

64 at 50:
The Civil Rights Act of 1964

Course Description

This course serves as a supplement to the events organized at Columbia Law School to commemorate the Fiftieth Anniversary of the 1964 Civil Rights Act. Each reading group will be co-led by a student participant and professor.

The reading group will explore several aspects of the 1964 Civil Rights Act, including (1) the pre-Act history of civil rights legislation and activism; (2) the philosophical underpinnings of the Act; (3) the grassroots activism and cultural underpinnings that helped to mobilize support for the Act; (4) the role of lawyers in transforming these popular movements and philosophical ideologies into legislation; and (5) the development of antidiscrimination law since this seminal statute. Our study of the Civil Rights Act of 1964 will inform our understanding of the potential for large-scale transformative legislation in today's world.

Meeting Times

The classes will start on the week of September 22. Our usual meeting time will be Thursdays, at 6:20 p.m., but we may move some meetings to Tuesday at 6:20 p.m. to accommodate the faculty presenter.

Couse Materials

The readings listed below are tentative assignments. The students and professors leading each class are encouraged to add or subtract readings to help develop the discussion. Readings will be finalized a week before each class, and readings that are not easily found on the internet will be posted to Courseweb.

Expectations

Each student will be assigned as a co-leader for at least one class. For the class you are assigned as the co-leader, you are expected to work with the professor to finalize the reading materials by Thursday at midnight the week before the class, post discussion questions on Courseweb, and assist the professor in leading the classroom discussion. Active classroom participation is essential. The class is Pass / No Pass.

Suggested Assignments

Class 1 (Thursday, 9/25): Legal and Political History of the CRA (Professors Olati Johnson)

- Previous Federal Civil Rights Legislation
 - o Robert D. Loevy, THE CIVIL RIGHTS ACT OF 1964: THE PASSAGE OF THE LAW THAT ENDED RACIAL SEGREGATION 1–49 (“Introduction: The Background and Setting of the Civil Rights Act of 1964”) (1997).
- The New Deal and Civil Rights

- Ira Katznelson, *WHEN AFFIRMATIVE ACTION WAS WHITE: AN UNTOLD HISTORY OF RACIAL INEQUALITY IN TWENTIETH-CENTURY AMERICA* 1–23 (2005).
- Harvard S. Sitkoff, *A NEW DEAL FOR BLACKS: THE EMERGENCE OF CIVIL RIGHTS AS A NATIONAL ISSUE* 3–34, 58–9 (1978).
- Early State Laws:
 - David Freeman Engstrom, *The Lost Origins of American Fair Employment Law: Regulatory Choice and the Making of Modern Civil Rights, 1943-1972*, 63 *Stan. L. Rev.* 1071 (2011).
 - Pauli Murray, *The right to Equal Opportunity in Employment*, 33 *Cal. L. Rev.* 388, 417–22 (1945).
- International Influences:
 - Mary Dudziak, *COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY* 3–17 (2011).
- Annotated CRA, available at <http://apps.npr.org/behind-the-civil-rights-act/#/annotations>.
- *A Case History: The 1964 Civil Rights Act*, available at http://www.congresslink.org/print_basics_histmats_civilrights64text.htm.

Class 2 (Tuesday, 09/30): Social History of the CRA (Professor Kendall Thomas)

- Short Videos: <http://www.history.com/topics/black-history/civil-rights-act/videos/civil-rights-act-of-1964>
- Taylor Branch - *The King Years: Historic Moments in the Civil Rights Movement*
- Aldon D. Morris, *The Origins of The Civil Rights Movement: Black Communities Organizing for Change* (1984)
- Sheryll D. Cashin, *The Civil Rights Act of 1964 and Coalition Politics*, 49 *St. Louis U. L.J.* 1029 (2005). (tentative)

Class 3 (Tuesday, 10/14): CRA and Employment Discrimination (Professors Dorian Warren)

- Text of Title VII & Implementing regulations
- *United Steel Workers of America v. Weber*, 443 U.S. 193 (1979)
- *Ricci v. DeStefano*, 557 U.S. 557 (2009)
- Susan D. Carle, *A Social Movement History of Title VII Disparate Impact Analysis*, 63 *Fla. L. Rev.* 251 (2011), available at http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1095&context=facsch_lawrev
- EEOC, *Celebrating the 40th Anniversary of Title VII: First Principles - Enacting the Civil Rights Act and Using the Courts to Challenge and Remedy Workplace Discrimination*. (Including panel transcript), available at <http://www.eeoc.gov/eeoc/history/40th/panel/index.html>
- Craig Gurian, *Taking Seriously Title VII's "Floor, Not a Ceiling" Invitation, in A Nation of Widening Opportunities? The Civil Rights Act at Fifty*, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2401056

