

LAW AND INEQUALITY
Brooklyn Law School
Fall 2023
Professor Yuvraj Joshi (he/him)

Readings

Monday, August 28, 2023: Class 1, Introduction

Wednesday, August 30, 2023: Class 2, Theories of Inequality

- Khiara M. Bridges, *Introduction*, in *CRITICAL RACE THEORY: A PRIMER* 1, 1–16 (2018)
- Devon W. Carbado, Kimberlé Williams Crenshaw, Vickie M. Mays, and Barbara Tomlinson, *Intersectionality: Mapping the Movements of a Theory*, 10 *DU BOIS REV.* 303, 303–312 (2013)
- Darren L. Hutchinson, *Identity Crisis: “Intersectionality,” “Multidimensionality,” and the Development of an Adequate Theory of Subordination*, 6 *MICH. J. RACE & L.* 285, 285–290, 307–317 (2001)
- Stephen Sawchuk, *Local School Boards Are Banning Critical Race Theory. Here’s How That Looks in 7 Districts*, *ED. WEEK* (Aug. 25, 2021)

Optional

These optional readings offer a range of frameworks for understanding the relationship between law and inequality. Please consider reading any that seem of interest to you. You might find it useful to return to some of these readings during the semester.

- Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 *YALE L.J.* 2054, 2090–2099 (2017)
- Reva B. Siegel, *The Rule of Love: Wife Beating as Prerogative and Privacy*, 105 *YALE L.J.* 2117, 2118–2121 (1995)
- Martha Minow, *Sources of Difference*, in *MAKING ALL THE DIFFERENCE: INCLUSION, EXCLUSION, AND AMERICAN LAW* 49, 49–78 (1990)
- Jennifer A. Richeson, *Americans are Determined to Believe in Black Progress*, *ATLANTIC* (Sept. 2020)
- Cheryl R. Kaiser, Brenda Major, Ines Jurcevic, Tessa L. Dover, Laura M. Brady, and Jenessa R. Shapiro, *Presumed Fair: Ironic Effects of Organizational Diversity Structures*, 104 *J. PERSONALITY SOC. PSYCHOL.* 504, 504–505 (2013)
- Sam Aber and Caroline Parker, *Law and Political Economy: A (Very) Brief Field Guide For 1Ls*, *LPE Blog* (Aug. 30, 2021)
- David Singh Grewal and Jedediah Purdy, *Introduction: Law and Neoliberalism*, 77 *LAW & CONTEMP. PROBS.* 1, 1–9 (2014)
- K. Sabeel Rahman, *Constructing and Contesting Structural Inequality*, 5 *CRIT. ANALYSIS L.* 99, 102–109 (2018)
- Amna A. Akbar, *Demands for a Democratic Political Economy*, 134 *HARV. L. REV. F.* 90, 97–106 (2020)

Wednesday, September 6, 2023: Class 3, Interest Convergence

- Derrick Bell, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 *HARV. L. REV.* 518, 518–533 (1980)
- Justin Driver, *Rethinking the Interest-Convergence Thesis*, 105 *NW. L. REV.* 149, 164–188 (2011)
- Alexis Hoag-Fordjour, *Derrick Bell’s Interest Convergence and the Permanence of Racism: A Reflection on Resistance*, *HARV. L. REV. BLOG* (Aug. 24, 2020)
- Alexander Nourafshan and Angela Onwuachi-Willig, *From Outsider to Insider and Outsider Again: Interest Convergence and the Normalization of LGBT Identity*, 42 *FLA. ST. U. L. REV.* 521, 521–525 (2014)

Monday, September 11, 2023: Class 4, Education Equality

- *Plessy v. Ferguson*, 163 U.S. 537 (1896) (excerpt on Canvas)
- *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) (excerpt on Canvas)
- *Cooper v. Aaron*, 358 U.S. 1 (1958) (excerpt on Canvas)
- Angela Onwuachi-Willig, *Reconceptualizing the Harms of Discrimination*, 105 VA. L. REV. 343, 349–361 (2019)
- Megan Ming Francis, *The Price of Civil Rights: Black Lives, White Funding, and Movement Capture*, 53 L. & SOC. REV. 275, 286–306 (2019)
- Lewis M. Steel, *Nine Men in Black Who Think White*, N.Y. TIMES (Oct. 13, 1968)
- Jamelle Bouie, *No One Can Stop Talking About Justice John Marshall Harlan*, N.Y. TIMES (July 7, 2023)

