

## Critical Race Theory - Fall 2008

### Syllabus

Prof. Emily Houh

- 1) All below assignments are subject to change by class announcement, email, and/or TWEN.
- 2) Unless otherwise noted, **reflection papers** for each assignment are **due** no later than **noon on the Monday before class**. Email your reflection papers to me at: [emily.houh@gmail.com](mailto:emily.houh@gmail.com). I will then compile them and post them on TWEN so that you can read through them before class on Tuesday.
- 3) Unless otherwise noted, please download on your own the assigned readings from Westlaw, Lexis, or HeinOnline, and bring copies of the readings to class with you on the day they are assigned for discussion. I will provide in advance copies of any of the assigned readings not available online. Additionally, if printing off these readings puts you over your printing “quota,” let me know.

Date & Topic(s)	Assignment	Facilitator(s)
<p><b>Aug. 26:</b> What is “Race”?</p> <p>Law as “Discourse”</p>	<p><b>No reflection paper – read only:</b></p> <p><b>1.</b> MICHAEL OMI &amp; HOWARD WINANT, <i>Racial Formation and The Racial State</i>, in RACIAL FORMATION IN THE UNITED STATES 53-76, 77-91 (2d ed. 1986). <b>Copies available on 4<sup>th</sup> floor.</b></p> <p><b>2.</b> Duncan Kennedy, <i>Legal Education and the Reproduction of Hierarchy</i>, 32 J. LEGAL EDUCATION 591 (1982). <b>Copies available on 4<sup>th</sup> floor.</b></p> <p><b>3.</b> Reginald Oh &amp; Thomas Ross, <i>Judicial Opinions as Racial Narratives: The Story of Richmond v. Croson</i>, in RACE LAW STORIES 381-417 (Rachel F. Moran &amp; Devon W. Carbado eds., 2008) (hereinafter “RACE LAW STORIES”).</p>	<p>Houh</p>
<p><b>Sept. 2:</b> Law as “Discourse,” continued</p> <p>Criticism of Conventional Civil Rights Discourse</p>	<p><b>1.</b> Jerry Kang, <i>Dodging Responsibility: The Story of Hirabayashi v. United States</i>, in RACE LAW STORIES at 311-42.</p> <p><b>2.</b> Sumi K. Cho, <i>Redeeming Whiteness in the Shadow of Internment: Earl Warren, Brown, and a Theory of Racial Redemption</i>, 40 B.C. L. REV. 73 (1998).</p> <p><b>3.</b> Derrick A. Bell, Jr., <i>Brown v. Board of Education and the Interest-Convergence Dilemma</i>, 93 HARV. L. REV. 518 (1980).</p>	<p>Houh</p>

<p><b>Sept. 9:</b> Criticism of Conventional Civil Rights Discourse, continued</p> <p>Early Criticism of Critical Legal Studies (“CLS”)</p>	<ol style="list-style-type: none"> <li>1. Ian Haney Lopez &amp; Michael A. Olivas, <i>Jim Crow, Mexican Americans, and the Anti-Subordination Constitution: The Story of Hernandez v. Texas</i>, in RACE LAW STORIES at 273-310.</li> <li>2. Mari J. Matsuda, <i>Looking to the Bottom: Critical Legal Studies and Reparations</i>, 22 HARV. C.R.-C.L. L. REV. 323 (1987).</li> <li>3. Kimberlé Williams Crenshaw, <i>Race, Reform, and Retrenchment: Transformation and Legitimation in Anti-discrimination Law</i>, 101 HARV. L. REV. 1331 (1988).</li> </ol>	<p>Houh</p>
<p><b>Sept. 16:</b> CRT, Legal Doctrine, and the Construction of Socio-legal Categories</p>	<ol style="list-style-type: none"> <li>1. Neil Gotanda, <i>A Critique of “Our Constitution is Color-Blind,”</i> 44 STAN. L. REV. 1 (1991).</li> <li>2. Charles R. Lawrence, III, <i>The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism</i>, 39 STAN. L. REV. 317 (1987).</li> <li>3. R.A. Lenhardt, <i>Forgotten Lessons on Race, Law, and Marriage: The Story of Perez v. Sharp</i>, in RACE LAW STORIES at 343-79.</li> </ol>	<p>Houh; TBD</p>
<p><b>Sept. 23:</b> CRT, Legal Doctrine, and the Construction of Socio-legal Categories, continued</p>	<ol style="list-style-type: none"> <li>1. Cheryl I. Harris, <i>Whiteness as Property</i>, 106 HARV. L. REV. 1709 (1993).</li> <li>2. Kimberlé Williams Crenshaw, <i>Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics</i>, 1989 U. CHI. LEGAL F. 139.</li> <li>3. Devon W. Carbado, <i>Yellow by Law: The Story of Ozawa v. United States</i>, in RACE LAW STORIES at 175-235.</li> </ol>	<p>Houh; TBD</p>
<p><b>Sept. 30:</b> Intersectionality/ies</p>	<ol style="list-style-type: none"> <li>1. Angela P. Harris, <i>Race and Essentialism in Feminist Legal Theory</i>, 42 STAN. L. REV. 581-616 (1990).</li> <li>2. Kimberlé Williams Crenshaw, <i>Race, Reform, and Retrenchment: Transformation and Legitimation in Anti-discrimination Law</i>, 101 HARV. L. REV. 1331 (1988).</li> <li>3. Paulette M. Caldwell, <i>Intersectional Bias and the Courts: The Story of Rogers v. American Airlines</i>, in RACE LAW STORIES at 571-600.</li> </ol>	<p>Houh; TBD</p>

