

## **RACE AND LAW**

### **SOCIOLOGY & LEGAL STUDIES 128I**

#### **SUMMERR 2022**

#### Instructor:

Hiroshi Fukurai, x 9-2971 (office), [hfukurai@ucsc.edu](mailto:hfukurai@ucsc.edu)

Tuesday & Thursday 12:00-12:30 p.m. or by appointment

#### Class:

Asynchronous Online (Class Lecture: Tuesday & Thursday, 10:00 AM-12:00 PM)

#### Teaching Assistant:

Robin Gabriel, [rocgabri@ucsc.edu](mailto:rocgabri@ucsc.edu)

#### Course descriptions:

Spanish bishop and scholar Antonio de Nebrija once declared in the prologue of his 1492 Castilian Spanish dictionary, *Gramática de la lengua castellana*, that “language is the perfect instrument of empire.” The colonial imposition of Spanish as a mono-lingual imperial language in the New World helped eradicate indigenous languages, identity, and culture, while newly introduced legal codes imposed predatory forms of institutional practices and human relations throughout Americas. Institutionalized discrimination and inequity was also introduced and maintained through the mobilization of new socio-legal concepts and their narrative influence, including race, ethnicity, patriarchy (gender- based hierarchy), civilization (civilized v. “savages”), among other new socio-cognitive concepts. This class then specifically sheds critical light on the intertwined relationship between *race-related social hierarchy, its legal meanings, and the function of “law and order,”* and how these practices facilitate and enforce the unequal distribution and allocation of social privileges, legal freedom, and rights to property.

We first begin by de-constructing the concept of the geo-political entity called “Europe,” followed by the critical analysis of racial & linguistic/institutional policies imposed by European powers on North America, Mesoamerica, and Caribbean. We then move on to analyze how race emerged as a powerful colonial instrument to define power relations. Critical race and feminist legal theories first help dissect the intertwined relation between race and law, followed by the Original Nation scholarship and Nietzsche’s historical genealogy in order to further examine and deconstruct today’s reality from critical perspectives. Specific topics of class discussion then include:

Colonial race relations and policies; a historical origin of “the state” and its distinction from “the nation”; the emergence of a police state and the function of “national” or federal law-enforcement agencies (including Pinkertons, FBI, CIA, and today's mercenary & privatized military forces); the creation of military and prison industrial complex; the role and impact of corporate media and state-sponsored propaganda; judicial and electoral discrimination against

people of color; domestic and international state-corporate crimes; genocide, war crimes, and crimes against humanities, including extra-ordinary rendition and a strategic use of torture as methods of interrogation; warrantless wiretaps, secret surveillance and “anti-terrorist” state-led campaigns including COINTELPRO, JTTF, & a passage of the National Defense Authorization Act (NDAA), Military Commissions Act, Cyber Intelligence Sharing & Protection Act (CISPA), among many others.

The course also focuses simultaneously on race-specific issues and conflicts in different parts of the world, as the U.S. and European states continue to project colonial/predatory corporate policies to the rest of the world, thereby requiring critical analyses of Western foreign policies and corporate behaviors around the globe (i.e., UN, WTO, WB, & IMF, plus activities of trans-national corporations).

### **Course Content & Structure:**

This asynchronous course is comprised of the following key components and exercises: (1) weekly live lectures, (2) quizzes/mid-term exams, and (3) the team-based, research paper project.

- **Live Lecture: Tuesday & Thursday, 10:00 AM-12:00 PM**

The live lecture will be given every Tuesday and Thursday, starting on June 21. Since this is an asynchronous course, there is no requirement to attend the live lectures, nor any penalty for not

attending them. All live lectures will be recorded simultaneously, and they will be made available on CANVAS/Files. The powerpoint (PPT) files used in the lectures will be also posted on CANVAS/Files. Please take the advantage of the live lectures, especially when you have any questions and/or wish to engage in generative discussions on some of the sensitive and very controversial topics and subject matters covered in class.

- **Four Student Team Collaboration & Cooperation for All Paper-Related Projects:**

All students are required to form a **Four-person team** to work on proposal and final papers. The team project is expected to promote student collaboration and cooperation. You need to find student partners and notify the instructor about the partner **by the end of the first week**. Those students who failed to form a team will not be allowed to turn in their papers.

- **Quiz-Midterms:**

In addition to student team collaborations, each student is also required to take two quizzes and two mid-term exams. Successful completion of these requirements is needed to pass the course.

