

Unfairness Is Not a Virtue: Exploring One of Critical Race Theory's Concerns

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Abstract

The intent of this article is to explore the use of narrative within the field of Critical Race Theory (CRT) and offer some theological reflection on how it comports with Lutheran approaches to theology and ethics. Rather than offer an unfair, quick, or easy answer, this article offers extended engagement with recent scholarship in the field of CRT prior to critical analysis through both broadly Christian as well as specifically Lutheran lenses. Far from being an idea to reject wholesale, the narrative focus common to CRT can dovetail with Lutheran theological and ethical thought and approaches to life in the world.

Naming a Thing

It is difficult, though perhaps not impossible, to disagree with Esau McCauley when he writes,

Peacemaking, then, cannot be separated from truth telling. The church's witness does not involve simply denouncing the excesses of both sides and making moral equivalencies. It involves calling injustice by its name. If the church is going to be on the side of *peace* in the United States, then there has to be an honest accounting of what this country has done and continues to do to Black and Brown people. Moderation or the middle ground is not always



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the loci of righteousness. Housing discrimination has to be named. Unequal sentences and unfair policing has to be named. Sexism and the abuse and commodification of the Black female body has to end. Otherwise any peace is false and nonbiblical. Beyond naming there has to be some vision for the righting of wrongs and the restoration of relationships. The call to be peacemakers is the call for the church to enter the messy world of politics and point toward a better way of being human.¹

McCaulley, an Anglican priest and New Testament scholar at Wheaton College, wrote those words in his now famous work, *Reading While Black: African American Biblical Interpretation as an Exercise in Hope*. While some might balk at his assertions about truth telling and naming, theologians who have been shaped by the Heidelberg Disputation would be hard pressed to do so. Why? Because Luther made a similar point when he said, “A theologian of glory calls evil good and good evil. A theologian of the cross calls the thing what it actually is.”² To be clear, Luther and McCaulley are not speaking into the same cultural and ecclesiastical moment. McCaulley’s quote above, written in a book published during a year of unrest in the United States, is addressing the Church’s role in what he terms as peacemaking. He affirms that the Church engages the society in which it lives from a biblically shaped perspective and that doing so requires naming injustice. Luther, on the other hand, engages in a scholastic debate concerning, among other things, the ability of the law to grant and sustain righteousness. It would be unfair to suggest they are speaking to the same thing, or even saying the same thing. It would be equally unfair to suggest they are saying completely different things. Both McCaulley and Luther, theologians separated by time, space, language, and a host of other theological, ecclesiastical, and cultural realities, understand the value in naming a thing what it is. The essay that follows is, in part, an attempt to name a thing what it is.

Critical Race Theory (CRT) is an often misunderstood, misapplied, and much maligned phrase. My goal is to offer a definition, explore some of its features, and ascertain the ways it might intersect with Lutheran theological expression. Before doing so, however, I want to begin by acknowledging that this topic can be incendiary. Some of what critical race theorists suggest, which will be explored below, is not comfortable. Because it can often be a divisive topic, because people so often retreat to what they half heard from a media personality, I want to caution against offering what Martin Franzmann once called “quick and easy answers.”³ Franzmann was no stranger to quarrels over ideas and conflicts that mattered. During the mid-twentieth century tumult in the Missouri Synod, Franzmann was often tasked with speaking into highly charged situations among disparate opinions and personalities.⁴ Always irenic, Franzmann unfailingly displayed something the Church often fails to embody in those kinds of moments—charity. At the height of the controversy surrounding biblical authority and interpretation, Franzmann wrote the following:

The questing mind of even pious man being what it is, and the history of many hypotheses in Biblical studies being what it is, one is tempted to render a quick and easy verdict: hypotheses are of the devil. But quick and easy answers are not always the best answers, and unfairness toward seriously

searching men is not a virtue. We shall do better to inquire seriously into the nature of an hypothesis, its value and limitations.⁵

Franzmann does not let the prevalence of sin in the minds of pious men or the lack of reverence for the Scriptures that hypotheses can produce prevent him from offering charity. In this essay I aim to follow in Franzmann's footsteps; I intend to be generative and not caustic because I agree that "quick and easy answers are not the best answers" and because I believe "unfairness toward seriously searching men is not a virtue." Exploring a topic like CRT demands such a posture not because the ideas are sacrosanct, but because the field of CRT is concerned with issues the Church should be concerned about, with what McCaulley, Luther, and Franzmann were concerned about—people. Put in its most positive light, CRT is interested in understanding why people experience life the way they do with the purpose of offering ways to ameliorate the undue burdens people experience. This essay, as much as it inquires seriously about ideas, is about people—practitioners in a controversial field as well as those subjects under consideration—all of whom are created in the image of God, all for whom Christ died and rose again. Such a reality does not mean that their ideas need to be accepted in part or in whole, but rather that it is unvirtuous to dismiss people for which Christ shed His blood, even if they are CRT scholars, theorists, and practitioners.

