**Political Science 790:349:04**

**Special Topics: Race, Law, and Public Policy in the U.S. (Fall 2015)**

**SYLLABUS**

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Office Hour: Thursdays, by appointment only

Class Meets: Thursdays, 5:35 to 8:35

RAB 204

**Topic and Goals:**

In 1903, W.E.B. Du Bois wrote: “The problem of the twentieth century is the problem of the color line,—the relations of the darker to the lighter races…in Asia and Africa, in America and the islands of the sea.” Now, in the twenty-first century, questions still abound: What is race and what is racism? What are their meaning and significance for us today? Has the twentieth century witnessed meaningful changes that should now be given time to play themselves out, as some argue, or is our society at risk of turning its back on pressing problems of racial justice, or even of “returning to the days of Plessy,” as others contend? What theories and arguments best explain the legal reforms and changes in public policies that have taken place over the past fifty years? What are the current implications of competing perspectives and explanations? What should be done? Which theoretical perspectives, arguments, and current policy proposals make the most sense with respect to racial justice in the twenty-first century?

This seminar takes up one important dimension of these broad philosophical and political questions. It examines the role of law and courts in modern political conflicts over racial justice and injustice. We will study several policy areas or policy questions now marked by intense debate. These include (1) the history of school desegregation and the problems of urban education; (2) affirmative action in higher education; (3) employment discrimination and equal opportunity in the workplace; (4) voting rights; and (5) the role of race and racism in the criminal justice system. The seminar also seeks to place these current controversies over race and race-conscious policies in relevant historical and moral contexts. We will be especially concerned with *Brown v. Board of Education* (1954) and its ambiguous legacies. The readings include many primary texts (e.g., judicial opinions, statutes) as well as scholarly books and articles.

**Limitations and Caveats:**

The design of this seminar has several potential defects. It focuses exclusively on problems of racism and law in the contemporary United States, and neglects consideration of the histories and policies of other countries. Here, moreover, it focuses much more on theory and law than on the details of policies and policy implementation. Finally, the course focuses almost exclusively on power relations between those individuals or groups designated “White” (or “European-American”) and those individuals or groups designated “Black” (or “African-American”), and on legal/policy reforms enacted to respond to racial injustice. To put it colloquially, the problem here is that race in the United States never was and is not now only a “white/black thing.” Obviously we live in a multi-racial and multi-cultural society. In part, the narrow focus of this seminar can be justified by the view that the historical experience of African-Americans in the United States is unique. In part, it can also be justified by the view that the subordination of African-Americans by Whites (and the patterns of black resistance to that subordination) has (have) functioned as a template for the subordination and resistance with respect to other ethno-racial groups.

**Required Texts:**

The following books are available for purchase at the Cook/Douglas Co-op Bookstore. You may also be able to find them online at reduced prices, especially the Glazer book.

* Derrick Bell, *Silent Covenants: Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform* (Oxford University Press, 2004)
* Nathan Glazer, *Affirmative Discrimination: Ethnic Inequality and Public Policy*, (Harvard University Press, 1975; 2nd Edition, 1987).
* Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America* (Oxford University Press, 2014).
* Other cases and materials will be placed on Sakai.

**Assignments, Grades, Evaluation, and Format:**

The assignments for the course, and the percentages for the calculation of the final grade, are as follows:

Attendance and Participation 15%

Reading Response Papers, Average Grade: 25%

Midterm Examination 20%

Group Book Club/In Class Presentation 20%

Take Home Final 20%

**Attendance and Participation:** Class attendance is required. Together with active class participation, attendance will constitute 15% of your final grade. You are able to participate actively in class when you have read the assigned readings in advance; when you are able to restate the important information and arguments found there; and when you have formulated interesting questions or comments in response to these readings. To receive an 88 or above for this portion of your grade, you need only attend almost all classes. More than two absences from class will result in deductions from this part of your grade. More than 6 unexcused absences from class will result in an F for this part of your grade.

