

CRITICAL RACE THEORY: ORIGINS, PERMUTATIONS, AND CURRENT QUERIES

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Critical Race Theory (CRT) emerged from two movements in legal education. One was the Critical Legal Studies movement, which fostered a power critique about American law and emerged at the University of Wisconsin in 1977¹ and continued through meetings and scholarship until about 1992.² The second movement, which came to be known as Critical Race Theory, was the result of meetings between the late 1960s and the mid-1990s convened by minority law professors to address the apartheid of American law.³

That apartheid had two dimensions—first, the exclusion of racial minorities from the legal academy as students and faculty, and second, the absence of pedagogy and scholarship directly related to the experience of racial minorities in America.⁴ The failure of Critical Legal Studies to address this apartheid⁵ coincided with minority professors entering legal education, determined to increase their numbers and engage in race-transformative scholarship.⁶ They began these efforts by gathering as minority professors apart from their white counterparts.⁷

The early stages of those meetings included small gatherings of minority law professors such as the Minority Caucus of Black Teachers in

1. *Critical Legal Theory*, LEGAL INFO. INST., https://www.law.cornell.edu/wex/critical_legal_theory [<https://perma.cc/8R8T-PVMR>] (last visited Mar. 19, 2021); see also David M. Trubek, *Where the Action Is: Critical Legal Studies and Empiricism*, 36 STAN. L. REV. 575 (1984); Duncan Kennedy & Karl E. Klare, *A Bibliography of Critical Legal Studies*, 94 YALE L.J. 461 (1984); Robert W. Gordon, *Critical Legal Studies*, 10 LEGAL STUD. F. 335 (1986).

2. See *Critical Legal Studies Movement*, THE BRIDGE, <https://cyber.harvard.edu/bridge/CriticalTheory/critical2.htm> [<https://perma.cc/A5F4-XFA7>] (last visited Mar. 19, 2021).

3. Linda S. Greene, *From Tokenism to Emancipatory Politics: The Conferences and Meetings of Law Professors of Color*, 5 MICH. J. RACE & L. 161, 165–71 (1999); Kimberlé Williams Crenshaw, *Foreword: Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1 (1988).

4. See Greene, *supra* note 3, at 166–67.

5. See, e.g., Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331 (1988); Harlon L. Dalton, *The Clouded Prism*, 22 HARV. C.R.-C.L. L. REV. 435 (1987).

6. See Andrew Wm. Haines, *The Ritual of the Minority Law Teachers Conference: The History and Analysis of the Totemic Gathering of the Shaman to Reconsecrate the Tribal Totem of Law School*, 10 ST. LOUIS U. PUB. L. REV. 393, 405–06 (1991); Greene, *supra* note 3, at 166–67.

7. See Greene, *supra* note 3, at 166.

1969, led by Derrick Bell of Harvard Law School⁸ and Spencer Boyer from Howard University.⁹ At these foundational meetings, minority law professors not only addressed the exclusion of American racial minorities from the legal profession,¹⁰ but also expressed a broader concern that the Bar, and the Association of American Law Schools (AALS), had been “insensitive and unresponsive to the needs and aspirations of [B]lack people.”¹¹

The meetings held by the Caucus of Black Teachers throughout the early 1970s fostered organized networks of Black professors¹² who worked together to develop institutional responses to racism in legal education.¹³ In 1973, the Caucus merged with the pre-existing AALS Committee on Minority Groups (a predominantly white organization) to form the AALS Section on Minority Groups.¹⁴ Despite the formation of this new group—which did not host a conference for minority law professors until 1978¹⁵—law professors of color began meeting outside of AALS auspices from 1973 through 1984.¹⁶ Specifically, these professors discussed tokenism, recruitment of minority professors, and other common problems confronting minority legal scholars.¹⁷ One of these meetings—a 1983 gathering organized by Denise Carty Bennia, then of

8. Bell was the first Black professor at Harvard Law School. After receiving tenure, Bell left the Harvard Law faculty in 1980 to become the first Black dean of the University of Oregon Law School. In 1986, Bell returned to Harvard Law, where he worked until 1992 when he accepted a position as a professor at New York University's Law School. Bell taught at NYU Law until his death in 2011. *Derrick Albert Bell Jr. (1930–2011)*, BLACKPAST (Nov. 15, 2013), <https://www.blackpast.org/african-american-history/bell-derrick-albert-jr-1930-2011/> [<https://perma.cc/4HTS-PPXJ>].

