A Furious Kinship: Critical Race Theory and the Hip Hop Nation

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A FURIOUS KINSHIP: CRITICAL RACE THEORY AND THE HIP-HOP NATION

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I. INTRODUCTION

Two explosive movements were born in the United States in the 1970s. While the founding of both movements was humble and lightly noticed, both grew to become global phenomena that have profoundly changed the world. Founded by prescient agitators, these two movements were borne of disaffect, disappointment, and near desperation—a desperate need to give voice to opressed and dispossessed peoples. America in the 1970s bore witness to the founding of two furious movements: Critical Race Theory and Hip Hop.

Critical Race Theory was founded as a response to what had been deemed a sputtering civil rights agenda in the U.S. Driven by law professors of color, it primarily targeted the law by exposing the racial inequities supported by U.S. law and policy. Hip hop, on the other hand,
was founded by budding artists, musicians, and agitators in the South Bronx neighborhoods of New York City, primarily driven by young African American disaffected youth, as a response to a faltering music industry and abject poverty.\(^2\) While these two movements seem significantly separated by presentation, arena, and point of origin, they share startling similarities. Among the many similarities between Critical Race Theory and hip hop, include the use of narrative in response to racism and injustice in a post-civil rights era, a fundamental desire to give voice to a discontent brewed by silence, and a dedication to the continuing struggle for race equality in the United States. This Article seeks to be among the first to explore the parallel paths of evolution shared by the Critical Race Theory movement and the hip-hop nation in striving toward their mutual goals of radical realignment and societal recognition and change of race and law in America.

Part II of this Article begins by exploring the roots of Critical Race Theory (CRT). Part III examines the evolution of hip hop from its inception to its rise as a global phenomenon. Part IV unpacks the many similarities between these two forceful and fateful movements, discussing the underpinning similarities between the founding voices of both CRT and hip hop. Finally Part V of this piece explores the future voices of Critical Race Theory and hip hop, and suggests that the CRT torch can be comfortably shared with, and passed to, the hip-hop generation.

II. CRITICAL RACE THEORY

A. Origin

Critical Race Theory took root in the 1970s when leading legal academics began to realize that the Civil Rights Movement of the 1950s and 1960s had noticeably stalled, and that many of the gains achieved by

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\(^2\) See JEFF CHANG, CAN'T STOP WON'T STOP: A HISTORY OF THE HIP-HOP GENERATION 58–65 (2005); see also Melissa Castillo-Garstow, Latinos in Hip Hop to Reggaeton, Latin Beat Magazine, March 2005, available at http://findarticles.com/p/articles/mi_m0FXV/is_2_15/ai_n15557257/ (“From the earliest days, hip hop has not just been about music, but also included other cultural expressions of the neighborhoods of origin such as graffiti art, break dance, and the DJ mix tape scene. Those early stages of development took place primarily within the Puerto Rican and African American communities of the South Bronx, where those two cultures lived and worked together.”).
civil rights pioneers were no longer in effect. Professor Derrick Bell and other legal professionals worried about the halting rate at which laws promoting racial equality were emerging, and became troubled that early civil rights victories were beginning to erode after only a decade. Critical Race theorists became troubled, and thus exposed the “legal racial irony and liberal contradiction of the frustrating legal pace of meaningful reform that has eliminated blatant hateful expressions of racism” through passage of civil rights legislation, “yet[] has kept intact exclusionary relations of power as exemplified by the legal conservative backlash of the courts, legislative bodies, [and] voters . . . against special rights for racially marginalized groups.” Professor Bell and other founders of Critical Race Theory determined that “[n]ew approaches were needed to understand and come to grips with the more subtle, but just as deeply entrenched, varieties of racism” and race hatred that continued following the passage of civil rights legislation. Out of this disaffection, and a realization that the Critical Legal Studies movement did not significantly factor race and racism into its legal status quo critique, Critical Race Theory was founded.

Founding Critical Race theorists began to critique the “objective” rationalist nature of the law and the adjudication procedures in U.S. courts. CRT pioneers criticized the ways in which the genuine effects of the law served to advantage the privileged, wealthy, and powerful in the
United States while having a deleterious impact on the rights of the poor and oppressed, blocking their access to the courts as a means of redress for racial exploitation and discrimination.\(^9\) Out of this growing critique of the role of race and law in society, a new, fiery, and brash strand of scholarship emerged.\(^10\)

Critical Race theorists intuitively perceived the dearth of voices of color at any of the historic decision-making counsels in the United States, and identified the influence of white male privilege that redounds throughout United States law and legislation.\(^11\) In recognizing this “white privilege”\(^12\) in all aspects of American law and society, Critical Race theorists espoused a different approach, advocating that law and contemporary society begin to “look to the bottom.”\(^13\) One of the greatest weaknesses of American law—which remains today—is that the U.S. justice system is fundamentally based on a “top-down” development formula.\(^14\) From its inception, the legal system in the United States has been developed and refined by the privileged and the powerful,\(^15\) or those individuals who have little to no experience or realistic understanding of poverty, despair, voicelessness, or

\(^9\) Id.

\(^10\) Id.

\(^11\) See Mari J. Matsuda, Looking to the Bottom: Critical Legal Studies and Reparations, 22 HARV. C.R.-C.L. L. REV. 323, 335 (1987) (“Those who lack material wealth or political power still have access to thought and language, and their development of those tools will differ from that of the more privileged.”); see generally Kimberlé Williams Crenshaw, Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law, 101 HARV. L. REV. 1331 (1988).

\(^12\) See Stephanie M. Wildman & Adrienne D. Davis, Making Systems of Privilege Visible, in WHITE PRIVILEGE: ESSENTIAL READINGS ON THE OTHER SIDE OF RACISM 114 (Paula S. Rothenberg ed., Worth Publishers 2008) (“Whites do not look at the world through a filter of racial awareness, even though whites are, of course, members of a race. The power to ignore race, when white is the race, is a privilege, a social advantage. The term ‘racism/white supremacy’ emphasizes the link between discriminatory racism and the privilege held by whites to ignore their own race.”).

\(^13\) Matsuda, supra note 11, at 324 (suggesting that “those who have experienced discrimination speak with a special voice to which we should listen. Looking to the bottom—adopting the perspective of those who have seen and felt the falsity of the liberal promise—can assist critical scholars in the task of fathoming the phenomenology of law and defining the elements of justice.”); See generally Derrick Bell, Faces at the Bottom of the Well: The Permanence of Racism (1992) [hereinafter Bell, Faces at the Bottom]; Derrick Bell, And WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE (1989).


\(^15\) Cummings, supra note 14, at 539; see also Reginald Leon Robinson, Race, Myth and Narrative in the Social Construction of the Black Self, 40 HOW. L.J. 1, 7 (1996) (“Today, few law professors are willing to acknowledge that a white male perspective has shaped legal academe in a manner which stills invades, wounds, and destroys their colleagues of color.”); see also André Douglas Pond Cummings, Grutter v. Bollinger, Clarence Thomas, Affirmative Action and the Treachery of Originalism: “The Sun Don’t Shine Here in This Part of Town,” 21 HARV. BLACKLETTER L.J. 1, 5–8 (2005).
victimization. Critical Race Theory argues and advocates for a legal system that can and should be developed from the bottom-up. The United States prison system is just one example of this “top-down” approach. Generally, many that favor harsh legislative enactments and imprisonment as a means of deterrent punishment and retribution are individuals who have routinely inhabited the rare air of the privileged. Many of those that favor humane legislative enactments and rehabilitation as a means of punishment and imprisonment are typically those who feel and understand how life is messy, seedy, and rarely as perfect as it is for the privileged.

CRT revolves around several foundational pillars: First, racism is a relentless daily fact of life in American society, and the ideology of racism and white supremacy are ingrained in the political and legal structures as to be nearly unrecognizable. Racism is a constant, not aberrant, occurrence in American society. “Because racism is an ingrained feature of our landscape, it appears ordinary and natural to persons in the culture.” Second, “as a form of oppositional scholarship, CRT challenges the experience of White European Americans as the normative standard” against which societal norms are measured. “CRT grounds its conceptual framework in the distinctive contextual experiences of people of color and...”

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16 cummings, supra note 14, at 539; see also Michele H. Kalstein et al., Calculating Injustice: The Fixation of Punishment as Crime Control, 27 HARV. C.R.-C.L. L. REV. 575, 588 (arguing that rule by the privileged “enables those in power to create ‘apparently neutral and universal rules [which] in effect burden or exclude anyone who does not share the characteristics of privileged, white, Christian, able-bodied, heterosexual, adult men for whom those rules were actually written.”) (quoting Martha Minow & Elizabeth V. Spelman, In Context, 63 S. CAL. L. REV. 1597, 1601 (1990)); id. at 588 n.52 (“We the people’ is misleading because it claims to speak for everyone when it is actually the voice of ‘a political faction trying to constitute itself as a unit of many disparate voices; its power lasts only as long as the contradictory voices remain silenced.”) (quoting Angela P. Harris, Race and Essentialism in Feminist Legal Theory, 42 STAN. L. REV. 581, 583 (1990)); Robinson, supra note 15, at 7.

17 See Butler, supra note 14, at 134 (discussing a new bottom-up construction in hip hop).

18 See cummings, supra note 14, at 339.

19 See, e.g., Devon Johnson, Racial Prejudice, Perceived Injustice, and the Black-White Gap in Punitive Attitudes, 36 J. CRIM. JUST. 198, 199 (2008) (“[T]he racial gap in punitiveness is rooted in Blacks' and Whites' different positions in the social structure.”).

20 See generally Dr. Cornel West, Keynote Address at the West Virginia University Law Review Symposium: The Evolution of Street Knowledge: Hip Hop’s Influence on Law and Culture (Feb. 13, 2009) (transcript on file with author) [hereinafter West Keynote] (frankly discussing the inequities in the criminal justice system and the need for rehabilitative principles in punishment regimes, particularly for soft drug crime offenders).

21 THE CUTTING EDGE, supra note 1, at xvi.

22 Id.

23 Parker, supra note 1, at 2–3.
racial oppression through the use of literary narrative knowledge and storytelling to challenge the existing social construction of race.”  

Third, Critical Race Theory attacks liberalism and the purported belief in the ability of law to create an equitably just society through “interest convergence.” This critique purports that white elites will tolerate or encourage racial advances for blacks only when such advances also promote white self-interest. Fourth, CRT seeks to expose the flaws in the color-blind view of everyday social relations and the administering of law, by positing that the legal hope of ending discrimination and racism has not made a difference because of the contradiction in a professed belief in equality and justice but a societal willingness to tolerate and accept racial inequality and inequity.

Armed with these principles and values, CRT pioneers began to trek through a barren academic badland, wielding pens as swords aimed at the legal academy by drafting academic pieces that attempted to pierce the status quo apologist rhetoric. The words that flowed from the CRT founders formed an oasis of ideas and concepts that would eventually quench the thirst of those that had labored in the racial desert wasteland for decades.

B. Evolution

As CRT began to take root and develop, founding Critical Race theorists embarked on a meaningful exploration of new approaches to racial justice by experimenting with non-traditional forms of academic writing and thought. These new approaches included recognizing that the law, particularly civil rights law of the 1960s, was targeted to combat a particularized type of racism characterized as: (a) acts of grossly offensive behavior toward others because of their race, (b) legal segregation and

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24 Id. at 3; see also THE CUTTING EDGE, supra note 1, at xvii.
26 Bell, supra note 25, at 523 (Interest convergence is the proposition that “[t]he interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites.”).
27 Laurence Parker & Lorna Roberts, Critical Theories of Race, in RESEARCH METHODS IN THE SOCIAL SCIENCES 75 (Bridget Somchik & Cathy Lewin eds., Sage Publications 2005); see also Parker, supra note 1, at 5.
28 THE CUTTING EDGE, supra note 1, at xvii.
discrimination by public bodies, and (c) overt acts of racial violence.\textsuperscript{29} In recognizing that civil rights laws were based on these specific types of discrimination, Critical Race theorists sought to expose the many other diverse and various types of racially discriminatory behavior that the civil rights laws left unaddressed. The moral authority of the Civil Rights Movement served not only to mask blatant forms of racism in the United States, but also to cement in the minds of most white Americans that these were the only forms of American racism. As CRT grew in strength and tenor, the following dominant tenet emerged: while classical racism had subsided, everyday racism had increased markedly in its intensity and scope.\textsuperscript{30} Critical Race Theory identifies covert, typical modern racism as: (a) those institutional practices and events that are infused with some degree of racism;\textsuperscript{31} (b) “subtle, automatic, non-verbal exchanges that are seen as derogatory slights by African Americans”;\textsuperscript{32} (c) microaggressions and spirit injury/murder;\textsuperscript{33} and (d) the “colorblind” view of Constitutionalism, and colorblindness as a political position.\textsuperscript{34}

Today, twenty-something years since its inception, CRT continues to inspire heated debate and disagreement amongst legal scholars and academics. CRT unequivocally rejects “three entrenched, mainstream beliefs about racial injustice.”\textsuperscript{35} First, “that ‘blindness’ to race will eliminate racism. This belief, in turn, stems from the deep-rooted individualism that

\textsuperscript{29} See id.

\textsuperscript{30} Id.; see also Deirdre Bowen, \textit{Brilliant Disguise: An Empirical Analysis of a Social Experiment Banning Affirmative Action}, 85 IND. L.J. 1197 (2010) (describing empirical evidence that overt instances of racism and discrimination continue today in U.S. colleges and universities, particularly in states where affirmative action has been banned); and/\textsuperscript{31} Deirdre Pond Cummins, \textit{The Associated Dangers of “Brilliant Disguise,” Color-Blind Constitutionalism, and Postracial Rhetoric}, 85 IND. L.J. 1277 (2010) (detailing the startling findings from \textit{Brilliant Disguise}, identifying the modern trend of continuing if not escalating instances of racism and discrimination in American universities).

\textsuperscript{32} Parker, supra note 1, at 3 (citing PHILOMENA ESSED, UNDERSTANDING EVERYDAY RACISM: AN INTERDISCIPLINARY THEORY 3 (1991)).

\textsuperscript{33} Id.; see also Laurence Parker & Lorna Roberts, \textit{Critical Theories of Race}, in \textit{RESEARCH METHODS IN THE SOCIAL SCIENCES} 74, 75 (Bridget Somekh & Cathy Levin eds., 2005).

\textsuperscript{34} See Peggy Cooper Davis, \textit{Law As Microaggression}, 98 YALE L.J. 1559, 1560 (1989). Chester Pierce defines microaggressions as “subtle, stunning, often automatic, and non-verbal exchanges which are ‘put downs’ of blacks by offenders. The offensive mechanisms used against blacks often are innocuous. The cumulative weight of their never-ending burden is the major ingredient in black-white interactions.” Chester M. Pierce et al., \textit{An Experiment in Racism: TV Commercials}, 10 EDUC. & URB. SOC’Y 61, 65 (1977), reprinted in \textit{TELEVISION AND EDUCATION} 62–66 (C. Pierce ed. 1978); see also Daniel Solórzano et al., \textit{Keeping Race in Place: Racial Microaggressions and Campus Racial Climate at the University of California, Berkeley}, 23 CHICANO-LATINO L. REV. 15, 17 (2002).


\textsuperscript{36} Francisco Valdes, Jerome McCristal Culp & Angela Harris, \textit{Battles Waged, Won, and Lost: Critical Race Theory at the Turn of the Millennium}, introduction to \textit{CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY} 1 (Francisco Valdes et al. eds., 2002).
leads most American scholars and lawmakers, even liberal ones, to abhor all forms of group-based identity.”

Second, that racism is a matter of individuals, not systems. The goal of antidiscrimination law, as understood historically and currently by courts, was to search for perpetrators and victims: perpetrators could be identified through “bad” acts and intentions, while victims were (only) those who could meet shifting, and increasingly elusive, burdens of proof.

Finally, CRT rejects the notion “that one can fight racism without paying attention to sexism, homophobia, economic exploitation, and other forms of oppression or injustice.”

In rejecting these entrenched mainstream beliefs about racial injustice, CRT scholars have exposed racial “colorblindness” as a fallacy: a view by which status quo systems of inequality are systematically perpetuated. Critical Race theorists have located everyday, operative racism occurring at a structural—rather than just an individual—level. The guilty and the innocent must also be identified at that structural level. For example, racism must be viewed as inherent in the criminal justice system itself and not merely present in individual “bad-apple” police officers; or as something engrained in the educational structures of segregation and wealth transmission and not just individual views voiced by bigoted school board members. In responding to the belief that racism can be defeated without regard to structural and systemic oppression, “CRT has been dedicated to antiracist social transformation through an antisubordination analysis that would be ‘intersectional’ or ‘multidimensional,’ taking into account the complex layers of individual and group identity that help to construct social and legal positions.”

Further, the experimental approaches to legal academic writing embraced by CRT founders included a rejection of traditional notions of legal academic “purity” in favor of narrative and counter-narrative storytelling, biographical and autobiographical constructs, humor and satire in narrative analysis, and the use of universalism and abstract law, in order

36 Id.
37 Id. at 1–2.
38 Id. at 2.
39 See generally id.
40 Id.
to present a richer, less restrained, and more realistic analysis of racial disharmony and discrimination in American law.41

For decades, legal academic scholarship was deemed effective only if it followed a traditional approach: identifying a problem or gap in the law, analyzing the various approaches to the gap and surveying the relevant academic scholarship, and then proposing a novel solution to the particular legal problem. The analysis could only follow a staid, down-the-line examination of the law, relying exclusively upon case law and previously written scholarly legal commentary as valid sources of support. Any type of legal scholarship that diverged from this traditional model was dismissed as not intellectual, ineffective, and unworthy. Critical Race Theory founders rejected this traditional approach to legal academic scholarship as simply another example of perpetuating the status quo: an ideology dominated by white males.42 CRT not only rejected this traditional method of legal scholarship, but also advocated a complete departure from it by encouraging a new, aggressive style of legal commentary that thoroughly challenged the status quo.43

Critical Race Theory fully disrupted the analytical gaze that had captured the law and the legal academy since the beginning. CRT scholars literally shocked the traditional academy that likely expected gratitude and platitudes for racial advances accomplished, not insurrection or ingratitude in the form of Space Traders, Imperial Scholars, and Race, Reform, and Retrenchment. Critical Race Theory has profoundly influenced the academy as a whole, not just the legal academy. CRT programs and scholars now thrive in undergraduate universities and programs throughout the United States, growing in continuing power and influence.

In surprising ways, the origin and evolution of CRT mirrors many of the paths traversed by hip hop in its own origin and development.

