Legal 497A
Race, Gender and the Law
Instructor:  Professor Bernie D. Jones

Class meeting time:  Mondays and Wednesdays, 1:25pm-2:40pm

Classroom:  Bartlett 207

Office Hours:  9:30-10:30, Mondays and Wednesdays
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Course Description:

This course will address how legal scholars developed newer perspectives on civil rights strategies after 1965, turning from litigation in the courts to legal education and scholarship as activism, using critical theories on race, gender and law. In the wake of the civil rights era, how have legal scholars been addressing questions of race, law and equality? How have they viewed the legal struggle for civil rights? How have they responded to civil rights issues that transcend “blackness and whiteness,” such as gender and sexuality? How have civil rights been complicated by issues relating to Latinos and Asians?

Requirements and Objectives:

Discussion will be our primary mode of learning. Thus, it is important for you to participate: attend regularly and do the assigned readings. This is not the kind of class where you can blow off the reading and then learn everything in time for the midterm exams and final paper. Everything builds upon what we previously read and talked about in class, so do the readings on a regular basis. Prior to class, I’ll submit onto WebCt,¹ discussion guidelines for you to refer to as you do the readings for class. Each guideline will be comprised of a list of questions, at most 5, you answer in paragraph format: 4-8 sentences, after you have done the readings. Do 7 during the course of the semester. Each assignment will be worth a maximum of 5 points each. Bring your responses to class. No late responses accepted. Your responses should be

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¹ http://www.oit.umass.edu/webct/campus/index.html. On WebCt, you will find important information and links. I urge you to refer to WebCt regularly, in particular for any announcements. This syllabus is subject to change, and there will not be a revised syllabus provided when there are changes. As a result, you are responsible for keeping up-to-date through WebCt prior to coming to class.
well-written and proofread; points will be taken off for responses that are not. As you answer the questions, cite to specific references from the text, and provide the page number of your citations.

Please note that your responses should be your own, and based upon your own understanding of the readings, not based upon your latest web searches, including wikipedia and google, or the conversation you had with your roommate or friends on myspace. Please note also, taking others’ ideas and presenting them as your own is plagiarism, an academic offense which can result in failure!

Be prepared to discuss the readings and your responses in class. But it is important also that as we discuss and develop our ideas, we work towards developing respectful discourse, for we will be discussing very sensitive race, gender and sexual orientation issues that are at the heart of contemporary civil rights law and policy. As such, we must be careful that our in-class discussion is grounded in civility. In discussing ideas, we will avoid attacking each other.

There will be one midterm assignment (worth 20%) and a final paper 10-15 pages. The description of the project, including the outline and bibliography, are worth 5%. The first draft is worth 20% and the final draft is worth 30%. Late assignments will be docked 5 points per day lateness. Participation: responses to the discussion questions, 10%; attendance: 15%.

Regular attendance and participation: According to the registrar’s, there are approximately 29 days of class, and I’ll be counting 15 days from the end of add-drop on September 19. For the purposes of checking regular attendance, then, I’ll begin counting from September 20. Basic attendance with no class participation will result in 1 point. Attendance with participation results in 2 points. Excellent participation will result in 3 points. Unexcused absences: zero points. As for excused absences, I am to be informed of the absence beforehand. These absences will earn a half point. Extra credit: I will increase the final grade by half a grade point of those who never miss a class, including days when assignments are due in class to my office, counting from the first day of class after the end of add-drop and who submit 10, rather than 7 responses to the discussion questions.

The midterm assignment and final paper: to be graded on a scale of 0-100. Note that: A 92-100; A- 90-91; B+ 88-89; B 82-87; B- 80-81; C+ 78-79; C 72-77; C- 70-71; D+ 68-69; D 66-67; D- 65; F 64 and below. I’ll provide a grading rubric for the project description, first draft and final paper. Please note that points will be taken off for late assignments.

Important dates: last day to add/drop, September 19; October 30, last day to withdraw.

Assigned texts:


Class meetings:

Unit 1: Familiarizing ourselves with critical perspectives on law

I. Legal Scholars on Civil Rights in the 1970s and Beyond: The Rise of Critique

September 6: Introduction to the Class

September 11: Read: “Some Critics of Law and their Critics.”


