

Spring 2019

AFR 360/ AMS 370/ HIS 365G
Race, Law, and U. S. Society
Thompson

Prof. Shirley Thompson

Course Description:

This seminar examines the intersection of racial ideology and legal culture in the United States. We will take a broad historical approach that spans the nineteenth and twentieth centuries, but we will also survey a range of contemporary sites where racial discourses permeate American law and conceptions of the rights and responsibilities of citizens. The legal construction of race in America is inextricably bound up with the development and dissolution of the institution of race-based slavery. Therefore, a consideration of laws concerning slavery, segregation, and desegregation will form the backbone of the course. We will pay special attention to *Dred Scott v. Sandford* (1857); *Plessy v. Ferguson* (1896); and *Brown v. Board of Education* (1954), cases that span a crucial century. By considering the long trajectories of race, law, and social transformation, we will begin to see how racial reasoning has informed many aspects of U.S. legal culture for a wide range of ethnic and social groups and how race has influenced the development of property law, family law, immigration law, and civil rights law.

This course will embrace interdisciplinary methods: we will put court cases in conversation with literature, film, social scientific writings, music, and other pertinent material. The goals of this course include 1. exploring the social and legal construction of race at various moments in American history; 2. understanding the intersection of race, gender, class, ethnicity, sexuality, and other markers of identity; 3. examining the interpenetration of law and popular cultural forms; and 4. determining how race has informed American conceptions of a wide variety of issues, such as privacy, property, citizenship, national security, and sovereignty.

Paper Format: The Take-Home Essay must be typed, double-spaced, in 12-point Times New Roman font with one-inch margins.

Make-Up Policy: Extensions on the graded assignments will be granted **only** in the case of a medical or family emergency, or if you have official, documented University of Texas business (including intercollegiate athletics) outside of campus. You must notify me **before** the scheduled exam or due date; failure to do so will result in the automatic subtraction of a letter grade. Assignments turned in late without an excuse will lose one letter grade for each day past the exam or due date.

Preparation and participation: This class is reading-intensive. I will help you prioritize by indicating from class to class which readings are most essential, and I will try to prepare you for some of the most challenging readings. This is primarily a lecture class;

however, everyone should come to class prepared with questions! These questions should not be of the “yes or no” or hypothetical variety. Their aim should be to open up conversation about the reading. The success of this course depends on your prepared-ness and your active participation.

Students with Children: I understand that minor illnesses and unforeseen disruptions in childcare often put parents in the position of having to choose between missing class to stay home with a child and leaving him or her with someone you or the child does not feel comfortable with. While this is not meant to be a long-term childcare solution, occasionally bringing a child to class in order to cover gaps in care is perfectly acceptable. In all cases where babies and children come to class, I ask that you sit close to the door so that if your little one needs special attention and is disrupting learning for other students, you may step outside until their need has been met. Non-parents in the class, please reserve seats near the door for your parenting classmates. I ask that all students work with me to create a welcoming environment that is respectful of all forms of diversity, including diversity in parenting status.

Civility: Some of our class time will be spent in discussion. Therefore it is important that we show respect for each other by being attentive and polite. I encourage spirited debate but expect that we will be civil in all our discussions. Class will begin promptly at 3:30. Please be on time—late arrivals distract others.

Academic Dishonesty includes but is not limited to cheating; plagiarism (the appropriation of another’s work and unauthorized incorporation of that work in one’s own written work offered for credit); and collusion (the unauthorized collaboration with another person in preparing college work offered for credit). These acts will be subject to academic penalties.

Special Needs Accommodations Policy: Any student with a documented disability (physical or cognitive) who requires academic accommodations should contact the Services for Students with Disabilities area of the Office of the Dean of Students at 471-6259 (voice) or 471-4641 (TTY for users who are deaf or hard of hearing) as soon as possible to request an official letter outlining authorized accommodations.

Weapons Safety:

Please note that I do not allow concealed guns in my office and may remind you orally when you visit. You may make arrangements to speak with me by phone during my office hours. While I am not permitted to ban concealed weapons in our classroom, please note that you must be 21 and older and hold a license for a firearm. Licensed carriers must have the gun in a holster on or about them. Openly carried weapons are not allowed on the UT campus. If a gun is visible in class, faculty and students are advised to immediately call 911 and leave the room. For more information on campus safety and campus-approved holsters, visit: <http://campuscarry.utexas.edu>

Required Texts available at the University Co-op:

Theda Purdue, *Cherokee Removal: A Brief History with Documents*

Paul Finkelman, ed. *Dred Scott v. Sandford: A Brief History with Documents*
 Brook Thomas, *Plessy v. Ferguson: A Brief History with Documents*
 Waldo Martin, *Brown v. Board: A Brief History with Documents*

Additional readings are linked from the syllabus or are accessible on Canvas via PDF or via the Research Tools of the UT Libraries (Google Scholar or Journal Databases). The latter tools can be accessed in Canvas.

