

THE POLITICAL ECONOMY OF COLORBLINDNESS: NEOLIBERALISM AND
THE REPRODUCTION OF RACIAL INEQUALITY IN THE UNITED STATES

by

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ABSTRACT

THE POLITICAL ECONOMY OF COLORBLINDNESS: NEOLIBERALISM AND THE REPRODUCTION OF RACIAL INEQUALITY IN THE UNITED STATES

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George Mason University, 2010

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This dissertation traces the complex and contentious career of “colorblindness” from its inception to its present-day function as an ideal reproducer of racial inequality. The study closely analyzes the discursive instability inherent within colorblindness, and it begins by demonstrating that this concept originated as a radical weapon designed to upend racial antipathy and inequity at its core. Albion Tourgee, a white antiracist lawyer, first coined “color-blind justice” in the course of his judicial career. As counsel for Homer Plessy in the 1896 case *Plessy v. Ferguson*, Tourgee applied his colorblind metaphor as he challenged the constitutionality of Jim Crow segregation. I contend that in his famous dissent, Justice John Marshall Harlan appropriated this metaphor from Tourgee, arguing that colorblindness would function to keep whites the master race “for all time.” I then discuss how, during the civil rights movement, white conservatives recovered Harlan's interpretation of colorblindness as they sought to maintain white privilege in the context of Jim Crow segregation's demise. The bulk and remainder of

the dissertation then scrutinizes this Harlan-inflected colorblindness of the post-civil rights era. I posit that contemporary race-neutrality is best named “neoliberal colorblindness”; this term signals the mutually reinforcing relationship between neoliberalism and colorblindness, asserting that race-neutrality effectively perpetuates racial inequality as it operates in a neoliberal climate stressing privatization and penalty—both of which receive extended examination in this dissertation. The study concludes by returning to colorblindness’s interpretational malleability and considers how we might resurrect Tourgee's notion of color-blind justice in light of Harlan’s appropriation of him. Doing so requires that we take close stock of the myriad obstacles standing in the way—obstacles tempered by the hegemony of neoliberalism.

INTRODUCTION

Dual Entries

This dissertation represents an extended cogitation upon the ideology of colorblindness, its complex history, and its contemporary manifestations. I am interested in investigating the relationship between colorblind discourse and racial inequality in our current neoliberal conjuncture. This study contributes to the literature through its presentation of heretofore unmined approaches and insights regarding colorblindness and the influence it wields upon today's racial order. To frame my thoughts for the introduction to follow, I offer and analyze two vignettes that illustrate colorblindness in action—the first fiction, the other fact. While this pair scarcely exhausts the manifold expressions of colorblindness, both examples typify its form and reach in our post-civil rights moment.

The *Chappelle's Show* sketch “The Monsters in: ‘The System Is Not Designed for Us,’” part of the aborted third season of the show, chronicles the (mis)adventures of a trio of black men who live in contemporary New York. These men also happen to be monsters: Frankenstein (played by Charlie Murphy), the Wolfman (Dave Chappelle), and the Mummy (Donnell Rawlings.) The sketch briefly highlights each of them as they transact in their world, confronting societal prejudice on multiple levels. The Mummy's experiences provide a succinct menu of the complex issues Chappelle addresses in this sketch.

The Mummy's scene depicts him traveling from home to his probation officer, located several miles away. Being a mummy, he walks slowly, and he quickly realizes that only a taxi ride will prevent him from arriving tardily yet again. The first cab he hails passes him, picking up a young white man instead. The Mummy stands in front of the next cab to force the driver (a male who appears to be of South Asian descent) to stop. Their interaction is worth detailing here:

CAB DRIVER: No Brooklyn! [*the audience roars with laughter*]

THE MUMMY: I'm not going to Brooklyn! [*laughter continues unabated*]

CAB DRIVER: I'm off-duty!

THE MUMMY: You're not off-duty! Your sign is on! Come on!

CAB DRIVER: [*hesitates for a split-second*] No mummies! I...I don't trust mummies.

THE MUMMY: You know, this ain't got shit to do with me being a mummy—just be real with it, son....Yo, just be real with it....¹

The cab driver maneuvers his way around the Mummy, splashing him with muddy water as he passes by (turning his white gauze black.) The Mummy ultimately arrives several hours late to his meeting with the probation officer.

This brief outtake from “The Monsters” sketch points us to multiple lessons. Race is written all over the Mummy's interactions—the tortured relationship between young black men and the taxi service in New York is notorious. Yet the second taxi driver performed rhetorical cartwheels to circumvent any intimation that race had permeated his thinking and conditioned his actions. “The Monsters” teaches us that despite professed colorblindness, racial thinking lurks just underneath the surface (indeed, the Mummy's final comment was his vain attempt to exteriorize the racial content of the driver's demeanor); our post-civil rights “politically correct” society provides us profound incentives to deny the racial inflections of our thoughts and actions (to say nothing of its illegality in the context of cab drivers and their fares.) His final plea

“I don’t trust mummies” directly points us to an answer as to why Chappelle depicted the three black men as monsters: they function as metaphors for all the excuses Americans find to displace their racially influenced thoughts and deeds. While a flimsy pretext, such colorblind maneuvers have proven effective; as we shall see, however, this scene from “The Monsters” showcases but an infinitesimal slice of the myriad uses of colorblindness in thought and action.

The sketch effectively details the influences and effects of colorblindness within interpersonal interactions. But titling the sketch “*The System Is Not Designed for Us*” points up that of which Chappelle is well aware: that “colorblindness” transcends the interpersonal. My second of these dual entries shifts to a real-life instance of colorblindness in the institutional realm.

The 1987 Supreme Court case *McCleskey v. Kemp* featured an appeal to have Warren McCleskey’s death penalty sentence downgraded to life in prison. McCleskey, a black man from Georgia, had been convicted of killing a white man. McCleskey’s defense team used the well-known Baldus Study in their arguments. The Baldus Study was a detailed analysis of death penalty cases in Georgia from 1973-1978. Among other findings, David Baldus and his team found that, after controlling for myriad variables, killers of white men were 4.3 times more likely to receive the death penalty than killers of black men. McCleskey’s defense team contended that such patterns represented racial bias in the court system.

The court rejected this argument, claiming that a defense of racial bias would only be admissible if McCleskey could supply evidence that he had been *personally*

discriminated against somewhere in the chain from his arrest to his death penalty conviction. (Importantly, they did not challenge the conclusions of the Baldus Study.) Since McCleskey was unable to produce any evidence of individual racist intent on the part of the arresting officers, the judges, or the juries, he was executed in 1991.

By relegating “racism” to only its individual, interpersonal manifestations, the McCleskey case highlights the institutional implementation of colorblindness upon the polity in the post-civil rights era. Vijay Prashad’s pronouncement of the court’s conclusion ties together the issues: “The name *McCleskey* now refers to both the recognition by the state that racism exists in the criminal justice system and the refusal of the state to allow it to enter the clemency of the mandarins.”²

To be sure, “The Monsters” and *McCleskey v. Kemp* represent narrow instances of colorblindness in action, and I will provide further perspectives in a moment. But it behooves us to rise to the most general level and inquire, What exactly *is* “colorblindness”? Broadly conceived, in the post-civil rights era, *colorblindness is an interpretive framework by which racial inequality is defended, maintained, and created anew*. As the current conjuncture’s dominant racial ideology, colorblindness proves indispensable to the perpetuation and reproduction of white racial advantage. This being the case, my central argument is that what colorblindness “blinds” Americans to is *not* color, *not* racism, but *the ideological and material legacy of slavery and Jim Crow and its manifold effects upon the current conjuncture*. Furthermore, colorblindness interacts with the political economy of neoliberalism—indeed, as we shall see, colorblindness is especially suited to thrive in a neoliberal milieu. And in classic dialectical fashion,

colorblindness helps strengthen and defend neoliberalism through a displacement of the contradictions it spawns.

Illuminating and explicating the contentions of the above paragraph is the task of the paragraphs of this dissertation that follow.

The Political Economy of Colorblindness: Foundational Premises

Before delving into the specifics, I want to briefly describe the three foundational premises from which all the arguments of this dissertation will ultimately flow. As I explain in more detail below, and in keeping with the political economic angle of my study, I will be naming the colorblindness of the post-civil rights era *neoliberal colorblindness*, and these premises will situate and clarify my choice of nomenclature. While each premise will not necessarily be made explicit in every chapter, they collectively form the foundation of the myriad contentions that follow.

The first premise coincides with my points directly above: *colorblindness functions today as an ideal reproducer of racial inequality*. This premise requires historicization. In the antebellum and Jim Crow eras, no matter the nature of the legislation (color-conscious or colorblind), public programs and policies were crafted with the explicit and unabashed intention of producing white advantage and nonwhite deprivation. Race operated as a transparent and unambiguous means to arrogate power and resources to the white race while withholding them from others, and the means by which this occurred left no room for (racial) doubt. The civil rights movement crusaded against the blatant racism encoded into these laws and policies, and the civil rights acts effectively abolished them—not only in the sense of their legal eradication, but on the

moral plane as well. This dissertation's first premise, as such, is that in the absence of such policies (and the racial inequities arising from them), colorblindness becomes a most effectual instrument that allows whites to hold on to their material privileges inherited from the pre-civil rights era. I dedicate much of this dissertation, then, to elucidating how the above has transpired with an eye for its myriad complexities.

My second foundational premise builds on the first, and it concerns the matter of neoliberalism, a term I will define more fully later in this introduction. This dissertation's second premise is the following: *neoliberalism magnifies the racial inequality-reproducing properties of colorblindness*. Thus, while colorblindness has contained within it the potential to perpetuate white privilege throughout US history, that potential becomes extremely high when operating in a neoliberal political economy. In this dissertation, I describe in detail specifically how and why this is the case. It is little accident that colorblindness became the racial ideology of choice as the US began adhering to neoliberalism in the context of an increasingly globalizing capitalism. I will privilege two major elements that characterize neoliberalism and thus exacerbate race-neutrality's ability to maintain white privilege: first, its efforts to privatize as much of the social as possible, and second, neoliberalism's reliance on prison-based punishment as the solution to managing populations who fall out of alignment with its dictates.

Lastly, my third foundational premise concerns the relationship between neoliberal colorblindness and racial inequality *qua* racial inequality. I will argue in this study that *neoliberal colorblindness conceals, displaces, and misidentifies the roots of contemporary racial inequality*. To elucidate and contextualize this premise, I borrow a

phrase from Nikhil Pal Singh's book *Black Is a Country*, where he maintains that colorblindness produces a "splitting off of racial history." I consider this phrase manifestly informative, and I make extended use of it in several of the chapters that follow. Colorblindness, under this reading, disconnects the racial past from the racial present—more specifically, it foments a situation where the racial policies of the past are construed as having no effect on the racial patterns of the present. Colorblindness thus *conceals* the true roots of racial inequality today, as the contemporary product of pre-civil rights policies and programs explicitly designed to aid whites at the symbiotic expense of people of color, the benefits of which are currently being passed along to future generations (to say nothing of the present-day racism people of color daily face.)³ Concealing the true roots of contemporary racial inequality, of course, does not conceal its existence; what colorblindness then does is to *displace* those roots. In other words, if racial inequality is not a product of legislation that has created color-coded enrichment and impoverishment, the reasons for its existence must lie elsewhere. This results in a *misidentification* of the explanation for the massive racial gaps embodying US society; I will argue that these misidentifications have crystallized into two interrelated ideological strands that, while politically distinct, sport neoliberal colorblindness at their cores.

The first of these misidentifications explains racial inequality as an outcome of race-neutral economic forces, a position most closely identified with the work of William Julius Wilson. Such a colorblind focus on the economic realm requires the splitting off of racial history, as Tim Wise summarizes in his recent book *Colorblind*:

Though [scholars such as Wilson] certainly do not deny the weight of past oppression, these theorists tend to minimize the extent to which past injustice

determines the current status of blacks and other people of color in the United States. Rather, they claim to find the source of much inequality in race-neutral macroeconomic developments, such as the decline of manufacturing employment and a shift to service-sector jobs....⁴

The policy recommendations that emerge from this most commonly encompass race-blind, class-conscious “universal” programs animated by the conviction that “a rising tide lifts all boats.” My dissertation (in particular, chapter six) will closely examine the principal shortcomings of such an approach, illuminating why and how interpreting racial inequality in this way downplays the independent role race continues to play in shaping the economic.

The second misidentification sources from what I will label (following Stephen Steinberg) the “cultural survival of the fittest” ideology. I contend that neoliberal colorblindness encourages a reading of racial inequality that portrays it as the product of the cultural values that racial groups bring to the table. This ideology holds that those on top of the racial hierarchy today are there because they have the right values (hard work, thrift, delayed gratification, etc.) and that subordinate racial groups occupy society’s lower rungs due to their defective values (laziness, proclivity for criminal behavior, broken families, and so forth.) By splitting off racial history, colorblindness promotes the currently hegemonic point of view that unsuccessful racial groups in the US have no one to blame but themselves, because their failures owe to their own shortcomings rather than to structures of opportunities inherited from the past that continue to wield influence today. Like the view that racial inequality today springs from impersonal, race-free economic forces, colorblindness plays a major role in the “cultural survival of the fittest” ideology’s activation.

As mentioned above, these three foundational premises will thread their way through the arguments that follow, leaving their discursive footprints throughout. With these premises in place, I can now turn to a more detailed discussion of the direction I will be taking in my analysis of colorblindness.⁵

The Many Expressions of Colorblindness

Crucial to any interrogation of colorblindness is a recognition of its sheer ubiquity. Colorblindness not only declares (in Justice Antonin Scalia's oft-quoted quip) "we are just one race here. It is American," but its imperatives likewise structure the institutional realm, as witnessed in *McCleskey*. I wish to inventorize here the many expressions of colorblindness as a means to contextualize the arguments of this dissertation.

To start, much valuable work on colorblind racial ideology's myriad angles precede me, and I will not be directly focusing on all of them. It remains useful, however, to provide a few important examples. In one case, colorblindness represents a major plank in the debate surrounding transracial adoption; as many ask, Should race be a factor in adoption decisions? In the second case, the rise of the internet has ushered in novel means by which to express colorblindness, as users can "hide" their racial identity and transact online in ways yet to be fully explored and appreciated. The third case revolves around the arena of film and theater, where the dispute over the "colorblind casting" of actors and actresses shows no signs of abating.⁶ And the list goes on. Colorblindness reaches into every crevice of the social; while the above will not be the centerpieces of my argument, their insights will periodically surface in the deliberations of this dissertation.

My title *The Political Economy of Colorblindness* points up the areas that will ultimately capture the bulk of the examinations that are to come. Of the “dual entries” catalogued earlier, the consequences of the *McCleskey* case more closely hew to the analytical route I will be traveling, and indeed, I will be considering the implications of this case at length in chapter four. Of colorblindness I inquire, How does racial inequality persist (and, by many measures, increase) when a colorblind commitment attaches itself to institutional policies? To recall one of the foundational premises that guides the ruminations of the chapters that follow, in the context of the post-civil rights era and all it entails, colorblindness in thought and policy is the most effective means by which to safeguard white dominance in the United States. I argue that when policies operate under a colorblind programmatic, they abstract away from the very real racial differences already in existence within and among the polity. For instance, during the economic crisis that hit full force in 1973, blacks were laid off in much greater numbers compared to whites; the reason for this was not because they were black, but because they lacked *seniority*—an approach to labor that is colorblind. At issue here becomes the reason whites had greater seniority and ergo greater job security: blacks had just gotten their foot in the door of many of these affected companies because many of them had excluded blacks prior to the civil rights movement. The application of a colorblind concept in this case generated color-conscious results. Seniority represents but one of a plethora of examples of how the employment of colorblind programs and policies produces racial outcomes that are anything but colorblind.

It is these expressions of colorblindness with which this dissertation will be most closely engaging. These varied institutional expressions have likewise been the focus of recent pathbreaking research. To dispense a trio of examples, Leland Saito describes how race-neutrality in the apportionment of voting districts dilutes nonwhite political power; Zeus Leonardo's critique of No Child Left Behind exposes how its colorblind allegiances suggest that its more accurate title is No Caucasian Left Behind; and Devon Carbado and Cheryl Harris explain how the colorblind directives of the personal statement of college applications disproportionately favor white students. What binds the studies of these and other scholars is what Saito terms "the failure of race-neutral policies in America"; in other words, they collectively demonstrate that the institutionalization of colorblindness, far from securing a race-free polity, promises the continuation of white advantage. This dissertation adds to this research by further considering the various means by which this occurs—ways that have not yet been fully explored.

The Two Major Strands of Colorblindness

"[T]he discourse of colorblindness," writes Reva Siegel in a 1999 article, "is remarkably flexible; its sociopolitical salience is dependent on the context in which it is invoked."⁷ As will become apparent, many of the arguments within the succeeding pages will be dedicated to confirming Siegel's wisdom. Fully central to a grasping of colorblindness is a thorough and sober appreciation that this concept is anything but monolithic; in this sense, it is perhaps more appropriate to speak of colorblind *ideologies*, rather than framing it as static, airtight, and unchanging.

Colorblindness, thus, has inhabited polar opposite ends of the ideological spectrum in its long, torturous career. Which end it inhabits depends on the context as Siegel noted above. Some (necessarily interlinked) questions that help locate the intentions of those championing race-neutrality are as follows: Is our society colorblind? *Ought* our society to be colorblind? If so, how should we go about achieving that colorblind society? Must the route to colorblindness pass through colorblind policy? Or in contrast, do we follow the advice of Justice Harry Blackmun in *Bakke*, who opined that “In order to get beyond racism, we must first take account of race. There is no other way”? In short, these inquiries—and myriad more—will structure the particular meaning and intention behind colorblindness that one possesses when s/he invokes the concept.

Despite the numerous discursive possibilities and complexities inherent in colorblindness, I contend that they can be pared down to two dominant strands. These strands, I will argue in chapter one, have characterized colorblindness from its very inception. The first strand is epitomized in the work of radical Reconstructionist lawyer and judge Albion Tourgee, best known as the counsel for Homer Plessy in the Supreme Court case *Plessy v. Ferguson*, which will be analyzed at length in several locations of this dissertation. Tourgee repeatedly invoked a notion he termed “color-blind justice”—and in so doing, he became the very first to employ the concept known as “colorblindness.” For Tourgee, “color-blind justice” always signaled an end—a goal. To echo the set of inquiries listed in the previous paragraph, Tourgee’s response to the question “Is our society colorblind?” was an unambiguous “no.” To the second question, “Ought our society to be colorblind?,” Tourgee’s answer was in the affirmative (here,

Tourgee stood far away from the dominant white opinion of the time.) In the end, Tourgee would have fully concurred with the pronouncement of Harry Blackmun supplied earlier: that “color-blind justice” would prove impossible without race-consciously assisting blacks and obliterating the racial inequality slavery had forged.

The second strand emerges in *Plessy* itself, in the famous dissent of Justice John Marshall Harlan. Chapter one will interrogate the tendency of most scholars (of all political persuasions) to attribute the origins of the term “colorblindness” to Harlan, when he had unquestionably picked up the term from Tourgee. Harlan, as I shall closely examine, had something very different in mind than Tourgee in his application of the concept of colorblindness. While Tourgee was under no illusions regarding the race-consciousness that would be necessary to achieve “color-blind justice,” Harlan’s perspective was simple, and it echoes the first foundational premise of this dissertation: that colorblindness is the most effective way to maintain white racial dominance. Of equal significance to my larger argument is that it is this strand of colorblindness—Harlan’s strand—that has waxed dominant in the post-civil rights era, as clearly evidenced by the numerous scholars and politicians (generally on the right, but occasionally on the left) who draw upon his dissent for discursive inspiration.

The first chapter of this dissertation becomes, then, a comparative analysis of these two strands of colorblindness as embodied in the perspectives of Albion Tourgee and John Marshall Harlan. In addition, my inquiry into said differences will allow us to inquire what it is, specifically, about colorblindness that has made it so ripe for appropriation (and indeed, the same query could be posed regarding race generally.)

Harlan's use of colorblindness was not its premier invocation, but its premier appropriation—and the first of many. Thus, chapter one—and my dissertation as a whole—augments previous inquiries into the nature of colorblindness vis-à-vis its centralization of these two major competing strands, which I contend are still at work today despite massive shifts in sociopolitical economy.

Chapter two carries these themes into the Jim Crow and civil rights eras. In *Racial Culture: A Critique*, Richard Thompson Ford conveys how these competing strands of colorblindness articulated themselves in the time period spanning *Plessy* and the civil rights movement:

It is important to emphasize that colorblindness was not simply an ideal that a white mainstream forced on people of color; instead it was one pole of a long running tension within black liberationist thought. Some of the more passionate advocates of colorblindness, strong racial integration and even assimilation were people of color who truly believed in the moral justice and pragmatic necessity of these goals.⁸

In a word, the black radical movement during the Jim Crow era incorporated Albion Tourgee's strand of colorblindness into its thinking and politics as it fought against de jure discrimination in virtually every area of society. Tourgee's unmistakable impact is seen in the yearly Thanksgiving memorials of the Niagara Movement (the forerunner to the NAACP); they dedicated the first memorial to three "Friends of Freedom": William Lloyd Garrison, Frederick Douglass, and Albion Tourgee. Over half a century later, Martin Luther King Jr.'s pronouncement in his "I Have a Dream" speech foregrounded precisely Tourgee's strand as he expressed his wish that, someday, his "four little children will live one day in a nation where they will not be judged by the color of their skin, but by the content of their character."⁹ King's quotation—a favorite among those

supporting colorblind policy today (in conjunction with Harlan)—was simply the civil rights era version of this view on colorblindness.

Ford's statements above also indirectly articulate what will take up a significant portion of my contentions in chapter two. I train my attention there on the actions of the "white mainstream" to which Ford refers, as it is in the civil rights movement that the strand of colorblindness emblemized by Albion Tourgee becomes summarily sidelined in favor of John Marshall Harlan's. Much of chapter two, then, focuses on the ascendance of colorblindness in thought and policy in the context of the civil rights movement's victory over Jim Crow and de jure racism. We shall see how white conservatives, in the very likeness of Harlan, (re-)appropriated the ideology of colorblindness as it became increasingly clear to them that Jim Crow had been defeated. Chapter two concentrates upon these conservatives' realization that colorblindness would work just as effectively as de jure discrimination in achieving their aim of continuing white privilege; and as stated above, it is at this moment that Harlan is called upon to give their perspective a judicial stamp of approval.

Thus, as chapter two will discourse upon at length, the 1970s proves a crucial decade in which conservatives successfully co-opt colorblindness and employ the concept with decidedly different intentions and goals than Martin Luther King and the civil rights movement had in mind. Their success in said cooptation was all but confirmed with the election of the standard-bearer of the right—Ronald Reagan—in 1980.¹⁰

Yet the 1970s was much more than this. This decade—in conjunction with the economic crisis detailed earlier—also witnessed the ascendance of neoliberalism. The

rejection of Keynesianism, the oil crisis in 1973, and the collapse of the Bretton Woods financial system in that same year signaled a sea change in capital accumulation. Similar to colorblindness, the roots of neoliberalism lie decades earlier in the works of (among others) FA Hayek and Milton Friedman. And just like colorblindness, commentators view a significant moment in neoliberalism's rise to influence to have occurred with Ronald Reagan's election in 1980.¹¹ The coterminous ideological ascendance of colorblindness and neoliberalism prove sufficiently noncoincidental to centralize their interaction as mutually reinforcing. So much so, that I will be naming the Harlan-inspired post-civil rights version of race-neutrality *neoliberal colorblindness* as indicated earlier. It is to an introductory examination of this subject that I now turn.

Neoliberal Colorblindness

This dissertation engages the important relationship between neoliberalism and colorblindness. Some brief comments on neoliberalism to start: by "neoliberalism," I have in mind a particular political economic formation that rose to hegemony in the 1970s and 1980s. As Lisa Duggan declares in *The Twilight of Equality?*, neoliberalism emerged when "the New Deal consensus was dismantled in the creation of a new vision of national and world order, a vision of competition, inequality, market 'discipline,' public austerity, and 'law and order'..."¹² Vigorously anti-statist and fanatically anti-welfare, processes that bind this neoliberal stance include increasing demands for deregulation and privatization as well as structural adjustment policies. In reaction to the New Deal consensus, neoliberalism prescribes but the most limited roles for the state in regulating the economy, focusing on such areas as imprisonment for neoliberalism's

marginalized detritus (which I examine in greater length in chapter four.)¹³ The state's role likewise includes protection for the increasingly super-rich; as Mike Davis and Daniel Bertrand Monk write in a recent essay, in neoliberalism we witness the “naked application of state power to raise the rate of profit for crony groups, billionaire gangsters, and the rich in general.”¹⁴ In short, neoliberalism proclaims and advertises the superiority of an ostensibly self-regulating market all but “free” from government meddling.

Neoliberalism's ascendance to hegemonic status has been detailed in such works as David Harvey's *A Brief History of Neoliberalism* and Naomi Klein's *The Shock Doctrine*. They and others recount how economic crisis disrupted the New Deal consensus, with neoliberalism ultimately implemented as the solution. Harvey:

The capitalist world stumbled towards neoliberalization as the answer [to this crisis] through a series of gyrations and chaotic experiments that really only converged as a new orthodoxy with the articulation of what became known as the “Washington Consensus” in the 1990s...The uneven geographical development of neoliberalism, its frequently partial and lop-sided application from one state and social formation to another, testifies to the tentativeness of neoliberal solutions and the complex ways in which political forces, historical traditions, and existing institutional arrangements all shaped why and how the process of neoliberalization actually occurred.¹⁵

Pinochet's coup in Chile in 1973 became the premier implementation of the neoliberal economic policies that Milton Friedman and his cohort had been advertising (in relative isolation) at the University of Chicago for decades; and we have seen it again in the aftermaths of Saddam Hussein's deposing in Iraq¹⁶ and in New Orleans following Hurricane Katrina.¹⁷ Lastly, these critics of neoliberalism illuminate the role of big business as central to the attainment of neoliberal realities, demonstrating how these

businesses (in conjunction with Friedman *et al.*) were successful in equating democratic freedom with market freedom. As Aihwa Ong writes along these lines in *Neoliberalism as Exception*, “Neoliberal governmentality results from the infiltration of market-driven truths and calculations into the domain of politics.”¹⁸

This dissertation treats these shifts as fundamental to the ability of colorblindness to represent an effective, commonsense framework vis-à-vis public policy. The chapters that follow consider the rise of colorblindness in thought and policy as a crucial cog of the “political forces, historical traditions, and existing institutional arrangements” to which Harvey referred above. As stated earlier, I am interested in illuminating why colorblindness is especially suited to thrive within neoliberal political economy, enhancing its ability to reproduce racial inequality (as informed in this dissertation’s second foundational premise.) We shall see how neoliberalism is articulated through race and racism generally and colorblindness specifically. Furthermore, we shall see the ways neoliberalism has harnessed racial difference and pressed it into the service of displacing neoliberalism’s own contradictions; Duggan’s wording in this context is the “supporting political culture”¹⁹ that permits sufficient acquiescence to neoliberalism’s dictates on the part of the polity, of which the “racial backlash” (countering calls from black power and other groups for a downward, more equitable distribution of resources along racial and class lines) represents a significant ingredient.

It is evident from the above that the very term “neoliberal colorblindness” *itself* signals the mutually dependent and reinforcing relationship between both constituent parts of the term. Recalling my second foundational premise above (that neoliberal

magnifies colorblindness's potential to reproduce racial inequality), we can distill the concept of neoliberal colorblindness to the following assertion: as a term that signals the circumstances *in which the racial ideology of colorblindness interacts with the political economy of neoliberalism in mutually reinforcing ways*. This undoubtedly presumes a dialectical approach; while my focus will mostly attach itself to colorblindness and the complex effects of neoliberalism upon it, I am also interested in excavating how race itself helped prompt the implantation of neoliberal strategies. For example, as I explain in detail in chapter three, the rise of neoliberalism in the 1970s and 1980s was itself indebted to the wildly shifting racial climate in those years. And I take the perspective that the *application of and turn to* neoliberalism the US has in turn produced racial ramifications all its own.

One important and specific issue that emerges from this concerns how neoliberalism, exactly, shapes the interaction between race and the state. In approaching its subject under the conviction that neoliberalism proves foundational to any informative limning of colorblind racial ideology today, this dissertation will investigate the shifting functions of the public and private spheres at the moment of the civil rights movement as vital to the ability of neoliberal colorblindness to reproduce racial inequality. I will argue in chapter two that, upon the passage of the civil rights acts, *race was pushed out of the public realm and into the private realm*. This maneuver, coupled with the neoliberal crusade to privatize much of the social, renders colorblindness ideal for the maintenance of white privilege upon the dissolution of de jure discrimination. I will privilege two

consequences of this passage in the main arguments of this dissertation, consequences that encompass the triumvirate of foundational premises illuminated earlier.

First, the removal of race from the public sphere utterly privatizes racial discourse; under this reading, race and racism become private matters, and the post-civil rights performance of racial groups, far from being apprehended as the present-day imprint of institutionalized racism protracted across centuries, is construed as a function of the (private) values racial groups bring to the equal opportunity table. As Henry Giroux explains it in *Against the Terror of Neoliberalism*, “marketplace ideologies now work to erase the social from the language of public life so as to reduce all racial problems to private issues such as individual character and cultural depravity.”²⁰ In other words, part and parcel of neoliberal colorblindness’s inner workings is to effect what William Ryan famously called “blaming the victim” four decades ago. By affixing individual responsibility to merit and pathology—what I will call in this dissertation (as noted earlier) the “cultural survival of the fittest” ideology—the state evades accountability from addressing the legacy of slavery and Jim Crow, since the *effects* of that legacy are now outside the public sphere.

The second primary function of neoliberal colorblindness and the reproduction of racial inequality directly flows from the first, focusing on the material consequences of racial privatization. As Reva Siegel argues in her article quoted earlier, “the racial private sphere” constitutes “a domain of racial differences that the state may not disturb.”²¹ Key among these undisturbed racial differences is racial wealth inequality, the subject of chapter three. The wealth accrued by whites prior to the civil rights movement

becomes safely tucked away into the private sphere, available for private passage between generations. This is what David Theo Goldberg has in mind when he writes, “Colorblindness enables as acceptable, as a principle of historical justice, the perpetuation of the inequities already established.”²² Following Goldberg, I contend that the crucial ingredient that activates and animates neoliberal colorblindness is *already existing material racial inequality*, thrust into the private sphere and ready to create new conditions for its further perpetuation via neoliberal colorblindness.

As seen in the above, neoliberalism and colorblindness are interacting on multiple levels, in complex ways; my purpose in the ensuing pages is to specify and clarify how that interaction takes place, as well as show how the two fortify and reinforce one another through that interaction. My subtitle *Neoliberalism and the Reproduction of Racial Inequality in the United States* presumes neoliberalism’s importance in that reproduction. Chapters three through six (summarized in the next section) are dedicated to exploring the various means by which neoliberal colorblindness functions to reproduce white racial dominance. The question of why racial and ethnic disparities persist remains dominant within the literature today, and my dissertation is intended as a contribution towards answering that question.²³ What the subtitle also stresses is my materialist theoretical commitments—in a word, the argument that a discussion of colorblindness and racial inequality also turns on questions of class. In the context of racial inequality, while I will generally use the words “maintenance,” “perpetuation,” and “reproduction” interchangeably, it is the latter of these that most effectively captures the process occurring with neoliberal colorblindness.²⁴ The chapters of this dissertation will

demonstrate that racial inequality is not simply neutrally carried along, but is specifically *created anew* through a cornucopia of mechanisms that did not exist (or at least did not exist in the same form) in erstwhile epochs.²⁵ The chapter summaries below provide some further details regarding how I will defend these foregoing arguments.

Outline of the Dissertation

The six chapters and conclusion that comprise this dissertation are as follows: chapter one's focus on colorblindness's birth as a concept has already been discussed and need not detain us here. While I have previewed some of the important themes of chapter two, more are in order. In addition to providing a history of the rise of neoliberal colorblindness in the waning years of the civil rights movement and the New Deal consensus, chapter two is likewise dedicated to illuminating the rise of various *mechanisms* that set the stage for neoliberal colorblindness to perform its racial inequality-reproducing work. The New Deal (and the Keynesian commitments undergirding it) was an unprecedented mobilization of resources on the part of the government to get the US out of the Great Depression. Yet it would be whites who would acquire the lion's share of the New Deal's benefits. This fact, in conjunction with the post-World War II explosion of suburbia, spatialized race and class inequality as whites fled the central cities and were given the opportunity to accumulate wealth at heretofore unparalleled levels (primarily via homeownership.) Likewise critical is that this "affirmative action for whites" (in Ira Katznelson's memorable phrasing) was, at the policy level, *race-neutral*.²⁶ What David Roediger has recently termed the "colorblind inequalities" of the New Deal era turns on the need to circumvent the Civil War Amendments while still maintaining strict social

and material cleavages between whites and nonwhites as dictated by Jim Crow.²⁷ Such pre-civil rights colorblindness was hardly novel—the poll tax and the grandfather clause of decades earlier had been designed with the same goals in mind. And in the all-important arena of housing, when race-conscious restrictive covenants were declared unconstitutional in *Shelley v. Kraemer* in 1948, colorblind sacred covenants proved equally effective—if not more so—in achieving the end of racial segregation. Collectively, these ostensibly colorblind policies became dress rehearsals for the neoliberal colorblindness that would take hold in the later years of the civil rights movement.

Yet, as chapters three through six will demonstrate, pre-civil rights colorblindness differs from neoliberal colorblindness in fundamental ways. During the pre-civil rights era, there were no attempts to camouflage the racist intentions of such policies as the grandfather clause or sacred covenants; everyone knew the true reasons why the New Deal's Social Security Act excluded maids and farmworkers from its provisions. The racist foundations of neoliberal colorblindness, in contrast, become decidedly more difficult to pin down, what with the cacophony of defenses mobilized to deny that racism, from the assertion “I didn't own any slaves” to the attribution of nonwhite disadvantages to their own “personal” failings—keenly articulated in William Ryan's aforementioned dictum “blaming the victim.” As Lawrence Bobo, James R. Kluegel, and Ryan A. Smith argue in this same vein, blacks are today “stereotyped and blamed as the architects of their own disadvantaged status.”²⁸ To make sense of this critical shift between the pre- and post-civil rights era on the matter of colorblindness, we will return in chapter two to

the dual strands of colorblindness exemplified by Albion Tourgee and John Marshall Harlan and apply them to the differences between pre-civil rights colorblindness and neoliberal colorblindness; this will set the stage for the interventions of the final four chapters. These later chapters attempt to sort out the differences and complexities presented in chapters one and two while arguing that the political economy of neoliberalism has proven crucial to allowing colorblindness's proponents to deny that racism in any way structures their worldview (and indeed, they equally as often charge those who insist on such color-conscious policies as affirmative action as being the true "racists" of the post-civil rights era.)

Chapters three and four are specifically dedicated to the detailed examination of two mechanisms that I contend are fully fundamental to the reproduction of racial inequality in the post-civil rights era. These two mechanisms—and their overarching importance—have been highlighted in David Roediger's recent book *How Race Survived U.S. History*: specifically, racial wealth inequality (chapter three) and the prison-industrial complex (chapter four.) As Roediger avers, both mechanisms are central in helping explain how and why "deep racial inequalities have now been recreated across two generations" since the civil rights movement.²⁹ These chapters link these two mechanisms to neoliberal colorblindness, gleaning the myriad valuable insights that can be had when approached from this analytical angle. In racial wealth inequality and the prison-industrial complex, we will witness vivid enunciations of the main argument, as through them we can see how racial inequality is defended, maintained, and created anew through the interaction of colorblindness and these two mechanisms.

Chapter three represents the first intervention of its kind to critically link neoliberalism, colorblindness, and racial wealth inequality. The ten times wealth gap between whites and people of color provides the backdrop; the implications of that gap for racial inequality and race relations generally provides the substance of the examination. I begin chapter three by considering the increasing absolute wealth owned by whites, wealth largely amassed during the New Deal era in ways delineated in chapter two. Wealth possesses an importance today that it did not in the pre-civil rights era, thus warranting a discussion that interrogates the function of wealth in a neoliberal conjuncture. Recalling my earlier arguments regarding neoliberal colorblindness and the private sphere, central to any apprehension of wealth's importance is that it is *privately* passed between generations. Individuals and families with wealth are thus in a much more ideal position to succeed in a neoliberal atmosphere and to adapt to neoliberalism's quest to privatize just about everything; as public subsidies dry up in economic crisis, the wealth-rich are better positioned to weather the storms. I then bring colorblindness into the mix, arguing that what colorblindness specifically effects is a *deracialization of wealth transfers*. In other words, neoliberal colorblindness allows wealth-rich whites to deny that their wealth (and the transformative opportunities it bequeaths) in any way sources from the de jure discrimination of the past. It is here that I first bring in Nikhil Pal Singh's notion of the "splitting off of racial history" as accurately capturing what occurs when neoliberal colorblindness interacts with racial wealth inequality.³⁰

Chapter four turns to an investigation of the prison-industrial complex. Like wealth, the contours and reach of the prison-industrial complex in the neoliberal era far

outdistance anything witnessed prior: the ten-times explosion of the prison population, the prison privatization movement, and the radical racial imbalances therein all center my thoughts in this chapter. I argue that the prison-industrial complex exemplifies Noam Chomsky's titular verdict on neoliberalism: *Profit over People*. One of the state's major roles in a neoliberal order resides in its policing functions, incarcerating (or worse) those who have become redundant to capitalist accumulation and profit; and in so doing—in “encaging black subproletarians” (as Loic Wacquant recently put it)—the state reasserts its authority through the prison-industrial complex against the disorders neoliberalism has created.³¹ Chapter four begins similarly to chapter three, by first elucidating this relationship between neoliberalism and the prison-industrial complex; I accomplish this through detailed reference to two recent texts that apprehend this exact topic: David Theo Goldberg's *The Threat of Race* and Loic Wacquant's *Punishing the Poor*. I then turn to the interaction between colorblindness and the prison-industrial complex; through an engagement with *McCleskey v. Kemp*, we shall see how the colorblind framework of the judiciary guarantees the production of the glaring racial imbalances that currently obtain. My analysis there will lead us back to the divide separating Albion Tourgee and John Marshall Harlan as examined in chapter one. By comparing and contrasting their views of colorblindness with those of the Supreme Court today, we will see how the Court is fully invested in the Harlanian perspective on colorblindness. This discussion will clearly reveal and support the central contention of this dissertation: that neoliberal colorblindness renders a blindness to the legacy of slavery and Jim Crow.

