

**RACE AND THE FOUNDATIONS OF AMERICAN  
LAW**

**SYLLABUS AND LEARNING OUTCOMES**

**ROGER WILLIAMS UNIVERSITY  
SCHOOL OF LAW**



**ROSA PARKS RIDING THE BUS  
(© 1956, PHOTO BY BETTMANN ARCHIVE VIA GETTY IMAGES)**

**© COPYRIGHT 2022 ROGER WILLIAMS UNIVERSITY SCHOOL OF LAW**

## **RACE AND THE FOUNDATIONS OF AMERICAN LAW**

### **Syllabus and Learning Outcomes**

#### **Vision Statement:**

The United States has long worked to embody the promise, as written in the Declaration of Independence that, “[A]ll men are created equal...” At its essence, the nation postulates that it stands for justice -- in its Constitution, our laws, and our legal and other systems. American legal history, paradoxically, offers many examples of injustice, and a history of our legal system working to remedy them. This course focuses on one of the key foundations of the nation that the legal system has enshrined and then wrestled to dismantle: white supremacy.

Using insights of critical historical, sociological, and legal scholarship to analyze the forces that have led to the formation of our legal system and the role that established law plays in limiting the possibility of achieving true equality and the elimination of racial hierarchies, the course will give students specific analytic tools to enable them to bring a critical approach to all areas of their legal education as well as to the nation’s legal system and framework, including a focus on ways that the legal system was used to enshrine a racial hierarchy and key components of the Constitution and their judicial interpretation. Students will also be encouraged to explore their professional identities as law students, future lawyers, and future legal roles within that existing framework.

The course is divided into three sections: (1) Origins of White Supremacy: Lessons from History; (2) Systems That Maintain Racial Hierarchy; and (3) Remedies. “Origins of White Supremacy” looks closely at how maintaining or creating racial hierarchy was a central tenet in the development of our legal doctrine. This first section of the Course covers colonialism, resistance, rebellion and enslavement, the tension between egalitarian ideals and the pro-slavery reality and the post-Civil War promise and failure of reconstruction (including analysis of the origins and implementation of the 13th, 14th and 15th Amendments).

Next, “Systems that Maintain Racial Hierarchy” covers voter suppression and gerrymandering, mass incarceration, policing and surveillance, and segregation in education and housing. Here, we will explore how current legal systems continue to maintain racial hierarchy while using less explicit language of discrimination or *de jure* segregation.

Finally, in the “Remedies” section, the Course takes a critical look at how racial hierarchy in the law might be dismantled and impediments to those efforts. We will examine affirmative action, reparations, truth telling, efforts to reform the legal system and legal education and discuss and analyze the concept of anti-racist lawyering.

This three credit course requires two and a half hours per week of class time as well as six (6) hours of work outside the classroom. The six hours of work is made up of: preparing for class with videos and readings, four (4) written assignments (750-1,000 words each) and sitting for a final examination.

DATES	READINGS & ASSIGNMENTS
Week 1	<p><b>COURSE OVERVIEW: Defining Race, Talking About Race, Intersectionality</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Syllabus, Course Policies and Objectives</li> <li>• Jane Coaston, <i>The Intersectionality Wars</i>, VOX (May 28, 2019, 9:09 AM), <a href="https://www.vox.com/the-highlight/2019/5/20/18542843/intersectionality-conservatism-law-race-gender-discrimination">https://www.vox.com/the-highlight/2019/5/20/18542843/intersectionality-conservatism-law-race-gender-discrimination</a>. <i>What Census Calls Us</i>, PEW RESEARCH CENTER (Feb. 06, 2020), <a href="https://www.pewresearch.org/interactives/what-census-calls-us/">https://www.pewresearch.org/interactives/what-census-calls-us/</a>.</li> <li>• <i>Race, The Power of an Illusion</i>, PBS, <a href="http://www.pbs.org/race/000_About/002_04-background-01-07.htm">http://www.pbs.org/race/000_About/002_04-background-01-07.htm</a> (last visited May 17, 2022).</li> <li>• <i>Plessy v. Ferguson</i>, 163 U.S. 537 (1896).</li> </ul>

