

## ***Critical Race and Feminist Legal Theory***

LPS 135 (CRN 6572)

Spring 2013

Prof. Cramer

Critical, Critical Race, and Feminist Legal Theories represent new (from the 1970s until the contemporary period) ways of thinking about and understanding the role of law in our lives. This course will introduce students to the foundational work in these realms as well as newer extensions of the theory via critical disability, queer, and intersectional analyses. Students will be required to engage in service learning, experiential learning, and/or community involvement through this course.

### ***Responsibilities and Policies {redacted}***

#### ***Grading***

Your grade in this course will be based on four (1 page single-spaced) reader response papers, three longer papers (5 - 12 pages), an in-class open book final examination, and your participation.

#### ***Response Papers***

During our first and second class periods, you will choose four readings to write a brief response paper for. The response paper must: summarize the argument made in the reading, explain the methodology used by the author(s), and analyze the understanding of law and legal consciousness inherent in the author(s) argument. It may also take an opinion regarding the usefulness of the author(s)' understanding, methodology, and argument. The response paper should be *no longer than 1.5 typed, single-spaced pages*. Each response paper is worth 50 possible points (200 total).

#### ***Longer Papers***

You will write three longer papers in this class – one personal narrative, one analysis of a text (court case, song, movie, photo), and one based on the learning you achieve through an experiential component (discussed in class). The rubrics for those three papers will be posted early in the semester, and you are encouraged to hand in drafts for review. I will accept drafts until April 19<sup>th</sup>; you may revise until you are happy with the grade – or until May 7<sup>th</sup> (whichever comes first). Final versions of all three papers are due on May 7<sup>th</sup>. Each paper is worth 100 points, for a total of 300 points possible.

#### ***Final Exam***

There will be an open note, in-class final, on May 15<sup>th</sup>. It will be comprised of two essay questions that will ask you to synthesize our work over the course of the semester. Each of the two essays on the final is worth 100 points, for a total of 200 points possible on the final.

### *Participation*

This is a class will operate as a seminar: you will learn from the readings, certainly, and from me – but also from each other. I expect every one to be prepared when they come to class, and to share their preparation with each other in respectful dialogue. You will be able to earn up to 100 “participation points” in this class. Many of these points will be based on your in-class work; you earn them primarily by being actively engaged in the material we cover this semester. Active and productive engagement will earn participation points; if you are consistently and obviously unprepared to participate in class discussion, your participation score will suffer. I encourage you to bring relevant and useful information to class; when you do, I will grant you participation credit. As well, some of the things that would usually be “extra credit” will, in this class, count as “participation” in the course. These include your attendance at relevant lectures, exhibits, rallies, and other events, as well as screening films, voting, and other activities. Opportunities for earning participation credit in this way will be posted frequently on Black Board. Your assignments and all grading rubrics, some of our course readings, and some additional/optional handouts and participation points information, will be posted to *Black Board* each week. In some cases, this will be your only access to that information.

### ***Required Resources***

You will find the majority of our resources on BlackBoard, in the “Course Information” folders. You are also required to purchase, or secure access to:

Bobel, Chris and Samantha Kwan (eds). 2012. *Embodied Resistance: Challenging the Norms, Breaking the Rules*. Nashville, TN: Vanderbilt Univeristy Press.

Delgado, Richard, and Jean Stefancic. 2012/2001. *Critical Race Theory: An Introduction*. New York City: New York University Press.

### ***Course Outline***

#### **The Limits of Liberal Legalism**

##### **January 29 First Class**

##### **January 31**

Have read: Delgado and Stefancic, pages xviii - 37

Davis, Peggy C. 1989. “Law as Microagression.” 98 *Yale Law Journal*

Nunn, Kenneth B. 1997. “Law as a Eurocentric Enterprise.” 15 *Law & Inequality: A Journal of Theory and Practice*

## **February 5**

Have read: Freeman, Alan David. 1978. "Legitimizing Racial Discrimination Through Antidiscrimination Law: A Critical Review of Supreme Court Doctrine." 62 *Minnesota Law Review* 1049.

Bell, Derrick. 1980. "*Brown v. Board of Education and the Interest Convergence Dilemma.*"

Gotanda, Neil. 1991. "A Critique of 'Our Constitution is Color-Blind.'" 44 *Stanford Law Review* 1

Peller, Gary. "Race-Consciousness."

## **February 7**

Have read: Nadine Taub and Wendy Williams. 1985 "Will Equality Require More Than Assimilation, Accommodation, or Separation from the Existing Social Structure?" 37 *Rutgers Law Review* 825: 825 – 845.

Martha Minow, 1987. "Justice Engendered," 101 *Harvard Law Review* 1.

West, Robin. 1988. "Jurisprudence and Gender." 55 *University of Chicago Law Review*.

## **February 12**

Have read: MacKinnon Catharine A. 1989. "Toward Feminist Jurisprudence." From *Towards a Feminist Theory of the State*. Catharine A. MacKinnon ... Cambridge: Harvard University Press.

