JUSTICE AND LAW STUDIES (Div II)

Chair: Lecturer in Humanities Alan Hirsch


On leave fall/spring: J. Crowe

On leave fall only: W. Gentry, C. Shanks

Justice and Law Studies is an interdepartmental program designed to give students a background in and framework for understanding the ways that philosophers, government officials, and others think about justice, and the related ways in which societies marshal power and implement law. This liberal arts program provides tools for thinking critically and arguing about what justice might entail, how it works in practice, and how rules, aspirations, laws, and norms evolve over time and in different parts of the world.

THE CONCENTRATION

The concentration in Justice and Law Studies consists of six courses: an interdisciplinary introductory course, four electives taken from at least two departments, and a senior seminar. Electives are listed below. Other courses, not listed below, may be approved by the Chair.

Students may declare a program concentration at any point during their academic career.

Senior Seminar

In 2018-19, the senior seminar will be *The Unwritten Constitution* taught by Professor Hirsch.

Electives

- **AFR 132 / AMST 132 / PSCI 132** Contemporary Africana Social and Political Philosophy
  - Taught by: Neil Roberts
  - Catalog details

- **AFR 476 / HIST 476** CAPSTONE: Black Radicalism
  - Taught by: Shanti Singham
  - Catalog details

- **ECON 374** Poverty and Public Policy
  - Taught by: Lara Shore-Sheppard
  - Catalog details

- **ECON 470(S)** The Indian Economy: Development and Social Justice
  - Taught by: Anand Swamy
  - Catalog details

- **ENGL 407 / COMP 407(F)** Literature, Justice and Community
  - Taught by: Christopher Pye
  - Catalog details

- **ENVI 328 / PSCI 328** Global Environmental Politics
  - Taught by: Pia Kohler
  - Catalog details

- **HIST 152 / WGS 152(S)** The Fourteenth Amendment and the Meanings of Equality
  - Taught by: Sara Dubow
  - Catalog details

- **HIST 153 T** Establishment & Exercise: Religion and the Constitution in the United States
  - Taught by: TBA
  - Catalog details

- **HIST 167 / AMST 167(F)** Let Freedom Ring? African Americans and Emancipation
  - Taught by: Gretchen Long
  - Catalog details

- **INTR 322 / PSCI 313 / AFR 322 / AMST 322(S)** Race, Culture, Incarceration
  - Taught by: TBA
  - Catalog details

- **INTR 343 T / AFR 343 / AMST 343 / WGS 343(S)** Representations of Racial-Sexual Violence from Enslavement to Emancipation
  - Taught by: TBA
  - Catalog details

- **PHIL 114** Freedom and Society
  - Taught by: Justin Shaddock
  - Catalog details

- **PHIL 119(S)** Justice, Democracy and Freedom: Plato with Footnotes
  - Taught by: Jana Sawicki
  - Catalog details
Our practice of holding people responsible seems justified as long as their choices are free. But when does a choice qualify as free? Must it be unaffected by any outside influences? If so, freedom may seem impossible since we're all deeply influenced by factors ranging from the general laws of nature to specific features of our genetic endowment and social environment (including religion, political ideology, and advertising). These affect not only our particular choices but also, more fundamentally, who we are and what we value. The real question, then, seems to be whether, and how, free choice is possible amidst all of these influences. We'll attempt to answer this question by examining recent philosophical work on the nature of free will and responsibility.

Class Format: students meet with the instructor in pairs for roughly an hour each week

Requirements/Evaluation: five 5-page papers and five 2-page papers

Prerequisites: one PHIL course

Enrollment Limit: 10

Enrollment Preferences: current and prospective Philosophy majors

Expected Class Size: 10

Grading: no pass/fail option, no fifth course option

Distributions: (D2) (WS)

This course is cross-listed and the prefixes carry the following divisional credit:
**PHIL 272 (D2) JLST 272 (D2)**

**Writing Skills Notes:** Five 5-page papers and five 2-page papers, evenly spaced throughout the semester. Students will receive from the instructor timely comments on their writing skills, with suggestions for improvement.