Grading:

Exam	FEBRUARY 26	25%
Take Home Essay	APRIL 9	30%
Final Exam	MAY 9	30%
Participation/Preparedness		15%

Final grades will be assigned on a plus/minus basis where A: 93 and above; A-: 90-92.99; B+: 87-89.99; B: 83-86.99; B-: 80-82.99; C+: 77-79.99; C: 73-76.99; C-: 70-72.99; D+: 67-69.99; D: 63-66.99; D-: 60-62.99; F: 59.99 and below

Reading and Discussion Schedule

January 22	Introduction: Critical Legal Studies and Critical Race Theory Case study: Race, Gun Control, and “Stand Your Ground”
January 24	Racial Science, Anglo-American Legal Culture, and the US Constitution Thomas Jefferson, <i>Notes on the State of Virginia</i> , Queries 11, 14, and 18 http://web.archive.org/web/20080914030942/http://etext.lib.virginia.edu/toc/modeng/public/JefVirg.html <i>U.S. Constitution</i> https://www.law.cornell.edu/constitution <i>Somerset v. Stewart</i> , questions and excerpt http://lawweb.usc.edu/users/dklerman/secure/documents/LH08.Somerset.pdf <i>Gregson v. Gilbert</i> , excerpt (Canvas)
January 29	The Haitian Revolution <i>Haitian Constitution</i> and related documents (Canvas)
January 31	David Walker and Haiti: Resistance, Rebellion, Republicanism <i>David Walker’s Appeal</i> , preamble http://utc.iath.virginia.edu/abolitn/walkerhp.html
February 5	The Amistad in US Legal Culture Osagie, <i>The Amistad Revolt</i> , Chapter 1 (Canvas)

Film excerpts In-class: *Amistad*

February 7

Cherokee Removal in Context

Theda Perdue, *The Cherokee Removal: A Brief History with Documents*, selections

February 12

The Cherokee Cases and “Domestic Dependent Nations”

Theda Perdue, *The Cherokee Removal: A Brief History with Documents*, selections

Ronald Takaki, *Iron Cages*, chapter 3 (Canvas)

Deloria, “American Indians and American Identities” (Canvas)

February 14

Slavery and the Southern Courts

Gross, *Double Character*, Intro, Chapter 1, Appendix (Canvas)

February 19

Slavery and the Law, Celia’s case

McLaurin, *Celia, a Slave*, excerpt (Canvas)

February 21

Dred Scott v. Sandford

Paul Finkelman, ed. *Dred Scott v. Sandford: A Brief History With Documents*, selections

February 26

*****IN-CLASS EXAM 1*****

February 28

“Black Reconstruction”

13th, 14th and 15th Amendments, *U.S. Constitution*

<https://www.law.cornell.edu/constitution>

DuBois, *Souls of Black Folk*, Chapter 2

<http://web.archive.org/web/20081004090243/http://etext.lib.virginia.edu/toc/modeng/public/DubSoul.html>

Film In-class: “Birth of a Nation,” (1912) excerpts

March 5

Plessy v. Ferguson: Context, Segregation and Racial Fictions

Booker T. Washington, “The Atlanta Compromise Address” (Canvas)

Brook Thomas, *Plessy v. Ferguson: A Brief History With Documents*, selections

Cheryl Harris, “Whiteness as Property” (Canvas)

March 7

Lynching and Extralegal Cultures of Jim Crow

Ida B. Wells-Barnett, “Southern Horrors” (Canvas)

Allen, Als, et al. *Without Sanctuary* (Canvas)