9. Greene, *supra* note 3, at 166.

10. See Haines, *supra* note 6, at 404–05.

11. *Id.* at 403 (quoting ASSOCIATION OF AMERICAN LAW SCHOOLS 1969 PROCEEDINGS: PART TWO 146 (1969)).

12. Linda S. Greene, *From Sea to Shining Sea: The Midwestern Origins of the First National Meeting of the Regional People of Color Legal Scholarship Conferences*, 20 B.C. THIRD WORLD L.J. 29, 35 (2000).

13. Greene, *supra* note 3, at 166.

14. Haines, *supra* note 6, at 405–06; Greene, *supra* note 3, at 166–67.

15. Greene, *supra* note 3, at 167.

16. *Id.* at 167–68.

17. *Id.* at 166–68.

Wayne State University Law School,¹⁸ and Professors Ralph Smith¹⁹ and Regina Austin²⁰ at the University of Pennsylvania Law School—focused exclusively on developing an intellectual agenda for law professors of color.²¹ This meeting, at which scholars like myself—the first Black female professor at Harvard Law School²²—Mari Matsuda,²³ Charles

18. See Haines, *supra* note 6, at 409. Denise Carty-Bennia, at 43 years of age, died unexpectedly on September 11, 1990. Andrew Wm. Haines, *Memorial: Denise Carty-Bennia*, 10 ST. LOUIS U. PUB. L. REV. 389, 390 (1991); Robin D. Barnes, *Black Women Law Professors and Critical Self-Consciousness: A Tribute to Professor Denise S. Carty-Bennia*, 6 BERKELEY WOMEN'S L.J. 57 n.3 (1990); *Awards*, NE. UNIV. SCH. OF L., <https://www.northeastern.edu/law/student-life/blsa/awards.html> [<https://perma.cc/A78J-LN9U>] (last visited Apr. 12, 2021) (describing the Denise Carty-Bennia Memorial Bar Award).

19. Ralph Smith is the current Managing Director at the Campaign for Grade Level Reading at the Belk Foundation. Prior to this role, Smith served as Executive Vice President of the Annie E. Casey Foundation and as a Professor at the University of Pennsylvania Law School. *Ralph Smith*, BELK FOUND., <https://www.belkfoundation.org/ralph-smith/> [<https://perma.cc/S6LX-TZCG>] (last visited Mar. 19, 2021).

20. Regina Austin joined the faculty of the University of Pennsylvania Law School in 1977, where she has since served as a tenured professor. In the 1980s and 1990s, Austin was a visiting professor at both Harvard and Stanford Law. *Regina Austin L'73*, U. PA. CAREY L. SCH., <https://www.law.upenn.edu/cf/faculty/raustin/> [<https://perma.cc/3XBC-KA99>] (last visited Mar. 19, 2021).

21. Greene, *supra* note 3, at 168–69; Haines, *supra* note 6, at 409.

22. *Linda Greene*, UNIV. OF WIS.-MADISON L. SCH., <https://law.wisc.edu/profiles/lsgreene@wisc.edu> [<https://perma.cc/J9XX-XWD3>] (last visited Mar. 19, 2021).

23. Mari Matsuda currently serves as a Professor at the University of Hawaii Law School. Prior to this, Matsuda became the first tenured female Asian professor at UCLA Law. *UH Law School Professors Matsuda '80 and Yamamoto Win the Top Award from National Asian Pacific American Bar Association*, UNIV. OF HAW. AT MĀNAO WILLIAM S. RICHARDSON SCH. OF L. (Sept. 14, 2020), <https://www.law.hawaii.edu/article/uh-law-school-professors-matsuda-%E2%80%9880-and-yamamoto-win-top-award-national-asian-pacific> [<https://perma.cc/969B-TA23>]. Matsuda's 1987 article published in the *Harvard Civil Rights-Civil Liberties Law Review*, *Looking to the Bottom: Critical Legal Studies and Reparations*, is one of the most cited law journal articles in history. Fred R. Shapiro & Michelle Pearse, *The Most-Cited Law Review Articles of All Time*, 110 MICH. L. REV. 1483, 1492 (2012). As of March 2021, Matsuda's work has been cited a total of 3,314 times. *Matsuda, Mari J.*, HEINONLINE, https://heinonline.org/HOL/AuthorProfile?action=edit&search_name=Matsuda%2C%20Mari%20J.&collection=journals [<https://perma.cc/UAS9-22CH>] (last visited Mar. 16, 2021).