Wednesday, September 13, 2023: Class 5, Education Equality

- *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701 (2007)
- *Milliken v. Bradley*, 418 U.S. 717 (1974) (excerpt on Canvas)
- *Board of Ed. of Oklahoma City Public Schools v. Dowell*, 498 U.S. 237 (1991) (excerpt on Canvas)
- LaToya Baldwin Clark, *The Critical Racialization of Parents' Rights*, 132 YALE L.J. 2139, 2189–2202 (2023)
- Osamudia R. James, *Superior Status: Relational Obstacles in the Law to Racial Justice and LGBTQ Equality*, 63 B.C.L. REV. 199, 226–241 (2022)

Monday, September 18, 2023: Class 6, Education Equality

Guest Speaker: [Professor LaToya Baldwin Clark](#) (she/her), UCLA School of Law

- Professor Baldwin Clark will share an early work-in-progress.

Wednesday, September 20, 2023: Class 7, Voting Rights

- *Shelby County v. Holder*, 570 U.S. 529 (2013)
- *South Carolina v. Katzenbach*, 383 U.S. 301 (1966) (excerpt on Canvas)
- Carol Anderson, *A History of Disenfranchisement*, in ONE PERSON, NO VOTE 13, 13–39 (2018)
- Franita Tolson, Testimony before the U.S. House Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights, and Civil Liberties, *The Need to Enhance the Voting Rights Act: Practice-Based Coverage*, July 27, 2021
- Rabia Belt, *Contemporary Voting Rights Controversies Through the Lens of Disability*, 68 STAN. L. REV. 1491, 1505–1521 (2016)

Tuesday, September 26, 2023: Class 8, Voting Rights

- *Brnovich v. Democratic National Committee*, 594 U.S. ____ (2021)
- Katie Friel and Emil Mella Pablo, *How Voter Suppression Laws Target Native Americans*, BRENNAN CENT. (May 23, 2022)
- Richard L. Hasen, *The Supreme Court's Latest Voting Rights Opinion Is Even Worse Than It Seems*, SLATE (July 8, 2021)
- Melissa Murray and Steve Vladeck, *The Supreme Court's Voting Rights Act Ruling is No Victory for Democracy*, WASH. POST (June 8, 2023)
- Ari Berman, *Inside John Roberts' Decades-Long Crusade Against the Voting Rights Act*, POLITICO (Aug. 10, 2015)

Wednesday, September 27, 2023: Class 9, Voting Rights

Guest speaker: [Professor Rabia Belt](#) (she/her), Stanford Law School

- Rabia Belt, *Race, Insanity, and the Right to Vote*, in *DISABLING DEMOCRACY IN AMERICA: DISABILITY, CITIZENSHIP, VOTING, AND THE LAW, 1819–1920* (forthcoming)

Monday, October 9, 2023: Class 10, Affirmative Action

- *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978)
- Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, [1710–1715](#), [1766–1773](#) (1993)
- Ian F. Haney López, “*A Nation of Minorities*”: *Race, Ethnicity, and Reactionary Colorblindness*, 59 STAN. L. REV. 985, [987–992](#), [1029–1046](#) (2006)

Wednesday, October 11, 2023: Class 11, Affirmative Action

- *Grutter v. Bollinger*, 539 U.S. 306 (2003)
- Osamudia R. James, *White Like Me: The Negative Impact of the Diversity Rationale on White Identity Formation*, 89 N.Y.U. L. REV. 425, [427–434](#) (2014)
- Derrick Bell, *Diversity’s Distractions*, 103 COLUM. L. REV. 1622, [1622–1633](#) (2003)

Monday, October 16, 2023: Class 12, Affirmative Action

- *Students for Fair Admissions v. Harvard*, 600 U.S. ____ (2023)
- *The Civil Rights Cases*, 109 U.S. 3 (1883) (excerpt on Canvas)
- Claire Jean Kim, *The Racial Triangulation of Asian Americans*, 27 POL. & SOC. 105, [105–130](#) (1999)
- Elie Mystal, *The White Media Has Missed a Key Part of the Affirmative Action Ruling*, NATION (July 12, 2023)

Wednesday, October 18, 2023: Class 13, Affirmative Action

Guest speaker: [Professor Cara McClellan](#) (she/her), University of Pennsylvania Carey School of Law

- Cara McClellan, *Evading a Race-Conscious Constitution*, 25 J. CONST. L. 1 (Jan. 2023)

Monday, October 30, 2023: Class 14, Pauli Murray

We will watch the documentary *My Name Is Pauli Murray* (2021) to learn about a pioneering lawyer and their intersectional struggle for justice.