Chapters five and six seek to capture neoliberal colorblindness in all its complexity, zeroing in upon aspects and angles that have garnered relatively little attention in the scholarly literature thus far. In the fifth chapter, I entertain the question of “malice aforethought” in colorblindness. This concept communicates the following: Are the framers of colorblind programs doing so with the express, malicious intention of reproducing white advantage in the absence of a de jure discriminatory apparatus? To explore this issue, I compare and contrast colorblind policies of the Jim Crow era and those of the present day. In the previous era, no attempt was made to hide such colorblind programs as the Social Security Act behind an innocently colorblind veneer; its purpose of excluding most (but not all!) blacks was uncontested. Today, on the very contrary, those investing in colorblind policies vociferously insist that their intentions are in no way racially malicious (and as aforementioned, they claim that such programs as affirmative action are “racist” simply by dint of their color-consciousness.) I problematize such assertions of sincerity and argue that the displacing of accusations of malice aforethought most effectively occurs through such processes as the appropriation of the civil rights vision and the blindness of whites to the plethora of social and material privileges they continue to enjoy.

Chapter six then turns to a critical interrogation of the relationship between neoliberal colorblindness and class. While much is (understandably) made of colorblindness’s influence on race and racial inequality, I contend in this last chapter that class is likewise deeply implicated and impacted by a race-neutral programmatic. I endeavor to further our understanding of the association between colorblindness and

neoliberalism that I have crafted in the first five chapters. To begin, I introduce a concept I label “the racial inexactness of colorblindness.” This term highlights the observation that the consequences of colorblind policies are not solely racial; some people of color benefit from them and some whites do not. The guiding query becomes, Can we deduce any *patterns* in the demographics of those whites who are harmed and those people of color who are benefited by them? I contend that we can, and the early arguments of chapter six posit that those patterns most saliently fall upon *class* lines.

I then proceed in chapter six to an analysis of two individuals who have advanced arguments and deployed insights relevant to our larger conversation. While Milton Friedman and Walter Benn Michaels fall on the opposite ends of the spectrum of support for neoliberalism, I demonstrate how their common colorblindness produces an ideological chumminess that in each case serves to protect both neoliberalism and racial inequality. While this bears little surprise in the case of Friedman, Michaels’s crusade against neoliberalism makes his line of attack decidedly more convoluted. As I will discuss, Michaels’s insistence on a colorblind offensive on neoliberalism proves a non-starter, and the reasons for this will help to more effectively clarify the mutually reinforcing relationship between neoliberalism and race-neutrality. This examination will also allow us to consider the effectivity of universal programs as a class-based solution to entrenched racial inequality.

I wrap up the dissertation in the conclusion, entitled “‘Color-Blind Justice’ in the Twenty-First Century.” My conclusion’s overarching goal is to synthesize Albion Tourgee’s notion of “color-blind justice” with the realities of neoliberalism in the present

conjuncture—a synthesis that engages neoliberal colorblindness as a formidable force impeding passage towards a racially and materially equitable society. I pose the question, What might “color-blind justice” look like in the context of both a political economy and a discourse on race that are decidedly different than those faced by Tourgee—or John Marshall Harlan, for that matter? Doing so will permit me to assess the deeper implications of some of the issues produced by my dissertation. One major implication is the tethering of colorblindness to *whiteness*. By further explicating how Tourgee and Harlan fundamentally differed in their approaches to colorblindness, we can see how Tourgee was fully committed to abolishing whiteness—more specifically, the property value of whiteness, expressed through their ubiquitous material dominance. Harlan’s purpose, in contrast, was centrally to protect the property value of whiteness, understanding (as advocates of colorblindness do today) that its best protection lay in crafting legislation that pretended that racial (dis)advantage did not exist.

Collectively, the chapters and conclusion of this dissertation consider the new and unique insights that can be had when neoliberalism and colorblindness are, in tandem, brought to bear upon current issues germane to both capitalism and racism in the Twenty-First Century. In so doing, I hope to fashion advancing insights that render the rhetorical and discursive power of colorblindness more intelligible.

LITERATURE REVIEW

Introduction

Colorblindness, as will be evident in the literature review that follows, has been critically examined in myriad fields: sociology, political science, history, legal theory, and many others. My purpose here is to concisely document these numerous analyses as they have appeared in the literature; to accomplish this, I divide this review into three sections. First, I will assess some of the common themes that frequently surface in studies of colorblindness. The second section comprises reviews of three books that take colorblindness as their central thematic: *Racism without Racists* by Eduardo Bonilla-Silva, “*Color-Blind*” *Racism* by Leslie Carr, and *Whitewashing Race* by Michael K. Brown et. al. Lastly, I move to reviews of articles and chapters within books that likewise take colorblindness as their main point of entry.

—“*Neoliberal*” *Colorblindness*?

Before embarking on this review, it behooves us to inquire of previous references to a specifically *neoliberal* colorblindness. In all the literature I have reviewed, I have found this term only one time—in an endnote to Roopali Mukherjee’s *The Racial Order of Things*, where she writes of a “neoliberal color blindness authorized in 1996 California” through Proposition 209, which outlawed affirmative action in admission and hiring.¹

One scholar who specifically weds “neoliberalism” and “colorblindness” is Charles Gallagher. In his essay “‘The End of Racism’ as the New Doxa,” Gallagher writes of “the neoliberal color-blind racial nirvana many Whites honestly believe we now inhabit.”² In this and other essays, Gallagher parallels the approach taken in this dissertation: that neoliberalism and colorblindness are an ideal match for one another, both in announcing the ascendance of this “racial nirvana” and employing free-market accounts as a means to displace the continuing unrest germinating from entrenched racial inequality by broadcasting paeans to liberal individualism and Horatio Alger bootstraps narratives.³

Common Themes

When colorblindness surfaces in the literature, to what larger issues do scholars connect it? This inquiry guides my thoughts throughout this first section. In what follows, I will generally avoid references to the works upon which I specifically focus later in the review; this will allow me to cast my “review net” far into the vast literature on colorblindness. My close scrutiny of articles and books later in this review also means that the list in this first section is not exhaustive; other themes will emerge later.

—Colorblindness is the central post-civil rights racial ideology

This is precisely the view of Diane Harriford and Becky Thompson in their 2008 book *When the Center Is on Fire*, who assert that colorblindness is “the dominant racial ideology in the post-civil rights era.”⁴ Several scholars, drawing off of Charles W. Mills’s racial contract theory, arrive at the same conclusion. As Mills himself wrote, “the Racial Contract is *continually being rewritten* to create different forms of the racial

polity.”⁵ The latest rewriting occurred during the civil rights movement, and colorblindness is the racial contract’s current version, as Alison Bailey contends in her article “Strategic Ignorance.”⁶ (Timothy V. Kaufman-Osborn crafts essentially the same argument in his article “Capital Punishment as Legal Lynching?”)⁷

That scholars agree on this first theme, however, is most effectively highlighted in a pair of 2009 articles. In “Rationalizing the Racial Order,” Helen Neville avers that entrenched racial inequalities “are masked by a color-blind racial ideology, the dominant racial ideology in the contemporary period.”⁸ And Evelyn Nakano Glenn opens her essay “Consuming Lightness” with the following: “Despite the reigning ideology of *color blindness* that proclaims the irrelevance of race in the contemporary world, *colorism*, the preference for lighter skin and social hierarchy based on skin tone, has emerged as a pervasive and growing axis of inequality in many societies.”⁹ These references to the ideological dominance of colorblindness, appearing as they do in dependent clauses, make this point plainly evident. In other words, that colorblindness is the central post-civil rights racial ideology has become a thesis that no longer needs argument: it has been sufficiently accepted as such. The task—which this dissertation takes up—is to demonstrate the effects of this dominant ideology upon the reproduction of racial inequality in our neoliberal era.

—Colorblindness perpetuates racial inequality in the post-civil rights era

As I will cite again near the closing of the review, David Theo Goldberg’s assertion in “Raceless States” concisely communicates this theme: “Colorblindness enables as acceptable, as a principle of historical justice, the perpetuation of the inequities already

established.”¹⁰ What colorblindness has effected, contends Joel Olson in *The Abolition of White Democracy*, is to make whiteness “a norm that cements white advantages in the ordinary operations of society.”¹¹ Richard Delgado and Jean Stefancic argue essentially the same point in *Critical Race Theory*: with colorblindness “the ‘ordinary business’ of society—the routines, practices, and institutions we rely on to effect the world’s work—will keep minorities in subordinate positions.”¹²

Scholars are likewise keen to the historical specificity of colorblindness’s role; Howard Winant demonstrates this at the outset of *The New Politics of Race*: “It is rather ironic that this new, ‘color-blind’ racial system may prove more effective in containing the challenges posed over the past few decades by movements for racial justice than any intransigent, overtly racist ‘backlash’ could possibly have been.”¹³ We witness this in white conservatives’ turn from “massive resistance” to colorblindness in the late 1960s through the 1970s, as my later review of Nancy MacLean’s work will discuss. We can end here with a passage from Woody Doane’s essay “Rethinking Whiteness Studies”:

I contend that “color-blind” ideology plays an important role in the maintenance of white hegemony. As an organized set of claims about race, “color blindness” rests on the seemingly unassailable moral foundation of “equality,” which is the basis for its political strength. What is overlooked—or deliberately masked—is the persistence of racial stratification and the ongoing role of social institution in reproducing social inequality.¹⁴

—Colorblindness obscures white privilege and insulates it from critique

In this context, colorblindness institutes a “blindness” to the mechanisms that serve to advantage whites in the post-civil rights era. “In response to the 1950s and 1960s civil-rights struggles,” opines Tony Zaragosa, “white supremacy ‘learned’ how to better hide racism” via colorblindness.¹⁵ Zaragosa goes on to enumerate how colorblindness in

hiring and admissions camouflages the color-coded real world factors that continue to tilt the playing field in favor of whites.

One such real world factor revolves around what is known as “old boys’ networks,” and this concept was the focus of the essay “White Views of Civil Rights: Color Blindness and Equal Opportunity” by Nancy DiTomaso, Rochelle Parks-Yancy, and Corinne Post. Their essay was based on interviews of over two hundred white people, who were asked about their views of equal opportunity and the shifts that have occurred since the civil rights movement. What the authors uncovered parallels the theme of colorblindness working to obscure continuing white privilege; while many of the interviewees advocated both equal opportunity and colorblindness, they did not practice either in their own lives, as many of them had secured their own jobs through old boys’ networks. As the authors write,

Intertwined with white views of color blindness is their frequently expressed belief that equal opportunity is the solution to racial (or gender) inequality....Yet the majority of the interviewees in this study had gotten their own jobs primarily through the help of family, friends, and acquaintances....In other words, the interviewees did not rely on equal opportunity. Instead, they sought and used advantage....

Because their own advantages were not salient or visible to them, the white interviewees espoused a commitment to color blindness and equal opportunity that they did not adhere to in their own lives.¹⁶

Key here is the specific role colorblindness plays in dissolving this contradiction, as well as rendering their advantages invisible to them.

Moreover, colorblindness not only obscures white privilege but creates new dimensions of advantage. One such dimension is the focus of Devon Carbado and Cheryl

Harris's article "The New Racial Preferences"; I comment upon this piece at length later in this literature review.

—**Colorblindness is a white way of viewing the world**

"Colorblindness as an ideological and emotional position 'names' race for many white people, because it explains the way they experience race." So assert Lani Guinier and Gerald Torres in *The Miner's Canary*.¹⁷ Celine-Marie Pascale echoes this position: "Indeed, 'colorblindness' is characteristic of white people's relationship to their own racial identity, and is the very premise of white privilege."¹⁸ This function of colorblindness weaves its way into such post-civil rights debates as affirmative action. As historian Kenneth O'Reilly explains in *Nixon's Piano*, "If carried out in the name of equal opportunity and color blindness, the assault on reverse discrimination remained tuned to white anxieties."¹⁹ Shannon Sullivan's observation in *Revealing Whiteness* is apropos in this regard: "It is as if...habits of white privilege provide ready-made grooves for colorblindness to slide into, and those grooves in turn are deepened as colorblindness grows."²⁰

The fundamental whiteness of colorblindness likewise finds expression in the insistence on denying the racial identity of nonwhites. "In the historical ambiguity of the failure of whiteness to recognize itself as a racial color," writes David Theo Goldberg in *The Racial State*, "the implication must be that colorblindness concern itself with being blind to *people* of color."²¹ How does this happen? As Frances Rains put it in her essay "Is the Benign Really Harmless?," colorblindness's erasure of people of color is best expressed in the phrase "I don't see you as black" (or other nonwhite racialized group.)²²

The inherent whiteness of such a maneuver has been adroitly interrogated in Charles R. Lawrence III's well-known article "The ID, the EGO, and Equal Protection Reckoning with Unconscious Racism." The "I don't see you as black" expression, Lawrence argues, begs the question, "Then what *do* you see me as?" Such expressions are necessarily ethnocentric; as Lawrence remarks, "One indication of the nonneutrality of the statement, 'I don't think of you as a Negro'...is the incongruity of the response, 'I don't think of you as white'."²³ The nonsensicalness of the response points up the whiteness intrinsic in colorblind discourse.

The most extended cogitation on the notion of colorblindness being a white way of perceiving the world comes from Steve Martinot's *The Rule of Racialization* (and compare the passage quoted here to the assertions of Rains and Lawrence above):

To claim to be colorblind is to see color from a white point of view....In adopting the white point of view, [the law] establishes white as the one color it sees in its colorblindness. In other words, the corollary to colorblindness is that black people are supposed to stop seeing themselves as black, while whites do not have to stop seeing themselves as white, which in turn relies on seeing black people as black.²⁴

—Colorblindness evacuates social content from race

We can begin this discussion where the previous one left off, by drawing again on *The Rule of Racialization* by Steve Martinot; the following passage lies directly before the one that concluded the previous section.

The problem with the "colorblind" idea is that it falls prey to the same double bind as the idea of parity or equality (in the sense, for instance, that inequality is not a state but something people with power do to others). Black or white people, for instance, are not born black or white; they are given this as a social categorization by a society that racializes. If you claim to be colorblind (as does the law nowadays), you consider "color" real, pertaining to skin or bodies rather

than functioning as a reference to social categories that “blindness” is not a relevant mode of “ignoring.”²⁵

“Color” thus assumes an ostensible neutrality when divorced from the social categorization that is its actual lifeblood; when that disconnection occurs, opposition to race-conscious policy logically follows.

This theme is further clarified in both Peter McLaren’s essay “Unthinking Whiteness, Rethinking Democracy” and Cheryl Harris’s seminal article “Whiteness as Property.” McLaren posits that colorblindness renders blackness and whiteness “neutral and apolitical descriptions reflecting skin color and as unrelated to social conditions of domination and subordination....”²⁶ Similarly, Harris contends that “To define race reductively as simply color...denies the real linkage between race and oppression under systemic white supremacy.”²⁷ Both quotations effectively portray this theme. Assertions of colorblindness by the courts or elsewhere produce this evacuation of social content from race. Under colorblindness, color is simply an “accidental property,” as Alison Bailey put it—and thus one properly to be ignored.²⁸ This is in contrast to the pre-civil rights era, where the interpretation of race’s inherent social qualities (and the hierarchies that are created by—and in turn reinforce—that interpretation) was persistently forthcoming. This is what Charles A. Gallagher means in his 2008 essay “‘The End of Racism’ as the New Doxa”: “As the majority of Whites now see it, race has mutated from a social hierarchy that allocates resources and shapes life chances to one that is nothing more than a cultural identity.”²⁹ As seen from these and other scholars, the evacuation of social content from race via colorblindness (rendering race as merely “skin-or-bodies”) is foundational, and this theme will figure heavily in chapter three as I make connections

between colorblindness and the epistemology of ignorance in the context of racial wealth inequality.

—Colorblindness explains post-civil rights inequalities as owing either to blatant racist bias or to the “cultural” deficiencies of the groups themselves—not structural racial discrimination, past or present

The role colorblindness plays in explaining inequality as a function of the values racial groups possess cannot be overstated. Consider the following two insights in tandem:

“When outcomes differ by race, the color-blind approach assumes that they are either the result of intended discrimination or an indication of ‘real’ racial differences” (Doris Marie Provine, *Unequal under Law*);³⁰ “In this world, once law had performed its ‘proper’ function of assuring equality of process, then differences in outcomes between groups would not reflect past discrimination but rather real differences between groups competing for social rewards” (Kimberle Williams Crenshaw, “Race, Reform, and Retrenchment.”)³¹

The focus on racism as solely an individual attribute, as we will see, has a lengthy pedigree, sourcing in the work of Franz Boas and enshrined in Gunnar Myrdal’s *American Dilemma*. Indeed, the civil rights movement was witness to a very brief moment in which a structural understanding of racism that stressed the divergent material circumstances of racial groups made theoretical headway, articulated in such works as *Black Power* by Stokely Carmichael and Charles V. Hamilton and *Racial Oppression in America* by Robert Blauner.³² Yet, as I will analyze later in my reviews of the works of Nancy MacLean and Ian Haney-Lopez, the framework of racism-as-individual-attribute

reasserted its dominance in the 1970s, sped along the way by the dual midwives of colorblindness and the “ethnic paradigm” that equated the discrimination experienced by European immigrants in the late 1800s-early 1900s with antiblack racism.

In this regard, colorblindness casts off a structural perspective of racial inequality; its continuing presence is thus interpreted as either the result of bigoted individuals or the cultural failings of racial groups on the bottom. “Within the discourse of ‘color blindness,’” contends Woody Doane, “inequality is explained away as the result of individual or communal failings, not the persistence of racism, and is therefore not considered a problem requiring structural change.”³³ We will return to these issues in multiple places further into the literature review.

—Colorblindness is a form of (racial) false consciousness

The most direct reference to this theme appears in Eugene Victor Wolfenstein’s

Psychoanalytic-Marxism:

White racism is rather a mental disorder, an ocular disease, an opacity of the soul that is articulated with unintended irony in the idea of “color blindness.” *To be color blind is the highest form of racial false consciousness*, a denial of both difference and domination. But one doesn’t have to be color blind to be blinded by white racism....Black people see themselves in white mirrors, white people see black people as their own photographic negatives.”³⁴

Similar assertions surface throughout the literature. As David Theo Goldberg notes in “Raceless States,” “colorblindness presupposes a split disposition on the part of colorblind subjects, a doubled troubled consciousness.”³⁵ In their chapter “Rice, Du Bois, and Double Consciousness” Diane Harriford and Becky Thompson couch their earlier cited analysis of colorblindness in the context of Du Bois’s notion of double

consciousness and its effect on individually successful and powerful people of color like Condoleeza Rice.³⁶

Alison Bailey also engages these themes in her 2007 essay “Strategic Ignorance”:

To be color blind you must learn to split and separate race from humanity. Color blindness relies on the cognitive habit of training the multiple (racial diversity) into a fictitious unity (we are all human)...Color blindness is just the sort of cognitive dysfunction [Charles W.] Mills has in mind. When members of dominant groups actively ignore multiplicity, they practice hearing and seeing wrongly. So, color-blind responses to racism are an agreement to *misinterpret* the world.³⁷

This idea that colorblindness forces one “to split and separate race from humanity” also interconnects with the earlier theme “Colorblindness evacuates social content from race,” as it elides the social dimensions which ubiquitously punctuate human relations.

Colorblindness in Books

What follows are in-depth reviews of three books that focus on colorblindness; my objective here is to identify the principal arguments each book makes and situate them in the context of my own dissertation.

—**Eduardo Bonilla-Silva, *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States***

Originally published in 2003, Eduardo Bonilla-Silva’s *Racism without Racists* made rapid inroads to scholarly influence, spawning an updated second edition three years later. Bonilla-Silva’s study is far-reaching, ambitious, heavily cited, and he greatly advances the literature on colorblindness and racism by his approach, an incisive and unique blend of the theoretical and the empirical.

Theoretically, Bonilla-Silva makes his materialist approach to race and racism clear. In a sense (and a fuller argument would be needed to flesh out the particulars), his

study could be defined as a sort of a “racial Marxism,” as he employs a *racial* version of Marx’s base-superstructure metaphor, as seen in the following passage:

If the ultimate goal of the dominant race is to defend its collective interests (i.e., the perpetuation of systemic white privilege), it should surprise no one that this group develops rationalizations to account for the status of the various races. And here I introduce [the] key term, the notion of *racial ideology*. By this I mean *the racially based frameworks used by actors to explain and justify* (dominant race) or *challenge* (subordinate race or races) *the racial status quo*. Although all the races in a racialized social system have the *capacity* of developing these frameworks, the frameworks of the dominant race tend to become the master frameworks upon which *all* racial actors ground (for or against) their ideological positions. Why? Because as Marx pointed out in *The German Ideology*, “the ruling *material* force of society, is at the same time its ruling *intellectual* force.”³⁸

What Bonilla-Silva is arguing here centers on how the dominant race (rather than class) ideologically defends its collective interests in maintaining the status quo of racial inequality. And the dominant ideology of this current conjuncture (echoing scholars quoted earlier in this review), Bonilla-Silva labels “color-blind ideology.” Here we also see what Bonilla-Silva intends by his title, *Racism without Racists*; as he expressed it, “the intentions of individual actors are largely irrelevant to the explanation of social outcomes.”³⁹ In other words, “racists” (from neo-Nazis to Jim Crow-esque social policies) are no longer necessary to perpetuate racism (that is, racial inequality) in the post-civil rights era, as *other* evidently nonracial mechanisms now work to the same effect. This directly coincides with the earlier analyzed theme “Colorblindness perpetuates racial inequality in the post-civil rights era.”

The empirical basis of *Racism without Racists* rests upon in-depth, semi-open interviews with over one hundred whites and seventeen blacks (I will focus here, as Bonilla-Silva largely does, on the white respondents.) They were asked about a wide-

ranging set of racial issues, from interracial marriage to affirmative action. Bonilla-Silva was most interested in capturing the *rhetorical patterns* that surfaced in the interviews. For example, he queried the significance of the line “If groups like Irish and Japanese have made it, how come blacks have not?,” some version of which his white interviewees repeatedly articulated. In short, Bonilla-Silva’s burden was twofold: to locate said patterns and interrogate their significance. Regarding the latter, Bonilla-Silva was principally interested in what *purpose* such lines as “I’m not a racist” and “Some of my best friends are Asian” served. If most of his interviewees were solidly opposed to affirmative action, why did so many of them preface their comments with “Well, I’m both for and against affirmative action”?

The best description of the purpose colorblind ideology held for the subjects of *Racism without Racists* came not from Bonilla-Silva himself but Eileen O’Brien, in her 2008 book *The Racial Middle*. She metaphorized colorblindness as a *weapon* Bonilla-Silva’s white interviewees wielded to augment their views on the issues upon which they had been questioned.⁴⁰

Racism without Racists provides a major advancement on our understandings of colorblindness. While my dissertation is not a work of primary research, the questions it poses and the theoretical routes it takes are very much shaped by the empirical contributions of Bonilla-Silva. Theoretically, however, I wish to extend beyond Bonilla-Silva and argue that his aforementioned racial base-superstructure metaphor needs retooling, as it pays insufficient attention to the specific *class* dynamics at work in post-civil rights matters racial. That discussion will take place in chapter two.

—Leslie Carr, “*Color-Blind*” *Racism*

Leslie Carr opens his 1997 book “*Color-Blind*” *Racism* thus:

About 15 years ago, a group of conservative intellectuals began developing the argument that because the constitution is “color-blind,” liberal policies, such as affirmative action, were unconstitutional. They argued that it was not legal for the government to take race into account in a “color-conscious” manner. This argument has become the basis for a series of Supreme Court decisions that have undermined affirmative action and, more recently, called into question the legality of African American majority voting districts.⁴¹

And he provides his main argument a couple paragraphs later: “This book explains just how the constitution is ‘racist’ and how color blindness is actually a racist ideology.”⁴²

Interestingly, while colorblindness intersects Carr’s title and central thesis, he does not commence a specific analysis of the concept until chapter seven (the book has eight chapters.) The first six chapters critically summarize, from a Marxist perspective, American racism from the colonial era to the civil rights movement; in this, his approach more closely adheres to Mel Leiman’s *The Political Economy of Racism* or Carter G. Wilson’s *Racism: From Slavery to Advanced Capitalism* than any of the works cited in this review.⁴³

In keeping with the chronological ordering of his book, Carr’s seventh chapter, titled “The Color-Blind Reaction,” turns to the civil rights movement’s twilight years; here, the genesis of post-civil rights colorblind ideology is given thorough scrutiny and his insights parallel many of the other scholars considered here. Carr’s premier contribution to the literature surfaces early on in this seventh chapter. He comments upon conservatives’ adulation of Justice John Marshall Harlan’s dissent in *Plessy v. Ferguson*, namely his declaration “Our constitution is color-blind and neither knows nor

tolerates class among citizens.” Carr then notes that these same conservatives proceed to omit other sections of Harlan’s dissent, particularly:

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage and holds fast to the principles of constitutional liberty.

Carr lays his cards on the table with his follow-up: such conservatives ignore Harlan’s white supremacist proclamations, “but they follow what [he] prescribes exactly.

*[Harlan] says that the best way to maintain the domination of the White nation is to follow the color-blind constitution in all matters of law.”*⁴⁴ In this, Carr’s emphasis

coincides with the argument of Kimberle Williams Crenshaw in her article “Color Blindness, History, and the Law,” namely, that we see in colorblindness today a

“continuity of *Plessy*’s social vision and its analytic.”⁴⁵ What Carr and Crenshaw are

maintaining is the following key idea: while the specific *mechanisms* that would

colorblindly transmit racial inequality in the *Plessy* era (more on which in chapter one of

this dissertation) are different that what we witness in the post-civil rights era (more on

which in chapters two through five), a continuity in conceiving of colorblindness as an

effective means to perpetuate racial inequality is in evidence. And so while the *meaning*

of colorblindness (as “wielded” by those in power) has shifted from era to era, its

effectiveness in maintaining white dominance has not.

The discussion above makes clear where Carr’s advancements in studies of colorblindness will emerge in my dissertation. His exposure of the deeper meanings contained within colorblindness are required for any serious analysis of the subject.

—*Whitewashing Race: The Myth of a Color-Blind Society*

The final book-length study to be considered, *Whitewashing Race*, was the joint product of seven authors: Michael K. Brown, Martin Carnoy, Elliott Currie, Troy Duster, David B. Oppenheimer, Marjorie M. Shultz, and David Wellman. Their venture began with Brown and Wellman, but as they note at the outset, “we quickly realized that the job was too large for us alone.”⁴⁶ What resulted was a thorough, citation-laden volume that argued their subtitle: to counter the ascendant belief of the colorblindness of our society and a colorblind approach as the sole means by which to achieve that society.

It is the views of those who support this belief that the authors of *Whitewashing Race* are interested in countering. The names are familiar: Stephen and Abigail Thernstrom, Thomas Sowell, Dinesh D’Souza, Jim Sleeper, Shelby Steele, Charles Murray, and many others. They identify this group as “racial realists,” an acknowledgment of their diverse political persuasions (most racial realists, it should be noted, are conservative.) The bulk of the book, then, is a debunking of the racial realists’ perspectives.

And it is here that the sheer volume of their research becomes apparent. Their subjects span from wealth to education to the prison-industrial complex—and they are all given detailed treatment, again with the aforementioned eye for exposing the faulty thinking of the racial realists. Like my dissertation, *Whitewashing Race* is not an empirical study—their content is the laborious linking of the myriad empirical works that frame their case against the racial realists.

In so doing, *Whitewashing Race* intersects a majority of the themes presented earlier—and provides some others in the process. They assert these themes at the outset:

The crude racial prejudice of the Jim Crow era has been discredited and replaced by a new understanding of race and racial inequality. This new understanding began with a backlash against the Great Society and took hold after the Reagan-Bush revolution in the 1980s. The current set of beliefs about race rests on three tenets held by many white Americans.⁴⁷

We can synopsize these three themes thus:

- (1) The civil rights movement was successful, eradicating racial inequality and blatant racism—save for a few “racist hotheads” through which many whites can assert their innocence on racial issues.
- (2) Any lingering racial inequality is blacks’ own fault, a function of their poor cultural values.
- (3) Because of (1) and (2), color-conscious policies are not only unnecessary but violate the ideals embodied in Martin Luther King, Jr.’s “I Have a Dream” speech.⁴⁸

From there, they turn their concentration to the racial realists. Throughout, the seven authors tackle the concept of colorblindness with a sensitivity to its shifting significations. Many other scholars are likewise privy to these shifts; we will visit this specific issue (and manifold others) in the last section of this review, to which I now turn.

Colorblindness in essays, chapters, and articles

I now turn to a review of a collection of articles and book chapters that specifically explore colorblindness at some length. Each will garner three paragraphs that will answer the following three questions respectively:

- 1: What is the main thrust of their work, especially vis-à-vis colorblindness?
- 2: How does each work make a specific contribution to the literature?

3: How does my dissertation flow out of and extend beyond these book chapters and articles?

En route, I am interested in forging connections between these book chapters and articles as well as the triumvirate of books analyzed directly above.

—Nancy MacLean, “Conservatives Shift from ‘Massive Resistance’ to ‘Color-Blindness’”

As the title to one of her chapters in *Freedom Is Not Enough* relates, Nancy MacLean’s main purpose is to demonstrate how, in the course of the civil rights movement (particularly its twilight years), white conservatives who had vociferously opposed the movement’s goals gradually began embracing colorblindness as the most effective means by which to safeguard white privilege. This adjustment, argues MacLean, was primarily the product of two interrelated forces: first, the embracement of the principles of equality of opportunity by a majority of whites (which made a return to Jim Crow an increasing impossibility, thus effecting the jettisoning of their erstwhile “massive resistance”); and second, the institutionalization of affirmative action policy, which allowed colorblind rhetoric to gain a foothold and a resonance among those whites growing more and more disaffected with the civil rights movement’s later years.⁴⁹

MacLean contributes to the literature by linking the post-civil rights dimensions of colorblindness to specific historical events as they transpired in the civil rights movement and directly after. Her approach allows her to consider the roles of three groups who became increasingly important and influential in the 1970s: white ethnics, Asian Americans, and black conservatives. MacLean explains how white ethnic

intellectuals were crucial to white conservatives' shift to colorblindness by equating the discrimination experienced by European immigrants in the late 1800s and early 1900s with that of black exclusion (best codified by Irving Kristol's well-known 1966 article "The Negro of Today Is Like the Immigrant of Yesterday.") Since colorblind policy had worked for white ethnics, so the argument went, it should also work for blacks; the assault against race-conscious policies logically followed (as seen in such books as Nathan Glazer's *Affirmative Discrimination: Ethnic Inequality and Public Policy*—the "ethnic" in the subtitle exposes Glazer's approach here.)⁵⁰ Such a shift in current presupposes and announces the mainstream embracement of what Michael Omi and Howard Winant have labeled the "ethnic paradigm" that took salient root in the white ethnic revival of the 1970s.⁵¹ This ethnic paradigm was additionally imperative to the increasing discursive influence of the trope of Asian American success, that is, the "model minority myth" which gained prominence during these same years (more on which later in this literature review.) MacLean also discusses how white conservatives' adoption of colorblindness opened their ranks to people who would have never entered them in the era of "massive resistance"—black conservatives (and soon after, conservatives from other racial groups.) She explores at length the case of the first prominent black conservative pulled in by the rhetoric and resources of the conservative movement of the 1970s: Thomas Sowell.⁵²

MacLean's is one study upon which chapter two will rely heavily; her study illuminates one of the central convictions undergirding my dissertation: the need to *historicize* colorblindness, thus challenging its taken-for-granted inevitability. Another

scholar who likewise stresses the shifting tides of colorblindness during this period is Ian Haney-Lopez, to whose work I now turn.

—**Ian Haney-Lopez, “A Nation of Minorities’: Race, Ethnicity, and Reactionary Colorblindness”**

Ian Haney-Lopez’s 2007 law review article sets its sights upon the rise to discursive influence of the concept of “reactionary colorblindness”; this lengthy essay is thus a discussion of this concept, how it emerged, and how it is employed today. In brief, “reactionary colorblindness” signifies an “asserted congruence between Jim Crow laws and affirmative action” as observed in the post-civil rights rulings of the Supreme Court regarding race-conscious policy. Haney-Lopez enshrines Justice Clarence Thomas’s concurrence in the well-known *Adarand* case as emblematic of reactionary colorblindness: as Thomas expressed it, there exists “a ‘moral and constitutional equivalence’ between laws designed to subjugate a race and those that distribute benefits on the basis of race in order to foster some current notion of equality.”⁵³ Haney-Lopez is interested in this article in exploring how reactionary colorblindness took root in the latter years of the civil rights movement—and how it gets packaged as simply colorblindness. Haney-Lopez spends much time stressing the crucial role the “white ethnic” paradigm played in effecting the rise of reactionary colorblindness (for example, in the famous deliberation of Justice Lewis Powell in the *Bakke* case.) En route, he provides numerous accounts of reactionary colorblindness in action, examining a wide range of Supreme Court cases to strengthen his points.

By coining the term “reactionary colorblindness,” Haney-Lopez builds upon the scholarly literature on colorblindness by demonstrating that the concept is anything but

monolithic. In doing so, he points the way to more fluid and multidimensional understandings that show why one cannot simply analyze colorblindness in the post-civil rights era to gain a full appreciation for the uses to which it is put by those who place their political loyalty in it. For example, the notion of reactionary colorblindness points up the bad faith at work when such conservatives as Shelby Steele and Ward Connerly claim the mantle of Martin Luther King, Jr., decontextualizing en route the very political economic dimensions of which King was becoming increasingly aware. The long view of colorblindness helps expose the blind spots of those who argue this way today.

That I have titled part of chapter two the “Advent of Reactionary Colorblindness” makes my reliance on Haney-Lopez’s article evident. I am interested in further interrogating this notion of reactionary colorblindness and the specific effects it exerts on matters racial today—in particular, intergenerational wealth transfers and the prison-industrial complex. As such, his article will (in)directly weave its way into each chapter of my dissertation.

—Neil Gotanda, “A Critique of ‘Our Constitution Is Colorblind’”

In this law review article, Neil Gotanda delivers a lengthy analysis of Justice John Marshall Harlan’s famous dissent in the 1896 case *Plessy v. Ferguson*. To accomplish this, he opens by differentiating between four race-related concepts that the Supreme Court has variously employed in their decisions throughout US history. “Status-race” refers to the largely forsaken view of race as immutable indicator of social status (best expressed in the *Dred Scott* case); “formal-race” interprets race simply as skin color and unconnected to social categories (this coincides with the theme presented earlier,

“Colorblindness evacuates social content from race”); “historical-race,” in contrast, does conceive of race as a social category with political economic causes and consequences (from where the Court’s “strict scrutiny” standards source); and “culture-race” centers on the “broadly shared beliefs and social practices” of different racial groups (diversity rationales for affirmative action, such as that seen in *Bakke*, employ this last notion.)⁵⁴ Gotanda then applies the first three to an examination of Harlan’s dissent in *Plessy*; as he argues, where Harlan differed from his colleagues turned on where one drew the line between the public and private spheres. Harlan insisted that the Constitution was colorblind to everything in the public sphere, and that white dominance would work itself out splendidly in the private sphere (this point echoes Leslie Carr as reviewed earlier.) To employ Gotanda’s framework, in Harlan’s view, “historical-race” should permeate the public sphere, while “formal-race” should dictate the private sphere.⁵⁵

“A Critique of ‘Our Constitution Is Colorblind’” has been extremely influential since its publication in 1991; Gotanda’s article has been cited in nearly every one of the books and articles considered in this literature review (indeed, we have already seen him referenced in an earlier passage I quoted from Cheryl Harris.) Its influence extends beyond its pathbreaking interrogation of colorblindness in the context of *Plessy v. Ferguson*; Gotanda’s cogitations lead him to analytically fruitful explorations of racial categorization throughout US history, from the notion of hypodescent to what he calls “the historical contingency of racial categories.”⁵⁶ Much of his article focuses on the Court’s application of shifting racial categorization to some of their major decisions (from *Dred Scott* to *Plessy* to *Brown*.) By distinguishing between status-, formal-,

historical-, and culture-race, Gotanda is able to produce myriad illuminating observations regarding *Plessy* and the complex reasoning rooted in Harlan's dissent.

The insights generated by Gotanda will animate my dissertation in multiple places, from my study of *Plessy* in chapter one to the matters of wealth transfers in chapter three. Several other scholars have likewise applied the distinction of the public and private spheres to matters colorblindness, as will be evident in the following two entries in this review.

