

**Critical Race Theory**  
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This may appear to be an unusual syllabus. It is an assemblage of the articles that influenced me when I was beginning my academic career, which coincided with the rise of Critical Race Theory; articles that are considered “canonical”; and articles that I have been itching to read or re-read. Because Critical Race Theory as a first principle rejects top-down approaches to not only the law but the production of knowledge itself, this syllabus invites you to participate in creating your own syllabus through customization. Through-out, you will find some readings that I encourage you to read and others where I ask you to select what is most of interest to you. You may want to keep an informal diary that captures your decision-making process. Because there is a lot of material here, my suggested approach to the materials that you decide to focus on is to ensure that you understand and can articulate the author’s thesis and how they make their argument. Beyond that, you are free to read the selections from the articles that most interest you. Because the articles are long I do not anticipate or expect that you will read it all. I look forward to engaging the assemblages that each of you create.

## **Readings**

### ***#1 – A New Voice***

Derrick A. Bell Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 Yale L.J. (1976)  
<https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=6361&context=ylij>

Derrick A Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 Harv. L. Rev. 513 (1980)  
<http://blog.richmond.edu/criticalracetheory/files/2019/02/INTREST-CONV-BELL.pdf>

Derrick Bell, *Foreword: The Civil Rights Chronicles*, 99 Harv. L. Rev. 4 (1985)  
<https://bit.ly/3aWEKog>

### ***#2 – Antecedents Pick any three to read:***

James Boyle, *The Politics of Reason: Critical Legal Theory and Local Social Thought*, 133 U. Pa. L. Rev. 685 (1985)  
[https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1140&context=faculty\\_scholarship](https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1140&context=faculty_scholarship)

Clare Dalton, *An Essay in the Deconstruction of Contract Doctrine*, 94 Yale L.J. 997 (1985).  
<https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=6918&context=ylij>

Peter Gabel & Paul Harris, *Building Power and Breaking Images: Critical Legal Theory and the Practice of Law*, XI Rev. L. & Soc. Change 369 (1982-83)  
[https://socialchangenyu.com/wp-content/uploads/2017/12/Peter-Gabel-and-Paul-Harris\\_RLSC\\_11.3.pdf](https://socialchangenyu.com/wp-content/uploads/2017/12/Peter-Gabel-and-Paul-Harris_RLSC_11.3.pdf)

David Kairys, *Law and Politics*, 52 Geo. Wash. L. Rev. 243 (1984)  
<https://bit.ly/2U9M2iH>

Duncan Kennedy, *Form and Substance in Private Law Adjudication*, 89 Harv. L. Rev. 1685 (1976)  
<https://duncankennedy.net/documents/Form%20and%20Substance%20in%20Private%20Law%20Adjudication.pdf>

Frances E. Olsen, *The Family and the Market: A Study of Ideology and Legal Reform*, 96 Harv. L. Rev. 1497 (1983)  
<https://bit.ly/2RFj9JI>

Mark Tushnet, *An Essay on Rights*, 62 Tex. L. Rev. 1363 (1984)  
<https://bit.ly/2GAI5Nn>

### **# 3 – Rebellion Read Williams and one other:**

Patricia J. Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 Harv. C.R.-C.L. L. Rev. 401 (1987).  
See Canvas for reading.

Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 Harv. C.R.-C.L. L. Rev. 323, 400 (1987)  
<https://blogs.brown.edu/amst-2220j-s01-2017-fall/files/2017/11/MariJMatsudaLookingtotheB-1.pdf>

Harlon Dalton, *The Clouded Prism*, 22 Harv. C.R.-C.L. L. Rev. (1987)  
[https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3085&context=fss\\_papers](https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3085&context=fss_papers)

Charles R. Lawrence III, *Two Views of the River: A Critique of the Liberal Defense of Affirmative Action*, 101 Col. L. Rev. 928 (2001)  
<https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1339&context=facpub>

### **# 4 – Foundational Pieces Pick any three to read**

Richard Delgado, *Words that Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling*, 17 Harv. C.R.-C.L. L. Rev. 133 (1982)  
<https://bit.ly/2UedbB1>

Robert A. Williams, Jr., *The Algebra of Federal Indian Law: The Hard Trail of Decolonizing and Americanizing the White Man's Indian Jurisprudence*, 1986 Wis. L. Rev. 219

<https://bit.ly/2S5qiSE>

Charles Lawrence, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 Stan. L. Rev. 317 (1987)

<https://bit.ly/2tcc2Pq>

Kimberlé Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Anti-Discrimination Law*, 101 Harv. L. Rev. 1331 (1988)

<https://bit.ly/37KQBEb>

Neil Gotanda, *A Critique of "Our Constitution is Color-Blind,"* 44 Stan. L. Rev. 1 (1991)

<https://bit.ly/36N6Zmx>

Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 Cal. L. Rev. 1243 (1993)

<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1411&context=faculty>

Paul Butler, *Racially Based Jury Nullification: Black Power in the Criminal Justice System*, 105 Yale L.J. 677 (1995)

<https://bit.ly/2UfKP9F>

**# 5 – Key Concepts: Intersectionality Read Crenshaw and either Harris or Matsuda; pick one to read from Kwan, Chang & Culp, and Aziz**

Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics*, 1989 U. Chi. Legal F. 139

<https://bit.ly/38V7cFo>

Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 Stan. L. Rev. 581 (1990)