42 See id. at 2412.
43 See infra Part III.
III. HIP HOP: FROM SOUTH BRONX TO A GLOBAL FOOTPRINT

A. Origin

Forged in the fires of the South Bronx, New York, and Kingston, Jamaica, hip hop became the clarion call of youth rebellion and a generation-defining movement. In the post-civil-rights era defined by deindustrialization and globalization, hip-hop music and culture crystallized a multiracial, polycultural generation’s worldview, and significantly transformed American politics and culture.44 “Modern[-]day rap music finds its immediate roots in the toasting and dub talk over elements of reggae music.”45 In the early 1970s, a Jamaican disc jockey (DJ) known as DJ Kool Herc moved from Kingston, Jamaica, to New York City’s West Bronx. In New York, Kool Herc adapted his style of chanting improvised rhymes over the instrumental or percussion sections of the day’s popular records.46 This simple act of rhyming in verbal cadence over the hooks and loops of popular records became a runaway cultural phenomenon that captured the imagination of not just disaffected black and Latino youth, but, ultimately, fans around the world.47

In October 1979, Sugar Hill Records released a single, entitled Rapper’s Delight, by the trio known as The Sugarhill Gang.48 The Sugarhill Gang sampled the funky rhythm of Chic’s Good Times49 and spit a memorable stream of rhymes over the familiar hooks. Rapper’s Delight sold more than two million copies worldwide and peaked at No. 4 on the Billboard R&B charts and No. 36 on the pop charts while it became a top hit.50 For the burgeoning culture that would come to be known as hip hop, this moment

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46 Id.; see also CHANG, supra note 2, at 79 (“[Herc] started searching for songs by the sound of their break, songs that he would make into his signature tunes . . . .”).
48 THE SUGARHILL GANG, Rapper’s Delight, on RAPPER’S DELIGHT [SINGLE] (Sugarhill Records 1979).
49 CHIC, Good Times, on RISQUE (Atlantic Records 1979).
50 Fernando, supra note 47, at 13.
was a fulcrum. Rapper’s Delight was not the first hip-hop recording, but it marked the first time that hip hop, as a genre, would be recognized by a national and even international audience. This revolutionary new sound and style, developed by poor black and Latino youth in the 1970s, had been captured on wax and commoditized with undeniable commercial results.

Following success in the street and parks of the South Bronx, young African American and Latino youngsters began mimicking Kool Herc by reciting their own original phrases and rhyming over familiar records’ loops and instrumental sections. “Call and response” became a trendy style of DJing where a popular or catchy phrase “rapped” by the DJ “would evoke a response from a crowd who began to call out their own names and slogans. As this phenomenon evolved, the party shouts became more elaborate,” giving young African American and Latino youth a chance to freely express themselves.

Hip hop, as an art form, flourished immediately as it was accessible to all comers. “One didn’t need a lot of money or expensive resources to rhyme. One didn’t need to invest in lessons, or anything like that. Rapping was a verbal skill that could be practiced and honed to perfection at almost anytime.” Rap appealed to young disaffected minority youth because it offered unlimited challenges and opportunities—no real set rules existed, other than to be original and to rhyme on time to the beat of music. Rap as a cultural movement allowed one to accurately and efficiently inject personality. If an MC was laid back, the MC could rap at a slow pace. If the MC was fast paced, the MC could rap quickly and rhythmically. No two MCs rapped the same, even when reciting the same words. Thus, hip hop nestled comfortably into the historic tradition of reflecting African American culture in its musical expression.

51 Id. at 14.
52 Id. at 13.
53 History of Hip Hop 2, supra note 45; see generally Fernando, supra note 47, at 13–20.
55 History of Hip Hop 3, supra note 54.
56 Id.
Throughout history, music originating from African American communities has always included an accompanying subculture reflective of the political, social, and economic conditions of the time. Hip-hop culture, like all black art forms before it, embraced its own specific subculture, including graffiti art, break dancing, DJing (cutting and scratching), and rapping. Hip-hop culture became a lifestyle “with its own language, style of dress, music, and mind set that is continually evolving.” Initially, all of hip hop’s major facets were forms of countercultural self-expression accompanied by an express disregard for the law. “The driving force behind all these activities was people’s desire to be seen and heard.” As it originated in the 1970s, hip hop reflected the political, social, and economic conditions at the time directly following the Civil Rights Movement.

Hip hop originated in part as a direct response to the civil rights generation’s perceived rejection of the values and needs of urban young people. Additionally, hip hop came about because of some major format changes that took place within Black radio during the early 1970s. Prior to hip hop, black radio stations played an important role in the community by being a musical and cultural preserver or griot (story teller). It reflected the customs and values of the day in particular communities. It set the tone and created the climate for which people governed their lives as this was a primary source of information and enjoyment.

Martin Luther King, Jr., himself acknowledged the critical role that black radio played in the Civil Rights Movement. In his August 1967 address to the National Association of Radio Announcers, Dr. King lauded black radio DJs for the intricate role they played in keeping the Civil Rights

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53 Id.; see also Fernando, supra note 47, at 13–50.

54 See Andre L. Smith, Other People’s Property: Hip-Hop’s Inherent Clashes with Property Laws and its Ascendance as Global Counter Culture, 7 VA. SPORTS & ENT. L.J. 59, 69–73 (2007) (discussing early hip hop’s civil disobedience in the form of house parties and park performances held without required permits or paying for electricity, unlicensed radio stations known as “pirate stations” playing hip-hop across the country, music sampling, and illegal production and distribution of records and tapes).

55 Id.

56 Id.

57 Id.
Movement alive. “He noted that while television and newspapers were popular and often times more effective mediums, they rarely languaged themselves so that Black folks could relate to them.”

However, due in part to the narrowing of radio ownership, and the nationalization of radio station ownership rules, the influence of black radio decreased following the Civil Rights Movement. National radio became dominated by disco and rock-and-roll, with little space for black expression. Hip-hop culture and rap began filling the void for urban African Americans. It was a direct response to the diminishment of black public radio and the watered down, Europeanized disco music that permeated the airwaves in the 1970s and early 1980s.

To many, hip hop spelled liberation and a return to authentic black music and expression. The dance and disco music of the 1970s buried the emotionally charged, folk-based soul music of the 1960s, which had been fueled by the victorious poetic rhetoric of civil rights and black power. Rap and hip hop meant that performers were free again to talk openly, “to insert curses, blessings, and jokes into their raps, and to return to the funky, individually grained voices that disco [and rock] had made to seem gauche.”

In addition to the disappearance of black public radio and the disaffect of minority youth with the civil rights generation, other crucial factors contributing to the platform from which the hip-hop revolution emerged included an American societal malaise represented by Vietnam, national political unrest, rampant stimulant/narcotic abuse, law and order mentality, unemployment, and inner-city disenfranchisement. Another event precipitating the eventual intensity of hip hop was the election of Richard Nixon as President of the United States and a massive military conscription of urban black and Latino eighteen to twenty-year-olds creating, virtually

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66 See Folami, Black Public Sphere, supra note 65.

67 See Folami, Deliberative Democracy, supra note 65; see also generally 3 NORTON ANTHOLOGY OF WESTERN MUSIC (J. Peter Burkholder & Claude V. Paliska, eds., W.W. Norton & Co. 2009).

overnight, a community-disrupting void. A result of this historical confluence was a spontaneous movement of ferocious intensity: The hip-hop nation was born.

B. Evolution

Hip-hop music and culture have "conquered the world." Since hip hop’s humble beginnings it has, in just three decades, become a United States phenomenon and a global cultural and entertainment movement. Hip-hop artists regularly top the United States and international record sales charts. Motion pictures with hip-hop themes chart regularly on box office reports, both in the U.S. and internationally. Hip-hop artists have become record moguls, international movie stars, clothing line

[70] Id.
[71] And You Don’t Stop: 30 Years of Hip Hop, Episode 1, Back in the Day (VH-1 television broadcast Oct. 4, 2004), available at http://www.youtube.com/watch?v=CTarq3WNnHY. According to Bill Adler, publicity director for Def Jam Records, "These young kids came from poverty and desolation and conquered the world." Id.
[72] See Press Release, Nielsen Soundscan, 2008 U.S. Music Purchases Exceed 1.5 Billion; Growth in Overall Music Purchases Exceeds 10% (Dec. 31, 2008), available at http://www.businesswire.com/news/home/20081231005304/en/2008-U.S.-Music-Purchases-Exceed-1.5-Billion. In 2008, three of the ten top selling albums of the year were by hip-hop artists: Tha Carter III by Lil’ Wayne ranked first; Paper Trail by T.I. ranked eighth; and I Am . . . Sasha Fierce by Beyonce ranked tenth. See also Smith, supra note 61, at 67 (“[M]usic industry executives began signing talent from other continents, such as Africa and Europe.” (citing CHANG, supra note 2, at 418)).
[75] See Stuart Elliot, A New Venture for Jay-Z on Madison Avenue, N.Y. TIMES, Feb. 8, 2008, available at http://www.nytimes.com/2008/02/08/business/media/08adco.html (“Jay-Z is a Grammy-winning rapper, a club owner, a clothing, a fledgling hotelier, the part-owner of a basketball team and the former president of [Def Jam Records]. Now he gets to add adman to his résumé.”).
designers,77 stars of reality television programming,78 and world-renowned collaborators.79 Hip-hop studies programs have sprung up throughout the academy in the U.S.,80 and a burgeoning body of literature has documented this global ascent.81 In a relatively short period of time, hip hop has become a dominant cultural force in the world, and, in many ways, has become the voice of a generation.82

As indicated above, this global movement sprung from very modest roots. Rap music and hip-hop culture were dismissed at their inception as a fad and were widely panned by critics and the majority public as an}


82 See Folami, Black Public Sphere, supra note 65, at 253 (“Despite its commercial successes and commodification, gangsta rap must continue to be contextualized within its hip hop origins, as it still gives voice to what would otherwise be an invisible and marginalized group of Black and Latino male youth.”); see also DJ Kool Herc, Introduction to CHANG, supra note 2, at xi (“Hip-hop is the voice of this generation. Even if you didn’t grow up in the Bronx in the ‘70s, hip-hop is there for you. It has become a powerful force. Hip-hop binds all of these people, all of these nationalities, all over the world together.”); see generally M.K. ASANTE JR., IT’S BIGGER THAN HIP HOP: THE RISE OF THE POST-HIP-HOP GENERATION (2008). In many ways, hip hop is laddering its influence into the next generation as popular programs for children abound. See generally Hip Hop Harry (C to B Productions television broadcast 2006 to Present); The Electric Company, Sesame Workshop (PBS television broadcast 2009 to Present).
unimportant “flash in the pan” musical movement. The general public seemed content to ignore hip hop and its accoutrements (i.e., break dancing, graffiti, DJing, etc.) when the movement was confined to the inner cities of major U.S. metropolitan areas. Thus, when the 1970s and 1980s saw the releases of The Sugarhill Gang’s *Rapper’s Delight*, Africa Bambaataa’s *Planet Rock*, Kurtis Blow’s *Basketball* and *If I Ruled the World*, and Whodini’s *Five Minutes of Funk*, legislators and law enforcement paid little heed to this nascent movement, although the genre was becoming an increasingly powerful gale force.

However, in the 1980s, when hip hop began creeping into the cassette players and minds of white American suburban youth, particularly with aggressive, violent, and counterculture lyrics, the U.S. general public, legislators, and law enforcement began to take urgent notice. With the releases of Public Enemy’s *It Takes a Nation of Millions to Hold us Back* and *Fear of a Black Planet* (featuring Don’t Believe the Hype, Black Steel in the Hour of Chaos, Fight the Power, and 911 Is a Joke), N.W.A.’s *Straight Outta Compton* (featuring Fuck tha Police and Gangsta Gangsta), Boogie Down Productions’ *Criminal Minded* and *By All Means Necessary*, and Ice-T’s single *6 in the Mornin’* and the heavy metal and punk-influenced *Cop Killer*, hip hop...
suddenly became a lightning rod of attention and criticism. This newfound status as controversial lightning rod emerged not just because of the explicit political and violent countercultural messages, but also because these messages were being heard and received widely by inner-city youth as well as white-suburban youth across the country.

Despite a period of intense criticism and attempts to discredit and eradicate hip hop, including aggressive attacks by the FBI, CIA, local law enforcement across the United States, Tipper Gore, and C. Delores Tucker, hip hop has not just survived, but has influenced and dominated a


93 See id.; see also Encyclopedia Britannica's Guide to Black History: hip-hop, ENCYCLOPÆDIA BRITANNICA, http://www.britannica.com/blackhistory/article-9117557 (last visited Feb. 13, 2010) (hereinafter Guide to Black History) ("The most significant response to New York hip-hop, though, came from Los Angeles, beginning in 1989 with N.W.A.'s dynamic album *Straight Outta Compton*. N.W.A. (Niggaz With Attitude) and former members of that group—Ice Cube, Eazy E, and producer Dr. Dre—led the way as West Coast rap grew in prominence in the early 1990s. Their graphic, frequently violent tales of real life in the inner city, as well as those of Los Angeles rappers such as Ice-T (remembered for his 1992 single *Cop Killer*) and Snoop Doggy Dogg and of East Coast counterparts such as Schoolly D, gave rise to the genre known as gangsta rap.") (emphasis deleted).


95 See infra Part III.B.


98 See EMETT PRICE, HIP HOP CULTURE 74–75 (2006) (discussing the Tipper Gore-led formation of the Parents' Music Resource Center with its goal of banning explicit material on recordings in rap, rock, and heavy metal music, and the Recording Industry Association of America's introduction of a uniform labeling system for records with explicit content reading "Parental Advisory—Explicit Lyrics.").

99 See RUSSELL A. POTTER, SPECTACULAR VERNACULARS: HIP-HOP AND THE POLITICS OF POSTMODERNISM 95 (1995) ("In 1994, the reaction against this particular genre reached a crisis point in the
generation—the hip-hop generation. Hip-Hop has assumed a central role in molding the destinies of a whole generation of young people. Simply stated, hip-hop music and its counterculture had exploded onto the U.S. and global consciousnesses.

From the 1980s to present day, hip-hop culture has grown in its power and influence. Mighty debate has raged during these three decades as to whether hip hop’s influence has been a positive force or a destructive mechanism, but few still believe or argue that hip hop will fade as a mere cultural footnote.

The genuine power and robust influence of hip hop and its generation were on clear display during the 2008 United States presidential election cycle. Many diverse constituencies fueled President Barack Obama’s victory in the historic 2008 election; the hip-hop generation was certainly one of the most important, driving Obama to the most powerful position in the world. Socially conscious rapper Talib Kweli backed and campaigned for President Obama, and referred to him as not just the first black President, but the first hip-hop President.

form of congressional hearings instigated by Dr. C. Delores Tucker. Dr. Tucker . . . took offense to ‘gangsta rap’ lyrics, and organized a series of protests in the Washington, D.C. area. . . . Unlike Tipper Gore and her dormant Parents’ Music Resource Center, Tucker wanted more than warning labels; she demanded an outright ban on ‘gangsta’ rap records.”).

See Bakari Kitwana, The Hip Hop Generation: Young Blacks and the Crisis in African American Culture 4 [2002] [hereinafter Kitwana, The Hip Hop Generation]. Kitwana defines “hip-hop generationers” as “those young African Americans born between 1965 and 1984 who came of age in the eighties and nineties and who share a specific set of values and attitudes. At the core are our thoughts about family, relationships, child rearing, career, racial identity, race relations, and politics.” Id. Borrowing Kitwana’s definition, I adopt the idea here that the Hip-Hop Generation are indeed those individuals born between the years of 1965 and 1984, but seek to expand the definition to include also those individuals strongly influenced by the hip-hop movement who are Latino, white, Asian, Polynesian, etc., i.e., “hip-hop generationers” of color or of urban influence.


See Video: West Virginia University College of Law Symposium on The Evolution of Street
Dr. Cornel West, reflecting upon the historic campaign waged by Barack Obama, mused:

I would go as far as to suggest that there’s a good chance there wouldn’t even be an “Age of Obama” without hip hop, given the fundamental role . . . young people played in galvanizing Obama’s campaign. I was there in Iowa where there was just a few of us; . . . disproportionately young, disproportionately white, and when we stole away, they were all listening to hip hop. And I am not talking about just Eminem. . . . Hip hop doing what? Opening young people to the humanity of other young black people whose conditions have been overlooked.\(^\text{104}\)

In recognizing the sizeable global footprint hip hop has created, two things seem clear. First, as the hip-hop generation grows up, some of its members will become leaders: legislators, educators, lawyers, laborers, scholars, and philosophers. Second, these leaders, educators, and professionals will bring to their specific roles the images, lessons, and stark critiques that accompany all authentic members of this generation. As hip hop is truly impacting an emerging generation of leaders and scholars, society should pay very close attention to the messages and lessons that hip hop has taught and continues to impart.

As hip hop settles into its place as a global phenomenon, the origin and evolution of this movement share a startling parallel development with the legal academic movement known as Critical Race Theory. I posit that this mirrored relationship is not only important, but crucial.\(^\text{104}\) The connection between Critical Race Theory and the hip-hop generation is one that grounds itself in the foundations of race in this nation and the manner in which the law intersects with racism and racial discrimination. Hip-hop music and culture have deeply influenced those that now represent the

Knowledge: Hip Hop’s Influence on Law and Culture (West Virginia University College of Law Feb. 12-13, 2009) available at http://law.mediasite.wvu.edu/mediasite/catalog/ (providing live remarks made by keynote speaker Talib Kweli, who refers to President Obama as the “hip hop President”); see also Imani Cheers & Crystal Holmes, The Audacity of Hip-Hop, NEWSWEEK.COM (Sept. 25, 2008), http://www.newsweek.com/id/160832; Obama Hip-Hop: From Mixtapes to Mainstream, NPR.ORG, (Nov. 9, 2008), http://www.npr.org/templates/story/story.php?storyId=96748462 (“‘The challenge that Barack Obama had was really to be able to wink to the hip-hop community and say, ‘I really can’t acknowledge you in the mainstream, but understand that I’m hearing what your critique is; I’m hearing what your concerns are, and you now have a wide-open space in the so-called underground . . . to talk about why my candidacy is important,’” [Professor Mark Anthony] Neal says. ‘And I think many of the rappers, particularly the very visible mainstream rappers, understood that strategy, because it’s a strategy that they employ all the time, also. There’s a version of, for instance, Snoop Dogg that sells records, but that’s a very different version of Snoop Dogg that’s sitting with Larry King talking about the election.’”).

\(^{104}\) West, Keynote, supra note 20. During his keynote address, Princeton Professor Dr. Cornel West described hip hop “at its best” as a movement that inspires and affects listeners based on its authenticity and willingness to deal with the reality of pain, inequality, and disappointment in life, when most Americans avoid dealing with difficult U.S. issues of racism, sexism, inequality, poverty, and powerlessness. See id.
second generation of Critical Race Theory. This relationship has the potential to radically influence race scholarship and race lawyering in the United States.

IV. SHARING A PARALLEL UNIVERSE

A. Launch

When many of the founding members of Critical Race Theory met in 1989 at a workshop at the St. Benedict Center in Madison, Wisconsin, launching a global academic movement was likely not at the forefront of their minds. Meeting together as law professors of color was more about support and survival within the white male-dominated legal academy than about spawning a movement that would change the debate of race in America. Similarly, when DJ Kool Herc and Africa Bambaataa began spinning records on turntables in the parks of the South Bronx and rhyming over the instrumental hooks, I doubt that launching a global cultural and musical movement was their objective. The roots of both launches were humble, unassuming, and sparsely witnessed. Truly, the beginning of CRT and the origination of hip hop both sprang from the creative and aggressive minds of a few forward-thinking progressives that simply had to find a forum by which to express very different ways of communicating, thinking, writing, and philosophizing.

