



**CRITICAL RACE THEORY &  
RACE-BASED POLICY:  
A THREAT TO LIBERAL DEMOCRACY**

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# CRITICAL RACE THEORY & RACE-BASED POLICY: A THREAT TO LIBERAL DEMOCRACY

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## 1. Racism as culprit no 1?

In mid-September 2020 – in a week in which Statistics South Africa revealed that the country's economy had shrunk by an annualised 51% in the second quarter of the year – the sole focus of the Economic Freedom Fighters (EFF) was on condemning a hair advert with racist overtones, and on physically attacking many of the stores in the Clicks chain responsible for the advert's release.

This focus on racism was useful in distracting attention from the enormous economic disaster caused by a prolonged and often irrational Covid-19 lockdown. It also helped to shift scrutiny away from the African National Congress (ANC) as 'Accused no 1 on corruption' – as President Cyril Ramaphosa had recently acknowledged – to racism as Culprit no 1 in the problems confronting the country.<sup>1</sup>

The campaign of violence and invective against Clicks was, of course, driven by the EFF rather than the ANC. But the EFF is effectively the ANC Youth League in a different guise and is often used by the ANC to promote the mass activism the ruling party fully endorses but finds it politic to play down.

In addition, the ANC itself has long pushed the view that racism is South Africa's most important problem. This has made it deeply intolerant of people who take a different view – even when those people comprise most black South Africans.

*The ANC has long pushed the view that racism is South Africa's most important problem. This has made it deeply intolerant of people who take a different view – even when those people comprise most black South Africans.*

This reality came sharply to the fore in 2001, when the IRR first commissioned a representative opinion poll on race-related issues since 1994. In the first question put to respondents, people were asked to identify the most serious unresolved problems they experienced. Some 58% of black people saw unemployment as the worst problem, while 38% highlighted crime and violence. By contrast, only 5% flagged racism as a key unresolved problem.<sup>2</sup>

Essop Pahad, minister in the presidency in the first Thabo Mbeki administration, was indignant. He dismissed the IRR's findings as 'foolish' and claimed that racism was the cause of unemployment. But that is far too simplistic a view.

Subsequent opinion polls commissioned by the IRR from 2015 to 2020 have all started with essentially the same question. Each time, black respondents have flagged unemployment as the most important unresolved problem, and by a large margin. Each time, the proportion of black people identifying racism as a key issue has been below 6%. In 2019 it was down to 1.7%, while in 2020 it came in at 3.1% – and this despite a plethora of racial rhetoric from the ANC, the EFF, and many in the media. Yet the ANC alliance refuses to heed what ordinary people have to say about racism: just as it refuses to heed their opposition to radical redistribution and their support for business-friendly policies.<sup>3</sup>

In the analysis that follows, we provide further insights into what ordinary South Africans think about race relations and race-based policies, as shown by IRR opinion polls carried out over a number of years. Against this background, we:

- describe how two key race-based policies – employment equity (EE) and black economic empowerment (BEE) – fail to achieve their stated aims while actively harming the black majority;

- analyse the constitutionality of EE and BEE requirements and find both wanting on the tests laid down by the Constitutional Court;
- propose a race-neutral alternative which most black South Africans believe would be more effective than EE and BEE in helping them to get ahead; and
- caution that this much-needed reform will be harder to achieve because of recent developments in the United States (US), where critical race theory (CRT) has moved out of the universities into the media, big business – and the new administration of President Joe Biden.

In conclusion, we outline the core tenets of CRT, highlighting both its immediate demands for a surge in race-based rules and its longer-term anti-democratic and anti-capitalist goals. We sketch the harm already evident from CRT and how the damage from it is likely to accelerate. We also set out why CRT is so important to South Africa – and why the threat it poses to America and the principles of Western democracy must be fully understood and actively fought.

## 2. What the IRR’s latest opinion poll reveals about race relations

The IRR’s most recent opinion poll, which was conducted in November and December 2020, canvassed the views of a carefully balanced sample of 2 459 people from all nine provinces. It covered both rural and urban areas and all socio-economic strata. Of the respondents, 78.6% were black, 9.0% were coloured, 2.9% were Indian, and 9.3% were white.

The sampling, fieldwork, and data-processing for the IRR’s 2020 opinion survey were carried out by MarkData (Pty) Ltd, an organisation with some 30 years’ experience in conducting field surveys for public, private, and civil society organisations. The survey was an ‘omnibus’ one, which was conducted across the country by means of personal face-to-face interviews. All these interviews were conducted by trained and experienced field teams in the languages chosen by respondents themselves.<sup>4</sup>

The 2020 field survey was the seventh in a series of opinion polls on race relations commissioned by the IRR since 2001. The outcomes of these opinion polls are not strictly comparable, as the methodologies used have changed to some extent over the years and some of the questions posed in 2017 were somewhat different. Broad trends can nevertheless be discerned. Where this is feasible, various shifts or similarities over time are thus highlighted in the analysis which follows.

### 2.1 Two most serious problems unresolved since 1994

The 2020 field survey began by asking respondents to identify what they themselves regarded as the two most serious problems not yet resolved since 1994. No prompting was provided and respondents were free to list any issue that was important to them. Their answers are shown in **Table 1** below. (Proportions exceed 100% because more than one problem could be mentioned.)

Table 1, IRR Opinion poll, 2020					
Most serious problem	Total	Black	Coloured	Asian	White
Unemployment	53.4%	56.0%	52.5%	35.0%	38.1%
Crime, safety/security	22.0%	18.3%	29.3%	51.2%	36.9%
Corruption	18.2%	15.5%	22.1%	27.7%	34.6%
Housing	16.6%	17.0%	21.7%	13.0%	9.9%
Service delivery	10.9%	11.9%	6.4%	4.5%	9.0%
Water/Sanitation	10.0%	11.8%	3.3%	1.2%	4.0%
Education (poor)	8.6%	9.2%	9.1%	5.9%	4.2%
Poverty/social inequality	8.0%	8.4%	9.9%	8.8%	3.1%
Infrastructure	6.3%	7.1%	3.4%	1.6%	4.2%
Women and children abuse	5.5%	5.7%	4.7%	7.4%	4.3%
Land reform	4.0%	4.8%	1.1%	0.0%	1.4%
Corrupt leadership	3.6%	2.6%	7.0%	15.7%	4.8%
Inequality	3.5%	3.6%	2.3%	0.6%	5.1%
Racism/discrimination	3.3%	3.1%	1.7%	2.9%	6.8%

Among black respondents, 56% saw unemployment as the most pressing problem. Next came crime (cited by 18%), housing (17%), corruption (16%) and service delivery (12%). By contrast, only 3% of black respondents identified racism as a serious unresolved problem.

Unemployment has consistently been identified by black (and most other) respondents as the most pressing unresolved problem in every IRR opinion poll all the way back to 2001. The proportion of black respondents flagging joblessness as a concern has varied from a high of 58% in 2001 (as earlier noted) to a low of 27% in 2018. In general, however, this proportion has remained relatively constant, and has averaged close on 50% over seven years of IRR polling.

The other key concerns identified by black respondents over the years have generally revolved around crime, housing, and living conditions. Corruption began to emerge as a significant concern (mentioned by 17% of black respondents) from 2017.

**2.2 Have race relations improved?**

Respondents were asked whether they thought that ‘relations between people of different races’ had improved, stayed the same, or become worse since 1994. Their answers are provided in Table 2. More than two-thirds (69%) of black respondents thought race relations had either improved (43%) since the political transition or stayed the same (27%). The percentage of blacks who thought race relations had ‘become worse’ since 1994 was very much smaller, at 24%.

<b>Table 2: Race Relations since 1994</b>					
<b>Most serious problem</b>	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Improved	41.7%	42.8%	45.0%	33.9%	31.6%
Stayed the Same	26.4%	26.6%	20.2%	34.9%	27.6%
Became Worse	25.8%	24.1%	29.5%	27.2%	35.2%

Long term trends show that the proportion of black respondents seeing an improvement in race relations stood at 49% in 2001, rose to a high of 64% in 2018, and then dropped back to 50% in 2019 (essentially the same as in 2001) before declining further to 43% in 2020. The most recent decrease, to a level below that recorded in 2001, is worrying. It suggests that a constant emphasis on racism by the ANC is having an impact on how ordinary people think, even though relatively few individuals report any direct experience of racism, as described below.

When the proportions who see an improvement in reservations are combined with those who think that race relations have remained the same, the picture is more encouraging. Some 70% of black respondents think that race relations have either improved or stayed as they were before. In addition, the proportions seeing improvement or stasis, rather than decline, have remained very much the same since 2001. In 2020 that combined proportion was 70%, whereas in 2001 it was 77%. It has hovered at around the 75% level in most of the intervening years.

**2.3 How much do people experience racism?**

The 2020 field survey also asked people to tell us whether they had ‘personally experienced any form of racism in the past five years’. The answers are striking, for 81% of black people – and 81% of respondents in general – said they had not personally experienced racism in this period. The equivalent proportion was even higher among so-called ‘coloured’ people (88%), and almost as high among Indians (76%) and whites (69%), as set out in **Table 3**.

These results show an important shift from those obtained in 2001, seven years after the political transition. At that time, the proportion of black respondents saying they had no personal experience of racism was far lower, at 46%.

At the same time, since IRR polling resumed in 2015, that proportion has generally been significantly higher: standing at 79% in 2015, 72% in 2016, and 77% in 2017, before dropping to 64% in 2018 and then rising again to 76% in 2019 and to 81% in 2020. The overall trend since 2001 thus shows a notable and very encouraging improvement.