Lawrence,²⁴ and Neil Gotanda²⁵ attended,²⁶ led to the July 1989 Critical Race Theory Workshop held at the University of Wisconsin Law School²⁷ and the Holy Wisdom Monastery, a Benedictine organization.²⁸ At the 1989 event, twenty-four scholars, including myself, Matsuda, Lawrence, Gotanda, Kimberlé Crenshaw,²⁹ Kendall Thomas,³⁰ and Derrick Bell,³¹ discussed the foundations and antecedents of this emerging critical

24. Like Professor Matsuda, Charles Lawrence is also a professor at the William S. Richardson School of Law at the University of Hawai'i at Mānoa, where he has taught since 2008. Lawrence previously served as a tenured professor at both Harvard and Stanford. *Charles R. Lawrence, III*, UNIV. OF HAW. AT MĀNOA WILLIAM S. RICHARDSON SCH. OF L., <https://www.law.hawaii.edu/personnel/lawrence/charles> [<https://perma.cc/Q49X-FJK3>] (last visited Mar. 19, 2021). Lawrence's 1987 article in the *Stanford Law Review*, titled *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, has been cited approximately 2,300 times. *Lawrence, Charles R.*, HEINONLINE, https://heinonline.org/HOL/AuthorProfile?search_name=Lawrence%2C+Charles+R.+III&collection=journals&base=js [<https://perma.cc/ZCR3-9JUB>] (last visited Feb. 11, 2021). The article posits that to eradicate racial discrimination, the law must recognize the unconscious racism that persists in society. Charles R. Lawrence III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 323, 330–31 (1987).

25. Neil Gotanda is a current professor at the Western State College of Law. *Neil Gotanda*, W. STATE COLL. OF L. AT WESTCLIFF UNIV. (Nov. 14, 2019), https://www.wsulaw.edu/divi_overlay/neil-gotanda/ [<https://perma.cc/5Y9Y-679J>]. In 1991, Gotanda wrote *A Critique of "Our Constitution Is Colorblind"*, in which he argues that the Supreme Court's use of colorblind constitutionalism "fosters white racial domination." Neil Gotanda, *A Critique of "Our Constitution Is Colorblind,"* 4 STAN. L. REV. 1, 2 (1991). Gotanda's article has been cited roughly 859 times. *Gotanda, Neil T.*, HEINONLINE, https://heinonline.org.ezproxy.library.wisc.edu/HOL/AuthorProfile?action=edit&search_name=Gotanda%2C%20Neil&collection=journals [<https://perma.cc/DRR5-NDBE>] (last visited Feb. 11, 2021).

26. Greene, *supra* note 3, at 168.

27. *Id.* at 170.

28. Greene, *supra* note 12, at 34–35; *About, HOLY WISDOM MONASTERY*, <https://holywisdommonastery.org/about/mission/> [<https://perma.cc/XAJ5-XEFS>] (last visited Mar. 19, 2021).

29. Kimberlé Crenshaw received her J.D. from Harvard in 1984 and her LL.M. from the University of Wisconsin Law School in 1985, where she served as the School's William H. Hastie Fellow. Crenshaw then clerked for Justice Shirley Abrahamson of the Wisconsin Supreme Court before joining UCLA School of Law as a professor in 1986. Currently, Crenshaw is a tenured professor at both the UCLA and Columbia Law Schools. *Kimberlé W. Crenshaw*, UCLA L., <https://law.ucla.edu/faculty/faculty-profiles/kimberle-w-crenshaw> [<https://perma.cc/Y27R-E7S5>] (last visited Mar. 19, 2021).

30. Kendall Thomas received his J.D. from Yale Law School in 1983. He co-founded and now directs the Center for the Study of Law and Culture at Columbia Law School. He has taught at Columbia since 1986 and holds the position of Nash Professor of Law. He has been a visiting professor at Stanford Law School and Princeton University. *Kendall Thomas*, COLUM. L. SCH., <https://www.law.columbia.edu/faculty/kendall-thomas> [<https://perma.cc/M739-G8KR>] (last visited Mar. 19, 2021).

