

Liman Public Interest Workshop

RACIAL JUSTICE AND IMMIGRANTS' RIGHTS: DEBATES AND DIALOGUES

Spring 2013 Syllabus
Mondays, 6:10-8 pm, room 124

Hope Metcalf, Director, Liman Public Interest Program
Nina Rabin, Senior Liman Fellow in Residence
Sia Sanneh, Senior Liman Fellow in Residence

Student Conveners: Emma Kaufman, Matthew Lee, Aaron Littman, Charanya Krishnaswami

All readings available at <http://www.law.yale.edu/intellecualife/workshopsyllabus.htm>

The Workshop explores the tensions and commonalities between the contemporary movements for racial justice and immigrants' rights in the United States. In the contexts of challenges centered on law enforcement, young people, families, and the workplace, we will consider the complex relationships between racial minorities and immigrants, the similarities and differences in the legal doctrines and advocacy strategies that racial justice and immigrants' rights movements have employed, the extent to which the movements are intertwined, and the possibilities and challenges posed by collaboration. Through readings, case studies, and occasional guests, we will ground our discussions in present day realities, while also drawing on the rich history of both movements to consider what lessons might be learned when they are considered in tandem. H. Metcalf, N. Rabin, and S. Sanneh. 2 units, credit/fail.

Requirements and Readings:

This Workshop is a two-unit, ungraded course. We meet weekly; preparation and attendance at these discussions is required for credit. If you need to miss a class, please be in touch with the professors in advance of the meeting. Students missing more than two sessions without permission will not receive credit.

Readings will be available on the Liman Public Interest Program's website: <http://www.law.yale.edu/intellecualife/workshopsyllabus.htm>. In addition, at least six times during the semester, students must post on "Inside Yale" a one-page reflection on readings --

due NO LATER than 9 a.m. on the Monday mornings of the workshop. The purpose of writing is to encourage you to begin the conversations before class as you think about the relationship among readings. All participants are expected to read the postings each week. Further, failing to turn in the six reading reflections **on time** will result in not receiving credit. Below is an outline of the sessions that, as always, may change.

January 28 (class one) Civil Rights and Immigrants' Rights: A First Look

The first session will begin to parse some of the central questions of the workshop. How have race and citizenship been linked in the history of both slavery and immigration in the United States, and how do those relationships surface in contemporary discussions about racial justice and immigration? What are the claims made about the parallels—in values, strategies, and goals—between the immigrants' rights movement and the civil rights movement? What claims are made about tensions between the two? Are the modern challenges facing racial minorities and immigrants in this country more similar than different, or vice versa?

Conveners: Hope Metcalf, Nina Rabin, and Sia Sanneh

Readings:

Randal C. Archibold, *Immigrants Take to U.S. Streets in Show of Strength*, N.Y. TIMES, May 2, 2006 at A1

Rachel L. Swarns, *Growing Unease for Some Blacks on Immigration*, N.Y. TIMES, May 4, 2006

Editorial, *Migrants' Freedom Ride*, N.Y. TIMES, July 28, 2012

Immigration: Freedom Riders Back to Fight Alabama Law, ASSOCIATED PRESS, December 16, 2011

Martin Luther King, Jr., Letter from a Birmingham Jail (excerpt), full version available at http://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html

Andre Banks, *The Price of the Ticket*, ColorLines (2006), available at <http://www.arc.org/content/view/433/217/>

Gabriel J. Chin, *Segregation's Last Stronghold: Race Discrimination and the Constitutional Law of immigration*, 46 UCLA L. Rev. 1, 1-36 (1998)

United States v. Brignoni-Ponce, 422 U.S. 873 (1975)

February 4 (class two) Citizenship, Race, and Law

This class will examine the concept of “citizenship,” particularly as it relates to the history of race in the United States. We begin by tracing early definitions of “citizen” in the contexts of the history of African Americans and Chinese immigration in the United States. What are the common threads between *Dred Scott* and *Chae Chan Ping*? What differences do you notice? Consider Bosniak’s claim that “citizenship” connotes simultaneous and conflicting norms of equality and exclusion; what impact might that binary have for advocacy strategies among the racial justice and immigrants’ rights communities? How does Harris explain the law’s role in constructing race? Upon reading Lopez, what are your reflections on how the law defines “belonging,” both by race and status?