—**Reva Siegel, “The Racial Rhetorics of Colorblind Constitutionalism”**

Reva Siegel uses the case *Hopwood v. Texas* as the point of entry for her thoughts on the adoption of a colorblind framework by the courts. Her article engages many of the themes we have visited thus far in this literature review; she concisely overviews these themes in the following passage:

Quoting liberally from the Supreme Court's recent opinions, the Fifth Circuit invokes both “thin” and “thick” conceptions of race. Sometimes the *Hopwood* opinion insists that race is but a morphological accident, a matter of skin color, no more. At other times, *Hopwood* discusses race as a substantive social phenomenon, marking off real cultural differences amongst groups. These conceptual inconsistencies are not incidental to the opinion, but instead arise out of the conflicting justifications the Supreme Court has offered for imposing constitutional restrictions on race-conscious regulation. Invoking these contradictory conceptions of race, *Hopwood* construes the Constitution to restrict government from regulating on the basis of race *and* construes the Constitution to protect the existing racial order.⁵⁷

Siegel illuminates colorblindness's evacuation of social content from race in the public realm, rendering it simply as a matter of skin-or-bodies, in Steve Martinot's formulation dispensed earlier. Siegel likewise engages the ways in which the Court attributes racial

inequality to “real cultural differences” between racial groups, differences defined as formed solely in the private realm, disconnected from structural (dis)advantage. As Siegel argues, “since Reconstruction, white Americans have frequently coupled talk of colorblindness with racial privacy rhetoric that seeks to protect relations of racial status from government interference.”⁵⁸

Siegel sharpens our understanding of colorblindness in ways that anticipated the works of Nancy MacLean and Ian Haney-Lopez by demonstrating not only its shifting resonance since its initial voicing in *Plessy v. Ferguson*, but the elements to which that shifting is necessarily tied. As she writes, “the discourse of colorblindness is remarkably flexible; its sociopolitical salience is dependent on the context in which it is invoked.”⁵⁹ And like Gotanda above, Siegel’s employment of the distinction between the public and private realms is productive. Siegel, however, extends beyond Gotanda by connecting the relegation of race to the private realm via colorblind constitutionalism to the “cultural survival of the fittest” that represents the prime way in which racial inequality is excused away.⁶⁰ This is what she means by her statement quoted above that *Hopwood* “construes the Constitution to protect the existing racial order,” since that racial order is seen as formed by the (private) cultural traits of those racial groups, thus representing “a domain of racial differences that the state may not disturb.”⁶¹ And the Court cannot rightly interfere in the public domain to dissolve racial inequality, according to Siegel, because of their conviction that such cultural/racial differences would obtain even absent racial discrimination.⁶²

Siegel's sensitivity to the differing uses of colorblindness informs the perspectives I will be taking in this dissertation. I will apply Siegel's insights in particular to my discussion of wealth transfers. As she asserts, "the prevailing equal protection framework identifies race-conscious remedies as pernicious discrimination, while characterizing other modes of state action that sustain the racial stratification of American society as presumptively race neutral."⁶³ As we shall see in chapter three, this is precisely how racial wealth transfers are assessed by most of the whites whose lives are socially and materially transformed by them.

—**Joel Olson, *The Abolition of White Democracy***

Joel Olson analyzes colorblindness in extensive portions of his book *The Abolition of White Democracy*. His perspectives can be summed up thus: In the post-civil rights era, colorblindness proves adept at "sediment[ing] accrued white advantages onto the ordinary operations of society."⁶⁴ This occurs, as Olson stresses at several crucial junctures of his book, because the passage of the civil rights laws pushed race into the private realm. Olson rests a sizable portion of his argument upon the distinction between the public and private domain; in this, his approach is congruent with the articles by Neil Gotanda and Reva Siegel discussed directly above. With race outside the public sphere, the private advantages enjoyed by whites (such as their wealth, *privately* passed between generations) become located beyond the reach of government intervention. Racial discrimination in turn becomes defined as individual, blatant, and easily identifiable demonstrations of racial bias and hatred.

The primary advancement Olson produces in his deliberations on colorblindness centers on the aforementioned distinction of the public/private realms; he gives it a more extended and multidimensional treatment than does Siegel, though he does not compare it to *Plessy v. Ferguson*, the subject of Neil Gotanda's article reviewed earlier.

Speaking of Reva Siegel and Neil Gotanda, both their articles and Olson's book (as well as David Theo Goldberg, whose work I review later) convincingly demonstrate that an analysis of colorblindness in the post-civil rights era would be incomplete without employing a framework of the public and private spheres. My dissertation will go beyond Olson, Siegel, and Gotanda by mining the further insights to be had by applying this framework. One example is the matter of wealth transfers as parenthitized above, about which Olson has little to say (and Siegel and Gotanda nothing.) Another example lies in the relationship between colorblindness and the "cultural survival of the fittest"—as I have discussed at several points in this review, this concept represents that decidedly post-civil rights predilection to interpret racial group performance as a function of the cultural values the groups themselves possess. (The Moynihan Report's mid-1960s ruminations on the "crumbling black family" was the premier invocation of this tendency; this was followed less than a year later by the invention of the model minority myth which extolled Asian American success as owing to a combination of strong family values and a Confucian tradition.)⁶⁵ Recalling Siegel, the removal of race from the public sphere, as I will explicate in chapter two, was essential for this notion of "cultural survival of the fittest" to take root; it allows a hermetic interpretation of racial group success or failure, since their performance is understood as lying outside the reach of

government interference. Thus, via colorblindness, group performance can be read as a function of present-day decisions, not structural advantages or constraints owing to the legacy of the *Herrenvolk*. (And, of course, this sidelining of the *Herrenvolk's* legacy via colorblindness is one of the primary arguments I am advancing in this dissertation.)

—**Lani Guinier and Gerald Torres, “A Critique of Colorblindness”**

In their chapter from *The Miner's Canary*, Lani Guinier and Gerald Torres lodge their critique of colorblindness squarely within the tradition of critical race theory. Since the overall premise of their book lies within the ways in which race can be “enlisted” as a means to resist power and transform democracy, their thoughts source from an understanding of how colorblindness is diametrically opposed to their project, thus logically eliciting their extended appraisal of the concept. They commence their chapter by illuminating how colorblindness has been differentially deployed both by the right (in the usual anti-affirmative action jeremiads which animate them) as well as the left. For this latter group, the morally superior alternative to divisive race-conscious policy is universal programs, buttressed by a “rising tide lifts all boats” paradigm. In foregrounding the political diversity of those who call for colorblindness in discourse and policy, their approach is coterminous with *Whitewashing Race*, reviewed earlier. Guinier and Torres then turn to what they consider to be the central flaws of this colorblind approach, regardless of the political persuasions of the individuals who invoke it; these flaws echo many of the other scholars analyzed in this review (conceiving of race and racism as individual, “private” matters, interpreting race as merely skin color, masking entrenched racial inequality.) Finally, they compare the US experience to that of Brazil,

demonstrating that, despite the even higher register at which the latter nation has institutionalized “race-blindness,” linkages between race and poverty prove even more salient whilst further inhibiting the formation of interracial coalitions designed to assail those linkages.

This last matter of interracial coalitions points up one way in which Guinier and Torres advance our understanding of colorblindness. In their discussion of how “colorblindness acts as a brake on grassroots organizing,” the authors demonstrate how the perspective presupposed in colorblind discourse would accomplish precisely that.

The conservative and neoconservative colorblind critique disables the civil rights community from mobilizing its supporters to become full members of the polity in all the ways that social citizenship requires. Instead of struggling for the right to become active citizens in a public and participatory democracy, movement activists and their beneficiaries are invited to become private careerists and individual consumers. Their insistent focus on atomized individuals leads conservative colorblind advocates to ignore the collective aspects of democratic participation, preferring to focus on the importance of individual choice.⁶⁶

All this, stress Guinier and Torres, is a direct consequence of the adoption of a colorblind framework through which deliberations over democracy thus flow.

The primary place upon which my dissertation will extend beyond the critique proffered by Guinier and Torres revolves around their aforementioned attachment of colorblind discourse to universalist policy as advocated by many on the left. Critical appraisals of such policies vis-à-vis racial inequality have been given by such scholars as Stephen Steinberg and Linda Faye Williams, whose works I will likewise draw upon in the appropriate sections of my study.⁶⁷ By exploring the relationship between colorblind

and universalist policy, the many complexities generated by their interaction become clear.⁶⁸

—**Devon Carbado and Cheryl Harris, “The New Racial Preferences”**

The main thrust of Devon Carbado and Cheryl Harris’s law review article “The New Racial Preferences” is to document a specific instance of colorblind policy working to the advantage of whites—in this instance, how the personal statement in applications to selective universities (under the requirements of colorblindness as adjudicated in California’s Proposition 209 and Michigan’s Proposal 2) gives preference to “race-negative” applicants. By “race-negative” and “race-positive,” Carbado and Harris are referencing individuals for whom race is either incidental or indispensable to their own sense of self, respectively. Such an analysis necessitates a discussion of why whites are more likely to wax blind to the racialized dimensions of their lives, disproportionately inhabiting the ranks of the race-negative.⁶⁹ As the authors comment on, for most people of color to colorblindly portray their lives requires them to paint a picture of their experiences and epistemology that “might literally not make sense” to admissions officials.⁷⁰ In contrast, whites are more likely to describe their lives in race-neutral terms in ways that retain their intelligibility.

This work advances our understanding of colorblindness by showing how it operates in a very specific instance, opening the way to similar empirical and theoretical analyses. Another important area upon which Carbado and Harris cogitate in this article is empirically demonstrating that the institutionalization of colorblindness does not (dis)advantage people cleanly on racial lines; that is, some whites are race-positive and

consider their racial identity a central part of their social experience (they present the hypothetical example of Dalton Conley as emblematic of this.) And some people of color are race-negative and thus will not be hampered by the requirements of colorblindness within the personal statement. And this quality of colorblindness is not historically unique; as David Roediger obliquely points out in *How Race Survived U.S. History*, some whites were harmed by the race-neutral policies of the New Deal.⁷¹ This reminds us that colorblind policy does not administer its full benefits to whites and full hindrances to nonwhites a priori; as I will argue in a moment, this is but one reason why class cannot be ignored in analyses of colorblindness.

My dissertation is just such a theoretical intervention that in many respects parallels this article. Carbado and Harris demonstrate how colorblindness ultimately serves to perpetuate racial inequality in the process of college admissions, showing (again, in parallel) that affirmative action can only be considered bald racial preference so long as hundreds of years of affirmative action for whites (and the legacy produced thereof) is discounted and denied.⁷² My study will also go beyond Carbado and Harris (and Roediger) by inquiring of the *class* implications of the benefits and hindrances meted out via colorblindness in the college admissions process. In other words, one largely unasked question from this article is, Which whites are more likely to be race-positive (and vice-versa)? Posing such a query opens the conversation to the class consequences of colorblindness, assessing its implications for the white working class and the black middle class, to name a few. As the authors acknowledge:

Of course, not all white people experience the white side of race with privilege and power. And even when they do, the nature of that privilege is mediated by other

social categories, such as class, gender, and sexual orientation. Historically, whiteness has quite literally operated as property—a valued asset to the protected and policed—and a social resource upon which one can draw. Because the contemporary consequences of this remain to be fully articulated, we continue to think of racism as a phenomenon that disadvantages some people and not as a social force that advantages others.⁷³

My dissertation responds to this by providing precisely a fuller articulation of the relationship between colorblindness, race, and class.

—**David Theo Goldberg, “Raceless States”**

I am purposely concluding this literature review with two entries from David Theo Goldberg: “Raceless States,” a chapter from his 2002 tome *The Racial State*, followed by a brief overview of his 2009 book *The Threat of Race*. The focus of “Raceless States” is in keeping with the theme of his entire book—a theoretical analysis of the relationship between race and the state. “States sought through race,” asserts Goldberg, “to mediate and manage the tensions between economy and society, to maintain white privilege and power, to massage costs and controls.”⁷⁴ Goldberg takes a world-perspective: “raceless states” signify the post-segregation, -colonial, and -apartheid world, with distinctions made vis-à-vis the experiential specificities of each nation: “racial democracy” in Brazil, “ethnic pluralism” in Europe, and so forth. In the US, racelessness expresses itself through, of course, colorblindness. Goldberg puts one of his main points thus: “Racelessness is the neoliberal attempt to go beyond—without (fully) coming to terms with—racial histories and their accompanying racist inequities and iniquities.”⁷⁵ In making this case, Goldberg relies on the distinction between “racial naturalism” and “racial historicism.” The former mechanized state modernization “on the backs of racial

exploitation and dehumanization” via naked, unashamed appeals to white supremacy.⁷⁶ Historicism, conversely (and in dialectical fashion)⁷⁷ sought to render “invisible the racial sinews of the body politic and modes of rule and regulation,” to wit, to seek “modernization through ‘humanization’ and the denial of the effects of racial significance.”⁷⁸ Much of “Raceless States” concerns itself with the transition from racial naturalism to historicism—the latter being the soil upon which racelessness germinates.

Goldberg broadens our understanding of colorblindness (and racelessness generally) in manifold ways. His naturalism/historicism dyad produced fruitful insights; for example, he demonstrates how historicism’s very emergence was predicated on the exploitation and violence visited upon people of color over the several centuries of racial naturalism’s dominion.⁷⁹ That emergence took a century to unfold, commencing (in the US case) with the Civil War and taking root in the civil rights era. This allows Goldberg an incisive critique of *Plessy v. Ferguson* that directly parallels the arguments of Leslie Carr and Kimberle Williams Crenshaw dispensed earlier. After quoting John Marshall Harlan’s passage on the superiority of whites, Goldberg explores its implications (and cites the exact same discussions from Carr and Crenshaw that I did earlier):

Thus, having established through racial governance and racist exclusion the indomitable superiority of whites—in prestige, achievements, education, wealth, and power—not as a natural phenomenon but as historical outcome, the best way to maintain it, as Harlan insisted, is to treat those de facto *unlike* as de jure *alike*. The reproduction of white supremacy, Harlan’s historicism makes clear, requires labor, a fact obscured of course by naturalists. Illegitimate inequalities...are to be legitimized by laundering them through the white wash with the detergent of colorblindness. Colorblindness enables as acceptable, as a principle of historical justice, the perpetuation of the inequities already established. Harlan outstripped his peers by half a century in recognizing that colorblindness would maintain—should maintain, as he conceived it—white supremacy, as well as in being able openly to admit it.⁸⁰

That is, naturalism had already established white superiority-reproducing mechanisms that colorblindness would not (have) disturb(ed.) (As we will see in chapter two, in the interim from *Plessy* to the civil rights movement, new kinds of mechanisms were created—it is *these* mechanisms that ultimately will concern me.)

As is evident at this juncture, “Raceless States” will inform my dissertation throughout, from *Plessy* to the contours of colorblindness today. The relationship between capital and blackness is another area, namely, Goldberg’s argument that the effect of colorblindness on blacks is to inject them twofold in today’s “racially driven economy”—either (1) through commodification⁸¹ or (2) the exploitation of the prison-industrial complex.⁸² In addition, Goldberg displays a sensitivity to class and colorblindness that will shape my discussion of the notion of the “cultural survival of the fittest” described at several locations in this review. Goldberg shows how the ascendance of this notion turns on colorblindness’s folding of “racially skewed conditions” into “class configurations.” What then activates this notion is the hegemonic “liberal morality” that one is responsible for one’s class position (in ways one cannot be for one’s race position.)⁸³ “Race becomes not so much reduced to class as rearticulated through it.”⁸⁴ Lastly, the following quotation will figure heavily in my chapter five assertion that at the end of the road of colorblindness lies color-consciousness: “Thus racelessness implies not the end of racial consciousness but its ultimate elevation to the given.”⁸⁵

—David Theo Goldberg, *The Threat of Race: Reflections on Racial Neoliberalism*

I end the literature review with a brief review of Goldberg’s just-published *The Threat of Race*. This book builds and extends upon *The Racial State*, offering new avenues of

insight. His main arguments are the following: the campaigns against colonialism, segregation, and apartheid galvanized an unprecedented wave of physical and ideological struggle against racial naturalism. Further employing Goldberg's vocabulary from *The Racial State*, as naturalism gave way to historicism, explosions of antiracist insurgency gave way to the notion of *antiracialism*. The antiracism/antiracialism binarism is fundamental to Goldberg's approach; through antiracialism, antiracism becomes "Buried, Alive" (his title to chapter one.) As he remarks,

in the wake of each of these broad antiracist social, political, economic, and legal mobilizations (for each consisted of combination), antiracism gave way to the dominant trend of antiracialism. Success in doing away with the legal superstructure of racial subjugation gave way (or in) quite quickly to concerns not so much over differential economic or social access and possibilities as considerations of racial categorization and classification, racial preferences and group-conceived possibilities. Why this common shift in each instance? What is represented in these shifts? What is curtailed, simplified, effected, forgotten, denied? In short, how is the bearing of racial weight shifted in the name of its shedding?⁸⁶

Though colorblindness is not directly mentioned, its fingerprints inundate the concept of antiracialism. In this sense, antiracialism is "born again racism." Goldberg again:

Born again racism is racism without race, racism gone private, racism without the categories to name it as such. It is racism shorn of the charge, a racism that cannot be named because nothing abounds with which to name it. It is a racism purged of historical roots, of its groundedness, a racism whose history is lost....

Born again racism, then, is a racism acknowledged, where acknowledged at all, as individualized faith, of the socially dislocated heart, rather than an institutionalized inequality.⁸⁷

The linkages these passages make to the themes discussed throughout this literature review is evident. Near the end of the book, he names these "racisms without racism."⁸⁸

Goldberg extends our knowledge of colorblindness by connecting it to such other concepts as antiracialism, illuminating their relationship in the process. This all

converges in what Goldberg means by his title. He distinguishes race as a “threat” (its register today) from its dominant manifestations of the past: curiosity and exploitability.

Goldberg’s following paragraph illuminates this distinction:

All three racial prompts have encouraged, exacerbated, and extended vulnerability, aggression, and violence. But without belittling the suffering prompted by curiosity and exploitability, the aggravations with which they can be identified tend to be mediated by the fact that they each necessitate an engagement—more or less direct interaction—with their objectified subjects. Threat, by contrast, largely does not; in fact, those deemed threatening are held at a distance, whether physically or emotionally, psychologically or politically. Threat undercuts the possibility of such mediation, delimiting engagement to the violence of incarceration or the instrumentalities of incapacitation. In short, threat for the most part seeks distantiation of one sort or another, not engagement, whether spatially or symbolically, materially or rhetorically enacted. But the other side of threat entails also that the group—the “population”—seen as threatening is the one actually threatened: with alienation, intimidation, incarceration, marginalization and externalization of one kind or another, ultimately even with extinction.⁸⁹

These points will be engaged with in several chapters of this dissertation.

At bottom, *The Threat of Race* puts on a scholarly clinic, demonstrating the abundance of reasons why sustained interrogations of colorblindness prove so crucial as the 21st Century’s first decade draws to a close. Goldberg’s incisive study shapes my own dissertation throughout; like *The Racial State*, this book is a reminder that analyses of colorblindness are necessarily tethered to such close ideological cousins as racelessness and antiracialism. While my dissertation centers on the US, Goldberg’s books highlight the place of American colorblindness in a debate that extends beyond its borders—a globalization that saliently inflects not only what colorblindness *means*, but also its social and material horizons of influence. As I move to the five chapters that

comprise the specifics of my study, Goldberg's theoretical imprint will surely be evident in the areas where I directly cite his work—and beyond.

METHODOLOGY

The Political Economy of Colorblindness employs a Cultural Studies methodology. I take an object, “colorblindness,” and scrutinize its embeddedness within history and political economy. I dialectically inquire, What forces have molded and influenced colorblindness, and how does colorblindness in turn impact and influence these said forces? In so doing, I am theoretically and methodologically equipped to travel a route not previously taken. Some examples can be used as comparisons here.

Eduardo Bonilla-Silva’s study of colorblind racial ideology, *Racism without Racists*, differs from my dissertation in that it concentrates squarely on the present day; Bonilla-Silva’s intention is to deduce how colorblind rhetoric shields whites from accusations of racism, allowing racial inequality to continue unabated and unchallenged. Mark Elliott’s biography of Albion Tourgee, *Color-Blind Justice*, makes a major contribution to the circumstances of the birth of the colorblind metaphor, but as I suggest in chapter one, Elliott’s spotlight remains on Tourgee and little comparison with John Marshall Harlan is thus made. While Elliott makes some references to the debate over colorblindness today, his study is in the end an historical biography and his illuminations on present-day colorblindness are thus limited. Lastly, Leslie Carr’s “*Color-Blind*” *Racism*—in contrast with Elliott—only focuses on Harlan (and as discussed in chapter one, the silencing of Tourgee is endemic to studies of colorblindness.) Carr provides a

solid historical and political economic grounding of colorblindness, but “*Color-Blind*” *Racism* stops short of applying such insights to such matters as racial wealth inequality and the prison-industrial complex., as I do in chapters three and four respectively.

Most methodological approaches to colorblindness are performed in reverse. Michelle Alexander’s recent compelling book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* provides an example; her object is the criminal justice system, and colorblindness represents part of her explication of that system. I thus visualize my approach as that of a bicycle wheel: colorblindness is the center and racial wealth inequality, the prison-industrial complex, and so forth are the spokes of the wheel. For Alexander, to carry along the bicycle metaphor, it is the reverse: the prison-industrial complex is the center and colorblindness is one of the spokes.

My dissertation is not a work of primary research; it is not based on any empirical data that I have personally collected. My theoretical approach makes use of the myriad primary and secondary interventions on the subject that have preceded me.

Finally, my methodology is firmly rooted in the materialist tradition. As I discuss in chapter six, while colorblindness is primarily about race, it is not *only* about race. Colorblindness is firmly embedded in political economy, and I hold that one cannot accurately illuminate the contours of colorblindness without reference to class and the interaction between class and race. I stress repeatedly throughout the dissertation that post-civil rights colorblindness is indebted to neoliberalism: more specifically, that the racial inequality-reproducing characteristics of colorblindness are given optimal activation under a capitalism in which the state’s role is marginalized and minimized save

for its function in propping up the prison-industrial complex and forcing the chronically unemployed back into the fringes of the labor market via workfare.

CHAPTER 1: “Albion Tourgee, John Marshall Harlan, and the Genesis of Colorblindness”

Introduction

The introduction to this dissertation has catalogued the long and controversial history behind the concept of colorblindness, clarifying en route the myriad complexities attached to it—in particular, the weight we should afford colorblindness in thought, policy, and judicial reasoning. In his 2002 book *Yellow: Race in America Beyond Black and White*, Frank Wu speaks to these precise complexities; referring specifically to colorblindness, he asserts, “Many of our cherished ideas have dubious origins, but we owe it to our intellectual integrity to become familiar with their provenance and to consider whether theories can be rehabilitated if they are suspect at the outset.”¹

The central contention that animates my deliberations in this chapter is the following: whether the concept of colorblindness is “suspect at the outset” fundamentally depends on what one considers the “outset” of colorblindness to be. Like most (across the political spectrum, from its opponents to its proponents), the “outset” of colorblindness for Wu lies in Justice John Marshall Harlan’s famous dissent in *Plessy v. Ferguson*. This chapter challenges this perspective and argues that, in order to appreciate the manifold uses to which colorblindness has been put since *Plessy*, we must look not just to Harlan but also to the individual from whom Harlan had clearly picked up the

concept of colorblindness: Albion Tourgee, the radical Republican reconstructionist and counsel for Homer Plessy.

Historian Mark Elliott's biography of Tourgee is illuminating in this regard. As Elliott notes, Tourgee repeatedly discoursed upon the notion of "color-blind" justice in his own judicial reasoning; Harlan, by contrast, mentioned colorblindness but a single time in his over three decades on the Supreme Court—in his *Plessy* dissent. To grasp Harlan's logic—as the sole justice to side with Tourgee and Plessy—we must inquire if Harlan's intentions behind his employment of colorblindness in his dissent deviate in any meaningful way from that of Tourgee's. And indeed, this is precisely what we find.

The bulk of this chapter, then, is a comparative analysis of the differential uses to which Tourgee and Harlan put colorblindness. Doing so will demonstrate how those differences are a preface to the controversy over colorblindness that rages on today. While *Plessy* will be drawn upon at length, this discussion does not pretend to offer a comprehensive examination of the case itself (nor will it provide exhaustive biographies of Tourgee or Harlan.) My intervention with *Plessy* centers upon a content analysis of Harlan's dissent—specifically, the paragraph in which the phrase "our Constitution is color-blind" appears. Doing so will allow us entry into the different approach Harlan actually undertook regarding colorblindness itself and its potential relationship with racial inequality.

This chapter advances on previous investigations of colorblindness in the *Plessy* era precisely through bringing together Tourgee and Harlan. Studies regularly mention one while neglecting the other. Mark Elliott's biography of Tourgee is extremely

valuable in detailing Tourgee's thoughts on color-blind justice; though he cogitates on Harlan's dissent, he gives little inclination that Harlan's treatment of the term might have differed in some fundamental way from Tourgee. Studies that scrutinize Harlan face similar drawbacks—Frank Wu's quotation above being but one example. As I will argue, we will find that colorblindness may not need “rehabilitation” at all when viewed from the perspective of Tourgee—a point Wu cannot make (or even consider) because he does not mention Tourgee, instead giving full credit to Harlan for introducing the term. The work of such scholars as David Theo Goldberg, Leslie Carr, and Joel Olson provide crucial clarification into Harlan's thought process but paint an incomplete picture of the famous dissent because they do not discuss Tourgee and the influence he had upon Harlan, prompting the latter to employ the colorblind metaphor. This chapter highlights the new insights to be had when the thoughts of the two men are taken in tandem.

I begin the comparative exploration with Tourgee, focusing on the belief system he held with respect to his idea of color-blind justice; as aforementioned, his constant invocations of this notion provide us ample source material upon which to draw. I then turn to Harlan, zeroing in on his statement “our Constitution is color-blind” in the context of his dissent as a whole. When perused in its entirety, it becomes clear that Harlan's conception of colorblindness proved vastly different than that of Tourgee's. While many scholars (from Howard Winant to Richard Thompson Ford to Ian Haney-Lopez) have demonstrated how colorblindness was “rearticulated” in the 1960s and 1970s by white conservatives who looked to Harlan for inspiration, we see that this appropriation is nothing novel. *In Harlan's dissent we witness the first rearticulation of colorblindness,*

and by comparing Harlan and Tourgee in that context, we can gain valuable insights that can illuminate the complexities and contradictions within this debate today.

This comparison of Tourgee and Harlan, we shall see, will not only reveal crucial overlooked aspects of colorblindness but will illuminate the relationship between colorblindness and another concept Tourgee himself formulated in his *Plessy* brief: the idea of whiteness as property. In brief, whiteness as property communicates (in the oft-quoted words of Cheryl Harris) “the idea that whiteness—that which whites alone possess—is valuable and is property.”² I contend that, along with the colorblind metaphor, Harlan also absorbed this notion of whiteness as property and, in his own way, had something to say about it in his *Plessy* dissent. (In contrast, the majority in *Plessy* rejected the whiteness as property argument out-of-hand.)³ Thus, in each section on Tourgee and Harlan, I pause to consider the implications of both men’s common understanding of whiteness as property and its relation with colorblindness. For Tourgee, the whole point of color-blind justice was to dispel the property interest in whiteness as it expressed itself in both the social and material superiority of whites. Harlan’s appropriation of color-blind justice granted him the discursive space to openly suggest that colorblindness would effectively maintain the property interest in whiteness. The critical fulcrum, it is clear, become colorblindness itself; the polar opposite meanings and intentions behind the colorblind metaphor become evident when we consider its potential ability to both diminish and amplify the property value of whiteness.

In the conclusion to this chapter (entitled “Harlan’s Embrace, Tourgee’s Erasure”), I consider the implications of the above for the chapters of this dissertation

that follow. In its travel from Tourgee's *Plessy* brief to Harlan's dissent, the intent and meaning of colorblindness underwent a tectonic discursive shift—as I will contend here, it is hardly an accident that conservatives and others consider the genesis of colorblindness to lie in Harlan's dissent and not in Tourgee's brief (or in the plethora of other places the latter voiced the term.) That they look to Harlan for the source of their inspiration, as will become evident, speaks volumes. This chapter will make clear that to look to Tourgee would, in contrast, produce an interpretation decidedly too opposed to conservative aims and intentions; thus, while Tourgee has faded into relative obscurity, Harlan has been the constant target of veneration. This discussion allows us to pose deeper questions related to colorblindness *qua* colorblindness, such as: Why has colorblindness proven so vulnerable to rearticulation? Why can colorblindness so easily be pressed into the service of such radically divergent agendas (as we will immediately witness with Tourgee and Harlan)? A comparative analysis of the premier invocations of colorblindness by Tourgee and Harlan will help forge an appreciation of what it is, specifically, about colorblindness that has made it so discursively unstable and remarkably prone to contested meanings.

At bottom, the purpose of this chapter is to overview the origin of the term colorblindness and mine the myriad insights that can be discovered regarding that origin when we shine our analytical flashlights upon Albion Tourgee whilst interrogating why such flashlights have up to now been largely trained upon John Marshall Harlan. This chapter is concerned to contemplate upon how Tourgee's worldview can serve to instruct us regarding today's debates surrounding colorblindness and whiteness as property.

Tourgee, I maintain, possessed an unparalleled perspicacity on these issues that cannot remain marginalized in today's drives toward racial equality. As Ian Haney-Lopez declares, "the earliest battles over colorblindness took place in terms and with implications we scarcely understand today."⁴ One goal of this chapter is to illuminate and clarify those "earliest battles" via comparative analysis.

"Color-Blind" Justice and Whiteness as Property in the Work of Albion Tourgee

Fully twenty-six years before *Plessy v. Ferguson*, Albion Winegar Tourgee penned the following letter to the editor of the North Carolina *Standard* to counter charges that he was a "partisan judge" who pandered to black interests:

In the future, as in the past, I shall continue to act upon my own sense of justice, my own apprehension of the law, and my own conviction of duty, entirely unmindful of whether the same pleases friend or foe, or ascents with the wishes and ideas of the administrators of "wild justice" in the county of Orange or elsewhere or not. I prize my own self-respect too highly to do otherwise believing as I do that justice should be at least "color-blind," I shall know no man by the hue of his skin.

As Mark Elliott notes, "This was his first recorded use of the metaphor of 'color-blind' justice."⁵ But what, exactly, was Tourgee's meaning behind this concept? This section's primary goal is to address this question; throughout, I will have an eye for how Tourgee's intentions in his use of color-blind justice contrasted with Justice John Marshall Harlan's employment of it when Tourgee's metaphor directly crossed his path in *Plessy*. An analysis of color-blind justice, as well as its relation to whiteness as property, proves foundational to any full-length study of colorblindness.

—"*Color-Blind Justice*"

While a detailed biography of Tourgee falls well outside the scope of this study, it is relevant to present the post-Civil War sociopolitical atmosphere that conditioned Tourgee's outlook vis-à-vis race and racism.⁶ Even as Reconstruction rapidly devolved into the Jim Crow system, Tourgee—as a “latter-day abolitionist”—never jettisoned his belief in the inherent equality of racial groups. Tourgee's ideology was shaped by his radical individualist worldview—one he voiced with a degree of articulation that would remain unrivaled until the ascent of Martin Luther King, Jr. half a century after Tourgee's death.

Tourgee's lifelong, steadfast commitment to radical individualism at a moment when fewer and fewer whites shared his outlook surely molded the formation of a principle he repeatedly voiced throughout his judicial and literary career: color-blind justice. It is imperative here to catalog what, specifically, Tourgee had in mind in his use of this metaphor. Mark Elliott's study of Tourgee's political life provides a succinct overview of his perspective:

For Tourgee, the metaphor *color-blind justice* referred to a transcendental goal of equality before the law, regardless of race. It did not blind him to the multifarious influence of racism in his courtroom nor prevent him from taking active measures to combat it. When Tourgee threw out the conviction in the larceny case [which involved a black male] in the name of color-blind justice, he did so because he felt the jury's verdict had been based on racial prejudice rather than a reasonable assessment of the evidence....To achieve equality before the law, therefore, he found it necessary to take the realities of racism into account.⁷

I will draw from this passage several times in my analysis of Harlan in the next section, as it is here that we will behold multiple disparities between Tourgee and Harlan as regards colorblindness. Elliott's reference to Tourgee's sensitivity to the “influence” and “realities” of racism proves fundamental in comprehending colorblindness as Tourgee

formulated it. In other words, color-blind justice meant that Tourgee could *not* act colorblindly, because to do so would allow the racist elements infecting various parts of the court system unchecked sway. As Elliott elsewhere notes, “Tourgee held no illusions about the dire conditions Southern blacks faced in the present.”⁸ In the above cited larceny case, Tourgee stressed the presence of blatant antiblack prejudice among the members of the white jury as an unambiguous obstruction of color-blind justice.

The concept of color-blind justice as Tourgee developed it, I contend, led him to the construction of the idea of “whiteness as property.” The notion that whiteness was something to be possessed, as property itself, was the logical outgrowth of Tourgee’s understanding of racism brought forth by his indefatigable campaigns for color-blind justice. Undermining this property interest in whiteness, I argue below, was a central goal of color-blind justice.

—*Whiteness as Property*

For Albion Tourgee, any attempt to secure color-blind justice required its exponents to take into account not only antiblack prejudice, but the “social advantages of whiteness.”⁹ With a level of mastery few of his contemporaries possessed, Tourgee grasped the manifold implications of whites’ disproportionate ownership of material and social power. As he wrote to the Court in *Plessy*,

How much would it be *worth* to a young man entering upon the practice of law, to be regarded as a *white* man rather than a colored one? Six-sevenths of the population are white. Nineteen-twentieths of the property of the country is owned by white people. Ninety-nine hundredths of the business opportunities are in the control of white people. These propositions are rendered even more startling by the intensity of feeling which excludes the colored man from the friendship and companionship of the white man...under these conditions, is it possible to conclude that the *reputation of being white* is not property? Indeed, is it not the

most valuable sort of property, being the master-key that unlocks the golden door of opportunity?¹⁰

As before, Tourgee comprehended that any exercise of color-blind justice meant that he could not act with blindness towards race—because to do so would necessitate turning a blind eye to the flagrantly unequal power relations that obtained between blacks and whites. And as we shall see later in this chapter, it was precisely that inequality that John Marshall Harlan sought to freeze in place in his appropriation of Tourgee’s colorblind metaphor.

This crucial passage from Tourgee’s *Plessy* brief is likewise where he presented his discernment of whiteness as property. What, exactly, did Tourgee have in mind in his declaration that whiteness is “the most valuable sort of property”? Such contemporary scholars as Cheryl Harris and George Lipsitz have ably documented the dimensions of the property interest in whiteness. In its status as property, as Lipsitz has demonstrated at length, whiteness becomes something to be “invested” in and possessed in such a way as to increase its value.¹¹ In this view, whiteness functions not merely as identity or personhood; as Harris asserts of the antebellum era, “White identity conferred tangible and economically valuable benefits and was jealously guarded as a valued possession....Whiteness—the right to white identity as embraced by the law—is property if by property one means all of a person’s legal rights.”¹²

This, of course, was Tourgee’s point of entry in his *Plessy* brief, maintaining that Homer Plessy (a man of one-eighth black ancestry who appeared phenotypically white) had been deprived of “the reputation of being white” by being relegated to the “colored” railway car. Plessy had thus been deprived of property—the property interest in

whiteness, which Tourgee elsewhere asserted had “an actual pecuniary value”¹³—when he was blocked from activities other whites took as a matter of course.

The larger argument I want to craft here centers upon the connection between Tourgee’s notion of whiteness as property and his lifelong crusade for color-blind justice. As noted above, Tourgee’s understanding of the property interest in whiteness flowed directly from his antiracist commitments. Being a “transcendental goal of equality,” the purpose of color-blind justice as Tourgee conceived it was to obliterate the objective realities of racial hatred and the “social advantages of whiteness.” In a word, Tourgee adroitly grasped how these both reinforced the property value of whiteness—a whiteness that stood directly in the way of color-blind justice. His brief in *Plessy* markedly demonstrated that whiteness (as property) was something *worth* holding on to, since its very possession granted access to innumerable privileges—many of which were *private* (for instance, whites’ disproportionate ownership of private property.) Whiteness as property was thus tangibly expressed in the racial inequalities he enumerated in his brief to the *Plessy* court quoted earlier. It was these “conditions” (that is, the realities of racial inequality and antiblack animosity) that laid the framework for his belief that whiteness was property.

Yet Tourgee also understood how these “conditions” had been created in the first place: through slavery, the Black Codes, unabashed discrimination, *ad infinitum*. Thus, Tourgee knew that color-blind justice could never be achieved without dispelling the ubiquitous racial inequalities characterizing the nation at the time of *Plessy*. In other words, *because* whiteness was property, Tourgee sought to use color-blind justice as a

weapon to undermine its value and create true equality between whites and blacks. This informs Tourgee's view on the law itself. As Nancy MacLean asserts in *Freedom Is Not Enough*, Tourgee advanced an interpretation of law that focused on "its 'concrete' impact...not its 'abstract' claims."¹⁴ This echoes Elliott's remarks on the same: "One thing that makes Tourgee a notable civil rights strategist was his pragmatic belief that racial justice must be achieved in the results of the law, not merely in the abstract principles behind it."¹⁵ That is, laws themselves could not be colorblind if they produced racially unequal results—for that would represent a violation of color-blind *justice*. Only the (racial) outcomes mattered in regards to whether a given law would pass Tourgee's test of color-blind justice. Any lack of parity in racial outcomes would signal to him that whiteness still held a property value that interfered with the pursuit of black equality.

With this overview of Albion Tourgee's concepts of color-blind justice and whiteness as property, we can now turn to Justice John Marshall Harlan and inquire of his application of them. The following section investigates Harlan's differential employment of colorblindness and considers the implications of that difference vis-à-vis the concept of whiteness as property. This comparative analysis aims to enhance our understanding of colorblindness and its relationship with racial justice in the post-civil rights era.

Justice John Marshall Harlan and His Famed Dissent

This section has dual goals. *First*, I closely examine the passage that contains the famous phrase "Our Constitution is color-blind" and mine it for insights in its relationship to Albion Tourgee's view of colorblindness; this will allow us to assess where Justice John Marshall Harlan "really" differed from the other Supreme Court justices in *Plessy*. This

first is important because of the tendency to read into Harlan's dissent an anti-segregationist impulse that—had Harlan's colleagues followed his lead—would have secured blacks a better deal in the Jim Crow era. This is *not* to imply that Harlan favored segregation; as his dissent plainly expresses, he clearly did not. But what we will uncover is the following: what made Harlan “the great dissenter” was not any antiracist predilections on the part of the former slaveowner, but his vastly divergent conception of the law's role regarding the public and private spheres. It is centrally this distinction between the public sphere and the private sphere that ultimately produced alternative positions on the matter of segregation compared to the other justices, which predisposed him to look with interest at a metaphor that crossed his desk in *Plessy*: that of color-blind justice as voiced by Tourgee, counsel for the plaintiff in the case.

Second, as with Tourgee, I turn to a study of whiteness as property in Harlan's conception. I maintain that Tourgee and Harlan held coterminous perspectives on this matter; both men comprehended what it exactly *meant* that whiteness possessed a property interest. The only real difference is the all-important one: the employment of colorblindness as a means to either reduce the property value of whiteness (Tourgee) or magnify it (Harlan.)