From the movement’s inception, Critical Race theorists championed storytelling and narrative as valuable empirical proof of reality and the human experience, while rejecting traditional forms of legal studies, pedagogy, and various forms of civil rights leadership. Hip hop, at its root, is narrative in form; the best, most recognizable hip-hop artists use storytelling as their most fundamental communicative method. Further, early hip-hop culture and rap music rejected the traditional legal, judicial, and educational systems, decrying—often in journalistic fashion—the status-quo system established by the white majority. In the same vein, Critical Race theorists rejected the straight-white-male perspective and

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106 See John Calmore, Airing Dirty Laundry: Disputes Among Privileged Blacks—From Clarence Thomas to “The Law School Five,” 46 HOW. L.J. 175, 179 (2003) (citing Cornel West, Foreward to Critical Race Theory: The Key Writings That Formed the Movement (Kimberle Crenshaw et al. eds., 1995)).

107 See supra note 54 and accompanying text.

108 See Potter, supra note 99, at 132; see also Butler, supra note 14, at 124.
privilege then (and still) pervasive throughout the legal academy, proposing instead a much different approach to teaching, writing, legal learning, and perspective-sharing within the law-school classroom. Hip-hop artists have advocated for some thirty years now that which is perhaps most jarring for traditional society: a thorough disrespect for, and disregard of, the rule of law, particularly in connection with criminal law and punishment.

The striking similarities between CRT and hip hop begin with the intellectual underpinnings of both movements. Both CRT and hip hop serve the dual purpose of providing a race-based interdisciplinary theoretical framework for analyzing laws, policies, and administrative procedures that have a deleterious impact on racial minorities. As studies have shown:

Youth utilize hip hop music in multiple and overlapping ways, engaging hip hop music as both a pedagogy that centers the perspectives of people of color and a framework to examine daily life. Specifically, youth use hip hop discourse to make sense of the ways race operates in their daily lives; to more broadly understand their position in the U.S. racial/ethnic hierarchy; and to critique traditional schooling for failing to critically incorporate their racialized ethnic/cultural identities within official school dialogues and curricula in empowering ways.

Hip hop reinforces the basic insights of Critical Race Theory, including the notion that racism is a normal and relentless fact of daily life. In addition, personal experience and narrative storytelling are used extensively and creatively to challenge the existing social construction of race. Both CRT and hip hop recognize that white elites will tolerate or encourage racial advances for blacks only when such advances promote white self-interest. In response to the inevitable result of cultural marginalization, African Americans have utilized hip-hop lyrics to disempower the white cultural elite. Hip hop serves as white America’s introduction to the rest of minority society, exposing traditional America to life in the inner-city. Both


110 See Cummings, supra note 14, at 515–16.


112 See supra notes 21–24 and accompanying text.

113 Bell, supra note 25, at 523.
KRS-One and Chuck D began using their voices in hip hop as a revolutionary mechanism to politicize youth; a tool for consciousness, education, and awareness of the common stereotypes of the day. Due to hip hop’s bold and unapologetic representation of the culture of inner-city youth to mainstream America, the public eventually had no choice but to listen and accept a different reality.\footnote{114 See Collins, supra note 84.}

Many Critical Race theorists believe that a principal obstacle to genuine racial reform in the U.S. is the majoritarian mindset: an experientially limited bundle of presuppositions, received wisdoms, and shared cultural understandings that persons in the majority bring to discussions of race.\footnote{115 See THE CUTTING EDGE, supra note 1, at xvii.} To analyze and challenge these power-laden beliefs, many CRT pioneers employed counterstories, parables, chronicles, and anecdotes aimed at revealing the contingency, cruelty, and self-serving nature of majoritarian rule.\footnote{116 See id.} Similarly, hip hop revolves around storytelling. In educating the hip-hop generation, Grandmaster Flash and the Furious Five recorded The Message; Public Enemy famously recorded Fight the Power, Don’t Believe the Hype, Black Steel in the Hour of Chaos, and 911 Is a Joke; N.W.A. notoriously released Fuck Tha Police and 100 Miles and Runnin’; Tupac Shakur released Brenda’s Got a Baby, Keep Ya Head Up, and Changes; Ice Cube released the explosive AmeriKKKas Most Wanted featuring Endangered Species (Tales from the Darkside) and later Dead Homiez; KRS-One released an entire album he styled Edutainment featuring Love’s Gonna Getcha. Each release represented an urban tale, a story known intimately by the authors/artists; likewise, each was an effort on the part of the artist to educate and enlighten the hip-hop generation. Particularly, these stories illuminated fans and listeners to the inequities and discrimination inherent in a criminal justice system that to this day systematically targets and disproportionately imprisons minority and urban youth.\footnote{117 See cummings, supra note 14, 533–34.}

Like the seminal hip-hop records mentioned above, CRT founders dropped narrative and intellectual bombs in their early countercultural legal writing. In educating the legal academy, and the world in general, to the deeply entrenched racism underlying American institutions, Derrick Bell wrote the profound The Space Traders, Serving Two Masters, Minority Admissions and the Usual Price of Racial Remedies, and The Interest Convergence Theory;
Richard Delgado published the explosive The Imperial Scholar and A Plea for Narrative; Kimberlé Crenshaw authored the inspired Race, Reform, and Retrenchment; Charles Lawrence published the groundbreaking The Id, The Ego, and Equal Protection: Reckoning with Unconscious Racism; Mari Matsuda wrote Looking to the Bottom; and Neil Gotanda published A Critique of ‘Our Constitution Is Color-Blind.’ Each publication represented an effort on the part of the CRT pioneers to educate and enlighten the civil-rights generation, emerging scholars of color, and the rest of the legal world to the inequities and discrimination inherent in a legal system that systematically disadvantages minority citizens in the U.S.

Both CRT and hip hop found a post civil rights era voice and used this voice to express fiery and furious critiques of a system that was, and still is, fundamentally unfair. Without doubt, both movements also found an audience that was yearning for a vehicle to speak truth to power; indeed, they had been waiting in vain for a representative voice to expose a reality known by so many of the oppressed and voiceless. Hip hop was a source of validation and acknowledgment for a generation that had been shut out and shut down. CRT served a similar function for a professional movement that had become frustrated with the failure of America to live up to its promise of equality and social justice. Together, these two movements have converged in extraordinary ways.

B. Backlash

At inception, both CRT and hip hop were battered by a backlash that was intent on destroying each movement. Taking different paths, the vitriolic backlashes represented not just a fundamental disrespect for African American and minority expression, but also represented a deep-seated irrational fear held by the majority status quo and an unadulterated loathing of unfamiliar self expression. The loathing, disrespect, and backlash against both movements proved eerily similar.

In the 1980s, as hip hop began to expand its reach into suburban America and its youth, and as hip-hop artists and groups began to wield political power and deliver countercultural messages that resonated with those youth, an aggressive and hostile backlash emerged. The fearful response from law enforcement, activist groups, and government agencies

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118 These works are further discussed infra.
119 See supra note 85 and accompanying text.
came soon after seminal releases by Public Enemy, N.W.A., Boogie Down Productions and KRS-One, and Ice-T. Hip hop openly and brazenly defied traditional laws and challenged the status quo across the board.121

Despite intense criticism and myriad attempts at its eradication,122 hip hop has not just survived, but has flourished and exacted a dominant influence over a generation.123 While the initial backlash against hip hop proved ineffective, present-day criticism continues, some for good reason. This criticism must be recognized124 and reconciled with hip hop’s message of empowerment and self-realization.125

120 See id.; see also Guide to Black History, supra note 93 (discussing hip hop as a “cultural movement” and examining the evolution of “gangsta rap” and its beginnings).

121 See albums cited supra notes 86–93 and accompanying text; see also Smith, supra note 61, at 69–73 (discussing early hip hop’s civil disobedience in the form of house parties and park performances held without required permits or paying for electricity, unlicensed radio stations known as “pirate stations” playing hip-hop across the country, music sampling, and illegal production and distribution of records and tapes).

122 See supra notes 96–101 and accompanying text.

123 See KITWANA, WHY WHITE KIDS LOVE HIP HOP, supra note 81, at 4 (defining the Hip-Hop Generation); see also BUTLER, supra note 14, at 123–24 (discussing the “hip-hop nation”).

124 See BUTLER, supra note 14, at 144 (“One serious deficiency in hip-hop is its endemic sexism and homophobia. Can any credible theory of justice be based on a culture that routinely denigrates more than half the population? The answer must be ‘no.’ For hip-hop to command the moral authority that, at its best, it deserves, it must address subordination within the hip-hop nation. The problem besmires hip-hop’s extraordinary aesthetic achievement and detracts from its important evaluation of criminal justice. Hip-hop music and videos, especially, contain the kind of depictions of gender and sexuality that we might expect of adolescent boys.”).

125 The devastating misogyny, homophobia, and violence prevalent in some hip hop works to deter many from hearing and feeling the transformative messages contained in thousands of hip-hop anthems and lyrics. See generally Edward G. Armstrong, Gangsta Misogyny: A Content Analysis of the Portrayals of Violence Against Women in Rap Music, 1987-1993, 8 J. CRIM. JUST. & POPULAR CULTURE 96–126 (2001). The hip-hop nation must confront, debate, and challenge those messages that serve to injure minority communities. That debate is beyond the scope of this particular Article, although not beyond the scope of the many presentations and panels delivered in connection with this Article. As discussed meaningfully and often at every presentation connecting this theme, the corporatization of hip hop is often considered one of the primary drivers behind the blatant 1990s shift in hip hop away from revolutionary groups and messaging toward the “thug life” and female objectification messaging delivered by most major record label artists. See andre douglas pond cummings, Akilah Folani, D. Aaron Lacy, and Kamille Wolff, Panel Presentation at LatCrit Conference, American University Washington College of Law: The Hip Hop Movement at the Intersection of Race, Class and Culture: Hip Hop Music’s Effect on Life, Liberty and the Pursuit of Happiness (Oct. 2, 2009) (panel discussion exploring the misogyny and promotion of violence in hip hop, the reasons behind the messaging and potential strategies to combat the corporate message). One leading scholar suggests that major record label corporate executives made a conscious decision in the mid-1990s to purposely “select” the thug image as the face of hip hop in order to promote sales to white urban youth while attempting to sapelch the revolutionary messages delivered by many prominent artists during that period. See andre douglas pond cummings, Akilah Folani, D. Aaron Lacy, and Kamille Wolff, Panel Presentation at the Annual Association for the Study of Law, Culture and the Humanities Conference, Brown University: Hip Hop and the Law (Mar. 19, 2010) (panel discussion exploring the impact of hip hop on U.S. law and culture, particularly addressing the corporatization of hip hop in the 1990s).
Similarly, when CRT emerged and began to find genuine traction in the legal academy, the critical backlash from the establishment was acerbic and intense. Of course, those invested and entrenched in protecting traditional legal scholarship criticized the emerging CRT scholarship as ungrounded, overly passionate and polemic, and neither academic nor intellectual.\footnote{126 See Daniel A. Farber & Suzanna Sherry, Beyond All Reason: The Radical Assault on Truth in American Law 12 (1997) (exploring “the mechanisms that allow the radicals to abandon common sense and adhere to a set of basically implausible beliefs”); see also Randall L. Kennedy, Racial Critiques of Legal Academia, 102 Harv. L. Rev. 1745, 1745–46 (1989). But see Richard Delgado, On Telling Stories in School: A Reply to Farber and Sherry, 46 Vand. L. Rev. 665, 666–67 (1993).} The traditional academy sought to expose the narrative tradition of CRT as non-scholarly, unempirical, unrepresentative, and untrustworthy.\footnote{127 See generally Farber & Sherry, supra note 126; Kennedy, supra note 126, at 1787.} In addition, opponents of the movement criticized CRT as promoting a “myth” that people of color share a specific or unified voice, and therefore should not be recognized as fundamentally important on issues of race.\footnote{128 See Farber & Sherry, supra note 126, at 12; see also Kennedy, supra note 126, at 1787.}

The crucial element of Critical Race Theory’s aggressive storytelling and narrative tradition is that it invites the legal academy to “construct a new world” by “combining elements from the story and current reality.”\footnote{129 See Delgado, supra note 41, at 2415.} However, this invitation to construct a different reality was resisted with vigor.\footnote{130 See generally Daniel A. Farber & Suzanna Sherry, Telling Stories Out of School: An Essay on Legal Narratives, 45 Stan. L. Rev. 807, 814–15 (1993) (“Related to the lack of evidence for the existence of a distinct voice of color, we have found little exploration of the content of such a voice.”); Kennedy, supra note 126, at 1778 (“But what, as a function of race, is ‘special’ or ‘distinct’ about the scholarship of minority legal academics? Does it differ discernibly in ways attributable to race from work produced by white scholars? If so, in what ways and to what degree is the work of colored intellectuals different from or better than the work of whites?”).} The opposition from the traditional academy was extremely critical and, more than likely, expected.\footnote{131 See supra notes 126, 130.} During the firestorm of early criticism, Critical Race scholars contended that the movement was in its infancy, and was still defining itself.\footnote{132 See Richard Delgado, The Insured Tom in Outsider Jurisprudence, 34 WM. & Mary L. Rev. 741, 766 (1993).} Some CRT scholars wondered aloud about the critics’ “rush to judgment” and openly questioned the motives of those making such caustic attacks so soon after the budding of the new movement.\footnote{133 Id. In 1993, Richard Delgado explained that Critical Race Theory, having sprung up in 1989, only consisted of four or five books and just 200 articles. Id. He then offered: “Yet, a number of authors . . . wish to rush to establish criteria to evaluate the scholarship. Why?” Id. Professor Farber, an outspoken opponent of Critical Race Theory, opined in 1994: “As of yet, no clear consensus exists about the defining characteristics of
Notwithstanding the early acerbic critiques and backlash, both hip hop and CRT shook off the criticism and controversy and continued to offer powerful alternatives to mainstream legal scholarship and contemporary music. Critical Race Theory rejected the critique and scorned the invitation to ground its relevance in traditional “accepted” methodologies. True to its purpose and the power of its narrative, CRT scholars endeavored to produce scholarship and advocate for the oppressed and voiceless and did so. They continue to do so today—unapologetically. CRT’s slow burn continues today as evidenced by its powerful movement across disciplines and a deep legitimacy gained through its urgency and adherents. Hip hop similarly rebuffed the backlash, and its artists created, for a time, the most powerfully relevant and critical music of its generation. Critical Race Theory and hip hop both continued to grow in influence and reach. There are valid and important exceptions to this growth, but acknowledging the weaknesses of each movement does not undermine the critical importance of both. To the contrary, active acknowledgment and analysis of criticisms borne from experientially diverse narratives—often encompassing those of the status quo—only emphasizes the inclusionary foundational principles upon which both movements were founded.

C. Founders

The launching of CRT shares a parallel universe with hip hop’s inception, and the backlash against hip hop mirrors the initial academic rejection of CRT. Still, a more intriguing parallel exists between the voices of the individual founders of Critical Race Theory and hip hop’s early pioneers. In significant ways, the early themes delivered by CRT pioneers and the political critiques offered by hip-hop founders, while different in delivery and context, are powerfully similar in theme, tone, and effect. Millions of Americans, and eventually hundreds of millions of human beings worldwide, were inspired, moved, and changed by the similar messages dropped by CRT scholars and hip-hop poets.

1. Derrick Bell and Chuck D/Public Enemy

Professor Derrick Bell shares a peculiar kinship with Chuck D and the hip-hop supergroup Public Enemy. When Professor Bell wrote and delivered the ominous The Space Traders, he narrated a future odyssey that still brings chills today. Describing an apocalyptic racial encounter with

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134 See BUTLER, supra note 14, at 144.

space aliens, Professor Bell—in prophetic fashion—described a nation that would ultimately willingly sacrifice its entire African American population in trade for fiscal and environmental stability in the twenty-first century. Reading *The Space Traders* today is both thrilling and devastating as Bell accurately predicts the continuing racism and discrimination that continues more than thirty years after CRT’s founding. Bell’s bold and shocking critique resonated as pure and true with minority academics upon release, and inspired a generation of scholars to critically examine a civil rights movement that had been hailed as revolutionary just a decade earlier.

In describing the mythical sacrifice of African Americans to space aliens in *The Space Traders*, Professor Bell wrote:

> Though seldom acknowledging the fact, most business leaders understood that blacks were crucial in stabilizing the economy with its ever-increasing disparity between the incomes of rich and poor. They recognized that potentially turbulent unrest among those on the bottom was deflected by the continuing efforts of poorer whites to ensure that they, at least, remained ahead of blacks. If blacks were removed from the society, working- and middle-class whites—deprived of their racial distraction—might look upward toward the top of the societal well and realize that they as well as the blacks below them suffered because of the gross disparities in opportunities and income.  

In shining light on such economic disparity in the United States, and in his astute observation that the economy crumbles without placement of African Americans at the bottom of the economic pecking order, Bell provides a withering critique of the economic elite and challenges people of color to fight against the status quo and resulting pecking order.

Additionally, in *The Space Traders*, Professor Bell channels those white Americans that would expel all African Americans from the United States:

> The Framers intended America to be a white country. The evidence of their intentions is present in the original Constitution. After more than a hundred and thirty-seven years of good-faith efforts to build a healthy, stable interracial nation, we have concluded—as the Framers did in the beginning—that our survival today requires that we sacrifice the rights of blacks in order to protect and further the interests of whites. The Framers’ example must be our guide. Patriotism, and not pity, must govern our

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136 *Id.* at 181.
decision. We should ratify the amendment and accept the Space Traders’ proposition.137

In The Space Traders, Professor Bell sought to capture and expose the latent hostility held by many whites in the United States against African Americans. This exposition, while surprising to some, sounded honest and familiar to many, particularly those minorities and others that lived and worked in the nation’s crosshairs of the criminal justice system and dominant legal regime.

In an even more dramatic fashion, Professor Bell developed and introduced his “Interest Convergence Theory” as perhaps his most explosive contribution to the early Critical Race Theory revolution:

Translated from judicial activity in racial cases both before and after Brown [v. Board of Education], this principle of “interest convergence” provides: The interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites. However, the fourteenth amendment, standing alone, will not authorize a judicial remedy providing effective racial equality for blacks where the remedy sought threatens the superior societal status of middle and upper class whites.

