

LEGAL HISTORY

The teaching of legal history at the Law Center dates from 1875 when Martin F. Morris, a founder and dean, offered lectures on the subject. Morris, a self-described "philosophic historian," studied the past to discern "a purpose and a continuity in human history," namely, the steady progress of civilization and civil liberty from antiquity to his day. Although Georgetown's present legal historians are not likely to join in a search for an unfolding purpose in the past, all share his conviction that a first-rate law school owes its students more than instruction in the canons of legal reasoning and aspects of legal practice. It should also provide students with perspectives on the legal acumen they acquire, so that they can use their new power wisely and with self-mastery. As different as Georgetown's offerings are, they all consider legal history an engaging way to acquire this self-awareness.

Of course, judges, lawyers and law students have sometimes asked legal history to do more. In particular, some study the legal past to discover information that courts can use in deciding cases. Some of Georgetown's courses and seminars do permit students to search out the origins of a doctrine, to revisit landmark precedents, or to explore the legislative intent behind particular statutes. But this view of the utility of legal history is not the dominant approach of the school's offerings. More common is a concern for revealing how law has changed over time. Students should not expect to find authoritative lessons in the past, only analogies whose aptness are for us in the present to decide. They should also expect their teachers to stress differences between the past and present as often as they note similarities.

Two courses offer background and overviews of substantial portions of the Anglo-American legal past. In his *English Legal History Seminar: Foundations of American Law*, Professor James Oldham uses original trial manuscript sources to introduce students to the 18th-century English common law system, much of which was transplanted to the colonies. *American Legal History*, taught by Professor Daniel Ernst, takes up the years since Reconstruction with special concern for the development of the U.S. state.

The rest of the offerings allow students to conduct their own research in areas of their professors' special expertise, including the history of the jury, the history of ideas, the social history of gender and the family, and the constitutional history of speech in the United States.

Many of these seminars require that students work in the unusually rich sources available at or within walking distance of the Law Center. These include the Edward Bennett Williams Library's microform edition of *English Legal Manuscripts*, the Folger Library, the National Archives, the Library of Congress, and the libraries of the federal departments.

Search Legal History Courses (https://curriculum.law.georgetown.edu/course-search/?cluster=cluster_19)

LAW 1849 v00 Abolitionism and the Law Seminar ([https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1849 v00](https://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201849v00))

J.D. Seminar | 2-3 credit hours

This seminar will cover the history and present of abolitionist movements in the United States and the role of law in resisting or hastening abolition, mainly of slavery, but also of prisons and policing today. The first half of the course will present a legal history of abolitionism. Students will learn about the founding constitutional accommodations to slavery and the role of the Supreme Court in enforcing those constitutional protections of enslavers prior to the Civil War. They will also learn about the modes of abolitionist resistance to slavery, including freedom suits by enslaved persons and legal challenges on behalf of fugitives as well as abolitionists' petitions to state and federal legislatures to end slavery. They will read and engage with iconic primary abolitionists texts from the colonial, revolutionary and pre-Civil War eras to understand the moral, constitutional, and political arguments levelled against slavery. They will also read and understand the original intentions of the drafters of the Reconstruction Amendments and engage with their conception of "abolition democracy," that is, the democratic society they hoped to create to ensure freedom and equality for the formerly enslaved. The second half of the course will engage with abolition now, particularly the legal and social movements for abolition of modern slavery, prisons, and endemically violent policing. Students will read excerpts from signature works on contemporary abolitionism, including key law review articles on prison and policing abolition and on "abolitionist constitutionalism." They will grapple with the relevance of abolitionist thought to modern aspirations concerning individual freedom, equality, and democracy.

Learning Outcomes: (1) Students will learn about the role of abolitionists and abolitionist thought in shaping American law and guarantees of freedom and equality. (2) Students will demonstrate an ability to produce an original, high quality research paper. (3) Students will demonstrate an ability to give constructive feedback on the work of their peers. (4) Students will engage in critical analysis of the gap between our professed founding ideals of freedom and the reality for historically and presently subordinated persons and develop concrete ideas in their papers on what to do about it.

Mutually Excluded Courses: Students may not receive credit for this seminar and Reconstruction and Civil Rights Seminar.

