

# THE VALUE OF CRITICAL LEGAL STUDIES IN THE LEGAL EDUCATION SYSTEM

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“Legal ideas are manipulable and that law serves to legitimate existing maldistributions of wealth and power.<sup>1</sup>”

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<sup>1</sup> Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 327 (1987).



## INTRODUCTION

I wrote the first draft of this paper as a final paper for a Critical Legal Studies course I took my second year of law school. The original goal of this paper was to examine how my views on race changed throughout that semester of Critical Legal Studies. At that time, I questioned whether or not to accept the teachings of the movement and if so, what role I wanted to play in the movement. I have expanded the scope of this paper to include an explanation of how Critical Legal Studies has influenced the rest of my legal education and advocate for the inclusion of Critical Legal Studies into the curriculum of all law schools. As I studied literature to include in this paper, I found my words echoed those I read from prominent critical legal scholars. I realized my thoughts were on par with other critics and that the Critical Legal Studies movement is a movement I believe in.

I begin with my background and experience with race, in order to demonstrate my starting point at the beginning of that semester. I focus on how those beliefs were challenged during class discussions and readings and explain how my views evolved throughout that semester. I then suggest law schools make Critical Legal Studies part of their curriculum. In short, this paper chronicles my experience of exposure to the Crit movement, my decision to become a part of the movement, and the effect it has had on my legal education. This is a first-hand account of my experience with the Critical Legal Studies movement and why that experience is worth requiring all law students to be exposed to the ideas espoused by Critical Legal Studies.

## I. GROWING UP IN A RACE VACUUM

I grew up in a race vacuum unaware of the role race played in our society, and protected from its hard reality. It was a byproduct of growing up in a military community as well as the color of my own skin. By race vacuum I mean that I was unaware of the role race plays in our society, as I was protected from its hard reality. It was a byproduct of growing up in a military community and the color of my own skin. I came to this conclusion after talking to a classmate throughout the semester about things I had learned from class. There were two factors that contributed to this fact. The first is I grew up on Air Force bases and in an Air Force community. The second is I grew up a white male.

My family moved to Mountain Home Air Force Base, Idaho, when I was nine. I grew up on a military base, which meant I was around people of all races throughout my childhood. My family moved to Mountain Home Air Force Base, Idaho, when I was nine. We lived both on and off the base in nearby Mountain Home the rest of my childhood. I lived on or near an Air Force bases until I moved away to college. The diversity of the area compared to rest of Idaho is attributable to two key factors. African-Americans are over represented in the military when compared to the general population.<sup>2</sup> In addition, there is a large population of Hispanics in Mountain Home as well as a higher percentage of African-Americans than the rest of the state.<sup>3</sup> I lived across the street from an African-American family in Ohio, next door to an African-American family in Idaho, and I went to school with Hispanics and Asians and grew up with

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<sup>2</sup> Tim Kane, *Who Bears the Burden? Demographic Characteristics of U.S. Military Recruits Before and After 9/11*, <http://www.heritage.org/research/reports/2005/11/who-bears-the-burden-demographic-characteristics-of-us-military-recruits-before-and-after-9-11> (accessed Dec. 1, 2011).

<sup>3</sup> U.S. Census Bureau, *State & County QuickFacts*, <http://quickfacts.census.gov/qfd/states/16/1654730.html> (last visited Dec. 1, 2011).

African-American friends. Growing up as a child in the military, I never felt like race was an issue.

In the military, people are treated by the rank on their sleeves, not the color of their skin. As a child, I heard of race-related issues occurring across the country, but these issues always seemed to be happening in faraway places. Race was something people in large cities in other states dealt with; it was not something I had to deal with in my world. The closest I had to deal with race was in my high school. There was a divide between the White/African-American students and Mexican students. But that divide consisted mostly making it a point not to start a fight with Mexicans because there was a shared notion that they would go and get all of their friends and you would have to fight all the Mexicans. The effect of growing up on an Air Force base extended to the community as well. Mountain Home elected the first black mayor in the state of Idaho in 2003.<sup>4</sup> It was not until I traveled the rest of the state that I realized there are not a lot of African-Americans in the rest of Idaho. But growing up, I had no way of knowing that the town I lived in was not like other towns.

My favorite vacation spot shows the direct contract between my towns and others. My parents got divorced when I was young and my mother raised my three sisters and me. We moved from South Carolina to Tennessee, where we stayed with our grandmother for a year, to Ohio, and then to Idaho when I was nine. After moving to Idaho, I did not have any contact with my dad until I was 19. I did not spend any other time in Tennessee until I was 22. Since then, I have made several trips to visit the other half of my family. My oldest half sister is 19 and the other one is 18. Spending time with them in Tennessee has allowed me to see how my feelings about race might be different if I had grown up somewhere other than where I did. To say race is an issue in Tennessee is an understatement. If I grew up in a race vacuum, my sisters grew up in a race pressure cooker. The Ku Klux Klan was started in Tennessee<sup>5</sup>, there are large populations of both black and white people,<sup>6</sup> and interracial relations seem to be deteriorating, rather than improving.<sup>7</sup> The biggest difference between racial issues in Tennessee and Idaho is the "us and them" mentality that I have noticed in Tennessee. I think the simple reason for the lack of an "us versus them" in Idaho is there simply are not enough African-Americans in Idaho to form an "us" or a "them" presence, as less than one percent of Idaho's population is African-American.<sup>8</sup> My sisters talk of African-Americans as a collective whole and use words like "they" and say "he is black" as if that justifies whatever point they are trying to make about someone. One of my sisters told me that our grandmother would tell her if she did not go to sleep at night, "black people would come get her." I know without a doubt she did not make this up because once she

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<sup>4</sup> State of Idaho Department of Labor, *Roger B. Madsen Remarks: Martian Luther King Day Ceremonies - Mountain Home*, <http://labor.idaho.gov/NEWS/Default.aspx?TabId=1953&ctl=PressRelease&mid=2527&itemid=2288&AspxAutoDetectCookieSupport=1> (accessed Dec. 1, 2011).

<sup>5</sup> *KKK History* (posted Feb. 10, 2012, 5:07 AM), <http://kukluxklan.net/kkk-history>.

<sup>6</sup> *Tennessee Quickfacts*, U.S. CENSUS BUREAU (last revised Sep. 18, 2012, 4:41 PM EDT), <http://quickfacts.census.gov/qfd/states/47000.html>.

<sup>7</sup> See Tennessee Advisory Committee to the United States Commission on Civil Rights, *Burning of African American Churches in Tennessee and Perceptions of Race Relations*, Transcript of a Community Forum, Held July 10, 1996, Memphis, Tennessee, available at <http://www.law.umaryland.edu/marshall/usccr/documents/cr12b876.pdf>.