It follows that the availability of fourteenth amendment protection in racial cases may not actually be determined by the character of harm suffered by blacks or the quantum of liability proved against whites. Racial remedies may instead be the outward manifestations of unspoken and perhaps subconscious judicial conclusions that the remedies, if granted, will secure, advance, or at least not harm societal interests deemed important by middle and upper class whites.138

Professor Bell’s Interest Convergence Theory squarely accused the white male privileged judiciary and legislatures of only supporting equality for African Americans in the United States when it dovetailed with and supported the interests that perpetuated or advanced white privilege. Basing his Interest Convergence Theory on the Brown v. Board of Education139 case, Bell posited that the Brown decision was made not to provide equal opportunity to blacks, but rather to improve the image of the United States in the 1950s as the “bellwether” nation of equality to Third World nations,

137 Id. at 187–88.
138 Bell, supra note 25, at 523.
in particular to those that supported communism. This is certainly a devastating accusation for those that hail *Brown v. Board of Education* as America’s acknowledgment and realization of its racist history and its first effort to remedy its hateful and discriminatory past.

Just as Professor Bell’s very presence and intensely provocative teaching and writing created a firestorm of controversy and recognition, similarly, when Chuck D and Public Enemy recorded and released *It Takes a Nation of Millions to Hold Us Back*, *Fear of a Black Planet*, and *Apocalypse ’91: The Enemy Strikes Black*, they introduced a new social critique of racism in America with the explosive tracks *Fight the Power*, *Don’t Believe the Hype*, *Can’t Truss It*, *Black Steel in the Hour of Chaos*, and *Prophets of Rage*, amongst so many others. Chuck D and Public Enemy created an equally controversial firestorm as hip-hop provocateurs. Before Public Enemy, hip hop had flirted with social commentary and critical relevance, but when Chuck D, Flavor Flav, Terminator X, and Professor Griff joined together to narrate the American experience from an inner-city African American perspective, they blew the roof off of hip hop. In stark, narrative fashion, Public Enemy described continuing racism in America and exposed to fans and listeners the institutional nature of continuing discrimination and inequality in vibrant, rebellious, violent, and furious tones.

*Fight the Power*, arguably Public Enemy’s most celebrated artistic contribution, and the theme to Spike Lee’s controversial motion picture *Do the Right Thing*, was an anthem call to listeners and fans around the world challenging young folks to resist, question, protest, and demand equality.

[F]rom the heart;
It’s a start, a work of art;
To revolutionize, make a change nothin’s strange; People, people we are the same?
No we’re not the same;
‘Cause we don’t know the game;
What we need is awareness, we can’t get careless;
You say what is this?;

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142 See GRANDMASTER FLASH AND THE FURIOUS FIVE, *THE MESSAGE* (Sugar Hill Records 1982); see also GRANDMASTER & MELLE MEL, *White Lines (Don’t Don’t Do It)*, on *WHITE LINES (DON’T DON’T DO IT)/MELLE MEL’S GROOVE* [SINGLE] (Sugar Hill Records 1983).
143 See *DO THE RIGHT THING* (40 Acres and a Mule Filmworks/Universal Pictures 1989).
My beloved, let’s get down to business;
Mental self defensive fitness;
(Yo) Bum rush the show;
You gotta go for what you know;
To make everybody see, in order to fight the powers that be;
Lemme hear ya say;
Fight the Power.

. . . .
Elvis was a hero to most;
But he never meant shit to me you see;
Straight up racist, that sucker was
simple and plain;
Motherfuck him and John Wayne;
‘Cause I’m black and I’m proud;
I'm ready and hyped plus I’m amped;
Most of my heroes don’t appear on no stamps;
Sample a look back, you look and find;
Nothing but rednecks for 400 years if you check.144

To millions of Americans today, the familiar strains of Fight the Power still resonate as they once did as a “call to arms” to those that expect the United States to eventually live up to its promise of equal protection and the principle that all people are created equal. Additionally, as hip hop impacted the globe, Fight the Power has become an international anthem of revolution and discontent.145

Further, in the stark critique of America’s military and its industrial prison complex Black Steel in the Hour of Chaos, Chuck D and Public Enemy narrated:

I got a letter from the government the other day;
I opened and read it, it said they were suckers;
They wanted me for their Army or whatever;
Picture me givin’ a damn—I said never;
Here is a land that never gave a damn;
About a brother like me and myself because they never did;
I wasn’t wit’ it, but just that very minute;
It occurred to me, the suckers had authority . . . .
Public Enemy servin’ time—they drew the line y’all;

145 See Smith, supra note 61, at 66.
To criticize me for some crime, Never the less;
They could not understand that I'm a Black man;
And I could never be a veteran;
On the strength, the situation's unreal;
I got a raw deal, so I'm goin' for the steel.

They got me rottin' in the time that I'm servin'; Tellin’ you what happened the same time they’re throwin’;
Four of us packed in a cell like slaves—oh well;
The same motherfucker got us livin’ in his hell;
You have to realize, that it’s a form of slavery organized;
Under a swarm of devils, straight up—word ‘em up on the level;
The reasons are several, most of them federal.146

In *Black Steel in the Hour of Chaos*, Public Enemy sought to expose the U.S. military as an institution that had been served by people of color historically but had never served people of color fairly, or with equal attention. In addition, *Black Steel* indicted the American penal system as one that perpetuates discrimination against people of color and acts as a form of modern “slavery organized” against African Americans.147 In 1989, these charges were not just blistering, they were also widely disseminated and deeply felt in the black community.

Further, in true activist form, Public Enemy released *Apocalypse ‘91: The Enemy Strikes Black*,148 featuring the most overtly political messages of the era. *The Enemy Strikes Black* featured *Can’t Truss It* (excoriating slavery), *Nighttrain* (vilifying thieves and drug dealers), *A Letter to the New York Post* (striking back at ultra-negative stories and publicity about hip hop in general and Public Enemy in particular), *Get the Fuck Outta Dodge* (indicting U.S. law enforcement for profiling and brutality), and the explosive *By the Time I Get to Arizona*.149 In *By the Time I Get to Arizona*, Public Enemy directly confronted Arizona Governor Evan Mecham (who was later impeached)150 and the State of Arizona for its refusal to honor Martin Luther King, Jr., by creating a holiday in January, as 48 of the 50 states had done. Public Enemy and

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147 *Id.*
148 *APOCALYPSE ’91*, supra note 141.
149 *Id.*
Chuck D refused to play concerts in the state, encouraged a nationwide boycott, and then penned these fierce rhymes:

Read between the lines;
Then you see the lie;
Politically planned;
But understand that’s all she wrote;
When we see the real side;
That hide behind the vote;
They can’t understand why he the man;
I’m singin’ about a King;
They don’t like it;
When I decide to mic it;
Wait, I’m waitin’ for the date;
For the man who demands respect;
‘Cause he was great, come on;
I’m on the one mission;
To get a politician;
To honor or he’s a goner;
By the time I get to Arizona.151

Public Enemy’s emergence as a U.S. cultural phenomenon and eventual global heavyweight cannot be overstated. Public Enemy in the late 1980s and early 1990s was an incredibly important fixture on the American pop culture landscape. Millions of African American, Latino, Asian, and white children, teenagers, and young adults memorized the most explosive of Chuck D’s lyrics, and internalized the political messages espoused by this seminal group.

Derrick Bell and Chuck D, from their different worlds, deliver shared realities and messages. Professor Bell, in The Space Traders, describes a fantasy world where white citizens literally barter over the continued existence of African Americans. Bell’s description is cold, stark, and inevitable. By framing the ultimate decision by whites to expel African Americans as a reasoned conclusion (i.e., sacrifice them to save us), he makes the connection to reality more strongly than if he had stepped out of his narrative to punctuate his point (i.e., this is exactly how blacks are being treated today). Chuck D, in Black Steel in the Hour of Chaos, similarly constructs a wild fantasy world of prison break using the same intense, stark,

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inevitable narration. In spinning his prison industrial complex narrative, Chuck D relies upon potent political statements to connect the fantasy of this particular prison tale with the racial reality faced by urban youth. Both *The Space Traders* and *Black Steel in the Hour of Chaos* consciously use hyperbole that is slowly brought into focus, until suddenly a reader or listener recognizes the reality of the narrative (i.e., this is *my* life), making for a powerful indictment of the entire American power regime.

Further connecting Professor Bell’s gravity with that of Chuck D and Public Enemy is the historical analyses both rely upon, as evidenced in Bell’s Interest Convergence Theory and many of Chuck D’s rhymes on *Apocalypse ’91*, particularly in *Can’t Truss It*. In his Interest Convergence Theory, Bell draws on the long American tradition of racial convenience that has prevented significant advancement toward equality and social justice. Public Enemy draws on a historical depth that is juxtaposed against the modern inner city they experience. In *Can’t Truss It*, Chuck D traces the changing historical indicia of oppression, and does so through an authoritative, stark voice. This voice is similar to Bell’s authoritative, observational voice. Both recite, with solemnity, the truth of the matter—continuing oppression of people of color.

Critical Race Theory patriarch Derrick Bell and socially conscious rap pioneer Chuck D both delivered their messages with an intent to educate, inspire, and motivate change. Their stance was often professorial, deeply motivated by a desire to teach and inform. Chuck D famously called hip hop the “Black CNN,” as Public Enemy was intent on informing, exposing, and educating. Chuck D seized the opportunity to transform the hip-hop message, ultimately ushering in a generational revolution simply by seizing a microphone and delivering powerful, intellectual messages of defiance and purpose. Similarly, Derrick Bell famously critiqued a stalled Civil Rights Movement, exposing the weaknesses in that which had been hailed as thoroughly triumphant. Intent on motivating, inspiring, and exposing through protest, resignation, explosive writing, and inspired mentoring, Professor Bell seized the opportunity to change the law and the system of legal education. The parallel critiques of American mores and traditions, by both Professor Bell and Public Enemy, were stark, bold, and biting. These critiques powerfully influenced a generation.

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152 Laura Barton, “Rap Is Elitist,” The Guardian, May 7, 2003, G2 at 6, available at http://www.guardian.co.uk/music/2003/may/07/artsfeatures.popandrock (“Chuck D rapped about the problems blighting the black community, and memorably described hip-hop as ‘the black CNN.’”); see also Cummings, supra note 14, at 532 & n.50.
2. Richard Delgado and Ice Cube/N.W.A.

Richard Delgado shares a potent kinship with Ice Cube and the “dangerous” hip-hop group N.W.A. When Professor Delgado published *The Imperial Scholar*, its impact was a literary shot across the bow of the traditional legal academy in its aggressive repudiation of entrenched white male civil rights legal scholarship. Like a hand grenade launched into the upper reaches of the ivory tower, Delgado authored a fiery critique that condemned famed civil rights scholars for their own racism and failure to garner, appreciate, or represent the views of the very oppressed minority groups on whose behalf these scholars purported to advocate. Many professors of color were writing articles and books about civil rights, yet the white male academy ignored them. Delgado exposed the hypocrisy of the top legal scholars in the United States who pontificated on issues of civil rights and continuing racism in a vacuum, sans impact or influence of minority voices.

As Professor Delgado charged in *The Imperial Scholar* when referring to the entrenched white civil rights “experts”:

A careful reading of the inner circle articles suggests that many of the above mentioned problems and pitfalls are not simply hypothetical, but do in fact occur. A number of the authors were unaware of basic facts about the situation in which minority persons live or ways in which they see the world. From the viewpoint of a minority member, the assertions and arguments made by nonminority authors were sometimes so naïve as to seem incomprehensible and hardly merit serious consideration. . . .

In addition to factual ignorance or naiveté, some of the writing suffered from a failure of empathy, an inability to share the values, desires, and perspectives of the population whose rights are under consideration.  

Sitting comfortably atop the civil rights ivory tower and opining from a place devoid of authentic experience, leading civil rights authors of the time were undoubtedly stunned at Professor Delgado’s highly charged accusation of hypocrisy. Professor Delgado’s claim was an accusation of negligence at best and conscious racism at worst. Yet and still, Delgado

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154 Id. at 567–68.
155 Id.
156 See generally, e.g., cummings, supra note 14.
levied the claims and dropped the bomb, consequences be damned. For the young scholars coming up, Delgado’s bold and brash indictment of the “powers that be” was a remarkable moment, where truth was truly spoken to power; a moment that emboldened the emerging CRT generation.

Later, in fully embracing his role as a Critical Race Theory founder, Professor Delgado authored *A Plea for Narrative* which served as a response to the vitriolic backlash against CRT and eventually became the blueprint article for young scholars to follow in comprehending narrative scholarship and authoring Critical Race pieces of import. In *A Plea for Narrative*, Professor Delgado profoundly posits:

> The stories of outgroups aim to subvert that ingroup reality. In civil rights, for example, many in the majority hold that any inequality between blacks and whites is due either to cultural lag, or inadequate enforcement of currently existing beneficial laws—both of which are easily correctable. For many minority persons, the principal instrument of their subordination is neither of these. Rather, it is the prevailing mindset by means of which members of the dominant group justify the world as it is, that is, with whites on top and browns and blacks at the bottom.

Stories, parables, chronicles, and narratives are powerful means for destroying mindset—the bundle of presuppositions, received wisdoms, and shared understandings against a background of which legal and political discourse takes place. These matters are rarely focused on. They are like eyeglasses we have worn a long time. They are nearly invisible; we use them to scan and interpret the world and only rarely examine them for themselves. Ideology—the received wisdo[m]—makes current social arrangements seem fair and natural. Those in power sleep well at night—their conduct does not seem to them like oppression.

The cure is storytelling (or as I shall sometimes call it, counterstorytelling). As Derrick Bell, Bruno Bettelheim, and others show, stories can shatter complacency and challenge the status quo. . . .

. . . .

Traditional legal writing purports to be neutral and dispassionately analytical, but too often it is not. In part, this is so because legal writers rarely focus on their own mindsets, the received wisdoms that serve as

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157 Delgado, *supra* note 41.
158 See *id.* at 2413–14, 2441.
their starting points, themselves no more than stories, that lie behind their quasi-scientific string of deductions. The supposedly objective point of view often mischaracterizes, minimizes, dismisses, or derides without fully understanding opposing viewpoints. Implying that objective, correct answers can be given to legal questions also obscures the moral and political value judgments that lie at the heart of any legal inquiry.

Legal storytelling is an engine built to hurl rocks over walls of social complacency that obscure the view out from the citadel. But the rocks all have messages tied to them that the defenders cannot help but read. The messages say, let us knock down the walls, and use the blocks to pave a road we can all walk together.159

In A Plea for Narrative, Professor Delgado issued a bold “call to arms” to those in the academy, urging a new conceptualization of academic scholarship; one that centers on narrative, personal storytelling, and counter-storytelling in order to “knock down” walls and destroy entrenched paradigms.160 He simultaneously rejected the sacred traditional legal scholarship as neutral, dispassionate, and purely analytical.

In both The Imperial Scholar and A Plea for Narrative, Professor Delgado attacked the entrenched status quo majority on two fronts. First, the frontal assault directly challenged the mores of white privilege in the legal academy and practice of law, asking why “authentic” legal scholarship is—and could be—only that voiced by the privileged and entrenched. Second, the assault on the rear flanks was the clarion call to every scholar of color and emerging outsider scholar and lawyer to a new and different conceptualization by which legal scholarship could be presented and legal practice conducted. Truthfully, Richard Delgado’s writings were violent rejections of the status quo ante. And, as chronicled above, the traditional academic responses to Delgado’s new conceptualization-call were bitter, outraged, condescending, and dripping in privilege and protectionism.161

Similarly, when Ice Cube, Eazy E, Dr. Dré, MC Ren, and DJ Yella (as N.W.A.) released Straight Outta Compton,162 the album dropped profoundly on the consciences of inner-city youth, the nation, and eventually, the globe. Never before had such an intensely angry, ferocious, rebellious record been

159 Id. (citations omitted).
160 Id.
161 See supra notes 126–30 and accompanying text.
162 N.W.A., STRAIGHT OUTTA COMPTON (Ruthless/Priority/EMI Records 1988).
released and embraced by the consuming public. Cuts like *Fuck tha Police*, *Gangsta Gangsta*, *Boyz in the Hood*, and *Straight Outta Compton* resonated with inner-city youth. N.W.A. not only chronicled the brutal life of the inner-city, but also exposed American law enforcement as racist, predisposed against minority youth, and intent on putting as many young African American men in prison as possible. N.W.A.’s brash style and violent extrapolation of the “gangsta” lifestyle engendered genuine fear in the hearts of mainstream America and U.S. law enforcement. To wit, Ice Cube rhymed on *Fuck tha Police*:

\begin{verbatim}
Fuck tha police;
Comin’ straight from the underground;
Young nigga got it bad ’cause I’m brown;
And not the other color, so police think;
They have the authority to kill a minority;

Fuck that shit ’cause I ain’t tha one;
For a punk muthafucka with a badge and a gun;
To be beaten on and thrown in jail;
We could go toe to toe in the middle of a cell;

Fuckin’ with me ’cause I’m a teenager;
With a little bit of gold and a pager;
Searchin’ my car, lookin’ for the product;
Thinkin’ every nigga is sellin’ narcotics;

You’d rather see me in the pen;
Than me and Lorenzo rollin’ in the Benzo; . . .

. . . And on the other hand, without a gun, they can’t get none;
But don’t let it be a black and white one;
’Cause they slam ya down to the street top;
Black police showin’ out for the white cop;

Ice Cube will swarm;
On any muthafucka in a blue uniform;
Just ’cause I’m from the CPT, punk police are afraid of me;
A young nigga on a warpath;
And when I’m finished, it’s gonna be a bloodbath;
Of cops dyin’ in L.A.;
\end{verbatim}

\footnote{163} Id.
\footnote{164} See supra notes 84–85 and accompanying text.
Yo, Dre, I got something to say:

Fuck tha police.\textsuperscript{165}

N.W.A.’s messages of defiance and rejection of entrenched U.S. racism resonated worldwide.\textsuperscript{166} Admittedly, some of N.W.A’s content is objectionable in its misogyny, homophobia, and promotion of violence,\textsuperscript{166} but in \textit{Fuck tha Police}, Ice Cube exposed and educated his listeners to real issues of racism in U.S. law enforcement, including racial profiling, police brutality, siege mentality, and predisposition against minority youth. N.W.A sought to express an inner-city reality that few in America truly appreciated prior to the \textit{Straight Outta Compton} record. In fact, the Rodney King debacle\textsuperscript{167} occurred just two years after the release of \textit{Fuck tha Police}, and while King’s beating shocked some Americans unfamiliar with N.W.A’s anthem, it merely confirmed ugly American truths: continuing police brutality against minority citizens and siege mentality.\textsuperscript{168}

After shocking the world with \textit{Straight Outta Compton} and enduring an enormous backlash that included FBI attention, protests from various groups including Tipper Gore and C. Delores Tucker, and local law enforcement harassment,\textsuperscript{169} N.W.A. released \textit{100 Miles and Runnin’}, wherein the group acknowledged its national impact and chronicled its interactions with the FBI and the California penal system.

\begin{verbatim}
Runnin’ like a nigga I hate to lose;
Show me on the news, but I hate to be abused;
\end{verbatim}


\textsuperscript{166}See supra note 124–25.