**Attributes:** PHIL Contemporary Value Theory Courses

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**Fall 2019**

TUT Section: T1 TBA Melissa J. Barry

**JLST 397 (F) Independent Study: Legal Studies**

Legal Studies independent study. Open only under the supervision of a member of the Legal Studies Advisory Committee.

**Grading:** yes pass/fail option, yes fifth course option

**Distributions:** (D2)

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**Fall 2019**

IND Section: 01 TBA Alan Hirsch

**JLST 398 (S) Independent Study: Legal Studies**

Legal Studies independent study. Open under the supervision of a member of the Legal Studies Advisory Committee.

**Class Format:** independent study

**Grading:** yes pass/fail option, yes fifth course option

**Distributions:** (D2)

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**Spring 2020**

IND Section: 01 TBA Alan Hirsch

**JLST 401 (S) The Unwritten Constitution**

"The eight thousand words of America's written constitution only begin to map out the basic ground rules that actually govern our land." So begins Akhil Amar's book *America's Unwritten Constitution*. Amar recasts the debate over whether America has a "living Constitution," a debate usually revolving around whether change in constitutional meaning requires resort to the formal amendment process or can be achieved through judicial interpretation. Amar supports the latter view, but proposes something far-reaching: history itself effectively amends the Constitution. Thus, for example, he argues that speeches by Martin Luther King and precedents set by George Washington, as well as the daily activities and assumptions of ordinary Americans, have become constitutional subtext requiring consideration when we interpret the Constitution. Is that notion convincing? Preposterous? A healthy way of understanding the inevitable intersection of law, history, and politics? A transparent excuse to read one's own views into the Constitution? Through a careful reading of Amar, and other important constitutional theorists (including Antonin Scalia, Robert Bork, Laurence Tribe, Ronald Dworkin, and Richard Posner), we will probe different ways of thinking about the Supreme Law of the Land.

**Class Format:** seminar

**Requirements/Evaluation:** two papers, a final exam, and class participation

**Prerequisites:** PSCI 216 or PSCI 217 (or consent of the instructor)

**Enrollment Limit:** 19

**Enrollment Preferences:** Justice and Law Studies concentrators

**Expected Class Size:** 19

**Grading:** yes pass/fail option, yes fifth course option

**Distributions:** (D2)

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**Spring 2020**

SEM Section: 01 MWF 11:00 am - 12:15 pm Alan Hirsch
JLST 402  (S)  International and Transitional Justice

Cross-listings:  JLST 402  PSCI 325

Secondary Cross-listing

Before the 1990s, the world saw only occasional, discrete war crimes trials after major-power cataclysms. In the last two decades, trials expanded dramatically in number, scope, and philosophy. Separate Ad Hoc Tribunals for crimes in Yugoslavia and those in Rwanda, in Sierra Leone and in Cambodia are giving way to a permanent International Criminal Court, which has begun to hand down indictments and refine its jurisdiction. The UN Security Council, alongside national governments, decides on legitimacy and punishment. At the same time, worries about residual impunity or the effect that punishment might have on societies’ futures has led to the development of national and social courts, as well as national military tribunals, to complement those at the international level. Meanwhile, national activists look to international apologies and reparations for models of what to demand. Examples of internationalized transitional justice abound. This research seminar examines the intent, process, meaning and consequence of these new practices, particularly in terms of national constitutions, international law, and principles of justice.

Class Format: seminar

Requirements/Evaluation:  four papers, longer final paper, class participation
Prerequisites:  Political Science major or permission of instructor
Enrollment Limit:  14
Enrollment Preferences:  Political Science majors concentrating in International Relations
Expected Class Size:  14
Grading:  yes pass/fail option, yes fifth course option
Distributions:  (D2)

This course is cross-listed and the prefixes carry the following divisional credit:
JLST 402 (D2) PSCI 325 (D2)

Attributes:  PSCI International Relations Courses  PSCI Research Courses

Not offered current academic year

JLST 403  (S)  Senior Seminar in Human Rights in International Politics and Law

Cross-listings:  JLST 403  PSCI 420

Secondary Cross-listing

The idea that all humans have rights simply because they are human-independent of anything they might do or achieve-has transformed local and international politics, probably permanently. This concept's place in international politics, its strengths and limitations, depend on how people use it. Beginning with the 18th-century's transatlantic movement to abolish slavery, we will examine international movements and institutions that have affected what human rights mean, to whom, and where. Readings draw on philosophy, history, sociology, and international relations, but as a political science class we emphasize politics. Who benefits from the idea of universal human rights? Who loses? How does this idea about individual value liberate and entrap? Does this idea ultimately reinforce American hegemony, or plant the seeds of a non-American order?