31. Greene, *supra* note 3, at 172 n.37; see BLACKPAST, *supra* note 8.

perspective, presented and critiqued draft articles, and began to develop the basic premises of Critical Race Theory.³²

In the thirty-two years since the Critical Race Theory Workshop at Wisconsin, the movement has morphed and evolved. CRT now finds form as LatCrit,³³ Asian Crit,³⁴ DisCrit,³⁵ and Queer Crit,³⁶ to name a few, and spans academic disciplines ranging from religion³⁷ and education³⁸ to international human rights for women³⁹ and medicine.⁴⁰ The *Wisconsin Law Review*'s celebration of its centennial is an opportunity to celebrate CRT's origins and developments and to reflect on the movement's current relevance and future.

I chaired the Symposium Panel on *Critical Race Theory: Origins, Permutations, and Current Queries*, featuring established and emerging Critical Race Theory scholars: Dean Mario Barnes of the University of Washington School of Law, a former Hastie Fellow at Wisconsin Law;

32. See Kimberlé W. Crenshaw, *Unmasking Colorblindness in the Law: Lessons from the Formation of Critical Race Theory*, in SEEING RACE AGAIN: COUNTERING COLORBLINDNESS ACROSS THE DISCIPLINES 52, 57 (Kimberlé Williams Crenshaw, Luke Charles Harris, Daniel Martinez HoSang & George Lipsitz eds., 2019). CRT "aims to reexamine the terms by which race and racism have been negotiated in American consciousness, and to recover and revitalize the radical tradition of race-consciousness among African-Americans and other peoples of color—a tradition that was discarded when integration, assimilation and the ideal of colorblindness became the official norms of racial enlightenment." CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT at xiv (Kimberlé Crenshaw, Neil Gotanda, Gary Peller & Kendall Thomas eds., 1995).

33. See, e.g., Francisco Valdes, *Foreword: Under Construction—LatCrit Consciousness, Community, and Theory*, 85 CALIF. L. REV. 1087 (1997).

34. See, e.g., Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 CALIF. L. REV. 1241 (1993).

35. See, e.g., Adrienne Asch, *Critical Race Theory, Feminism, and Disability: Reflections on Social Justice and Personal Identity*, 62 OHIO STATE L.J. 391 (2001).

36. Francisco Valdes, *Queers, Sissies, Dykes and Tomboys: Deconstructing the Conflation of "Sex," "Gender," and "Sexual Orientation" in Euro-American Law and Society*, 83 CALIF. L. REV. 1, 31 n.83 (1995).

37. See, e.g., Brandon Paradise, *How Critical Race Theory Marginalizes the African American Christian Tradition*, 20 MICH. J. RACE & L. 117 (2014).

38. See, e.g., Gloria Ladson-Billings & William F. Tate IV, *Toward a Critical Race Theory of Education*, in CRITICAL RACE THEORY IN EDUCATION: ALL GOD'S CHILDREN GOT A SONG 11 (Adrienne D. Dixson, Celia K. Rousseau Anderson & Jamel K. Donnor eds., 2d ed. 2006).

39. See, e.g., Linda Sheryl Greene, *African-American Women on the World Stage: The Fourth World Conference on Women in Beijing*, in BLACK WOMEN AND INTERNATIONAL LAW: DELIBERATE INTERACTIONS, MOVEMENTS, AND ACTIONS 147 (Jeremy I. Levitt ed., 2015).

40. See, e.g., Chandra L. Ford & Collins O. Airhihenbuwa, *The Public Health Critical Race Methodology: Praxis for Antiracism Research*, 71 SOC. SCI. & MED. 1390 (2010); Khiara M. Bridges, Terence Keel & Osagie K. Obasogie, *Introduction: Critical Race Theory and the Health Sciences*, 43 AM. J.L. & MED. 179 (2017); BEYOND BIOETHICS: TOWARD A NEW BIOPOLITICS (Osagie K. Obasogie & Marcy Darnovsky eds., 2018).

