Course: Critical Identity Theory
Instructor: Kaaryn Gustafson, Law

Description: This course will broadly engage the study of anti-subordination legal movements that arose out of the traditions of American legal realism and Critical Legal Studies. Particular attention will be paid to germinal writings in Critical Race Theory (CRT), feminist legal theory, law and sexuality, law and socioeconomic class, and Latina/o Critical (LATCRIT) Theory. We will also examine sociolegal studies of law and identity.

syllabus included on following pages
Critical Identity Theory (Law 5755, Section 1)
Spring 2018
Wednesdays, 2:50 p.m. to 5:50 p.m.
Law 4700

Professor: Kaaryn Gustafson
Office: Law 4800-U
Phone: (949) 824-4029
Email: kgustafson@law.uci.edu
Office Hours: Tuesdays, 3:00 to 5:00 pm and by appointment.

Note: On the second week of each month, I have a committee conflict and will hold alternative office hours on Thursdays from 3:00 to 5:00 pm.

Faculty Assistant: Julianne Ohlander, johlander@law.uci.edu
(949) 824-5624, Law 4500

Course requirements:
- Each week students must submit one-page reflections on the readings. These reflections must be submitted (via TWEN) by 5 p.m. the day before class.
- Every student will be expected to take a turn facilitating class discussion.
- A final term paper is due Monday, May 7, 2018 by 5:00 pm. This is a firm deadline. In addition, students will be expected to submit paper proposals and outlines early in the semester and to present works-in-progress later in the semester.
- If you are a 2L or joint degree student and would like your paper to satisfy the Upper Level Writing Requirement, then you need to discuss this with me early in the semester.

Grading:
- 70% of the final grade will be based on the final paper.
- 20% of the final grade will be based on the weekly reflections.
- 10% of the grade will be based on class participation and presentation of a fellow student’s draft paper.

Course Goals:
By the end of the semester, you should be able to:
- Identify and differentiate between various movements of critical legal thought in the United States.
- Identify major critiques and counter-critiques of liberal legalism.
- Discuss ways that law constructs identity and, conversely, how identity constructs legal understandings.
- Provide clearly written, well-organized, and well-supported analysis of a legal issue from a critical perspective.
- Provide civil and critical feedback to other students on their writing and ideas.
Course etiquette:
- You are welcome to speak from personal experience. Please listen respectfully.
- Treat class conversations with a certain degree of confidentiality. If you do discuss comments made in class outside the classroom, please attribute them anonymously.
- We will begin with the understanding that no class member’s truth is the whole truth.

Some key questions in this course
- In what ways does the law define, dismiss, or privilege certain identities?
- How does law influence our understandings and experiences of identity?
- What are the potentials and limits of law to challenge subordination and remedy inequality?
- How do individuals and groups construct their identities in connection with or in opposition to the law?

Assignments

January 10: Critical Race Theory: History and Themes
Readings:

For further reading:
January 17:  **Early Critical Race Theory: Questioning Authority, Objectivity, and the Efficacy of Rights**

Readings:

Note: Professor Gotanda will join us for class discussion.

For further reading:

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January 24:  **Challenging the Assumptions of Liberal Legalism and the Conventions of Legal Scholarship**

Readings:
- Please take one of the Implicit Associations Tests at the link below:
  - [https://implicit.harvard.edu/implicit/demo/index.jsp](https://implicit.harvard.edu/implicit/demo/index.jsp).

For further reading:
January 31:  **Exploring the Construction of Whiteness**

Readings:
- John Tehranian, Compulsory Whiteness: Towards a Middle Eastern Legal Scholarship, 82 Ind. L. J. 1 (2007).

Assignment:
- Submit a brief term paper proposal via TWEN.

For Further Reading:

February 7: **Critical Race Feminism**

Readings:

For Further Reading:
February 14: **Exploring the Meanings of Sexuality and Gender in Society and in Law**

Readings:

For further reading:
- Angela P. Harris, From Stonewall to the Suburbs?: Toward a Political Economy of Sexuality, 14 *WM. & MARY BILL OF RTS. J.* 1539 (2005).
- Dean Spade, Documenting Gender, 59 *HASTINGS L.J.* 731 (2008).


Assignment:
- Submit outline of term paper and working bibliography

For Further Reading:
- Laura E. Gómez, Understanding Law and Race as Mutually Constitutive: An Invitation to Explore an Emerging Field, 6 *ANN. REV. LAW SOC. SCI.* 487 (2010).
February 28: **Intersectionalities**

Readings:
- D. Wendy Greene, Categorically Black, White, or Wrong: 'Misperception Discrimination' and the State of Title VII Protection, 47 U. MICH. J. L. REFORM 87 (2013).
- Peter Kwan, Intersections of Race, Ethnicity, Class, Gender & Sexual Orientation: Jeffrey Dahmer and the Cosynthesis of Categories, 48 HASTINGS L.J. 1257 (1997).
- One of the following:

Note: Professor Greene will join the class discussion.

For Further Reading:

March 7: **Mid-Semester Review Week: No Class**
March 14:  **Legal Constructions of Identity**  
Readings:  
- Elizabeth Loeb, Cutting It Off: Bodily Integrity, Identity Disorders, and the Sovereign Stakes of Corporeal Desire in U.S. Law, 36 WOMEN’S STUD. Q. 44 (2008). [available through the JSTOR database]  
For Further Reading:  

March 21:  **The Limits of Law’s Protections**  
Readings:  
- Angela Onwuachi-Willig & Mario L. Barnes, By Any Other Name: On Being Regarded as Black, and Why Title VII Should Apply Even If Lakisha and Jamal Are White, 2005 WIS. L. REV. 1283 (2005).  

Note: Professor Barnes will join us for the class discussion.

March 28:  **Law and Everyday Life**  
Readings:  
- PATRICIA EWICK & SUSAN S. SILBEY, THE COMMON PLACE OF LAW (1998), Chapters 1-3 (pp. 3-53).  
For further reading:  
April 4:  **More Recent Writings on Current Issues and Movements**


April 11: **Resisting Legal Constructions of Identity**

Readings:


In class: Excerpt from the film *Brother/Outsider: The Life of Bayard Rustin* (Bennett Singer and Nancy Kates, 2003).

April 18:  **Student Paper Presentations**

May 7:  Papers due to Professor Gustafson by 5:00 p.m. (via TWEN’s Assignment Dropbox).
Books that may be of helpful in learning more about the literature and finding a research topic:


LatCrit’s web site and the ClassCrits web site include compilations of articles that have resulted from the annual meetings:

- [www.latcrit.org](http://www.latcrit.org)
- [http://classcrits.wordpress.com/](http://classcrits.wordpress.com/)