

Review of Critical Race Theory for Philosophia Africana
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By Richard Delgado & Jean Stefancic, New York University Press, 2001.
Pp167

In the UK, perhaps as elsewhere, there is increasing confusion about how race impacts upon society and struggles for justice. In a Mexican wave of defeat similar to the collapse of the Soviet bloc in the early 1990s, sector after sector of organised society has conceded its “institutional racism” within – from the police force to the performing arts. The upshot of this infectious path of acceptance is often tragic and sometimes hilarious. A policeman protests when a politician uses the word “nitty gritty”, indicating he had learnt its Middle Passage provenance on a race-awareness course and had been told to avoid using it. In response, black activists disagree that its connotations are racial. Meanwhile, little is said or understood about what “institutional racism” might actually mean. The liberal consensus – that racial injustice is avoided by the individual’s attention to language and action – holds sway.

Philosophers interested in thinking through race issues, and providing clarity to such confusion, have largely failed to get their message across. Into the perceived void, legal theorists have emerged, interested in a critical engagement with their profession. Critical Race Theory (CRT) is a collection of lawyers, academics and activists that, since the late 1970s, has tried to take over the mantle of the Civil Rights movement in challenging race injustice. CRT questions the liberal political philosophy that underpinned the earlier movement, critiquing key liberal tenets such as “colour-blindness” and rights discourse.

This book serves as a succinct introduction to the movement, outlining its key themes and players, history and prospects for the future. The residual difficulty of writing an introductory text that also engages more advanced students as well as addressing ongoing issues is dealt with convincingly. The book is clearly written in simple but not simplistic language, and has evidently been conceived as a teaching resource: each chapter has insert boxes which refer to judgements from key cases, suggestions for class-based discussions and ends with a select bibliography (there is also a glossary at the end). The book is also short – it can be read in two afternoon sittings without difficulty.

Early on, the text introduces “interest convergence”, the most significant concept within CRT. According to Delgado and Stefancic, theorists within the movement are divided between “idealists” and “materialists”. The former think that race discrimination is caused by a set of attitudes, mental states and linguistic behaviour. Materialists, on the other hand, take race prejudice to be a structural dynamic of society itself, determined by economic or other material factors. On

this view, interest convergence (or divergence) among different racial groups is produced by these antecedent material factors, rather than the beliefs or attitudes of individuals. The authors implicitly position themselves within the materialist camp – indeed, they have little positive to say about the idealists throughout the book. This subtle silence gives the impression that the idealist camp may be more closely related to the liberalism of the Civil Rights movement, but the authors do not say. Beyond interest convergence, the text elaborates CRT’s critique of liberalism, the notion of white privilege and the legal method of storytelling and its uses for race activists. The text also outlines the critique of merit-based approaches to justice and the defense of Hate Speech laws and affirmative action programs.

So much for praise. The first odd thing to notice about Critical Race Theory is the fact that the text appears uncertain about what to assume in its audience. After a personal statement in the Foreword by Angela Harris, a half-page paragraph on the historical background in the Introduction suggests, by its brevity, that the authors expect readers to have a basic grasp of the movement. Moreover, it remains unclear who exactly the target readership is. Harris, via a hint that the movement is in danger of incoherence (a sentiment that is sub-consciously echoed elsewhere in the text), writes that the authors “have written a primer for nonlawyers that makes the now sprawling literature of critical race theory easily accessible to the beginner.” The question begged here is what *type* of beginner and why they are beginning? Even given that the book is directed to an American audience, there are uneven assumptions. Landmark cases in US law, such as *Plessy vs. Ferguson* and *Brown vs. Board of Education*, are taken as assumed knowledge (they are not even mentioned in the glossary). Although most educated Americans, white or black, should be expected to have a basic grasp of the significance of these judgments, a book aimed for the beginner might have done better than to leave consideration of how these two cases relate to each other until p103. On the other hand, other sections of the book sound as if they are intended for a Martian visitor with no previous interest in human society. For instance, in a passage on intersectionality, the authors write, “Categories and subgroups, then, are not just matters of theoretical interest. How we frame them determines who has power, voice, and representation and who does not.” Rather than targeting the nonlawyer beginner, passages like these suggest that the intended reader is only too well immersed in the liberal doxa of blindness before the law.

This uneasy variability of assumptions *within* the book has wider implications. The materialistic bias of current Critical Race Theory that the book subconsciously reflects puts the movement on an avoidance-mission with theoretical debates on race that are taking place beyond the Law department. Whilst CRT has been moving away from an attention to language and discourse, theoretical work on race has built upon advances in European theory, which themselves have been centred on language and signification. This disjunction between the two movements is somewhat unfortunate. To a philosopher

interested in thinking through problems of race and society, CRT fosters the illusion that it is working within a vacuum. There is, amazingly, absolutely *no* reference to any wider theoretical context of race theory. There is no mention (in the bibliographies, the glossary or the main body of the text) of the work of key theorists working on race outside of the legal field: Lewis Gordon, Robert Bernasconi, Naomi Zack, Linda Alcoff, Lucius Outlaw, Cornel West, bell hooks and so on. Worse still, from a theoretical perspective, the book unconsciously repeats the white privilege it denounces. Early on in the text, the authors point out that CRT builds on critical legal studies and radical feminism, as well as “certain European philosophers and theorists, such as Antonio Gramsci and Jacques Derrida.” Apart from the fact that there is no further reference to either of these thinkers, it is simply astounding that this moment in the text could not at least refer to other work and other writers.

