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Fall 2022

DIPL 6360 Global Color Lines? Race and Racism in International Law and Politics

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DIPL 6360: Global Color Lines? Race and Racism in International Law and Politics

Dr. Zinaida Miller

Fall 2022

Tuesdays 2:00-4:10PM

ST 121

What does race have to do with international law? This course will delve into historical and contemporary debates and discussions about the ways in which ideas about race have contributed to international law and politics – and vice versa. We will begin by asking what these ideas are. What do race or racism mean when it comes to law? We will study the construction of the international order through practices of slavery, colonialism, and settler-colonialism. We will discuss each of these as systems of *legalized* dispossession and subordination. We will think about how they relate to, produced, and grew out of specific ideas about race. We will use them to reflect on the question of the “color line” that sociologist W.E.B. du Bois identified in 1900 as the central problem of the coming century.

If international law and the international order were formed in part in the crucible of these projects of dispossession, what does that mean for law and social justice projects? We’ll look at the ways that human rights and international justice grapple with racial discrimination and apartheid and we’ll analyze ongoing struggles over reparations for the injustices we studied in the first part of the semester. Are contemporary states and governments responsible legally for what their predecessors did? Are reparations for colonialism a good idea? What about for slavery? In the final part of the semester, we will look to recent developments in both scholarship and advocacy. More and more scholars are turning a critical gaze to their own disciplines, prompting questions about how race has been an invisible and unspoken force in international law and international relations. We’ll look at how some scholars are attempting to change and what it means for these fields. Finally, we’ll examine Black Lives Matter as a social movement mobilizing many different discourses and ideas, including law and human rights, to fight for equity. We will discuss how technology and social media have played a role in amplifying voices as well as the limitations of these forms of political organizing. We will ask what transnational solidarity means in antiracist political movements and how it has been put into practice in different ways.

Throughout the course, we will endeavor to attend to intersectionality, particularly with regard to gender and class, as a central aspect of struggles against racism. The class is an opportunity to question our own assumptions and preconceptions about international law and politics. These are difficult, weighty issues about which many people remain unresolved. This course is an exercise not only in active learning, legal reasoning, and critical thinking but in respectful dialogue and exchange.

READINGS

There is no single text for this class. Everything will be available on Blackboard. The assignments include cases, blog posts, podcasts, scholarly articles, the occasional video. Please treat every type of media as equally important to the week's assignment. Please know that the syllabus is not only subject to change but that it absolutely *will* change. **You are responsible for checking your email to keep up with the changes, which I will always post on Blackboard as well.**

COURSE ASSIGNMENTS

1. Attendance & Participation (15%)

Attendance and participation are not optional. If due to circumstances beyond your control, you have to miss a class, please alert me by e-mail **BEFORE** class. Barring exceptional circumstances, you are responsible for the class reading for any missed class. **Excessive absences will result in a failing grade** for this course.

Participation: This course is driven by close reading and analysis, curiosity, questions, and discussion. I cannot stress enough how important your participation is. This material isn't easy. Neither are these themes. I will never require you to understand everything you read the first time through, to have a hot take on every reading, or to know the answer to every question. To the contrary, participation in this class (and every class) is all about figuring things out together, about giving you a chance to explore new authors and themes, and to give us a chance to get to know each other through those discussions. All I ask is that you make every effort to finish the reading in advance, to think it through, and to come prepared to discuss it. If that's what you do, you will do well in this class – and not only for your participation grade but for your grade for the entire semester.

2. Reading Questions and Response Papers

At the beginning of the semester, you will be divided into groups. Each group will be assigned three sessions. For those three sessions, you will do the following:

- 1) As a group, you will prepare to start class with some reflections on the readings. You'll write **3-4 questions** for the class based on the readings; these will be turned in before class so that I can post them for everyone to see. *Everyone in the group must participate in this exercise.*
- 2) Individually, you will write a reflection paper for each of your three sessions. The reflection papers will be approximately 750 words reflecting on the readings. More detail will be posted on Blackboard. In short, **a stellar reflection will be well-written, concise, and demonstrate a thoughtful engagement with the materials within the context of the course themes.**

- 3) **Your group is also responsible for finding 2-3 articles/blog posts that are relevant to that week's readings and themes.** You will list the links to these articles/posts on a Google Sheet I will create for the class and add a sentence on why each is relevant. It will look something like:

Zinaida Miller, "Introducing the Art of Introductions", *Interesting Stuff Blog* (Aug. 22, 2022)
<Link>

This post is relevant to this week's readings because we are discussing introductions and how to introduce them.

