

Critical Race Theory an Introduction

by

Troy T. Thomas

Critical race theory (CRT) was officially organized in 1989, at the first annual Workshop on Critical Race Theory, though its intellectual origins go back much farther, to the 1960s and '70s. Its immediate precursor was the Critical Legal Studies (CLS) movement, which was dedicated to examining how the law and legal institutions serve the interests of the wealthy and powerful at the expense of the poor and marginalized. According to the legal scholars Richard Delgado (one of the founders of CRT) and Jean Stefancic there are several general propositions regarding race and racism which constitute a set of "basic tenets" of CRT. First, race is socially constructed, not biologically natural. The idea that the human species is divided into distinct groups based on inherited differences was refuted by genetic studies in the late 20th century. Social scientists, historians and other scholars now agree that the notion of race is a social construction. Some CRT theorists hold that race is an artificial association between a set of physical characteristics—including skin color, certain facial features, and hair texture—and an imagined set of psychological and behavioral tendencies. These associations have been created and maintained by dominant groups to justify their oppression and exploitation of subordinate groups on the basis of the latter's supposed inferiority, immorality, or incapacity for self-rule.

Second, racism in the United States is normal, not an aberration: it is the ordinary experience of most people of color. Although extreme racist attitudes and beliefs are less common among whites than they were before the mid-20th century, and explicitly racist laws and legal practices—epitomized by the Jim Crow laws that enforced racial segregation and denied basic civil rights to African Americans in the South—have been largely eliminated, most people of color continue to be routinely discriminated against or otherwise unfairly treated in both public and private spheres. African Americans and Hispanics, for example, are on average more likely than similarly qualified White persons to be denied loans or jobs; they tend to pay more than Whites for a broad range of products and services (e.g., automobiles); they are more likely than Whites to be unjustly suspected of criminal behavior by police or private (White) citizens; and they are more likely to be victims of police brutality, including the unjustified use of lethal force. People of color, particularly African Americans, are generally imprisoned more often and for longer periods than Whites who are found guilty of the same offenses. Many Blacks and Hispanics continue to live in racially segregated and impoverished neighborhoods, in part because of zoning restrictions in many predominantly white neighborhoods that once effectively excluded lower-income residents. Predominantly Black or Hispanic neighborhoods also tend to receive fewer or inferior public services, including public education. The lack of quality education in turn limits job opportunities, which makes it even more difficult to leave impoverished neighborhoods. On average, Blacks and Hispanics also receive less or inferior medical care than Whites and consequently lead shorter lives.

Third, owing to what CRT scholars call "interest convergence," legal advances (or setbacks) for people of color tend to serve the interests of dominant white groups. Thus, the racial hierarchy that characterizes American society may be unaffected or even reinforced by ostensible improvements in the legal status of oppressed or exploited people. Derrick Bell, an intellectual forefather of CRT and Harvard's first Black tenured law professor, held that the 1954 *Brown v. Board of Education* decision, which overturned the "separate but equal" doctrine established in *Plessy v. Ferguson* (1896), occurred because (1) elite whites were concerned about potential unrest among Black soldiers returning from WWII and Korea who were now expected to resume lives of oppression and exploitation by whites; and (2) the world image of the United States as an egregiously racist society threatened to diminish American influence among developing countries and to undermine the country's strategic efforts in the Cold War against the Soviet Union. Although widely dismissed at the time, Bell's view that the *Brown* decision was a product of interest convergence between whites and Blacks was supported by later historical research, which revealed that the decision of the Department of Justice to support desegregation was influenced by a raft of secret communications from the State Department regarding the need to improve the country's image abroad. The thesis of interest convergence has since been applied to numerous other legal cases involving the rights of people of color.

"What's Past is Prologue." So reads the inscription on the sculpture that stands before the National Archives Building in Washington, DC. How far into the past ought one to travel in order to gain insight into today's divided America? Let us begin with the so-called "Doctrine of Discovery."

