

Course Syllabus

Assigned Readings Subject To Change: Check Canvas for Most Up-to-date Readings

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Office: Room 334

Winter Quarter 2019

Office Hours: Mondays, 12:30 – 1:30, and by appointment.

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Course Description and Learning Goals

This class focuses on an intellectual movement in legal scholarship called critical race theory (CRT). Beginning in the late 1980s, scholars of color developed a position on race and law that was critical of class-based left scholarship, mainstream liberal legal scholarship, and traditional civil rights jurisprudence. Critical race theorists critique class-based scholarship for paying insufficient attention to race, and liberal/civil rights scholarship for the limitations of its reformist program.

CRT advanced several intellectual commitments which we will discuss in this class: a) the liberal legal tradition that governs our political, social, and economic institutions (even law that purports to advance race neutrality) reflects the exercise of white racial power and also works to create that racial power; b) notwithstanding the first premise, the law can and should be used to advance particular political commitments, specifically to dismantle racial power and to empower communities of color.

We will begin by exploring the historical developments of CRT from Critical Legal Studies (CLS) and move through its contemporary nuances. We will introduce key concepts associated with critical race theory, and examine the specific analytic strategies critical race theorists deploy to discuss the uses and meanings of “race” in U.S. legal institutions and ideology. In the second half of the course, we will situate critical race theory in broader national debates about race, power, and public policy in the contemporary “post-civil rights” era. We will conclude by examining how critical race theory might inform lawyering practices, thinking through the role of the lawyer in helping clients and communities realize racial justice goals.

Learning Objectives

At the end of the class you should

- Have a sophisticated understanding of Critical Race Theory as it has developed in U.S. legal scholarship, and understand how it has influences U.S. legal theory
- Have developed the ability to apply key concepts related to Critical Race Theory to contemporary debates
- Have developed the ability to engage in oral and written communication on key concepts of Critical Race Theory and related debates

Requirements

IN CLASS PARTICIPATION

The readings for this semester will be available on Canvas and in the required books. You are expected to read all the assigned material for the class in advance of the class session, attend every class, and participate actively in discussion. Missing more than three class sessions will have an impact on your grade. I do not keep track of excused/unexcused absences. It is your job to manage your allotted absences in terms of illness, professional obligations, and family obligations. Only contact me if you have a significant, serious issue that you know will result in exceeding the allotment (such as caring for a seriously ill family member, ongoing medical issues, etc.). **Please do not contact me about your attendance otherwise.**

This is a discussion-based course where learning is a collective enterprise. For that reason, 25% of your grade will be based upon attendance and class participation. Though my presumption is that everyone will be prepared to discuss the material, I understand that unexpected events can arise in life, and I will honor one-time special requests not to actively participate in class discussion so long as the request is made in advance of class. Participation includes both in-class discussion and participation on Canvas discussion forums.

WRITING REQUIREMENTS

The theory we are reading is challenging and the best way to internalize its mode of thinking is to actively write throughout the quarter. Your writing assignments are as follows:

Significant Responses

You will be required to sign up to post a significant response (500 words or more) for two specific class days on Canvas. Your significant response should do more than summarize the reading – you can use it to connect the reading to class discussions, to raise questions the reading brought up for you, and/or to connect the reading to a contemporary debate.

Significant responses must be posted by 8:00 a.m. on the day of class. 10% of your grade will be based on your two significant responses. On the weeks you are not signed up to provide a significant response, you are expected to participate in one or more of the threads of conversation happening on Canvas; you may choose the timing and length of these postings.

Discussion Questions

Beginning the second week of classes, you will be required to generate two discussion questions about the class readings by 8 a.m. the day of class. Half the class will be assigned to generate discussion questions

for our Monday class, and half the class will be assigned to generate discussion questions for our Wednesday class. 10% of your grade will be based on your discussion questions. You do not need to generate discussion questions the two weeks you are posting significant responses.

Community Event

You will be required to attend a community event touching on the themes of the class, and to write a short reflection on the event. 10% of your grade will be based on your reflection. A list of events is forthcoming, and you are free to propose an event you would like to attend if it is not on our list.

Final Assigned Paper

45% of your grade will be based on a final paper. A specific prompt will be provided for the paper. More details will be provided during the second week of class.

Required Texts

[Critical Race Theory: Key Writings That Formed the Movement](#) (Eds. Crenshaw, Gotanda, Peller & Thomas 1995).