Deborah Rhode. 1990. "Feminist Critical Theories," 42 *Stanford Law Review* 3 (1990): 617 – 638.

## **Narrativity**

### **February 14**

Have read: Delgado and Stefancic, pages 37 – 49

Ross, Thomas. 1989. "The Richmond Narratives." 68 *Texas Law Review*. 381.

Post, Deborah Waire. 1990. "The Politics of Pedagogy: Confessions of a Black Woman Law Professor." 6 *Berkeley Women's Law Journal*.

Russell, Margaret M. 1991. "Race and the Dominant Gaze: Narratives of Law and Inequality in Popular Film," 15 *Legal Studies Forum* 243 – 254.

## **Stories about Property**

### **February 19**

Have read: Williams, Patricia. 1987. "Alchemical Notes: Reconstructing Ideals from Deconstructed Rights." 22 *Harvard Civil Rights-Civil Liberties Law Review* 401.

Blog: "My First House: The Most Casual High Stakes Purchase of My Life." Parts I, II, and III. The Life of the Law, link provided on BlackBoard.

## **Stories about Hair**

### **February 21**

Have read: Caldwell, Paulette. 1991. "A Hair Piece: Perspectives on the Intersection of Race and Gender." *Duke Law Journal* 365.

### **February 26**

Have read: Montoya, Margaret. 1994. "Mascaras, Trenzas, y Grenas: Un/masking the Self While un/braiding Latina Stories and Legal Discourse." 17 *Harvard Women's Law Journal* 185.

### **February 28**

Have read: Fahs, Breanne and Denise A. and Delgado, "The Specter of Excess: Race, Class, and Gender in Women's Body Hair Narratives." Pages 13 – 25 in Bobel and Kwan.

Binford, Samantha, "From Rapunzel to G. I. Jane," pages 5 – 60 in Bobel and Kwan.

Pyle, Nathaniel C. and Noa Logan Klein, "Fat. Hairy. Sexy: Contesting Standards of Beauty and Sexuality in the Gay Community," pages 78 – 87 in Bobel and Kwan.

## **Stories about Bodies**

### **March 5**

Have read: Bergart, Catherine. "The Pickup," pages 114 – 116 in Bobel and Kwan.

Davis, Lennard J. "Bending Over Backwards: Disability, Narcissism, and the Law." 21 *Berkeley Journal of Employment and Labor Law* 193 – 212.

Samuels, Ellen. 2003. "My Body, My Closet: Invisible Disability and the Limits of Coming-Out Discourse." 9 *GLQ: A Journal of Lesbian and Gay Studies* 1-2: 233 – 255.

## **Stories about Violence**

### **March 7**

Have read: Estrich, Susan. 1987. "Real Rape." *95 Yale Law Journal*.  
View: Leslie Morgan Steiner, TedTalk.

### **March 12**

Have read: Franke, Katherine M. 2001. "Theorizing Yes: An Essay on Feminism, Law, and Desire." *101 Columbia Law Review* 181 – 208.

### **March 14**

Have read: Loewe, B. 2008. "How We Enter: Men, Gender, and Sexual Assault." Pages 98 – 102 from *Men Speak Out*.

Atherton-Zeman, Ben. 2008. "Men's Manifesto." Pages 258 – 260 from *Men Speak Out*

Ravarino, Jonathan. 2008. "Being a Social Justice Ally: A Feminist's Perspective on Preventing Male Violence." Pages 264 – 271 from *Men Speak Out*

MenCanStopRape.org

### **March 18 – 22**

### **Spring Break**

## **Essentialism and Intersectionality**

### **March 26**

Have read: Delgado and Stefancic 48 – 65      Essentialism and Intersectionality

Crenshaw, Kimberle Williams. 1989. "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics" *University of Chicago Legal Forum* 139.

Harris, Angela P. 1990. "Race and Essentialism in Feminist Legal Theory." *42 Stanford Law Review* 581.

### **March 28**

Have read: Austin, Regina. 1995. "Sapphire Bound!" *University of Wisconsin Law Review*

Cho, Sumi K. 1997. "Converging Stereotypes in Racialized Sexual Harassment: Where the Model Minority Meets Suzie Wong." *1 Journal of Gender, Race, and Justice* 177

## **Binaries**

### **April 2**

Have read: Kirkland, Anna. 2003. "Victorious Transsexuals in the Courtroom: A Challenge for Feminist Legal Theory." *28 Law & Social Inquiry* 1: 1 – 37.

Connell, Catherine. "The Politics of the Stall: Transgender and Genderqueer Workers Negotiating 'the Bathroom Question'" pages 175 – 185 in Bobel and Kwan.

### **April 4**

Have read: Delgado and Setefancic, 67 – 86

Lee, Cynthia Kwei Yung. 1996. "Race and Self-Defense: Toward a Normative Conception of Reasonableness." *81 Minnesota Law Review*

Ikemoto, Lisa C. 1993. "Traces of the Master Narrative in the Story of African American/Korean American Conflict: How We Constructed 'Los Angeles.'" *66 Southern California Law Review* 1581.

