UNIVERSITY OF BALTIMORE SCHOOL OF LAW

FALL SEMESTER

2019

SYLLABUS

RACE AND THE LAW

LAW 823-511 (4445)

MICHAEL HIGGINBOTHAM
COURSE DETAILS

Professor: Michael Higginbotham

Time: Designated Tuesdays (see schedule of classes)
      1:30 – 4:15 pm

Course Category: Upper-Level Limited Enrollment Elective

Classroom: University of Baltimore School of Law Angelos Law Center (ALC) 602

Office Hours: Tuesdays 4:30 – 6:00 pm
              (or by appointment)

Office: University of Baltimore School of Law Angelos Law Center (ALC) 1115

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TWEN/Web: Syllabus, distributed materials, announcements, and assignments available on TWEN or http://law.ubalt.edu/academics/Semester.cfm

Texts:

Required:


**Recommended:**


Donald Marvin Jones, *Dangerous Spaces: Beyond the Racial Profile* (Santa Barbara: Praeger, 2016).


Orlando Patterson, *Slavery and Social Death* (Cambridge: Harvard University Press, 1982).


Edna Troiano, *Uncle Tom’s Journey From Maryland to Canada: The Life of Josiah Henson* (Charleston: The History Press, 2019).


Both required and recommended reading materials will be placed on reserve in the law library. Additional materials will be posted on TWEN.

**COURSE REQUIREMENTS**

Race Law is a three-credit Limited Enrollment Elective Course. Class attendance is mandatory. Students who miss more than two class sessions, excused or unexcused, excluding sessions missed due to religious holidays or when an accommodation has been approved by the Associate Dean, will have their final grade lowered a half level. Students who miss more than three class sessions, excused or unexcused, excluding sessions missed due to religious holidays or when an accommodation has been approved by the Associate Dean, will not be permitted to submit a paper. Students are responsible for ensuring that they sign the attendance sheet before the end of each class session. A student’s signature is the only accepted indicator of attendance.

Students are required to write a research paper in partial fulfillment of the course requirements. The paper must have a minimum length of not less than 20 pages plus endnotes and must be typed and double-spaced. There is no maximum length limitation. Students, who so desire, may submit a substantial (15 pages typed and double-spaced plus endnotes) first draft for
review. Students may use endnotes or footnotes, whichever they prefer. Those using footnotes should take this into consideration in satisfying suggested page-length guidelines for their papers.

Student presentations (ten minute oral summaries of paper topics including a question and answer portion) will take place at the beginning of the last four class sessions. Presentations will not be graded.

Students may write on any topic of their choice as long as it is within the scope of the subject matter of the course. Students must discuss their research topics with and get approval from Professor Higginbotham. Individual topic discussion meetings may be arranged and a list of possible topics will be made available. Topics selected from this list receive automatic approval without request. Optional first drafts of papers are due October 29, 2019. Mandatory final papers are due at noon on December 12, 2019. Please submit first drafts of papers in hard copy form to Professor Higginbotham. Please submit final papers via TWEN in the assignment drop box. Late final papers will be accepted up until December 19, 2019 but will be reduced by one full letter-grade. There are no exceptions to these rules without the Associate Dean’s authorization.

Generally, the assigned materials will be read by the entire class. Assigned readings are based on the expectation that students will devote at least two hours of work outside of the classroom in preparation for every one hour spent within the classroom. However, for some specialized and more detailed inquiry, the class will be divided into four law firms. On various days the members of each firm will represent a particular client or will comment on additional readings and their relevance to the materials being studied by the entire class. All students are required to thoroughly read the assigned materials for each class and are encouraged to read the supplemental materials. At least one member of each law firm should be prepared to discuss the assigned material for the firm. Such preparation will facilitate discussion and encourage the exchange of ideas. A list of the firm members will be distributed during the second week of class. During class sessions students are encouraged to sit with members of their law firms. Class discussion provides an opportunity to express your own views on issues, but you may also include comments which reflect the perspective held by political leaders, judges, or scholars.