II. Does the Law have a Master Narrative?

September 18: Read: DS, Kenneth B. Nunn, Law as a Eurocentric Enterprise, 429; Derrick Bell, Property Rights in Whiteness, 71.

September 20: Read: DS, Stephanie M. Wildman with Adrienne D. Davis, Language and Silence: Making Systems of Privilege Visible, 657; Richard Delgado, Storytelling for Oppositionists and Others, 60.

III. Should People of Color Rely on the Courts for Gaining Civil Rights?

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2 To be distributed in class.
3 Available at the Jeffrey Amherst Bookstore; 55 South Pleasant Street, 413-253-3870.
September 25: Read: Bell, Serving Two Masters; DS, Neil Gotanda, A Critique of our Constitution is Color-Blind, 35; Girardeau Spann, Pure Politics, 21.

IV. Comparing “Isms;” Are We All in the Same Boat?

September 27: Read: DS, Trina Grillo and Stephanie M. Wildman, Obscuring the Importance of Race, 648; Randall Kennedy, Racial Critiques of Legal Academia, p. 313; Jerome McCristal Culp, Autobiography and Legal Scholarship and Teaching, 487.

V. Are all People of Color the Same?


VI. “All the Women are ___, all the ___ are Men”:
Women of Color on Law and Race

October 4: Read: Robin West, Jurisprudence and Gender; DS, Angela P. Harris, Race and Essentialism, 261; Paulette M. Caldwell, A Hair Piece, 275; Margaret E. Montoya, Mascaras, Trenzas, 514; Sumi K. Cho, Converging Stereotypes, 532.

October 9: Columbus Day Holiday

VII. Can those who claim to be oppressed also oppress others?

October 11: Wednesday is Monday schedule.
See in class, the documentary: Flag Wars. Available on Reserve at the library.

October 16: Read: DS, Devon Carbado, Men, Feminism, and Male Heterosexual Privilege, 525; Elvia R. Arriola, Gendered Inequality, 322; Darren Hutchinson, Out Yet Unseen, 325; Francisco Valdes, Sex and Race in Queer Legal Culture, 334.

VIII. From Theory to Practice

October 18: Read: DS, Gerald Lopez, The Work We Know So Little About, 592; Anthony Alfieri, Reconstructive Poverty Law Practice, 600. Take home midterm assignment distributed in class.

October 23: No class—work on assignment.

October 25: Midterm assignment due in class. 5 points off for assignments turned in later that day, after class, and 5 points per day lateness for those turned in any day afterwards.

October 30: Midterm assignment returned in class. Begin thinking about your research paper topic.

Unit 2: The Research Paper

November 1: Discussion of the Research Project

The end result of this project will be a research paper of about 10-15 double-spaced pages, in which you will have written about a topic that interests you. Refer to webct for the legal studies library research link. Some possibilities: you might want to study the approaches taken by different scholars to a particular topic, or do an analysis of a particular case, drawing upon different theoretical perspectives. You can also research a particular phenomenon addressed in the scholarly literature. Your topic can be contemporary or historical, drawing upon social, cultural, or even literary themes in critical theory and law. Sources: at most, 1-2 reputable websites; at most, 3-4 newspaper and magazine articles; at least 5-6 scholarly articles and books. Sources read for class are not to be used among your 5-6 scholarly articles and books.

Discussion of writing skills: Refer to “English Usage Style Composition” link on webct and the Turabian link for citation style. I'll provide a checklist for how it will be graded.

Be prepared to discuss what you might want to write about.

November 6, 8, 13: No class--you should be researching on your own.

November 15: Bring to class a 4 page description of your topic that clearly explains your research project: your thesis (the argument you are
making). Include an outline and bibliography. 5 points off for paper descriptions turned in later that day, after class, and 5 points per day lateness for those turned in any day afterwards.

November 20: Project description returned in class.

November 22, Nov. 27, Nov. 29, December 4:

December 6: First draft due to my office, 105 Gordon Hall, by 10am. Papers received after 10am will be docked 5 points. Those received on any day afterwards will be docked 5 points per day lateness.

December 11: No class.

December 13: Last day of class: First draft returned

Dec. 16-22: Final exam week; final draft of paper due by 4pm December 20, to departmental mailbox. Papers received after 4pm will be docked 5 points. Those received on any day afterwards will be docked 5 points per day lateness.