

Fall 2021
LS190: Racial and Colonial Foundations of UC Berkeley
University of California, Berkeley
Wednesdays, 2:10pm-5:00pm
[250 Dwinelle Hall](#)

Instructor: Nazune Menka, J.D.

Contact: nazune@berkeley.edu

Office Hours: By Appointment via Zoom (Office Location Pending)

Graduate Student Researcher: Everardo Reyes, Ph.D. Student

Contact: everardo_reyes@berkeley.edu



*"Throws-The-Book" Bunky Echohawk, (shared here with artist's permission).
Chapter Art from "In the Courts of the Conqueror: The Ten Worst Indian Law
Cases Ever Decided" by Walter Echohawk.*

“If history is going to be scientific, if the record of human action is going to be set down with the accuracy and faithfulness of detail which will allow its use as a measuring rod and *guidepost for the future of nations*, there must be set some standards of ethics in research and interpretation. If, on the other hand, we are going to use history for our pleasure and amusement, for inflating our national ego, and giving us a false but pleasurable sense of accomplishment, then we must give up the idea of history as a science or as an art using the results of science, and admit frankly that we are using a version of historic fact in order to influence and educate the new generation along the way we wish. *It is propaganda like this that has led men in the past to insist that history is “lies agreed upon”*, and to point out the danger in such misinformation. It is indeed extremely doubtful if any permanent benefit comes to the world through such action....

Here in the United States we have a clear example.”

Dr. W.E.B. DuBois, *Black Reconstruction in America, 1860-1880* “The Propaganda of History.” (1935)

Why do you think I’ve included this quote? Email me with your answer for participation credit.

Seminar Purpose and Description

The seminar seeks to engage students in an investigation of the origins of the University of California with a critical eye on whose stories get told and why. Has the truth been shared and uplifted or hidden and repressed? What aspects of history are being intentionally repressed and why? What better way to confront the past and seek mechanisms of redress than to look closely at where we are currently studying. Drawing upon the work of the UC Berkeley Truth & Justice Project,¹ this seminar will explore the history of the UC Berkeley and its racial and colonial foundations. While the course addresses injustices against various communities, there will be a specific focus on Indigenous communities. Currently, the UC Berkeley’s origins story neglects the realities of its racial and colonial foundation which are rooted in the appropriation of Indigenous lands and looting of Indigenous grave sites. As truth, healing, and reconciliation mechanisms gain

momentum across the globe, this seminar aims to prepare students to join the thought leadership that serves as the foundation of these movements.

What imagery does the city of “Berkeley” conjure up? What about “UC Berkeley” or “Cal”? Certainly, it is easier to tell/sell a happy story. Think of the narrative you are told about Thanksgiving. If you know the true story behind this “holiday” you might understand why it is a national day of mourning for some Indigenous communities. But, why is it important to speak power to truth in history? Why should we, indeed must we, do this hard work of confronting the past? As the historical trauma article assigned for the first class provides, “studying narratives of historical trauma can help disentangle the ways in which contemporary actions *perpetrate* or *repair* historical wounds”. Thus, we can either ignore and perpetuate past harms, or repair, address, and seek to heal past harms. This course seeks to do the latter.

¹ The Truth and Justice Project consists of Professor Tony Platt, Professor Seth Davis, and Berkeley Law Policy Fellow Nazune Menka. The Project has

provided the research for several of the topic areas covered in the course.

Seminar Learning Goals

The learning goals for the seminar are substantive and skills-based. Students will also develop research, writing, and critical thinking skills through the development of an individual or group research project. Students will gain an understanding of the intersection between law and the histories of California, the University, and BIPOC+ communities.

The seminar uses a critical race theory lens while learning about: Indigenous history of California; the history and impacts of colonization; and the institutionalization of racism in the law (including the doctrine of discovery, slavery, and the California genocide). The course will delve into the Land Grab Project which served as the initial land and financial base of UC Berkeley, the history of academic scientific racism with a specific focus on the racist historical roots of the Department of Anthropology. We will then move into more contemporary issues of BIPOC+ erasure from history, the selective amnesia in University origin stories, the human rights violations that have and continue to occur at the Phoebe A. Hearst museum, and then wrap up with a discussion on current movements toward truth, healing, reconciliation, and reparations. By the end of the seminar students should be able to:

- ▶ **Demonstrate an understanding of critical race theory and decolonization;**
- ▶ **Demonstrate an understanding of how the history of race and colonization are interconnected with the law and their impacts on society today;**
- ▶ **Demonstrate an understanding of how race and colonization impact the story told about the history of UC Berkeley;**
- ▶ **Demonstrate an understanding of the importance of resistance and truth, healing, reconciliation, and reparation movements; and**
- ▶ **Apply these learning objectives to research and create a storytelling project about the racial and colonial foundations of California and UC Berkeley with an eye toward justice.**

Course Materials

The course readings are all available electronically and will be posted on bCourses weekly. The readings are a combination of reports written, researched and compiled by Truth and Justice Project member Tony Platt, and other academic articles, news readings, podcasts, and videos focusing on situating the history of UC Berkeley within the history of the country and the State of California. Additionally, I have provided a list of several in-depth readings at the end of the syllabus for inspiration when selecting a research project.