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 1265 v00 Advanced Constitutional Law Seminar: The Creation of the Constitution (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1265 v00>)

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

Few events have had as much impact on American history than the framing and ratification of the Constitution. This seminar is designed to offer students with serious interests in history, political theory, and constitutional law an opportunity to learn more about these events by reading some of the best scholarship on the creation of the Constitution and by writing an original research paper on an appropriate topic of their choosing. The seminar will examine how the Constitution was framed, ratified, and implemented during both the founding of the Republic and the “Second Founding” during and after the Civil War. Special attention will be given to founding-era controversies involving slavery, federalism, and implied powers, and to how these issues influenced the adoption and interpretation of the Reconstruction Amendments.

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

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 015 v02 American Legal History (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 015 v02>)

J.D. Course | 3 credit hours

The defining characteristic of American legal history in the twentieth century, wrote the great legal historian James Willard Hurst, was the emergence of unreviewable, “prerogative” power in executive officials. Americans needed a state, but they also needed it to respect individual freedom and a diverse civil society. They wanted not Leviathan but a democratic and liberal state, and they looked to lawyers and the rule of law to create it.

Through a series of case studies, interspersed with histories of the American legal profession, political parties, and public bureaucracies, this course looks to the past for insight into our present. The case studies include the Cambridge smallpox vaccine controversy of 1902-1905; lawyering at Ellis Island and within the immigration bureaucracy; Charles Evans Hughes on commission government and the draft in World War I; legal realism and legal radicalism in New Deal farm policy; FDR’s Court-packing plan; Japanese American internment and price control in World War II; and McCarthyism. Topics on the legal profession include the nineteenth-century, court-centered bar as an “inner republic”; the emergence of the corporate bar; ethnicity, gender and race within the bar; New Deal lawyers; and the “Washington lawyers” of postwar America. Theoretical topics include the professions, bureaucracy, party strategy, state autonomy, and professional authority.

LAW 1795 v00 Critical Race Theory (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1795 v00>)

J.D. Course | 3 credit hours

Critical Race Theory places race and racism at the center of American law. This course will describe the origin story of Critical Race Theory along with the current anti-Critical Race Theory backlash. It will examine the role that race plays in creating legal doctrine. The course will examine racial biases in judicial decision making in many courses covered in the first year of law school, but not exclusively those courses. Legal doctrines covered in the following subjects will be analyzed: Civil Procedure; Torts; Contracts; Criminal Procedure; Criminal Law; and Property. The course will also consider whether Critical Race Theory has influenced judicial precedent and what Critical Race Theory judicial opinions might look like.

COURSE GOALS

By the end of the semester, students will:

1. Understand the role that racism has played in shaping American Legal doctrine in first year subjects.
2. Be equipped to critically evaluate the role of racism in shaping other areas of law.
3. Enhance their critical reading skills.
4. Enhance their critical thinking skills.
5. Enhance their ability to have difficult conversations about racism in a productive manner. Self-reflection is a key ingredient here.

Note: This course is a first-year elective. First-year day students select an elective offered in the spring.

LAW 1518 v00 Doing Justice: Trial Judges Explain How Tough Decisions Are Made (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1518 v00>)

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

As any judge who has served on a busy trial court can attest, there are many assignments where the cases come at you so hard and fast that there is barely time to step into the box and take your stance before the next one comes zooming in. And that is true of the “easy” cases. In addition, there are cases where the judge has to wrestle with a problem so complex, or so emotionally draining, as to test the fortitude and impartiality of even the most competent and experienced jurists. These might be called “go to the mountain top” cases.

In busy trial courts, “mountain top” cases can appear in the garb of criminal, civil, probate, or family cases. Often the judge is unable to find any guiding legal precedent and is forced to navigate uncharted waters in search of the “just” result. Sometimes controlling legal precedent exists, but following it will lead to an unjust result. And then there are cases where the judge has very wide discretion to apply a vague legal standard, like “the best interest of the child” in contested child custody proceedings, or finding the “right sentence” in a criminal case, where the statutory range might run from no prison time at all to life in prison.