All of the assignments listed above are always due Sunday at 4:00PM prior to the class they are addressing. Late papers will be graded down a third of a grade; papers that are more than 3 days late will not be accepted. *That said, if something is happening in your life and you need time, help, or other support, please let me know!* Remember: I can't help unless you tell me you need it.

3. Final Essay (35%)

Write a paper (4000-6000 words) on at least 4 readings you did for this class that particularly influenced your thinking about the themes of the course. This is a formal essay (not a personal reflection) but not a research paper (because you do not need to do outside research, although you may use the "additional readings" listed throughout if you would like). You might choose a single theme (slavery, reparations, settler colonialism) or two authors who advance contending viewpoints or a single author on whose work you'd like to reflect. Your final paper is due **December 16 at 5:00PM.**

NOTE: Make sure to carefully proofread all writing before you turn it in on Blackboard. We will rarely discuss statues or trails in this class, but often statutes and trials.

Citation Formats: Papers should utilize Author-Date form of the Chicago Manual of Style. The guidelines for these formats are on the course Blackboard page.

CORONAVIRUS SAFETY

For the moment, I am continuing to require everyone to mask in my classes. Please help keep everyone safe by making sure you are wearing an **effective, well-fitted mask that covers your nose and mouth.** Remember that you do not know everyone's personal situation, who they live with, or how they or their loved ones may be vulnerable. We are all responsible for keeping each other safe. Updates on University policy can be found here: <https://www.shu.edu/health-intervention-communication/>

ELECTRONICS AND NOTE-TAKING

More than one study has concluded that taking notes by hand rather than by typing improves learning; when you cannot transcribe but rather have to translate class discussion and lecture into hand-written notes, you are far more likely to retain the information in more detail and for longer. The temptation to multitask while you are on a computer not only

reduces your participation but negatively affects those around you. Basically, laptops are less helpful than they are harmful to a great seminar.

That said, you need access to the readings during class and I do not want to require printing all of them. In order to promote the best possible classroom discussion while allowing you to access the readings, you may use your computer in one of two ways: in tablet form on your desk or generally keep it closed except when you want to reference specific readings. I strongly suggest that you take notes by hand unless you have a specific reason not to. All use of electronics for any purpose other than class work is prohibited, as is all use of mobile phones. **If I see your cell phone on your desk or in your hand during class, I will confiscate it for the remainder of class.** If you have an emergency situation that requires you to check your phone or email during class, please let me know before class.

STUDENT HOURS AND CONTACT INFORMATION.

My scheduled-time-to-chat will be on **Zoom** on **Wednesdays 2:00-4:00PM and by appointment.** On Blackboard, you will find a link to a Google doc where you can sign up for a slot. These slots are first come, first serve. Please do not change anyone else's appointment! If those times don't work for you, just send me an email and we will find another time.

My e-mail address is Zinaida.Miller@shu.edu. I do make an effort to respond promptly to all email questions and concerns, but I will not respond to emails received after 9:00PM until the next day.

GENERAL INFORMATION

CORONAVIRUS SAFETY

For the moment, I am continuing to require students to mask in my classes. Please help keep everyone safe by **making sure you are wearing an effective, well-fitted mask that covers your nose and mouth**. Remember that you do not know everyone's personal situation, who they live with, or how they or their loved ones may be vulnerable. We are all responsible for keeping each other safe. Updates on University policy can be found here: <https://www.shu.edu/health-intervention-communication/>

ACADEMIC INTEGRITY

Plagiarism and other forms of academic dishonesty will be reported to the administration, and may result in a lowered or failing grade for the course and up to possible dismissal from the School of Diplomacy. See University and School standards for academic conduct here: <https://www.shu.edu/student-life/upload/Student-Code-of-Conduct.pdf> and <http://www.shu.edu/academics/diplomacy/academic-conduct.cfm>

For any and every assignment: where you quote language word for word from a source, you must place it in quotation marks or in a block quote and **give the exact source** for each quoted passage. Where you paraphrase something, you must **cite the source**. Where you refer to or use an author's insight or idea, you must **cite the source**. Lifting or paraphrasing language from a web site without indication and citation is plagiarism.

