Social Equality and the Law: A Comparative Consideration of Race, Ethnicity, Gender and Class.
May 2009
Harris and Ferreira da Silva

Course Description

This course will examine the legal response to (in)equality in the United States and Brazil with a comparative consideration of the treatment of racial, ethnic, gender and economic status in both nations. Both the U.S. and Brazil are among the most diverse countries in the world; they are also countries with complicated responses to equality questions. Thus, the course will ask whether legal institutions are the appropriate means to assure equality in its different dimensions, and, if so, how so. The course will examine the ways in which citizens are and have been protected – or not – on the basis of status in both countries and will also consider the efficacy of the protections that exist. Topics for comparison and discussion will include constitutional and statutory status protections, affirmative action efforts and also the cultural limits of legal enforcement.

Pre-course assignment: Please read Donna Goldstein, Laughter Out of Place: Race, Class, Violence and Sexuality in a Rio Shantytown 49-119 (2003); and Five Brazilian Songs, and then answer the following questions:

1. A line in "Cara do Brasil," one of the Five Brazilian songs, says, "Brazil is a caboclo without money." What do you think this means? What information in the other readings might explain this line? What is the singer of this song saying more generally about Brazil?

2. After reading "Laughter Out of Place," how would you explain the significance of race and color in Brazil? What appears to be the relationship between race/color and wealth/class? How does the relationship appear to be different from, or the same as, the relationship between race/color and wealth/class in the United States?

Your essay answering these questions should be between 5-7 double-spaced pages long (using standard 12 point font).

Course Schedule and Reading Assignments

<u>Week 1</u>
Monday, May 18: Introduction to racial formation theory
8:30 - 9:40
Class Exercise
9:55 - 11:05
Lecture: Racial formation theory
Readings:
1. Edward Telles, "The Social Consequences of Skin Color in Brazil," in Shades of

Difference: Why Skin Color Matters (2008)

2. Michael Omi and Howard Winant, Racial Formation in the United States, Chapter 4
3. Howard Winant, "Rethinking Race in Brazil"

11:20 - 12:30

Discussion of readings

Tuesday, May 19: Converging and diverging histories

8:30 - 9:40

Film

9:55 - 11:05

Lecture: History of governance of indigenous peoples and racialized minorities in the U.S. and Brazil

Readings:

1. Flavio Santos Gomes, "Slavery, Black Peasants, and Post-Emancipation Society in Brazil, 10 Soc. Identities 735 (2004)
2. Robert Cottrol, "The Long Lingering Shadow: Law, Liberalism, and Cultures of Racial Hierarchy and Identity in the Americas," 76 Tul. L.Rev. 11 (2001)
3. McPhee, "Immigrants with money are of no use to us", 62 The Americas 623 (2006)
4. Luiz Fernando do Rosario Linhares, Kilombos of Brazil: Identity and Land Entitlement, 34 J. Black Studies 817 (2004)

11:20 - 12:30

Discussion: United States Supreme Court case excerpts: *Johnson v. McIntosh, Dred Scott v. Sandford, Plessy v. Ferguson, United States v. Seminoles, In re Davis*

Wednesday, May 20: Field trip - quilombo

Thursday, May 21: The struggle for recognition & rights: indigenous struggles

8:30 - 9:40

Lecture

Readings:

1. Rice v. Cayetano
2. Jan French, Mestizaje and Lawmaking in Indigenous Identity Formation in Northeastern Brazil, 106 Am. Anthropologist 663 (2004)
3. L. Roberto Barroso, The Saga of Indigenous Peoples in Brazil, 7 St. Thomas L.Rev. 645 (1995)

9:55 - 11:05

Speaker: Iane Germano

11:20 - 12:30

Exercise

Friday, May 22: Race, class, and wealth

8:30 - 9:40

Lecture: The material consequences of racial hierarchy and the relationship between race and class

Readings:

1. Melvin Oliver and Thomas Shapiro, Black Wealth/White Wealth, chapter 6
2. George Lipsitz, The Possessive Investment in Whiteness
3. Marcelo Paixao, Waiting for the Sun, 34 J. Black Studies 743 (2004)

9:55 - 11:05

Speaker: from IBASE

11:20 - 12:30

Discussion

Week 2

Monday, May 25: Race and nation

8:30 - 9:40

Exercise

9:55 - 11:05

Lecture: The relationship between race and nation in Brazil and the US

Readings:

1. US federal decision excerpts: *In re Ah Yup, In re Najour, Ex parte Shahid, Ozawa v. United States, United States v. Thind*
2. Jeffrey Lesser, Negotiating National Identity, chapters 1 and 2 (1999)

11:20 - 12:30

Discussion

Tuesday, May 26: Living and dying in a racialized society

8:30 - 9:40

Lecture: Race, Gender, and Prison

Readings:

1. Peggy Lovell, Race, Gender, and Work in Sao Paulo, 41 Latin Am. Research Rev. 63 (2006)
2. Brodwyn Fischer, Quase Preto de Tao Pobres? 39 Latin Am. Research Rev. 31 (2004)
3. Michael Brown et al., Whitewashing Race, chapter 4

9:55 - 11:05

Speaker: Humbeto Adani

11:20 - 12:30

Discussion

Wednesday, May 27: Field trip - Baixada Fluminense project offices

Thursday, May 28: Redress: the case for affirmative action

8:30 - 9:40

Lecture: Affirmative action in the US and Brazil

Readings:

1. Reva Siegel, Why Equal Protection No Longer Protects, 49 Stan. L.Rev. 1111 (1997)
2. Nascimento et al, Paving Paradise: The Road From Racial Democracy to Affirmative Action, 34 J. Black Studies 787 (2004)

3. Seth Racusen, Making the “Impossible” Determination, 36 Conn. L.Rev. 787 (2004)

9:55 - 11:05

Speaker: Daniel Sarmento

11:20 - 12:30

Discussion

Friday, May 29: Redress: the case for reparations

8:30 - 9:40

Lecture: reparations in international, domestic contexts

Readings:

1. Alfred Brophy, The Cultural War Over Reparations for Slavery, 53 DePaul L.Rev. 1181 (2004)
2. Lucila Bandera Beato, Inequality and Human rights of African Descendants in Brazil, 34 J. Black Studies 766 (2004)
3. Ngai Pindell, Finding a Right to the City: Exploring Community and Property in Brazil and the United States, 39 Vand. J. Transnat’l L. 435 (2006)

9:55 - 11:05

Exercise

11:20 - 12:30

Discussion: Eduardo Bonilla-Silva and David Dietrich, “The Latin Americanization of U.S. Race Relations,” in Shades of Difference (2008)