The Papal Bull "Inter Caetera," issued by Pope Alexander VI in 1493 stated that any land not inhabited by Christians was available to be "discovered," claimed, and exploited by Christian rulers and declared that "the Catholic faith and the Christian religion be exalted and be everywhere increased and spread ... and that barbarous nations be overthrown and brought to the faith itself." This "Doctrine of Discovery" became the basis of all European claims in the Americas as well as the foundation for the United States' western expansion. It was used to legitimize the colonization of Indigenous peoples as well as to dehumanize, exploit, subjugate and dispossess them of their most basic rights. Previous Papal bulls in 1452 and 1455 called for non-Christian peoples to be invaded, captured, vanquished, subdued, reduced to perpetual slavery, and to have their possessions and property seized by Christian monarchs. Thus Church and State conspired to establish, reward and bless the concept of European superiority and to regard non-Europeans as less than human. Indigenous peoples of North, Central and South America, the Island peoples of the Pacific Rim, the Caribbean, and the Philippines, as well as the peoples of Africa and the Indian sub-continent have all suffered centuries of cruelty and exploitation at the hands of the Europeans and their descendants who believed themselves to be innately superior as ordained by their God and reinforced by their Government. As recently as September 2011, the UN Human Rights Council by consensus "condemned" doctrines of superiority "as incompatible with democracy and transparent and accountable governance."

In the July 4, 2021 issue of Time Magazine, Robert G. Parkinson, associate professor of history at Binghamton University, writes, "Slavery and arguments about race were not only at the heart of the American founding; it was what united the states in the first place. Recently, a controversy over "critical race theory" has ignited public debate about the centrality of race to American history. As a part of that debate, which has been ongoing since the publication of the 1619 Project, founding has come under the most scrutiny. How much did 1776 have to do with race and slavery? The answer is: you can't tell the story without it. Patriot leaders found one thing that white colonists shared: racism. The founders embraced and mobilized colonial prejudices about potentially dangerous African Americans and used those fears to unite the colonists in one "common cause." That effort made America independent, but it also buried race deep in the cornerstone of the American republic that was born on July 4, 1776."

Michelle Alexander, in *The New Jim Crow*, writes: "The concept of race is a relatively recent development. Only in the past few centuries, owing largely to European imperialism, have the world's people been classified along racial lines. Here in America, the idea of race emerged as a means of reconciling chattel slavery—as well as the extermination of American Indians—with the ideals of freedom preached by whites in the new colonies." In the early colonial period, indentured servitude was the primary means of securing cheap labor, one in which both whites and blacks struggled to survive against a common enemy, the big planter apparatus and a social system that legalized terror against black and white bondsmen alike. As the demand for land and labor increased, eliminating "savages" was less of a moral problem than eliminating human beings, and therefore the Indigenous peoples came to be understood as a lesser race, providing justification for their slaughter. Alexander noted that, because native tribes had the ability to fight back, they were considered less suitable as slaves than Africans, who were relatively powerless.

As anthropologists, geneticists, historians and other social scientists have come to acknowledge that "race" itself is a false construct, the term "caste" has become more widely accepted in scholarly usage. Pulitzer Prize winning author Isabel Wilkerson, in her 2020 book *Caste: The Origins of Our Discontents*, defines a caste system as "an artificial construction, a fixed and embedded ranking of human value that sets the presumed supremacy of one group against the presumed inferiority of other groups on the basis of ancestry and other immutable traits, traits that would be neutral in the abstract but are ascribed life-and-death meaning in a hierarchy favoring the dominant caste whose forebears designed it. A caste system uses rigid, often arbitrary boundaries to keep the ranked groupings apart, distinct from one another and in their assigned places." She goes on to identify three caste systems that have stood out in human history: "the tragically accelerated, chilling and officially vanquished caste system of Nazi Germany; the lingering, millennia-long caste system of India; and the shape-shifting, unspoken, race-based caste pyramid in the United States." Each version relied on stigmatizing those deemed inferior to justify the dehumanization necessary to keep the lowest-ranked people at the bottom and to rationalize the protocols of enforcement. In the colonies and the later United States, the Bible was cited as proof that slavery was part of God's will: From the Old Testament/Torah: "Both thy bondsmen and thy bondmaids, which thou

shalt have, shall be of the heathen that are round about you; of them shall ye buy bondsmen and bondswomen." (Leviticus) From the New Testament, in both Ephesians and Colossians, "Slaves, be obedient to your master." From the time of the Middle Ages, Ham, son of Noah, was purported to have skin blackened as a punishment from God and Noah's curse against Ham was translated as a curse against his descendants, that is, all humans with dark skin.