—“*Our Constitution Is Color-Blind...*”

Let us first closely examine *Plessy v. Ferguson*, focusing on Harlan's famed dissent. The key passage that will provide the bulk of my analysis is among the most frequently quoted in Supreme Court history:

The white race deems itself to be the dominant race in this country. And so it is in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it

will continue to be for all time if it remains true to its great heritage and holds fast to the principles of constitutional liberty. But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved.¹⁶

And thus we have Harlan's lone reference to colorblindness. I contend here that while the colorblind metaphor represented only a relatively minor part of Harlan's larger point in his *Plessy* dissent (and was indeed little more than an illuminating adjective employed to situate his overall argument), a close content analysis of it is required because of the sheer frequency to which conservatives and others cite this passage in their defense of a colorblind worldview vis-à-vis the law.

Of course, essential to a critical understanding of the purpose today's conservatives and others have in drawing from Harlan is that they leave out the first three sentences of the passage—Harlan's discussion of the white race's dominance—and how the "principles of constitutional liberty" are crucial to the continuation of that dominance. In "*Color-Blind*" *Racism*, Leslie Carr echoes this point when he notes that one commonality seen in all conservative citations of Harlan is to omit those three sentences, yet quote the rest.¹⁷ This important insight, however, is not completely true. Charles Fried, solicitor general for the Reagan administration, did take account of Harlan's enunciation of white dominance in the colorblind passage. As historian Kenneth O'Reilly describes it in *Nixon's Piano*, "The term color blindness itself, Fried explained, came not from Dr. King but Justice Harlan's dissent in *Plessy*. 'Aside from the white-supremacist caveats,' he said, Harlan 'offered a pretty good slogan for this part of the

Reagan Revolution’.”¹⁸ While noting the usual absence of Tourgee in all this, the contention I now want to make is that the “caveats” to which Fried refers are not caveats at all, *but the indispensable key that unlocks the gateway to colorblindness in the world according to Harlan.*

We can begin engaging this vital matter by examining David Theo Goldberg’s discussion of it in his *The Racial State*. Harlan’s vision of colorblindness upon which conservatives and others would later draw was imbued with his belief in colorblindness’s ability to sustain white dominance, as demonstrated in his thoughts that immediately precede his invocation of colorblindness. Goldberg speaks to the issues surrounding these often overlooked thoughts:

Thus, having established through racial governance and racist exclusion the indomitable superiority of whites—in prestige, achievements, education, wealth, and power—not as a natural phenomenon but as historical outcome, the best way to maintain it, as Harlan insisted, is to treat those *de facto unlike as de jure alike*....Colorblindness enables as acceptable, as a principle of historical justice, the perpetuation of the inequities already established. Harlan outstripped his peers by half a century in recognizing that colorblindness would maintain—should maintain, as he conceived it—white supremacy, as well as in being able openly to admit it.¹⁹

Two issues stand out from Goldberg’s passage. First, his reference to Harlan’s understanding that white dominance was a function of “historical outcome” rather than a “natural phenomenon” further illuminates the larger assertion that colorblindness in the *Weltanschauung* of Harlan was directly tied to this belief of the efficacy of colorblindness in maintaining white dominance. Second, Goldberg mentions in passing that Harlan was “able openly to admit” that fact—this is in stark contrast to those today who draw upon his dissent, as they claim that colorblindness is central to the achievement

of racial justice and thus deny that the perpetuation of white dominance has anything to do with their perspectives. The implications are much deeper than I am indicating here, and I will directly revisit this issue in chapter two as I more closely examine the complexities between Tourgee, Harlan, and how conservatives in the post-civil rights era draw (or don't draw) upon them.

Let us provide some further lines of inquiry regarding Harlan's (in)famous *Plessy* musings. Particular interest attaches to the word "if" in Harlan's passage: the white race will undoubtedly persist as the master race, Harlan contends, *if* it "holds fast to the principles of constitutional liberty." Colorblindness, of course, represents one of those principles. In this, Harlan's enunciation of the connection between white dominance and constitutional liberty highlights a rather mundane yet crucial point. In short, *Harlan was right*: the Constitution *is* colorblind. There are no direct mentions of race anywhere within it. However, as even a cursory perusal of that Constitution will reveal, race is everywhere inscribed therein—*colorblindly*. Even slavery (which by then was indisputably racial) is referenced obliquely. As Charles Henry points out in *Long Overdue*, "The U.S. Constitution does not contain the words *Black* and *White*"; indeed, during the antebellum period, "Fully 90 percent of legislative acts dealing with race fail to include the term *race*."²⁰ In other words, colorblindness in law and policy in no way conflicts with the Constitution, as the document itself does not reference race.

The above said, the crucial omission of the word "justice" in Harlan's colorblind passage should come as no surprise. In saying nothing of justice, Harlan shifted colorblindness's meaning as merely the proper role of constitutionality. Harlan's

colorblindness, this reading makes clear, has no relation to justice as Tourgee had formulated it. For Tourgee, the concept of colorblindness was inextricably bound up with the concept of justice. Thus, part of Harlan's appropriation of the term color-blind justice involved him filtering out the reference to justice, leaving behind a more general notion of colorblindness available for different ideological purposes. Harlan's decoupling of the words "color-blind" and "justice" produces the massive implications we have seen here to this point. Far from asserting a vision that countered the still-remaining "realities of racism" as Tourgee interpreted it, colorblindness could instead be pressed into the service of profoundly different ends once severed from the notions of racial justice.²¹

We see from the above analyses that Harlan interpreted colorblindness as a means by which to maintain white dominance separated from any pursuit of racial justice. But as I asserted earlier, the only reason that such sustained examinations of Harlan's employment of the colorblind metaphor become necessary is that the passage is cited over and over in support of a colorblind approach to racial matters today. In short, colorblindness itself was not the centerpiece of Harlan's thinking in his dissent; that he never used it again all but confirms this point. (The fact that his colleagues ignored his recourse to colorblindness likely contributed to his dropping the metaphor in later judgments.) Yet this still behooves us to ask, what *was* the larger point of his dissent, motivating him to move away from his colleagues on the matter of segregation? As Jack Balkin remarks in a recent law review article, "Although Justice[Henry Billings Brown,

who wrote for the majority] and Harlan came out differently in *Plessy*, they are not fundamentally in disagreement.”²²

As the arguments of this section have demonstrated thus far, Harlan and the other Supreme Court justices saw eye-to-eye on the matter of maintaining white dominance—Harlan simply argued that Jim Crow was an unnecessary component of that maintenance. More specifically, I suggest below, the difference between Harlan and the other justices on this matter turned on their competing conceptions of the public and private spheres. Furthermore, Harlan’s outlook regarding the constitution of the private realm (which was appreciably narrower than that envisaged by Harlan’s associates) was the predictable extension of his investment in the notion of whiteness as property—an idea that, like colorblindness, Harlan sponged from Albion Tourgee.

—*Whiteness As (Private) Property*

For Henry Billings Brown and the majority in *Plessy*, railroad transportation lay in the private sphere; this is in contradistinction to Harlan, who saw the railroad as part of the public sphere. If in the private sphere, then, the segregation of railroad cars lay outside the reach of the law and thus could not be declared unconstitutional. Under this reading, *Plessy* could be apprehended as a dispute—not over the political/moral rightness or wrongness of segregation—but over where, exactly, one draws the line between the public and private spheres. As before, Harlan’s invocation of colorblindness was simply to fashion his larger argument that the segregation of railroad cars lay in the public sphere and thus landed inside a constitutional domain that required blindness to race.

Yet removing railroad car segregation from the private realm did not change anything else which lay in that realm; indeed, Harlan was insisting that other elements within the private sphere remained immune from constitutional challenge (this is the argument of Neil Gotanda in “A Critique of ‘Our Constitution is Color-Blind’.”)²³ In *The Abolition of White Democracy*, political scientist Joel Olson addresses these other aspects as essential to Harlan’s reasoning and the place of the colorblind metaphor within it:

A color-blind Constitution would guard the political and civil rights of Black people, but it would do nothing about whites’ overwhelming control over educational, financial, and political resources. Nor should it, [Harlan] argues, since these lie outside of the public realm. White domination in these areas is understood as the normal condition of society and reflective of the white race’s “great heritage.” Harlan shifts the line between public and private from where the majority opinion draws it...by incorporating civil society into the public sphere, yet he still uses the line to both condemn segregation and insulate whites’ material advantages from public intervention. Harlan expands the number and kind of activities toward which the state must be color blind to include the enjoyment of public accommodations, but he still protects certain activities (such as the accumulation of education and wealth) from redress by claiming that inequalities in these areas are natural and therefore immune from public deliberation and decision making. Harlan’s “color-blind” defense of civil rights for African Americans, then, sanctions white privilege even as it would bring about formal political equality.²⁴

In this, Olson’s discussion coincides with the conclusions of David Theo Goldberg examined earlier. *This* is why colorblindness a la Harlan would not upset the racial order of things: the resources whites had amassed during and after slavery would secure their continuing dominance.

Analyzing Harlan’s differing conception of the private sphere is important because it injects some intelligibility into Harlan’s so-called “caveats” regarding whites as the dominant race. Jack Balkin describes what Harlan was ultimately getting at in his dissent: “it doesn’t matter how much you integrate the institutions of American political

and civil society. Blacks and whites are not social equals and they are not going to be.”²⁵ From this point of view, Harlan’s employment of colorblindness was harnessed in support of this very point: segregation of railroad cars was a public matter rather than a private one—the Constitution is colorblind and therefore segregation must be deemed unconstitutional. *But the unconstitutionality of segregation alters white superiority not one iota.* Legal segregation would have no impact on a matrix of racial relations that unambiguously posited the superiority of whites over everyone else.

The influence and import of the private sphere’s myriad material advantages formed a critical component in Harlan’s conception of whiteness as property. Though Harlan never enunciated this idea by name, his investment in it remains clear—as does the fact that he had likewise lifted it from Tourgee’s brief to the Court. As aforementioned, Harlan’s formulation of whiteness as property was identical to that of Tourgee in every sense. Their point of separation centered upon what to *do* about the property value of whiteness: while Tourgee sought its eradication, Harlan sought its permanence “for all time.” And as discussed earlier, colorblindness represented the common fulcrum for both; again, while Tourgee designed color-blind justice for the purpose of evacuating the property value of whiteness, Harlan crafted a more general notion of colorblindness for its very protection.

Harlan’s understanding of whiteness as property was announced in his famous “Our Constitution is color-blind” passage excerpted earlier. Like Tourgee, who highlighted whites’ disproportionate (private) ownership of property and business, Harlan similarly enumerated the many elements of white superiority—“in prestige, in

achievements, in education, in wealth and in power.” Harlan well comprehended, as Tourgee did, that whiteness, in its status as property, possessed “an actual pecuniary value.” And he attempted in vain to inform his Supreme Court colleagues that race-conscious Jim Crow policies were not necessary to safeguard the pecuniary value of whiteness. And Harlan’s reason for that intersects our discussion of the public/private realm distinction: the property value of whiteness lies in the private domain.

Considering whiteness as (private) property informs the following: public legislation (a la Jim Crow) was not essential for the protection of the property value of whiteness, since slavery and related de jure discrimination had produced vast private realm racial inequality (as David Theo Goldberg noted in his passage from *The Racial State* I cited earlier in this section.) The key insight Harlan attempted to communicate to his colleagues was that the property value of whiteness was (now) best maintained by not calling attention to itself. In this, colorblindness would function with razor-sharp adequacy to that effect; whiteness as (private) property would remain reality because colorblindness would protect the private sphere from government incursion.

Of course, Harlan’s perspectives did not bear immediate fruit, as his positions on this matter were shouted down in a chorus of voices that insisted upon the constitutionality of “separate but equal” in the public realm. The history of the Jim Crow era in this regard is thus one where race-conscious policies did the work of protecting and investing in the property value of whiteness.²⁶ As I will explain at length in chapter two, when Jim Crow was faced with its end, conservatives recovered this Harlanian notion of

colorblindness, realizing (as Harlan had over half a century earlier) that color-conscious legislation was not required in the quest to protect whiteness as property.

Here, we can return to Albion Tourgee and inquire of the ideological divergence between his use of color-blind justice and Harlan's notion of colorblindness in *Plessy*. We have already mentioned how Harlan dropped the word "justice" in his use of the metaphor, a critical and telling omission on its own. But as Mark Elliott highlighted in his summary of the meaning of color-blind justice, Tourgee always foregrounded the "realities of racism" as essential to the dispensation of such justice in his role as lawyer and judge. Harlan, on the other hand, pushed the colorblind metaphor to very different ends, presenting for the first time a judicial vision that simultaneously granted formal, colorblind equality in an expanded public sphere whilst protecting racialized material asymmetries from government intervention. Thus could Harlan easily travel from notions of white supremacy to colorblindness in the space of a paragraph. The contrast that ultimately emerges could scarcely be more complete: for Tourgee, color-blind justice embodied his lifelong quest to disable the patterns of white domination and advantage. And for Harlan, "Our Constitution is color-blind" represented his recognition that those patterns could be locked in—as he declared in his dissent—"for all time."

In the later chapters of this dissertation, I intend to show that it is this strand of colorblindness—Harlan's strand—that conservatives and others have adopted in the wake of the civil rights victories, despite the insistence that Harlan's expressions of white supremacy represent mere "caveats."

Harlan's Embrace, Tourgee's Erasure

In her 2001 book *Witnessing: Beyond Recognition*, Kelly Oliver asserts the following: “The choice of a physical limitation, color blindness, as the metaphor for racial justice is curious, to say the least.”²⁷ Three years later, in *Black Is a Country*, Nikhil Pal Singh fully echoes Oliver: “Why a visual impairment that interferes with the perception of normal variations in the color spectrum has become the preferred image of racial neutrality, if not racial justice, defies common-sense.”²⁸ To restate the arguments of this chapter, contemporary critics and proponents of a colorblind vision of US society usually locate the genesis of that image in Justice John Marshall Harlan’s dissent in *Plessy v. Ferguson*. As critics of colorblindness, Oliver and Singh are attempting to place the very term colorblindness into serious question, problematizing its connection with a genetic condition more frequently present in males.

The problem with Oliver and Singh’s approach is their failure to appreciate the true originator of the colorblind metaphor—Albion Tourgee—and the manifold complexities Tourgee’s outlook brings to the fore. That Oliver and Singh both make reference to racial “justice” further demonstrates the ideological obscurity that Tourgee has experienced in the century-plus since his death in 1906. Marginalizing Tourgee from the conversation on colorblindness prevents us from expanding the debate surrounding Harlan’s dissent in *Plessy*, as a consideration of Tourgee’s views—and Harlan’s appropriation of them—points up the discursive instability present in colorblindness. This is seen in the remarkable ease by which Harlan successfully co-opted the term in the interest of a profoundly different agenda than Tourgee had indefatigably pursued in his

own career. Indeed, so remarkable was the ease by which Harlan performed this cooptation, that the fact that he had picked up the metaphor from someone else is usually not considered—or even known. Uncritically acknowledging Harlan as the originator of colorblindness serves to truncate its history, precluding an appreciation of the very different intentions present in its earliest use—as a clarion call for “justice” that was anything but blind to the ubiquity of racism and white domination in the post-Civil War era.

Any criticisms one could aim at Oliver and Singh, however, cannot compare to Terry Eastland’s 1996 book *Ending Affirmative Action: The Case for Colorblind Justice*.²⁹ Albion Tourgee, as should prove unsurprising by this point, has no place in Eastland’s tome—nor does the ideology he represented. In an appropriation of the premier appropriator, Eastland credits John Marshall Harlan as the original architect of the term colorblindness, and color-blind justice is defined in the Harlanian way—despite the fact that Harlan’s *Plessy* dissent had nothing to do with justice, but was rather (as this chapter has shown) a lesson to the Supreme Court and the nation regarding the effectivity of colorblindness in maintaining white privilege. Thus conceived, for Eastland and myriad others today, the purpose of color-blind justice, far from anything Tourgee would have endorsed, is to halt the pernicious parade of supposed white victimization at the hands of affirmative action and related color-conscious policies. In this formulation, Tourgee’s invisibility becomes all but definitive, as do the countless advantages whites continue to enjoy in essentially every aspect of American society (as will become clear in the chapters that follow.)

Tourgee's erasure repeatedly infects otherwise sound judgments of the consequences of *Plessy v. Ferguson*. Dismissing the debate over the import of Harlan's invocations of white dominance, A. Leon Higginbotham opines that "if four other justices had adopted Harlan's view, African Americans would not have suffered from the legitimization of racism that *Plessy* caused."³⁰ While Higginbotham correctly captures the deleterious effects of the Court's sanctioning of segregation, his attempt to sanitize Harlan's dissent by admonishing critics not to judge him through a 20th century lens strikes me as profoundly misguided—that is, once we reintroduce Tourgee into the debate. Because as I have demonstrated in this chapter, segregation or no, Harlan was fully aware of the innumerable domination-perpetuating mechanisms at whites' disposal; a commitment to anti-segregation, I submit, would accomplish little vis-à-vis racial justice had such commitments not been informed through and through by Tourgee's metaphor of color-blind justice and all that such a concept entailed. Yet again, we visit the confusion Tourgee's marginalization perennially induces in the conversation over colorblindness's birth. To my lights, had Harlan's views won out, it would have been a *Harlan*-inflected colorblindness that would have come into play—a colorblindness designed to oppress blacks and protect the property value of whiteness—not through segregation, but through *other* means. The post-*Plessy* decades would surely have been different—but not necessarily better as Higginbotham and others suggest.³¹

To speculate on such possibilities, of course, leads us into the questionable realm of counterfactual history. My central purpose here has been to cogitate on the differences between Tourgee and Harlan's views on colorblindness and the consequences of those

differences in the post-civil rights era. For as I mentioned in this chapter's introduction, it is not a coincidence that conservatives and others today find their support for colorblindness in Harlan and not Tourgee. While the important insights of Leslie Carr and David Theo Goldberg regarding the tendency to exclude Harlan's declarations of white dominance remain indispensable, this chapter has demonstrated that the real issues vis-à-vis colorblindness's early years go far beyond a simple omission of Harlan's white supremacist sentences. Granting Tourgee full consideration in these debates helps further contextualize Harlan's employment of colorblindness, since it allows us to see that employment for what it was: an appropriation of a metaphor that Harlan had neither voiced nor invented on his own. A focus on Tourgee illuminates the all-important point that colorblindness began as inextricably intertwined with the concept of racial justice and was embedded in an understanding of social and material racial inequality; from this perspective, colorblindness, while ripe for appropriation as noted, was in no way tainted at the outset (as suggested by Frank Wu.) What then occurred was that, in his dissent, Harlan craftily tore apart the "justice" from "color-blind," imbuing the latter with white privilege-perpetuating qualities, qualities that have since won the admiration of conservatives and others in the later years of the civil rights movement and beyond.

CHAPTER 2: “The New Deal, the Civil Rights Movement, and the Advent of Neoliberal Colorblindness”

Introduction

In this chapter, I closely scrutinize the 1930s to the 1970s—what Nikhil Pal Singh calls the “long civil rights era”—and place it within the context of both the ascendance of neoliberal colorblindness and the rise of mechanisms that would allow it to sustain racial inequality in the face of the manifold changes wrought by the civil rights movement. I argue in this chapter that colorblindness became an ideal fit for the post-civil rights exploitation of people of color as Jim Crow became an anachronistic liability in the 1960s, and I explain how that became the case through an analysis of these tumultuous decades.

The aim of this chapter is ultimately to demonstrate how, in this “long civil rights era,” mechanisms were created that would allow the intergenerational transmission of white privilege without de jure state intervention, and how colorblindness became the not-inevitable means by which to protect those advantages. To accomplish this, I divide this chapter into three sections.

The investigation commences with the decades-long creation of the mechanisms that today intergenerationally reproduce racial inequality, and to illuminate them, one must first look squarely at the policies of the New Deal era. As Ira Katznelson documents in *When Affirmative Action Was White*, the New Deal policies, while race-

neutral, were rigged to provide whites the bulk of the benefits the federal government made available. Whites, armed with said resources, began moving into the burgeoning suburbs in the years following World War II, a time in which rates of home ownership skyrocketed to unprecedented levels. (The implications of this skyrocketing are legion, and I discuss them in chapter three.) Restrictive covenants effectively barred people of color from moving into these suburbs, and the color-coding policies of the Federal Housing Administration guaranteed that those whites who moved in the monoracial suburbs would be given prime loans at great interest rates. Through these interlinked policies and processes—what David Roediger calls “colorblind inequalities”—we see the advent of mechanisms that, in the later years of civil rights movement, white conservatives would successfully identify as fully capable of maintaining white privilege.

I then turn to the civil rights movement itself. Despite years of struggle and setback, the civil rights movement accomplished its goal of legal racial equality, eliminating Jim Crow and winning many whites to the belief in the inherent equality of racial groups. Yet it is here, as the second section of this chapter will document, that new obstacles became more influential and evident. Specifically, I turn in this section to an examination of the *class contradictions* that punctuated the movement’s later years. I am interested here in exploring the political economic effects of the granting of legal racial equality; since most blacks remained mired in poverty with little foreseeable hope in improving their situation, it becomes crucial to understand how race became “rearticulated through class” (in the words of David Theo Goldberg’s *The Racial State*)¹ once Jim Crow and related policies were removed from the public sphere of US society.

This section provides some new angles on this long-debated issue, making specific references to the logic of capitalist accumulation and neoliberalism en route. Based on the above, I also punctuate this section with some thoughts regarding William Julius Wilson's "declining significance of race" thesis, as well as his notion in *The Truly Disadvantaged* that "capital is colorblind."

The final section then takes stock of everything argued in this chapter and provides a thorough account of the advent of "neoliberal colorblindness"—a colorblindness that has adjusted itself to the new racial climate of the post-civil rights era, and a colorblindness available as a discourse to protect the advantages whites had accrued during the previous decades in the context of the New Deal and the growing suburbs. Drawing on such works as Nancy MacLean's *Freedom Is Not Enough*, Ian Haney-Lopez's "'A Nation of Minorities,'" and Joel Olson's *The Abolition of White Democracy*, I will extensively analyze the long and torturous road that brought a John Marshall Harlan-inspired colorblindness to its current, post-civil rights position as dominant ideology. Echoing the arguments throughout this chapter (and dissertation), this colorblindness was by no means inevitable; it was the consequence of myriad debates and shifts in the understanding of race, to say nothing of the changes that gripped the world in the post-World War II era. I will deliberate at length the plethora of issues crucial to shaping the colorblindness of today, from the civil rights acts' role in pushing race into the private realm to the concomitant rise to influence of the "ethnic paradigm" that equated the discrimination experienced by European immigrants in the late 1800s-early 1900s with antiblack racism. Also central to the analysis is revisiting the debate of

chapter one: why these conservatives began drawing from John Marshall Harlan rather than Albion Tourgee as they trumpeted the moral superiority of a colorblind vision. This chapter's primary intention is to link colorblindness to the mechanisms introduced in the first section of this chapter—mechanisms that would perpetuate racial inequality without the need for explicit interference on the part of the state.

The Spatialization of Race and Poverty in the New Deal Era

In stressing the importance of the New Deal era in shaping the course of the civil rights movement, my emphasis echoes that of an increasing array of scholars who—like Nikhil Pal Singh, mentioned in the introduction—assert that the civil rights movement should be properly conceived as a “long civil rights era” that takes the New Deal seriously into account. Such recent interventions include *When Affirmative Action Was White* by Ira Katznelson, *Sweet Land of Liberty* by Thomas J. Sugrue, and *From the New Deal to the New Right* by Joseph Lowndes. Common to all of these is the conviction that the many and varied debates and issues of the civil rights era had been saliently conditioned by the policies of the decades preceding it.

A rigorous study of these years is crucial because they would ultimately affect the particular shape racial inequality would take come the civil rights movement. For example, as I will scrutinize at length in chapter three, the influence of wealth and its ability to sustain racial inequality is a primarily post-civil rights phenomenon; most whites in the pre-civil rights era owned but a fraction of the wealth they do today. And that shift owes largely to the public policies of the New Deal that gave whites

unparalleled access to wealth and capital in the decades leading up to the civil rights movement. Illuminating the specifics of that access is the goal of this first section.

In the introduction to both this dissertation and this chapter, I pointed out that whites disproportionately benefited from the policies of the New Deal. While blacks and other racialized minority groups did receive some relief from the material maelstrom of the Great Depression, New Deal programs were ultimately tuned to white needs over nonwhite (or simply universal) needs.

It hadn't originally been so. Indeed, the racial asymmetries embedded within the New Deal were primarily the work of a South obsessively committed to maintaining the Jim Crow racial stratification of their region no matter the cost. Ira Katznelson provides a succinct summary of this matter:

The South's representatives built ramparts within the policy initiatives of the New Deal and the Fair Deal to safeguard their region's social organization. They accomplished this aim by making the most of their disproportionate numbers on committees, by their close acquaintance with legislative rules and procedures, and by exploiting the gap between the intensity of their feeling and the relative indifference of their fellow members of Congress.²

As "strange bedfellows," the one-party Democratic South possessed significant influence to veto any New Deal legislation that did not meet their (racial) standard. And that standard was simple: *Jim Crow was not to be challenged*. In short, the South's influence proved decisive, and whites collected the bulk of the benefits.

One implication to highlight becomes the symbiotic nature of these New Deal policies. What this means is the following: largely excluding blacks and others from the resources made available by the New Deal does not cause those resources to disappear. The resources remain, yet they are now moving into the control of whites. To put this

another way—whites were benefitting more fully than they otherwise would have were other groups not being shut out. This point is essential to understanding the rise of the mechanisms that colorblindly transmit racial inequality today, since it put New Deal resources into the control of whites.

Speaking of colorblindness, that is what every last New Deal policy was: race-neutral. This is why David Roediger terms this era one of “colorblind inequalities.” Because of the Thirteenth, Fourteenth, and Fifteenth Amendments, it was unconstitutional to overtly inscribe race into any of the policies’ provisions. In each case, the South found a way to circumvent this inconvenience; the Social Security Act, for instance, barred maids and farmworkers from its benefits—thus excluding 75% of blacks in that region who were employed in those fields of work. (This brings in other implications of colorblind policies that I will revisit later in this dissertation: not all blacks were shut out of the Social Security Act, and some whites were. In other words, the benefits/exclusion axis did not fall cleanly onto racial lines, a concept I will label in chapter six the “racial inexactness of colorblindness.”)

One crucial New Deal policy was the Selective Service Readjustment Act (the GI Bill.) Passed shortly before D-Day in June 1944, the GI Bill’s central purpose was to help returning World War II veterans reacclimate to civilian life. It did so by helping fund college educations, providing seed money to start businesses, and granting excellent interest rates for purchasing homes. It is the latter of these benefits that I wish to focus upon here.

While the South's intervention inevitably racialized the outcomes of the GI Bill (in this case, by insisting the awards be administered by state, rather than through the federal government), I contend here that whites' disproportionate securing of GI Bill provisions sourced from the "larger discriminatory context"³ faced by people of color in the post-World War II era. As Linda Faye Williams asserts in her book *The Constraint of Race*, "the real social and historical legacy of the GI Bill lies in its demonstration of how little difference presumably race-neutral and 'universal' policies make when they are instituted within the context of widespread racial inequality and white advantage."⁴ To highlight the nodal points of such (dis)advantage in the area of housing, we need to turn to the policies of the Federal Housing Administration (FHA) and its role in guaranteeing that whites would acquire the vast majority of the millions of suburban homes built in the post-World War II era. We will see how such policies *spatialized* race and poverty in these critical years as what came to be known as the "chocolate cities/vanilla suburbs" phenomenon materialized.

Decades after they had made their mark on housing opportunities, the appraiser's manuals of the FHA surfaced; one of the key components of these manuals was the color-coding policies that divided neighborhoods and determined the quality of the mortgage loans to be given to eager homebuyers (many of whom were toting their GI Bills.) Sporting a steadfast determination to insure the maintenance of home investment values against "inharmonious racial or nationality groups" (read: people of color), the FHA ranked housing tracts in the descending order blue, green, yellow, and red—this last being the source of the term "redlining."⁵ Redlined areas received the worst deals from

the FHA—if any at all. Two factors most saliently predicted the color under which a given neighborhood would fall: (1) suburbs over central cities and (2) monoraciality over multiraciality. “FHA appraisers denied federally supported loans to prospective home buyers in the racially mixed Boyle Heights neighborhood of Los Angeles in 1939,” writes George Lipsitz, “because the area struck them as a “melting pot” area literally honeycombed with diverse and subversive racial elements’.”⁶

The race-neutral GI Bill fell into the hands of countless veterans of color; despite this, most were denied entry into the burgeoning suburbs and began moving into the “chocolate cities.” But even here, as Lipsitz noted above, they were often refused loans. Thus spurned, blacks and other minority groups were forced to search elsewhere to achieve homeownership, and it was within this context that the exploitative practice of “contract leasing” took root. Beryl Satter’s 2009 study *Family Properties* places contract leasing in its center field of focus; analyzing this practice briefly here will illuminate the fabulous amounts of wealth systematically pilfered from people of color that ended up in white coffers.

Satter shares the specifics of contract leasing in the opening pages of her study:

In Chicago, as across the nation, most banks and savings and loans refused to make mortgage loans to African Americans, in part because of the policies of the Federal Housing Administration (FHA), which “redlined”—that is, refused to insure mortgages—in neighborhoods that contained more than a smattering of black residents. Therefore, the Boltons [a black family facing eviction from a home they had leased on contract] could not do what most whites would have done—obtain a mortgage loan and use it to pay for their property in full. Their only option was to buy “on contract,” that is, more or less on the installment plan....With even one missed payment, a contract seller had the right to evict the “homeowner” and resell the building to another customer.⁷

The combined result of the FHA's policies and such practices as contract leasing was the accelerated investment in wealth-rich suburbs and the symbiotic *disinvestment* in the now-rapidly deteriorating central cities. As Satter remarks, contract leasing proved an arduous burden for black families. "Husbands and wives both worked double shifts. They neglected basic maintenance. They subdivided their apartments, crammed in extra tenants, and, when possible, charged their tenants hefty rents" in an attempt to make their draconian monthly payments.⁸ The source of this deterioration, Satter stresses, was all but fully lost on whites:

If black contract buyers saw themselves making heroic sacrifices against impossible odds to keep from falling behind on their payments, this was not how their white neighbors viewed the situation. Whites saw population densities doubling, while garbage collection and other municipal services stayed the same or declined. They saw unsupervised children flooding the neighborhood. They noted that buildings bought by African Americans rapidly decayed. Small wonder that whites blamed their black neighbors for the chaos they observed.⁹

This further strengthened whites' sense of *entitlement* to their suburban spaces (more on which later.)

Even where the FHA and contract leasing could not reach, restrictive covenants could. Such covenants—which placed racial restrictions on property title deeds—were recommended by the FHA and guaranteed the (virtual) all-whiteness of innumerable emerging suburban communities.¹⁰ Among the most famous to which restrictive covenants were initially attached were the Levittowns—mass housing divisions built as a mecca for returning (white) veterans. Regarding the Levittown on New York's Long Island, Dolores Hayden writes that in 1960 the town "had not a single resident that was black. With 82,000 residents it was the largest all-white community in the United

States.”¹¹ William Levitt (who was Jewish) rationalized the racial restrictions not by reference to antiblack animosity, but in the syntax of free-market anticommunism. As Levitt opined, “originally we would not sell to a black person because it was an old story that if we sold to blacks, whites would not buy....”¹² Several recent histories of this period, such as David Freund’s *Colored Properties*, attest that Levitt’s sentiments were widely held by white builders and buyers alike. Whites were claiming suburban spaces as their own—spaces to which they were entitled.

This sense of entitlement outlived the career of restrictive covenants, which were declared unconstitutional in the 1948 Supreme Court case *Shelley v. Kraemer*. I want to end this section with an analysis of the aftermath of *Shelley*, for it not only helps us further illuminate the spatialization of race and poverty in this era (forming en route the mechanisms that carry along white advantage today), but it splendidly anticipated the move away from Jim Crow (of which restrictive covenants were but one embodiment) and towards colorblindness several decades later.

The case was initially met with jubilation by civil rights groups. “In winning *Shelley*,” declares Scott Kurashige in *The Shifting Grounds of Race*, “civil rights advocates hoped they had eliminated the decisive weapon of those who practiced housing discrimination.”¹³ *Shelley* was likewise decried by segregationists and white realtors alike: “Not only did they fear the 1948 decision would destroy their livelihood; they also warned that society would unravel without racial covenants.”¹⁴

As these latter groups adapted to the new legislation, however, the tide quickly turned; indeed, within just a few years after *Shelley*, both groups had reversed their

attitudes. The reasons for this reversal go straight to the heart of the growing awareness that, in this climate of spatializing race and poverty, explicit references to race were not necessary to reproduce and maintain white advantage. No more would supporters of segregation need to protect the all-whiteness of the suburbs with the argument “that Blacks were inherently predisposed to criminality and that miscegenation was a danger to society.”¹⁵ “Gentlemen’s agreements would suffice to produce the same end that restrictive covenants had achieved. And they could do so in liberal colorblind fashion—by “positively asserting the homeowner’s ‘individual freedom’” as opposed to “publicly denigrating nonwhites.”¹⁶ Kurashige discusses the reaction of civil rights leaders to this development:

Commenting on the impact of *Shelley* nearly one decade after the 1948 ruling was released, the [Japanese American Citizens League’s] Harry Honda observed, “Racial restrictive covenants have been ruled invalid by the highest courts in the land, but the problem only seems to be beginning as more subtle and sinister forms to circumvent the Supreme Court decision to come to life.” If contemporary Black and Japanese Americans needed vague descriptions like “insidious” and “subtle” to characterize discrimination, it was largely because it was impossible to pinpoint the single mechanism by which postwar racial segregation transpired.¹⁷

The post-*Shelley* lessons, I contend, became a powerful dress rehearsal that anticipated what white conservatives would later fully embrace once Jim Crow was on the outs.

The combined effects of the FHA’s color-coding policies, contract, leasing, restrictive covenants, gentlemen’s agreements, and related exploitative practices resulted in the massive spatialization of race and poverty in the years bookended by World War II and the civil rights movement. Whites secured access to prime locations, while nonwhites were relegated to the very areas abandoned during this “white flight to the

suburbs.” In this, I have stressed up to this point, we witness the establishment of mechanisms capable of intergenerationally transmitting white privilege and domination without open state intervention (as was identified in the years following the *Shelley* decision.) This conversation—as the following section will now document—set the stage for the civil rights movement and ensuing confrontations that emerged as the fundamental limitations of equality of opportunity because apparent. These mechanisms were, in a sense, the *background* to these limitations, as Ira Katznelson examined in the early pages of his *When Affirmative Action Was White*. I now turn to an analysis of these limitations, followed by how colorblind racial ideology and discourse ultimately emerged hegemonic when these mechanisms and limitations were combined in the civil rights movement’s later years.

Race and Class after Jim Crow

From blacks in the South being attacked by dogs and water hoses to Martin Luther King, Jr. inspiring the world on the steps of the Lincoln Memorial in August 1963, the images of the civil rights movement’s fight against racial subordination and its codification in Jim Crow and its policy relatives remain forever etched onto our collective memories.¹⁸ Whatever else is said about the early “integrationist” years of the civil rights movement, its success in upending racism’s ubiquitous de jure manifestations is incontestable. Thanks to a civil rights movement inspired by anticolonial insurgency abroad, the increasing liability of Jim Crow racism in the Cold War context, and the indefatigable energy of Martin Luther King, Jr., Malcolm X, and their notoriously ideologically diverse cohort, the structure of de jure racism in the form of Jim Crow customs and related

discrimination in employment and college admissions was finally toppled. For the first time since the dawn of this country, “equality of opportunity” was now the law of the land.

However, in the years leading up to the civil rights acts—and even more so in the years following—the *limitations* of this newfound equality of opportunity became ever more apparent.¹⁹ These limitations became expressed in (among other places) what I termed the “class contradictions” faced by the civil rights movement once legal racial equality had been granted. In this section, I hope to make clear the pivotal role played by capitalism in structuring these limitations. The perennially complex interworkings of race and class were given new form during these tumultuous years, and it is crucial to outline them as they took shape. This was also the moment that witnessed the beginnings of the shift to neoliberalism, and I will explain its role more fully in the following chapters.

Let us commence with the specifics. As the civil rights acts were being passed, it became progressively evident to essentially all sides (from the civil rights movement itself to the white government to academia) that equality of opportunity was not going to lead to “equality of result.” In other words, the reality was increasingly acknowledged that the majority of blacks would be in no position to take advantage of the opportunities now coming their way.

The previous section has illuminated the primary reason why blacks and other people of color were not going to achieve racial parity despite the dissolution of de jure discrimination. The quarter century prior to the passing of the civil rights laws had

permitted whites unprecedented public access to wealth during the “golden age of capitalism” that began in earnest after World War II. Such access dovetailed with, and was a function of, the explosion of suburbia in this same period. By being cut off from these lines of wealth, most nonwhites were economically trapped in the central cities—areas on the verge of massive socioeconomic devastation, a devastation abetted by the same FHA policies that channeled wealth into suburbs and favored central city communities (such as the northwest section of Washington, DC and Beverly Hills in Los Angeles.)

Despite the enormous influence of the New Deal’s racially skewed benefits upon Americans come the civil rights movement, as Ira Katznelson points out, it was precisely this context of white advantage that Lyndon Baines Johnson dodged in his famous Howard commencement address in June 1965.