Any indication of plagiarism will result in a failing grade for the assignment and a reduction in the participation grade for the class. A repeated incident of plagiarism (i.e., more than one) is likely to result in a failing grade for the class and will be reported to the administration.

INCLUSIVE LEARNING

It is the policy and practice of Seton Hall University to promote inclusive learning environments. If you have a documented disability you may be eligible for reasonable accommodations in compliance with University policy, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and/or the New Jersey Law against Discrimination. Please note, students are not permitted to negotiate accommodations directly with professors. To request accommodations or assistance, please self-identify with the Office for Disability Support Services (DSS), Duffy Hall, Room 67 at the beginning of the semester. For more information or to register for services, contact DSS at (973) 313-6003 or by e-mail at DSS@shu.edu.

INCOMPLETES

Incompletes will be given only in exceptional cases for emergencies. Students wishing to request a grade of Incomplete must provide documentation to support the request accompanied by a Course Adjustment Form (available from the Diplomacy Main Office) to the professor *before* the date of the final examination. If the incomplete request is approved, the professor reserves the right to specify the new submission date for all missing coursework. Students who fail to submit the missing course work within this time period will

receive a failing grade for all missing coursework and a final grade based on all coursework assigned. Any Incomplete not resolved within one calendar year of receiving the Incomplete or by the time of graduation (whichever comes first) automatically becomes an "FI" (which is equivalent to an F). It is the responsibility of the student to make sure they have completed all course requirements within the timeframe allotted. Please be aware that Incompletes on your transcript will impact financial aid and academic standing.

COUNSELING AND PSYCHOLOGICAL SERVICES

As part of our commitment to the health and well-being of all students, Seton Hall University's Counseling and Psychological Services (CAPS) offers initial assessments, counseling, crisis intervention, consultation, and referral services to the SHU community. The CAPS office is located on the second floor of Mooney Hall, room 27. Appointments can be made in-person or by calling 973-761-9500 during regular business hours, **Monday-Friday, 8:45 a.m. - 4:45 p.m.** In case of a psychological emergency, call CAPS (973-761-9500) at any time to speak to a crisis counselor. For more information, please visit: <https://www.shu.edu/counseling-psychological-services/index.cfm>

Part I. Introductions: Race and Racism

Class 1 (Aug. 30)

Introduction to the course

- Listen to: Code Switch, "It's Not Just About the Blood"
https://overcast.fm/+Huuu3t_rU
- Optiona: "So What Exactly Is Blood Quantum?",
<https://www.npr.org/sections/codeswitch/2018/02/09/583987261/so-what-exactly-is-blood-quantum>

Class 2 (Sept. 6)

What do we mean when we talk about race?

What is race? How did it evolve? This week we will discuss understandings of race: as a social, legal, and historical construction. We read two cases (Takao and Bhagat Singh Thind) in which the US Supreme Court discusses whiteness as a legal category. We will also discuss a podcast that demonstrates the importance of understanding race and racialization in context.

- Perea, Delgado, et al, *Race and Races: Cases and Resources for a Diverse America* (3d ed.), pp 19-27, 41-45
- Ian Haney Lopez, "The Social Construction of Race" (1994), pp 1-10
- Howard Winant, "Race and Race Theory", *Annual Review of Sociology* (2000), 180-183
- *Takao Ozawa v. U.S.*, 260 U.S. 178 (1922) from Perea et al
- *U.S. v. Bhagat Singh Thind*, 261 U.S. 204 (1923) from Perea et al
- African-American Policy Forum, "A Primer on Intersectionality", pp 1-6 (Optional: pp 7-11)
- Listen: Code Switch, "Puerto Rico, Island Of Racial Harmony?"

Part II: Early Practices of Legalized Dispossession

Class 3 (Sept. 13)

Colonialism

This week, we're examining one of the foundational parts of the international order: colonial conquest and the dispossession of native peoples. We begin with readings from early colonial era: a letter from Christopher Columbus about his encounter with Indigenous people and excerpts from 16th century Spanish theologian and jurist Francisco de Vitoria. The second set of readings take up the later stages of colonialism, including a description of how Belgian King Leopold brutally colonized what is now the Democratic Republic of Congo and a theory of the relationship between international law, colonialism, and sovereignty.