- **Research Paper**

Your team must identify a topic and provide an outline and a bibliography of potential sources. First you submit a 7- page proposal paper for a critical review in the 3rd week, and produce a final version of your own paper by the end of 5th week. You can select a topic from subjects or issues covered in class or you can choose your own topic based on your interest. Your papers will be 7 page (proposal paper) and 15 page (final paper, excluding a title page and bibliography or appendix) in length, double-spaced, typed with 1" margins and in 12 font Times New Roman font. I will discuss paper guidelines and legal writing style in class. Both proposal and final papers must also include **one page statement** of the **division of responsibility**, including individual names and descriptions of the contribution. If a member did not make an adequate contribution, s/he may receive a lower score for the paper.

- **Grading (100% total):**

Final evaluations will be based on two exams (20% each, i.e., 40% of a total evaluation), 2 short quizzes (5% each, i.e., a total of 10%); a proposal paper (15%), and a final paper (30%), plus lecture attendance or review records (5%). Extra points (max of 10%) are also offered as shown below:

## Group Extra Credit Work

1. **(1) Democracy Now Weekly Report (possible 2 points per report, i.e., 8% of total evaluation)**

For this extra credit work, you are required to watch a weekday, one-hour daily news program (M-F), *DemocracyNow!* ([www.democracynow.org](http://www.democracynow.org)) and turn in a one-page single-spaced report on **every Monday 9 a.m.** The report should examine at least **two topics or issues from its main program** (not the news segment of the first 10minutes of the show) related to race and law (both domestic and international) from the **previous week's** DemocracyNow! news program. Please include a brief discussion of socio-legal elements involved in the issues. The report should be a one- page, single spaced report

If the reports combine analysis with information from the following news sources (Webnews and/or Political News Sites), you may receive one full extra credit point per report. Reports must cite the date, title of the news, and its summary content for the extra points.

### Webnews Sites:

- Aljazeera English, [http://www.aljazeera.com/watch\\_now/](http://www.aljazeera.com/watch_now/)
- Press TV, <http://www.presstv.ir/Default/Live/>
- RT, <https://rt.com/on-air/>
- French 24, <http://www.france24.com/en/livefeed>
- CCTV, [cctv.com/live/](http://cctv.com/live/)
- NHK World, <https://www3.nhk.or.jp/nhkworld/en/live/>

### Political News Websites:

- Truth-out, <http://www.truth-out.org/>
- Truthdig, <http://www.truthdig.com/>
- The Intercept, <https://theintercept.com/>
- Free Speech TV, [freespeech.org/](http://freespeech.org/)
- Therealnews, <http://therealnews.com/t2/#pop1>
- Vice, [https://vice.com/en\\_us](https://vice.com/en_us)

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Other News Sources:

- Guardian, <https://theguardian.com/us>
  - The Nation, <https://thenation.com/>
  - Mother Jones, <http://www.motherjones.com/>
  - Vanity Fair, <https://vanityfair.com/>
  - Propublica, <https://propublica.org/>
  - Salon, <https://salon.com/>
  - Znet, <https://zcomm.org/znet/>
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- **(2) “Where Did My Favorite Shirt Come From? (extra 2 points, i.e., 2% of total evaluation – 3 page report)**

It involves multiple steps of examination and write-up. First, students are required to examine and identify the manufacturing location of your favorite garment (shirt, tie, pants, etc.). Second, find detailed information on how the garment is produced (i.e., work condition, wage, work hours, gender composition, any ethnic or racial characteristics of workers). Third, summarize your findings in a 3 page report. **This report is due on the last day of the class.**

### **How to Meet the Learning/Studying Objectives and Do Well in the Class**

- **(1) Do the readings** -- You will find the class a lot more enjoyable and fruitful if you do the readings
- **(2) Review and/or Attend Lectures** – Participating in, and/or asking questions during lectures will give you opportunities to clarify the things you are unsure about – or even unconvinced by. The record of lecture attendance and/or reviews of recorded lectures counts toward final

- **(3) Utilize office hours** – Office hours are a wonderful opportunity to deepen your understanding of the course material. It is also a chance for you and the instructor to get to know each other.
- **(4) Complete the final paper** –As for the completion of the final paper, it is almost best to finish the near complete draft of the final paper, at least one week before its deadline, so that you can spend the final week in reviewing and improving the paper. Instead of completing the paper one day or two days before the deadline, having an objective assessment of your written work for some extended period of time always gives you a fresh look at your ideas, evaluate the appropriateness of the use of diction, and bring about any insightful ideas or new materials to be included in the paper.
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### Helpful Information for Student and Student Team

- (1) Writing and Improve Writing Skills. -- The Learning Support Services (LSS) may provide tutors who can help students with study habits and writing. Go to the LSS web link to sign-up for an appointment. <http://lss.ucsc.edu/>
- (2) Warning for Plagiarism -- Plagiarism involves using someone else's words and ideas as your own. Students who plagiarize the work of others have to be reported and are subject to failing the course. If you are unsure what constitutes plagiarism, please visit the UCSC academic integrity website: <http://www.ucsc.edu/academics/academic-integrity/> If you use another author's wordings (more than a few words in a row), you must put it in quotation marks and cite the sources (i.e., author, year, name of publication,

and page number). For information about citation practices, visit the following UCSC Library web page: <http://library.ucsc.edu/help/research/cite-your-sources>

