

**Ethnoracial Identity in Anthropology, Language, and Law**  
**Anthro/LSP 624, AmSt 642, Law 723**  
**Cornell University**  
**Department of Anthropology/Latino Studies Program/American**  
**Studies Program/Cornell Law School**  
**Spring 2007**  
**Wednesdays, 4:30-6:30 p.m.**

Professor Vilma Santiago-Irizarry  
**Office Hours:** TThs, 3:00 - 5:00 p.m., or by appointment  
**434 Rockefeller Hall, Latino Studies Program**  
**Anthropology Department:** 212 McGraw Hall  
**Phone:** (607)255-6773  
**E-mail:** vs23@cornell.edu

This course will examine the role that both law and language, as mutually constitutive mediating systems, occupy in constructing ethnoracial identity in the United States. We will approach the law from a critical anthropological perspective, as a signifying (and significant) sociocultural system rather than as an abstract collection of rules, norms, and procedures, to examine how legal processes and discourses shape processes of cultural production and reproduction that contribute to the creation and maintenance of differential power relations. Course material will draw on anthropological, linguistic, and critical race theory as well as ethnographic and legal material to guide and document our analyses.

**Required Texts**

Berk-Seligson, Susan. 2002. *The Bilingual Courtroom: Court Interpreters in the Judicial Process*. Chicago: The University of Chicago Press.

Bourdieu, Pierre. 1991. *Language and Symbolic Power*. Translated by Gino Raymond and Matthew Adamson. Edited and Introduced by John B. Thompson. Cambridge: Harvard University Press.

Conley, John and William O'Barr. 1990. *Rules versus Relationships: The Ethnography of Legal Discourse*. Chicago: University of Chicago Press.

Delgado, Richard and Jean Stefancic (eds.). 2000. *Critical Race Theory: The Cutting Edge*. 2<sup>nd</sup> Edition. Philadelphia: Temple University Press.

Delgado, Richard, Jean Stefancic, and Angela Harris. 2001. *Critical Race Theory: An Introduction*. New York: New York University Press.

Haney-López, Ian F. 1998. *White By Law: The Legal Construction of Race*. New York: New York University Press.

May, Stephen. 2001. *Language and Minority Rights: Ethnicity, Nationalism, and the Politics of Language*. New York: Pearson Education.

Merry, Sally Engle. 2000. *Colonizing Hawai'i: The Cultural Power of Law*. Princeton: Princeton University Press.

--. 2006. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago: Chicago University Press.

Nader, Laura. 2002. *The Life of the Law: Anthropological Projects*. Berkeley: University of California Press.

Norgren, Jill and Serena Nanda. 1996. *American Cultural Pluralism and Law*. 2nd Edition. Westport (CT): Praeger Publishers.

Philips, Susan U.. 1998. *Ideology in the Language of Judges: How Judges Practice Law, Politics, and Courtroom Conflict*. New York: Oxford University Press.

**Optional Texts (but highly recommended):**

Crawford, James (ed.). 1992. *Language Loyalties: A Source Book on the Official English Controversy*. Chicago: University of Chicago Press.

Moore, Sally Falk. 2000[1978]. *Law As Process: An Anthropological Approach*. New Introduction by Martin Chanock. Münster-Hamburg: LIT.

Twine, Frances Winddance and Jonathan Warren (eds.). 2000. *Racing Research, Researching Race: Methodological Dilemmas in Critical Race Studies*. New York: New York University Press.

Books are on sale at the Campus Store as well as at other convenient book outlets of your choice. All course material, including required and optional texts, is on library reserve, both on the shelves and in electronic media through Blackboard.

**Course Requirements**

I expect students in this course to come to class thoroughly prepared for full and intense participation in class discussions. Class participation will count toward 25% of your final course grade. Obviously, a significant engagement with the topics we'll be discussing in the course requires perfect attendance and keeping up with the readings. To guarantee the latter, your grade will also be based on weekly written responses to the course readings (30%) and either a final research paper or a take-home essay exam (45%), depending on your status.

The weekly response (or précis) is a 1-2 pp. summary of the significant issues, ideas, and arguments presented in the week's

readings. In your response, you may also raise questions and issues regarding the authors' assertions. Note that it is not one response per article or piece assigned, but a single text synthesizing a week's batch of material. Responses will not be graded but evaluated through a checkmark system by which a checkmark will indicate an adequate response ("•"), a checkmark with a plus sign ("•/+") will mark a particularly felicitous response, and a checkmark with a minus sign ("•/-") will signal that you may be missing some of the points raised in the readings. Of course, I will also annotate your responses with comments and counter-responses to the extent that you allow me to do so.