	<ul style="list-style-type: none"> <li>• Janel George, <i>A Lesson on Critical Race Theory</i>, ABA (Jan. 11, 2021), <a href="https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/a-lesson-on-critical-race-theory/">https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/a-lesson-on-critical-race-theory/</a>.</li> <li>• <i>Post Mortem: A Conversation Gone Wrong</i>, HEARING FROM WHITENESS, <a href="https://healingfromwhiteness.blogspot.com/2017/05/post-mortem-conversation-gone-wrong.html?m=1">https://healingfromwhiteness.blogspot.com/2017/05/post-mortem-conversation-gone-wrong.html?m=1</a> (last visited May 17, 2022).</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> </ul>
<p><b>Week 2</b></p>	<p><b>Historical Origins of White Supremacy: Colonization</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Howard Zinn, <i>A People’s History of the United States: Columbus, the Indians, and Human Progress</i> 1-22 (2015).</li> <li>➤ <i>Johnson v. McIntosh</i>, 21 U.S. 543 (1823).</li> <li>➤ This Land. <i>The Land Grab</i>, (2019), <a href="https://crooked.com/podcast/this-land-episode-5-the-land-grab/">https://crooked.com/podcast/this-land-episode-5-the-land-grab/</a> (last visited May 26, 2022).</li> <li>➤ <i>McGirt v. Oklahoma</i>, 591 U.S. ____ (2020)</li> <li>➤ <i>Oklahoma v. Castro-Huerta</i>, 597 U.S. ____ (2022).</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> </ul>
<p><b>Week 3</b></p>	<p><b>Historical Origins of White Supremacy: Chattel Slavery</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>• Howard Zinn, <i>A People’s History of the United States: Drawing the Color Line</i> 23-38 (2015).</li> <li>• Henry Louis Gates, Jr., <i>The Classic Slave Narratives: The History of Mary Prince: A West Indian Slave</i> (2012).</li> <li>• Frederick Douglass, <i>The Meaning of July Fourth for the Negro</i> (1852) in Juan F. Perea et al., <i>Race and Races: Cases and Resources for a Diverse America</i> (3rd ed. 2015).</li> <li>• <i>Slave Laws of the State of Virginia</i> (1723) in Juan F. Perea et al., <i>Race and Races: Cases and Resources for a Diverse America</i> (3rd ed. 2015).</li> <li>• <i>Dred Scott v. Sandford</i>, 60 U.S. 393 (1856) in Juan F. Perea et al., <i>Race and Races: Cases and Resources for a Diverse America</i> (3rd ed. 2015).</li> <li>• TRACES OF THE TRADE: A STORY FROM THE DEEP NORTH, RI PBS Weekly (2008).</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>• Write a 500 word reflection</li> </ul>



**HARRIET TUBMAN'S UNDERGROUND RAILROAD**  
(© PAUL COLLINS)

<p><b>Week 4</b></p>	<p><b>Historical Origins of White Supremacy: Constitution/Views of Framers</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Paul Finkelman, <i>Three-Fifths Clause: Why Its Taint Persists</i>, THE ROOT (Feb. 26, 2013, 12:27 AM), <a href="https://www.theroot.com/three-fifths-clause-why-its-taint-persists-1790895387">https://www.theroot.com/three-fifths-clause-why-its-taint-persists-1790895387</a>.</li> <li>➤ Juan F. Perea, <i>Race and Constitutional Law Casebooks: Recognizing the Proslavery Constitution</i>, 110 Mich. L. Rev. 1123 (2012) (Read Introduction, Sections I and IV, and Conclusion. Skim Section III only).</li> <li>➤ Robert Cohen, <i>Was the Constitution Pro-slavery? The Changing View of Frederick Douglass</i>, 72 Soc. Educ. 246 (2008).</li> <li>➤ <i>Prigg v. Pennsylvania</i>, 41 U.S. 539 (1842).</li> <li>➤ U.S. Const. art. I § 2</li> <li>➤ U.S. Const. art. I § 8</li> <li>➤ U.S. Const. art. I § 9</li> <li>➤ U.S. Const. art. IV § 2</li> <li>➤ U.S. Const. art. IV § 4</li> <li>➤ U.S. Const. art. V</li> <li>➤ Slavery and the Constitution, <i>A More or Less Perfect Union</i>, PBS (2020) available at <a href="https://www.pbs.org/wnet/more-less-perfect-union/video/slavery-and-the-constitution/">https://www.pbs.org/wnet/more-less-perfect-union/video/slavery-and-the-constitution/</a>.</li> <li>➤ Rhode Island Attorney Oath, R.I. Sup. Ct. R. 8 (2021).</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> <li>➤ Submit your first paper topic for approval.</li> </ul>
<p><b>Week 5</b></p>	<p><b>Historical Origins of White Supremacy: Reconstruction/Civil War Amendments</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Howard Zinn, <i>A People’s History of the United States: Slavery Without Submission, Emancipation Without Freedom</i> 172-210 (2015).</li> <li>➤ <i>The Reconstruction Era and the Fragility of Democracy</i>, Facing History &amp; Ourselves, pp., 35-37; 84-86; 97-100; 112-115, available at <a href="https://www.facinghistory.org/reconstruction-era">https://www.facinghistory.org/reconstruction-era</a>.</li> <li>➤ Eric Foner, <i>Black Reconstruction: An Introduction</i>, 112 S. Atl. Q. 409 (2013).</li> <li>➤ W.E.B. Du Bois, <i>Black Reconstruction in America</i> 133-44 (1998).</li> <li>➤ Slavery by Another Name, <i>Black Codes and Pig Laws</i>, PBS (2012). Watch Origins of Black Codes and Laws to Criminalize Black Life.</li> <li>➤ <i>The Jim Crow Era</i>, AMERICAN BATTLEFIELD TRUST, <a href="https://www.battlefields.org/learn/articles/jim-crow-era">https://www.battlefields.org/learn/articles/jim-crow-era</a> (last visited May 17, 2022).</li> <li>➤ The Civil Rights Cases, 109 U.S. 3 (1883).</li> <li>➤ Nikole Hannah-Jones, <i>The 1619 Project: A New Origin Story</i> 6-36 (Nikole Hannah-Jones et al. eds., 2021).</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> <li>➤ Forum Posts</li> </ul>