Inquiring Seriously

In a recent article, Villanova professor of sociology Glenn E. Bracey II⁶ offers a historically contextualized definition of CRT. He writes,

CRT developed in the United States in the late twentieth century as a thoroughgoing critique of how race shapes, and is shaped by, law (Crenshaw et al. 1995). This law-centered CRT had two analytical directions. First, it examined the effects of race on aspects of the law, such as jurisprudence, legislation, legal pedagogy, legislation, and enforcement (Crenshaw 1988; Gotanda 1991; Moore 2008). Second, CRT analyzed how law racializes every aspect of social life, such as constructing race (Haney-Lopez 2006); motivating racialized performances (Gulati and Carbado 2003); and limiting practicable rights in sexuality and reproduction (Bridges 2011; Roberts 1999), immigration (McKanders 2012), and privacy (Bridges 2017; P. Williams 1991). Since the 1990s, scholars have extended CRT to a range of disciplines, including political sociology (Bracey 2015), education (Ladson-Billings/Tate 2016), philosophy (Jaima 2021), and psychology (Adams and Salter 2011), to name a few.⁷

Bracey's explication is helpful for at least two reasons. First, it rightly locates the origin of CRT within legal studies.⁸ Second, it points out that the original locus was later applied to other areas of inquiry. Legal theory, and what other disciplines have

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done with it, are not the same thing. CRT has broad and narrow aspects and applications. Theorists and practitioners are not unilaterally or univocally agreed.⁹ This actuality has caused Richard Delgado and Jean Stefancic to write that “the critical race theory (CRT) movement is a collection of activists and scholars engaged in studying and transforming the relationship among race, racism, and power.”¹⁰ Moreover, CRT attempts to explain why the world is less just than it appears to be. Bracey insists that,

CRT imagines a fair world, which would exist if not for abuses of power and defects in the social system. Against this heavenly utopia, CRT measures the empirical world and finds it wanting. The gap between the just utopia and the corrupted empirical world is the focus of CRT scholarship.¹¹

Perhaps it is obvious, then, that CRT is not only difficult to define, but any definition is necessarily partial. I use the term “partial” in the sense that any definition of CRT only offers a piece of the concept and in the sense that it comes from a biased or even partisan source, as activists and scholars can certainly be partial in their treatment of topics. Again, this is why Bracey’s definition is helpful: because it seeks to contextualize historically what is notoriously difficult to define. Any fair discussion of CRT must take the full reality of the concept into account.

Just because CRT is difficult to define does not mean it is impossible to address common themes or tenets apparent in the work of its practitioners.¹² Bracey’s article is again helpful in that he lists six core tenets common within CRT that he sees as being derived from “Spiritual Principles.”¹³ It should be noted that, in his article, Bracey contributes to the broader CRT discussion by addressing a perceived desire in CRT scholarship for work that “accounts for the codefining quality of race, racism, and religion.”¹⁴ Bracey understands his work as demonstrating “CRT’s utility by renewing the religion and spirituality-based critique of race law that undergirds early CRT . . . noting its founders’ reliance on Christian tradition and the spiritual claims in its tenets.”¹⁵ Perhaps the very notion of CRT having tenets derived from or practitioners having Christian spirituality is unsettling, but it would be unfair to judge such a perspective without hearing the argument in full.¹⁶ What, then, are those tenets described by Bracey?

Those tenets are: (1) race is a social construction, created to justify European exploitation of other groups by establishing “whiteness” as the superior social status (Haney-Lopez 2006; Harris 1993); (2) racism is a normal outcome of U.S. institutions and social relations; racism is neither an occasional apparition nor detached from material production; when the normal operation of institutions and social norms disproportionately benefits white people, that is called “white supremacy”; (3) intersectionality—meaning people’s multiple, interlocking identities position them differently in social structures—generates structurally specific needs and perspectives; (4) the Black-white binary focuses analysis on Black-white dynamics; however, scholars must transcend this binary because white racism is directed against all peoples of color, sometimes in ways that are different from how

whites target African Americans; (5) racism is permanent and has a polar, hierarchical structure, with whites on top and Black people on the bottom; and (6) narrative is essential.¹⁷

While it would be possible to explore each of the six tenets Bracey describes, such an endeavor would require more time and space than is pragmatic for an article of this kind. Thus, I intend to explore only one of the themes Bracey suggests is a common core tenet, one that he also argues is derived from spiritual principles, i.e., “narrative is essential.”¹⁸ Fairness and charity suggest that every single one of the tenets Bracey names be explored and heard on its own terms. I am choosing to explore narrative not simply because it is potentially the least controversial of the six tenets but more so because understanding narrative is, I hope to demonstrate, integral to Lutheran ethical discourse. In what follows I will explore Bracey’s argument concerning narrative, assess it in broadly Christian terms, and then apply a distinctively Lutheran lens to it.

