

**Legal Studies 190**  
**Race and American Law**  
**Tuesdays 2:00-5:00**  
**238 Kroeber**

**Instructor:** Emily Bruce

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**Office:** 340A Boalt Hall (North Addition); 642-1927

**Office Hours:** Mondays 2:30-3:30 or by appointment

**Course website** is accessible via bCourses

In this seminar we will investigate how law has both reflected and helped define racial identity and citizenship in the United States. The course will cover three related areas of focus. First, we will examine historical racial requirements for American citizenship and their symbolic extension into the present day. Second, we will study the application of the Fourteenth Amendment to government action that segregates or integrates spaces by race. Finally, we will address the ways in which legal structures may perpetuate racial difference while remaining formally neutral as to race.

### **REQUIRED TEXTS**

- Alexander, Michelle. *The New Jim Crow*
- Haney López, Ian. 2006. *White by Law: The Legal Construction of Race* (10<sup>th</sup> anniv. ed.). New York, NY: New York Univ. Press.
- All other readings will be posted on bCourses or handed out in class.

### **Course Description and Requirements**

#### **Overview:**

Legal Studies 190 is a four-unit course that satisfies the Legal Studies Program's Area IV distribution requirement.

#### **Course Goals:**

- Familiarity with key lines of argument in American legal history that have been used to establish racial meaning.
- Familiarity with a selection of judicial decisions that reflect competing American understandings of race.
- Ability to identify consistent themes in American law regarding race.
- Ability to apply knowledge about law and racial meaning when evaluating new information.

#### **Attendance and Active Participation**

To build a successful seminar, we need everyone to attend regularly and participate in discussions.

If you have concerns about speaking in class, please discuss them with me as soon as possible to avoid any effect on your participation grade.

### **Reading Assignments**

You should plan on at least 6 hours of outside reading for each 3-hour class meeting.

Since this is a small class based primarily on discussion and group activities, it is important that you complete the reading assigned for each class session and **bring the assigned text to class with you.**

### **Reflection Papers**

In preparation for class discussion, you should submit a reading reflection before each class session, unless otherwise stated on the syllabus.

Your reflection paper should be approximately 250-300 words long (or more, if you feel inspired), and should respond to the reflection prompt posted on bCourses.

In addition to responding to the prompt, you can also add your own points, such as:

- (1) questions about things you didn't understand in the readings,
- (2) thoughts about aspects of the readings you would like to explore further, or
- (3) comments about things you found particularly interesting.

### **Class Presentation**

Each student will lead one hour of class discussion during the second half of the semester. I will provide guidance about how to prepare.

### **Essays**

There will be two required essays.

The midterm essay will respond to a prompt supplied by the instructor. The final paper will be a research-based essay or blog post for which you will develop your own research question. I will be available to provide guidance regarding concerns about scope and sources.

### **Grades:**

Your grade will be calculated as follows:

#### **Participation: 10%**

(timeliness, active class participation)

#### **Reflection Papers: 20%**

(due weekly before class)

#### **Short Assignments: 10%**

(paper proposals, peer reviews)

## **Class Presentation: 10%**

## **Papers: 50%**

Midterm paper: (~1500 words) 25%

Final paper or blog post: (~1500 words) 25%

## **Policies**

### **Technology in the Classroom**

Some course readings will be available electronically, and you may want to refer to them on your laptop during class. When doing so, please be sure to close web browsers and disable any applications that might distract you from the class discussion.

Cell phones should be turned to silent or off before class. Texting or chatting with friends online while in class is disrespectful to me and to your fellow students.

If you use your devices during the break, please turn them off again when class resumes.

If there is a true emergency or safety situation that requires you to be reachable during class, please let me know at the beginning of the class period.

### **Email**

Feel free to email me with questions that cannot be answered by a classmate or to set up a meeting outside of office hours. If you miss class, please do not email me to ask what we covered; I will suggest that you contact a classmate.

I try to respond to emails promptly, but you should be aware that I typically do not check email on weekends. If you send me an email after 12:00pm on a Friday, I can't guarantee a response before Monday.

### **Academic Honesty**

Avoid plagiarism! Plagiarism is the “use of intellectual material produced by another person without acknowledging its source.”