The law firms will be as follows:

**Firm A:** The John Newton Firm

**Firm B:** The Harriet Tubman Firm

**Firm C:** The Daniel Inouye Firm

**Firm D:** The Lloyd Gaines Firm

Final grades will be based primarily on the quality of the research paper; however, class participation will be considered as well. Your final paper will count as 66 percent of the final grade. Class participation will count as 34 percent of the final grade.
COURSE DESCRIPTION

The course will examine the use of the law both to perpetuate and eradicate racial injustice in the United States from the inception and rise of slavery during the colonial period to the present. The goals of the course are to achieve an understanding of the role of law in its social context, especially with regard to the use of legal institutions and law in the creation and maintenance of systems of racial injustice; and, as a corollary, to examine the potential and limits of the use of law (especially litigation) as a tool for social change.

The course will begin with an examination of the analytical framework for the study of race and the law. Two subjects will be covered; racial prejudice and race classification.

The course will then focus on the role of law in the introduction and development of the slave system. The subsequent expansion and entrenchment of the institution of slavery in the new nation will be examined next through a case and statutory study of antebellum slavery law. Several cases from various northern courts will be studied as well. The major institutions focused upon will be the state courts and the state legislatures with regard to their role in the preclusion or allowance of traditional family relations, educational options, due process in the courts, and other "rights" for slaves and free blacks.

We will also explore the political debates and the handling of the slavery issue in the formulation of those documents central to the federal government, e.g., the Declaration of Independence, the Articles of Confederation, and the Constitution. In addition, we will look at the federal judiciary's treatment of slavery and the status of blacks.

The foci will not be limited merely to the rules of law adopted by the courts or the legislatures. A major issue for exploration will be the values and principles of the individuals in power and a probing of how these priorities affected their choice of options and the rules of law adopted. We will analyze the "prejudices which judges share" as suggested by Oliver Wendell Holmes when he wrote:

The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. (emphasis added)

During the latter-half of the course, we will follow the role of American law in the attempted eradication of racial segregation and discrimination against African Americans, Asian Americans, Latinos/as, and American Indians, concentrating predominantly on their treatment by the Congress and the Supreme Court. Thus, the inquiry will focus on the successes as well as the failures of American legal institutions during the nineteenth and twentieth centuries and includes examination of the passage and subsequent judicial interpretation of the Thirteenth and Fourteenth Amendments. Subjects covered include citizenship, sovereignty, transportation, housing, education, marriage, employment, business, voting, and the criminal justice system. By
applying our understanding of the magnitude and nature of slavery gained from earlier study, students may better comprehend what the amendments were designed to eliminate and evaluate the nature and extent of the legal system's endeavors in this regard.

Next, the course will examine Supreme Court confirmation controversies involving race. The course will also examine ongoing controversies involving race with specific focus on the administration of justice, immigration, and politics.

The course will conclude with student presentations on race, an examination of race and the future of America, and a summary on current race relations.


LEARNING OUTCOMES

The course has three primary goals: First, the course is designed to teach students about substantive state and federal constitutional laws and principles dealing with race. By the end of the course, students should be able to demonstrate knowledge of doctrinal law dealing with race and the principles underlying that law. Knowledge of the underlying principles will help students understand how different rules and doctrines fit together and how to resolve various conflicts.

Second, the course is designed to improve the legal analysis skills of students. By the end of the course, students should be able to demonstrate legal analysis skills such as the capacity to pay careful attention to details, to recognize and utilize legal terminology, and to use case law and principles to analyze new fact patterns.

Third, the course is designed to improve the legal research skills of students. By the end of the course, students should be able to demonstrate legal research skills such as the ability to identify and locate original source materials dealing with race and to select language from those materials that reflects or embraces racial bias or prejudice.

ACADEMIC INTEGRITY

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The school of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

TITLE IX SEXUAL MISCONDUCT AND NONDISCRIMINATION POLICY

The University of Baltimore’s Sexual Misconduct and nondiscrimination policy is compliant with federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB’s nondiscrimination policies can be found at: http://www.ubalt.edu/titleix.
DISABILITY POLICY

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University’s facilities, please contact the Office of Academic Affairs at ublawacadaff@ubalt.edu or (410) 837-4468.

