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THE CRT OF BLACK LIVES MATTER

ANGELA ONWUACHI-WILLIG*

ABSTRACT

Critical Race Theory (“CRT”), or at least its principles, stands at the core of most prominent social movements of today—from the resurgence of the #MeToo Movement, which was founded by a Black woman, Tarana Burke, to the Black Lives Matter Movement, which was founded by three Black women: Opal Tometi, Alicia Garza, and Patrisse Cullors. In fact, Critical Race Theorists have long defined CRT itself as a movement, one that has not only provided theoretical interventions regarding the relationship between race, racism, power, and the law, but that has also encouraged and, in fact, inspired and guided social movements. This Essay, adapted from the Richard J. Childress

* Dean and Ryan Roth Gallo & Ernest J. Gallo Professor of Law, Boston University School of Law. Thanks very much to Provost Jean Morrison for her research support. I give special thanks to my husband, Jacob Willig-Onwuachi, and our children, Elijah, Bethany, and Solomon, for their constant love and support.

I also want to express gratitude to Dean Bill Johnson, Professor Chad Flanders, Jenna Koleson, and Dylan Ashdown for the invitation to give the Richard J. Childress Memorial Lecture. Dean Childress’s reputation as an agent of positive social change makes this invitation an immense point of pride and distinction for me. See Malcolm J. Harkins III, Foreword, *Why “The Childress Lecture”?*, 53 ST. LOUIS L.J. 961 (2008) (noting that Dean Childress was a public advocate for fair housing, equal employment rights, equal access to places of public accommodation, and criminal justice, and that Dean Childress was the dean who transformed Saint Louis University School of Law by greatly increasing the percentage of women students and students of color).

From afar, I have watched Dean Bill Johnson follow in Dean Childress’s very big footsteps with great admiration. Like Dean Childress, Dean Johnson exhibits a commitment to social justice and racial justice. In fact, when Dean Johnson wrote to extend this invitation to me, he explained, “The topic this year will be ‘Critical Race Theory and the Law,’ in part to shine a spotlight on the importance and value of CRT as it has come under attack, even as we approach nearly 50 years since Derrick Bell’s seminal text *Race, Racism and American Law* was first published.” As I stated during the Lecture, the decision to make Critical Race Theory the topic is one that should be applauded. At a time when a full-scale attack has been launched against Critical Race Theory, to undermine and discredit the field as divisive and as “beyond all reason,” the decision to identify Critical Race Theory as this year’s Childress Lecture topic merits our respect and appreciation. BENNETT CAPERS ET AL., *CRITICAL RACE JUDGMENTS: REWRITTEN U.S. COURT OPINIONS ON RACE AND THE LAW 1* (Cambridge University Press 2022). The decision was a courageous move for a law dean, and law students, in a time when simply talking about race or educating students about our nation’s true racial history is seen by certain individuals as “un-American.”

Lecture in October of 2021, highlights how CRT is interwoven throughout the thinking and actions of the Black Lives Matter Movement.

INTRODUCTION

Contrary to many critics of Critical Race Theory (“CRT”) who have argued against the field’s practical impact,¹ CRT has, since its founding, shaped both legal and social policy as well as social movements.² Indeed, CRT, or at least its principles, stands at the core of most prominent social movements of today—from the resurgence of the #MeToo Movement, which was founded by a Black

1. See, e.g., Douglas E. Litowitz, *Some Critical Thoughts on Critical Race Theory*, 72 NOTRE DAME L. REV. 503, 520–23 (1997) (explaining why storytelling must shift to implementing solutions). One exception is former President Donald Trump, who prohibited any and all workplace trainings grounded in CRT because of what he perceived as CRT’s harmful impact. See Cady Land, *President Trump Has Attacked Critical Race Theory. Here’s What to Know About the Intellectual Movement*, TIME (Sept. 29, 2020, 10:53 PM EDT), <https://time.com/5891138/critical-race-theory-explained/> [<https://perma.cc/2A3R-WHH5>]. Explaining his actions, Donald Trump proclaimed, “I ended it because it’s racist. I ended it because a lot of people were complaining that they were asked to do things that were absolutely insane, that it was a radical revolution that was taking place in our military, in our schools, all over the place . . . We were paying people hundreds of thousands of dollars to teach very bad ideas and frankly, very sick ideas. And really, they were teaching people to hate our country, and I’m not going to allow that to happen.” *Id.* Of course, Donald Trump’s actions were not grounded in any knowledge about what CRT actually is; thus, they ended up affecting programs that were not at all connected to the field.

