SPORTS, GAMES... AND LAW?

RICHARD RE’S NEW COURSE GIVES STUDENTS A FRESH TAKE
Sarah Walsh, a former competitive cheerleader and current third-year UVa Law student, was cleaning out her dorm room when she learned of a new course taught by Professor Richard Re.

“Too soon?” she asked.

“Too soon.” Walsh texted immediately to her friends and classmates Jack Brown and Parker Kelly.

“This isn’t torts or Legal Research or Contracts or any traditional law course. Rather, it had terms like “make-up calls” and “sawhawk the whistle” and “competitive hot eating” in its description.”

“I was so excited,” said Walsh, an UVa Law alum.

“It’s not Torts or Legal Research or Contracts or any traditional law course,” Brown said. “I’m getting practical experience doing something I would never get otherwise. It’s helping me with decision-making and has me thinking more clearly about what rules I’m creating, what rules I’m enforcing.”

The course has been described as “The Jurisprudence of Sport: Sports and Games as Legal Systems,” a casebook co-written by law professors Mitchell Berman of the University of Pennsylvania and Richard Friedman of the University of Michigan.

The course is focused on the intersection of law and sports, and how rules are enforced in different settings. The course aims to provide students with a deeper understanding of how sports law works and how it impacts society.

Richard Friedman of the University of Pennsylvania and professor of Law, and Berman, co-authored the course book, “The Limits of Regulation by Insurance: An Introduction to Sports and Games,” a casebook co-authored by Berman and Friedman.

The course is open to law students at UVa School of Law, and is limited to 12 students. It meets once a week, and covers topics such as sports law, contracts, torts, and rules enforcement.

The course is offered in the fall and spring semesters, and has been well-received by students.

#RelatedKeywords: UVa Law, Sports Law, Legal Systems, Jurisprudence, Sports, Games, Law, Rule Enforcement, Legal Education.
As Vice Dean, MICHAEL GILBERT sees it, the information you consume should be at least as reliable as the refrigerator in your kitchen. Fed up with fake news—as well as false accusations of fake news—Gilbert teamed up with co-author Younathan Arbel, a University of Alabama law professor, to or whatever system that incentivizes newspapers and politicians to tell the truth by rewarding anyone who catches them in a lie. Together, they sketched out the idea for this truth-seekin g system. They coined the equivalent of a warranty sticker on websites that have pledged to tell the truth, the whole truth and nothing but the truth.

“It’s a warranty on speech, and that warranty gives consumers confidence that this must be a good product.”

Gilbert, co-author of the book “Public Law and Economics,” argues that, although verbal commands are central to policing, they are misunderstood and under-regulated. “Police officers get inadequate guidance about commands that give commands that lack solid authority or violate due process. The article will be published by Columbia Law Review this spring. The article explores the theoretical justifications for police uses of force against fleeing suspects and concluded that the law broadly permits force that morally prohibits. The article is forthcoming in Criminal Law and Philosophy. She organized and hosted the “Police Use of Force in the Legal Profession” and moderated a panel at the Conference on Professional Ethics for Law School Data at Harvard Law School. She interviewed Justice JOHN CHARLES THOMAS ’75 about his memoir “The Poetic Justice” at both the Law School’s MLK Day Celebration and the Virginia Festival of the Book at James Monroe’s Highland estate. In February, she lectured on the state of anti-vaxxer myths at the U.S. Army Judge Advocate General’s Legal Center and School in Charlottesville.

RISA GOLDBOFF was appointed to the Permanent Committee for the Oliver Wendell Holmes Devise and joined the Equal Justice Works board (see p. 57). She spoke to the Richmond Bar Association on “An Elocution of Lawyers Free Expression in the Theory Roundtable” from Sept. 9-10, gathering philosophers and legal scholars to build an agenda for theoretical work in policing and force. She also served as a panelist at the Lawyers’ Committee for Civil Rights conference “Towards Accountability: Challenging Police Unions in the Fight for Racial Justice.”