Conveners: Hope Metcalf & Sia Sanneh

Readings:

Race and Citizenship as Constructed Terms

Linda Bosniak, *Varieties of Citizenship*, 75 Fordham L. Rev. 2449 (2007)

Cheryl I. Harris, *Whiteness as Property*, 106 Harv. L. Rev. 1707, 1715-16, 1737-45 (1993)

Ian Haney Lopez, *WHITE BY LAW?* Ch. 1 (1998)

Early Case Law

Dred Scott v. Sandford, 60 U.S. (19 How.) 393 (1856), *excerpted in* Paul Brest & Sanford Levinson, *Processes of Constitutional Decision-Making*, 193-202 (3d ed., 1992)

Amends. XIII, XIV, U.S. Const.

Chae Chan Ping v. United States, 130 U.S. 581 (1889)

Ozawa v. United States, 260 U.S. 178 (1922)

Case Study: Race and Juries in the South

Equal Justice Initiative, *Illegal Racial Discrimination in Jury Selection: A Continuing Legacy*, 9-13, 28-30, 34-37 (2010)

February 11 – Class cancelled due to storm

February 18 (class three) Discrimination on Account of Race and Status

In this class, we will examine the harm of discrimination on account of race, and the harm of discrimination on account of immigration status. The below readings address discrimination in many different contexts: access to state resources, policing, the workplace, and the death penalty. As you read the cases, we encourage you to focus on the legal framework applied by the court, rather than focusing on the particulars of the context at issue. We selected these cases and commentaries because they set forth the current legal landscape for addressing discrimination in a variety of contexts beyond the specifics of the cases provided. As you read, consider whether the current legal doctrine accurately captures the differences and similarities in the actual harm at issue. Given the state of anti-discrimination law, do advocates for racial justice and advocates for immigrant justice have shared or different strategies for success?

Conveners: Nina Rabin & Sia Sanneh

Readings:

The Lived Experiences of Discrimination and Privilege

Please watch a thirteen minute clip of an actual experience of a stop-and-frisk by the NYPD: <http://www.thenation.com/article/170413/stopped-and-frisked-being-fking-mutt-video>

Jose Antonio Vargas, *My Life as an Undocumented Immigrant*, NEW YORK TIMES MAGAZINE, June 22, 2011

Peggy McIntosh, *White Privilege: Unpacking the Invisible Knapsack*, PEACE AND FREEDOM MAGAZINE 10-12, July/August 1989, Women's International League for Peace and Freedom

Garcia v. Spun Steak Co., 998 F.2d 1480 (9th Cir. 1993)

Discrimination on the Basis of Alienage

Graham v. Richardson, 403 U.S. 365 (1971)

Mathews v. Diaz, 426 U.S. 67 (1976)

Lucas Guttentag, *Discrimination, Preemption, and Arizona's Immigration Law: A Broader View*, 65 STAN. L. REV. ONLINE 1 (2012)

Discrimination on the Basis of Race

McCleskey v. Kemp, 481 U.S. 279 (1987) (excerpt)

Neil Gotanda, *A Critique of "Our Constitution Is Color-Blind,"* 44 STAN. L. REV. 1, 2-7, 36-53 (1991)

Advocacy Strategies

Campbell Robertson, *Bias Law Used to Move a Man Off Death Row*, N.Y. TIMES, Apr. 20, 2012

Hiroshi Motomura, *Who Belongs?: Immigration Outside the Law and the Idea of Americans in Waiting*, 2 UC Irvine L. Rev. 359-79 (2012)

February 25 (class four) Policing and Profiling

In this class, we will continue our discussion of discriminatory uses of states' policing power. Through three case studies – stop-and-frisk and counterterrorism policing in New York and immigration policing in Arizona – we hope to address the following questions: What harms, legally cognizable or otherwise, arise when state authorities target policing efforts (surveillance and apprehension) towards specific communities? How are “borders” drawn around communities or individuals for the purposes of focusing enforcement and/or surveillance? Is the objection to profiling the very concept of developing a “profile,” or does it depend on the factors used? What factors seem relevant and/or legitimate, and what factors do not, and what explains the difference? Next, consider how such enforcement activity might be challenged. What claims—legal or non-legal—can be leveled against profiling by the police? If one were to file a lawsuit, what are the salient features of profiling that make it susceptible to challenge? (Please brainstorm prior to class.) In your view, what are the strengths and weaknesses of the litigation and non-litigation advocacy strategies discussed in the readings? What are the commonalities among and differences between profiling of citizens and immigrants? To what extent should the advocacy responses be the same?