Again, the problem here, beyond that of simple omission, is CRT’s implicit assumption that race issues can be resolved only by juridical means. Here lies the central paradox of Critical Race Theory: it takes its stand from the starting point of a fundamental questioning of *de jure* analyses – that of the juridical process and legal structures, in the attempt to embrace *de facto* American realities. Interest convergence is nothing if not a catch-all term for everything that lies beyond the compass of the legal analysis of race injustice. And yet, because legal discourse is *grounded* in a juridical conceptual framework, it is condemned to look upon the *de facto* power structures and practices that perpetuate race injustice from without. The absence of any link to race theory outside of legal studies serves to highlight the formalistic weakness that defines the movement. For instance, in a section devoted to power in Chapter VII, after recounting well-known statistics about prison populations and execution rates, the authors write, “Many progressive people seek to understand the meaning of these figures and search for ways to combat the conditions that create them.” The authors use this statistical pretext to move the discussion on to challenging definitions of crime and countering racial profiling policies. In other words, bound within its *de jure* framework, CRT can have nothing of richness, subtlety and depth to say about the power dynamics of race injustice. At moments like this, CRT really should look beyond itself to other sites within the academy that analyse the *de facto* existential realities of race with skill and depth.

A further *aporia* of CRT, as presented in the text, is that it appears to take race to be a uniquely American phenomenon. The danger behind such all-too-common myopia is that the interconnectedness of race with class and global inequities is sidelined. The narrow reflexively juridical framework of CRT means that there is little consciousness of the “debt boomerang” which theorists such as Susan George have spent twenty years analysing and discussing. There is scant reference beyond the US racial context – apart from a curious mention in the conclusion to the conditions of a “midlevel European country, such as Spain or Great Britain” – as if either of these countries had no racial or class-based complexities themselves. To a non-American reader, this arrogant sloppiness is

all too predictable. In fairness, there is a short section on globalization and immigration, however, it serves only to confirm that attention beyond American shores are peripheral to the main thrust of the movement. Again, the most disappointing aspect of this theoretical protectionism is that CRT clearly would profit from a deeper engagement with situations beyond itself. For instance, the passage on globalization *could* have been linked to a section later in the text, where the authors speculate on future violent racial upheaval in the US, “As happened in South Africa, the change may be convulsive and cataclysmic. If so, critical theorists and activists will need to provide criminal defense for resistance movements and figures and to articulate theories and strategies for that resistance.” (p131) For the first time in the text, CRT emerges out of its legal enclave and acquires de facto relevance. At moments like these, CRT offers philosophy and existential philosophies of race in particular, a new dimension: that of the vital function of critical legal activity and its relation to progressive struggles.

At this point, one might well ask, “who are the crits, and how do they define themselves?” Apart from the foreword, one will not find an answer in terms of cultural or sociological context within the book. Interestingly, at one sub-conscious moment, the book succumbs to repeating the implicit assumption that governs 95% of all discourse on race (and 100% of non-academic discourse): that those involved in thinking about race are black and that the subject of their discussion is black people. They write, “critical race theorists have a deeper understanding of certain issues than their white counterparts” (p91). The suspicion that CRT takes its position to be *by* minorities *for* minorities is furthered by the way in which the authors address the recent formation of CRT splinter groups such as Latinocrit and Queer crit. Delgado and Stefancic appear to be trying a little too hard to reinforce the strength and unity of the movement when they write that “The formation of spin-off groups, far from impairing the group’s effectiveness or muting its voice, has only added new, vital dimensions to the movement as a whole.” (p121) It may well be that, bereft of recourse to theorisations of race, ethnicity, class and difference, CRT may struggle to comprehend the internal divisions which are developing in its midst.

The danger when historically oppressed groups develop overtly pragmatic strategies to oppose injustice is that at some point the discriminatory faculty may attenuate. At the end of the book, just this sort of merging of the campaign against injustice with the brute promotion of self-interest appears, when the authors write of CRT theorists, “Above all, they will need to marshal every conceivable argument, exploit every chink, crack, and glimmer of interest convergence to make these reforms palatable to a majority that only at a few times in its history has seen fit to tolerate them.” (p133) We may well ask, since when should any campaign against injustice rely on “every conceivable argument”? All of which suggests that on the evidence of this book, at this point in its maturation, as it moves closer towards mainstream acceptance, Critical Race Theory should stop characterising itself in the unified role of victim. It is

time the different “interests” of Critical Race Theorists themselves are opened up to analysis. Beyond the formalistic confines of jurisprudence, critical race theorists would find many friends and allies.