Dean Spade, [Normal Life](#) (2012).

UNIT I: Foundations of Critical Race Theory

Origin Stories and Precursors

Class 1 – January 7

Introduction in [Critical Race Theory: The Key Writings that Formed the Movement \(Links to an external site.\)](#)[Links to an external site.](#) [_ \(http://goo.gl/NajOpm\)](http://goo.gl/NajOpm) (hereinafter “Key Writings”) (p. xiii)

[Detour Spotting for White Anti-Racists](#), by Joan Olson.

[Internalizing Oppressive Detours](#), by Thrive Social Justice Consulting. This is a version of “Detour-Spotting” adapted for people of color.

Class 2 – January 9

Derick Bell,  [“Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation”](#)  in Key Writings (p. 5).

Andrea Smith,  [“Heteropatriarchy and the Three Pillars of White Supremacy: Rethinking Women of Color Organizing”](#) .

Class 3 – January 14

Alan Freeman, [🔗 “Legitimizing Racial Discrimination through Antidiscrimination Law: A Critical Review”](#) ▾ in Key Writings (p. 29)

Derick Bell, [🔗 “Brown v. Board of Education and the Interest Convergence Dilemma”](#) ▾ in Key Writings (p. 20)

Critiques of Critical Legal Studies

Class 4 – January 16

Kimberle Crenshaw, “Race, Reform, and Retrenchment: Transformation and Legitimation in Anti-discrimination Law” in Key Writings (p. 103)

Mari Matsuda, “Looking to the Bottom: Critical Legal Studies and Reparations” in Key Writings (p. 63)

- **NO CLASSES ON JANUARY 21 -**

Class 5 – January 23

Critiques of Colorblindness

Neil Gotanda, A Critique of ‘Our Constitution is Colorblind,’ in Key Writings (p. 257)

Gary Peller, “Race-Consciousness” in Key Writings. Please read page 271-top of page 272 (Color-Blind Tolerance and Diversity).

Dafina Lazarus Steward, "Language of Appeasement," available at <https://www.insidehighered.com/views/2017/03/30/colleges-need-language-shift-not-one-you-think-essay> (Links to an external site.)[Links to an external site.](https://www.insidehighered.com/views/2017/03/30/colleges-need-language-shift-not-one-you-think-essay)
(<https://www.insidehighered.com/views/2017/03/30/colleges-need-language-shift-not-one-you-think-essay>).

Class 6 – January 28

Use of Narrative in CRT

Margaret Montoya, Mascaras y Trenzas, pages 185-215 (1994).

Patricia Williams, Alchemical Notes: Reconstructing Ideals from Deconstructed Rights

Class 7 – January 30. Guest Lecture Prof. Megan Ybarra

Race and Migration: Case Study of Central American Migrants

Megan Ybarra, Why are Indigenous Children Dying at the US Border: Transnational State Violence and Indigenous Erasure in Asylum Bureaucracies

Megan Ybarra, "We are not ignorant": Transnational migrants' experiences of racialized securitization

Class 8 – February 4

Intersections of Race and Gender

Angela Harris, [Race and Essentialism in Feminist Legal Theory](#). Please read pages 581 - 601, 608 - 616.

Kimberle Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color" in Key Writings. Please read Introduction, Section I, Section IIA [pages 357 to top of page 367], as well as Section III - [bottom of page 374 -377]).

Alisa Bierria, Mariame Kaba, Yes, Trump is President. We Can't Compromise in the Fight Against Criminalization, available at <http://inthesetimes.com/article/19821/yes-trump-is-president-and-we-cant-compromise-in-the-fight-against-criminal> (Links to an external site.)Links to an external site. (<http://inthesetimes.com/article/19821/yes-trump-is-president-and-we-cant-compromise-in-the-fight-against-criminal>).

Class 9 – February 6 - Guest Lecturer Soya Jung

Soya Jung, "Twenty-Five Years after Sa-I-Gu: Multiracial Politics in Times of Crisis," Race Files, January 2, 2018, <https://www.racefiles.com/2018/01/03/twenty-five-years-after-sa-i-gu-multiracial-politics-in-times-of-crisis/> (<https://www.racefiles.com/2018/01/03/twenty-five-years-after-sa-i-gu-multiracial-politics-in-times-of-crisis/>)

A Different Asian American Timeline, <https://aatimeline.com/> (<https://aatimeline.com/>) (Everyone should browse all of it. If your last name starts with A-H, 1898-1939 is required reading. If your last name starts with I-N, 1939-1980 is required. If your last name starts with O-Z, 1980-present is required.)