COURSE EVALUATIONS

It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

SCHEDULE OF CLASSES

Session #1:  
Aug. 20  
OVERVIEW: Discussion of the course subject-matter and requirements  
(Syllabus pp. 1-26; Race Law (Dedication, Foreword, Preface, History Timeline, and Introduction) pp. v, xxxiii-xlvi, 3-4, 771-780. Please read this material prior to the initial session)

PART ONE — ANALYSIS AND FRAMEWORK

THE RACIAL PREJUDICES THAT JUDGES SHARE

State v. Mann (1829)  
(Race Law pp. 4-26) (read carefully pp. 5-7) (please read this material prior to the initial session)

Point/Counterpoint  
(Race Law p. 113)

Supplemental Readings:  
Robert Cover, Justice Accused

RACE CLASSIFICATION

The Nature, Definitions, and Myths of Race  
(Race Law pp. 26-50) (read carefully pp. 43-48)

People v. Hall (1854)  
(Race Law pp. 50-66) (read carefully pp. 54-57) (please read this material prior to the initial session)

Point / Counterpoint  
(Race Law pp. 58-66)
PART TWO — SLAVERY

Session #2:  THE COLONIAL EXPERIENCE WITH SLAVERY AND FREE BLACKS

Aug. 27

Ghosts of Jim Crow
(Chapter 1, pp. 47-48)

The Earliest Protest Against Slavery (1688)
(Race Law pp. 748-749 or In The Matter of Color p. 267)

In The Matter of Color
(Appendix, pp. 392-395)

In The Matter of Color
(Chapter 2, pp. 22-30) (read carefully pp. 23-24, 28-29)

In The Matter of Color
(Chapters 3, 4, 6, and 7)

Firm A: Massachusetts (Chapter 3) (pp. 89-98)
Firm B: Pennsylvania (Chapter 7) (pp. 299-305)
Firm C: Georgia (Chapter 6) (pp. 216-218, 252-256)
Firm D: New York (Chapter 4) (pp. 100-109)

Supplemental Readings:
Mary Frances Berry, *Black Resistance/White Law*
Winthrop Jordan, *White Over Black*
Orlando Patterson, *Slavery and Social Death*
Orlando Patterson, *Freedom In The Making*

THE ENGLISH EXPERIENCE WITH SLAVERY AND FREE BLACKS

In The Matter of Color
(Chapters 8 and 9) (read carefully pp. 320-329, 351-363)

Supplemental Readings:
Eugene Genovese, *Roll, Jordan, Roll*
SLAVERY, FREE BLACKS, AND THE AMERICAN REVOLUTION

In The Matter of Color
(Chapter 11) (pp. 375-383)

Declaration of the Causes and Necessity of Taking Up Arms (1775)
(Race Law pp. 749-750)

Declaration of Independence (1776)
(Race Law pp. 750-753)

Supplemental Readings:
David Brion Davis, The Problem of Slavery in the Age of Revolution
Edmund Morgan, American Slavery, American Freedom

SLAVERY, FREE BLACKS, AND THE CONSTITUTION

The Articles of Confederation (1781)
(Race Law pp. 754-755)

The Constitution (1789)
(Race Law pp. 68-72, 78-80, 734, 737, 740)

Supplemental Readings:
Edward Baptist, The Half Has Never Been Told
Max Farrand, The Framing of the Constitution
Max Farrand, The Records of the Federal Convention
Frank Tannenbaum, Slave and Citizen

Session #3: THE NORTHERN APPROACH TO FREE BLACKS (Connecticut and Massachusetts)
Sept. 3

Crandall v. The State of Connecticut (1834)
(Race Law pp. 80-95, 740) (read carefully pp. 81-91)

Roberts v. The City of Boston (1850)
(Race Law pp. 95-102) (read carefully pp. 98-100)

Supplemental Readings:
Leon Litwack, North of Slavery

THE SOUTHERN APPROACH TO SLAVERY AND FREE BLACKS (Virginia)

Hudgins v. Wrights (1806)
(Race Law pp. 101-106; 110-112) (read carefully pp. 107-109)
In The Matter of Color
(Chapter 2, pp. 58-60)

Ghosts of Jim Crow
(Chapter 1, pp. 50-54)