2. Derrick A. Bell, *Who’s Afraid of Critical Race Theory?*, 1995 U. ILL. L. REV. 893, 906–07 (“[C]ritical race theory writing embraces an experientially grounded, oppositionally expressed, and transformatively aspirational concern with race and other socially constructed hierarchies. Indeed, even a critical race theory critic finds that the ‘clearest unifying theme’ of the writing is ‘a call for a change of perspective, specifically, a demand that racial problems be viewed from the perspective of minority groups, rather than a white perspective.’”) (quoting Daniel A. Farber, *The Outmoded Debate Over Affirmative Action*, 82 CAL. L. REV. 893, 904 (1994)); see also *What is Critical Race Theory?*, UCLA SCH. PUB. AFFS., CRITICAL RACE STUD., <https://spacrs.wordpress.com/what-is-critical-race-theory/> [<https://perma.cc/N6V5-CRK4>] (last visited Feb. 7, 2022).

woman,³ Tarana Burke,⁴ to the Black Lives Matter Movement, which was founded by three Black women: Opal Tometi, Alicia Garza, and Patrisse Cullors.⁵ In fact, Critical Race Theorists have long defined CRT itself as a movement, one that has not only provided theoretical interventions regarding the relationship between race, racism, power, and the law, but that has also

3. Throughout this Essay, I capitalize the words “Black” or “Blacks” when referring to people of African descent, both individually and collectively. Professor Kimberlé Crenshaw, one of the founders of Critical Race Theory, has explained that “Black” deserves capitalization because “Blacks, like Asians [and] Latinos] . . . constitute a specific cultural group and, as such, require denotation as a proper noun.” Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1332 n.2 (1988) (citing Catharine A. MacKinnon, *Feminism, Marxism, Method, and State: An Agenda for Theory*, 7 SIGNS 515, 516 (1982)). “It follows then that ‘I do not capitalize ‘white,’ which is not a proper noun, since whites do not constitute a specific cultural group.” Jamila Jefferson-Jones, “Driving While Black” as “Living While Black,” 106 IOWA L. REV. 2281, 2282 n.1 (2021). For similar reasons, I follow the *Columbia Journalism Review*’s practice of also capitalizing “Black” when used as an adjective. See Mike Laws, *Why We Capitalize ‘Black’ (and Not ‘White’)*, COLUM. J. REV. (June 16, 2020), <https://www.cjr.org/analysis/capital-b-black-styleguide.php> (noting that the word “white” “carries a different set of meanings” and that “capitalizing the word in this contexts risks following the lead of white supremacists”). Additionally, here as elsewhere, I tend to use the term “Blacks,” rather than the term “African Americans,” because it is more inclusive. See Anthony V. Alfieri & Angela Onwuachi-Willig, *Next Generation Civil Rights Lawyers: Race and Representation in the Age of Identity Performance*, 122 YALE L.J. 1484, 1488 n.5 (2013) (reviewing KENNETH W. MACK, REPRESENTING THE RACE: THE CREATION OF THE CIVIL RIGHTS LAWYER & DEVON W. CARBADO (2012) & MITU GULATI, ACING WHITE? RETHINKING RACE IN PROST-RACIAL AMERICA (2013)). Additionally, “[i]t is more convenient to invoke the terminological differentiation between black and white than say, between *African-American* and *Northern European-American*, which would be necessary to maintain semantic symmetry between the two typologies.” Alex M. Johnson, Jr., *Defending the Use of Quotas in Affirmative Action: Attacking Racism in the Nineties*, 1992 U. ILL. L. REV. 1043, 1044 n.4.

4. See Angela Onwuachi-Willig, *What About #UsToo?: The Invisibility of Race in the #MeToo Movement*, 128 YALE L.J. FORUM 105, 106–07 (2018), <https://www.yalelawjournal.org/forum/what-about-ustoo> [<https://perma.cc/CR27-YCP3>] (noting that Tarana Burke coined the phrase “me too” ten years before Alyssa Milano made it famous in a tweet on October 15, 2017); see also Sandra E. Garcia, *The Woman Who Created #MeToo Long Before Hashtags*, N.Y. TIMES (Oct. 20, 2017), <https://www.nytimes.com/2017/10/20/us/me-too-movement-tarana-burke.html> [<https://perma.cc/VM6A-WGVY>] (asserting that the #MeToo Movement began to gain widespread media attention in October 2017 after journalists broke the story about Harvey Weinstein’s sexual harassment of women, but that Tarana Burke, a Black woman who founded Just Be Inc., a nonprofit organization that helps victims of sexual harassment and assault, actually started the #MeToo Movement in 2007).

5. See Jennifer Chen, *Black Lives Matter Cofounder Patrisse Cullors: ‘Social Justice Starts with Self-Care,’* SELF (Jan. 25, 2022), <https://www.self.com/story/patrisse-cullors-interview-abolitionists-handbook> [<https://perma.cc/HAE6-7R9T>]; Sony Salzman, *From the Start, Black Lives Matter Has Been About LGBTQ Lives*, ABC NEWS (June 21, 2020, 5:23 AM), <https://abcnews.go.com/US/start-black-lives-matter-lgbtq-lives/story?id=71320450> [<https://perma.cc/RZX9-7HUV>].

inspired and guided positive social change.⁶ This short Essay, adapted from the Richard J. Childress Lecture in October of 2021, highlights how CRT is interwoven throughout the thinking and actions of one of today's most powerful social movements, the Black Lives Matter Movement. Part I of this Essay details the origin story of the Black Lives Matter Movement, while Part II relates how the core tenets of CRT are present within the Black Lives Matter Movement.

