Education as the Property of Whites: African Americans
Continued Quest for Good Schools

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Handbook of Critical Race Theory in Education

Edited by
Marvin Lynn and Adrienne D. Dixson
Handbook of Critical Race Theory in Education

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INTRODUCTION

Historically, White people, and by default whiteness (i.e., White racial hegemony/White supremacy), have played a central role in determining Black people’s access to education in the United States (Anderson, 1988; Du Bois, 1973/2001; Woodson, 1933/1993). Beginning with the country’s founding, with the outlawing of teaching slaves how to read and write to the imposition of the Hampton model of industrial education, which emphasized “an ideology [that was] inherently opposed to the political and economic advancement of [B]lack southerners” (Anderson, 1988, p. 53), to state-authorized and enforced public school racial segregation (i.e., Jim Crow), White people have shaped the educational fortunes of their Black counterparts. Despite African Americans being the first racial group in the US to advocate for universal public schooling, Whites have traditionally sought to maintain an inherently separate and unequal public schooling system (Anderson, 1988).

In more contemporary times, using rhetorical devices and discursive narratives such as metaphors, analogies, and euphemisms, Whites continue to adversely shape Black people’s collective access to quality learning environments (Donnor, 2011). Significantly less hostile in veracity than Jim Crow but no less impactful, the aforementioned methods of racial exclusion frame policies and institutionalized practices meant to foster racial equality in education as inherently discriminatory toward White people (Donnor, 2011). According to this racially conservative line of reasoning, educational policies, such as public school integration and affirmative action, which consider race among a multitude of factors (i.e., plus-one) in pupil placement assignments or college admissions, are considered a “special consideration above and beyond a perceived baseline of equal treatment” (Bracey, 2006, p. 1272). In other words, policies and practices intended to formally expand people of color’s access to quality educational environments are deemed unfair because they run counter to the American ideal of individualism and the capitalistic principle of choice (Brown et al., 2003; Flagg, 1998; Winant, 1997a, 1997b).
The assertion that policies in education that use race as a plus-one factor are antithetical to the country’s founding tenets of individualism and choice is specious when one considers how the foregoing policy constructs have been utilized to secure and advance the privileges and self-interests of Whites over the needs of African Americans. For example, rather than comply with federal court desegregation orders, Whites in the South engaged in massive resistance, through policies such as freedom-of-choice plans. In theory, freedom-of-choice plans were intended to provide Black and White parents interested in racial integration an equal opportunity to send their children to the school of their choice (Crespino, 2006; Ogletree, 2004). In practice, however, freedom-of-choice plans shifted the responsibility of school desegregation onto Black families, because Black families had to formally apply for admission into White schools. Moreover, White parents “almost never” chose to enroll their children at schools with Black students (Kotlowski, 2005, p. 175). As a result, the pace of school desegregation in the South was not just slow; for nearly a decade after the *Brown v. Board of Education* decision of 1954 and 1955, “not a single [B]lack child attended an integrated public school in South Carolina, Alabama, or Mississippi” (Klarman, 1994, p. 84).

In addition to serving as political and racial code words, individualism and choice advance a restricted conception of equal opportunity that obfuscates entrenched ideological practices, ontological meanings, and structural arrangements that advance the self-interests and racial privileges of Whites over the educational needs of non-Whites, especially African Americans. Along with ignoring history and complexity, individualism and choice function as discursive policy instruments that evoke a set of mythic beliefs and behavioral assumptions on the part of White people that allow them: (1) to oppose large-scale efforts that attempt to equitably expand social opportunity; and (2) to justify an inequitable educational status quo. Consequently, the target populations for policies meant to foster racial equity in public education, such as integration, are framed as undeserving. In a cruel irony, proponents of choice and individualism argue that the aforementioned policy constructs are best equipped to allocate social resources and opportunities more evenly, because they are neutral regarding race or blind to color (i.e., colorblind). Stated differently, by requiring people to act as if race does not exist, colorblind policies are considered as the “fairest way to mediate certain widely shared public values that clash sharply when victims of racial subordination seek legal preferences in redress for America’s undeniable history of racial and ethnic injustice” (Boger, 2000, p. 1722).