Tanya Hernández, the Archibald R. Murray Professor of Law at the Fordham University School of Law; Gloria Ladson-Billings, Professor Emerita and former Kellner Family Distinguished Chair in Urban Education at the University of Wisconsin; Dr. Angélica Guevara, the current Hastie Fellow at Wisconsin Law; Kendall Thomas, the Nash Professor of Law and Co-Founder and Director of the Center for the Study of Law and Culture at Columbia University; and Angela Onwuachi-Willig, Dean of Boston University School of Law.

Dean Barnes began by highlighting the challenges and vilification CRT has faced since its beginnings. He observed that, though CRT courses and scholarship remain vital to a new generation of law students, CRT continues to inhabit contested terrain. While there are now fewer explicit attacks within legal scholarship, CRT methods and theories continue to be misconstrued and treated with skepticism.⁴¹ His observations thus juxtaposed the importance of CRT to students and scholars and its rejection by many others.⁴² In his presentation for this Symposium, titled *Still Defending the ‘Notorious’ CRT? Old Claims, New Foes and Pressing on Despite It All*, Barnes noted that many still struggle to understand why CRT “deserves a place at the table.”⁴³ Barnes concluded that Critical Race Theorists must reframe CRT to call attention to disadvantageous societal arrangements that systemically exclude minority individuals.⁴⁴

Professor Hernández used a critical lens to examine “Latino anti-Blackness”—the subject of her 2021 book, *On Latino Anti-Black Bias: ‘Racial Innocence’ & the Struggle for Equality*⁴⁵—which she noted “is more prevalent and serious in its consequences than many commentators in politics and the media care to admit.”⁴⁶ The CRT lens, with tools including intersectionality, reveals “the interwoven complexities of [U.S.] racism” by adding the voices of Afro-Latino and Black victims of Latino anti-Blackness.⁴⁷ Hernández argued that, by bringing conversations about Latino anti-Blackness to light, we will uncover the prejudices that currently hide behind a “Latino racial innocence cloak.”⁴⁸ In turn,

41. Mario Barnes, Toni Rembe Dean & Professor of L., Univ. of Wash. Sch. of L., Panel Discussion at the *Wisconsin Law Review* Symposium: Wisconsin’s Intellectual History and Traditions (Oct. 22, 2020) (transcript on file with *Wisconsin Law Review*), <https://youtu.be/d8q2VNBT0E0> [<https://perma.cc/9MHM-ASS4>].

42. *Id.*

43. *Id.*

44. *Id.*

45. TANYA K. HERNÁNDEZ, *ON LATINO ANTI-BLACK BIAS: ‘RACIAL INNOCENCE’ & THE STRUGGLE FOR EQUALITY* (forthcoming 2021).

46. Tanya Hernández, Archibald R. Murray Professor of L., Fordham Univ. Sch. of L., Panel Discussion at the *Wisconsin Law Review* Symposium: Wisconsin’s Intellectual History and Traditions (Oct. 22, 2020) (transcript on file with *Wisconsin Law Review*), <https://youtu.be/d8q2VNBT0E0> [<https://perma.cc/9MHM-ASS4>].

47. *Id.*

48. *Id.*

acknowledging Latino anti-Blackness will better equip social justice advocates to combat racism and also help dismantle the exclusionary discrimination policies that persist in workplaces across the country.⁴⁹

Although Dean Barnes and Professor Hernández offered contemporary CRT perspectives, Professor Ladson-Billings focused on the past and present disenfranchisement of Black, Brown, and other non-white students in public education.⁵⁰ She began with the 1849 case of *Roberts v. City of Boston*,⁵¹ a Black family's challenge to a Massachusetts school segregation law that required Black children to leave their communities to attend inferior Black schools.⁵² Ladson-Billings compared the disenfranchisement in this nineteenth-century case to the outcomes in twenty-first-century cases such as *Parents Involved in Community Schools v. Seattle School District No. 1*,⁵³ which struck down voluntary desegregation plans.⁵⁴ Students and scholars who regard *Brown v. Board of Education*⁵⁵ as iconic overlook the decisions since *Brown* that have systematically eroded its promise.⁵⁶ For example, *Milliken v. Bradley*⁵⁷ left in place segregation in suburban school districts,⁵⁸ and *San Antonio v. Rodriguez*⁵⁹ left school district funding disparities intact.⁶⁰ These cases, Ladson-Billings said, have “constantly chip[ped] away at what *Brown* is supposed to mean.”⁶¹ Then, the Court “turn[s] *Brown* upside down . . . in *Parents Involved Community Schools* . . . [where] white families petition a court . . . to get into a specialty high school, and they win.”⁶² These cases cast doubt on the efficacy of “litigat[ing] our way to equity”⁶³ and confirm the persistent dichotomy between restrictive and expansive notions of equality.⁶⁴