Wellness is a Collective Priority

Life, and the content of this course, can be overwhelming at times, but know that you are not alone if you're feeling stressed. For many of us, living with and discussing systems of oppression may cause additional stress. You deserve respect, and are encouraged to [practice self-care](#) so that you can remain focused and engaged during class. Please feel free to excuse yourself from class as needed for your wellbeing. If our course material relates to or may trigger distress for you, please email me to schedule

at time to meet ahead of the class so I may share slides or otherwise accommodate your personal circumstances.

Please remember to reach out for support if and when you need it. To find resources related to health and well-being you can visit [University Health Services](#), you can find resources for academic support [here](#), or you can find resources to meet your basic needs (food and housing) [here](#).

Course Logistics & Grading

The class will meet weekly in person. Should the University determine that classes should shift to a remote learning environment, classes will occur live on Zoom. Participation is twenty percent (20%) of the course grade and students are expected to prepare, attend, and participate each week. Readings have been carefully selected. As a seminar course your analysis and your feedback during class discussion are critical to our success as a class.

Assignment	Summary	% of Total Grade
Course Attendance & Participation:	Engendering critical thinking skills are a key goal of the seminar, accordingly students are expected to: engage with the material; attend class each week; and to actively participate in discussion and dialogue.	28/140 (20%)
Research Project Proposal:	Students must develop and research a storytelling Research Project in conjunction with the course.	14/140 (10%)
Research Outline:	Students must turn in an outline of their proposed Research Project.	14/140 (10%)
Research First Draft:	Students must turn in a first draft of the Research Project.	21/140 (15%)
Research Final Submission and/or Presentation:	Students must present their Final Research Project to the class.	42/140 (30%)
Final Exam:	Final Exam on thematic content of the course.	21/140 (15%)

Research Project: Storytelling with an Eye Toward Social Justice

Your research projects should stem from a concept or topic addressed in the course and be applicable to the racial and colonial history of either UC Berkeley, or the history of the Bay Area.

The goals for the research projects are to challenge the settler-colonial narrative through storytelling, and to move from theory into praxis. You will be responsible for producing a research project intended to foster innovation, engage a broader audience and thus create a broader impact, and encourage you to share your project with a public, non-academic, audience. Research projects may use methods that include public art installations, educational websites, performance, audio storytelling or podcast episodes, short films, augmented reality (AR) tours, mapping, photography, campaigns for naming and renaming, and designs for memorials or anti-memorials, or a research paper. Because your research should be rooted in service of social justice I would encourage you to select the option to work with me and the California Truth and Healing Council Academic

Subcommittee on a project. For some examples, please see these recent student projects from sister courses for some examples ([here](#), [here](#), and [here](#)) using the [Adobe Creative Discovery Student Hub](#). Please review Research Project Resources on bCourses for more detailed information which I will post within the first few weeks of class.

“Strawberries belong only to themselves.

The exchange relationships we choose determine whether we share them as a common gift or sell them as a private commodity. A great deal rests on that choice. For the greater part of human history, and in places in the world today, common resources were the rule. But some invented a different story, a *social construct* in which everything is a commodity to be bought and sold. The market economy story has spread like wildfire, with uneven results for human well-being and devastation for the natural world.

But it is just a story we have told ourselves and we are free to tell another...”