The primary shortcoming of Johnson’s speech was its surprising neglect of the history of public policy that had acted as a key cause of the distressing outcomes he chronicled. . . . [T]he repertoire of possible answers Johnson announced was unordered and unspecific, leaving unresolved just how he preferred to remedy the cumulative history of racial disadvantage. The dilemma he raised about what to do next remained an open question.²⁰

However, as Stephen Steinberg notes in *Turning Back*, the next step might not have been as open a question as Katznelson suggests, as the same speech hinted at an emerging, alternate reason why racial disparities would persist despite the conferring of equality of opportunity. Steinberg quotes the following passage from Johnson’s speech:

The prevailing view among social scientists holds that there are no significant differences among groups as to the distribution of innate aptitudes or at most very slight differences. On the other hand, differences among individuals are very substantial. The extent to which an individual is able to develop his aptitudes will largely depend upon the circumstances present in the family within which he

grows up and the opportunities which he encounters at school and in the larger community.²¹

Through this approach, declares Steinberg, speechwriters Richard Goodwin and Daniel Patrick Moynihan

shifted the discourse away from the radical vision of “equal results” that emanated from the black protest movement of the 1960s back to the standard liberal cant of the 1950s which held that the black child is stunted by “circumstances present in the family within which he grows up.” The conceptual groundwork was being laid for a drastic policy reversal: the focus would no longer be on white racism, but rather on the deficiencies of blacks themselves.²²

In short, another major reason given that attempted to explain why nonwhites would not achieve equality of result is one I will closely examine later in this section: the attribution of racial group success and failure to the *cultural* values possessed by those groups, most notoriously expressed in the 1965 Moynihan Report and the invention of the model minority myth the following year.

One common theme binding all these explanations was the (implicit or explicit) admission that *class* was going to play a major role in this atmosphere, and that class would function much differently than it had prior to the civil rights movement. Martin Luther King, Jr. metaphorized this dilemma best: “What good is it to be able to sit at the lunch counter if you can’t afford a hamburger?” Leon Litwack shares the specifics of King’s engagement with class realities:

In 1968,...[King] had come to realize...how the violence of poverty brutalized black families and neighborhoods, North and South....To open up the American Dream to everyone, to eliminate massive injustices, King now recognized, would require far more substantial structural changes than most Americans were willing to concede—nothing less than massive federal intervention to revitalize America’s inner cities, “a radical redistribution of economic and political power,” a thorough restructuring of “the architecture of American society.” What King envisioned was a fundamental shift in America’s thinking, a recognition that the

position of African Americans in the economic life of the nation was inseparable from the inequities of capitalism.²³

We know that this emphasis on the “inequities of capitalism” did not characterize the thinking of either King or Malcolm X in the years leading up to the formalization of equality of opportunity. How, then, did the two men come to an understanding of the importance of class? James Cone contends in *Martin and Malcolm and America* that neither King nor Malcolm X had sufficiently placed capitalism and class on their conceptual radars as they fought against state-sanctioned racism.

Both men began to analyze the problem of economic injustice during their last years, but the concepts of integration and separation, as they inherited and developed them, did not encourage them to view the American political economy as a primary cause of the oppression of blacks. In fact, it was generally assumed, by both integrationists and separatists, that the American sociopolitical system was basically good and that the *only* thing wrong with it was the exclusion of blacks and other people of color from its benefits.²⁴

During the years noted above, both men underwent paradigm shifts vis-à-vis the “American sociopolitical system”—they “began gradually to realize that capitalism itself is based upon the exploitation of many poor people by a few rich people.”²⁵ And that exploitation, as Malcolm X and King also understood, was racially inflected, as whites were disproportionately concentrated among the “few rich people” doing the exploiting. In a word, wealth and poverty would continue to carry explicit racial signifiers, signifiers that would easily withstand the changes equality of opportunity brought about. Engaging these racial dimensions ubiquitous in wealth and poverty will help us understand the ways in which race and class began to interact anew upon the ascendance of equality of opportunity—at the moment the structures of opportunity became colorblind.²⁶

To limn the outlines of this intricate matter, let us turn to the work of the Marxist political economist Ellen Meiksins Wood. In *Democracy against Capitalism*, she references the civil rights and related movements in the context of the above:

The old liberal concept of formal legal and political equality, or some notion of so-called “equality of opportunity,” is, of course, capable of accommodating class inequalities—and for that reason, it presents no fundamental challenge to capitalism and its system of class relations. It is, in fact, a specific feature of capitalism that a particular kind of universal equality is possible which does not extend to class relations—that is, precisely, a formal equality, having to do with political and legal principles and procedures rather than with the disposition of social or class power.²⁷

The ascendance of “formal legal and political equality” in the US, it must be stressed, virtually coincided with the rise of neoliberalism, and what Wood argues regarding capitalism is fully at work in our neoliberal milieu. (In other words, as later chapters analyze more closely, neoliberalism should not be conceived as a “rupture” from previous forms of capitalism.)²⁸ For example, Nikolas Rose contends that neoliberalism is a mode of “governing through freedom”; and Aihwa Ong writes in the same vein that “neoliberal logic requires populations to be free, self-managing, and self-enterprising individuals in different spheres of everyday life....”²⁹ One can produce an immediate application of these points to the circumstances faced upon the ushering in of legal racial equality. This “formal equality” bound up in the (now-) colorblind state indeed did *not* “extend to class relations.” What this means is the following: the *racial character* of class was thus untouched and began to exert independent effects all its own.

What exactly does this imply for our larger argument? As King, Malcolm X, and others acknowledged that equality of opportunity was not going to translate into equality of result, they (and others) were inevitably faced with the task of unearthing and

analyzing the specific reasons *why* this would not be the case. As aforementioned, they directed their attention at the *legacy* wrought by the centuries of legal racial discrimination at all levels of society. So, despite the introduction of equality of opportunity into US society, the legacy of slavery and Jim Crow made it so that class remained *racially conditioned*, with certain racial groups thus more likely to be poor, in bad conditions, ripe for (new forms of) exploitation, and so forth. A Marxist analytics—one that defines class as one’s relationship to the means of production—must likewise highlight the crucial observation here: white people still overwhelmingly (but not exclusively) controlled the means of production. The argument here is that whites’ disproportionate control of those means of production has *racial-class* consequences that cannot be ignored, even as conservatives increasingly embraced colorblindness as required of acceptable social policy.

This suggests that what we are witnessing is not so much the “declining significance of race” (a la William Julius Wilson) but the “increasing significance of class.” Or, put more specifically, “the increasing significance of racially conditioned class”—that is, a conception of class that acknowledges its salient racial character. As I will discuss at length in chapter six, commentators from Wilson (in *The Truly Disadvantaged*) to Milton Friedman (in *Capitalism and Freedom*) have insisted that “capital is colorblind,” but if capital is circulating in a context of racial inequality, that colorblind capital will have color-visible effects on the racial groups that comprise this society. Throughout US history, of course, class has *always* had a racial dimension. The crucial query here becomes how those racial dimensions have shifted in a conjuncture of

formal equality of opportunity and colorblindness—what we might instead call the “*changing* significance of racially conditioned class.” Again, I will have more to write on this in chapter six.

Let us return to the main issues I am visiting here. Upon the passage of the civil rights laws, the structures of opportunity became colorblind: race could no longer factor into admissions and hiring decisions. However, recalling Wood above, one quality of capitalism is its compatibility with the extension of formal legal equality to all realms of society—save class. Regardless of whether de jure racial discrimination remained the law of the land, the logic of capitalist accumulation would remain unchallenged, because in either case that equality had not been extended to class relations. Key here is that, *because* that extension did not take place, it also did not extend to the racial character of class. The poor and the rich, the proletariat and the bourgeoisie—these all remained *racially* inflected, with new implications that had been previously unengaged precisely because the prior conjuncture had been one of de jure racial discrimination—of bald extra-economic coercion based upon shifting justifications (religious, moral, scientific, etc.) of the innate inferiority of people of color.³⁰

We encounter these complexities when we examine how the civil rights movement tackled the matter of class and poverty. In *Class, Race, and the Civil Rights Movement*, Jack Bloom argues that the movement foundered at the very moment its central battleground shifted from race to class. Formal racial equality of opportunity may have been granted, but class inequality remained scarcely dented. “Substantive equality,” writes Howard Winant (echoing Leon Litwack above), “would have meant massive

redistribution of resources; it would have clashed with fundamental capitalist class interests; *it was never even on the table.*”³¹ Adopting formal and juridical colorblindness may have given all racial groups the equal opportunity to succeed, but skirting the legacy of slavery and Jim Crow guaranteed that post-civil rights capitalist class relations would possess the indelible imprint of race in all its uber-complex consequences.

To further explore these matters, I turn to two implications wrought by the granting of a legal racial equality that did not likewise envelop class. Winant’s quote above showcases the acknowledgment that the powers that be were going to have no part of a drive toward a racial equality of the material sort. The first implication thus centers on the displacing of responsibility for the persisting poverty of blacks from the state onto blacks themselves; the Moynihan Report and the model minority myth will be analyzed as the premier tactics that engineered this displacement. The second implication focuses on a framework I employed in my analysis of *Plessy v. Ferguson* in chapter one: the distinction between the public and private spheres. We will see how the civil rights acts’ thrusting of race into the private sphere helped make the maintenance of racial inequality in a conjuncture of equality of opportunity possible, and how colorblindness took hold as the ideology of record in performing that maintenance. This second implication will be my transition to the final section of this chapter.

—*The Moynihan Report and the Model Minority Myth*

The understanding that equality of opportunity was not going to lead to equality of result was highlighted in the opening lines of the Moynihan Report, penned at the behest of the Johnson administration scant months after the passage of the 1964 Civil Rights Act.

In this new period the expectations of the Negro Americans will go beyond civil rights. Being Americans, they will now expect that in the near future equal opportunities for them as a group will produce roughly equal results, as compared with other groups. This is not going to happen. Nor will it happen for generations to come unless a new and special effort is made.³²

What shape would this “new and special effort” take? As I contended above, the dictates of capitalist accumulation cannot accommodate class equality, though it can certainly integrate other forms, such as racial or gender equality at a formal, legal level. Centuries of racist policies and discrimination at all levels of US society had produced precisely what Moynihan points out in his report: the majority of blacks were going to remain poor; class would continue to possess an unmistakable racial dimension.

In his report, then, Moynihan was charged with the task of unearthing what it was, precisely, that was going to preclude blacks from obtaining equality of result. And he spelled it out in no uncertain terms:

The fundamental problem, in which this is most clearly the case, is that of family structure. The evidence—not final, but powerfully persuasive—is that the Negro family in the urban ghettos is crumbling. A middle class group has managed to save itself, but for vast numbers of the unskilled, poorly educated city working class the fabric of conventional social relationships has all but disintegrated....So long as this situation persists, the cycle of poverty and disadvantage will continue to repeat itself.³³

Only with “the establishment of a stable Negro family structure” would blacks have any hope of competing with whites in US society, because without it, they would remain mired in a “tangle of pathology.”

We witness here one crucial shift ushered in by the elimination of state-sanctioned racial discrimination: the ascendance of what Stephen Steinberg has termed the “cultural survival of the fittest.” As the civil rights movement successfully dethroned notions of

biological differences between racial groups, continuing racial inequality came to be explained (and justified) by reference to culture and values. “All too often,” writes Steinberg in *The Ethnic Myth*, “notions of biological superiority and inferiority have been replaced with a new set of ideas that amount to claims of *cultural* superiority and inferiority. According to this perspective, differences in social class position among ethnic groups in America are a product of cultural attributes that are endemic to the group themselves.”³⁴ Moynihan’s theoretical lineage sources directly from the “culture of poverty” arguments formulated by Oscar Lewis in the previous decade; as Linda Faye Williams notes, the Moynihan Report was the first application of Lewis’s theories to racial issues.³⁵

Moynihan’s maneuver, then, was to lay responsibility for continuing racial inequality at the doorstep of the black family; far from any challenge to (racialized) capitalist class relations, if blacks were going to succeed in the equal opportunity environment, it would be them who would have to get their own house in order. Vijay Prashad illuminates the larger reasoning behind this maneuver in *The Karma of Brown Folk*: “in the mid-1960s, just as the Civil Rights Acts passed through Congress, the liberal government under Lyndon Johnson ceased to talk of redressal or of state complicity in racism; it now spoke of the effects of racism (poverty and violence) as ‘circumstances present in the family within which [the black man] grows up’.”³⁶

This focus on the black family as the central inhibitor of black progress, of course, also produced resounding criticisms. Arguably the most famous and enduring of these came from William Ryan, who coined the phrase “blaming the victim” in response to the

Moynihan Report. As Ryan declares in a rebuke of Moynihan, “by focusing our attention on the Negro family as the apparent *cause* of racial inequality, our eye is diverted.

Racism, discrimination, segregation, and the powerlessness of the ghetto are subtly, but thoroughly, downgraded in importance.”³⁷ In other words, by spotlighting the defective black family—and not seriously inquiring what produced that defectiveness in the first place—the capitalist state sidesteps the class implications of de jure racism protracted across centuries: simply the post-civil rights version of what Martin Luther King, Jr. called the “tragic evasions and defaults of several centuries.”³⁸

The Moynihan Report, however, did not alone produce this displacement. Moynihan’s conclusions were buttressed by the invention of the model minority myth less than a year after the report was published. The model minority myth—the culturally-driven ideology that Asian Americans have achieved success in US society in spite of the race-related obstacles they have faced—became an invaluable accompaniment to the Moynihan Report. What we witness in the model minority myth is—to paraphrase James Kyung-Jin Lee’s *Urban Triage*—the “policy mirror” of the Moynihan Report, minting en route the other side of the same ideological coin: that success befalls those with the “right” values and vice versa. Similar to Moynihan’s stressing of a flawed family structure as impeding blacks’ passage to the realm of equality of result, the model minority myth likewise emerged as a defense against the demands-from-below emanating from the civil rights movement. Vital to this conversation are the fully congruent assumptions undergirding both Moynihan’s conclusions and the model minority myth: that racial group success and failure is ultimately attributable to the cultural values held

by those groups. To be more specific, when combined, the pair both contend *that Asian Americans have been successful for precisely the same reason blacks have not*: in the possession of the right or wrong cultural values. While the Moynihan Report cited a “tangle of pathology” present in the black family as central to their predictable failure to attain equality with whites, the model minority myth as invented in the articles that posited Asian American success employed the same ideological grammar: that their success (like black failure) owed to Asian Americans’ possession of the right (cultural) values.

From the moment of its inception, the model minority myth was just that—a myth. The two 1966 articles that popularized it both employed skewed income data that distorted the reality of Asian American achievement. This happened primarily through not taking into account that Asian Americans’ disproportionate residence in urban areas tilted their income levels higher, in addition to the fact that Asian American families had more workers per household on average than white families (the income data used was household income, not individual income.)³⁹ Despite the flaws manifest in the myth, it took hold in popular consciousness. “Despite strenuous efforts to debunk the model-minority myth,” writes Victor Bascara in *Model-Minority Imperialism*, “there is perhaps no idea that remains more dominant about Asian Americans than the conception that Asian Americans are a group that has managed to achieve economic, political, and cultural success in the face of adversity.”⁴⁰ Frank Wu autobiographically echoes Bascara: “I am fascinated by the imperviousness of the model minority myth against all efforts at debunking it.”⁴¹ And as Keith Osajima observes, despite the ubiquitous

criticisms aimed at the myth, the model minority image remains “dominant.”⁴² A key question has always been why the myth resonates so strongly in the minds of most Americans, possessing an enigmatic durability in the face of the innumerable critiques leveled against it.

The writers who popularized the myth made no attempt to pretend that their vaunting of Asian Americans was somehow disconnected from the social environment in which it emerged. One of the articles asserted that relationship unequivocally: “At a time when it is being proposed that hundreds of billions be spent to uplift Negroes and other minorities, the nation’s 300,000 Chinese Americans are moving ahead on their own, with no help from anyone else.”⁴³ Lodged in this candid and revealing statement is confirmation of the central argument I am formulating in this section. Highlighting the “hundreds of billions” to be potentially spent points up the state’s engagement with both the reality of the poverty stemming from the legacy of slavery and Jim Crow, as well as their refusal to do anything about it, as made evident in the quotations from Leon Litwack, Howard Winant, and Vijay Prashad supplied earlier in this section. The parting phrase that Asian Americans have triumphed in the US “with no help from anyone else” cements the articles’ investment in “cultural survival of the fittest” ideology: in no way should the state be held responsible for the situation of blacks “and other minorities” now that state-sanctioned discrimination has given way to equality of opportunity. The argument embedded in the presentation of the model minority myth would not have been as effective had blacks been compared to whites; the tactic possessed a particular cogency when blacks were compared with another nonwhite racialized group that had

likewise been on the business end of racism and exclusion. Thus was the phrase “If Asians have made it, why can’t blacks?” given life in the conversation on racial inequality.⁴⁴

The above observations are further confirmed by the fact that model minority ideology had circulated prior to the 1966 articles. K. Scott Wong points out in his study of Chinese Americans during the World War II era that elements of model minority ideology clearly existed in the popular mind during that era. While some made disparaging comparisons between blacks and American-born Chinese, it would be the “familial bonds” of the latter group that would comparatively redeem them. As Wong notes, “This perception of Chinese American familial bonds would play a role during the Second World War in changing the image of Chinese Americans, an image that would crystallize nearly three decades later when Asian Americans would be seen as the ‘model minority’.”⁴⁵ Wong demonstrates here that some form of what would become the hegemonic “cultural survival of the fittest” ideology had existed in embryo prior to the civil rights movement. But in the World War II era, equality of opportunity remained decades away. Thus, it is neither coincidence nor accident that the model minority myth became nationally prevalent at the moment it did, for it served a *purpose* that I have detailed here—to silence blacks “and other minorities” from the racial-class demands they were making upon the state in the mid-late 1960s.

In sum, the Moynihan Report and the model minority myth both surfaced at a very specific moment in the civil rights movement. Formal, legal racial equality had been granted, but such equality did not “extend to class relations.” The continuing

poverty certain racial groups would thus still experience—combined with a black power movement guided by an insurgency to do something about it⁴⁶—propelled the ascendance of the ideology known as “cultural survival of the fittest,” one which holds strongly today, as will become evident in my analysis of the prison-industrial complex in chapter four. These and other effects were activated by the situation that came into being upon the passage of the civil rights laws, as a defense against those challenging capitalist class interests.

—*Race: From the Public Sphere to the Private Sphere*

The second implication of the granting of a formal racial equality that left class differences intact revolves around the passage of race from the public sphere to the private sphere. This is not to insinuate that race had no presence in the private sphere prior to the civil rights movement; nor is it to suggest that race no longer colors the public sphere.⁴⁷ However, it is to argue that in the discourse of the public and private spheres, a pivotal turning point had been reached upon the passage of the civil rights laws. Prior to equality of opportunity, race incontestably inhabited the public sphere, from segregation customs to immigration exclusion acts to anti-miscegenation laws. The ending of these via the civil rights movement witnessed, then, an unparalleled *redrawing* of the line dividing the public and private realms vis-à-vis race and the state.

In chapter one, I closely analyzed the public/private distinction in the context of *Plessy v. Ferguson*; there, I argued that part of what separated Justice John Marshall Harlan from his colleagues was a dispute over where one should place the boundary between the public and private domains. In insisting that “the Constitution is colorblind,”

Harlan was conveying that race had no place in the public sphere. Yet, as I discussed in chapter one, Harlan was ultimately arguing that white dominance could (and would) persist in a situation where race solely resided in the private sphere. To requote Joel Olson on this matter:

A color-blind Constitution would guard the political and civil rights of Black people, but it would do nothing about whites' overwhelming control over educational, financial, and political resources. Nor should it, [Harlan] argues, since these lie outside of the public realm....Harlan shifts the line between public and private from where the majority opinion draws it...by incorporating civil society into the public sphere, yet he still uses the line to both condemn segregation and insulate whites' material advantages from public intervention.⁴⁸

In this, Harlan would have his vindication seventy years later as white conservatives came around to his wisdom (more on which in the last section of this chapter.)

As this chapter has demonstrated thus far, the decades prior to the civil rights movement saw the establishment of mechanisms fit to transmit racial inequality *sans* state intervention. The processes of suburbanization and the exploitation of prospective nonwhite homebuyers via the FHA and contract leasing (among myriad other processes) allowed whites fantastic access to wealth and capital, access symbiotically and systematically withheld from people of color. By relegating race to the private sphere, these material advantages become, as Olson put it, “insulated” from state intervention. The wealth accrued by whites represents a significant component of that insulation—as does the “wealth poverty” experienced by most people of color, which is likewise (in a bitterly ironic sense) “insulated” from state intervention.⁴⁹ This scenario gestures towards the many ways the state has denied its responsibility to rectify the effects of past racism.

The consequences of relegating race to the private realm extend beyond the insulation of material white privilege it affords; it also dovetails with the “cultural survival of the fittest” discourse explained above. And the reason for this is clear: “culture” and “values,” in the diction of that discourse, are construed as being formed in the private sphere. As Reva Siegel demonstrates in her analysis of affirmative action cases, the Court has consistently viewed existing racial differences as residing in “the racial private sphere, a domain of racial differences that the state may not disturb.”⁵⁰ It does so, according to Siegel, because it interprets “race as a substantive social phenomenon, marking off real cultural differences amongst groups.”⁵¹ Since these “real cultural differences” are approached from a perspective that they have taken shape in the private domain, whatever racial stratification obtains in society “would naturally exist” in a discrimination-free world.⁵²

It is clear from this how thrusting race into the private realm and engaging racial differences as a function of culture displaces the true root of those differences: class. By extending equality only to race and not class, the racial dimensions of class went largely unchallenged. In turn, the extension of formal racial equality of opportunity removed race from the public sphere, where “cultural survival of the fittest” ideology immediately—and noncoincidentally—came in to do its work, as seen in the Moynihan Report and the model minority myth. If persisting racial differences are a product of the values endemic to racial groups themselves, then the state can divest itself of any responsibility to intervene with the purpose of dissolving the accumulated advantages whites had built up in the previous decades and centuries.

Lastly, this relegation of race and racial differences to the private sphere alters its very nature—what the private sphere can accomplish. As aforementioned, this period also saw the beginnings of the drive towards neoliberalism and its emphasis on privatization. As more and more erstwhile public programs were privatized in the name of the invisible hand of the market, the possession of private wealth began to assume greater meaning. Protected against intrusion by the state, the wealth accrued by whites by way of the processes described earlier in this chapter becomes a powerful mechanism by which to perpetuate racial inequality in an atmosphere of formal racial equality. Such protection was further strengthened by the rise of a Harlan-inflected colorblindness that took hold during these same years. The rise of neoliberal colorblindness in the years following the civil rights movement is the subject of the final section of this chapter.

**Harlan’s Colorblindness Afoot: From “Segregation Forever!”
to “Some of My Best Friends Are Black”**

Colorblindness became America’s dominant racial ideology in the aftermath of the civil rights movement. Its ascendance to that dominance was not an inevitability; it was the product of countless forces and debates extending from college admissions to deindustrialization to the role of the state in apprehending racial inequality. It is these forces and debates that comprise my thoughts in this final section.

How colorblindness was propelled to hegemonic ideological status has been the subject of many previous books and articles. One of the most thorough accounts of this comes in Nancy MacLean’s *Freedom Is Not Enough*. Referring specifically to the late 1960s and 1970s, she avers, “Just as supporters of inclusion had learned that the road to eliminating inequality went through race-conscious and gender-conscious policy, so

defenders of exclusivity now learned that its best protection could be found in the embrace of formal equality.”⁵³ And this represents the primary issue of this section: the realization of colorblindness as the best means by which to maintain white dominance in a conjuncture of equality of opportunity.

MacLean’s reference to the “embrace of formal equality” recalls my deliberations of the erstwhile section. We saw how the implementation of non-class forms of equality presents little challenge to the logic of capitalist accumulation, and how the failure to extend equality to class left its racialized nature intact, with whites overwhelmingly in control of the nation’s resources. “Formal equality” also meant that race had entered the private realm, which would protect whites’ control of resources from state intervention. The mechanisms that emerged in the New Deal era as described above could now move in and exert their racial inequality-perpetuating effects.⁵⁴

I focus my attention here upon how white conservatives came around to this embrace of formal equality and colorblindness—to an understanding that Jim Crow-esque racism would not be necessary to safeguard white advantages. After a discussion of these processes, I conclude by returning to the chasm separating Albion Tourgee and John Marshall Harlan; there, I will consider the implications of Tourgee’s invisibility regarding “color-blind justice” as well as the consequences of conservatives’ embrace of Harlan as granting their perspective of colorblindness a judicial, antiracist imprimatur.

—*The Rise of Colorblindness in Thought and Policy*

As I have repeatedly stressed in various locations of this dissertation, the rise of colorblindness in thought and policy was contingent upon a host of interlocking factors

sourcing from the sociohistorical and political economic realms. What follows will confirm the recent remarks of Samuel Roundfield Lucas concerning the civil rights era: “the current period,” he avers, “was not constructed by virtue of a thoroughgoing effort to transcend the exploitation of the past but, instead, was the result of a confluence of social trends and national challenges that made some accommodation to movements for basic civil rights a palatable policy for key elites.”⁵⁵ Among the most important of these “social trends and national challenges” to which Lucas refers was the increasing liability of Jim Crow—both in the social domain as well as in its relation to capital accumulation in the post-World War II era.⁵⁶

Socially, Jim Crow quickly evolved from a legal mainstay to a significant deadweight the nation realized—with more or less rapidity—that it could (and needed) to do without. As blacks fought for freedom abroad only to have it rejected at home, the contradictions underpinning Jim Crow became ever more glaring. And in the Cold War context, the Soviet Union and its allies took every opportunity to expose those contradictions as it jockeyed for ideological advantage on the world stage. In not so many words, the Soviet refrain became, “You claim to be the leaders of freedom and democracy, *but look what you do to your black people.*” The propagandized contrast between the US and the Soviet Union was spelled out in the journalistic arm of the Soviets, *Pravda*:

[T]he constitution of the USA guarantees to all citizens equal rights before the law; however, the Negro population, consisting of 13 000 000 people, actually does not have these rights. Racial discrimination continues to exist in all its forms and in all branches of the economy and culture of the country....Only the Soviet Socialist government has constantly fought for real freedom, independence and equality of all peoples—large and small. Only in the USSR has real equality of

free peoples, real friendship of peoples, free from all forms of exploitation, of national subjugation and racial discrimination been established.⁵⁷

Sharp accusations as these rendered race the “Achilles Heel” of the US, accusations taken seriously. The influence of the Cold War on the galvanization of the civil rights movement (leading to the eventual elimination of Jim Crow) cannot be overstated.⁵⁸

Yet, as civil rights historians have documented, many white Southerners were not swiftly won over to the emerging racial consensus; Southern leaders in this vein pledged “massive resistance” as they dug their heels in the ground to prevent alterations to their region’s social organization. George Wallace’s infamous dictum “Segregation now, segregation tomorrow, segregation forever!” represented the starkest reminder that such white Southerners and their determined politicians were not going to go down easily. But, as history has demonstrated, that is exactly what happened as Jim Crow breathed its final gasps in the later years of the civil rights movement.

Thus, Jim Crow ended up serving a double purpose: not only did it provide the burgeoning civil rights movement momentum in the international context, it later became fundamental to the concurrent emergence of colorblindness. For it was during this period that a critical mass of whites (mostly outside the South, but many within it as well) were won over to the belief in the inherent equality of racial groups. In that context, campaigning on a “Segregation forever!”-type platform would translate into political isolation and marginalization. (The crushing defeat of Barry Goldwater in 1964 provided unambiguous evidence of this fact.) Erstwhile adherents to the cause of Jim Crow segregation were, in this regard, forced to change their approach—not only because of the defeat of Jim Crow (by the early 1970s a foregone conclusion)—but also due to the

acknowledgment that there would be no return to it, as Michael Omi and Howard Winant asserted in *Racial Formation in the United States*. It is this development that Nancy MacLean highlighted in a quotation cited earlier—that “defenders of exclusivity now learned that its best protection could be found in the embrace of formal equality.”

The inquiry then becomes, How did white conservatives “learn” that “formal equality” (in a word, colorblindness) would represent the “best protection” of inherited white privileges? This brings us to another crucial dimension surrounding the emergence of colorblindness to hegemonic ideological status today. Earlier in this chapter, I analyzed the various responses to the implications of the observation that equality of opportunity was not going to lead to equality of result upon the passage of the civil rights laws. While the Moynihan Report and the model minority myth materialized from this understanding, the government (through Lyndon Johnson’s phrase “freedom is not enough”) did move ahead and establish affirmative action programs that explicitly targeted people of color and women who were historically underrepresented in workplaces and universities. Such policies shifted to racial preferences (via Richard Nixon’s Philadelphia Plan) after its initial incarnation of aggressive outreach and recruitment failed to make a dent in entrenched patterns of racial inequality. In short, it was *in reaction* to the advent of affirmative action and such related race-conscious policies as busing that white conservatives discovered the means to simultaneously recuperate their political losses of the 1960s and thwart the dissolution of white dominance—a dominance articulated through (to paraphrase John Marshall Harlan) prestige, achievements, education, wealth, and power.

So strong was the drive towards colorblindness in reaction to affirmative action, that post-civil rights colorblindness can be aptly named “reactionary colorblindness.” This term comes from Ian Haney-Lopez’s 2007 law review article “‘A Nation of Minorities’: Race, Ethnicity, and Reactionary Colorblindness.” As will become evident, Haney-Lopez’s reactionary colorblindness is fully congruent with my own term “neoliberal colorblindness”—the shift in adjective sourcing from my emphasis on colorblindness’s relationship to the political economic changes that have seized US society since the economic crisis of the 1970s (more on which in my final four chapters.)

Reactionary colorblindness is particularly illuminating in rendering the transfer from “massive resistance” to colorblindness intelligible. Haney-Lopez defines reactionary colorblindness thus: “an anticclassification understanding of the Equal Protection Clause that accords race-conscious remedies and racial subjugation the same level of constitutional hostility.”⁵⁹ In other words, in a reactionary colorblind world, affirmative action and busing are interpreted as morally and constitutionally equivalent to Jim Crow segregation and slavery. Once that equivalence becomes sufficiently implanted into law, colorblindness in thought and policy emerges as the only morally defensible approach to matters racial.

This is precisely what the nation witnessed as Nixon’s “Silent Majority”—whites (covering both white suburbanites and the white working class) who felt increasingly disaffected and alienated by the later years of the civil rights movement—were won over to the logic of investing in a colorblind public sphere. As stated earlier, this investment was activated by Jim Crow’s death knell; since “Segregation forever!” was now (by the

early 1970s) an untenable and reprehensible refrain, colorblindness materialized as a genuinely viable alternative. Owing to the spatialization of race and poverty in the post-World War II era (via the processes discussed earlier in this chapter), it became readily apparent that colorblindness would adequately function to lock in white advantage and prevent any status slippages on the part of the white working class via proclamations to colorblind entitlement as witnessed in the *Weber* case of 1978.⁶⁰

Attention to that spatialization of race and poverty becomes a crucial means to combat the “backlash thesis”—the notion that the rise of the New Right (and its concomitant implantation of colorblindness) was fully a function of the excesses of Black Power and the War on Poverty.⁶¹ Focusing on the racialized benefits of the New Deal and the colossal demographic shifts they made available in the context of suburban proliferation illuminates how such whites were already ripe for conversion to the emerging conservatism of Barry Goldwater, Richard Nixon, *et al.*—a conservatism that wrapped anti-integrationist rhetoric not in the grammar of black inferiority, but in the race-neutral syntax of states’ rights, appeals against federal intrusion into the private lives of citizens, and so forth. In other words, to reiterate my contentions earlier in this chapter, in order to render the power of reactionary colorblindness intelligible, one must appreciate suburbanization’s effect on notions of white entitlement, as David Freund and Kevin Kruse have argued. It was this entitlement that whites (via the encouragement of the New Right) began to feel the government encroaching upon in the later years of the civil rights movement. The New Right accomplished this by fashioning the civil rights movement as “defecting” from “the alleged universal programs of the New Deal” once

black power came to the fore.⁶² Post-civil rights colorblindness formed in reaction to that; it was a backlash that could not have taken the shape it did were it not for the policies of the post-World War II era and the manifold changes they ushered in—policies that were indeed race-neutral but had race-insidious intentions. Exposing the blind spots of the backlash thesis helps us appreciate how quickly such insidiousness was split off from the race-conscious objectives of the New Deal, a crucial point because it legitimized the backlash by making the civil rights movement appear to be moving away from the New Deal’s universalism and towards the “special interests” being vocalized by blacks and, increasingly, other groups, from Mexican Americans to women to gays and lesbians. Furthermore, it helps us see that white conservatives had actually begun crafting this backlash years before reactionary colorblindness made its inroads into the white American conscience and consensus, as the aftermath of *Shelley v. Kraemer* teaches us.

Another major factor that pushed racial common sense towards colorblindness was what Thomas Sugrue and John Skrentny labeled “the white ethnic strategy.” A large segment of Nixon’s “Silent Majority” referenced above consisted of the “second- and third-generation descendants of European immigrants”; this “white ethnic revival...played a crucial role in the reconfiguration of Republican politics in the 1970s and beyond.”⁶³ Many lived in “transition areas” directly affected by integration as blacks began moving into their neighborhoods (replacing other whites fleeing to the suburbs.) As before, the import and effectivity of this white ethnic strategy lay in the decades directly preceding its full flowering. “As early as 1964,” notes Nancy MacLean, “the Republican National Committee pursued city-dwelling whites of central and eastern

European and Italian descent.”⁶⁴ How then, did a white ethnic focus translate into escalating justifications for colorblindness?

In Ian Haney-Lopez’s formulation, the rise of reactionary colorblindness was all but fully dependent on notions of white ethnicity—more specifically, *in the recasting of race as ethnicity*. Doing so, avers Haney-Lopez, became an ideological defense against the focus on structural racism that came to the fore during the civil rights movement.⁶⁵ One of the earliest influential race-as-ethnicity maneuvers emerged in the 1963 publication of Nathan Glazer and Daniel Patrick Moynihan’s *Beyond the Melting Pot*, where they counted “Negroes” among the ethnic groups of New York City. An accompanying maneuver was seen three years later in Irving Kristol’s influential article “The Negro of Today Is Like the Immigrant of Yesterday.” By conceiving of antiblack racism as essentially the same as that experienced by European immigrants, a major step had been taken towards both discounting structural interpretations of racism as well as a concomitant embracement of colorblindness, a point to which I will return in chapter five.

This second was made possible through this ahistoricized equation. Nancy MacLean examines how Jewish civil rights agencies lay at the forefront of pursuing an individualist conception of racism. MacLean wraps together many of the above points in a passage deserving to be quoted at length:

[Jewish Americans] had, over the preceding decades, developed a civil rights strategy for American Jews that rejected social-structural approaches to ending exclusion....As anticommunists of the McCarthy era, they had come to frame bigotry as a psychological problem and to de-emphasize its ties to economics and class in part as a way to distance their civil rights work from that of the Communist Party. For Jewish Americans, as whites of European descent who

arrived in the United States with urban experience and a level of education that was unusual in the era of mass industrialization, the enforcement of anti-bias laws to ensure individual equal opportunity was enough.⁶⁶

In a word, colorblindness would “work” for Jews and other European Americans. Thus, by shoehorning blacks into this larger cohort—as just another ethnic group—the assertion could be made that colorblindness represented the sole feasible approach to the matter of *ethnic* differences—differences that included blacks.

Yet, as Stephen Steinberg and others have shown, the inclusion of blacks in the pantheon of European immigrant groups who struggled to adapt and assimilate to US society is extremely problematic. MacLean points out in the quoted passage above the educational advantages Europeans brought with them as they immigrated to the US during the industrial era. And Steinberg demonstrates in *The Ethnic Myth* that Jews were especially poised to take advantage of the opportunities available to them in their new homeland; the irony, he remarks, was that the anti-Semitism they experienced in Europe forced them into the very professions that would give them a leg up over other groups upon their arrival.⁶⁷ Furthermore, European immigrants were afforded an artificial head start because of the expanded job opportunities owing to the exclusion of blacks from such lines of work in the Northern cities to which Europeans had been immigrating prior to 1924. And as the second generation children of these immigrants assimilated and achieved middle-class status, they joined their WASP peers in the suburbs; unlike blacks, they were not excluded by restrictive covenants.⁶⁸ All this points up the overarching and unambiguous chasms separating blacks from European immigrants in the decades leading up to the civil rights movement. This results in the following assertion from MacLean—

that “Because of their very different history, black activists saw early on that a color-blind strategy alone would not work for them, necessary as it was to fighting racial segregation.”⁶⁹ Yet this is precisely what Republican leaders and their followers began insisting upon during and after the civil rights movement: that a colorblind approach to racial (or is that “ethnic”) differences was the *only* workable strategy.

—*Touree-to-Harlan: The Shift Complete*

The sum of the above, I have argued in this chapter, translates into the ultimate marginalization of Albion Tourgee’s notion of “color-blind justice” in favor of John Marshall Harlan’s appropriation as voiced in his *Plessy* dissent. As aforementioned, that proponents of colorblindness today employ Harlan to legitimize their investment in race-neutral laws and policies is not an accident. Drawing upon Tourgee for such support would prove thoroughly counterproductive, as doing so would force an engagement with the worldview Tourgee held with respect to “color-blind justice,” a worldview (I argued in chapter one) that would in no way endorse the colorblind policies and programs conservatives and others trumpet as the sole route to racial salvation.⁷⁰ My closing arguments in this chapter focus on how white conservatives wrested a Tourgee-esque interpretation of colorblindness away from civil rights leaders and implanted a reactionary resonance within it, a resonance that remains hegemonic today.

Returning to a quotation cited in the introduction to this dissertation can help frame the particulars:

It is important to emphasize that colorblindness was not simply an ideal that a white mainstream forced on people of color; instead it was one pole of a long running tension within black liberationist thought. Some of the more passionate advocates of colorblindness, strong racial integration and even assimilation were

people of color who truly believed in the moral justice and pragmatic necessity of these goals.⁷¹

As Richard Thompson Ford remarks here, the “color-blind justice” of Albion Tourgee was not forgotten; the quest for a colorblind society free of racism proved a perennial motivator during the Jim Crow era. Ford’s reference to this “tension,” of course, points up the ideological diversity of the black radical tradition, from the famous divisions between WEB DuBois and Booker T. Washington to those characterizing the careers of Martin Luther King, Jr. and Malcolm X. In *King’s Dream*, Eric J. Sundquist specifies the details of that tension in the civil rights movement as observed in the shifting perspectives on the need (moral, political, etc.) for a colorblind policy to succeed Jim Crow, seen not only in the lives of King and Malcolm X, but in the deliberations of essentially every major black civil rights leader, from Bayard Rustin to Roy Wilkins to James Farmer to Whitney Young.⁷² These differences were organizationally embodied by the expanding rifts separating such radical groups as the Congress of Racial Equality (CORE) and Student Nonviolent Coordinating Committee (SNCC) from more mainstream civil rights groups as the NAACP.⁷³

Yet even at this moment, the influence of Tourgee ended up overshadowed by his appropriator. “As counsel for the NAACP in the later 1940s and early 1950s,” writes Ian Haney-Lopez, Thurgood Marshall “repeatedly encouraged his colleagues to cite Harlan’s famous injunction [in] *Plessy*.”⁷⁴ As noted, this further opened the door for conservatives to later draw upon Harlan’s dissent.⁷⁵ “As the nation’s racial commitments swung from defending to dismantling formal white supremacy, the practical import of colorblindness shifted from promoting to defeating integration, and its valence slipped from progressive

to reactionary.”⁷⁶ The contentious career of Martin Luther King’s declaration in “I Have a Dream”—that his children will one day be judged not “by the color of their skin but by the content of their character”—parallels this shifting valence.