\textsuperscript{168}See \emph{and\textbf{r}é douglas pond cummings}, \textit{Just Another Gang: “When the Cops Are Crooks Who Can You Trust?”} 41 HOW, L. J. 383 (1998) (describing the “siege mentality” that permeates most large, urban police departments and discussing the “War on Drugs” as a war on small scale, inner city drug dealers rather than a war against the source countries and cartels); see also Sewell Chan, \textit{The Abner Louima Case, 10 Years Later}, N.Y. TIMES, Aug, 9, 2007, available at http://cityroom.blogs.nytimes.com/2007/08/09/the-abner-louima-case-10-years-later (“Ten years ago today, a 30-year-old Haitian immigrant named Abner Louima was arrested and sodomized with a broomstick inside a restroom in the 70th Precinct station house in Brooklyn. The case became a national symbol of police brutality and fed perceptions that New York City police officers were harassing or abusing young black men as part [of] a citywide crackdown on crime.”); Robert D. McFadden, \textit{Police Kill Man After a Queens Bachelor Party}, N.Y. TIMES, Nov. 26, 2006, New York ed. at A1, available at http://www.nytimes.com/2006/11/26/nyregion/26cops.html (discussing the death of Sean Bell, who was killed when police officers fired 50 rounds of bullets into his car following his bachelor’s party the evening before his wedding).

\textsuperscript{169}See supra notes 97–103 and accompanying text.
I know it was a set-up;
So now I’m gonna get up;
Even if the FBI wants me to shut up;
But I’ve got 10,000 niggas strong;
They got everybody singin’ my *F*uck Tha Police* song;
And while they treat my group like dirt;
Their whole fuckin’ family is wearing our T-shirts.\(^{170}\)

Later, after leaving N.W.A., Ice Cube released the furiously political records *Kill at Will*\(^{171}\) and *AmeriKKKa’s Most Wanted*.\(^{172}\) These records represented a clear move by Ice Cube from his violent gangsta rap roots to a socially conscious perspective tinged with thug life affect. On the dark narrative hip-hop tale *Dead Homiez*—one that Professor Delgado would surely embrace—Ice Cube warns of the problems existing in inner-city America when unemployment runs rampant and opportunities are limited:

Another homie got murdered on a shakedown;
And his mother is at the funeral, havin’ a nervous breakdown;
Two shots hit him in the face when they blasted;
A framed picture and a closed casket;
A single file line about 50 cars long;
All drivin’ slow with they lights on;
He got a lot of flowers and a big wreath;
What good is that when you’re six feet deep?;
I look at that shit and gotta think to myself;
And thank God for my health;
‘Cause nobody really ever know;
When it’s gonna be they family on the front row;
So I take everything slow, go with the flow;
And shut my motherfuckin’ mouth if I don’t know;
‘Cause that’s what Pops told me;
But I wish he could have said it . . . to my dead homiez.

I remember we painted our names on the wall for fun;
Now it’s “Rest in Peace” after every one;
Except me, but I ain’t the one to front;
Seems like I’m viewin’ a body after every month;
Plus, I knew him when he was yea big;
Pour my beer on the curb before I take a swig;

\(^{170}\) N.W.A., *100 Miles and Runnin’,* on *100 MILES AND RUNNIN*’ (Ruthless Records/Priority 1990).
\(^{171}\) **ICE CUBE, KILL AT WILL** (Priority 1990).
\(^{172}\) **ICE CUBE, AMERIKKKA’S MOST WANTED** (Priority 1990).
But somethin’ ain’t right;
When it’s a tragedy, that’s the only time that the family’s tight;
Lovin’ each other in a caring mood;
There’s lots of people and lots of food;
They say “Be Strong” and you’re tryin’;
But how strong can you be when you see your Pops cryin’;
So that’s why Ice Cube’s dressed up;
Because the city is so fuckin’ messed up;
And everybody is so phony;
Take a little time . . . to think about your dead homiez.\footnote{\textit{Ice Cube}, \textit{Dead Homiez}, on \textit{Kill At Will}, supra note 171 (ellipsis in original), lyrics available at \url{http://www.lyricsdepot.com/ice-cube/dead-homiez.html}.}

Ice Cube, in the same narrative format championed by Richard Delgado, spun tales and stories in his rhymes. Ice Cube tracks like \textit{Endangered Species (Tales from the Darkside)},\footnote{\textit{ICE CUBE FEATURING CHUCK D, Endangered Species (Tales from the Darkside)}, on \textit{AMERIKKKA'S MOST WANTED}, supra note 172.} \textit{I Wanna Kill Sam},\footnote{\textit{ICE CUBE, I Wanna Kill Sam}, on \textit{DEATH CERTIFICATE} (Priority Records 1991).} and \textit{The Nigga Ya Love to Hate},\footnote{\textit{ICE CUBE, The Nigga Ya Love to Hate}, on \textit{AMERIKKKA'S MOST WANTED}, supra note 172.} used the construct of storytelling, counter-storytelling, and parables to break down the walls between the wealthy suburban majority and the poor urban minority. As hip hop became nationally recognized, record sales began to be dominated by white-suburban youth, some of whom embraced hip hop as a looking glass into the inner-city soul of America.\footnote{See \textit{KITWANA, WHY WHITE KIDS LOVE HIP HOP}, supra note 81 (contextualizing the many ways that white youth have internalized hip-hop music and culture, often in deeply thoughtful and politically conscious ways).} Ice Cube plugged into this truism with explosive, narrative rhymes that perpetuated his own brand of politics, social consciousness, and exposed inequality.

Professor Delgado and N.W.A./Ice Cube both expose and decry racism, inequality, and oppression with passion and explosiveness through deeply personal narrative. In \textit{Straight Outta Compton}, Eazy E describes the autobiographical nature of the record. N.W.A. avoids overtly political statements, preferring to use personal narrative and harsh experience to illustrate the condition and to challenge those responsible. Unlike Public Enemy, N.W.A. is gritty, impolitic, and raw, eschewing political messaging and marches, instead intent on subverting, distressing and naming the street reality of police brutality and modern oppression. Similarly, in \textit{Imperial Scholar}, Delgado identifies the oppression and calls it out, boldly and
unafraid, consequences be damned. Both Delgado and N.W.A. identify “the cure” to their detailed experiential ills as furious storytelling—Delgado in *A Plea for Narrative* and N.W.A. in *Fuck tha Police* and *Gangsta Gangsta*.

N.W.A. relates their personal story through criminal exploits, but do not tell this story in a way to be emulated, but rather through an experience forced upon them by the conditions of their existence in America’s inner cities, perpetuated by the existing power structures. Delgado responds to the white liberal elite in much the same way, describing the reality, condemning it, and proposing a much different reality. Like N.W.A. and Ice Cube, Delgado was not polite, politically correct, nor respectful of the establishment. Indeed, Delgado’s messages were meant to subvert, distress, and name the conditions of oppression, even naming those who purported to be working to change the condition. Delgado, different from Bell, and N.W.A. different from Public Enemy, each set cornerstones, very different but important cornerstones, upon which the house of Critical Race Theory and the hip-hop nation were built.

In 1989, Professor Delgado pled for the use of narrative in academic scholarship as a means of changing the perspectives, received wisdoms, paradigms, and entrenched beliefs of the traditional majority. This plea landed heavily at the door of the legal academy and the challenge was accepted by a generation of academics who shepherded Critical Race Theory into a powerful legal and academic movement. As Delgado was making his academic plea, hip-hop artists were, perhaps unwittingly, embracing this clarion call by using the power of narrative to inform, educate, scare, teach, inspire, and menace the traditional white American regime. Some of the most important hip-hop records of all time were released in the late 1980s and early 1990s, seemingly a direct response to Professor Delgado’s plea. In genuine ways, hip hop’s narrative tradition informed, educated, and inspired a generation whose life outlook and perspective was changed by hip hop’s narration.178

3. Kimberlé Crenshaw and Queen Latifah

Kimberlé Crenshaw shares a particular kinship with Queen Latifah. When Professor Crenshaw authored *Race, Reform, and Retrenchment*:

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178 See *KITWANA, THE HIP HOP GENERATION*, supra note 100 (describing the hip-hop generation as “those young African Americans . . . who share a specific set of values and attitudes. At the core are our thoughts about family, relationships, child rearing, career, racial identity, race relations, and politics.”); see also *KITWANA, WHY WHITE KIDS LOVE HIP HOP*, supra note 81 (describing the impact hip hop has had on the way white youth think about race and equality in America).
Transformation and Legitimation in Antidiscrimination Law, she exposed the neoconservative emphasis on formal legal colorblindness as a construct that fails to recognize the indeterminacy of civil rights laws and the continuing strength of lingering racial disparities. Professor Crenshaw surgically rejected the “New Right’s” neoconservative approach to civil rights which sought to “single[] out race-specific civil rights policies as one of the most significant threats to the democratic political system.”

Crenshaw also rejected the “New Left’s” Critical Legal Studies (CLS) approach that did not necessarily disagree with the goal of racial equality, but argued “only the basic counterproductivity of seeking that objective through the use of legal rights. . . . CLS scholars claim that even engaging in rights discourse is incompatible with a broader strategy of social change.” In rejecting the “New Left’s” conceptualization of equality and civil rights, Crenshaw identified that the Critical Legal Studies scholars’ “key flaw” in their writing on legal ideology and hegemony “is that it overlooks the relationship of racism to hegemony.”

At bottom, Professor Crenshaw demanded a voice and place at the table for critical scholars of color by rejecting both the conservative white neoconservative approach and the liberal white CLS approach to inequality, discrimination, and social justice in the United States:

This basic conflict has given rise to two distinct rhetorical visions in the body of antidiscrimination law—one of which I have termed the expansive view, the other the restrictive view. The expansive view stresses equality as a result, and looks to real consequences for African-Americans. It interprets the objective of antidiscrimination law as the eradication of the substantive conditions of Black subordination and attempts to enlist the institutional power of the courts to further the national goal of eradicating the effects of racial oppression.

The restrictive vision, which exists side by side with this expansive view, treats equality as a process, downplaying the significance of actual outcomes. The primary objective of antidiscrimination law, according to this vision, is to prevent future wrongdoing rather than to redress present manifestations of past injustice. “Wrongdoing,” moreover, is seen primarily as isolated actions against individuals rather than as a societal

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180 Id. at 1337.
181 Id. at 1334.
182 Id. at 1335.
policy against an entire group. Nor does the restrictive view contemplate the courts playing a role in redressing harms from America’s racist past, as opposed to merely policing society to eliminate a narrow set of proscribed discriminatory practices. Moreover, even when injustice is found, efforts to redress it must be balanced against, and limited by, competing interests of white workers—even when those interests were actually created by the subordination of Blacks. The innocence of whites weighs more heavily than do the past wrongs committed upon Blacks and the benefits that whites derived from those wrongs. In sum, the restrictive view seeks to proscribe only certain kinds of subordinating acts, and then only when other interests are not overly burdened.

Racist ideology provides a series of rationalizations that suppress the contradiction between American political ideals and Black existence under white supremacy. Not only does racism legitimate the oppression of Blacks, it also helps to define and privilege membership in the white community, creating a basis for identification with dominant interests. Racism serves a consensus-building hegemonic role by designating Black people as separate, visible “others” to be contrasted in every way with all other social groups. Although not consenting to domination, Black people are seen as legitimate objects of antipathy and coercion by whites.

For Blacks, the task at hand is to devise ways to wage ideological and political struggle while minimizing the costs of engaging in an inherently legitimating discourse. A clearer understanding of the space we occupy in the American political consciousness is a necessary prerequisite to the development of pragmatic strategies for political and economic survival. In this regard, the most serious challenge for Blacks is to minimize the political and cultural cost of engaging in an inevitably co-optive process in order to secure material benefits.183

Professor Crenshaw aggressively confronts and rejects the two dominant paradigms of the 1980s civil rights and equality debates. Instead, she posits a thoroughly different vision, one that centralizes its focus on race consciousness and subordination. Crenshaw situates the fundamental underpinnings of Critical Race Theory by engineering a radical critique of

183 Id. at 1341–42, 1369–70, 1387 [footnotes omitted].
both the left and right, and proposing a race-conscious, self-conscious alternative approach. Her vision inspired a generation.

Similarly, in 1989, Queen Latifah revealed an alternative vision to the hip-hop generation that inspired a nation. When Latifah burst onto the hip-hop scene with *Ladies First*[^184] she provided a fresh, female voice to the traditionally male-dominated scene. Queen Latifah’s bold, feminist presence was a harbinger of the gravity that she would bring to the hip-hop movement. Queen Latifah added her voice to the burgeoning political contributions that hip-hop artists were laying on the listening public. In *Ladies First*, Queen Latifah announced her arrival with grace:

I break into a lyrical freestyle;  
Grab the mic, look at the crowd and see smiles;  
‘Cause they see a woman standing up on her own two;  
Sloppy slouching—it’s something I won’t do;  
Some think that we can’t flow;  
Stereotypes they got to go;  
I’m a mess around and flip the scene into reverse;  
(With what?) With a little touch of Ladies First.

Who said the ladies couldn’t make it?, you must be blind;  
If you don’t believe, well here, listen to this rhyme;  
Ladies first, there’s no time to rehearse;  
I’m divine and my mind expands throughout the universe;  
A female rapper with the message to send;  
The Queen Latifah is a perfect specimen.[^185]

Queen Latifah seized the attention of the hip-hop nation, the United States, and eventually the world with her positive, socially conscious feminist sensibilities. In recognizing her role as a “teacher” and political figure of great potential gravity, Queen Latifah delivered the following in 1989’s *A King and Queen Creation*:

Rhymes are smoking, concentration can’t be broken;  
Queen Latifah’s outspoken;  
Use your imagination, picture this;  
Any male or female rapper trying to diss;  
Here for excitement and enticement;


With my competitors killed I go build with my enlightenment;
Teach the youth, feed the needy;
Confident descendent of Queen Neferetiti;
The mother of civilization will rise;
Like the cream and still build the strong foundation;
Secondary but necessary to reproduce;
Acknowledge the fact that I’m black and I don’t lack;
Queen Latifah is giving you a piece of my mind;
A rhyme spoken by a feminine teacher.186

Since her 1989 coming out, Queen Latifah has risen to become an internationally renowned artist and actor,187 inspiring millions of women and men with her infectious embrace of life and liberty.

Following Queen Latifah’s emergence as a hip-hop force to be reckoned with, she later delivered an overtly political, feminist message. In responding to the bravado and misogyny prevalent in some hip hop, Latifah released *Fly Girl*, offering a blueprint of independence, respect, and self reliance:

Tell me why is it when I walk past the guys, I always hear, “yo, Baby?”;
I mean like what’s the big idea?
I’m a Queen, ’nuff respect;
Treat me like a lady;
And no, my name ain’t “yo” and I ain’t got your baby. . . .

[Male voice:] *(Desire!)* I know you want me;
*(You’re fine!)* Thank you;
But I’m not the kind of girl that you think I am;
I don’t jump into the arms of every man;
*(But I’m paid!)* I don’t need your money;
*(I love you!)* You must be mad;
Easy lover is somethin’ that I ain’t;
Besides, I don’t know you from a can of paint.188

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186 QUEEN LATIFAH, A King and Queen Creation, on *ALL HAIL THE QUEEN* (Tommy Boy Records 1989).
What Professor Crenshaw and Queen Latifah share in kinship is an enlightened call for radical social change. Both Crenshaw and Latifah identify continuing ills and conditions of oppression, but name it differently, less furiously, with race-conscious, self-conscious, intersectional feminist responses. Both take the position that the ruling elite, including all men and whites, are responsible for creating the existing paradigm and that recognizing this responsibility creates pathways to rise above the historical repression. From the 1980s, Crenshaw and Latifah raised commanding voices of self-sufficiency and self-empowering black female power. Both are intersectional in their approach, writing text and lyric that examine race equity issues as they intersect with gender equity issues from a boldly feminist perspective.¹⁸⁹

Kimberlé Crenshaw and Queen Latifah, both powerful African American women, descended upon the legal academy and the hip-hop community like bolts of lightning—intense, powerful, and fierce. While accompanied by other impressive trailblazers (Emma Coleman Jordan, Peggy Davis Cooper, Patricia Williams, Stephanie Phillips, Linda Greene and MC Lyte, Roxanne Shanté, Salt-N-Pepa, and Yo-Yo, amongst many others), Professor Crenshaw and Queen Latifah represented a new voice: unapologetic, aggressive, bold, and intellectually powerful. Crenshaw and Latifah left no doubt—a voice of power had emerged and demanded acknowledgment.

4. Charles Lawrence and KRS-One/Boogie Down Productions

Charles Lawrence shares an intellectual kinship with KRS-One and the original hip-hop group Boogie Down Productions. When Professor Lawrence wrote and published *The Id, The Ego, and Equal Protection: Reckoning with Unconscious Racism*, he exposed the notion of unconscious racism to the traditional white majority and challenged the status quo to consider their own racist and subtle discriminations that injure, but are not necessarily illegal, under U.S. civil rights laws.¹⁹⁰ Professor Lawrence examined the Equal Protection Clause and its statutory and judicially imposed requirement that intentional discrimination be present in order for a victim


to recover for civil rights violations. He powerfully contended that this legal characterization leaves thousands if not millions of victims of discrimination without recourse because so much that motivates discriminatory and illegal behavior in the United States is not necessarily “intentional.” Professor Lawrence boldly proclaimed:

Much of one’s inability to know racial discrimination when one sees it results from a failure to recognize that racism is both a crime and a disease. This failure is compounded by a reluctance to admit that the illness of racism infects almost everyone. Acknowledging and understanding the malignancy are prerequisites to the discovery of an appropriate cure. But the diagnosis is difficult, because our own contamination with the very illness for which a cure is sought impairs our comprehension of the disorder.

Scholarly and judicial efforts to explain the constitutional significance of disproportionate impact and governmental motive in cases alleging racial discrimination treat these two categories as mutually exclusive. . . . Put another way, the Court thinks of facially neutral actions as either intentionally and unconstitutionally or unintentionally and constitutionally discriminatory.

I argue that this is a false dichotomy. Traditional notions of intent do not reflect the fact that decisions about racial matters are influenced in large part by factors that can be characterized as neither intentional—in the sense that certain outcomes are self-consciously sought—nor unintentional—in the sense that the outcomes are random, fortuitous, and uninfluenced by the decisionmaker’s beliefs, desires, and wishes.

Americans share a common historical and cultural heritage in which racism has played and still plays a dominant role. Because of this shared experience, we also inevitably share many ideas, attitudes, and beliefs that attach significance to an individual’s race and induce negative feelings and opinions about nonwhites. To the extent that this cultural belief system has influenced all of us, we are all racists. At the same time, most of us are unaware of our racism. We do not recognize the ways in which our cultural experience has influenced our beliefs about race or the occasions on which those beliefs affect our actions. In other words, a large part of the behavior that produces racial discrimination is influenced by unconscious racial motivation.

