

Carleton University

Department of Law and Legal Studies

Course Outline

COURSE: LAWS 5007 F - Race, Ethnicity and the Law

TERM: Fall 2021

PREREQUISITES: N/A

CLASS: Day & Time: Tuesdays, 8:30AM-11:30AM EST
Room: Online via Zoom (see Brightspace for link)

INSTRUCTOR: Atiya Husain

CONTACT: Office Hrs: By appointment
<https://atiya-husain-ofc-hrs.youcanbook.me>
Email: atiyahusain@cunet.carleton.ca

CALENDAR COURSE DESCRIPTIONS

Examines ways race and racism interact with gender and class in shaping legal system. Explores ways legal system institutionalizes racism and potential for using the legal system to combat racism. Selected areas such as immigration law and native rights may be used to illustrate themes.

COURSE DESCRIPTION

This graduate seminar surveys a range of theoretical approaches to race in relation to law. Grounded in the law in the broadest sense, course themes include sovereignty, the formation of the nation state, colonization, as well as religion and the secular.

We will closely study theoretical approaches to race that come out of a range of social science and humanities disciplines and methodologies, including approaches put forth in the Black radical tradition, whiteness studies, critical race theory, and decolonial thought. Critical race theory comes out of legal studies and is one of several critical approaches to the study of race; all of the surveyed approaches engage law. One goal of the course is to introduce seminar participants to ways of engaging in research on race and law that do not hold exclusively to the most popular paradigms inside of legal studies, but can creatively engage other paradigms to enrich our work inside of legal studies.

We will begin with a study of the debate on the origins of “race.” This foundation will be followed by a study of several major concepts and frameworks in the study of race, through the lens of various schools of thought and theoretical camps. These schools are not mutually exclusive nor absolute; they often overlap and some of their genealogies remain subject to debate. Our goal is to gain an understanding of how race – far from being a singular or uniformly understood mode of difference – can be understood critically in law through a range of theories.

Synchronous Course: This course is a real-time, online course where the instructor and students meet via web conferencing tools, at scheduled days and times. Instructors and students share information, ideas and learning experiences in a virtual course environment. Participation in synchronous courses requires students to have reliable, high-speed internet access, a computer (ideally with a webcam), and a headset with a microphone.

REQUIRED TEXTS

The readings are available in ARES on Brightspace, or they are uploaded to the calendar page on Brightspace.

FURTHER READING

Achille Mbembe - “Necropolitics” in *Public Culture*

Ania Loomba - “Periodization, Race, and Global Contact” in *Journal of Medieval and Early Modern Studies*

Anne McClintock - *Imperial Leather: Race, Gender, and Sexuality in the Colonial Contest*

Anthony Christian Ocampo - “Are second-generation Filipinos ‘becoming’ Asian American or Latino? Historical colonialism, culture and panethnicity.” in *Ethnic and Racial Studies*

Carol Pateman - *The Sexual Contract*

Carol Pateman and Charles Mills - *The Contract and Domination*

Cheryl I. Harris - “Whiteness as Property” in *Harvard Law Review*

Claire Jean Kim - “The Racial Triangulation of Asian Americans” in *Politics & Society*

Daniel Martinez-Hosang, Oneka LaBennett, and Laura Pulido - *Racial Formation Theory in the Twenty-First Century*

Derrick Bell - “Brown v. Board of Education and other interest convergence dilemma” in *Harvard Law Review*

Falguni A. Sheth - *Toward a Political Philosophy of Race*

George Lipsitz - *The Possessive Investment in Whiteness*

Gerald Horne - *The Apocalypse of Settler Colonialism: The Roots of Slavery, White Supremacy, and Capitalism in Seventeenth-Century North America and the Caribbean*

Geraldine Heng - *The Invention of Race in the European Middle Ages*

Helen Heran Jun – *Race for Citizenship: Black Orientalism and Asian Uplift from Pre-Emancipation to Neoliberal America*

Ian Haney-Lopez - *White By Law: The Legal Construction of Race*

Jasbir K. Puar - “I Would Rather be a Cyborg than a Goddess”

