

Race and the Law

Professor Tony Chase

Fall 2020 Syllabus

I. General

A. Course Information

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| 1. | Course Name | Race and the Law |
| 2. | Course Number | 6395 |
| 3. | Number of Credits | 3 |
| 4. | Meeting Times | Monday 4:00 – 5:30 PM
Wednesday 4:00 – 5:30 PM |
| 5. | Location | Distance Education – Zoom Link will be sent to all students. |

B. Professor Information

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| 1. | Name | Tony Chase |
| 2. | Office | Teaching Unit II, Suite 104F |
| 3. | Office Hours | By Appointment Only |
| 4. | Email Address | tchase@chasesource.com |
| 5. | Professor Chase's Executive Assista | Elaine Fiala
efiala@uh.edu |

II. Information about the Course

It is my expectation that students are prepared for each class offered throughout this course. Preparation is an essential requirement when in court as well as dealing with clients. Consider this course an opportunity to internalize that ethic.

You must attend 80% of your classes.

Class participation is very important. First year courses are like labs so participation in these courses are critical to your education. I invite everyone to take a strong role in class. Don't worry about looking silly. I will always try to

answer each question respectfully.

The aims of the course are to have you think about the intersection of race and law, to encourage you to think about the role law has played upon race and the role race has played upon law and its impact.

III. **Course Requirements**

Students are responsible for being present pursuant to the administrative policy. Reading assignments are tailored to ensure a manageable amount of material for each class. The materials covered in the readings are the starting point - not the goal - of each day's class. The student who desires to master the materials and concepts must expect to engage in additional analysis and synthesis. Students will be responsible for submitting a paper with a minimum of 30 pages required.

IV. **Reading Materials**

Please see attached topic schedule and reading list.

V. **UH CAPS Statement:**

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

VI. **Sexual Misconduct Statement:**

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08. Please be aware that under the sexual misconduct policy, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

Course Schedule and Topics

Week of August 24th – Introduction

Week of August 31st – The 1619 Project

Week of September 7th – No Class

Week of September 14th – Liberal vs. Critical Ideas of Race and Law

- Derrick Bell, “Serving Two Masters: Integration Ideals and Client Interest in School Desegregation Cases,” in Key Writings. (46 pgs.)
- Derrick A. Bell, Jr., “Brown v. Board of Education and the Interest Convergence Dilemma,” in Key Writings. (17 pgs.)
- Allan David Freeman, “Legitimizing Racial Discrimination through Antidiscrimination Law: A Critical Review,” in Key Writings. (70 pgs.)

Week of September 21st – Origins of Race: Critical Legal Studies and Critical Race Theory

- Richard White, *The Middle Ground: Indians, Empires, and Republics in Great Lakes Region, 1650-1815* (Cambridge: Cambridge University Press, 1991), 50-93. (43 pgs.)
- Mark Tushnet, “An Essay on Rights,” 62 Tex. L Rev. 1363 (1984). (27 pgs.)
- Kimberle Williams Crenshaw, “Race, Reform and Retrenchment: Transformation and Legitimation in Anti-Discrimination Law,” in Key Writings. (56 pgs.)
- Robin L. West, “Tragic Rights: The Rights Critique in the Age of Obama,” 53 Wm. & Mary L. Rev. 713 (2011). (34 pgs.)

Week of September 28th – Abolitionism, Segregation, & Jim Crow

- Walter Johnson, “The Slave Trader, the White Slave, and the Politics of Racial Determination in the 1850s,” Journal of American History 87 (June 2000): 13-38. (25 pgs.)
- Nancy McLean, “The Leo Frank Cases Reconsidered: Gender and Sexual Politics in the Making of Reactionary Populism,” *Journal of American History* (Dec.1991): 917-948. (31 pgs.)

Week of October 5th – Empire / Nationalism and European National Origins Act

- Gary Gerstle, “Theodore Roosevelt and Divided Character of American Nationalism,” *Journal of American History* 86:3 (1999): 1280-1307. (28 pgs.)

- Paul Kramer, “Race-Making and Colonial Violence in the U.S Empire: The Philippine-American War as Race War,” *Diplomatic History* (April 2006). (42 pgs.)

Week of October 12th – Divergence: Intersectionality, Social Construction, and Critiques of the Black/ White Paradigm

- Kimberle Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color,” in Key Writings. (58 pgs.)
- Devon. W. Carbado and Mitu Gulati, “The Fifth Black Woman,” 11 Journal of Contemporary Legal Issues 701 (2001). (30 pgs.)
- Ian F. Haney-Lopez, “The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice,” 29 Harv. C.R.-C.L. L. Rev. 1 (1994). (62 pgs.)

Week of October 19th – “Blackness” and Miscegenation

- Melvin Patrick Ely, The Adventures of Amos ‘N’ Andy (Charlottesville: University Press of Virginia), 115-159. (44 pgs.)
- Peggy Pascoe, “Miscegenation Law, Court Cases and Ideologies of Race in Twentieth-Century America,” *Journal of American History* (1996): 44-69. (25 pgs.)

Week of October 26th – Postwar Ghetto and Suburb Making

- Ta-Nehisi Coates, “The Ghetto is Public Policy,” *The Atlantic*. (6 pgs.)
- The Moynihan Report (1965). (72 pgs.)

Week of November 2nd – New Directions: Unconscious Racism and Implicit Bias

- Charles Lawrence, “The Id, The Ego and Equal Protection: Reckoning with Unconscious Racism,” in Key Writings. (71 pgs.)
- Jerry Kang and Kristin Lane, “Seeing Through Colorblindness: Implicit Bias and Law.” 58 UCLA L. Rev. 465-520 (2010). (55 pgs.)
- Washington v. Saintcalle, 2013 WL 3946038 (Wash.2013) (excerpt). (40 pgs.)

Week of November 9th – Unconscious Racism and Implicit Bias (cont’d)

- Jeffery Toobin, “A Judge Takes On Stop and Frisk,” *New Yorker*, 5/27/2013 (excerpt). (19 pgs.)
- Floyd v. City of New York, 2013 WL 4046206 (S.D.N.Y 2013) (excerpt). (12 pgs.)
- Before class please complete the online demonstration test for racial bias. Go to www.implicit.harvard.edu. The select your language, then click through to the “Race (Black-White) IAT.”

Week of November 16th – New Directions: “Post Racial” America and New Theories on Structural Racial Inequality

- Finish: Michelle Alexander, The New Jim Crow: Mass Incarceration in the Age of Colorblindness, (New York: New Press, 2012), 1-312. (212 pgs.)
- Ian F. Haney Lopez, “Post Racial Racism: Racial Stratification and Mass Incarceration in the Age of Obama,” 98 Cal. L. Rev 1023 (2010). (51 pgs.)
- Daria Roithmayr, Reproducing Racism, 1-37, 55-60, 82-92, 108-14, 148-57. (66 pgs.)

Week of November 23rd – New Directions: Race, Inequality and the Course Wrap-Up Discussion

- *Obama’s Race Speech* (Philadelphia, 2008). (4 pgs.)
- Emma Coleman Jordan and Angela P. Harris, Economic Justice: Race, Gender, Identity and Economics (2nd ed. 2011), 73-126, 542-563. (74 pgs.)
- Daria Roithmayr, Reproducing Racism, 38-48, 60-66, 93-107, 121-48. (57 pgs.)