Hearing The Human

Bracey asserts that “CRT’s commitment to narrative has two forms: context and communication.”¹⁹ We will deal with each in turn.²⁰ First,

in terms of context, CRT rejects the traditional legal model which ignores social context in favor of the specific facts of a case, even when those facts are dependent on recognizing history and social structure (Moore 2014). Instead, critical race theorists insist on accounting for racial history and systemic racism. For example, the history of police violence against African Americans is relevant to why a Black motorist may drive an extra mile to a well-lit location before pulling over for an officer. In the absence of narrative, such behavior may be understood as resisting arrest, but in social context, it is simply seeking safety from a reasonable threat.²¹

Notice that Bracey is not making a false equivalency between the police violence that has historically happened (one need only think of the 1964 march in Selma to demonstrate the veracity of that claim) and the fact that not all police officers are historically violent against African Americans. Put differently, he is not saying that the police are inherently violent. Rather, he is using the example of police violence to explain why a Black motorist might act in a specific way. Context has explanatory power. The motorist is not resisting arrest as much as he or she is trying to embrace their own right to life and safety. Thus, it would be unfair to charge that individual with resisting arrest. The use of narrative to address the social context is not simply about excusal of an action, it is about generating a greater understanding of, and perhaps even sympathy for, the person who acted.

Communication is the second form that narrative takes in CRT. Bracey explains that,

narrative also means commitment to using fiction and other media to communicate legal truths to broader audiences. CRT recognizes stilted writing styles and excessive formalism as unnecessary barriers to people understanding the laws that govern them. Through fiction and other methods of storytelling, critical race theorists make legal knowledge and theorizing available to people beyond the walls of the academy.²²

Narrative, then, is employed for the sake of education. Here one sees how something like CRT might begin to influence other fields, e.g., education.²³ This is not simply true because one of the goals is to educate but also because the purpose of using narrative is to understand the person as well as the situation in which they live. These two things are inextricably linked. In using narrative, CRT seeks to redress a power imbalance. Although one might hear the undertones of the Frankfurt School or Marxism in that language, perhaps another way to speak about what CRT is doing is that it aims to make accessible the democratization of knowledge so that people can not only be informed of their situation but also make use of the legal means to redress injustice.

It is one thing to see what CRT aims to do when it employs narrative; it is another to understand why. Bracey's explanation is worth hearing in full:

In both cases—narrative as context and narrative as communication style—CRT seeks to recognize everyone's full humanity. Context is acknowledgment that people are not atomistic, strictly logical beings. People are emotional, as well as rational. They are connected to communities with histories and relationships. Their actions should be adjudicated in the context of their humanity, which includes the context of their social position. To do less is to reduce people to unreal, legal constructs rather than human beings. Similarly, hoarding legal knowledge disempowers everyday people and gives legal officials so much power that everyday people are functionally incapable of advocating on their own behalf (P. Williams 1991). By communicating in ways accessible to the non-legal public, critical race theorists attempt to restore a balance of power that better reflects the fundamental, spiritual equality of all people.²⁴

Clearly, Bracey understands that CRT, through its commitment to and use of narrative, advocates for viewing people holistically. Why employ narrative? Because people exist within the context of a society, and their lived reality, as well as the structure that supports or hinders it, needs to be communicated effectively.

While this tenet of CRT might not be overly controversial, the question must be asked, does this comport with Christian thought about people? Do Christians employ narrative to the same ends? The answer to both, I would suggest, is yes. Although he had Lutheran tendencies, Reinhold Niebuhr was not a Lutheran in the strictest sense. Yet, what Bracey describes within his discussion of the forms of narrative employed by CRT, Niebuhr seemed to express decades earlier. Niebuhr writes that, "there is no place in human history where the affairs of our fellowmen can be viewed in purely intellectual terms. We are always part of the drama of life which we behold; and the

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emotions of the drama therefore color our beholding. There is no novelty in this observation.”²⁵ The context of Niebuhr’s words does not undercut the similarity. The quotation comes from a sermon focused on Jesus’ own words about hypocrites in Matthew 16:1–3. Niebuhr concludes the section that includes the quote above with the following:

Thus it is that every party claim and every national judgment, every racial and religious prejudice, and every private estimate of the interests and virtues of other men, is something more and something less than a purely intellectual judgment. From the simplest judgment of our rival and competitor to the most ultimate judgment about the character of human history and the manner of its final fulfillment, we are tempted to error by our anxieties and our pride; and we seek to hide the error by pretension. We can not discern the signs of the times because we are hypocrites.²⁶

Niebuhr sees the complexity of human life. He centers the discussion, however, differently than Bracey does. Whereas Bracey explicates narrative on the basis of understanding the other, Niebuhr does so on the basis of understanding the self. We are the hypocrites. Thus, if we are influenced by emotions, others might be too. Therefore, both Bracey, in explicating the tenet of CRT, and Niebuhr, in his sermon about hypocrites, see, in a different but related way, that people are rooted within a context, and that context must be understood. They may approach it from different ends, but they arrive at the same point.