For professional and graduate students, the final will consist of a research paper on a topic germane to the issues and situations raised in the course. I will require students to submit a statement on their chosen topic for my approval. The research paper should be 25 pages in length, excluding list of references, appendices, endnotes, and such other material you may want to include. For undergraduates, the final will be a take-home essay exam consisting of one or two essay questions on significant concepts and issues addressed in the course readings and in our class discussions. Your response[s] should be, in total, 20 pages in length, also excluding references and so on.

#### **NO LATE PAPERS/EXAMS WILL BE ACCEPTED**

*STUDENTS ARE EXPECTED TO ABIDE BY THE CORNELL CODE OF ACADEMIC INTEGRITY. IF YOU ARE NOT FAMILIAR WITH THE CODE, ITS PURPOSES, AND THE CONSEQUENCES OF VIOLATING IT, I URGE YOU TO GET A COPY OF THE ACADEMIC INTEGRITY HANDBOOK AND **READ IT**.*

*NONCOMPLIANCE WITH THE CODE MAY ENTAIL TERMINATION OF YOUR CAREER AT CORNELL.*

THE USE OF CELL PHONES OR ANY SUCH ELECTRONIC DEVICE DURING CLASS IS FORBIDDEN, EXCEPT FOR A LAPTOP COMPUTER FOR TAKING CLASS NOTES. PLEASE TURN OFF YOUR CELL PHONES WHEN YOU COME TO CLASS.

#### **Lecture and Reading Schedule**

NB: Students who are not familiar with the concept of "culture" in U.S. anthropology are well-advised to consult me on sources about it.

**Week 1 (24 January):** General housekeeping and introduction to the course

**Week 2 (31 January):** Anthropology and Law

**Readings:** Nader, *The Life of the Law: Anthropological Projects*  
Moore, "Introduction," pp. 1-31;  
"Chapter 1: Uncertainties in Situations,  
Indeterminacies in Culture," pp. 32-53;  
**and** "Chapter 2: Law and Social Change: The  
Semiautonomous Social Field as an Appropriate

Subject of Study," pp. 54-81 in *Law As Process*  
(reserve)

**Week 3 (7 February):** Language, Identities, Rights, and the Nation State

**Reading:** May, *Language and Minority Rights: Ethnicity, Nationalism, and the Politics of Language*

**Strongly suggested:**

Crawford, "Part I: Historical Roots of U.S. Language Policy,"

"Part III: Symbolic Implications of Language Conflict",

and "Part VI: International Perspectives on Language Politics" in *Language Loyalties*

**Week 4 (14 February):** Language and Law 1

**Readings:** Bourdieu, "The Force of Law: Toward a Sociology of the Juridical Field" (reserve)  
and *Language and Symbolic Power*

**Week 5 (21 February):** Language and Law 2

**Readings:** Conley and O'Barr, *Rules versus Relationships*  
Mertz, "Linguistic Constructions of Difference and History in the US Law School Classroom," pp. 218-232 in C. Greenhouse and R. Kheshti, *Democracy and Ethnography: Constructing Identities in Multicultural Liberal States* (reserve)

**Week 6 (28 February):** Discourse, Anthropology, and Law 1

**Readings:** Starr and Collier, "Introduction: Dialogues in Legal Anthropology," pp. 1-28 in *History and Power in the Study of Law: New Directions in Legal Anthropology* (reserve)  
Foucault, "Politics and the Study of Discourse," pp. 53-72,  
and "Governmentality," pp. 87-104 in G. Burchell, C. Gordon, and P. Miller (eds.), *The Foucault Effect: Studies In Governmentality* (reserve)  
and "Two Lectures," pp. 78-108 in *Power/Knowledge: Selected Interviews and Other Writings* (reserve)  
Merry, "The Discourses of the Lower Court," pp. 110-133 in *Getting Justice and Getting Even: Legal Consciousness Among Working Class Americans* (reserve)

**Week 7 (7 March):** Discourse, Anthropology, and Law 2

**Readings:** Felstiner, Abel, and Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming, and Claiming" (reserve)  
Mather, and Yngvesson, "Language, Audience, and the Transformation of Disputes" (reserve)

**Suggested:**

Brenneis and Myers, "Introduction: Language and Politics in the Pacific," pp. 1-29;  
Brenneis, "Straight Talk and Sweet Talk: Political Discourse in an Occasionally Egalitarian Community," pp. 69-84;  
**and**  
Duranti, "Lauga and Talanoaga: Two Speech Genres in a Samoan Political Event," pp. 217-242 in *Dangerous Words: Language and Politics in the Pacific* (reserve)  
Hayden, "Turn Taking, Overlap, and the Task at Hand: Ordering Speaking Turns in Legal Settings" (reserve)

