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CRITICAL RACE THEORY ABROAD— A CHALLENGING ALBUM IN SEVEN TRACKS

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ABSTRACT: Critical Race theory has been most effective as a framework for analysis within an American context. Yet it has also found resonance outside the United States. This essay suggests the ways in which Critical Race Theory is both a powerful approach to understanding issues of subordination in a global context and to some extent limited by the social and historical situation from which it arose. It suggests the limits of Critical Race Theory in a global context, as well as its potential.

Critical Race Theory Abroad--A Challenging Album in Seven Tracks

Larry Catá Backer

We are all well aware that Critical Race Theory has exploded onto the world scene--and not just within the narrow confines of stultified academic discourse--since its start from out of the Critical Legal Studies (CLS) and related movements in the 1980s.

But one ought not to think that this movement, and its many perambulations within the United States over the last twenty years has moved seamlessly across borders; that CRT has merely acquired CRT acolytes in other countries in a sort of simpleminded way. While the socio-cultural and political habit of subordination may be universal, and the tendency to base such systems of subordination on race, may also be seen everywhere, the American experience with both may be quite parochial.

As such, I want to draw attention to issues of translation and of transposition of the central insights of CRT as it has been absorbed abroad. Racism is very much on the minds of people in other countries, but is it CRT racism? Is or should CRT abroad be understood in the same way as CRT in the United States? Can the American experience of racism and its structural implementation be universalized in whole or part? Are there dangers to the use or misuse of CRT abroad? Does CRT itself suggest a system of subordination in which American views subordinate alternative understandings?

These and related questions play like sound tracks of a long album of uneven quality. I will use that metaphor as the basis for a brief interrogation of CRT's engagement with the world. The Album cover is beautiful and compelling--the sound of the seven tracks of that Album suggest the range and quality of the CRT sound. What follows, and those of you old enough will remember this better--is the back cover of an old vinyl Album with the names of the tracks and the lyrics of each. It is an album produced abroad using American sound as it traveled from the United States to the various spots where it was received, digested, transformed and reissued.

1. Exporting America:

This track emphasizes a "distinguish and avoidance" vibe. CRT is used to conflate white privilege and American imperialism. Alternatively, CRT is a vehicle for conflating white privilege with global economic imperialism. In either case, the emphasis is on a fixity--whiteness--and a place, Europe and North America (mostly).

Here CRT is naturalized as a specifically (and perhaps exceptionally) American phenomenon. So contextualized, it is used to explain the relationship of Americans

to other states, and especially developing states. But it is not used as a set of principles or approaches internally applicable to systems of internal subordination within those states. Neither are CRT principles considered transposable from out of the American experience. As the American experience, it becomes a commodity, imported like American sneakers and fashion. It is both symbol of the indigestibly foreign and the sought after.

Alternatively, CRT is generalized as a study of whiteness and white privilege wherever it is manifested. The emphasis here is not on America but on whiteness. But thus generalized, whiteness stands as a proxy for racialized colonialism in its various contemporary manifestations. From whiteness to colonialism in the blink of an eye without much of an emphasis on the white, except as a stepping stone to the neo-colonial. With an emphasis on colonialist whiteness, CRT can serve as a justification for a pass on the use of its principles within the domestic context. It, again, is diminished, and consigned to the foreign, against which it can be deployed (as also foreign). Domestic subordination, even racial subordination without the white, colonial or foreign trigger remains opaque to CRT.

2. The Global Subaltern and the Positive Turn of Institutional Racism.

This is an upbeat track, played fast and loose. Race-racism is constructed as a European disease, like homosexuality, and as so constructed beyond the normative framework of traditional political cultures. This is a beat that dovetails nicely with the post colonial project of a racialized political purity, in which that which was brought in by the colonizer is excised and a return to the culture of a minute before colonization realized. This is dream scape music of a most alluring kind. Here CRT can serve as a framework for racial cleansing of a political kind.

But in that service CRT can also become part of the fabric of a veil that hides the subordinating practices of the restored pre-colonial regime. CRT principles, conceived as something foreign, then becomes ineffective for interrogating the practices of racial subordination that are domestic and internal. At the same time, the foreignness of the CRT experience can also provide a basis for resistance to the naturalization of CRT principles within post-colonial societies. The conditions of subordination, racialized political cleansing and resistance to the broadened anti-subordination principles of CRT, are nicely evidenced in the recent history of the last years of Robert Mugabe's Zimbabwe.

And indeed, Mugabe's Zimbabwe, and modern Kenya, and the Sudan remind us that a turn away from racialism presents a perverse lacuna--the construction of intra-racial racialization, and its obliteration, as race, under the glare of a monochromatic whiteness that bleaches all other forms of racial subordination. Worse, it repaints such modern non-white racializations as a positive step toward de colonization and permission to racialize a non-white hierarchy in post colonial non-white societies. Consider in this light the reconstruction of Hutu and Tutsi in pre genocide Rwanda. Consider also the constitutionalization of ethno-racial hierarchies in Malaysia.

3. The Chicken or Egg.

Critical Race theory privileges race in analysis in a way that may be useful in many circumstances for thinking through a number of "race and. . ." situations. Intersectionality analysis, grounded in and through race, has enriched our understanding of policy and the law that such policy (and its underlying "race and" assumptions) generate. But intersectionality is also critically important outside the United States. Indeed, the issues of may be most important abroad where traditionally the "and" is privileged and the "race", especially subordinating non-white dominant race, is the subordinating factor.

And thus the chicken and egg. Is it race or religion or ethnicity when Art. 160 constitutes a Maylay in each of those terms? Is it race or ethnicity when Kurds and Arabs are separately constituted within Iraqi society? Is it race or culture when Dalits are socially constructed? In each of these cases the "race and. . ." issues tend to overwhelm race. But American CRT might provide a balancing perspective, and one that might help overcome the status and subordination that comes from privileging the "and. ." over the "race" issue.

