

Race, Racism & U.S. Law: Contemporary Issues
(a.k.a., Critical Race Theory) Seminar
Mondays 1-2:40pm
803 Lewis
(Fall 2008)

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Office Hours M 12-1pm; 3-5pm

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I. SEMINAR DESCRIPTION:

About two decades ago, a new scholarly movement in legal academe burst upon the scene, known as “Critical Race Theory” (CRT). Early advocates of CRT — such as Derrick Bell, Mari Matsuda, Richard Delgado, Kimberlé Crenshaw, and Patricia Williams — challenged both the substance and style of conventional legal scholarship. Substantively, race critics rejected not only the “colorblind” approach to legal issues that renders invisible the particular and often divergent experiences of people of color vis-a-vis the law, but also liberal approaches emphasizing formal equality and individual civil rights, as well as the radical critiques of law “trashing” civil rights. Stylistically, critical race theorists often employed new methodologies for legal scholarship, including storytelling, postmodern analysis, and parables. Such methods were well-suited to illuminate the substantive differences that CRT advocates were attempting to define about the centrality of race as a foundational feature of U.S. law and differing racial group experiences. To address the incomplete nature of many of these discussions in existing legal literature, the seminar will employ an interdisciplinary approach, borrowing from sociology, history, economics, psychology, and anthropology.

Since the emergence of Critical Race Theory, there have been a number of developments in this movement. A second generation of CRT scholars have emerged, focusing upon the anti-essentialist challenge presented by a diverse community of race critics, along racial, ethnic, gender, sexuality, and class divides, among others. The contemporary substantive focus is cross-racial, comparative, and proactive, analyzing the converging and diverging experiences of indigenous peoples, Latinas/Latinos, African Americans, and Asian Pacific Americans and strategies for social justice. Seminar participants will also “deconstruct” the racial categories to understand the diversity and difference within each group, paying particular attention to the experiences of ethnic sub-groups, women of color, and gays, lesbians, bisexuals, and transgendered people. The contemporary discussions seem to prioritize how such a scholarly movement may preserve difference while forwarding political cohesion and unity. This goal is particularly difficult in light of the conservative response to CRT, which has manifested itself in the form of federal judges, law professors, and journalists mounting high-profile attacks on CRT in publications ranging from *The Atlantic Monthly* to the *Wall Street Journal*.

In the first part of the seminar, participants will study the early race critic writings, second-generation CRT scholarship, the critiques of CRT, and future-oriented issues. We will explore how the socio-legal system of racial subordination interacts with and abuts hetero-patriarchy and class oppression. To inform a critical perspective, the seminar will engage Critical Race Theory, Critical

Legal Studies, Feminist Jurisprudence, Critical Race Feminism, “Queer” or Sex Crit Theory, and Postcolonial Theory.

II. FORMAT: In the first seven weeks we will discuss selected topics in Critical Race Theory. The method of instruction will prioritize student-initiated discussion and organization akin to a graduate seminar. During this time, and in consultation with the professor, students will organize materials and study questions for presentation and discussion on the various topics. For weeks 11-14, seminar participants will present their completed paper or work-in-progress. Student commentators will be assigned to each paper or work-in-progress to provide additional constructive feedback to the presenter.

III. REQUIREMENTS:

A. *Attendance and Participation:* You are expected to be a timely, prepared, active, and thoughtful seminar participant. A successful seminar depends upon consistent attendance by all members and a high quality level of reading, discussion and analysis. We are having substantive meetings on the course topic for five of the fourteen weeks of the semester. During these substantive sessions, there will be heavy reading of up to 100 pages, so be forewarned. The seminar format truncates the teaching days on the course topic in exchange for days off to research and write your paper as well as to meet with me and/or your colleagues. Your response to your paper commentators on your assigned day for your paper’s discussion will also be counted your participation grade. Failure to present your response to your paper commentator paper on the assigned day and at the assigned time will result in a loss of half your participation points. You are also required to meet individually with me as designated on the schedule below. Chronic tardiness or frequent absences are also a basis for deduction of your participation points. (10 pts.)

