

Making Multiracial Democracy
Fall 2021

Meeting Time and Location: Tuesday & Thursday, 4 pm-5:30 pm
Course 7397, Section 27291

Faculty Information: Professor Daniel I. Morales
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Office 226-Teaching Unit II.
Office Hours: TBA

Course Description:

Some have said that American democracy is only fifty years old. What they mean is that American multiracial democracy – where nonwhites have some power at the ballot box and enjoy a significant degree of inclusion in economic and educational opportunity – began in the decades after the passage of the Civil and Voting Rights Acts of 1964. The Trump years, the Insurrection of January 6, and its aftermath, have revealed the precarity of minority political gains, and the lengths to which opponents of multiracial democracy will go to destroy them. In this class we will ask how we arrived at this fateful moment in American history and examine the integral role the law and lawyers have played in the creation of multiracial democracy and its undoing. We will also look to the future and ask what it will take to shore up the fragile institutions that hold our country together. Readings will draw broadly from Constitutional and Administrative Law, Political Theory, Critical Race Theory, American History, especially the history of slavery and reconstruction, as well Immigration history and law.

Course Materials:

There is no assigned book for this course. All required reading can be found on a Dropbox link that will be shared a week prior to class. Please come to class prepared to discuss all of the readings assigned for that day.

Course Notes: Whether this course will be distance education, or will have a physical room assigned, and if so the extent to which the instructor might use the room during the semester, is not determined at the time when registration initially opens for this course. You may see contrary indications in the UH systems where you actually register for the course. In other words, this course might be distance education with no use of a physical classroom. It might be the “HyFlex” mode in which some Law Center courses used a physical room during 2020-21. As we get closer to the start of the term/semester for this course, this course note will be updated as decisions are determined. The instructors will be involved in those decisions, but decisions about modalities may not be invariant throughout the term/semester or between now and when the course starts.

Course Requirements:

Class attendance and participation are mandatory. If you are unprepared, you must send me an e-mail (please don't give me any reasons) by 9:30 a.m. the day of class. You may do this only four times over the course of the semester, after that your grade will be lowered. If I find that you are unprepared when I call on you and you have not e-mailed me by 9:30, I will dock your grade. Should an illness or an event in your personal life interfere with your ability to prepare over an extended period of time (i.e., more than four classes), see me privately and I will do my best to accommodate you.

Method of Instruction:

This course will be conducted as a discussion seminar. Students will be expected to have read the assigned materials carefully and to form cogent views on those readings to share and reflect on in class.

Method of Evaluation:

Your grade will be based on the quality of your class participation, and the quality of your assigned 10,000-word research paper. You will be guided through producing the research paper in multiple steps by the professor. A rough draft will be due around midsemester.

How to Reach Me: My regular office hours are TBD, but I am happy to make alternate arrangements. Feel free to email or call. As exam time approaches, I will schedule additional hours. I will also typically be available immediately after each class.

Schedule of Assignments: Each class moves at its own pace. I will give the next class assignment at the end of each class. If you miss class, please get the assignment from a classmate. If you are out of town and need to read ahead, please contact me and I can give you an estimate of where I think we will be.

Face Covering Policy: (required for courses with a face-to-face component)

To reduce the spread of COVID-19, the University [requires face coverings](#) on campus including classrooms for both faculty and students. Face coverings must cover your mouth and nose and be worn throughout the class session. A mask with a valve is not considered an adequate face covering and should not be used, as it can expel exhaled air, increasing the risk to others. Eating or drinking during class is discouraged and is not an excuse for removing the face covering for any extended length of time. For additional information on the use of face coverings, please see [Face Covering FAQs](#). Failure to comply with the requirement to wear a face covering in class will result in your being asked to leave the classroom immediately and a disciplinary referral through the Dean of Students Office. Requests for accommodations relating to the face covering policy may be directed to the [Center for Students with DisABILITIES \(CSD\)](#).

