

ETHN 152 – Law and Civil Rights: The Myth, Production and Effects of Modern Law in the U.S.

Summer Session II 2011
Tu/Th: 5-7:50pm, HSS 1106A
University of California, San Diego

Instructor:	Kit Myers
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Course Overview: Law is a fundamental institution that influences various aspects of social, economic and political life. This course examines particular aspects of the myth, production and effects of modern law in the structuring of US society. We will begin with an outlining of the nature and definition of law and justice as a universal, impartial and colorblind (or at the very least corrected) and already existing institution. In thinking about the production of law, we will consider how law is actively made and employed as a political-symbolic tool. Most importantly, this course will critically explore the ways in which law is not only the site of uneven application and protection but how it also organizes and defines inhabitants of the United States hierarchically and relationally based on social configurations such as race, gender, sexuality, class and morality. These features of law engender key questions for reflection: Who is the law for? Has the US fallen short (even today) of its promise engrained in the country's founding documents to protect life, liberty and the pursuit of happiness for all? Can social justice occur within the bounds of law or does it have to look beyond modern law?

Course Objectives: Students should be able to critically engage, synthesize, question, deconstruct, discuss and apply the concepts and ideas pertaining to law that are covered in class readings, lectures, and films. In particular, students will be able to:

- Understand the centrality of law and the myth of equality before the law.
- Know and use basic legal concepts.
- Cite and interpret key Supreme Court decisions dealing with race, gender and sexuality.
- Identify main components of law that affect various social, economic, and political aspects of our society.
- Outline ways in which laws are actively made and institutionalized by a multitude of different actors rather than being objectively autonomous.
- Explain and apply key concepts and theories of race, gender, sexuality and power (e.g. social construction, racialization, whiteness, settler colonialism, intersectionality, critical race theory, biopolitics, governmentality, PIC, etc.).
- Consider the potential and limits of law as an instrument for transformative social change.
- Not only know particular moments in the history of law or certain features of law BUT more importantly be able to critically think about them.

Required Readings: All readings will available through UCSD library course reserves: <http://reserves.ucsd.edu/>. You are *required to print and bring* the assigned readings to class. Consistent failure to complete and bring the readings is unacceptable and will most likely mean that there will be multiple quizzes and a difficult final instead of the course project.

Attendance: Attendance is mandatory. You are allowed one absence (no questions asked). More than one absence will result in zero score for attendance and participation. Missing 3 classes will result in a failing/no pass grade. Two late arrivals = 1 absence. Leaving early = 1 absence.

Participation: Your participation is absolutely crucial to your success in this class. Everyone is expected to contribute to class and group discussions through an engagement with the readings/lectures. I understand that some students may be uncomfortable with this, so there will be a variety of classroom activities that will give you multiple opportunities to participate.

*Note: Although office hours are not a requirement, they are another way to participate. Office hours are often be the best bet if you have questions/thoughts/ideas about course concepts or reading materials that haven't been adequately addressed or need further clarification.

Assignments: No midterm or final for this course (we will still meet during the assigned final timeslot). Instead, you'll have a session project in which you will choose a law in US history that has racial, gendered and/or sexual contexts and implications. Students will be required to 1) compose a four-page historical outline of the law; 2) apply a theoretical framework for a critical analysis; 3) "embody" the persona of the law's creator(s)/proponent(s) and give a presentation based on that viewpoint; 4) make and present an accessible piece of literature (pamphlet or fact sheet) or creative cultural production (poem, song, video, etc.) that critiques your alter ego. We will discuss this assignment much more in depth on the second day. The latter two parts constitute the "Final Project." My grading criteria will focus primarily on how well you accurately, insightfully and creatively engage with the assignment and reading materials. Students must complete all major assignments to pass the course.

Free writes: Each class there will be a free-write session (10 minutes) to show that you've done the reading and can critically think about them along with the lecture material. Each free-write will receive either no credit, half-credit or full credit.

Course Evaluation:

Attendance, Participation, Free-writes (10 each)	30%
Genealogy (3 parts: 5, 5, 10 percent)	20%
Theoretical incorporation	15%
Final Project	35%

Email Policy: Check your ucsd email regularly – at least once a day and a few hours before class in case I send out last minute directions.

Class Conduct: By the very nature of the course topic, there will likely be a wide range of opinions. A good classroom environment should stimulate you to think for yourself, challenge paradigms, and raise critical questions. However, please keep in mind that we must engage each other in a respectful and considerate debate in the classroom. These ground rules are reflected in the UCSD Principles of Community to which we are all expected to adhere (<http://www-vcba.ucsd.edu/principles.htm>). Abusive and harsh language, intimidation, and personal attacks will not be tolerated.

Cell phones and Laptops: Texting and internet usage are not permitted and will count as a tardy (since you're not "present" in the class). *Note: If there is an emergency, you may excuse yourself from class.