The key ingredient in sparking that shift, I contend, lies in my earlier discussion in this chapter regarding the acknowledgment that equality of opportunity would not lead to equality of result, in the sense of what Lee Rainwater and William Yancey presciently observed in 1967: “The year 1965 may be known in history as the time when the civil rights movement discovered, in the sense of becoming explicitly aware, that abolishing legal racism would not produce Negro equality.”⁷⁷ While this is often framed as the recognition that most blacks would remain mired in poverty, reversing the observation helps illumine the drive towards colorblindness: despite the passage of the civil rights laws, *most whites would remain advantaged*—and it is the maintenance of these advantages that advocates of colorblindness ultimately desired to keep in place via colorblind public policy as they surrendered their “massive resistance” to integration.

I say colorblind *public* policy to stress a vital point regarding the rise of colorblindness in law and interactions. As Joel Olson notes, “the backbone of color blindness is the principle of *public* nonrecognition of racial identity.”⁷⁸ (Ward Connerly’s recent failed Racial Privacy Initiative represented just a slightly more extreme version of this campaign to drive race out of public discourse.) What all this suggests is that, in the public/private divide, colorblindness is only designed for the former.

In other words, the drive toward colorblindness was meant to encompass the public sphere only; in the private sphere, color-consciousness could continue to thrive.

Lawrence Bobo, James R. Kluegel, and Ryan A. Smith highlight that in 1976—just as colorblindness was taking hegemonic hold—“only 35 percent of whites said they would vote in favor of a law requiring homeowners to sell without regard to race.”⁷⁹ Thus, while colorblindness covered the public realm, whites could still be as *privately* race-conscious as they so pleased (such as in deciding to whom they wanted to sell their privately owned homes.) When politicians and others (most recently, Tea Party candidate Rand Paul) advocate for the repealing of the 1964 Civil Rights Act, it is freedoms such as these that they have in mind. And as I will elaborate more fully in the following chapter, these patterns are shot through with neoliberalism and its emphasis on privatization itself. “At the center of neoliberal commitment,” declares David Theo Goldberg in *The Threat of Race*, “is the principle that people should be free to express and exercise their preferences as they see fit.” As in the previous era, such preferences “continue to carry racial weight....The preference of the overwhelming percentage of whites in the US to live exclusively among themselves...exemplifies just this point.”⁸⁰ (And, as Heather Beth Johnson and Thomas M. Shapiro have argued, whites’ disproportionate ownership of private wealth allows them to *act* on those preferences in ways wealth-poor Americans cannot.)⁸¹ We encounter here but one instance of the interaction between colorblindness and neoliberalism: namely, how colorblindness racially structures neoliberalism’s prioritizing of the private.

The implications bring us right back to the Tourgee/Harlan divide. What we witness in this public/private split vis-à-vis colorblindness is *precisely* what Harlan was arguing in *Plessy*. Paraphrasing Olson, a colorblind Constitution would make racial

groups formal equals in the public sphere, but it would in no way infiltrate the private sphere and the private wealth whites had amassed during centuries of de jure discrimination. (This is in thorough contradistinction to Tourgee, whose concept of “color-blind justice” necessitated color-consciousness in the public sphere so long as prejudice, discrimination, and white material advantage punctuated that sphere.) This all confirms Leslie Carr’s argument in *“Color-Blind” Racism*: conservatives and their supporters may delete Harlan’s so-called “caveats” of white supremacy in the colorblind passage, “but they follow what it prescribes exactly. It says that the best way to maintain the domination of the White nation is to follow the color-blind constitution in all matters of law.”⁸²

In the end, the focus logically turns to that private sphere, a sphere lying beyond the reach of Constitutional colorblindness, as Reva Siegel argued above. The question becomes, What role does a colorblind-protected private sphere play in the reproduction of racial inequality today? My analysis of whites’ privately owned wealth in a neoliberal conjuncture seeks a start in addressing that precise issue.

CHAPTER 3: “The Whitewashing of Wealth: New Directions in White Racial
Advantage”

Introduction

The opening chapters of this dissertation have traced the history of colorblindness, exploring the hotly contested meanings and uses to which the concept has been put since the 1890s. We have seen how the notion of colorblindness was popularized in vain by Justice John Marshall Harlan in *Plessy v. Ferguson* in his attempt to demonstrate that colorblindness would keep whites the master race. We have seen how blacks and their allies rallied behind this concept during the Jim Crow and early civil rights era as a means to combat de jure discrimination in its myriad manifestations. Lastly, we have seen, through the actions of white conservatives and their gathering of support in the late 1960s and 1970s, a colorblindness that has evolved into its post-civil rights incarnation: a *neoliberal* colorblindness disconnected from both Albion Tourgee’s concept of “color-blind justice” as well as its anti-Jim Crow roots in the civil rights movement’s early years.

The following four chapters train their focus directly on this colorblindness of the post-civil rights era. Throughout, we will observe many of the main arguments of this dissertation in action: colorblindness as ideal for maintaining racial inequality; colorblindness as blinding (primarily) whites to the mechanisms guaranteed to perpetuate

that inequality; and so forth. The central question that prompts and animates my musings of these four chapters is, How does colorblindness *interact* with these mechanisms, shielding them from a critique that would expose them for what they are—means by which to safeguard white privilege? In other words, my purpose is to limn the contours of the political economy of colorblindness in the post-civil rights era, demonstrating its role in the reproduction of racial inequality via its relationship with these mechanisms.

The specific mechanisms to be dissected are wealth (this chapter) and the prison-industrial complex (chapter four.) (The fifth and sixth chapters then analyze related facets of contemporary colorblindness.) The importance of wealth and the prison-industrial complex has been highlighted in David Roediger's recent book *How Race Survived U.S. History*; there, he singles out both as fundamental to how and why "deep racial inequalities have now been recreated across two generations" since the civil rights movement.¹ In wealth we witness a powerful mechanism that, without fanfare, recreates white privilege in a conjuncture where de jure racism has been consigned to history's dustbin.

The current chapter, then, concentrates on wealth generally, and racial wealth inequality in particular. To my knowledge, no work has explicitly attempted to bring colorblindness to bear on the subject of racial wealth inequality, and this chapter represents a preliminary foray into the insights that can be generated through an analysis of their interaction.

With this context in place, the central argument I advance in this chapter is the following: *colorblindness deracializes wealth transfers.*² Colorblindness allows whites to

deny that their ability to give or receive wealth is in any way racial, and in any way a product of past racial oppression. As such, the white individuals and families today whose lives (as we shall see) are socially and materially transformed by inherited wealth become thus unable to acknowledge that the very availability of such wealth owes partially—if not primarily—to the legacy of slavery and Jim Crow. To demonstrate and explore these contentions, I divide this chapter into three main sections. The first part overviews neoliberal colorblindness and racial wealth inequality. In an organizational structure similar to chapter four, I explore at length my concept of *neoliberal colorblindness* and scrutinize its relationship with racial wealth inequality. In short, my intention in section one is to interrogate the effects of neoliberalism upon the racially privileged (and chapter four's study of the prison-industrial complex repeats that process from the perspective of the racially subordinate.) My analysis of neoliberalism in this chapter centers on its impact upon the public and private spheres; capitalism's contemporary quest to privatize countless government-sponsored public programs directly augments the myriad consequences of racial wealth inequality, as whites are better poised to benefit from this privatization. One of the crucial aspects of wealth is that it is largely *privately* passed between generations—and will be even more so once the repeal of the federal estate tax takes full effect in 2010. Thus, under neoliberalism, the possession of private wealth becomes a critical ingredient for success; compared to the New Deal era, one's life chances are now more closely tied to wealth ownership.

Section two then brings neoliberal colorblindness to bear on the matter of racial wealth inequality. Section two's theme centers on historian Nikhil Pal Singh's

contentions in *Black Is a Country*, where he examines one of the main effects of colorblindness: what he calls a “splitting off of racial history”³ that produces an ideological, epistemological, and discursive *disconnect* from the pre-civil rights era. The splitting off of racial history occurs when past racism is marginalized, deracializing its present-day effects (as we will see with wealth.) When that deracialization occurs, those present-day effects—in this case, a yawning racial wealth gap—are interpreted as a function of either (1) nonracial dynamics or (2) elements endemic to the racial groups themselves, such as the alleged defective black family structure first proposed in the Moynihan Report. En route, I will draw on various interventions previously performed on racial wealth inequality, such as those performed by Heather Beth Johnson and Thomas M. Shapiro. I will build on their empirical analyses of racial wealth inequality by interrogating the role of colorblindness in structuring whites’ perceptions of intergenerational wealth transfers. I am interested in illuminating why the white interviewees of Johnson and Shapiro’s study felt *entitled* to inherited wealth, which in many cases was the indispensable pivot that radically improved not only their own life chances, but those of their children. This examination will help make sense of the contradictions evident in whites’ thinking regarding inherited wealth, and I will relate it to the theme of the splitting off of racial history that colorblindness produces, as well as locate its genesis in the post-World War II era studied in the previous chapter.

The concluding third section then cogitates upon the implications of the first two sections. Specifically, I explore more fully the issue showcased in this dissertation’s subtitle: wealth’s location in the reproduction of racial inequality today. Racial wealth

inequality, I contend, independently (re)produces racial inequality, leading me to inquire here: In an era reeling from subprime loans and increasing economic insecurity, what role will wealth play vis-à-vis racial inequality in the near future and how will such inequality interact with neoliberal capitalist political economy? How will wealth—and whites' vastly disproportionate ownership of it—structure both opportunity and debate?

In this chapter (and those to come), I hope to confirm the insights generated by Leslie Carr and Kimberle Williams Crenshaw in their critiques of *Plessy v. Ferguson*: that is, while the specific mechanisms that sustain racial inequality today may qualitatively differ from those of the Jim Crow era, a distinct continuity remains in evidence, in a word, the persisting effectiveness of a colorblind approach to racial issues that serves to maintain the racial status quo of symbiotic (non)white (dis)advantage. And even though the core meaning of colorblindness has adjusted to differing racial climates (the de jure versus the de facto; a belief in biological differences that once reigned hegemonic but do so no longer; and so on), we will see that that adjustment has ultimately served the purpose of keeping that colorblind approach keyed into its function as racial-inequality perpetuator.

Neoliberal Colorblindness and the Post-Civil Rights Importance of Wealth

These final four chapters examine various angles of what I have named *neoliberal colorblindness*. As highlighted in the introduction to this dissertation, neoliberal colorblindness references the circumstances in which the racial ideology of colorblindness interacts with the political economy of neoliberalism in mutually reinforcing ways. We shall observe the specific role colorblindness plays in the

maintenance of racial inequality today. And we shall analyze how, specifically, neoliberalism then feeds on that racial inequality, aiding and abetting the racial inequality-perpetuating (and magnifying) properties of colorblindness. At bottom, the following chapters are dedicated to a critical illumination of the mutually constitutive relationship between colorblindness and neoliberalism. This colorblindness, as demonstrated in the previous two chapters, is of a form inspired by John Marshall Harlan, and it fully draws upon him for its theoretical sustenance. That is, its aim (as Harlan understood it) is to perpetuate white domination without overt intervention on the part of the state. Conservatives and other advocates of colorblindness today collectively deny its role in the maintenance of that domination, but as we have seen, such maintenance becomes its ultimate effect.

—*Colorblindness, Wealth, and Privatization*

In this chapter, I scan the topography of neoliberal colorblindness from the perspective of its white beneficiaries by placing the ten-times wealth gap between whites and nonwhites on center stage. Examining the relationship between colorblindness and racial wealth inequality highlights one major aspect of neoliberal political economy: its role in the accelerating privatization of formerly public services and programs. Neoliberalism developed in part through *reaction* to a New Deal consensus that insisted on increased government regulation of the economy. Privatization's adherents capitalized on the economic crisis that took hold in the 1970s and blamed the architects of the New Deal consensus for the downturn that occurred in that decade.⁴ At bottom, the rise of

neoliberalism modified the functions of the public and private realms—specifically, the role each sphere would play in the ability to secure resources and opportunities.

Central in grasping the import of racial wealth inequality is acknowledging its association with the private realm. The intergenerational transmission of wealth is an almost entirely *private* affair—and the past couple decades have only witnessed the further wilting away of any public intervention in such transferences (such as the aforementioned repeal of the federal estate tax and other capital gains taxes.)⁵ Therefore, as neoliberalism erodes public services, the private realm takes on a function of increased importance, and the presence of personal wealth becomes a crucial means by which to secure aforesaid resources and opportunities. As Andrew Barlow writes of neoliberalism and globalization, “Vast inequalities in ‘market chances’ tend to be enhanced by free markets, for the simple reason that those actors with the most capital have the greatest chances to accumulate even more capital....”⁶ In a word, neoliberal colorblindness operates by *strengthening* that which lies in the private realm, enhancing the ability of that realm to promote success or struggle in US society today.

Neoliberal colorblindness influences the private sphere in two key ways. *First*, neoliberal colorblindness produces an *expansion* of the private sphere, ideologically underpinning the campaign to privatize formerly public social services. That is, colorblind public policy itself propels privatization. The retreat from the welfare state, in full flower by the 1970s, was animated and driven by (colorblindly) playing on stereotypes of lazy blacks living off government handouts. As Martin Gilens and others have shown, white Americans’ burgeoning disdain for welfare was the function of

political and media outlets framing black poverty in a negative light, casting them as the prominent cohort within what Michael Katz has termed “the undeserving poor.” In other words, Gilens demonstrates that the concept of welfare *itself* does not ignite any obloquy on the part of whites—it only materializes into a target of venomous vituperation in a context where its (racialized) recipients are deemed as undeserving ingrates living off the dole at their expense. From this perspective, the transition from the welfare state to the neoliberal state represents a profound example of what Michael Omi and Howard Winant have named a “racial project.” Yet through it all, the broadcasted ideology upon which this retreat of the welfare state was based was none other than colorblindness itself. Scholars such as Tali Mendelberg have illuminated how politicians (starting especially with Richard Nixon) quickly became versed in the language of “code words”—terms that race-neutrally communicate racial themes. The stereotypical “welfare queen” quickly evolved into one of the most notorious of these. Such code words have become a major part of the post-civil rights repertoire of colorblindness,⁷ helping foment the dwindling of the welfare state in favor of neoliberalism and privatization.

The example of welfare clearly demonstrates how neoliberal colorblindness functions to expand the private sphere. This expansion occurs in other areas as well; Zeus Leonardo’s analysis of No Child Left Behind (NCLB) provides a case in point. As Leonardo stresses, “NCLB does not make visible the structural obstacles that children of color and their families face, such as health disparities, labor market discrimination, and the like....”⁸ Since it approaches educational institutions from the assumption of a level playing field, the colorblind thrust of NCLB generates an “inability to locate educational

disparities within larger relations of power,” which culminates in distorted explanations for the continuing relative failures of students of color.⁹ Despite these distortions, NCLB sanctions schools that do not meet its standards, and it is within those sanctions that “the threat of laissez-faire market forces becomes the final stop for persistently failing schools that will finally succumb to privatization under the voucher system.”¹⁰

The association between colorblindness and privatization is thus mutually reinforcing (as argued above), as colorblind public policy further privatizes a society that punishes those who lack the private wealth to escape the deteriorating inner cities that house these failing schools. As seen here, wealth plays a fundamental role in the NCLB atmosphere, as the wealth-rich are, in contrast, able to move to areas with lavishly-funded schools much more likely to succeed under NCLB’s mandates. This colorblindness-prompted expansion of privatization, as highlighted above, impacts the private sphere in increasingly important ways; the effects of privatization and its association with wealth become essential to comprehending the contours of racial inequality in the post-civil rights era.

Second, neoliberal colorblindness thwarts critical interrogations of the *racial dimension* of the private sphere. More specifically, neoliberal colorblindness forecloses any debate that the private sphere has been in any way shaped by the racism of the past, presuming that all individuals will be able to equally partake of the fruits of privatization.¹¹ As chapter two documented in detail, pre-civil rights racism funneled substantial wealth into the private hands of white families; such access to wealth has greatly altered the private sphere, bestowing advantages to those with wealth bound up in

it. The advent of our neoliberal conjuncture, as pointed out above, has multiplied those advantages, because those with private wealth can more easily navigate an increasingly privatized society. Neoliberal colorblindness then acts to neutralize any suggestion that whites' disproportionate possession of wealth is a function of that past racism. This process, what is called a "splitting off of racial history," is the focus of the following section. Before we proceed to an examination of that process, let us first perform a more intensive analysis of wealth itself, which forms a major part of the private sphere.

—*The Contemporary Power of Wealth*

Since the publication of Melvin Oliver and Thomas M. Shapiro's *Black Wealth/White Wealth* in 1995, the implications of the ten-times wealth gap between whites and nonwhites have attracted serious scholarly attention. Activists and academics from a variety of (inter)disciplinary backgrounds have since made significant inroads into understanding the specifics of the wealth gap (as such data on wealth have only become readily available over the past two decades) and its myriad impacts on the life chances of racial groups in the US. As they have shown, wealth is not the same as income, and the uses to which wealth is (or can be) put prove much different than income. As such, to only apply income indicators to indices of racial progress paints a distorted picture of the differential opportunities available to racial groups in the post-civil rights era. For example, while many conservatives and others have pointed to the expanding black middle class as evidence of post-civil rights racial progress, highlighting differences in wealth holdings will show that, compared to the white middle class, black families are more likely to be one paycheck away from poverty.

The remainder of this section highlights five important observations regarding the importance of wealth and its relationship to neoliberalism and colorblindness.

(1) *The power of wealth has increased in the post-civil rights era.*

The first point is to analyze the function of wealth as a transmitter of privilege in the post-civil rights era, a quality it did not previously possess to the degree and extent it now does. Wealth transfers correlatively fracture upon racial lines, yet their salience and importance is a recent, largely post-civil rights phenomenon. Lisa Keister observes in her book *Getting Rich* that (in 2000 dollars) total household assets increased from \$8 trillion to \$45 trillion between 1960 and 2001.¹² Much of this increase owes to the interrelated factors analyzed in the previous chapter: in short, the policies of the New Deal, the growth of suburbia, and the “golden age of capitalism” that spanned from the conclusion of World War II to 1973. These assets are now being passed down from one generation to the next, largely through inheritance. Referring to whites in the baby-boom generation, Thomas M. Shapiro relates the following in his recent book *The Hidden Cost of Being African American*: “Now adults with families of their own, since 1990 they have been collecting a \$9 trillion bounty from their parents. And this in turn has allowed them to live in houses in neighborhoods that they simply could not have afforded without parental wealth.”¹³ Shapiro’s observations recall one of the concomitants of the suburbanization that took hold in the post-World War II era: the spike in rates of homeownership, which has been the major factor in the increase of wealth overall. In *The Possessive Investment in Whiteness*, George Lipsitz asserts precisely this:

The appreciated value of owner-occupied homes constitutes the single greatest source of wealth for white Americans. It is the factor most responsible for the

disparity between blacks and whites in respect to wealth—a disparity between two groups much greater than the differences in income. It is the basis for intergenerational transfers of wealth that enable white parents to give their children financial advantages over the children of other groups.¹⁴

And as stressed in chapter two, the timing of everything is imperative: wealth transfers increased in importance at the same moment neoliberal colorblindness took ideological hold among the polity.

(2) *Pre-civil rights racism was fundamental in producing the post-civil rights wealth gap.*

The second issue pertaining to wealth is its connection with the past; again, the arguments of the erstwhile chapter prove crucial. As I contended there, the combined weight of the New Deal policies and the post-World War II economic boom—all, of course, shot through with overt and unabashed racial discrimination—created a conjuncture of great wealth—and great racial inequality to accompany it. The key here is illuminating how the events of those decades directly condition our circumstances today. George Lipsitz declares that wealth “is almost totally determined by past opportunities for asset accumulation, and therefore is the one figure most likely to reflect the history of discrimination.”¹⁵ The implications are massive, and the later sections of this chapter are devoted to both confirming Lipsitz’s wisdom and demonstrating how that wisdom becomes not only dismissed and disregarded, but does not enter the discourse in the first place. Much of what we will see in the relationship between wealth and colorblindness relates to the inability (or *refusal*) to see that the vastly disproportionate availability of such wealth for white families owes partially—if not primarily—to the legacy of slavery and Jim Crow catalogued in the first two chapters of this dissertation.

(3) *Whites obtained much of their wealth through the public programs of the New Deal.*

The third observation surrounding wealth's importance directly involves the shifting influence of the public and private realms via neoliberalism. Through the New Deal consensus, writes Andrew Barlow, "The U.S. welfare state, to some extent, had socialized the costs of health care, housing, and education, and, to a more limited extent, redistributed social resources downward." However, continues Barlow (following Jill Quadagno and echoing my thoughts in chapter two), "the social entitlement programs developed from the 1930s until the 1960s bore the stamp of Jim Crow white supremacy and thus largely excluded people of color or treated them unequally."¹⁶ In short, white access to wealth in the era of the spatialization of race and poverty was made available by the public policies of a government that then had a more active interface with capitalism. As before, the timing is crucial: the cutbacks within these public programs commenced soon after equality of opportunity became the law of the land. The programs then designed to grant people of color a modicum of material equality, such as busing and affirmative action, came under immediate fire from whites. But what is missing in the context of this white vitriol towards these policies is that whites had recently benefited from public programs just like them: precisely why Ira Katznelson called them "affirmative action for whites." In other words, *whites gained access to wealth through the very social entitlement programs they now spurn.* As capitalism's commitments shifted from the (white) welfare state to neoliberalism, whites began inveighing against what they perceived as a *public* encroachment upon their *private* entitlements because of

affirmative action and related programs¹⁷—not realizing (or acknowledging) that many of them had obtained their own wealth through the public programs of the New Deal era.¹⁸

(4) *Privatization obscures the power of wealth.*

The fourth issue likewise hinges on neoliberalism and privatization, in this case, upon the relationship between privatization and the “cultural survival of the fittest” ideology examined in the previous chapter. In *The Twilight of Equality?*, Lisa Duggan illuminates this relationship in a passage that waxes relevant both here and in the following chapter on the prison-industrial complex:

The valorized concepts of *privatization* and *personal responsibility* travel widely across the rhetorics of contemporary policy debates, joining economic goals with cultural values while obscuring the identity politics and upwardly redistributive impetus of neoliberalism. Two general policy arenas have proved especially productive for these concepts and help to illustrate the relationship between the economic policies and the cultural projects of neoliberalism—welfare “reform” and “law and order” initiatives. In both arenas, neoliberals have promoted “private” *competition, self-esteem, and independence* as the roots of *personal responsibility*, and excoriated “public” *entitlement, dependency, and irresponsibility* as the sources of social ills.¹⁹

I will focus on the “law and order” initiatives to which Duggan refers in chapter four.

Here, I am interested in elaborating her focus on welfare “reform” via this neoliberal emphasis on personal responsibility, which—as Duggan elsewhere asserts—serves to shift “costs from state agencies to individuals and households,” the effects of which are to “deplete public coffers, but leave more money in the ‘private’ hands of the wealthy.”²⁰

The point becomes thus in the context of racial wealth inequality: privatization’s focus on individual responsibility for success and failure causes the influence of unearned advantages (such as inherited wealth) to drop out of the discussion. And this, in turn, allows those unearned advantages to not only pass by unnoticed, but to exert an even

greater influence in the lives of those who possess them because the stress on personal responsibility produces a shrinking of the public benefits received by those most in need of them—those shut out of the benefits bequeathed by the government during the New Deal. In other words, more resources are made available for the already wealth-rich via individual responsibility-prompted tax cuts. Again, we encounter the importance of the timing of these shifts, as the welfare state began receding soon after the imparting of equality of opportunity (and, as I shall elucidate in chapter four, the recession of the welfare state was accompanied by the proliferation of the penal state—prisons instead of public playgrounds, probation instead of parks.)

(5) Racial wealth inequality does not depend on individual racist bigots.

Lastly, as scholars investigating these questions have demonstrated, wealth represents one of the primary reasons why overt racial discrimination is no longer required to maintain racial inequality.²¹ When the civil rights acts pushed race into the private sphere, the government was prevented from interfering with the ability of that private sphere to maintain white advantages; the most it could muster were such necessarily limited public policies as welfare and affirmative action (and even these have become the fodder that fortifies reactionary colorblindness.) As I examined in chapter two, while formal racial equality was granted through the civil rights acts, that equality did not extend to class; as such, the racial nature of class went unchallenged. Thus, the assets white families had built up during the previous decades were now safely tucked away from the public sphere (and these white families were themselves safely tucked away

from the increasingly crime-ridden cities), and they could now *privately* pass along these previously acquired advantages to their children.

The above has showcased the function and importance of private wealth in a neoliberal conjuncture. The following sections train their focus on the whitewashing of wealth—how colorblindness deracializes wealth and the manifold racial advantages it confers upon whites today, setting the stage for the Twenty-First century perpetuation of white privilege.

Racial Wealth Inequality and the Splitting Off of Racial History

This section presents one major colorblindness-related theme: the “splitting off of racial history” as articulated by Nikhil Pal Singh. The question that guides my thoughts here is, What specific role does the splitting off of racial history play in deracializing inherited transfers of wealth if that wealth was disproportionately made available to whites as a result of the racial processes highlighted in chapter two? I am interested here to illuminate the disconnection that occurs between the past and the present in the context of racial wealth inequality, and I want to explore why those whites who have benefited from such wealth do not perceive it as a racial affair. Later in this section, we will visit some of the dangers that present themselves when the history that contributed to the contemporary racial wealth chasm is not taken into consideration: that is, when history gets methodologically split off in explanations for the sources and causes of the gap.

I open this examination of wealth and colorblindness by surveying the important recent work of Thomas M. Shapiro and Heather Beth Johnson, for it is through their empirical research that we have access to valuable information regarding the complex

perspectives wealth-rich white families have regarding their wealth and the increased life chances it confers. Both wrote separate books based on a set of in-depth interviews with seventy-five white families (*The Hidden Cost of Being African American* and *The American Dream and the Power of Wealth* by Shapiro and Johnson, respectively.) Both were concerned to explore not only how much wealth these white families had, but where that wealth came from and their perspectives on the very meaning of wealth.

First, what Shapiro and Johnson uncovered in their interviews (among many other insights) was the preponderance of what Shapiro labeled “transformative assets”—that is, sufficient wealth to transform the life circumstances of a given family, allowing them to move into a nicer area, thus gaining access to better schools, and so forth. In employing this concept, Shapiro presumes what I argued in the previous section: under neoliberal political economy and its emphasis on private ownership, one’s life chances are more fully bound up with the amount of private wealth one owns. This confers upon such assets a *transformative* resonance, the salience of which would not have comparatively obtained during the New Deal era, when such transformations were more closely tethered to the social (such as with the FHA and the opportunities it created for aspiring white homebuyers.) It is through these interviews that Shapiro and Johnson discovered the oft-indispensable role of familial wealth in effecting that transformation. Moreover, probing the life stories of the interviewees made it clear that much of that wealth had come from their parents—not simply through inheritance, but through gifts given during the life course (a down payment for the house, providing seed money to allow grandchildren to attend a private school, to name a few.) Chapter two’s analysis of the formation of

modern suburbia in the context of ostensibly race-neutral New Deal policies makes it clear that much of this wealth was generated in the long civil rights era. In a word, *race* made possible the wealth now available to be privately passed along from one generation to the next by (grand)parents who simply want the best for their next of kin.

To engage the specific role of colorblindness in the deracialization of these wealth transfers, we can begin by looking at a particular pattern the authors unearthed in their interviews and commented on in their books. As Johnson wrote, many of the wealth-rich white families interviewed “simultaneously acknowledged the power of their wealth privilege and avowed that it does not really matter. They were resolute in their explanation that hard work and determination had gotten them where they were.”²²

Shapiro remarks similarly:

While acknowledging a generous parental helping hand and the loving bond between generations, the Barrys—like other families we interviewed—adamantly maintain that they deserve the unearned wealth benefits that transform their lives and opportunities. The Barrys describe themselves as self-made, conveniently forgetting that they inherited much of what they own. I do not doubt how hard they work to improve their lives, and I am sure their hard work has improved their well-being, but hard work alone has not brought them to their current level. The flawed and uncritical attribution of success to hard work precludes coming to terms with their unearned advantages. It redefines what is fair and what is unfair in a way that puts the onus for lack of wealth on those without the same advantages. Simply, what a family inherits cannot be earned. The idea of deserving unearned things is very important to the Barrys and families like them in that deservedness and worthiness substitutes for earning and merit. I emphasize this because we so often confuse advantages and connections with ability.

And a bit later, he writes of “the taken-for-granted sense of entitlement around deservedness we found in many of our interviews with white middle-class families.”²³

The implications of these quotations are legion. They strike multiple Gramscian notes with their emphases on the “taken-for-granted” nature of wealth transfers and the “uncritical” attribution of their putative success to their own hard work. I want to zero in on these notions of deservedness and the sense of entitlement that enveloped these families’ discussions regarding intergenerational wealth transfers, and argue that an interrogation of colorblindness can make a contribution in making sense of the contradictions evident in their thinking.²⁴

The first point to make regarding this pattern is to stress the continuity of the muting of racial dynamics in accounting for one’s life circumstances. As we saw in the previous chapter, the tendency of those whites who suburbanized in the post-World War II decades was to interpret the homogeneity of their neighborhoods as a function of forces *other* than the racial—in this case, they explained the all-whiteness of their suburbs primarily in the syntax of free-market anticommunism. Thus, whites’ contemporary predisposition for marginalizing explicitly racial factors as they justify wealth transfers as entitled to them is nothing novel; indeed, many of these interviewees were themselves raised in these “sit-com suburbs” and were inevitably exposed to the free-market anticommunist ideologies that dictated the post-World War II suburban sphere. In turn (again recalling chapter two’s arguments), what materializes is a *disconnect*: in the case of post-World War II suburbia, that disconnect expressed itself in free-market anticommunist rhetoric smothering the very real racial currents at work in not only creating the suburbs but allowing resources to exit the central cities on the verge of extended disinvestment via such failed policies as urban renewal. If whites back then

could defend the exclusion of nonwhites from their neighborhoods in nonracial ways (even while restrictive covenants unambiguously foregrounded the racial dimensions of suburban formation),²⁵ it should come as no surprise that whites today can likewise nonracially defend their transformative assets—especially in a situation where many of their neighbors are indeed people of color—to say nothing of their repeated voicing to survey researchers their belief that racial equality already exists in the US.²⁶

Today—and this presents the heart of the argument I will be making in this section—that disconnect remains, but it has taken on a new form in the changing racial and political economic climate. Today, that disconnect expresses itself via adamant denials of the influence of the past on the present. In other words, colorblindness’s deracialization of wealth transfers fundamentally turns on preventing a critical engagement of how the racism of the past has created and shaped the wealth of the present and the opportunities it generates for whites today, many of whom see nothing specifically “racial” about their transformative assets at all. In this, one of colorblindness’s primary themes is realized: a “splitting off of racial history” that denies that past racism has had any bearing on the life chances of racial groups today. To quote David Theo Goldberg, through the splitting off of racial history, “Colorblindness enables as acceptable, as a principle of historical justice, the perpetuation of the inequities already established.”²⁷ Thus it comes as no surprise that the white families interviewed by Shapiro and Johnson interpret wealth transfers as deserved, since they do not see that their wealth was, in part, created through a racism that they themselves would surely repudiate. We witness similar maneuvers in other contexts as well—a good example

being the lines “The past is the past” and “I didn’t own any slaves,” some versions of which were repeatedly expressed by the white interviewees in Eduardo Bonilla-Silva’s study of colorblind racial ideology.²⁸ However articulated, the splitting off of this history occurs, producing what Samuel Roundfield Lucas calls in a similar context an “ahistoricization of the present.”²⁹ Again, a focus on this whitewashing of wealth can help point us in the direction of an understanding to this matter.

Central to the conversation here is the crucial role of past racism in accounting for the wealth gap today. The question that concerns me now is the following: What are the potential dangers when that disconnect—that “splitting off”—is not taken into account? We clearly view this disconnection in the interviews performed by Johnson and Shapiro, and I will have more to say about them later in this section. But what we encounter is that this splitting off of racial history also sometimes characterizes the work of those who critically interrogate racial wealth inequality. I now want to turn to what I think is a prime example of this tendency in the literature on racial wealth inequality: Ngina Chiteji and Darrick Hamilton’s 2006 essay “Estimating the Effect of Race and Ethnicity.” I want to critique their arguments at length here and demonstrate how their work exemplifies some of the dangers when this splitting off of racial history occurs.

Chiteji and Hamilton’s opening sentence frames their research questions: “How different are White and non-White wealth holdings and why are there differences between Whites and non-Whites?”³⁰ In short, their findings (drawing off previous research) are that, while a vast wealth gap exists between blacks and whites, that gap narrows considerably when one takes solely “in-market” (that is, present-day)

discrimination into account.³¹ In other words, they find that the black/white wealth gap is smaller net other characteristics; as they assert, “some of the difference that one finds between the national averages for Blacks and Whites is attributable to lower levels of education and other individual or family characteristics,” such as family size and divorce rates.³² For example, some of the disparity between black and white wealth holdings can be linked to blacks’ lower educational attainment and not to direct racial discrimination per se, since educational levels themselves independently correlate with wealth ownership. They note as much when they write a bit later that much of the black/white wealth gap “has to do with differences in sociodemographic and economic characteristics, such as education and earnings, which can naturally lead to lower levels of saving and ultimately wealth.”³³

Vital to my critique of Chiteji and Hamilton’s essay is that they are *only* concerned with the effects of present-day discrimination on racial wealth inequality. But what of the legacy left by discrimination in the past? This is important because it highlights the observation that a crucial part of the cycle may be missing: in a word, that blacks’ lower educational levels may result not from present-day discrimination,³⁴ but rather from their wealth-poverty inherited from the past (relegating many to an inferior inner-city education: producing *Death at an Early Age*, as Jonathan Kozol put it over four decades ago.) The question becomes, Are blacks’ relative lack of educational achievement the *cause* or the *effect* of their lack of wealth—or some combination thereof?

I intend to demonstrate here that Chiteji and Hamilton’s focus on present-day discrimination alone is extremely problematic, and that their approach can easily produce the potentially toxic consequences that follow when one splits off racial history in the context of racial wealth inequality. Centrally, this concentration on present-day discrimination marginalizes the foundationality of past racism in contributing to racial wealth inequality in the present. If George Lipsitz is right—that wealth is almost totally determined by past opportunities for asset accumulation—then we should not expect to see much of a racial wealth disparity when solely analyzing present-day discrimination. One consequence of ignoring the influence of past discrimination on relative wealth ownership is that it can lead to blaming the victim: if (following Chiteji and Hamilton) “lower levels of education and other individual or family characteristics” are responsible for a sizable chunk of the wealth gap, it’s not a stretch to link blacks’ lower levels of wealth to their deficient values, a common theme that has excused away racial inequality in general, especially since the Moynihan Report. And indeed, the authors imply as much when they suggest that “the presence of ‘cultural’ differences” might be one reason for the wealth gap between blacks and whites.³⁵

Without necessarily intending to, Chiteji and Hamilton open the door for attacks on racial wealth inequality, allowing it to be written off as a function of the different values that racial groups bring to the table, rather than the legacy of de jure discrimination that ultimately gets split off from history and thus interpreted as inconsequential. As Alfred Brophy writes in his book *Reparations: Pro and Con*, “Opponents of reparations, such as John McWhorter and Abigail Thernstrom, point to the

high rate of single parents as a critical explanation for differential wealth achievement.”³⁶

In this sense, the danger inherent in Chiteji and Hamilton’s approach is already being realized.

Furthermore, their very method reflects colorblindness in various ways. Doris Marie Provine notes, “When outcomes differ by race, the color-blind approach assumes that they are either the result of intended discrimination or an indication of ‘real’ racial differences.”³⁷ This is precisely what we witness in Chiteji and Hamilton’s article: on the one hand arguing that present-day discrimination has little effect on racial wealth inequality, and on the other hand arguing that much of the disparity is due to other, evidently nonracial factors, which can then be appropriated by conservatives, as demonstrated in the explanations as those proffered by McWhorter and Thernstrom above. And focusing on the cultural differences between racial groups remains fully compatible with this colorblind approach, as Reva Siegel illuminated in her analysis of the *Hopwood* case, because those differences are interpreted as being formed in the private sphere, apart from government intervention. In the end, one of the key problematics of this article is their predilection for engaging such premarket milieux as family structure and educational attainment as independent variables unaffected by race and racism, an approach that has been firmly opposed by scholars since the civil rights era, who stress that such variables are racialized through and through (processes described early on by, for example, the aforementioned *Death at an Early Age* by Jonathan Kozol, as well as others such as in Carol Stack’s *All Our Kin* and Elliott

Liebow's *Tally's Corner*, all of which situate behaviors in the context of race and class oppression.)