<p><b>Week 6</b></p>	<p><b>Systems of Racism: Mass Incarceration</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Paul Butler, <i>Let's Get Free</i> 1-40 (2010).</li> <li>➤ The History of Policing and Race in the U.S. are Deeply Intertwined, NPR (2020), available at <a href="https://www.npr.org/2020/06/13/876628302/the-history-of-policing-and-race-in-the-u-s-are-deeply-intertwined">https://www.npr.org/2020/06/13/876628302/the-history-of-policing-and-race-in-the-u-s-are-deeply-intertwined</a>.</li> <li>➤ German Lopez, <i>Mass Incarceration in America, Explained in 22 Maps and Charts</i>, VOX (Oct. 11, 2016, 1:50 PM), <a href="https://www.vox.com/2015/7/13/8913297/mass-incarceration-maps-charts">https://www.vox.com/2015/7/13/8913297/mass-incarceration-maps-charts</a>.</li> <li>➤ Elizabeth Alexander, <i>The Trayvon Generation</i> 67-82 (2022).</li> <li>➤ <i>13<sup>th</sup></i>, Kandoo Films (2016) available at <a href="https://www.youtube.com/watch?v=krfcq5pF8u8">https://www.youtube.com/watch?v=krfcq5pF8u8</a>.</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> <li>➤ First paper due.</li> </ul>
<p><b>Week 7:</b></p>	<p><b>Going Forward: Mass Incarceration/Abolition</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Ta-Nehisi Coates, <i>The Black Family in the Age of Mass Incarceration</i>, THE ATLANTIC (Oct. 2015), <a href="https://www.theatlantic.com/magazine/archive/2015/10/the-black-family-in-the-age-of-mass-incarceration/403246/">https://www.theatlantic.com/magazine/archive/2015/10/the-black-family-in-the-age-of-mass-incarceration/403246/</a>.</li> <li>➤ German Lopez, <i>Jury Nullification: How Jurors Can Stop Unfair and Racist Laws in the Courtroom</i>, VOX (May 2, 2016, 9:00 AM), <a href="https://www.vox.com/2016/5/2/11538752/jury-nullification-paul-butler">https://www.vox.com/2016/5/2/11538752/jury-nullification-paul-butler</a>.</li> <li>➤ Paul Butler, <i>Let's Get Free</i> 167-85 (2010).</li> <li>➤ Angela Y. Davis, <i>Are Prisons Obsolete?</i> (2003). (Ch. 1 &amp; 6 only).</li> <li>➤ <i>Prisonation: Visions of California in the 21<sup>st</sup> Century</i>, SANDOW BIRK, <a href="https://sandowbirk.com/prisonation">https://sandowbirk.com/prisonation</a> (last visited May 18, 2022).</li> <li>➤ <i>Five Things About Deterrence</i>, NATIONAL INSTITUTE OF JUSTICE (June 5, 2016), <a href="https://nij.ojp.gov/topics/articles/five-things-about-deterrence">https://nij.ojp.gov/topics/articles/five-things-about-deterrence</a>.</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> </ul>
<p><b>Week 8</b></p>	<p><b>Systems of Racism: Voting Suppression/Gerrymandering</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ <i>Voting Rights Act: Major Dates in History</i>, ACLU, <a href="https://www.aclu.org/voting-rights-act-major-dates-history">https://www.aclu.org/voting-rights-act-major-dates-history</a> (last visited May 18, 2022).</li> <li>➤ <i>Letter from Mrs. E. Jackson in Favor of Voting Rights, March 8, 1965</i>, NATIONAL ARCHIVES, <a href="https://www.archives.gov/legislative/features/voting-rights-1965/jackson.html">https://www.archives.gov/legislative/features/voting-rights-1965/jackson.html</a> (last visited May 18, 2022).</li> </ul>