1. Terra Nullius

- Francisco de Vitoria, "On the American Indians" (1538), Excerpt
- Christopher Columbus, Letter to King Ferdinand (1493)
- Introductory info: <https://ap.gilderlehrman.org/resource/columbus-reports-his-first-voyage-1493>

2. Colonialism, Africa, and International Law

- Adam Hochschild, *King Leopold's Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa* (1998) pp 75–88, 115–123, 280–283
- Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (2004), pp 82–97 (on colonization)
- Chinua Achebe, "An Image of Africa," *Research in African Literatures* 9(1):1978, pp. 1–15
- Nathaniel Berman, "Shadows: Du Bois and the Colonial Prospect (1925)", 45 *Villanova Law Review* (2000), pp. 959–970

Additional Reading:

- * Antony Anghie, "Francisco de Vitoria and the Colonial Origins of International Law", *Social and Legal Studies* 5 (1996), esp pp 321–26
- *Anthony Bogues, "Radical Anti-colonial Thought, Anti-Colonial Internationalism, and the Politics of Human Solidarities" in *International Relations and Non-Western Thought: Imperialism, Colonialism and Investigations of Global Modernity* (Robbie Shilliam, ed.)
- *Frantz Fanon, *The Wretched of the Earth* (1963)
- *Frederick Cooper, "States, Empires and Political Imagination" (2005)

Class 4 (Sept. 20)

Settler-Colonialism

This week we turn to a particular form of colonialism: settler-colonialism. The readings include one of the most influential cases around property and settlement in U.S. history as well as discussions about the definition and effects of settler-colonialism over time. We will focus on what distinguishes settler-colonialism as a system and how law helps to shore up settler claims to land.

- *Johnson v. M'Intosh*, 21 U.S. 543 (1823)
- Patrick Wolfe, "Settler Colonialism and the Elimination of the Native", *Journal of Genocide Research* (2006), 387–388, 393–404
- Robert Nichols, Indigenous Peoples, Settler Colonialism, and Global Justice in Anglo-America, in *Empire, Race and Global Justice* (Duncan Bell, ed.) (Cambridge UP 2019), pp. 228–232, 241–250
- Brenna Bhandar and Rafeef Ziadah, "Interview with Leanne Betasamosake Simpson, Revolutionary Feminisms," *New Frame* (Aug. 19, 2021)
- Valarie Waboose, "The Children Have Awakened Canada", *TWAIL-Review* (2022)

Optional Additional Reading

- * Andrew Woolford, "Ontological Destruction: Genocide and Canadian Aboriginal Peoples", *Genocide Studies and Prevention* (2014)
- * Ntina Tzouvala, "Review Essay: Settler Colonialism, Race, and The Law: Why Structural Racism Persists by Natsu Taylor Saito", *Melbourne J. of International Law* (2021)
- * "Universalizing Settler Liberty: An Interview with Aziz Rana," *Jacobin* (2014)

Class 5 (Sept. 27)

The Slave Trade and the Black Atlantic

It is no exaggeration to say that race and racialization as we understand it today are fundamentally products of the transnational slave trade. How did law, domestic and international, shape the enslavement of people? How did the economy of slavery manifest itself and how did legal cases help to shape that economy? How has enslavement affected structures of race, law, and capitalism?

- *The Antelope*, 23 U.S. (10 Wheat.) 66 (1825)
- Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market*, Excerpts
- Darryl Li, "Genres of Universalism: Reading Race Into International Law, With Help From Sylvia Wynter," *UCLA Law Review*, 67(6) (2021), Excerpts
- *Gregson v. Gilbert*
- Excerpts from M. NourbeSe Philip, *Zong!*
- Walter Johnson, "To Remake the World: Slavery, Racial Capitalism, and Justice" *Boston Review* (2018)
- Listen to: Code Switch, "20 and Odd. Negroes." (Aug 28, 2019)

Optional Additional Reading:

* Padraic Scanlan. "The rewards of their exertions: prize money and British abolitionism in Sierra Leone, 1808-1823" *Past & Present* (2014)

*Barbara and Karen Fields, "Slavery, Race, and Ideology in the United States of America," in *Racecraft: The Soul of Inequality in American Life* *(Verso 2014), pp 111-148

Part III: Resistance and Transitions

Class 6 (Oct. 4)

Abolition(s) of the Slave Trade: Haiti

This week we examine efforts to end slavery and the slave trade. They were halting, uneven, and complex, taking up different legal strategies over time in different places. We will focus on the remarkable story of Haiti's revolution, its abolition of slavery, the immiserating debt left to Haiti in the aftermath of its revolution, and the ways in which these histories have and haven't been told.