Conveners: Aaron Littman, Hope Metcalf & Sia Sanneh

Readings:

Race, Decisionmaking, and Enforcement

Dan M. Kahan & Tracey L. Meares, *The Coming Crisis of Criminal Procedure*, 86 Geo. L.J. 1153, 1153-67 (1998).

Jennifer L. Eberhardt et al., *Seeing Black: Race, Crime, and Visual Processing*, 87 J. Personality & Soc. Psychol. 876, 876-79, 889-91 (2004)

U.S. Dep't of Justice, Civil Rights Div., *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies* (2003)

Stop and Frisk Policing

Andrew Gelman, Jeffrey Fagan & Alex Kiss, *An Analysis of the New York City Police Department's "Stop-and-Frisk" Policy in the Context of Claims of Racial Bias*, 102 J. of Am. Stat. Ass'n 813, 813-17, 821-22 (2007)

Nicholas K. Peart, *Why Is the N.Y.P.D. After Me?*, N.Y. Times, Dec. 17, 2011

*Optional Reading: Ctr. for Constitutional Rights, *Stop and Frisk: The Human Impact* 1, 3-4, 11-15, 23, 25-26 (2012); *see also Floyd, et al. v. City of New York, et al.*, Ctr. for Constitutional Rights, <http://ccrjustice.org/floyd>

Counterterrorism Policing

Tom R. Tyler, Stephen Schulhofer & Aziz Z. Huq, *Legitimacy and Deterrence Effects in Counterterrorism Policing: A Study of Muslim Americans*, 44 Law & Soc'y Rev. 364, 364-75, 385-89 (2010)

Leti Volpp, *The Citizen and the Terrorist*, 49 UCLA L. Rev. 1575, 1575-86, 1592-1600 (2002)

Mitchell D. Silber & Arvin Bhatt, N.Y. City Police Dep't, Intelligence Div., *Radicalization in the West: The Homegrown Threat* 5-13 (2007)

Highlights of AP's Pulitzer Prize-Winning Probe into NYPD Intelligence Operations, Associated Press, <http://ap.org/media-center/nypd/investigation>

*Optional Reading: Faiza Patel, Brennan Ctr. for Justice, *Rethinking Radicalization* 1-7, 29-31 (2011)

Immigration Policing

*Optional Reading: Plaintiffs' Motion for Partial Summary Judgment at 1-3, 6-8, 24-34, *Melendres v. Arpaio*, No. CV 07-2513-PHX-GMS (D. Ariz. Apr. 29, 2011)

March 4 (class five) Race and Immigration Status in the Workplace

In this class, we will consider the relationship between U.S. citizen racial minorities and immigrants in the workplace. Do citizen and immigrant workers experience working conditions in the low-wage workplace differently? Do immigrant workers present a threat or an opportunity for progress to racial minorities in low-wage jobs? Does your answer rely on economics, cultural perceptions, or some other factors? How do the readings shape your view of the best direction for future immigration policy as it relates to the workplace?

Conveners: Nina Rabin

Guest: Ady Barkan

W.E.B. DuBois, *The Migration of Negroes*," CRISIS 63-66 (June 1917), available at http://www.amistadresource.org/documents/document_07_03_010_duboismigration.pdf

Toni Morrison, *On the Backs of Blacks*, TIME (1993)

This American Life, Lawrence Otis Graham, *Deceiving Others*, <http://www.thisamericanlife.org/radio-archives/episode/173/three-kinds-of-deception?act=2> (Dec. 15, 2000)

Jennifer Gordon & R.A. Lenhardt, *Rethinking Work and Citizenship*, 55 UCLA L. REV. 1161 (2008)

David Bacon, *Black and Brown Together*, AMERICAN PROSPECT (2008)

March 11 (class six) The War on Drugs

Ever since a band of rumrunners and tobacco farmers won a war waged in part to protect the interests of tea smugglers, American attitudes toward drugs have played a key role in defining American identity. In this class, we will consider the ways in which the prohibition of drugs has been used in efforts to exclude particular communities from American society. As you read, compare the unseemly origins of drug prohibition to the war on drugs today. Does the contemporary war on drugs preserve past discrimination, extend that discrimination in new ways, or simply reflect the fact that the social structures imposed by that past discrimination

are now a deep-seated feature of American life? In what ways is the war on drugs used to shape the boundaries of modern American society? How do the consequences of the war on drugs differ for new immigrants and citizens whose communities have endured racist oppression for hundreds of years? Does the fact that those two groups are both victims of the war on drugs—and of drugs themselves—imply that they are natural allies in efforts to reform our nation’s drug policy? Or does the fact that existing drug policy marginalizes many different communities obscure the difficulty of crafting a new drug policy that is better for all them?

