

Race, Racism & American Law -- Syllabus

A. Goals of this Seminar

In this course we will look at the intersection between race and the law in an effort to facilitate discussion and understanding of the role law has played and/or continues to play both in the subordination and promotion of the rights of people of color in America. This course seeks to further develop your critical thinking and writing skills. We will look primarily to the text book for our understanding, but you also will be exposed to various source materials in an effort to assist you in producing a worthwhile scholarly paper. Those electing to take this class should understand that this class continually examines how power has been distributed by the law and how power has been used to privilege some and marginalize and/or oppress others. The primary theory underlying this class is called Critical Race Theory. Critical Race Theory is premised upon the following four intellectual themes: 1) using law to achieve racial equality; 2) illustrating how law subordinates the interests and concerns of racial minorities; 3) the belief that much of American society and its institutions is inherently racist even if not consciously so; and 4) the belief that the experience of racial minorities is important when creating legal doctrine that affects people of color. Critical Race theory is race conscious. It looks at how race operates or how law operates at the intersection of race. It debunks the myth of colorblindness by illuminating hidden racial assumptions that are unconsciously embedded in the logic we herald as non-biased neutral legal reasoning. It urges us to continuously conduct a process of self critical evaluation so that we become aware of our own biases and the cultural beliefs and practices that reinforce those biases. Critical Race Theory recognizes that we all have bias. Critical Race Theory teaches students to think systemically about problems of racialized people. Rather than looking for a specific actor who acted with specific intent to racially discriminate, CRT refocuses the inquiry to an examination of the harm people of color experience even in the absence of intent or a specific actor. In short, this class takes a critical look at how power has been used in the past and how it may be used presently to harm the people who as a group do not have power (racial minorities).

B. Course Materials

- i. Critical Race Theory (Thomson West 2003) by Dorothy A. Brown
- ii. Recommended: Academic Legal Writing: Law Review Articles, Student Notes and Seminar Papers by Eugene Volokh (2003).
- iii. Handouts as appropriate.

C. Tentative Syllabus

Week 1—Jan. 10. **What is Race?** Video Series

Week 2 – Jan. 17 **Introduction to Critical Race Theory** – Brown Ch. 1.
How Are Whites Central to Critical Race Theory?

Week 3 – Jan 24. **Adopt a general topic for your paper. You will be asked to share your topic with the class orally. If we all know what everyone is working on, we can share resources that we find that may be helpful to each other.**
Brown pp. 40-78. Why are there so few black lawyers in corporate law firms? We will discuss how to write a seminar paper.

Week 4- Jan. 31 Does diversity matter in the legal profession? Brown pp. 79-97.
Develop a thesis from your general topic. Be prepared to share your thesis orally with the class.

Week 5- Feb. 7 Brown – Ch. 3 --Critical Race Theory and Torts, pp. 98-137.
Written outline of paper due.

Week 6- Feb. 14 Critical Race Theory and Contracts pp. 138-177

Week 7- Feb.21 Critical Race Theory and Criminal Procedure -Ch. 5--pp. 178-198.
This week each student must submit an annotated bibliography of at least 20 potential sources for the paper. The sources should relate to your topic and most of them should come from independent research, not the bibliographies I have provided.

Week 8—Feb. 28 Driving While Black pp. 199-234

Week 9—March 7 **Spring Recess; No Class (Work on your papers!!)**

Week 10- March 14 Critical Race Theory and Criminal Law pp. 235-261

Week 11—March 21 Critical Race Theory and Sentencing pp. 261-278

Week 12- March 28 Critical Race Theory and Property pp. 279- 311

Week 13- April 4

Critical Race Theory and Civil Procedure pp. 312-348

Week 14- April 11 **Give 15 minute oral presentation of your paper in class. Respond to questions/comments.**

Week 15—April 18 Complete oral presentations. **Papers are due Monday, April 24, 2006 by 5:00p.m. You may submit your paper by e-mail, TWEN or hard copy to my mailbox or in person.**

D. Classroom Procedures

I appreciate that discussions regarding race are particularly provocative and must be handled with extreme tolerance and sensitivity. I do my best to ensure that all students feel comfortable, and that all students have a voice in the class. No matter how much you may disagree with a particular viewpoint, I trust and expect that each of you will refrain from eschewing insults and name-calling. Any student who resorts to such unprofessional conduct will be subject to removal from the class. This class is intended to further discussion, not halt it. The subject matter of this course is sensitive and at times uncomfortable for all of us. Majority students who take this class often feel uncomfortable by the critical scrutiny given to the conduct of whites, and minority students are often offended when racial stereotypes or pejorative terms or practices are discussed. Nonetheless, all students are encouraged to participate in this class as we grapple with a weed as thorny as race and racism.

To control concerns over disruptions in class, laptop users may not use their laptops to send or receive emails or instant messages, to access the Internet, play computer games, or watch DVDs during class.