As this section has discussed in detail, the deracialization of wealth transfers is indebted to the splitting off of racial history that is one major characteristic of post-civil rights colorblindness. A denial of past racism's influence on the present is instrumental to the contemporary whitewashing of wealth. This is especially so because wealth levels owe so much to the past, since much of an average family's wealth is inherited, as George Lipsitz and Thomas M. Shapiro remind us. The splitting off of racial history helps us to understand why the interviewees in Shapiro and Heather Beth Johnson's study felt entitled to unearned inherited wealth, since they do not see the passing along of their wealth as a racial affair.³⁸ Furthermore, when the splitting off of racial history transpires, certain dangers arise, as we saw in Ngina Chiteji and Darrick Hamilton's article. The first danger occurs when much of the racial wealth gap is explained as a function of other factors (lower educational attainment, family structure, etc.)—more specifically, when said factors get implicitly defined as nonracial, as themselves unaffected and disconnected from the influence of racial history. The second danger follows, as other explanations then fill the void and attach themselves to these ostensibly nonracial factors that are deemed to be salient to the reasons for disparities in wealth. To account for a large portion of the racial wealth gap through reference to black family structure is to open the door for those eager to discount racial history as having any bearing on either wealth inequality or life chances in general today. This study of racial wealth inequality exemplifies one of the foundational premises of this dissertation: that colorblindness

conceals, displaces, and misidentifies the roots of contemporary racial disparities—precisely the process we witness occurring in the whitewashing of wealth.

“Colorblindness as an ideological and emotional position ‘names’ race for many white people,” assert Lani Guinier and Gerald Torres, “because it explains the way they experience race.”³⁹ Celine-Marie Pascale argues in parallel in *Making Sense of Race, Class, and Gender*: “Indeed, ‘colorblindness’ is characteristic of white people’s relationship to their own racial identity, and is the very premise of white privilege.”⁴⁰ A commonsense racial formation, colorblindness denies context generally and, as demonstrated in this section, denies *historical* context specifically. Through the splitting off of racial history, colorblindness allows whites to take racial (wealth) inequality outside of history⁴¹ and into the realm of culture, as a product of the good and bad (private) decisions made by individuals and families. As this chapter has suggested, colorblindness has been eagerly embraced by countless whites,⁴² and it represents the leading interpretive framework by which whites assess the place of wealth with respect to the differential life chances of racial groups in the US today.

The research of Heather Beth Johnson and Thomas M. Shapiro documents precisely these perspectives. At bottom, what we see the families in Johnson and Shapiro’s interviews engaging in is a whitewashing of wealth. It is wealth seen and engaged from a white point of view, a point of view conditioned by racial inequality and the segregation that inequality aids and abets. And this is where whites’ sense of entitlement to racial wealth transfers structures the discourse: using wealth to give the next generation a leg up is simply what families *do*. When wealth gets whitewashed, it

erases the traces of the past racism that opened access to that wealth. In the context of those families (mostly of color) who cannot provide their children a better opportunity via transformative assets, other explanations (as we have seen before) enter the picture. This is what Shapiro was referring to in a passage I supplied earlier—instead of the white families seeing their wealth as partially owing to the opportunities afforded whites in the past, their sense of entitlement to unearned, inherited wealth stems from their oft-stressed belief that “hard work” has taken them to their current position in life. When this occurs, wrote Shapiro, it “puts the onus for lack of wealth on those without the same advantages.” This is likewise the whitewashing of wealth: since (from a colorblind perspective) it is not past or present racism that has created wealth poverty for families of color, the reason for their lack of wealth must lie elsewhere. An ahistoricized blaming of the victim becomes one predictable result—precisely what we have found in this discussion of colorblindness’s splitting off of racial history.

Conclusion

In the foregoing chapter, I have focused upon two thematically linked issues. The first of these illuminated the heightened importance of private wealth within neoliberalism; and the second analyzed the place of colorblindness within the circuits of racial wealth inequality—specifically, colorblindness’s role in deracializing post-civil rights transfers of wealth. This conclusion briefly comments upon a third issue implied and discussed throughout this chapter: how wealth is implicated in the reproduction of racial inequality today.

Racial wealth inequality's existence is not solely a function of the public access whites were given in the New Deal era. Clearly, many whites had obtained wealth through other means and in other times, from slavery to homesteading;⁴³ this "old money" continues to play a role in differential opportunities and outcomes by race. But arguably even more important are the post-civil rights implications of racial wealth inequality.⁴⁴ In the current economic downturn, Barack Obama and numerous others have pointed to housing market practices as a major culprit in bringing this crisis about—in particular, the combination of predatory lending and subprime loans, both of which have devastated minority communities. Yet we find that nonwhites' disproportionate exposure to these *stem directly from their wealth poverty*.

In *How Race Survived U.S. History*, David Roediger spells out the present-day effects of these practices, animated by the racial discrimination of the past:

The wholesale foreclosures accompanying [the subprime loan] crisis fall in distinct racial patterns, reflecting the lack of resources black and Latino homebuyers bring to the market because of past discrimination, and the ways that they are still steered and preyed upon by lenders. [A 2008 report by United for a Fair Economy] warned that the loss of as much as \$200 billion in wealth for people of color arising from the last eight years of subprime loans would be the greatest such loss in modern US history. Federal data shows people of color to be over three times more likely to have subprime loans, with a substantial majority of African American borrowers in that category as against one white loan recipient in six.⁴⁵

Thus, while whites are more able to use their inherited wealth to move into nice(r) areas without the need for subprime loans, nonwhites' more common need for such loans to secure housing systematically vacuums out what little wealth they have when they default on their loans, as seen in the United for a Fair Economy report cited by Roediger. In this

instance, subprime loans represent simply the post-civil rights version of contract leasing, discussed in chapter two.⁴⁶

In other words, racial wealth inequality generates independent effects that cannot be fully reduced to the New Deal processes examined in the previous chapter. That is, racial wealth inequality *itself* reproduces racial inequality in new and novel ways—the next turn of the unequal power relations cycle, as it were. The import of racial wealth inequality went unacknowledged in the civil rights movement, as demonstrated in the following quotation from Gregory P. Squires and Charis E. Kubrin’s *Privileged Places*: “The Community Reinvestment Act and the Fair Housing Act provided incentives for lenders to serve minority and low-income areas....Such acts have increased access to capital, but sometimes by predatory lenders.”⁴⁷ Recalling my analysis of the limitations of equality of opportunity in chapter two, an unawareness of the ascendance of new mechanisms to perpetuate racial inequality (such as wealth) not only prevented the civil rights laws from making anything more than superficial changes, but they helped lay the groundwork for other means to guarantee the entrenchment of racial inequality by not dissolving whites’ disproportionate possession of wealth and the manifold effects of such possession (or lack thereof), as I have contended throughout this chapter. This is precisely Douglas Massey’s point in *Categorically Unequal*: “In sum, not only did the civil rights legislation of the 1960s and 1970s fail to end racial stratification in the United States, but in some ways it gave birth to even more pernicious and intractable mechanisms of categorical inequality.”⁴⁸ And through it all, white wealth is safeguarded,

positioning them to more adroitly steer through the economic storms generated by neoliberalism.

All this presupposes the role of white *agency* in bringing about this reproduction. We can clearly see how antiminority sentiment has channeled and animated the practice of predatory lending. But what of the white families who opt to move to mostly white areas as their communities reach what sociologists call the “racial tipping point”? When white families move to better areas to afford their children an optimal chance to succeed in life—or when whites passively inherit wealth from their deceased parents—is it appropriate to call these practices *racist*? As we have seen in this chapter, when performed millions of times over throughout the country, such actions and processes form major conduits that reproduce white advantage and handicap wealth-poor people of color.⁴⁹

This is where colorblind racial ideology imparts clarification. Colorblindness provides an ideal way to absolve any intimation that white behavior in this area is somehow “racist” and a means by which to withhold like opportunities from people of color. For as I have demonstrated in this chapter, colorblindness will not only cause whites to reject any suggestions that intergenerational wealth transfers are a racist affair, but even a *racial* affair in any way. Through the splitting off of racial history, colorblindness successfully whitewashes wealth, marginalizing both the role of pre-civil rights racism in forming the racial wealth chasm as well as its present-day effects, as seen in the subprime loan debacle. In the end, this deracialization prevents many from seeing whites’ disproportionate ownership of wealth for what it is: the present-day spoils of past

racial discrimination. As Robert Lieberman avers in *Shifting the Color Line*, “deracialization may mask hidden racialization.”⁵⁰ My analysis of the effects of colorblindness upon contemporary racial wealth inequality has illuminated the contours of that masking.

As we transition to chapter four, we must again consider the consequences of racial wealth inequality upon the wealth-poor. Economic restructuring in the 1970s ravaged central cities, further prompting whites and companies to flee to the suburbs (and sometimes overseas, in the latter case.) Neoliberalism’s magnification of private assets made it impossible for most people of color to similarly relocate to the suburbs, as they lacked the transformative wealth that had allowed many whites to do so. These shifts noncoincidentally occurred alongside the explosion of the prison-industrial complex. Chapter four now turns to an analysis of the causes and consequences of mass incarceration, investigating the impact of neoliberal colorblindness upon the racially marginalized.

CHAPTER 4: “Neoliberal Colorblindness and the Prison-Industrial Complex”

Introduction

On any given day, one of every eight black men in their late twenties is locked up in the nation’s prisons and jails, and many more are under supervision by the correctional system, on probation or parole. According to The Sentencing Project, the lifetime risk of a prison term is approaching one in three for black male youth. Once they have criminal records, their employment possibilities sink like a stone thrown in a deep lake. An extraordinary historical reversal in the life prospects of African-American men is highlighted by a straightforward comparison of moments just two decades apart: as the twenty-first century opened, more black men were in prison than were attending college; in 1980, the situation was the reverse and by a lopsided three-to-one margin. For the black community, imprisonment has become an affliction far greater than it ever was in the pre-civil-rights era. The United States has become the world’s leader in putting its own citizens behind bars, and this incarceration has had a disproportionate impact on ethno-racial minorities, who make up 60 percent of prisoners.¹

As Richard Alba asserts in his recent book *Blurring the Color Line*, the scope and reach of the prison system in the United States has essentially no equal in the world today. The explosion of the prison population since 1973 has generated a spectrum of responses, from vindication to hostility. In her short book *Are Prisons Obsolete?*, Angela Y. Davis autobiographically comments upon this explosion: “When I first became involved in antiprison activism during the late 1960s, I was astounded to learn that there were then close to two hundred thousand people in prison. Had anyone told me that in three decades ten times as many people would be locked away in cages, I would have been absolutely incredulous.”²

This chapter helps make sense of this escalation, and the insights of Alba and Davis will thread their way into the deliberations that follow. As I contend here, that this spike in the prison population commenced in the final years of the civil rights movement is utterly noncoincidental. Conventional wisdom attributes this rise to increases in criminality—more people are committing more crimes, thus, we need to lock them up with more impunity and longer sentences. According to this mainstream framework, the most effective way to lower crime rates is to simply throw criminals behind bars.

Critical perspectives—of which this chapter represents a contribution—point toward decidedly different explanations for the ten-times increase of the population of what many (including Davis) call the “prison-industrial complex.”³ It is often referred to as America’s “poorhouse” due to the disproportionate number of prisoners who were poor and/or unemployed at the time of their arrests. And the racial incongruity within the walls of the prison-industrial complex is likewise inescapable—while people of color currently constitute approximately 30 percent of the US population, their presence in the prison-industrial complex (as Alba noted above) stands at roughly 60 percent. This chapter joins other critical perspectives to illuminate how the class and (in particular) racial composition of the prison-industrial complex has come to be.

My point of entry centers on the prison-industrial complex’s interaction with neoliberal political economy and colorblind racial ideology. This unprecedented upsurge of the prison population has transpired alongside the hegemonic ascendance of neoliberal colorblindness; again, their coterminous emergence is not a product of chance, but can be located within the intricacies of the massive shifts that have taken hold of US society and

beyond over the past several decades. A recent anthology labeled today's prison industrial-complex *Capitalist Punishment*;⁴ I argue that it is more accurately titled *Neoliberal Punishment*, since its forms and range are unique to our neoliberal moment. The amplification of the prison population and its racial dynamics are also functions of its relationship with colorblindness. As I will discuss at length in the following pages, all prison-related laws and procedures are race-neutral; in addition, the Supreme Court and mainstream legal entities have insisted that the only form of racial fairness vis-à-vis the law is that of colorblindness. My burden will be to demonstrate how colorblindness generates effects that are anything but racially "fair." Yet, in so doing, an analysis of these "unfair" consequences of colorblindness can lead us to deeper insights that can help us tackle colorblindness itself more accurately. In other words, through a critique of the disastrous effects of colorblind legal policy upon primarily poor communities of color, the true inner workings of colorblindness become exposed.

It is through the specific interaction of the prison-industrial complex and the defense of colorblindness therein that the central argument of this chapter becomes visible. While colorblindness (in the minds of its advocates) purports to reference a blindness to race in the name of fairness and judicial equality of process, what colorblindness actually produces *is a blindness to the legacy of slavery and Jim Crow*. And this blindness, in turn, generates a profound misreading of the consequences of racial inequality for the racial groups that have entered the orbit of the prison-industrial complex in enormous numbers. Discoursing upon this central argument will require us to

go beyond previous interventions on this matter. To accomplish this, I divide this chapter into two sections.

As in the previous chapter, the first section focuses on neoliberalism and its relationship to the explosion of the prison population that has coincided with it. While many have argued that the prison-industrial complex represents the state's attempt to recuperate its power in the face of market hegemony, I suggest that neoliberalism has merely shifted the role of the state and its power-meting functions. In the long and torturous transition from the New Deal consensus to neoliberalism, the state's focus has changed from assisting the poor (such as during the War on Poverty) to policing them. And while others have followed Grover Norquist's lead and called for reducing government to the point "where we can drown it in the bathtub," the trajectory of the prison-industrial complex and all it implies (such as ramped-up policing procedures) suggests that the state has not reduced itself—its foci have simply changed in the neoliberal climate. The result of society's passage from the welfare state to the penal state, writes Jonathan Simon, "has not been less government, but a more authoritarian executive, a more passive legislature, and a more defensive judiciary...."⁵

The second section then further cogitates on colorblindness and the prison-industrial complex in our neoliberal era. I begin by describing how colorblindness specifically manifests itself in policing, criminal sentencing, and in Supreme Court cases. This discussion will lead me into a theoretical cogitation that centers on how that manifestation exposes its true function—to manufacture a blindness to the legacy of slavery and Jim Crow and how that legacy is directly implicated in the racial imbalances

seen in the prison-industrial complex today. To accomplish this, I will further ruminate upon the differing perspectives on colorblindness proffered by Albion Tourgee and John Marshall Harlan. This chapter advances on previous interventions on colorblindness and the prison-industrial complex by employing Tourgee and Harlan's divergent views as a means to newly illuminate how colorblindness serves to (re)produce racial inequality in the prison-industrial complex. I contend that the *Plessy v. Ferguson* debates have something to teach us regarding how the Supreme Court helps foment the racial imbalances that currently obtain in the nation's vast prison system.

Neoliberalism and the Prison-Industrial Complex

In this section, I am interested in detailing the contours of the prison-industrial complex by reference to the conjuncture in which it has emerged—our neoliberal moment. To craft this discussion, I make use of two recently published books that likewise examine these issues: *The Threat of Race* by David Theo Goldberg and *Punishing the Poor* by Loic Wacquant. An analysis of these books—which will be used as launching pads for this exploration—will help us better conceptualize the *purpose* of a prison-industrial complex demographically bursting at the seams in a nation that boasts of itself as the leader of the free world.

—David Theo Goldberg, *The Threat of Race: Reflections on Racial Neoliberalism*

Though the prison-industrial complex is not the central topic of *The Threat of Race*, David Theo Goldberg's recent theoretical foray into the relationship between race and neoliberalism opens myriad paths towards a multidimensional conceptualization of our subject. While I will not pretend to offer up a thorough exploration of Goldberg's

lengthy argument, the best starting point for what I will be analyzing is that of his title: What does Goldberg have in mind by “the *threat* of race”? And how does his notion of racial threat correspond to the matter of the prison-industrial complex?

Goldberg distinguishes between three “principal historical prompts for racial conception and derogation”: curiosity, exploitability, and threat.⁶ As Goldberg stresses, while the initial two prompts have characterized race since its conception several centuries ago, it is threat that ideologically and materially eclipses the other two vis-à-vis white racial domination today. Goldberg:

All three racial prompts have encouraged, exacerbated, and extended vulnerability, aggression, and violence. But without belittling the suffering prompted by curiosity and exploitability, the aggravations with which they can be identified tend to be mediated by the fact that they each necessitate an engagement—more or less direct interaction—with their objectified subjects. Threat, by contrast, largely does not; in fact, those deemed threatening are held at a distance, whether physically or emotionally, psychologically or politically. Threat undercuts the possibility of such mediation, delimiting engagement to the violence of incarceration or the instrumentalities of incapacitation.⁷

Racial threat becomes activated in milieux where the racially subjected demand and/or obtain at least a modicum of power (however articulated), the occurrence of which “conjure[s] threat to long-held assumptions of ‘natural’ dominance, settled hierarchies, and cultural superiority. Perceived racial threat fuels fear of loss—of power, of resources, of competitiveness, of life itself—and their attendant antagonisms and aggressivities.”⁸

The civil rights revolution of the 1960s represents just the sort of catalyst for the emergence of racial threat that Goldberg has in mind, the very reason he contends that threat governs our post-civil rights moment. As he wrote above, threat is characterized

by *distantiation*, a de facto racial segregation spanning every major societal institution. I have previously explored one of the ways this spatial segregation is achieved at length: racial wealth inequality. Through the policies of the New Deal and the continued benefits that extended into the post-World War II years, a disproportionate degree of access to wealth and capital was made available to whites over their peers of color, regardless of class.⁹ In previous eras, white/black segregation was significantly lower than it is today, especially in the South, where blacks and whites regularly lived and worked near one another.¹⁰ With the advent of suburbia and the freeway system that aided and abetted white flight there, the phenomenon of “chocolate cities and vanilla suburbs” indisputably exemplified the majority of metropolitan areas.¹¹ As chapters two and three highlighted, such access to wealth in the past strongly shapes racial wealth inequality today. And the lack of wealth held by people of color (even those with relatively high incomes)¹² keeps racial segregation in place, with wealthier suburbs populated predominantly by whites and inner cities inhabited primarily by people of color.

Another mechanism of racial threat-prompted distantiation is, of course, the prison-industrial complex, which Goldberg references above. We need to clarify why the prison-industrial complex has materialized as such a powerful and prominent instrument by which to physically and emotionally hold the incarcerated at a distance.¹³ A close analysis of neoliberalism and its connections with the prison-industrial complex will help to illuminate the latter’s unprecedented proliferation over the past three-plus decades.

As discussed in various places in this dissertation thus far, the early years of the post-civil rights era witnessed massive deindustrialization and capital flight from central cities to suburbs and overseas. These shifts accompanied the spike in the population of blacks in the inner city,¹⁴ and it is they who have most saliently experienced the political economic fallout from them. As James Kyung-Jin Lee asserts in *Urban Triage*, while these shifts were a product and function of corporations searching for ever higher profits, the state (beginning with Richard Nixon) redirected the American public's attention away from capitalism by instead "pointing the finger at the 'source' of the problem: Black and Brown people scripted by primary definers as drug dealers and users, violent criminals, gang members, welfare abusers, and promiscuous reproducers."¹⁵

The prison-industrial complex rises from the groundwork of these material circumstances, in reaction to the social dislocations they spawn. Erik Olin Wright comments upon this state of affairs in his text *Interrogating Inequality*:

...[T]he underclass consists of human beings who are largely expendable *from the point of view of the rationality of capitalism*....Capitalism does not need the labor-power of unemployed inner-city youth. The material interests of the wealthy and privileged segments of American society would be better served if these people simply disappeared. However, unlike in the nineteenth century, the moral and political forces are such that direct genocide is no longer a viable strategy. The alternative, then, is to build prisons, to cordon off the zones of cities in which the underclass live.¹⁶

This passage begs the question of *why*, exactly (to blend the insights of Goldberg and Wright), we need the prison-industrial complex to "cordon off" the threat. In this instance, notes Wright, its overarching purpose is to imprison those whose criminal activity disrupts the circulation of capital. And the freedom of such circulation represents one major hallmark of neoliberal political economy, as Goldberg points out.

Neoliberalism, he asserts, “has touted itself as the defender of freedom. But it is a peculiar sort of freedom to which neoliberalism is committed. It seeks above all to protect and expand the freedom of *flows* of capital, goods, and services, and more recently of information.”¹⁷

A material requirement of capitalism, stressed by Marx himself, is the need for capital to not only circulate, but to circulate *as rapidly as possible*.¹⁸ Neoliberalism, with all its intentions and shifts in the accumulation of capital, has relentlessly pursued such rapidity; one means by which it has attempted to accomplish this has been through privatization, as examined in the previous chapter. Neoliberalism’s adherents disparage the government as a bastion of capitalist inefficiency; this “government failure” argument insists on the superior regulatory functions of the market to generate profits and wealth, placing an increasing number of goods and services in the hands of private corporations, from health care to prisons themselves.¹⁹ At bottom, neoliberalism and globalization seek the freedom of the rapid circulation of capital. Paul Smith’s discussion of primitive accumulation in the war between the US and Iraq concisely illuminates the overarching goal of the various methods deployed to achieve this rapid circulation: they are “intended to remove obstacles to the free circulation of capital around the globe; to unblock, as it were, the clogged arteries that both those nations constituted in capital’s circulatory system.”²⁰

Smith’s apt metaphor recalls the purpose of the prison-industrial complex in a neoliberal era, as criminals (real or imagined) are constructed as an artery-clogging threat within the circulatory system of capital. The prison-industrial complex then emerges as a

sort of capitalist angioplasty that cordons off the threat posed by those disrupting the circulation of capital. But in order to sustain this prison-industrial complex, an increasing amount of state and federal revenue is drawn away from such public benefits as welfare and education and pumped into the building, staffing, and maintenance of prisons. Through the prison-industrial complex, then, we can observe how the state has not decreased its influence in the face of increasing market dominance, but rather has shifted its function to promote this circulation of capital.

These observations relate to Goldberg's comments on the same: "Neoliberal emphasis is less to get rid of the state—what, in any case, exactly would that mean?—than radically to shift its priorities, to redirect it to represent different interests, to do different work." Later in the passage, Goldberg continues, critiquing Grover Norquist's bathtub allusion en route:

Consequently, support for state institutions of violence and repressive control—their enactment, enlargement, and (re)enforcement—has spiraled at the cost of a diminishing treasury burdened by dramatic tax reductions for the wealthiest and consequently crimped state revenues and squeezed social welfare commitments. Social welfare commitments (including subsidized education, health care, and pensions) are increasingly under- or defunded, the resources sustaining them shifted to shoring up repressive state functionalities. The latter include the police, military, prisons, homeland security, border control, and the like.

Far from dismantling the state, or drowning it, then, neoliberalism would remake it. The state would become more robust in its controlling than enabling or caretaking conditions, more intrusive, more repressive.²¹

To again connect with chapters two and three, these shifts became more and more overt in the concluding years of the civil rights movement, just as many whites had become safely secure in their suburbs and private wealth, and just as many people of color had become locked either in prison or disinvested ghettos.

In brief, these shifting priorities of the state exacerbate the preexisting racial dynamics inherited from the previous era. Thus, it is poor people of color who have borne the brunt of these “repressive state functionalities.” As aforementioned, deindustrialization wreaked economic havoc on central cities at the very moment those cities’ inhabitants of color achieved equality of opportunity. This produced both mass unemployment and mass unemployability—the latter a function of the underfunded schools located in these same areas. These economic shifts and their consequences are behind Erik Olin Wright’s earlier quoted assertion that “Capitalism does not need the labor-power of unemployed inner-city youth.” Since disinvestment has rendered their labor power redundant, prisons function to prevent them from disrupting capital flows, as argued above. Turning to Loic Wacquant’s *Punishing the Poor*, we can now see other ways in which prisonfare functions and thrives in a neoliberal milieu.

—Loic Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity*

As before, my review of Loic Wacquant’s 2009 text *Punishing the Poor* is designed as a springboard to a further study of neoliberalism and the prison-industrial complex, and it by no means purports to be an exhaustive survey of his voluminous study. Unlike David Theo Goldberg’s *The Threat of Race*, the neoliberal prison is the centerpiece of Wacquant’s analytical intervention; early in the text, he presents his central purpose: to elucidate “how the penal categories, practices, and policies of the United States find their root and reason in the neoliberal revolution of which this country is the historical crucible and the planetary spearhead.”²² For Wacquant, the skyrocketing of “prisonfare” (his preferred term to the prison-industrial complex)²³ cannot be disentangled from the

political economic commitments of neoliberalism; as he contends, “the irresistible ascent of the penal state in the United States over the past three decades responds not to the rise in crime...but to the dislocations provoked by the social and urban retrenchment of the state and by the imposition of precarious wage labor as a new norm of citizenship for those trapped at the bottom of the polarizing class structure.”²⁴

These comments help inform what Wacquant means by “social insecurity” in his subtitle. Such insecurity emerges from the political economic milieu neoliberalism has ushered in, rendering large portions of the populations of industrialized nations in a condition of what Wacquant (in other work) calls “advanced marginality.”²⁵ And it is a social insecurity that has disproportionately bedeviled inner-city communities of color. This leads Wacquant to declare the following regarding the state’s approach towards the contemporary hypermarginalized:

These castaway categories—unemployed youth left adrift, the beggars and the homeless, aimless nomads and drug addicts, postcolonial immigrants without documents or support—have become salient in public space, their presence undesirable and their doings intolerable, because they are the *living and threatening incarnation of the generalized social insecurity* produced by the erosion of stable and homogenous wage work (promoted to the rank of paradigm of employment during the decades of Fordist expansion in 1945-75) and by the decomposition of the solidarities of class and culture it underpinned within a clearly circumscribed national framework.²⁶

In other words, “these castaway categories” are the persona of the “social insecurity” generated by neoliberalism, and they collectively represent an incubus to be wished and whisked away.

Recalling my discussion of Goldberg above, one must note the appearance of the word “threat” in Wacquant’s passage; by and large, their use of the word threat is largely

(but not fully) coterminous. The primary difference between their employments of the notion of threat is that Wacquant applies it more broadly than Goldberg, who used it specifically in the context of race and racism. Despite this minor divergence, Wacquant is clear that the containment of this threat “strikes first and foremost the subproletariat of the black ghettos undermined by deindustrialization,”²⁷ so the dimensions of neoliberalism-prompted insecurity remain ineluctably racialized. In either case, the alleged threat sources from what Angela Y. Davis and Howard Winant (in separate works) have called the “detritus” of contemporary capitalism—those sacrificed at the altar of free market deregulation and doomed to cycle in and out of the prison-industrial complex, an institution in the business of “Encaging Black Subproletarians” (Wacquant’s subtitle to chapter six) in a fashion more akin to waste management than any penal approach.²⁸

The concept of (racial) threat is not the sole point of convergence between Wacquant and Goldberg; the former likewise counters the conventional wisdom that neoliberalism prompts a shrinking of state power. Wacquant critiques Bill Clinton’s declaration in the 1996 State of the Union address that “The era of big government is over” by pointing out that,

under Clinton’s presidency, the Federal Bureau of Prisons saw its expenditures leap from \$1.6 billion in 1992 to \$3.4 billion in 2000 and its personnel balloon from 24,000 to 34,000—the largest decennial increase in the history of the department. The same occurred at the state level: between 1982 and 1997, correctional budgets increased 383 percent, while the sums allocated to criminal justice as a whole grew 262 percent, and total state spending rose by only 150 percent. . . . The sums disbursed by the country just on building penitentiaries and jails exploded between 1979 and 1989: plus 612 percent, or three times the rate of increase in military spending. . . .²⁹

The increase in prison expenditures unambiguously demonstrates the state's shifting of power towards penalization. Clinton's address also informs another of the major theses guiding *Punishing the Poor*: the wedding of "prisonfare" and "workfare"—the latter of which Clinton was promoting in his speech (and would sign into law August of that year.)

For Wacquant, the trajectories of prisonfare cannot be understood apart from workfare, both of which aim to differentially discipline the "castaway categories" inhabiting the neoliberal conjuncture. "The end of welfare as we know it"—what Wacquant cunningly calls "the singsong moniker of the law"³⁰—not only gave birth to workfare but freed up funds for the further expansion of prisonfare catalogued above. The marriage of prisonfare and workfare has produced "a *new division of the labor of nomination and domination of deviant and dependent populations* that couples welfare services and criminal justice administration under the aegis of the same behaviorist and punitive philosophy."³¹ While prisonfare primarily aims to lock up those whose (threatening) marginality leads them to disrupt the circulation of capital, the purpose of workfare *is to bring the chronically unemployed back into a relationship of exploitation* by cutting down (or off) welfare benefits and forcing them onto the fringes of the labor market. Prisonfare and workfare, then, represent "the two components of a single apparatus for the management of poverty that aims at effecting the authoritarian rectification of the behaviors of populations recalcitrant to the emerging economic and symbolic order."³²

Punishing the Poor, at bottom, perceives the emerging prisonfare and workfare state as something institutionally novel, with intentions and consequences functionally distinct from erstwhile approaches to criminality and justice.³³ As Michelle Alexander concludes in her study of the prison-industrial complex, “It was not just another institution infected with racial bias but rather a different beast entirely.”³⁴ As argued here, the neoliberalizing of capitalism in the US and beyond is ultimately the source of this change, which fundamentally serves to destabilize our understanding of crime, punishment, and justice. Through Wacquant’s work we can wed the twin pillars of neoliberalism vis-à-vis the prison-industrial complex: that is, to Nikolas Rose’s notion of “governing through freedom” we might add Jonathan Simon’s notion of “governing through crime.” The former focuses on the removal of government-imposed distinctions in the public realm such as Jim Crow; and upon the removal of those distinctions (among other related processes), the latter notion then bears down on “these castaway categories,” primarily those caught up in deindustrialization’s “collapse of urban labor markets for less-skilled men.”³⁵ The criminal justice system successfully bears down on these groups—in particular, black and Latino males stranded in these urban areas—because the system has been wrapped in a colorblind veneer. Discussing the specifics of how colorblindness specifically produces these imbalances is the goal of the following section.

Colorblindness and the Prison-Industrial Complex

The shifting role of the state in the face of neoliberal political economy, I have suggested thus far, has been utterly instrumental in the institutional proliferation of the prison-industrial complex over the past three decades. As the welfare state bowed to the

emerging penal—and later, workfare—states, the reach of the prison system increased to unprecedented levels.³⁶ This current section now turns to a detailed investigation of the specific role colorblindness plays in the substantial racial imbalances punctuating the prison-industrial complex.

I open with a general overview of how colorblindness is thoroughly implicated in the generation of racial inequality within the prison-industrial complex; the 100:1 ratio that references the harsher punishments meted out to crack cocaine versus powder cocaine will provide my entry example. I then move to an analysis of *McCleskey v. Kemp*, showcased in the introduction to this dissertation. The details of that case—and in particular, the Supreme Court’s reasoning—will allow us access to major insights surrounding neoliberal colorblindness and its ability to intergenerationally reproduce racial inequality.

Accessing those insights will ultimately require us to return to the arguments of chapter one—specifically, the differing conceptions of colorblindness as witnessed in the writings of Albion Tourgee and Justice John Marshall Harlan. A close study of *McCleskey* will reveal that the Court interprets colorblindness in the Harlanian way, and it is this section’s duty to demonstrate the manifold ways in which the Court’s rejection of Tourgee and embracement of Harlan is evident in every aspect of the case. Furthermore, my discussion will show that the Court’s view is in keeping with Harlan’s entire dissent; while many who contemporaneously invoke Harlan dodge his enunciations of white racial dominance (as viewed in chapter one), we see that the Court is beholden

to a Harlan-inspired colorblindness—and one that includes every part of his dissent, odes to white domination and all.

—*Colorblindness in the War on Drugs*

Most scholars in the tradition of critical race theory and beyond have shown that both the overall spike in the population of the prison-industrial complex and the racial imbalance therein cannot be understood apart from the “War on Drugs” that has greatly facilitated this increase. Statistics from federal prisons are revealing: in 1980, 25 percent of prisoners were there on drug-related charges; in 1996, it had ballooned to 60 percent. Sandwiched between these years is the 1986 Anti-Drug Abuse Act (and its 1988 counterpart), which “had immediate and noticeable impacts on the pattern of drug arrests and prosecutions through the nation.”³⁷ These patterns are shot through by race and racism. In *The Great Wells of Democracy*, Manning Marable, drawing on the research of the US Commission on Civil Rights, writes that “while African Americans today constitute only 14 percent of all drug users nationally, they account for 35 percent of all drug arrests, 55 percent of all drug convictions, and 75 percent of all prison admissions for drug offenses.”³⁸ In other words, a racial imbalance appears at every stage of the process; as such, the overall racial inequality that punctuates the prison-industrial complex should come as little surprise.

How has the War on Drugs led to this situation? Common to every prison-related policy such as the 1986 Anti-Drug Abuse Act is its race-neutrality: no policy has race inscribed anywhere therein. Yet these colorblind policies ultimately produce the lack of racial parity at every stage of the criminal sentencing process. A brief exploration of the

100:1 ratio, which refers to the differential penalties applied to crack versus powder cocaine, will help make this case.

The 100:1 ratio is the central subject of the chapter “The Racial Impact of the War on Drugs” in Doris Marie Provine’s *Unequal under Law*, where she argues that “color-blind ideology has guided Congress in refusing to change its crack cocaine penalties.”³⁹ As Provine explains, Congress’s mandatory-minimum legislation in 1986 proved fundamental to the powder/crack cocaine penalty imbalance. Since powder cocaine was not a new drug, the legislation used prior sentences to establish its baseline—sentences that had been “relatively nonpunitive.”⁴⁰ Crack, on the other hand, had just made its presence known earlier that decade; as such, “there was no sentencing history, but there *was* a clear congressional mandate”⁴¹—that is, to establish severe mandatory minimums for crack offenses in the context of the hysteria surrounding the drug ongoing at that time.⁴² This process resulted in crack offenses being punished one hundred times more harshly than powder cocaine.

The effects of the 100:1 ratio became immediately evident in the demographics of the prison-industrial complex. Between 1980 and 2003, the incarceration rates for blacks more than tripled, from 139 to 482 per 100,000 population.⁴³ Furthermore, it became clear that the 100:1 ratio was disproportionately bearing down on blacks (and Latinos as well) in relation to whites, from comparatively longer sentences to the greater likelihood of serving mandatory minimum sentences.⁴⁴ This was despite the fact that “65 percent of those reporting crack use in their lifetimes were white, while 26 percent were African American and 9 percent were Hispanic.”⁴⁵

Protests against the 100:1 ratio came to a head in 1995, when the US Sentencing Commission presented to Congress a parity recommendation that would level the severity of crack and powder cocaine punishments. In an unprecedented step, Congress rejected the Commission's proposal. The primary reasons broadcasted go straight to the heart of colorblindness and the prison-industrial complex. While defenders of the 100:1 ratio did not deny the effect it was having on the black community,⁴⁶ they vehemently protested that the ratio was in any way "racist." Representative Bill McCollum's defense against charges of racism succinctly sums up this view: "It is not, in my judgment, at all racist. If you think about those words, the idea of racism implies prejudice. It implies that we in Congress, or those in law enforcement, are out there intentionally attempting to put somebody in jail because of the color of their skin or to make them serve a longer sentence. That is not so."⁴⁷

McCollum's discourse brings to light a major plank in colorblind reasoning: the notion of *intent*. In the debate over the 100:1 ratio, those parrying charges of racism such as McCollum held that such laws were not racist because they had not been crafted with the "intentional" purpose of discriminating against nonwhites. Even if they concurred with the voluminous evidence that the 100:1 ratio was inflicting massive harm upon the black community, if there was no proof of racist intent, it was colorblind and ergo fair. In other words, the racially unequal patterns that were materializing from the imposition of the 100:1 ratio were not interpreted as racist because (1) the ratio was itself colorblind and (2) there was no evidence of racial prejudice guiding Congress or law enforcement.

This reduction of racism to identifiable acts of prejudicial and discriminatory intent is an issue that will reemerge repeatedly throughout the remainder of this chapter.

—*Colorblindness in Criminal Sentencing*

As we have seen thus far, colorblind application of laws in an atmosphere of racial inequality and difference cannot but perpetuate that inequality. The 100:1 ratio and mandatory minimums, among other policies, exemplify this process. We also experience this in Supreme Court cases involving the prison-industrial complex and beyond. The 1987 *McCleskey v. Kemp* case, which challenged alleged racial bias in the application of the death penalty, epitomizes the Court's adherence to a colorblind view of the law. A brief overview of this case opens my in-depth discussion of the implications of the Supreme Court's ostensibly colorblind reasoning.

Warren McCleskey, a black man, had been convicted of murdering a white male police officer. The prosecution then successfully secured the death penalty for McCleskey, whose defense team appealed the ruling; this appeal became the case *McCleskey v. Kemp*. The defense employed the findings of the well-known Baldus Study, conducted in the mid-1970s in the same state (Georgia.) This study established that the odds of the prosecution securing the death penalty was 4.3 times higher if the victim was white than if the victim was black. The Court, in a 5-4 decision (and echoing the congressional debate surrounding the 100:1 ratio), ruled against McCleskey, holding that the defendant had to prove "intent," that is, to prove that he had been intentionally racially discriminated against. As the majority wrote, the Baldus Study and similar

research pointing to racial imbalances were “insufficient to demonstrate discriminatory intent or unconstitutional discrimination in the Fourteenth Amendment context...”⁴⁸

The Court’s ruling, I contend, unambiguously exposes its adherence to the very colorblindness advocated by Justice John Marshall Harlan in *Plessy v. Ferguson*. Thus, to make full sense of the Court’s reasoning in *McCleskey v. Kemp* (replicated in cases across the social spectrum, such as the 1976 case *Washington v. Davis*), we need to return to the deliberations of Harlan and the man responsible for truly introducing colorblindness into our political and legal lexicon: Albion Tourgee. By considering the deeper (and divergent) meanings of the term colorblindness as applied by Tourgee and Harlan, and then comparing and contrasting their views with that of the modern-day Supreme Court, we can light a path towards a more nuanced excavation of colorblindness, one that illuminates the Court’s racialized commitments despite its claims to a colorblind mantle in such cases as *McCleskey* and *Washington v. Davis*. I begin this excavation by inquiring, What is the Court (and by extension, the nation as a whole) specifically “blind” to in its trumpeting of colorblindness? Many commentators critical of colorblind doctrine have responded to this inquiry, insisting that colorblindness in no way makes one blind to color or race. On the contrary, asserts Richard Thompson Ford, “‘Colorblindness’ threatens to become blindness, not to race, but to racism...”⁴⁹ Frank Wu argues similarly: “color blindness as a hope should not be confused with color blindness as a reality. Otherwise, we become blind not to race but to racism.”⁵⁰ In *Welfare Racism*, Kenneth Neubeck and Noel Cazenave take these sentiments a step

further, positing that post-civil rights colorblindness should properly be labeled “racism-blindness.”⁵¹

The collective point these scholars make is an important one; however, I claim that, on the level of specificity, it is insufficient. My concern here attaches to what these scholars have in mind by the term “racism.” I want to extend their point even further by rephrasing my central argument: What colorblindness “blinds” us to is not color, not race, not racial prejudice, not racial discrimination, and not even the presence of racial inequality. *What colorblindness “blinds” us to are the causes and consequences of racial inequality*—that is, we become blinded to the *legacy* of slavery and Jim Crow as asserted in the introduction to this chapter. We shall see that blindness to the causes and consequences of racial inequality is the hallmark of what I have named neoliberal colorblindness. By comparing and contrasting the Court’s approach to colorblindness with that of Albion Tourgee and John Marshall Harlan (building on their differences as explicated in chapter one), we can gain a broader understanding and appreciation of the tremendous ideological flexibility inherent within the term. Tourgee, Harlan, and today’s Supreme Court converge and diverge in somewhat unexpected ways in their approach towards colorblindness.