A publicly stated objective of the Civil Rights movement of the 1950s and 1960s, colorblindness as a method for distributing resources and opportunities through choice and individualism does appear to be fair. However, a more critical examination of colorblindness, choice, and individualism reveals that the foregoing policy constructs are rife with inconsistencies, paradoxes, and contradictions, most notably the ability to reify the educational racial status quo, which for the purposes of this chapter includes the capacity to exaggerate the supposed harm of education policies, such as integration, incurred by Whites. Hence, the purpose of this chapter is to discuss how choice, individualism, and colorblindness, when used by Whites, foreclose access to quality learning opportunities for people of color. Moreover, the foregoing policy constructs ensure that access to quality educational environments remains the property right of people of European descent in the United States. To support this assertion, I examine the US Supreme Court’s 2007 decision in *Parents Involved in Community Schools (PICS) v. Seattle School District No. 1*, using Cheryl Harris’s whiteness as property construct. An anti-public school
integration case, the Supreme Court’s majority in *PICS v. Seattle School District No. 1* declared that the Seattle school district’s voluntary efforts to diversify the region’s best and most sought-after high schools were unconstitutional. According to the high court, the plaintiff, a group of mostly White families, had an interest in “not being forced to compete for seats at certain high schools in a system that uses race as a deciding factor in many of its admissions decisions” (*PICS v. Seattle School District No. 1*, 2007, Section II, p. 10, para. 2). The author contends that not only does the Supreme Court’s position secure the historical advantages accorded to Whites over people of color, but by using the whiteness as property construct one is better able to see how people who are phenotypically White are surreptitiously redefined as a social group needing special protection.

**ORGANIZATION OF THE CHAPTER**
What follows in this chapter is organized into four sections. The first presents an overview of the Supreme Court’s decision in *PICS v. Seattle School District No. 1*. The second discusses Cheryl Harris’s whiteness as property construct in order to set the stage for how choice, individualism, and colorblindness are linked to a “set of expectations, assumptions, privileges, and benefits associated the with social status of being White” (Harris, 1995, p. 277). The third examines the high court’s decision in *PICS v. Seattle School District No. 1* through the whiteness as property construct. My goal here is to articulate how access to quality public institutions of learning is the property of White people. The fourth section discusses the sociopolitical implications of the maintenance of quality public schools as the property of White people.

*Parents Involved in Community Schools v. Seattle School District No. 1*
Decided by a five to four margin in 2007, the US Supreme Court in *PICS v. Seattle School District No. 1* declared that voluntary public school integration programs are unconstitutional (*PICS v. Seattle School District No. 1*, 2007). Specifically, citing the prospective harm to students and injury their families might incur from the denial of admission to the public school of their choice, the Supreme Court ruled that the Seattle school district’s use of race as a categorical variable in assigning students to oversubscribed or over-selected schools in the region was “fatally flawed” (*PICS v. Seattle School District No. 1*, 2007, Section II, p. 15, para. 3). According to the Court’s majority, the Seattle school district’s Open Choice Plan, which consists of a series of tiebreakers, including an integration tiebreaker, to assign students to oversubscribed schools, “works backwards” toward achieving student racial diversity, rather than “working forward from some demonstration” that diversity provides an educational benefit to all students (*PICS v. Seattle School District No. 1*, 2007, Section II, p. 15, para. 4). In the Court’s view, very little evidence exists supporting the policy assumption that a racially diverse classroom has an educative value for all students. The following is a synopsis of the Seattle school district’s Open Choice Plan.

*Open School Choice in Seattle*
The Seattle school district’s Open Choice Plan was established as an effort: (a) to systematically racially integrate its public schools; (b) to stem White flight from the city’s public schools and assuage feelings of being forced to integrate; and (c) to allay Black Seattleites’ concerns that they would be paying the bulk of the human and institutional costs of busing (Donnor, 2011; *PICS v. Seattle School District No. 1*, 2006). Under the Open
Choice Plan, area students ranked their attendance preferences for the district’s ten public high schools. When too many students selected a particular high school, the district utilized a series of tiebreakers to assign students. The first tiebreaker was the sibling priority (PICS v. Seattle School District No. 1, 2006). In this particular instance, a student with a sibling in a chosen high school was given priority, because the district believed that students who attended school with their sibling were more likely to encourage parental engagement (PICS v. Seattle School District No. 1, 2006). The second tiebreaker implemented was geographic proximity. Here, the district granted admission priority to students who lived close to their preferred schools. As with the sibling tiebreaker, the district postulated that parents with children attending schools close to home are more likely to develop long-term partnerships with teachers. The third tiebreaker of the Open Choice Plan applied to pupil placement assignments was an “integration tiebreaker” (PICS v. Seattle School District No. 1, 2006). According to school district officials, when an oversubscribed or over-selected school’s student enrollment deviated by “15 percentage points,” plus or minus, from the district’s overall student demographic composition, a student’s race was considered in determining pupil placements (PICS v. Seattle School District No. 1, 2006). In fact, the Seattle school district used the integration tiebreaker only when the particular high school became racially homogeneous (PICS v. Seattle School District No. 1, 2006; Seattle Public Schools, 2007).