I. THE ORIGIN STORY OF #BLACKLIVESMATTER

The Black Lives Matter Movement emerged out of the tragedy of Trayvon Martin's death in Sanford, Florida.⁷ On February 26, 2012, George Zimmerman, a man of white American and Peruvian descent, shot and killed a newly turned seventeen year old, African American male named Trayvon Martin.⁸ After getting candy and refreshments from a local 7-Eleven,⁹ Trayvon Martin was walking back to the house of his father's girlfriend, Brandy Green, in a gated community called the Retreat at Twin Lakes when Zimmerman, armed with a gun, chased Trayvon Martin down and ultimately shot and killed him in the physical struggle that ensued.¹⁰ When Trayvon Martin was shot and killed by Zimmerman, the teenager had nothing on his person but an Arizona Watermelon drink, a bag of Skittles, and the cellphone he had used to speak with his friend, Rachel Jeantal, shortly before he was killed.¹¹

6. See Bell, *supra* note 2, at 906–07; see also RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* 3–6 (2d ed. 2012); Montré D. Carodine, *Contemporary Issues in Critical Race Theory: The Implications of Race as Character Evidence in Recent High-Profile Cases*, 75 U. PITT. L. REV. 679, 679–89 (2014) (explaining how race, and Critical Race Theory, have informed recent racial issues, such as “the New Jim Crow” theory and the “stop and frisk” policy in New York, as well as “high-profile” cases, such as the trial of George Zimmerman for the killing of Trayvon Martin).

7. See Angela Onwuachi-Willig, *Policing the Boundaries of Whiteness: The Tragedy of Being “Out of Place” From Emmett Till to Trayvon Martin*, 102 IOWA L. REV. 1113, 1114–16 (2017).

8. *Trayvon Martin Shooting Fast Facts*, CNN (Feb. 17, 2021), <http://www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts> [<https://perma.cc/T8P6-EGHC>] [hereinafter *Fast Facts*]; Julianne Hing, *The Curious Case of George Zimmerman's Race*, COLORLINES (July 22, 2013), <https://www.colorlines.com/articles/curious-case-george-zimmermans-race> [<https://perma.cc/PWU7-A8QD>].

9. Leo Benedictus, *How Skittles Became a Symbol of Trayvon Martin's Innocence*, GUARDIAN (July 15, 2013), <https://www.theguardian.com/world/shortcuts/2013/jul/15/skittles-trayvon-martin-zimmerman-acquittal> [<https://perma.cc/D7VU-GSLE>].

10. Haeyoun Park et al., *The Events Leading to the Shooting of Trayvon Martin*, N.Y. TIMES (June 21, 2012), http://www.nytimes.com/interactive/2012/04/02/us/the-events-leading-to-the-shooting-of-trayvon-martin.html?_r=0 [<https://perma.cc/4VK6-XM46>]; see also Onwuachi-Willig, *supra* note 7, at 1114–15.

11. Greg Botelho, *What Happened the Night Trayvon Martin Died*, CNN (May 23, 2012), <https://www.cnn.com/2012/05/18/justice/florida-teen-shooting-details/index.html> [<https://perma.cc/NB2E-CGKA>].

Although Zimmerman shot and killed an unarmed teenager that night, the Sanford Police Department released Zimmerman on February 26, 2012, because Zimmerman asserted a claim of self-defense, and according to the Department, it found no evidence to contradict Zimmerman's self-defense claims that night.¹² In fact, Zimmerman was not charged with any crime for Trayvon Martin's death until April 11, 2012, almost two months after the tragedy.¹³ That charge of second-degree murder by Prosecutor Angela Corey came only after weeks of a brilliant social media campaign ignited by Benjamin Crump, the attorney for Martin's mother, Sybrina Fulton, and his father, Tracy Martin.¹⁴ At trial, Sanford prosecutors would do such a poor job presenting their case against Zimmerman that Mark Geragos, a high-profile defense attorney, speculated that the prosecutor had purposely thrown the case.¹⁵ Ultimately, on July 13, 2013, an all-female and nearly all-white jury acquitted Zimmerman of both second-degree murder and manslaughter for Trayvon Martin's death.¹⁶

