

both the legal and political arenas, lawyers, researchers, and advocates find themselves pushed back into their own end zone. Not only have officials changed the rules of doctrinal and political engagement over race, post-racialism has potentially changed the makeup of the teams. Racial justice offense, reset by the terms of post-racialism, has in some quarters become a status quo defense.

For CRT, the moment presents multiple challenges, but also opportunities. As I will argue below, certain dimensions of this moment rehearse dynamics that produced CRT in the 1980s. Then, as now, racial constituencies were confronting doctrinal and political retreats that severely limited the scope of civil rights advocacy. Then, as now, both liberal visions of race reform and radical critiques of class hierarchy failed in different ways to address the institutional, structural and ideological reproduction of racial hierarchy. Then, as now, the collapse of racial barriers convinced many advocates and laypersons alike that fundamental transformation was at hand. Then, as now, racial progress was associated with an accommodationist orientation to the terms of racial power rather than a sustained collective contestation of it.

These continuities, sobering to be sure, exist alongside others that suggest possibilities for a reconstitution of a Critical Race project. Today, like before, critical masses of thinkers continue to attend to the contemporary operation of race, producing literature that links specific institutional dynamics through which race is produced to the broader structures of racial power that continue to rationalize them. In much the same way that students and young scholars came to understand more fully the discursive terrain of race in the context of specific institutional struggles over integrating the faculty and curriculum in elite institutions, the re-embodiment of colorblindness in post-racialist discourse presents similar possibilities across the social terrain today. The opportunity presented now is for scholars across the disciplines not only to reveal how disciplinary conventions themselves constitute racial power, but also to provide an inventory of the critical tools developed over time to weaken and potentially dismantle them. Beyond the academy, the opportunity to present a counter-narrative to the premature societal settlement that marches under the banner of post-racialism is ripe. In short, the next turn in CRT should be decidedly interdisciplinary, intersectional, and cross-institutional.

## II. MOVEMENT ORIGINS AND POLITICAL FORMATION

### A. *The Clearing*

In the summer of 1989, twenty-four scholars of color answered a call

to attend a “New Developments in CRT” workshop at the University of Wisconsin.<sup>24</sup> Meeting oddly enough in a convent, they all had agreed to submit something written as a ticket for admission. It was not at all clear, however, that this would be an event worth lining up to attend. After all, the title was a bit misleading. The “New Developments in CRT” was premised on the assumption that there was already something old. But prior to the moment that the invitation was drafted, there really was no CRT as such. The name was made up. It represented more of a possibility than a definitive project.<sup>25</sup> Although the terms did make sense in light of the group’s aspirations, the billing suggested that there was a “*there there*” that wasn’t really there yet.

The committee that sent that letter and the invitees that they solicited represented a motley crew of minority scholars who populated the backdoor speakeasies at the American Association of Law Schools (AALS) and Critical Legal Studies (CLS) annual gatherings. These speakeasies were usually hotel rooms and other small enclaves where a certain cohort congregated, drawn by word of mouth, to discuss the events and dynamics transpiring on the main stage. The group might be described as intellectual nomads, folks who were attracted to both liberal antidiscrimination and Critical Legal Theory discourses at a time when the two traditions were connected only at the margins. The organizers had all gravitated in some way or another toward the environs of CLS: among them was an Asian American law professor who had attended the very first CLS conference about a decade earlier, and three others who had first approached CLS as students at Harvard Law School during the late 1970s and 1980s. That group was, respectively, Neil Gotanda, Stephanie Phillips, Terri Miller, and this Author. Joining this group were Richard Delgado and later Linda Greene, both linked to the project through earlier integration struggles at Harvard, and who were by then professors at the host site, Wisconsin Law School.