Academic Integrity: Plagiarism is a serious violation, whether intentional or inadvertent. All work submitted in this course must be your own and original. The use of sources such as ideas, quotations, paraphrases, or anything written by someone else must be properly acknowledged and cited. Plagiarism is when you use someone else’s words without attribution; it includes using portions of a previously published work or website in a paper without citing the source, submitting a paper written for another course, submitting a paper written by someone else, and using the ideas of someone else without attribution. If you have questions about the proper citation of sources, please discuss them with your instructors or consult UCSD’s Center for Academic Integrity at: <http://students.ucsd.edu/academics/academic-integrity/index.html>.

MAJORING OR MINORING IN ETHNIC STUDIES AT UCSD
 Many students take an Ethnic Studies course because the topic is of great interest or because of a need to fulfill a social science, non-contiguous, or other college requirement. Often students have taken three or four classes out of “interest” yet have no information about the major or minor and don’t realize how close they are to a major, a minor, or even a double major. An Ethnic Studies major is excellent preparation for a career in law, public policy, government and politics, journalism, education, public health, social work, international relations, and many other careers. If you would like information about the Ethnic Studies major or minor at UCSD, please contact Yolanda Escamilla, Ethnic Studies Department Undergraduate Advisor, at 858-534-3277 or yescamilla@ucsd.edu.

Special Accommodations: Students with documented disabilities who may need accommodations, who have any emergency medical information the instructor should know of, or who need special arrangements in the event of evacuation, should make an appointment with the instructor as early as possible, no later than the first week of the term. Accommodations are collaborative efforts between students, faculty and the Office for Students with Disabilities (OSD). Students who believe they are eligible for accommodations but who have not obtained approval through OSD can seek assistance or information at its office, located at University Center 202 or call: (858) 534-4382.

Course Schedule (Subject to change):

	Readings	Key Concepts and Assignments
<p>Wk1 D1</p> <p>Introduction: Centrality, Myth & Critique of Law AND The Goal of Ethnic Studies</p>	<p>Declaration of Independence and US Constitution: Minor annotations: http://www.senate.gov/civics/constitution_item/constitution.htm#amendments Major annotations: http://topics.law.cornell.edu/constitution</p>	<p>Key concepts: race; racialization, social; political; nation-state; law; rule of law; critical race theory; intersectionality; statutory; common and regulatory law; strict vs. broad; substantive due proc vs. procedural due proc; enumerated vs. unenum (fundamental) rights; judicial review; natural law vs. positive law; negative vs. positive right; failure of law</p>
<p>Wk1 D2</p> <p>Whiteness & Slavery</p>	<p>C. Harris, “Whiteness as Property,” <i>Harvard Law Review</i> 106.8 (1993) 1707-1791. M. F. Jacobson, “The Fabrication of Race” and “Free White Persons’ in the Republic, 1790-1840” [1-38]</p> <p>Cases and Legislation: <i>Dred Scott v. Sanford</i>, 1957 13-15th Amendments</p>	<p>Key concepts: whiteness; property; PIW; scientific racism; Other; sexuality; representation; Foucault – archive and discourse; primary and secondary source; birthright citizenship</p> <p>Dates: 1790, 1850, 1854, 1857, 1865, 1868, 1922, 1923</p> <p>Assignment #1 Due: 450-500 words</p>