	<ul style="list-style-type: none"> <li>➤ <i>Letter from Mr. George Neu Against Voting Rights, March 26, 1965</i>, NATIONAL ARCHIVES, <a href="https://www.archives.gov/legislative/features/voting-rights-1965/neu.html">https://www.archives.gov/legislative/features/voting-rights-1965/neu.html</a> (last visited May 18, 2022).</li> <li>➤ <i>The Docket: The Rise And Fall Of The Voting Rights Act Of 1965</i> NPR (2021) available at <a href="https://www.npr.org/2021/07/29/1022343670/the-docket-the-rise-and-fall-of-the-voting-rights-act-of-1965">https://www.npr.org/2021/07/29/1022343670/the-docket-the-rise-and-fall-of-the-voting-rights-act-of-1965</a>.</li> <li>➤ <i>Suppressed 2020: The Fight To Vote</i>, Brave New Films (2020) available at <a href="https://www.youtube.com/watch?v=9rynnRBQwrU">https://www.youtube.com/watch?v=9rynnRBQwrU</a>.</li> <li>➤ Michael Wines, <i>What is Gerrymandering and How Does it Work?</i>, THE NEW YORK TIMES (June 27, 2019), <a href="https://www.nytimes.com/2019/06/27/us/gerrymander-explainer.html">https://www.nytimes.com/2019/06/27/us/gerrymander-explainer.html</a>.</li> <li>➤ <i>Redistricting Criteria</i>, NATIONAL CONFERENCE OF STATE LEGISLATURES (July 16, 2021), <a href="https://www.ncsl.org/research/redistricting/redistricting-criteria.aspx">https://www.ncsl.org/research/redistricting/redistricting-criteria.aspx</a>.</li> <li>• <i>Shelby County v. Holder</i>, 570 U.S. 529 (2013).</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> </ul>
<p><b>Week 9</b></p>	<p><b>Systems of Racism: Public Education &amp; Housing</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ <i>Brown v. Board of Education</i>, 347 U.S. 483 (1954).</li> <li>➤ Derrick A. Bell, Jr., <i>Brown v. Board of Education and the Interest-Convergence Dilemma</i>, 93 Harv. L. Rev. 518 (1980).</li> <li>➤ <i>San Antonio Independent School District v. Rodriguez</i>, 411 U.S. 1 (1973).</li> <li>➤ <i>Three Miles</i>, NPR (2015) available at <a href="https://www.thisamericanlife.org/550/three-miles">https://www.thisamericanlife.org/550/three-miles</a>.</li> <li>➤ Henry Louis Gates, Jr., <i>The Truth Behind 40 Acres and a Mule</i>, PBS, <a href="https://www.pbs.org/wnet/african-americans-many-rivers-to-cross/history/the-truth-behind-40-acres-and-a-mule/">https://www.pbs.org/wnet/african-americans-many-rivers-to-cross/history/the-truth-behind-40-acres-and-a-mule/</a> (last visited May 18, 2022).</li> <li>➤ Center for Great Plains Studies, <i>Rick Edwards on the Southern Homestead Act</i> (2019) available at <a href="https://mediahub.unl.edu/media/11296">https://mediahub.unl.edu/media/11296</a>.</li> <li>➤ Richard Rothstein, <i>Segregated by Design</i> (2022) available at <a href="https://www.segregatedbydesign.com">https://www.segregatedbydesign.com</a>.</li> <li>➤ <i>Shelley v. Kraemer</i>, 334 U.S. 1 (1948).</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> <li>➤ Paper topic 2 due.</li> </ul>
<p><b>Week 10</b></p>	<p><b>Systems of Racism: Legal Education and the Profession</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ <i>Letter from Roger Williams University School of Law Black Law Students Association</i>, FACEBOOK, <a href="https://www.facebook.com/photo/?fbid=10222677432181896&amp;set=gm.1605363736297484">https://www.facebook.com/photo/?fbid=10222677432181896&amp;set=gm.1605363736297484</a> (last visited May 26, 2022).</li> <li>➤ <i>2020 Diversity and Exclusion: Annual Survey Results</i>, LSSSE, <a href="https://lssse.indiana.edu/wp-content/uploads/2020/09/Diversity-and-Exclusion-Final-9.29.20.pdf">https://lssse.indiana.edu/wp-content/uploads/2020/09/Diversity-and-Exclusion-Final-9.29.20.pdf</a> (last visited May 19, 2022).</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Francesco Arreaga, <i>Law Schools Have A Moral and Social Responsibility to End Systemic Racism</i>, Calif. L. Rev. Online (July 2020), <a href="https://www.californialawreview.org/law-schools-systemic-racism/">https://www.californialawreview.org/law-schools-systemic-racism/</a>.</li> <li>➤ Daria Roithmayr, <i>Deconstructing the Distinction Between Bias and Merit</i>, 85 Calif. L. Rev. 1450 (1997)(pp.389-406).</li> <li>➤ Lauren Hutton-Work &amp; Rae Guyse, <i>Requiring a Bar Exam in 2020 Perpetuates Systemic Inequities in the Legal System</i>, THE APPEAL (July 06, 2020), <a href="https://theappeal.org/2020-bar-exam-coronavirus-inequities-legal-system/">https://theappeal.org/2020-bar-exam-coronavirus-inequities-legal-system/</a>.</li> <li>➤ Meera Deo, <i>Unequal Profession: Race and Gender in Legal Academia</i> 55-79 (2019).</li> <li>➤ <i>Pictures in My Head: Black Law Deans Take on Racism in Legal Ed.</i>, Law.com (2020) available at <a href="https://www.law.com/2020/06/19/pictures-in-my-head-black-law-deans-take-on-racism-in-legal-ed/?slreturn=20220426160108">https://www.law.com/2020/06/19/pictures-in-my-head-black-law-deans-take-on-racism-in-legal-ed/?slreturn=20220426160108</a>.</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> <li>➤ Forum posts.</li> </ul>
<p><b>Week 11</b></p>	<p><b>Going Forward: Transitional Justice and Truth-telling</b></p> <p><b>READ/WATCH</b></p> <ul style="list-style-type: none"> <li>➤ <i>Dawnland</i>, The Upstander Project (2018).</li> <li>➤ Press Release, Indian Affairs, Adoptions of Indian Children Increase, U.S. Department of the Interior (Apr. 14, 1966).</li> <li>➤ <i>Beyond the Mandate: Continuing the Conversation</i>, MAINE WABANAKI-STATE CHILD WELFARE TRUTH &amp; RECONCILIATION COMMISSION (June 14, 2015), <a href="https://d3n8a8pro7vhmx.cloudfront.net/mainewabanakireach/pages/17/attachments/original/1468974047/TRC-Report-Expanded_July2015.pdf?1468974047">https://d3n8a8pro7vhmx.cloudfront.net/mainewabanakireach/pages/17/attachments/original/1468974047/TRC-Report-Expanded_July2015.pdf?1468974047</a>.</li> <li>➤ Christy Clark-Pujara, <i>Dark Work: The Business of Slavery in Rhode Island</i> (2016).</li> <li>➤ <i>Teaching Hard History: American Slavery</i>, SOUTHERN POVERTY LAW CENTER, <a href="https://www.splcenter.org/sites/default/files/tt_hard_history_american_slavery.pdf">https://www.splcenter.org/sites/default/files/tt_hard_history_american_slavery.pdf</a> (last visited May 19, 2022).</li> <li>➤ Mattie Kahn, <i>The German Model for America</i>, VOX (Oct. 5, 2020, 8:05 AM), <a href="https://www.vox.com/the-highlight/21405900/germany-holocaust-atonement-america-slavery-reparations">https://www.vox.com/the-highlight/21405900/germany-holocaust-atonement-america-slavery-reparations</a>.</li> <li>➤ <i>Is the United States Ready for a Truth-Telling Process</i>, ICTJ (Aug. 09, 2017), <a href="https://www.ictj.org/news/united-states-ready-truth-telling-process">https://www.ictj.org/news/united-states-ready-truth-telling-process</a>.</li> <li>➤ Brian Rinker, <i>Q&amp;A: UPenn Prof. Dorothy Roberts Makes the Case for Abolishing the Child Welfare System</i>, YOUTH TODAY (Feb. 8, 2022), <a href="https://youthtoday.org/2022/02/qa-upenn-prof-dorothy-roberts-makes-the-case-for-abolishing-the-child-welfare-system/">https://youthtoday.org/2022/02/qa-upenn-prof-dorothy-roberts-makes-the-case-for-abolishing-the-child-welfare-system/</a>.</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> <li>➤ Paper 2 due.</li> </ul>
<p><b>Week 12</b></p>	<p><b>Going Forward: Reparations/Critical Race Theory</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Ta-Nehisi Coates, <i>The Case for Reparations</i>, THE ATLANTIC (June 2014), <a href="http://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631">http://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631</a>.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Richard Delgado and Jean Stefancic, Chapter II in <i>Critical Race Theory: An Introduction: Hallmark Critical Race Theory Themes</i></li> <li>➤ Kimberlé Williams Crenshaw, <i>Twenty Years of Critical Race Theory: Looking Back To Move Forward</i>, 42 Conn. L. Rev. 1253 (2011).</li> <li>➤ Jelani Cobb, <i>The Man Behind Critical Race Theory</i>, THE NEW YORKER (Sept. 13, 2021), <a href="https://www.newyorker.com/magazine/2021/09/20/the-man-behind-critical-race-theory">https://www.newyorker.com/magazine/2021/09/20/the-man-behind-critical-race-theory</a>.</li> <li>➤ Keith W. Stokes &amp; Theresa Guzmán Stokes, <i>A Matter of Truth</i> 122 (W. Paul Davis 2021).</li> <li>➤ David Frum, <i>The Impossibility of Reparations</i>, THE ATLANTIC (June 14, 2006), <a href="https://www.theatlantic.com/business/archive/2014/06/the-impossibility-of-reparations/372041/">https://www.theatlantic.com/business/archive/2014/06/the-impossibility-of-reparations/372041/</a>.</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> </ul>
<p><b>Week 13</b></p>	<p><b>Going Forward: Antiracist Lawyering/Decolonizing Education</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Justin Jouvenal, <i>Virginia Judge: Remove Courtroom Portraits</i>, WASHINGTON POST, Dec. 23, 2020).</li> <li>➤ Lucie E. White, <i>Subordination, Rhetorical Survival Skills and Sunday Shoes: Notes on the Hearing of Ms. G</i>, 38 Buff. L. Rev. 1 (1990).</li> <li>➤ Ibram X. Kendi, <i>The Difference Between Being “Not Racist” and Antiracist</i>, TED Talk (2020) available at <a href="https://www.youtube.com/watch?v=KCxb15QgFZw">https://www.youtube.com/watch?v=KCxb15QgFZw</a>.</li> <li>➤ Elizabeth Tsai Bishop et al., <i>Racial Disparities in the Massachusetts Criminal System</i> (The Crim. Just. Pol’y Program 2010).</li> <li>➤ Paulo Freire, <i>Pedagogy of the Oppressed</i> 71-86 (Myra Bergman Ramos trans., 1993).</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> <li>➤ Paper topic 3 due.</li> </ul>
<p><b>Week 14</b></p>	<p><b>Going Forward: Algorithmic Justice</b></p> <p><b>READ</b></p> <ul style="list-style-type: none"> <li>➤ Herbert B. Dixon Jr., <i>Artificial Intelligence: Benefits and Unknown Risks</i>, ABA (Jan. 15, 2021), <a href="https://www.americanbar.org/groups/judicial/publications/judges_journal/2021/winter/artificial-intelligence-benefits-and-unknown-risks/">https://www.americanbar.org/groups/judicial/publications/judges_journal/2021/winter/artificial-intelligence-benefits-and-unknown-risks/</a>.</li> <li>➤ Will Douglas Heaven, <i>Predictive Policing Algorithms Are Racist. They Need To Be Dismantled</i>, MIT TECHNOLOGY REVIEW (July 17, 2020), <a href="https://www.technologyreview.com/2020/07/17/1005396/predictive-policing-algorithms-racist-dismantled-machine-learning-bias-criminal-justice/">https://www.technologyreview.com/2020/07/17/1005396/predictive-policing-algorithms-racist-dismantled-machine-learning-bias-criminal-justice/</a>.</li> <li>➤ Alex Engler, <i>Auditing Employment Algorithms for Discrimination</i>, BROOKINGS (Mar. 12, 2021), <a href="https://www.brookings.edu/research/auditing-employment-algorithms-for-discrimination/">https://www.brookings.edu/research/auditing-employment-algorithms-for-discrimination/</a>.</li> <li>➤ Karen Hao &amp; Jonathan Stray, <i>Can You Make AI Fairer Than a Judge? Play Our Courtroom Algorithm Game</i>, MIT TECHNOLOGY REVIEW (Oct. 17, 2019),</li> </ul>