- US Congress, *Act Prohibiting Importation of Slaves* (1807)
- British Parliament, *An Act for the Abolition of the Slave Trade* (1807)
- Jennifer Martinez, "Slave Trade on Trial: Lessons of a great human rights law success", *Boston Review* (Sept 2007)
- Toussaint Louverture, "To Live Free or Die"(Excerpts)
- Catherine Porter, Constant Méheut, Matt Apuzzo & Selam Gebrekidan, "The Ransom: The Root of Haiti's Misery: Reparations to Enslavers", *The New York Times* (May 20, 2022)
- Michel Rolph-Trouillot, "An Unthinkable History: The Haitian Revolution as a Non-Event" in *Silencing the Past: Power and the Production of History*, pp 70-107
- Lauren Collins, "The Haitian Revolution and the Hole in French High School History," *The New Yorker* (Dec 3, 2020)

Additional Reading

* Rob Knox, "Haiti at the League Of Nations: Racialisation, Accumulation and Representation", *Melbourne Journal of International Law*, 2021,

*Lauren Benton, Abolition and Imperial Law, 1790-1820, *The Journal of Imperial and Commonwealth History*, Vol. 39, No. 3, September 2011, pp. 355-374

NO CLASSES OCT. 11 - FALL BREAK

Class 7 (Oct. 18)

Processes of Decolonization: From Mandate to Trust to Anticolonialism

Over the course of the 20th century and with the rise of international organizations such as the League of Nations and the UN, it became increasingly difficult for imperial powers to legally or politically justify their colonial conquests. Yet colonialism did not quietly fade away; it was transformed under international trusteeship with the Mandate and Trust systems and fought by anticolonial movements. This week we explore these processes of decolonization.

- Antony Anghie, "Colonialism and the Birth of International Institutions: Sovereignty, Economy, and the Mandate System of the League of Nations," *NYU Journal of Law & Politics* (2002), Excerpts
- Siba Grovogui, *Sovereigns, Quasi Sovereigns, and Africans: Race and Self-Determination in International Law* (1996), Excerpts from Chapter 4, "Behind the Veil of Trust"
- Bandung Conference *Final Communique* (1955)
- Carina Yervasi, "Patrice Émery Lumumba" (2008)
- Patrice Lumumba, *Congo Independence Speech* (1960)
- Adom Getachew, "Kwame Nkrumah and the Quest for Independence", *Dissent* (2019)
- Kwame Nkrumah, *Address to the Organization of African Unity* (1963)

Optional Additional Reading

*Mohammed Bedjaoui, *Towards a New International Economic Order* (1979) 131-144, 193-203

*Randolph Persaud, "Colonial Violence: Race and Gender on the Sugar Plantations of British Guiana", 117-138

*Luis Eslava, Michael Fakhri, and Vasuki Nesiah, "The Spirit of Bandung" in *Bandung, Global History, and International Law* (2017): 3-32

Class 8 (Oct. 25)

Algeria: Anticolonialism and Political Violence

What is required to end colonialism? Is violence ever justified? What kind? What does anticolonial resistance look like and how should we consider the relationship between state violence and the violence of those who resist? We will focus on Algeria this week, particularly the famous film "The Battle of Algiers" and anticolonial theorist Frantz Fanon, who spent much of his life in Algeria.

