

**Casebooks & Materials:**

1. Richard Delgado and Jean Stefancic, *CRITICAL RACE THEORY: AN INTRODUCTION* (2001) (required)
2. Emma Coleman Jordan and Angela P. Harris, *WHEN MARKETS FAIL: RACE AND ECONOMICS* (2006) (required)
3. Eric Yamamoto, Margaret Chon, Carol Izumi, Jerry Kang and Frank Wu, *RACE, RIGHTS AND REPARATION: LAW AND THE JAPANESE AMERICAN INTERNMENT* (2001) (required, including chapter 8 (2003), available for free download at: <http://www1.law.ucla.edu/~kang/racerrightsreparation/>)
4. Additional cases and materials on the class TWEN site (required if listed in the assigned readings below)
5. Occasional Handouts (optional - to be distributed in class or through the TWEN site)

**Goals:**

This course addresses law and its relationship to racial justice. Race is one of the fundamental axes of social injustice in the U.S. The legal system operates to create, reinforce and mask racial injustice. Yet law simultaneously provides practical tools to further social justice values. This course should help you develop a deeper grasp of the role law plays in constructing and sustaining “race” and “racism.” As lawyers committed to social justice, you can better hold our legal system accountable to its stated principles of due process of law and equal protection of the laws, with this understanding.

Because race is not the only category through which unjust power relations are formed, we cannot grasp the full extent of racism without analyzing how it intersects with other “isms” to create larger structures of social oppression. In our discussions, we will address other forms of social injustice, such as discrimination based on gender, class, sexual orientation, disability, etc. While the primary focus of this class is the category of race and its primary theoretical lens is critical race theory, we will also examine other significant social categories and theoretical approaches. In particular, the Jordan and Harris text highlights issues of race combined with social class. It will focus on some of the contradictions arising from market-based economies that regularize and even justify inequality, while functioning within a democratic framework that idealizes the political value of equality. It will also contrast market-based and/or law and economics responses to race and race theory with critical approaches.

As Dr. Martin Luther King, Jr. stated, our overall goal should be to elicit “creative tension,” without which we cannot unlearn some of the insidious lessons

that all of us have been taught about race. One of the biggest defense mechanisms that many people have towards racial issues is to intellectualize or rationalize these issues rather than to embrace the creative tension they evoke. Gut level responses are an inevitable part of the progression to true understanding about our shared dilemma. Students in this class have shared very personal stories, and many have even cried. Unlike many other law classes, this class depends very much on students' recognition and acceptance of emotional dynamics. You should approach this class with the awareness that it will challenge you deeply on many different levels.

By the end of the semester, you should have some theoretical frameworks and practical tools that will allow you to

- communicate more effectively with colleagues, clients and other justice system stakeholders who have different racial experiences than yours;
- recognize issues of race that underlie our legal, political and social institutions;
- analyze the racial content of seemingly race-neutral laws and actions; and
- be better equipped to work towards achieving racial justice, in your capacities as lawyers as well as a citizens who want to make a difference.

### **Grading:**

1. Individual Papers (not graded but required): During the first third of the class, you will prepare and post to the TWEN site a short (two to three pages doubled spaced) essay once a week. The exact details are specified in the assignments below. A total of five papers (ten to fifteen pages) will be required. I will read them and make comments, but not grade them.
2. Class Facilitation (50%): During the last third of class, you will lead a class with three to five other students. I will pass out more specific directions and evaluation criteria at the appropriate time.
3. Final Paper (50%): You will prepare a five to seven page (double spaced) paper on the topic of the class that you facilitated. This should include all the materials assigned for that class. You will analyze these materials using the concepts we have discussed in the first half of class (e.g., color-blindness, interest convergence, idealist v. realist views of racism, oppression, individual v. structural discrimination, etc.). Your paper should take into account important points that were discussed in earlier classes as well as within your class facilitation. It should demonstrate your integration of theoretical concepts with the specific issues raised by the materials. It is due no later than two weeks after the class facilitation.
4. Attendance (bump up or down): Class attendance and participation is very important in a class such as this. If your attendance falls below a minimum acceptable level, then your grade will be affected accordingly. More than five unexcused absences will result in a lowering of your grade.