<b>Table 3: Have you personally experienced any form of racism over the past five years?</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Yes	16.6%	16.0%	8.5%	20.7%	28.4%
No	80.6%	81.3%	87.8%	75.8%	68.9%
Not Answered	2.8%	2.7%	3.7%	3.4%	2.7%

**2.4 Racism and the role of politicians**

The ruling party often blames South Africa’s persistent problems of poverty, inequality, and unemployment on ‘racism’ and ‘colonialism’. The IRR’s 2020 survey thus asked if people agreed or disagreed that ‘all this talk about racism and colonialism is by politicians trying to find excuses for their own failures’. The results are set out in **Table 4**.

More than half of all respondents (54%) agreed that politicians are exaggerating the problems posed by racism and colonialism to excuse their own shortcomings. Much the same proportion of black respondents (52%) also endorsed this statement. However, the current (52%) proportion among black people is significantly lower than the proportions recorded in previous years: 58% in 2001, 59% in 2015, 62% in 2017, and 60% in both 2018 and 2019.

The proportion of black South Africans who believe that politicians are playing the race card for their own ends has nevertheless stayed remarkably consistent, coming in at an average of some 60% in most years. The exception was in 2016, when that proportion suddenly dropped to 46%, only to recover sharply thereafter. The 2016 ‘aberration’ makes it difficult to assess whether the relatively low figure evident in 2020 is a similar anomaly, or the start of a different pattern.

<b>Table 4: All this talk of racism and colonialism is by politicians who are trying to find excuses for their own failures</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Agree	54.0%	52.0%	58.7%	65.1%	63.2%
Disagree	16.0%	17.5%	8.8%	8.6%	12.6%
Neither agree nor disagree	29.2%	29.8%	32.0%	26.3%	23.0%

**2.5 The route to sound future race relations**

We also wanted to know what South Africans think should be done to promote sound race relations in the future. We therefore asked respondents whether better education and more jobs – the well-established building blocks for upward mobility in most societies – would in time ‘make the present inequality between the races steadily disappear’. Close on three quarters (73%) of all respondents agreed with this perspective, as did the same proportion of blacks (see **Table 5**). Politicians may seek to play up racial differences for their own purposes, but most South Africans are well aware of the importance of better skills and increased earnings in reducing racial inequalities and building inclusive prosperity.

Again, the long-term trends are interesting. The proportions of black respondents endorsing this perspective stood at 72% in 2016, 77% in 2017, 74% in 2018, and 80% in 2019. Overall, this proportion has remained in the 70%-to-80% band for the entire duration of the IRR’s polling, holding remarkably steady.

<b>Table 5: With better education and more jobs, the present inequality between the races will steadily disappear</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Agree	73.4%	72.5%	80.5%	78.8%	72.0%
Disagree	11.3%	11.2%	5.2%	12.8%	16.9%
Neither agree nor disagree	14.8%	15.7%	14.3%	8.4%	10.2%

## **2.6 Do black and white South Africans want to work together for progress?**

The IRR also wanted to know whether South Africans understand and value their mutual inter-dependence and want full opportunities for all. As Table 6 shows, 72% of all South Africans – and 71% of black respondents – agree that ‘the different races need each other for progress and there should be full opportunity for people of all races’. These are very significant majorities.

In recent years, however, there has been a significant decline in the proportions of black South Africans expressing this view. Among black respondents, the proportions of people endorsing this perspective stood at 85% in 2015, 84% in 2016, 90% in 2017, and 86% in 2018, which showed a notable consistency over these four years.

However, the equivalent proportions thereafter dropped to 73% in 2019 and then to 71% in 2020. The 2017 figure (90%) was very close to the 2001 one (93%), whereas the contrast between the 2001 and 2020 figures (93% and 71%, respectively) is sharp.

<b>Table 6: The different races need each other for progress and there should be full opportunity for all</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Agree	71.6%	70.5%	81.4%	81.5%	68.2%
Disagree	8.7%	9.1%	2.1%	7.7%	12.3%
Neither agree nor disagree	19.2%	19.9%	16.5%	10.8%	18.2%

## **2.7 Summary of outcomes regarding race relations**

The data gathered from the IRR’s 2020 field survey once again shows that race relations remain generally positive – and far better than the ANC, the EFF, and many in the media commonly assert. However, there has been a significant slippage in some spheres that merits careful consideration and a shift away from racially polarising rhetoric and policy.

One of the most positive outcomes of all is that 81% of the black respondents interviewed in 2020 said they had not personally experienced any form of racism in the past five years. In addition, only 3% of black people identified racism as one of the most serious unresolved problems in the country since 1994. Instead, most black respondents saw the key outstanding challenges as unemployment (56%), crime (18%), housing (17%) and corruption (16%).

Also encouraging is the finding that 73% of black people believe that ‘with better education and more jobs, inequality between the races will steadily disappear’. In addition, 71% agree that ‘the different races need each other and there should be equal opportunity for all’.

On the other hand, only 43% of black respondents think race relations have improved since 1994. This is significantly down from 50% in 2019, and well down on the 2018 ‘peak’ year when 64% of blacks saw an improvement since the political transition. In addition, the proportion of black people who believe politicians are exaggerating the problems posed by racism and colonialism has dropped from 60% in 2019 to 52% in 2020. This suggests that political rhetoric around racism may be having a greater impact on popular perceptions than it did in earlier years.

Striking too is the fact that joblessness has been flagged as the main concern of most South Africans in all seven of the IRR’s field surveys, going all the way back to 2001. Unemployment is, of course, the main reason for persistent poverty, as well as for high rates of inter-racial and inter-black inequality. The best way to combat these problems, as international experience confirms, is through much higher rates of direct investment and economic growth, coupled with reforms to the labour laws that price the poorly skilled and inexperienced out of the jobs market.

The government claims, however, that poverty and inequality can be overcome only through redistribution – with much of this to be achieved through the strict racial targets (quotas in all but name) set out in ‘employment equity’ (EE) and ‘black economic empowerment’ (BEE) rules. Ordinary South Africans, by contrast, have a far more accurate sense of what is needed to help them get ahead, as the IRR’s polling also shows.

**3 How ordinary South Africans see EE and BEE**

**3.1 The best way to improve people’s lives**

The 2020 field survey asked respondents to identify the single most important thing that the government could do to improve people’s lives and gave them four options to choose from, as set out in Table 7. Most black respondents (72%) identified ‘more jobs and better education’ as the most important basis for upward mobility. This perspective was also broadly shared among coloured people, Indians, and whites.

Some 18% of black respondents thought that ‘better service delivery’ would offer the best way to improve lives: a perspective with similar levels of support across all population groups. By contrast, only 4% of black respondents thought the government should focus on ‘more BEE and affirmative action in employment (AA) policies’. In similar vein, only 4% of blacks identified ‘more land reform’ as the key to improving people’s lives. Support for these last two options was generally weaker still among coloured people and Indians.

Table 7: Best way to improve lives					
	Total	Black	Coloured	Asian	White
More jobs and better education	72.8%	71.9%	77.4%	78.7%	74.2%
Better service delivery	17.8%	18.1%	16.5%	16.2%	17.8%
More BEE and AA in employment	3.3%	3.8%	0.9%	2.0%	2.1%
More land reform	4.2%	4.2%	3.5%	2.3%	4.7%

No similar question was posed in 2001, when relatively little had yet been done to implement BEE, EE, or land reform. However, IRR opinion polls from 2015 onwards show a similar pattern of responses to this question. Most people, including most black South Africans, have persistently identified ‘more jobs and better education’ as the key to upward mobility. Very few blacks, by contrast (around 5% on average) have wanted the government to pursue ‘more’ BEE, EE, or land reform initiatives.

**3.2 How do South Africans want job appointments to be made?**

The basis on which people should be appointed to jobs is often a controversial issue. Government policy, as reflected in the Employment Equity (EE) Act of 1998, seeks to bring about demographic representivity at every level of the workforce. Though salient differences in skills, experience, and other attributes make it impossible to attain this objective, the government nevertheless remains determined to achieve what it regards as the ‘right’ racial balance. Whites, by contrast, are often accused of putting too much emphasis on merit and overlooking the importance of redress for apartheid wrongs.

In its 2020 opinion poll, the IRR again probed these contentious issues by asking on what basis people should be appointed to jobs and giving respondents a series of options to choose from. Some 5% of all

respondents (and 6% of black people) supported the first option: that ‘only blacks should be appointed for a long time ahead’ (see **Table 8**).

Our second option – that ‘only black people should be appointed until those in employment are demographically representative’ – was supported by 12% of all respondents and by 13% of blacks. Since this is essentially what the EE Act requires, it is striking that the proportion in its favour is so limited, especially among black South Africans.

<b>Table 8: Who should be appointed to jobs in SA?</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Only blacks for a long time ahead	5.1%	5.9%	0.4%	2.0%	4.6%
Only blacks till demographically representative	11.6%	12.8%	7.1%	3.6%	8.2%
Appointment on merit, with special training for the disadvantaged	60.5%	61.4%	65.2%	47.0%	52.4%
All appointments on merit alone, without such training	21.8%	18.7%	26.9%	47.4%	34.5%

Since the IRR first began posing these questions in 2015, support for the EE Act’s position – that only blacks should be appointed to jobs until demographic representivity has been reached – has varied among black respondents from 7% in 2015 and 9% in 2018 to 13% in both 2016 and 2020. Support for this option has never exceeded the 13% level – and this despite the government’s claims of broad popular endorsement of the EE Act.

Low popular support for the EE Act goes back even further if opinion polls carried out by the Helen Suzman Foundation (HSF) between 1994 and 2000 are taken into account. These HSF polls show that black support for what the EE Act requires has remained at or below 13% all the way back to the political transition. Public opinion has thus remained remarkably consistent in rejecting the EE Act’s key demand for more than 25 years. This is despite the government’s persistent propaganda in support of EE, and the various steps it has taken to tighten up the Act’s requirements.<sup>5</sup>

The third option – that ‘appointments should be based on merit, with special training for the disadvantaged’ – was by far the most popular, winning the support of some 60% of respondents in 2020 and of 61% among blacks. This option was also endorsed by 65% of coloured people, 47% of Indians, and 52% of whites. Support for this option has generally been strong among black respondents over many years, standing at 71% in 2015, 63% in 2016, and 55% in 2018.