<sup>8</sup> *Mountain Home (city) QuickFacts*, U.S. CENSUS BUREAU, (last revised Sep. 18, 2012, 4:49 PM EDT), <http://quickfacts.census.gov/qfd/states/16/1654730.html> (last visited Dec. 1, 2011).

said it, I remember our grandmother telling my sisters and I the same thing during the year we stayed with her.

Not surprisingly, my own military experience has mirrored the experiences I had growing up in a military community. My experience with race in the military can be summed up in one sentence. During the first phase of Officer Candidate School, one of my white classmates kept calling an African-American candidate another African-American candidate's name. After the third or fourth mistake in minutes, the wrongly-addressed soldier started to get upset. The white candidate tried to apologize but was cut off by our Non-Commissioned Officer, who was also black. He tried to defuse the situation and then boldly said something I will never forget: "There is only one color in this Army: green." It pretty much ended the discussion. No one could argue with him. He was highly respected in our platoon, highly proficient in instructing us, and he was a man of color himself telling us racial discrimination had no place in the United States Army. I truly hope that is the case across all branches of the military on a day-to-day basis. One of the things I like most about the military is people are judged by their own merits and treated accordingly. It does not matter if your parents are rich, where you are from, what color you are, or (as of very recently) what your sexual preference is. People are treated based on their rank.<sup>9</sup> Their rank is based largely on their performance and everyone has equal access for upward mobility. This has given minorities a chance to have the type of career progression that might be unavailable to them in other careers. People play a role in evaluating others because of personal politics so it is not a perfect system. Nonetheless, it is one of the best systems out there, and it is constantly improving with the creation of Equal Opportunity officers and other similar policies. The system is not easy to compare to the civilian workforce because the control the military has over its workforce is not duplicated in the civilian sector. The military literally owns its people and can say "You are either going to get along with people who are different from you, if not, you are going to at least pretend like you do and treat people with respect or we have a process in place to get you out of here."<sup>10</sup>

My current reserve unit consists of all white males, with the expectation of two white females, so it is difficult for me to comment on the day-to-day treatment of minorities in the military. But I can say some of the most professional people I have come across in the military were two of my basic training drill sergeants, who were both African-American. I cannot remember their names, but I do remember the level of professionalism they set and I have seldom come across it again in the past 10 years of my career. I worked with people of different races and just like every other job in the world, I have met people who have been good and bad at their jobs, but race has not seemed to play a correlating role. Military offers are an example of how successful people could be if color barriers were removed from the workplace. People would be able to work hard and know that they would be rewarded for doing so without skin color being a factor in their promotion. We are starting to see this become true for gender, as women have played an increase role in combat during the current conflicts that have eroded the traditional front lines of the battlefields. With the repeal of Don't Ask, Don't Tell, the long-standing policy against homosexual soldiers, the military has taken a huge step to make this true with respect to sexuality as well. Most noticeably, the disclosure of one's sexuality will no longer result in the end of their career.

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<sup>9</sup> Minorities have a long history of joining the military as part of a conscious effort to counteract racism. Matsuda, *supra* note 1, at 354.

<sup>10</sup> See Joe Gould, *Ex-brigade commander slammed for behavior*, ARMY TIMES (Nov. 20, 2011), <http://www.armytimes.com/news/2011/11/army-brigade-commander-slammed-for-behavior-112011w/>

My travels in the United States also influenced my view on race before the start of the CLS class. When I came home from an Iraq deployment, my unit demobilized at Fort Lewis, which is right outside the Seattle area. While we were there, a group of friends and I rented a vehicle and had dinner at the Space Needle. After dinner, we walked around the city because our driver wanted to take pictures. At some point, we all had to go to the bathroom and decided that the nearest McDonald's was our best bet. I headed across the street by myself while my friend took more photos. As I was making my way across the parking lot, two African-American males approached me. I was sure something bad was about to happen—I was a small-town kid in a big city for the first time and was approached by two people I did not know in a parking lot. I am not sure what role their race played in my evaluation of the situation. I think I would have been hesitant even if they were white, female, or six-years-old because I was by myself in a McDonald's parking lot in a big city at night. However, those fears vanished when they handed me literature about the Bible and Jesus. That experience taught me the value of stereotypes.

My world travels have played a role in shaping my influence as well. Backpacking though South America a few years ago was the closest I have felt to being a minority. As an American in South America, I was clearly in the minority in terms of numbers and my race, but that experience does not compare with the experience most minorities experience in this country. I recognized people treated me different from the locals and it did not take me long to figure out that it was because people would look at me and assume I had money that they wanted. While I did not have a lot of money, I had a lot more money than most of the locals due to the exchange rate and the cost of living. People were beyond nice and would go out of their way to help me. I do not know Spanish, but I never felt like this was a handicap because money is the universal language. They knew I had it and were willing to put up with me not knowing their language to communicate with me to get it in exchange for whatever I was attempting to purchase.

In Paraguay, a taxi driver drove my friends and I to a resort-like campsite that only locals were supposed to have access to. He had to personally vouch for us and fill out paperwork so we could get a permit to stay there overnight. He explained he wanted to make sure that the group I was traveling with had a good time in hopes we would go home and tell our friends about our time there and convince them that they too should visit the area. I spent a lot of time not talking to anyone for long stretches of that trip because I did not speak Spanish and I quickly grew tired of my traveling partner, I used this time to write in a journal and did a lot of reflecting on both myself and the experiences I had while traveling. I thought about the way I was being treated in foreign countries compared to how foreigners are treated in my own country. I had been a foreigner in five countries where I did not speak the language. And yet, I was never treated harshly for it.<sup>11</sup> As a whole, Americans are not as accepting and forgiving to foreigners in our country who do not speak English. I have never worked in the fast food business before, but I can imagine how frustrated someone behind the counter of a fast food restaurant would feel if someone from another country who did not speak English walked up to their counter and tried to place an order while pointing, smiling, and pretending to be embarrassed he did not speaking English. That person probably would not be met by the same friendly faces that I encountered on my travels throughout South America. But yet, we are two people who have a lot in common: we both just want to get something to eat in a place we do not know the language. The biggest difference is it is assumed I have money and it is assumed he does not. It is assumed that I came

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<sup>11</sup> This was consistent with McIntosh's white privilege of being able to remain oblivious of the language and customs of persons of color who constitute the world's majority without feeling in my culture any penalty for such oblivion.

to their country to spend money. It is assumed he likely came into our country looking to make money.

The second reason I grew up in a race vacuum is because I am a white male and therefore, race was not as big of an issue to me as it is to people of color because I could choose not to make it an issue. I do not know what it is like to be discriminated against because I am white.<sup>12</sup> If I have, I do not remember it. I realize that I get to describe the experiences I have had with other race as “experiences.” However, what I call “experiences” a lot of people call “everyday life.” If I did grow up in a race vacuum, it was due to my own choosing more than anything else. From my experiences with Critical Legal Studies, I can now see that race issues were more prevalent than I had given them credit for previously. I just chose not to see it.