THE SUPREME COURT’S DECISION

For the affirming justices, the Seattle school district’s integration tiebreaker “offer[ed] no evidence that the level of racial diversity necessary to achieve the asserted educational benefits happen to coincide with the racial demographics of the respective school districts—or rather the white/nonwhite or black/‘other’ balance of the districts, since that is the only diversity addressed by the plans” (PICS v. Seattle School District No. 1, 2007, Section II, p. 15, para. 4). For the Court’s majority, if the racial composition of the Seattle metropolitan area were to shift, the school district would be compelled to continue considering race in assigning students to the city’s most sought-after public high schools, meaning that the Seattle school district’s policy on integration did not have a “logical stopping point” (PICS v. Seattle School District No. 1, 2007, Section II, p. 15, para. 4). Stated differently, allowing the school district to use race as a categorical variable in pupil assignments would “effectively assure that race will always be relevant in American life” (PICS v. Seattle School District No. 1, 2007, Section II, p. 16, para. 1).

In a separate concurring opinion, Justice Clarence Thomas, the lone African American on the Supreme Court, contended that the Seattle School Board did not “have [an] interest in remedying past segregation” (PICS v. Seattle School District No. 1, 2007, Section II, p. 25, para. 1). According to Justice Thomas, because the Seattle school district has never operated a de jure segregated school system or been subjected to federal court orders to integrate area schools, the school district could not proactively ameliorate the disparate impact of de facto racial inequality regarding pupil assignment. For Justice Thomas (and the Court’s majority), racial segregation in education is the product of explicit governmental policies or identifiable actors who purposely intend to separate students “solely on the basis of race” (PICS v. Seattle School District No. 1, 2007, Section II, p. 25, para. 1). For the Court’s majority, upholding the Seattle school district’s integration tiebreaker as constitutional would “give school boards a free hand to make

In a consideration of the Supreme Court’s decision in *PICS v. Seattle School District No. 1* within the nexus of race, education, opportunity, and exclusion, a more critical analytical approach is necessary in order to articulate how racial inequity is not only the byproduct of individual actors or specific institutionalized practices, but also a dynamic phenomenon and complex process involving “seemingly objective conditions [and the] [un]consciousness associated with those conditions” (Freeman, 1978, p. 1053), such as the cumulative effect of race (Katz et al., 2005; Katznelson, 2006; Walters, 2001). This is where Cheryl Harris’s construct of whiteness as property is particularly useful.

**WHITENESS AS PROPERTY**

An analytical construct of critical race theory (CRT), whiteness as property posits that ensconced within people of Western European ancestry in the United States (and globally) are a distinct set of ideological assumptions and dispositions, privileges, and expectations inextricably linked to their phenotypical appearance and sociopolitical status (Harris, 1995). White people over time and by virtue of their existence have come to expect and rely upon a unique and exclusive set of benefits, predispositions, and socio-economic privileges associated with their whiteness, which have been established through a legacy of conquest and domination of people of color globally (Harris, 1995; Lopez, 1996; Mills, 1997; Winant, 2001). Stated more pointedly, through force, coercion, consent, custom, and jurisprudential edifice, white skin and whiteness have become exclusive forms of private property (Harris, 1995; Lopez, 1996; Mills, 1997). According to Harris (1995), “whiteness—the right to white identity … is property if by ‘property’ one means all of a person’s legal rights” (p. 279). In other words, whiteness is more than a set of specific physical traits and ancestry, although important. Rather, whiteness is a racialized system of meaning and domination composed of ideological adherents and material components (Lopez, 1996).