Niebuhr does more than just speak about the context of the individual. He sees that society itself is buttressed by a context that has, at times, hampered the needed change:

There is no social evil, no form of injustice whether of the feudal or the capitalist order, which has not been sanctified in some way or other by religious sentiment and thereby rendered more impervious to change. In a sense, the word of Marx is true: ‘The beginning of all criticism is the criticism of religion.’ For it is on the ultimate level that the pretensions of men reach their most absurd form. The final sin is always committed in the name of religion.²⁷

Niebuhr is not interested in buttressing religion, but addresses the reality that religion has, at times, been culpable for fostering injustice. His comment on Marx is not a full-throated defense of Marx’s idea, but it speaks to the reality that even Marx could have looked at some of the things religion has caused and labeled them problematic. Again, this speaks to the context side of the narrative equation and harkens to the example given by Brace about why a Black motorist might continue to drive because of a history of violence. But, it also speaks to Bracey’s noted concern that CRT has for education, for people understanding the systems in which they

participate, especially when it comes to understanding what has contributed to the support of those systems so as to work at redressing an imbalance.²⁸

Having explored, then, the concept of narrative in CRT and shown broad connections to Christian thought, it is necessary to ask, is this concern for understanding the human situation so as to address it one that Lutherans can agree with? Again, I answer in the affirmative. Luther's Large Catechism is worth invoking at this point. In explaining the Fourth Commandment he writes,

For if we want capable and qualified people for both the civil and spiritual realms, we must really spare no effort, time, and expense in teaching and educating our children to serve God and the world. We must not think only of amassing money and property for them. God can provide for them and make them rich without our help, as indeed he does daily. But he has given us children and entrusted them to us precisely so that we may raise and govern them according to his will; otherwise God would have no need of fathers and mothers. Therefore let all people know that it is their chief duty—at the risk of losing divine grace—first to bring up their children in the fear and knowledge of God, and, then, if they are so gifted, also to have them engage in formal study and learn so that they may be of service wherever they are needed.²⁹

The Lutheran concern for education need not be defended further. The history of Missouri Synod and its commitment to education embodies Luther's urgent call. Notice, though, the purpose of education here expressed: for the Church and the world. Luther contextualizes education into the two realms and suggests that people need to be educated in the ways of the world if they are to engage in such action. Moreover, Luther contextualizes the vocation of father and mother. Fathers and mothers exist in part, at God's behest, for the sake of education. God has chosen parents, and indeed all people, to educate children so that those children might engage with the Church and world in service to God and their neighbor.

It would be unfair, however, to suggest that the Fourth Commandment was the only place Luther urged contextualized societal engagement. In his explanation of the Fifth Commandment Luther writes that "we must not kill, either by hand or heart, or word, by signs or gestures, or by aiding and abetting."³⁰ That general principle is elucidated later when he writes,

This commandment is violated not only when we do evil, but also when we have the opportunity to do good to our neighbors and to prevent, protect, and save them from suffering bodily harm but fail to do so. If you send a naked person away when you could clothe him, you have let him freeze to death. If you see anyone who is suffering from hunger and do not feed her, you have let her starve. Likewise, if you see anyone who is condemned to death or in similar peril and do not save him although you have the means and ways to do so, you have killed him. It will be of no help for you to use the excuse that you did not assist their deaths by word or deed, for you have withheld your love from them and robbed them of the kindness by means of

which their lives might have been saved. . . . Therefore, it is God's real intention that we should allow no one to suffer harm but show every kindness and love. And this kindness, as I said, is directed especially toward our enemies. For doing good to our friends is nothing but an ordinary virtue of pagans, as Christ says in Matthew 5.³¹

Luther is not simply concerned with upholding an ideal but in explicating, in educating people, on how that ideal takes shape within the human situation. Luther puts a face on it. The love and kindness Luther suggests God wants to show through human beings and for human beings is contextually understood. You cannot know how to love and serve your neighbor if you do not understand your neighbor's context. You cannot love and serve your neighbor unless you have been educated to do so. This may not be a dynamic equivalent to what CRT is attempting to do, but it certainly speaks to the contextualization, to the humanization, at the heart of Lutheran ethical concerns evident in Luther's writing.

