

CRITICAL LEGAL THEORY

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Course Description

As described in the law school's catalog, "[t]his course introduces students to a range of critical approaches to theories of law. These approaches are frequently understood to include theories examining the relationship between law and issues of race, gender, sexual orientation and class. The course will also study more generally the relationship between power and the law, and consider the extent to which law can be considered objective and rational. The course explores the origins of 'critical' theories, their basic principles and how they diverge from one another, critiques of these critiques, and their current influence and new applications in recent years."

Reading Assignments

I expect all students to attend class and complete all reading assignments.

I will post additional materials and Discussion Questions on Westlaw's TWEN service (see below). You are expected to register for TWEN and, unless otherwise indicated, are responsible for anything posted there. You are required to complete four (4) sets of Discussion Questions and place them in the *Assignment Drop Box* on TWEN. Reading assignments in addition to those from the casebook will appear in the "Course Materials" page. You'll first need to register your password, by going to www.lawschool.westlaw.com, and clicking "TWEN" at the top of the page. You will then be asked to enter your Westlaw password. When you register, please be sure to include the e-mail address at which you wish to be contacted. This is the address I will use for any announcements, and you should regularly check that account. If you're having trouble registering or adding this course on TWEN, you should contact Westlaw for help. If the trouble persists, please let me know.

Exams and Grading

This course is subject to the mandatory first year grading curve. I will base your grade primarily on the final exam. You will have an ungraded midterm tentatively set for October 2, 2014. You are also required to complete and submit answers to the Discussion Questions for four (4) classes. You should submit your answers on the *Assignment Drop Box* on this course's TWEN site. (This does not include the required submissions for Classes 1 and 2.) If you do not turn in four (4) sets of Discussion Questions by November 20, 2014, your final grade will be lowered by five (5) points. I will also consider your class participation, preparation, and attendance. **We will not have class on October 16, 2014.**

Expectations

Attendance. I expect everyone to attend class each day and to arrive on time. Walking in after class has begun is disrespectful to your fellow students. The University of Baltimore School of Law allows a maximum of five (5) absences. Absences due to observance of religious holidays are not included in this policy. Attendance is recorded on a sign-in sheet that is circulated at the beginning of each class. It is your responsibility to ensure that your attendance is properly recorded. The University of Baltimore's attendance policy can be found at <http://law.ubalt.edu/academics/policiesandprocedures/index.cfm>. A link to the UB Student Handbook is here: <http://law.ubalt.edu/academics/policiesandprocedures/2014-2105%20Catalog.pdf>.

Preparation and Participation. I will call on students throughout the semester. This is not intended to frighten or embarrass you, but instead to help you improve your communication skills and make sure that everyone in the class participates in discussions. It is imperative that students learn to think on their feet and clearly articulate their views. Explaining your perspective is a valuable way to better understand the material. Volunteers are welcome. Accordingly, I will randomly call on students to ensure that everyone participates and develops the reasoning and oral presentation skills that are essential to lawyering. Please come prepared to discuss the assigned cases and materials.

Laptop Use. Laptop use is permitted in class on the condition that it is confined to course-related functions only. If evidence of abuse emerges, internet access in the classroom will be discontinued. I also reserve the ability to call for "laptop free" days.

Course Materials

Required Texts. Students are *required* to bring the following materials to each class:

David Kairys, *THE POLITICS OF LAW* (3d. ed. 1997)

Suggested Materials. The following materials are suggested text:

Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction* (2nd ed., 2012, NYU Press)

Nancy Levit and Robert R.M. Verchick, *A Primer Feminist Legal Theory* (2006, NYU Press)

Syllabus

The attached syllabus is tentative. The reading assignments for each day will depend on how quickly we get through the material, and I may add or subtract readings on a particular topic. I will occasionally post additional readings and updates on the Westlaw/TWEN website. As a legal professional, I expect you to be prepared every day – your future clients and judges will expect no less.

Class	Subject	Reading Assignment (Discussion Questions on TWEN)
	Critical Observations: Introduction to Critical Legal Theory	Kairys, pp. 1-17
UNIT I	BACKGROUND: HISTORY OF CRITICAL LEGAL THOUGHT	
	A. <u>Examining Judicial Opinions Through a Different Lens</u>	<i>Ledbetter v. Goodyear Tire & Rubber Co.</i> , 550 US 618 (2007)(TWEN) "Obama Makes Empathy a Requirement for Court," <i>The Washington Post</i> , May 13, 2009 (TWEN)
	<u>Examining Judicial Opinions Through a Different Lens, continued...</u>	<i>DeShaney v. Winnebago County Department of Social Services</i> (TWEN) Article: <i>A Second Chance for Joshua</i> (TWEN)
	B. <u>Legal Formalism: Its Norms and Process of Analysis</u>	Scalia, <i>Common Law Courts in a Civil Law System</i> (TWEN, pp. 79-88) Neuborne, <i>Of Sausage Factories and Syllogism Machines</i> (TWEN) <i>Riggs v. Palmer</i> (TWEN)
	C. <u>The Legal Realist Critique of Formalism</u>	Kairys, pp. 23-48 Holmes Letter (TWEN) <i>Jones v. Barnes</i> (TWEN) Thurgood Marshall's Bicentennial Speech (TWEN)
	D. <u>Law and Morality</u>	Ronald Dworkin, <i>Lord Patrick Devlin, The Enforcement of Morals</i> , Yale Law Journal (1966) (TWEN) Excerpt from <i>Bowers v. Hardwick</i> (TWEN) Excerpt from <i>Lawrence v. Texas</i> (TWEN)