Saddened by this outcome and upset that Trayvon Martin had posthumously been put on trial, Alicia Garza drafted a letter on Facebook to explain why so many Blacks were upset by the Zimmerman acquittal and to proclaim "that black lives matter."¹⁷ After seeing Garza's post, an inspired Patrisse Cullors created the hashtag #BlackLivesMatter and soon began posting it on social media.¹⁸ Soon after leaving the movie theater where she had seen *Fruitvale Station*, a film

12. *Id.*

13. *Id.*

14. Josh Levs, *Trayvon Martin Case Has a Tough, Controversial Prosecutor*, CNN (Apr. 11, 2012), <https://www.cnn.com/2012/04/10/justice/florida-teen-shooting-prosecutor/index.html> [<https://perma.cc/59YL-HXGU>]; Sarah J. Jackson et al., *Trayvon Martin and the Hashtag Campaign That Set the Stage for Black Lives Matter*, MIT PRESS READER (June 5, 2020), <https://thereader.mitpress.mit.edu/trayvon-martin-hashtag-black-lives-matter-movement> [<https://perma.cc/422N-HKPA>]; Bill Chappell, *George Zimmerman Sues Trayvon Martin's Family For More Than \$100 Million*, NPR (Dec. 4, 2019), <https://www.npr.org/2019/12/04/784846004/george-zimmerman-sues-trayvon-martins-family-for-more-than-100-million> [<https://perma.cc/7F8U-4QT8>].

15. Frank Vyan Walton, *So Did the Zimmerman Prosecutors Throw The Case or Just Blow It?*, DAILY KOS (Aug. 8, 2013), <http://www.dailykos.com/story/2013/8/8/1229666/So-did-the-Zimmerman-Prosecutors-Throw-The-Case> [<https://perma.cc/4A95-84BF>].

16. *Fast Facts*, *supra* note 8; see also Cara Buckley, *6 Female Jurors Are Selected for Zimmerman Trial*, N.Y. TIMES (June 20, 2013), <http://www.nytimes.com/2013/06/21/us/6-female-jurors-are-selected-for-zimmerman-trial.html> [<https://perma.cc/E6HZ-NEMK>].

17. Jessica Guynn, *Meet the Woman Who Coined #BlackLivesMatter*, USA TODAY (Mar. 4, 2015), <http://www.usatoday.com/story/tech/2015/03/04/alicia-garza-black-lives-matter/24341593/> [<https://perma.cc/BY22-8TK7>]; see generally *Herstory*, BLACK LIVES MATTER, <https://blacklivesmatter.com/herstory/> [<https://perma.cc/BH68-HTCG>] (last visited Mar. 28, 2022).

18. See Jenn M. Jackson, *Black Lives Matter: Not a Moment, But a Movement*, BLACK PERSPECTIVES (Nov. 13, 2018), <https://patrissecullors.com/black-lives-matter-at-five-activists-take-stock/> [<https://perma.cc/KRE3-WFAE>]; see also *Black Lives Matter at Five: Activists Take Stock*, PATRISSE CULLORS, <http://patrissecullors.com/black-lives-matter/> [<https://perma.cc/4W8T-XFC2>] (last visited Mar. 23, 2022).

concerning the shooting death of Oscar Grant by a Bay Area policeman at an Oakland BART station, Opal Tometi contacted both Garza and Cullors to discuss how the three women could create a platform that would communicate the message that Black lives matter.¹⁹ Explaining her thoughts and feelings in that moment, Tometi asserted:

I remember in that moment, just sitting with the fact that everybody knew what took place. And despite all the knowledge, despite the testimonies, despite all of that, Trayvon Martin was put on trial for his own death . . . I was struck with the fact that my younger brother—who was 14 at the time—could have been Trayvon. . . . [I thought] [w]e need to have other people interact with this message and also share the work that they’re doing to ensure Black lives matter.²⁰

When Michael Brown was killed a little more than a year later on August 10, 2014, the Black Lives Matter Movement, founded by these three Black women, gained significant traction.²¹ According to Garza, Tometi, and Cullors, “Black Lives Matter is an ideological and political intervention in a world where Black lives are systematically and intentionally targeted for demise.”²² They created the Movement specifically to highlight the ideas that Black people are routinely deprived of basic human rights and dignity, and that Black people far too frequently encounter deadly resistance to their mere existence.²³ They also wanted to create a space for the celebration and humanization of Black lives.²⁴

II. THE CRT OF BLACK LIVES MATTER

As both time and the Movement’s written principles have revealed, the actions of Black Lives Matter are deeply rooted in many of the core tenets and principles of CRT.²⁵ These principles include, among others, the notion that:

19. See *Biography*, AYO TOMETI, <https://ayotometi.org/biography/> [<https://perma.cc/2QTK-RQJF>] (last visited Mar. 28, 2022).

20. See Julia Craven, *Black Lives Matter Co-Founder Reflects on The Origins of The Movement*, HUFFPOST (Sept. 30, 2015), https://www.huffpost.com/entry/black-lives-matter-opal-tometi_n_560c1c59e4b0768127003227 [<https://perma.cc/UNZ2-F2FM>].