5. Class Participation (ungraded and very complex – please read the following carefully): I will not evaluate class participation. However, because of the emotional and social dynamics of the class, you may need to:

- Give each other space to make mistakes. People *will* make statements that will be considered racist or insensitive. Try to call attention to what is being said with an “I” statement, e.g., “I felt that John/Jane Doe’s statement was racist because [fill in the blank]. Avoid *ad hominem* or *feminem* attacks. Focus on the statement rather than the person. We have all internalized racism and gently need to be made aware of it when it bubbles up. There will be different degrees of awareness of racism in the class, ranging from high (usually, but not always correlated with being a member of racial minority group) to clueless. Be tolerant of the different paths that people take to understanding this complex phenomenon.
- Conversely, speak up when you feel attacked. Let others know that a statement directed toward you made you feel uncomfortable, e.g., “I feel like statement X is an attack on me because [fill in the blank].” Don’t wait for the teacher or other students to pick up on negative dynamics.
- Not talk when you should be listening. Generally, we don’t do enough in law school to teach listening skills. In a class like this, it will be especially important to listen and truly *hear* what your classmates are saying. I often find that people in the agent (privileged) racial group will dominate the conversation even when it is important for them to learn from those in the target (subordinate) racial groups. Please monitor yourself and practice listening (which includes *not* speaking when you are feeling reactive).
- Conversely, talk when you would rather not. People in the target (subordinate) racial groups often do not want to talk in this class for many reasons including (1) they are not used to having a forum for sharing their perspectives; (2) they are tired of not being heard; (3) they are afraid of exposing their anger and the underlying pain. If you find that you are censoring yourself for one of these reasons, please consider making a statement even though it may be an effort for you to make it. This class is an opportunity for everyone to learn about things that people usually do not talk about.
- React calmly even when you feel defensive. Whether you are a member of the privileged or subordinate racial group, there will be moments in the class when you feel attacked. Take a deep breath, count to ten and remember that we want to create a safe learning environment. Safe doesn’t mean comfortable, but it does mean that we do not attack each other out of defensive feelings.
- Conversely, react emotionally even when others may be giving you the signal to be “rational.” You are taught in law school to be logical, cool and non-emotional when you share your views. Racism is mostly emotional and so the typical law school pedagogy will not result in deep insights. Feel your feelings, share them when appropriate (either in class or on the TWEN site or with friends or privately). You will react emotionally - the question is whether you will share these feelings with others in the class. Sometimes it will be productive for you to do that; other times, it will be better if you talk with close friends or family instead.

In other words, for every rule, there is an exception. But be intuitive and above all else, be open to other views, forgiving of others’ mistakes and ready to learn.

**Office Hours:**

I'll be available to meet with students on Tuesdays and Thursdays from 3:30-5:00 (right after class), and am available by appointment at other times. To set up an appointment, feel free to e-mail me at [mchon@seattleu.edu](mailto:mchon@seattleu.edu), or telephone me at (206) 398-4042. I will try to answer non-urgent e-mail messages within one week. If I am in my office with the door open, you should feel free to pop your head in. My office number is 454. My assistant is Phyllis Brazier and she is located on the 4<sup>th</sup> floor (XT 4084).

### **Assignments:**

DS = Delgado & Stefancic, CRITICAL RACE THEORY: AN INTRODUCTION

JH = Jordan & Harris, WHEN MARKETS FAIL: RACE AND ECONOMICS

YCIKW = Yamamoto, Chon, Izumi, Kang & Wu, RACE, RIGHTS AND REPARATION: LAW AND THE JAPANESE AMERICAN INTERNMENT

Note: there may be some changes to this syllabus; I will announce them in class. Also, the work is quite intense in the first few weeks – make sure to give yourself enough time to post readings to TWEN for others in your small group, and to read the posts by other members of your small group BEFORE class.