A recent commentary on Luther's Large Catechism further develops the point I have been attempting to make. In seeking to address contemporary application of the Fifth Commandment Warren Lattimore writes,

There does not need to be blame or guilt for the church to act. Wherever we see suffering, we are called to bring healing, whether to a friend, an enemy, or a stranger . . . Whenever we have an opportunity to protect life, let us seize the moment. When we look to the cross, we remember the One who has not only reconciled us to God but who also reconciles us, one to another.³²

Here Lattimore contextualizes Luther's perspective with the words "wherever" and "whenever." The Church is called to act, according to Lattimore, in the actual lives of people, whoever those people are, wherever those people are, and whenever the Church has the opportunity. The vagueness of the terms wherever and whenever demand concretization with a face and a time.

Lattimore does something more, however; he points his readers to cross of Christ and the love shown by Christ in reconciling the world to God and humanity to itself. This is also something Luther himself did in his Heidelberg Disputation when he distinguished between the two kinds of love: "The love of God does not find, but creates, that which is pleasing to it. The love of man comes into being through that which is pleasing to it."³³ Luther defends that thesis, writing,

The second part is clear and is accepted by all philosophers and theologians, for the object of love is its cause, assuming, according to Aristotle, that all power of the soul is passive and material and active only in receiving something. Thus it also demonstrates that Aristotle's philosophy is contrary to theology since in all things it seeks those things which are its own and receives rather than gives something good. The first part is clear because the love of God which lives in man loves sinners, evil persons, fools,

and weaklings in order to make them righteous, good, wise, and strong. Rather than seeking its own good, the love of God flows forth and bestows good. Therefore sinners are attractive because they are loved; they are not loved because they are attractive.³⁴

Luther distinguishes between these two loves in terms of who God is and what He has done rather than what is common between two people. For Luther, then, love is shaped by God's perspective of the sinner and not the actions, personality, or even the context of the sinner. People are lovable because God has loved them.

This does not, however, limit the argument I have attempted to make regarding contextualization and narrative. Love that is formed in the way Luther describes forces further contextualization. Building on the work of Alberto Garcia, Leopoldo A. Sanchez M. writes,

In contrast to the human love taught by the philosophers and scholastics, Luther describes the love of the theologian of the cross as a love "which turns in the direction where it does not find good which it may enjoy, but where it may confer good upon the bad and needy person." Such love does not seek an attractive and likable object to love, but rather loves the unattractive and unlikable. What if Christians learned to love the refugee and immigrant other with such Christlike love? Such love would surely "call a thing what it is," acknowledge their sins, as with any sinner, without romanticizing them, denying them moral agency, or reducing them to victims. But such love would also acknowledge their humanity, needs, struggles, and hopes. Such a love would not merely point to that which is bad in people as an end in itself, but move toward thinking creatively about appropriate ways to bestow that which is good in them. Indeed, the love of the cross that moves Christians toward that which is not attractive may lead them to enter the world of the refugee and immigrant more deeply, listen to these neighbors' stories of migration, visit them in detention centers, pray for them and their families, company them to immigration court, assist with the payment of legal fees, advocate for them before elected government officials, or partner with pro-bono immigration services and other social agencies to offer them legal counsel and humanitarian assistance.³⁵

Several features of Sanchez's work are worth highlighting. First, while addressing concerns about immigrants and refugees, Sanchez asks a question worth considering in any circumstance: "What if Christians learned to love . . . with such Christlike love?" You can insert any human being into the ellipses and the question loses none of its provocative power. Notice, though, that in speaking about refugees and immigrants, the love of Christ takes specific shape in terms of "entering into the world of the refugee and immigrant more deeply." The love of Christ, according to Sanchez, does not allow for a retreat from the world of the individual for whom Christ died. No, to employ a love shaped by Christ, one enters further. Furthermore, Sanchez does not let context become an all-encompassing excuse for behavior. Love shaped by the cross "calls a thing what it is"; it names the problems and speaks to the people, issues, and

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actions under consideration. After naming them, love continues to act. The love of Christ worked through the lives of sinners engages the world of the person; it attends to the structures as well as the person.