21. *Id.*

22. See *Herstory*, *supra* note 17.

23. *Id.*

24. *Id.*

25. *Id.*

1. Race is socially constructed.²⁶
2. Racism is not aberrational. Rather, racism is pervasive and omnipresent in this country.²⁷
3. Colorblindness is not a means for ending racial subordination because ignoring race does not allow for action that can correct for and eliminate past and current racial discrimination, inequities, and biases and because racism is systemic. Colorblindness ignores the fact that racism involves more than just stereotypes and individual prejudice. Destructive policies and institutional practices must be dismantled.²⁸
4. Groups are racialized differently. While the forms of racism that different groups encounter may be similar in some contexts, each racial group of color experiences unique forms of racial subordination and oppression.²⁹
5. Racial subordination serves both psychic and material purposes for white people.³⁰
6. People of color bring a unique voice to discussions and solutions concerning racism precisely because of their experience as racialized peoples, historically and currently.³¹
7. Interest convergence is how change occurs. In the United States and elsewhere, gains for different groups of color tend to come only when their interests converge with those of the white decision-making elite.³²

26. See Ian F. Haney López, *The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice*, 29 HARV. C.R.-C.L. L. REV. 1, 53–54 (1994) (explaining the failures of viewing race as biological or explained by physical attributes and shifting the understanding to a social creation of race); see also Angela Onwuachi-Willig, *Multiracialism and the Social Construction of Race: The Story of Hudgins v. Wright*, in RACE LAW STORIES (Rachel Moran & Devon Carbado eds., 2015).

27. See DELGADO & STEFANCIC, *supra* note 6, at 7; BENJAMIN B. RINGER & ELINOR R. LAWLESS, RACE-ETHNICITY & SOCIETY xiv–xv (1989).

28. See Erwin Chemerinsky, *Foreword*, in BENNETT CAPERS ET AL., CRITICAL RACE JUDGMENTS: REWRITTEN U.S. COURT OPINIONS ON RACE AND THE LAW 1 (Cambridge Univ. Press forthcoming 2022); MARI J. MATSUDA ET AL., WORDS THAT WOUND: CRITICAL RACE THEORY, ASSAULTIVE SPEECH, AND THE FIRST AMENDMENT 6 (1993).

29. See Haney Lopez, *supra* note 26, at 54–56 (explaining how racial groups are racialized, both similarly and uniquely). See, e.g., Kevin R. Johnson, *Race Matters: Immigration Law and Policy Scholarship, Law in the Ivory Tower, and the Legal Indifference of the Race Critique*, 2000 U. ILL. L. REV. 525 (demonstrating the importance of the different racialization of different groups in immigration law).

30. See Cheryl Harris, *Whiteness as Property*, 106 HARV L. REV. 1709, 1715–16, 1721 (1993); Bell, *supra* note 2, at 901, 903.

31. See Bell, *supra* note 2, at 906–07.

32. See Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523 (1980).

8. Tools such as storytelling and narrative are effective means of reaching a wider audience in part because of their accessibility.³³
9. There is no essential identity for any group; people's identities cannot be separated; and people experience discrimination, subordination, and life in general based on the intersection of their identities.³⁴

At its core, Black Lives Matter centers on the notion that our understandings of race and raced people are socially constructed, different groups are racialized in different ways, stories matter, the voices of people of color matter, the understanding of intersectional identities matter, colorblind approaches are not an effective means for dismantling subordination, and relatedly, that constructing strategies based on converging interests is not the way to “get free,” as Professor Paul Butler would say.³⁵ For instance, rather than organizing under a race neutral moniker, or a moniker that referred to all people of color, the founders Alicia Garza, Opal Tometi, and Patrisse Cullors opted to embrace rhetoric that speaks to the disparate treatment felt specifically and uniquely by Blacks in the United States.³⁶ In so doing, these three women highlighted the similar but unique history of genocide and oppression of Black people, including the unique existence and practice of slavery, which rested upon and conveyed a message of Blacks as subhuman, less valued, and unworthy of life—a message that, though repudiated in explicitly written laws in modern society, continues to carry great force today.³⁷ The Movement communicates the reality that Black lives, in particular, are framed as dangerous and deviant in ways that can lead officers and civilians alike to quickly link Blackness to criminality, as well as to more quickly view an inanimate object in a Black person's hand as a gun or see

33. See Bell, *supra* note 2, at 899, 902–03; Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2412–15 (1989).

34. See generally Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 154–55, 166.

35. See *infra* notes 39–57 and accompanying text; PAUL BUTLER, *LET'S GET FREE: A HIP-HOP THEORY OF JUSTICE* (2009).

36. Elle Hunt, *Alicia Garza on the Beauty and the Burden of Black Lives Matter*, GUARDIAN (Sept. 2, 2016), <https://www.theguardian.com/us-news/2016/sep/02/alicia-garza-on-the-beauty-and-the-burden-of-black-lives-matter> [<https://perma.cc/5G3C-YUJZ>].