Conveners: Matthew Lee, Hope Metcalf & Sia Sanneh

Readings:

Racism, Xenophobia, and the History of Drug Prohibition

Thomas J. Moran, *Just a Little Bit of History Repeating: The California Model of Marijuana Legalization and How it Might Affect Racial and Ethnic Minorities*, 17 WASH. & LEE J. CIV. RTS. & SOC. JUST. 557, 561-66 (2011).

Amanda Reiman, *75 Years of Racial Control: Happy Birthday Marijuana Prohibition*, HUFFINGTON POST (Sept. 28, 2012, 12:13 PM), http://www.huffingtonpost.com/amanda-reiman/marijuana-prohibition-anniversary_b_1923370.html.

Edward Huntington Williams, *Negro Cocaine “Fiends” Are a New Southern Menace*, N.Y. TIMES, Feb. 8, 1914, at SM12.

The War on Drugs and the Boundaries of Modern American Society

United States v. Clary, 846 F. Supp. 768 (E.D. Mo. 1994).

United States v. Clary, 34 F.3d 709 (8th Cir. 1994).

Michelle Alexander, *The War on Drugs and the New Jim Crow*, 17 RACE, POVERTY & ENV’T. 75 (Spring 2010).

Robin Levy & Judith Appel, DRUG POLICY ALLIANCE, COLLATERAL CONSEQUENCES: DENIAL OF BASIC SOCIAL SERVICES BASED UPON DRUG USE (June 13, 2003).

DEFENDING IMMIGRANTS PARTNERSHIP, IMMIGRATION CONSEQUENCES OF DRUG OFFENSES (2012).

The War on Drugs and International Borders

Christopher White, *U.S. Denies Safe Haven to Mexico's Drug War Refugees*, NEW INTERNATIONALIST, June 2012, at 8.

Statement of Felipe Calderón, President of Mexico, on the events of August 25, 2011 (excerpted and translated from *Llama Calderón a poner fin a mezquindades y atacar el crimen*, EXCÉLSIOR, Aug. 26, 2011, <http://www.excelsior.com.mx/node/763939>).

Simone Anekwe, *Rangel Attacks Federal Defeatist Drug Attitudes*, N.Y. AMSTERDAM NEWS, Aug. 6, 1988, at 2.

Drug Legalization—Catastrophe for Black Americans: Hearing Before the H. Select Comm. on Narcotics Abuse and Control, 100th Cong., 1-4 (1988) (statement of Rep. Charles Rangel, Chairman, H. Select Comm. on Narcotics Abuse and Control).

March 25 (class seven) Criminalization, Status, Race, and Poverty

In this class, we will build on our discussion of drug crime to think further about the various ways that our legal system criminalizes status – poverty, membership in a racial group, and immigration status. With regard to poverty, what sorts of behaviors are criminalized in the readings, and what justifications have been or might be advanced for doing so? How tightly are these policies tied to race and gender? How would the presence or absence of such connections affect your perspective on the legitimacy of such policies?

How does criminalization operate in the context of immigration? Consider the Arpaio case; what claims are made by the plaintiffs as to the function of criminal law and enforcement in that context?

To what extent is the criminalization of poverty related to the “illegalization” of undocumented immigrants? Are they part and parcel of the same societal impulses? What are the differences in etiology? To what extent are these policies enacted by legislation? Alternately, are they created by institutions of enforcement, and if so, how and why? Do they suggest different responses?

What are the distinctive advocacy challenges faced by lawyers and organizers working to counter such policies? What sorts of legal claims can be raised, and which of the harms discussed is, or might be, legally cognizable? What forms of non-litigation could be fruitful?

