CONSTITUTIONAL LAW: SPECIAL PROBLEMS
RACE, RACISM, AND AMERICAN LAW SEMINAR, Spring 2014
Thursday 3:30-5:20 p.m.
SYLLABUS
Richard Delgado (Room 368) and Jean Stefancic (Room 370)
rdelgado@law.ua.edu; jstefan@law.ua.edu

INTELLECTUAL CONTENT
This 2 unit seminar (which meets one afternoon a week) focuses on critical race theory, a recent movement that examines the relationship among race, racism, and the U.S. legal system. The coverage is broad, including not only legislative and judicial decisions, but also the economics and social science of race, and the affective, or feeling, side of race relations. Through this course and the readings, you will gain an overview of critical race theory and more intensive exposure to certain subtopics, such as the role of history, race and sexuality, colorblindness, stereotyping, and protest rights.

You will also learn how to write a paper through a carefully phased series of steps receiving assistance at each one.

With an interpretive or critical dimension, as opposed to, for example, a litigation-oriented one, this seminar will help you gain an understanding of how race reform law works and fails, and how cultural and historical forces have shaped that body of law. Students of all backgrounds and political persuasions are welcome.

TEXTS
Two texts are required:
Derrick Bell, Race, Racism, and American Law, 6th ed. (2008).

Bell’s is the classic casebook in this field, although it focuses almost exclusively on the history and problems of African Americans. The critical race theory reader (The Cutting Edge) consists of 82 short selections from leading law review articles and books, and deals with the full range of America’s racial problems, including those of Indians, Latinos/as, Asian Americans, and whites.

Not necessary, but helpful:

STRUCTURE
The first five sessions will proceed via lecture and discussion, with the purpose of introducing critical race ideas and tools of analysis. Teams of student presenters will take responsibility for some of this coverage. The next four weeks will be devoted to individual meetings with Professors Delgado and Stefancic to develop your papers. The final five weeks will feature paper presentations and written critiques.
Your obligations, then, include attending five lectures; reading assigned material closely; meeting four times with the instructors to outline and develop a 25 page seminar paper; presenting it to the class; critiquing every classmate’s paper; and preparing a second or final draft of your paper incorporating the suggestions you have received from others.

ATTENDANCE POLICY

We expect one hundred percent attendance. If you miss any of the classes, for any but the most compelling reason, you will not receive credit for the course. Full attendance is necessary to establish the interactive community on which a successful seminar depends. Do not sign up for this class if you anticipate any conflicting demands for your attendance or participation.

SEMESTER SCHEDULE

Jan. 9  WEEK 1: CRITICAL THEMES AND CONCEPTS

*These readings discuss what is race and whether blackness is central to the concept. What is critical race theory and how did it start?*

Bell: What is Race, pp. 514-27
CRT Reader
- Introduction, pp. 1-4
- Chapter 16: Delgado, Liberal McCarthyism (cont.) pp. 147-53
- Chapter 45: Perea, The Black/White Binary Paradigm of Race, pp. 457-65
- Chapter 57: Espinoza & Harris, Embracing the Tar-Baby, pp. 567-73

Jan. 16  WEEK 2: HISTORY

*What drives racial progress? Idealism? White self-interest? And do the histories of the various groups exhibit any common features?*

Bell, Chapter 2: Race and American History, pp. 19-56, 66-68
CRT Reader
- Chapter 14: Williams, Documents of Barbarism, pp. 125-35
- Chapter 33: Perea, Race and the U.S. Mexican Border, pp. 333-41
- Chapter 46: Chang, Toward an Asian American Legal Scholarship, pp. 466-78
- Chapter 78: Haney-Lopez, White by Law, pp. 775-82

Jan. 23  WEEK 3: RACE, ROMANCE, INTERMARRIAGE, AND THE FAMILY

*These readings deal with interracial love and romance.*

CRT Reader
- Chapter 18: Gordon, Did the First Justice Harlan Have a Black Brother?, pp. 167-73
Jan. 30  WEEK 4: COLORBLINDNESS AND STEREOTYPING
These selections (and a short film) address whether society, and the court system, are colorblind. If not, should they be?
Bell, Chapter 1: American Racism and the Relevance of Law, pp. 1-18
CRT Reader
Chapter 3: Carbado & Harris, The New Racial Preferences, pp. 25-30
Chapter 32: Delgado & Stefancic, Images of the Outsider in American Law and Culture, pp. 323-32
Chapter 68: Cho, Converging Stereotypes in Racialized Sexual Harassment, pp. 669-78
Chapter 79: Ross, Innocence and Affirmative Action, pp. 783-93

Feb. 6  WEEK 5: PROTEST AND LAWYERING
What is the relationship between mass protest, legality, and legal change?
Bell, Chapter 10: The Parameters of Racial Protest, pp. 595-616, 625-29, 642-47, 669-70
CRT Reader
Chapter 4: Matsuda, When the First Quail Calls, pp. 31-34
Chapter 23: Carbado & Gulati, Working Identity, pp. 223-37
Chapter 75: Lopez, The Work We Know So Little About, pp. 750-57
Chapter 76: Su, Making the Invisible Visible, pp. 758-63


Mar. 13  WEEK 10: Paper presentations
Mar. 20  WEEK 11: Paper presentations
Apr. 3  WEEK 12: Paper presentations
Apr. 10 WEEK 13: Paper presentations
Apr. 17 WEEK 14: Paper presentations

Final papers are due on the last day of exams.