37. Alicia Garza, *A Herstory of the #BlackLivesMatter Movement*, FEMINIST WIRE (Oct. 7, 2014), <http://thefeministwire.com/2014/10/blacklivesmatter-2/> [<https://perma.cc/8JHY-8THT>]; see also Angela Onwuachi-Willig & Anthony Alfieri, *(Re)Framing Race in Civil Rights Lawyering*, 130 YALE L.J. 2052, 2068, 2069, 2071, 2077, 2093 (2021) (reviewing HENRY LOUIS GATES, JR., *STONY THE ROAD: RECONSTRUCTION, WHITE SUPREMACY, AND THE RISE OF JIM CROW* (2019)) (discussing how damaging racial tropes about Blacks have persisted and morphed over time).

a Black person's actions as hostile and thus deserving of excessive force, such as shooting and killing.³⁸

The Black Lives Matter Movement's endorsement of an anti-colorblind approach is most evident in its responses to resisters who insist on asserting that "all lives matter."³⁹ As Garza explained, when Black Lives Matter gained more traction, it "began to come across varied adaptations of our work—all lives matter, brown lives matter, migrant lives matter, women's lives matter, and on and on."⁴⁰ Through protests and other events, Black Lives Matter supporters have educated the public about the damaging effects of pretending that all individuals, regardless of race, face the same hostilities.⁴¹ As Garza once explained:

We perpetuate a level of White supremacist domination by reproducing a tired trope that we are all the same, rather than acknowledging that non-Black [people] . . . BENEFIT from anti-Black racism. When you drop "Black" from the equation of whose lives matter, and then fail to acknowledge it came from

38. See L. Song Richardson, *Arrest Efficiency and the Fourth Amendment*, 95 MINN. L. REV. 2035, 2037–39, 2084–89 (2011) (explaining how implicit racial bias leads to disproportionate stops, searches, arrests, and killings of Black people); Samuel R. Sommers, *The Gates Case and Racial Profiling: Race Influences Perception*, N.Y. TIMES (July 23, 2009), <https://roomfordebate.blogs.nytimes.com/2009/07/22/the-gates-case-and-racial-profiling/> [<https://perma.cc/6XQ7-B8HS>] ("In psychological research, participants exposed to subliminal photos of black men are quicker to identify ambiguous images as weapons. Respondents in police simulation studies—including actual officers—are more likely to mistake innocuous items for guns when held by a black man. These are basic human tendencies to which many of us fall victim, yet they aren't inevitable with proper vigilance or training."); Jennifer L. Eberhardt et al., *Seeing Black: Race, Crime, and Visual Processing*, 87 J. PERSONALITY & SOC. PSYCH. 876, 876 (2004) (noting that that "[t]he mere presence of a Black man . . . can trigger thoughts that he is violent and criminal"); see generally Joshua Correll et al., *Across the Thin Blue Line: Police Officers and Racial Bias in the Decision to Shoot*, 92 J. PERSONALITY & SOC. PSYCH. 1006 (2007) (revealing results that showed that police were more trigger happy when the targets were Black than when they were white); B. Keith Payne, *Weapon Bias: Split-Second Decisions and Unintended Stereotyping*, 15 CURRENT DIRECTIONS IN PSYCH. SCI. 287 (2006) (researching split-second decisions about whose holding weapons). Cf. IAN AYRES & JONATHAN BOROWSKY, A STUDY OF RACIALLY DISPARATE OUTCOMES IN THE LOS ANGELES POLICE DEPARTMENT 8 (2008) (prepared for ACLU of So. Cal.), <https://www.aclusocal.org/sites/default/files/wp-content/uploads/2015/09/99227648-Racial-Profiling-the-LAPD.pdf> [<https://perma.cc/UEL9-CRUL>] (showing the danger of employing stereotypes in police work by revealing findings that, in Los Angeles, frisked Blacks are forty-two percent less likely than frisked whites to be found with weapons, twenty-five percent less likely to be found with drugs, and thirty-three percent less likely to be found with other contraband).