Conveners: Aaron Littman, Hope Metcalf & Nina Rabin

Readings:

CRIMINALIZATION OF THE POOR

Kaaryn Gustafson, *The Criminalization of Poverty*, 99 J. CRIM. L. & CRIMINOLOGY 643, 643-44, 665-82 (2009)

Sanchez v. County of San Diego, 464 F.3d 916 (9th Cir. 2006)

THEORIES OF CRIMINALIZATION AND “ILLEGALIZATION”

Loïc Wacquant, *Class, Race & Hyperincarceration in Revanchist America*, 2010 DAEDALUS 74 (SUMMER 2010)

Teresa A. Miller, *A New Look at Neo-Liberal Economic Policies and the Criminalization of Undocumented Migration*, 61 SMU L. Rev. 171 (2008)

CHALLENGING STATUS CRIMES

HOMELESSNESS

Pottinger v. City of Miami, 810 F. Supp. 1551, 1553-85 (S.D. Fla. 1992)

NAT’L CTR. ON HOMELESSNESS & POVERTY & NAT’L COAL. FOR THE HOMELESS, HOMES NOT HANDCUFFS: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES (2009); **NB: chart is optional.**

CRIMINAL DEBT

ALICIA BANNON, MITALI NAGRECHA & REBEKAH DILLER, BRENNAN CTR. FOR JUSTICE, THE HIDDEN COSTS OF CRIMINAL JUSTICE DEBT 1-6 (2010)

Amended Complaint at 1-11, *Thomas v. City of Gulfport*, No. 1:05-CV-349-LG-RHW (S.D. Miss. filed on Aug. 9, 2005)

Joshua Norman, *Group Dismisses Lawsuit*, GULFPORT SUN HERALD, Feb. 1, 2007

IMMIGRATION STATUS

Ortega Melendres v. Arpaio, 598 F.Supp.2d 1025 (D.Ariz. 2009)

Plaintiffs’ Post-Trial Brief, *Ortega Melendres v. Arpaio*, No. CV 07-2513-PHX-GMS, 2012 WL 3793133 (D. Ariz., Aug. 9, 2012)

April 1 (class eight) Access to Counsel

We will use this theoretical framework to examine two case studies. The first will consider the nexus between racial justice and criminal defense. How did civil rights lawyers come to focus on the inadequacies and inequities of the criminal justice system? Focus on arguments and observations made by Sanneh, Bright, Butler, Stevenson, and Alexander for defying the system versus attempting to make gradual change within it. Do any of these strategies strike you as particularly salient?

Next, we will consider lawyers in the immigrants' rights movement. To what extent can lawyers in the immigrants' rights movement borrow lessons from the criminal defense/racial justice movement? Are there drawbacks to this analogy? Focus on parallels drawn by Eagly and in *Roblero-Solis* as well as distinctions drawn by Coutin.

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Convenors: Nina Rabin, Sia Sanneh, Charanya Krishnaswami

Readings:

The Theoretical Framework

Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L.J. 1049 (1970) (excerpt)

Gerald Lopez, *Aversion to Clients: Loving Humanity and Hating Human Beings*, 31 HARV. C.R.-C.L. L. REV. 315 (1996)

The Nexus Between Racial Justice and Criminal Defense

Carol Steiker, *Furman v. Georgia: Not an End, But a Beginning*, from DEATH PENALTY STORIES (2009)

Stephen Bright & Sia Sanneh, *Fifty Years of Defiance and Resistance to Gideon v. Wainwright*, 122 YALE L.J. (forthcoming 2013)

Paul Butler, *Should Good People Be Prosecutors?*, from LET'S GET FREE: A HIP-HOP THEORY OF JUSTICE (2009)

Bryan Stevenson, *Confronting Injustice*, 39 INT'L SOCIETY BARRISTERS Q. 362 (2004)

Michelle Alexander, *Go to Trial—Crash the Justice System*, N.Y. TIMES, Mar. 10, 2012

Lessons for Immigrants' Rights Lawyering

Ingrid Eagly, *Criminal Clinics in Pursuit of Immigrants' Rights: Lessons from the Loncheros*, 2 U.C. IRVINE L. REV. 91 (2012).

