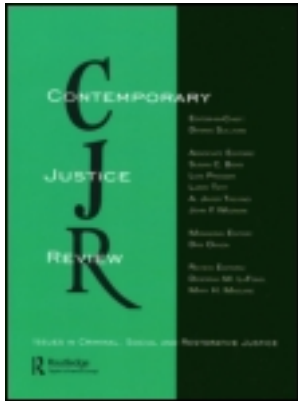


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INTRODUCTION TO SPECIAL ISSUE

What's so critical about critical race theory?

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As a burgeoning and widely recognized critical-emancipationist program, critical race theory (CRT) retains its commitment to treating the social construction of race as central to the way that people of color are ordered and constrained in society. In advocating for justice for such 'minority' populations as Blacks, Latinos, Asians, gays, Indians, and women of color, CRT has in recent years ramified into several area programs including Latino/a critical studies, critical queer studies, critical race feminism, and critical White studies. Despite its important analytical and activist breakthroughs in rooting out racial injustice, we argue that CRT needs to sharpen its critical edge. In order to do so, it must confront and resolve the three problems of (1) the rule of law, (2) theory, and (3) colorism.

Keywords: critical race theory (CRT); racial injustice; rule of law; social theory; colorism

In 1903 W.E.B. Du Bois began his most famous book, *The Souls of Black Folk*, by stating presciently and precisely, '[T]he problem of the Twentieth Century is the problem of the color line' (p. 1). Despite Du Bois's important social-psychological concept of the double consciousness – of two conflicting selves 'in one dark body' – social theory, throughout most of the twentieth century, remained impoverished in its consideration of the problem of the color line. Its destitution in this respect was due largely to the lack of an explicit and sustained analysis of racial injustice, a pernicious problem that, then as now, is deeply entrenched in the very foundations – the everyday thought processes, practices, and institutions – of US society.

It wasn't until much later in that century, indeed some 80-odd years after Du Bois proposed his concept, that a critical-emancipationist analytic program, critical race theory, emerged. Scholars of race developed CRT as a critical response to the 'problem of the color line,' informing it with transformative politics, first in the area of legal studies and soon thereafter permeating and invigorating the margins of other fields including sociology, justice studies, and education.

A short distance past the threshold of the twenty-first century, critical race theory (CRT) is now no longer new. And although it remains faithful to its original mandate of treating the social construction of race as central to the way that people of color are ordered and constrained in the United States, CRT has begun to move beyond the Black–White paradigm and beyond vulgar racial essentialism to consider the racialized lives of other oppressed minorities, the daily micro-aggressions inflicted upon various oppressed minorities such as Latinos, Asians, gays, Indians, and women of color. Thus, in recent years, it has quickly ramified into several area programs such as Latino/a critical studies (LatCrit), critical queer studies (queer-crit), critical race feminism, and critical White studies, to name just some of the more salient ones. As such, CRT now grapples with such provocative and weighty issues as immigration, language rights, sexism, internal colonialism, sexual oppression, transnationality, and citizenship status.

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At its core, CRT is committed to advocating for justice for people who find themselves occupying positions on the margins – for those who hold ‘minority’ status. It directs attention to the ways in which structural arrangements inhibit and disadvantage some more than others in our society. It spotlights the form and function of dispossession, disenfranchisement, and discrimination across a range of social institutions, and then seeks to give voice to those who are victimized and displaced. CRT, therefore, seeks not only to name, but to be a tool for rooting out inequality and injustice.

As an innovative program, CRT has introduced a new critical form of expression. In intoning this ‘voice of color,’ critical race scholars have in the past dozen or so years turned to writing in the form of narrative, or ‘storytelling,’ not only as a rhetorical device for conveying their personal racialized experiences but also as a way of countering the metanarratives – the images, preconceptions, and myths – that have been propagated by the dominant culture of hegemonic Whiteness as a way of maintaining racial inequality. The crit’s raced counterstories have produced a community of discourse with a plethora of metaphors (e.g., the border), typologies (e.g., Black gay/butch-trans, double minorities), concepts (e.g., race-d, intersectionality, structural determinism), and methods (e.g., perspectivalism), all of which provide us with a better understanding of the multidimensionality of racism in America that heretofore had not been possible. Thus, even though CRT has not become the ‘new civil rights orthodoxy’ that Richard Delgado (2001, p. 133) imagined, it is clearly the case that, more than any other intellectual movement within and outside academe, CRT has been disproportionately influential in bringing race discourse to the forefront of informed discussions on civil society.