MICHAEL GILBERT was a visiting professor at Université Panthom-Assis in Paris, where he taught a course on election law and presented his paper. “Truth Bounties: A Market Solution to Fake News.” He presented the same paper at the Maryland Carey Law Virtual Constitu tional Law and Economics Workshop and the Midwest Economic and Law and Economics Association meetings at the University of Chicago. He co-founded a nonprofit organization named Pledged (see sidebar) that uses the truth bounty mechanism developed in the paper to combat misinformation.

Gilbert taught virtual courses at University Ter cuato d’Elia in Argentina and the American Studies in Poland. His chapter “Political Corruption,” co-authored with Deborah Hellman, is forthcoming in the “Handbook of American Electoral Law,” co-authored with Andrew Hayashi, Michael Gilbert, and James Leachman.

MICHAEL GILBERT would offer bounties for false information

Andrew Maynard published “The Coming Diversi fying Network of Legal Scholars: A Study of Co-Authorship from 1980-2020” in the Virginia Law Review Online. He presented his article “Tax Law Enforcement and Redistributive Politics” at Drake Law School, the University of Florida, the University of Wisconsin, the University of Toronto and the Canadian Law & Economics Association annual meeting, and he presented his paper “Law & Economics for Empathy,” co-authored with Michael Gilbert, at Cornell Law School. Hayashi also participated in a symposium at the University of North Carolina on recent developments in the law of sanctions, at which he presented “Tax Sanctions and the Russia-Ukraine Conflict,” co-authored with Ashley Desks. He also presented “Technology, Markets, and the Income Tax Frontier” at a conference on the regulation of digital platforms at the University of Southern California. In November, he taught the short course Property, Taxes and Theology at the Pepperdine Caruso School of Law.

MICHAEL GILBERT’S ‘PLEDGED’ WOULD OFFER BOUNTIES FOR FALSE INFORMATION

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Virginia Bar Association With Highest Award

Professor A. E. Dick Howard ’61, a scholar who helped draft the state’s current constitution, has received the Virginia Bar Association's top award. The Gerald L. Baliles Distinguished Service Award, renamed in 2008 for the former governor and 1967 Law School graduate, recognizes an individual the right to sue state government employees and others acting under color of state law in federal court for violations of federal law. The project will cover Rivers actions, the analogous cause of action for violations by a federal officer. (The U.S. Supreme Court ruled in Rivers v. Six Unknown Named Agents of the Federal Bureau of Narcotics in 1971 that individuals have an implied cause of action against federal government officials who have violated their constitutional rights.)

Among other topics, the restatement will cover governmental immunities from suit, local government liability for official policy or custom, and restrictions on Section 1983 actions imposed by the Prison Litigation Reform Act and the overlapping law of federal habeas corpus. Jeffries said documenting the law of qualified immunity for various rights and in various situations is likely to be the largest single topic in the restatement.

“Whether under Section 1983 or Rivers, immunity is the largest single topic in the law of constitutional torts,” he said. “The president has an immunity that no state officer can claim, but otherwise state and federal defendants are parallel.”

Legislative, judicial and some prosecutorial functions also trigger absolute immunity, Jeffries said, and the boundaries of absolute immunity are not always clear and are intensely controversial. Executive officers enjoy qualified immunity, the contours of which are complicated and contested, he said.

AllI’s restatements of the law are primarily addressed to courts and aim at clear formulations of common law and its statutory elements, and reflect the law as it presently stands or might appropriately be stated by a court.

Jeffries, a David and Mary Harrison Distinguished Professor of Law, joined the faculty two years after earning his law degree in 1973. Jeffries has co-authored casebooks in civil rights, federal courts and criminal law, and has published a variety of articles in those fields. He also wrote a biography of Justice Lewis F. Powell Jr.

Jeffries previously served as dean of the Law School from 2001-08 and as senior vice president for advancement at the University from August 2018 to January 2021. In addition to teaching in the Law School, he serves as counselor to the University of Virginia President’s Office. As co-lead of the American Law Institute's project evaluating liability for constitutional violations under federal law, Jeffries’ co-authored casebooks in civil rights, federal courts and criminal law, and has published a variety of articles in those fields. He also wrote a biography of Justice Lewis F. Powell Jr.

