

## **Introduction**

The USA Citizen Advocacy Editorial Staff present a historical analysis of the modern definition of race, the origins of critical theory, critical legal studies, and the final evolution into critical race theory (CRT). We will describe that CRT originated from critical theory as a social philosophy which is an extension of Marxist political philosophy.

This is followed by biographies of a liberal black scholar, Derrick Bell, who is a pioneer advocate for CRT and conservative black scholars, Shelby Steele and Thomas Sowell, who have opposing views of CRT.

Derrick Bell defined the mid-1600s in American history as the seminal time that supports the core tenant of CRT that the transition from white indentured servants to African slaves as the primary source of labor on the tobacco farms was based on racism. That is, although there were other nonracial factors that influenced this transition, the identification between white indentured servants and white plantation owners as being part of a common race was the overriding reason for this transition.

Shelby Steele and Thomas Sowell, black conservative scholars, reject this view: slavery has existed for centuries and is not race based. Race does not account for differences between blacks and whites' income. Racism cannot be measured. Therefore, do not focus on it. Whereas discrimination can be measured. The solution to discrimination is to allow market forces to correct it.

The interviews that are summarized in this paper were done independent of each other. The interviews were not specifically about CRT but more broadly about race relations and relevant topics that allow the listener to clearly understand their views on CRT.

We would ask readers to fill out the brief survey at the end of this analysis and vote for which side of the CRT argument you favor: Yes, CRT or NO CRT.

## **Race**

The human species had been put into groups based on inherited physical and behavioral differences. Genetic studies proved that such groups do not exist in nature. Scholars revised their arguments such that races are defined by a set of cultural values defined by European explorers that they imposed on populations that they conquered starting in the 15<sup>th</sup> Century.

## **Modern definition of race**

The modern definition of race evolved starting in the 17<sup>th</sup> century. The most common method of characterizing different populations was to categorize them based on their physical differences. One of the most common physical differences are skin color.

Other methods of categorizing race are by language, e.g., Arabic race, religious groups, e.g., Jewish race, or political or ethnic groups such as Irish race.

There has been no consensus amongst experts as to the criteria that defines race.

Scholars in anthropology and history began to define race in terms of social and cultural rather than biological terms.

European exploration and colonization of the New World begin in the late 17<sup>th</sup> century. Race was defined in the context of three distinct populations of people-Europeans, Ameriindians and Africans.

After the end of slavery in the 19<sup>th</sup> century, race was used as a new mechanism of social division.

Racial classifications were defined by what were viewed as natural differences between human groups between the 18<sup>th</sup> and 20<sup>th</sup> century. These sets of beliefs were institutionalized.

1-populations are divided by biologically defined races.

2-Not all people in a race have the visible physical features of that race. Racial scientists created a concept called "racial essence" to explain this phenomenon.

3-Each race has unique qualities such as morality and intellectual ability.

4-races are unequal.

5-Physical and behavioral attributes are inherited and unalterable by race.

6-Races should be segregated.

These classification criteria of racial differences in the USA resulted in inferior status being ascribed to African and Native American ancestry. This system of ideas represents an ideology that was institutionalized in law and social practice. Social mechanisms were developed for enforcing these differences (Takezawa, Smedley et al. 2021).

### **critical race theory (CRT)**

Critical theory is a social philosophy influenced by Marx and Freud that was developed in the 1930s by the Frankfurt school of Western-Marxist philosophy.

This body of thought believes that social problems are related more to societal structures than individual psychological factors. Analyzing the role of society and culture on social problems will lead to the resolution of them.

Critical theory preceded the critical legal studies movement (CLS).

The critical legal studies movement (CLS) preceded CRT during the period of 1970s to 80s.

Critical race theory (CRT) originated as a legal analysis that assumed that race is not a biologic construct but, rather, a cultural concept that is used to oppress people of color.

CRT states that American legal institutions are racist because they maintain social, economic, and political inequalities between whites and nonwhites. African Americans carry an inordinate share of these inequities according to critical race theorists.

The first official workshop for CRT was in 1989 (Britannica 2021).

CRT has influenced scholarship in fields outside the confines of legal studies, including women's and gender studies, education, American studies, and sociology. CRT spin-off movements formed by Asian American, Latinx, LGBTQ, Muslim, and Native American scholars have also taken hold. In the early 21st century, critical race theorists addressed themselves to several issues, including police brutality and criminal justice, hate speech and hate crimes, health care, affirmative action, poverty and the welfare state, immigration, and voting rights.

