

“Can Law Fix Race?” Race, Law, and Contemporary American Society
SOC 115D
Summer 2013
Mondays & Wednesdays
10 am – 11:50 am
Building 200, room 217

Instructor: LaToya Baldwin Clark (Stanford JD, 2013; PhD Candidate in Sociology, 2014)
Office: Building 160, Room 133
Office Hours: Monday, 12 - 2pm
Contact: (215) 779-1690 (Before 10 p.m., please); latoya.clark@gmail.com

COURSE DESCRIPTION and OBJECTIVES

In this Age of Obama, why are we still talking about legal remedies to racial inequality? This course will explore this question from an interdisciplinary perspective, focusing on perspectives from both law and social science. Students will read both actual Supreme Court opinions as well as foundational works in sociology on race and law.

Through readings, discussion and activities, students will leave this course with 1) a background in the historical role of the law in relation to race; 2) an understanding in how law’s role in the maintenance of racial inequality has evolved; and 3) an ability to articulate their own views on why we are, and whether we should be, still talking about race, using both theory and empirical evidence to support their views.

COURSE REQUIREMENTS

All course participants are expected to complete required readings, attend class regularly, participate in discussions and activities, and complete assigned work.

Final course grades will consist of the following:

Class Attendance AND Participation	20%
Discussion Facilitation	20%
Quizzes	
-- Class 6 (in-class)	10%
-- Class 11 (in-class)	10%

-- Class 14 (take-home)	20%
Final Project	20%
TOTAL	100%

Attendance and Participation: 20%

You must attend class as this is an 8-week course and each session is valuable to the course. I'll be evaluating your participation in terms of quality, not quantity. Your participation should reflect careful engagement with the source material. You should be bold but reflective, inquisitive, respectful of your peers (especially in disagreement), and good humored. It is just as important to know when to forebear, as when to intervene, and it is just as important to ask good questions (even if it exposes your ignorance) as it is to offer correct answers.

The purpose of this class is for you to air your thoughts and arguments on controversial topics in an open, productive, and respectful environment. The philosophy of the course is that engaging in thoughtful discourse with others is a life skill that must be learned and practiced; readings and lectures provide information but do not otherwise prepare students for the public discussion of ideas. In the future, your employers, peers, and colleagues will often try to estimate your intellect and competence by testing your ability to participate in fluid and thoughtful discussion of topical issues. I believe opportunities to develop this skill are an essential part of what a university education should provide.

Discussion is an exchange of ideas and viewpoints, and is different from simple statements of opinion. Often, statements of opinion end conversations (e.g., "Most whites in the United States are racist" – nobody wants to defend racists!) Try to formulate your ideas as questions that invite input from others in the class. Instead of saying, "Affirmative action is a racist policy," try to say something like, "If the purpose of affirmative action is to provide opportunities to those who lack opportunity, why should we only look to race? What is wrong with making affirmative action based on class/income alone?" In general, when you formulate your ideas as questions, you get a much better and richer response.

More than two absences will negatively affect your grade. You should always let me know beforehand, by email, if you expect to miss a class.

Discussion Facilitation: 20%

Each of you will facilitate a class discussion once during the quarter, on a topic/readings of your choosing. During class #2 (June 26), you will sign up for these presentations based on your interest in a particular topic. The discussions should be well organized, discuss the readings and how they relate to each other, and provide discussion questions are thoughtful and provocative. On the Sunday prior to each discussion, each of you will email the discussion leader 2-3 questions based on that week's reading in order to help the facilitator.

Quizzes: 40%

These quizzes will follow a graduated sequence. The first quiz (Wed., July 10) will test your comprehension of key concepts and ideas that set the foundation of the rest of the course. It will consist of short answer questions. The second quiz (Wed., July 24) will require you to interpret some of the key concepts and ideas in light of the material we will cover in weeks 3-5. Finally, the third quiz will be a take-home quiz with a strict word limit (500 words). The purpose of the word limit is to encourage you to make your best argument concisely and powerfully. Because you can take home the quiz and use any of the course materials, this assignment will be worth twice that of the first two quizzes. This quiz must be completed on your own, without the assistance of any other person. This third quiz will be due via the Coursework dropbox by **5:00 p.m. on Friday, August 9.**

Final Project: 20%

The final project will be an op-ed, written in a style of your choice. Op-Eds are opinion pieces that put forth an argument in a persuasive way, using evidence, in less than 800 words. The op-ed will address the following questions: "Is it appropriate for law to attempt to remedy racial inequality? Even if it is appropriate, is law up to the task?" As a class, we will discuss the final project in more detail as the course progresses. This project must be completed on your own, without the assistance of any other person. The op-ed will be due, via the Coursework dropbox, by **5:00 p.m. on Friday, August 16.**

COURSE POLICIES

Late work (applicable to those assignments which must be handed in electronically): Numerous problems are lurking out there to help you miss assignment deadlines. Computer failures, family crises, and misreading the syllabus will all send you scrambling to complete assignments on time. Plan ahead. Late assignments will be docked a full letter grade for every day they are overdue, beginning 1 hour after the due date (i.e., if a paper due at 5pm on Friday is turned in 5 am on Saturday and earns an A, the grade will become a B.)