Some cases are hard not only because of the subject matter, but also because they capture the attention of the entire community and become highly politicized. This can be especially challenging for elected judges, who know that whatever decision they make may become the fodder for an opposition campaign when they next stand for election, and may ultimately cost them their judgeship. These political realities do not lessen the judge’s duty to decide each case in accordance with the facts and the rule of law, by reference to neutral principles. But these requirements can make the exercise of that duty more agonizing, knowing that the decision is likely to be unpopular with at least one large segment of the population.

This seminar will provide students with a ring side seat in the arena of judicial decision-making. Students will not only have the benefit of reading 13 trial judges’ stories, but they will also have the opportunity to dialogue with each author who will appear in the class that focuses on her/his story.

Learning Objectives:

By analyzing thirteen poignant stories written by trial judges who struggled with difficult cases, seminar participants should come away with valuable insights about the litigation process and the art of judging. Hopefully too, students will become enthused and empowered to become effective trial advocates and perhaps judges. Besides reading 13 stories written by judges about real life difficult cases, each student will select a judge and interview that jurist about his or her decision making process in a tough case or class of cases. The semester will culminate with students drafting a paper describing not only the issues requiring judicial decision, but also how the interviewed judge sets about deciding those issues.

Prerequisite: Civil Procedure (or Legal Process and Society) or Constitutional Criminal Procedure (formerly Criminal Justice) or Democracy and Coercion or Criminal Procedure.

LAW 1855 v00 Environmental Justice Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1855 v00>)

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

This discussion seminar will explore topics in environmental justice from a range of perspectives, including historical accounts of the environmental justice movement, contemporary proposals as to how to respond to unfolding ecological crises, relevant case law and litigation, proposed legislation, domestic and international advocacy efforts, as well as imaginative literature and creative nonfiction. Our goals will be to arrive at a deeper understanding of pressing environmental problems, and, most important, to generate an array of compelling answers to the question, “what is to be done?”

We will begin by exploring accounts of our current environmental crises, their causes and impending consequences, and studying the beginnings of the environmental justice movement, which has sought for several decades to confront the racial and economic inequity of ecological harm. Our second meeting will explore several compelling contemporary proposals to address our current circumstances, ranging from domestic legislation and international diplomacy to organizing for a Global Green New Deal. In our third meeting we will focus on obstacles that impede meaningful change, both economic and political frameworks as well as legal efforts to preserve the status quo. Next, we will turn to creative nonfiction that explores various ways to think and work against these barriers towards a more sustainable and just future. Our fifth meeting will consider imaginative literature and art addressing the climate crisis to further expand our own imaginative horizons. Following our efforts to understand the potential and limits of past efforts to realize greater environmental justice, our sixth meeting will examine recent work addressing future possibilities for social movement advocacy, domestic and international organizing, litigation and legislation, and pushing for more fundamental changes to structures of collective governance and social life. In this penultimate week, we will read work associated with ecofeminist movements, indigenous environmental justice formations, the Black Hive of the Movement for Black Lives, the Sunrise Movement and other contemporary movement formations. In our final meeting, each seminar participant will share with the group a brief account of one additional idea and course of action they believe to offer an especially powerful response to our shared question, “what is to be done, now?”

Note: FIRST AND SECOND CLASS ATTENDANCE IS MANDATORY.

Enrolled students must be in attendance at the start of the first class session in order to remain enrolled. Waitlisted students must be in attendance at the start of the first class session in order to remain eligible to be admitted off the waitlist. All enrolled students must attend each class session in its entirety. Failure to attend the first class session in its entirety will result in a drop; failure to attend any subsequent class session in its entirety may result in a withdrawal.

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 394 v02 Jury Trials in America: Understanding and Practicing Before a Pure Form Democracy (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 394 v02>)

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

The seminar will examine:

- The history of the U.S. jury trial system
- Jury selection dynamics
- Factors affecting juror performance during the trial
- Jury management challenges such as increasing juror comprehension in complex litigation and juror privacy
- Current policy debates concerning the jury.

Learning Objectives:

By participating in class discussions and role-plays and critically observing a real jury trial, students should better understand the nuances of trial by jury and feel more comfortable about appearing before a jury. By studying the assigned readings and writing an observation report on the jury trial they attended, students will come to understand the do's and don'ts of communicating with juries and the dynamic efforts occurring across the country to bring about improved jury trial management.

