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## The Color of Denial: where was race in the trial of George Floyd's murder?

*Summary:* In the trial of one of the most talked-about racist incidents of the century, race was never raised. Erasing the enduring truths of Black life allowed some disruption of an outdated policing narrative of impunity without disrupting the dynamics that confer power and privilege on the basis of race. The proceedings at trial rebranded Derek Chauvin as “criminal” instead of “racist,” attempted to exonerate policing more broadly and, in the end, demonstrated that accountability is possible for a police officer armed with white privilege and the certainty that Black lives don’t matter. But there is a difference between accountability and justice. Despite international marketing to the contrary, the proceedings at the trial of Derek Chauvin were more of a denial, than a counterbalance, of systemic racism in the US. For many, the murder of George Floyd hit different. And yet, the trial felt like yet another variation on a theme of Black erasure. Inappropriately and unnecessarily, in the trial examining his last moments of life, was George Floyd “all lives mattered”?

### Did the United States gaslight the international community about anti-racism?

When facing calls for accountability, developed countries often point to the adequacy of existing law and procedure to deter international scrutiny. Last autumn, the United States leaned heavily on this tactic in its Universal Periodic Review, an examination of its human rights record that occurs every five years in the United Nations. The Universal Period Review occurred on the heels of an urgent debate on systemic racism in the UN Human Rights Council, sparked by the death of George Floyd. The June 2020 Urgent Debate had given a human rights platform to global demands to dismantle systemic racism.

Months later, the adequacy of the United States’ capacity or commitment to tackle systemic racism was the surprisingly unacknowledged subtext in the trial of Derek Chauvin, the former police officer being tried for the murder of George Floyd. Although it is unimaginable that the races of these men could have been reversed, neither prosecution nor defense confronted the racialized history of policing, power, and entitlement that led a white police officer to conclude that he should kneel on the neck of a Black man for nine minutes and twenty-nine seconds. Time and again, the prosecution and the defense affirmed the legitimacy of law enforcement without acknowledging explicitly racial bias, racial disparity, or the stark disproportionality of tactics and outcomes on the basis of race. One of the few references to the possibility of racial bias came as the judge instructed the jurors to avoid bias in their conclusions, rather than to examine the bias of those involved in George Floyd’s death.

## Excluded by design: legitimacy of the system, not systemic racism, was on trial

There is plenty of evidence that individual police officers are heavily influenced by the social conditioning of systemic racism, which seems inextricably embedded in the culture of policing. Studies have shown that police use less respect when talking to Black motorists, that police use force more readily and more severely against Black bodies, that police see Black children as less innocent and less child-like, and that training on racial bias does not improve behavior.

Yet none of this came into the Chauvin trial. For a global audience, the prosecution packaged Chauvin as an unusual exception to a policing rule of courtesy, professionalism, and respect. The prosecution and Chauvin's own colleagues served him up as a rogue operator breaking all the rules and acting outside his authority. The testimony of a Black chief of police and others in police leadership indicted Chauvin while proffering the legitimacy and credibility of the police force. The origins of policing as slave patrols, the long history of police use of force against Black bodies, the evidence that police routinely dehumanize Black community members, and the history of biased policing in that department, city, state, region were notably absent from a trial that resulted directly from sustained national outcry against racially biased policing.

To be clear, dog whistles to race abounded, from the acknowledgement that Chauvin sought to control George Floyd to the implications of Black criminality to the suggestions that the officers were actively at risk from Floyd or the (Black) bystanders. Astoundingly, Derek Chauvin was convicted at trial. The evidence was overwhelming and Chauvin's criminal conduct clearly met the bar for second-degree murder, but accountability was so unprecedented that America held its collective breath until the verdict was rendered.

It is tempting to conclude, "Well, that's how it is." Prosecutors and defenders alike will tell you it is an individual not the system on trial, defending the norm as the necessary. Recognizing the vast power of the state, we protect individuals facing criminal accusations with due process rights enshrined in domestic law and international treaty. Yet, the legal system was very much on trial in the Derek Chauvin case although systemic racism was not, an important distinction. An individual criminal case accredits the legitimacy of the existing legal system as a mechanism to resolve conflict and to uplift the rule of law. This is a key pillar of international development and a major intersection of the international development, peacebuilding, and international human rights frameworks that are heavily supported with U.S. taxpayer funds.

## Did the U.S. gaslight Americans with the risky promise of racial colorblindness?

Globally, racial colorblindness, i.e., erasing race, has long been a deliberate strategy to evade accountability, deny intentionality, and avoid confronting the deeply rooted racisms in individual decision-making. It is not unusual for the strongest drivers of systemic racism to ignore or deny. Even as the United States continues to cite its legal institutions as adequate mechanisms to exact justice and ensure fairness, it tolerates and licenses racial disparity and professionalized bias, including in policing. Yet, legacies of racial hierarchy and control embedded in the founding fabric of our country cannot be dismantled by inference and innuendo.

There is a reason Black folks in the US remark at how disconnected the Derek Chauvin trial felt from the truths of George Floyd's murder. Throughout the trial, the toxic yet beguiling strategy of racial color-blindness bled from self-important courtroom pronouncements balancing the public interest in a conviction after trial with white supremacy's interest in messaging that justice is (color)blind. Race, the fulcrum of that balance, was unspoken yet ubiquitous.

To Americans and to an international audience, exclusion of systemic racism from the trial of Derek Chauvin was also intended to suggest that existing mechanisms of policing and prosecution are viable, effective, and necessary without transformation. The prosecution, defense, witnesses, and the judge proffered the idea that racism was parallel, not central, to this event. Yet racialized events dominated the trial and the decision-making. For example, it was interesting to hear the Chauvin trial judge rebuke a Black sitting US congresswoman, bristling at a Black woman exercising authority and citing separation of powers, while presiding over a trial that represented policing (an executive power) as utopian, whitewashing history and instrumentalizing the rules of evidence to hide from the jury the evidence of prior misconduct by this officer and this police force.

Yet *this* conviction cannot exonerate strategic racial color blindness, i.e., the preservation of racial hierarchy via gaslighting and denial. Even if, as research suggests, the cost of confronting white privilege, in the courtroom or elsewhere, may be too much for these actors to bear.

### the elephant in the room

Systemic racism is the elephant in the room of police misconduct, nearly without exception. At the close of the Chauvin trial, the defense argued for a mistrial, implying any juror with access to the media would conclude the police are racist. The prosecution's held out Derek Chauvin as a bad apple, while proffering Chief Medaria Arradondo as Magical Negro and panacea, implying without admission that the core of the apple tree has long been rotten. Yet, in a nod to the pervasiveness of white supremacy culture, everyone keeps a straight face as the jurors are given a picture of this case that is painted without the color Black. A conviction or an acquittal based on this evidence does not conclusively demonstrate a dismantling – or even a recognition - of the systemic racism we navigate to survive. The erasure of racism from the trial of George Floyd's killer is also an erasure of the communities that supported him in life and the communities that fought for him in death. It is a failure of the truth and reconciliation we ask the legal system to deliver.



#### ABOUT THE AUTHOR

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