## II. STUDYING CRITICAL LEGAL STUDIES

With the above mindset, I entered the CLS classroom, not too sure of what I would find there. I mostly took the class because it was taught by a professor I had the year before whose class I had liked.<sup>13</sup> I came into class without really considering that there were a lot of other views about race than just mine. I did not really realize, mostly because I had never thought about it before, that my view on race was vastly different than a lot of my classmates and very similar to other classmates in a number of ways. Overall though, I felt like race was not something I, or my classmates at the University of Idaho, had dealt a lot with. It still seemed like racial problems occurred in faraway places on the news. I would soon learn I was wrong and that my classmates’ experiences affected me in ways I had not considered before.

Prior to the start of class, I decided that while it was a discussion class, I was not going to participate heavily in discussion. Instead my plan was to just sit quietly in class and learn from my classmates. I reasoned that they had to know more about race than I did. This plan did not last very long. In part because I do not have the ability to spend ten minutes in a room without speaking and largely in part because I realized early on the opportunity this class had presented me. This class gave me the opportunity to challenge the beliefs and opinions I had grown up with. I really believe education is about challenging your beliefs and that was what I tried to do throughout the semester. I could tell some of my classmates’ views were different than what I had believed and I had the choice to either sit quietly in class and listen to them, or use the opportunity to challenge what they had said with what I believed. It was really an eye-opening experience with for me as I learned a great deal throughout the semester. All law students should experience a Critical Legal Studies course while in school.

### *A. Reflections*

I had planned on going through the course readings that focus on race again and attempt to show how each article was like a piece of a puzzle for me though the semester, but then realized I could not do this because a lot of what I learned came from discussions that spanned several class periods, multiple reading assignments, and various class themes. In addition, I spent a lot of time outside the classroom thinking about what was said inside of it and how that compared to

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<sup>12</sup> I realized after I wrote another section of this paper that when white people are discriminated against, it’s often referred to as “white privilege.”

<sup>13</sup> This strategy would later result in my taking property securities.

what was said on previous days. As an alternative to my original plan, I selected several themes that stuck out to me throughout the semester<sup>14</sup>.

### III. WHITE PRIVILEGE

I cannot deny I have been treated differently at times in certain places because of my race. I also cannot deny that for the majority of those times, any differential treatment was generally in either a positive or non-negative manner. However, I was previously unaware that this phenomenon had a name: white privilege<sup>15</sup>. While I could relate strongly with Peggy McIntosh's experiences as she listed numerous advantages she is afforded because she is white<sup>16</sup>, I had never thought of them as "privileges" before.<sup>17</sup> For the same reason I can call the experiences I described above "experiences" while those subject to racial discrimination on a daily basis call it "everyday life," white privileges are not privileges to me, but my everyday life. The fact that I can walk into any store without the intent to actually purchase anything and not be looked at suspiciously, followed though the store, or asked to leave is not something I think of as a "privilege." It's not even something I expect to happen, it just happens. Treating someone better than others based on their race is just as wrong as treating someone else worse than others based on their race.

Since learning about white privilege, I have reflected on how I use it. The realization I have, has been described as "an invisible package of unearned assets which I can count on cashing in each day," has caused me to become accountable to myself in how I use them.<sup>18</sup> I abuse the privileges I have as a white male. For example, many of my classmates who are minorities who are female dress very well for class most days. When I talk to these classmates, I learn that they are often the first in their family to either graduate from college or pursue a professional degree. One of them has told me she makes it a point to participate in every discussion she can to ensure females have a voice in discussions that occur in the law school. I was the first to graduate from college in my family and the first to pursue a professional degree, but I spend about four minutes a day getting ready for class. I can do this because the majority of my classmates look like me. I do not worry that someone is going to walk into a classroom, look around, see me, and question if I belong there or not. I do not feel the need to prove I belong at law school every day because of my race. I do not need to make it a point to speak at every event I attend because I have never participated in a discussion where at least one other white male did not speak. I have the privilege of being able to speak only when I have something I want to contribute to the conversation.

During the course of the in-class discussion over white privilege, we discussed white guilt. I had never heard of white guilt before, which is the idea that white people feel guilty that other people are discriminated against and they are not. The example brought up in class was feeling guilty while watching someone of Middle Eastern dissent being searched at the airport

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<sup>14</sup> This is not an all-inclusive list, but I couldn't include everything or this paper would have been much longer than it already is.

<sup>15</sup> Peggy McIntosh, *White Privilege: Unpacking the Invisible Knapsack* (excerpt from Working Paper #189, "White Privilege and Male Privilege: A Personal Account of Coming To See Correspondence Through Work in Women's Studies" 1998).

<sup>16</sup> McIntosh lists twenty-six white privileges. I can asses to the same 26 white privileges twenty-four years later.

<sup>17</sup> *Id.* "I think whites are carefully taught not to recognize white privilege."

<sup>18</sup> *Id.*, "Describing white privileges makes one newly accountable."

while white people were free to pass through security without being searched. I have a hard time accepting this concept, or at least I have a hard time applying it to myself. If I were to see a Middle Eastern person being searched at the airport, I would assume that they had been randomly selected to be searched— since I myself have been selected multiple times. I also would not approach TSA at the airport while I was trying to board a plane and question how they choose to select people for searches. That decision would likely result in me not reaching my final destination on time and it would not change anything. Even if I did suspect the person was being searched because of his skin color, I would not feel guilty about it. How one person treats another is not something I can control. While I would feel bad for that person, I would not feel guilty that a member of my race was treating someone else unfairly. That would imply that I was taking part in the discrimination, which I am not. I only feel guilty for things I do that I know I should not. For example, every time I say “fuck” out loud, I remember my Mom lecturing me the last time she heard me say it. I was 24 then, but I still feel guilty that I just did something she would not approve of. But that is an action I choose to do and take full responsibility for doing so. I cannot take responsibility for someone else's actions. In a non-race context, when I walk past someone on campus who is physically disabled, I sometimes think about how I take being able-bodied for granted, and how that person has to struggle to do things I do every day without thinking about it. I feel bad for that person, and I wonder how my life would be different if I was in their position, but I do not feel guilty for being able-bodied. Nor do I feel guilty for being white.

But I am aware that I am white and that subjects me to certain privileges whether I want them or not. I am not really sure what to do with that realization. I cannot control how people treat me or other people. I can only control how I treat others. The next time I feel that I am being treated with privilege, I can look around and see how others are being treated. I can strive to treat people equally and look for ways I treat white people better than others and treat everyone in the same manner, just like I can look for ways I treat minorities different than white people and end those practices.

