

# AULR TEACHES THE LAW

## AFRICANA LEGAL STUDIES

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AFRICANA LEGAL STUDIES is the application of disciplinary Africana Studies methodology to legal study.<sup>1</sup> It examines indigenous African systems of governance, as they existed before, and persisted through, the experience of the *Maafa* (the “disaster” or “great suffering of our people,” “i.e. enslavement and colonization” over the last approximately 500 years),<sup>2</sup> both on the African continent and throughout the African diaspora.<sup>3</sup> Africana Legal Studies recognizes that in these two realms, in the era of the *Maafa*, multiple systems of governance are often at play: Law (Western governance) and Protocol (African governance).<sup>4</sup> Africana Legal Studies explores the

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1. See Angi Porter, *Africana Legal Studies: A New Theoretical Approach to Law & Protocol*, 27 MICH. J. RACE & L. 249, 270–86 (2022) (extending disciplinary Africana studies methodology to legal study to propose Africana Legal Studies).

2. *Id.* at 255. The term *Maafa* was popularized by scholar Marimba Ani. MARIMBA ANI, *YURUGU: AN AFRICAN-CENTERED CRITIQUE OF EUROPEAN CULTURAL THOUGHT AND BEHAVIOR*, at xxi (1994); see MARIMBA ANI, *LET THE CIRCLE BE UNBROKEN: THE IMPLICATIONS OF AFRICAN SPIRITUALITY IN THE DIASPORA* 12 (1980) (defining Kiswahili *Maafa* as “disaster”); Greg E. Kimathi Carr, *The African-Centered Philosophy of History: An Exploratory Essay on the Genealogy of Foundationalist Historical Thought and African Nationalist Identity Construction*, in *AFRICAN WORLD HISTORY PROJECT: THE PRELIMINARY CHALLENGE* 285, 288–89 n.10 (Jacob H. Carruthers & Leon C. Harris eds., 1997) (explaining that *Maafa* references “the processes of human aggression visited by Europeans upon African people globally over the past half millennium”).

3. Porter, *supra* note 1, at 254–55.

4. *Id.* at 253, 272, 283–84, 321 (recognizing the distinction between Law (Western governance), or a collection of rules and philosophical principles that Europeans used to govern themselves and the places they colonized, and Protocol (African

interactions between these two systems using the theoretical apparatus of disciplinary Africana Studies.<sup>5</sup>

AFRICANA STUDIES is “the study of Africa and Africans wherever and whenever you find it/them.”<sup>6</sup> The meaning of “Africans” is broad, including continental and diasporic African people (inclusive of “African-Americans,” for example).<sup>7</sup> One might study Africana as subject matter.<sup>8</sup> However, to engage in *disciplinary* Africana Studies, one would study the subject matter of Africana according to a unique Africana Studies methodology.<sup>9</sup> There are different schools of thought as to the most effective methodology.<sup>10</sup> The methodological approaches that guide Africana *Legal* Studies are: (1) African-centeredness; (2) the Long View of History; (3) Cultural-continuity; and (4) the conceptual categories developed by Greg Carr in his Africana Studies framework (namely: Social Structure, Governance, and Ways of Knowing).<sup>11</sup>

PROTOCOL is a collective term referencing the systems of governance developed by African people—continental and diasporic—both as they existed before the *Maafa* and as they were (and are) carried in the

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governance), or the nuanced body of African governance systems based in African experience and culture pre-dating the *Maafa*).

5. *Id.* at 271.

6. Greg Carr, *Teaching and Studying the African(a) Experience: Definitions and Categories*, in AFRICAN-AMERICAN HISTORY COURSE: LESSONS IN AFRICANA STUDIES 12, 13 (Sch. Dist. of Phila., 2006).

7. See, e.g., NGŪGĪ WA THIONG’O, SOMETHING TORN AND NEW: AN AFRICAN RENAISSANCE 48, 51, 89 (2009) (referencing “continental” and “diasporic” Africans). See generally Carr, *supra* note 6 (using the term “African people” throughout and explaining the “[s]tudying [of] the African experience in the United States”).

8. See Greg Carr, *What Black Studies Is Not: Moving from Crisis to Liberation in Africana Intellectual Work*, 25 SOCIALISM & DEMOCRACY 178, 179–80 (2011) (“Increasingly, the field and idea of Africana Studies is reduced—and expanded—to a subject-matter field (‘the study of Black stuff’) rather than a field of disciplinary contestation and the generation of normative theoretical space (the African study of phenomena and experience).”).

9. See generally *id.* (emphasizing throughout that methodology is the key defining feature of disciplinary Africana Studies, not subject matter).

10. For a detailed recitation of the various methodologies to studying Africana and a listing of individual scholars, see *id.* at 182–86.

11. Porter, *supra* note 1, at 256–70 (describing each methodological approach in turn); see Carr, *supra* note 6, at 14–16 (discussing his Africana Studies framework focusing on questioning human institutions by delving into six subjects: Social Structures, Governance, Ways of Knowing, Science and Technology, Movement and Memory, and Cultural Meaning-Making).

minds of Africans through the *Maafa*.<sup>12</sup> These systems include, but are not limited to, “understandings about dispute resolution, ways of establishing and ensuring adherence to rules for social living, methods of addressing wrongdoing, [and] arrangements for keeping promises . . . that exist outside and irrespective of (Western) Law.”<sup>13</sup>

The QUALIFIED LAW ORIENTATION (“QLO”) is the inappropriate use of the term “law” to describe all human systems of governance and the related problematic imposition of (Western) legal concepts onto non-Western governance systems.<sup>14</sup> Such an orientation perceives “law” as a human universal while modifying (or “qualif[ying]”) the term “law” to mark deviations from the standard (which is the Western norm).<sup>15</sup>

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12. Porter, *supra* note 1, at 272.

13. *Id.*

14. *Id.* at 274.

15. *Id.* I explain the problems with the QLO, as well as further detail on the above-described terms, in my article, *Africana Legal Studies: A New Theoretical Approach to Law & Protocol*, 27 MICH. J. RACE & L. 249 (2022).