In addition to legal studies, CRT can be found in gender studies, education, American studies, and sociology. Critical race theorists have applied their view to issues of "police brutality and criminal justice, hate speech and hate crimes, health care, affirmative action, poverty and the welfare state, immigration, and voting rights"(Britannica 2021)

Critical legal studies (CLS) at Harvard Law school (HLS) were considered dead in 2002. The author indicates that both conservatives and liberals played a role in this decline. Nonetheless, a significant portion of the faculty were advocates for CLS but remained silent until recently. In 2014, Professor Jeannie Suk Gersen interviewed one of the founding members of CLS at HLS, Peter Gabel. The professor noticed that many of her students at HLS were "routinely performing acts of radical-left critiques of liberal legalism" (McArdle 2021).

### **How Communism Works-Communist Theories and Principles**

Communism is a proposed solution to forms of oppression such as hunger, homelessness, sexism and racism. In a communist society the worker controls the product of her labor. Equality is achieved by redistributing wealth. And the means of production are controlled by the state. That is, there are no private businesses nor properties.

Karl Marx, the father of communism, wrote the Communist Manifesto in 1848. A utopian society, according to Marx, was classless and stateless. To achieve a classless society, government must control the means of production so that no one can make more money than anyone else (Marx and Engels 1848).

Critical race theory (CRT) follows Marxist philosophy.

Specifically, Marx described three phases to achieve his utopian state. In the second phase, communist leaders must gain control over the proletariat. They do this by the collectivization of property and wealth. And they do this by gaining control over citizens' religion, employment, marriage and education (Marx and Engels 1848, Hoyt 2021). **CRT is part of the elite communist leaders' tools to use education as a method to control citizens.**

### **Debate: How do Black scholars view Critical race theory (CRT)?**

In our debate forum, the pioneering liberal black legal scholar, Derrick Bell, and the conservative literary and economic black scholars, Shelby Steele and Thomas Sowell, respectively, discuss their views on CRT.

### **Biography**

#### **Derrick Bell**

Derrick Bell (DB) was born in Pittsburgh November 6, 1930. He was the first member of his family to complete college at Duquesne in 1952. He served in the air force and did a tour in Korea during the war. He attended the University of Pittsburgh Law school earning his LLB in 1957. He worked for department of justice but left rather than resign from NAACP.

He joined the NAACP after Thurgood Marshall recruited him. He managed over 300 school desegregation cases. He served two years as deputy director of civil rights at the U.S. Department of Health, Education, and Welfare. He then became a teacher at USC Law school and director USC's Western Center on Law and Poverty in 1968.

He became the first African American tenured professor at Harvard Law school. He established a course in Civil rights. He was the first African American dean of University of Oregon Law School. In 1985, he resigned that position refusing to appoint an Asian American candidate to a faculty position. He returned to Harvard law school but resigned in 1992 because the school did not hire a tenured African American woman.

He is the author of numerous books both fiction and nonfiction. He received numerous awards and honors. He passed away in 2011 at the age of 80 (Historymakers 2004).

#### **Shelby Steele**

Shelby Steele (SS) was born on January 1, 1946. His father was a black truck driver and mother a white social worker. Both parents were active in the civil rights movement.

SS was in a small group of black students at Coe College in Cedar Rapids, Iowa. He met his wife, Rita, at college. He completed a master's degree in sociology at southern Illinois university and then a PhD in English literature at University of Utah in 1974. He turned down the tenured faculty position there due to hostility that he experienced as an interracial couple.

He taught as a Professor of English literature at San Jose state in California from 1974 to 1991. He has won book awards.

In 1990, he won an Emmy award for Seven days in Bensonhurst. He examined the killing of Yusef Hawkins in Brooklyn, NY.

In 1991, he won the national Book Critics Award for the Content of our Character, a collection of essays on race.

In 1994 he was given a senior research fellow at the Hoover institution. His work focuses on race relations, multiculturalism, and affirmative action (Historymakers 2021).

### **Thomas Sowell**

Thomas Sowell was born on June 30, 1930, in North Carolina. He was raised by relatives and older sisters. He was part of the "great migration" from the south to the north and went to the highly selective Stuyvesant High School. And he became the first family member to go beyond the sixth grade.