There are two explanations for the unconscious nature of our racially discriminatory beliefs and ideas. First, Freudian theory states that the human mind defends itself against the discomfort of guilt by denying or
refusing to recognize those ideas, wishes, and beliefs that conflict with what the individual has learned is good or right. . . .

Second, the theory of cognitive psychology states that the culture—including, for example, the media and an individual’s parents, peers, and authority figures—transmits certain beliefs and preferences. Because these beliefs are so much a part of the culture, they are not experienced as explicit lessons. Instead, they seem part of the individual’s rational ordering of her perceptions of the world. . . .

In short, requiring proof of conscious or intentional motivation as a prerequisite to constitutional recognition that a decision is race-dependent ignores much of what we understand about how the human mind works. It also disregards both the irrationality of racism and the profound effect that the history of American race relations has had on the individual and collective unconscious.191

Professor Lawrence asserted that the anti-discrimination laws were based on a theory of proof of intentional discrimination, and therefore thoroughly insufficient and powerless to truly eliminate racism and discrimination. In his groundbreaking critique, Lawrence exposed the law-making majority as an entity that establishes laws based on criteria that do not ultimately benefit victims of discrimination, perpetuating a paradigm of nearly impossible proof for the victim that casts immediate doubt upon any claim of discrimination.

Similarly, when KRS-One released Criminal Minded192 and Edutainment,193 he was intent on educating his fans and listeners to the subtle but enduring racism and discrimination that exist in the urban centers of the United States. In the groundbreaking Love’s Gonna Getcha,194 KRS-One weaved a narrative that starkly exposed the lack of opportunity for young black men in urban America and underscored the subtle racism that pervaded “welfare” and “poverty” policy in the United States. Like Professor Lawrence’s brilliant exposition of the subtle devastation caused by unconscious racism in American culture, KRS-One exposed one of the only authentic alternatives for young men and women when a lack of opportunity dominates the inner-cities in America: trafficking drugs. KRS-

191 Id. at 321, 322–23 (footnotes omitted).
192 BOOGIE DOWN PRODUCTIONS, CRIMINAL MINDED (B-Boy Records 1987).
193 BOOGIE DOWN PRODUCTIONS, EDUTAINMENT (Jive/RCA Records 1990).
194 BOOGIE DOWN PRODUCTIONS, Love’s Gonna Getcha (Material Love), on EDUTAINMENT, supra note 193.
One boldly asked the question on behalf of the forlorn inner-city youngster that turns to drug trafficking in the face of unemployment, poverty, and no genuine opportunity: “Now tell me what the fuck am I supposed to do?”

I'm in junior high with a B-plus grade;
At the end of the day I don’t hit the arcade;
I walk from school to my mom’s apartment;
I gotta tell the suckas every day, “don’t start it”;
’Cause where I’m at, if you’re soft, you’re lost;
To stay on course means to roll with force;
My boy named Rob is chillin’ in a ‘Benz, in front my building with the rest of his friends;
I give him a pound, oh, I mean, I shake his hand;
He’s the neighborhood drug dealer, my man;
I go upstairs and hug my mother;
Kiss my sister, and punch my brother;
I sit down on my bed to watch some T.V. [[machine gun fire]], do my ears deceive me?;
Nope, that’s the fourth time this week;
Another fast brother shot dead in the street;
The very next day while I’m off to class;
My mom goes to work cold busting her ass;
My sister’s cute but she got no gear;
I got three pairs of pants and with my brother I share;
See there in school see I’m made a fool;
With one and a half pair of pants you ain’t cool.

But there’s no dollars for nothin’ else;
I got beans, rice, and bread on my shelf;
Every day I see my mother struggling;
Now it’s time I’ve got to do something;
I look for work I get dissed like a jerk;
I do odd jobs and come home like a slob;
So here comes Rob;
His gold is shimmery;
He gives me two hundred for a quick delivery;
I do it once, I do it twice;
Now there’s steak with the beans and rice;
My mother’s nervous but she knows the deal;
My sister’s gear now has sex appeal;
My brother’s my partner and we’re getting paper;

Three months later we run our own caper;
My family’s happy everything is new;
Now tell me what the fuck am I supposed to do?

. . . .

Money’s flowin’, everything is fine;
Got myself an Uzi and my brother a nine;
Business is boomin’, everything is cool;
I pull about a G a week, fuck school;
A year goes by and I begin to grow;
Not in height, but in juice and cash flow;
I kick up my feet and begin to watch T.V.;
‘Cause now I got other people workin’ for me;
I got a 55-inch television you know;
And every once in awhile I hear, “Just Say No”;
Or, the other commercial I love;
Is when they say, “this is your brain on drugs”;
I pick up my remote control and just turn;
‘Cause with that bullshit I’m not concerned . . . .

. . . .

[Chorus:] That’s why love’s gonna getcha;
Love’s gonna getcha;
You fall in love with your chain;
You fall in love with your car;
Love’s gonna sneak up and snuff you from behind;
So I want you to check the story out as we go down the line . . . .

KRS-One’s dark urban narrative clearly describes the conundrum faced by young people in the inner-city. Faced with no genuine opportunities to work or rise, when approached by drug dealers with the potential to make the kind of money theretofore unavailable, what real choice does the youngster have?

Further, in the recent cut Classic, a collaborative commercial effort by Kanye West, Nas, Rakim, and KRS-One, the verse narrated by KRS-One reminds of the gravity attendant in hip-hop pioneers:

196 Id.
197 KANYE WEST, NAS, RAKIM, AND KRS-ONE, Classic (Better Than I’ve Ever Been), on BETTER THAN I’VE EVER BEEN [SINGLE] [Nike Records 2007].
How many y’all got Criminal Minded;
You, you, you, y’all don’t be blinded;
Me? I got no jewels on my neck;
Why? I don’t need ’em, I got your respect;
KRS-One, twenty years I rock;
I do it for JMJ and Scott LaRock;
This [is] hip-hop, and we a nation;
Don’t you want to hear more KRS-One on your radio station?;
Instead of broadcasting how we smoke them trees;
On the radio we need to hear more local emcees;
Where you at? Come on, where you at?;
This is the difference between emceeing and rap; Rappers spit rhymes that
are mostly illegal;
Emcees spit rhymes to uplift they people;
Peace, love, unity, havin’ fun;
These are the lyrics of KRS-One.\textsuperscript{198}

What Professor Lawrence and KRS-One share most fervently is a
narrative construction that focuses on the submerged or subconscious
elements of racism and discrimination, sensing that if one speaks the whole
unvarnished truth it cannot be denied, even by the privileged and powerful.
Both Lawrence and KRS-One acknowledge the diseases of racism and
discrimination, even conceding the disease as affecting all citizens, before
specifically leading readers/listeners to a recognition of the subtle, nuanced
effects of the disease of racism when inflicted on a daily, unrelenting basis.
KRS-One and Lawrence describe the lengths that existing white privilege
and power structures will go to turn a blind eye to the deleterious effects of
their subtle and persistent oppression.

Lawrence, in \textit{The Id, The Ego, and Equal Protection}, explores the disease of
unconscious racism in the way that whites in America view African
Americans and the devastating consequences of that diseased perception.
KRS-One, in \textit{Love’s Gonna Getcha}, takes Lawrence’s thesis and expands it to
encompass not only the devastating consequences of the underlying racist
perception, but explores how that perception plays into how African
Americans view themselves and, crucially, their options. KRS-One
expresses the nihilism that the disease of racism and race hatred inflicts
upon the souls of black folks, particularly urban black men and women—a

\textsuperscript{198} \textit{Id.}, lyrics available at http://www.metrolyrics.com/classic-lyrics-kanye-west.html, video available at
http://www.youtube.com/watch?v=0sfqHq3Qig.
hopelessness that grips those whose options are dammed by the structural elite.

Both Professor Lawrence and KRS-One made enormously important contributions to their respective revolutionary movements. Both were early pioneers and offered fiery political critiques in their respective worlds. Both wrote and performed stunningly powerfully criticisms that today, in retrospect, seem groundbreaking, and yet obvious. In the late 1980s, Lawrence’s deconstruction of Equal Protection laws in the United States, focusing on the truly misguided emphasis on “intentional” discrimination, and KRS-One’s critique of legislative policies that ignored the lack of opportunity and employment in America’s city centers, were stark, bold, radical, and ultimately spot on.

5. Neil Gotanda and Tupac Shakur

Professor Neil Gotanda and hip-hop superstar Tupac Shakur share a genuine kinship wherein both men released enormously important and groundbreaking pieces in the 1990s. In 1991, Professor Gotanda dropped the incisive *A Critique of ‘Our Constitution Is Color-Blind’* and with it captured the disaffect felt by millions of minority citizens in the United States. Professor Gotanda deconstructed the color-blind constitutional theory that continues to grip the United States Supreme Court and the U.S. legislature, as it has since before *Brown v. Board of Education*, exposing the doctrine as a tool of continuing protection of white privilege and oppression of African Americans. The texture and substance of *A Critique of ‘Our Constitution Is Color-Blind’* resonated deeply as Gotanda boldly exposed the “color-blind” theory of constitutional interpretation as “foster[ing] white racial domination.” This article rang instinctively true to those that had observed decades of constitutional law that purported to be equal, fair, and color-blind, but in reality was discriminatory, supportive of the white-male status quo, and ultimately injurious to the rights of minority citizens. Professor Gotanda wrote:

199 Gotanda, *supra* note 34.
202 See Gotanda, *supra* note 34.
203 Id. at 2.
This article examines the ideological content of the metaphor “Our Constitution is color-blind,” and argues that the United States Supreme Court’s use of color-blind constitutionalism—a collection of legal themes functioning as a racial ideology—fosters white racial domination. Though aspects of color-blind constitutionalism can be traced to pre-Civil War debates, the modern concept developed after the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments and matured in 1955 in Brown v. Board of Education. A color-blind interpretation of the Constitution legitimates, and thereby maintains, the social, economic, and political advantages that whites hold over other Americans.

To use color-blind nonrecognition effectively in the private sphere, we would have to fail to recognize race in our everyday lives. This is impossible. One cannot literally follow a color-blind standard of conduct in ordinary social life. Moreover, the technique of nonrecognition ultimately supports the supremacy of white interests.

In everyday American life, nonrecognition is self-contradictory because it is impossible to not think about a subject without having first thought about it at least a little. . . . Compare color-blind nonrecognition with medical color-blindness. A medically color-blind person is someone who cannot see what others can. It is a partial nonperception of what is “really” there. To be racially color-blind, on the other hand, is to ignore what one has already noticed. The medically color-blind individual never perceives color in the first place; the racially color-blind individual perceives race and then ignores it. This is not just a semantic distinction. The characteristics of race that are noticed (before being ignored) are situated within an already existing understanding of race. That is, race carries with it a complex social meaning. . . .

This pre-existing race consciousness makes it impossible for an individual to be truly nonconscious of race. 204

Professor Gotanda boldly disabused thousands—if not hundreds of thousands—of the supposed validity of color-blind constitutionalism adopted by those invested in protecting the status quo and white-male privilege. Color-blind constitutionalism and its various forms of judicial and legislative adoption serve to protect white interests and further white racial

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204 Id. at 2–3, 18–19 (footnotes omitted).
domination. In contributing to “reconstruction jurisprudence,” Gotanda went beyond mere criticism and offered a new, better reality by which the Supreme Court could adapt its constitutional analysis to protect the rights of people of color and defeat white supremacy.

Similarly, when Tupac Shakur dropped 2Pacalypse Now and Strictly 4 My N.I.G.G.A.Z., he too was intent on capturing the disaffection of millions of Americans and educating the masses to the ills of his harsh reality. Tupac, viewed by many as the greatest hip-hop artist of all time, was motivated by not only his social conscience but by his desire to affect real change in the condition of the urban poor. When Tupac released 2Pacalypse Now in 1991, he exploded onto the hip-hop scene weaving urban tales of desperation and poverty, demanding that America take notice and respond.

Tupac’s seminal track Changes was his own “call to arms,” much like those delivered by Gotanda, Delgado, and Crenshaw before him. While CRT scholars delivered their respective calls to lawyers, academics, and professionals, Tupac’s call was to those living in poverty and desolation, recognizing that some might emerge into the ranks of lawyers, academics, and professionals:

I see no changes. Wake up in the morning and I ask myself;
“Is life worth living? Should I blast myself?”;
I’m tired of bein’ poor and even worse I’m black;
My stomach hurts, so I’m lookin’ for a purse to snatch;
Cops give a damn about a negro?;
Pull the trigger, kill a nigga, he’s a hero;
Give the crack to the kids who the hell cares?;
One less hungry mouth on the welfare;

205 Id. at 62–63 (“[M]odern color-blind constitutionalism supports the supremacy of white interests and must therefore be regarded as racist.”).
206 Id. at 62.
207 Id. at 62–68.
208 2PAC, 2PACALYPSE NOW [Jive Records 1991].
210 See generally cummings, supra note 14, Part III. (discussing the positive and negative educational influence hip-hop culture has on both the African-American and inner-city communities).
211 See generally id. at 13.
213 See discussion supra Parts III.C.2–3, 5.
First ship 'em dope & let 'em deal the brothers;
Give 'em guns, step back, and watch 'em kill each other;
“It’s time to fight back,” that’s what Huey said;
2 shots in the dark now Huey’s dead;
I got love for my brother, but we can never go nowhere unless we share
with each other;
We gotta start makin’ changes;
Learn to see me as a brother ‘stead of two distant strangers;
And that’s how it’s supposed to be. . . .

I see no changes;
All I see is racist faces;
Misplaced hate makes disgrace for races we under;
I wonder what it takes to make this one better place . . . let’s erase the wasted;
Take the evil out the people, they’ll be acting right;
‘Cause more black than white is smokin’ crack tonight;
And only time we chill is when we kill each other;
It takes skill to be real, time to heal each other;
And although it seems heaven sent, we ain’t ready to see a black President;
It ain’t a secret don’t conceal the fact . . . the penitentiary’s packed, and it’s filled with blacks;
But some things will never change;
Try to show another way, but they stayin’ in the dope game;
Now tell me what’s a mother to do?;
Bein’ real don’t appeal to the brother in you;
You gotta operate the easy way;
 “I made a G today”;
But you made it in a sleazy way;
Sellin’ crack to the kids. “I gotta get paid”;
Well hey, well that’s the way it is.

We gotta make a change;
It’s time for us as a people to start makin’ some changes;
Let’s change the way we eat, let’s change the way we live, and let’s change the way we treat each other;
You see the old way wasn’t working so it’s on us to do what we gotta do, to survive.
And still I see no changes;
Can’t a brother get a little peace?;
There’s war on the streets & the war in the Middle East;
Instead of war on poverty, they got a war on drugs so the police can bother me;
And I ain’t never did a crime I ain’t have to do;
But now I’m back with the facts givin’ ‘em back to you;
Don’t let ‘em jack you up, back you up, crack you up and pimp smack you up;
You gotta learn to hold ya own;
They get jealous when they see ya with ya mobile phone;
But tell the cops they can’t touch this;
I don’t trust this, when they try to rush I bust this;
That’s the sound of my tune.
You say it ain’t cool, but mama didn’t raise no fool;
And as long as I stay black, I gotta stay strapped & I never get to lay back.

Changes—just one example of the dozens of political and socially conscious hip-hop pieces delivered by Tupac—represents one of his, and hip hop’s, greatest calls to action. In true, hip-hop tradition, he narrates the inner-city truisms of police brutality, debilitating incarceration rates of black men, lack of opportunity, drug trafficking, self help, and the fear that can grip the oppressed.215 In contributing to hip hop’s revolutionary vibe, Tupac did not just expose and critique, but offered a new, better reality in which those affected by institutionally perpetuated white supremacy could effectuate empowered change.

Professor Gotanda and Tupac are best situated in similarity as eloquent flamethrowers. The flames of CRT and hip hop had been lighted, imaginations across the world had been sparked, and Gotanda and Tupac fueled their respective movements by seizing their genres and delivering astonishing messages to the primed masses. Gotanda’s evisceration of “colorblind” constitutionalism was stunning in its audacity, clearly naming the hijacked principle of ultimate white righteousness—a Martin Luther King, Jr., “inspired” colorblindness—and exposing it as a tool of white privilege. Tupac, recognized as a lyricist without peer, described in fluent poetry set to baseline the reality of poverty, oppression, and racism but recognized that the solution would never be rendered by the white elite institutions of power. In Changes, Tupac simultaneously named the evil and delivered a prescription for overcoming the oppression. Tupac’s artistic life was devoted to a seeming contradiction of celebrating “thug life,” a condition forced upon him and millions like him, while decrying the condition and offering hope and solution. Tupac never apologized for this seeming contradiction, and to millions of devotees his message was about self-reliance and pride.

214 2PAC, Changes, supra note 212.
215 Id.
Professor Gotanda and Tupac Shakur, while not offering the ultimate solution, loudly identified the failures and invited those that followed to continue the discourse and provide additional insights that could lead to a more just, fair and equal society. Gotanda and Tupac both authored foundational contributions to their respective movements. Both are recognized as critically important contributors to the heart and soul of the counterculture critiques they championed. Both are recognized today as crucial players in America’s never-ending struggle to find peace and equality amidst vast racial diversity.

6. Major Contributors

The Critical Race Theory movement and attendant success and enlightenment drew from many pioneers, leaders, and advocates too numerous to analyze and appropriately highlight here. CRT leaders and founders who authored additional stunning early revelations include Cheryl Harris (Whiteness As Property),216 John Calmore (Critical Race Theory, Archie Shepp and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World),217 Angela Harris (Race and Essentialism in Feminist Legal Theory),218 Mari Matsuda (Looking to the Bottom: Critical Legal Studies and Reparations),219 Regina Austin (Sapphire Bound),220 Michael Olivas (The Chronicles, My Grandfather’s Stories, and Immigration Law),221 Peggy Cooper Davis (Law As Microaggression),222 Patricia Williams (Alchemical Notes: Reconstructing Ideals from Deconstructed Rights),223 Jerome Culp (Colorblind Remedies and the Intersectionality of Oppression: Policy Arguments Masquerading As Moral Claims),224 Ian Haney

217 John O. Calmore, Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World, 65 S. CAL. L. REV. 2129 (1992). Professor Calmore, describing the myth of white superiority, wrote: “As many whites experience competitive advantage and relative prosperity over blacks, they are encouraged to believe in an imagined cultural superiority that, in turn, reinforces their conviction—like that of the nineteenth century missionaries—that our blackness is a condition from which we must be liberated.” Id. at 2131.
219 Matsuda, supra note 11.
222 Davis, supra note 33.
Lopez (White By Law: The Legal Construction of Race),225 Adrien Wing (Spirit Injury from Bosnia to Black America),226 and Stephanie Phillips (Claiming Our Foremothers: The Legend of Sally Hemings and the tasks of Black Feminist Theory),227 among so many others.