Class Format: seminar

Requirements/Evaluation:  three lead essays, three critique essays, and one final essay
Prerequisites:  PSCI 202, senior standing, permission of instructor
Enrollment Limit:  18
Enrollment Preferences:  PSCI majors, senior JLST concentrators ; seniors
Expected Class Size:  18
Grading:  yes pass/fail option, yes fifth course option
Distributions:  (D2)

This course is cross-listed and the prefixes carry the following divisional credit:
JLST 403 (D2) PSCI 420 (D2)

Attributes:  PSCI International Relations Courses

Not offered current academic year

Cross-listings: ENVI 13 JLST 13

Primary Cross-listing

Taught from the perspective of an experienced trial attorney, this course will examine the role environmental law plays in the United States today in light of how that role has developed during the nearly fifty years since the modern era of environmental law began. As a preface, we will consider the significantly more limited influence of environmental law in our national affairs before 1970 and some of the historical and political reasons for that situation. We will examine the reasons why the law's early application in the first half of the 20th century almost exclusively to the conservation and preservation of natural resources took on in the second half a markedly different approach, one emphasizing pollution control and all but ignoring resource conservation. The course will begin by tracing the development of an American consciousness towards the environment through an examination of our law and our literature. The term "law" includes state and federal judicial decisions and legislation, particularly during the presidency of Theodore Roosevelt and during the decades which followed the year 1970 when much of the legal basis for the American environmental protection movement was established. The term "literature" includes not just the written word (the first book we look at is "The Lorax" by your favorite childhood author, Dr. Seuss, but also painting, sculpture, and music. Nothing too heavy! We will examine the historical and legal choices we as Americans have made which have put our environment on trial. What has occurred in our development as a people that explains this quintessentially American phenomenon? Our journey begins with the Puritans of New England and the planters of Virginia and their predecessors in the New World and then moves swiftly to the beginning of the modern era in environmental law and to its now uncertain future. In light of this historical situation students will examine state and federal legislative and judicial attempts to address environmental problems and then try to reach informed, rational conclusions as to whether those attempts were successful. What were the political, social and economic issues involved and, ultimately, how did their context affect the legal solutions imposed. Cases decided at the appellate level will be introduced and examined through their trial court memoranda opinions in order to observe how the legal system actually works and how frequently the reasoning and conclusions behind the trial judge's decision changes as the case works its way through the appellate process. This course will be presented from a litigator's point of view, that is to say, both the practical and the theoretical, emphasizing what is possible to achieve in the litigator's real world as informed by what the academician would present from the security of the classroom. Evaluation will be based on attendance and classroom participation. Students will prepare several short papers, single-page "clerk's notes," which will present one or more sides of an issue and form the basis for classroom discussion. They will be asked to defend or reject the conclusions reached or approaches taken by our courts and legislatures and by our literature, as broadly defined, on environmental issues.

Instructor Bio: Philip R. McKnight '65 is a trial and appellate attorney. At Williams he completed the honors program for both American History and Literature and European History and then he earned his law degree from The University of Chicago Law School and practiced in the state and federal courts of New York and Connecticut, as well as in Europe.

Requirements/Evaluation: five single-spaced, 1-page papers called "clerk's notes," class performance, including a team approach to the Pebble Mine, Alaska, permitting controversy

Prerequisites: none

Enrollment Limit: 15

Enrollment Preferences: seniors first, then juniors, etc

Grading: pass/fail only

Materials/Lab Fee: approximately $100 for books

This course is cross-listed and the prefixes carry the following divisional credit:
ENVI 13 JLST 13