This is a seminar in the full sense of the term. It stresses the careful reading of texts, dialogue, discussion, and debate. Students should be prepared to be called upon in class by the instructor. For most of us, race and racism are difficult topics to discuss in public settings. Participants in such discussions in our society typically experience anxiety about being misunderstood or being labeled or stereotyped in some way. It is therefore imperative that each of us makes every effort to listen carefully to others, to treat others with equal concern and respect, and to tolerate competing views and arguments. For this format to work, each of us must make a commitment to come to class well prepared and ready to listen carefully to what others have to say.

**Reading Response Papers:** Reading response papers are short writing exercises (2-4 pages) that you will write in response to the assigned readings on a given class day. There will be three reading response papers due from each student. In order to calculate your reading response paper grade, I will take the average of the two highest grades. **No late reading response papers will be accepted under any circumstances.** During the first week, we will divide the class into three groups of 5 to 7 students each, Groups A, B and C. The designation of groups is solely for the purpose of determining when students will prepare and hand-in reading response papers. Students need not work together, although of course you may always discuss assignments with your colleagues. On designated days approximately every three weeks, students will prepare and bring to class a response paper. Papers will be handed in at the end of class. See the Course Outline and Schedule of Assignments below for the relevant dates and readings. **Detailed instructions for the preparation of your three reading response papers can be found on page 8 of this syllabus.**

**Examinations:** There will be two examinations, a midterm and a take-home final exam. The midterm exam will consist of short answer and essay questions. The take-home final will require two 3-5 page essays in response to two questions (out of a choice of four).

**Book Club/Group Presentation:** Each student will be placed in a “book club” with 5 to 7 other students. You will then work with your colleagues to meet and discuss the book, and then to prepare a ten-minute presentation to the class about the book. This part of your grade (20%) is predominantly but not exclusively a collective, group-based grade. **Detailed instructions for the book clubs can be found on page 9 of this syllabus.**

**Absences from Exams:**--As a general matter, only extreme, unexpected and well-documented emergencies will constitute an excuse for failing to sit for the midterm or to hand in the final examination on time. **Prior Notice Is Required:** In order for make-up exam to be given, students must notify me in advance of the time when the paper is due or the exam is to be given. Even if there is a valid excuse, the failure to provide prior notice will result in a zero for that paper or exam.

**ACEDEMIC INTEGRITY**--You are encouraged to discuss the course materials and the assignments and to prepare for exams with your fellow students. However, all written work must be your own. All violations of standards of academic integrity (e.g. cheating on exams; failing properly to cite authorities consulted and used for your response papers, including any sources or materials found on the internet) may be addressed through formal disciplinary procedures.

**Retain Hard Copies of All Work**--You are required to retain hard copies of all work completed, as well as all work completed and returned, over the course of the semester. You should retain these materials through June 30, 2016.

**Students with Disabilities**--If you experience any disability that requires individual accommodation to facilitate your participation and work in this course, and/or to meet with me, I encourage you to speak with me so that appropriate accommodations can be made.

**Student Advisement**—I am on campus only on Thursdays. I will make myself available to meet with students on Thursday afternoons before class. If that time slot does not work for you, then I will be happy to make arrangements to speak with you by phone. My contact information appears at the top of this syllabus.

**COURSE OUTLINE AND SCHEDULE OF ASSIGNMENTS**

**PART I: Historical Perspectives**

 ***A. Introduction:***

**Thursday, September 3rd :**

No Readings: \* Syllabus Handed Out

\* Student Information Forms Completed and Handed In.

\* Discussion of Reading Response Papers and Book Clubs

Video: \* Obama’s Speech on Race, March 2008

**Thursday, September 10th:**

Readings: \*Read this Syllabus;

\* Jack Greenberg, Remarks on Teaching Racism and the Law at Harvard Law School in 1982 [on Sakai];

\* LBJ’s Howard University Address (1965) [on Sakai]

***B. Jim Crow, the New Deal and the Law***

Readings: \* The Civil War Amendments [on Sakai]

 **\*** *The Civil Rights Cases* (1883) [on Sakai]

 \* *Plessy* v. *Ferguson* (1896) [on Sakai]

**\*** W.E.B. Du Bois, “Of Our Spiritual Strivings”; “Of Mr. Booker T. Washington and Others,” *The Souls of Black Folk* (1903) [on Sakai].