Class 10 – February 11

Critical Race Theory and Whiteness

Cheryl Harris, Whiteness as Property, in Key Writings.

Robin D'Angelo, "White Fragility," International Journal of Critical Pedagogy, Vol 3 (3) (2011) pp 54-70.

George Lipsitz, "The Possessive Investment in Whiteness: Racialized Social Democracy and the 'White' Problem in American Studies," American Quarterly, Vol. 47, No. 3 (Sep., 1995), pp. 369-387.

Class 11 – February 13

CRT and Electoral Politics

Nathan J. Robinson, “The Difference Between Liberalism and Leftism,” Current Affairs, June 2017, <https://www.currentaffairs.org/2017/06/the-difference-between-liberalism-and-leftism>

Kimberlé Crenshaw, Race to the Bottom, available at <https://thebaffler.com/salvos/race-to-bottom-crenshaw> (Links to an external site.)Links to an external site. [. \(https://thebaffler.com/salvos/race-to-bottom-crenshaw\)](https://thebaffler.com/salvos/race-to-bottom-crenshaw).

Robin Kelley, *Trump Says Go Back, We Say Fight Back*, available at <http://bostonreview.net/forum/after-trump/robin-d-g-kelley-trump-says-go-back-we-say-fight-back> (Links to an external site.)Links to an external site. [. \(http://bostonreview.net/forum/after-trump/robin-d-g-kelley-trump-says-go-back-we-say-fight-back\)](http://bostonreview.net/forum/after-trump/robin-d-g-kelley-trump-says-go-back-we-say-fight-back)

NO CLASSES FEBRUARY 18

Class 12 –February 20 - Guest Lecture Prof. Dan Berger

CRT and Mass Incarceration

Angela Davis, *Are Prisons Obsolete*, pages 9 - 39, 105-115.

Alessandro De Giorgi, *Five Theses on Mass Incarceration*.

German Lopez, Why You Can't Blame Mass Incarceration on the War on Drugs, available at <https://www.vox.com/policy-and-politics/2017/5/30/15591700/mass-incarceration-john-pfaff-locked-in> (Links to an external site.)Links to an external site. [. \(https://www.vox.com/policy-and-politics/2017/5/30/15591700/mass-incarceration-john-pfaff-locked-in\)](https://www.vox.com/policy-and-politics/2017/5/30/15591700/mass-incarceration-john-pfaff-locked-in).

Class 13 – February 25

CRT and the First Amendment

Excerpts from *Words that Wound: Critical Race Theory, Assaultive Speech, and The First Amendment*. Available here , here , and here.

ACLU, Hate Speech on Campus, available at <https://www.aclu.org/other/hate-speech-campus> (Links to an external site.)Links to an external site. [. \(https://www.aclu.org/other/hate-speech-campus\)](https://www.aclu.org/other/hate-speech-campus).

Class 14 – February 27 - Guest Lecturer LaRond Baker, Former ACLU of Washington Attorney, Currently Attorney with WA Attorney General’s Office Civil Rights Division

Readings TBA

Class 15 – March 4

CRT, Law and Order, and the Movement for Black Lives

Alicia Garza, A Herstory of the Black Lives Matter Movement, available at <http://www.thefeministwire.com/2014/10/blacklivesmatter-2/> (Links to an external site.)Links to an external site. [\(http://www.thefeministwire.com/2014/10/blacklivesmatter-2/\)](http://www.thefeministwire.com/2014/10/blacklivesmatter-2/)

11 Major Misconceptions about the Black Lives Matter Movement, available at <http://blacklivesmatter.com/11-major-misconceptions-about-the-black-lives-matter-movement/> (Links to an external site.)Links to an external site. [\(http://blacklivesmatter.com/11-major-misconceptions-about-the-black-lives-matter-movement/\)](http://blacklivesmatter.com/11-major-misconceptions-about-the-black-lives-matter-movement/)

Various, What could be possible if the law really stood for Black lives?