To borrow again from Niebuhr, “the motive is love, justice is the instrument.”³⁶ This opens a range of discussions concerning CRT and the suggested means for ameliorating suffering—conversations which must take place. It would be unfair to suggest that Luther, or Lutherans, must agree with everything CRT asserts.³⁷ Such a scenario would not only prove improbable but impossible. Not all tenets of CRT are worth embracing. However, the use of narrative, and the reasons for its use, are common property of the Church and the special property of Lutherans who confess with Luther that our God intends to show kindness and love to human beings through human beings. This is something the Church has shown in the past, specifically where the issue of abortion is concerned. The Church has heard the cries of the mother and the infant; it has looked at the context that contributes to heartbreaking decisions, and it has educated itself on what can be done to ameliorate suffering for all parties involved through the enactment of legislation and the expansion of the social safety net. It has done so not because God’s love has made sinners lovable. In that setting the Church understood that abortion was more than just a sin problem; it was rooted within a context that could be changed. Gustaf Aulen once commented that “the church’s responsibility to the law of God is also a responsibility to social order. It must be a matter of first importance to the church that the law, whose requirement of love demands care for one’s neighbor, be made decisive in the social order.”³⁸ At bottom, the concern evident in Bracey’s work explaining the use of narrative within CRT is just as evident in Niebuhr, Luther, Lattimore, and Sanchez. The concern is not simply for ideas and structures, but for people who are contextually located. Certainly, theologians of the Augsburg Confession are not permitted to retreat from that context.³⁹

We Have More

Critical Race Theory is not easily defined, but it can be understood in terms of its origins, subsequent applications, and tenets. Much more can and should be said of the tenets of CRT and how they do or do not comport with Christian thought. The goal of this essay was to give a fair hearing to at least one of those tenets so as not to render the common quick and easy verdict that CRT is of the devil. One other helpful aspect of the Bracey essay under consideration above is the time he takes to explore the spiritual and religious motivations of CRT practitioners, including in one of its founders, Derrick Bell.⁴⁰ Bell is on record in a posthumously published essay, writing, “We know, for example, that the Resurrection of Christ could not and did not happen as a matter of science; yet, Christian religion calls upon the faithful to accept the Resurrection.”⁴¹ I wholeheartedly and emphatically disagree with Bell concerning his comments on the happening of the resurrection as a matter of science. Christianity does not simply call us to “accept the Resurrection” in some spiritual sense but as something that actually happened within time and space for the sake of all people.

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Knowing that Bell denied the resurrection in this way does not discount the work he tried to do for the sake of people. It would be unfair to dismiss wholesale what this seriously searching man sought to do for his neighbor no matter how defective his theological position might have been. Rather than dismiss him, I want to suggest that if someone who rejected the resurrection could be inspired by his faith to work for his neighbor, how much more could those who believe in it wholeheartedly? The Augsburg Confession is famously structured in such a way that it moves from recognizing the sinful state of all humanity to revealing God's answer to that problem, namely Jesus Christ. Articles IV, V, and VI then move in succession to confess what God has done in Christ, how we might receive justification, and then to where that justification leads us: into obedience. Luther spells out what that obedience looks like in the Large Catechism, especially where the Ten Commandments are concerned. While some in society might be motivated to justify themselves by their actions in the world, particularly when it comes to addressing structural disparity, those who confess the Augustana are not. We know who has justified us—Christ our Lord. We have been washed in that justification, we have heard that word of promise spoken to us, we have tasted and seen that the Lord is good. If others have motivation for their work in the world, we have more because we have been justified by our Lord and sent back to extend his love and kindness to the world. Unfairness, whether to a person or idea, or structuralized in society, is never a virtue; but love—shaped by the cross and resurrection of Christ—certainly is.

Endnotes

¹ Esau McCaulley, *Reading While Black: African American Biblical Interpretation as an Exercise in Hope* (Downers Grove, IL: InterVarsity Press, 2020), 68–9. Emphasis in original.

² Martin Luther, “Heidelberg Disputation,” trans. Harold J. Grimm, in Martin Luther, *Career of the Reformer I*, ed. Harold J. Grimm, vol. 31, *Luther's Works, American Edition*, ed. Helmut Lehmann (Philadelphia, PA/Minneapolis, MN: Muhlenberg/Fortress, 1957–86), 40.

³ Martin H. Franzmann, “Lutheran Church—Missouri Synod, 125th Anniversary, 1972” (unpublished manuscript, 1972), physical copy available at Concordia Historical Institute, 9.

⁴ At least three instances are of note. First, Franzmann was one of the faculty members tasked with responding to inquiries from students about the nature of the inspiration of Scripture. Second, Franzmann was selected to respond to Norman Habel's essay on Genesis 3. Third, Franzmann was asked to deliver a paper after the 1974 walkout at Concordia Seminary dealing with what is meant by “historical” and “critical.” For more information on each of these episodes, see Matthew E. Borrasso, *The Art of Exegesis: An Analysis of the Life and Work of Martin Hans Franzmann* (Eugene, OR: Wipf & Stock, 2019); “Martin Franzmann: Theologian In Between,” (paper, 43rd Annual Symposium on the Lutheran Confessions, Fort Wayne, IN, January 22–24, 2020); “To Begin At Home: An Exploration of Intellectual Hospitality in the Work of Martin Franzmann” (paper, 33rd Annual Theological Symposium, September 19–20, 2023, St. Louis, MO).