B. *Experts of the Week:* In groups of 3-4 people, you will sign up to be the “experts of the week” for one of the topics in weeks 5-7. Each group will take responsibility for interpreting the assigned topic and reading materials and initiating and coordinating discussion, drawing out the points and arguments you deem most relevant and important. There are two particular foci for each group to consider in preparing your sessions: 1) how the assigned material substantively defines “critical race theory” and its revisioning of the law and/or theory and/or problems; and 2) how the assigned material may be useful to seminar projects we have discussed or that you select. To deepen your understanding of the works assigned and the fundamentals and format of article writing, each “expert” will read the full-length article version for at least one of the excerpted articles. Please coordinate within your group for the week to enhance greatest coverage of full-length articles with the least amount of overlap.

For each session, any handouts with study questions, problems, or any other materials you believe will be useful to the class in analyzing your topic should be posted to Blackboard 24 hours prior to your session (no later than the preceding Sunday by 1pm). You will also post to Blackboard 24 hours prior to your session, a 250-500 word summary of how reading the full-length article supplemented your understanding of the excerpted version assigned and how it can help guide students in writing their seminar papers. You will have approximately 60 minutes for your total session (approx. 15 minutes per person), so please budget your time accordingly among your group members to leave me at least 20 minutes at the end of the seminar for comments. I’m happy to serve as timekeeper if you provide me with each person’s time allotment.

This project will be graded on level and quality of preparation and on effectiveness in triggering lively discussion and thought-provoking analysis. You are required to discuss your plans with me at least one week prior to your presentation. (10 pts.)

C. *Commentator*: Each seminar participant will serve as a lead commentator on a student paper first draft to provide *constructive, quality, critical* feedback using the concepts, theories, materials, and methodologies developed throughout the seminar. Commentators should prepare two pages of typed comments for the student presenting a paper to be posted to Blackboard 24 hours prior to class. Failure to post your commentary at least 24 hours in advance of your assigned session will result in a deduction on your commentary. You will also be asked to serve as a secondary commentator on another paper with no written assignment (10 pts.).

D. *Timely submissions*: There are periodic due dates for your final paper discussed below. Your timely submission to Blackboard no later than 1:00pm on the due date and satisfactory performance for each assignment will be rewarded by the number of points designated in the margins. Since this is a timeliness grade, please submit all assignments to Blackboard (10 pts. total).

E. *Final Paper*: Each seminar participant will produce a final seminar paper of publishable quality (such as a law review comment) that is a minimum of 30 pages in length (using times roman font 12 pt. and one inch margins) submitted according to standard procedures for take-home examinations no later than 11:40am two weeks after the conclusion of the seminar. The paper fulfills the senior seminar requirement. (60 pts.)

IV. REQUIRED TEXTS:

A. There will be required readings from the main text, Richard Delgado & Jean Stefancic, eds., *CRITICAL RACE THEORY: THE CUTTING EDGE* (2d. ed., 2000, Temple University Press) and supplemental materials usually available online or distributed in class. Should you miss class, it is your responsibility to ensure you receive the assignments and reading materials. We will follow the tentative course schedule listed below. The book will be available in the DePaul bookstore in the Music Mart building (1 E. Jackson) the week of August 18th. You may want to call Jeff Horvath, Textbook Supervisor at the DePaul bookstore to confirm arrival of the required text (312) 362-8795 or (312) 362-7260 (Michael Peterson, Asst. Textbook Supervisor). Papers and comments for each seminar participant are required reading for every member of the seminar. Assignments for a given session should be completed by the *start* of the session assigned.

V. TENTATIVE WEEKLY SCHEDULE:

Week 1 (8/25): Introduction to the Course:

READING: Intellectual Precursors (Crenshaw Foreword, Introduction, read online)

Breaking Rank: Challenging the Liberal Civil Rights Paradigm

READING: Text: pp. 21-34, 93-117, 236-48, 404-14

Roots: Convergences/Divergences with Critical Legal Studies

READING: Text: pp. 80-90, 479-86

In addition to assigned reading for first day of class, please be prepared to discuss your top and 1 or 2 backup research ideas or topics with the class for your introduction. When thinking

about a topic, consider what your original argument and research base or data will be, and how your thesis relates to “race” and “the law.”