Prerequisite: Civil Procedure (or Legal Process and Society) and Constitutional Criminal Procedure (formerly Criminal Justice) or Democracy and Coercion or Criminal Procedure.

LAW 1388 v01 Law and Social Change (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1388 v01>)

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

This class will explore contemporary understandings of the role of law in achieving social movement goals. The course begins with a case study of campaigns to re-enfranchise persons who have been convicted of crimes which will provide a 360-degree view of an ongoing law reform effort. Students will then explore a range of topics including theories of change, integration of multiple modes of advocacy, agenda setting, community-centered lawyering, the effects of different institutional venues, the impact of framing, the use of narrative, the relevance of communications research, the efficacy of different modes of legal work, and the advantages and disadvantages of working within the law for advocates of systemic change.

Learning Objectives: In a nutshell, students should leave the course with a more nuanced understanding of what is involved in effectuating Georgetown's motto that "Law is but the means, justice is the end."

Learning objectives include the following abilities:

- Refinement of analytical and communication skills;
- Close reading and critical interrogation of scholarly and policy analysis;
- Evaluation of strategic advocacy methods;
- Understanding the major theories regarding the political, economic and social forces that underlay examples of unfairness in the U.S. legal system and ability to link different identifications of harm (e.g., insufficient access to courts or carceral imperatives) with correlative goals for change;
- Capacity to integrate a range of advocacy methods in developing strategies for change; and
- Understanding how communications strategies, designed for use outside legal venues, have become central to the achievement of goals within the venues of courts and other governance institutions.

Mutually Excluded Courses: Students may not receive credit for this course and the seminar by the same title.

Note: This course will meet every Tuesday, 11:10 a.m. - 1:10 p.m. and alternating Thursdays, 11:10 a.m. - 1:10 p.m. on the following dates: 8/29, 9/12, 9/26, 10/10, 10/24, 11/7, and 11/21.

LAW 1388 v00 Law and Social Change Seminar ([https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1388 v00](https://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201388%20v00))

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

This seminar will explore the role of law in achieving social movement goals. In recent years, the conventional wisdom on this topic has changed. An early wave of critique stressed the shortcomings of litigation and reliance on courts in bringing about deep or lasting change. Today, most legal rights organizations have significantly modified the litigation-centric model to adopt a strategy more consistent with multi-dimensional advocacy, an approach that self-consciously uses multiple strategies for change, including litigation, legislation, administrative and policy advocacy, as well as a variety of strategic communication models. This course will delve into the components of multi-dimensional advocacy by studying the advantages and disadvantages of different institutional venues, various approaches to communications, how framing decisions are made and with what consequences, and the process of anticipating and responding to limitations of working within the legal system.

Our study of social movements will focus on those which have grown out of the experiences of subordinated groups. We will explore how collective action can best illuminate whether, when, and how the law has lacked neutrality in its regulatory actions toward such groups. The class will analyze the concrete ways that social movements oriented to changing the law have also changed the opportunities for achievement and human flourishing that are available in a meaningful way to persons in subordinated groups.

The course is designed both to impart knowledge and to produce knowledge. In studying the contemporary strategies used by movements seeking law and social change, we will analyze the role of law (including litigation and other forms of legal advocacy) in achieving social movement goals. Topics will include agenda setting, resource mobilization, the impact of different institutional venues, how framing decisions are made and the use of narrative, the relevance of communications research and public education work, accountability, the efficacy of different modes of legal work, and the risks of de-radicalization or disempowerment caused by working within the law. Knowledge production will be the goal of student presentations and papers.

Student Responsibilities

1. Attend and participate in every class (absent a pre-approved excuse)
2. During weeks in which there is a guest speaker, submit one or two questions in writing in advance of class which will be shared with the speaker.
3. Working in a team with other students, prepare and present a PPT to the class that analyzes a facet of the methodology of social change advocacy.
4. Research and write a paper of approximately 4,000 words in length analyzing the strengths and weaknesses of a specific legal campaign. Papers should
 - a. Describe the strategic and tactical choices being undertaken and the results;
 - b. Consider the impact of the legal campaign on the treatment of subordinated persons; and
 - c. Analyze how the organization's experiences illustrate or refute (or both) arguments in the theoretical or social science literature that students read during the course.