Susan Bibler Coutin, *Cause Lawyering and Political Advocacy: Moving Law on Behalf of Central American Refugees*, from AUSTIN SARAT & STUART A. SCHEINGOLD, CAUSE LAWYERS AND SOCIAL MOVEMENTS (2006)

United States v. Roblero-Solis, 588 F.3d 692 (9th Cir. 2009)

April 4-5, 2013 Sixteenth Annual Liman Colloquium -- *Navigating Boundaries: Immigration and Criminal Justice*

April 8 (class nine) Families and Detention

This week's readings examine how imprisonment, detention, and deportation affect families. As you read, consider how shifts in the enforcement of crime and border control have altered family dynamics. Can we understand mass incarceration and the criminalization of immigration as problems of family law? Under current laws, how do incarceration and detention factor into child custody determinations? Are there cases in which a parent's incarceration or detention is a valid consideration in determining a child's long-term custody? How do race and gender factor into the determination that a person is "unfit" to parent? These questions shape contemporary debates about parental rights. What happens when these debates over parental rights are reframed as debates over children's rights? Is this a compelling framework? What are its limitations? What role should children play in the movements for prison and immigration reform?

Convenors: Hope Metcalf, Nina Rabin, and Emma Kaufman

Readings:

Effects of Imprisonment and Detention on Families

Susan D. Phillip, *Introduction to CHILDREN IN HARM'S WAY: CRIMINAL JUSTICE, IMMIGRATION ENFORCEMENT, AND CHILD WELFARE* 3, 3-7 (Susan D. Phillips et. al eds., 2013).

Arlene F. Lee, Philip M. Genty, and Mimi Laver, *THE IMPACT OF THE ADOPTION AND SAFE FAMILIES ACT ON CHILDREN OF INCARCERATED PARENTS* 1-8 (Child Welfare League of America, 2005). (excerpt)

Robin Levi and Ayelet Waldman (eds.), *INSIDE THIS PLACE, NOT OF IT: NARRATIVES FROM WOMEN'S PRISONS*, 163-174 (2011).

Parental Rights, Gender Dynamics, and Migration Patterns

Antoinette Greenway, *When Neutral Policies Aren't So Neutral: Increasing Incarceration Rates and the Effect of the Adoption and Safe Families Act of 1997 on the Parental Rights of Incarcerated African American Women*, 17 NAT'L BLACK L.J. 247, 247-9, 254-6 (2002). In *Re Mason*, 782 N.W.2d 747 (Mich. 2010)

Damian Cave, *Crossing Over, and Over*, NY TIMES (October 2, 2001), <http://www.nytimes.com/2011/10/03/world/americas/mexican-immigrantsrepeatedly-brave-risks-to-resume-lives-in-united-states.html?pagewanted=all>.

Representation and Reform

Philip Genty, *Moving Beyond Generalizations and Stereotypes to Develop Individualized Approaches for Working with Families Affected by Parental Incarceration*, 50 Fam. Ct. Rev 1, 36-47 (January 2012)

Nina Rabin, *Disappearing Parents: Immigration Enforcement and the Child Welfare System*, 44 CONN. L. REV. 99 (2011)

Suggested Video:

ABC News report on the story of Encarnación Bail Romero:

<http://abcnews.go.com/Nightline/video/stolen-babies-controversy-missouri-15495159>.

April 15 (class ten) Natural Disasters

Like race and nationality, “natural” disasters are often assumed to be inherent and inevitable features of the world. And like race and nationality, natural disasters are shaped and produced by political choices. The suffering that natural disasters disproportionately inflict on marginalized communities is, in part, an acute manifestation of the systemic discrimination that has marginalized those communities in the first place. By exposing the full force of long-simmering discrimination, however, natural disasters can also facilitate efforts to recognize and resist that same discrimination. This week, we consider the extent to which natural and environmental disasters may reify or extend the obstacles facing the civil rights and immigrants’ rights movements, as well as the extent to which they may provide those movements with opportunities for mobilization and empowerment—including, perhaps, an opportunity to align themselves with environmentalist movements.

Conveners: Matthew Lee, Nina Rabin, and Sia Sanneh

Readings:

Historical and Legal Context

Mae M. Ngai, Op-Ed., *San Francisco’s Survivors*, N.Y. TIMES, April 26, 2006, at A27.

Sarah Maslin Nir, *Helping Hands Also Expose a New York Divide*, N.Y. TIMES, Nov. 16, 2012, at A1.

Kevin Johnson, *Hurricane Katrina: Lessons About Immigrants in the Administrative State*, 45 HOUS. L. REV. 11, 44-67 (2008).