Jeffries is a member of the American Law Institute and the American Academy of Arts and Sciences.
Faculty News

54

LAYCOCK, ROSS RECOGNIZED BY AALS

This past December, MICHAEL A. LAYCOCK delivered a keynote address at the Conference on Empirical Methods in Natural Language Processing in Abu Dhabi, United Arab Emirates. At his talk, at the National Legal Language Processing Workshop, focused on the distinction between “law-as-code” and “law-as-data” approaches to computational law, and the potential for the two approaches to be combined through hybrid models. He continued to convene the Online Workshop on the Computational Analysis of the Constitution, a scholarly forum for cutting-edge research applying computational techniques to legal data. Presenters in this spring’s online series at Columbia University professor Kelton Funk, George Mason University history professor Lincoln Mullen and Amrit Haim of Stanford University.

Laycock resigned as vice president of the American Law Institute and from its Council to become co-reporter for the “Restatement (Third) of Torts: Remedies.” He is also a fellow of the American Academy of Arts and Sciences. He earned his B.A. from Michigan State University and his J.D. from the University of Chicago. Laycock, who joined the faculty in 2001, is the Justice Thurgood Marshall Distinguished Professor of Law and a director of the school’s Karch Center for Law and Democracy.

He teaches and writes in the areas of constitutional law, constitutional theory, election law, administrative law and statutory interpretation. Laycock’s research is driven by a concern about democratic responsiveness and accountability, as well as the inclusion of marginalized communities in administrative and political processes.

Ross’ past scholarship has been published in several books and journals, including the Columbia Law Review, New York University Law Review and the University of Chicago Law Review. Two of his articles were selected for presentation at the Yale/Stanford Junior Faculty Forum.

Ross has also been awarded the Berlin Prize from the American Academy in Berlin, the Princeton University Law and Public Affairs Fellowship, the Columbia Law School Kellogg Parker Academic Fellowship and was a 1999 Marshall Scholar. Ross is currently serving on the Administrative Conference of the United States and recently served on the Presidential Commission on the Supreme Court. He is also a member of the American Law Institute.

He earned his B.A. from the University of Colorado, M.Sc. from the London School of Economics, M.P.A. from Princeton University’s School of Public and International Affairs, and J.D. from Yale Law School. Winners were acknowledged during an awards ceremony at the 2023 AALS Annual Meeting.

—Mike Fox

RUTH MASON published “Solidarity Federalism,” with Northwestern University professor Erin Delaney, in the Notre Dame Law Review. In Tax Notes, she published “Ding-Dong: The EU Arns’ Length Standard is Dead!” and “A Wrench in the GLOBE’s Diabolical Machinery.” She spoke at the Organisation for Economic Co-operation and Development’s Fiscal Forum at the International Fiscal Association Conference in Berlin; at the International Tax Policy Forum in Washington, D.C.; and at the ABA Tax Section online. She also presented “Bribing Balancing” at the University of California, Irvine; the University of Florida; and UVA.

JOHN MONAHAN recently co-authored an article, “The Empirical Case for Prelitigation Risk Assessment Instruments,” in the Journal of Criminal Justice and Behavior. The 10th edition of the casebook will be produced with his late co-author Laurens Walker, “Social Science in Law,” also appeared in 2022. Monahan recently co-authored “Prelitigation Risk Assessment, Risk Communication, and Racial Bias,” pending in the journal Criminal Justice and Behavior. Monahan directs a research project for the D2020 Foundation’s Safety and Justice Challenge program, which is designed to improve pretrial risk assessment. He also serves on the advisory board for Advancing Pretrial Policy & Research, a project supported by Arnold Ventures.

SUNKRISHNA PRAKASH spent the fall at Yale Law School as the Doyle-Windle Professor of Law. At Yale, he presented his paper “A Commander in Chief” to the faculty workshop. His piece with ADITYA BAMZAI, “The Executive’s Police Removal,” came out in the Harvard Law Review in April 2023.

