

Race and the Law, Spring '24, AAAS 212-1/PSCI 214-1

Alexander Moon
326 Harkness
Office hours: M/W: 1:00-2:00
F: 1:00-3:00

Available on zoom pretty much anytime

Email: amoon4@UR.rochester.edu

Class times: MW, 3:25-4:40
Room: Dewey 2110D

This course deals with q

what you're going to say, and why it's interesting.

3. Structure and organization. The paper should have a clear structure, with an introduction presenting the central question or problem you are addressing, a body that sets out a logical development of the reasons and evidence you are offering, and a conclusion that ties the paper together. In the longer paper it is often useful to provide section headings. The introduction should generally state your main thesis, and provide an overview of the structure of the argument, to make it easier for your reader to follow it.

4. Style. I expect your papers to be well-written. Your sentences should be simple and clear. You should avoid obvious errors; use spell check. You should write more than one draft. And you should proofread them before handing them in.

5. Guides. There are a number of excellent guides for good writing. Strunk and White *The Elements of Style* is a classic, especially for grammar and word usage; it also offers a useful set of "principles of composition." I especially recommend Joseph Williams, *Style: Toward Grace and Clarity*. His work is particularly helpful in offering examples of how awkward passages can be rewritten, using rules or principles that are fairly concrete and address specific issues such as clarity, cohesion, emphasis, etc. (these are all chapter headings in his book). Anthony Weston, *A Rulebook for Arguments*, offers a helpful discussion of how to develop (and express) an argument in a tight, logical way.

6. Grading. "B" papers will fulfill the foregoing criteria adequately. "A" papers will do more. They will not only be clearly

goes on to talk about something only tangentially related to the question or issue at hand.

4-6 = demonstrates superficial reading of the entire assignment Or thoughtful reading of only part of the assignment; comments state the obvious, are trivial, often irrelevant.

<4 = demonstrates superficial reading of only part of the assignment; comments state the obvious, are trivial, often irrelevant.

How many annotations do I need to enter?

When I look at your annotations I want them to reflect the effort you put in your study of the text. It is unlikely that that effort will be reflected by just a few thoughtful annotations per assignment. At the other extreme, 30 per assignment is too many, unless a number of them are superficial or short comments or questions (which is fine, because it is OK to engage in chat with your peers). Somewhere in between these two extremes is about right and, thoughtful questions or comments that stimulate discussion or thoughtful and helpful answers to other students' questions will earn you a higher score for the assignment. Note, also, that to lay the foundation for understanding the in-class activities, you must familiarize yourself with each assignment *in its entirety*. Failing to read and annotate across the entire assignment will result in a lower score.

What does "on time" mean?

The work done in class depends on you having done the reading in advance, so it is necessary to complete the reading and post your annotations before the deadline to receive credit. I allow a late annotation period of two days during which the credit for your annotations linearly decreases from 100% at the deadline to 0% at the end of the late annotation period. Similarly, to encourage you to talk to each other, there is a reply window after each deadline during which you can continue to reply, for full credit, to questions posted by others. However, the number of additional points you can earn after the deadline is capped at the credit you receive for annotations made on that assignment before the deadline.

Jan 17

Introduction

Background thoughts: What is a legal system? What is race? What causes racism? How do legal systems and racism interact? What concepts do scholars use to think about these issues?

Jan 22

Lawrence Friedman and Grant Hayden, chs. 1-2 of *American Law: an Introduction*, (New York: Oxford University Press), 2017.

Jan 24

Frederickson – “Reflections of a Comparative Historian,” in *The Comparative Imagination: On the History of Racism, Nationalism, and Social Movements*, (Berkeley, CA: University of California Press), 1997.

Jack Balkin – “The Constitution of Status,” 106 *Yale Law Journal*, 2312, 1996-7

Jan 29

Karen and Barbara Fields, “Slavery, Race, and Ideology in the United States of America,” in *Racecraft: The Soul of Inequality in American Life*, (Oxford

Jan 31

Feb 5

Feb 7

Feb 12

Feb 14

Feb 19

Feb 21

Feb 26 Foner, ch. 2 and *Race Law*, pp. 238-54

Slaughterhouse Cases (1873)

Feb 28 Foner, ch. 3

Race Law, pp. 254-301

Cruikshank (1875) and *Civil Rights Cases* (1883)

Mar 4 Foner, ch. 4 and epilogue

Jim Crow

Mar 6 Introduction and chs. 1-2, William James Hull Hoffer, *Plessy v. Ferguson: Race and Inequality in Jim Crow America*, (Lawrence, KS: University of Kansas Press), 2012.

Mar 9-17 **Spring Break!**

Mar 18 Hull Hoffer, ch. 3, Tourgée-Walker brief, and Ferguson brief

Mar 20 Hull Hoffer, ch. 4 and *Plessy*

Mar 25 Melissa Milewski – “From Slave to Litigant: African Americans in Court in the Postwar South, 1865–1920,” *Law and History Review*, August 2012, Vol. 30, No. 3

Mar 27 Klarman, *Brown v. Board of Education and the Civil Rights Movement*, chs. 1-2

Giles v. Harris (optional)

Civil Rights Era

Mar 29 Klarman, ch. 3 and *Brown v. Board of Education*

Apr 1 Derrick Bell, “*Brown v. Board of Education* and the Interest Convergence Dilemma”

Apr 3 Klarman, chs. 4-5

Apr 8 Klarman, chs. 6-7

Contemporary Issues: although there are many areas of law that affect or reflect efforts to end/maintain racial subordination, we don't have time to deal with all of them. Most treatments of race and law cover busing (since it is a direct result of *Brown*), affirmative action in education, hiring, and contracting, employment discrimination, voting, housing, and a variety of other areas. We will focus on criminal justice and employment discrimination.

Employment

Apr 10 Derrick Bell, *Race, Racism, and the Law*, pp. 149-180

1964 Civil Rights Act, Title VII

Apr 15

McDonnell Douglas Corp v. Green (1973)

Griggs v. Duke Power (1973), *Washington v. Davis* (1976), *Feeney* (1979), *Wards Cove* (1989), and *Ricci* (2009)

Apr 17

Robert Bork, "Civil Rights – a Challenge," in *New Republic*

Allan David Freeman, "Legitimizing Racial Discrimination through anti-discrimination Law," in *Critical Race Theory*

Criminal Justice

Apr 22

Randall Kennedy, "History: Unequal Enforcement," in *Race, Crime, and Law*, (New York: Vintage), 1998.

Apr 24

Michelle Alexander, pp. 40-139, *The New Jim Crow*

Apr 26

Alexander, pp. 140-220

Apr 29

James Forman, "Racial Critiques of Mass Incarceration: Beyond the New Jim Crow," *NYU Law Review*, 87:21, 2012.