<p>Wk2 D1</p> <p>Colonialism and Sovereignty</p>	<p>R. Williams, "The Savage as the Wolf: The Founders' Language of Indian Savagery," "Indian Rights and the Marshall Court" [33-70]</p> <p>W. Bradford, "With a Very Great Blame on Our Hearts: Reparations, Reconciliation, and an American Indian Plea for Peace with Justice" (Amer. Ind. L. Rev., 2002)</p> <p>Cases: <i>Johnson v. M'Intosh</i>, 1823; <i>Cherokee Nation v. Georgia</i>, 1831; <i>Worcester v. Georgia</i>, 1832</p>	<p>Key concepts: colonialism; settler colonialism; genocide; sovereignty; treaty; savage/civilized; removal; containment; plenary power; Allotment Act; Monster petition; Homestead Act; blood quantum; cultural genocide; recognition; termination; ICWA; Akaka Bill; environmental racism</p> <p>Dates: 1823, 1831, 1832, 1836, 1887, 1893, 1953, 1978*</p> <p>Assignment #2 Due: 450-500 words</p>
<p>Wk2 D2</p> <p>Governmentality</p> <p>The Racial State & Segregation</p>	<p>Foucault, "Objective," "Method" and "Right of Death and Power over Life" [92-114 and 135-159]</p> <p>D. Goldberg, "Racial States" [98-137]</p> <p>D. Carbado, "Racial Naturalization" [633-658]</p> <p>Cases: <i>Plessy v. Ferguson</i> and <i>Brown v. Board of Education</i></p>	<p>Key concepts: power; racialization; governmentality; hegemony; political vs. civil society (Gramsci); Orientalism; "equal protection"; bare life; de jure; de facto; lynching; black sexuality; un/rapability; framework; analytical tool; world's fairs</p> <p>Dates: 1896, 1954, 1998</p>
<p>Wk3 D1</p> <p>Governmentality</p> <p>Immigration and Exclusion</p>	<p>M. Ngai, "Introduction" [1-14]</p> <p>E. Lubheid, "Power and Sexuality at the Border," "A History of US Immigration Control" and "A Blueprint for Exclusion" [ix-xxvii and 1-54] – only read part of chap</p>	<p>Key concepts: impossible subject; illegal alien; unassimilable; borderlands; national origins; quotas; coolie; heterogeneity; multiplicity; queer</p> <p>Dates: 1882, 1907, 1917, 1924</p>
<p>Wk3 D2</p> <p>Governmentality</p> <p>Policing Sexuality and the Family</p>	<p>S. Somerville, "Notes Toward a Queer History of Naturalization" (AQ 2005) [659-675]</p> <p>AND 1 of the following:</p> <p>N. Shah, "Between 'Oriental Depravity' and 'Natural Degenerates': Spatial Borderlands and the Making of Ordinary Americans" in AQ [703-725]</p> <p>E. Lubheid, "Birthing a Nation: Race, Ethnicity and Childbearing" [55-76]</p> <p>Cases and Legislation: Virginia Racial Integrity Act 1924; <i>Loving v. Virginia</i>, 1967</p>	<p>Key concepts: Eugenics, anti-miscegenation laws; sterilization; reproductive rights; derivative citizenship;</p> <p>Dates: 1875, 1883, 1910, 1965, 1967, 1973</p> <p>Assignment #3 Due: Genealogy, 4 pages</p>
<p>Wk4 D1</p> <p>Prisons and Profiling</p>	<p>R. Gilmore, "Introduction," "Prison Fix" [5-29; 87-127]</p> <p>A. Davis, "Abolitionist Alternatives" [105-115]</p> <p>Cases: <i>McKleskey v Kemp</i>, 1987 and <i>Brown v. Plata</i>, 2011</p>	<p>Key concepts: Discipline and punish; police power; PIC; boarding schools; Soledad Brothers; profiling; ICE, capital punishment; innocence project</p> <p>Dates: 1885, 1942, 1954, 1973, 1976, 1978, 1987, 1990, 1994, 2011</p>

<p>Wk4 D2</p> <p>Post 9/11 Terrorism</p>	<p>A. Jamal, "Civil Liberties and the Otherization of Arab and Muslim Americans" [114-130]</p> <p>AND 1 of the following:</p> <p>M. Brown, "'Setting the Conditions' for Abu Ghraib: The Prison Nation Abroad" in <i>AQ</i> (Sept 2005) [973-997]</p> <p>A Kaplan, "Where is Guantanamo?" (<i>AQ</i> 2005) [831-858]</p> <p>Cases: <i>Hamdf v Rumsfeld</i>, 2004; <i>Rasul v Bush</i>, 2004; <i>Rumsfeld v Padilla</i>, 2004</p>	<p>Key concepts: Habeas Corpus; due process; MIC; military prison; terrorism/ist; torture</p> <p>Assignment: Theoretical critique, 6-7 pgs</p>
<p>Wk5 D1</p> <p>Colorblindness, Multiculturalism, Neoliberalism and the Impossibility of Inclusion</p>	<p>K. Crenshaw, "Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law" in <i>CRT</i> [103-122]</p> <p>L. Duggan, "Introduction" and "Downsizing Democracy"[ix-xxii and 1-21]</p> <p>Recommended Readings:</p> <p>D. Goldberg, "Raceless States" [200-229]</p> <p>G. Lipsitz, "Law and Order: Civil Rights Laws and White Privilege" in <i>Possessive Investment in Whiteness</i> (Temple Univ. Press, 1998)</p> <p>Cases and Legislation: Civil Rights Act, 1964; Voting Rights Act, 1965; <i>Regents of the Univ. of Calif. v Bakke</i>, 1978; <i>Grutter v Bollinger</i>, 2002; <i>Gratz v Bollinger</i>, 2002</p>	<p>Key concepts: affirmative action; critical mass; equality; de jure; civil rights; CRM; democracy; liberalism; neoliberalism; colorblindness; multiculturalism; reverse racism; model minority; 1965 Immigration Act; brain drain; gerrymandering; gentrification; Census; wealth</p> <p>Dates: 1964, 1965, 1978, 1996 , 2002, 2006</p>
<p>Wk5 D2</p> <p>Limits: Within or Beyond Law?</p>	<p>S. Lyons, "Resignations" in <i>X-Marks</i> [165-189]</p> <p>A. Smith and J. Kauanui, "Native Feminisms Engage American Studies" in <i>AQ</i> (2008) [importance of knowledge production] [241-249]</p> <p>L. Duggan, "Queering the State" in <i>Social Text</i> [1-14]</p>	
<p>Finals</p>	<p>Presentations of Final Project</p>	