- Brief Introduction to the Algerian War of Independence
(<https://sites.tufts.edu/atrocityendings/2015/08/07/algeria-war-of-independence/>)
- Martin A. Miller, *Foundations of Modern Terrorism*, pp 199-203 (Congo and Algeria)
- Frantz Fanon, "Concerning Violence" from *The Wretched of the Earth* (1961), Excerpts

- Pankaj Mishra, "Frantz Fanon's Enduring Legacy," *The New Yorker* (Nov 29, 2021)
- Richard Pithouse, "Violence: What Fanon Really Said," *The Mail & Guardian* (2016)
- Listen to New Frame Radio Podcast, *Fanon in 2022* (2022)
- WATCH: *The Battle of Algiers* (Kanopy)
- Maria Flood, "The Battle of Algiers: an iconic film whose message of hope still resonates today," *The Conversation* (Oct. 18, 2021)
- Michael O'Riley, "The Return of the Battle of Algiers in Mediterranean Shadows: Race, Resistance and Victimization", *California Italian Studies* (2010), Excerpted

Optional Additional Reading

*Michael G. Vann, "The Colonial Casbah on the Silver Screen: Using *Pépé le Moko* and *The Battle of Algiers* to Teach Colonialism, Race, and Globalization in French History," *Radical History Review* (2002), Excerpted

*Constant Mehou, "Shadows of Algeria Loom Over Elections in France", *The New York Times* (March 19, 2022)

Class 9 (Nov. 1)

South Africa: Apartheid and Anti-Apartheid

The South African system of apartheid was one of the most horrifyingly effective systems of legalized racial segregation, dispossession, and brutality ever documented. This week we focus on the history of apartheid and its opposition, focusing on the legal constructions of race in South Africa, the ways in which those constructions related to economic dispossession, and how antiapartheid activists understood their struggle and the methods required for carrying it out.

- The Group Areas Act, SA History, <https://www.sahistory.org.za/article/group-areas-act-1950>
- Deborah Posel, "Race as Common Sense: Racial Classification in Twentieth-Century South Africa", 44 *African Studies Review* (2001), Excerpted
- Court Transcript of the Statement from the Dock of Nelson Mandela, Accused No. 1 (1964)
- Steve Biko, "Black Consciousness and the Quest for a True Humanity" from *I Write What I Like*
- Hakan Thorn, "The Meaning(s) of Solidarity: Narratives of Anti-Apartheid Activism" *Journal of Southern African Studies* (2009)
- Sean Jacobs, *The Heart of Whiteness, South Africa Edition, Africa Is a Country* (2015) <https://africasacountry.com/2015/03/whitehistorymonth-njabulo-ndebele-on-the-heart-of-whiteness-south-african-edition>

Optional Additional Reading

*Saul Dubow, "Afrikaner Nationalism, Apartheid and the Conceptualization of 'Race'", *Journal of African History* (1992)

*Christopher Gevers, "Prosecuting the Crime Against Humanity of Apartheid: Never, Again", *African Yearbook on International Humanitarian Law* (2018)

*Podcast: <https://africasacountry.com/2020/09/introducing-aiac-talk> Start @ minute 16:30

Part III. Forms of Repair? Race, Rights, and Reparation

Class 10 (Nov. 8)

Race and Human Rights

Human rights law has codified the notion of antidiscrimination as part of a broad effort to promote racial equality. What does it look like in practice? How does the European Court of Human Rights use antidiscrimination law in its jurisprudence and how does the European history of colonial rule influence contemporary legal interpretation? How do ideas about race relate to debates over immigration, borders, and refugee law?

1. Codifying Antidiscrimination

- Susan Marks and Andrew Clapham, "Racism" in *International Human Rights Lexicon* pp 287-307
- Convention on the Elimination of All Racial Discrimination (CERD)
- *Nachova v. Bulgaria* Judgment, Grand Chamber, European Court of Human Rights (12pp)
- Marie Dembour, "Postcolonial Denial", in *Mirrors of Justice*

2. Movement, Borders, and Race

- *R. v. Immigration Office at Prague Airport* (UK House of Lords, 2004) (10pp)
- Tendayi Achiume, "Racial Borders," *Georgetown Law Journal* (2022)

Optional Additional Reading

*Eve Darien-Smith, "Re-reading W. E. B. Du Bois: the global dimensions of the US civil rights struggle," *Journal of Global History* (2012), pp. 483-50

*Manning Marable & Cheryll Y. Greene, "World Conference against Racism, Xenophobia, and Related Intolerance", *Souls* 4 (3), 2002

*Wadie Said, "The Destabilizing Effect of Terrorism in the International Human Rights Regime," *UCLA Law Review* (2021)

Class 11 (Nov. 15)

Race and Justice I: Transitional Justice for Colonial and Racialized Harms

In recent years, there have increasingly been calls for justice not only in the present but for the past. This week and next week, we examine different aspects of these movements for justice: In this class, we examine the broad scope of the field known as transitional justice: what does it claim to do, how can it be applied to colonial harms (or can it), what have its blind spots been when it comes to race?