The assigned materials are organized into three major parts. The first part focuses on vocabulary and concepts that are helpful in understanding racism. The second part is an intensive case study of one particular group's experience with racism, that is, Japanese Americans and their internment during World War II as well as their movement for reparations. It will also focus on a case study of interest to all racial groups and the subject of a pending U.S. Supreme Court case emanating from Seattle: educational affirmative action. The third part consists of selected topics relevant to racial minority communities. This third and final part will be the basis of your class facilitation and final papers. You will be able to choose one topic out of six possible topics.

Cases on TWEN should be available by clicking on the link; otherwise the location of a TWEN document should be indicated (e.g., course materials).

**Week 1 (8/22 and 8/24)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	<p>Anti-subordination/Anti-oppression; Identity; Racial Justice</p> <ul style="list-style-type: none"> <li>- TWEN (Course Materials), Letitia Nieto, <i>Strategic Interventions for Anti-Oppression</i></li> <li>- TWEN (Web Links), Tim Wise, <i>No Such Place as Safe</i></li> <li>- TWEN, (Home Page): <b>Log onto TWEN by noon Wednesday, August 23 to determine small group memberships and to post your racial identity essay to your small group forum.</b></li> </ul>	<p>Bring to class:</p> <ul style="list-style-type: none"> <li>- Try to complete last page of Nieto reading with agent/target memberships (with outline of human body) and make sure to bring it to the first day of class. Make sure to leave completed copy with me at the end of class.</li> </ul> <p>Have Prepared:</p> <ul style="list-style-type: none"> <li>- A draft ready to post on the TWEN site: <ul style="list-style-type: none"> <li>- <b>Required Paper I:</b> Racial Identity essay (2-3 pages double-spaced)</li> <li>- Post Racial Identity essay to your small group forum on TWEN <b>by noon Wednesday, 8/23</b></li> <li>- <b>Note: the prompt for this essay is deliberately vague.</b></li> </ul> </li> </ul>
<b>TH</b>	<p>Racial Identity</p> <ul style="list-style-type: none"> <li>- JH 237-55</li> <li>- Read Racial Identity essays by others in your small group before class (this means you need access to TWEN sometime before class today)</li> <li>- Prepare to discuss essays, along these structured questions: <ol style="list-style-type: none"> <li>1) Are you clear about your racial identity? Why or why not?</li> <li>2) Who/what were the most significant influences in the establishment of your racial identity?</li> <li>3) What feelings did you experience while writing this essay?</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>- Class Reaction I (optional post to TWEN after class): 4) What patterns, themes or issues emerged from the group discussion regarding your racial experiences?</li> </ul>

**Week 2 (8/29 and 8/31)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	<p>Concepts of Race; Whiteness as a Race; White Privilege</p> <ul style="list-style-type: none"> <li>- DS 74-80 (note Glossary of Terms on 141-56)</li> <li>- JH 285-311</li> <li>- Handout: Peggy McIntosh, <i>White Privilege and Male Privilege</i></li> </ul>	<ul style="list-style-type: none"> <li>- list three privileges you experience as a member of an agent group (if you consider yourself to be non-White, then pick a social identity other than race)</li> <li>- list three oppressions as a member of a target group (if you consider yourself to be White, then pick a social identity other than race)</li> <li>- <b>Required Paper II:</b> Privilege and Oppression essay (2-3 pages): discuss whether your experience being an agent or a target (in categories other than race) help you to understand your experience being in an agent or a target racial group. Try also to identify places where they may mislead you about the nature of racism.</li> <li>- post Privilege and Oppression Essay to TWEN <b>by noon Wednesday, 8/30</b></li> </ul>
<b>TH</b>	<p>Concepts of Racism I: Agent/Target Groups</p> <ul style="list-style-type: none"> <li>- DS 56-64</li> <li>- Read Privilege and Oppression essays by others in your small group. This means you will need access to TWEN sometime before class today.               <ul style="list-style-type: none"> <li>- Prepare to discuss essays, along these structured questions:                   <ol style="list-style-type: none"> <li>1) Does white privilege exist?</li> <li>2) If so, what are the implications?</li> <li>3) How does racial privilege interface with other kinds of privilege?</li> </ol> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Class Reaction II (optional post to TWEN after class):           <ol style="list-style-type: none"> <li>4) Can non-Whites, such as Asian Americans, be White? If so, how?</li> <li>5) Can Whites choose to be non-White? If so, how?</li> <li>6) What patterns, themes or issues emerged from the group discussion regarding your racial experiences?</li> </ol> </li> </ul>