**Thursday, September 17th: [GROUP A: Reading Response Paper Due].**

Readings: \* Ira Katznelson, *When Affirmative Action Was White* (2005), “Preface: Du Bois’s Paradox” (pp. ix-xv).

**\*** *Carolene Products,* Footnote 4.

[**https://www.law.cornell.edu/supremecourt/text/304/144**](https://www.law.cornell.edu/supremecourt/text/304/144)

\* Thomas Sugrue, Thomas, *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North* (2008), Introduction (pp. xiii-xxviii); Chapter 3 (“1776 for the Negro,” pp. 59-84); [on Sakai]

***C. Brown v. Board of Education: The Case and Some Commentary***

Readings: \* *Brown v. Board of Education* [Brown I] (1954) [on Sakai]

 *\* Brown v. Board of Education* [Brown II] (1955) [on Sakai]

**Thursday, September 24th: [GROUP B: Reading Response Paper Due].**

Readings: \* Jack Balkin, “Brown as Icon” (pp. 3-28) and “the History of the Brown Litigation” (pp. 29-43) (2001)[on Sakai].

\* Derrick Bell, *Silent Covenants*, Intro, and Chapters 1-8 (pp. 1-86).

# PART II: Civil Rights Era/Post Civil-Rights Era: Laws, Policies, Legacies

## A. The Civil Rights Movement and the Civil Rights Act of 1964

Readings: \* Frances Fox Piven and Richard A Cloward, *Poor People’s Movements* (1979), Chapters 4 (the Civil Rights Movement) [on Sakai in two pdf files].

***\**** *The Civil Rights Act of 1964* (excerpts); [on Sakai]

Video: \* *Eyes on the Prize*: Birmingham, 1963.

**Thursday, October 1st: [GROUP C: Reading Response Paper Due].**

***B. School Desegregation and Affirmative Action in Higher Education:***

Readings: \* *Green v. County School Board* (1968)

 \* *Swann v. Charlotte-Mecklenburg Bd. of Education* (1971)

 \* *Keyes v. School District* (1973)

 \* *Milliken v. Bradley* (1974) [All on Sakai]

Audio: Please listen to these radio shows before class: This American Life, “The Problem We All Live With,” Parts I and II (two hours)

<http://www.thisamericanlife.org/radio-archives/episode/562/the-problem-we-all-live-with>

<http://www.thisamericanlife.org/radio-archives/episode/563/the-problem-we-all-live-with-part-two>

**Thursday, October 8th: [GROUP A: Reading Response Paper Due].**

Readings: **\*** Nathan Glazer, *Affirmative Discrimination*, “Introduction: 1987,” and Chapter 1, “The Emergence of an American Ethnic Pattern,” pp. vi-xxv; 3-32; and Chapter 3, “Affirmative Action in Education: The Issue of Busing,” pp. 77-129.

\* Derrick Bell, *Silent Covenants*, Chapters 9-12, and 14

(pp. 87-137; 161-179).

Video: \* *Eyes on the Prize,* Boston and Busing.

**Thursday, October 15th: [GROUP B: Reading Response Paper Due].**

Readings: \* *Regents of Univ. of California v. Bakke* (1978) [Sakai]

 \* *City of Richmond v. J.A. Croson Co.* (1989) [Sakai]

 *\* Adarand v. Pena* (1995) [Sakai]

 \* *Gratz/Grutter* Cases (2003)

\* *Parents Involved in Community Schools v. Seattle Sch. Dist [PICS]* (2007), Roberts, Kennedy, and Breyer opinions [on Sakai]

\* Derrick Bell, Chapter 14, “Affirmative Action and Fortuity.”

***C. The Racial Politics of Policing and Mass Incarceration (A Quick Look)***

**Thursday, October 22nd: [GROUP C: Reading Response Paper Due].**

Readings: \* Naomi Murakawa, *The First Civil Right*, entire book.