Mutually Excluded Courses: Students may not receive credit for this seminar and the course by the same title.

LAW 1859 v00 Law and Social Movements Colloquium ([https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1859 v00](https://curriculum.law.georgetown.edu/course-search/?keyword=LAW%201859%20v00))

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

This course will offer students the opportunity for in-depth examination of issues related to the dynamics and consequences of social movements that seek legal change, including their effects on members of subordinated groups that so often comprise such movements.

During the first sessions of the semester, class sessions will serve two purposes: to sharpen student skills in critical reading of legal scholarship and to prove students with a substantive background for the remainder of the semester.

During subsequent weeks, class sessions will consist of presentations by a guest scholar (typically a major law review article or excerpts from a book), discussion of materials related to the project or field of an upcoming guest presentation, or analysis of scholarship that is foundational to the field.

For class sessions focused on a guest speaker, all students will prepare short response memoranda including at least one question that will be provided to the speakers in advance of the class. Students will attend each presentation prepared to participate in a faculty workshop-style discussion with the author. Either individually or in a team, particular students will take responsibility for leading the class sessions that feature a guest speaker.

Students taking the course for 3 credits will complete "a sustained, in-depth research and writing project for a legal audience" that satisfies Georgetown's requirements for the UCWR. See Student Handbook at pp. 3-4: <https://georgetown.app.box.com/s/syzimfl775mex2n2n8styv3u0ff3swcw> (<https://georgetown.app.box.com/s/syzimfl775mex2n2n8styv3u0ff3swcw/>)

Students taking the course for 2 credits will write an end-of-semester reflection essay.

Topics to be covered.

The assigned materials will vary from year to year based on the focus of the work presented by guest scholars. In general, assigned readings will explore a variety of doctrinal, strategic, and theoretical topics, such as comparative analyses of the structures and strategies of social movements, the differential effects of litigation or legislative victories on groups seeking change, theories of backlash, the impact of different framing and communications strategies, and the role of law in social movements at various points in time. Some topics will concern cross-cutting issues that affect a variety of social movements (e.g., the value of litigation and the role of courts), while others may be particular to a specific movement (e.g., the effects of multi-dimensional advocacy in the effort to achieve marriage equality).

Although the movements under discussion will not be limited to those with progressive political affinities, a major focus of scholarship in this field concerns the ways in which structural bias and lack of neutrality in the legal system affects persons in subordinated groups and that emphasis will be reflected in the selection of speakers and materials. In general, legal scholarship often addresses the extensive amount of indeterminacy in a given field of law. We will focus less on resulting inconsistency in doctrine and more on its normative implications with respect to principles of equality and social justice.

Student learning goals

Close reading and critical interrogation of scholarly analysis; familiarity with and understanding of the scholarly literature on law and social movements; refinement of analytic and writing skills; effective

LAW 626 v00 New Deal Legal History Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 626 v00>)
J.D. Seminar | 3 credit hours

The deep recession that commenced in 2007 encouraged many in the United States to look to the past for insight on how the American legal order should respond to severe economic dislocation. Many turned to the first two presidential administrations of Franklin D. Roosevelt. For many years, the New Deal had been Old Hat, reviled by conservatives for its statist excesses and deplored by reformers for its bureaucratic rigidities. Suddenly, the Roosevelt administration's seemed to speak directly to the present. Then, in November 2016, the election of Donald Trump suddenly provided a new, less flattering perspective on Roosevelt, from which his impatience with legal and constitutional proprieties and his ability to galvanize public opinion through a relatively new medium (radio in FDR's case; Twitter in Trump's) suggested disturbing parallels.

This seminar takes up many legal developments from the years 1933-1941: the creation of new federal programs of social insurance, regulation, and public investment; the blazing, by a generation of young law graduates, of a new path into the profession through what had previously been considered a wasteland of government employment; the birth of modern administrative law; a reorientation of judicial activism from the defense of free markets and private property to the safeguarding of civil rights and civil liberties; and a great duel between President Roosevelt and Chief Justice Charles Evans Hughes, known to history as the "Court-packing" plan of 1937. Over the course of the semester, students will read nine historical monographs as well as articles and book chapters. They will write a Review Essay that evaluates one of the books assigned in the course. Most importantly, they will write a research paper that fulfills the Upperclass Legal Writing Requirement. Class meetings will be devoted to lectures, discussions of the assigned readings, progress reports on students' research and writing, and a concluding, roundtable discussion of the first drafts.