49. *Id.*

50. Gloria Ladson-Billings, former Kellner Fam. Distinguished Chair in Urb. Educ., Univ. of Wis., Remarks at the *Wisconsin Law Review* Symposium: Wisconsin's Intellectual History and Traditions (Oct. 22, 2020) (transcript on file with *Wisconsin Law Review*), <https://youtu.be/d8q2VNBT0E0> [<https://perma.cc/9MHM-ASS4>].

51. 59 Mass. (5 Cush.) 198 (1849).

52. *Id.* at 204; Ladson-Billings, *supra* note 50.

53. 551 U.S. 701 (2007).

54. Ladson-Billings, *supra* note 50 (discussing *Parents Involved in Community Schools*).

55. 347 U.S. 483 (1954).

56. Ladson-Billings, *supra* note 50.

57. 418 U.S. 717 (1974).

58. *Id.* at 746–47.

59. 411 U.S. 1 (1973).

60. *Id.* at 5–6.

61. Ladson-Billings, *supra* note 50.

62. *Id.*

63. *Id.*

64. See Gloria J. Ladson-Billings, *Can We At Least Have Plessy? The Struggle for Quality Education*, 85 N.C. L. REV. 1279, 1288 (2007).

Dr. Angélica Guevara's remarks at the Symposium and her essay, *The Need to Reimagine Disability Rights Law Because the Medical Model Fails Us All*,⁶⁵ illustrate the continuing influence and diversification of CRT in the context of Disability Studies.⁶⁶ Guevara uses "DisCrit" principles to critique traditional disability antidiscrimination law.⁶⁷ Traditional antidiscrimination law does not acknowledge its grounding racism and ableism. This grounding creates norms of whiteness and ableness—socially constructed identities that devalue disabled people, especially those who are minorities.⁶⁸ In contrast, DisCrit principles value multidimensional identities, give voice to the experiences of the marginalized, view current phenomena through the lens of historical race and disability discrimination, and encourage multiple forms of resistance to eliminate present effects of past discrimination and current disparities, however rationalized.⁶⁹ Thus, current disability antidiscrimination law falls short because it is grounded in a medical model of disability that treats disabilities as defects, thus stigmatizing people with disabilities and perpetuating discrimination against them.⁷⁰ In contrast, the DisCrit lens supports a social model that recognizes society's role in the construction of disability.⁷¹ The social model exposes societally created barriers to access that construct disabled individuals as "damaged"⁷² and empowers people with disabilities by affirming that "there are diverse ways of existing in the world."⁷³

Professor Kendall Thomas's symposium remarks focused on President Trump's order, which directed:

[A]ll agencies . . . to begin to identify all . . . agency spending related to any training on "critical race theory," "white privilege," . . . and to identify all available avenues within the

65. Angélica Guevara, *The Need to Reimagine Disability Rights Law Because the Medical Model Fails Us All*, 2021 WIS. L. REV. 269.

66. Angélica Guevara, Hastie Fellow, Univ. of Wis. L. Sch., Remarks at the *Wisconsin Law Review* Symposium: Wisconsin's Intellectual History and Traditions (Oct. 22, 2020) (transcript on file with *Wisconsin Law Review*), <https://youtu.be/d8q2VNBT0E0> [<https://perma.cc/9MHM-ASS4>].

67. *Id.*

68. Guevara, *supra* note 65, at 279.

69. See Subini Ancy Annamma, David J. Connor & Beth A. Ferri, *Dis/ability Critical Race Studies (DisCrit): Theorizing at the Intersections of Race and Dis/ability*, in *DISCRIT: DISABILITY STUDIES & CRITICAL RACE THEORY IN EDUCATION* 19 (David J. Connor, Beth A. Ferri & Subini A. Annamma eds., 2016).

70. Guevara, *supra* note 65, at 285–87.

71. *Id.* at 274.