**Week 8 (14 March):** Class cancelled

**NO CLASS WEDNESDAY, 14 MARCH: FORD FOUNDATION MEETING, DC  
SPRING BREAK: 17-25 MARCH 2005**

**Week 9 (28 March):** Concerning "race" and "ethnicity"

**Readings:** Haney-López, *White By Law*

Delgado, Stefancic, and Harris, *Critical Race Theory: An Introduction*

Urciuoli, "Racialization and Language," pp. 15-40 in *Exposing Prejudice: Puerto Rican Experiences of Language, Race, and Class* (reserve)

Zackodnik, "Fixing the Color Line: The Mulatto, Southern Courts, and Racial Identity" (reserve)

Williams, "Documents of Barbarism: The Contemporary Legacy of European Racism in the Narrative Traditions of Federal Indian Law";

Dudziak, "Desegregation as a Cold War Imperative";

Delgado, "Words that Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling";

Davis, "Law As Microaggression";

Delgado and Stefancic, "Part X: Beyond the Black-White Binary";

**and**

Marable, "Beyond Racial Identity Politics: Toward a Liberation Theory for Multicultural Democracy" in *Critical Race Theory: The Cutting Edge* (hereafter CRT:CE)

**Suggested:**

Twine and Warren, *Racing Research and Researching Race*

**Week 10 (4 April):** Narrativizing "Objectivity"

**Readings:** Philips, *Ideology in the Language of Judges*

Delgado and Stefancic, "Part II: Storytelling, Counterstorytelling, and 'Naming One's Own Reality'" in CRT:CE

**Week 11 (11 April):** Colonizing, "Othering," and U.S. Law

**Readings:** Merry, *Colonizing Hawai'i: The Cultural Power of Law*

Norgren and Nanda, "Introduction: E Pluribus Unum,"  
"Part 1: Race," and "Part IV: Community" in *American  
Cultural Pluralism and Law*

**Week 12 (18 April):** Language, Criminality, and Identity

**Readings:** Berk-Seligson, *The Bilingual Courtroom*  
Haviland, "Mixtecs, Migrants, Multilingualism, and  
Murder";  
and "Ideologies of Language: Some Reflections on  
Language and U.S. Law" (reserve)  
Delgado and Stefancic, "Part V: Crime" in *CRT:CE*

**Week 13 (25 April):** Structural and Institutional Issues

**Readings:** Philips, "Language Ideologies in Institutions of Power"  
(reserve)  
Delgado and Stefancic, "Part VI: Structural  
Determinism";  
"Part XIII: Legal Institutions, Critical Pedagogy,  
and Minorities in the Law";  
"Part XV: Criticism and Self-Analysis";  
and Part XVI: Critical Race Praxis" (in *CRT:CE*)

**Suggested:**

Crawford, "Part II: The Debate Over Official English";  
"Part IV: The Question of Minority Language  
Rights" in *Language Loyalties*  
and "Part V: Language Diversity and Education" in  
*Language Loyalties*

**Week 14 (2 May):** Localizing and Anthropologizing Human Rights

**Readings:** Merry, "Human Rights Law and the Demonization of  
Culture (and Anthropology Along the Way)" (reserve)  
and *Human Rights and Gender Violence: Translating  
International Law into Local Justice*

**FINAL PAPER/EXAM DEADLINE: TBA**

#### **COURSE BIBLIOGRAPHY**

Berk-Seligson, Susan. 2003. *The Bilingual Courtroom: Court  
Interpreters in the Judicial Process*. Chicago: The  
University of Chicago Press.

Bourdieu, Pierre. 1987. "The Force of Law: Toward a Sociology of  
the Juridical Field." *Hasting Law Journal* 38:805-53.

-- 1991. *Language and Symbolic Power*. Translated by Gino  
Raymond and Matthew Adamson. Edited and Introduced by John  
B. Thompson. Cambridge: Harvard University Press.