#### IV. WHY RACE MATTERS TO ME

After the first few class discussions and assignments, I started to realize race was not just a problem in places I heard about on the news or a problem of the past. My classmates shared experiences of discrimination against themselves and their family members. Those stories put faces on the word discrimination. We read one paper that gave the country the choice to trade our country's African-American population to aliens in exchange for valuable resources.<sup>19</sup> Then we read another paper that suggested our country had already made that choice multiple times.<sup>20</sup> The second article reminded me of a conversation I had with a man in Hawaii last Christmas about how some of the locals feel their islands were forcibly taken by the U.S. government and wanted to see their royal leaders put back in place.<sup>21</sup> A corresponding class exercise presented many examples of racial discrimination throughout our history and asked us to raise our hands if we

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<sup>19</sup> Derrick Bell, Jr., *After We're Gone: Prudent Speculations on America in a Post-Racial Epoch*, 34 ST. LOUIS U. L.J. 393, 397–400 (1990).

<sup>20</sup> Michael A. Olivas, *The Chronicles, My Grandfather's Stories, and Immigration Law: The Slave Trader's Chronicle as Racial History*, 34 ST. LOUIS U. L.J. 425, 429 (1990).

<sup>21</sup> See Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L.REV. 323, 368-373 (1987).

had learned of those examples in school.<sup>22</sup> My hand stayed down for most of the examples presented, while a small number of hands kept going up. I was confused how I could be towards the top of the education system in this country and not have heard of certain events in our history, while other people were claiming to have learned about them. Looking back, I do not recall seeing a lot of white people raising their hands that often throughout the exercise.<sup>23</sup> Most of the people raising their hands the most often were minorities.

This divide is significant. It shows how race and discrimination are taught in our country and why we view race the way we do.<sup>24</sup> The reason I grew up thinking race was not a problem was because I went to school systems administered by white people who would probably like to forget that part of our nation's history, or who do not want to keep bringing it up because it does not paint a pretty picture of white Americans. I learned America had slaves, Lincoln and the Civil War freed those slaves, and later on, Dr. Martin Luther King, Jr. led the civil rights movement and demanded equal treatment.<sup>25</sup> I learned that college students held demonstrations to fight for the right to be able to sit at a counter at a white cafe and order lunch. But no one wanted to teach me why African-Americans were not allowed to sit at the same counter as white people in the first place. But minorities, they learn these things. They live these lessons. They learn about the harsh things white people and the government (which historically has been the same group of people), have done to their ancestors. In some cases, those ancestors are their grandparents and parents and in other cases, it is happening to them directly.

Prior to that semester, I never understood when people said things such as, "my people," or other words that associate themselves with the group who had been discriminated against when describing the bad things that happened to their minority group throughout history. I always thought that if they link themselves with the group being discriminated, then I would have to link myself to the group doing the discrimination. This is something I have refused to do. For example, I do not feel responsible for the slave trade because I was not around back then. I have never owned a slave. In an out-of-classroom conversation with a classmate, she said that based on my American last name, I probably owned slaves at some point. My response was, "I have never owned a slave in my life. I know that for sure." Her response was, "But your family probably did at some point." I had never thought about this before, but she is probably right: my dad's family is from Tennessee, where the KKK was started, and my grandmother used to tuck us into bed at night by telling us black people would come get us if we did not go to sleep. It is not a stretch to think someone in my family owned another person at some point in time. But again, I do not feel guilty about that. But now I realize I do not get to pretend like it did not happen either because I do not feel guilty about it. People remember the bad things that happen to them. They tell their children, who repeat it to future generations. Those children remember

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<sup>22</sup> See also Peggy McIntosh, Wellesley College Center for Research on Women, "White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women's Studies," Working Paper No. 189 (1988).

<sup>23</sup> This is consistent with McIntosh's white privileges of being told about our national heritage or about "civilization," I am shown that people of my color made it what it is.

<sup>24</sup> It also offers proof that supports Juan F. Perea's theory that there is a black/white binary paradigm of race in America as if we are incapable of thinking about race in terms outside of the black/white context. See, e.g., Juan F. Perea, *The Black/White Binary Paradigm of Race: The "Normal Science" of American Racial Thought*, 85 CAL. L. REV. 1213 (1997) (include parenthetical information here)

<sup>25</sup> This is a gross exaggeration of what I was taught in school, but it is not too far off from being the truth at the same time.

those stories.<sup>26</sup> I cannot ask expect them to forget history because it is convenient for me, or makes my race look bad. As a white person, I just wish that they would.

Just because I grew up in a race vacuum does not mean I get to walk into a room and say, “Hi, my name's Robert, do not worry about race, it is not an issue here.” It is still very much an issue to a lot of people. I am a highly-educated white male. No matter how much I want to pretend like I have nothing to do with the system of hierarchy and race in this country, I drew the white male race card. That card comes with certain privileges. My education gives me more privileges, and is proof I know how to use the system to my advantage. I am hopefully going to use that education to make enough money to live whatever lifestyle I choose and that money will buy me more privileges. Because of this, I cannot blame someone if they look at me and only see a white male who is part of the same system that they have heard story after story of oppression about. There is more than 400 years of history to base that conclusion on. People are not going to look at me and see someone who was raised by a single mother of four children and who worked hard to put himself through school. In many ways, my story mirrors those that I have heard from my minority classmates. I come from a poor family. My mother does not have a bachelor's degree. I am the first in my family to pursue a professional degree. However, I'm a white male, and that is the first thing some people, if not all, are going to see when I walk into a room. If I tell an African-American in my office someday that he doesn't have a claim or that I cannot take his case, I will understand if he leaves my office wondering if I turned him down because he is black, and if he leaves believing I am part of the same system that has been oppressing his ancestors since white people discovered they could grow cotton in the New World. I do not like this because I want to be judged as an individual and for my own actions. Now I am aware that will not always be the case. I cannot really be surprised that the flip side to white privilege is people who do not have those privileges are suspicious as to whether or not I am using those privileges against them. When it comes to race, and the decisions I make while dealing with people of other races, I am probably never going to get the benefit of the doubt in close cases, unless that other person knows me or we have the chance to discuss it. I feel like I can now see how other people will see me. I will not pretend the weight of white baggage outweighs the advantages of white privilege.

