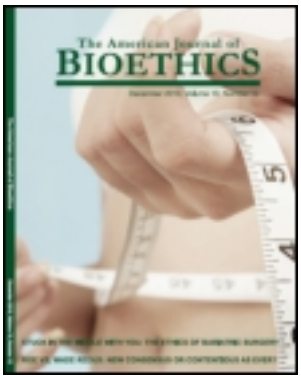

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Identifying Racial Privilege: Lessons from Critical Race Theory and the Law

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Catherine Myser (2003) urges bioethicists to note and destabilize the whiteness of the central values in bioethics. For reasons discussed below, many bioethicists will likely resist a head-on critique of the field's "fundamental" values (e.g., Baker 2003). More significant change, however, may be brought about by identifying how white status and privilege function as "neutral" baselines in bioethics. Such a move will draw bioethicists' attention to problems that currently go too often underanalyzed and might even, in the end, stimulate the sort of ethical shifts that Myser advocates. In this commentary I draw on examples of Critical Race Theorists' legal scholarship and suggest how bioethicists can similarly identify previously transparent racial privilege to reframe key issues in medicine and health.

Critical Race Theory (CRT) arose in the 1980s partly as a response to Critical Legal Studies (CLS), which argued that the important feature of laws is their application to conditions in the real world (Crenshaw 2002). Though early Critical Race scholars built on this foundation and on other liberal thought, they criticized the traditional liberal scholarship on race as over-reliant on a model of individual rights. Early on, Bell argued that this model is not a useful tool for understanding *systemic* oppression of African Americans. To understand the other interests that are often "balanced" against individual rights, it is necessary to recognize that these pre-existing interests—federalism, the "free market," institutional stability, and so on—are themselves functions of racial exclusion and privilege (Bell 1980). In essence, the fundamental institutions of white privilege must be acknowledged as such in order for the rights and interests of nonwhites to be fully recognized.

Critical Race Theory has formed the foundation of a large body of scholarship (e.g., Crenshaw et al. 1995). Rather than simply assert the rights of oppressed groups in the United States, CRT scholars attempt to deconstruct the assumptions that, when posited as "universal," form the foundation for white privilege and power. As Myser notes, for example, Cheryl Harris has traced the ways in which whiteness' conferral of economic and social benefits has led to its recognition as a "property right"; that is, as a protected status that confers benefits through exclusion (Harris 1993). Though we no longer have laws that explicitly restrict voting rights or property ownership to whites, Harris notes that whiteness continues to serve the same basic function: "the legal legitimation of expectations of power and control that enshrine the status quo as a neutral baseline, while masking the maintenance of white power and domination." Turning to the law, Harris notes that some courts have set aside affirmative action programs by focusing their analyses not on the redistributive effects of these programs for the targeted minority group but on what a white person might "lose." What is depicted as a neutral and fair starting point—white entitlement to the best educational opportunities—is actually rooted in years of disparate power and privilege.

CRT scholars have also noted the ways in which civil-rights law, through seemingly "race-neutral" principles, can reinforce patterns of white power and black subordination (Flagg 1993). Gotanda (1991) criticizes the process by which people are supposed to not "recognize" people's race in making decisions; he argues that such nonrecognition "fosters the systematic denial of racial subordination and the psychological repression of an individual's recognition of that subordination, thereby allowing such subordination to continue." In other words, nonrecognition permits the continued transparency of white privilege.

Similar insights would be highly beneficial to transforming bioethics, more so than an abstract discussion of values. Bioethics, like law, seeks much of its legitimacy from explicit or implicit claims of universality. An effort to directly destabilize some of the "core" values or principles of bioethics as artifacts of its culturally white roots would, in the eyes of many bioethicists, take away the moral authority of bioethics' pronouncements. Furthermore, an attack on "white values" might create a sense of defensiveness among bioethicists or provoke charges of essentialism. It is far less controversial, though no less important, to point out and address the vast differences in social and economic experience between whites and other groups in the United States. There is more potential for real change in the identification of white privilege and entitlement, analyzing bioethics the way the aforementioned CRT scholars have analyzed the law. One can divide the analysis into two broad categories: privileges that affect bioethics as a profession and those that affect what bioethicists choose to study.

Professional white privilege and its transparency are not unique to bioethics, but that fact does not render them unproblematic. As Myser points out, bioethicists are overwhelmingly white. The simple question of access to the field is already heavily affected by white privilege. (That

this racial gap is heavily mediated by class should make us particularly vigilant, not less so.) Along with whiteness come numerous professional privileges that white bioethicists rarely if ever consider: not wondering whether others interpret one's work through a lens of bias or stereotype; not being perceived as "representative" of one's race's views in a given forum; and, relatedly, not being expected to work exclusively on issues of race or to serve as a token "minority." The ability to benefit from a racial status without recognizing it as a privilege—experiencing it instead as a "natural" status quo—is one level of many bioethicists' reliance on whiteness' transparency.

A deeper effect of white privilege and its transparency (and one that might arguably be reinforced by operating in a comfort zone of professional white privilege) lies in the topics that bioethicists address. For example, analyses of the doctor-patient relationship, the dyad ubiquitous in bioethics scholarship, presuppose access to a doctor. People of color are less likely to have such access than are whites. Similarly, analyses of reproductive technology, used primarily by whites, far outweigh in the bioethics literature any scholarship on the health of countless children of color in the foster-care system. Furthermore, bioethicists often focus on new or developing technologies, with the admirable goal of creating an ethics that keeps pace with technology. But, a focus on the *future* effects of *potential* technologies (genetic enhancements, cloning, etc.) is a luxury that many people without access to healthcare—again, disproportionately people of color—cannot afford. Overall, one can characterize this as a problem of prioritization: when a certain level of access and privilege is the presumed baseline, concerns that are more pressing for many people of color do not receive the attention they should.

Is the identification of privilege separable from Myser's goal of destabilizing bioethics' "white" values? The endeavors certainly intersect; pointing out racial privilege and power in bioethics might gradually persuade more bioethicists to revise their conceptions of bioethics' guiding values. But a discourse of needs, lived experience, and status, rather than a direct attack on values, has the potential to lead to less divisive and more concrete change. The persistent identification of white power and privilege in the areas that we study is crucial to the creation of a bioethics that truly addresses the health and welfare needs of all. ■

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Mediating Difference: Normative Conflict as Opportunity

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Introduction

Catherine Myser's (2003) use of battle imagery captures the Zeitgest of our times. Her call for bioethicists to recognize their "whiteness" is couched in language calling less for reflection than armed rebellion. Myser charges that governing bioethics norms speak only to a white majority; she faults social scientists who import minority perspectives into the mainstream for failing to "displace" or "decenter" majority views. Diversity researchers thwart, rather than advance their pluralism, she argues, by failing to aggressively challenge majoritarian thinking. Such timidity, she warns, threatens to "inoculate difference" by "stimulating a kind of immune response," leaving the main body of traditional—and we may assume diseased—bioethics intact.