Class 4 (Thursday, 10/23): CRA and Education (Professor Olati Johnson)

- Text of Title VI & Implementing regulations

- Dept. of Justice Title VI Legal Manual (pg 1-5 & skim the rest)
- Alexander v. Sandoval, 532 U.S. 275 (2001)
- New York Times, A Portrait of Segregation in New York City's Schools, available at http://www.nytimes.com/interactive/2012/05/11/nyregion/segregation-in-new-york-city-public-schools.html?_r=0
- NAACP/DF, Specialized High School Admissions Test Complaint, available at http://www.naacpldf.org/files/case_issue/Specialized%20High%20Schools%20Complaint.pdf
- OCR & DOJ Joint Dear Colleague Letter May 8, 2014
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf>
- Prof. Olatunde C. A. Johnson, Lawyering That Has No Name: Title VI And The Meaning Of Private Enforcement, available at http://www.stanfordlawreview.org/sites/default/files/66_Stan_L_Rev_1293_Johnson.pdf

Class 5 (Tuesday, 10/28): CRA and Voting Rights (Myrna Perez)

- Warren M. Christopher, The Constitutionality of the Voting Rights Act of 1965, 18 Stan. L. Rev. 1 (1965)
- *Shelby County v. Holder*, 570 U.S. ____ (2013)
- Angelica Rolong, Access Denied: Why the Supreme Court's Decision in *Shelby County v. Holder* may Disenfranchise Texas Minority Voters, 46 Tex. Tech. L. Rev. 519 (2014)
- Deuel Ross, *Pouring Old Poison Into New Bottles: How Discretion and the Discriminatory Administration of Voter ID Laws Recreate Literacy Tests*, 45 Colum. Human Rights L. Rev. 362.

Class 6 (Thursday, 11/06): CRA and Gender (TBD)

- Louis Menand, *The Sex Amendment: How women got in on the Civil Rights Act*, The New Yorker (July 21, 2014), available at <http://www.newyorker.com/magazine/2014/07/21/sex-amendment>
- *Women at Work: Looking Behind the Numbers*, National Partnership for Women & Families, available at <http://www.nationalpartnership.org/research-library/workplace-fairness/women-at-work.pdf>; Sonia Pressman, *The Quiet Revolution: The EEOC's Rulings Under the Sex Discrimination Provisions of Title VII of the Civil Rights Act of 1964*, 4 Family L. Quart. 31 (1970).
- *Rogers v. American Airlines*, 527 F. Supp. 229 (S.D.N.Y. 1981); Paulette M. Caldwell, *A Hair Piece: Perspectives on the Intersection of Race and Gender*, 1991 Duke L.J. 365 (1991).
- *Nichols v. Azteca Restaurant Enterprises, Inc.*, 256 F.3d 864 (9th Cir. 2001); Katherine M. Franke, *The Central Mistake of Sex Discrimination Law: The Disaggregation of Sex from Gender*, 144 U. Pa. L. Rev. 1 (1995)
 - o Still contemplating: Vicki Schultz, *Telling Stories about Women and Work: Judicial Interpretations of Sex Segregations in the Workplace in Title VII Cases Raising the Lack of Interest Argument*, 103 Harv. L. Rev. 1749 (1990).

Class 7 (Thursday, 11/13): CRA and Immigration (Professor Elora Mukherjee)

- Cristina M. Rodriguez, *Immigration and the Civil Rights Agenda*, 6 Stan. J. C.R. & C.L. 125 (2010).

- Kevin R. Johnson, *Sweet Home Alabama? Immigration and Civil Right in the "New" South*, 64 Stan. L. Rev. Online 22 (2011).
- Rodolfo O. de la Garza, Louis DeSipio, *Immigrants, Immigrant Policy, and Foundation of the Next Century's Latino Politics: The Declining Salience of the Civil Rights Agenda in an Era of High Immigration*, available at <http://civilrightsproject.ucla.edu/research/immigration/immigrants-immigrant-policy-and-foundation-of-the-next-centurys-latino-politics/despio-immigrants-immigrant-policy-and-foundation.pdf>.
- Hugh Davis Graham, *Collision Course: The Strange Convergence of Affirmative Action and Immigration Policy in America* (2002).

Class 8 (Thursday, 11/20): The CRA as a Constitutional Moment (Professor Jamal Greene)

- Bruce Ackerman, *We the People*, Volume 3: *The Civil Rights Revolution*, "Introduction."
- William N. Eskridge, Jr. & John Ferejohn, *Super-Statutes*, 50 Duke L.J. 1215, 1215–17, 1237–42 (2000).

Class 9 (Tuesday, 11/25): Reflections on the Civil Rights Act (Professors Susan Sturm)