**Week 3 (9/5 and 9/7)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Concepts of Racism I: Alternate Theories - JH 311-46	- none
<b>TH</b>	Histories of Race and Racism: the Consistency of White Supremacy and Intersectionality with Gender - DS 67-74, 81-97 - JH 347-69 - YCJKW 31-40	- <b>Required Paper III</b> (2-3 pp.): discuss and analyze 1) three concepts or facts in the readings for this week that most challenge your views; and 2) three patterns or themes in the readings - post Required Paper III to TWEN site <b>by noon Monday 9/11.</b>

**Week 4 (9/12 and 9/14)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Asian Americans as a Case Study of Historical Racism - Read the Required Paper III by others in your small group before class. (This means you will need access to TWEN before class today.) - YCJKW 57-78	- Class Reaction III (optional post to TWEN after class): Respond to disagreements you have with other reading reactions in your small group or to class discussions. Consider <i>why</i> you disagree: what assumptions underlie your conclusions? What assumptions underlie the conclusions of those you disagree with?
<b>TH</b>	Concepts of Racism II: Institutional and Structural Racism - DS 1-46 - JH 1-23	<b>Required Paper IV</b> (2-3 pp.): discuss and analyze 1) three ideas or facts in the readings that most challenge your views 2) three patterns or themes in the readings - post on TWEN <b>by noon Monday 9/18</b>

**Week 5 (9/19 and 9/21)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Institutional and Structural Racism: the Role of Law - Read the Required Paper IV by others in your small group. This means you will need access to TWEN sometime before class today. - JH 23-53 - YCJKW 4-13	- none
<b>TH</b>	Asian Americans as a Case Study of Institutional and Structural Racism: the Japanese American internment - YCJKW 181-243	- <b>Required Paper V</b> (3 pp.): discuss and analyze 1) three ideas or facts in the readings that most challenge your views 2) three patterns or themes in the readings - post on TWEN <b>by noon Monday 9/26</b>

**Week 6 (9/26 and 9/28)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Institutional and Structural Racism: Small Group Discussion - Read the Required Paper V by others in your small group before class. This means you will need access to TWEN sometime before class today. - TWEN (Course Materials), Pincus, <i>Discrimination Comes in Many Forms: Individual, Institutional, and Structural</i>	- Class Reaction IV (optional post to TWEN after class): What patterns, themes or issues emerged from the small group discussion regarding institutional and structural racism?
<b>TH</b>	The Promise and Pitfalls of Law: Anti-Asian Laws and Equal Protection I - YCIKW 79-92	Meet with your facilitation group and begin to plan your presentation.



**Week 7 (10/3 and 10/5)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Promise and Pitfalls: The Internment Cases I - YCIKW 95-132	Meet with your facilitation group and begin to plan your presentation.
<b>TH</b>	Promise and Pitfalls: The Internment Cases II - YCIKW 133-66	None.

**Week 8 (10/10 and 10/12)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Promise and Pitfalls: Anti-Asian Laws and Equal Protection II - YCIKW 248-74	None.
<b>TH</b>	<b>View documentary film on Korematsu litigation: Of Civil Wrongs and Rights. If time permits, meet with facilitation groups in class.</b>	None.

**Week 9 (10/17 and 10/19)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Promise and Pitfalls: Redress and Reparations - YCIKW 275-330; 341-45; 358-87	None.
<b>TH</b>	Promise and Pitfalls: Lessons for Other Groups - YCIKW 421-76 - JH 643-51	None.

**Week 10 (10/24 and 10/26)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Promise and Pitfalls: Lessons for Other Groups - TWEN (Web Links), Chon & Arzt, <i>Walking While Muslim</i>	None.
<b>TH</b>	The Equality Principle in American Law - TWEN, <i>Plessy v. Ferguson</i> , 163 U.S. 537 (1896); <i>Brown v. Board of Education</i> , 347 U.S. 483 (1954) - <b>Guest lecturer: Professor Halliburton</b>	None.

