

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

Spring 2012

MWF 11-11:50 am, Solis 109

University of California, San Diego

Instructor:	Kit Myers
Office:	SSB 248
Office hours:	Mon 12-1:30 pm and Fri 9:30-10:50 am or by appointment
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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:

1. *Voices of a People's History of the United States*. Eds. Howard Zinn and Anthony Arnove (2004 or 2009 version) (Bookstore or Amazon – two day shipping)
2. All other readings will be available as PDFs through TED: <http://ted.ucsd.edu/>. You are required to print and bring the assigned readings to class.

Attendance: Attendance is mandatory. You are allowed 3 absences (no questions asked). More than 3 absences will result in grade deduction for your “Participation.” Missing more than 6 classes will result in a failing/no pass grade. Please be on time. Every 2 late arrivals = 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 time slot). 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. Paper 1 is a 4-5 page historical outline of the law. Paper 2 is expands on the first paper (8-10) pages total by incorporating 2 historical examples that relate to your specific law. The final project (groups of two) is a creative project that should be inspired by Papers 1 and 2. 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.

Journals: Each week you’ll write 1 journal entry to show that you’ve done the reading and can critically think about them along with the lecture material. Each journal entry will receive either no credit, half-credit or full credit. Journal is due every **Friday at 5 pm**.

Course Evaluation:

Participation	10%
Journal	30%
Paper 1	20%
Paper 2	20%
Final Project	20%

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. Please keep in mind, however, that we must engage each other in a respectful and considerate manner. 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.

Digital Etiquette: All personal electronics should be off or on “silent” mode. Texting, games and internet usage (Facebook, youtube, email, etc.) are not permitted. Students using laptops for taking notes must sit in the first two rows.

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 from a Voices of a People's History will be announced in class.

	Readings	Key Concepts & Assignments
Week 1 Introduction: Centrality, Myth & Critique of Law AND The Goal of Ethnic Studies	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	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
Week 2 Whiteness & Slavery	C. Harris, "Whiteness as Property," <i>Harvard Law Review</i> 106.8 (1993) 1707-1756. M. F. Jacobson, "The Fabrication of Race" and "Free White Persons' in the Republic, 1790-1840" [1-38] Cases and Legislation: <i>Dred Scott v. Sanford</i> , 1957 13-15 th Amendments	Key concepts: whiteness; property; PIW; scientific racism; Other; sexuality; representation; Foucault – archive and discourse; primary and secondary source; birthright citizenship Dates: 1790, 1850, 1854, 1857, 1865, 1868, 1922, 1923

<p>Week 3</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>Week 4</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>Paper 1 Due: Friday in Class</p>
<p>Week 5</p> <p>Governmentality</p> <p>Immigration and Exclusion</p>	<p>M. Ngai, "Introduction" [1-14]</p> <p>E. Luibheid, "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>Week 6</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>Week 7</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>Week 8</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>Hamdi 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>Paper 2 Due: Friday in Class</p>
<p>Week 9</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: 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>Week 10</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>Final Project Due: Friday</p>
<p>Finals</p>	<p>Presentations of Final Project</p>	