Note: Non-degree students must seek professor permission to enroll in this seminar. Please contact Professor Ernst at ernst@law.georgetown.edu to request permission.

LAW 586 v00 Race and American Law (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 586 v00>)
J.D. Course | 4 credit hours

With such watershed events in the civil rights movement as *Brown v. Board of Education* (1954) and the civil rights acts of the 1960s, the eradication of racial subordination in America seemed an achievable goal. Yet, in America today, racial minorities continue to experience social and economic disadvantages, and race relations remain strained in many respects. Whether law has aided or impeded the cause of civil rights in the past and the extent to which law can help to resolve racial issues in the present and future are questions of considerable controversy. This course will examine the response of law to racial issues in a variety of legal contexts. Topics will likely include the meaning of race and racial discrimination, intimate relationships, child placement, employment, education and integration, policing and criminal punishment, free expression, and political participation. Classes will center on candid discussion and participatory exercises about the issues raised by the assigned material. The course will cover most of the seminal "race" cases decided by the U.S. Supreme Court.

Recommended: Constitutional Law II: Individual Rights and Liberties.

LAW 1928 v00 Reconstruction and Civil Rights Seminar (<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1928 v00>)

J.D. Seminar | 3 credit hours

Reconstruction and Civil Rights shifts the focus of post-Civil War constitutional history from the Supreme Court to Congress. It explores the meaning of the Thirteenth, Fourteenth, and Fifteenth Amendments in the context of the civil rights legislation that flowed from them, including the Freedmen's Bureau Bills of 1865 and 1866, the Civil Rights Act of 1866, the Enforcement Acts of 1870 and 1871, and the Civil Rights Act of 1875. It recovers the political lives and ideas of members of Congress who inspired, drafted, and shepherded major pieces of legislation, including James Ashley, John Bingham, William Fessenden, Jacob Howard, Thaddeus Stevens, Charles Sumner, and Lyman Trumbull. It incorporates the influential perspectives of abolitionists, including Frederick Douglass and William Lloyd Garrison, and women's rights advocates, including Susan B. Anthony and Elizabeth Cady Stanton. We will read and discuss the work of leading Reconstruction historians and law professors. We will write primary source research papers about the legislation, people, and events that led to the civil rights revolution of 1865 to 1876. Our goal is to explore how Reconstruction-era politicians and political thinkers changed the Constitution and attempted to make good on Sumner's idea of "equality before the law."

This seminar is focused on understanding Reconstruction Era history but not history for its own sake. It is inspired by the lack of debate about the history of the Fourteenth Amendment during the Supreme Court's oral argument and in its majority opinion in *Students for Fair Admissions v. Harvard & UNC* and by the importance of history in our current constitutional discourse. In the future, advocates, legislators, and policymakers will benefit from a deep knowledge of post-Civil War history in unleashing the power of the Reconstruction Amendments to protect civil rights.

Learning Objectives:

Explore the passage of the Thirteenth, Fourteenth, and Fifteenth Amendment in the social and political context of Reconstruction and in relation to other pieces of federal legislation.

Analyze how members of Congress passed major pieces of federal civil rights legislation and overrode the veto of President Andrew Johnson to protect the rights of formerly enslaved people and free blacks.

Delve into the political lives and ideas of members of the Reconstruction Congress.

Discuss the impact of abolitions and women's rights advocates on these Reconstruction Era debates over amendments and civil rights legislation.

Identify the different schools of Reconstruction Era history from the Dunning School to the present.

Debate cutting-edge historical and legal scholarship on Reconstruction Era legislation, amendments, and political figures.

Employ primary source research methodology after attending workshops led by the Georgetown Law Library and/or Library of Congress Manuscript Division archivists.

Research and write publishable quality papers based on the primary sources including the Congressional Globe, nineteenth-century newspapers, manuscripts, diaries, and electronically available sources.

Prerequisite: Constitutional Law II: Individual Rights and Liberties.