- Serena Mayeri, *Constitutional Choices: Legal Feminism and the Historical Dynamics of Change*, 92 CALIF. L. REV. 755, [762–769](#) (2004)
- Michele Goodwin, *Lessons in Race and Racism in the Legal Academy: Notes on Pauli Murray*, 73 RUTGERS U.L. REV. 913, [915–921](#) (2020)

Wednesday, November 1, 2023: Class 15, Reproductive Justice

- *Buck v. Bell*, 274 U.S. 200 (1927) (excerpt on Canvas)
- *Griswold v. Connecticut*, 381 U.S. 479 (1965) (excerpt on Canvas)
- *Roe v. Wade*, 410 U.S. 113 (1973) (excerpt on Canvas)

- Khiara M. Bridges, *White Privilege and White Disadvantage*, 105 VA. L. REV. 449, 452–456, 474–482 (2019)
- Reva B. Siegel, *Reasoning from the Body: A Historical Perspective on Abortion Regulation and Questions of Equal Protection*, 44 STAN. L. REV. 261, 262–280 (1992)

Monday, November 6, 2023: Class 16, Reproductive Justice

- *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. ____ (2022)
- Khiara M. Bridges, *Race in the Roberts Court*, 136 HARV. L. REV. 23, 34–66 (2022)
- Reva B. Siegel, Serena Mayeri, and Melissa Murray, *Equal Protection in Dobbs and Beyond: How States Protect Life Inside and Outside of the Abortion Context*, 43 COLUM. J. GENDER & L. 67 (2022)
- Leah Litman, Melissa Murray, and Kate Shaw, *The Link Between Voting Rights and the Abortion Ruling*, WASH. POST (June 28, 2022)

Wednesday, November 8, 2023: Class 17, Reproductive Justice

Guest speaker: [Professor Reva Siegel](#) (she/her), Yale Law School

- Reva B. Siegel, *How Dobbs Weaponizes Brown: The Roots of Dobbs’s History-and-Tradition Method in the Defense of Segregation*, 133 YALE L.J. (forthcoming).

Wednesday, November 15, 2023: Class 18, Queer Recognition

- *Lawrence v. Texas*, 539 U.S. 558 (2003)
- Darren Lenard Hutchinson, *Gay Rights for Gay Whites: Race, Sexual Identity, and Equal Protection Discourse*, 85 CORNELL L. REV. 1358, 1358–1368 (1999)
- Katherine M. Franke, *The Domesticated Liberty of Lawrence v. Texas*, 104 COLUM. L. REV. 1399, 1399–1404 (2004)

Monday, November 20, 2023: Class 19, Queer Recognition

- *Obergefell v. Hodges*, 576 U.S. 644 (2015)
- Melissa Murray, *Obergefell v. Hodges and Nonmarriage Inequality*, 104 CALIF. L. REV. 1207, 1208–1218 (2016)
- Aisha C. Moodie-Mills, CTR. FOR AM. PROGRESS, *Jumping Beyond the Broom: Why Black Gay and Transgender Americans Need More Than Marriage Equality* (Jan. 2012) (summary only)
- Tammy LaGorce, *Seeking Marriage Equality for People with Disabilities*, N.Y. TIMES (June 21, 2023)
- Douglas NeJaime and Reva B. Siegel, *Conscience Wars: Complicity-based Conscience Claims in Religion and Politics*, 124 YALE L.J. 2516, 2566–2578 (2014)

Monday, November 27, 2023: Class 20, Queer Recognition

Guest speaker: [Professor Chan Tov Mcnamarah](#) (they/them), Cornell Law School

- Chan Tov Mcnamarah, *Appeals to Regret and Affective Discrimination* (work-in-progress)

Wednesday, November 29, 2023: Class 21, Law School As ...

Guest speaker: [Professor Bennett Capers](#) (he/him), Fordham Law School

- I. Bennett Capers, *The Law School as a White Space*, 106 MINN. L. REV. 7 (2021)
- Swethaa S. Ballakrishnen, *Law School as Straight Space*, 91 FORDHAM L. REV. 1113 (2022)