\* *Terry v. Ohio* (1968) [on Sakai]

\* The Non-indictment Cases/Protests (Ferguson; NYC). Short readings TBA.

Video: Please view this prior to coming to class (about 90 minutes): Brookings Institution Panel on Police Accountability

<http://www.brookings.edu/events/2015/03/03-race-policing-harris-lowery-murakawa-fagan#/full-event/>

**Thursday, October 29th: Midterm Examination**

***C. Discrimination and Affirmative Action in Employment: The Case of Title VII***

**Thursday, November 5th**: **[GROUP A: Reading Response Paper Due]**

Readings: *\** Review Title VII of the Civil Rights Act of 1964

\* *Griggs v. Duke Power* *Co.* (1971) [Sakai]

 \* *United Steelworkers v. Weber* (1979) [Sakai]

 **\*** Short Summary of the Piscataway Case [Sakai]

**\*** *Ricci v. DeStafano* (2009)[The New Haven Firefighters Case] [Excerpts and Readings on Sakai]

**Thursday, November 12th**: **[GROUP B: Reading Response Paper Due]**

Readings: \* Nathan Glazer, *Affirmative Discrimination*, Chapter 2, “Affirmative Action in Employment: From Equal Opportunity to Statistical Parity,” pp. 33-76.

\* Amy Gutmann, “Responding to Racial Injustice,” pp. 106-151[Sakai]

***D. Race and The Right to Vote***

**Thursday, November 19th: [GROUP C: Reading Response Paper Due]**

Readings: \* The Voting Rights Act of 1965

\* *Shaw v. Reno* [Shaw I] (1993)

 \* *Miller v. Johnson* (1995)

\* *Shaw v. Hunt* [Shaw II] (1996)

\* *Bush v. Vera* (1996)

[All on Sakai]

\* Stephen and Abigail Thernstrom, *America in Black and White* (1997), Chapter 16 (Voting Rights) (pp. 462-492) [Sakai]

 \* Gutmann, Responding to Racial Injustice, pp. 151-178 [Sakai]

Video: \* *Eyes on the Prize,* Selma

**Happy Thanksgiving!!!**

# Thursday, December 3rd:

Readings: \* Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* [2nd Edition, 2009], Introduction (pp. xix-xxvi), Chapter 8 (pp. 205-257), and Chapter 9 (pp. 258-304) [Sakai]

\* *LULAC v. Perry* (2006) [Sakai]

 \* *Shelby County v. Holder* (2013) [Sakai]

 \* Recent voter suppression controversies, Readings TBA [Sakai]

# PART III: Concluding Conversations

**Thursday, December 10th:**

Readings: \* Derrick Bell, *Silent Covenants*, Chapters 15 and Conclusion

(pp. 180-201).

\* Thernstroms, *America in Black and White* (1997), Introduction (pp. 13-22) [Sakai]

\* Book Club Group Presentations and Discussions

\* Pizza, Salad, Soda Dinner

**\*\*\*TAKE-HOME FINAL EXAMINATION, DUE THURSDAY, DECEMBER 17TH**

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**Ten Rules for the Reading Response Papers:**

(1) Your task is to select two quotes from the readings assigned for your designated day. You may select quotes from more than one reading, from any one of the readings, or from one chapter within any one of the assigned readings. Papers are to be handed in on date for which the reading is assigned. The length of the selected quote or passage should not be less than two sentences long, or more than six sentences long.

(2) The first of your selected quotes must be designated as **“the central point” quote**. That is, this quote is the one that you think best captures or summarizes the central point (or one central point) of the reading from which it is taken.

(3) The second selected quote may be any other one that you found interesting, informative, insightful, puzzling, inexplicable, incomprehensible, infuriating, etc. For example, does the second quote constitute a piece of evidence that the author offers to support her or his central proposition? Is the claim actually good evidence for the proposition? Does the second quote illustrate a problem with the author’s argument? Does the author contradict herself or himself? Did you find the quote particularly well written or moving for some reason? Did you find it troubling for some reason? Does your second quote come from a different reading? Does it tell us something about the differences between two authors or positions?