**3.3 The overall balance of opinion in 2020**

Overall, there is little popular support for the EE and BEE policies the government portrays as vital in providing redress for apartheid injustices. Despite all the ruling party’s rhetoric to the contrary, only 4% of black respondents think that people’s lives will best be improved by ‘more BEE and affirmative action in employment’. Moreover, only 13% of black people endorse the EE Act’s requirement that ‘only black people should be appointed until those in employment are demographically representative’.

**4 If not EE and BEE, then what?**

In its 2015 and 2016 field surveys, the IRR asked ordinary South Africans whether EE and BEE were helping them to get ahead. In 2015 some 17% of black respondents said ‘affirmative action in employment’ was ‘helping them personally’, whereas 83% disagreed. In 2016, the proportion reporting having been helped by EE was down to 13%, while 87% said they had obtained no personal benefit from it at all.

The picture was similar as regards BEE. In 2015, asked if they had personally benefited from BEE, 14% of blacks said they had gained from a BEE ownership deal, while 12% said they had benefited from a BEE

preferential tender. The remainder of black respondents (86% and 88%, respectively) said they had obtained no benefit from these BEE policies. The data collected in 2016 was very much the same, with 14% of black respondents again saying they had benefited from a BEE ownership deal, while the percentage benefiting from BEE tenders had dropped to 11%.

In 2016 the IRR began asking ordinary people for their views on other policies that might help them climb the economic ladder. Here, it focused on two issues in particular: whether people would like to have tax-funded vouchers for schooling, healthcare and housing, and whether these vouchers would be more effective than BEE in helping them to get ahead. With government rhetoric around the need for land reform accelerating too, the IRR also asked if people would prefer an emphasis on ‘faster growth and jobs’, or on ‘expropriating land for redress’.

**4.1 Popular support for the voucher option**

In 2020 some 80% of black respondents said they would ‘like to have tax-funded education vouchers so they could send their children to the schools of their choice’. Black support for tax-funded healthcare vouchers, so people could ‘buy medical aid or health insurance’, came in at 74%, while support for tax-funded housing vouchers – to help people ‘build, buy, or rent their own homes’ – stood at 75%. In addition, 74% of black respondents said these vouchers would ‘help them to get ahead more effectively’ than current EE or BEE policies (see **Table 9**).

<b>Table 9: Would you like tax-funded education vouchers to send children to school of your choice?</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Yes	77.9%	79.6%	79.7%	65.4%	65.6%
No	15.6%	13.8%	17.0%	29.8%	24.2%
Don't know	6.6%	6.6%	3.3%	4.8%	10.2%

<b>Would you like tax-funded healthcare vouchers to buy medical aid and/or health insurance?</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Yes	73.0%	73.8%	78.7%	69.5%	62.0%
No	19.0%	18.1%	13.0%	24.7%	30.6%
Don't know	8.0%	8.1%	8.3%	5.9%	7.4%

<b>Would you like tax-funded housing vouchers to build/buy/rent your own home?</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Yes	72.9%	75.1%	74.5%	66.6%	54.8%
No	18.4%	15.5%	21.9%	27.1%	36.7%
Don't know	8.7%	9.4%	3.6%	6.4%	8.6%

<b>Would tax-funded vouchers for education, healthcare and housing help you to get ahead more effectively than current AA/BEE policies</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Yes	72.1%	73.5%	76.7%	73.4%	55.4%
No	17.2%	15.0%	17.5%	21.2%	34.2%
Don't know	10.7%	11.6%	5.8%	5.4%	10.4%

The same pattern was evident in earlier years, with black support for the voucher option remaining consistently strong. In 2016 some 85% of black respondents expressed support for schooling vouchers, while 83% endorsed healthcare and housing vouchers, respectively. In 2018 support for education vouchers among black respondents came in at 93%, while black support for healthcare vouchers stood at 91% and for housing vouchers at 83% once again. In 2016, moreover, 74% of black respondents said these vouchers would help them more effectively than EE and BEE, while in 2018 that proportion was higher still, at 85%.

**4.2 Growth or massive land redistribution?**

IRR opinion polls going back to 2001 show that popular support for land reform has never been strong. Few black South Africans have spontaneously identified slow progress with land reform as a major unresolved problem, while few have flagged ‘more land reform’ as offering the best way to get ahead.

In 2001 the proportion of black respondents flagging ‘land reform’ as a serious unresolved problem stood at 3%. In 2015 land reform did not feature in the top ten unresolved problems, while from 2016 to 2019 the proportions of black people seeing it as a major challenge stood at 0.5% (2016), 1% (2017), 2% (2018), and 2.8% (2019). It was only in 2020, with the government’s heightened focus on expropriation without compensation (EWC) as a remedy for the poverty and inequality made worse by the prolonged Covid-19 lockdown, that the proportion of black respondents spontaneously identifying land reform as a serious problem rose to close on 5%. At the same time, however, most black respondents (56%) still thought that unemployment was a far more significant challenge.

IRR polls over many years have also asked people whether ‘more land reform’ would offer the best way of improving their lives. Again, support for this option among black respondents has been very limited, coming in at 2% in 2015 and 1% in 2016 before rising to 9% in 2018, when ANC and EFF rhetoric about the need to change the Constitution to allow EWC was widespread. Thereafter, however, black support for ‘more land reform’ dropped to some 4% in 2019 and remained much the same in 2020.

Black support for increased land reform has thus been consistently low over many years. In 2016, however, the government began increasingly to claim that large-scale land expropriation would not only provide redress for a profound racial wrong, but also prove decisive in overcoming poverty and inequality. Since some opposition parties took the view that growth and jobs would be more effective in expanding prosperity, the IRR’s 2016 field survey asked if people would prefer a political party that focused on ‘faster economic growth and more jobs’ or one that concentrated on ‘expropriating land for redress’.

According to the 2016 data, 84% of black respondents wanted a political party that focused on growth and jobs, while only 7% preferred one that emphasised major land expropriation. Results since then have remained broadly the same. Black support for growth and jobs has fluctuated slightly – declining slightly to 80% in 2018 and then rising marginally to 81% in 2020. But it has always far outstripped black support for the land expropriation alternative, which came in at 17% in 2018 and 15% in 2020

<b>Table 10: Do you prefer a political party which promises faster economic growth and more jobs, or one which promises land expropriation without compensation as redress for past wrongs? (Choose one)</b>					
	<b>Total</b>	<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>
Faster growth and more jobs	81.4%	80.7%	85.1%	90.5%	81.8%
Land expropriation without compensation	14.6%	15.2%	12.3%	6.3%	14.2%
Don't know	3.9%	4.0%	2.6%	3.1%	4.8%

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## 5 Drawing the threads together

In a nutshell, IRR opinion polling over many years shows that black South Africans:

- regard racism as a relatively insignificant problem and want ‘full opportunity for people of all races’, who ‘need each other’ in order to make progress;
- see ‘better education and more jobs’ as the keys to reducing inequality;
- recognise that EE and BEE help only a small minority (about 15%) of black people;
- believe that tax-funded vouchers for education, healthcare and housing would be more effective in helping the majority of disadvantaged South Africans to move ahead; and
- prefer a policy approach that focuses on expanding the economic pie via ‘growth and jobs’ rather than one that simply seeks to cut it up into many more pieces through major land redistribution.

## 6 Why EE and BEE will never work

Contrary to ANC assertions and the assumptions of many commentators, EE and BEE policies will never succeed in reducing inequality or providing redress to the great majority of black South Africans. This is because these policies set an impossible goal, ignore and exacerbate the real barriers to upward mobility, generate major economic costs, and increase inequality. Current EE and BEE policies are also unconstitutional, as described in due course, which makes it all the more important to replace them with an effective and constitutionally compliant alternative.

### 6.1 The impossible goal of demographic representivity

South Africa’s EE and BEE policies are aimed at an impossible goal: the achievement of demographic representivity at every level of the workforce, as well as in the ownership of businesses and the procurement of goods and services.

This goal is based on the false assumption that, in the absence of racism, black and white South Africans would fan out into jobs and business activities strictly in accordance with their share of the economically active population. However, this assumed ‘norm’ of demographic representivity has never been found to exist in any heterogeneous country in the world. The reason is simple: people are not ‘blank slates’ who are all inherently the same and can therefore be slotted into any role. Instead, individuals differ markedly from one another in terms of their ages, education levels, aptitudes, skills, experiences, and personality attributes.<sup>6</sup>

The EE Act ignores this fact, however. Instead, it implicitly requires that black people, who make up 79% of the economically active population (EAP), must in time make up 79% of senior managers in both the public and the private sectors. Yet the EAP includes all those between the ages of 15 and 64 who work or wish to do so, whereas management posts typically require university degrees and long years of on-the-job experience which people under the age of 35 are unlikely to have acquired.

South Africa’s black population is also a youthful one: so much so that in 2020 blacks aged 35 to 64 made up only 46% of the EAP, making this a more realistic target than 79%. Yet even a 46% target is in fact too ambitious, as only 5% of blacks over the age of 20 had a degree or higher qualification in 2019. In addition, more than half these individuals were recent graduates without the years of experience required for demanding management jobs.<sup>7</sup>

BEE rules, which increasingly require that companies must be 25% to 51% black-owned – and that 80% of all procurement contracts for goods and services should go to black-owned firms – reflect the same goal of demographic representivity. But again this goal cannot be met when most black people lack the qualifications, skills, and experience vital to success in business.