Similarly, the politically conscious hip-hop movement and its early successes included many voices and groups too numerous to analyze and appropriately highlight here. Hip-hop revolutionaries, who penned stunning verses and performed them with audacious confidence, include Eric B. and Rakim (Paid In Full; Let The Rhythm Hit ‘Em),228 A Tribe Called Quest (The Low End Theory),229 MC Lyte (Eyes on This; Ain’t No Other),230 Ice-T (Rhyme Pays; The Iceberg/Freedom of Speech . . . Just Watch What You Say),231 Kool Moe Dee (Knowledge Is King; Funke, Funke Wisdom),232 Arrested Development (3 Years 5 Months & 2 Days in the Life of . . .),233 Big Daddy Kane (It’s a Big Daddy Thing),234 Salt–N–Pepa (Black’s Magic),235 Paris (The Devil Made Me Do It),236 Roxanne Shanté (Bad Sister),237 Professor Griff and the Last Asiatic Disciples (Pawns in the Game),238 and Too Short (The Ghetto),239 among so many others.

228 Eric B. & Rakim, Paid In Full (Fourth & B'way/Island Records 1987); Eric B. & Rakim, Let The Rhythm Hit ‘Em [MCA Records 1990].
230 M.C. Lyte, Eyes On This (First Priority Music/Atlantic Records 1989); M.C. Lyte, Ain’t No Other (First Priority Music/Atlantic Records 1993).
231 Ice-T, Rhyme Pays (Sire/London/Rhino Records 1987); Ice-T, You Played Yourself, on THE ICEBERG/FREEDOM OF SPEECH . . . JUST WATCH WHAT YOU SAY (Sire/London/Rhino Records 1989), video available at http://www.youtube.com/watch?v=VD0F-AaIg8s.
234 Big Daddy Kane, It’s a Big Daddy Thing (Cold Chillin’/Reprise/Warner Bros. Records 1989).
238 Professor Griff and the Last Asiatic Disciples, Pawns In The Game [Lake/Atlantic Records 1990].
Unquestionably, the significant impact of both Critical Race Theory and hip-hop music and culture has been profound, though probably originally unexpected. Despite harsh criticism and early efforts to annihilate these movements, both have overcome and prospered, resonating in the minds and souls of a generation of energetic adherents. Fascinatingly, CRT and hip hop share very similar trajectories and messages. As detailed above, the parallel paths traversed and messages delivered by both have been revolutionary, deep, and radical. The founding voices of both CRT and hip hop were clarion calls across the United States and the world. Their messages are similarly bold, countercultural, and advocate the rejection of the status quo of white-male privilege in U.S. law and culture.

The question now becomes, where do we go from here? Of what consequence are CRT and hip hop today? The demise of both has been predicted. Is hip hop dead? Has Critical Race Theory flamed out? The clear answer to those questions, I posit, is a resounding no.

V. THE HIP-HOP GENERATION BEARING THE TORCH

Retreating in time more than a dozen years: Spring semester 1995, as a second-year law student at Howard University School of Law, I sat attentively in my seminar course entitled “Critical Race Theory,” team-taught by Professors Lisa Crooms and Reginald Robinson. My eyes and mind were treated all semester to oft-times radical readings and discussions that rang true to me, and seemed both soulful and intellectual. One particular afternoon in class, I was struck by a thought that seemed to reveal why I was so enthusiastic about, and responsive to, the messages of Critical Race theorists: I had learned these lessons, or at least been exposed to rudimentary similarities throughout my youth, through hip-hop music and culture. I was startled by the thought that hip-hop messages had attuned my mind and prepared me to hear and feel the narrative truths espoused by Critical Race theorists. I was elated. Two years later, following graduation and while working as a judicial law clerk for Chief Judge Joseph Hatchett of the United States Court of Appeals for the Eleventh Circuit, I prepared

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240 See discussion supra Parts I–III.
241 Id.
243 See, e.g., NAS, HIP HOP IS DEAD (Def Jam Records 2006).
some formal thoughts and ideas centering on this paradigm I believed I had recognized.

Spring 1998: I sat before thirty or so law professors of color and described to them the inextricable connection I believed existed between the burgeoning CRT movement within the legal academy and the wildly popular phenomenon of hip-hop music and culture. At that time, I strongly believed that the ties that bound Critical Race Theory to hip hop existed primarily in the narrative tradition of both movements. I was convinced then that emerging lawyers of color and attorneys of urban influence—indeed, those that grew up entrenched in hip-hop music and culture—would readily migrate toward the canons of Critical Race Theory during law school and would, upon graduation, practice and perceive the law (and eventually write about and teach the law) much differently than any prior generation of new lawyers. In fact, I posited then, and I decidedly posit now, that the hip-hop generation will (and has begun to) practice, perceive, teach, and administer the law in significantly different ways than ever before.

At that 1998 Mid-Atlantic People of Color Legal Scholarship Conference, I was thrilled at the notion that a new generation of innovative activists was beginning to emerge with gravity. This new generation would bring the most aggressive and explosive critique of the American system of law and justice that has ever been voiced. As the hip-hop generation entered the nation’s law schools, they would migrate with purpose to the teachings of Critical Race Theory and would become equipped with a veritable candelabra of theory, knowledge, evidence, and empiricism to fuel this fresh critique and movement.

In truth, I believe that today, in a concretely identifiable way, the hip-hop nation must accept the torch from the first generation CRT pioneers who can comfortably share and pass that torch to an emerging generation of law scholars and practitioners. As Derrick Bell, Richard Delgado, Kimberlé Crenshaw, Charles Lawrence, Neil Gotanda, Mari Matsuda,

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244 Symposium, Fourth Annual Mid-Atlantic People of Color Legal Scholarship Conference: Law and Literature: Examining the Limited Legal Imagination in the Traditional Legal Canon, 30 Rutgers L.J. 569 (1999). The conference, held at the Rutgers University School of Law in Camden, New Jersey, invited aspiring legal academians to present papers as “works in progress.” There, in introducing You Are Now About to Witness the Strength of Street Knowledge: Hip Hop, the Legal Academy and the 21st Century Law Student (manuscript on file with author), I received a warm and very positive response, although I was given a platitude of points of improvement on the concept and future paper.

245 See supra notes 41–43, 106–116 and accompanying text.

246 See KITWANA, THE HIP HOP GENERATION, supra note 100, at 4 (defining “hip-hop generationers”).
Patricia Williams, and a host of other CRT founders have blazed trails and changed lives, the emerging group of second generation Critical Race theorist scholars, including those deeply influenced by hip-hop culture, can now shoulder the weight of carrying forward the aggressive critique of law and culture in the United States. The hip-hop generation scholars and second-generation CRT scholars that accept the torch and responsibility of continuing the legacy of the Critical Race Theory founders must not only continue to aggressively critique white-male privilege in the U.S. and its entrenched accoutrements, they must also conceive, draft, publish, and push to legislate the next round of groundbreaking, revolutionary legal scholarship and theory. The second generation CRT scholars and members of the hip-hop generation must assume the mantle of socially conscious leadership.

The socially conscious hip-hop torch has been passed from founders and pioneers Grandmaster Flash, Chuck D/Public Enemy, Ice Cube/N.W.A., KRS-One, Queen Latifah, and Tupac Shakur to the new generation of socially conscious hip-hop stars: Talib Kweli, Common, Immortal Technique, and Mos Def. Similarly, hip-hop nation scholars and second-generation CRT scholars ready to accept the passing of the CRT torch include Paul Butler, Imani Perry, Devon Carbado, Angela Onwuachi-Willig, Anthony Farley, Robin Lenhardt, Horace Anderson, Pamela Bridgewater, and Akilah Folami, among a host of others. As the Critical Race Theory pioneers and hip-hop founding voices shared startling similarities, the second generation of CRT scholars, including those that are members of the hip-hop nation, have and will deliver messages of striking import just as the backpacker generation of hip-hop superstars do and will.

A. Paul Butler and Talib Kweli

Professor Paul Butler provides profound leadership as both a Critical Race theorist and a deeply influential and influenced member of the hip-hop nation. After authoring several radical, CRT-inspired articles, including Racially Based Jury Nullification: Black Power in the Criminal Justice System and By Any Means Necessary: Using Violence and Subversion to Change Unjust Law, Professor Butler penned the exhilarating Much Respect: Toward

a Hip-Hop Theory of Punishment. In Much Respect, Professor Butler introduced the academic world to important hip-hop messages as they interface with American law and criminal punishment. In comparing underlying theories of criminal punishment, Butler suggests that hip-hop philosophers Jay-Z, Snoop Dogg, and Erykah Badu would find much in common with global philosophers like Rawls, Kant, and Foucault. Professor Butler’s brash assertion of a connection between hip hop and criminal punishment has proved groundbreaking as it has been widely cited and has inspired young hip-hop academics to draft, publish, and conceptualize “responses” to Butler’s bold “call.”

In 2009, Professor Butler released a book entitled Let’s Get Free: A Hip-Hop Theory of Justice. This tour de force encapsulates much of Butler’s prolific career, including his radical calls for jury nullification, anti-snitching and refusal to act as a police informant, and prosecutorial resignation. Still, the most breathtaking portion of Let’s Get Free is the eponymous “hip-hop theory of justice.” Therein, Professor Butler invites us to “[i]magine criminal justice in a hip-hop nation. Believe it or not, the culture provides a blueprint for a system that would enhance public safety and treat all people with respect. Hip-hop has the potential to transform justice in the United States.” In suggesting that hip hop can potentially transform criminal justice in the United States, Butler recognizes the respect and affection that the black community reserves for its sons (and sometimes daughters) who are incarcerated by the state or nation. Professor Butler teaches what most of the hip-hop nation knows intuitively:

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250 See id. at 996-1015.
251 See id. at 998-1001.
253 BUTLER, supra note 14.
254 Id. at 75–78.
255 Id. at 81 (“Sometimes the most patriotic act is to not help the police.”).
256 Id. at 101–22.
257 Id. at 123.
258 Id. at 131 (“[W]hen people say that hip-hop glorifies criminals, it is more accurate to think of it as...
To say that hip-hop destigmatizes incarceration understates the point: prison, according to the artists, actually stigmatizes the government. When a large percentage of the people you know, respect, and love get locked up, then being locked up seems to say more about the state than about the inmate. We are supposed to be disgusted with people the law labels as criminals, but that would mean we are disgusted with one in three black men. The hip-hop community consists of these young men and other people who know and love them. It does not find them to be disgusting people. Just the opposite.

Hip-hop suggests that American punishment is not designed mainly to enhance public safety or for retribution against the immoral. Rather, its critique of punishment echoes that of the philosopher Michel Foucault, who argued that prison is designed to encourage a “useful illegality” that benefits the state by increasing its power.

When prison is thought of as a rite of passage, it has lost its potential to keep us safer. If incarceration is to be meaningful, it must be reinvested with stigma. We could accomplish this by using punishment less frequently and more effectively.259

Professor Butler, like Derrick Bell three decades ago, contributes a new kind of race consciousness and scholarship that has the potential to provide realistic and genuine social change. Butler imagines a criminal justice system that works: one that punishes appropriately and makes America safer. Not only does Professor Butler imagine it, but he provides a blueprint (summarizing hip hop for his guide) that any legislator, politician, or lawyer who cares deeply about equality and social justice can read and follow.

Just as Professor Butler seems poised to accept the torch from Derrick Bell and other CRT pioneers, Talib Kweli appears to have accepted the socially conscious hip-hop torch from socially conscious hip-hop pioneers Chuck D and KRS-One. Professor Butler, as second-generation CRT scholar and member of the hip-hop nation, is very similar to Talib Kweli, the new-generation hip-hop scholar-artist who seems poised to continue a progressive political message for the upcoming generation of hip-hop fans and aficionados.

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259 Id. at 131–33.
Talib Kweli, with *Quality*, *The Beautiful Struggle*, and *Eardrum*, dropped nuanced political rhymes that, while obviously influenced by the same aggressive messages delivered by Chuck D and KRS-One, are more subtle but equally passionate:

Yo, I heard it’s said the revolution won’t be televised;  
But in the land of milk and honey there’s a date you gotta sell it by;  
Otherwise it just expires and spoils;  
And these folks jump out the pot;  
When the water too hot;

‘Cause the fire boils inside;  
You go to church to find you some religion;  
And all you hear is connivin’ and gossip and contradiction;  
You try to vote and participate in the government;  
And the motha fuckin’ Democrats is actin’ like Republicans’;

You join an organization that know black history;  
But ask them how they plan to make money and it’s a mystery;  
Lookin’ for the remedy but you can’t see what’s hurtin’ you;  
The revolution’s here;

The revolution is personal;  
They call me a political rapper;  
Even after I tell ‘em I don’t fuck with politics;  
I don’t even follow it;  
I’m on some KRS, Ice Cube, Chris Wallace shit;  
Main Source, De La Soul, bumpin’ 2Pacalypse Now.

In recognizing that a revolution is necessary and, more importantly, personal, Kweli challenges listeners to step up to the continuing challenges of inequality, racism, and personal responsibility. Likewise, in *The Proud*, Kweli continues the subtle narrative and direct challenge:

June 21, 2001;  
Timothy McVeigh is executed;  
And the country breathes a sigh of relief;  
Goodness prevails over evil, it seems;

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Somehow when he’s gone, we feel safer;
Little do we know.

Today the paper say Timothy McVeigh’s in hell;
So everything’s okay and all must be well;
I remember Oklahoma when they put out the blaze;
And put Islamic terrorist bombing, on the front page;
It’s like saying only gays get AIDS, propaganda;
Like saying the problem’s over when they locked that man up;
Wrong! It’s just the beginning, the first inning;
Battle for America’s soul, the devil’s winning;
The President is Bush, the Vice President’s a Dick;
So a whole lot of fuckin’ is what we gon’ get;
They don’t wanna raise the babies so the election is fixed;
That’s why we don’t be fuckin’ with politics;
They bet on that, parents fought and got wet for that;
Hosed down, bit by dogs, and got blacks into house arrest for that;
It’s all good except for that—we still poor;
Money, power and respect is what we kill for, for real. . . .

August 4, 2001;
A drunken police officer mows down an entire family in Brooklyn;
The judge lets him go with no bail;
It reminds us, of just how worthless our lives are to the justice system;
I struggle, to explain the situation to my son, it’s hard. . . .

Niggaz with knowledge is more dangerous than than niggaz with guns;
They make the guns easy to get and try to keep niggaz dumb;
Target the gangs and graffiti with the Prop 21;
I already know the deal but what the fuck do I tell my son?;
I want him livin’ right, livin’ good, respect the rules;
He’s five years old and he still thinkin’ cops is cool;
How do I break the news that when he gets some size;
He’ll be perceived as a threat or see the fear in they eyes;
It’s in they job description to terminate the threat;
So 41 shots to the body is what he can expect;
The precedent is set, don’t matter if he follow the law;
I know I’ll give my son pride and make him swallow it all (damn!);
Fuck the pigs! I think the pigs killed Big and ‘Pac too;
If they didn’t they know who did, they got to!;
Who they serve and protect? Nigga not you;
Cops shot off of ten G’s but they got glocks too;
Let you protect yourself, or better yet respect yourself;
Straight into the hospital is where you gotta check yourself;
They be getting’ tips from snitches and rival crews;
Doin’ them favors so they workin’ for the drug dealers too;
Just business enforcers with hate in they holsters;
Shoot you in the back, won’t face you like a soldier;
Kurt Loder asked me what I say to a dead cop’s wife;
Cops kill my people everyday, that’s life.264

Professor Butler and Talib Kweli both recognize the subtle racisms that continue in U.S. law enforcement and the criminal justice system. Now twenty years after N.W.A. released *Fuck tha Police*, Butler and Kweli remind us that while perhaps not as overt, police brutality and inequity in the U.S. criminal justice system continue because the structural and institutional issues of racism and oppression have never been properly addressed or eradicated. While Kweli struggles in *The Proud* to formulate a strategy to inform his son that when he grows into a black adult he will become a target of U.S. law enforcement, Butler in *Let’s Get Free* reprises his own experience as a black man, perceived and targeted by modern law enforcement as a threat despite any evidence to support the targeting. Both Butler and Kweli believe that hip hop suggests a better path, a prescription to the seemingly never ending oppression.

Professor Butler forges ahead, torch firmly in hand, as he connects hip hop with CRT. Like Talib Kweli, Butler is unapologetic, brash, and honest. *Let’s Get Free* blazes trails and proposes radical alterations to the system of law that dominates today. Talib Kweli, with *The Beautiful Struggle*, leads the way for other twenty-first century socially conscious hip-hop artists to follow. Butler and Kweli share a furious kinship.

B. Devon Carbado and Common

As a second-generation Critical Race theorist, Professor Devon Carbado leads the next wave of the critical-race tradition much as Common represents the second wave of the hip-hop generation. Following in the footsteps of his UCLA colleagues Kimberlé Crenshaw, Cheryl Harris, and other CRT forebears, Carbado writes aggressively and prolifically, staking his claim in the subsequent wave of aggressive critiques with *Race to the

In *The New Racial Preferences*, Professor Carbado, along with Professor Harris, undertakes to continue Professor Gotanda’s groundbreaking critique of color-blind constitutionalism, this time in the context of color-blind admissions policies to institutions of higher education, particularly in light of the anti-affirmative action legislation enacted in California and Michigan. Carbado and Harris find, like Gotanda did nearly twenty years ago, that color-blind policies, whatever their purpose, act to entrench white privilege and injure the rights of persons of color. In particular, *The New Racial Preferences* examines what must occur for a university admissions officer to truly admit or deny applicants without any regard to race (as legislatively required in California and Michigan), ultimately finding that absurd results follow. All admissions regimes require a personal statement of each applicant for purposes of potential matriculation. Carbado and Harris analyze the absurd result that follows if students are required to submit color-blind personal statements (i.e., race erased from the personal statements), or if admissions administrators are required to ignore any mention of race or race connection in an applicant’s personal statement. Professors Carbado and Harris write:

While it is clear that post-affirmative action admissions criteria exclude or omit race from consideration, what that means for evaluating the personal statement is decidedly less than clear. Surprisingly, this issue has received little scholarly attention. Most commentators have focused on the demographic consequences of prohibiting admissions personnel from expressly utilizing race as one factor among many in making admissions decisions. They have paid virtually no attention to the mechanisms colleges and universities employ to effectuate that prohibition. Nor, for the most part, have scholars engaged the question of whether race can in
fact be eliminated from admissions processes. The assumption seems to be that eliminating the express consideration of race and eliminating race itself from the admissions context are one and the same thing—and that effectuating either of those racial erasures is easy institutional business.

But this is not so. Focusing on the personal statement, we will demonstrate that excising race from admissions is far from simple. Indeed, so long as the personal statement is part of the admissions process, implementing the colorblind imperative of [California’s] Proposition 209 and [Michigan’s] Proposition 2 might not even be possible. . . .

. . .

Significantly, our claim that likely race cannot be excised from the admissions process—and that elimination of the express consideration of race is not the elimination of race tout court—is only half of the story. As we will show, again drawing on the personal statement, the other half of the story is that prohibiting explicit references to race in the context of admissions does not make admissions processes race neutral. On the contrary, this racial prohibition installs what we call a “new racial preference.”