Regrades: If you wish to have a grade reconsidered, you must first submit to me a written statement outlining your reasons, along with the paper or exam (this option will not be available for the final assignment, given the short turn around for me to submit final grades.) This allows you to collect your thoughts and make your best case for a higher grade. In order for the assignment to remain fresh in both our minds, you must submit this appeal within 5 days of receiving the grade.

Students with Documented Disabilities: Students who may need an academic accommodation based on the impact of a disability must initiate the request with the Student Disability Resource Center (SDRC) located within the Office of Accessible Education (OAE). SDRC staff will evaluate the request with required documentation, recommend reasonable accommodations, and prepare an *Accommodation Letter* for faculty dated in the current quarter in which the request is being made. Students should contact the SDRC as soon as possible since timely notice is needed to coordinate accommodations. The OAE is located at 563 Salvatierra Walk (Phone: 723-1066, 723-1067 TTY).

Computer/Notebook/Cell phone Etiquette: Students are allowed to use their laptop computers in class for note taking or seeking resources mentioned in class only. Surfing the Internet and conducting other computer activities are **not** allowed in class, as it is disrespectful to the instructor and other students in the class. If this becomes a problem, I will ban the use of laptops altogether. Please silence or power off all cell phones while in class.

Honor Code:

1. The Honor Code is an undertaking of the students, individually and collectively:
 - that they will not give or receive aid in examinations; that they will not give or receive unpermitted aid in class work, in the preparation of reports, or in any other work that is to be used by the instructor as the basis of grading;
 - that they will do their share and take an active part in seeing to it that others as well as themselves uphold the spirit and letter of the Honor Code.
2. The faculty on its part manifests its confidence in the honor of its students by refraining from proctoring examinations and from taking unusual and unreasonable precautions to prevent the forms of dishonesty mentioned above. The faculty will also avoid, as far as practicable, academic procedures that create temptations to violate the Honor Code.
3. While the faculty alone has the right and obligation to set academic requirements, the students and faculty will work together to establish optimal conditions for honorable academic work.

It is your responsibility to be aware of what actions and behaviors constitute a violation of the honor code. To learn more, please refer to the following url:
<http://studentaffairs.stanford.edu/judicialaffairs/integrity>

COURSE SCHEDULE

The readings located on the same row as the class date are to be completed PRIOR to that class date, with the exception being class #1. In other words, you should be prepared to discuss those readings on that date. **Readings are subject to change.**

Unit 1. Race in the Legal Imagination

Class	Date	Readings
1	Mon 6/24 Introduction	None
2	Wed 6/26 Race Theory	<p>“Geometer of Race” / Stephen Jay Gould (Discover Magazine, November 1, 1994)</p> <p>"Race and Race Theory" / Howard Winant (26 Annual Review of Sociology 169 (2000)) – read only pages 172 (Origins of the Race Concept), 174-176 (Across the Atlantic), 178-180 (Limits of Contemporary Racial Theory)</p> <p>“The Absolute True Diary of a Part-Time Indian” / Sherman Alexie (excerpt)</p>

3	<p>Mon 7/1</p> <p>Creating Citizens</p>	<p>“Racial Restrictions in the Law of Citizenship,” Chapter 2 in <u>White By Law</u> / Ian Haney Lopez</p> <p>Naturalization Act of 1790</p> <p>“Yellow by law: the story of Ozawa v. United States” / Devon W. Garbado (excerpts)</p> <p><i>Dred Scott v. Sandford</i>, 60 U.S. 393 (1856) (excerpts)</p>
4	<p>Wed 7/3</p> <p>Who Is White?</p>	<p><i>In re Ah Yup</i>, 1 F. Cas. 223 (C.C.D. Cal. 1878)</p> <p><i>United States v. Thind</i>, 261 U.S. 204 (1923)</p> <p><i>Jane Doe v. Louisiana</i>, 479 So.2d 369 (1985)</p>
5	<p>Mon 7/8</p> <p>Racial Purity</p>	<p>Who Is Black? (excerpt) / F. James Davis</p> <p><i>Loving v. Virginia</i>, 388 U.S. 1 (1967)</p> <p>“White Weddings: The incredible staying power of the laws against interracial marriage.” / David Greenberg (Slate Magazine, 1999)</p>
6	<p>Wed 7/10</p> <p>Racial Caste</p>	<p><i>Plessy v. Ferguson</i>, 163 U.S. 537 (1896)</p> <p><i>Brown v. Bd. Of Education</i>, 347 U.S. 483 (1954)</p> <p>****QUIZ #1 IN CLASS****</p>