Joseph Massad – *Islam and Liberalism*

Junaid Rana - *Terrifying Muslims: Race and Labor in the South Asian Diaspora*

Leti Volpp – “The Citizen and the Terrorist” in *UCLA Law Review*

Lewis Gordon - *Freedom, Justice, and Decolonization*

Mahmood Mamdani - *Good Muslim, Bad Muslim: America, the Cold War, and the Roots of Terror*

Nasser Hussain - *The Jurisprudence of Emergency: Colonialism and the Rule of Law*

Natalia Molina - *How Race is Made in America: Immigration, Citizenship, and the Historical Power of Racial Scripts*

Patricia Hill Collins - *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*

Ramon Grosfoguel and Eric Mielants - *The Long-Durée Entanglement Between Islamophobia and Racism in the Modern/Colonial Capitalist/Patriarchal World-System: An Introduction. Human Architecture: Journal of the Sociology of Self-Knowledge*

Raoul Peck – “Exterminate All the Brutes” on HBO (for further watching)

Roderick Ferguson – *The Reorder of Things: The University and its Pedagogies of Minority Difference*

Sherman Jackson – “Black Orientalism: Its Genesis, Aims, and Significance for American Islam” in *Black Routes to Islam*

Stefano Harney and Fred Moten - *The Undercommons: Fugitive Planning and Black Study*

Stuart Hall, Chas Critcher, Tony Jefferson, John Clarke, Brian Roberts - *Policing the Crisis: Mugging, the State, and Law and Order*

Sunaina Maira – “Citizenship, Dissent, Empire: South Asian Muslim Immigrant Youth” in *Being and Belonging: Muslims in the United States Since 9/11*

EVALUATION

How to approach this course:

As a seminar, the success of the course is heavily dependent on your preparation and engagement with the texts and each other. The best preparation involves closely reading the assigned texts with a focus on understanding the author’s arguments. Reconstructing the argument is our first task. This task requires a degree of trust and generosity in our engagement with one another on difficult subjects. We must have the possibility for disagreement and challenges put forth in good faith. We are reading the works of a variety of thinkers ranging from anticolonial revolutionaries to Nazis; agreement with the reading is not what is required of you. Rather, deep engagement with the arguments is the goal of the course. Feeling pressure to rush to a position of agreement or disagreement with the readings is one common barrier to engaging with

them. Other barriers to learning and engagement with the texts and content of the course: casual insights as analysis (“I visited X country, so I know XYZ”); pretending to already know something you just learned, which keeps you from laying the necessary foundation for learning that something; a biography-as-analysis approach (e.g. “As a person of X race, only I can speak about Y issue”). A few issues with the final approach, in no particular order: it assumes that all X race people have the same view about Y issue, which is typically empirically untrue; it merely inverts the power relation of “race” while using the same form and logic (thus encouraging us to believe that we can do nothing but reproduce “race” and its characteristically zero-sum terms); and it forecloses discussion, which is the very means by which we will learn in this course. Such statements and approaches are further discouraged due to the goals of the course. One broader goal of this course is to study the development of colonial, racial epistemologies to think about how we might follow in the path of those who develop alternative epistemologies.

As you read for this course, here are some questions you may ask yourself to understand the contours of the argument:

What questions animate the work?

How did the author(s) arrive at their conclusions? How is the argument supported empirically and/or theoretically?

What research methods were used? What is the nature of the evidence and how is it analyzed?

Who is the author in conversation with? What literatures and/or debates are they intervening in? Who/what are they arguing against? Who/what are they arguing for?

How is the author thinking about race, racism, ethnicity, and law? How do they define, periodize, historicize, and situate these concepts, and in relation to what events, concepts, and thinkers?

Grading:

My expectations for graduate students are higher than for undergraduates, and as such, my grading philosophy is also different. This seminar is designed for us to focus on the issues: to understand and engage with it at the highest possible level. Simply understanding the contours of the author’s argument is a complex enough task, and it is our first task! This task requires us to not have the question of grades at the forefront of our minds, since that can distract.