E. Grading and Evaluation

The final grade in this class will be based on attendance, class participation and the seminar paper which shall be at least 20, but no more than 30, double-spaced pages (excluding endnotes) and shall conform to the “Regulations Governing Papers Submitted For Course Credit” found in The Dickinson School of Law/PSU Student Handbook. **If you are writing a paper which you plan to submit for credit in another course, you must add ten (10) double spaced pages for each additional credit. For example, if you are taking another 2 credit seminar course and write one paper and submit it for this class and the other seminar, your paper must be at least 40 double spaced pages excluding endnotes.**

Under my guidance, each of you shall select a topic of research related to any area of race and the law. Your topic and thesis may be on anything that is related to race and the law. Moreover, your topic and thesis may challenge or critique Critical Race Theory or other outsider theories of race and the law. **The seminar paper is due on the last day of classes which is Monday, April 24, 2006.**

To get you started on paper topics, I have three suggestions: (1) take a look at law school journals that publish articles exclusively related to race such as the Michigan Journal of Race and the Law or the Washington and Lee Race and Ethnic Ancestry Journal. This will give you an idea of what issues are presently being discussed in the area; (2) two annotated bibliographies on law review articles relating to race and law materials may be found at 79 Virginia Law Review 461 (1993) and 66 Univ. of Colorado Law Review 159 (1995). I have posted a non-annotated bibliography on the TWEN page under website links; and (3) I am available to discuss and help formulate ideas for seminar paper topics.

F. Seminar Paper: First Draft Prior to Final

To help you manage your time this semester and to assist you with your writing, I have imposed deadlines for choosing topics and submission of outlines and source material. Although you are not required to submit a draft of your article to me, you are encouraged to do so. I will review one draft of your paper and give comments.

Please note that any draft submitted to me for review should not be a first time write-up; rather, it should completely reflect all your ideas on your paper topic. Accordingly, you will benefit the most from my comments if you submit as complete a draft as possible, covering all the portions of your paper. **The deadline for voluntary submission of drafts for review is March 14, 2006 (This is the week following Spring Recess).** If you have your draft completed prior to this date, please feel free to submit it to me in advance of the March 14th deadline. The final paper is due on **April 24, 2006.**

G. Class Attendance

My class attendance policy is simple: absent extraordinary unforeseen circumstances, if you have more than **four (4) absences** (without regard to whether the absence is excused or unexcused), you will receive a failing final grade.

H. Academic Integrity

The Penn State Dickinson School of Law Honor Code, (available on the law school's website under "Intranet"), serves to safeguard and promote the ideals of honor and integrity within The Dickinson School of Law by prohibiting lying, cheating, stealing, and other dishonorable conduct. Accordingly, all students should act with personal integrity, respect other students' dignity, rights and property, and help create and maintain an environment in which all can succeed through the fruits of their efforts.

Dishonesty of any kind will not be tolerated in this course. Dishonesty includes, but is not limited to, cheating, plagiarizing, fabricating information or citations, facilitating acts of academic dishonesty by others, having unauthorized possession of examinations, submitting work of another person or work previously used without informing the instructor, or tampering with the

academic work of other students. Students who are found to be dishonest will receive academic sanctions and will be reported to the law school's Honor Administrator for possible further disciplinary sanction. For an explanation of what types of conduct constitute plagiarism, see the definition of plagiarism in the Law School Honor Code section 1.2 (R).

I. Recommended Reading

Academic Legal Writing: Law Review Articles, Student Notes and Seminar Papers by Eugene Volokh (2003). This book is a good source to help you understand the methodology for academic legal writing. It will help you formulate a thesis and the road map for your paper.

J. Disability Access Statement

The Pennsylvania State University encourages qualified people with disabilities to participate in its programs and activities and is committed to the policy that all people shall have equal access to programs, facilities, and admissions without regard to personal characteristics not related to ability, performance, or qualifications as determined by University policy or by state or federal authorities. If you anticipate needing any type of accommodation in this course or have questions about physical access, please tell the Assistant Dean or Director of Student Services as soon as possible.

K. Interesting Books:

- (1) Victor Romero, Alienated (NYU Press 2004)
- (2) Mari Matsuda et al., Words That Wound: Critical Race Theory, Assaultive Speech, and the First Amendment.
- (3) Kevin R. Johnson, Mixed Race America and the Law
- (4) Kimberle Crenshaw et al., Critical Race Theory: The Key Writings That Formed The Movement
- (5) Derrick Bell, Faces at the Bottom of the Well: The Permanence of Racism.
- (6) Greg Williams, Life on the Color Line
- (7) Eric Yamamoto et al., Race, Rights & Reparation
- (8) Frank Wu, Yellow
- (9) Melvin Oliver, Black Wealth/ White Wealth