(4) Please type your full name, group letter, and the date on which the paper is due at the top of the first page. Then, on that same page, carefully and accurately reproduce your selected “central point” quote at the top of the first page, with the author or case name, title of the article, chapter or document, and PAGE NUMBER on which the quote appears in parentheses. The selected quote should be single-spaced. Then write about one page explicating the meaning of the quoted language and explaining why you think it best captures the central point or one central point of the piece. Your explanation of why the quote best captures the central point may refer to other parts of the selected reading. Your commentary should be double-spaced.

(5) Next, carefully and accurately reproduce your second selected quote at the top of a new page, with all of the same identifying information. The selected quote should be single-spaced. Then write about one page explicating the meaning of the selected quote and discussing why you selected it. Your commentary should be double-spaced.

(6) If the spirit moves you to write more than one page in response to each quote, then you may do so. However, the maximum length of commentary per quote is two and one-half pages, for a total of no more than five pages per response paper.

(7) Reading response papers must be typed. Please use a 12-point font and one inch margins throughout. Please try to write well. Be thoughtful, creative, concise and clear. Spell-check and proofread your work.

(8) Reading response papers that do not adhere scrupulously to these rules will be returned to the author for revision and resubmission before a grade is given.

(9) No late reading response papers will be accepted, period. **No electronic submissions, please.** It is therefore essential that you appear in class on the dates your three response papers are due. Please plan your schedule accordingly.

(10) I will take the average of your two highest grades as the grade for reading response papers, which grade will make up 25% of your overall grade.

Any questions? Please ask.

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**Book Club Instructions and Options**

Below you will find list of six books. Each student may list up to three books in the order of their preferences. Note that for longer books I have designated pages or specific chapters to read.

**The assignment:** You will be placed in a “book club” with four or five other students. You must read the book or the excerpt from the book. At a time and place of your mutual convenience, you must meet to discuss the book. After that, you should collaborate on a group presentation to the class in which you:

1. provide some background information about and a biographical sketch of the author;
2. summarize the thesis/argument of the book;
3. select and summarize in detail the chapter or section of the book that you think best illustrates or supports the overall argument;
4. list and discuss three specific criticisms of the book (regarding its approach; its findings; what it might overlook or fail to account for, and the like); and
5. discuss the relationship between the book and the relevant assigned readings in this class.

Your grade for this project is for the most part a collective grade. 20% of your group project grade will be determined individually, based on how all other students in the group evaluate your contributions and performances. Please hand in a copy of this form with your NAME and three choices (place a number one next to your first choice, 2 next the second, and 3 next to the third). I will try to accommodate your preference as best I can, but you may not get your first choice.

NAME:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, The New Press, 2012, Introduction, Chapters 1, 2, 3, 5, and 6.

Rank: \_\_\_\_\_\_\_\_\_\_\_

Sheryll Cashin, *Place Not Race: A New Vision of Opportunity in America*, Beacon Press, 2014.

Rank: \_\_\_\_\_\_\_\_\_\_\_

Nancy DiTomaso, *The American Non-Dilemma: Racial Inequality Without Racism*, Russell Sage Foundation, 2013, Preface, Introduction, Chapters 1, 2, 3, 4, 5, and 9.

Rank: \_\_\_\_\_\_\_\_\_\_\_

Ira Katznelson, *When Affirmative Action Was White*: *The Untold History of Racial Inequality in Twentieth-Century America*, W.W. Norton, 2005.

Rank: \_\_\_\_\_\_\_\_\_\_\_

Gerald Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change*, University of Chicago Press, 2008 [Second Edition], Chapter 1, and Part I (Civil Rights) (Chapters 2-5)

Rank: \_\_\_\_\_\_\_\_\_\_\_

Stephen and Abigail Thernstrom, *No Excuses: Closing the Racial Gap in Learning*, Simon and Schuster, 2003.

Rank: \_\_\_\_\_\_\_\_\_\_\_