1. The State of the Field: Transitional Justice and Race

- Hugo van der Merwe and M. Brinton Lykes, "Racism and Transitional Justice", *International Journal of Transitional Justice* (2020)
- CSVR Policy Brief, "Transitional Justice and Colonialism" (October 2018)
- M. Amah Edoh and Liliane Umubyeyi, "Introduction: Sustaining the Momentum"

- Elisa Novic, "Transitional Justice to Address Colonial Legacies: Decolonizing Transitional Justice First?" (2021)
- CaCoBuRwa Collective, "From the Colonial Past to Today's Anti-Black Racism in Belgium: Modalities of Change"

2. Transitional Justice in Action

- South Africa Truth & Reconciliation Commission Report Executive Summary, Excerpts
- Listen to: New Frame Radio Podcast, "TRC Unfinished"
- Report on Missing and Murdered Indigenous Women and Children in Canada Executive Summary, Excerpts
- Listen to: The Henceforward, "Reconciliation" (2016)

3. Can We Do Justice to/for a Forgotten Past?

- Saidiya Hartman, "Venus in Two Acts", *small axe* (2008) (14pp)

Optional Additional Readings

- *Manning Marable & Cheryll Y. Greene, "World Conference against Racism, Xenophobia, and Related Intolerance", *Souls* 4 (3), 2002
- *Colleen Murphy, "How Nations Heal", *Boston Review* (Jan. 21, 2021)
- *Greensboro Truth & Reconciliation Commission Final Report
- *Report of the UN Working Group of Experts on People of African Descent on its mission to the United States of America (2016)
- * Eduardo Gonzalez and Kelebogile Zvobgo, "As America Seeks Racial Justice, it can Learn from Abroad", *Foreign Policy* (March 2021)

Class 12 (Nov. 22)

Race and Justice II: Reparations

Does justice require reparation? What would that reparation be when it comes to colonialism and enslavement? How does international law define reparation and what are the ethical, legal, political and economic considerations that come into play as we begin to talk about the enormous project of repair for what are essentially irreparable harms?

1. Overview: Reparations in International Law
 - Max du Plessis, "Historical Injustice and International Law: An Exploratory Discussion of Reparation for Slavery", *Human Rights Quarterly* 25 (3) (2003), Excerpts
2. Reparations for Colonialism
 - Jennifer Balint, "The 'Mau Mau' Legal Hearings and Recognizing the Crimes of the British Colonial State", *Critical Analysis of Law* (2016), Excerpted
 - *Mutua et al v. Foreign and Commonwealth Office* (UK High Court of Justice, 2012)
 - Listen to: Radiolab, "Mau Mau" (47 min.) (July 3, 2015)
 - "Germany agrees to pay Namibia €1.1bn over historical Herero-Nama genocide", *The Guardian* (May 28, 2021)

- Carine Dikieffu Banona & Jean-Sébastien S  pulchre, Belgium – From Regrets to Reparations, Human Rights Watch (June 30, 2020)

3. Reparations Debates in the U.S.

- Ta-Nehisi Coates, “The Case for Reparations”, *The Atlantic* (2014), Excerpts
- D. Wildcat, “Why Native Americans Don’t Want Reparations”: *The Washington Post* (June 10, 2014)
- LISTEN TO: Code Switch, “Who’s ‘Black Enough’ for Reparations?” (36 min.) (Feb 3, 2021)

Optional Additional Readings

*Leigh Day, Backgrounder on the Mau Mau claims

***Listen to** The Henceforward, “Reparations” (55 min.)(2016)

*Jeremy Sarkin, “The Coming of Age of Claims for Reparations for Human Rights Abuses Committed in the South,” *Sur: International Journal on Human Rights* (2004)

*Vasuki Nesiah, “A Double Take on Debt” in *Routledge Handbook on International Law and the Humanities* (Shane Chalmers & Sundhya Pahuja, eds.)