A few summers ago I bought a one-way ticket to Boston and spent a month traveling the country as I made my way back to Idaho. On that trip, I took a bus from Knoxville to Detroit. When we stopped in Cleveland, our trip was delayed due to a mechanical problem with the bus. While we were waiting for the new bus to come pick us up, a bus driver from another bus approached the line I was standing in, and said he was headed to the Detroit and he had room for three people and that it was up to us to decide who those three people were. A white male suggested that senior citizens should be the first to get on the bus. Everyone in the crowd agreed with him. There were two African-American senior citizen females towards the front of the line. No one objected as they made their way towards the bus. The bus driver then asked who the third person was going to be. The same white man who had made the suggestion looked around and saw an older lady in the back of the line and signaled for her to come to where he was and indicated she would be the third person. This lady was white. As she made her way to the bus, an African-American lady in front of me started complaining that it was not fair the white lady from the end of the line got to "cut" in front of everyone else and go on to Detroit. She then compared the current situation to Rosa Parks. I was stunned. I had just listened to everyone agree senior

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<sup>26</sup> Olivas, *supra* note 20, at 429 (the author, Michael A. Olivas, offers many examples of stories of discrimination told to him by his grandfather).

citizens should be given priority to the empty seats. I had then watched two African-American senior citizens board the bus to take those empty seats. Then I watched a white senior citizen, who probably had no clue what was going on from where she was standing, be given the third seat. I had no problem with this solution; I thought letting senior citizens go first seemed like the right thing to do. And then the next thing I know, someone's referencing Rosa Parks. I was confused because I did not think the situation had anything to do with Rosa Parks or race. But now I can understand how someone might feel like anytime they see a person of a different race receive preferential treatment it is because of their race. I am also aware of the fact that there will be situations where one person might feel racial discrimination are occurring while someone else may be unaware of any racial undertones of the situation.

## V. IDENTITY POLITICS

Identity politics was one of the most discussed issues in class. At various times, we talked about identity politics for almost every theme covered in class. What I found most interesting and what I noticed towards the end of the semester was that what I was hearing about identity politics had changed from the beginning of the course. I do not know if the discussion itself changed or if different people were contributing to it. At the beginning of the course, while we were discussing race, a lot of people seemed to want to be identified by their race. I came into class thinking race did not matter and discovered that wasn't the case. I listened to my classmates tell stories about their race and could see their strong connection to their race and history. When someone says, "I am an African-American," they are identifying themselves as a member of a group and people take a lot of pride in the groups to which they belong. As the discussion shifted focus to other topics, specifically homosexuality, it seemed like people were opposed to identity politics. During one discussion over identity politics, I realized the people advocating for the use of identity politics were all white and heterosexual, while the people opposed to it were not. If identity politics is putting people in boxes with labels, it seems those being shoved into those boxes with labels are the ones opposed to it, while those outside the box are OK with it. That indicates that there might be a problem of some sort.

However, I am not sure what that problem is. If enough people with something in common get together and advocate for change, it seems they would have a better chance of being successful of accomplishing something, even if individual group members did not all want the same thing. And once something is accomplished, it will not it be easier for subsequent change to follow, Perhaps the problem is once change has been accomplished, or denied, the rest of society does not remove the confines of the boxes and labels and still continues to treat all individual members as if they are still all part of one group and assume they all want and think the same things.

People want to belong to groups of their choice and to some degree, we seek our identity through the groups we associate with. People want to be recognized for their individualism, they just do not want to be treated differently because of them. Part of what makes our country so unique is that there are many different types of people here. People want to be able to say, "I am a" and insert whatever social group they pertain to. We want to be recognized for what makes us different. People spend a lot of time safeguarding traditions and customs that make them unique so they continue to exist. While people want to be recognized for their differences, they do not want to be treated differently because of those differences. When people are seen as "others," people such as my younger sisters in Tennessee, then treating people equally becomes difficult to

do, and that is when it becomes a problem. It is not a problem to notice that someone is Asian. But it is a problem to treat someone less than equal because they are Asian. As a society, we have not reached a point where we have done a good job of defining that line and not crossing it.

The realization above caused me to challenge what I had been taught regarding race in the United States. In grade school, I was taught America is a melting pot where all of our cultures have melted seamlessly together into one indistinguishable wax-like mixture of goo. That is not the case. That is not even something we should want to get to, because doing so would mean we are all one culture and have the same belief system. That would mean stripping a lot of people of their cultures and belief systems. Instead, it would be more accurate to compare America to a bowl of beef stew than a melting pot. When you look inside a melting pot, you are not sure what it is made from. When you look into a bowl of beef stew, you can identify what you are looking at. When you eat beef stew, you recognize the taste of each individual ingredient and appreciate what each one brings to the meal. Each ingredient has value outside of the stew pot and can stand alone as an individual dish, but when combined together, the flavors work together to create a much better combination. This is how America should work. However, so many people have just as easy of a time removing people of certain races out of their version of the American pot as they do removing ingredients from the beef stew pot in the kitchen.

While there are not any quick or easy solutions to ending racism in this country, I was encouraged by some of the comments my classmates made. Several classmates told stories about the racial views of their parents and grandparents. They told those stories in a manner that suggested that they understood that those beliefs are not acceptable in today's society. They told them in a way that made it clear that they had drawn a line between the views of their family members and themselves, much like I am clear that I will never tell my children that black people will come get them if they do not go to sleep at night. This line is a line between generations and shows some of the changes we have made as a society over the past few generations. Views on race have a strong connection to generations because a lot of people get their views about race from their parents, who got their views from their parents and they are likely to pass those views to their own children. As our society becomes more open-minded and accepting of others, future generations will follow. Unfortunately, negative views about members of other races are still being passed down to tomorrow's generation today.

## VI. STARTING SMALL

All law schools should add a Critical Legal Studies class to the curriculum and give students the chance to accept or reject all or parts of the studies.<sup>27</sup> The acceptance or rejection of it is not as important as the exposure to it. Law school is the appropriate venue for this training to occur because students are open to being taught while in law school and for many, it may be the last chance to interact with a diverse group of people before entering the professional work experience. Learning about the Critical Legal Studies movement has benefited my educational experience greatly and will forever alter the view in which I practice and read law.

The crit movement aims to help end discrimination in the legal world, which includes racial discrimination. The crit movement is something I have spent a lot of the past year thinking about. This is due in part to the fact that I am a member of the college's *crit* journal and I felt I

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<sup>27</sup> There are a number of articles that explain and critique the field of study. There are many more articles that highlight various areas within that field. These articles drive the course; ensuring students read them and are exposed to the field's messages and issues.

should decide if I believe in the journal's mission before continuing to contribute to it. More importantly, I felt that I had been exposed to different views than I had before and that I needed to make a choice to either accept those viewpoints, reject them, or decide to make a decision later. I also knew that if I decided to accept the views of the crit movement, I would/will have to make a choice as to what role I will play in the movement. In many ways, I started to make these choices as I completed the original draft of this paper.