Unit 2. The Lived Experience of Race

Class	Date	Readings
7	<p>Mon 7/15</p> <p>Children</p>	<p><i>Adoptive Couple v. Baby Girl, Birth Father, and the Cherokee Nation</i> (2013)</p> <p>Brief for the Cherokee Nation</p> <p>Reply Brief for the Adoptive Couple</p> <p><i>In re Marriage of Gambla & Woodson</i>, 367 Ill.App.3d 441, 853 N.E.2d 847 (2006)</p>

8	Wed 7/17 Raced Beings	<i>Rogers v. American Airlines</i> , 527 F. Supp. 229 (SDNY 1981) “The Accidental Asian,” chapter in <u>The Accidental Asian: Notes of a Native Speaker</u> / Eric Liu (1998) <u>Working-Class White: The Making and Unmaking of Race Relations</u> (excerpt) / Monica McDermott (2006)
9	Mon 7/22 Residential Segregation	FHA 1938 Underwriting Manual “Bank Accused of Pushing Mortgage Deals” / Michael Powell (New York Times, June 6, 2009) <i>Thompson v. U.S. Dep’t of Housing and Urban Development</i> , 348 F.Supp.2d 398 (D. Md. 2005) “Locked In Segregation” / Daria Roithmayr (12 Virginia Journal of Social Policy and Law 197, 2004)
10	Wed 7/24 Political Participation	<i>Richardson v. Ramirez</i> , 418 U.S. 24 (1974) <i>Shelby County, Alabama v. Holder</i> , 679 F.3d 848 (D.C. Cir. 2012)
11	Mon 7/29 Political Participation (cont’d)	<i>Hirabayashi v. U.S.</i> , 320 U.S. 81 (1943) “Racial profiling: A matter of survival” / Michelle Malkin (USA Today, August 6, 2004) “‘Driving While Black’ and all other Traffic Offenses: The Supreme Court and Pretextual Traffic Stops” / David A. Harris (87 Journal of Criminal Law & Criminology 554) ****QUIZ #2 IN CLASS****
12	Wed 7/31 Criminal Justice	<i>Johnson v. CA</i> , 543 U.S. 499 (2005) “Race of a Criminal Record: How Incarceration Colors Racial Perceptions” / Aliya Saperstein and Andrew M. Penner (57 Social Problems 92) “When Victims Happen to be Black” / Stephen L. Carter (97 Yale Law Journal 420, 1987)

Unit 3. Can Law Fix Race?

Class	Date	Readings
13	<p>Mon 8/5</p> <p>Affirmative Actions</p>	<p><i>Ho v. San Francisco Unified School District</i>, 147 F.3d 854 (9th Cir. 1998)</p> <p><i>Parents Involved in Community Schools v. Seattle School District</i>, 551 U.S. 701 (2007)</p>
14	<p>Wed 8/7</p> <p>Affirmative Actions (cont'd)</p>	<p><i>Fisher v. University of Texas</i>, 631 F. 3d. 213 (5th Cir. 2011)</p> <p>Brief of the Asian American Legal Foundation as Amicus Curiae in Support of Petitioner, <i>Fisher v. Texas</i> (Supreme Court)</p> <p>“A Colorblind Constitution: What Abigail Fisher’s Affirmative Action Case Is Really About” / Nikole Hannah-Jones (www.propublica.org, March 18, 2013)</p> <p>****TAKE HOME QUIZ HANDED OUT****</p>
	Fri 8/9	****TAKE HOME QUIZ DUE BY 5 PM****
15	<p>Mon 8/12</p> <p>Correcting Race</p>	<p>“Rethinking Racism: Toward a Structural Interpretation” / Eduardo Bonilla-Silva (72 American Sociological Review 62, 2007)</p> <p>“From Color Line to Color Chart? Racism and Colorism in the New Century” / Angela P. Harris (10 Berkeley Journal of African American Law & Policy 52, 2008)</p>
16	<p>Wed 8/14</p> <p>Correcting Race (cont'd)</p>	<p>“A Case for Race-Consciousness” / T. Alexander Aleinikoff (91 Columbia Law Review 1060, 1991)</p> <p>“Fear of a Black President” / Ta-Nehisi Coates (The Atlantic, August 22, 2012)</p>

	Fri 8/16	***FINAL PROJECT DUE BY 5 PM***
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