39. Garza, *supra* note 37.

40. *Id.*

41. Shannon Luibrand, *How a Death in Ferguson Sparked a Movement in America*, CBS NEWS (Aug. 7, 2015), <http://www.cbsnews.com/news/how-the-black-lives-matter-movement-changed-america-one-year-later/> [<https://perma.cc/AH8J-9WCE>].

somewhere, you further a legacy of erasing Black lives and Black contributions from our movement legacy.⁴²

At the same time, Garza, Cullors, and Tometi have made clear that the statement that “Black Lives Matter” does not mean that Black lives are more important than other lives or that other groups do not face criminalization or oppression; instead, it just means that there must be a focus on the particularized means of state violence against Black people.⁴³ Indeed, Garza, Cullors, and Tometi note: “We remain in active solidarity with all oppressed people who are fighting for their liberation and we know that our destinies are intertwined.”⁴⁴ Furthermore, Black Lives Matter’s insistence that voices of color not be silenced, subdued, or hidden by the voices of allies rests upon the notion of a unique voice of color—in this case, the unique voice of Blacks. The Movement welcomes allies of all races but expresses the need for those allies to investigate and examine how anti-Black racism is perpetuated, furthered, and emboldened within their individual communities.⁴⁵

Additionally, Black Lives Matter represents a very interesting example of interest convergence in social activism. Rhetorically, Black Lives Matter refutes interest convergence as a means of achieving progress. In fact, as noted before, Black Lives Matter calls upon members of the dominant group to enhance the lives of Black people for no other reason than because Black people matter, too.⁴⁶ There is no focus on reframing the argument that Black lives matter in a way that would appeal best to whites. On its face, Black Lives Matter does not appeal to the interests of the majority; however, the Movement, certainly aware of the power of interest convergence, has articulated how ensuring that Black lives are equally valued can be a benefit to *all* people, not just Black people. One of the mantras of the Black Lives Matter Movement is “when Black people are free, everybody gets free.” The argument is:

Black Lives Matter doesn’t mean your life isn’t important—it means that Black lives, which are seen as without value within White supremacy, are important to your liberation. Given the disproportionate impact state violence has on Black lives, we understand that when Black people in this country get free, the benefits will be wide-reaching and transformative for society as a whole. When we are able to end hyper-criminalization and sexualization of Black people and end the poverty, control, and surveillance of Black people, every single person in this world has a better shot at getting and staying free.⁴⁷

42. Garza, *supra* note 37.

43. *Id.*

44. *Id.*

45. *Id.*

46. See *infra* notes 52–55 and accompanying text.

47. David Smith, *The Backlash Against Black Lives Matter Is Just More Evidence of Injustice*, CONVERSATION (Oct. 31, 2017, 7:36 PM EDT), <https://theconversation.com/the-backlash-against-black-lives-matter-is-just-more-evidence-of-injustice-85587> [<https://perma.cc/2VAR-JVT4>].

In sum, even though Black Lives Matter has rejected interest convergence as a means of accomplishing their legislative and political agenda by refusing to reframe its arguments in ways that could diminish the focus on Black lives, it has also embraced interest convergence—the notion that gains for people of color occur only when interests converge with those of the white decision-making elite—as a means of conveying how equality for Black people can mean equality for all.⁴⁸

Furthermore, Black Lives Matter incorporates the core principle of storytelling and narrative in CRT. Undertakings like Black Lives Matter's project, "I Imagine . . .," have incorporated the strengths of storytelling that Critical Race Theorists have been touting since its beginning.⁴⁹ The "I Imagine" project asks people to submit audio responses of their "visions" of what life would look like in a world where Black lives mattered.⁵⁰ By relying upon personal narratives and audio clips of real people, Black Lives Matter has engaged in the task of rewriting stock narratives of the Black experience. In fact, the Movement offers counter-stories that dispute stereotypes through personal storytelling. These counter-narratives are critical because they are one of the main ways that implicit and explicit biases can be reduced and that decision-makers may be convinced to break down oppressive structures.⁵¹ Indeed, Black Lives Matter has acknowledged that art and imagery are critical to shaping a new vision for the world because they have "the power to change how we perceive ourselves, how we think about belonging and representation, and how we imagine the future."⁵² Thus, Black Lives Matter understands the importance of using imagery and storytelling to help recast the Black narrative in order to help push its legislative and cultural goals further.

In fact, such retellings have become a staple of Black Twitter, which arguably is an extension of the Black Lives Matter Movement.⁵³ Over and over,

48. *See id.*

49. *See* Tasbeeh Herwees, *Black Lives Matter is Collecting Audio Recordings for a Public Story Bank*, GOOD INC. (Apr. 29, 2015), <https://www.good.is/articles/black-lives-matter-public-story-bank> [https://perma.cc/2J69-95ZT]; *Project Launch May 1st, 2015*, BLACK LIVES MATTER (Apr. 30, 2015), <https://web.archive.org/web/20150430215250/http://blacklivesmatter.com/i-imagine-visions/black-lives-matter/> [https://perma.cc/CBG7-J5PH].

50. *Id.*

51. Delgado, *supra* note 33, at 2429–34.

52. *Art, Imagination, and the Quest for Racial Justice*, FACING HIST. & OURSELVES (Jan. 29, 2021), <https://www.facinghistory.org/educator-resources/current-events/art-imagination-quest-racial-justice> [https://perma.cc/G4YL-287N].