Braiding Sweetgrass by Robin Wall-Kimmerer (Anishinabekwe)

Date	Themes & Readings
<p>Week 1 Aug. 25</p>	<p>Introduction to the course and setting expectations.</p> <p>Introduce critical race theory, TribalCrit, and decolonization as the frameworks for the course. We will explore history, law, race, and society throughout the course with a particular focus on truth, storytelling, and erasure at UC Berkeley.</p> <p>Watching in Class: <i>Race - The Power of an Illusion: Episode II - The Story We Tell</i> (watch first 29 minutes).</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Mohatt NV, Thompson AB, et al. <i>Historical trauma as public narrative: a conceptual review of how history impacts present-day health</i>. 2. Janel George, <i>A Lesson on Critical Race Theory</i>. 3. Bryan Brayboy, <i>Toward a Tribal Critical Race Theory in Education</i>.
<p>Week 2 Sept. 01</p>	<p>This week we will focus on Indigenous history and resistance.</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Cutcha Rising Baldy, <i>We Are Dancing For You: Native Feminisms and the Revitalization of Women’s Coming-of-Age-Ceremony</i>, Chapter 2. 2. The Truth & Justice Project, <i>Present Absences: Acknowledging Ohlone Land and Legacies at Berkeley</i>, (2020).
<p>Week 3 Sept. 08</p>	<p>This week we will focus on the pre-colonial Indigenous history of the U.S. and California by listening to and lifting up Indigenous voices.</p> <p>Invited Guest Speaker: Roxanne Dunbar-Ortiz 2:15pm-3:15pm</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Roxanne Dunbar-Ortiz, <i>An Indigenous Peoples History of the United States</i> Chapters 1-3.

	<p>2. Williams, Robert A., Jr., <i>Like A Loaded Weapon: The Rebnquist Court, Indian Rights, And the Legal History of Racism in America</i>, (2005). Chapter 2 The Supreme Court and the Legal History of Racism in America and Chapter 3 The Savage as the Wolf.</p>
<p>Week 4 Sept. 15</p>	<p>This week we will discuss how the law has historically codified colonial and racial paradigms at a national level and the settler-colonial narrative (e.g., from genocide to Jim Crow laws, racial exclusion & white supremacy, forced assimilation).</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Natsu Taylor Saito, <i>Race and Decolonization: Whiteness as Property in the American Settler Colonial Project</i>. 2. Michelle Alexander, <i>The New Jim Crow: Mass Incarceration in The Age of Colorblindness</i> Chapter 1.
<p>Week 5 Sept. 22</p>	<p>This week we will begin to explore the racial and colonial foundations and history of UC Berkeley (e.g. proslavery faculty leadership) and the California genocide, while continuing to discuss race, law, and society.</p> <p>Watching in Class: Tribal Leaders Valentin Lopez, Corrina Gould et. al, California Indian Genocide & Resilience, Bioneers, [Video], 28 min. (2018).</p> <p>Guest Speaker: TBD</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Tony Platt & Danielle Elliott, <i>Making History: Primary Documents Relating to the Origins and Development of the University of California</i>. (2021) 2. Kimberly Johnston-Dodds, <i>Early California Laws and Policies Related to California Indians</i>, California Research Bureau Report CRB-02-04 (Sept. 2002). (Skim)
<p>Week 6 Sept. 29</p>	<p>This week we will continue to focus on the racial and colonial foundations of UC Berkeley (e.g. the national climate at its creation, the Morrill Act and land grab universities), and hear from UC Berkeley research librarians about resources available for your research projects.</p> <p>Research Resource Presentations: Melissa Stoner (Native American Collections), Corliss Lee (Berkeley Legal Studies Librarian)</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Andrew Garrett, Melissa Stoner et. al., <i>Native American collections in archives, libraries, and museums at the University of California, Berkeley: Working group report</i>, (2019). 2. Robert Lee & Tristan Ahtone, <i>Land-Grab Universities</i>. High Country News, 52(4), 32–46. (2020).
<p>Week 7 Oct. 06</p>	<p>This week we will explore western scientific hegemony, its racist historical roots, and subsequent unethical treatment of othered communities (e.g. physical anthropology, eugenics, forced sterilization) and again discuss decolonization in the academy.</p> <p>Watching in Class: Herbes-Sommers, C. Cheng, J. Adelman, L. Smith, L. Strain, T. (Director). (2003). <i>Race - The Power of an Illusion: Episode II-The Story We Tell</i>, Kanopy. (28:56-57:27).</p>

