

UCSD Department of Ethnic Studies
Summer Session II

Ethnic Studies 152: Law and Civil Rights

Instructor: Benita Brahmhatt
Class: MW 5-7:50pm
Solis 110

Office Hours: 7:50-8:50 MW
Or by appointment
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Course Description

In this course we will examine the ways in which the law has operated in the very structuring of the U.S. society. We will begin by discussing the nature and definition of civil rights from the colonial era to the current moment. We then move to an analysis of the legal documents – the Declaration of Independence and the Constitution – that have defined the roles and limits of the U.S. state as well as the rights of its citizens. From there we will examine various legal decisions to indicate the centrality of the law in this country's historical trajectory and present social configuration. While this course will cover a range of topics, we will focus primarily on comparative Asian American and African American legal history up to the mid-twentieth century. This course requires your active engagement with primary legal documents and scholarly essays on law and civil rights. We will use an interdisciplinary approach to critically examine how the law has been shaped by culture, science, and political movements in order to understand the complex interplay of law and society.

Assignments:

20% Attendance and Participation
30% Class Presentations (two total)
15% Short Paper
35% Final Exam

*Note on attendance: each class period during Summer Session amounts to more than a week during regular quarters. Missing class is strongly discouraged and missing more than one class may result in automatic failure in the course. If you must miss a course, you will be required to make up that days work by writing a 3-5 paper on the readings. Please see me if you have any questions about this policy or need to make special arrangements in advance.

*Note on participation: this course will be conducted as an intensive undergraduate seminar where all students are expected to actively participate in class discussion each day. Please bring the assigned readings and your notes and be prepared to engage with the course materials. Solid and thoughtful preparation on your part will make the course more rewarding for everyone.

Required Texts:

Crenshaw, Kimberly et al., *Critical Race Theory: The Key Writings that Founded the Movement*
McClain, Charles, *In Search of Equality: The Chinese Struggle against Discrimination in Nineteenth Century America*

*All other course materials will be in a reader to be bought on the first day of class.

Week One The Nature of Rights, Law, and US Social Formation

Monday August 7

Class Introduction

In class readings: The Declaration of Independence
The Constitution and Amendments

Wednesday August 9

Required Readings: Bell, Chapter 2 “American Racism and the Uses of History”
Omi and Winant, excerpts from *Racial Formation*

Recommended Reading: Matthew Frye Jacobson, “The Political History of Whiteness”
“Free White Persons' in the Republic”

Cases: *Cherokee Nation v Georgia* (1831)
Worcester v Georgia (1832)

Week Two Slavery, Citizenship, and Freedom

August 14

Readings: Hickman, “The Devil and the One Drop Rule”
Nancy Cott, “Marriage and Women's Citizenship in the US, 1839-1934”
Harris, “Whiteness as Property” ***in CRT Reader**
Thomas Jefferson, “On Negro Ability”

Cases: *People v Hall* (1854) > California Supreme Court Case
Dred Scott v. Sanford (1857)

August 16

Readings: Crenshaw et. al. “Introduction”
in CRT Reader Derrick Bell, “Brown v Board of Education and the Interest Convergence
Dilemma”
Reader* Kimberly Crenshaw, “Race, Reform, and Retrenchment”

Cases: *Takao Ozawa v. US* (1922)
US v. Bhagat Singh Thind (1923)

Week Three Civil War Amendments, Reconstruction, and Color-Blind Constitutionalism

August 21

Readings:
C. Van Woodward, “Of Old Regimes and Reconstructions” from *The Strange
Career of Jim Crow*.
John Hayakawa Torok, “Reconstruction and Racial Nativism: Chinese
Immigrants and the Debates of the Thirteenth, Fourteenth, and Fifteenth Amendments
and Civil Rights Laws,”
Lincoln, “*The Emancipation Proclamation*”
Frederick Douglass, “*The Constitution and Slavery*”

Cases: *The Civil Rights Cases* (1883)
The Slaughterhouse Cases (1873)
Strauder v Virginia (1880)
Pace v Alabama (1883)

August 23 Derrick Bell, chapter 4 “Color-Blind Constitutionalism”

Neil Gotanda, “A Critique of 'Our Constitution is Color Blind’” (**CRT Reader**)
Mark Golub, “Plessy as 'Passing': Judicial Responses to Ambiguously Raced Bodies in Plessy v. Ferguson”

Cases: *Plessy v. Ferguson* (1896)
Yick Wo v Hopkins (1886)
US v. Wong Kim Ark (1898)

Week Four Asian Americans, Immigration, and Exclusion

August 28

Readings: Charles McClain, *In Search of Equality: The Chinese Struggle against Discrimination in Nineteenth Century America*

August 30

Gabriel J. Chin, “Segregation's last Stronghold: Race Discrimination and the Constitutional Law of Immigration”
Erika Lee, “Closing the Gates,” from *At America's Gates: Chinese Immigration During the Exclusion Era*
Devon Cabrado, “Racial Naturalization”

Cases: *Chae Chan Ping v. US* (1889)
Fong Yue Ting v. US (1893)

Week Five

September 4: NO CLASS (Labor Day)

Readings from CRT Reader

“Translating “Yonnonidio” by Precedent and Evidence: The Mashpee Indian Case,” by Torres and Milun; pages:177-190
“Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color,” by Kimberle Williams Crenshaw; pages:357-383

September 6: Final Exam Day

*Exam will be in two parts: one take home essay and an in-class exam.