Thus, a hierarchy evolved in the New World that set those with the lightest skin above those with the darkest, who would be assigned to the lowest caste for centuries. In The New Jim Crow, Alexander states: "White supremacy, over time, became a religion of sorts. Faith in the idea that people of African descent were bestial, that whites were inherently superior, and that slavery was, in fact, for blacks' own good, served to alleviate the white conscience." *All men are created equal* held no contradiction if Africans were not really people.

In 1691, Virginia became the first colony to outlaw marriage between blacks and whites; over the following three centuries, 41 of the 50 states passed laws criminalizing intermarriage, with fines up to \$5000 and up to 10 years in prison. "You know the Negro race is inferior mentally," a southern physician told researchers back in 1940. "Everyone knows that, and I don't think God meant for a superior race like the whites to blend with an inferior race." As late as 1958, a Gallup poll found that 94% of white Americans disapproved of marriage across racial lines. The Supreme Court did not overturn so-called miscegenation statutes until 1967.

In 1934, a committee of Nazi bureaucrats met in Berlin to debate the framework for an Aryan nation and to discuss how other countries protected racial purity from the disfavored. In debating "how to institutionalize racism in the Third Reich," wrote Yale legal historian James Q. Whitman, "they began by asking how the Americans did it." The Nazis knew that the United States was centuries ahead of them with its anti-miscegenation statutes and race-based immigration bans. Western Europeans were well aware of the American paradox of proclaiming liberty for all men while holding subsets of its citizens in near total subjugation. Isabel Wilkerson, again, in Caste: "Germany well understood the US fixation on race purity and eugenics, the pseudoscience movement of the early 20th century, grading humans by presumed group superiority." Notable devotees of eugenics include Alexander Graham Bell, Henry Ford and Charles Lindbergh. The Nazis were especially interested in two widely known American eugenicists, Lothrop Stoddard and Madison Grant, who devised a ranking of European "stock," and advocated the exclusion and elimination of "races" deemed a threat to Nordic purity, foremost among them Jews and Negroes. The Nazi word "untermensch," meaning subhuman, came from Stoddard's 1922 book; Grant's manifesto for cleansing the gene pool of undesirables was lauded by Hitler as his "Bible." He praised America's near genocide of Native Americans and the exiling of survivors to reservations; he modeled his program of racial purification on the US Immigration Restriction Act of 1924. The Nazis were impressed by the American custom of lynching its subordinate caste of African-Americans and were aware of the torture and mutilations that accompanied them. It is ironic that while the Nazi's praised "the American commitment to legislating racial purity," even they could not abide the "unforgiving hardness" under which an American man or woman who had even *one drop* of Negro blood would be counted as subordinate.

As the saying goes, history is written by the victors. In the United States, history has been written by the dominant caste. A 2018 report by the Southern Poverty Law Center revealed that in 2017, just 8% of high school seniors named slavery as the central cause of the Civil War (or, as Southern students are taught to call it, the War of Northern Aggression.) Less than 1/3 knew that it took a constitutional amendment to abolish it; the majority could not define the Middle Passage, the forced migration of nearly 13 million people across the Atlantic that transformed—some would say enabled—the existence of the United States. As recently as 6 years ago, a McGraw-Hill textbook referred to enslaved Africans as "workers," a word that implies consensual, paid labor. The Texas state board of education approved curriculum standards that equated Gen. "Stonewall" Jackson, who fought against the United States, with Frederick Douglass, famed Abolitionist, as examples of "the importance of effective leadership in a constitutional republic." H. K. Jeffries, a historian at Ohio State University, writes, "Although we teach that slavery happened, we minimize its significance so much that we render its impact inconsequential."