⁵ Franzmann, “Lutheran Church—Missouri Synod,” 9.

⁶ “Glenn E. Bracey II is an assistant professor of sociology at Villanova University, where his scholarship focuses on critical race theory, social movements, and religion. Bracey is also co-principal investigator with Michael Emerson on the Race, Religion, and Justice Project (rrjp.org).” From a note about Bracey at the end of his article, “The Spirit of Critical Race Theory” *Sociology of Race and Ethnicity* 8, no. 4 (2022): 503–517.

⁷ Bracey II, “The Spirit of Critical Race Theory,” 504. The names in parentheses refer to resources cited by Bracey in his essay. For further reading on Critical Race Theory, see Bracey’s article as well as the references he cites.

⁸ This is not to dismiss that CRT has roots reaching back at least as far as the Frankfurt School and Karl Marx but to suggest that although predecessor thought movements might contribute to present discussions, the actual field of study known as Critical Race Theory developed within the context of legal studies. For a helpful primer in CRT, see Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction*, 3rd ed. (New York: New York University Press, 2017), the discussion of origins begins on page 4. Elsewhere I have noted the role Derrick Bell played in pioneering the field with his assessment of *Brown v. Board* as well as suggested that just because something comes from a flawed source does not mean it can be dismissed out of hand. See Matthew E. Borrasso, “The Boogeyman in the Belfry: An Appraisal and Apology of Critical Race Theory” *Lutheran Forum* 56, no. 2 (Summer 2022): 35–41.

⁹ Again it is helpful to see Delgado and Stefancic, *Critical Race Theory*, specifically pages 58–76 and 102–112.

¹⁰ Delgado and Stefancic, 3.

¹¹ Bracey, “The Spirit of Critical Race Theory,” 507. This understanding is offered as a competing narrative by CRT scholars to what Bracey suggests is present in “racially conservative legal scholars.” He writes, “Racially conservative legal scholars presume a fair, ‘divinely ordained’ social system in which people have equal opportunities and outcomes result from merit. From that presumption, they conclude that those who succeed are ‘the elect’ of God. If successful people are disproportionately white men, it is only because the divine Creator chose it to be so.” Here one sees the spiritual underpinnings perceived by certain critical race theorists like Delgado, namely, that “divine providence” is at work when the system is presumed to have an equality of opportunity.

¹² Among those tenets is the idea that “racism is ordinary, not aberrational.” Delgado and Stefancic, *Critical Race Theory*, 8. For a list of basic tenets, see Delgado and Stefancic, 8–11.

¹³ “Mainstream legal scholars and critical race theorists are equally tied to a religious logic structure. They must first assess the fairness of an inherited social system about which they can make only inferences. Granted, CRT relies on empiricism to demonstrate the greater veracity of its stance (Carbado and Roithmayr 2014). However, conservatism and CRT both involve a worldview with premises, threats of counterevidence, and reliance on belief in a world unseen. That is not to say that CRT is itself a religion, only that CRT recognizes and is sympathetic to the structure of religious thought. Indeed, CRT uses spiritual principles (e.g., starting with and pursuing an unseen ideal) as part of its method of analysis. In its logic structure and analytical method, CRT is compatible with religion (Witherspoon and Mitchell 2009), which is why it can recognize legal conservatism as a frame with a religious logic structure (Taylor 2006). Indeed, Bell (2006, quoted in Taylor 2006: 56) notes ‘the religious faith-like foundation of so much racist belief and behavior based on those beliefs,’ which CRT can claim is due to the theological idea that ‘[t]he racist replaces God as the source of value with self and race’ (Taylor 2006: 56). In that way, legal racial conservatism and racism itself are false religions that place faith in self and race rather than God. CRT frees adherents from a false faith in racism by insisting on spirit, rather than race, as the source of value. Through direct comparison and contrasting use of religious tropes, CRT rejects the heresy of the mainstream jurisprudential theology of race on spiritual, empirical, and logical grounds.” Bracey, “The Spirit of Critical Race Theory,” 507.

¹⁴ Bracey, 503.

¹⁵ Bracey, 503.

¹⁶ Here again I commend Bracey's article (which is available via open access publication). He deftly demonstrates several theological and ecclesiastical structures that undergird expressions of law in the history of the United States.

¹⁷ Bracey, 507.

¹⁸ Bracey, 507.

¹⁹ Bracey, 508.

²⁰ Again, my goal is to give Bracey a fair hearing, to see him as a seriously searching human, and not to prematurely adjudicate the veracity of his claim.

²¹ Bracey, 508.

²² Bracey, 508–9.