At 17, he had to stop his education to work because of financial difficulties. In 1951, he was drafted into the military. He was a photographer in the Marine corp and was not sent to Korea. He was discharged after two years in military. He had a civil service job in Washington DC and went to night school at Howard University, a historically black school. He did well on standardized testing. He had good recommendations from teachers and was accepted into Harvard University. He graduated with honors in 1958. He completed his master's degree at Columbia University. In 1968, he earned his PhD in economics at the University of Chicago.

Sowell evolved from a Marxist economic viewpoint to a free market advocate.

He worked as an economist for the US department of Labor from 1960 to 61, then an instructor at Rutgers university and then at Howard University. He worked for AT&T as an economic analyst in 1964.

He was an assistant professor at Cornell University from 1965 to 69. And he witnessed a violent black takeover of a university building that profoundly influenced him. He rejected their actions and said that he never experienced the extreme racism that the protestors said that they encountered.

He then taught at Brandeis and the University of California, Los Angeles where he was appointed a professor of economics in 1974. From 1972 to 74, he worked at the Urban Institute. He also served at the center for advanced studies in Behavioral Sciences and Stanford's Hoover Institute.

He has received numerous awards including the National humanities medal.

He is a prolific writer publishing over 30 books. He wrote several books that state that black progress was not the result of progressive government programs.

He has been married twice and has two children (FamousPeople 2021).

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### **Interview with Derrick Bell**

Derrick Bell was a liberal, progressive law professor and an African American man.

He was a pioneer who advocated for the principles of the critical legal studies movement (CLS) and Critical race theory (CRT) in his teachings as a law professor.

His opinions expressed in this interview (Jones 2017) are consistent with the concept described in the section of this debate entitled, "How Communism Works". In the Marxist world view, racial conflict replaced class conflict in the USA.

The interview with Derrick Bell was done on Dec 3, 2017 by host, David R. Jones, President of the Community Service Society of New York (Jones 2017).

### **Civil Rights**

At the beginning of his career in 1957, Derrick Bell accepted the advice of a black judge and did not pursue legal work in civil rights because the Brown decision (SCOTUS 1954) made all subsequent legal work in this field like "mopping up".

### **Basic rights for blacks: in good times public supports**

According to DB, throughout history, there is more public support for the idea that there is an increased need for blacks to have more basic rights during "economic good times or during national crises" but a decreased need during economic bad times. In the late 19th century, the number of blacks reported lynched in southern states seemed to correlate with economic

conditions in those states. As job loss increased in recent times, Americans were less sympathetic to the needs for Blacks to have increased basic constitutional rights.

### **“Separate but equal” overturned**

In 1896, the US Supreme court ruled, in Plessy v Ferguson, that the legality of “separate but equal” treatment for whites and African Americans is permissible under the Fourteenth Amendment. This ruling gave blacks adequate constitutional rights according to some people (SCOTUS 1896). And many people believed that for further gains in constitutional rights blacks must win these rights for themselves. In 1954, this ruling was reversed (SCOTUS 1954). The Supreme court prohibits states from segregating public school students based on race (Appendix).

### **Blacks were genetically inferior: attempt to overturn welfare and affirmative action**

In 1961, when he was a junior attorney, a judge allowed experts to argue that blacks were genetically inferior. The data the experts included in that material were IQ test results and the argument was that Brown (SCOTUS 1954) should be rejected because the courts hadn't considered the fact that blacks were inherently inferior included in that material were IQ tests. Brown should be rejected because supreme court had not considered these IQ test results.

The Charles Murray book (that stated blacks had lower IQ test scores), according to DB, is really advocating for getting rid of welfare and affirmative action. This “puts blacks back into the corner.”

According to DB, Murray could have made the same argument if his data showed that blacks IQ test results were 15 points higher than average. This would mean that “blacks need nothing”.

“So, it is not the actual result that Murray came up with but rather the force behind it which was to deny help to blacks.”

This same type of discrimination happened to Jews and Irish.

“But it’s about what is media willing to publish based on what they think their audiences want and they give it to them.”

“In any catastrophe, i.e., with events that put blacks back into their corner, there is opportunity. increased reliance on self-help.”

Bell states that blacks and Jews are both outsiders. “If blacks go down the traditional scapegoats are Jews.”