- March 12** **Lynching and “Truth and Reconciliation”**
Sherrilynn Iffil, *On the Courthouse Lawn*, Chapters 1, 6-9
(Canvas)
- March 14** **Immigration Law and the “Chinese Question”**
The Chinese Exclusion Act (1882) (Canvas)
- March 18-22** **NO CLASS: SPRING BREAK**
- March 26** **Racial Prerequisite Cases and American “Orientalism”**
Ian Haney Lopez, *White By Law*, Chapters 2-4,
Appendix A & B (Canvas)
Sui Sin Far, “Leaves from the Mental Portfolio of a Eurasian”
(Canvas)
- March 28** **Indian Wars and Tribal Sovereignty**
Black Elk Speaks, excerpts (Canvas)
- April 2** **The Dawes Era, Allotment, and Indian Boarding Schools**
Dawes Severalty Act (1887)
<http://www.ourdocuments.gov/doc.php?flash=true&doc=50&page=transcript>
Richard Pratt, “Kill the Indian, Save the Man” (Canvas)
Ah-nen-la-de-ni, “An Indian Boy’s Story” (Canvas)
- April 4** **Ishi, American Anthropology, and Cultural Property**
Film: “Ishi: The Last of His Tribe”
Vizenor, “Ishi Obscura” (Canvas)
NAGPRA
<http://www.nps.gov/archeology/tools/laws/NAGPRA.htm>
- April 9** **Growing Up Jim Crow**
Ritterhouse, *Growing Up Jim Crow*, Intro and Chapter 3 (Canvas)
- ***TAKE-HOME ESSAY DUE***
- April 11** **Jim Crow Justice: Scottsboro and the Other Rosa Parks**
Danielle McGuire, *On the Dark Side of the Street*, Prologue and
Chapter 1 (Canvas)
- April 16** **Brown v. Board of Education: Case Study**
Waldo Martin, *Brown v. Board: A Brief History with Documents*

Derek Bell, “Brown v. Board and the Interest-Convergence Dilemma” (Canvas)

April 18

Nonviolent Direct Action and Civil Rights Watersheds

Martin Luther King, Jr., “Letter from a Birmingham Jail”

<http://www.uscrossier.org/pullias/wp-content/uploads/2012/06/king.pdf>

Stokely Carmichael and Charles V. Hamilton, *Black Power*, Chapters 7 and 8 (Canvas)

Civil Rights Act (1964) <https://catalog.archives.gov/id/299891>,

Voting Rights Act (1965) [http://www.archives.gov/historical-](http://www.archives.gov/historical-docs/document.html?doc=18&title.raw=Voting%20Rights%20Act)

[docs/document.html?doc=18&title.raw=Voting%20Rights%20Act](http://www.archives.gov/historical-docs/document.html?doc=18&title.raw=Voting%20Rights%20Act)

Civil Rights Act of 1968 (Fair Housing Act) (Canvas)

April 23

***Loving v. Virginia* and *Lawrence v. Texas*: Race and Privacy**

Film: “The Loving Story”

April 25

Race, Gender, and Reproductive Justice

Dorothy Roberts, *Killing the Black Body*, excerpts (Canvas)

April 30

The Prison Industrial Complex: Abolitionism and Reform

Gilmore, *Golden Gulag*, Prologue, Intro, Chapters 3, 6, Epilogue (Canvas)

Michelle Alexander, *The New Jim Crow* (Canvas)

Angela Davis, *Are Prisons Obsolete*, Chapters 1, 2 and 6 (Canvas)

May 2

Immigration post-1965

Hart-Cellar Act of 1965

<http://library.uwb.edu/static/USimmigration/79%20stat%20911.pdf>

Mae Ngai, “The Civil Rights Origins of Illegal Immigration”

International Labor and Working Class History Vol 78, No

1 (September 2010), 93-99 (library research tools)

Text and Analysis of Donald J. Trump’s “Muslim Ban”:

<https://www.npr.org/2017/01/31/512439121/trumps-executive-order-on-immigration-annotated>

Mary Bauer, “Close to Slavery: Guestworker Programs in the US, A Report by the Southern Poverty Law Center”

<https://www.splcenter.org/20130218/close-slavery-guestworker-programs-united-states>

In-class film: “Sin País

May 7

Modern Politics of Sovereignty: Freedmen’s Rights and Foster

Children

“Linking Arms, Marching Forward” (canvas)

“Standing Rock Sioux Claim Victory and Vindication in Court
(canvas)

Audio: Sullivan and Walters, “Native Foster Care: Lost Children,
Shattered Families” National Public Radio, 3 part series

<http://www.npr.org/series/141763531/native-foster-care-lost-children-shattered-families>

May 9

*****IN-CLASS FINAL EXAM*****