Economist Thomas Sowell of Stanford University’s Hoover Institution has comprehensively debunked the assumed ‘norm’ in his 1994 book on *Race and Culture*. Writes Sowell: ‘The even distribution or proportional representation of groups in occupations or institutions remains an intellectual construct defied by reality in society after society. Nor can this be attributed to exclusions or discrimination, for often some

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powerless or persecuted minorities predominate in prosperous occupations.... Attributing every “imbalance” to...discrimination assumes away the manifest effects of differences in educational achievement, family upbringing, cultural traditions, [and] marital patterns.’<sup>8</sup>

## **6.2 Unaddressed barriers to upward mobility**

As Sowell points out, blaming all differences on discrimination is profoundly misleading. It is highly damaging too, because brushing aside substantial barriers to upward mobility makes it impossible to identify or overcome them. In South Africa, these unaddressed barriers – many of which are being made worse by poor policies – include:<sup>9</sup>

- escalating joblessness over many years, especially among black youth;
- bad schools and often uncaring teachers;
- high rates of often violent crime;
- the erosion of family life, with two thirds of black children growing up without the support of both their parents;<sup>10</sup>
- an increasing dependency on the state, which the ANC has done much to foster and entrench; and
- debilitating perceptions of victimhood that undermine individual agency and the importance of self-reliance.

*As renowned economist Thomas Sowell points out, blaming all differences on discrimination is profoundly misleading. It is highly damaging too, because brushing aside substantial barriers to upward mobility makes it impossible to identify or overcome them.*

## **6.3 The economic costs of EE and BEE**

Both EE and BEE have brought major economic costs. As regards EE, the government has rigorously pursued the racial ‘targets’ required by the EE Act – and particularly so in the senior echelons of the public service and many state-owned enterprises (SOEs). The upshot has been a crippling loss of experience, competence, and institutional memory, made worse by a provision in the statute that allows people to be appointed for their ‘potential to acquire...the ability to do the job’.<sup>11</sup>

According to Professor Peter Franks of the School of Public Leadership at the University of Stellenbosch, ‘this [rule] soon became the favoured loophole behind which kin, friends, and comrades were favoured over more competent applicants’. EE has thus generated ‘a perfect storm...of poor management, deficient and partial decision-making, excessive staff turnover, and high levels of... corruption’.<sup>12</sup>

All South Africans have paid a heavy price for this erosion of state competence, but the damage to the poor has been particularly severe. As RW Johnson, a journalist and former don at Oxford University, has pointed out, EE rules have ‘absolutely nothing to offer the vast majority of Africans, from mineworkers to domestics’. For these individuals, EE legislation has simply resulted in worse service delivery by the public service and SOEs, lower economic growth, and fewer prospects of finding jobs.<sup>13</sup>

BEE has also been enormously costly. Under its EE element, many companies are expected to meet targets for black management ranging from 88% at junior levels to 60% among top and senior executives. But these targets, as noted, overlook the youthfulness and limited experience of the black population. In addition, private companies, unlike public entities, have no tax revenues to fall back on when crucial skills are lost, competitiveness is undermined, and performance falters.

As regards the ownership element in BEE, many companies have been pressurised into concluding costly deals aimed at transferring at least 25% of their equity or assets to black ‘investors’ lacking expertise, experience, and the capacity to pay market prices.

In December 2019 Professor William Gumede, Associate Professor in the Public and Development

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Management Department at the Graduate School of Business Administration at Wits University, noted that 'close to R1 trillion had been transferred in BEE deals'. However, he said, the benefits had gone solely to 'a handful of politically connected politicians, trade unionists, and public servants', who had done little to expand either industry or the wider economy. Instead, 'they had crowded out genuine black entrepreneurs and killed the development of a mass entrepreneurial spirit in black society'. This was because 'all you needed to secure a BEE deal...were the right political connections'.<sup>14</sup>

BEE procurement has been even more damaging. In 2009 Pravin Gordhan, then finance minister, told Parliament that one of the biggest problems confronting government was that it paid more for everything, from pencils to building materials, than a private business would: 'R40 million for a school that should have cost R15 million, R26 for a loaf of bread that should have cost R7'. In 2012 ANC secretary general Gwede Mantashe urged BEE companies to 'stop using the state as their cash cow by providing poor quality goods at inflated prices'.<sup>15</sup>

The cumulative costs have been enormous. In October 2016 Kenneth Brown, then chief of procurement at the National Treasury, warned that between 30% and 40% of the government's procurement budget (worth R600bn at that time) was tainted by 'inflated pricing and fraud'.<sup>16</sup>

The problem has since worsened, for in August 2018 the Treasury's acting chief procurement officer, Willie Mathebula, told the Zondo commission of inquiry into state capture that 'the government's procurement system was deliberately not followed in at least 50% of all tenders'. Moreover, once the usual tendering rules had been suspended on some spurious basis (a claimed emergency, for instance), 'a contract which started at R4m was soon sitting at R200m'. These abuses had an enormous negative impact on service delivery because the government was 'the biggest procurer of goods and services, spending an estimated R800bn a year', said Mr Mathebula.<sup>17</sup>

Again, the benefits of this BEE 'tenderpreneurship' have gone primarily to a narrow group of politicians and public servants linked to the ruling party. This relative elite has prospered greatly, while the price of their enrichment has been paid by millions of poor South Africans.

*Race-based EE and BEE laws are inconsistent with various sections of the Constitution, including Section 1. This identifies 'non-racialism' as a founding principle of our new order. It also states that any legislation 'inconsistent' with this principle is 'invalid'.*

#### **6.4 Unconstitutionality of EE and BEE**

Race-based EE and BEE laws are inconsistent with various provisions of the Constitution, including its founding value of 'non-racialism'. Section 1 of the Constitution expressly identifies non-racialism as a core value of post-apartheid South Africa. It also guarantees 'the supremacy of the Constitution' and states that any legislation 'inconsistent' with its terms is 'invalid'.<sup>18</sup>

Important too is the equality clause (Section 9), which prohibits unfair discrimination on racial (and other listed) grounds and states that any discrimination on a listed ground 'is unfair' unless the contrary is proved. As an exception to these general principles, the clause allows the taking of 'legislative...measures designed to...advance [those] disadvantaged by unfair discrimination' and so 'promote the achievement of equality'. (What this clause requires is further examined below.)

A third relevant clause (Section 195) calls for a public administration that is 'broadly representative of the South African people'. However, it also makes it clear that this goal cannot trump other needs. Employment practices in state entities must thus be 'based on ability, objectivity, and fairness'. They must further ensure the 'efficient, economic, and effective use of resources'.<sup>20</sup>

As regards public procurement, Section 217 of the Constitution requires all organs of state to procure goods and services 'in accordance with a system which is fair, equitable, transparent, competitive, and cost

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effective'. However, this overarching obligation 'does not prevent' state entities from applying 'categories of preference' in their procurement decisions, provided these are aimed at 'protecting' or 'advancing' people 'disadvantaged by unfair discrimination'.<sup>21</sup>

The Constitution makes no mention of either racial targets or the racial classifications these inevitably require. Nor does it endorse the goal of demographic representivity that underpins both EE and BEE rules. In addition, where the Constitution calls for 'broad representivity' in employment, this is confined to the 'public administration'. Hence, it cannot justify the imposition of racial targets on the private sector too. Similarly, though organs of state may apply 'categories of preference' in their procurement decisions, this does not trump the need for a tender system that is 'transparent', 'competitive' and 'cost effective'. Nor can these 'categories of preference' be applied to the private sector, which falls outside the ambit of this limited exception.

The constitutionality of EE and BEE legislation has never been directly tested in the Constitutional Court. However, the 2004 ruling of the Constitutional Court in the *Van Heerden* case provides important guidance on the criteria to be used in assessing the validity of any affirmative action measure.<sup>22</sup>

The *Van Heerden* case dealt with the validity under the equality clause (Section 9) of the differing pension rules that had been introduced for members of Parliament (MPs) who had been elected to the legislature either before or after the political transition in 1994.

*EE and BEE do not 'target the disadvantaged'. Instead, they benefit only the most advantaged group within the black population: the roughly 15% with the best skills and (often) the best political connections.*

In handing down its judgment, the Constitutional Court began by overlooking the plain words of sub-section 9(5), which expressly states that discrimination on race (and other listed grounds) 'is unfair unless it is established that the discrimination is fair'. Instead of applying this provision to the facts of the case, the Court ruled that affirmative action measures cannot be presumed to be unfair because they are 'authorised remedial measures'. Hence, the only tests to be applied in considering their validity are (1) whether they target the disadvantaged, (2) whether they are designed to advance them, and (3) whether they promote the achievement of equality.<sup>24</sup>

The Constitutional Court made no attempt to explain why it thought that sub-section 9(5) of the Constitution could simply be ignored. In addition, though 17 years has passed since it laid down its three tests for 'authorised remedial measures', the court has never tried to assess how well transformation policies comply with them. Were it to do so, both EE and BEE legislation would fail on all three criteria.

First, most EE and BEE beneficiaries come from the most advantaged group within the black population: the roughly 15% with the best skills and (often) the best political connections. Like other affirmative action interventions all around the world, EE and BEE help only a relatively small elite within the previously disadvantaged group: what India calls 'the creamy layer'.

Official figures on South Africa's income distribution confirm this. In 2015 the bottom 40% among black South Africans obtained a mere 3.7% of national income, which was very much the same as the 3.4% this group had gained in 2006.<sup>25</sup> By contrast, the top 10% among blacks gained 26% of national income (up from 19% in 2006), while the remaining 50% of blacks obtained 22% of the total (up from 16% in 2006). If so-called coloureds and Indians were taken into account as well, the top 10% among black South Africans (as broadly defined) obtained 32% of national income in 2015.<sup>26</sup>

By contrast, the top 10% among whites gained 11% (down from 18% in 2006), or three times less. This decline among the white top 10% is ignored by the ANC, as it contradicts its preferred narrative of unbroken

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white privilege and economic power since 1994. More serious still is the ruling party's refusal to acknowledge that only the 'creamy layer' has gained. EE and BEE rules have clearly not worked for the bottom 40% of black South Africans, whose share of national income has stagnated even as these transformation policies have been ever more stringently applied.

