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The Critical Legal Research Movement

Do the external power structures that define our society also shape the organization of legal information? Do they embed biases in the tools of legal information retrieval? If so, is there anything we can do to contend with this phenomenon? Although I cannot recall why I first began to ask these questions, they have served as the center of my professional life for the past two years. I hasten to add that my concerns are hardly original.

In 1989, the preeminent Critical Race Theorists Richard Delgado and Jean Stefancic published an essay in the *Stanford Law Review* identifying what they called the "triple helix dilemma." They posited that "professionally prepared research and indexing systems," namely the Library of Congress Subject Headings, legal periodical indexes, and the West Digest System, "function rather like molecular biology's double helix." By this, they meant that these tools "replicate preexisting ideas, thoughts, and approaches" and "make foundational transformative innovation difficult." Revisiting their thesis in a 2007 article in *Law Library Journal*, Delgado and Stefancic concluded that keyword searching had made the situation worse by encouraging researchers to focus on factual minutia, abandon analogical reasoning, develop unwarranted confidence, forego imaginative thinking, ignore the indeterminacy of law, and confirm their biases. As solutions to the problems posed by the triple helix dilemma, Delgado and Stefancic suggested "looking to divergent individuals," "turn[ing] [the] system on its side and ask[ing] what is missing," and "turning our computers off" to engage in "brainstorming sessions with other reformist lawyers."

In the last decade, several law librarians have revisited these themes. For instance, Nicholas F. Stump at West Virginia University College of Law is re-envisioning the solutions proposed by Delgado and Stefancic as loose frameworks of methods and strategies designed to accelerate law reform. Yasmin Sokkar Harker at the City University of New York School of Law is advancing pedagogical techniques designed to emphasize the socially constructed nature of legal information. Julie Graves Krishnaswami at Yale Law School is using critical information theory as a framework for teaching regulatory research. Grace Lo at Stanford Law School is alerting law librarians to the persistence of bias in Library of Congress Subject Headings. Jennifer Allison at Harvard Law School is developing new ways to expose law students to critical legal scholarship. Kathy Fletcher at the University of New Hampshire Franklin Pierce School of Law is working on groundbreaking research into bias in casebooks. My own scholarship has been both an attempt to synthesize the ideas of the above thinkers and an effort to use their insights to address algorithmic bias in emerging legal research technologies. I have taken to referring to this diverse group of law librarians as the Critical Legal Research movement.

This past year, our movement has found a home in [AALL's Research Crits Caucus](#). First formed at a small gathering at the 2019 AALL Annual Meeting & Conference in Washington, DC, this new organization now has dozens of members from across the country. In July, more than 60 people tuned in to our first event, "A Salon on Teaching Critical Approaches to Legal Research." The interest in Critical Legal Research is not limited to law librarianship, however. This January, the 2021 Annual Meeting of the American Association of Law Schools (AALS) will feature an open source program entitled "Critical Legal Research: The Next Wave (A Panel in Honor of Richard Delgado and Jean Stefancic)." Moderated by past AALL President Ronald E. Wheeler of Boston University School of Law--the only legal scholar in the country writing and teaching in the fields of both Critical Race Theory and legal research--this program is an exciting opportunity for new critical voices in legal research to discuss the continuing relevance of Delgado and Stefancic's theory of the triple helix dilemma.

The past several months have been a particularly difficult time for our nation. The COVID-19 pandemic has done irreparable damage to our economy, laying bare the structural inequalities that lie at the heart of our society. By no means have law libraries been impervious to these events. Yet, in an era of budget cuts, reductions in staffing, and shrinking physical footprints, the Critical Legal Research movement demonstrates that the intellectual vitality of law librarianship remains strong. The greatest test of this movement, however, will be whether it can assist the profession in envisioning a vibrant future for law librarianship committed to interrogating claims of objectivity, promoting transparency, and building a more equitable legal system.

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About AALL New Voices: AALL welcomes members to share their reflections on any component of law librarianship!

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