We were all veterans, in one way or another, of particular institutional conflicts over the nature of colorblind space in American law schools. Among the twenty-four participants who attended the first workshop, fully a third had been directly involved in the protracted and very public protest over race, curriculum, and faculty hiring at Harvard Law School six years

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<sup>24</sup> The original participants were: Anita Allen, Taunya Banks, Derrick Bell, Kevin Brown, Paulette Caldwell, John Calmore, Kimberlé Crenshaw, Harlon Dalton, Richard Delgado, Neil Gotanda, Linda Greene, Trina Grillo, Isabelle Gunning, Angela Harris, Mari Matsuda, Teresa Miller, Philip T. Nash, Elizabeth Patterson, Stephanie Phillips, Benita Ramsey, Robert Suggs, Kendall Thomas, and Patricia Williams. FRANCISCO VALDES & JEROME M. CULP, *CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY* 30 (2002).

<sup>25</sup> Crenshaw, *Critical Reflections*, *supra* note 2, at 1361 (discussing the formative process of “naming” Critical Race Theory).

earlier.<sup>26</sup> Adding to that number were several others who had gravitated toward CLS conferences and summer camps, attracted by its critical stance against hierarchy, but often frustrated by the currency of arguments that cast doubt on the viability of race as a unit of analysis or the utility of race consciousness in deconstructing hierarchy. The Workshop was, metaphorically speaking, a clearing to which we had arrived, each bearing something of a travelogue of a journey through the uncharted terrain of the post-civil rights landscape. Partly because of our struggles within liberal environments like law schools and within radical environments like CLS, we sought like-minded souls who wanted to begin the conversation beyond the points where we so often got stuck. We did not know exactly where the project would go, but we did know that we wanted to move beyond the non-critical liberalism that often cabined civil rights discourses and a non-racial radicalism that was a line of debate within CLS.

This gathering was thus underwritten by specific institutional and organizational struggles over how racial power would be articulated in a post-civil rights America. There were by this time many fights, both within the academy and in society at large, over how far and to what ends the aftershocks of white supremacy's formal collapse would travel. These tensions were evident in struggles ranging from the raw contestations over schools and public resources in the public sphere to the more refined debates about "diversity" in the walled-off worlds of the nation's editorial rooms and faculty lounges. Among the many tremors at the fault lines of race reform and retrenchment were contestations that stand out as defining moments because of their unique role in both synthesizing the multiple strains of racial politics of that moment, and serving as a point of departure for series of related events. The eruption that served as a point of departure in CRT's trajectory was the institutional struggle over race, pedagogy, and affirmative action at America's elite law schools.

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The time was 1982. The setting was the Dean's office at Harvard Law School. A law school dean<sup>27</sup> with solid civil rights credentials<sup>28</sup> sat face-

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<sup>26</sup> While this protest was one of the first, protests such as this were neither confined to Harvard nor to the 1980s. See WENDY LEO MOORE, *REPRODUCING RACISM: WHITE SPACE, ELITE LAW SCHOOLS, AND RACIAL INEQUALITY* 13 (2008) ("In 1990, students at over forty law schools across the country boycotted their classes in order to protest the dismal record of hiring faculty of color in elite law schools. Since that time, the racial demographics of faculty, as well as students, at elite law schools have changed little."); see also Cho & Westley, *Critical Race Coalitions*, *supra* note 2, at 1395-56 (discussing the 1988 campus-wide protest at UC Berkeley and the 1989 nation-wide protests both sponsored by the Boalt Coalition for Diversified Faculty).

<sup>27</sup> James Vorenberg served as Dean of Harvard Law School from 1981 to 1989. *Deans of Harvard Law School*, HARVARD LAW SCH., <http://www.law.harvard.edu/library/special/research/hls-deans.html> (last visited Mar. 22, 2011). Prior to this position, Vorenberg was a professor teaching courses on criminal law, the government lawyer, and the legal profession, and was Associate Dean of Harvard Law School. *Vorenberg Named Next HLS Dean*, HARV. L. REC., Feb. 13, 1981, at 15.