- (3) Counseling and Psychological Services -- If you are feeling stressed, anxious, or depressed, please avail yourself to help from Counseling and Psychological Services (CAPS) at the Student Health Center (831-459- 2628). The CAPS homepage also provides information about seeing a therapist and lists of various crisis numbers. <http://caps.ucsc.edu/>

- (4) DRC Accommodations -- Any student who needs an accommodation should contact me privately to submit Accommodation Authorization forms, discuss specific needs, preferably within the first two weeks of the Please contact the Disability Resource Center (831-459-2089) in Room 146 Hahn Student Services or by email ([drc@ucsc.edu](mailto:drc@ucsc.edu)) to coordinate the accommodations.

**Textbook:**

- Fukurai Hiroshi and Richard Kroot 2021. (ONAIL). *Original Nation Approaches to Inter-National Law: The Quest for the Rights of Indigenous Peoples and the Nature in the Age of Anthropocene*. Palgrave Macmillan, 2021.

**Reader (Available on Canvas/Files):**

- Goodman, Amy, Denis Moynihan, and Michael Moore. 2012. *The Silenced Majority: Stories of Uprisings, Occupations, Resistance, and Hope*. Chicago: Haymarket Books. (PDF copy is found in Canvas)
- Fukurai Hiroshi and Richard Kroot 2003. (R&J). *Race in the Jury Box: Affirmative Action in Jury Selection*. New York: SUNY Press. (PDF copy is found in Canvas)
- **Reader:** Race and Law. (PDF copy is found in Canvas)

**Course Contents:** The course consists of the schedule as indicated below. On some days, films and videos directly related to weekly topics will be shown and discussed. *Some materials can be directly accessed through clicking the materials below.*

**WEEK 1 – June 20 to June 24, 2022**

**Tuesday**      Introduction & Social, Political, & Legal Construction of Race -- Racial Formation & Racial State

- ONAIL, Preface
- R&J, chapter 2 (pay closer attention to tables & their implications on the connection between one's racial identity and racial ancestry)
- Reader, Racial formation (Michael Omi & Howard Winant)
- Reader, Ward Churchill, Foreword: The Islamophobic Foundation of “Western Civilization”

Supplement:

<http://www.ferris.edu/jimcrow/> (Jim Crow Museum of Racist Memorabilia at Ferris State University)

**Thursday**            Colonial Domination of Racial Minorities-- Lynching, Torture, and Extraordinary Rendition

**60 Minutes (2021), “2004: The Murder of Emmett Till” (60 Minutes Overtime)**

- ONAIL, Chapters 1, “Introduction: The Original Nation Scholarship”
- [Oliver Cox, “Lynching and the status quo” \(Journal of Negro Education 14: 577-588\)](#)
- Reader, Silenced, Race, Racism, & the Myth of Post-Racial America, pp.124-149
- Reader, Silenced, Obama’s Wars, pp. 2-21
- [C.L.R. James, Revolution and the Negro \(read this first\)](#)
- [Huey Newton: Black Panther- Ten Point Program](#)

**WEEK 2 – June 27 to July 1, 2022**

**Tuesday**            Racial Profiling and Racialized Trial -- Theories of Crimes: Critical Race Theory and Critical Feminist Perspective

- [Free Mumia Abu-Jamal \(47 min\)](#)
  - [Interview: Mumia Abu-Jamal: “The United States is Fast Becoming One of the Biggest Open-Air Prisons on Earth” \(Oct. 4, 2017\).](#) (11 min)
- [Russell Means, “For America to Live, Europe Must Die.” \(read this first\)](#)
- ONAIL, Chapter 5, "The Lakota Nation’s Search for Independence: The Nation of Lakota versus the State of “the United States of America”.
- Reader, Mumia Abu-Jamal, “The beginning of the Black Panther Party and the history it sprang from,” in *We Want Freedom*, 1-29, (2004)

Supplement:

[Documentary Video, "In Prison My Whole Life: Mumia Abu-Jamal," \(2016\).](#)

- <http://www.freemumia.com/> (Mumia Abu-Jamal Website)
- <http://www.grandlodgefop.org/> (Anti-Mumia Abu-Jamal Website)

**Thursday**            White Collar Crimes: , Genetically Modified Organism (GMO) & Medical Industrial Complex

- ONAIL, Chapter 8, “Conclusion: The Future of the Original Nation and the Global Nation in the Age of Anthropocene”
- Reader, “... and the Poor Get Prison" in *The Rich Get Richer and the Poor Get Prison* (Jeffrey Reiman), pp.103-146.
- Reader, Silenced, Health Care, pp.282-285, 306-308.
- [Reader, Sarah Kearns \(2019\) “Who owns your cell? Property rights get messy when DNA is involved” Massive Science, 14. Feb.](#)