Second, both EE and BEE have demonstrably failed to 'advance' the disadvantaged black majority. Instead, as earlier noted, a rigid insistence on EE in the public service in the face of a profound skills shortage has undermined efficiency in almost every sphere.

Examples are legion: 80% of public schools are dysfunctional; 85% of public clinics and hospitals cannot comply with basic healthcare norms and standards; 87% of RDP (Reconstruction and Development Programme) houses are badly built 'high-risk' structures; billions of litres of untreated sewage are discharged into rivers every day from failing municipal wastewater treatment plants; essential infrastructure cannot be expanded because the state (in the words of former finance minister Trevor Manuel) lacks 'the capacity to get projects off the ground'; and vital financial controls are persistently disregarded because 'inadequately skilled people' have been appointed to 'crucial positions'.

So bad is public service inefficiency that it has also become a key barrier to direct investment in the economy. According to the World Economic Forum, the ineffectiveness of the public service has long been identified as one of the most important obstacles to doing business in South Africa. This has served to discourage investment, which in turn has restricted growth and increased unemployment – especially among the disadvantaged black majority.

On the third test, moreover, both EE and BEE requirements have done little to 'promote the achievement of equality'. On the contrary, income inequality, as measured on the Gini coefficient, has sharply increased since 1994, rising from 0.59 at the time of the political transition to 0.63 in 2020. According to the World Bank, this increase has made South Africa the second most unequal nation in the world, after Lesotho.<sup>27</sup>

*EE and BEE have done little to 'promote the achievement of equality'. Instead, they have widened inequality within the black majority by helping a small group to forge ahead even as some 9.1 million black people have remained jobless.*

The Gini coefficient has increased in this way primarily because EE and BEE have widened inequality within the black majority. These policies have helped a small black group to forge ahead, even as some 9.1 million black people have remained jobless and mired in destitution. The upshot, as the South African Communist Party (SACP) has acknowledged, is that inequality *within* the black group is now higher than inter-racial inequality. Since black people make up a very high proportion (80%) of the overall population, this explains why South Africa is now an even more unequal country that it was in 1994.<sup>28</sup>

Given the evident failures of EE and BEE, it is vital an alternative empowerment policy be devised. What is needed is a race-neutral approach that reaches right down to the grassroots and is far more effective than current transformation policies in helping millions of poor black South Africans to get ahead.<sup>29</sup>

## **7 Shifting from EE and BEE to EED**

The IRR has for many years been developing an alternative strategy, which it calls Economic Empowerment for the Disadvantaged or EED. An EED strategy to liberate the poor would have three core features:

### **7.1 A scorecard that rewards key business contributions**

First, EED would recognise and reward firms for their vital contributions to investment, growth, employment, innovation, and development. Under a revised EED scorecard, businesses would earn voluntary EED points for such contributions as:

- capital inflows attracted,
- fixed investments made,

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- jobs sustained or created,
  - tax revenues paid,
  - additions to export earnings, and
  - spending on R&D, as well as employee training.

An EED scorecard of this kind would strongly promote investment, growth, and employment. It would also encourage the full use of the country's still limited skills. With this approach in place, South Africa's annual growth rates could finally begin to match those regularly achieved by its emerging market peers. The potential benefits would be enormous.

In 2018, for example, a study by the Bureau for Economic Research at the University of Stellenbosch found that 'the South African economy could have been up to 30% or R1-trillion larger and created 2.5 million more jobs had the country kept pace with other emerging markets and Sub-Saharan African economies over the past decade'.<sup>30</sup> An expansion of this kind, had it been achieved, would have done far more than EE and BEE to increase opportunities and build prosperity among disadvantaged South Africans.

### **7.2 The voucher element in EED**

Second, EED would reach down to the grassroots by equipping the poor with the sound schooling, housing, and healthcare they need to help them get ahead. According to the National Treasury's February 2021 *Budget Review*, close on R740bn has been budgeted for schooling, healthcare, and housing/community development in the 2021/22 financial year. However, the state's centralised and top-down delivery system is so inefficient and mismanaged – often because of an EE/BEE insistence on putting racial targets before skills, experience, and cost-effective procurement – that delivery, as earlier noted, is often extraordinarily costly and grossly deficient.

*In the schooling sphere, dysfunctional public schools would have to up their game, while many more independent ones would be established to help meet burgeoning demand. All these schools would compete for the custom of voucher-bearing families, so keeping costs down and pushing quality up.*

With public debt soon to reach 100% of GDP, the key need is not to increase already substantial spending but rather to secure far more bang for every buck. This can be achieved by redirecting much of the revenue now being badly spent by bureaucrats into tax-funded vouchers for low-income households that would be exchangeable solely for schooling, housing, and healthcare. Poor families empowered by these vouchers would have real choices available to them. Schools and other entities would also have to compete for their custom, which would help to keep costs down and push quality up.

In the schooling sphere, dysfunctional public schools would have to up their game, while many more independent, or perhaps 'charter', schools (as outlined below) would be established to help meet burgeoning demand. In the housing arena, people could stop waiting endlessly on the state to provide and start buying, building, or upgrading their own homes. In the health sphere, people could join low-cost medical schemes or take out primary health insurance policies, giving them access to sound private care.<sup>32</sup>

(The benefits to be gained from encouraging the growth of charter schools have been confirmed by Sowell in his latest book, *Charter Schools and their Enemies*. Charter schools in the United States (US) receive public funding, but have a high degree of autonomy because they operate independently of the state system. Sowell's book seeks to assess whether charter schools have better outcomes for poor black pupils in New York City than conventional public schools. Having taken great care to control for variables that might undermine the validity of the comparison, Sowell shows that pupil outcomes in both English and mathematics are far higher in charter schools than in traditional public schools. Yet this 'remarkable success', as Sowell calls it, has unleashed major hostility from the Democratic Party and others on the Left. Enrolment in charter schools nevertheless increased by 570% between 2001 and 2016, as opposed to a

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1% increase at traditional public schools. This is because parents want the best for their children and know that charter schools are more likely to provide it.)<sup>33</sup>

Tax-funded vouchers for schooling, housing, and healthcare are thus a crucial element in the EED proposal and would extend its reach to the poorest and most marginalised. Under this system, business could also earn additional EED points by topping up the vouchers of the poorest, or by helping to improve the quality of provision in these three crucial spheres.

### **7.3 A non-racial focus in keeping with the Constitution**

Third, like the social grants system, EED would rely on a means test to determine disadvantage and would stop using race as a proxy for this. EED would thus be available to disadvantaged whites, but this group is so small (some 1.6% of those living in poverty) that the benefits of EED would still go overwhelmingly to black South Africans. At the same time, EED's non-racial approach would be fully in line with the Constitution and its commitment to non-racialism. Using a means test to identify EED beneficiaries would also bring an end to obnoxious race classification and help strengthen social cohesion.<sup>34</sup>

## **8 Political obstacles to EED**

A shift from EE and BEE to EED would comply with the Constitution. It would also help provide tangible opportunities for the majority of black South Africans to climb the economic ladder to increased prosperity and cherished middle-class status. Yet, despite the obvious gains to be made, there is likely to be strong resistance to any such policy change.

The small black elite that profits greatly from BEE has a powerful vested interest in retaining present policies and will reject any shift to EED. This group includes the sons and daughters of the ANC's most senior leaders. These already wealthy and influential individuals often benefit from BEE tenders and (as President Cyril Ramaphosa acknowledged last year) from having 'inside information about [tender] opportunities' passed on to them by their relatives in government or the ruling party.<sup>35</sup>

*The ANC and its SACP ally are sure to resist reform. This is primarily because current EE/BEE rules help advance the socialist-oriented National Democratic Revolution (NDR) to which both organisations have been committed for more than six decades.*

Often, moreover, the BEE contracts concluded by members of this political elite allow them to charge greatly inflated prices for ordinary goods and services. Which seems to explain, for example, how a son of ANC secretary general Ace Magashule was reportedly able to buy a BMW worth R2m the week after his company (of which he is the sole director) won a lucrative contract to supply Covid-19 face masks and soap to the Free State provincial administration, where his father had served as premier for many years.<sup>36</sup>

Strong opposition to any shift from BEE to EED is also likely to come from many in the media and civil society. Left-leaning commentators of this kind have long supported both EE and BEE, without ever examining or acknowledging the harm resulting from these policies.

In addition, the ANC and its SACP ally are sure to resist reform. This is primarily because current EE/BEE rules help advance the socialist-oriented National Democratic Revolution (NDR) to which both organisations have been committed for more than six decades.

EE and BEE help promote the NDR by weakening business, driving away the established middle class, limiting investment and growth, and increasing unemployment, poverty, and inequality. BEE has also helped create a vast patronage machine, which keeps the ANC's deployed cadres strongly on side and gives the ruling party a level of (clandestine) election funding that no political rival can begin to equal.

In pursuing its NDR goals, the SACP/ANC alliance pays close attention to all relevant local and global circumstances – 'the balance of forces', in its preferred parlance – that either favour or impede the revolution. On the global front, recent events in the US have helped advance the NDR by giving a massive boost

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to critical race theory (CRT) and helping swing control of both Congress and the presidency to the Democratic Party. Since taking office in January 2021, moreover, President Joe Biden and his administration have demonstrated a strong commitment to CRT and to promoting its advance.

These events in the US will make it easier for the SACP/ANC alliance to shrug off domestic pressures for changes to BEE and hold fast to its existing transformation policies. The CRT threat to progress in South Africa must therefore be understood, so that the malign influence of this ideology can more easily be grasped and overcome.

## 9 The CRT obstacle to progress in South Africa

Having begun in the US in the 1980s, CRT first emerged as a coherent ideology at a conference held in Madison (Wisconsin) in July 1989. Initially, it seemed little more than an academic theory, of interest primarily to Left-leaning scholars in the humanities faculties of many universities and colleges. In 2020, however, CRT emerged as an astonishingly successful revolutionary movement with the capacity to shake the US to its core.

