

# **Law 713 – Topics in Legal Practice: Racial Injustice in the Law Fall 2020**

## **Instructor Information**

Instructors: Various  
Email: Various  
Phone:  
Office:  
Office Hours: By appointment

## **Course Information**

Meetings: 5:10 to 6:10 pm on September 1, 5:10-8:10 on September 8, September 22, November 10, and November 17.

Location: Zoom

Credit Hours: 1

## **Textbook/Course Materials**

We will be reading a collection of cases, law review articles, and book excerpts that touch on racial injustice issues throughout the law. The readings will be made available on Brightspace. The readings will be lengthy, so please don't wait until the last minute before each session to read the assigned material.

## **Course Management System**

As noted, assigned readings will be posted on Brightspace, along with any announcements.

## **Course Description**

This bridge course provides an opportunity for Maine Law students to study issues related to law and racial justice in a team-taught format. We will examine racial justice issues throughout a wide range of legal fields, including Property, Tax, Criminal Law, Business Law, Family Law, and many others, with different faculty members leading various sessions. Students will read cases, law review articles, and other writing exploring how race affects the legal doctrine and policy all around us.

## **Assignments**

Each student will be required to pair up and prepare a 7-10 minute presentation for one of the 10 topics that will be covered during the semester. The presentation should address the issues explored and highlighted in the readings as a way to set up the group discussion to follow. Each pair must meet with the Professor who will be teaching the material prior to the class meeting to run through their presentation. Students will sign up for their preferred presentation topic on a google document available [here](#); these pairings must be finalized before the first class meeting. For each topic, the students will help guide the class discussion along with the assigned professor.

Except for the week in which they are doing a presentation, students are required to write response papers of 1-2 single-spaced pages for each session. You should use the response paper to (1) explain something you learned or a new insight you gained from the readings; (2) raise questions that you still have after completing the reading, or issues that you'd like to explore in more depth; and (3) critique the articles or cases, or push back on the perspective offered in those readings. Because each week 2-3 topics will be covered, you may choose which topic you want to explore in your response paper. The response paper should be submitted **at least one hour prior to the class meeting** by emailing it to the professor who is leading the discussion, with a CC to Professors Moffa and Schindler.

## **Grading/Evaluation**

The course is graded P/F/H. Your final grade will be based on the quality of your presentation, response papers, and class participation.

## **Attendance, Preparation, and Participation**

Because this course meets only 4 times (after the initial introductory session), students should not miss any classes except in extraordinary circumstances. Students who must miss a class should discuss with the professors how to make up the missed work.

Class preparation is extremely important. The American Bar Association standards require that students spend a very significant amount of time in out-of-class academic activities, per credit that is awarded. Maine Law has adopted a policy, consistent with the ABA's policy, that

students are required to complete approximately 30 hours 20 minutes of out-of-class work per credit per semester. Therefore, you should spend approximately 2 hours 20 minutes on academic work out of class per credit per week. As this is a 1-credit class that meets four times, you should expect to spend about 7 hours on out-of-class work prior to each of the four sessions.

### **Accommodation Policy**

The Law School provides reasonable accommodations to qualified students with disabilities. Disabilities protected by law include both physical and psychological conditions that substantially impair a major life activity. Students who would like to seek accommodations should contact USM's Disability Services Center (DSC), which is located at 242 Luther Bonney, in person or by phone at 207-780-4706. After reviewing relevant documentation, the DSC Director will provide qualifying students with reasonable accommodations. At the Law School, the Associate Dean for Student Services, Sherry Abbott Niang, serves as the liaison to the DSC. Students with questions about accommodations and the provision of related services may contact her directly. The Americans with Disabilities Act requires that confidentiality be maintained regarding all student disability-related information.

Students who have been incapacitated by illness, injury, the birth of a child, death in the family, or extraordinary care-giving responsibilities should contact the professor and/or the Associate Dean for Student Services, Sherry Abbott Niang, in advance of missing classes or any assignment deadlines. Stressful situations like these may lead to diminished academic performance or may reduce a student's ability to participate in daily classroom activities. Law School services are available to assist students with handling these stressful events. In an emergency situation and in cases of unforeseen circumstances, students should contact the Associate Dean for Student Services as soon as possible.