Sign-up on in-class list for topic consultations and for “experts of the week.”

Week 2 (9/1): No class for Labor Day Holiday, University Closed

Week 3 (9/8): *White Normativity & the Law*

READING: Text: pp. 52-60, 71-79, 129-193, 204-212, 429-38

Abstract, Literature Review, and Bibliography Due at 1:00 pm (3 pts.) Post to Blackboard at least a 1-2 page description of your paper topic and an attached bibliography. There are three components to this assignment:

- 1) Abstract: Two parts to the Abstract:
 - a. Thesis: Be sure to state your thesis (including “Although” or oppositional argument, “Thesis” statement or main argument, and “Because” clause setting forth your main evidence or data for your argument);
 - b. Methodology: Please include your expected research base/methodology (doctrinal analysis, historical research, “discourse analysis”, etc.) For those of you unfamiliar with interdisciplinary methodologies, you may want to focus upon traditional legal methodology that relies upon analyzing cases and legal doctrines — i.e., doctrinal analysis. If you are using cases, please identify which set of cases you will be studying (e.g., employment discrimination cases involving transgender people of color or national security cases targeting Arab and/or Muslim Americans).
- 2) Literature Review: Be sure to state what is original about your research based on the existing literature on your topic. By identifying the relevant literature, you are also situating your argument in terms of the intervention you are seeking to make (e.g., in Crenshaw’s *Intellectual Precursors* Introduction, she identifies a number of civil rights and leftist legal scholars to set up her leftist intervention in liberal, civil rights discourse, and her race intervention among white leftists or Critical Legal Studies),
- 3) Bibliography: In your bibliography, please include at least a dozen sources (cases, law review articles, social science/news articles, books, etc.) for your topic. The more, the merrier I will be, but each source should be relevant and on point and not merely padding.

Week 4 (9/15): Individual Meetings on your Abstract/Literature Review/Bibliography

Week 5 (9/22): *Intersections*

READING: Text: pp. 261-88, 321-42; 499-531, 543-52

Week 6 (9/29): *Critical White Studies/Challenging the White-Over-Black Paradigm*

READING: Text: pp. 625-66; 343-86

Introduction/Detailed Outline OR Major Section Due at 1pm, Blackboard. (3 pts.)

Week 7: (10/6): *Intergroup Relations & Future Directions*

READING: Text: 302-12; 439-66, 591-624

Week 8 (10/13): Individual Meetings to Discuss your First Draft Status in 801 Lewis

Week 9 (10/20): NO CLASS: Continue Work on First Draft

Week 10 (10/27): NO CLASS, But First Draft Posted to Blackboard by 1:00pm (4 pts.).

Please post your first draft to Blackboard in a MSWord document. No extensions are possible to ensure that I may give you feedback prior to your presentation and that your commentators have ample time to prepare their comments.

Week 11 (11/3): Individual Meetings on First Draft in 801 Lewis (per signup sheet)

Week 12 (11/10): NO CLASS: Work on Paper Second Draft and Presentation/Commentations

Week 13 (11/17): Student Presentations/Commentation

Week 14 (11/24): Student Presentations/Commentation

Week 15 (12/1): Student Presentations/Commentation

Week 17 (12/15): Final Papers Due by 1pm posted to Blackboard (60 pts.)

DUE DATES: All SUBMISSIONS to Blackboard Posted no later than 1:00pm Mondays:

Week 1 (8/25): Identify 2-3 possible paper topics; Sign up for discussion topic; Make appointment for topic consultation. (no points, but required sign-ups in class).

Week 3 (9/8): Submit Abstract, Literature Review and Bibliography (3 pts).

Week 6 (9/29): Submit Intro/Detailed Outline or Major Section draft (3 pts.).

Week 10 (10/27): First draft due (4 pts).

Week 17 (12/15): Final paper due, posted to Blackboard.