This shift took place when the Black Lives Matter (BLM) movement, which CRT had helped to spawn, shot to global prominence following the death of George Floyd, a 46-year-old black American. Floyd died on 25th May 2020, when a white policeman by the name of Derek Chauvin, who had arrested him for passing a forged bank note, put his knee on his neck for more than nine minutes while allegedly discounting his cries of 'I can't breathe'. Bystanders filmed the incident and posted them on social media, flashing deeply disturbing images of Floyd's distress across the US and the world. He died soon afterwards.

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The BLM movement, which had been formed in 2013 to demand justice for black Americans killed by the police, sprang swiftly into action to protest Floyd's death. Within a week, thousands of BLM rallies took place in the US and roughly a hundred more in other cities around the world. Often, as Wikipedia records, protesters sought to re-enact Floyd's final moments, with 'many lying down in the streets and on bridges, yelling "I can't breathe"'. Others...carried signs reading "Tell your brother in blue, don't shoot"...or "Justice for George Floyd"'. Often the call was to 'defund the police' and so help bring a racist force to heel.

Protests continued in many cities for some three months, bringing the total number of BLM demonstrations in the US to roughly 10 600 by late August 2020. According to Wikipedia, between 15 and 26 million people participated in these demonstrations, making the BLM the biggest protest movement in the history of America.<sup>39</sup>

The BLM protests gave renewed impetus to CRT, which has long regarded racism as the most important problem confronting the US. Even more significant in boosting CRT, however, was the November 2020 victory of Democratic Party presidential candidate Joe Biden and his running mate Kamala Harris. One of Biden's first actions as president was to sign an executive order signalling a new approach to 'racial equity'. Biden said that Floyd's death in 2020 had 'marked a turning point in [America's] attitude toward racial justice' and was 'forcing us to confront systemic racism and white supremacy'. Added the president: 'This nation and this government need to change their whole approach to the issue of racial equity.' This could not be 'an issue just for any one department; it had to be the business of the whole government'.<sup>40</sup>

Just what policies Biden plans to implement in this sphere remains largely uncertain. However, his emphasis on 'systemic racism', 'white supremacy', and the need for 'racial equity' faithfully echoes the language of CRT. This suggests that CRT's analysis of racism and how best to counter it will prove decisive under the Biden-Harris administration.

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Biden himself is less likely to be a true believer in CRT (he has often changed his mind on policy issues),<sup>41</sup> than a useful pawn in the hands of committed CRT ideologues. There is nevertheless a considerable risk that his apparent endorsement of the ideology will give greater legitimacy to CRT across the Anglosphere: not only in the US, but also in Canada, Australia, New Zealand, the United Kingdom and, of course, South Africa.

### 9.1 Origins and ambit of CRT

CRT traces its origins back to the ‘critical legal studies’ that began in the US in the mid-1970s. At this early stage, a key task of critical legal studies and its CRT offshoot was to question and discredit the sea-change in the legal rights of black Americans that the civil rights movement of the 1960s had helped to bring about. The Civil Rights Act of 1964, the Voting Rights Act of 1965, and various other laws and executive orders had terminated Jim Crow segregation, prohibited racial discrimination, and introduced wide-ranging affirmative action programmes for black people in employment, federal procurement, university admissions, and many other spheres.<sup>42</sup>

So comprehensive were these gains that CRT at first had little choice but to acknowledge and applaud them. Soon, however, CRT began to play down the importance of these policy shifts by claiming they had never made much difference in practice and were now being reversed. In keeping with this thesis, Richard Delgado and Jean Stefancic – authors of a CRT primer entitled *Critical Race Theory: An Introduction* – described the 1970s as a decade of disillusionment. It was becoming increasingly apparent, they claimed, that ‘the heady advances of the civil rights era had stalled and, in many respects, were being rolled back’. Overt forms of racism might have been curbed, but ‘subtler’ varieties were on the rise and could not be left unchecked.<sup>43</sup>

*CRT has developed extensive influence over the ‘national discourse’ in the US regarding affirmative action, poverty, crime, and hate speech. It is also helping, insiders say, to reveal the many evils in the ‘rampaging capitalism’ that the fall of the Soviet Union in 1991 helped to unleash.*

Since those early days, CRT has greatly developed its ideas and vastly strengthened its clout. It has become part of the curriculum in many law schools, giving it significant influence over the legal profession and the judiciary. It has expanded its ambit too, spreading from the legal field into education, political science, and ethnic studies, where it has helped develop a new focus on the iniquity of ‘whiteness’, as further outlined below.<sup>44</sup>

Though CRT’s initial focus was on ‘people of colour’, its offshoots now deal with many other groups regarded as similarly ‘marginalised and oppressed’ – including those identified by gender, sexual orientation, ethnic origin, and disability. Overall, write Delgado and Stefancic, CRT has developed extensive influence over the ‘national discourse’ in the US and is changing the way that people think about affirmative action, poverty, class, crime, and hate speech. It is also helping to reveal the many evils in the ‘rampaging capitalism’ that the fall of the Soviet Union in 1991 helped to unleash.<sup>45</sup>

### 9.2 Core tenets of CRT

Any analysis of CRT must begin with its five core tenets. These are: (1) racism is ordinary, ever present, and inescapable; (2) whites never make concessions to blacks unless it suits them and there is a (temporary) ‘interest convergence’ between the two groups; (3) race is a social construct that reflects and perpetuates the domination of whites over people of colour; (4) the ‘lived experiences’ and ‘narratives’ of people of colour are vital ‘ways of knowing’ that are more authentic than science and supposedly objective fact; and (5) classical liberalism and many of the core principles of Western democracy perpetuate racist oppression through their damaging focus on such ineffective shibboleths as equality before the law, colour-blindness, and incremental reform.

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Proponents of CRT commonly clothe these five concepts in language that seems persuasive and compelling. Yet CRT is deeply flawed in its ideas and profoundly destructive in its outcomes – as a brief examination of its first, third, and fifth core tenets suffices to show. (The other two tenets are deeply damaging too but cannot be canvassed here given time and space constraints.)

### *9.2.1 Racism is ordinary and ever-present*

Delgado and Stefancic (Delgado for convenience hereafter) put it thus: ‘Racism is ordinary, not aberrational – “normal science”, the usual way society does business, the common, everyday experience of most people of colour in this country’. This ‘ordinariness’ makes racism more difficult to identify and overcome. Gloria Ladson-Billings, a CRT analyst in the education sphere, adds that racism in the US is so deeply enmeshed in the very fabric of the social order that no one even notices it very much. Instead, people brush over its significance – and the enormous harm it does – because it seems so ‘natural’ and is such an everyday occurrence.<sup>47</sup>

As Delgado puts it, ‘lynching and other shocking expressions of racism are less frequent than in the past’, while some whites have even developed friendships across racial lines. Yet ‘racism continues to blight the lives of people of colour’ at all levels of society. Blacks seeking loans, apartments, and jobs are more likely to be rejected than similarly qualified whites. The prison population is largely black, poverty is still concentrated among black people, and black families have ‘on average, about one-tenth of the assets of their white counterparts’. People of colour have less schooling, worse medical care, and shorter life expectancy.<sup>48</sup> These disparities confirm the persistence of racism in American life – and give CRT the vital task of exposing the evil that would otherwise go unchallenged.<sup>49</sup>

*One of the great triumphs of classical liberalism was to reduce the importance of racial identity and emphasise the common humanity of all individuals. But CRT is determined to re-racialise society by making race and racism the key defining features of every person and every interaction.*

This first core tenet of CRT helps focus attention on many valid concerns. Racism has not been eradicated in the US or elsewhere, while black:white disparities in employment, home ownership, and other spheres continue and need to be addressed. There are nevertheless major fallacies and enormous dangers in this element of CRT.

CRT overlooks the limited skills, pervasive family breakdown, and other barriers to upward mobility that often hold black Americans back. Instead of seeking practical ways to overcome these barriers, it exaggerates the impact and pervasiveness of racism by sedulously seeking to uncover it in every interaction, relationship, and aspect of life. It also claims that any failure to identify and root out the racism it assumes to be all-pervasive is racist in itself.<sup>50</sup> CRT thus requires a constant focus on racial identity and a never-ending search for the racism that supposedly blights every situation.

One of the great triumphs of classical liberalism was to reduce the importance of racial identity and emphasise the common humanity of all individuals. But CRT is determined to re-racialise society by making race and racism the key defining features of every person and every interaction. This is extraordinarily polarising and is likely to poison race relations.

CRT also distorts the usual meaning of racism, expanding this far beyond intentional or even systemic discrimination. Its expanded concept of racism has been well captured by one of its foremost apostles, Ibram X Kendi. Kendi is the founder of the Antiracist Research and Policy Center at American University, the recently appointed holder of the prestigious Andrew W Mellon Professorship in the Humanities at Boston University, and the author of a best-selling book (published in 2019) on *How to Be an Anti-Racist*.

Kendi claims that his definitions of racism and anti-racism are both ‘lucid’ and tangible. In his view, there is no need to burden people with complex and redundant concepts such as ‘institutional’ racism, ‘systemic’ racism, or ‘structural’ racism. This is because racism in all these guises can be identified by a simple test.

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Kendi puts it thus: 'Racism is a powerful collection of racist policies that lead to racial inequity and are substantiated by racist ideas.' Racial inequity is present 'whenever two or more racial groups are not standing on an approximately equal footing' on measures such as home-ownership, income, and employment.<sup>51</sup>

A racist policy, Kendi adds, is any law, regulation, or procedure that 'produces or sustains racial inequity between racial groups'. A racist idea is 'any idea that suggests one racial group is inferior or superior to another racial group in any way' and so tries to explain away the 'racial inequities in society'.<sup>52</sup>

Anti-racism is essentially the opposite. 'An anti-racist policy is any measure that produces or sustains racial equity between groups.' An anti-racist idea is one that sees 'racial groups as equal' and identifies 'racist policies as the cause of racial inequities'. Any attempt to blame inequities on factors such as poor schooling or family breakdown is thus itself racist, says Kendi.

