

**Introduction to Critical Race Theory
Spring 2018
LAWS 785001**

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In ways so embedded that it is rarely apparent, the set of assumptions, privileges, and benefits that accompany the status of being white have become a valuable asset that whites sought to protect and that those who passed sought to attain - by fraud if necessary. Whites have come to expect and rely on these benefits, and over time these expectations have been affirmed, legitimated, and protected by the law. Even though the law is neither uniform nor explicit in all instances, in protecting settled expectations based on white privilege, American law has recognized a property interest in whiteness that, although unacknowledged, now forms the background against which legal disputes are framed, argued, and adjudicated.

~ Cheryl Harris

COURSE DESCRIPTION

In a recent essay entitled "Critical What What?" Devon Carbado describes the continuing commonness of encountering individuals in the academy who, when they find themselves in conversations about Critical Race Theory (CRT), ask that very question. In this course, we will focus on exploring past and

contemporary histories of CRT, core tenets of the interdisciplinary movement, and the relevance of the works of Race Critics for the problems of our contemporary era. Borne of Derrick Bell's post-Civil Rights writings, which grappled with the rollback of landmark cases including *Brown v. Board of Education*, CRT is the study of the continuing persistence of racism in the United States and the law's central role in protecting the power associated with whiteness. Because CRT has always had a coproductive relationship with Ethnic Studies, Black Cultural Studies, Asian American Studies, and American Studies, we will read works from scholars in those fields to complement the "greatest hits" in the field from the legal academy. In doing so, we will define not only terms such as "racial realism," "interest convergence," and "intersectionality," but also situate legal practice within larger structures of racial formation, racial feelings, police power, carcerality, racial capitalism, Empire, and militarism. We will come away with a broad understanding of both the theory and practice of CRT in legal, academic, and activist contexts.

By the end of the semester, you should be able to do the following:

- Define CRT and explain its historical origins;
- Name and define the core concepts and methods of CRT;
- Describe how CRT engages Blackness, Indianness, Asianness, and Latinxness;
- Understand the relationship between CRT in the legal academy to CRT in other disciplines as well as a practical tool for use in activist practice;
- Use CRT as a method and tool of analysis in the case study of your choosing;
- Write a publishable quality law review article on a CRT topic.

REQUIRED MATERIALS

We will be using the following books during the semester:

- Derrick Bell, *Faces at the Bottom of the Well* (1992)
- Kimberle Crenshaw, Neil Gotanda, Gary Peller, and Kendall Thomas, *Critical Race Theory: Key Writings that Formed the Movement* (1995) (hereinafter *CRT Reader*)
- Ian Haney Lopez, *White By Law* (1996)
- Richard Delgado and Jean Stefancic, *Must We Defend Nazis* (1997)
- Lisa Corrigan, *Prison Power* (2017)

ASSIGNMENTS

The major work product for this course is a 30-page seminar paper on a topic of your choosing relating to Critical Race Theory, broadly defined. Over the course of the semester, you will have opportunities to turn in and/or discuss your topic and parts of your paper for feedback.

All written assignments, unless otherwise specified, must be turned in by the due date on Canvas as a .doc or .pdf file. Assignments turned in by email, in corrupt files, or in other document formats will be counted late so please make sure that you double check your work.

You will also choose one day on which you will prepare a 20 - 25 minute presentation on the readings for the day, bringing in any additional cases and current events that you may find relevant. During the rest of

the period you will serve as a co-facilitator for the discussion for the day, asking questions and directing conversation as appropriate. Your presentation must include multimedia of some type.

WRITING A LAW REVIEW ARTICLE

Writing a law review article is not an easy task. However, it is one about which many people have written. We will briefly discuss strategies for researching and writing a law review article. However, if you need additional assistance, I recommend the following readings:

Richard Delgado, "How to Write a Law Review Article," 20 U. OF SAN FRANCISCO L. R. 445 (1986)
Eugene Volokh, "Academic Legal Writing," <http://www2.law.ucla.edu/volokh/writing/aextract.pdf>

ATTENDANCE

Attendance is required in this course. In addition to covering the week's material, we will be engaged in conversations about race in a small seminar setting, a learning practice which cannot be captured through reading alone. It is your responsibility to follow up with your peers about any and all missed material. I reserve the right to adjust your final grade based on attendance and class participation.

TALKING ABOUT RACE

We will discuss many controversial and difficult topics in this course that are often triggering. In doing so, we will strive to cultivate a safe classroom space in which each of us is comfortable expressing an opinion. Such a task requires respect, radical acceptance, thoughtfulness, and self-awareness. Harassing or discriminatory language and/or behavior or any other conduct which creates a hostile environment will not be tolerated. That is not to say we will not sometimes make mistakes in discussing difficult topics and negotiating our various identities but rather that we will continually strive to abide by the principles of safe space and address to the best of our abilities any missteps we have made.

Creating a safe space also requires attentiveness and engagement. Showing up late to class, texting, sleeping, and so on may result in you being asked to leave the classroom. If you have questions or concerns related to respect and openness, please do not hesitate to talk with me. My door is always open.

LATE ASSIGNMENTS

Students will lose ten points per day an assignment is late. No assignment will be accepted more than 7 days after the due date. There are no exceptions to this policy.

EMAIL

As a general rule, I encourage you to come in to office hours to talk to me, not to email me. In my experience, most questions over email can either be answered by reading the syllabus or cannot be adequately answered by email at all. I find that face time not only helps students understand and engage with material but also creates the personal connections that help in talking about race.

If you choose to contact me by email, I will do my best to respond within 48 hours, excluding weekends and holidays. I will not respond to emails regarding assignments that are due within 48 hours.