There were many times in class I would listen to either my classmates' personal experiences or the author's experience and I would leave class thinking, "This is wrong. Something should be done about this." My next question was "What should be done?" Later in the semester, that question became, "Wait, am I sure I want the system to change? I currently benefit from the system." As discussed above in the white privilege section, being a highly-educated, middle-to-upper class, white male has certain privileges, and equality would mean the removal of some of those privileges. Through class discussions, I came to believe that when people say they want to be treated equal, they, whether they know it or not, are saying they want to be treated the same way highly-educated, middle-to-upper class, white males are treated. Discrimination is not treating people "better" than others, it is treating other people "less." If all people were treated the same, not all of the white privileges would go away, they'd just be spread out across the board to everyone. For many privileges, this just means stop treating people as if they are "less." It does not mean treating those who already have the privileges any better or worse. Some privileges, such as making hiring decisions based off of race, would disappear. While convincing those who have privileges to give them up or extend them to other people is an extremely huge challenge, it is worth the effort. Social change is hard. But that should not be a reason not to do it.<sup>28</sup> White privileges should not be white privileges; they should be basic human rights.

McIntosh quoted her colleague Elizabeth Munnich in her paper to describe her education, which has mirrored my own: "Whites are taught to think of their lives as morally neutral, normative, and average, and also ideal, so that when we work to benefit others, this is seen as work which will allow 'them' to be more like 'us.'" <sup>29</sup> In an ideal world, ending privileges based on race would put an end to there being a "them" and an "us." It would put us all on a level playing field. Instead of thinking in terms of working to benefit others, it would be much more productive to think in terms of treating "them" like "us." The irony of doing this is that treating "them" like "us" requires almost no work. It certainly requires less work than treating "them" like "them." However, changing the mindset behind the treatment of others differently is a challenge.

McIntosh highlighted the challenges in closing this gap in her paper when she described male privilege:

Through work to bring materials from Women's Studies into the rest of the curriculum, I have often noticed men's unwillingness to grant that they are over-privileged, even though they may grant that women are disadvantaged. They may say they will work to improve women's status . . . but they cannot or will not support the idea of lessening men's. Denials, which amount to taboos, surround the advantages that men gain from

<sup>28</sup> Fredric Douglass: "Power concedes nothing without a struggle. It never did, and it never will."

<sup>29</sup> Peggy McIntosh, *White Privilege: Unpacking the Invisible Knapsack* (excerpt from Working Paper No189, "White Privilege and Male Privilege: A Personal Account of Coming To See Correspondence Through Work in Women's Studies" 1998).

women's disadvantages. These denials protect male privilege from being fully recognized, acknowledged, lessened or ended.<sup>30</sup>

Those denials exist in the context of race privileges and there is no shortage of people who deny their white privilege. Educating people that these privileges exist and that they use them every day is the first step towards ending the abuse of those privileges. Critical Legal Studies is a vehicle for this education to occur in law schools across the country.

While discussing *Grutter v. Bollinger* in class, a white male student voiced his opinion that there are not any reasons for an admissions process that favors minorities because minorities do not need the assistance getting into law school because they already have an equal chance of getting into law school as a white person does. This opinion is wrong, as a look at the number of minorities in the school might suggest, but it was not his fault that he was wrong. He is a white male who has always lived in an area where he has been the majority. To say white people and minorities are treated the same denies that others are disadvantaged at their own advantage. I do not blame my classmate for this opinion. It is the same opinion I would have voiced just a few months before that discussion. It is an opinion that could be changed with the addition of a Critical Legal Studies course to the law school curriculum.

Even including the many readings required for class and the papers I read since that semester was over, the most beneficial part to my Critical Legal Studies education was hearing tales of discrimination from my own classmates. Activist and scholar Mari J. Matsuda suggests that “those who experienced discrimination speak with a special voice to which we should listen.”<sup>31</sup> The Critical Legal Studies classroom provided my classmates with a platform in which to speak about their experiences and provided me with an opportunity to listen to their tales that I would not have otherwise had in law school.<sup>32</sup> My classmates are “organic intellectuals”<sup>33</sup> that can relate theory to concrete experience of oppression. It was their tales of discrimination that supplemented the literature that enhanced my experience in the classroom.<sup>34</sup> Aside from their stories, I could have imagined what it was like to be discriminated against, but this is not as effective as studying the experience myself and listening to those who have first-hand experience with discrimination.<sup>35</sup> Matsuda describes why this approach is effective:

When notions of right and wrong, justice and injustice, are examined not from an abstract position but from the position of groups who have suffered through history, moral relativism recedes and identifiable normative priorities emerge.

This article, then, suggests a new epistemological source for critical scholars: the actual experience, history, culture, and intellectual tradition of people of color in

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<sup>30</sup> McIntosh, *surpa* note 15.

<sup>31</sup> Matsuda, *surpa* note 21, at 324.

<sup>32</sup> *Id.* at 346. We should do as Matsuda suggests and give minority students a place to share their experiences and listen to the experiences of others. She writes: “If the voice of truth is inaudible in the corridors of the law schools and libraries where we work, perhaps we seek the voice in the wrong places. For people of color, many of the truths they know come largely from their experiences outside legal academia. The collective experience of day-to-day life in a country historically bound to racism, reveals something about the necessity and the process of change.”

<sup>33</sup> *Id.* at 325

<sup>34</sup> *Id.* at 346–347: “There is a standing concept in movements for social change. One needs to ask who has the real interest and the most information. Those who are oppressed in the present world can speak most eloquently of a better one. Their language will not be abstract, detached or inaccessible; their program will not be undefined. They will advance clear ideas about the next step to a better world. The experience of struggling against racism has taught much about struggle, about how real people can rise up, look power in the eye and turn it around.”

<sup>35</sup> *Id.* at 325.

America. Looking to the bottom for ideas about law will tap a valuable source previously overlooked by legal philosophers.<sup>36</sup>

What I am suggesting is bringing this source into the law school curriculum. This source is already within the walls of law schools across the country. Let's tap into this valuable source. A required course on critical legal studies would literally bring students to the table to discuss issues of diversity and discrimination in a meaningful, valuable way. It would surely be more effective than holding a "diversity training" session once every few years and requiring students to attend.<sup>37</sup> For many students, such as myself, this may be their first and only exposure to tales of first-hand discrimination. This exposure puts a human face on discrimination and forces students to choose either to accept what they are hearing or to deny it.<sup>38</sup> It would force students to make the same choice about the CLS materials and literature that they would be exposed to. The decision to accept or reject it is not as important as the chance to expose future lawyers to the ideas. Many might argue that it is not law school's place or responsibility to teach or influence students how to use the law they come to law school to learn. However, this would overlook the fact that when one practices law, they act with the power of the law behind them. That is an awesome power to have and it is not ridiculous to suggest that the same institutions that gives them that power also teaches them how to use it responsibly. Or at the very least, force them to understand that the choices have more consequences than what appears on paper. Students in law school conform as professors want them to.<sup>39</sup> Why not use that adaptive power to benefit others? In addition, CLS exposes all law students, including minorities, to a movement of thought to which they can choose to participate in to help end the oppression of others.<sup>40</sup> Matsuda writes that it is the dissonance of combining deep criticism of law with an aspiration vision of law is part of the experience of people of color.<sup>41</sup> There is no need to limit this experience to only people of color.