Supplement:

- Documentary, "Patent for a Pig: The Big Business of Genetics (Monsanto)"
- <https://www.youtube.com/watch?v=pNvWia3dYCE>

**WEEK 3 – July 4 to July 8, 2022**

**Tuesday**            The Government, Public Relation Industry, Propaganda, and Language as Perfect Imperial Means

**Documentary, ["COINTELPRO 101," Movie \(54 minutes\).](#)**

- ONAIL, Chapter 2, “The Nation and the State”
- Reader, “Decolonising the mind” (Ngugi wa Thiong’o) & “Moving the Center” (read these two first)
- Reader, Gramsci-Prison Note on Intellectuals (1949)
- [Kwesi Kwan Prah, “The burden of English in Africa: From colonialism to neo-colonialism”](#)
- Reader, Silenced, Dirty Energy, pp.98-121; When Corporations Rule, pp.236-253.

**Thursday**            Courts and Jury Nullification -- Decisions to File Charges vs. Decisions to Nullify Them

Documentary, "Who killed Vincent Chin?":<https://www.youtube.com/watch?v=C7BTzvJryjc>

- R&J, Chapters 1, 7 and 8 (jury nullification)
- [Documentary, St Patrick’s Four Trial, 2005:](#)
- Reader, Fukurai and Harfuch, Necessity for Gender-Diverse and Nationally-Bifurcated Jury: *Recuperatores* in Rome, *Jury de Medietate Linguae* in England and the U.S. and *El Jurado Indigena* in Argentina (under review, 2021)

## First [Mid-term] Exam

First Proposal Paper Due Friday, 5 PM

### WEEK 4 – July 11 to July 15, 2022

**Tuesday**            Challenge the State -- Birth of Modern Police, Pinkerton & Government Surveillance

Documentary, "[The War on Democracy](#)" (90 minutes)

- ONAIL, Chapter 3, "The Conflict Between the Nation and the State"
- R&J, chapters 3, 4, and 5
- Reader, Silenced, War, pp.24-52.
- [The History of the Police, Sage Publication, 1-11:](#) \
- [The Forgotten Threat: Private Policing and the State \(Pinkerton Detective Agency\):](#)

Supplemental Reading:

- [Ursula Wolfe-Rocca, "COINTELPRO: Teaching FBI's War on the Black Freedom Movement \(2016\)](#)
- [FBI promotion movie, "You Can't Get Away With It" \(1936\)](#) (19 min)
- [Democracy Now: Abraham Lincoln Brigade:](#)

**Thursday**            Prison Industrial Complex and Racial Oppression

Democracy Now! segment: Ava DuVernay's new documentary "13<sup>th</sup>" (see URL below): [https://www.democracynow.org/2016/10/3/how\\_alec\\_the\\_kochs\\_publicly\\_back](https://www.democracynow.org/2016/10/3/how_alec_the_kochs_publicly_back)

- ONAIL, Chapter 4, "Original Nation Approaches to Inter-National Law"
- Reader, Silenced, Money in Politics, pp.54-61.
- Reader, Michel Foucault, "The Carceral"
- [Alex Kotch \(Center for Medi and Democracy\), Secretive Right-Wing Nonprofit Plays Role in COVID-19 Organizing , Politics and Elections, May 23, 2020.](#)

Supplemental Reading:

- [Churchill & Ryan, \*Pacifism as Pathology\*, Preface by Derrick Jensen, pp.3-30, & "On Ward Churchill's Pacifism as Pathology" by Mike Ryan, pp.125-151 \(read Mike Ryan first, then Derrick Jensen\).](#)

- See also *Pacifism as Pathology* book content ([here](#))

## **WEEK5 – July 18 to July 22, 2022**

**Tuesday**            Death Penalty to Humans and the Nature

**BBC Documentary, "[How to Kill a Human Being" \(2008\) \(50 min\)](#)**

- ONAIL, Chapter 7, “Earth Jurisprudence, the Rights of Nature and International Rights of Nature Tribunal”
- ONAIL, Chapter 8, “The Original Nation’s Path to Recognition under International Law: The Sovereignty-Making of Zapatista, Cheran, and Neuquen”
- Reader, Lieutenant Jon Stephens, Don’t Tread on Me: Absence of Jurisdiction by the International Criminal Court over the U.S. 52 *Naval L. Rev.* 151 (2005)

**Thursday**            Putting All Together

**Second [Mid-term] Exam**

**Final Paper Due, Friday 5 PM**