LAPTOPS AND CELL PHONES

Cell phones are absolutely prohibited in class for any purpose. If you are caught using one, you will be asked politely to put it away the first time and asked to leave class each subsequent time. Laptops are permissible only for notetaking purposes. As this is a small seminar course that only meets 2 hours per week, I expect that you will be fully engaged during our time together.

GRADE DISPUTE POLICY

I am happy to discuss grade concerns with students. If you wish to challenge a grade, you must: (1) wait 24 hours after receiving your score, (2) email me a paragraph summary of your concerns, making reference to the assignment, and (3) make an appointment to meet with me, during office hours or another mutually agreeable time. Grade concerns and grievances will be considered for one week after papers are returned, after which time all grades are final. Please note that your grade can go down upon reevaluation.

ACADEMIC INTEGRITY

Boston College Law's definitions of academic integrity are outlined in the handbook of academic policies and procedures. It your responsibility to read and understand the expectations regarding your conduct. I will abide by all of these policies, I expect that you will as well.

COURSE SCHEDULE

- January 17th** **What is Critical Race Theory?**
Introduction and Syllabus
Devon Carbado, *Critical What What?* 43 CONN. L. REV. 5 (2011) (Close read)
- January 24th** **Stories of Post-Civil Rights America**
Derrick Bell, *Faces at the Bottom of the Well* (1992) (Close read "Introduction" and "Space Traders," skim the rest)
- January 31st** **White Supremacy**
Cheryl Harris, "Whiteness as Property," in *CRT Reader* (Close read)
Robin DiAngelo, "White Fragility," *The International Journal of Critical Pedagogy* (2011) (Skim the experimental data, close read the findings)
German Lopez, "Research Says There are Ways to Reduce Racial Bias," *Vox*, <https://www.vox.com/identities/2016/11/15/13595508/racism-trump-research-study> (Close read, focus on distinct evidence based theories)
- February 7th** **Racial Feelings**
Paula Ioanide, "Facts and Evidence Don't Work Here," in *The Emotional Politics of Racism* (Stanford University Press, 2015) (Close read)
Sara Ahmed, "Affective Economies," *Social Text*, 2004 (Skim)

*****PAPER TOPICS DUE*****

February 14th

Racial Formation

Howard Winant, "Race and Race Theory," *Annual Review of Sociology*, 2000
(Skim the bits on sociology, close read racial formation theory)

Kevin K. Gains, "The End of the Second Reconstruction," *Modern American History*, 2018 (Close read, with an eye for historical resonance)

February 21st

Interest Convergence

Kimberle Crenshaw, "Introduction," in *CRT Reader* (Close read)

Derrick Bell, "Serving Two Masters" in *CRT Reader* (Skim)

Derrick Bell, "*Brown v. Board of Education* and the Interest Convergence Dilemma," in *CRT Reader* (Close read)

February 28th

Intersectionality

Kimberle Crenshaw, "Mapping the Margins," in *CRT Reader* (Close read)

Devon Carbado, "Colorblind Intersectionality," *Signs*, 2013 (Close read)

*****REQUIRED PAPER CONFERENCES*****

March 7th

*****SPRING BREAK*****

March 14th

Doctrines of Discovery

Robert Williams, "Vampires Anonymous and Critical Race Practice," 95 MICH. L. REV. (1997) (Heavy skim, for comprehension)

Baron Pineda, "Indigenous Pan-Americanism," *American Quarterly* (2017)
(Close read theorization of sovereignty)

March 21st

Citizenship and the Prerequisite Cases

Ian Haney Lopez, *White By Law* (1996)

March 28th

Police Power and Carcerality

Lisa Corrigan, *Prison Power*, 2017 (Read Chapter One, Chapter Three, and the Conclusion with focus on the rhetorical development of Black Power in prisons)

Nikhil Pal Singh, "The Whiteness of Police," *American Quarterly* (2014) (Close read, with an eye to theorization of police power)

April 4th

Beyond Black/White Binaries

Natsu Saito Taylor, "Model Minority, Yellow Peril," 4 Asian L. J. 71 (1997)
(Skim for tropes of Asian Americans)

Francisco Valdez, "Legal Reform and Social Justice," *Griffith Law Review* (2005) (Skim for historical understanding of LatCrit)

Robert Chang and Neil Gotanda, "The Race Question in LatCrit Theory and Asian American Jurisprudence," 7 NEV. L. J. 1012 (2007)

*****PAPER PROPOSALS DUE*****

April 11th

Words that Wound

Richard Delgado and Jean Stefancic, *Must We Defend Nazis* (1997)

April 18th

Racial Capitalism and Law

Mary Dudziak, "Desegregation as Cold War Imperative," 41 Stan. L. R. 1 (1988)
(Skim, focusing on big picture relationship between Civil Rights and Cold War)

Angela Harris, *LPE Blog*, "Where is Race in Law and Political Economy?"
<https://lpeblog.org/2017/11/30/where-is-race-in-law-and-political-economy/>

(Close read, noting distinct theoretical threads)

Mitu Gulati and Devon Carbado, "The Law and Economics of Critical Race Theory (Book Review of *Crossroads, Directions, and a New Critical Race Theory*)," 112 YALE L. J. 1757 (2003) (Close read)

April 25th

Critical Race Directions, Critical Race Futures

Richard Delgado, "The Imperial Scholar," in *CRT Reader* (Skim)

The Science of Equality, <http://perception.org/wp-content/uploads/2014/11/Science-of-Equality.pdf> (Close read pp. 44 - 58)

Angela Harris, Margaretta Lin & Jeff Selbin, "From The Art of War to Being Peace: Mindfulness and Community Lawyering in a Neoliberal Age," 95 CAL. L. R. 2073 (2007) (Close read)

May 3rd

*****FINAL PAPERS DUE*****