Winter 2020
LEC Section: 01    MWF 10:00 am - 11:50 am    Philip R. McKnight

JLST 15 (W) The Work of the Supreme Court: A Simulation

Cross-listings: CHEM 15 JLST 15

Primary Cross-listing

The objective of this course is to provide students with an understanding of the personal, theoretical, and institutional characteristics that impact the
decision making process of the nation's highest court. At the beginning of the course, the students will be provided with briefs, relevant decisions and other materials for a case currently pending before the court. Where possible, cases will be selected that address constitutional issues that also have a political and/or historical significance. Past examples include the constitutionality of provisions in the Affordable Care Act, rights of prisoners held in Guantanamo, the extent of First Amendment rights of students, and the applicability of the State Secrets doctrine to the country's extraordinary rendition program. Four students (two on each side) will be assigned to prepare and present oral arguments to the "Court", which will consist of the other eight students, each playing the role of a Supreme Court Justice. An instructor will act as the Chief Justice to coordinate the student Justices and keep them on focus. After the oral argument, the "Court" will confer and prepare majority and minority opinions, which will be announced in "open court" at the conclusion of the term. Adjunct Instructor Bio: Robert Groban is a former Assistant U.S. Attorney, SDNY, and current partner in Berry Appleman & Leiden LLP. Adjunct Instructor Bio: Thomas Sweeney retired former litigator with Hogan & Hartson and Hogan Lovells.

Requirements/Evaluation: short paper and final project or presentation; oral argument, or written court opinions

Prerequisites: none

Enrollment Limit: 12

Enrollment Preferences: seniority

Grading: pass/fail only

Materials/Lab Fee: $10 and approximately $45 for books

This course is cross-listed and the prefixes carry the following divisional credit:

CHEM 15 JLST 15

Winter 2020

LEC Section: 01 M-F 10:00 am - 11:50 am Robert S. Groban, Thomas Sweeney, John E Nelson, John Pope

JLST 17 (W) State Constitutions, State Courts, and Individual Rights

Cross-listings: PSCI 17 JLST 17

Secondary Cross-listing

Most people are familiar with the idea that the federal constitution, as interpreted by the U.S. Supreme Court, can serve as an important (albeit controversial) tool for vindicating individual rights. Cases involving rights to same-sex marriage, abortion, and gun ownership are just a few recent examples of the U.S. Supreme Court and the federal constitution taking center stage in battles over individual rights. But there is another, equally important, source of individual rights that is sometimes overlooked and understudied: state constitutions. Each state has its own constitution, which may contain different rights and protections from those in the federal constitution, and its own courts, which interpret that constitution. In this class, we'll take a look at the role of state constitutions and courts in protecting individual rights and influencing federal constitutional interpretation. From assessing the constitutionality of compelled sterilization to protecting citizens from unreasonable searches and seizures, we'll examine the interplay between state and federal courts and constitutions. To do this, we'll read the book 51 Imperfect Solutions: States and the Making of American Constitutional Law by Judge Jeffrey S. Sutton (class of 1983). As a final project, students will choose a legal issue, evaluate its chances of success under the federal constitution and their home state constitution (or state constitution of their choosing), develop a basic litigation strategy aimed at achieving their objectives, and present that evaluation and strategy to the class. Adjunct Instructor Bio: Erin Lagesen (class of 1991) is a judge on the Oregon Court of Appeals. At Williams, she double majored in Mathematics and English. Adjunct Instructor Bio: Susan Yorke (class of 2006) is an appellate attorney in San Francisco, and she also graduated from Williams with a double major in Mathematics and English.

Requirements/Evaluation: short paper and final project or presentation

Prerequisites: none

Enrollment Limit: 12

Enrollment Preferences: preference will be given to juniors and seniors; students may be asked to submit a short statement of interest

Grading: pass/fail only

Materials/Lab Fee: approximately $30 for books

This course is cross-listed and the prefixes carry the following divisional credit:

PSCI 17 JLST 17

Winter 2020
JLST 99 (W) Independent Study: Legal Studies

Open to upperclass students. Students interested in doing an independent project (99) during Winter Study must make prior arrangements with a faculty sponsor. The student and professor then complete the independent study proposal form available online. The deadline is typically in late September. Proposals are reviewed by the pertinent department and the Winter Study Committee. Students will be notified if their proposal is approved prior to the Winter Study registration period.

Class Format: independent study
Grading: pass/fail only

Winter 2020

IND Section: 01   TBA   Alan Hirsch