Class 13 (Nov. 29)

Race, Social Movements, and International Law

There is a long history of social movements fighting for racial justice and equality. What are the legal aspects of those movements? How have they used international law and politics to move their cases forward? What is transnational solidarity and what happens if we frame seemingly local questions of racial subordination in terms of human rights and internationalism?

- W.E.B. Du Bois, “An Appeal to the World: A Statement on the Denial of the Human Rights to Minorities in the Case of Citizens of Negro Descent in the United States of America and an Appeal to the United Nations for Redress” (1947)
- Civil Rights Congress, *We Charge Genocide: The Historic Petition to the United Nations for Relief from a Crime of the US Government Against the Negro People* (1951) Parts I and II
- “We Charge Genocide: Police Violence Against Chicago’s Youth of Color” [shadow report submitted to the United Nations Committee Against Torture] (2014)
- Peniel Joseph, “Black Humanity and Black Power”, *Boston Review* (2018)
- Amna Akbar, “The Movement for Black Lives Matter Offers an Abolitionist Approach to Police Reform”, *Law and Political Economy Blog* (2018)
- E. Tendayi Achiume, “The United States’ Racial Justice Problem is Also an International Human Rights Law Problem”, *Just Security* (June 5, 2020)

Optional Additional Readings

*Michael Fakhri and Ntzina Tzouvala, *International Law and the Right to Food: What Can We Learn from Racial Justice Movements?* *EJILTalk* (2022)

*Alicia Garza, “A Herstory of the #BlackLivesMatter Movement” (2014)

**The Ferguson Report*

*Movement for Black Lives, “A Vision for Black Lives”

Class 14 (Dec. 6)

How/What We Teach and Learn: International Law & International Relations

This course is fundamentally shaped by and built upon the work of courageous scholar-activists who helped reshape our understandings of international law and international relations. This week we reflect on the academy itself – how new theories have disrupted old ideas about the irrelevance of race to international law and politics and how these theories come to play in scholarship, activism, and teaching.

1. International Law

- Makau Mutua, “What Is TWAIL?” and Antony Anghie, “What is TWAIL: Comment”, *American Society of International Law* (2000)
- James Thuo Gatthi, “Writing Race and Identity in a Global Context,” *UCLA Law Review* (2020)
- Jing Min Tan, “The Many Layers of Invisible Labour Decolonising the Academy”, TWAIL-R (Mar. 12, 2021), <https://twailr.com/the-many-layers-of-invisible-labour-decolonising-the-academy>
- Mohsen al-Attar, Ata Hindi, Claire Smith, “Everybody Knows About Racism, Goddam! Pathways in the Struggle Against the Racialised Universe of International Law,” *Opinio Juris* (Apr. 5, 2022)
- Carmen Gonzalez, “We Are All Climate Change Lawyers Now” (2022)

2. International Relations

- W.E.B. du Bois, *The Souls of Black Folk*, Excerpts (1903)
- Robert Vitalis, Introduction, *White World Order, Black Power Politics; The Birth of American International Relations* (2015)

Optional Additional Readings

- *E. Tendayi Achiume and Devon Carbado, CRT meets TWAIL, *UCLA Law Review* 67(6) (2021)
- * Robert Knox, “Race, Racialisation and Rivalry in the International Legal Order” in *Race and Racism in International Relations* (Anievas et al, eds.)
- *Christopher Gevers, “Unwhitening the World’: Rethinking Race and International Law,” *UCLA Law Review* 67(6)(2021)
- *Robbie Shilliam, “International Relations” in *Decolonizing Politics: An Introduction* (Polity 2021), pp. 119-149
- *Introduction to *Race and Racism in International Relations: Confronting the Global Colour Line* (eds. Aleander Anievas, Nivi Manchanda, Robbie Shilliam), pp 1-14
- * Robbie Shilliam, “Non-Western Thought and International Relations” in *International Relations and Non-Western Thought* (Ed. Robbie Shilliam, 2011)
- * Watch Robbie Shilliam, “The British Academy and the British Empire: Blackness as a Problem at Home and Abroad”, www.criticalraceculture.com/inaugural-lecture/