Our point of departure for describing this new racial preference is the standard definition of preferential treatment: the “‘giving of priority or advantage to one person over . . . others.’” While this might seem paradoxical, the formal removal of race from admissions can do just that. . . .

Colorblind admissions regimes that require applicants to exclude references to race in order to preclude institutions from considering them on the basis of race create an incentive for applicants to suppress their racial identity and to adopt the position that race does not matter in their lives. This incentive structure is likely to be particularly costly to applicants for whom race is a central part of their social experience and sense of identity. . . .

. . .

. . . This racial preference benefits applicants who (a) view their racial identity as irrelevant or inessential and (b) make no express mention of it in the application process. These applicants are advantaged vis-à-vis applicants for whom race is a fundamental part of their sense of self.
...[T]he new racial preference . . . is not a preference for a racial category per se. Nor is this preference “on the basis of skin color,” which is how opponents of affirmative [action] characterize the policy. The new racial preference rewards a particular way of relating to and expressing one’s racial identity. More specifically, the preference gives a priority or advantage to applicants who choose (or are perceived) to suppress their racial identity over those who do not (or are not perceived to) so choose.274

Carbado and Harris expose the current practice of “colorblindness” as perpetuating the privileging of those in power. Just as Gotanda described, Carbado and Harris show that when the color-blind principle is enacted, this time legislatively, preferences are indeed bestowed, but upon the already-privileged. This absurd result, privileging those that are already privileged based on their whiteness, is described by Carbado as not so absurd, but in reality established to perpetuate white supremacy.

Carrying the torch and continuing the important critique of the color-blind principle, Professor Carbado proves that Critical Race Theory, particularly from the emerging second generation, will remain a force to be reckoned with for the foreseeable future.

Just as Professor Carbado seems poised to share the torch with Professors Gotanda, Delgado, Harris, and other CRT pioneers, hip-hop superstar Common appears to have accepted the socially conscious hip-hop torch from Ice Cube and Tupac Shakur. Pushing forward a progressive political message for the next generation of hip-hop aficionados, Professor Carbado, as a next-generation CRT scholar, shares much with Common.

Originally “Common Sense,” Common continues to release records that enlighten and embolden the second generation of the hip-hop nation. Common rhymes with dignity and purpose; his flow is punctuated with current messages of resistance, empowerment, and self-help. When Common wrote, recorded, and released Be275 and Finding Forever,276 his socially conscious lyrics and rhymes reminded the public of the value of an artist with a relevant message. In his haunting Misunderstood, Common narrated an urban tale that in 2007 asks the question “what about our dreams?:

Baby, you understand me now;

274 Id. at 1144–50.
If sometimes you see that I’m mad;
No one can always be an angel;
When everything goes wrong you see some bad;
I’m just a soul whose intentions are good;
Oh Lord, please don’t let me be misunderstood.

Yeah, we do this, for the people that walk that path; Tryin’ to get their dream.

He stood on the corner with the rest of them;
Though he knew that this corner wasn’t the best of him;
Hard streets and a life that crested him;
Dirt police domestic beefs that’s festerin’;

He knew the President [Bush] wasn’t addressin’ him;
Though Dead Presidents was undressin’ him;
Two kids from hot sex no protection and;
People don’t see how AIDS is affectin’ them;

It get hard to get the get the God question in;
Can’t find a job so you robbin’ and hustlin’;
He killed marks and sold dope for cousin ‘em;
Can’t believe they would be the ones bucking him;

He on the ground he could feel God touching him;
He heard the sound of his moms sayin’ “Trust in Him”;
At heaven’s gate, saying “please Lord let me in”;
Or send me back to tell my people to be better men.

. . . .

She dancin’ she dance she dance for them;
Her body move but her mind was manic’n;
Thinkin’ “I don’t know where they hands have been”;
Relationships with men have been so damagin’;

She thought back to when she was at Howard and;
Dreams of doing scenes with Terrence Howard and;
Broadway plays and dancin’ with Alv and them;
The ones that make it always ain’t the talented;

Some dreams get lost never to be found again;
At first strippin’ seemed so empowerin’;
Most every girl wanna do it now and then;
But bein’ meat every day is devourin’;
Cats puttin’ paper where she put powder and;
Life would break her, now she powderin’;
She was high when she fell down and then;
Crowd surrounding and, heart was poundin’ and;

She fell into a deep sleep the siren sounded and;
Seen bright lights in the midst of clouds and then; Talked to God, feeling like his child again;
Said “Lord let me live so I can make you proud again.”

In Misunderstood, Common recognizes the moral judgment that attaches to those that rob, hustle, or strip. Rather than lay full blame at the feet of those that struggle, he suggests that the American dream is a mirage for many communities of color. Common challenges those communities to stand up in personal accountability, while at the same time indicting the United States government for its failures to shepherd and care for its forlorn and poor. Common carries the question, first posed by KRS-One in Love's Gonna Getcha, into the twenty-first century, with no opportunity or alternatives: “What the fuck am I supposed to do?”

Just as Common exposes the American dream as a mirage for many communities of color, Professor Carbado exposes colorblindness as a mirage perpetuated by the structures of power in the United States as a tool that allows continued domination over communities of color. Both Carbado and Common recognize in their expression that while the dream appears more readily attainable today, it is instead a mere illusion for most minority citizens in the United States. The law and the messaging offers the illusion while reality and forces that protect privilege continue to battle with great resistance to true racial progress and opportunity. Both Common and Carbado are deeply intellectual in their expression. Carbado embraces the critical work of his CRT forebears, examines the current climate, and sets out to extend the critique by appreciating progress and exposing continuing failures. Common likewise builds his lyricism upon the early work of his socially conscious hip-hop predecessors and delivers a nuanced critique embracing progress but articulating continuing obstacles. Both look for solution from within, both individually and from the African-American community.

278 See BOOGIE DOWN PRODUCTIONS, supra note 194.
279 Id.; see supra Part III.C.4.
Professor Devon Carbado, torch firmly in hand, writes and lectures in brash and innovative ways, as he connects CRT to continuing, modern extrapolations of racism and discrimination. Like Common, Professor Carbado is clever, incisive, and honest in his vision. The New Racial Preference blazes trails and proposes radical awakening to the system of “color-blind” law that dominates today. Common, with Finding Forever, leads the way into the twenty-first century, proving that hip hop is not dead, and that it can be a tool for innovative social change. Common is strong, fearless, and unapologetic. Carbado and Common share a rich and unique kinship.

C. Imani Perry and Lauryn Hill

Professor Imani Perry, as a hip-hop-nation scholar, stands poised to lead the burgeoning group of academics influenced by hip hop in the critical tradition of CRT. Perry, author of the influential Prophets of the Hood: Politics and Poetics in Hip Hop, presents, writes, and teaches about race, racism, and its interconnectivity to the law in the United States, proposing an African-American voice that demands attention. Having authored Of Desi, J. Lo and Color Matters: Law, Critical Race Theory and the Architecture of Race, and Let Me Holler At You: African American Culture, Postmodern Feminism and Revisiting the Law of Sexual Harassment, together with Prophets of the Hood, Professor Perry has staked her claim in the twenty-first century CRT movement and in both the tradition and future of hip hop.

In Prophets of the Hood, Professor Perry engages in a wide-ranging evaluation of hip-hop music and culture, from its founding influences through its potentially long-lasting impacts. She was among the first to recognize the narrative impact of hip hop as a descriptive agent that can challenge American norms:

Critics often charge that hip hop glamorizes violence and other criminal activity. While it is true some hip hop romanticizes violence or crime, far more of it explains it and makes a case for listeners to evaluate. Even the paranoid meanderings of a gang member expressed through a rapper often present a realistic expression of the psychological impact of being

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280 Perry, Prophets of the Hood, supra note 81.
283 See generally Perry, Prophets of the Hood, supra note 81.
caught in an underworld web. Mimicry of Italian mafioso, martial arts villains, and the like also challenge the discrepancy between how these figures are received, interpreted, and glorified in American culture and how black gangsterism is reviled.

In fact, narratives about the law, and narrative critiques of the law, within hip hop go hand in hand with the work of critical race, law, and literature scholars who appeal to narrative to critique legal institutions. Both scholars and hip hop artists employ and interpret discourses about being framed, about linguistic differences reflecting worldview differences, critiques of legal procedures, observations about the devaluation of black life in the criminal justice system. Sometimes a black rapper’s voice will occupy that of a police officer or a judge, thereby subverting the usual courtroom situation in which a white person’s voice represents the black. The formalism of those vocal representations stands in sharp contrast to the nuances of the artists’ voices and experiences, making for a powerful critique of the justice system’s application to black life. . . . What, then, does a hip hop voice have to offer to understandings of the criminal law if it replaces the victimized excuse of poverty and abuse to mitigate criminal acts with a survivor explanation?

I believe it provides an insightful and direct social critique, rather than an individualized evaluation. It basically charges that as long as the United States allows children to be reared in poverty, with gross economic and social disparities, it will have individuals like these personifications [outlaws] to contend with. Society, hip hop proclaims, needs to wake up. American society’s resistance to hearing the message signals its selfishness and/or laziness. Hip hop’s claims challenge the ease with which pundits talk about freedom of choice, or offer up as examples all those poor people who do not become criminals.284

Professor Perry, in intellectually deconstructing hip hop, finds a powerful genre that, rather than creating the glorification of violence and perpetuating misogyny and homophobia, hip hop simply reacts to the American cultural traditions of violence, misogyny, and homophobia and refracts them through an urban lens.285 While mainstream media regularly seeks to attach blame to hip hop for encouraging violence and hatred in the

284 Id. at 110–11.
285 See generally id. at 117–54.
United States, Perry refuses the invitation, instead redirecting blame to where it belongs: at the feet of American culture.286

As Professor Perry stands ready to accept the torch from Kimberlé Crenshaw and other notable female CRT founders, hip-hop icon Lauryn Hill burst upon the twenty-first century hip-hop scene full of political and social relevance. Together with Erykah Badu, Mary J. Blige, and Jill Scott,287 Hill ably took the lead from Queen Latifah, MC Lyte, and others in pressing the hip-hop agenda forward. Just as Professor Perry represents the new feminist academic of the hip-hop generation, Lauryn Hill takes her place as the new-generation hip-hop artist-scholar, following Latifah and Lyte by pushing forward a progressive, feminist political message. Lauryn Hill delves deeply into important issues of race, politics, and gender.288

On the already classic *The Miseducation of Lauryn Hill*,289 Hill delivered a record of startling gravity that included bold feminist messages of power and strength. In her politicized and charged record of love, life, and currency, Lauryn Hill seemed determined to open the eyes and minds of hip-hop fans to the possibility of a different reality. In *Everything is Everything*, Hill’s melodic flow envisioned a new and better future:

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Everything is everything;
What is meant to be, will be;
After winter, must come spring;
Change, it comes eventually.
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I wrote these words for everyone;
Who struggles in their youth;
Who won’t accept deception;

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287 While not considered rappers, per se, female R&B stars Erykah Badu, Mary J. Blige, and Jill Scott are universally considered hip-hop artists, together with Lauryn Hill. The mid-1990s saw a radical corporatization of hip hop, and with it came a scrubbing of the female rapper. Indeed, major record labels preferred females in the role of “eye candy” rather than hip-hop MC, and the trailblazing efforts of Queen Latifah, MC Lyte, and Salt-N-Pepa ground to a near halt. Today, R&B provides the avenue for female voices of power and influence, as demonstrated by Badu, Blige, Hill, and Scott. See generally Folami, *Black Public Sphere*, supra note 65.


Instead of what is truth;
It seems we lose the game;
Before we even start to play;
Who made these rules? We’re so confused;
Easily led astray.
Let me tell ya that;
Everything is everything;
Everything is everything;
After winter, must come spring;
Everything is everything. . . .

Our philosophy;
Possibly speak tongues;
Beat drums, Abyssinian, street Baptist;
Rap this in fine linen;
From the beginnin’;
My practice extending across the atlas;
I begat this;
Flippin’ in the ghetto on a dirty mattress;
You can’t match this rapper/actress;
More powerful than two Cleopatras;
Bomb graffiti on the tomb of Nefertiti;
MCs ain’t ready to take it to the Serengeti;
My rhymes is heavy like the mind of Sister Betty;
L. Boogie spars with stars and constellations;
Then came down for a little conversation;
Adjacent to the king, fear no human being;
Roll with cherubims to Nassau Coliseum;
Now hear this mixture;
Where hip-hop meets scripture;
Develop a negative into a positive picture.

Now, everything is everything;
What is meant to be, will be;
After winter, must come spring;
Change, it comes eventually.

Sometimes it seems;
We’ll touch that dream;
But things come slow or not at all;
And the ones on top, won’t make it stop;
So convinced that they might fall;
Let’s love ourselves then we can’t fail;
To make a better situation;
Tomorrow, our seeds will grow;
All we need is dedication.  

The position of the female hip-hop artist and female hip-hop scholar and/or second-generation CRT scholar appears to be manifestly more complex than that of the male counterpart. The intersection of female artist with hip hop has proved extremely difficult in light of both the 1990s corporatization of hip hop and the misogyny that prevails in much of the commercial rap released for public consumption.  In responding to the corporatization that practically erased female MCs from the hip-hop game, Lauryn Hill, Mary J. Blige, Jill Scott, and Erykah Badu have celebrated hip-hop culture in their primarily R&B artistic expressions. Simultaneously, emerging hip-hop scholars like Imani Perry, Akilah Folami, Robin Lenhardt, and Pamela Bridgewater have embraced their specific expertise in the law, including family law, telecommunications law, race and law, and gender and law, and have creatively explored the impact of hip hop on their particular professorial expertise.

Professor Imani Perry, in showing the way and now bearing the hip-hop scholar torch, writes and lectures in creative and innovative ways, as she connects hip hop and feminist sensibilities to CRT. Like Lauryn Hill, Professor Perry is unafraid, deeply committed, and intellectually powerful. Her *Prophets of the 'Hood* establishes itself as the harbinger of the hip-hop academic enterprise. Lauryn Hill, with her iconic *The Miseducation of Lauryn Hill*, set the standard for twenty-first century socially conscious hip hop, proving that hip hop can be a tool for revolution and positive change. Lauryn Hill is fearless, forward-thinking, and unapologetic. Much like Lauryn Hill, Professor Perry engages issues of racial equality on deeply intellectual levels. Perry and Hill share a graceful and powerful kinship.

**D. Major Contributors**

Like the Critical Race Theory pioneers, the second generation of CRT scholars who are members of the hip-hop nation are writing cutting-edge articles and forwarding ground-breaking theories too numerous to analyze and appropriately highlight here. Members of the hip-hop nation that will lead the second wave of the Critical Race Theory movement, and who have

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291 See generally Folami, *Black Public Sphere*, supra note 65.
292 See supra notes 65, 282; see also infra notes 294, 298.


295 See generally Anthony Farley, Sarah Palin: The Last Black President, Address at the West Virginia University College of Law Symposium: The Evolution of Street Knowledge: Hip Hop’s Influence on Law and Culture (Feb. 13, 2009), available at http://lawmediasite.wvu.edu/mediasite/Viewer/?peid=0f77b066425ace0a10e573897.

296 See generally sources cited supra note 65.

297 See generally Anderson, supra note 81.

298 See generally Pamela Bridgewater, Momma’s Babies and Poppa’s Maybe: The Goldfinger, Fatherhood Narrative and Hip Hop Culture, Address at the West Virginia University College of Law Symposium: The Evolution of Street Knowledge: Hip Hop’s Influence on Law and Culture (Feb. 13, 2009), available at http://lawmediasite.wvu.edu/mediasite/Viewer/?peid=0f77b066425ace0a10e573897.


300 See generally Arewa, supra note 81.


302 See generally Sciullo, supra note 252.


304 See generally Reginald Robinson, Black Mother Hate and Hip Hop, Address at the West Virginia University College of Law Symposium: The Evolution of Street Knowledge: Hip Hop’s Influence on Law and Culture (Feb. 13, 2009), available at http://lawmediasite.wvu.edu/mediasite/Viewer/?peid=0f77b066425ace0a10e573897.

305 See generally Carla Pratt, Kinging It Real: Lessons from the Hip Hop Generation’s Entry to the Legal Profession, Address at the West Virginia University College of Law Symposium: The Evolution of Street Knowledge: Hip Hop’s Influence on Law and Culture (Feb. 13, 2009), available at http://lawmediasite.wvu.edu/mediasite/Viewer/?peid=0f77b066425ace0a10e573897.

306 See generally Smith, supra note 61.

307 See generally Kamille Wolff, Chairs and Ladders: The Corporate Structure of “Ladies First” in Hip Hop, Address at the West Virginia University College of Law Symposium: The Evolution of Street Knowledge: Hip Hop’s Influence on Law and Culture (Feb. 13, 2009), available at http://lawmediasite.wvu.edu/mediasite/Viewer/?peid=0f77b066425ace0a10e573897.

Similarly, the torch-bearing hip-hop artists and collaborators that continue the aggressive tradition of narrative social commentary still provide underground messages to the next generation of hip-hop aficionados. Despite the commoditization of hip hop by major label studios and the fixation that radio airplay seems to have with bling and content-free hip hop, the politically conscious hip-hop purveyors will continue to influence and inspire. Current hip-hop revolutionaries deliver stunning messages that will change minds, as their predecessors did, but are also too numerous to comprehensively analyze or appropriately highlight here. The second generation of hip-hop contrarians include Mos Def, Immortal Technique, Wyclef Jean, The Roots, Jean Grae, Lil’ Wayne, Rhymefest, Jay-Z, and many more.

VI. CONCLUSION

For three decades, Critical Race Theory and hip hop have been radically engaging the traditional majority in this country. Curiously, both of these radical engagements share many of the same characteristics and goals. In furiously challenging American norms, CRT advocates and hip-hop artists brashly suggest a reality completely different from the rest of the country and the world. Through narrative storytelling and funky base lines, CRT and hip hop seek to educate, inspire, and motivate a generation. Despite weaknesses in both movements, CRT and hip hop have informed and changed society in compelling ways. The hip-hop nation is growing up and joining the ranks of lawyers, doctors, engineers, teachers, laborers, professors, and service industry employees. The CRT founders are actively writing and engaging, but also looking to a new generation of scholars and teachers to assume the weight and responsibility of continuing their

310 See generally Folami, Deliberative Democracy, supra note 65.
312 IMMORTAL TECHNIQUE, REVOLUTIONARY VOL. 2 (Viper Records 2003).
314 THE ROOTS, GAME THEORY (Def Jam Records 2006).
315 JEAN GRAE, JEANIUS (Blacksmith Records 2008).
316 LIL’ WAYNE, THA CARTER III (Cash Money/Universal Records 2008).
317 RHYMEFEST, BLUE COLLAR (J-Records 2006).
message. The perfect storm bringing together the coming of age of the hip-hop generation with the passing of the torch of CRT scholarship is soon arriving. I simply cannot wait to see how this particular narrative continues to unfold.