_Souther v. The Commonwealth_ (1851)
(Race Law pp. 106-110) (read carefully pp. 107-109)

Ghosts of Jim Crow
(Chapter 1, pp. 55-57)

Slave Auction Handbill (1852)
(Race Law pp. 112-113)

**Supplemental Readings:**
John W. Blassingame, _The Slave Community_
Annette Gordon-Reed, _The Hemingses of Monticello_
Kenneth Stampp, _The Peculiar Institution_
Mark Tushnet, _The American Law of Slavery_

**Session #4: SLAVERY, FREE BLACKS, AND THE UNITED STATES SUPREME COURT**

Sept. 10

In The Matter of Color
(Chapter 10, pp. 363-368)

_United States v. The Amistad_ (1840)
(Race Law pp. 113-122) (read carefully pp. 119-121) (Firms A and B)

In The Matter of Color
(Chapter 11, pp. 383-387)

_Prigg v. The Commonwealth of Pennsylvania_ (1842)
(Race Law pp. 122-140, 167-169) (read carefully pp. 126-129) (Firms C and D)

Ghosts of Jim Crow
(Chapter 1, pp. 54-55)

_Dred Scott v. Sandford_ (1857)
(Race Law pp. 140-167, 169-173) (read carefully pp. 144-156)

Northwest Ordinance (1787)
(Race Law pp. 755-756)
Fugitive Slave Act (1793)
(Race Law pp. 756-757)

The Missouri Compromise (1820)
(Race Law pp. 757-758)

The Fugitive Slave Act (1850)
(Race Law pp. 758-759)

Shades of Freedom
(Chapter 5, pp. 61-67)

Ghosts of Jim Crow
(Chapter 1, pp. 57-59)

Supplemental Readings:
Don Fehrenbacher, *The Dred Scott Case*
P. Finkelman, *Supreme Injustice*
John Hope Franklin, *Runaway Slaves*
Howard Jones, *Mutiny on the Amistad*
Martha Jones, *Birthright Citizenship*

**THE BEGINNING OF THE END OF SLAVERY**

*The Case of John Brown* (1859)
(Race Law pp. 173-180)

Supplemental Readings:
David Blight, *Frederick Douglass*
Jared Brock, *The Road to Dawn*
Frederick Douglass, *The Life and Times of Frederick Douglass*
W.E.B. DuBois, *John Brown*
Edna Troiano, *Uncle Tom’s Journey*
PART THREE — RECONSTRUCTION, CITIZENSHIP, AND SOVEREIGNTY

Session #5:  THE SUPREME COURT’S BETRAYAL OF RECONSTRUCTION
Sept. 17

Ghosts of Jim Crow
(Chapter 1, pp. 59-61)

The Emancipation Proclamation (1863)
(Race Law pp. 759-760)

The Freedmen’s Bureau (1865)
(Race Law pp. 760-761)

Apology For Slavery (2009)
(Race Law pp. 768-770)

Ghosts of Jim Crow
(Chapter 2, pp. 63-67)

The Slaughterhouse Cases (1873)
(Race Law pp. 181-215) (read carefully pp. 202-209) (Firms A and B)

United States v. Cruikshank (1875)
(Race Law pp. 215-237) (read carefully pp. 233-236) (Firms C and D)

Ghosts of Jim Crow
(Chapter 2, pp. 67-72)

The Black Code (1865)
(Race Law pp. 761-764)

The Civil Rights Cases (1883)
(Race Law pp. 237-254) (read carefully pp. 238-245)

Shades of Freedom
(Chapter 8, pp. 104-107)

Ghosts of Jim Crow
(Chapter 2, pp. 72-84)

**Supplemental Readings:**
Mark Curriden and Leroy Phillips, *Contempt of Court*
Mark Elliott, *Color-Blind Justice*
Eric Foner, *Reconstruction: America’s Unfinished Revolution*
Robert Kaczorowski, *The Politics of Judicial Interpretation*
Charles Lane, *The Day Freedom Died*
Gerard Magliocca, *American Founding Son*
Randall Robinson, *The Debt*