In early 2019, Nikole Hannah-Jones, a writer for *The New York Times Magazine*, proposed that a special issue be created that would mark the 400th anniversary of the arrival of a Dutch man-of-war into the port of Jamestown, Virginia. That year was 1619, one year before the arrival of the *Mayflower*, and the ship, the *White Lion*, was delivering the first of thousands of cargoes of enslaved Africans to the shores of what would become, 157 years later, the United States of America. The special issue would examine the unparalleled impact of African slavery on the development of our country and its continuing impact on our society. *The 1619 Project*, as it became known, included input from scholars in the fields of history, economics, law, sociology and the arts, and took over six months to complete. The issue explored such questions as *What impact would considering 1619 as our country's point of origin have on our understanding of US history? How might that change our perception of today's challenges—its stark economic inequality, its violence, its world-leading incarceration rates, its shocking segregation, its political divisions, its stingy social safety net?*

The 1619 Project was a stunning success. Copies of the Sunday NY Times immediately sold out. Forums were held across the country, at museums, libraries, cultural centers and schools. Educators in all 50 states began teaching a curriculum based on the project, and countless students reacted like Brenton Sykes, who said, "Now that I'm aware of the full history of America without it being whitewashed or anything, it kind of makes me see things in a different light. I feel like I have to carry myself better because I have what my ancestors went through." Unsurprisingly, there was backlash. Arkansas Senator Tom Cotton denounced the 1619 Project as "left-wing propaganda. It's revisionist history at its worst," adding, "As the Founding Fathers said, it [slavery] was the necessary evil upon which the Union was built." He introduced a bill called the "Saving American History Act," which sought to strip funding from public schools teaching the 1619 Project. The Cotton bill went nowhere; Nikole Hannah-Jones was awarded the Pulitzer Prize and a Professorship at the University of North Carolina.

"There is no American history without African American history," said Sara Clarke Kaplan, executive director of the Antiracist Research & Policy Center at American University in Washington, D.C. The Black experience, she said, is embedded in "everything we think of as 'American history.'" Critics have long argued that Black history should be taught and celebrated year-round, not just during one month each year. In 1926, Carter G. Woodson sought to make the celebration of Black history a serious area of study. The idea eventually grew in acceptance, and by the late 1960s, Negro History Week had evolved into what is now known as Black History Month. One might assume that the national recognition of Black History Month would be instrumental in giving American students a more balanced understanding of the role of African-Americans in the overall story of the American experience. This is not always the case, as evidenced in this February, 2022 narrative by Anthony Crawford, an Oklahoma high school teacher.

When I was a junior in high school, I was kicked out of class for asking the teacher when we were going to learn about Black history. It was Black History Month. I remember it like it was yesterday. It was the first week of February. Monday passed, no Black history. Tuesday, still no Black history. On Wednesday, I finally spoke up. I asked the teacher, "When are you going to teach us about Black history? Are you going to teach us anything about Black people?" He turned red and said, "I will not deal with this in my classroom," and asked me to leave. So I tossed my textbook on the ground and walked out of class.

Growing up, I learned a lot of European history in school, like Shakespeare or Victorian literature. I had a sixth-grade teacher who was interested and taught us about Black history — but other than that, I literally do not remember learning anything about Black history in my K-12 education. Today, it's not that different. A lot of my students were never taught any Black history until my class. They're learning about things like the Harlem Renaissance and Reconstruction for the first time — as juniors and seniors in high school. In a way, I can understand why. Black history is graphic and violent, and we don't want to traumatize our students. But in order to break those barriers, we first have to talk about it.

Black history is important for all students because most of the things that happened in history are still happening today. We think of slavery as a thing of the past, but mass incarceration and its gateway, the school to prison pipeline, are the new slavery. I teach my students about these issues because it helps them understand what kind of society they live in and how this reality came into being. It's especially important for Black students: Without understanding what happened and is still happening to their people, they won't know how to maneuver in society once they step out of my classroom and into the real world. It's like going into a fire not knowing that you'll get burned. I want to prepare them for the harsh realities that they're going to face every day as they become adults.