	<p><a href="https://www.technologyreview.com/2019/10/17/75285/ai-fairer-than-judge-criminal-risk-assessment-algorithm/">https://www.technologyreview.com/2019/10/17/75285/ai-fairer-than-judge-criminal-risk-assessment-algorithm/</a>.</p> <ul style="list-style-type: none"> <li>➤ Leslie A. Gordon, <i>Professor Says Data Mining Can Improve Jury Selection</i>, ABA JOURNAL (Sept. 1, 2016, 3:20 AM), <a href="https://www.abajournal.com/magazine/article/big_data_improve_jury_system/">https://www.abajournal.com/magazine/article/big_data_improve_jury_system/</a>.</li> <li>➤ Genevieve Smith &amp; Ishita Rustagi, <i>Mitigating Bias in Artificial Intelligence: An Equity Fluent Leadership Playbook</i>, BERKELEY HAAS CENTER FOR EQUITY (July 2020), <a href="https://haas.berkeley.edu/wp-content/uploads/UCB_Playbook_R10_V2_spreads2.pdf">https://haas.berkeley.edu/wp-content/uploads/UCB_Playbook_R10_V2_spreads2.pdf</a>.</li> </ul> <p><b>ASSIGNMENT</b></p> <ul style="list-style-type: none"> <li>➤ Write a 500 word reflection</li> <li>➤ Forum posts</li> </ul>
	<p><b>Paper 3 Due:</b></p>