**Session #6: RACE AND CITIZENSHIP**
**Sept. 24**

*Ozawa v. United States* (1922)
(Race Law pp. 255-263) (read carefully pp. 260-263) (Firms A and B)

*United States v. Thind* (1923)
(Race Law pp. 263-268) (read carefully pp. 264-267) (Firms C and D)

*People v. De La Guerra* (1870)
(Race Law pp. 268-272)

*Ping v. United States* (1889)
(Race Law pp. 272-276) (read carefully pp. 273-275) (Firms A and B)

*United States v. Ark* (1898)
(Race Law pp. 276-280) (read carefully pp. 276-278) (Firms C and D)

*Korematsu v. United States* (1944)
(Race Law pp. 280-298) (read carefully pp. 281-284)

Restitution For Internment (1988)
(Race Law p. 768)

**Supplemental Readings:**
Erika Lee, *At America’s Gates*
Ian Haney Lopez, *White By Law*
Frank Wu, *Yellow*

**RACE, AMERICAN INDIANS, AND SOVEREIGNTY**

*Johnson and Graham’s Lessee v. M’Intosh* (1823)
(Race Law pp. 298-306) (read carefully pp. 301-305) (Firms A and B)

Indian Removal Act (1830)
(Race Law pp. 764-765)

*The Cherokee Nation v. The State of Georgia* (1831)
(Race Law pp. 306-318) (read carefully pp. 306-309) (Firms C and D)

Making Our Democracy Work
(Chapter 3, pp. 22-31) (to be distributed)
Elk v. Wilkins (1884)
(Race Law pp. 318-334) (read carefully pp. 320-325)

Supplemental Readings:
David Wilkins, American Indian Sovereignty

PART FOUR — SEGREGATION

Session #7: CREATING THE SEPARATE BUT EQUAL DOCTRINE
Oct. 1 Strauder v. West Virginia (1880)

Plessy v. Ferguson (1896)

Shades of Freedom
(Chapter 9, pp. 108-115, 117-118)

Ghosts of Jim Crow
(Chapter 3, pp. 85-92)

Supplemental Readings:
Steve Luxenberg, Separate
C. Vann Woodward, The Strange Career of Jim Crow

EXPANDING THE SEPARATE BUT EQUAL DOCTRINE

Berea College v. Commonwealth of Kentucky (1908)
(Race Law pp. 356-371) (read carefully pp. 359-360)

Supplemental Readings:
Rayford Logan, The Betrayal of the Negro

Session #8: LIMITING THE SEPARATE BUT EQUAL DOCTRINE: RACIAL
Oct. 8 SEGREGATION AND HOUSING

Ghosts of Jim Crow
(Chapter 3, pp. 92-96)

Buchanan v. Warley (1917)
Shades of Freedom
(Chapter 10, pp. 119-126)

Supplemental Readings:
Douglas Blackmon, *Slavery By Another Name*
James Loewen, *Sundown Towns*
David Oshinsky, *Worse Than Slavery*
Robert Weaver, *The Negro Ghetto*
Isabel Wilkerson, *The Warmth of Other Suns*

LIMITING THE SEPARATE BUT EQUAL DOCTRINE: RACIAL SEGREGATION AND INTERSTATE COMMERCE

*Morgan v. Commonwealth of Virginia* (1946)
(Race Law pp. 385-395) (read carefully pp. 386-390) (Firms A and B)

Supplemental Readings:
Genna McNeil, *Groundwork*
Gilbert Ware, *Grace Under Pressure*

LIMITING THE SEPARATE BUT EQUAL DOCTRINE: RACIAL SEGREGATION AND STATE ACTION

*Shelley v. Kraemer* (1948)
(Race Law pp. 395-402) (read carefully pp. 396-401) (Firms C and D)

Supplemental Readings:
Loren Miller, *The Petitioners*

INTERPRETING THE SEPARATE BUT EQUAL DOCTRINE

*Cumming v. County Board of Education* (1899)
(Race Law pp. 402-414, 422-434) (read carefully pp. 408-409) (Firms A and B)

*Lum v. Rice* (1927)
(Race Law pp. 414-419, 422) (read carefully pp. 417-419) (Firms C and D)

Shades of Freedom
(Chapter 9, pp. 115-117)