<p><b>Oct. 7:</b> Intersectionality/ies, continued</p>	<p>1. Regina Austin, <i>Sapphire Bound!</i>, 1989 WIS. L. REV. 539. 2. Darren Lenard Hutchinson, <i>Out Yet Unseen: A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse</i>, 29 CONN. L. REV. 561 (1997). 3. Devon Carbado, <i>Straight Out of the Closet</i>, 15 BERKELEY WOMEN'S L.J. 76-124 (2000).</p>	<p>Houh; TBD</p>
<p><b>Oct. 14:</b> Fall Break – No Class</p>	<p>Enjoy the break!</p>	
<p><b>Oct. 21:</b> Nation and Citizenship</p>	<p>1. Renard Strickland, <i>The Tribal Struggle for Indian Sovereignty: The Story of the Cherokee Cases</i>, in RACE LAW STORIES at 37-57. 2. Ronald S. Sullivan, Jr., <i>Classical Racialism, Justice Story, and Margaret Morgan's Journey from Freedom to Slavery: The Story of Prigg v. Pennsylvania</i>, in RACE LAW STORIES at 59-87.. 3. Pedro A. Malavet, "The Constitution Follows the Flag...but Doesn't Quite Catch Up with It: The Story of Downes v. Bidwell", in RACE LAW STORIES at 111-46. 4. Natsu Taylor Saito, <i>For "Our" Security: Who is an "American" and What is Protected by Enhanced Law Enforcement and Intelligence Powers?</i>, 2 SEATTLE J. SOC. JUST. 23 (2003).</p>	<p>Houh: TBD</p>
<p><b>Oct. 28:</b> CRT and Legal Innovation</p>	<p>1. Paul Butler, <i>Racially Based Jury Nullification: Black Power in the Criminal Justice System</i>, 105 YALE L.J. 677 (1995). 2. Paul Butler, <i>Much Respect: Toward a Hip-Hop Theory of Punishment</i>, 56 STAN. L. REV. 983 (2004).</p>	<p>Houh; TBD</p>
<p><b>Nov. 4:</b> Critical Race Praxis</p>	<p>1. Eric K. Yamamoto, <i>Critical Race Praxis: Race Theory and Political Lawyering Practice in Post-Civil Rights America</i>, 95 MICH. L. REV. 821 (1997). 2. Julie A. Su, <i>Making the Invisible Visible: The Garment Industry's Dirty Laundry</i>, 1 J. GENDER RACE &amp; JUST. 405 (1998).</p>	<p>Houh; TBD</p>

## **Important Dates & Deadlines**

**Aug. 26-Sept. 12:** Schedule individual meetings with me to discuss paper topic.

**Tues., Sept. 16:** Proposed **topic** and **thesis** of paper **DUE**.

**Tues., Oct. 7:** **Outline** of paper, including preliminary **source list**, **DUE**.

**Throughout October:** Schedule individual meetings to discuss progress on drafts.

**Throughout November:** Work on your papers. Schedule individual meetings as necessary with me by phone to discuss progress.

**Fri., Dec. 5:** Final paper **DUE**.