**ASSIGNMENTS AND GRADING:** You will receive a letter grade for this course as follows:

- **Professional Engagement (25%).** Professional Engagement includes all aspects of your engagement with this course. It includes Class Participation; attending and being on time for all classes; preparing for class by doing the readings and other assignments; bringing to class appropriate materials and readings; active participation in class discussions and group work, your own and your classmates’ presentations, compliance with laptop and personal device rules, responding promptly to requests for information, and otherwise being a responsible and helpful citizen of this course. Throughout the semester, you will be required to engage in both small and large group discussions about concepts and cases raised throughout the semester.

- **Written Assignments (75%).**

Reflections: (25%)

You are required to write 500 word reflections each week for this class. Some reflections will be guided prompts; others will be open ended. Be sure to review the syllabus on Bridges each week for access to assignment instructions and to stay up to date. Each reflection will be worth 5 points. Your reflections will be evaluated on the depth of analysis, reflection, and perception; their readability for the intended audience and purpose; and their clear, organized, and grammatically correct writing. The expectation is that all reflections must be completed on time; points may be deducted for late submissions.

Forum Postings: (10%)

Additionally, you will be required to participate in the written forum discussions at the end of each major section. Your contributions to these discussions must be exhibit critical thinking and mastery of the subject. You are required to participate thoughtfully and fully. You must post at least 2 times per week. Each post must be at least 250 words and be targeted at the discussion prompt. Discussion prompts will be available by Monday at midnight of each week. Comments should not only show that you have completed your assignments but that you are able to synthesize the material. Please use the forums to demonstrate to us and to others that you are a thoughtful, critical thinker and that you are

engaged in this class. We are less concerned about length and more concerned about ability to move a conversation forward in an incisive way.

Paper (40%) At the end of the three sections, you will write a paper in which you evaluate topics covered in class. The paper will be evaluated on its depth of analysis and insight; its readability, and its clear, organized, and grammatically correct writing. Instructions and criteria to be provided during the semester.

**STUDENTS WILL BE GRADED ON THE SKILLS THEY DEMONSTRATE IN CLASS AND IN THEIR SUBMISSIONS, AS OUTLINED ABOVE, AND IN ACCORDANCE WITH ESTABLISHED AND PUBLISHED GRADING RUBRICS. EACH STUDENT SHOULD FEEL FREE TO EXPRESS HIS OR HER OPINION ON ANY TOPIC COVERED BY THE COURSE WITHOUT WORRY OR FEAR THAT THE STUDENT WILL BE GRADED ON THE CONTENT OF THAT OPINION. GRADING POLICIES WILL ADHERE TO THE PRINCIPLES OF ACADEMIC FREEDOM, CONSISTENT WITH THE RULES AND STANDARDS APPLICABLE TO ALL CLASSES AT RWU.**

## Class Rules:

Treat all with dignity and respect.