Brenneis, Donald. 1984. "Straight Talk and Sweet Talk." In D.L.  
Brenneis and F.R. Myers (eds.), *Dangerous Words: Language*

- and Politics in the Pacific*, pp. 69-84. New York: New York University Press.
- Brenneis, Donald L. and Fred R. Myers. 1984. "Introduction: Language and Politics in the Pacific." In *Dangerous Words: Language and Politics in the Pacific*, pp. 1-29. New York: New York University Press.
- Conley, John and William O'Barr. 1998. *Just Words: Law, Language, and Power*. Chicago: The University of Chicago Press.
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- Crawford, James (ed.). 1992. *Language Loyalties: A Source Book on the Official English Controversy*. Chicago: University of Chicago Press.
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- Duranti, Alessandro. 1984. "Lauga and Talanoaga: Two Speech Genres in a Samoan Political Event." In D.L. Brenneis and F.R. Myers (eds.), *Dangerous Words: Language and Politics in the Pacific*, pp. 217-242. New York: New York University Press.
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- Felstiner, William L.F., Richard Abel, and Austin Sarat. 1980. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming..." *Law and Society Review* 15(3-4):631-54.
- Foucault, Michel. 1980. "Two Lectures," in C. Gordon (ed.), *Power/Knowledge: Selected Interviews and Other Writings*, pp. 78-108. New York: Pantheon Books.
- . 1991. "Politics and the Study of Discourse," in G. Burchell, C. Gordon, and P. Miller (eds.), *The Foucault Effect: Studies In Governmentality*, pp, 53-72. Chicago: University of Chicago Press.
- . 1991. "Governmentality," in G. Burchell, C. Gordon, and P. Miller (eds.), *The Foucault Effect: Studies In Governmentality*, pp. 87-104. Chicago: University of Chicago Press.

- Greenhouse, Carol and Roshanak Kheshti (eds.). 1998. *Democracy and Ethnography: Constructing Identities in Multicultural Liberal States*. Albany: SUNY Press.
- Haney-López, Ian F. 1998. *White By Law: The Legal Construction of Race*. New York: New York University Press.
- Haviland, John B. 1989. "Mixtecs, Migrants, Multilingualism, and Murder." Working Papers and Proceedings of the Center for Psychosocial Studies, no. 25. Chicago: Center for Psychosocial Studies.
- . 2003. "Ideologies of Language: Some Reflections on Language and U.S. Law." *American Anthropologist* 105(4):764-774.
- Hayden, Robert M. 1987. "Turn-Taking, Overlap, and the Task at Hand: Ordering Speaking Turns in Legal Settings." *American Ethnologist* 4(2):251-70.
- Mather, Lynn and Barbara Yngvesson. 1980. "Language, Audience, and the Transformation of Disputes." *Law and Society Review* 15(3-4):775-821.
- May, Stephen. 2001. *Language and Minority Rights: Ethnicity, Nationalism, and the Politics of Language*. New York: Pearson Education.
- Merry, Sally Engle. 1990. "The Discourses of the Lower Court." In *Getting Justice and Getting Even: Legal Consciousness Among Working Class Americans*, pp. 110-133. Chicago: University of Chicago Press.
- . 2000. *Colonizing Hawai'i: The Cultural Power of Law*. Princeton: Princeton University Press.
- . 2003. "Human Rights Law and the Demonization of Culture (And Anthropology Along the Way)." *PoLAR* 26(1):55-76.
- . 2006. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago: Chicago University Press.
- Mertz, Elizabeth. 1998. "Linguistic Constructions of Difference and History in the US Law School Classroom." In C. Greenhouse (ed.), *Democracy and Ethnography: Constructing Identities in Multicultural Liberal States*, pp. 218-232. Albany: SUNY Press.
- Norgren, Jill and Serena Nanda. 1996. *American Cultural Pluralism and Law*. 2nd Edition. Westport (CT): Praeger Publishers.
- Philips, Susan. 1998. "Language Ideologies in Institutions of Power." In B.B. Schieffelin, K. Woolard, and P. Kroskrity



(eds.), *Language Ideologies: Practice and Theory*, pp. 211-225. New York: Oxford University Press.

-- 1998. *Ideology in the Language of Judges: How Judges Practice Law, Politics, and Courtroom Conflict*. New York: Oxford University Press.

Starr, June and Jane Collier (eds.). 1989. "Introduction: Dialogues in Legal Anthropology." In *History and Power in the Study of Law: New Directions in Legal Anthropology*, pp. 1-28. Ithaca: Cornell University Press.

Urciuoli, Bonnie. 1996. "Racialization and Language." In *Exposing Prejudice: Puerto Rican Experiences of Language, Race, and Class*, pp. 15-40. Boulder (CO): Westview Press.

Winddance Twine, Frances and Jonathan Warren (eds.). 2000. *Racing Research, Researching Race: Methodological Dilemmas in Critical Race Studies*. New York: New York University Press.

Zackodnik, Teresa. 2001. "Fixing the Color Line: The Mulatto, Southern Courts, and Racial Identity." *American Quarterly* 53(3):420-451.