	<p>Invited Guest Speaker: UC Berkeley Truth & Justice Project's Tony Platt</p> <p>Research Proposal Due</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Tony Platt, <i>Kroeber Hall and Berkeley Anthropology: What's in an Un-Naming?</i> 2. Tony Platt, <i>Legacies of Un-Critical Race Theory at Berkeley</i>. 3. Linda Tuhiwai Smith, <i>Decolonizing methodologies: research and indigenous peoples</i> Chapter 1
<p>Week 8 Oct. 13</p>	<p>This week we will explore the history of the Department of Anthropology, and the foundations of the Phoebe A. Hearst Museum with a particular focus on the human rights violations committed against Indigenous communities (e.g. the National Graves Protection and Repatriation Act (NAGPRA), CalNAGPRA, and affiliated UCOP Policies).</p> <p>Watching in Class: Eyre, C. (Director). (2016). <i>Ishi's Return</i> [Video file]. Katahdin Productions. Available on Kanopy. (28 Min.)</p> <p>Invited Guest Speaker: Brittani Orona</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Amy Lonetree, <i>Decolonizing Museums</i>, Chapters 1 & 4. 2. Brittani R. Orona & Vanessa D. Esquivido, <i>Continued Disembodiment: NAGPRA, CAL NAGPRA, and Recognition</i>, <i>Humboldt Journal of Social Relations</i>, 42, 50-68 (August 2020);
<p>Week 9 Oct. 20</p>	<p>We will continue to discuss NAGPRA, CalNAGPRA, the desecration of Indigenous sacred sites, international human rights, and federal Indian Law.</p> <p>Research Project Outline Due</p> <p>Required Readings:</p> <ol style="list-style-type: none"> 1. Tony Platt and Danielle Elliott, <i>The Largest Collection in the World": A Select Chronology of Berkeley's Anthropology Museum</i>. 2. Danielle Elliot, <i>Berkeley's NAGPRA Implementation</i>, Federal Indian Law Writing Seminar Paper (2020).
<p>Week 10 Oct. 27</p>	<p>This week we will explore activism in the Bay Area and beyond from the 1960's to the present, and memorials on the UC Berkeley campus with a focus on understanding the past's influence on contemporary issues such as Indigenous erasure and historical amnesia.</p> <p>Watching in Class: Ginzberg, A. Dawson, F. (Director). <i>Agents of Change</i> [Video file]. California Newsreel, Kanopy <i>67 min.</i> (2016). (Selected 15 minutes); <i>Alcatraz is Not an Island</i> Documentary (selected 20 minutes).</p> <p>Required Readings:</p>

	<ol style="list-style-type: none"> 1. Bryan Brayboy & Amanda Tachine, <i>Myths, Erasure, and Violence: The Immoral Triad of the Morrill Act</i>, <i>Native American and Indigenous Studies</i>, 8(1), 139-144 (Spring 2021). 2. Truth & Justice Project Report <i>Making History: How Berkeley Forgets and Remembers Its Past</i>.
Week 11 Nov. 03	<p>This week we will cover any material we have not yet covered and review themes and progress of the course. We may be able to take a walking tour on campus and/or hold class outside.</p> <p style="text-align: center;">Research Project Draft Due</p> <p>No Required Reading This Week</p>
Week 12 Nov. 10	<p>In our final class before final projects are presented we will explore the history, successes and failures, of truth, healing, reconciliation, and reparation movements and actions around the world with a focus on what is happening locally and nationally. We will also take time to wrap up discussion and reflect and on seminar successes and challenges.</p> <p>Required Reading:</p> <ol style="list-style-type: none"> 1. Walter R. Echo-hawk, <i>In the Courts of the Conqueror: The Ten Worst Indian Law Cases Ever Decided</i>, (2012 ed.). Chapter 15, Reforming the Dark Side of Federal Indian Law. 2. David Treuer, <i>Return the National Parks to The Tribes-The jewels of America's landscape should belong to America's original peoples</i>, <i>Atlantic</i> (April 21, 2021). <p>Skim the following:</p> <ol style="list-style-type: none"> 3. H.R. 8420 116th Cong. 2nd Session (Sept 29, 2020) "Truth and Healing Commission on Indian Boarding School Policy Act"; 4. H.R. 40 117th Cong. 1st Session (Apr. 14, 2021) "Commission to Study and Develop Reparations Proposals for African Americans Act"; 5. E.O. N-15-19 Governor Newsom June, 18, 2019; 6. A.B. 3121 Task Force to Study and Develop Reparation Proposals for African Americans.
Week 13 Nov. 17	<p style="text-align: center;">Final Research Project Presentations</p> <p style="text-align: center;">Course Feedback and Closing</p>
Dec. 6-10	<i>Reading Week</i>
Dec.	Final Exam

"This story of popular consent that our Constitution is based upon cannot be told about American Indians and Alaska Natives, who did not consent as peoples to the Constitution. The Constitution

looks to join us as one people, yet assimilation is hardly redemptive for Indigenous Peoples who assert their rights as preconstitutional sovereigns. Conquest is also a feature of our constitutional tradition, which proclaims the Constitution "the supreme law of the land."

The problem is the possibility that faith in the Constitution's supremacy may stand in the way of remedying the wrongs of conquest and American colonialism."

