

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 *Conservative Jurisprudence Seminar*, *Conservatism in Law and Politics in America*, *Feminist Jurisprudence Seminar*, *Jewish Law Seminar*, and *Law and Philosophy: Hannah Arendt: Evil, Human Rights, and Law*.

Search Jurisprudence Courses (https://curriculum.law.georgetown.edu/course-search/?cluster=cluster_18)

LAW 1754 v00 Africana Legal Studies ([https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1754 v00](https://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201754%20v00))

J.D. Seminar (cross-listed) | 2-3 credit hours
Western law—like Western religion, Western fashion, Western individualism, and Western education—has been imposed on African people enslavement, colonialism, and imperialism. But the history of African people and their thinking on “law” or rules for social living does not begin with these atrocities. This is the central, initial recognition of “Africana Legal Studies.” This seminar focuses on the indigenous African ways of knowing “law” and governance constructs. It will explore the need for application of an Africana Studies lens to legal scholarship, the tenets of Africana Studies, and the contours of Africana Legal Studies. The course will explore a theoretical framework for how to identify and distill precolonial, pre-enslavement (“pre-*Maafa*”) ways of knowing law. It will include an examination of how Africana legal frameworks have evolved in the face of Western colonialism, European enslavement, and other externally-imposed social structures and how Western law interrupted and interfered with Africana legal frameworks. From participating in this African-centered exploration of “law,” governance, and persistence, students may derive insights and strategies for addressing the issues of today, legal and beyond. The writing requirement offers students an opportunity to write on a topic of their choice pertaining to Africana legal frameworks.

Learning Objectives:

Students successfully completing this course will be able to (1) identify the Africana Studies conceptual framework, (2) de-center the West in their thinking about “law” and indigenous ways of knowing governance, (3) identify methods for researching and identifying Africana “legal” frameworks, (4) through class readings and discussions, analyze avenues of inquiry surrounding the relationship between Africana “legal” frameworks and other frameworks of governance, and (5) discuss and consider ways that American jurisprudence and statutes interfere(d) and interact(ed) with Africana governance protocols. The primary course evaluation is by the traditional two-draft seminar paper.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1724 v00 Conservative Legal and Political Thought Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1724 v00>)

J.D. Seminar (cross-listed) | 3 credit hours

The course will introduce students to the writings of the main conservative legal theorists, their contribution to modern legal theory and participation in modern legal theoretical debates. Students will read about the internal debates within the legal conservative movement by focusing on the split between libertarians and traditionalists within the movement including debates regarding “originalism” and “textualism” as conservative interpretive approaches to the law.

The course will be divided into three sections: The first section of the course will address the question: Who is a conservative? The second: Who is a legal conservative? And the third: What is a conservative method of legal interpretation?

LAW 599 v00 Critical Legal Theory Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 599 v00>)

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.

LAW 530 v00 Federal Legislation Clinic (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 530 v00>)

J.D. Clinic | 10 credit hours

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.

For registration-specific supplemental materials, please see the Federal Legislation Clinic PDF (<https://georgetown.app.box.com/s/g2dpqqjk9hc5jehxk7kwxzj9hb52tz9l/>).

For information about clinic registration, please see the Clinic Registration Handbook (<https://georgetown.app.box.com/s/0ehc9a8928jphateghs0uz7s60j9e5y88/>).

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

LAW 189 v06 Feminist Legal Theory Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 189 v06>)

J.D. Seminar (cross-listed) | 2-3 credit hours

This seminar will provide students with an opportunity to take a deep dive into different strands of feminist legal theory and examine closely emerging discourses in more modern feminism(s). During the first few weeks, we will read several classics in feminist thought, analyzing their basic pre-suppositions about sex, sexuality, gender, power relations, and the role of law in constructing them. From the beginning, we will pay particular attention to the ways in which feminist theory and activism within the legal field were often informed and limited by the specific class and race positions of their participants.

The emphasis of the seminar is on theory because theory is the lens through which we view and therefore act in the world. However, students will have an opportunity to write their papers on topics of their own choosing, which may involve a specific case or controversy related to feminist causes/ideas/themes within the legal field, or even outside. We will also be discussing specific feminist controversies throughout the seminar, after we have covered some of the different strands of feminist legal thought.

The seminar will be graded on the basis of class participation and a final paper. Class participation has three components. It includes participation in classroom discussions, a 500 word post engaging with one of the week’s readings (each student expected to post once during the semester), and a concrete contribution to the seminar’s Annotated Lexicon and Bibliography on #MeToo. The Annotated Lexicon and Bibliography will be a collective, collaborative enterprise by seminar participants. It will reflect our collective effort to reflect on and understand the relationship between older strands of feminism and the emerging feminist discourses after the #Metoo movement.

The final paper will either be a 4000 word paper for the 2 credit option or a final paper that meets the requirements of the JD upper class legal writing requirement. The Law Center’s policy for such papers requires the submission of an outline, first draft and final paper. Both the first draft and final paper must be at least 6,000 words long (approximately 25 double-space pages) excluding footnotes. Students will write on topics of their own choosing, after discussing their topics with me. The final paper may be an extended discussion of materials introduced during the course of the semester or it may be a researched project.

A background in feminist theory may be helpful but is not a requirement, as we will cover some classic readings and build from there.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1755 v00 International Human Rights: History, Theory, Promise and Critique (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1755 v00>)

J.D. Seminar (cross-listed) | 2-3 credit hours

This course will examine the philosophical and historical underpinnings of international human rights law. Students will encounter early conceptions human rights protection, alternative visions for the modern human rights framework, the development of international human rights law, and critical perspectives on the evolution and implementation of human rights.