Mutually Excluded Courses: Students may not receive credit for this seminar and Abolitionism and the Law Seminar or Thirteenth Amendment.

LAW 1779 v00 Roman Law Seminar: Family, Property, and Succession
(<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1779 v00>)

J.D. Seminar | 2 credit hours

Roman law developed over the course of more than one thousand years, and it continues to influence contemporary legal systems throughout the world. In this course, we will examine the portions of Roman private law that correspond to the Anglo-American law of family, property, and wills and estates. Readings will consist of excerpts (in translation) from Roman legal sources, principally Justinian's Digest. No background knowledge of Roman law or of Roman history is required.

Note: Laptop use is not permitted in this course (unless necessary to conduct Zoom instruction).

LAW 1854 v00 The Critical Race Theory Tradition: Canonical Texts and New Directions
(<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1854 v00>)

J.D. Seminar | 2 credit hours

This course introduces students to canonical and recent texts from the Critical Race Theory tradition. It begins with the historical tradition of scholarship that Critical Race Theory continues and looks at some of the impact of the historical development of law upon subordinated groups to which Critical Race theory responds. It explores key Critical Race Theory themes, including identity politics, intersectionality, its defense of rights and critique of colorblindness, and examines the relevance of this literature to contemporary issues, such as changing technology infrastructure and platforms, carceral violence, and the changing national conversation about race and U.S. history. Throughout it pairs theoretical work with historical data that allows students to consider law's differential effects alongside its claim to neutrality and how different groups deploy this claim.

Learning Objectives:

–Students will learn to think critically about conventional legal norms, systems, practices, rules, assumptions and approaches, as well as the political, institutional, cultural, historical and economic contexts in which they arose.

– Students will examine the law's role in constructing race and racial practices, or different treatment for different groups, in order to better understand the meaning of the term "structural inequality" and the historical evolution of disparities in wealth, health, education, living conditions, and political influence.

– Students will learn about the histories of different subordinated groups, including those identified by race, gender, indigeneity, and class, how those histories intersect, and how groups have used their collective identity in order to advance their standing under or challenge inequity in law.

LAW 1338 v00 Think Like a Lawyer: Elements for American Legal Analysis Seminar
(<https://curriculum.law.georgetown.edu/course-search/?keyword=LAW 1338 v00>)

J.D. Seminar | 2-3 credit hours

A distinctive set of political, philosophical, and economic ideas underwrites American law. These provide elements for thinking like a lawyer, especially when one must come up with creative legal arguments, understand new areas of doctrine, or broach new areas of practice. This seminar aims to equip students with an introduction to a selection of elemental ideas that underpin American law, including *liberty and tyranny*; *sovereignty*; *trade and commerce*; and *democracy*. We will explore these ideas within a broadly historical framework, concentrating especially on their development in England and then the United States in the 17th, 18th, 19th, and 20th centuries. No prior study of history, philosophy, or political theory is necessary to join or to succeed in the course.

Students will write papers that select a current (21st century), significant legal question and to analyze it using one element covered in the course. The legal question may come from any area of American law, including but not limited to corporate law, constitutional law, securities law, tort law, family law, immigration law, bankruptcy, consumer protection, labor and employment law, and civil rights law. Students will submit rough drafts for comments from the professor. They will also have an opportunity to receive peer feedback on their work-in-progress. Final papers will be evaluated with consideration for originality, creativity, quality of writing, and the ability to absorb and constructively use feedback. Seminar grades will be based on the paper grade, the quality of class participation, and the quality of constructive feedback given to fellow students. The technical requirements for the paper (e.g. minimum length, citation format, submission for WR credit) are given in the in the Student Handbook (<https://www.law.georgetown.edu/academics/academic-resources/registrar/student-handbook/>).

Many of the assigned readings will be available via a web portal designated by the professor. Some books (e-format fine) worth obtaining likely to be discussed include:

- John Locke, Two Treatises on Government
- Blackstone's Commentaries, Book 1
- Thomas Paine, Common Sense
- Jacobus tenBroek, The Antislavery Origins of the Fourteenth Amendment (this book is out of print, so must be borrowed from a library or purchased used)
- John Stuart Mill, The Subjection of Women

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.

Full-time and Visiting Faculty

Kevin Arlyck
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