While Duncan Kennedy's intent of his paper *Legal Education and the Reproduction of Hierarchy*<sup>42</sup> was to show how the legal education system creates and gets students to accept the hierarchy of legal practice, he also explains why law school is a good venue to expose students to the school of thought of Critical Legal Studies. Law students believe what they are told about the legal field and act in ways to fulfill the prophecies that the system makes about them.<sup>43</sup> In addition, a large number of law students go to law school with the idea of there being something more to being a lawyer other than having a highly respectable job.<sup>44</sup> It is the idea of service through law.<sup>45</sup> The current system accepts students who wish to one day use their legal training in

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<sup>36</sup> *Id.* at 325–326.

<sup>37</sup> Matsuda, *supra* note 21, at 344–45.

<sup>38</sup> This is similar to the words of Professor Linda Greene, *A Short Commentary on the Chronicles*, 3 HARV. BLACKLETTER J. 60 (1980), as quoted in Olivas, *supra* note 21, at 440, "The chronicles force us to decide whether our equality myths embody principles that truly govern our humanity."

<sup>39</sup> Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 605 (1982).

<sup>40</sup> "An elevated understanding of the traditional legal concepts of neutral principles and rights helps protect victims of oppression from the unsophisticated rights thinking that can be a seductive trap for those on the bottom."

Matsuda, *supra*, note 21 at 331–332.

<sup>41</sup> *Id.* at 333

<sup>42</sup> Kennedy, *supra* note 38.

<sup>43</sup> *Id.* at 591.

<sup>44</sup> *Id.* at 592.

<sup>45</sup> *Id.*

the name of service and essentially beats that idea out of them during the first year of studies. We are taught by mostly white, male, middle class professors,<sup>46</sup> and the implied message is if we wish to succeed, we need to be more like them.<sup>47</sup> Law schools are either wasting this opportunity to capitalize on the ideological training ground that exists within their walls or worse, are purposefully turning their backs to it. Kennedy points out that law schools are teaching law students how firms will work.<sup>48</sup> Schools hire former professionals from firms to educate students on the way of firm culture. Teaching students the principals of CLS in law school would ensure that students who want to enter the work place with a goal towards service are capable of doing so and may influence the minds of those who do not. Instead, professors teach students that providing legal services for the poor is dull with no chance of a decent standard of living.<sup>49</sup> Professors model for students how to think, feel, and act in their future roles as practicing attorneys.<sup>50</sup> They are the very people who are best suited to influence and inform students about a less-than-traditional way of thinking about the law. But law schools continue to hire as high up on the conventionally defined hierarchy,<sup>51</sup> which makes any progress in a shift of legal education slow.<sup>52</sup> Law schools would not even have to hire someone from the CLS movement; just hiring more minority professionals would expand the minds of their students a great deal.

The increase of hiring minorities and women as law school professors would go a long way in achieving these results as an alternative to adding Critical Legal Studies to the law school curriculum. When a white male professor tells a group of mostly white students about any form of discrimination, it is easy for those students to dismiss those claims as “something that happens to other people.” But when a minority professor tells the same story of discrimination, it allows students to make a connection that they otherwise may not. That connection is, “If something like that could happen to [minority group] there, then it could happen to the person in front of me as well. I do not like the idea of that.” In class this semester, the most powerful testimony came from my classmates who told stories of their own experiences with discriminations, not from our readings. Words on a page do not mean as much to me as words from the mouths of people I know and interact with on a daily bases.

My torts professor started the first day of class by saying she was not there to teach us the law, but how to think about the law and that we would have to teach ourselves the law. This seemed like a tall task at the time, one I doubted was possible. But as I began preparing for my first round of finals, I realized I was in fact teaching myself torts and other various areas of the law. In my third year of law school, a professor told us in the middle of a lecture that we will only ever use about five percent of the law we learn in law school in practice. He said that the goal of law school is to teach us how to find the remaining 95 percent of the law we will actually need and use. Once we find that 95 percent of the law, we will have to teach it to ourselves. The problem with an institution that aims to teach students to teach a certain way is that the institution has little left to teach its students once they learn that line of thought. Because so little useful law is actually taught at law school, there is room in the curriculum to add classes which

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<sup>46</sup> *Id.* at 593.

<sup>47</sup> *Id.* at 604.

<sup>48</sup> Kennedy, *supra* note 38, at 603.

<sup>49</sup> *Id.* at 601.

<sup>50</sup> *Id.* at 602.

<sup>51</sup> *Id.* at 603.

<sup>52</sup> *Id.* at 608.

challenge the way law students think and will ultimately practice law.<sup>53</sup> Law schools do not currently teach law students to think like lawyers. They teach students to think like the white, male, middle class lawyers they employ to instruct them.<sup>54</sup> Students need to learn to "think about the law in a way that will allow students to enter into it, to criticize without utterly rejecting it, and to manipulate it without self-abandonment to an alien system of thinking and doing."<sup>55</sup>

The critical legal studies movement teaches students how to criticize the law and to manipulate it without self-abandonment. It is about looking at the results of our actions as lawyers while using the law to see what effect those actions will have and whom they affect practically. In most law school classes, law students are taught how to use the law to accomplish the results they want for their clients. Very few, if any, classes teach law students to look at the results of their actions to see what those actions actually accomplish. For example, in a typical first-year contracts class, law students are taught the basic rules and principals of contract law. We read cases that are edited specifically to make certain points. We read that Person A wins over Person B because of Rule X and we go through the rest of the semester, and our careers, understanding how to use Rule X. But we seldom learn that Person A runs a multi-million dollar corporation and used Rule X to take advantage of Person B, who is a poor, uneducated minority and was one of thousands of people Person A used Rule X to profit from. If we learned those facts, we might have a different opinion of Rule X, which might affect our decision of when to use the rule in our careers.<sup>56</sup>

The crit movement is a movement that seems difficult to be against, but yet it is a movement that has been slow in gaining momentum. Only one law school, Georgetown Law, has built critical legal studies into its optional first-year curriculum.<sup>57</sup> Change by the movement has been slow to occur. I would often start to read a paper, felt like I could relate to the issues being discussed, and then check the date of the article to see when it was written. I was surprised to discover that many of the articles were decades old. If someone wrote an article about a problem in 1982,<sup>58</sup> that I read today and see that that problem exists today, strongly suggesting that progress has been slow. This is unfortunate because the movement could do the legal society a lot of good, which in return, would help all of society, since our society is governed by our legal system. I think part of the reason the movement has been slow to cause change is because it involves a shakeup of the system by those who have benefited the most from the system. People have made a lot of money and made their careers from the current system and using the law legally to benefit both themselves and their clients. This is why the movement has a place in the academic world. If all students were exposed to the principals of the critical movement legal studies movement, then the movement might be more effective in training future lawyers to operate with a critical view during their career.

