

LAWYERING, POLITICS, STRATEGIC LITIGATION, AND JUSTICE

Responsible Faculty Instructor:
Thibault Weigelt tweigelt@jgu.edu.in
Associate Professor

Credits: 4

Credits Type:

Cross-registration: Yes

Pre-requisites: Constitutional law

COURSE DESCRIPTION (COURSE VISION):

“Legal frames of reference tunnel the vision of both activists and analysts leading to an oversimplified approach to a complex social process-an approach that grossly exaggerates the role that lawyers and litigation can play in a strategy for change” – Stuart Scheingold

This course explores the complex relationship between law, politics, and social justice through the lens of lawyers as both professionals and political actors. Drawing on key theoretical debates and case studies from India and across the world, it examines the ethical, social, and political dimensions of lawyering. Students will critically engage with questions of power, inequality, strategic litigation, client–community relationships, and the limits and possibilities of law in advancing social change.

By the end of the course, students will be able to explain and evaluate competing models of lawyering, apply interdisciplinary perspectives to real-world case studies, and assess when and how legal strategies can support movements for justice. The course emphasizes both theoretical frameworks and practical examples, ranging from cause lawyering and rebellious lawyering to transnational advocacy and globalisation’s impact on the profession.

TEACHING METHODOLOGY:

The course will be taught through a combination of lectures, group discussions, group reading exercises, and student presentations, ensuring a balance between conceptual learning, collaborative analysis, and critical reflection.

INTENDED LEARNING OUTCOMES:

1. Knowledge- and understanding-based outcomes
 - a. Explain and critically evaluate key theories about the role of lawyers in society, including debates on cause lawyering, strategic litigation, and the politics of rights.
 - b. Identify and assess the structural opportunities and constraints that shape justice-seeking legal practices in different national and transnational contexts.
 - c. Compare and contrast different models of lawyering (e.g., cause, critical, rebellious, elite, transnational) and their implications for justice.
 - d. Analyse case studies of strategic litigation to evaluate when and how legal strategies advance or limit social change.

2. Application-based outcomes
 - a. Synthesize interdisciplinary perspectives (law, sociology, political science, anthropology) in order to assess lawyering as both a professional practice and a political activity.
 - b. Critically engage with scholarly texts and debates, demonstrating the ability to interrogate underlying assumptions about law, justice, and legal actors.
 - c. Apply theoretical frameworks to empirical case studies of litigation campaigns in the U.S., India, South Africa, Latin America, and beyond.

READING LIST (upto 10 select readings):

1. Stuart A Scheingold, *The Politics of Rights: Lawyers, Public Policy, and Political Change* (2nd edition, University of Michigan Press 2004). Galanter, Why the Haves Come Out Ahead
2. David Luban, *Lawyers and Justice: An Ethical Study* (Princeton University Press 1988).
3. Yves Dezalay and Bryant G Garth (eds), *Lawyers and the Construction of Transnational Justice* (Routledge 2012).
4. Austin Sarat and Stuart A Scheingold (eds), *Cause Lawyering: Political Commitments and Professional Responsibilities* (Oxford University Press 1998).
5. Gerald P López, *Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice* (Westview Press 1992).
6. Simon, *The Practice of Justice*
7. Charles R Epp, *The Rights Revolution: Lawyers, Activists, and Supreme Courts in Comparative Perspective* (University of Chicago Press 1998). Sarat & Scheingold, *Cause Lawyers and Social Movements* (Intro)
8. Gerald N Rosenberg, Sudhir Krishnaswamy and Shishir Bail (eds), *A Qualified Hope* (1st edn, Cambridge University Press 2019)
9. Boaventura de Sousa Santos and César A Rodríguez-Garavito (eds), *Law and Globalization from Below* (Cambridge University Press 2005)
10. Amrita Basu, *Violent Conjunctures in Democratic India* (Cambridge University Press, 2015), selected chapter(s).

WEEKLY READING PLAN (WEEKLY OUTLINE):

A weekly plan is provided below:

MODULES	WEEK(S)
MODULE 1: Introduction: Lawyering, Justice, and Politics How are lawyers positioned as political actors, and why does this matter? What does it mean to say law is political? How do lawyers balance ideals of justice with institutional constraints?	1
MODULE 2: LAW, POWER, AND INEQUALITY	2

Law both reflects and shapes social hierarchies. In what ways does law entrench inequality? Can it be an instrument of empowerment?	
Module 3: Ethics and Motivations of Justice-Oriented Lawyering Justice-oriented lawyers act from both professional duty and political conviction. What motivates cause lawyers? Where do ethical responsibilities and political commitments clash?	3
Module 4: Models of Justice-Oriented Lawyering Different models of lawyering reveal competing visions of justice. <i>How do cause, critical, rebellious, and transnational lawyering differ? Which models are most effective in practice?</i>	4
Module 5: Clients, Communities, and Movements Lawyers operate not only for clients but with communities and movements. <i>How should lawyers relate to collective actors? What risks arise when lawyers speak for, rather than with, marginalized groups?</i>	5
Module 6: Strategic Litigation – Concept and Practice Strategic litigation can transform rights into political claims. <i>What makes a litigation campaign “strategic”? How do courts respond to efforts at social change?</i>	6
Module 7: Case Studies I – Domestic Litigation Campaigns in India India offers a laboratory for studying public interest litigation. <i>What have been the major achievements of PIL in India? Where have such efforts failed or backfired?</i>	7
Module 8: Case Studies II – Comparative Perspectives Comparative perspectives highlight both parallels and divergences in global struggles. <i>How do strategies in South Africa, Latin America, or the U.S. inform one another? What travels well, and what resists translation?</i>	8
Module 9: Lawyers and Globalisation Globalisation reshapes the scope and influence of lawyers’ work. <i>How do transnational advocacy networks function? What are the tensions between local justice needs and global agendas?</i>	9
Module 10: Lawyers, Professions, and Power The legal profession is itself a site of power and hierarchy. <i>Whose interests does the profession serve? How do elite lawyers differ from grassroots practitioners?</i>	10
Module 11: Interdisciplinary Approaches to the Study of Lawyers	11

<p>Insights from across disciplines enrich our understanding of lawyering.</p> <p><i>What do sociology, political science, and anthropology reveal about lawyers? How do these perspectives complicate legal self-understandings?</i></p>	
<p>Module 12: Law, Social Movements, and Extra-Legal Struggles</p> <p>Social movements often drive legal mobilization, but they also contest law's limits and create change outside the courts. How do movements use law strategically, and when do they reject it? What is the relationship between legal and extra-legal repertoires of activism? How does law interact with broader struggles for social and economic justice?</p>	12
<p>Module 13: Conclusion – Limits and Possibilities of Lawyering for Justice</p> <p>Lawyers face both possibilities and limits in advancing justice. <i>Can law ever be truly transformative? How should future lawyers navigate the paradoxes of justice-seeking practice?</i></p>	13
REVISION WEEK	Week 14