KIMBERLY JENKINS ROBINSON is currently writing a book for Harvard University Press. She published “Reactions to the Biden Administration’s Proposed Title IX Changes from Education Law Scholars,” with the Brookings Institution. Her speaking engagements included moderating “Blackboard: The Case for Black Liberation” at the Law School’s seventh annual Shaping Justice Conference on Feb. 3; moderating “The COVID-19 Equity Impacts on Schools” at the Ameri- can Association of Law Schools on Jan. 5; moderating “Why Do We Teach U.S. History?” at the 24th annual conference of the Gilder Lehrman Center for the Study of Slavery, Resistance, and Abolition at Yale University on Nov. 5; guest lecturing on “Education & Civil Rights” at the Wayne State University College of Law on Oct. 19; guest lecturing on “A Federalist’s Guide to Educational Reform” at the Michigan State University College of Education, Oct. 4; and speaking on “Constitutional Decisions and Federal Right to Educa- tion” for Constitution Day at John Hopkins University on Sept. 19.

MORRIS O’NEILL is leading the research component of California’s Department of Housing and Community Development’s Title IX Changes from Education Law Scholars on Jan. 5; moderating “Why Do We Teach U.S. History?” at the 24th annual conference of the Gilder Lehrman Center for the Study of Slavery, Resistance, and Abolition at Yale University on Nov. 5; guest lecturing on “Education & Civil Rights” at the Wayne State University College of Law on Oct. 19; guest lecturing on “A Federalist’s Guide to Educational Reform” at the Michigan State University College of Education, Oct. 4; and speaking on “Constitutional Decisions and Federal Right to Educa- tion” for Constitution Day at John Hopkins University on Sept. 19.

ADITYA BAMZAI and DANIEL R. ORTIZ acted as counsel of record in Jones v. Arizonia before the U.S. Supreme Court. The case concerns the availability of habeas relief for prisoners who, abiding by circuit precedent, did not challenge their convictions when the Supreme Court later made clear that they are legally innocent under the relevant statute of conviction. After the court granted cert, he supervised the drafting of the opening merits brief and of the merits reply brief with a team of students in the clinic and argued the case on Nov. 1. He also worked on several other clinic cases. Ortiz helped prepare the cert petition in Rodríguez v. Burnside, which asks whether in deciding a constitutional challenge to a prison policy, a court can consider only proposed alternatives that would apply only to the individual plaintiff.


Laycock, who also is a professor of religious studies at UVA, is the Class of 1983 Research Professor in honor of Graham C. Lilly and Peter W. Low, and the Robert E. Scott Distinguished Professor of Law.

He is perhaps the nation’s leading authority on the law of religious liberty and also on the law of remedies (see story on p. 42). Laycock has taught and written about these topics for more than four decades at the University of Chicago, the University of Texas and the University of Michigan, as well as at UVA. He has testified frequently before Congress and has argued many cases in the courts, in- cluding the U.S. Supreme Court, where he has served as lead counsel in six cases and has also filed influential amicus briefs. Laycock is the author (co-author in the most recent edition) of the leading casebook “Modern American Rem- edies,” the award-winning monograph “The Death of the Irreparable Injury Rule” and many articles in leading law reviews. His writings on religious liberties were recently republished in a fifth-volume collection.

Laycock resigned as vice president of the American Law Institute and from its Council to become co-reporter for the “Restatement (Third) of Torts: Remedies.” He is also a fellow of the American Academy of Arts and Sciences. He earned his B.A. from Michigan State University and his J.D. from the University of Chicago. Laycock, who joined the faculty in 2001, is the Justice Thurgood Marshall Distinguished Professor of Law and a director of the school’s Karch Center for Law and Democracy.

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—Mike Fox

“Holding the Way Forward,” on the religious liberty pro- tections in the Respect for Marriage Act, in Common- weal Magazine; and “Pro- spective: The Respect for Marriage Act shows that compromise is the way forward,” in Deseret News. His co-authored letter in support of the Respect for Marriage Act was cited on the Senate floor. Laycock is retiring from teaching at UVA Law in May (see p. 42).

The most recent article on anti- trust, “Qualitative Market Definition,” was published in Volume 108 of the Vir- ginia Law Review. He con- tinued to provide expert service as an adjunct professor of national security at the U.S. Army Judge Advocate General’s Legal Center and School.
Amazon.com recognized Professor DANIELE CITRON’S latest book, “The Fight for Privacy: Protecting Dignity, Identity and Love in the Digital Age,” among the best business and leadership books of 2022. The book makes the case for understanding intimate privacy as a civil and human right, and offers a roadmap for law, industry and individuals to protect those rights. Citron is the Jefferson Scholars Foundation Scheeren Distinguished Professor in Law, the Caddell and Chapman Professor of Law and director of the school’s LawTech Center.