*Hernandez v. Texas* (1954)
(Race Law pp.420-422)

Ghosts of Jim Crow
(Chapter 3, pp. 98-111, 112-116)
Supplemental Readings:
Henry Louis Gates, *Stony The Road*
George Fredrickson, *The Black Image In The White Mind*
Ronald Mize and Grace Delgado, *Latino Immigrants in the United States*

Session #9: **APPLYING THE SEPARATE BUT EQUAL DOCTRINE**  
Oct. 15

*Missouri ex rel. Gaines v. Canada* (1938)  
(Race Law pp. 438-445) (read carefully pp. 440-442)

Executive Order 8802 (1941)  
(Race Law pp. 765-766)

Executive Order 9981 (1948)  
(Race Law p. 776)

*McLaurin v. Oklahoma State Regents for Higher Education* (1950)  
(Race Law pp. 445-447)

*Sweatt v. Painter* (1950)  
(Race Law pp. 448-450)

Shades of Freedom  
(Chapter 12, pp. 164-166)

Ghosts of Jim Crow  
(Chapter 3, pp. 97, 111-112)

Supplemental Readings:  
José Anderson, *Genius For Justice*  
Rosalind Rosenberg, *Jane Crow*  
Patricia Sullivan, *Lift Every Voice*  
Gilbert Ware, *From the Black Bar*

**ENDING STATE-MANDATED SEGREGATION**

*Brown v. Board of Education (Brown I)* (1954)  
(Race Law pp. 450-462) (read carefully pp. 454-457)

Supplemental Readings:  
Morton Horwitz, *The Warren Court*  
Richard Kluger, *Simple Justice*  
Gunnar Myrdal, *An American Dilemma*
APPLYING THE BROWN RATIONALE

*Loving v. Virginia* (1966)
(Race Law pp. 463-471) (read carefully pp. 466-468)

Shades of Freedom
(Chapter 4, pp. 44-45)

**Supplemental Readings:**
Sheryll Cashin, *Loving*
Rachel Moran, *Interracial Intimacy*

PART FIVE — ATTEMPTED ERADICATION OF INEQUALITY

**Session #10:** RACE-CONSCIOUS REMEDIES
**Oct. 22**

Student Presentations – Firm D

*Brown v. Board of Education (Brown II)* (1955)
(Race Law pp. 473-479) (read carefully pp. 475-476) (Firms A and B)

Ghosts of Jim Crow
(Chapter 4, pp. 119-134)

(Race Law pp. 479-495) (read carefully pp. 486-489) (Firms C and D)

In The Matter of Color
(Chapter 11, pp. 388-389)

Ghosts of Jim Crow
(Chapter 4, pp. 134-139)

Civil Rights Act (1964) (Public Accommodations)
(Race Law p. 766)

Civil Rights Act (1964) (Federally Assisted Programs)
(Race Law p. 766)

Civil Rights Act (1964) (Employment)
(Race Law p. 777)

Fair Housing Act (1968) (Housing)
(Race Law pp. 767-768)
(Race Law pp. 496-508) (read carefully pp. 500-504) (Firms A and B)

(Race Law pp. 508-527) (read carefully pp. 511-521) (Firms C and D)

Parents Involved in Community Schools v. Seattle School District Number 1 (2007)
(Race Law pp. 527-540) (read carefully pp. 528-532) (Firms A and B)

Fisher v. University of Texas (2013)
(Race Law pp. 540-547) (read carefully pp. 543-546) (Firms C and D)
(Race Law pp. 547-570) (read carefully pp. 549-556)

Ghosts of Jim Crow
(Chapter 7, pp. 215-218)

Supplemental Readings:
Jack Bass, Unlikely Heroes
Derrick Bell, Faces At The Bottom of the Well
Sheryl Cashin, The Failures of Integration
Christopher Edley, Not All Black and White
Gerald Jaynes and Robin Williams, A Common Destiny
Randall Kennedy, For Discrimination
James Patterson, Brown v. Board of Education
William Julius Wilson, Declining Significance of Race
William Julius Wilson, The Truly Disadvantaged
William Julius Wilson, When Work Disappears