Listen to each other but recognize that there may be disagreement.

Limit sarcasm. It's easy to misread.

Think before you communicate. Ask yourself, why am I communicating this?

Avoid stereotypes. Avoid speaking for others and for your race, class, gender, etc.

Be mindful of your own implicit biases and privileges.

Don't make assumptions about your classmates.

Lived experiences and the humanity of ourselves and others in this class are two things which are not debatable. They are always valid.

Limit the use of the devil's advocate type of rhetoric.

Be thoughtful about your tone when communicating.

You have a right to your anger and to be able to express it.

Always listen to what others in class are communicating.

Be mindful of the choices you make regarding the use of language.

Be grateful to others in the class who are willing to share their opinions, experiences, thoughts, etc.

Try to focus less on individual attitudes and more on systems of power and systemic racism.

Be gentle with yourself and others and stay in the difficulty. This stuff can be hard.

## Course Policies:

**Accommodations:** RWU Law endeavors to assist students with disabilities to complete law school successfully and will provide students with reasonable accommodations necessary to enable them to participate in all academic programs. If you are a student with a disability or believe you might have a disability that requires accommodations, please contact the Assistant Dean of Students, Lorraine Lalli, at 401-254-4593 to coordinate any reasonable accommodation requests. You can find more information for accommodations on RWU Law's website here: <https://law.rwu.edu/student-experience/student-support/academic-accommodations>. Additional information is also in Article VIII of the Student Handbook.

**Readings and Assignments:** Readings will be uploaded to the course's Bridges site under Resources. Please keep in mind, the readings in the syllabus may be changed as the semester progresses. **Any changes to the syllabus will be clearly noted on Bridges.** Students will use Bridges to access and submit all course assignments. If you are not familiar with retrieving and submitting assignments through Bridges, please alert us as soon as possible. All readings and resources will be posted on this Bridges site at least 1 week before class. Each week will have its own tab in Bridges where all the readings and other resources will exist as links. Furthermore, these readings will likely change as the class goes on. We have a set plan for the class but if we feel that we are moving too quickly or slowly we will adjust the readings.

**Technology:** Access to computer/laptop with external or built-in webcam, internal webcam, internal microphone, and video recording software. Access to a telephone is also needed.

### Browser Compatibility

Chrome or Firefox, are the preferred browsers for Bridges for all OS platforms. All other browsers will either not function or have limited functionality. It's generally best to use the most up-to-date version of your preferred browser. Note that new incompatibilities may be introduced when a new browser version is released; developers will work to address serious compatibility problems as quickly as possible. You may get unexpected results if you use two browser windows or tabs to access the same tool at the same time. For best results, use one browser window to work in Bridges. If you do want to use two windows, you may want to use two different browsers. See Bridges log-in page for latest browser compatibility information. Be sure to turn pop-up blocker OFF.

**Glossary:** Do you have questions about a term or phrase? Please refer to the Racial Equity Terms Glossary: <https://www.racialequitytools.org/glossary>

**Code of Student Responsibility:** All students are expected to abide by the same rules of integrity,

honesty, and responsibility that practicing attorneys must abide by as part of their ethical obligations and that the Law School's Code of Student Responsibility demands. Any violation of this policy will be addressed according to the Law School's Honor Code. All writing assignments must be completed independently, unless explicitly instructed to work with others, and every graded and ungraded assignment you turn in to me must be your own original work product.

Do not plagiarize. The Law School's Honor Code provides that "plagiarizing, misappropriating, or failing to acknowledge the ideas or written work of another" is a Code violation. Honor Code at Article Three, D.R. 1(c). Law Student plagiarism is defined by the Legal Writing Institute as "[t]aking the literary property of another, passing it off as one's own without appropriate attribution, and reaping from its use any benefit from an academic institution." Legal Writing Institute, Plagiarism Brochure (2001).

**Class Attendance:** The class attendance policy requires that a student miss no more than 20% of scheduled classes. In a course that meets once a week, that means that missing more than two classes will result in violation of the attendance policy and the automatic entering of "WF" as a grade. (Student Handbook, Section 601).

**Religious Holidays/Cultural Observances:** Roger Williams University School of Law welcomes students from all backgrounds, religions, and ideologies. Should you have a religious or cultural holiday that coincides with class times, please let us know as early as possible. While we honor your religious and cultural observances, please be aware that there are no excused absences. We will work to ensure that you are aware of assignments/readings due. Students are responsible for obtaining notes or making up missed work.

**Class Participation:** Class Participation is part of your Professional Engagement grade. You should come to each class prepared to talk about your assigned readings. Feel free to bring in any interesting, surprising, different, perplexing, challenging, or enlightening insights you wish to share. Feel free to solicit input, feedback, and advice from your colleagues. Please contribute without our prompting you; jump in, raise your hand, add to the discussion, share, help generate engaging discussions, and add your own value to the group of colleagues (as a valuable colleague must). Your own participation is the key to an interesting, supportive, candid and lively classroom from which everyone can grow. Class Participation also provides the opportunity to practice speaking in front of others (as all lawyers must) and using persuasive skills. It is also a good time to listen actively and respond thoughtfully to each other's comments and issues, as topics related to race and systems of oppression require forethought.