72. *Id.* at 278.

73. *Id.* at 280.

law to cancel any such contracts and/or to divert Federal dollars away from these un-American propaganda training sessions.⁷⁴

Professor Thomas characterized this order as a “weaponization of [C]ritical [R]ace [T]heory” by the Trump Administration through an “aggressive and active misrepresentation of [C]ritical [R]ace [T]heory . . . as advocacy of violence.”⁷⁵ But Critical Race Theory itself was not President Trump’s target. Rather, his target was the critical literacy project of the racial justice movements. His aim was to maintain a regime of “compulsory racial illiteracy,”⁷⁶ a state in which people would lack the capacity to challenge the racial status quo. Advocacy that demands a constitutional right is at the core of struggles against racism. Thus, these attacks on CRT are part of a movement to sustain a system in which Black, Brown, and the white poor are miseducated and undereducated in an increasingly carceral public school system and state.⁷⁷

Although Dean Barnes and Professor Thomas called attention to attacks on CRT, Dean Onwuachi-Willig (with Nia Johnson) noted that CRT plays an important role in shaping today’s social movement for racial equality.⁷⁸ In their presentation, *#CRT: How Critical Race Theory and Technology Enables Today’s Social Movement for Racial Equality*, Onwuachi-Willig and Johnson theorized that teaching CRT in classrooms across the country has not only allowed younger generations to grow up with expectations for what they should demand from equality, but also provides them with the theoretical frameworks for building the solutions to achieve that vision.⁷⁹ Onwuachi-Willig observed that CRT principles are laced throughout the Black Lives Matter movement’s core principles: that storytelling about the Black experience is critical; that our understandings of race and raced people are socially constructed; that different groups are racialized in different ways; that “constructing strategies based on converging interests is not a way to . . . get free”; and “that colorblind approaches are not an effective means for dismantling

74. OFF. OF MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, M-20-34, TRAINING IN THE FEDERAL GOVERNMENT (Sept. 4, 2020), *invalidated by* OFF. OF MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, M-21-17, REVOCATION OF EXECUTIVE ORDER 13950, M-20-37, AND M-20-34 (Mar. 2, 2021); Kendall Thomas, Nash Professor of L., Colum. L. Sch., Remarks at the *Wisconsin Law Review* Symposium: Wisconsin’s Intellectual History and Traditions (Oct. 22, 2020) (transcript on file with *Wisconsin Law Review*), <https://youtu.be/d8q2VNBT0E0> [<https://perma.cc/9MHM-ASS4>].

75. Thomas, *supra* note 74.

76. *Id.*

77. *Id.*

78. Angela Onwuachi-Willig, Dean & Professor of L., Bos. Univ. Sch. of L., Remarks at the *Wisconsin Law Review* Symposium: Wisconsin’s Intellectual History and Traditions (Oct. 22, 2020) (transcript on file with *Wisconsin Law Review*), <https://youtu.be/d8q2VNBT0E0> [<https://perma.cc/9MHM-ASS4>].

79. *Id.*

subordination.”⁸⁰ As co-founder of the Black Lives Matter movement, Alicia Garza said, “[w]hen you drop ‘Black’ from the equation of whose lives matter . . . you further a legacy of erasing Black lives and Black contributions from our movement [sic] legacy.”⁸¹

The 100th Anniversary Symposium Panel on Critical Race Theory leaves no doubt that what began at Wisconsin in 1989 has morphed into an influential intellectual movement. More importantly, its fundamental principles—that racial subordination has been a defining feature of the American experience and that American law has fostered its resiliency—are at the forefront of American discourse today. Thirty years ago, Critical Race Theorists who met in Wisconsin insisted that we examine the role of law in the maintenance of racial subordination and measure its efficacy based on whether it eliminated that racial subordination. It is more evident than ever in this poignant post-George Floyd moment that the core concerns of CRT remain especially relevant to our aspiration for a constitutional democracy that ensures equal justice under law.

80. *Id.*

81. *Id.* (quoting Alicia Garza, *A Herstory of the #BlackLivesMatter Movement* by Alicia Garza, FEMINIST WIRE (Oct. 7, 2014), <https://www.thefeministwire.com/2014/10/blacklivesmatter-2/> [<https://perma.cc/MTJ5-5XH9>]).