Perea, Juan F. 1997. "The Black/White Binary Paradigm of Race." *10 La Raza Law Journal* 127.

### **April 9**

Have read: Arriola, Elvia R. "Voices from the Barbed Wires of Despair: Women in the Maquiladoras, Latina Critical Legal Theory, and Gender at the U.S. Mexico Border," Elvia R. Arriola in Wing pages 406 - 414

Espinoza, Lslie and Angela Harris. 1997. "Embracing the Tar-Baby: LatCrit Theory and the Stickymess of Race." *10 La Raza Law Journal* 400

## **Masculinity**

### **April 11**

Have read: Hurt, Byron. 2003. "Daytona Beach: Beyond Beats and Rhymes." Pages 17 – 23 from Shira Tarrant (ed). *Men Speak Out: Views on Gender, Sex, and Power*. New York City: Routledge.

Einschlag, Nathan. 2008. "Stepping Out of Bounds" pages 43 – 46 from *Men Speak Out*.

Carter, Derrais. 2008. "This is What a Feminist Looks Like." Pages 151 – 153 from *Men Speak Out*

## **Lived Queer Identities**

**April 16**

Have read:

2010 State of Higher Education for GLTBQ Students, via BlackBoard

Jerke, Bud W. 2011. "Queer Ruralism" 34 *Harvard Journal of Law and Gender*.

*LGBTQIA* from 2013 *New York Times*

## **Witnessing Whiteness, Placing Privilege**

**April 18**

Have read: Harris, Cheryl I. 1993. "Whiteness as Property." 106 *Harvard Law Review* 1707.

Lopez, Ian F. Haney. 1994. "The Social Construction of Race." 29 *Harvard Civil Rights – Civil Liberties Law Review* (10 pages)

Lopez, Ian Haney. 1996. "White by Law." from *White By Law: The Legal Construction of Race*. New York City: New York University Press.

**April 23**

Rich, Adrienne. 1980. "Compulsory Heterosexuality and the Lesbian Experience" 5 *Signs: Journal of Women in Culture and Society* 4: 631 – 660.

Carbado, Devon. 2000. "Men, Feminism, and Male Heterosexual Privilege." 15 *Berkeley Women's Law Journal* 76. (6 pages)

Sumerau, J. Edward and Douglas P. Schrock, "It's Important to Show Your Colors: Counter-Heteronormativity in a Metropolitan Community Church." Pages 99 – 110 in Bobel and Kwan.

**April 25**

Have read: Grillo, Trina and Stephanie M. Wildman. 1991. "Obscuring the Importance of Race: The Implication of Making Comparisons Between Racism and Sexism (or Other –isms)." *Duke Law Journal* 397.

Wildman, Stephanie M. and Davis, Adrienne D. 1996. "Language and Silence: Making Systems of Privilege Visible." From *Privilege Revealed: How Invisible Privilege Undermines America*. New York City: New York University Press. (7 pages)

McCall, Leslie. 2005. "The Complexity of Intersectionality." 30 *Signs* 3: 1771-1800.

## **Intersectionality and Immigration**

### **April 30**

Have read: Banks, Taunya Lovell. 1999. "Toward a Global Critical Feminist Vision: Domestic Work and the Nanny Tax Debate." 3 *Journal of Gender Race and Justice* 1.

Turney, CT. 2010-2011 "Give me Your Tired, Your Poor, and Your Queer: The Need and Potential for Advocacy for LGBTQ Immigrant Detainees." 58 *University of California Law Review*.

Lavareiga-Monforti, Jessica and Renee Ann Cramer. 2013. "Guarding Our Borders with Gardasil: Immigrant Women and Physical Autonomy." Forthcoming from *Journal of Women and Politics*

### **May 2**

Have read: Ignatiev, Noel. Racetractor.com

Blackgirlsaredangerous.com

<http://thesocietypages.org/socimages/2013/01/22/the-balancing-act-of-being-female-or-why-we-have-so-many-clothes/>

Crass, Chris. "Tools for Guys (And Others With Privilege) Who Are Working for Social Change" pages 283 – 284 from *Men Speak Out*

### **May 7**

Have read: Delgado and Stefancic, pages 87 - 140

Marable, Manning. 1995. "Beyond Racial Identity Politics: Towards a Liberation Theory for Multicultural Democracy." From *Privileging Positions: The Sites of Asian American Studies*. Tacoma: Washington State University Press.

Bring: All Three Papers, if you've not already turned them in.

### **May 9**

Have read: Valdes, Francisco. 1997-1998. "Beyond Sexual Orientation in Queer Legal Theory: Majoritarianism, Multidimensionality, and Responsibility in Social Justice Scholarship. OR Legal Scholars as Cultural Warriors." 75 *Denver University Law Review* 1409 – 124.

Volpp, Leti. 2001. "Feminism versus Multiculturalism." *ColumbiaLaw Review* 1181.

### **May 15**

**Final Exam 12:00 – 1:50**  
Open Book, Open Heart, Open Mind, Open Note.