Ferguson Isn't About Black Rage Against White Cops, available at https://www.washingtonpost.com/opinions/ferguson-wasnt-black-rage-against-copsit-was-white-rage-against-progress/2014/08/29/3055e3f4-2d75-11e4-bb9b-997ae96fad33_story.html?utm_term=.9bd266a070fa (Links to an external site.)Links to an external site. [\(https://www.washingtonpost.com/opinions/ferguson-wasnt-black-rage-against-copsit-was-white-rage-against-progress/2014/08/29/3055e3f4-2d75-11e4-bb9b-997ae96fad33_story.html?utm_term=.9bd266a070fa\)](https://www.washingtonpost.com/opinions/ferguson-wasnt-black-rage-against-copsit-was-white-rage-against-progress/2014/08/29/3055e3f4-2d75-11e4-bb9b-997ae96fad33_story.html?utm_term=.9bd266a070fa)

Take a look at the Movement for Black Lives Platform, available at <https://policy.m4bl.org/platform/> (Links to an external site.)Links to an external site. [\(https://policy.m4bl.org/platform/\)](https://policy.m4bl.org/platform/)

Class 16 – March 6

Critical Race Theory and Immigration Enforcement

Lisa Marie Cacho, The Rights of Respectability, in *Immigrant Rights in the Shadow of Citizenship*.

Kellye Lytle Hernandez, City of Inmates, excerpts.

Kevin Johnson, Race, The Immigration Laws, and Domestic Race Relations.

Class 17 – March 11

CRT, Islamophobia, and Anti-Terrorism

The African American Policy Forum, *Social Justice Leaders Respond to the 2016 Election*. Please read pages 21-24.

Amna Akbar, et al, *Islam on Trial*, available at <http://bostonreview.net/forum/amna-akbar-jeanne-theoharis-islam-trial> (Links to an external site.)Links to an external site.
(<http://bostonreview.net/forum/amna-akbar-jeanne-theoharis-islam-trial>).

Suad Abdul Khabeer, *Black Muslims are Subject to the War on Crime and the War on Terror*, available at <http://bostonreview.net/forum/islam-trial/suad-abdul-khabeer-suad-abdul-khabeer-responds-amna-akbar-and-jeanne-theoharis> (Links to an external site.)Links to an external site.
(<http://bostonreview.net/forum/islam-trial/suad-abdul-khabeer-suad-abdul-khabeer-responds-amna-akbar-and-jeanne-theoharis>).

Leti Volpp, *The Citizen and the Terrorist* (2002).

J.M. Berger, *The Trump Administration is Showing White Nationalists it Won't Fight them At All*, available at <https://www.washingtonpost.com/posteverything/wp/2017/02/03/the-trump-administration-is-showing-white-nationalists-it-wont-fight-them-at-all> (Links to an external site.)Links to an external site.
(<https://www.washingtonpost.com/posteverything/wp/2017/02/03/the-trump-administration-is-showing-white-nationalists-it-wont-fight-them-at-all>)

Class 18 – March 13

Critical Race Theory and the Legal Profession

Alicia Garza, *Our Cynicism Will Not Build a Movement. Collaboration Will*, available at <https://mic.com/articles/166720/blm-co-founder-protesting-isnt-about-who-can-be-the-most-radical-its-about-winning#.BaBKUKcRs> (Links to an external site.)Links to an external site.
(<https://mic.com/articles/166720/blm-co-founder-protesting-isnt-about-who-can-be-the-most-radical-its-about-winning%23.BaBKUKcRs>)

Dean Spade and Rickke Mananzala, "Trans Resistance and the Non-Profit Industrial Complex." (Please read pages 61 - 63, Section Entitled "Methods of Change: Four Pillars of Social Justice Infrastructure.")

Bill Quigley, *Ten Questions for Social Change Lawyers*.

Bill Quigley, "*Revolutionary Lawering: Addressing the Root Causes of Poverty and Wealth*," 20 Wash. U. J. L. & Pol'y 101 (2006) (pdf on Canvas) (Please read pages 147 - 168).

Optional:

Dean Spade, "Now is the Time for Nobodies," available at <http://www.alternet.org/activism/now-time-nobodies-dean-spade-mutual-aid-and-resistance-trump-era> (Links to an external site.)Links to an external site.
(<http://www.alternet.org/activism/now-time-nobodies-dean-spade-mutual-aid-and-resistance-trump-era>)