<https://bit.ly/3aZoUcX>

Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 14 *Women's Rights L. Rep.* 213 (1992)

<https://www.northeastern.edu/lawstudentaffairs/wp-content/uploads/2018/07/When-the-First-Quail-Calls.pdf>

Peter Kwan, *Invention, Inversion and Intervention: The Oriental Woman in The World of Suzie Wong, M. Butterfly, and The Adventures of Priscilla, Queen of the Desert*, 5 Asian L.J. 99 (1998)

[file:///C:/Users/adriennedavis/Downloads/fulltext%20\(1\).pdf](file:///C:/Users/adriennedavis/Downloads/fulltext%20(1).pdf)

Robert S. Chang & Jerome McCristal Culp, Jr., *After Intersectionality*, 71 UMKC L. Rev. 485 (2002)

[https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5596&context=faculty\\_scholarship](https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5596&context=faculty_scholarship)

Sahar F. Aziz, *From the Oppressed to the Terrorist: Muslim American Women Caught in the Crosshairs of Intersectionality*, 9 Hastings Race & Poverty L.J. 191 (2012)

<https://bit.ly/2tWQiHX>

**# 6 Key Concepts: Social Construction of Race Read either Haney Lopez or Davis; pick two from Matsuda, Harris, Mills, and Kang**

Ian F. Haney Lopez, *The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice*, 29 Harv. C.R - C.L. L. Rev. 1(1994)

<https://bit.ly/2GKNdx3>

Adrienne D. Davis, *Identity Notes Part One: Playing in the Light*, 45 Amer. Univ. L. Rev. 695 (1996)

<https://openscholarship.wustl.edu/wgss/28/>

Mari Matsuda, *Voices of America: Accent, Antidiscrimination Law, and a Jurisprudence for the Last Reconstruction*, 100 Yale L.J. (1991)

<https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=7342&context=yj>

Cheryl Harris, *Whiteness as Property*, 106 Harv. L. Rev. 1707 (1993)

<https://bit.ly/2S03Av6>

Charles Mills, **The Racial Contract** (read only the Introduction) (1997)

<https://bit.ly/2OfEzLl>

Jerry Kang, *Cyber-Race*, 113 Harv. L. Rev. 1131 (2000)

<https://bit.ly/2RZSsyk>

**#7 – Key Concepts: Storytelling and Autobiography as Method Pick any two to read**

Patricia J. Williams, **The Alchemy of Race and Rights**, Chapter 2 (Gilded Lilies and Liberal Guilt); Chapter 5 (Crimes Without Passion) (1991).

See Canvas for reading.

Richard Delgado, *Storytelling for Oppositionists and Others*, 87 Mich. L. Rev. 2411 (1989)

<https://repository.law.umich.edu/cgi/viewcontent.cgi?article=3419&context=mlr>

Charles R. Lawrence III, *The Word and the River, Pedagogy as Scholarship as Struggle*, 65 S. Cal. L. Rev. 2231 (1992)

<https://bit.ly/37HHxzP>

Robert S. Chang & Adrienne D. Davis, *An Epistolary Exchange: Making Up Is Hard to Do: Race/Gender/Sexual Orientation in the Law School Classroom*, 33 Harv. J.L. & Gender 1 (2010)

<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1020&context=faculty>

#### #8 – CRT in Action Pick any three by different authors

Adrienne D. Davis, *The Private Law of Race & Sex: An Antebellum Perspective*, 51 Stan. L. Rev. 221 (1999)

[https://www.researchgate.net/publication/228163077\\_The\\_Private\\_Law\\_of\\_Race\\_and\\_Sex\\_An\\_Antebellum\\_Perspective](https://www.researchgate.net/publication/228163077_The_Private_Law_of_Race_and_Sex_An_Antebellum_Perspective)

Adrienne D. Davis, *Slavery and the Roots of Sexual Harassment*, in **Directions in Sexual Harassment Law** (MacKinnon & Siegel, eds., 2003)

[https://www.researchgate.net/publication/228183328\\_Slavery\\_and\\_the\\_Roots\\_of\\_Sexual\\_Harassment](https://www.researchgate.net/publication/228183328_Slavery_and_the_Roots_of_Sexual_Harassment)

Trina Jones & Kimberly Jade Norwood, *Aggressive Encounters & White Fragility: Deconstructing the Trope of the Angry Black Woman*, 102 Iowa Law Review 2069 (2017)

[https://scholarship.law.duke.edu/faculty\\_scholarship/3761/](https://scholarship.law.duke.edu/faculty_scholarship/3761/)

Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 Cornell L. Rev. 1259 (2000)

<https://scholarship.law.cornell.edu/clr/vol85/iss5/4/>

Devon W. Carbado & Mitu Gulati, *The Fifth Black Woman*, 11 Law & Contemp. Prob. 701 (2001)

<https://bit.ly/3aX5nJT>

Elizabeth M. Iglesias, *Global Markets, Racial Spaces and the Role of Critical Race Theory in the Struggle for Community Control of Investments: An Institutional Class Analysis*, 45 Vill. L. Rev. 1037 (2000)

<https://bit.ly/2vCLQ1m>

Kendall Thomas, *Reading Clarence Thomas*, 8 Nat'l Black L.J. 224 (2004)

<https://bit.ly/2U9fJk5>