

ES 452
Critical Race Theory
Fall 2009

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Office Hours: 1-2 p.m Mondays, 12-1 Wednesdays, or by
appointment

COURSE DESCRIPTION:

This course will introduce students to the history and evolution of the field of Critical Race Theory. Critical Race Theory demonstrates the complexities of institutional racism and interrogates traditional ideas about the relationship between race, power and the (protection of the) law.

COURSE OBJECTIVES:

1. Students will know the basic principles of critical race theory, its influences and its arguments. 2. Students will gain a more concrete understanding of the "social construction of race" through learning how the legal system is implicated in creating and maintaining racial hierarchies. 3. Students will gain critical thinking skills in relation to popular understandings of the "color-blind" nature of law, and in particular, the Constitution. 4. Students will understand the importance of intersectionality as it relates to the creation of knowledge.

COURSE REQUIREMENTS:

Reflection paper: Students have three opportunities to submit a reflection paper: October 21, November 11, and December 7. The purpose of the reflection paper is to create a space to apply what you have learned in this course to your own lived experiences, and how this knowledge confirms or contradicts your values, perspectives and/or experiences. While reflection papers privileges the articulation of your experience, they also need to significantly engage course material. These papers should be 3-5 pages in length.

Class participation: Not to be confused with class attendance. Each student is responsible for composing discussion questions that will be posted weekly on Blackboard by noon of discussion day. Questions could explore: underlying value implications of the readings, analogies to other issues discussed in class, the validity of the author's position. Students are also expected to ask informed questions about each week's readings.

Academic dishonesty will not be tolerated. Plagiarism will result in a failing grade and disciplinary action.

Reflection Papers	80%
Class participation	20%

REQUIRED READINGS

LexisNexis readings available online on the university library's website. On the library's homepage under "Find Resources" click "Articles, Databases, Indexes" then "Find Database". At the Lexus-Nexus Academic Page, click "Legal." Tip: Skip "Search Terms" and enter author, title, etc. for each citation) Richard Delgado's *Critical Race Theory: The Cutting Edge* [CRT] is available at on-line book retailers.

COURSE SCHEDULE

September 30/October 5–Introduction to Critical Race Theory: History and Content

Ian F. Haney Lopez, "The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice" (CRT 191-203)

Neil Gotanda, "A Critique of 'Our Constitution is Color-Blind'," *Stanford Law Review* 1991. (Lex-Nex)

Patricia J. Williams, "Alchemical Notes: Reconstructing Ideals from Deconstructed Rights" (CRT 84-94)

October 7/12–Interrogating Whiteness: (Re)evaluating Critical White Studies

Derrick Bell, "Property Rights in Whiteness—Their Legal Legacy, Their Economic Costs"(CRT 75-83)

Ian F. Haney Lopez, "White by Law" (CRT 542-550)

Stephanie M. Wildman and Adrienne D. Davis, "Language and Silence: Making Systems of Privilege Visible" (CRT 573-579)

October 14/19-Black Exceptionalism: Are All (Non-White) Men Created Equal?

Juan F. Perea, "The Black/White Binary Paradigm of Race" *California Law Review* 1997. (Lex-Nex)

Chris K. Iijima, "The Era of We-Construction: Reclaiming the Politics of Asian Pacific American Identity and Reflections on the Critique of the Black/White Paradigm," *Human Rights Law Review* 1997. (Lex-Nex)

Athena D. Mutua, "Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm," *University of Miami Law Review* 1999. (Lex-Nex)

October 21: Reflection paper due on "Critical Race Theory," "Interrogating Whiteness," and/or "Black Exceptionalism"

October 21/26-Beyond Black and White: Asian-Americans and Lat(ino)Crit(ical)s

John Hayakawa Torok, "Reconstruction and Racial Nativism: Chinese Immigrants and the Debates on the Thirteenth, Fourteenth, and Fifteenth Amendments and Civil Rights Laws," *Asian Law Journal* 1996. (Lex-Nex)

Kevin R. Johnson, "Race, the Immigration Laws, and Domestic Race Relations: A 'Magic Mirror' into the Heart of Darkness," *University of Indiana Law Journal* 1998. (Lex-Nex)

Ruben J. Garcia, "Critical Race Theory and Proposition 187: The Racial Politics of Immigration Law," *Chicano-Latino Law Review* 1995. (Lex-Nex)

October 28/November 2-A Question of Sovereignty?: American Indians and Racial (In)Justice

Gerald Torres and Kathryn Milun, "Translating *Yonnonidio* by Precedent and Evidence: The Mashpee Indian Case" (CRT 48-55)

Robert A. Williams, Jr., "Documents of Barbarism: The Contemporary Legacy of European Racism and Colonialism in the Narrative Traditions of Federal Indian Law" (CRT 98-109)

Rebecca Tsosie, "Reclaiming Native Stories: An Essay on Cultural Appropriation and Cultural Rights," *Arizona State Law Journal* 2002. (Lex-Nex)

November 4/9–Justice or Just Us?: Blacks and the Criminal Justice System

Joan W. Howarth, "Representing Black Male Innocence," *The Journal of Gender, Race & Justice* 1997. (Lex-Nex)

Erik Luna, "Race, Crime and Institutional Design," *Law & Contemporary Problems* 2003.

Paul Butler, "Racially Based Jury Nullification: Black Power in the Criminal Justice System," *Yale Law Journal* 1995. (Lex-Nex)

November 11: Reflection paper due on "Beyond Black and White," "A Question of Sovereignty," and/or "Justice or Just Us"

November 11/16–Essentialism vs. Intersectionality: Race, Class and Gender

Kimberlé Williams Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," *Stanford Law Review* 1991. (Lex-Nex)

Trina Grillo, "Anti-Essentialism and Intersectionality: Tools to Dismantle the Master's House" (course reserves)

Angela Harris, "Race and Essentialism in Feminist Legal Theory" (CRT 253-266)

November 18/23–Critical Race Feminism

Trina Grillo and Stephanie M. Wildman, "Obscuring the Importance of Race: The Implication of Making Comparisons between Racism and Sexism (or Other -isms)" (CRT 564-572)

Celine Parrenas Shimizu, "Sex for Sale: Queens of Anal, Double, Triple, and the Gang Bang: Producing

Asian/American Feminism in Pornography *Yale Journal of Law and Feminism* 2006 (Lex-Nex)

Vednita Carter and Evelina Giobbe, "Duet: Prostitution, Racism and Feminist Discourse," *Hastings Women's Law Journal* 1999.

November 30/December 2-QueerCrit: The Legality of Sexuality

Margaret M. Russell, "Lesbian, Gay and Bisexual Rights and 'The Civil Rights Agenda'," *African-American Law & Policy Report* 1994. (Lex-Nex)

Jeffrey Mingo, "More Colors Than the Rainbow: Gay Men of Color Speak About Their Identities and Legal Choices," *Law & Sexuality: A Review of Lesbian, Gay, Bisexual, and Transgender Legal Issues* 1998 (Lex-Nex)

Darren L. Hutchinson "Out Yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse," *Connecticut Law Review* 1997. (Lex-Nex)

December 7: Reflection paper due on Essentialism vs. Intersectionality, Critical Race Feminism and/or Queer Crit