Already, I can see the impact on my students after they are introduced to these subjects. They start learning how to think critically and debate with each other. Their parents will call me and say how much they appreciate it because they didn't know how to introduce some of these ideas to their kids, or when was an appropriate time. Black history is hard to talk about, but learning about it builds my students' confidence and empowers them to take life into their own hands. Right now, it's even more important to have these conversations because of the current debate about teaching "critical race theory" in schools. Oklahoma, where I live, is one of nine states that passed classroom censorship bills last year that try to silence conversations about race and gender. I have chosen to defy the law and have not altered my teaching, but I know a lot of teachers who are afraid to talk about these issues because they could lose their teaching licenses if someone complains and they are found to be in violation of this confusing and over broad statute. There's a lot of misinformation out there about teaching race in the classroom, and I hope it doesn't prevent more students from getting a real and inclusive education — especially during Black history month.

Dr. Phil McGraw has often paraphrased James Baldwin, telling his guests, "You can't change what you don't acknowledge." Maya Angelo, too, offered advice, saying, "Do the best you can until you know better. Then when you know better, do better." Both Dr. Phil and Ms. Angelo thus encourage their followers to acquire knowledge, to educate themselves, to seek the truth, to gain information in order to improve their lives, their relationships, their circumstances, their existence as human beings.

The verse (John 8:32) "Ye shall know the truth and the truth shall make you free" is inscribed on the Main Building at the University of Texas at Austin and at Parks Library at Iowa State University. It is familiar to Christians as well as to non-Christians, and so it begs the question, "Why are some Americans afraid of the truth?" Why are some adamantly, vociferously, some almost violently opposed to the teaching of Critical Race Theory in American public schools at appropriate age levels? One answer is suggested by Professor Rashawn Ray, a Senior Fellow at the Brookings Institution in Washington, DC, in an article entitled, "Why are states banning critical race theory?" Here are a few of his salient points:

(CRT) has become a new bogeyman for people unwilling to acknowledge our country's racist history and how it impacts the present. Opponents fear that CRT admonishes all white people for being oppressors while classifying all Black people as hopelessly oppressed victims. These fears have spurred school boards and state legislatures from Tennessee to Idaho to ban teachings about racism in classrooms. However, there is a fundamental problem: these narratives about CRT are gross exaggerations of the theoretical framework. The broad brush that is being applied to CRT is puzzling to academics, including some of the scholars who coined and advanced the framework.

Sociologists and other scholars have long noted that racism can exist without racists. However, many Americans are not able to separate their individual identity as an American from the social institutions that govern us—these people perceive themselves *as* the system. Consequently, they interpret calling social institutions racist as calling them racist personally. It speaks to how normative racial ideology is to American identity that some people just cannot separate the two. There are also people who may recognize America's racist past but have bought into the false narrative that the U.S. is now an equitable democracy. They are simply unwilling to remove the blind spot obscuring the fact that America is still not great for everyone.

Scholars and activists who discuss CRT are not arguing that white people living now are to blame for what people did in the past. They are saying that white people living now have a moral responsibility to do something about how racism still impacts all of our lives today. Policies attempting to suffocate this much-needed national conversation are an obstacle to the pursuit of an equitable democracy.

Nearly half the states have introduced or plan to introduce legislation to ban the discussion, training, and/or orientation that the U.S. is inherently racist as well as any discussions about conscious and unconscious bias, privilege, discrimination, and oppression. These parameters also extend beyond race to include gender lectures and discussions.

With a largely party line vote, the Indiana House passed House Bill 1134 in January, sending it to the Senate for consideration. The bill, which would limit what teachers can say regarding race, history and politics in Indiana classrooms, is nearly identical to a piece of legislation that senators already abandoned after it would require teachers to remain neutral on topics including Nazism, Marxism and fascism and promptly became the subject of national outrage and ridicule.