²³ One need only think of a course in ethnic studies or even the history of segregation in the United States that broadens the awareness of the "situatedness" of human beings within time and space. On a personal note, I find it curious that Lutherans would be afraid of their children being exposed to curriculum that does this. Whatever my own children might hear in a public school does not compare to what they hear their father confess in front of, and with, an entire congregation every week ("I, a poor miserable sinner . . . have not loved you with my whole heart, I have not loved my neighbor as myself").

²⁴ Bracey, "The Spirit of Critical Race Theory," 509.

²⁵ Reinhold Niebuhr, *Discerning the Signs of the Times: Sermons for Today and Tomorrow* (New York, NY: Charles Scribner's Sons, 1946), 10.

²⁶ Niebuhr, *Discerning the Signs of the Times*, 13.

²⁷ Reinhold Niebuhr, "The Christian Witness in the Social and National Order," in *The Essential Reinhold Niebuhr: Selected Essays and Addresses*, ed. Robert McAfee Brown (New Haven: Yale University Press, 1986), 95. This is to say nothing of the fact that here Niebuhr could also be said to agree with what Bracey demonstrates throughout his article, namely where religion was fused with law in supporting problematic societal structures.

²⁸ One need only continue in Niebuhr's essay to see him make this explicit: "We have spoken negatively. The Christian Church must bear witness against every form of pride and vainglory, whether in the secular or in the Christian culture, and be particularly intent upon our own sins lest we make Christ the judge of the other and not of ourselves. But the experience of repentance does not stand alone. It is a part of a total experience of redemption. Positively our task is to present the Gospel of redemption in Christ to nations as well as to individuals." Niebuhr, "The Christian Witness," 97.

²⁹ Martin Luther, "The Large Catechism," in *The Book of Concord*, ed. Robert Kolb and Timothy J. Wengert (Minneapolis, MN: Fortress, 2000), 410.

³⁰ Luther, *The Book of Concord*, 411.

³¹ Luther, 412.

³² Warren L. Malueg-Lattimore, "The Fifth Commandment: Hatred as Murder," in *Luther's Large Catechism with Annotations and Contemporary Applications*, ed. John Pless and Larry Vogel (St. Louis, MO: Concordia Publishing House, 2022), 347.

³³ Luther, "Heidelberg Disputation," 41.

³⁴ Luther, 57.

³⁵ Leopoldo A. Sanchez M., "Beyond Facebook Love: Luther's Two Kind of Love and the Immigrant Other" *Concordia Journal* 46, no. 4 (Fall 2020): 31–2.

³⁶ "The Meaning of the Birmingham Tragedy, 1963," interview by Thomas Kilgore, *Our Protestant Heritage*, September 15, 1963, video, 29:35, <https://digital.history.pcusa.org/islandora/object/islandora:71692>.

³⁷ B. Keith Haney has written about being open to new ideas, especially those related to diversity, equity, inclusion, and CRT. See B. Keith Haney, “What are We Missing with Diversity, Equity, and Inclusion?” *Becoming Bridge Builders* (blog), August 7, 2023, <https://www.becomingbridgebuilders.org/post/what-are-we-missing-with-diversity-inclusion-and-equity>; “Building a True Authentic Community,” *Becoming Bridge Builders* (blog), August 14, 2023, <https://www.becomingbridgebuilders.org/post/building-a-true-authentic-community>. Additionally, I have written about this elsewhere. See Matthew E. Borrasso, “The Boogeyman in the Belfry,” 35–41. Furthermore, I am reminded of the following quote from Martin Franzmann in the same 125th Anniversary address referenced earlier in this essay: “None of these aberrations is inevitable. But we need to keep them in mind if only to persevere our nonchalance over against any untried hypothesis and our sense of balanced reserve even over against any hypothesis, however widely accepted. I remember a three-year-old boy’s remark after hearing all the arguments as to whether a piece of linoleum would fit into a certain space in the neighbor’s kitchen: ‘Let’s lay the fool thing down and see if it fits.’ The hypothesis calls for neither adoration nor anathema. Let us just lay the fool thing down and see if it fits.” Franzmann, “Lutheran Church—Missouri Synod,” 12.

³⁸ Gustaf Aulen, “The Church and Social Justice,” in *This is the Church: Basic Studies on the Nature of the Church*, ed. Anders Nygren (Philadelphia, PA: Muhlenberg Press, 1952), 318.

³⁹ AC XVI demands that we recognize societal structures as emanating from God and encourages our participation in them. We are not allowed to retreat from society.

⁴⁰ Bracey, “The Spirit of Critical Race Theory,” 509–10.

⁴¹ Derrick Bell, “Law as a Religion,” *Case Western Reserve Law Review* 69, no. 2 (Winter 2018): 265.