Barron F. Black Research Professor of Law and member of the school’s LawTech Center. Curtis is associate dean for curricular programs and The Honorable Albert V. Bryan Jr. ’50 Research Professor of Law. Hwang is the Barron F. Black Research Professor of Law and director of the school’s John W. Glam Jr. Law & Business Program.

CITRON’S BOOK RECOGNIZED BY AMAZON

Professors QUINN CURTIS and CATHY HWANG were appointed research members of the European Corporate Governance Institute on Jan. 5. The 56 new members will be eligible to publish their work in the academic journal of the ECGI Working Paper Series in law and finance. The ECGI draws on academics worldwide to tackle issues confronting business and governments. Curtis was invited to present at the ECGI conference “Capitalism Revisited: Responsible Investment” in Milan, Italy, on Sept. 16. Professor MICHAEL BARZUZA is also an ECGI research member.

CURTIS, HWANG BECOME ECGI RESEARCH MEMBERS

Professor CALE JAFFE ’02 was named a Vermont Law and Graduate School Environmental Law Center Distinguished Summer Scholar for 2023. During his two-week residency at Vermont as a climate law scholar, he will deliver a public lecture, participate in social events on campus, and meet with students and faculty. Jaffe directs the Environmental Law and Community Engagement Clinic at UVA.

JUFFE NAMED DISTINGUISHED SCHOLAR

Ross, Schwartzman elected to ALI

Elizabeth Rowe published the 2022 update to “Selected Intellectual Property, Internet and Information Law Statutes, Regulations, and Treaties,” co-edited with Mitchell Hamlin School of Law professor Sharon Sundeen, with West Academic Publishing. She published the article “Procuring Algorithmic Transparency,” with Nyja Prior, in the Alabama Law Review. She presented “Procuring Algorithmic Transparency” at the University of Washington School of Law and on the topic of trade secrets and inevitable disclosure and noncompete agreements at the American Intellectual Property Lawyers Association’s midyear meeting. She served as a panelist for the Research and Innovation Roundtable at Penn State Dickinson Law and discussed equitable relief in trade secret cases at the Sedona Conference Working Group on Trade Secrets.

ELIZABETH ROWE

Ross, who joined the faculty in 2021, is the Justice Thurgood Marshall Distinguished Professor of Law. He teaches and writes in the areas of constitutional law, constitutional theory, election law, administrative law and statutory interpretation.

ROBERT J. ROSS

His article “A Frame Without a Picture: On the Relevance of Law to the Decision of Hard Cases,” previously presented at a Karsh Center for Law and Democracy conference in the summer, and earlier presented at the University of the Faroe Islands, was published in the Faroese Law Review. “On the Relationship between Law and Legal Reasoning,” was published in “Nature of Legal Reasoning,” published by Michigan State University Press. He also contributed the 14th edition of his book “Constitutional Law,” co-authored with Michael C. Dorf of Cornell Law School and Richard H. Fallon Jr. of Harvard Law School, was published by the West Publishing Company, as was the eighth edition of “The First Amendment,” co-authored with Jesse Choper of the University of California, Berkeley, School of Law. Schauer gave lectures on the origins of modern legal positivism at a master course at Goethe University in Frankfurt, Germany. He lectured about his book “The Proof” to Massachusett’s trial and appellate judges at the Plaucheur Judicial Institute in Boston and conducted a podcast interview about the book with the New Books Network. He was also a panelist at the Seventh Circuit symposium on stare decisis in Chicago.

FREDERICK SCHAUER

Richard Schnager was the keynote speaker at the Virginia Muni-
As a self-professed liberal internationalist, Professor Paul B. Stephan ’77 once had high hopes for a permanent world peace based on global prosperity, but prospects for that possibility now look dim, he argues in a new book.