<p>UNIT II</p>	<p>CRITICAL THEORIES</p> <p>A. <u>Introduction to Critical Race Theory</u></p>	<p>Kairys , 279-84; 285-311 Roy Brooks, <i>Critical Race Theory: A Proposed Structure and Application to Federal Pleading</i> (TWEN) Derrick Bell, <i>The Chronicle of the Constitutional Contradiction</i> (TWEN)</p>
	<p>1. Race: The Power of an Illusion</p>	<p><i>Doe v. Louisiana</i> <i>People v. Hall</i> Race _The Power of an Illusion</p>
	<p>2. Critical Race Theory: Methods</p>	<p>Critical Race Theory_ Themes, excerpt from <i>Critical Race Theory: An Introduction</i>, Delgado and Stefancic Charles R. Lawrence III, <i>The Id, The Ego, and Equal Protection: Reckoning with Unconscious Racism</i></p>
	<p>3. Critical Race Methods and Application</p>	<p><i>Brown v. Board of Education</i>, 347 US 483 (1954) Derrick Bell, <i>Brown v. Board of Education and the Interest-Convergence Dilemma</i> <i>Washington v. Davis</i> excerpt on TWEN</p>
	<p>B. <u>Introduction to Feminist Legal Theory</u></p>	<p>Feminist Legal Theory _An Introduction Feminist Legal Theories (TWEN) Ginsburg article on TWEN</p>
	<p>1. Feminist Theories and Methods</p>	<p>Kairys, pp. 329-351 Feminist Legal Methods (on TWEN) <i>United States v. Virginia</i> (on TWEN)</p>
	<p>2. Feminist and Intersectionality</p>	<p>Kairys, pp. 356-364, 374-75. Intersectionality (on TWEN) <i>Moore v. National Association of Securities Dealers</i> (on TWEN)</p>

	3. Feminist Legal Theories, continued	See <i>Applying Legal Theories</i> assignment on TWEN
	Midterm Review	
October 2 nd or 7 th	Midterm	
UNIT III	SOCIOECONOMICS	
	A. <u>Socioeconomics and the Development of Law</u>	Kairys, pp. 569-580 <i>Wyman v. James</i> (on TWEN)
	B. <u>Critiques of the Delivery of Legal Services</u>	David K. Shipler, <i>A Poor Cousin of the Middle Class</i> , NY Times, January 18, 2004 (on TWEN) Legal Needs and Civil Justice: A Survey of Americans, American Bar Association (1994) (excerpt available on TWEN) Derek C. Bok, <i>A Flawed System of Law Practice and Training</i> , 33 Journal of Legal Education 570, 571-74, 577-80 (1983) (on TWEN)
	C. <u>Alternative Dispute Resolution</u>	Menkel-Meadow, Carrie, "The Trouble with the Adversary System in a Postmodern, Multicultural World," 38 William and Mary Law Review 5, 6-10 (1996)(on TWEN); Ohio Jurisprudence, Third Addition, <i>Appropriateness of Mediation</i> (on TWEN) Owen Fiss, <i>Against Settlement</i> , 93 Yale Law Journal 1073 (1984) (excerpts on TWEN).
	D. ADR Role Play	ADR Role Play (TWEN)

UNIT IV	CRITICAL THEORIES: COURSES/SUBSTANTIVE AREAS A. <u>Constitutional Law</u>	Kairys, <i>Freedom of Speech</i> , pp. 190-203, 208-211 <i>Citizens United v. Federal Election Commission</i> (on TWEN) <i>Snyder v. Phelps</i> (on TWEN)
	B. <u>Civil Procedure</u>	Kairys, <i>Politics and Procedure</i> , pp. 79 – 94; Kevin R. Johnson, <i>Integrating Racial Justice Into the Civil Procedure Survey Course</i> , (excerpt on TWEN.) <i>Walker v. Birmingham</i> , 388 US 207 (1967)(on TWEN); Optional: <i>Letter from a Birmingham Jail</i> , Dr. Martin Luther King, Jr. (on TWEN)
	C. <u>Property</u>	KAIRYS, <i>Property</i> , pp. 240-41; 254-257 <i>Kelo v. City of New London</i> , 125 S. CT. 2655 (2005)(on TWEN)
	D. <u>Criminal Law</u>	Kairys, pp. 381-388, 393-402 Kairys, pp. 410-418,424-429
	E. <u>Voting Rights</u>	<i>The Modern Day Literacy Test?: Felon Disenfranchisement and Race Discrimination</i> , 57 Stan.L.Rev. 611 (2004) The Democracy Restoration Act of 2009 (TWEN) Felon Disenfranchisement Map (TWEN)
UNIT V	CRITIQUES OF LEGAL EDUCATION	Kairys, pp. 54-75 Roy Stuckey et al., <i>BEST PRACTICES IN LEGAL EDUCATION</i> (2007) (excerpts on TWEN)
	CONCLUSION <u>Summing Up/Review</u>	Practice Exam