### **Inclement Weather Policy**

Because this course meets on Zoom, we will hold class even if there is inclement weather. For information on campus closings, please call the storm line at 207-780-4800. If the University of Southern Maine closes the campus, this always applies to the Law School. In rare circumstances, the Law School closes before USM. In this situation, an email about closings will be sent to students through the email listserv.

### **Class Recording Policy**

Recording is not permitted for this class.

## **Academic Integrity Policy**

The University of Maine and University of Maine School of Law have a Student Conduct Code and Academic Misconduct policy contained in the Student Handbook. We take academic integrity very seriously and will report any actions that may be infractions.

## **Laptop/Technology Policy**

You may use your computers for class-related purposes only. You may not use the Internet for any purpose without our express permission. All cell phones and other electronic devices must be turned off.

## **Reading List**

<b>Date</b>	<b>General Topic</b>	<b>Reading Assignment/Other Assignment</b>
1. 9/1/20	Introduction (Profs. Moffa and Schindler)	(1) Delgado & Stefancic, Critical Race Theory: An Introduction, pgs. 1-43 (available on Brightspace)  (2) Brown, Critical Race Theory: Cases, Materials, and Problems (3d ed.), pgs. 1-6 (finish the paragraph at the top of pg. 6), 9-12 (up to Part 3), & 34-35 (available on Brightspace)

<p>2. 9/8/20</p>	<p>Property / Land Use (Prof. Schindler)</p> <p>Torts / Insurance (Prof. Wriggins)</p>	<p><b>Property:</b> Brown, Critical Race Theory: Cases, Materials, and Problems (3d ed.), Ch. 7, pgs. 269-88 &amp; 297-299 (available on Brightspace)</p> <p><b>Land Use:</b> Schindler, <i>Architectural Exclusion: Discrimination and Segregation Through Physical Design of the Built Environment</i>, 124 Yale L.J. (2015), pgs. 1934, 1937-42, 1949-53, 1973-90, Available at: <a href="https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2595294">https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2595294</a></p> <p><b>Torts:</b> Wriggins, <i>Constitution Day Lecture: Constitutional Law and Tort Law: Injury, Race, Gender, and Equal Protection</i>, 63 Maine Law Review 263, 2010, on Brightspace</p> <p><b>Insurance:</b> Excerpts, <i>Ojo v. Farmers Group</i>, (Texas Supreme Court 2011), on Brightspace</p>
<p>3. 9/22/20</p>	<p>Intellectual Property (Prof. Davik)</p> <p>Tax (Prof. Maine)</p>	<p><b>Intellectual Property:</b> <u>Copyright Law</u> - Greene, <i>Copyright, Culture &amp; Black Music: A Legacy of Unequal Protection</i>, 21 Hasting Comm./Ent L.J. 339 (available on Brightspace)</p> <p><u>Trademark Law</u> - Beebe Casebook - Disparaging Marks and Excerpts, <i>Matal v. Tam</i>, 137 S. Ct. 1744 (2017)(available on Brightspace)</p> <p><b>Tax:</b> <i>Read Lipman, Mirkay, &amp; Strand, "U.S. Tax Systems Need Anti-Racist</i></p>

