

# Critique of Critical Race Theory

by Michael Curtis



**The culture wars in the U.S. and UK** are being fought on many fronts, and Critical Race Theory, CRT, has become the most controversial battleground. Will it be Austerlitz or Waterloo for U.S. liberalism? The verdict depends on how the concept of racism in U.S. and its implications have affected and will shape public and social policy, whether anti-racist rhetoric will concentrate on the existence of society based on “white supremacy,” and on the contention over the curriculum in public schools.

CRT originally stemmed from the ideas of a small number of activists and legal scholars, primarily Derrick Bell, Richard Delgado, and Kimberle Williams Crenshaw, interested in studying and transforming the relationship among race, racism and power. They thought the advances of the Civil Rights era of the 1960s for minority groups in housing, education, and

the criminal justice system, had been stopped, even reversed, and that subtler forms of racism were increasing.

The ideas of this group, some of which can be traced back to the 1970s, were little known to the public, but now they have become an important and highly controversial political expression. Their ideas were also influenced by, if not derivative from, by various sources: civil rights activists who brought about the reordering of society in the 1960s, certain European philosophers such as Antonio Gramsci and Jacques Derrida, Americans such as W.E.B. Du Bois, radical feminist theorists, and by the leftist lawyers in the Critical Legal Studies movement who argued that the law and legal institutions are used to preserve the status quo of the existing power structure at the expense of the poor and the marginalized.

At the core of CRT are the arguments that advances of the Civil Rights era have stalled, that legal advances had little effect on the wealth gap between whites and blacks, and that political liberalism cannot adequately address fundamental problems of injustice in American society and does not recognize racist practices that are subtle or systemic and are gaining ground, and that new strategies were needed to oppose racism. It implies that civil rights advances and affirmative action coincided with the self-interests of white elitists, and that government support for civil rights legislation was motivated in part by concern that racial discrimination harmed U.S. foreign relations.

According to Richard Delgado and Jean Stefanic, this theory, unlike traditional civil rights thinking, questions the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law. CRT began as a movement in the law but has spread widely to many academic disciplines, but unlike them it has an activist dimension. This goes beyond examining the social situation in order to transform it. CRT

rejects the liberal view of constitutional law as being color blind and neutral.

At a meeting in 1989 at the University of Wisconsin, Madison, attended by 24 scholars of color, the concept of CRT was coined, focused on the need to explore the role that law and institutions play in establishing the very rights and practices to which they are opposed. This is the start of the idea of systemic racism, and greater concentration on the racial experiences of African Americans, Asian-Americans, Latinos, and Native Americans.

Though it has no official agenda CRT includes certain propositions. CRT is a political theory, that in effect puts race and racism, and racial superiority, at its center of national dialogue. Race is a social construct, not simply a matter of biology. It holds that people of color have been described as intellectually or morally inferior, and this has been the basis for justifying oppression and discrimination. Most controversially, racial views have been codified in the U.S. founding documents and legal system. CRT is intended as a scholarly subject of inquiry, but the media and the discourse of the extreme right and left has transformed it into a dogma, a radical ideology, painting a critical picture of the U.S., past and present, of the liberal order, and of the U.S. as a racist nation dominated by white supremacy.

Many of the CRT advocates assert that race is socially constructed, not simply biological. Race they argue is not a fixed category, but can be defined in different ways, and determined by social, economic, and political factors. They argue that racism in the U.S. is normal, and that legal advances for people of color tend to serve the interests of dominant white groups, and may not lead to real improvements in the legal status of oppressed or exploited people.

CRT goes beyond the generally accepted concept is that racism is simply a matter of explicit and intentional individual

prejudice and choice which can be addressed in an individual fashion. Its basic point is that racism is inherent in U.S. political and social institutions, and in our consciousness through existing education, customs, media, and government of white people. Racism therefore must be dealt with by changing social and political structures and policies, not simply by punishing racist individuals.

One variant of CRT, one that is important in analyzing race inequity, and how institutions produce oppression is the concept of intersectionality. Coined by Crenshaw in 1989, it describes how race, class, gender, and other individual characteristics intersect and overlap with each other. Her starting point was that the experience of being a black women cannot be considered in terms of being black or of being a woman independently. They were both black and female, and therefore were subject to discrimination on the basis of both race and gender, and to a complex combination of power and disadvantage. Different categories of people have different kinds of experience. Anti-discrimination laws should not look at race and gender separately. The concept of intersectionality has been adopted and applied on a global level, in countries with diverse native populations or polarized class structures

People experience discrimination differently depending on their overlapping identities, race, class, gender, and other characteristics that interact with each other and overlap. They intersect in ways that impact how they are viewed and treated.

The CRT theory has been passionately accepted by some, mostly academics, but has also been opposed by public figures and citizens who see it as divisive and as anti-American propaganda. To some extent, CRT is an example of postmodernist thought, skeptical of universal values, objective knowledge, and liberalism. It is now tied to the work of sociologists, literary theorists, and political and social organizations,

and to a mixture of issues, multiculturalism, ethnic studies, curricula in schools and universities.

The argument for inserting CRT in school curricula is partly ideological and partly based on the failure to solve problems such as racially segregated schools, barriers to admission in prestigious high schools, underfunding of school districts of minority pupils, and curricula that uphold racist ideas. But there is a backlash among parents of Asian American and other traditionally high achieving pupils in a number of cities including NYC who have protested against the teaching of CRT which they argue, among other things, does damage to advanced learning programs and academic standards. A problem here is that differences exist over the exact definition of the content of CRT, and exact assessment of the teaching is not easy, but their general view is that teaching CRT implicitly holds that the social and political institutions today support a system in which white people are inherently privileged, while people of color are inherently oppressed and victimized.

The new group, "Parents Defending Education," PDE, a national grassroots organization claiming to oppose discrimination in the classroom, specifically accuses CRT of teaching that the U.S. legal and governance systems are inherently racist and oppress people of color. The PDE objects to the practice that in some classes, students are divided into identity groups, "oppressors" and "victims", minoritized and privileged, based on race ethnicity, religion, and gender, leading to guilt and shame for white pupils, and feelings of collective guilt.

The latest contribution to the general issue of race and racism is an article in 2021 written by five British genetics experts, with the goal to stimulate discussion about the language of genetics and to clarify existing terminology. They want to avoid terms such as Native American, Hispanic, white Irish and European. Specifically, they suggest the word "Caucasian" be banned in scientific studies because it is

associated with a racist classification of humans.

“Caucasian” is an 18<sup>th</sup> century term, mostly the result of the work of the German physician and anthropologist Johann Friedrich Blumenbach who created a racial schema of five races. In 1795, he coined the term Caucasian to denote pale skinned Northern and Western Europeans, and based on skull measurements. He admired the female skulls found in the Caucasus region where he conducted research and put this group forward as the most ideal. Since then, the general belief is that racial groups have distinctive genetic character traits. The five British experts assert that in the historical context the use of the word Caucasian came to imply superiority over other groups, and is therefore laden with scientific, etymological, and cultural problems. The term has no scientific validity. The main issue is that the term is associated with racist and pseudo-scientific classifications of humans, and is widely used as a synonym for white people. Geographically, the Caucasus region of Russia is one from which few Americans come, but it is widely used as a synonym for all white people.

Language of course matters, but would banning the term “Caucasian” contribute to the conviction or belief in the mental and moral unity of all peoples and the refutation of accusations of racism.