### **Racial equality requires economic equality which requires adequate education**

Racial equality will be impossible without economic equality. But the latter requires young black people to complete an adequate education that will allow them to participate in the economy with a level of skilled labor that allows them to achieve economic equality. Traditional black leadership groups like NAACP and the Urban League have not been forthright about this matter.

Racism hurts blacks, Latinos and all who are on the receiving end of it. But it can also hurt the majority.

Places like Barbados and Singapore have low wages but higher levels of education than in USA.

Traditional black leadership groups like NAACP and the Urban League have not been up front about these issues.

According to DB, junior republicans more than democrats, in the rust belt, are supporting his criticism of bad public-school education for children

DB states that the common problem is that of “ill-educated young people who can't participate in the economy.”

### **White skin color transcends differences in language and culture of immigrants**

DB states that succeeding waves of white immigrants despite having different languages, according to Toni Morrison, their whiteness and desire to be accepted by the indigenous whites living in the USA influenced them to be willing to take on racist behavior like the use of the word “nigger:”

### **Illegal immigration and low wages**

Illegal immigration drives down wages. DB states that white people must “get smart”. And, that black people can't be free until they get smart.

The gap in the wealth and the gap in income between those at the top and the rest is as bad as it's been this century.

### **Religion helps us cope with lack of progress in race relations**

DB states that we must accept most religious teaching to deal with our dashed hopes as black people that our children would be better off than we are in the USA. And, that is, that progress in race relations may or may not make progress during their lifetimes. We must accept whatever happens and keep working to solve this problem.

Racism at Harvard law school persists. Qualified black female legal scholars are offered jobs with a one-year probation period. But comparable white men are hired permanently without probation.



DB describes immigration discrimination against Asians was based on inadequate evidence of violence using a bogus discipline called phrenology.

### **Plantation owners freed white indentured servants**

Plantation owners freed white indentured servants during middle 1600s (Appendix). They were called yeoman once freed. Their support of the plantation owners was incentivized by giving them the right to vote. For most of the 17<sup>th</sup> century, the yeoman comprised a large portion of the population in Virginia. DB viewed this act as critical to the plantation owner's ability to keep blacks enslaved. The yeoman's support against an African slave rebellion would ensure the latter's defeat and discourage such a rebellion.

How could you convince these yeomen (formerly called indentured servants) to support the plantation owners if the black slaves tried to revolt? They incentivized the yeoman by allowing them to vote.

But once the yeoman agreed to that offer, they would always be economically subordinate. They could not afford slaves. Hence, they could never compete against the plantation owners.

That same pattern occurs today with the shipment of USA jobs overseas. The response to this issue by portions of the political right is that it must be affirmative action rather than the importation of legal and illegal aliens that caused the loss of jobs. And, according to DB, the "people buy it."

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### **Interviews with Shelby Steele and Thomas Sowell**

Shelby Steele is a Professor of English literature and senior fellow at the Hoover Institute.

Thomas Sowell earned his PhD in economics at the University of Chicago.

Both are conservative African American scholars.

And both reject Critical race theory (CRT) in this interview with Mark Levin of Fox News and an unknown interviewer at Hoover Institute (Steele and Sowell 2021).

### **Shelby Steele**

#### **White Guilt, Black Power and CRT**

He defines white guilt as the “terror of being seen as a racist, as a bigot that now pervades American life,”

Black power derives from this white guilt.

Political correctness and university liberal teachings, like CRT, are ways that white Americans play out their guilt. It is, as if they say, I am not a bigot as evidenced by my support for CRT etc. This is a drive to establish innocence.

He says that there is a generation of black leaders who “milk” this white guilt.

But, during Martin Luther King’s life, both racism and discrimination were widespread. Leaders of Democratic party during that time were not free of this.

### **Academic institutions response to racism & poverty programs**

In the university staff, the charge of racism causes staff to “fold up”.

The University of Iowa made an error when they removed western civilization courses. Black Americans need to understand the evolution of western civilization.

The USA has spent several trillion dollars on social programs and wars on poverty and it has not worked.

Shelby’s father was discriminated against and not hired by unions.

The USA, despite this experience, is the greatest country in history.

### **Reparations**

The justice sought through reparations does not occur in life. Other people in other countries escaped similar types of discrimination and did not get reparations.

If we keep holding out for it, we will get weaker.