As a racialized system of meaning and domination, whiteness must be constantly “affirmed, legitimated, and protected” (Harris, 1995, p. 277). Indeed, one of the primary ways in which the aforementioned is accomplished is by ensuring White people’s absolute right to exclude non-Whites from social resources and meaningful life opportunities or chances (Harris, 1995). For example, during the colonial era “only white [people’s] possession and occupation of land was validated” (Harris, 1995, p. 278) by the federal government. In addition to conflating the interrelationship between race and property, the federal government’s recognition of White people as the sole bearers of property served as the genesis for an unjust and exploitative society designed to maintain and advance White supremacy (Harris, 1995; Mills, 1997). According to Harris (1995), property as conceived in the founding era included not only external objects and people’s relationship to them, but also all of those human rights, liberties, powers, and immunities that are important for human well-being, including freedom of expression, freedom of conscience, freedom from bodily harm, and free and equal opportunities to use personal faculties.

(p. 280)
Indeed, “part of the point of bringing society into existence, with its laws and enforcers of the law, is to protect what you have accumulated” (Mills, 1997, p. 32). For example, the ideas of the “freeborn Englishman” and liberty not only served as the foundational pillars for Anglo-American culture and nationhood in Britain, but, once both constructs were conjoined, also “helped to legitimize the colonization of North America” (Foner, 1998, p. 5).

In summary, whiteness, like conventional material property, derives its value primarily from exclusivity, because the boundaries it creates “enforce or reorder existing regimes of power” (Harris, 1995, p. 280). As a consequence, the racial disparities and inequalities created, reproduced, and reified by whiteness, like property, not only establish a unique set of explicit and tacit rules, expectations, and practices regarding access and deployment, but governing institutions, such as the judicial and educational systems, are also instrumental in assigning their societal value. To put it bluntly, whiteness is characterized more by who is White than who is not (Harris, 1995). Furthermore, because whiteness is continuously fortified through social institutions and structural interactions, the political, economic, and educational status of superiority that has been historically assigned to Whites by White people naturalizes the existing state of affairs, which absolves them of responsibility for creating and maintaining an unjust society. Thus, for all intents and purposes, whiteness and White people are not just the societal norm. In addition, both social constructs require constant protection (Harris, 1995).

With this understanding of whiteness as property, the following section will discuss how the high court’s ruling preserves access to quality public schools as the property of people of European descent.

**PARENTS INVOLVED IN COMMUNITY SCHOOLS V. SEATTLE SCHOOL DISTRICT NO. 1 AS SEEN THROUGH THE EYES OF WHITENESS AS PROPERTY**

Upon first glance, the Supreme Court’s decision to abolish race as a relevant aspect of public education and American life appear well intentioned. For sure, not only is the very notion that race be consciously employed in governmental administrative decisions and policy-making (i.e., pupil placement assignments) presumptively demeaning, because it is the “abrogation of individuality, through stereotyping and prejudice” (Carlon, 2007, p. 1173), but the conscious use of race in public policy decision-making processes can reintroduce formal racial caste systems of subordination, such as Jim Crow (Alexander, 2010; Carlon, 2007). Thus, the Supreme Court’s anti-classificationist approach toward race (i.e., the removal of explicit racial designations) is an attempt to transform society into an idyllic place where extant racial disparities and disadvantages are redefined as the byproduct of individual dysfunctional behavior, rather than the manifestation of historical inequities or structural discontinuities.

Regrettably, the Supreme Court’s application of a colorblind paradigm in *PICS v. Seattle School District No. 1* does nothing more than provide a protective veneer over White people, their self-interests, and their possessive investment in whiteness (Lipsitz, 1988). While more benign in appearance and more subtle in tone when compared to Jim Crow, the high court’s “racial coding” (Wilson & Nielsen, 2011, p. 176) of integration, a policy intended to foster racial equality, as a barrier to the educational opportunities of White students and their families reinforces the American racial hierarchy, because
the “values, perspectives, and practices traditionally associated with White institutions” (Crenshaw, 1997, p. 106) are affirmed. Furthermore, conscious policy efforts to disrupt or ameliorate the legacy of structural racism irrespective of its impact on White people collectively are interpreted as a violation of the American ideal (Mills, 1997). Indeed, the end-game on the part of the parent organization and the Supreme Court is maintaining White supremacy. Consider the schizophrenic rationale advanced by the Court.