### *9.2.3 Race is an artificial 'social construct' used by whites to perpetuate their domination*

According to Delgado, there is no 'biological or genetic reality' behind the division of people into different races, for any discernible differences in skin colour or hair texture are insignificant compared to the characteristics that all humans have in common. Hence, 'races are categories that society invents, manipulates or retires when convenient'.<sup>53</sup>

Because race is a social construct, some people assume that racism is evident only in prejudiced 'thinking, attitude, and discourse'. But 'realists or economic determinants' recognise that racism goes far beyond such prejudice. At its core, 'racism is a means by which society allocates privilege and status'. It is the hierarchy established by racism that 'determines who gets tangible benefits, including the best jobs and the best schools'.<sup>54</sup>

Since whites are always the people elevated to the top of the hierarchy, it is vital to put the white race under the lens and explore how 'whiteness' contributes to white privilege, white supremacy, and white systemic power. It is not enough to analyse the sufferings of people of colour, as black studies have long done,<sup>55</sup> because it is the problem of 'whiteness' that primarily demands to be interrogated.<sup>56</sup>

*CRT applauds people with the capacity to recognise the impact of white systemic power, saying these individuals have put aside the false consciousness induced by their socialisation and become 'woke' (woken up) to the hegemony that whites enjoy and are determined to maintain.*

The ramifications of this third tenet are far-reaching. First, CRT declines to treat people as individuals, instead seeing them solely as representatives of their socially constructed racial groups. It therefore has no basis on which to recognise people's differing strengths and weaknesses. This helps to sustain the first of its core tenets – that unequal outcomes derive solely from racism – but is profoundly inaccurate.

Second, CRT sees America's root problem as 'white systemic power'. As CRT explains it, whites persist in oppressing people of colour because their institutional power over society enables them to do so. It is their systemic power that allows whites to impose their world view on others: and to control the ideas, political rules, and 'discourses' that everyone is socialised into regarding as normal, natural and necessary.<sup>57</sup>

White systemic power, adds CRT, is what shapes and defines every possible social interaction. One of CRT's key aims is therefore to 'problematise' any given interaction and so uncover the systemic power being exercised within it. It applauds people with the capacity to recognise the impact of white systemic power, saying these individuals have put aside the false consciousness induced by their socialisation and become 'woke' (woken up) to the hegemony that whites enjoy and are determined to maintain.<sup>58</sup>

### *9.2.5 Colour-blind policies and incremental change perpetuate racism*

According to this fifth core tenet of CRT, colour-blind policies and incremental change perpetuate racism and must be rejected. The colour-blind approach, says CRT, bars the law from taking account of race even

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where this is necessary to remedy historical injustice. It is also so narrow that it recognises only the most blatant of racial harms: a decision to hire a white high school drop-out instead of a black PhD, for instance.<sup>59</sup>

CRT insists that a colour-blind approach can neither identify nor overcome the racism that (in Delgado's words) is 'embedded in our thought processes and social structures', as well as in 'the routines, practices, and institutions' of society. Racism of such a pervasive and persistent kind can be terminated only by 'aggressive, colour-conscious efforts to change the way things are'.<sup>60</sup>

CRT is also deeply suspicious of the civil rights movement and the incremental reforms that it promoted. On this approach, says Delgado, 'rights are almost always procedural (for example, to a fair process) rather than substantive (for example, to food, housing, or education)'. This results in a flawed legal system which 'applauds affording everyone equality of opportunity but resists programs that assure equality of results'.<sup>61</sup>

The very notion of progress through incremental reform is pernicious too, Delgado adds, for rights accorded at one point in time are soon rolled back to suit the interests of the powerful. In the US and must be replaced by a single-minded focus on radical and fundamental change. In Delgado's words: 'Everything must change at once, otherwise the system merely swallows up the small improvement...made, and everything remains the same.'<sup>62</sup> But changing everything at once is, of course, a recipe for revolution.

*CRT rejects the very notion of progress through incremental reform. In its view, 'Everything must change at once, otherwise the system merely swallows up the small improvement...made, and everything remains the same.' But changing everything at once is, of course, a recipe for revolution.*

Moreover, it is not simply the colour-blind ideal and the idea of incremental progress that CRT rejects. Underpinning both these concepts is the principle of equality before the law and the Western belief in the importance and autonomy of the individual. In Western thought, all individuals are unique and cannot simply be subsumed within some identity group. In addition, all are equally entitled to the protection of the law against the overweening power of the state.<sup>63</sup> But CRT declines to accept these concepts as fundamental to liberty and democracy. Instead, it dismisses them as nothing more than mechanisms to keep the marginalised in their place.<sup>64</sup> In Delgado's words, CRT 'questions the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law'.<sup>65</sup>

What this also means, of course, is that CRT can never be proved wrong by 'Enlightenment rationalism' or informed reasoning of any kind. Yet a determined refusal to recognise objective reality and the evidence underpinning it is unlikely to achieve much in the real world. This is another reason why CRT demands cannot in practice be fulfilled – and why constant fruitless efforts to meet them are sure to generate polarisation, demoralisation and mounting racial hostility.

### **9.3 CRT and 'cancel' culture**

CRT's revolutionary aims make it deeply intolerant of moderation and dissent. Its core interim goal is to establish a 'counter-hegemony' of the Gramscian kind, which it recognises as an essential pre-condition for upending the existing order. To achieve this counter-hegemony, CRT must gain decisive influence over vital opinion-forming institutions and ensure that its orthodoxies become deeply entrenched. One way to achieve this dominance is to silence influential dissenting voices – for this is a potent means of consolidating a new 'groupthink' from which no deviation is permitted.

CRT's first core tenet – that racism is all pervasive – helps it to attain this aim. Social condemnation of racism in the US is so powerful that the 'racism' accusation levelled against any individual or institution has long carried enormous weight. What is new is that the penalties for alleged racism have increased considerably under the influence of CRT.

In the charged environment that CRT has helped create, people who have been tarred with the racist brush commonly face an upsurge in manufactured outrage, especially on social media. This outcry is

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generally accompanied by demands to boycott their work, retract their invitations to speak, cancel events at which they remain scheduled to talk, and dismiss them from their posts. In this way, ‘problematic’ individuals, as CRT critic James Lindsay writes, are ‘subjected to public shame, forced to apologise, and then shamed further’, while in many instances they are also removed from their high-status jobs.<sup>66</sup>

Sometimes the racism for which people are ‘cancelled’ takes the form of what CRT calls ‘micro-aggressions’. These are the slights, snubs, and other insults – most of them unintended – that people of colour are deemed constantly to confront as part of the oppression that is their daily lot.<sup>67</sup> More often, however, people are cancelled simply for contradicting CRT perspectives, even in oblique and peripheral ways.

Cancel culture is only part of the problem, however. Also important is the way in which social media act as echo chambers for people’s preferred views, even as they insulate them from encountering contrary perspectives. As veteran journalist Andrew Sullivan (and many others) have pointed out, people who largely rely on Facebook, Twitter, and YouTube for their news coverage have for many years been shielded – by algorithms that recognise their ‘likes’ and respond by giving them more of the same – from ‘alternative views, unpleasant facts, discomfiting arguments, and contextualising statistics’. The marketplace for the exchange of ideas and information has been divided up into ‘separate bazaars’, where the preferred beliefs of people on both sides of the CRT divide are constantly reinforced and become ever more ‘fixed and self-affirming’.<sup>68</sup>

Adds Sullivan: ‘If you watch video after video of excessive police force against suspects, for example, and your viewing habits are then reinforced by algorithms so you see no countervailing examples, your views about the prevalence of such excessive force will change, regardless of objective reality.... [And if you watch] countless videos of BLM protestors attacking cops, or assaulting bystanders, or hurling racist abuse, this will equally distort [your] understanding of the ubiquity of such incidents and their salience.’<sup>69</sup>

*CRT’s ultimate goal is the overthrow of the entire US system, from its capitalist economy to its democratic institutions. This is necessarily a long-term project. In the interim, CRT aims to achieve a number of intermediate goals, all of which are expected to contribute to the final objective.*

Social media coverage is sufficient to distort, divide and bring about ‘web-induced mass hysteria’, as Sullivan puts it, without any help from CRT. However, add in the CRT determination to suppress dissent and the potency of its cancel culture – and contrary views and necessary balance become even more difficult to find. Writes Sullivan: ‘In the past, we might have turned to more reliable [mainstream] media for context and perspective. But journalists and reporters and editors who are supposed to perform this function...are perhaps the ones most trapped in the social media hellscape...where any small dissent from groupthink is professional death... Point out missing facts or context, exercise some independence of judgement, push back against the narrative – and you’ll be first subject to ostracism and denunciation by your newsroom peers and then, if you persist, you’ll be fired.’<sup>70</sup>

#### **9.4 What CRT demands**

CRT’s ultimate goal, as outlined below, is the overthrow of the entire US system, from its capitalist economy to its democratic institutions. This is necessarily a long-term project. In the interim, CRT aims to achieve a number of intermediate goals, all of which are expected to contribute to the final objective.

##### **9.4.1 Anti-racist measures for ‘equity’ in every sphere**

As Kendi has explained, the adoption of ever more ‘anti-racist’ policy is an immediate core CRT objective, for it seeks to bring about ‘equity’ or equal outcomes in every sphere. This approach, says Kendi, ‘cuts to the core of racism’ far better than the usual concept of racial discrimination can do.<sup>71</sup>

Racial discrimination is not in fact a particularly helpful concept, adds Kendi. What matters is not whether discrimination is present or not, but rather whether the discrimination in issue is ‘creating equity or inequity’.

