

# SYLLABUS

## RACE AND LAW

Special Topics in American Politics:  
RACE AND LAW  
Poli Sci 104N  
University of California at San Diego  
MATTHEUS E. STEPHENS, ESQ.

Winter 2020

## INTRODUCTION

This four credit course will explore the question: Has the law (the US Legal System) helped to end or has it contributed to racism in the United States? Using the US Constitution as a springboard, this course will explore the law and history of slavery, segregation, housing, employment and voting rights, while also studying Equal Protection doctrine, affirmative action, and criminal justice (including hate crimes and First Amendment implications).

The objective of the course is to familiarize students with the historical relationships between the law and race, racism and class in the United States; to introduce students to the historic and current legal doctrine relating to race and racism; to foster independent thinking about the relationship between the law, race and racism; and to enable students to explore interrelationships between the law and ways in which it unwinds and/or contributes to racism.

The course provides an introduction to critical constitutional law concepts in the areas of the Thirteenth, Fourteenth, and Fifteenth Amendments, Equal Protection, the First Amendment and the Civil Rights Acts. Specific topics include:

Slavery, legal emancipation, segregation, the Civil Rights Acts, the Voting Rights Act, the criminal justice system including hate crimes, housing, education, employment, affirmative action (including Proposition 209) economic segregation as well as an exploration of the concepts of class/economic justice, “color blind” policies and its intersection with race/racism. The text for the course is: **Bell, *Race, Racism and American Law*, 6<sup>th</sup> Ed. (2008)**. Because the book is a bit dated and the 7<sup>th</sup> edition has not yet been published, materials for the course will be supplemented through the class website.

The class meets once a week, on Wednesday from 6:00 p.m. to 8:50 p.m. There is so much material to cover that it’s important to start class on time. We will be hard-pressed to finish all the material by the end of the Quarter. To get the most out of this class, you will be required to do a lot of reading, re-reading and case summaries. It is also helpful if you talk in class. I find that students who articulate concepts in class generally do quite well on the exams.

## ACADEMIC DISHONESTY

Fair and effective education requires academic honesty, and any violation is a very serious matter. UCSD rules concerning academic dishonesty are spelled out in the General Catalog. Note especially the strict prohibition against plagiarism, i.e., submitting as your own or without proper attribution work done wholly or in part by another person. Plagiarism includes unauthorized collaboration on course assignments. Exams are

*closed-book*, with no aids allowed. These rules will strictly be enforced. Any academic dishonesty will **without exception** be reported to the student's dean for disciplinary action. Please go to the following website for the entire UCSD Policy on Integrity of Scholarship: <http://www.senate.ucsd.edu/manual/appendices/app2.htm#AP14>

### **CONTROVERSIAL TOPICS**

Students of all viewpoints, philosophies, religions, and backgrounds are encouraged to express their thoughts in this class. In fact, it is critical to our success. Open communication between classmates, regardless of your social, political or religious views or status is fundamental to achieving a full dialogue on these contentious and sometimes divisive topics. There is only one rule that **MUST** unequivocally be followed: all class participants must treat each other with courtesy and respect. There will be **ABSOLUTELY** no personal attacks or name-calling. This class will emphasize your reasoning and analysis skills – not the positions you take.

### **OFFICE HOURS AND CONTACT INFORMATION**

I am not a full-time professor. I am a practicing lawyer, which makes regular office hours challenging. Unless otherwise indicated, on-campus office hours will be each Wednesday before class from 5:00 to 6:00 at a location to be determined, and by appointment. My office address, phone number and e-mail address are listed below. The TA's will post office location and hours on the first night of class and will list them on the course website.

Office: (619) 906-2400 x 308; Email: [Matt@progressivelawgroup.com](mailto:Matt@progressivelawgroup.com). My office is located at 2170 Fourth Avenue, San Diego, CA 92101 (on the corner of Fifth and Ivy in Bankers Hill). There are meters along the streets and a flat lot across the street.