Students will be encouraged to critically examine the successes and failures of the normative framework for the protection of human rights, whether we have achieved the universal realization of human rights, and ways in which the system might be reimagined or strengthened. Particular attention will be paid to the legal framework applicable to the protection of the rights of non-citizens, including migrants, refugees, and stateless persons. Contemporary case studies will be used to illustrate the challenges in resolving protracted situations of statelessness or displacement, and how gaps in international legal protection may exacerbate looming human rights crises, including those related to global climate change.

There are no required prerequisites for this course. However, students may find it beneficial to have taken International Law I: Introduction to International Law and/or the introductory course to International Human Rights.

Learning Objectives:

- Students will gain an understanding of some of the historical movements in the creation of human rights and political forces driving outcomes.
- Students will learn how to assess the strengths of the international human rights regime and identify key areas and methods of critique.
- Students will gain the ability to think critically about our assumptions about the structure of international law and human rights in order to imagine ways in which international human rights can be strengthened towards the universal realization of rights.
- Students will strengthen their written and verbal communication skills through written reflections, papers, and classroom discussion.
- Students completing a paper for the writing requirement will gain mastery over their chosen topic related to international human rights law, enhance the clarity and precision of their writing, and sharpen their skills in conveying their understanding through an oral presentation.

Note: This seminar requires a paper. J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the Upperclass Legal Writing Requirement. The paper requirements of the 2 credit section will not fulfill the J.D. Upperclass Legal Writing Requirement. The 3 credit section is open to J.D. students only and non-degree students may not enroll.

LAW 249 v00 Jewish Law Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 249 v00>)

J.D. Seminar | 3 credit hours

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.

LAW 252 v09 Jurisprudence Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 252 v09>)

J.D. Seminar (cross-listed) | 3 credit hours

This seminar will explore some of the most basic and general questions about what law is, what its justifying purposes are, and how the answers might shape how law is practiced—by officials, lawyers, and citizens in their respective domains. Seeking the truth about these questions is enriching and worthwhile for its own sake. A bit more concretely, the class is a chance for students to think in a sustained and disciplined way about how to harmonize their professional career with their highest ideals.

Note: Laptops may not be used during class sessions.

LAW 1851 v00 Philosophy of Law Seminar: Experimental Jurisprudence (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1851 v00>)

J.D. Seminar | 2-3 credit hours

This is an interdisciplinary course, whose subject matter falls at the intersection of (i) legal philosophy and (ii) empirical legal studies. We will study longstanding jurisprudential questions, including: Is evil law *really* law, how is a contract different from a moral promise, what (if anything) justifies criminal punishment, and what is the best way to interpret statutes and the Constitution?

The seminar introduces these questions from a classical jurisprudential perspective and includes readings from historical and contemporary legal philosophers like H.L.A. Hart, Ronald Dworkin, Brian Leiter, Julie Dickson, and Seana Shiffrin. It then focuses on the growing “experimental jurisprudence” approach to these questions. Most often, that approach involves studies from social or cognitive psychology. But we will also consider empirical perspectives that use tools from development psychology, linguistics (e.g. corpus linguistics), computer science (e.g. natural language processing), neuroscience (e.g. fMRI), and behavioral science (e.g. economic incentives for behavior).

Course Goals/Student Learning Outcomes

Students should become familiar with historical and modern debates about legal philosophy. This is a highly interdisciplinary course, introducing students to concepts and skills from analytic philosophy, linguistics, and empirical social science (e.g. competence in reading and evaluating empirical work related to legal interpretation).

Note: J.D. students must register for the 3 credit section of the seminar if they wish to write a paper fulfilling the J.D. Upperclass Legal Writing Requirement. The paper requirements of the two-credit section will not fulfill the J.D. Upperclass Legal Writing Requirement.

LAW 1196 v00 Religion, Morality and Contested Claims for Justice Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1196 v00>)

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 fall 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.

Substantive Goals: 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 fall 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.

Recent topics have included: arguments for and against exemptions, public health and religious freedom amidst the COVID-19 pandemic, euthanasia and physician assisted suicide, migration, environmental justice, and other issues which emerge according to student interest.

This course does not satisfy the JD Upper-Level Writing Requirement.

Skills-oriented goals:

1. This seminar requires a series of short reflection and reaction papers which provide an opportunity for students to hone the art of brief writing for a professional setting. For J.D. and L.L.M. students, the final paper is not a research project, but a short engagement (6-8 pages) with a particular set of issues arising from across the range of topics covered in the course.
2. Reflection papers also aid in preparation for thoughtful student participation in seminar discussions throughout the course, and the further opportunity to hone skills in speaking fluently and comfortably, even about difficult or contentious questions.
3. Seminar discussions will not shy away from sensitive, difficult, or even polarizing cultural and religious questions. Frequent breakout groups and exercises in communication aim to help students hone cognitive empathy, a capacity to listen to understand (rather than simply to debate), and agile skills for dialogue even across claims that would otherwise tend to generate religious and political polarization.

Full-time and Visiting Faculty

Lama Abu-Odeh
Stephanie Barclay
Anthony E. Cook
David J. Luban
Naomi Mezey
John Mikhail
Gary Peller
Brishen Rogers
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Kevin Tobia
Philomila Tsoukala