Required Daily Health Self-Assessment: (required for courses with a face-to-face component)

Your presence in class each session means that you have completed a daily self-assessment of your health/exposure and you:

- Are NOT exhibiting any [Coronavirus Symptoms](#)
- Have NOT tested positive for COVID-19
- Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see [COVID-19 Diagnosis/Symptoms Protocols](#) for what to do if you experience symptoms and [Potential Exposure to Coronavirus](#) for what to do if you have potentially been exposed to COVID-19.

Recording of Class: (required for all courses)

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the [Center for Students with DisABILITIES](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes: (required for all courses)

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through (*specify how students will be notified of changes*).

Learning Outcomes:

At the end of this course, you will be able to:

- Demonstrate an understanding of the Multiracial Democracy, including a critical assessment of the challenges faced by multiracial democracies.
- Identify problems raised by a set of readings, formulate an original proposal to address one of those problems, construct detailed counterarguments to that proposal, and respond effectively to those counterarguments.
- Demonstrate the ability to write a clear, concise, and well-structured original paper that offers detailed and concrete original arguments.
- Identify shortcomings in your legal writing abilities and formulate strategies to address them.

Readings:

Readings are subject to change but will likely be drawn from the following materials:

Precarious Multiracial Democracy in 2021

What an analysis of 377 Americans arrested or charged in the Capitol insurrection tells us:
<https://www.washingtonpost.com/opinions/2021/04/06/capitol-insurrection-arrests-cpost-analysis/>

Kathleen Belew, *Bring the War Home: The White Power Movement and Paramilitary America*

Tucker Carlson on “White Replacement” Theory

Selected Law Review Articles on the Supreme Court’s gutting of the Voting Rights Act

The History of Resistance to Multiracial Democracy

David Zucchino, *Wilmington’s Lie: The Murderous Coup of 1898 and the Rise of White Supremacy*

Mae Ngai, *Impossible Subjects*

Chae Chan Ping v. United States

Dred Scott v. Sanford

Julia Rose Kraut, *Threat of Dissent: A History of Ideological Exclusion and Deportation in the United States*

<https://www.theatlantic.com/magazine/archive/2021/05/united-states-immigration-exclusion/618390/>

The Social Science of Diversity

Ryan D. Enos, *Demographic change, political backlash, and challenges in the study of geography*

Jennifer A. Richeson, *The Psychology of Racism: An Introduction*

to the Special Issue, *Association for Psychological Science*,

https://spcl.yale.edu/sites/default/files/files/Richeson_Intro.pdf

The Law and Politics of Equality and Identity in a Diverse Nation

Grutter v. Michigan

Parents Involved v. Seattle Public Schools

Danielle Allen, *Our Declaration: A Reading of the Declaration of Independence in Defense of Equality*

Ta-Nehisi Coates, *The Case for Reparations*

<https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>

Charles Taylor, The Politics of Recognition
Steiner, The Authoritarian Dynamic
Kwame Anthony Appiah, Lines of Descent: W. E. B. Du Bois and the Emergence of Identity
Osamudia James, Valuing Identity, Minnesota Law Review

Identity, Democracy and Immigration

The Insular Cases
Samuel Ermin, Almost Citizens: Puerto Rico, the U.S. Constitution and Empire
The Hart-Cellar Act of 1964
The Quota Acts of the 1920s
Hidetaka Hirota, Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy
Mary D. Fan When Deterrence and Death Mitigation Fall Short: Fantasy and Fetishes as Gap-Fillers in Border Regulation, *Law & Society Review*, Vol. 42, p. 701, 2008

Managing Multiracial Democracy

Archong Fung, Selected Papers on Deliberative Democracy
Helene Landemore, Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many
[*Reconstituting We the People: Frederick Douglass and Jürgen Habermas in Conversation*](#),
114 Northwestern University Law Review 335 (2019)

Critiques of Identity Politics

<https://www.tabletmag.com/sections/news/articles/race-quotas-and-class-privilege-at-harvard>
<https://thenewinquiry.com/blog/buffalo-skulls/>
<https://jacobinmag.com/2021/02/the-politics-of-a-second-gilded-age>