**Week 11 (10/31 and 11/2)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	Affirmative Action as a Case Study of Institutional and Structural Discrimination - TWEN, <i>Sweatt v. Painter</i> , 339 U.S. 629 (1950) - JH 522-50 ( <i>Grutter v. Bollinger</i> )	None.
<b>TH</b>	Affirmative Action as a Case Study, continued - TWEN (Course Materials), <i>Parents Involved in Community Schools v. Seattle School District, No. 1</i> (petition for writ of cert. and opposition, 2006) - <b>Tom Brokaw documentary on race and educational affirmative action will be shown in this class. Original reading moved to new facilitation group E.</b>	None.

**Week 12 (11/7 and 11/9)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	<p>GROUP A Theory Revisited: Individual v. Structural Racism</p> <ul style="list-style-type: none"> <li>- JH 53-72;</li> <li>- TWEN, Kang, 1491-1535</li> </ul>	<p>- If you are choosing to do your <b>final paper on this topic</b>, you should post on the TWEN site by Monday before the class <b>ONE</b> question that you want the class to consider and discuss during class. You should also begin to work on your final paper, which is due on the last day of finals week.</p>
<b>TH</b>	<p>GROUP B Race and Class</p> <ul style="list-style-type: none"> <li>- JH 73-121</li> </ul>	<p>- If you are choosing to do your <b>final paper on this topic</b>, you should post on the TWEN site by Monday before the class <b>ONE</b> question that you want the class to consider and discuss during class. You should also begin to work on your final paper, which is due on the last day of finals week.</p>

**Week 13 (11/14 and 11/16)**

<b>T</b>	<p><b>GROUP C (formerly Group G) Race and the Lessons of the Japanese American Internment for Other Groups Revisited</b></p> <ul style="list-style-type: none"> <li>- TWEN (free download on Web Links), YCIKW, Chapter 8 pp. 48-88</li> </ul>	<p>- If you are choosing to do your <b>final paper on this topic</b>, you should post on the TWEN site by Monday before the class <b>ONE</b> question that you want the class to consider and discuss during class. You should also begin to work on your final paper, which is due on the last day of finals week.</p>
<b>TH</b>	<p>GROUP D The Production of Identity: Race, Sexual Orientation, Gender</p> <ul style="list-style-type: none"> <li>- JH 255-285;</li> <li>- JH 631-43;</li> <li>- JH 419-30</li> </ul>	<p>- If you are choosing to do your <b>final paper on this topic</b>, you should post on the TWEN site by Monday before the class <b>ONE</b> question that you want the class to consider and discuss during class. You should also begin to work on your final paper, which is due on the last day of finals week.</p>

**Week 14 (11/21)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	<b>GROUP E</b> <b>Race and Educational Affirmative Action Revisited</b> - JH 550-80 - TWEN, PICS Petitioner's Brief	- If you are choosing to do your final paper on this topic, you should post on the TWEN site by Monday before the class <b>ONE</b> question that you want the class to consider and discuss during class. You should also begin to work on your final paper, which is due on the last day of finals week.
<b>TH</b>	No class (Thanksgiving)	None.

**Week 15 (11/28 and 11/30)**

<b>Day</b>	<b>Reading Assignment</b>	<b>Writing Assignment</b>
<b>T</b>	GROUP F Race and "Counterculture" - JH 444-88	- If you are choosing to do your final paper on this topic, you should post on the TWEN site by Monday before the class <b>ONE</b> question that you want the class to consider and discuss during class. You should also begin to work on your final paper, which is due on the last day of finals week.
<b>TH</b>	- TWEN, Stephanie Wildman, The Persistence of White Privilege - Documentary Film: Walking the Line	None.

***Your final papers are due no later than two weeks after your class facilitation.***

***Please give them to my assistant, Phyllis Brazier, on the 4<sup>th</sup> floor of the faculty offices.***