This approach informs the following rubric for determining letter grades at the end of the semester:

- A/B: you are doing all the work exceptionally, you have turned everything in (even if you required an extension, which we discussed in advance of the due date), you engage in good faith discussion with other students and the professor in the class, you ask questions when you do not understand something.
- C: you have not participated in class and have skipped multiple classes without letting me know ahead of time, your work is submitted late without advance notice of any kind.
- D/F: you have not submitted all weekly responses and are doing almost nothing at all in the course.

The assigned work and percentage breakdown informing the above letter grades is the following:

Seminar participation - 20%

One or two students will lead discussion each week, except for the first week, when we will create the schedule for the semester.

Presentations must be 40 minutes, not including Q&A. They can be on one reading from the day or all of them. Please do not regurgitate each section of a reading. Rather, select a few themes, passages, or aspects, and discuss them. You may connect them to your research if you wish or if it makes sense to do so. After your presentation, you will lead Q&A/discussion with 4-5 questions you have developed for the class and/or for me, since some of the readings are difficult and there will be some confusion. I can help you before/after/during your presentation. The only major requirement of your presentation is that it be 40 minutes. The purpose of the Q&A/discussion time is to provide you with a space to question the material, but also to pick each other's brains about what this work can do for your research. These facilitations can be done individually or in pairs.

Weekly Responses - 40%

Except for the first week and 2 grace weeks of your choice, you are required to submit a weekly writing response of about 500 words by 8pm on Monday evening via email to atiyahusain@cunet.carleton.ca. Late responses will not be accepted.

Your weekly response be used to guide class discussion when, for example, you would be invited to discuss your comments in class.

Your response may discuss a passage you find confusing; place the work in relation to other course readings; assess the methodology; discuss policy matters;

make comparisons to other cases. Above all, these are **NOT** summaries. I recommend that you discuss 3-4 things about the reading in each response. You may write about one reading or all of them; that is less important than the quality of the response.

You will be informed that your response has been received along with substantive comments via email. These comments will give you a sense of the quality of your responses and ways that you can improve for the next response, but they will not provide you with a letter grade. Responses will receive final grades at the end of the term. The responses are worth 5 percentage points each, and graded with attention to the depth/quality of analysis (4 points) and writing quality (1 point).

Final paper - 40%

This approximately 15-20 page paper is on a topic of your choice as long as it bears some relation to the major themes of the course. Use the link at the top of the syllabus to set up a meeting with me any time in the term before late October or early November for us to review your plan for your paper. You can think about this paper in relation to your MA/PhD exams, thesis/dissertation, or to just think through the pieces you are reading here. It is due on December 10 via email to atiyahusain@cunet.carleton.ca.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

On late work: If you require an extension on the final paper, email me. Let me know how long you will need and we can discuss it.

On the presentation: If there is an emergency and you learn you need to present on a different day from what you chose or was assigned to you, please inform me and your presentation group ASAP. We will try to reassign you. If it is the end of the semester and it is not possible to reassign you, you will lose those points.

You may skip 1 reading response. As a rule, they are due before class. Late submissions are not permitted for these responses since a significant part of their purpose would be moot if your submission was received after the class period.

SCHEDULE

Required readings are listed under each class meeting date.

(lib) = available online through library.carleton.ca

(BS) = available online on the course Brightspace page

Week 1, Sept 14

- Sylvia Wynter - "1492: A New Worldview," pp.5-57 in *Race, Discourse, and the Origin of the Americas: A New World View*
- Anouar Majid - Chapter 1: Pious Cruelty, pp.31-58 in *We Are All Moors: Ending Centuries of Crusades Against Muslims and Other Minorities*

Week 2, Sept 21

- Aziz Rana - "Colonialism and Constitutional Memory" in *UC Irvine Law Review*
- Carl Schmitt - "Political Theology" in *Political Theology: Four Chapters on the Concept of Sovereignty*
- Nasser Hussain - "Beyond Norm and Exception: Guantanamo" in *Critical Inquiry*