53. *See generally* Soraya Nadia McDonald, *Black Twitter: A Virtual Community Ready to Hashtag Out a Response to Cultural Issues*, WASH. POST (Jan. 20, 2014), https://www.washingtonpost.com/lifestyle/style/black-twitter-a-virtual-community-ready-to-hashtag-out-a-response-to-cultural-issues/2014/01/20/41ddacf6-7ec5-11e3-9556-4a4bf7bcbd84_story.html [https://perma.cc/F3PM-JXCS]; Black Lives Matter (@Blklivesmatter), TWITTER (July 13, 2016, 11:05 AM),

Black Twitter has highlighted the privilege rooted in the different treatments of Black and white victims. Consider the example of the Twitter campaign, #IfTheyGunnedMeDown. This campaign offered a sharp and persuasive critique of the ways in which Black victims get demonized in the media through chosen representations of their character.⁵⁴ In this critique, Black tweeters posted two contrasting pictures of themselves, suggesting with their posting that the more “sympathetic” photograph (often from a graduation, military ceremony, or church scene) would be the photograph that the media would choose to ignore in order to publish a more racially stereotypical or negative image—an image that provided only one limited snapshot of their lives.⁵⁵

Last, but not least, we see Critical Race Theory in action in the Black Lives Matter Movement’s stance against essentialism and endorsement of an intersectional approach to social justice.⁵⁶ Black Lives Matter rejects the notion that there is one unitary Black identity. It openly and directly challenges the ways in which past Black social movements have treated the Black, heterosexual, cis, male, Christian, able-bodied identity as representative of all Black experience. Black Lives Matter rejects the idea that an individual’s identity can be divided into parts and discusses the importance of understanding how Black people experience life at the intersection of identity categories. Founded by three Black women, Garza, Cullors, and Tometi, with Garza and Cullors identifying as queer, the Black Lives Matter Movement works to affirm all Black lives, regardless of gender identity, sexual orientation, immigrant status, sex, color, religion, and more. The Movement’s Guideline Principles also include prioritizing intergenerational approaches to organization and alternative family structures. There, the founders have proclaimed:

Black Lives Matter is . . . working to rebuild the Black liberation movement and affirm the lives of all Black people—specifically, Black women, queer and trans people, people who are differently abled, and those who are undocumented and formerly incarcerated. We focus on those marginalized within Black liberation movements, imposing a call to action and response to state-sanctioned violence

<https://twitter.com/blklivesmatter/status/753259150939820032?lang=en> [<https://perma.cc/VHR4-HXTN>].

54. See Lauren C. Williams, *How the Outrage Over the Michael Brown Shooting Is Going Viral*, THINKPROGRESS (Aug. 13, 2014), <http://thinkprogress.org/justice/2014/08/13/3470555/social-media-ferguson-response/> [<https://perma.cc/ZAY2-P4XC>]; see also Tanzina Vega, *Shooting Spurs Hashtag Effort on Stereotypes*, N.Y. TIMES (Aug. 12, 2014), http://www.nytimes.com/2014/08/13/us/if-they-gunned-me-down-protest-on-twitter.html?_r=0 [<https://perma.cc/RP5T-6JRY>].

55. Williams, *supra* note 54.

56. See Salzman, *supra* note 5.

against Black people, as well as the virulent anti-Black racism that permeates our society.⁵⁷

In essence, the founders of Black Lives Matter have worked to avoid creating and sustaining, even if not always successfully, a monolithic movement that would reduce Blackness to one narrative and have instead tried to create a space for the various personal identities of Black persons to intersect and be included.

CONCLUSION

Boston University alumnus Dr. Martin Luther King, Jr., once proclaimed, “A social movement that only moves people is merely a revolt. A movement that changes both people and institutions is a revolution.”⁵⁸ If the Black Lives Matter Movement is any proof, the intellectual and scholarly movement of Critical Race Theory is a revolution. Not only has it helped to transform the thinking of generations of learners who have been exposed to its insights, it has helped to form and create the very groups and institutions that are transforming our society in hopes of making it more racially just and equitable for all.

57. Interview by Dipka Bhambhani with Shanelle Matthews, Lead Comms. Strategist, Black Lives Matter (Feb. 10, 2016), <https://www.prweek.com/article/1383011/communications-goals-strategies-black-lives-matter> [<https://perma.cc/6N6P-CJ4L>]; Dipka Bhambhani, Press Release, *The Communications Goals and Strategies of Black Lives Matter*, BLACK LIVES MATTER (Oct. 9, 2017), <https://blacklivesmatter.com/sample-press-release-post-title/> [<https://perma.cc/KFSS-WYMP>].

58. MARTIN LUTHER KING, JR., *THE AUTOBIOGRAPHY OF MARTIN LUTHER KING, JR.* 220 (Clayborne Carson ed., 2001).