Session #11: MAINTAINING RACIAL INEQUITY
Oct. 29

Student Presentations – Firm C

Washington v. Davis (1976)
(Race Law pp. 570-575) (Firms A and B)

Shades of Freedom
(Chapter 12, pp. 159-164)

McCleskey v. Kemp (1987)
(Race Law pp. 583-598) (read carefully pp. 584-591)
Shades of Freedom
(Chapter 13, pp. 178-182)

Voting Rights Act (1965)
(Race Law p. 767)

Shaw v. Reno (1993)
(Race Law pp. 599-608) (read carefully pp. 601-603) (Firms C and D)

Ghosts of Jim Crow
(Chapter 5, pp. 170-174)

Shelby County v. Holder (2013)
(Race Law pp. 608-620, 646-648) (read carefully pp. 613-618)

Ricci v. DeStefano (2009)

Supplemental Readings:
Henry Flores, Latinos and the Voting Rights Act
Lani Guinier, The Tyranny of the Majority
Sora Han, Letters of the Law
Randall Kennedy, Race, Crime, and the Law
Jan Miles, The Post-Racial Negro Green Book
Daria Roithmayr, Reproducing Racism

PART SIX — SUPREME COURT CONFIRMATION CONTROVERSIES

Session #12:  RACE, VALUES, AND JUSTICE THOMAS
Nov. 5

Student Presentations -- Firm B

The Jurisprudence of Justice Clarence Thomas
(Race Law pp. 649-679)

Supplemental Readings:
Jill Abramson, Strange Justice
Clarence Thomas, My Grandfather’s Son

RACE, VALUES, AND JUSTICE ALITO

The Jurisprudence of Justice Samuel Alito
(Race Law pp. 679-688)
RACE, VALUES, AND JUSTICE SOTOMAYOR

The Jurisprudence of Justice Sonia Sotomayor
(Race Law pp. 688-691)

Supplemental Readings:
Sonia Sotomayor, My Beloved World

PART SEVEN — ONGOING CONTROVERSIES

RACE AND THE ADMINISTRATION OF JUSTICE

Arrests, Trials, and Beatings
(Race Law pp. 693-710)

Supplemental Readings:
Michelle Alexander, The New Jim Crow
Paul Butler, Let’s Get Free
Ta-Nehisi Coates, Between the World and Me
James Forman, Locking Up Our Own
Donald Marvin Jones, Dangerous Spaces
Toni Morrison, Birth of a Nationhood
Nicole Van Cleve, Crook County

RACE AND IMMIGRATION

History and Current Approach
(Race Law pp. 710-720)

Supplemental Readings:
Christina Greer, Black Ethnics
Nazli Kibria, et al, Race and Immigration
Ediberto Roman, Those Damned Immigrants

RACE AND POLITICS

History and Current Approach
(Race Law pp. 720-727)

Supplemental Readings:
Ian Haney Lopez, Dog Whistle Politics
PART EIGHT — APPENDIX

Session #13: RACE AND THE FUTURE
Nov. 12

Student Presentations – Firm A

Always Running
(Chapter 1, pp. 14-25, Chapter 3, pp. 62-67, Chapter 4, pp. 83-84, Chapter 6, pp. 139-146, Chapter 10, pp. 235-246, and Epilogue, pp. 247-251) (to be distributed)

Ghosts of Jim Crow
(Preface, pp. 1-14, Introduction, pp. 25-42, Chapters 5, 6 and 7, pp. 175-177, 181-215, 219-221)

In The Matter of Color
(Preface, pp. vii-x)

Supplemental Readings:
Hazel Markus, Doing Race
Luis Rodriguez, Always Running
Jody Vallejo, Barrios To Burbs
Tim Wise, Colorblind

Session #14: SUMMARY LECTURE: What have we learned and where do we go from here?
Nov. 19

In The Matter of Color
(Introduction, pp. 3-16 and Epilogue, pp. 390-391)

Shades of Freedom
(Introduction, pp. xxiii-xxxii)

Ghosts of Jim Crow
(Preface, pp. 14-23)

Conclusion
(Race Law pp. 729-734)

Supplemental Readings:
Michael Klarman, Unfinished Business