However, despite this and other important breakthroughs of CRT, there is of course always room for improvement. Therefore, as an exercise in autocriticism and in the interest of paradigmatic expansion, we propose three problems that CRT must resolve as a way of increasing its analytic power, its *critical edge*.

To begin with, we admonish CRT legal scholars to examine self-reflexively their own deep cultural commitment to the *rule of law*. Thus far they have largely failed to recognize, or, more inexcusably, they have failed to admit, that CRT’s central tenet of addressing the issue of racism through law is inextricably tied to the ontology of law’s rule. In regard to racial (in)justice and (in)equality, the CRT program relies on concepts and strategies that endeavor to change legislation and thinking about law – but always from *within* the legal system. Indeed, the issue of racial justice in the CRT program is invariably argued in terms of the form and substance of law, never in terms of *whether* law, in general, should rule at all. The fact of the matter is that it is in the nature of CRT to operate internally to law’s rule and, as such, proffer its critiques within an order that it itself legitimates. Notwithstanding all their talk of indeterminacy, their arguments against colorblind legislation, and their skepticism about civil rights, the crits instinctively approach law – or, as they like to say in an obvious gesture of legal reification, *the law* – from the perspective of its validity. Because they have no Archimedean point outside of law on which to stand, CRT scholars are not only incapable of launching a preemptive critique of law, but more importantly they cannot conceive of racial justice independent of a culture wholly permeated by law’s rule. Having effectively detailed the history of the core beliefs of racism in the US, we propose that if CRT is to forge successfully a full-scale critique of law – in its formulation, administration, and enforcement – as both a product and a promoter of racism, it must also question the core beliefs that justify the rule of law.

We suggest that the theoretical fulcrum on which a more humanistic analysis of race can turn – an analysis that (1) eschews law’s fetishism of litigation, reparations, civil rights, briefs, etc.; (2) focuses on race without necessarily relying on the notion of rationalized law; and (3) is more alert to larger issues of social, and not just criminal and civil, justice – rests in phenomenological investigations of the lifeworlds of people of color. Indeed, such a humanistic analysis, in which law’s rule can be temporarily bracketed and in which the individual’s (inter)subjective accounts

are seriously considered, already exists in one very important aspect of CRT: the telling of stories that recount the lived experiences of people of color from their own frame of reference. We maintain that it is through CRT's narrative method that the conceptualization of the rule of law can best be transcended; more than that, counterstorytelling functions as an act of law's subversion as people of color reframe cultural myths in particular ways so as to fundamentally remake them.

The second problem confronting CRT involves the question of *theory*. Whatever it may be, and however it may be understood, social theory is typically considered to be an intellectual enterprise that involves everything from the articulation of a set of precisely stated and logically related propositions that explain a relationship between concepts, to the formulation of a structured conceptual scheme that provides a general interpretation or critique of social reality. We maintain that there are two reasons why CRT is not a theory in this usually accepted understanding of the term. The first concerns what we call the issue of architecture, and the second concerns what we refer to as the issue of fundamentalism.

CRT has many rigorous concepts and methods, but these have not been coherently integrated in a way that would give CRT the systematic structure – the intellectual architecture – that is representative, and in fact required, of most social theory. What we frequently get with CRT is not a unified theory but a loose hodgepodge of analytic tools that are frequently used in a catch-as-catch-can manner. Additionally, while CRT does possess several basic tenets or 'theses' – e.g., the normality of racism thesis, the social construction thesis, the differential racialization thesis, the voice-of-color thesis – these do not constitute a fundamental set of beliefs on which all critics agree. Because of these two related issues of architecture and fundamentalism, we contend that CRT is rather less a 'theory' than it is an intellectual 'movement' in thought and work about race.

Why should architectural and fundamentalist matters concern us, and, perhaps more to the point, why should CRT continue to refer to itself as theory? First, and very simply, CRT's association with the term 'theory' bestows on it an intellectual legitimacy and an institutional acceptance in the high-brow world of academia that has historically been denied to the scholarship of professors of color. It has been the case that whether that scholarship extols the White Eurocentric canon (e.g., Anglo-Saxon literature) or focuses on marginalized communities (e.g., Black studies), it has itself all too often been marginalized – devalued and ignored – because many White faculty find it difficult to reconcile the work of Black and Latino/a scholars with academic excellence. However, because theory, whether practiced in the natural sciences, the social sciences, or, more recently, the humanities, is held in high regard in the academy, referring to the critics' scholarly work as theory gives CRT scholarship a certain prestige.