Some parents are worried about their kids learning things in school that they do not have the capacity to address. Dr. Ray states: "As a college professor who does teach CRT as one of the many theoretical frameworks that I bring into the classroom, [I have found that] students are alarmed by how little they have learned about inequality. They are upset at their schools, teachers, and even their parents. So, this is the conundrum: teachers in K-12 schools are not actually teaching CRT. But teachers are trying to respond to students asking them why people are protesting and why Black people are more likely to be killed by the police."

Dr. Ray concludes: "Ultimately, we cannot employ colorblind ideology in a society that is far from colorblind. Everyone sees it, whether they acknowledge it consciously or not. If we love America, we should want it to be the best it can be. Rather than run from the issue of racism in America, we should confront it head on. Our kids and country will be better for it."

Isabel Wilkerson writes in detail, in Caste, about the symbols of caste, and compares the response of post-Civil War America with post-WWII Germany in dealing with the aftermath of racism in their respective societies. Robert E. Lee, Jefferson Davis, Stonewall Jackson, Nathan Bedford Forrest and others led an insurrection against the United States over the right to hold human beings in perpetual bondage. Far from being made to answer for their crimes against humanity and their country, they were immortalized in cities and towns all over the country. Statues were erected and revered, counties, landmarks, schools from elementary through university were named in their honor; highways, streets, libraries...across the US, there are more than 1700 monuments to the Confederacy, whose "cornerstone," said Alexander Stephens, its vice-president, "rests upon the great truth that the negro is not equal to the white man; that slavery subordination to the superior race is his natural and normal condition. With us, all of the white race, however high or low, rich or poor, are equal in the eye of the law. Not so with the negro. Subordination is his place. He, by nature or by the curse against Cain, is fitted for that condition which he occupies in our system." The institution of slavery morphed into sharecropping, lynchings, chain-gangs, Klansmen and the school-to-prison pipeline. The Confederate battle flag, the "stars and bars" was incorporated into state flags and proudly displayed in courthouses, schoolrooms, posters, clothing, virtually anywhere that folks cared to glorify the "Lost Cause."

In Germany, displaying a swastika is a crime punishable by up to three years in prison. In Virginia, a confederate flag the size of a bed sheet was displayed off the Interstate around the time of the Unite the Right rally in Charlottesville, Virginia. And at that rally, in August of 2017, the Ku Klux Klan joined forces with American neo-Nazis to terrorize Blacks, Jews and all who supported or sympathized with them. The horrific events of that Unite the Right rally can be found in explicit detail in Beyond Charlottesville by Virginia's then governor, Terry McAuliffe.

In Germany, there is no death penalty. "We can't be trusted to kill people after what happened in WWII," explained a German woman. In America, the states with the highest recorded number of lynchings, all former states of the confederacy, currently have the death penalty.

In Germany, Hitler shot himself in the head to escape capture; his body was dragged out and set afire. Robert E. Lee and Jefferson Davis lived out their retirements in comfort. When they died, they were both given state funerals with military honors and revered with statues and monuments.

Germany, after decades of silence and soul-searching, chose to erect memorials to the victims of Nazi aggression and to those who courageously resisted the men who inflicted atrocities on human beings. In Germany, restitution has been paid to survivors of the Holocaust. In America, it was the slaveholders who received restitution, not the people whose lives and wages were stolen from them for twelve generations. In Wilkerson's words, "Those who instilled terror on the lowest caste over the following century after the formal end of slavery, those who tortured and killed humans before thousands of onlookers or who aided and abetted those lynchings or who looked the other way, well into the twentieth century, not only went free but rose to become leading figures—southern governors, senators, mayors, sheriffs, businessmen."

Matt Haig, in The Comfort Book, writes: "The true challenge we face is to look at ourselves and the world honestly. To see what wounds there are, so we can help heal them. Not to flinch. Not to spend our life wrapped in denial and trying to avoid pain... Nothing is stronger than a small hope that does not give up."