Truth and Justice Project Member & UC Berkeley Law Faculty Seth Davis
American Colonialism and Constitutional Redemption, Cal. Law. R. (2017)

Optional In-Depth Readings and Informational Materials:

1. Derrick A. Bell, *Who's Afraid of Critical Race Theory*. U. of Ill. Law Review, (4) 893–910 (1995).
2. Tucker and Yang, *Decolonization is not a metaphor*, Decolonization: Indigeneity, education, and society, 1(1) (2012) available at:
<https://jps.library.utoronto.ca/index.php/des/article/view/18630/15554>
3. ACLU Website: The Hidden History of Slavery in California
<https://www.aclunc.org/sites/goldchains/index.html>
4. Gomez, L. E. (2020) *Inventing Latinos: A New Story of American Racism*.
<https://lauraegomez.com/index.php/new-book/>
5. Davis, Seth, *American Colonialism and Constitutional Redemption* (June 13, 2017). California Law Review, 105 UC Irvine School of Law, Available at SSRN:
<https://ssrn.com/abstract=2985778>
6. Fletcher, Matthew L. M., *The Iron Cold of the Marshall Trilogy* 82 North Dakota Law Review 628 (2006), Available at SSRN: <https://ssrn.com/abstract=924547>
7. William J. Bauer, Jr. *California through Native Eyes: Reclaiming History*. University of Washington Press, (2016). muse.jhu.edu/book/47594 Chapter 1.
8. The University of California Land Grab Fall 2020 Seminars available at:
<https://cejce.berkeley.edu/uc-land-grab> (Sept. 25 and Oct. 23 2020).
9. Margaret Nash, *Entangled Pasts: Land-Grant Colleges and American Indian Dispossession*. History of Education Quarterly, 59(4), 437-467 (2019).
10. Wiyot Tribe National NAGPRA Committee Hearing ([findings here](#)).
11. *White v. University of California* NAGPRA case.
12. Chapple, K. & Thomas, T., *Redlining and its Contemporary Impacts in the Bay Area*. Berkeley, CA: Urban Displacement Project, (2020) <https://www.urbandisplacement.org/redlining>
13. *A Peoples Guide to the San Francisco Bay Area* Walking Tours (Youth in Revolt, InterTribal)
14. Historical Resources to Review at [Alexander Street Website](#) Such As:
 - a. Buried Stories (2009) Short Film Indigenous History of California
 - b. Berkeley in the Sixties Documentary (1990)
 - c. Black Panthers Short Film (1968) Archival Newspapers
15. Ginzberg, A. Dawson, F. (Director). *Agents of Change* [Video file]. California Newsreel, Kanopy 67 min. (2016).
16. Northern California ACLU Website: [The Hidden History of Slavery in California](#).
17. [Strawberry Creek Watershed Signage](#), STRAWBERRY CREEK PROJECT (2019).
18. Ta-Nehesi Coates, Slavery Reparations Testimony to Congress (entire hearing [here](#)) (2019).
19. Amicus with Dalia Lithwick, Slate Podcast: [Truth, Reconciliation, and Korematsu v. United States](#) (January 2, 2021).

20. Rawal, S. (Director). (2020). *Gather* [Video file], available on Kanopy.
21. Damon Atkins and William Bauer Jr., *We are the Land: A History of Native California* (2021). Chapter 10 Returning to the Land: Sovereignty, Self-Determination, and Revitalization since 1985.
22. Tribal Cultural Resource Project UCOP Comments on Repatriation Policy and Data Ownership Policy.
23. Seth Davis & Nazune Menka, Amicus Letter to California Supreme Court West Berkeley Shellmound (July 2021).

Student Responsibilities and Accommodations

Academic Integrity and Honor Code: The purpose of the Honor Code is to enhance awareness of the need for the highest possible levels of integrity and respect on campus, both within and outside the academic context. Please review and adhere to the [UC Berkeley Academic Honor Code](#) (“As a member of the UC Berkeley community, I act with honesty, integrity, and respect for others.”) and the [Code of Student Conduct](#).

Academic Accommodations: The purpose of academic accommodations is to ensure that all students have a fair chance at academic success. Disability, or hardships such as basic needs insecurity, uncertain documentation and immigration status, medical and mental health concerns, significant familial distress, and experiencing sexual violence or harassment, can affect a student’s ability to satisfy particular course requirements. Students have the right to academic accommodations and to resources, without having to disclose personal information to instructors. Please review academic accommodations for your rights at: <https://evcp.berkeley.edu/programs-resources/academic-accommodations-hub>.

Please reach out with any questions or concerns and I’m looking forward to working with you all this semester!