**Laptops and Personal Devices:** Please do not use them for any purpose other than accessing class notes or readings. Please do not engage at all with your computer or device while another classmate or guest speaker is presenting. When classes are in person, **No laptops may be open when a guest speaker is present.** Students who are seen using their computers or devices during class for other uses will lose Professional Engagement points. This class depends on a respectful team environment, which requires full interpersonal engagement.

**Office Hours:** All office hours are by appointment only.

**Guest Speakers:** When we have guest speakers, please come to class prepared with questions for the speaker; be an active listener during the talk and ask questions.

**Encouraging Multiple Perspectives in the Seminar:** Our individual identities and perspectives can deepen and expand our understanding of one another and the world around us. In this course, all students are encouraged to share their perspectives and experiences relating to the course content, readings, and experiences. We all have a lot to learn from each other, and everyone has an interesting perspective to contribute. Please feel free to participate fully as an active and engaged member of this class and community.

**Requirements for Written Work: Please submit all assignments on Bridges (unless told otherwise).** All writing assignments must show a diligent and professional effort, with attention to the details of writing mechanics and readability. Proofread every assignment for spelling errors and typos. The writing quality is as important as your ideas.

All writings must use a regular 12-point font, one-inch margins, and consistent formatting. Double-space your work, unless there is a strong formatting reason to single-space it or parts of it. Number your pages. Please keep your own copies of all assignments until you receive your final course grade.

### **Recording Policy:**

All classes for the Race and the Foundations of American Law Course will be recorded by the School of Law, consistent with the Roger Williams University School of Law policy on the recording of classes. That policy, which can be found at Section 603 of the Student Handbook, is hereby incorporated in this document by reference. The law school policy imposes a faculty obligation to create recordings capturing the visual and auditory material presented in each class, to the extent technologically possible, and to preserve those recordings until at least the end of the exam period for the semester at issue. The policy provides for two limited exceptions to this obligation: (1) client confidentiality and (2) discussion of sensitive information. A professor may opt-out of the recording policy if it is deemed to be appropriate and the professor follows the procedure outlined in the policy. This procedure requires notice to the Associate Dean and advance notice to the law school community prior to the beginning of the semester. Your professors have determined that there is no reason to opt out of the law school recording policy for this class. They are aware that some of the material in the syllabus may be very sensitive or too difficult for some students to discuss in class. In such cases, professors have the right to temporarily suspend recording of a class in recognition of the sensitive nature of material being discussed. Recording of the class will be resumed as soon as it is appropriate to do so. Your professors have also determined not to record small group discussions in the class, so as to encourage discussion of sensitive material. In light of these considerations, your professors have crafted the following additional policies on recording for the course on Race and the Foundations of American Law:

1. Under School of Law policies, no student may record a class without the express permission of the professor teaching the section. Professors will generally not grant such permission, unless good reason is shown.
2. The university's recording of any class will not be available to anyone other than the members of the class, the TAs, and the professors. Any student desiring a review of a recording must make a request for such review to the professor in charge of his/her section. The request will be promptly reviewed and responded to. If the request is denied, the student may appeal the denial to the Associate Dean.
3. University recording of classes is for the sole use of students in the course, professors, and TAs. Recordings may not be published, shared, forwarded or otherwise disseminated, in whole or in part, in any media format, for any reason, by anyone with access. This

prohibition is not meant to prevent students from discussing events that occur in class, among themselves and among others. It is only meant to prohibit the publication, sharing, forwarding or dissemination of the document that contains the recording of the class.

4. The document recording the class is the property of Roger Williams University and shall remain so, in perpetuity. Therefore, it may not be published, shared, forwarded, or disseminated except with the express written consent of the university. Violation of this prohibition will be considered to be a violation of the academic integrity policies of the university and the school of law and may subject a student to disciplinary action under the Roger Williams University School of Law Code of Student Responsibility.

## **LEARNING OBJECTIVES**

**Upon successful completion of this course, students should be able to:**

### **Doctrinal and Substantive Knowledge**

- Define and explain the historical role racial hierarchy has played in the development of specific aspects of the American legal system.
- Define and explain how these same forces of racial hierarchy are operating in contemporary legal systems.
- Define and explain current anti-racist efforts relevant to legal systems.

### **Legal Analysis Skills**

- Identify the use of race and the operation of racial hierarchy in specific legal regimes.
- Assess the strengths and weaknesses of anti-racism initiatives.
- Examine certain laws appearing as race-neutral and discern its impact on minoritized populations.

### **Writing Skills**

- Articulate in writing cohesive and logical legal assessments and arguments.
- Draft a variety of formal and informal types of legal communication.

### **Oral Communication Skills**

- Communicate orally in an effective manner in a range of professional contexts.
- Convey individual perspectives on complex issues of racial hierarchy in a variety of settings.

- Formulate and deliver polished and organized oral presentations.

NOTICE: The images contained in this syllabus are the intellectual property of the persons or entities identified in the copyright notice accompanying each image. They have been licensed to Roger Williams University School of Law for the exclusive educational purpose of inclusion in this syllabus. Downloading, sharing, copying, disseminating, forwarding, or otherwise publishing either of the images in any other form of media, electronic format, or written document is prohibited by law and by the licensing agreements with the owners. Violation of this prohibition will be considered to be an honor code violation under the Roger Williams University School of Law Code of Student Conduct.