		<p>Restructuring," Tax Notes Federal, pgs. 855-862 (Aug. 3, 2020), available on Brightspace.</p> <p><i>Read</i> Moran &amp; Whitford, "A Black Critique of the Internal Revenue Code," in <i>Critical Tax Theory: An Introduction</i>, at pgs 116-124, available on Brightspace.</p> <p><i>Skim</i> Tax Policy Center, "Racial Disparities and the Income Tax System" (Jan. 30, 2020), available at <a href="https://apps.urban.org/features/race-and-taxes/">https://apps.urban.org/features/race-and-taxes/</a></p>
<p>4. 11/10/20</p>	<p>The Legal Professions (Prof. Bordelon)</p> <p>Family Law (Prof. Feinberg)</p> <p>Environmental Law (Prof. Moffa)</p>	<p><b>The Legal Professions Readings</b> (find as PDF documents under "Electronic Reserves")</p> <p>1. <i>Grutter v Bollinger</i>, 539 U.S. 306 (2003)</p> <ul style="list-style-type: none"> <li>● O'Connor's majority opinion</li> <li>● Ginsburg's concurring opinion</li> <li>● Kennedy's dissenting opinion</li> </ul> <p>2. Jason P. Nance &amp; Paul E. Madsen, <i>An Empirical Analysis of Diversity in the Legal Profession</i>, 47 CONN. L.REV. 271 (2014). [<b>Read</b> Parts I. Introduction, III. The Data and Models, IV. Results, V. Discussion and VI. Conclusion; <b>Skim</b> II. Literature Review and Theory]</p> <p><i>Choose one of the two below [will be discussed in the context of the legal analysis from Grutter and the quantitative analysis from the Nance &amp; Madsen article]</i></p>

3. Jonathan Ashong-Lampsey, Bicultural Experience in the Legal Profession: A Developmental Network Approach, 83 FORDHAM L. REV. 2369 (2015).

4. Deborah L. Rhode & Lucy Buford Ricca, Diversity in the Legal Profession: Perspectives from Managing Partners and General Counsel, 83 FORDHAM L. REV. 2483 (2015).

**Family Law Readings** (posted as one document on Brightspace):

1. Me. Rev. Stat. Ann. tit. § 19-A, §§ 1653(3), (4).

2. *Palmore v. Sidoti*, 466 U.S. 429 (1984).

3. Solangel Maldonado, *Bias in the Family: Race, Ethnicity, and Culture in Custody Disputes*, 55 Fam. Ct. Rev. 213 (2017).

### **Environmental Law**

Robert Bullard, Dumping in Dixie pp. 1-5, 9-17, 113-125

WATCH: *Robert Bullard: How Environmental Racism Shapes the US*  
<https://www.pbs.org/wnet/amanpour-and-company/video/robert-bullard-how-environmental-racism-shapes-the-us/>

<p>5. 11/17/20</p>	<p>Affordable Housing &amp; Community Development (Prof. Pitegoff)</p> <p>International Law (Prof. Norchi)</p> <p>Immigration Law (Prof. Welch)</p>	<p><u>Community Development Readings:</u></p> <p>(1) Susannah Tahk, <i>The Tax War on Poverty</i>, 56 ARIZONA LAW REVIEW 791 (2014) – pp. 791-796 (Intro), 810-815 (parts I.F. &amp; I.G.), 826-828 (part II.B.), 834-835 (part II.F)</p> <p>(2) Nancy Andrews, <i>Race, Gender, and Equity in Community Development</i>, URBAN INSTITUTE, 2019</p> <p>(3) Annie Donovan, <i>Dismantling structural racism in community development finance</i>, IMPACT ALPHA, 2020</p> <p>(4) Eligon, Alcindor, &amp; Armendariz, <i>Tax Credits to House Poor Reinforce Racial Divisions</i>, THE NEW YORK TIMES, pp. A-1, July 3, 2017</p> <p><u>Immigration Law Readings:</u></p> <p>(1) Johnson, Kevin, <i>Race, the Immigration Laws, and Domestic Race Relations: A "Magic Mirror" into the Heart of Darkness</i>, 73 Ind. L. J. 1111 (Fall 1998), available at <a href="https://www.repository.law.indiana.edu/ilj/vol73/iss4/2/">https://www.repository.law.indiana.edu/ilj/vol73/iss4/2/</a></p> <p>(2) Jayashri Srikantiah and Shirin Sinnar, <i>White Nationalism as Immigration Policy</i>, Stanford Law Review (March 2019), available at <a href="https://www.stanfordlawreview.org/online/white-nationalism-as-immigration-policy/">https://www.stanfordlawreview.org/online/white-nationalism-as-immigration-policy/</a></p>
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