Daniel A. Farber, *Disaster Law and Inequality*, 25 LAW & INEQ. 297 (2007).

Migration, Citizenship, and Race

Adeline Masquelier, *Why Katrina’s Victims Aren’t “Refugees”*: Musings on a Dirty Word, 108 AM. ANTHROPOLOGIST 735 (2006).

JUDITH BROWNE-DIANIS ET AL., AND INJUSTICE FOR ALL: WORKERS’ LIVES IN THE RECONSTRUCTION OF NEW ORLEANS 23-49 (2012).

OPTIONAL: Lolita Buckner Inniss, *A Domestic Right of Return?: Race, Rights, and Residency in New Orleans in the Aftermath of Hurricane Katrina*, 27 B.C. THIRD WORLD L.J. 325 (2007).

Environmentalism and Civil Rights Movements

Veronica Eady, *Warren County and the Birth of a Movement: The Troubled Marriage Between Environmentalism and Civil Rights*, 1 GOLDEN GATE U. ENVTL. L.J. 41 (2007).

Cheryl Katz & Jane Kay, *We Are Richmond: A Beleaguered Community Earns Multicultural Clout*, ENVIRONMENTAL HEALTH NEWS (June 5, 2012), <http://www.environmentalhealthnews.org/ehs/news/2012/pollution-poverty-and-people-of-color-richmond-day-2>.

Felicity Barringer, *Bitter Division for Sierra Club on Immigration*, N.Y. TIMES, March 16, 2004, at A1.

April 22 (class eleven) The Role of the Media

This week's readings examine the role that the media plays in American dialogues on racial justice and immigrants' rights. We begin with a debate about the New York Times' treatment of immigration, which raises a number of questions about implicit liberal bias. Are you convinced by Kammer's argument? Who is audience for the New York Times? What are the stakes of framing migrants as a monolithic, vulnerable class? What are the alternatives? These questions ground a broader set of concerns about the representation of race in America. What is whiteness? Why is it not more clearly defined? How does race surface in popular culture? Are short documentaries an effective advocacy tool for recasting debates about race? What are the goals of documentary filmmaking, and how do they relate to the goals of social movement lawyering? How do we, as lawyers, create or resist "romantic mythologies" about race?

Conveners: Hope Metcalf, Sia Sanneh, and Emma Kaufman

Readings:

Representing Immigration

Julia Preston, *For Evangelicals, a Shift in Views on Immigration*, N.Y. TIMES, April 13, 2013.

Jerry Kammer, *All the News that Fits: Ideologically Skewed Coverage of Immigration at the New York Times*, CENTER FOR IMMIGRATION STUDIES, March 2013.

Kelefa Sanneh, Raging Arizona: How a Border State Became a Battleground, THE NEW YORKER, May 28, 2012.

Race, Media & Popular Culture

Kelefa Sanneh, Beyond the Pale: Is White the New Black?, THE NEW YORKER, April 12, 2010.

Please revisit the EJI report on jury selection from earlier in the term: Equal Justice Initiative, *Illegal Racial Discrimination in Jury Selection: A Continuing Legacy*, 9-13, 28-30, 34-37 (2010)

Film & Advocacy

Please watch the short film "Alienation" from the Yale Visual Law Project:
<http://yalevisuallawproject.org/film/alienation/>

And revisit the film we watched earlier this semester on NYPD Stop-and-Frisk practices:
<http://www.thenation.com/article/170413/stopped-and-frisked-being-fkingmutt-video>

April 29 (class twelve) The Role of Lawyers II

This week we will continue to reflect on the role of lawyers in advocating for social and legal change in the racial justice and immigrants' rights movements. Please return to the readings from April 1, on the Role of Lawyers, and take some time to re-read the materials. Then read the brief hypotheticals assigned for this week, and please consider the following questions: What are the harms identified and to whom? What various forms of assistance could a lawyer provide? What does the client want you to do and does this line up with the organization's goals and mandate? Do the issues presented implicate primarily the criminal or immigration system or both? What other systems are at play? What are some approaches to the problems described? Do any aspects of the fact patterns expose a tension between direct legal services and broader reform?

Hypotheticals

Optional: Rebecca Sharpless, *More Than One Lane Wide: Against Hierarchies of Helping in Progressive Legal Advocacy*, 19 *Clinical L. Rev.* 347 (2012).