4. The Insider-Outsider.

Critical Race Theory has always styled itself an outsider; it is grounded on an outsider stance. Flowing out from the experiences of outsider elements in society, CRT reflects the social and political status of those who developed its insights in the service of social, political and legal insurrection against a dominant discourse and institutional framework oblivious to its subordinating structure, though one intent on retaining that structure and the privileges flowing therefrom.

But how does an outsider adjust when it becomes an insider? How useful is the initial outsider stance when CRT develops its own institutional framework, its own orthodoxies, and its own bureaucracies? This, of course, is merely one version of a problem central to all mass democratic movements when they shift from an insurrectionist to a ruling position. In the United States, CRT is still transitioning from outsider to insider. Beyond the U.S. the outsider is the insider. If outsiders now control and mold the very framework of governance, and this is so two generations after the end of formal colonialism (putting aside the subordinating elements of the global order and its racial implications), then the racialization of those post colonial orders becomes subsumed within the "race and. . ." discourse.

To insiders, CRT does not play as well as it does to outsiders seeking in. In subordinating political orders whose foundations are structurally grounded in difference, then to non-white majorities privileged by the erection of such political orders, CRT may be as dangerous as it has proven to white privilege in the United States. And conversely it becomes valuable to those racialized subordinated groups on whose exploitation the emerging dominant groups thrive.

Thus the refrain of the insider-outsider: must CRT always be the outsider to survive or will it eat its own? If race privilege is inherent in all political systems, even those in which white privilege is absent, are majority minority states doomed to construct systems that become the very thing against which they fought when such institutions were controlled by white colonial minorities?

5. Commodity or Power.

Corporations are understood to exist as both commodity and institution. They represent both value and power. They are a commodity and an institution. Race, as understood in Critical Race Theory, is also understood as both commodity and institution. Race is a thing, a condition and mark imprinted on the bodies of those differentiated on that basis. Yet simultaneously race is also the institutionalization of distributions of power grounded in the aggregations of those distinctions.

At the international level, race is commodified across borders in racialized patterns of employment and institutionalized as markets in the bodies of those packaged according to racial difference. Consider the racialized patterns of global labor or human trafficking:

--Filipino nannies of Arab and East Asian families (the social, religious and racial patterns of geography--Sunday afternoons in Hong Kong attest to the migratory patterns in which race is officially absent but plays a role);

--Bengali low wage workers in the Middle East (usually understood in terms of religion, and sometimes regarded in ethnic terms, but the analysis could profit from an understanding of racial privileging inherent the insights of CRT);

--Russian prostitutes in Istanbul (what appears as gender might as easily be understood in racial terms);

--West African and East Asian street sellers in Europe

And the hidden hallmark of these global markets includes the complicity of developing states in these racialized cross border labor markets. Here the insights of CRT ought to enrich an analysis which has usually been grounded on gender, ethnicity and religion. Its implications for policy and law reform tends to be underprivileged and lost in the intersection of the more apparent difference on which power relationships are elaborated.

6. The Imperial Scholar.

This is an aggressive track, and one laden with irony. It turns the essence of CRT against itself when CRT crosses borders. This track suggests a self-referential and subordinating tendency: "Some critics believe that the situations of domestic minorities and peer workers in third world countries are linked and must be

addressed together." Richard Delgado and Jean Stefancic, *Critical Race Theory* Chapter VII at 111 ("CRT Today").

It is easy to fall into the (1) "we know best" trope, or the (2) "our experiences are transposable without filtration" trope, or even the (3) "do it our way" trope. This reduces CRT to another variation of the American tendency to export its knowledge industries in ways that suggest an imperial enterprise. There are strong parallels to the great efforts of American liberals to export American law and institutions to the post Soviet bloc after the collapse of the Soviet Union in 1991. Yet that might appear perverse.

Worse yet, it suggests a role for CRT in the global production and consumption of knowledge that mimics the privileged position of the developed world within the neo-liberal global economic system. Americans produce CRT theory in the U.S. and outsiders provide facts that are consumed in the elaboration of that theory and then applied as delivered by the outsiders whose facts have been used in the production of CRT knowledge. Foreign scholars are then imported to the United States for the further production of knowledge.

To some extent CRT within a global context will require the cultivation of the art of listening as well as of speaking. American CRT that does not break the privileging production of knowledge cycle that privileges American scholars and reduces outsiders to consumers of knowledge goods produced in the United States will be reduced to mimicking other privileging structure systems of power.

This track leads to the last and greatest hit of CRT abroad:

7. Narcissistic Globalists.

"Some CRT view economic globalization as a space in which minorities can build coalitions with white or blue collar workers." Richard Delgado and Jean Stefancic, *Critical Race Theory* Chapter VII at 111 ("CRT Today"). The focus is domestic and instrumental. CRT would use foreigners to trump race within a global context in the service of race anti-subordination within the U.S. Global consequentialism is ignored.

Now this is an ironic riff on race. It suggests a race hierarchy within CRT that privileges class within the United States over race across borders. It suggests that the race insights of CRT are affected by national borders. The ultimate "race and . . ." intersection remains the state.

This last track provides a caution and a moral to the lyrics that is Critical Race theory abroad:

Avoid the parochial

Avoid the Narcissistic

There is race beyond the American context that exists on its own terms

Critical Race Theory can exceed the limits of these tracks. It is a powerful force abroad, as powerful as the American experience has been in a variety of other situations and with respect to a host of other important policy areas. It can serve as an important source of policy, society and law, or it can be reduced to something smaller and parochial.