

**Global Color Lines? Race and Racism in International Law and Politics**  
**Dr. Zinaida Miller**  
**Spring 2022**

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. 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.**

### **Part I. Introductions: Race and Racism**

#### Class 1 (January 24)

##### **Introduction to the course**

- **Listen:** Code Switch, "It's Not Just About the Blood"  
[https://overcast.fm/+Huuu3t\\_rU](https://overcast.fm/+Huuu3t_rU)
- "So What Exactly Is Blood Quantum?",  
<https://www.npr.org/sections/codeswitch/2018/02/09/583987261/so-what-exactly-is-blood-quantum>
- TWAIL-R Interview with Natsu Saito, *Settler Colonialism, Structural Racism, and the Law* (March 29, 2021) <https://twailr.com/settler-colonialism-structural-racism-and-the-law/>

#### Class 2 (January 31)

##### **What do we mean when we talk about race?**

- 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 (February 7)

##### **Colonialism**

###### **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 (February 14)**

### **Settler-Colonialism**

- *Johnson v. M'Intosh*, 21 U.S. 543 (1823)
- La Paperson, "Settler Colonialism Is a Set of Technologies", *A Third University Is Possible* (U of Minnesota Press 2017), <https://manifold.umn.edu/read/a-third-university-is-possible/section/e33f977a-532b-4b87-b108-f106337d9e53#ch01>
- 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), <https://www.newframe.com/new-books-revolutionary-feminisms/>
- Valarie Waboose, "The Children Have Awakened Canada", TWAIL-Review

### **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 (February 21)**

### **The Slave Trade and the Black Atlantic**

- *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!*
- Excerpt from Christina Sharpe, *In the Wake: On Blackness and Being* (2016)
- 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)

**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 (February 28)**

**Abolition(s) of the Slave Trade**

- 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)
- 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
- Jérôme Duval, *Haiti: from Slavery to Debt*,” *Counterpunch* (Nov. 10, 2017)  
<https://www.counterpunch.org/2017/11/10/haiti-from-slavery-to-debt/>

**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 CLASS MARCH 7\*\*\***

**Class 7 (March 14)**

**Processes of Decolonization: From Mandate to Trust to Anticolonialism**

- 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” and Ch 5, “Constitutional Protection as Pretext”
- Bandung Conference *Final Communique* (1955)
- Backgrounder on Lumumba
- 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)

### **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 (March 22)**

### **South Africa: Apartheid and Anti-Apartheid**

- 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
- Siba Grovogui, “Constitutional Protection as Pretext”, from *Sovereigns, Quasi Sovereigns, and Africans*, Excerpts
- 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>

### **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

## **Class 9 (March 28)**

### **Algeria: Anticolonialism, Political Violence and Race**

- 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

### **Additional Reading**

- Michael G. Vann, “The Colonial Casbah on the Silver Screen: Using Pepé le Moko and The Battle of Algiers to Teach Colonialism, Race, and Globalization in French History,” *Radical History Review* (2002), Excerpted
- Constant Mehout, “Shadows of Algeria Loom Over Elections in France”, *The New York Times* (March 19, 2022)

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

### **Class 10 (April 4)**

#### **Race and Human Rights**

##### **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)

### **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 (April 11)

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

#### **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**

- \* Manning Marable & Cheryl 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 (April 25)

### **Race and Justice II: Reparations**

#### **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 Dikiefu 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 reading:**

- [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 (May 4)**

### **Race, Social Movements, and International Law**

- 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)
- Gloria Anzald  a, *Borderlands/La Frontera: The New Mestiza*, Excerpts

- Alicia Garza, "[A Herstory of the #BlackLivesMatter Movement](#)" (2014)
- The Ferguson Report
- Movement for Black Lives, "A Vision for Black Lives"

## **Class 14 (May 9)**

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

#### **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)

#### **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. Alexander 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/](http://www.criticalraceculture.com/inaugural-lecture/)