More importantly, however, and despite its conceptual *mélange*, CRT does provide a theoretically informed heuristic for activists to consult. Such a praxis is most profoundly evidenced by the legal critics' presentation of *amicus curiae* briefs and victim-centered arguments in recent cases involving hate speech crimes. We note, as one high-profile example, the US Supreme Court case *R.A.V., Petitioner, v. City of St. Paul, Minnesota* (1992) in which the Court overturned the conviction of a teenager for erecting and burning a cross in the front yard of an African American family's house. Justice Scalia, writing for the majority, stated that speech is protected independent of content. CRT legal scholars Mari Matsuda and Charles R. Lawrence III have proposed a counterargument to Scalia's, one that is crafted around a central tenet of CRT: that is it more important to consider situational context and history than it is to consider purely formalistic legal issues. Thus, against the Court's opinion, Matsuda and Lawrence posit that when acts of speech – in this case, the cross burning – have historically been contextualized as threatening violence on the basis of race, then those words or symbols become a message of racial hatred.

Finally, we find it regrettable that CRT has largely ignored the intractable problem of *colorism*. Indeed, even as critical race theorists challenge the notion of colorblindness, arguing that such a position does not allow a nuanced consideration of the subtleties of racism, they nonetheless

continue to focus almost exclusively on the simplistic Black/White binary that has historically been buttressed by the ‘one-drop’ rule. As such, CRT does not lend enough credence or give enough attention to intraracial color hierarchies and discrimination – to the injustices experienced by multiracial persons and the prejudicial treatment of individuals within a racial or ethnic group based on differences in skin pigmentation. We contend that if CRT is to maintain and sharpen its cutting-edge approach to identifying and deconstructing prejudice in America’s social order, it must adopt a more sensitive and appropriate analytical lens that accounts not only for race and racism, but also for their constituent parts of color and colorism (e.g., the shades of ‘blackness’ in the African American and the Afro-Latino communities, and ‘Chicano Indianism’ in the Mexican American community). As the number of color discrimination lawsuits surges, and as the practice of race mixing increases, CRT will, of necessity, require, as part of its conceptual apparatus, a radical color consciousness – a social constructionism of phenotype.

We present these three problems – of the rule of law, of theory, and of colorism – as a productive critique of CRT in the hope of advancing both its theoretical and activist components. Clearly, CRT has already expanded its race-conscious analysis in directions that have proved quite fruitful, particularly in the areas of education and mental health. Much more can and should be expected of this robust program for years to come.

The articles in this issue either utilize CRT as a tool for elucidating the subtleties of inequality across a number of social domains, or advocate for the use of CRT to articulate better the complexity and insidiousness of racism. These articles illustrate CRT’s dynamic and eclectic nature in addressing the ubiquitous problem of racism and inequality.

The first article, by Chong-suk Han, uses storytelling and counterstorytelling to bring to light how one marginalized group – gay white men – oppress yet another out-group, which they perceive to be subaltern to them – gay Asian men. Han’s point is that embedded in the stories of these two communities that operate outside the core is the use of language and practices that reflect the racial and social inequality that is pervasive in the dominant culture. The irony is clear: those who are themselves victims of discrimination can also be victimizers of others who are perceived to hold even more racially subordinate positions.

Lindsay Perez Huber, Corina Benavides Lopez, Maria C. Malagon, Veronica Velez, and Daniel G. Solorzano’s article is theoretical. They extend LatCrit’s utility by suggesting that it can be used as a framework for theorizing what they call ‘racist nativism.’ They contend that Latinas/os are the current victims of the ‘disease’ of White supremacy, whereby Whites are seen as native and all others as non-native.

Mary Romero continues the conversation about those perceived to be non-native by focusing on the paucity of a critical analysis of racism in research on American immigration. Particularly in the framing of the US–Mexico border as a source of immigration problems, immigration studies must turn its attention, she asserts, to how racial profiling, the militarization of the southern border, and the deaths that occur there speak to the importance of racism in the study of immigration.

In our last article, Tony N. Brown challenges researchers to see CRT as a tool that can enrich areas of sociological research that heretofore have not paid sufficient attention to the social-psychological consequences of racism. Specifically, Brown makes the case for critical race analysis in the sociology of mental health. The article presents five weaknesses in the mental health literature, and then illustrates how applying CRT’s tenets could help to fill these gaps.

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