

## CRITICAL RACE THEORY

Fall 2020

Wednesdays 5:00pm – 7:00pm

Room 355A

Prof. Jacobs

301 Holland Hall

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Office Hours will be virtual only and by appointment

This is a two credit seminar which will examine the institutionalization of racism in the development of American law. There is one required text for the course:

**RACE AND RACES: CASES AND RESOURCES FOR A MULTICULTURAL AMERICA** by Perea, Delgado, Harris, Stefanic & Wildman (Thomson West publishers)(3<sup>rd</sup> Edition).

The objective of the course is to familiarize students with the historical uses of racial concepts in the development of law, rationale for explicit inclusion of provisions in law which created disparate protection of rights under law between non-white citizens and immigrants compared to whites. In addition, the course will cover contemporary approaches in the development and application of law that mirror disparate treatment from previous eras when racial discrimination was explicitly permitted. By the end of the course students will have acquired the vocabulary necessary to speak about discrimination in law based on race, ethnicity, national origin and religion. Students will be able to examine so-called “race neutral” or “color blind” legal analysis and identify how race impacts these legal analyses.

Full preparation for class and on-time attendance in class is expected. The course grade will be calculated based on two components: Class participation and submission of an acceptable final paper. Each component represents 50% of the final grade. Excessive absenteeism will negatively impact the final grade. A seminar class meets once a week, therefore anything more than two absences for the entire semester is excessive. Failure to actively participate in class will negatively impact the final grade. Full class participation will not be awarded simply because a student shows up in class. Students must demonstrate that they have read assigned materials and can contribute to class discussions of the materials. Failure to return from class breaks in a timely fashion will result in the student being noted as absent for the class.

The final paper is to be twenty-five pages in length and must be in Bluebook format. If students require the Advanced Writing Certification, the paper must be 25 pages in length **EXCLUDING** footnotes. Each student will be required to submit an outline of her/his paper topic. **PAPER TOPICS MAY NOT BE CHANGED WITHOUT FACULTY APPROVAL** once the outline has been returned to the student. Thereafter, a draft of the paper will be required. The professor reserves the right to request a second draft if necessary and appropriate (which it usually is). Failure to submit the outline and/or any required drafts will negatively impact the final grade. The paper is a legal research paper, meaning you are researching a question of law which impacts the law's understanding or application of racial concepts. It is always best to write a paper on a subject you are interested in as opposed to one assigned to you. The paper must use primary as well as secondary resource material. Primary resource material would be cases, statutes, executive decisions, regulations and pleadings if you have access to them. Secondary source material would be law review articles and books. You may also use references to web based materials, news articles online and other internet related material **HOWEVER**, this is a legal

research paper, the majority of your source material should be to legal materials.

Papers which do not meet these criteria will not be awarded an advanced writing certificate, although they may satisfy the writing requirement for the course. For those students not needing an advanced writing certificate, which would only be a student who already has a certificate, other arrangements can be made to satisfy the writing requirement.

The classroom is an academic environment and all activities within it should be focused on development of the mind and the advancement of the understanding of the development of law. Therefore, electronic devices (laptops, tablets, netbooks, smart phones, etc.) may be turned on in the class if faculty have directed students to do so. Students may always bring their devices to class, but no devices may be turned on unless the class has been directed to do so. Surfing the internet, downloading music or other materials, updating social media pages, emailing friends and relatives and watching pornography are all strictly prohibited. Students violating this rule will be asked to leave classroom. Please make sure your notes for the reading are available in a format other than on your computer.

Announcements required by the Law School and/or the State of Florida:

The grading system at the University of Florida provides for grades that include “-“ and “+”, except there is no grade of A+.

The University of Florida recognizes students' rights to worship on state recognized religious holidays. Students wishing to take an absence on recognized religious holidays may do so without penalty. The University of Florida recognizes and adheres to rules and regulations under the Americans with Disabilities Act. Any student needing accommodation because of a disability should contact the Office of Student Affairs for further assistance.

The University of Florida adheres to all requirements under Americans with Disabilities Act. If a student needs an accommodation, he or she should contact the Office of Student Services. All students are permitted to observe officially recognized religious holidays without penalty. Absences for observation of officially recognized religious holidays do not count against the permitted absences.

(1) The faculty has been asked to give you guidelines on how long you should spend preparing for class. In a professional school environment there can only be one answer. A student needs to spend as much time preparing and is required for that student to BE prepared. Some students read faster than others. Some understand abstract concepts more quickly. One student may be able to adequately prepare for class in two hours while another may need four. Each student should spend the amount of time that will allow him/her to be adequately prepared. As a general guideline, a student should spend two to four (2-4) hours reading and preparing for each 50 minute class hour. HOWEVER, PLEASE BE ADVISED if a student spends that amount of time and comes to class unprepared, it shall not be an excuse that the suggested amount of time was spent preparing. If a student is unprepared, the student will be marked as such with the accompanying penalty mentioned above.