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'If discrimination is creating equity, then it is antiracist. If discrimination is creating inequity, then it is racist.'<sup>72</sup>

The correct kind of racial discrimination – that which creates equity – must be maintained at all times, says Kendi. 'The only remedy to racist discrimination is antiracist discrimination. The only remedy to past discrimination is present discrimination. The only remedy to present discrimination is future discrimination.'<sup>73</sup>

According to Kendi's analysis, 'anti-racist' policies are urgently required and must ensure that whites and blacks have the same outcomes in every sphere: from the neighbourhoods in which they grow up to the schools they attend, the grades they acquire, the universities and colleges where they study, the degrees they attain, the public and private sector jobs they hold, the incomes they earn, the pensions they build up, and the houses and other assets they acquire.

As even this relatively brief list makes clear, the extent of the social engineering required in trying to secure equal outcomes in all these spheres is mind-blowing. Nor can it be assumed that the results of what Kendi calls 'a kind of political chemotherapy' will be beneficial. In reality, equal outcomes between whites and blacks simply cannot be attained, not even by the most totalitarian of governments. Individuals differ in too many key respects – from aptitudes and interests to capacities for hard work and self-discipline – for this supposed 'norm' ever to be achieved.

*According to CRT apostle Ibram X Kendi, 'anti-racist' policies are urgently required and must ensure that whites and blacks have the same outcomes in every sphere.*

Yet CRT ideology pretends this is not so. In doing so, it sets impossible objectives that can never be fulfilled, and then blames unavoidable failures on racism alone. This is likely to polarise society into ever more hostile 'black' and 'white' groups perpetually engaged in a zero-sum conflict. It also demands ever more state intervention in every sphere in the pursuit of its impossible goals – which is, of course, a key element in the long-term CRT strategy.

#### *9.4.2 An end to Western democracy and the capitalist system*

CRT is a revolutionary movement which rejects the core principles of Western democracy the Enlightenment helped develop. As William Voegeli, a senior fellow at the Claremont Institute points out, the Enlightenment gave impetus to Western democracy by recognising the inherent equality and dignity of all individuals; developing the concepts of fundamental civil liberties and binding constitutions; and advocating for 'tolerance, pluralism – and governments that derive their just powers from the consent of the governed'. But CRT 'opposes and threatens liberal democracy by rejecting such principles, along with institutional pillars like a free press and independent courts, as devices that perpetuate and legitimate the oppression of the oppressed'.<sup>75</sup>

CRT is also deeply hostile to capitalism and seeks to bring it to an end. This intent is also evident in Kendi's book, which claims that the only way to end racism is to end capitalism as well because 'racism and capitalism...are conjoined twins'. They are 'two sides of the same destructive body... Capitalism is essentially racist; racism is essentially capitalist. They were birthed together from the same unnatural causes, and they shall one day die together from unnatural causes'. The only way they will survive, he adds, is if 'activists naively fight the conjoined twins independently, as if they are not the same'.<sup>76</sup>

Kendi makes no attempt to substantiate his claim that 'capitalism is essentially racist' and that 'racism is essentially capitalist'. Yet the link he asserts is far from self-evident, notes Coleman Hughes, a fellow of the Manhattan Institute for Policy Research and contributing editor of its *City Journal*. There are various historical examples in which businesses have resisted racial segregation. The *Plessy v Ferguson* case, for example, arose when a railroad company joined with a civil rights group to challenge segregation on the trains,

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which required extra carriages to be added at significant cost. Privately owned bus and trolley companies in the Jim Crow era in the South often opposed segregation too and for the same reason.<sup>77</sup>

However, much of the CRT challenge to the capitalist system is not as overt as Kendi's analysis and hence not so obviously flawed. The more insidious threat lies in the way that CRT reframes classic Marxist doctrine in its bid to discredit both Western democracy and the free-market system vital to individual freedom and limited government.

In the words of Yoram Hazony, president of the Herzl Institute in Jerusalem, few people understand the Marxist roots and anti-capitalist aims of CRT because CRT activists and advocates 'do not use the technical jargon developed by 19th century Communists'. They do not talk about the class struggle or the conflict between the proletariat and the capitalist bourgeoisie. But their analysis nevertheless follows the Marxist formula for understanding and then ending oppression through 'a revolutionary reconstitution of society at large'.<sup>78</sup>

In CRT's reshaping of Marxism, the oppressor group which owns and controls US society is framed in racial, rather than class, terms as the white population with its systemic power, privilege, and overarching supremacy. The oppressed group is, of course, the black one, which is endlessly exploited so that it cannot advance. Both groups are socialised into an axiomatic acceptance of the status quo, so as to sustain the false consciousness that obscures the systematic oppression taking place. The only solution for the oppressed is to cast aside their false consciousness and bring about the violent overthrow of the oppressors. Once the oppressed have taken control, all exploitation and suffering will end – though how this will be achieved remains obscure.<sup>79</sup>

The way in which well-known Marxist theories of class conflict have been reshaped as race conflict should be easy to discern. However, two factors impede this recognition.

First and foremost is the widespread belief that Marxism disappeared with the fall of the Berlin Wall in 1989 and the subsequent collapse of the Soviet Union. This is wrong, writes Hazony: 'A mere 30 years later, Marxism is back and making an astonishingly successful bid to seize control of the most important American media companies, universities and schools, major corporations and philanthropic organisations, and even the courts, the government bureaucracy and some churches'.<sup>80</sup>

*In CRT's reshaping of Marxism, the oppressor group which owns and controls US society is framed in racial, rather than class, terms as the white population with its systemic power, privilege, and overarching supremacy. The oppressed group is, of course, the black one, which is endlessly exploited so that it cannot advance.*

The second factor is the nature of the terminology in which the race struggle is being clothed. Concepts such as 'progressivism', 'social justice', 'anti-racism', and 'black lives matter' are being used to win broad popular support – and are proving highly effective in evoking sympathy and concealing CRT's revolutionary goals.<sup>81</sup>

## 10 The importance of CRT in South Africa

CRT is generally given little public attention in South Africa outside of academic, and largely legal, circles. Here, the ideology has been used for more than two decades to encourage judicial activism and a focus on 'transformation' as the overarching constitutional imperative – even though the Constitution contains no reference to this concept.<sup>82</sup>

When it comes to policy, however, CRT – with its emphasis on creating 'equity' between blacks and whites, as Kendi puts it – has been a lynchpin of EE and BEE policies since the political transition.

These policies demand demographic representivity among all public and private employees at board, managerial, professional, and other levels. They also seek demographic representivity in the procurement contracts of both public and private entities, and in the ownership of companies to boot.

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Demographic representivity is also increasingly demanded in the appointment of judges and magistrates; the staffing of universities, colleges, and schools; the admission of students and pupils; the employment of journalists; the accreditation of lawyers and other professionals; the composition of independent professional organisations; and even the appointment of sports teams. Increasingly, demographic representivity is also being sought in the ownership of land, minerals, and water resources.

Demographic representivity is the equivalent of the core CRT concept of 'equity'. As earlier noted, the SACP/ANC alliance demands this kind of 'equity' in every sphere because it helps advance the NDR by weakening the established middle class and hobbling the capitalist economy. The alliance also sees the growing influence of CRT in the US as helping to sway the global balance of forces in favour of its NDR goals.

CRT is particularly helpful to the NDR in its demand for equal outcomes in all spheres. But CRT it is no less useful in:

- its disdain for free speech, the primacy of the individual, equality before the law, and other principles of Western democracy;
- its endorsement of revolutionary rather than incremental change; and
- its constant claim that racism is the most pressing problem in the US and all other white-and-black societies.

*CRT also provides a useful foundation for explaining away what the majority of South Africans think. According to CRT, the widespread public view that joblessness is a far greater problem than racism simply reflects the 'false consciousness' flowing from white systemic power.*

This last is entirely in line with the ANC's abiding claim that racism is South Africa's most urgent and pervasive problem. Though most black South Africans disagree – and have repeatedly and consistently identified unemployment, crime, corruption, and poor housing as far more pressing challenges – CRT ideology nevertheless lends some credence to the ANC's view.

CRT also provides a useful foundation for explaining away what the majority of South Africans think. According to CRT, the widespread public view that joblessness is a far greater problem than racism simply reflects the 'false consciousness' flowing from white supremacy, white privilege, and white systemic power. This argument should be more difficult to sustain in South Africa, where whites (unlike in the US) make up less than 10% of the population and have no vestige of state power at the crucial national level. But the white minority still has economic clout and generally far better skills – which means the CRT perspective can nevertheless be used to discredit the common-sense views of most South Africans.

In the aftermath of George Floyd's death in 2020, the SACP/ANC alliance used the upsurge in angry protest to launch a new 'struggle' against racism in South Africa. According to the ANC, all South Africans must endorse and participate in this campaign if they are to avoid complicity in racism. 'If you are silent on racism, you are actually perpetuating it', says ANC deputy secretary general Jessie Duarte.<sup>83</sup> This statement comes straight out of the CRT playbook in the US.

CRT uses essentially the same methods and pursues essentially the same goals as does the NDR. Like CRT, the NDR seeks a socialist future and aims also at destroying capitalism. It too uses the supposed fight against racism to silence alternative views, demand equal outcomes, hobble growth, worsen poverty, entrench dependency, and bend society to its destructive goals.

CRT and the NDR have been clad in different camouflage in the US and South Africa, so as to take advantage of the images and analysis likely to resonate the most strongly within each.

But CRT and the NDR are simply different means towards the same collectivist and socialist goals. Both seek to eradicate the core Western principles that put the interests of the individual before those of

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the group, require the government to uphold equality before the law, encourage voluntary exchange via the market, promote the free flow of information and ideas, limit the overweening dominance of the state – and have brought about the greatest liberation from poverty the world has ever known.

Socialist hegemony is not what most Americans want, any more than it is what most South Africans seek. But it may nevertheless be what both countries in time confront unless the anti-racism mask is constantly stripped away to reveal the underlying anti-democratic and anti-capitalist intent.

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