**You are not permitted to record the lectures. Please respect this request. This is one of the most important discussions that needs to take place in this Country now and it must be without concern of publication.**

## READING ASSIGNMENTS

*January 8 [Class One]*

- Overview of the Class / Syllabus
  - How to read case law and prepare case briefs
  - Common legal terms and IRAC
  - Film: 1861, The Cause (A Film by Ken Burns)

*January 15 [Class Two]*

- Introductory Materials
- **Race and American History**
- *Bell, Race, Racism and American Law, Chapter 2: Race and American History, pg.19-40*
  - The Emancipation Proclamation
  - The Fourteenth Amendment
  - *Dred Scott v. Sandford (1857)*
- **Race and Realism:** *Bell, Race, Racism and American Law, Chapter 2: Race and American History, pg.40-69*
  - The Thirteenth Amendment
  - The Civil Rights Acts
  - *Giles v. Harris (1903) p.53*
  - Confederate Statues and Reparations

*January 22 [Class Three]*

- **Equal Schooling and Strict Scrutiny**
- *Bell, Chapter 3, pp. 73-91*
  - *Roberts v. City of Boston (1850)*
  - *Cumming v. Richmond County Bd. of Ed. (1897)*
  - *Brown v. Board of Education (1954), pg. 85*
  - *Green v. County School Bd. of New Kent Cty (1968)*
  - *Community Schools v. Seattle School District No. 1 (2007)*
  - *Swann v. Charlotte-Mecklenburg Bd. of Ed. (1971)*
- **Neutral Principals? Charter Schools: A Savior?**

- *Bell, Chapter 3, pp. 91-111; 127-146*
  - Post-Swann
  - Charter Schools and Vouchers
  - Black schools: *Bakke to Bazemore*
  - *United States v. Fordice* (1992)

*January 29 [Class Four]*

- **Fair Employment Opportunity:**
  - Discrimination and Economic Impact
- *Bell, Chapters 4, pp. 149-169*
  - Title VII
  - 42 U.S.C § 1981
- **Title VII and the Civil Rights Act of 1991: Helping or Hurting?**
- *Bell, Chapter 4, pp. 169-178 (up to Price Waterhouse)*
  - Disparate Treatment
  - *Furnco Construction Corp. v. Waters* (1978)
  - *St. Mary's Honor Center v. Hicks* (1993)
  - *Ledbetter v. Goodyear* (2007)

*February 5 [Class Five]*

- **Fair Employment: Con't**
- *Bell, Chapter 4, pp. 178-208*
  - Disparate Impact
  - *Griggs v. Duke Power Co.* (1971)
  - *Wards Cove v. Antonio* (1989)
  - *Washington v. Davis* (1976)
  - Civil Rights Act and other Policies
- Unions and Collective Bargaining
  - *Bell, Chapter 4, pp. 209-227*
- Review for Midterm
  - For Midterm Review students must have prepared questions about the material.

- The syllabus will serve as your study guide.

*February 12 [Class Six]*

- **Midterm Exam**

*February 19 [Class Seven]*

- **Discrimination in the Administration of Justice: Is “the System” Racist?**
- *Bell, Chapter 5, pp. 265-302*
  - *Furman v. Georgia* (1972)
  - *McCleskey v. Kemp* (1987)
  - Jury Nullification
- *Bell, Chapter 4, pp. 302-331*
  - *Swain v. Alabama* (1965)
  - *Batson v. Kentucky* (1986)
  - Post-Batson

*February 26 [Class Eight]*

- **Voting Rights: Post-Reconstruction**
- *Bell, Chapter 6, pp. 341-365*
  - *Gomillion v. Lightfoot* (1960)
  - Poll Tax
  - Criminal Conviction Impact on Voting Rights
- **Voting Rights: A Twentieth Century Issue, Still?**
- *“Bell, Chapter 6, pp. 365-385*
  - Voting Rights Act
  - Gerrymanders
  - *Davis v. Bandimer* (1986)
  - *Vieth v. Jubelirer* (2004)
  - *LULAC v. Perry* (2006)

*March 4 [Class Nine]*

- **Property Ownership and Housing: Section 1982 and the Fair Housing Act of 1968**
- *Bell, Chapter 7, pp. 425-428; 438-441;444-460*
  - *Shelley v. Kraemer* (1948)
  - 42 U.S.C. § 1982
  - Fair Housing Act of 1968
- **Continuing Segregation?**
- *Bell, Chapter 7, pp.466-496*
  - Public Housing
  - Urban Renewal
  - *Arlington Heights* (1977)

*March 11 - Optional Review Class*

**March 18**

- **Final Exam 7:00pm – 10:00pm**

### **Midterm & Final Exam**

The midterm will be February 12, 2020. It will count for 40% of your grade and is a mixture of multiple-choice, short answer and fill-in the blank. The final exam is will use nearly the same format with probably slightly more emphasis on short answers. The Final is scheduled for March 18, 2020 from 7:00pm to 10:00pm.

This class is designed to have substantive content and expand your reading and analysis skills. All that is required is that you do the reading and respectfully participate in the important class discussions.

Mattheus E. Stephens