Despite acknowledging that it is “factually possible that the plaintiff’s children will not be denied admission to a school based on their race” (PICS v. Seattle School District No. 1, 2007, Section II, p. 10, para. 2), the Court’s majority validated PICS’s injury claim as previously mentioned. Not only does this validation frame individual Whites’ cognitive and dispositional expectation of uninhibited access to quality learning environments as morally equivalent to Black people’s mistreatment and marginalization, historically and contemporaneously, but the Supreme Court’s affirmation of the mostly White organization’s claim of harm fortifies entrenched racial advantages and existing structural patterns of racial inequality. For instance, in the only year that the integration tiebreaker was used (2000–01), “80.3%” of the total number of ninth graders were assigned their first choice of school compared to “80.4%” when the tiebreaker was not utilized (PICS v. Seattle School District No. 1, 2006, p. 9). Also, when one considers that “more than 75% of the District’s non-white students live in the southern half of the city, while 67% of the white students live in the northern half” (PICS v. Seattle School District No. 1, 2006, p. 2), and the racial composition of Seattle public schools mirrors the city’s residential patterns, the Supreme Court’s decision to endorse PICS’s claim that the integration tiebreaker intrudes on a student’s individual right to select the high school of his or her choice is grossly overstated, and essentially inscribes racial segregation as a matter of law.

CONCLUSION: SEEING THROUGH WHITENESS

The Supreme Court’s decision to depart from its Brown v. Board of Education precedent of 1954 in PICS v. Seattle School District No. 1 teaches policy-makers, scholars, and activists concerned with the educational fortunes of African American students a lesson that is neither new nor unique (Bell, 2004; Donnor, 2011). When viewed from a historical perspective, the high court was adhering to a higher jurisprudential edict. Unspoken and subconscious, the Supreme Court’s ruling in PICS v. Seattle School District No. 1 is the latest iteration of what constitutional scholar Derrick Bell (2004) termed a “racial-sacrifice covenant” (p. 29). The product of a “convergence of interests” (Bell, 1980, p. 522), the racial-sacrifice covenant is a compromise whereby the sociopolitical fortunes of African Americans are only validated when they “secure, advance, or at least [do] not [interfere with] societal interest” (Bell, 1980, p. 523) deemed important by society’s ruling elite. According to Bell (1980), the overall unwillingness of Whites, irrespective of socioeconomic status and political affiliation, to recognize that “true equality for blacks will require the surrender of racism-granted privileges for [W]hites” (p. 523) means legal remedies for racism and policy efforts to foster racial equality are not intended to systematically combat the practices, policies, and structures that adversely affect the life chances and experiences of people of color in the United States. Equally important, educational policies heralded as promoting equal racial opportunity are designed to be temporary (Bell, 1980).
From a whiteness as property perspective, the Supreme Court’s decision in *PICS v. Seattle School District No. 1* reflects society’s governing institutions’ ability to schematize how public policies intended to help non-Whites are an axiological encroachment on White people’s proprietary right to exclude non-Whites from meaningful social opportunities and resources. As such, the violations must be rectified. Because the interrelationship between white skin, ideology, epistemology, and expectation creates a “phantom objectivity” (Harris, 1995, p. 281), which is rooted in pre-Enlightenment conceptions of race, the Supreme Court’s decision to prioritize the personal choices of White families over the educational opportunities of African Americans is expected (Mills, 1997; Vander Zanden, 1959). In other words, the prioritizing of personal choice within the context of education over racial equity recapitulates the educational and concomitant political economic status quo, because “White people’s private choices [always] outweigh concern for Black people’s equal status” (Roberts, 1996, p. 367). Moreover, the form of non-competitive individualism put forth by the highest court in the land renders members of historically marginalized groups, such as African Americans, “unable to compete without compensatory support” (Bell, 1987, p. 236). Perhaps the greatest lesson the Supreme Court’s decision in *PICS v. Seattle School District No. 1* teaches is that whiteness is enduring.

NOTES

1 Black and African American are used interchangeably.

2 By educational status quo, I am referring to the educational reality that African Americans (and Latino/as), particularly males, are less likely to graduate from high school than their White and Asian American counterparts and more likely to be incarcerated as a result of their educational shortcomings (Children’s Defense Fund, 2007; Donnor & Shockley, 2010; Justice Policy Institute, 2007; Mauer & Scott King, 2004).

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