Source: <http://campuslife.berkeley.edu/conduct/integrity/definition>.

Plagiarism includes copying, quoting or paraphrasing the work or ideas of another person without acknowledgement. We will spend class time talking about working with sources and using citations in ways that avoid plagiarism.

For additional information on plagiarism and how to avoid it, see, for example:

- <http://www.lib.berkeley.edu/instruct/guides/citations.html#Plagiarism>
- <http://gsi.berkeley.edu/teachingguide/misconduct/prevent-plag.html>

**The student community at UC Berkeley has adopted the following Honor Code:** “As a member of the UC Berkeley community, I act with honesty, integrity, and respect for

others.” The hope and expectation is that you will adhere to this code.

### **Disability Accommodations**

All reasonable efforts will be made to accommodate students with disabilities in accordance with university policy. Information about specific resources provided by the UC Berkeley Disabled Students’ Program may be found online at <http://dsp.berkeley.edu/dspServices.html> or by calling (510) 642-0518 or (510) 642-6376 (teletype). Please notify me **as soon as possible and no later than the second week of class** if you require accommodations of any kind.

### **Course Schedule**

Please note that I may make changes to the course schedule from time to time. Please pay attention to announcements made in class or posted on bCourses.

**Week 1 (January 17)**: Introduction to the course; Defining “Race” in the United States

- Appiah, “Race in the Modern World” (bCourses>Pages>January 17)
- “A Frank Conversation with a White Nationalist” (listen to podcast or read transcript)

UNIT I: RACE, NATURALIZATION AND CITIZENSHIP

**Week 2 (January 24)**

- *White by Law*, Chapters 1-4 and Appendix B

**Week 3 (January 31)**

- *White by Law*, Chapters 5-8

**Week 4 (February 7)**

- Molina, “In a Race All Their Own” (bCourses>Pages>February 7)
- Lee, “Birthright Citizenship, Immigration, and the U.S. Constitution: The Story of *Wong Kim Ark*” (bCourses)

**Week 5 (February 14)**

- Omi & Winant, “Racial Formation,” Chapter 4 of Racial Formation in the United States: From the 1960s to the 1990s (bCourses)
- Feagin & Elias, “Rethinking Racial Formation: A Systemic Racism Critique” (bCourses)

**Week 14 (April 25)**

- Gotanda, “The Story of *Korematsu*: The Japanese-American Cases” (bCourses)
- Volpp, “The Citizen and the Terrorist” (bCourses)

UNIT II: THE FOURTEENTH AMENDMENT AND LEGAL COLORBLINDNESS

**Week 6 (February 21)**

- *Plessy v. Ferguson* (bCourses)
- Thomas, “Introduction,” *Plessy v. Ferguson: A Brief History with Documents*

**Week 7 (February 28)**

- *Brown v. Board of Education I* (1954) (bCourses)
- *Brown v. Board of Education II* (1955) (bCourses)
- Balkin, “Introduction,” *What Brown v. Board of Education Should Have Said*

**Week 8 (March 7)**

- Thomas, “Toward a Plain Reading of the Constitution” (bCourses)
- Balkin & Siegel: “The American Civil Rights Tradition: Andisubordination or Anticlassification?”

**Week 9 (March 14)**

- *Parents Involved in Community Schools v. Seattle School District No. 1* (excerpt on bCourses)
- Entin, “*Parents Involved* and the Meaning of *Brown*” (bCourses)

UNIT III: LEGAL STRUCTURES AND THE PERSISTENCE OF RACE

**Week 10 (March 21)**

- Brodtkin Sacks, “How Did Jews Become White Folks?” (bCourses)
- Harris, “Whiteness as Property” (excerpt on bCourses)

**Week 12 (April 4)**

- *The New Jim Crow*, Introduction – Chapter 3

**Week 13 (April 11)**

- *The New Jim Crow*, Chapters 4 – 6

**Week 11 (April 18)**

- Rothstein, “The Making of Ferguson” (bCourses)
- Epstein, “Race Baiting and Ferguson” (bCourses)
- McGurn, “Baltimore is Not About Race” (bCourses)