### **Thomas Sowell**

#### **Is slavery raced based?**

Slavery was not raced based historically.

It existed for thousands of years.

Race became associated with American slavery because the declaration of independence stated that all men were created equal. Therefore, given this tenet, the only way to justify American slavery was if some men were not equal to others.

He points out that Brazil was not a democracy. Hence, race was not associated with their more numerous numbers of slaves.

**Is the income difference between white and blacks raced based?**

Race does not account for differences in black, white income in the USA.

Western Europe has a greater difference in income compared to eastern Europe which have predominantly white populations.

Hispanics' income is greater than blacks' income only because they have larger families.

**Racism vs Discrimination**

*Racism* is an attitude inside a person's head. Whereas *discrimination* is an overt act occurring in the outside world.

Discrimination occurs, not just against blacks, but other groups like Jewish people. You can't measure racism. Its inside someone's head. Forget it. But you can measure discrimination.

**Solution to discrimination**

Best solution to discriminations is to let the *markets operate*. People with skills will be employed.

Despite racism, people will follow what is profitable to them. Examples of this were southern black construction companies that were successful as were south African ones under apartheid because they did good work for less money than white companies.

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**Appendix**

**Plessy v. Ferguson, 163 U.S. 537 (1896);**  
**<https://supreme.justia.com/cases/federal/us/163/537/>**

Later overruled by *Brown v. Board of Education* (1954), this decision embraced the now-discredited idea that "separate but equal" treatment for whites and African Americans is permissible under the Fourteenth Amendment.

**Brown v. Board of Education of Topeka, 347 U.S. 483 (1954);**  
<https://supreme.justia.com/cases/federal/us/347/483/>

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution prohibits states from segregating public school students based on race. This marked a reversal of the "separate but equal" doctrine from *Plessy v. Ferguson* that had permitted separate schools for white and colored children provided that the facilities were equal (SCOTUS 1954).

### **Indentured servants**

Indentured servants ranged from convicted criminals to skilled laborers. They occupied the lowest rung of Virginia society. They worked for no money. These were men and women who signed contracts, also known as an indenture or a covenant, in the United Kingdom (UK), in which they agreed to work for a certain number of years (usually for four to seven years for adults, children for longer time) in exchange for transportation to Virginia and then after arriving, they received food, shelter and clothing. Overtime, land was promised. This resulted in a very large increase of citizens signing servant contracts. For most of the 17<sup>th</sup> century, labor on Virginia tobacco farms were filled mainly by these white indentured servants. But, by the end of that century the labor needs were met by enslaved Africans (Wolfe 2021).

There are multiple theories to explain why indentured servants were replaced by African slaves. Slavery in Virginia grew gradually as the British empire grew throughout the world.

### **Bacon rebellion**

A complex set of events defined the Bacon rebellion (1676-77) which was defined by conflicts between local Indian tribes and British colonialists led by Bacon. The impact that this rebellion had on white colonialists is another factor cited in the transition from white indentured servants to African slaves (Rice 2021).

The planters or plantation owners that Derrick Bell refers to during his interview are described by historians to have lived within a complex web of political and economic forces that impacted their decisions to transition from indentured servants to African slaves.

A few decades before Bacon's rebellion, "leading planters" had decided to replace white indentured servants with enslaved Africans because they were "more easily controlled".

Bacon's rebellion was a conflict with a subgroup of colonialists led by Bacon who wanted to fight friendly Indians in addition to unfriendly ones. Governor Berkley's Groups supported fighting unfriendly Indians who had been conducting raids on settlers on the Potomac River over various issues such as trade that existed between the two groups. But Berkley's group did not support Bacon's request to fight the friendly ones.

The population of African slaves exploded by 1700 in Virginia and white indentured servants from the UK had slowed to a small number.

Rich and poor white Virginians felt united against the interests of Indians and enslaved Africans.

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## Survey

Do you vote in favor of CRT? 1=yes, 0=no

Is your age <18 years , 18-30 , 30-40 , 40-50 , 50-60 , 60-70 , 70-80 , 80-90  90-100, >100, rather not say

Female . Male , rather not say

Democrat . Republican , independent  not registered with ant party , rather not say

Income <\$50,000/year, , \$50K-100k , \$100k-200k , 200-400K , \$400k-\$1M , >\$1M , rather not say

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