Perhaps the solution isn't to focus just on targeting the top law schools to advance the crit movement, but to reach out to the bottom of the pyramid and have the two groups meet

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<sup>53</sup> *Id.* at 602.

<sup>54</sup> Kennedy, *supra* note 38, at 605

<sup>55</sup> *Id.* at 599–600

<sup>56</sup> Matsuda at 361: "To the question, 'How can one know that a rule or principle is just? The CLS scholar could reply, 'Ask someone who has suffered and fought against oppression, study their experience, and understand their world vision. They will help you find the right answer.' Perhaps it would be easier for students to find such a person to ask if more classes were taught by minorities and women."

<sup>57</sup> WIKIPEDIA, *Critical legal studies*, [http://en.wikipedia.org/wiki/Critical\\_legal\\_studies](http://en.wikipedia.org/wiki/Critical_legal_studies) (last visited Dec. 1, 2011).

<sup>58</sup> Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. Legal Educ. 591 (1982).

somewhere in the middle. . Change seems to be slow coming from the top, but appears to be making a lot of progress in a short amount of time at a small school such as the University of Idaho. There are more “smaller” schools than there are top schools and those schools probably produce more lawyers who are not of the Ivy League pedigree who will likely have clients who also are not of the Ivy League pedigree. These are the law students who will be more likely to have clients who have been discriminated against by the legal system. There is also a good chance that their opponents will be represented by alumni of the top schools who are more likely to represent big, powerful corporations, and who are more likely to benefit from the law as it currently is. Teaching these students about the critical movement may help critical legal studies go from a theory of study to a field of practice. However, other schools do not have to embrace the critical legal movement in the same way the University of Idaho College of Law has<sup>59</sup>. But, why cannot the answer be much simpler than that? Why can't law professors introduce the principles of Critical Legal Studies in their classes? They would not even have to call them “critical legal studies” principals or acknowledge the movement in anyway. For example, in a first-year property class, the professor is going to explain that the landlord had the legal right to exercise or impose a certain clause in her lease. But, that professor could explain that by doing so, the landlord increased the rent on her apartment complex in a poor, mostly black community. This would in turn displace a lot of African-Americans and result in mostly white tenants in the complex. This would allow students to see the effect the court's ruling had on actual people. In return, it could lead to students—if done repeatedly throughout their legal education—asking themselves what effect the law has on people in their own practices. This is an important question for someone who practices law to ask themselves. It is not a question taught in most classrooms. Even if students do not practice with this in mind, they have at least been exposed to the idea. Further, they will have the ability to advise their clients along the same lines, even if they are not aware they are taking part of the critical legal movement. What I am describing mirrors my own initial exposure to the movement. I could tell by the way my first-year contracts professor asked questions and made comments about the cases we discussed and showed that there was more to the cases than we were getting in the casebooks. While I am well aware of his strong connections to the critical legal movement now, I was not aware of those connections at the beginning of class. But I do remember him encouraging us to look beyond the pages of our books to see what was actually occurring. I could see that he knew the details of the cases much better than my other professors and that they mattered a great deal to him. I now make an effort to understand what was happening outside of the courtroom in cases I read for all of my classes.

One example of reading cases with this new view was in my Constitutional Law II class. After discussing [Case I] and [Case Two], I came to the conclusion that the Supreme Court was sponsoring racism with its ruling by upholding state laws that prohibited immigrants from becoming teachers or police officers. The rulings limit the jobs immigrants are able to obtain and helps to ensure that they continue to work second-class jobs. When I shared this view with two of my classmates, they both disagreed with me. But their argument was not that the Supreme Court was not doing those things or that I had misinterpreted the case, it was simply that being a teacher or police officer are not good jobs. A large number of people in this country hold those jobs and would disagree with the notion that they are not good or respectable jobs. An argument that centers on the respectable qualities of those jobs avoids looking to the truth of the statements and denies that the Supreme Court of our country might release holdings colored by racism.

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<sup>59</sup> I use the word "embrace" broadly, with the creation of a critical legal studies class, journal, and conference.

While discussing *Buckly v. Valeo*, a case that focused on voter reform, in class I suggested we could never have true voter reform as long as rich, white people were acting to keep themselves and other rich, white people in power. My professor looked at me as if I were Dr. Hodgins on TV's *Bones* spouting out another conspiracy theory. I do not know if I am right, but it is a discussion worth having. It is a discussion that law schools are a long way away from being ready to have inside their classrooms.

Maybe this is because those who have the power to change the system have benefited the most from the current system in place. Maybe it is because people (white people who run most of the legal education system in this country) do not want to acknowledge the consequences of their legal choices and actions. Maybe, like me, a lot of those people did not grow up around race, for various reasons, and do not think race is a problem because they hold most of the privileges associated with race and have not taken the time to learn otherwise. Maybe most people are more concerned with being on the right side of the law and not the right side of their conscience. Maybe it is simply because those who wish to use the law to harm other people have the ability to pay their lawyer while those being oppressed by the law do not. After learning about the Critical Legal movement, I just do not understand why or how someone could reject it. Such a rejection essentially says 'this is not a law degree; it is a degree in advanced discrimination.

#### CONCLUSION

After learning about the movement, and choosing to become a part of it, the next choice is deciding at what level I want to be involved. I do not have an answer for that at this time. It is a question I will have to answer, and to continue to answer, throughout my career. I can tell some of my classmates are much more passionate about the movement and other causes than I am. For example, I do not consider myself to be an "Ally" and I will probably never take part in a protest for gay marriage, but I do not have a problem with homosexual people marrying each other and would not do anything to deny them that right. I would vote in favor of it if given the chance at the ballot. I wonder if this approach is enough for my future legal career. If I make it a point to do no harm, to always advise my clients not to do something I think is wrong despite the fact the law allows them to do it, or to remove myself from clients who refuse to take my previous advice, is that enough? If I look at the actual affects of my legal decisions and actions and avoid making choices that oppose others, specifically any minority groups, does that count as being part of the movement? Or do I need to make a more active effort? These are questions I am not prepared to answer at this point. I am only beginning to look for these answers. But I am sure I want to answer them. These are questions I would not have asked myself if I had not been exposed to the critical legal movement as a law student. These answers that I seek, this new way of thinking I have been introduced to by my Critical Legal Studies professor, are something I am going to take with me when I graduate and leave law school. Learning to think about how my legal actions affect other people is more important than anything else I have learned in the past three years. It is not enough to teach students the law, how to find the law, and how to use the law. Law schools must take it one step further and empower students to challenge their own beliefs and to question what they can accomplish with the power of the law. The answers to those questions are often not as important as asking them. Law students across the country should be required to ask the questions prompted by the critical legal movement. Adding Critical Legal Studies to the curriculum, hiring more minority professors, or simply teaching students to look beyond the facts of a case are possible ways to accomplish this.