulation of sexual activity and marriage, controversies regarding federally mandated health insurance, abortion, euthanasia and physician assisted suicide, immigration, regulation of financial institutions, and/or other issues which emerge as topics of particular student interest.

Particular attention will be paid to understanding methods for dialogue across differing thought systems and disciplines and to developing the skills for communication across claims that would otherwise tend to generate religious and political polarization.

This seminar requires a series of short reflection and reaction papers which aim to facilitate thoughtful and active student participation in seminar discussions throughout the course. This course does not satisfy the JD Upper Level Writing Requirement.

LAW 382 v00 Roman Law

J.D. Course (cross-listed) | 2 credit hours
The subject matter is classical Roman law as it was born, developed, and reached maturity by about 160 CE. The first half of the semester focuses mainly on constitutional structures; the second part on contracts and tort, including practical exercises on reported ancient cases. Whenever is possible and useful, the expositions and explanations are given in a comparative manner vis-à-vis the common law of English origin. A student who completed this course should have enough knowledge and skill to begin a career of iusprudent (wise person of the law); that is, they should be considered qualified to assist the Magistrate in his daily work at the Roman Forum; a position similar to that of clerking for an American judge.
LAW 1211 v00 Special Topics in Jurisprudence: Gender, Race and Class Seminar (http://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201211%20v00)
J.D. Seminar (cross-listed) | 3 credit hours
The seminar will focus on contemporary legal theory and jurisprudence that aims to understand the ways in which race, class and gender influence our understanding of both the positive law we have and the justice to which we aspire. The jurisprudential assumptions in arguments for and against same sex marriage as well as the civil institution of marriage, for and against race, gender, and class conscious affirmative action plans in various contexts, and for and against greater progressivity in various tax regimes as well as entitlement systems, both real and imagined, will all be examined. The seminar will look in some detail at arguments regarding various aspects of the social welfare net, including arguments for its expansion to include greater assistance to poor families with the costs and burdens of both care and elder care. Finally the seminar will also look at constitutional, moral and political arguments pertaining to new found or hoped for individual or group rights, including rights to die, parental rights to homeschool, rights to disown one’s genetic parenthood, rights to gun ownership, rights to gun control laws, "fat rights," and the possible abolition, shrinkage, or expansion of rights to birth control and abortion.

The seminar satisfies the writing requirement.

**Full-time and Visiting Faculty**

Sherman L. Cohn
Anthony E. Cook
Heidi Li Feldman
Gregory Klass
David J. Luban
Ladislas M. Orsy
Gary Peller
Milton C. Regan
Lawrence B. Solum
Robin L. West