Stephan, a former adviser to multiple presidents and foreign governments, offers insights about the history and shaky future of the international order in “The World Crisis and International Law: The Knowledge Economy and the Battle for the Future.” As Stephan surveys the global scene, he sees much to despair of. A bellicose Russian leadership supported by the Global South’s Western skeptics. Nuclear proliferation despite treaties. A looming climate catastrophe and the ever-present threat of pandemics. Cyberspace run amok. Anti-immigrant nationalism. Authoritarian states better armed with weaponry and surveillance tools. And a retreat from human rights.

“If current trends continue, we have a lot to worry about,” Stephan said in an interview before the book was released. “Despair is not my mindset. I’m a pretty happy person, but I think people have to be realistic about the challenges that confront us. Whether one agrees with my thoughts about particular strategies we might employ is less important than recognizing the problem.”

The problem, as he sees it, is not that calamitous world events are causing the international legal structure to fracture. Rather, he sees the structure itself—and the knowledge economy it helped to create—as having caused the calamities.

Globalization, international law and the knowledge economy now have “done wonders, lifting hundreds of millions of people out of dire poverty, giving us the vaccines, medicines, and remote connectivity that allow us to go on with our lives during a terrible pandemic, and creating many shiny new toys that we treasure,” Stephan wrote in a blog post on his publisher’s website. “But it also spawns shocking inequity and devalues social trust” as it concentrates opportunity, wealth and perceived political clout within better-educated urban areas.

Stephan submitted the manuscript to his publisher before Russia invaded Ukraine last year, nonetheless, he says that conflict looms large with the threat of China retaking Taiwan by force and Iran acquiring nuclear weapons.

“Their are illustrations of the conventional old-school risk of war and the terrors that come with it,” Stephan said in an interview before the book was released. “Those are illustrations of the conventional old-school risk of war and the terrors that come with it.”

He also explores the idea of states as “norm entrepreneurs,” offering historical examples of superpowers using their clout and creativity to encourage or require the uptake of global solutions to existential problems.

One case in point is the 1977 U.S. anti-beryllium legislation that applies to any firm with access to U.S. capital markets. At the time, no other country had such a rule and many states treated beryllium as a toxic industrial business expense. By 1997, most of the world’s rich countries embraced the norm, some by treaty.

“We can build on these examples, whether constraining state aggression in cyberspace or working within the Paris Agreement, to build trust and cooperation in the struggle to contain climate change,” Stephan said.

As he concludes his book, he says that “If we should be worried by the dark place in which we find ourselves, but not paralyzed by fear.”

The book is due out in July. He is finishing a distinguished Professor of Law at UVA and a fellow at the Miller Center. —Melissa Castro Wyatt
The UVA Law podcast “Common Law” cooked up a familiar recipe for its fifth season.

In a continuation of the last season, called “Co-Counsel,” the podcast again features host Dean Risa Goluboff and four rotating co-hosts: Professors Danielle Citron, John Harrison, Cathy Hwang and Gregory Mitchell.

Each are joining Goluboff, who was a host with then-Vice Dean Leslie Kendrick ’06 when the show launched in 2019, to discuss cutting-edge research on law topics of their choice.

“We called our last season ‘Co-Counsel’ because my co-hosting colleagues brought their own expertise to the table, just as you would gather experts for major litigation or a trial,” Goluboff said. “It was so much fun, and offered such a rich vein of subjects, that we decided to do it again.”

The fifth season features eight episodes, all available now. Guests include UVA Law professors Kim Krawiec, Pavyand Ahdout, Alison Gocke, Bertrall Ross and Elizabeth Rowe. Three professors from other universities also joined the show: University of Utah law professor Teneille Brown, an expert on law and the biosciences; James L. Gibson, an expert in law and politics who serves as a professor of government at the Washington University in St. Louis; and Susan S. Silbey, a professor at the Massachusetts Institute of Technology who is an expert in complex organizations and risk management.

“Common Law” is available on Apple Podcasts, Stitcher, YouTube, Spotify and other popular podcast sources. The show is produced by Emily Richardson-Lorente.

Past seasons have focused on “The Future of Law,” “When Law Changed the World” and “Law and Equity.”

You can follow the show on the website CommonLawPodcast.com or Twitter at @CommonLawUVA.

—Mary Wood