(2) Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via

<https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.”

Recording classes:

“Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.”

**\*\*THE SYLLABUS IS NOT A CONTRACT BETWEEN THE PROFESSOR AND THE STUDENTS. IT IS A GUIDE TO HELP YOU PREPARE EFFECTIVELY FOR CLASS. PLEASE STAY ALERT FOR ANY ANNOUNCED CHANGES IN THE SYLLABUS\*\***

## ASSIGNMENTS

### FIRST WEEK

Read Robin DiAngelo's WHITE FRAGILITY. Be prepared to discuss the following:

If you are a non-white person: which parts of the book spoke to your experiences?

If you are a white person: Did the author mention any statements you have used when discussing race?

For everyone: What is the definition of prejudice, discrimination, racism, and white supremacy? How are they different from each other? What are some privileges white persons enjoy that others do not?

Think about what is happening in our country today. Do you see any examples of the white fragility DiAngelo is writing about?

### WEEK TWO: AFRICANS

Read Perea African Americans Chapter 2 Sections 1-3 up to and including resistance  
Read two essays from Project 1619: Hannah Nikole-Jones opening essay and Tiya Miles: Chained Migration at p. 22

From the Perea, et al reading: What if anything did you learn for the first time about slavery in the colonies, or about the founders thoughts on Africans and/or slavery, or about the drafting of the Constitution and its position on slavery? Having now read the legal history of the period, why did you think the 1619 Project caused and continues to cause such an uproar?

### WEEK THREE: PRE AND POST EMANCIPATION

Watch: [Black Wall Street Documentary](#) (Tulsa, OK race riots)

Read: Perea, et al Chapter 2 Section 3 F – Section 5 Up to but not including Racism & the Military; and [Red Summer: The Race Riots of 1919](#); [Red Summer: When Racists Mobs Ruled](#)

Were you surprised at the language Justice Harlan used in his dissent in Plessy v. Ferguson? What did Harlan actually mean when he said, “color blind?” What are the different kind of rights citizens can have?

### **DISCUSSION OF PAPER TOPICS**

### WEEK FOUR: THE STRUGGLE OF NATIVE AMERICANS

Watch: [American Holocaust of the Native American Indian](#).

Read: Perea, et al. Chapter 3 up to but not including the Cherokee cases

Can what happened to the indigenous people here in the US be considered genocide? Were there similarities between how whites viewed indigenous people and black people? Were there differences? If so, what were they? Did those differences impact the development of law at the time?

### **THESIS STATEMENT AND OUTLINE DUE**

### Week FIVE: The Struggle of Native Americans continued

Perea, et al. Chapter 3 Cherokee Nations cases up to but not including Indian Gaming

[A Federal Probe Into Indian Boarding School Gravesites Seeks to Bring Healing](#); [We Won't Forget the Children](#); Interior Secretary Deb Haaland's Statement.

In class: Watch DAWNLAND

Why is it important to investigate what happened at the Indian boarding schools? Should people just go on instead of spending time on what happened? Can there be a connection between what governmental agencies did to indigenous people and the condition of people today?

### WEEK SIX: CONQUEST AND CITIZENSHIP

Read Perea, et al Chapter 4 up to but not including Lobato v. Taylor

**Week Seven CONQUEST & CITIZENSHIP continued**

**Watch:** American Experience: A Class Apart

**READ** Perea, et al., Chapter 4 up to materials on Puerto Rico

**FIRST DRAFT DUE**

**WEEK Eight ASIANS & CITIZENSHIP (Chinese Experience)**

**Watch:** Separate Lives: Broken Dreams

**READ:** Perea, et al. Chapter 5 all of Section 1

**Week Nine ASIANS & CITIZENSHIP (Japanese Experience)**

**Watch:** Of Civil Wrongs and Rights: The Fred Korematsu Story

**READ:** Perea, et al., Chapter 5 Section 2 up to Intimidation and Violence

[Anti-Asian Violence Resources](#)

**WEEK TEN: Race, Racism & Whites**

Perea et al. Chapter 6 Sections 1 and 2

National Strategy for Countering Domestic Terrorism (PDF under Materials Tab)

**WEEK ELEVEN Voting Rights**

**SECOND DRAFT DUE**

Perea et al, Chapter 8 sections 1-3

[How Shelby County v. Holder Broke America](#) (The Atlantic)

Voting Rights Redistricting guide (posted to Course Materials tab)

**WEEK TWELVE : Civil Rights to BLM**

**EYES ON THE PRIZE**

Raoul Peck's film: I AM NOT YOUR NEGRO

**WEEK 13 reserved.**