Week 3, Sept 28

- Charles Mills - *The Racial Contract*

Week 4, Oct 5

- Stuart Hall - *The Fateful Triangle: Race, Ethnicity, Nation*

Week 5, Oct 12

- Cedric J. Robinson - Chapter 7: The Nature of the Black Radical Tradition, pp.167-171 in *Black Marxism: The Making of the Black Radical Tradition*
- Cedric J. Robinson - Chapter 9: Historiography and the Black Radical Tradition, pp.185-240 in *Black Marxism: The Making of the Black Radical Tradition*
- Adolph Reed - "Introduction: Du Bois - Afro American and American Political Thought" in *W.E.B. Du Bois and American Political Thought: Fabianism and the Color Line*
- Adolph Reed - "'Tradition' and Ideology in Black Political Life" in *W.E.B. Du Bois and American Political Thought: Fabianism and the Color Line*

Week 6, Oct 19

- Sylvia Wynter - "On How We Mistook the Map for the Territory, and Re-Imprisoned Ourselves in Our Unbearable Wrongness of Being, of Désêtre: Black Studies Toward the Human Project" in *Not Only the Master's Tools: African American Studies in Theory and Practice*
- Robin Kelley - "Black Study, Black Struggle" in *Boston Review* - <http://bostonreview.net/forum/robin-d-g-kelley-black-study-black-struggle>

[No Class October 26 – break]

Week 7, Nov 2

- Ruth Wilson Gilmore – “Abolition Geography and the Problem of Innocence” in *Futures of Black Radicalism*
- Mahmood Mamdani – Introduction in *Neither Settler Nor Native: The Making and Unmaking of Permanent Minorities*
- Mahmood Mamdani – Nuremberg: The Failure of Denazification in *Neither Settler Nor Native: The Making and Unmaking of Permanent Minorities*
- Claire Vergerio – “Beyond the Nation State” in Boston Review
<http://bostonreview.net/politics/claire-vergerio-beyond-nation-state>

Week 8, Nov 9

- Jodi Melamed - Preface, pp.ix-xxiv in *Represent and Destroy: Rationalizing Violence in the New Racial Capitalism*
- Jodi Melamed - Introduction: Producing Discourses of Certainty with Official Antiracisms, pp.1-50 in *Represent and Destroy: Rationalizing Violence in the New Racial Capitalism*
- Glen Coulthard - Chapter 1: The Politics of Recognition in Colonial Contexts, pp.1-24 in *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*

Week 9, Nov 16

- Frantz Fanon – On Violence in *The Wretched of the Earth*
- Sohail Daulatzai – “‘You Remember Dien Bien Phu!’: Malcolm X and the Third World Rising” in *Black Star, Crescent Moon: The Muslim International and Black Freedom beyond America*
- Shirin Sinnar – “Separate and Unequal: The Law of ‘Domestic’ and ‘International’ Terrorism” in *Michigan Law Review*

Week 10, Nov 23

- Derrick Bell – “Who’s Afraid of Critical Race Theory?” in *University of Illinois Law Review*
- Kimberle Crenshaw – “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color” in *Stanford Law Review*

Week 11, Nov 30

- Eduardo Bonilla-Silva - "The Strange Enigma of Race in Contemporary America" in *Racism without racists: Color-blind racism and the persistence of racial inequality in America*
- Eduardo Bonilla-Silva - "The Frames of Colorblind Racism" in *Racism without racists: Color-blind racism and the persistence of racial inequality in America*
- Michael Omi and Howard Winant - "The Theory of Racial Formation" in *Racial Formation in the United States: From the 1960s to the 1990s*

Week 12, Dec 7

- Edward Said - [TBD] in *Orientalism*
- Wael Hallaq - [TBD] in *Restating Orientalism*
- Adam Shatz - "Palestinianism" - <https://www.lrb.co.uk/the-paper/v43/n09/adam-shatz/palestinianism>
- Hussein Omar - "Unexamined Life: The Too Many Faces of Edward Said" <https://thebaffler.com/salvos/unexamined-life-omar>

Dec 10: Final Paper Due

COVID-19 PREVENTION MEASURES

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs. For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:
<https://students.carleton.ca/course-outline/>.

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

Academic Accommodations for Students with Disabilities

If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable): <https://carleton.ca/pmc>.

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations,

diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/studentsupport/svpolicy/>.

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please contact the departmental administrator or visit: <https://students.carleton.ca/services/accommodation/>.

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/student-experience-resources/>.