To perform this comparative analysis, I assess the blindness—or lack thereof—in Tourgee, Harlan, and the Court’s stance towards (1) racial discrimination, (2) the presence of racial inequality, and (3) the causes and consequences of racial inequality. I argue that, in their employment of colorblindness, none of them was attempting to blind the populace to racial discrimination or the presence of racial inequality. Regarding the

third, the causes and consequences of racial inequality, however, we witness a profound divergence. Only with Tourgee's "color-blind justice" do we witness an effort to bring them into full view and focus, an effort made with the intention of dispelling that inequality. On the other hand, for Harlan, to blind the Court and the populace to the legacy of slavery and de jure racism was precisely what he was endeavoring to accomplish in *Plessy*; in essence, *Harlan's dissent can be read as an invitation to become blind to the legacy of racism*. The *Plessy* Court and American society, as we know, did not take that invitation, ignoring him for over half a century. But today's Court has taken Harlan up on his offer, as judicially emblemized in *McCleskey v. Kemp*, *Washington v. Davis*, and many other cases. Today's Court, as Leslie Carr wrote in "*Color-Blind Racism*, indeed follows what Harlan prescribes exactly.⁵² The discussion that follows demonstrates why that is the case.

First, colorblindness does not reference a blindness to racism as prejudice or discrimination. This is one matter upon which Tourgee, Harlan, and the post-civil rights Supreme Court are united. As we saw in chapter one, Tourgee conceived of prejudice and discrimination as antithetical to any pursuit of "color-blind justice," and he juridically intervened when he believed them to be infecting jury decision making. Harlan was likewise in no way blind to racial prejudice and discrimination; indeed, it is precisely in this area where Harlan's ostensibly antiracist impulses most clearly reveal themselves. Brilliantly anticipating what would come about in the Cold War era, he declared in his dissent, "We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which,

practically, puts the brand of servitude and degradation upon a large class of our fellow-citizens.” In other words, a race-conscious Jim Crow punctuating the public sphere would prove a liability to the US’s claims to freedom—exactly what it became in the years following World War II. Harlan’s colorblindness, then, presumed a public sphere where racial prejudice and discrimination were confronted and eliminated.⁵³

Like *Touge* and Harlan, the Supreme Court today practices a colorblindness that is not blind to racism as prejudice or discrimination; nor is the Court attempting to blind the general public to their existence. Indeed, common to both *McCleskey v. Kemp* and *Washington v. Davis* was the requirement, as mentioned above, that plaintiffs demonstrate *intent* (that is, the intention to discriminate) in making their cases. Both cases were lost by those claiming racism, as they were unable to prove that somewhere along the line, someone or some group (jurors, hiring managers, police officers, etc.) had personally discriminated against them. Thus, far from being blind to racial prejudice or discrimination, the Court has made these the only race-conscious pieces of evidence they permit in rendering their decisions.

In this, the Court mirrors mainstream conceptions of racism. “I’m not a racist” and “Some of my best friends are black” were persistent refrains voiced by the interviewees in Eduardo Bonilla-Silva’s study of colorblind racism.⁵⁴ At least in society’s “frontstage,”⁵⁵ most whites viscerally disavow racial prejudice and voice disdain for racist individuals and groups such as the Ku Klux Klan. The relationship between popular discourse and the view of the Court on this matter is evident.⁵⁶

Let us now turn to the second item: colorblindness and the presence of racial inequality. As documented in chapter one, Tourgee held a radical (and radically profound) conceptualization of the presence of racial inequality and its function as a barrier to “color-blind justice.” In his *Plessy* brief, cited in chapter one, he listed off the myriad racial inequalities that blanketed US society at that time: “Six-sevenths of the population are white. Nineteen-twentieths of the property of the country is owned by white people. Ninety-nine hundredths of the business opportunities are in the control of white people.”⁵⁷ For Tourgee, such “color-blind justice” could never be achieved unless one soberly took into account these overt inequalities separating white from black. Harlan had no illusions either regarding the fact of inequality; the opening lines from Harlan’s famous passage—the white race is the dominant race “in prestige, in achievements, in education, in wealth and in power”—is, in essence, a racial inequality list similar to that provided by Tourgee. What to do about that inequality, of course, is where Tourgee and Harlan sharply parted ways. Harlan, as chapter one discussed, unsuccessfully (at the time) attempted to instruct the *Plessy* Court and the American populace in the effectivity of colorblindness in reproducing the inequalities he listed “for all time.”⁵⁸ Like Tourgee and Harlan, the Supreme Court today acknowledges the existence of racial inequality. Crucial to our larger argument is that the Court in turn blocks racial inequality from becoming admissible evidence.

McCleskey v. Kemp, outlined above, provides a succinct case in point. (An analysis of *Washington v. Davis* would reveal the same reasoning on the part of the Court.)⁵⁹ In their appeal against the death penalty, McCleskey’s team marshaled the

findings of the Baldus Study in their defense. That study provided unambiguous evidence of racial inequality: in this instance, an imbalance hinging on the race of the victim, producing a situation where killers of whites were much more likely to receive the death penalty than killers of blacks (this is known as “disparate impact.”)⁶⁰ Demonstrating that its colorblindness does not entail a blindness to the presence of racial inequality, the Court did not contest the results of the Baldus Study, but rather insisted that only the factors of prejudice and discrimination could in any way make race a relevant datum in their adjudication.⁶¹ As Vijay Prashad writes of *McCleskey*, “To ‘merely’ demonstrate a pattern of racist disparity over a period of time is now not seen as sufficient proof of bias.”⁶² In the end, the results of the Court’s approach is precisely as Harlan had intended in *Plessy*: colorblindness as ideal in maintaining racial inequality—in the case of *McCleskey*, in the prison-industrial complex and the death penalty.⁶³

What lies behind the Court’s rebuffing of disparate impact? The answer is found in that to which we truly become “blind” in a post-civil rights colorblind society: the causes and consequences of racial inequality. Let us first look at Tourgee and Harlan’s perspectives towards this. Predictably, for Tourgee, “color-blind justice” conveyed an intricate understanding of this matter; indeed, his entire career could be viewed as an antiracist crusade against racial inequality in all its manifestations. Like Tourgee, Harlan was well versed in the causes and consequences of racial inequality: whether expressed “in prestige, in achievements, in education, in wealth [or] in power,” racial inequality stemmed directly from—was directly caused by—white racial dominance. Unlike Tourgee, Harlan had neither intention nor inclination to dissolve those inequalities; on the

contrary, his dissent in *Plessy* shared his discovery (by way of Tourgee) of an ideal means by which to keep that inequality in place, and a means to do so without the liability of race-conscious Jim Crow laws.

In the end, whatever their other differences, Tourgee and Harlan were bound by a juridical vision that was in no way blind to the causes and consequences of racial inequality. As aforementioned, Harlan's dissent was an invitation to both the Court and the nation to *become* blind to the legacy slavery had left behind. While Harlan's pleas were silenced for over half a century, the Supreme Court has now come around to his wisdom in the post-civil rights era. To understand how the Court was able to take on Harlan's mantle, we need to revisit many of the arguments I have crafted in earlier chapters. To commence this exploration, I now split my discussion into two parts, focusing first on the *causes* of racial inequality and then proceeding to its consequences. Contemporary racial inequality, I contend, proves but a reflection of the legacy of past racism socially and materially encoded upon the polity.

To comprehend why Harlan was disregarded until after the civil rights upheavals of the post-World War II decades, one must distinguish Harlan's conjuncture from our own. Samuel Roundfield Lucas has usefully contrasted these conjunctures as the eras of "condoned exploitation" (Harlan's time) and "contested prejudice" (the present moment.)⁶⁴ While Harlan pleaded with the Court to adopt colorblindness as the most efficacious means by which to reproduce white material dominance "for all time," the popular climate of antiblack segregation (under the auspices of a "separate but equal" framework that did not violate the Fourteenth Amendment's "equal protection of the

laws”) proved a current running too strongly the other direction. It did, however, grant Harlan the room to “openly admit” the connection between colorblindness and white domination, as David Theo Goldberg pointed out (see chapter one.) Michael Klarman argues that while *Plessy* was the first segregation case to reach the Supreme Court, lower courts had repeatedly upheld the practice as constitutional, and that furthermore, other Supreme Court cases leading up to *Plessy* (e.g., *Pace v. Alabama*) had condoned similar color-conscious public policy and practices. That, in concert with the rapidly devolving attitudes of whites towards blacks, virtually guaranteed that Harlan would be fighting an uphill battle in his quest to achieve a colorblind de jure antisegregationist state. “If [the Court] endorsed the policy,” avers Klarman, “and traditional legal sources supported its constitutionality, then *Plessy* was easy.”⁶⁵

The antiblack atmosphere of the racial nadir, then, forced Harlan’s insights regarding colorblindness to go into a hibernation that would last many decades. Harlan’s colorblindness would eventually be thawed out by conservatives surrendering “massive resistance” and searching for a means to prevent further integration occurring through affirmative action and related race-conscious public policies, as I outlined in chapter two. As that chapter likewise informed, the Cold War and decolonization campaigns exerted sufficient international pressure for the US to accede to the civil rights movement’s demands and follow through on Harlan’s warnings regarding Jim Crow’s liability in *Plessy* as quoted earlier in this section. Once recovered, conservatives set out to do exactly what Harlan had proclaimed in *Plessy*: to employ colorblindness in law and public policy as a means for becoming blind to the causes of racial inequality—that is, to

the legacy of slavery and (in our era) Jim Crow. Conservatives and the Court finally accepted Harlan's invitation.

However, operating in the post-civil rights era—in the era of “contested prejudice”—meant that the Court and other pro-colorblind entities could not couch their appeals to race-neutrality in the diction of white dominance, as Harlan had been able to. This functionally expresses itself in the aforementioned predilection of Harlan's devotees to exclude the opening sentences of his “Our Constitution is color-blind” paragraph. Harlan plainly stated why whites were dominant—why racial inequality existed. Its presence owed to the superiority of the white race, and he (unsuccessfully) invited the Court and the nation to become blind to that reason in public legislation, for the purpose of perpetuating that superiority whilst protecting those practices from international scrutiny. Again, while the protection and maintenance of white material advantage remain the same rationale for colorblind law and public policy today, those invoking Harlan do not have recourse to plainly vocalizing that reason. In order for them to wield colorblindness as a legitimate device to blind the law and the nation to the legacy of slavery and Jim Crow, they had to put forward an alternate reason for the causes of racial inequality. And I discussed that reason at length in chapter two: the “cultural survival of the fittest” ideology. In short, advocates of colorblindness delete Harlan's references to white domination and fill in the gap with this ideology. The implantation of juridical colorblindness logically—and even *morally*—follows from a conviction that racial inequality is fully a function of the good and bad (private) decisions racial groups make as they navigate US society. As Timothy Brennan asserts in *Wars of Position*,

“inequality may be objectionable for those cannot help what they are but permissible for those who choose their being.”⁶⁶ This is precisely what results from a colorblindness that effectively expunges the legacy of de jure racism: those inhabiting the lower strata of society are there not because racial discrimination has channeled access to opportunities and resources away from some groups and towards others; on the contrary, according to this reasoning, their location on the society’s bottom rungs is a function of the choices they have made, and they become “the architects of their own disadvantage[]....”⁶⁷

This explains why the Court blocks the presence of racial inequality as evidence in its cases (such as with the rejection of the Baldus Study in *McCleskey*.) The Court’s Harlanian colorblindness entails a blindness to the *legacy* of slavery and Jim Crow; and by being blind to that legacy, the Court cannot consider that this legacy is implicated in the racial imbalances it rejects. Instead, the Court thus implicitly accepts (and encourages the conclusion) that contemporary racial inequality is merely a consequence of the right or wrong cultural values that racial groups bring to the table.

In adopting the colorblindness of Harlan, then, race-neutral laws and policies perpetuate white domination⁶⁸ because they erase the legacy of slavery and Jim Crow. This represented my point of entry in chapter three: the interaction between colorblindness and racial wealth inequality is a “splitting off of racial history” that insists that the racial policies of the past have no effect on the racial patterns of the present. If the Court was to accept this perspective, it would have to admit (for example) the Baldus Study as testimony and evidence, since it would have to consider that the imbalance David Baldus and his colleagues uncovered was a product of racism in its various

manifestations. In the same way, as I emphasized earlier in this chapter, the disinvestment of the inner cities that occurred as whites fled to the suburbs created a situation where the mostly residents of color still residing there became exposed to the drug trade, making them ripe for imprisonment based on such penal policies as the 100:1 ratio described above.

The question here becomes, Why call post-civil rights Harlanian colorblindness *neoliberal* colorblindness? The recovery and implantation of colorblindness, it must be stressed, did not occur overnight; indeed, in the twilight years of the civil rights movement, the Supreme Court had embraced a significantly different approach towards discrimination and racial inequality. The representative case embodying this approach is the 1971 case *Griggs v. Duke Power Company*. The Court there operated under a much broader definition of discrimination, arguing that the black plaintiffs did *not* have to demonstrate intent (as would become the case in *Davis* and *McCleskey*); one could “infer” discrimination based on the racial inequality present at the Duke Power Company.⁶⁹ As Jack Balkin and Reva Siegel note in a recent essay, as the 1970s advanced, more conservative appointees to the Court began “defining [discrimination] in increasingly narrow terms....requiring evidence of state action akin to malice.”⁷⁰ This is precisely what we see with *Davis* and *McCleskey* as discussed above. This shift becomes evident in virtually every race-related arena (compare, for example, the pro-busing 1971 case *Swann v. Charlotte-Mecklenberg Board of Education* with the anti-busing 1974 case *Miliken v. Bradley*.) Affirmative action likewise fell under the splitting-off-of-racial-history applecart in the 1978 *Bakke* case, as its justification shifted from rectifying the

present effects of past and present racial discrimination to merely existing in the interest of that multiculturalist buzzword, “diversity.”

It is little surprise, then, as commentators have remarked, that the increasing popularity of a Harlan-inspired colorblindness becomes more palpable after the economic crisis of 1973.⁷¹ The political economic embracement of neoliberalism coincided with the eventual full recovery of colorblindness as Harlan intended—as a means for blinding the Court and the public to the legacy of pre-civil rights racism. Like colorblindness, neoliberalism took hold unevenly;⁷² as I asserted in the introduction to this dissertation, it was not until the election of Ronald Reagan in 1980 that either colorblind racial ideology or neoliberal political economy had clearly ascended to dominance in the US.

Neoliberalism, I contend, became the key that unlocked the door to Harlan’s conception of colorblindness that the Court and the nation had kept shut for decades. To recall my discussions on neoliberalism in both chapter two and the previous section, I pointed out (citing Nikolas Rose) that neoliberalism is a mode of “governing through freedom”—that, to requote Aihwa Ong, “neoliberal logic requires populations to be free, self-managing, and self-enterprising individuals in different spheres of everyday life....”

Rose and Ong’s point can be further applied to my analysis here: once shorn of the fetters of Jim Crow and de jure racism, colorblindness can truly exercise its racial inequality-perpetuating effects—precisely what Harlan was attempting to do in *Plessy*. Leslie Carr’s arguments on this case are apropos here:

Harlan offered some critical advice. The White nation should never seek explicit, overt help from the state to maintain its dominance. On the contrary, the law must be as pure as the driven snow. The law (capitalist law) knows nothing of

classes or races in society. The law provides “constitutional liberty” to all individuals regardless of class or race....

Harlan tried vainly to instruct the Court in the fundamentals of capitalist law. Failing to understand, the Court implicitly acknowledged the existence of both the White and the African American nations in the guise of race. Harlan clearly despaired at such incompetence.⁷³

Such despair, to be sure, would have transformed into vindication by the Reagan era.

By blinding the nation to the legacy of slavery, Jim Crow, and de jure discrimination *writ large*, colorblindness effectively symmetrizes unequal power relations.⁷⁴ This blindness to the true causes of racial inequality generates other explanations for its existence—primarily, in this case, the “cultural survival of the fittest” ideology. But in so doing, we likewise become blinded (by extension) to the *consequences* of racial inequality. I now turn to an examination of these consequences.

—*Colorblindness and the Consequences of Racial Inequality*

Neoliberal colorblindness both defends and maintains racial inequality; we have witnessed this above. It spawns a blindness to the causes of racial inequality as it operates in a neoliberal political economy emphasizing privatization and the penal functions of the state. Through it all, neoliberal colorblindness also creates that inequality anew. In so doing, the very dimensions of racial subjectification morph and transform in novel ways. My focus here centers upon the specifics of these consequences as well as how colorblindness allows them to take root via the prison-industrial complex.⁷⁵

I open this argument by quoting a long passage from Angela Y. Davis’s 1997 essay “Race and Criminalization”:

When the structural character of racism is ignored in discussions about crime and the rising population of incarcerated people, the racial imbalance in jails and prisons is treated as a contingency, at best as a product of the “culture of poverty,” and at worst as proof of an assumed black monopoly on criminality. The high proportion of black people in the criminal justice system is thus normalized and neither the state nor the general public is required to talk about and act on the meaning of that racial imbalance. Thus Republican and Democratic elected officials alike have successfully called for laws mandating life sentences for three-time “criminals,” without having to answer for the racial implications of these laws. By relying on the alleged “race-blindness” of such laws, black people are surreptitiously constructed as racial subjects, thus manipulated, exploited, and abused, while the structural persistence of racism—albeit in changed forms—in social and economic institutions, and in the national culture as a whole, is adamantly denied.⁷⁶

Davis’s insight-filled paragraph recalls many of the points thus constructed in this chapter. A blindness to the causes of racial inequality, Davis asserts, generates the belief that the high percentage of blacks in the prison-industrial complex merely reflects their disproportionate inclination towards criminal activity. Yet we also see how this blindness reaps consequences: through this racial imbalance, “black people are surreptitiously constructed as racial subjects, thus manipulated, exploited, and abused....”

The consequences of racial inequality lie at the heart of this construction, borne in large part at the hands of the prison-industrial complex. This process, as I discussed in the previous section, has itself unfolded at the hands of a capitalist state with increasingly neoliberal commitments (and everything those commitments imply.) It also informs one of the points I crafted in the introduction to this dissertation—that at the end of the road of (Harlanian) colorblindness lies color-consciousness. Conceptualizing the schematics of the consequences of racial inequality in the prison-industrial complex requires us to not only look at the damaging resignifications occurring therein, but also to the benefits mass incarceration has made available for some, which is where I begin.

The first section of this chapter pointed out some of the relevant issues. The neoliberal state, to reiterate, has not dwindled in the face of privatization; rather, its priorities have shifted from welfare to penalty, and federal and state funds have been redirected accordingly. One popular statistic bandied about in discussions as these centers on the nineteen prisons versus only one state university built in California between the years 1984-1994. So, while prisons themselves produce a “gross drain on the public coffers,”⁷⁷ we must note that the mass incarceration of (mostly) poor blacks and Latinos has reaped gargantuan benefits for some. It is these benefits that lie behind an understanding of how, specifically, black and Latino bodies are “exploited” independent of their engagement in prison labor. For as Loic Wacquant reminds us in *Punishing the Poor*, prisoner-produced commodities pale in comparison to the operating expenditures of the nation’s prisons and jails.

Christian Parenti’s analysis of the prison-industrial complex in *Lockdown America* represents a case in point. Parenti’s focus centers on the combination of “Little town and big prison”—in a word, the mammoth economic revitalization that has enervated mid-sized US cities upon the construction of a prison within their borders.⁷⁸ The northern California town of Crescent City provides Parenti’s opening example. Decimated in 1964 by a tsunami, the construction of the \$277.5 million Pelican Bay State Prison in 1989 proved an economic godsend for the town’s citizens.

Today in Crescent City the emerging American police state means economic survival; Pelican Bay provides 1,500 jobs, an annual payroll of \$50 million, and a budget of over \$90 million. Indirectly, the prison has created work in everything from construction and pumping gas to domestic violence counseling. Just the contract for hauling away the prison’s garbage is worth \$130,000 a year—big money in California’s poorest county. Following the employment boom came

almost 6,000 new residents: Del Norte's population (including 4,000 prisoners) is now 28,000. In the last ten years the average rate of housing starts has doubled, as has the value of local real estate.⁷⁹

Such revitalization would be an impossibility absent an ascending penal state crafting policies (primarily via the War on Drugs) that all but guarantee a continual influx of old and new prisoners to fill the jailhouse walls which provide the citizens of Crescent City (and beyond) jobs.⁸⁰

Capitalist enterprises—notably, private prison corporations—have seen this potential and have eagerly jumped aboard in the search for profits. While prison privatization represents an important segment where direct exploitation of prisoners takes place, state- and federally-run prisons increasingly mimic their private counterparts. “Private prisons,” remarks Angela Y. Davis in *Are Prisons Obsolete?*, “are direct sources of profit for the companies that run them, but public prisons have become so thoroughly saturated with the profit-producing products and services of private corporations that the distinction is not as meaningful as one might suspect.”⁸¹ The sources of profit are not primarily found in the direct surplus labor performed by prisoners, but rather in the state transferring public funds from (for instance) welfare and education towards prisons that companies and cities (such as Crescent City) can take advantage of and provide jobs and various services. This is a form of exploitation because these opportunities would not be available without the prisoners themselves; and it is a specifically *racial* exploitation because of the disproportionate presence of blacks and Latinos among their ranks, an imbalance sourcing from the processes described throughout this chapter. Furthermore, as Parenti points out, prisoners are counted as part of the population of the area in which

they reside, giving Crescent City a boost of well over ten percent. Higher populations, Ruth Wilson Gilmore reminds us, means higher federal subsidies for those cities—yet another benefit stemming from the warehousing of prisoners.⁸²

These ramifications also encompass the dastardly consequences of mass imprisonment for poor communities of color. How does the reach and intervention of the prison-industrial complex ultimately serve to racialize people of color anew? Bruce Western notes in *Punishment and Inequality in America* that, especially among high school dropouts, the likelihood for black males to spend some time in prison is so high, it exceeds other life course events as military service or college graduation.⁸³ Western points the way to a sketching of the consequences of racial inequality in the prison-industrial complex in a discussion worth quoting at length.

The mass imprisonment generation—black men without college education born since 1965—is set apart from the mainstream by official criminality. Through its extent, concentration, and designation of deviance, mass imprisonment converts young black men with little schooling from a demographic category into a social group. As such, they share the same life chances and ascribed the same social status by state officials, employers, and others in power. In the era of mass imprisonment, to be young, black, and male, even if never having gone to prison, is to arouse suspicion and fear. To go to prison, even if not young, black, and male, is to acquire something of that identity.⁸⁴

Here, we can perceive just some of the direct effects of the prison-industrial complex upon the re-racialization of blacks in US society. Below, I enumerate further effects of mass imprisonment upon our understanding of race.

The first involves an understanding of the consequences of the mass removal of people from primarily poor, inner-city communities. Western elsewhere comments upon how incarceration renders the imprisoned doubly invisible: first by the physical walls of

the jail, and second by economic demographers who do not take account of prisoners in tracking such trends as poverty and unemployment rates. This results in a misreading of the extent of poverty and the degree of racial inequality; since a hefty proportion of prisoners were poor and jobless at the time of their arrests, ignoring them in census data paints a distortingly rosy picture that suggests improvement in the economic status of people of color.⁸⁵

While the imprisoned disappear from public sight and demographic data, their subjectivities undergo pernicious transformations. Violence and rape in prisons remain notorious and notoriously brutal.⁸⁶ Crucial to our discussion is the calcification of interracial hatred within prison walls. A January 2007 National Public Radio report noted that racial polarization is endemic to the prison-industrial complex, and bald prejudices sufficiently ossify there to the point that, upon release, many post-prison gang members initiate the next generation in the language of racial hatred, a particularly prominent trend among blacks and Latinos.

The NPR report highlights an important aspect of the prison-industrial complex conversation: prisoner reentry. Only in the past decade has there been a major focus on the over half-million individuals released from prison each year. One prominent analyst who explores this issue, Jeremy Travis, highlights the crucial observation: *But They All Come Back*, excepting those who die in custody. Drawing on the work of Michael Tonry, Travis historicizes the anatomy of prisoner reentry, noting that “The seismic changes in sentencing policy that began to take hold in the 1970s fundamentally altered the landscape of punishment in America.”⁸⁷ Such changes took their form in the context of

the shift to neoliberalism, as the previous section discussed at length. Prior to the prison-industrial complex, the goal of time spent in jail was *rehabilitation* and the related notion of penitence, which is the root of the word “penitentiary” (and even this was itself racialized, as the history of convict leasing reminds us.)⁸⁸ In the era of mass incarceration, however, the goal of imprisonment has decisively moved from rehabilitation to punishment, carrying with it colossal implications for the experiences of those exiting prisons—many returning to the very same crime-infested areas that lack the infrastructure to achieve a healthy rehabilitation. Little wonder, then, that about a third of ex-prisoners are rearrested within six months of their release.⁸⁹ This is a function of the daunting challenges they face in attempts at reintegration into society; such challenges run the gamut, from stigma to suspicion to—as we shall now see—diminished economic opportunities.⁹⁰

Prisoner reentry, I argue, occupies a significant place in the discussion on the consequences of racial inequality, for it is here that these consequences mostly clearly reveal themselves. As we shall see here, the possession of a criminal background differentially impacts racial groups, suggesting that the effects of mass incarceration dovetail with stereotypes of (in this case) blacks, stereotypes that predate the dawning of the prison-industrial complex at the conclusion of the civil rights movement. This process has been illuminated in the recent work of Devah Pager. In the primary research for her recent book *Marked*, Pager administered a special form of an “audit study,” referring to studies that attempt to isolate the racial factor in such decisions as being interviewed for a job or being shown an apartment to rent. In standard audit studies, two

same-gender individuals, one white and (most commonly) one black, are equally matched by age, experience, educational level, and so forth—they even receive personality coaching so that they communicate with prospective employers and apartment managers in as similar a way as possible. In brief, audit studies have consistently (re)produced comparable results: the white individual experiences more success in every arena.

Pager sought to capture the potential handicap of a criminal record in the search for employment, and she inquired whether race intensified that handicap. She performed two sets of audit studies; in both sets, a white male and black male with identical resumes searched for jobs. Only one difference separated the two sets: in one, both males had a clean record; and in the other, both males had a criminal background. The primary data involved the percentage of employers who called the applicants back. The results unambiguously demonstrate the consequences of racial inequality in the prison-industrial complex upon employment prospects. In the study where both males had no criminal record, the white male was over twice as likely to be called back (34 percent v. 14 percent.) And in the other study, the white male with a prior conviction was called back 17 percent of the time; only 5 percent of the prospective employers called back the black male.⁹¹

Two striking observations emerge from Pager's findings. The first is that the white male with a criminal record was just as likely to receive a call back as the black male with no record. (This empirically confirms Western's earlier observation that "To go to prison, even if not young, black, and male, is to acquire something of that identity.") The second involves the differential impact of a criminal background upon the

white male and the black male. For the white male, a criminal record reduced the probability of a call back by 50 percent; for the black male, it was reduced by nearly 65 percent. The prison records of blacks, to borrow from Pager's title, "mark" them in ways that do not comparatively obtain for whites. These results showcase how the prison-industrial complex's racial imbalance acts as a proverbial millstone tied around blacks who attempt to reintegrate into society after serving jail time—thus replicating one of the key conditions, as Pager notes, that fosters criminal behavior in the first place—unemployment.⁹²

An assessment of these racially unequal conditions leads us back to the role of colorblindness in all this. Audit studies like those Pager conducted are fully shot through by colorblindness, as those *collectively* responsible for the racial imbalances these audit studies uncover will *individually* deny that race in any way influenced their decisions.⁹³ It predictably follows that capturing the very color-conscious sentiments at work in the minds of these employers becomes a slippery and arduous task (The implications here are massive, and I discuss them at greater length in chapter five.)⁹⁴

Colorblindness, I have argued here, is fundamental in rendering these consequences invisible. The distortions of racial signification blacks (in particular) endure are hidden from view for reasons underscored by Angela Y. Davis in the passage from "Race and Criminalization" I quoted earlier. As she declared, this crisis in signification comes about because of our reliance on colorblind laws and policies (such as those detailed earlier in this chapter), which are seen as representing "the only legitimate and effective means of ensuring a racially equitable society."⁹⁵ This chapter's

argument points to the exact opposite conclusion: all colorblindness ensures is a racially *inequitable* society; “The proclamation of colorblindness,” asserts Steve Martinot in contrast, “has set the stage for the recriminalization of race.”⁹⁶ And with this colorblind framework installed, contends Kimberle Williams Crenshaw, “once law had performed its ‘proper’ function of assuring equality of process, then differences in outcomes between groups would not reflect past discrimination but rather real differences between groups competing for social rewards.”⁹⁷

What Crenshaw relates here is that colorblind law and policy does not so much *blind* us to the consequences of racial inequality so much as *displace* those consequences. Because indeed, these racial differences *are* real—as argued earlier, we are not blind to the existence of racial inequality; society exhibits a robust awareness of the fact that some racial groups disproportionately inhabit the prison-industrial complex.⁹⁸

Colorblindness’s displacement of the consequences of racial inequality makes it appear as if these racial differences are a function of the broken cultural values and bad behaviors certain racial groups possess, rather than—as this chapter has centrally argued—the legacy of de jure discrimination. The “cultural survival of the fittest” ideology makes this displacement possible, as the values racial groups bring to the colorblind table are viewed as allegedly behind the observed “real differences” in racial group outcomes. Since the colorblind law is interpreted as fair and equitable, if such laws produce staggering differences between racial groups, according to this perspective, then the imbalance in the prison-industrial complex becomes no one’s fault but those of the racial groups that become incarcerated in greater proportions. And whatever

diminished employment opportunities emerge as a consequence of this imbalance, those impacted by them ultimately have no one to blame but themselves.

Conclusion

For legal scholar Michelle Alexander, the prison-industrial complex represents “the new Jim Crow”—simply the latest of a perennial string of antiblack macrosocial structures.⁹⁹

In the words of Angela Y. Davis, the prison-industrial complex “relieves us of the responsibility of seriously engaging with the problems of our society, especially those produced by racism and, increasingly, global capitalism”—and it is an institution she metaphorizes as “a black hole into which the detritus of contemporary capitalism is deposited.”¹⁰⁰ The prison-industrial complex, asserts Michael J. Lynch, “has become a more and more visible mechanism of race control.”¹⁰¹ The many assertions of this chapter confirm these points; the prison-industrial complex functions in a neoliberal atmosphere in which the state’s role—far from shrinking—ratchets up its policing functions, particularly in the communities left behind in our post-industrial era. This is likewise—to draw from Alexander again—“mass incarceration in the age of color blindness,” and this chapter has discoursed upon the complex dimensions of colorblind racial reasoning as they play out in the prison-industrial complex and beyond.

Both this and the previous chapter have endeavored to provide a theoretical blueprint that has aimed to illuminate the *reproduction* of racial inequality and the role of colorblindness in that reproduction through reference to two powerful mechanisms: wealth and the prison-industrial complex. A political economy of colorblindness stresses that these two mechanisms gain their ideological and material sustenance through their

operation in a neoliberal conjuncture emphasizing privatization and the penal functions of the state. While it was the focus of the previous chapter, garnering only a passing reference here, we can see that common to each mechanism vis-à-vis the intervention of colorblindness is the “splitting off of racial history.” Just as colorblindness whitewashes wealth and inheritance by denying the influence of the past on racial wealth inequality in the present, the splitting off of racial history also insists that racial inequality in the prison-industrial complex is a consequence of criminal malevolence and not a present-day artifact of pernicious racism-infused political economic shifts rendering entire demographic swaths in a condition of advanced marginality.

The lessons gained from these chapters allow us to inquire more deeply into the interworkings of the splitting off of racial history. We can now define it as follows: as the legacy of slavery and Jim Crow siphoned off and passed off as inconsequential. So inconsequential, it spawns a neoliberal colorblindness that many view as the only acceptable paradigm of racial justice. This colorblindness, of course, is a full appropriation of Albion Tourgee’s metaphor of “color-blind justice,” fashioned in a reactionary way that thoroughly opposes everything Tourgee stood for in his life’s work. This reactionary colorblindness—with its vehement antagonism towards anything and everything race-conscious in the public realm—becomes so intense it permits the moral and political equation of affirmative action and slavery. Its ultimate consequence is the safeguarding of white material domination and the plunging of innumerable blacks and Latinos into the bowels of perpetual socioeconomic insecurity and the black hole of the prison-industrial complex.

CHAPTER 5: “Racial Malice Aforethought”

Introduction

The previous two chapters have explored colorblindness at length, interrogating its relationship with the white privilege-reproducing mechanisms of racial wealth inequality and the prison-industrial complex. I have demonstrated there that race-neutrality—far from being incidental to the opportunities and life chances of racial groups in the US today—proves a critical component and column of not only maintaining and defending the massive racial chasms in existence, but in creating them anew. Both this and the following chapter seek to further sharpen our understanding of these polemical issues by presenting a series of heretofore unstudied angles regarding colorblindness—both in how people approach it today as well as in its association with neoliberal capitalism.

In this chapter, I foreground the idea of “racial malice aforethought” and contemplate its complex connections with colorblindness. What does it mean to have malice aforethought regarding racial matters? An inquiry as this scarcely requires deliberation because it represents today’s standard view of racism: the conscious intention to not only subjugate, dehumanize, and exploit, but to justify such acts as well. In this sense, racial malice aforethought is tautological: its odiousness automatically comes with the territory.¹ However—and this signals my point of entry in this chapter—in today’s era of “smiling face discrimination,”² of “cordial racism”³—we are dealing

with something exponentially more intricate. Unlike racism's unabashed displays, adherents to a colorblind view of the world ardently deny any trace of malice aforethought and express a sincere belief in the moral superiority of race-neutrality. Thus, when we consider the hegemony of colorblindness, the realization that we are engaging another beast entirely becomes clear.

It is these clouded linkages between colorblindness and racial malice aforethought that I wish to investigate in the forthcoming chapter. In what follows, I subject this framework of racial malice aforethought to extended scrutiny in the four interrelated sections that constitute this chapter. To properly historicize allegations of malice aforethought in colorblindness, we must return again to the origins of colorblindness in *Plessy v. Ferguson*. My continuing analysis of *Plessy* in this first section differs from earlier treatments in that I take a serious look for the first time at Justice Henry Billings Brown's majority opinion and Justice John Marshall Harlan's response to it. I argue that Brown and the other six justices who declared Jim Crow constitutional were thinking in terms of malice aforethought, contending that Jim Crow, in adequately falling within the boundaries of the Fourteenth Amendment's "equal protection of the laws," was lacking in malice aforethought because it equally applied to black and white citizens. In rebuttal, Harlan insisted that the racial maliciousness of Jim Crow laws "will not mislead anyone" and vociferously opined for colorblindness as a means to safeguard white domination "for all time" in a way that could deflect accusations of malice aforethought and keep the US's international image clean. By placing these debates in the framework of malice aforethought, we can shed further illumination on *Plessy* and more effectively interrogate

the ways conservatives and others call upon Harlan's dissent in affirmation of a colorblind-only worldview.

Section two compares and contrasts current colorblind legislation with that of the pre-civil rights era. As noted in chapter two, the Fourteenth Amendment did require colorblindness of many policies, from the Social Security Act to the GI Bill. Thus, the Jim Crow edifice was kept intact by a combination of color-conscious and colorblind legislation. The key, I investigate in this section, was the inarguable malice aforethought animating the colorblind policies of the pre-civil rights era. The unvarnished racism of that era (and that which continues today in white nationalist groups and elsewhere) had malice aforethought aplenty: the purveyors and apologists of slavery, Jim Crow, restrictive covenants, and related oppressive policies—whether facially colorblind or overtly color-conscious—made little attempt to disguise their intentions to tyrannize nonwhites for the material and psychological benefit of whites.⁴ This is in thorough contradistinction to today, when advocates of colorblindness fervently declare that their intentions are racially pure and malevolence-free. In this formulation, such supporters of race-neutrality construct colorblindness against the bogeyman of a malicious racism that witnessed atrocities from slave auctions to lynching; and in so doing, they contend the colorblindness contains no malice aforethought whatsoever, ignoring the fact that the race-neutral policies of the Jim Crow era were so tainted by racial malice that the fact of their colorblindness is often simply overlooked.

Sections three and four then take stock of post-civil rights colorblindness and interrogates contentions of the presence or absence of malice aforethought. Section three

analyzes how proponents of colorblindness respond to allegations of malice aforethought by insisting on its racial integrity; I contend that denying malice aforethought proves an inordinately simple task, and I canvas the myriad avenues by which one can repel accusations of racial maliciousness within a colorblind paradigm. We shall see that central to this construction of a colorblindness above racial reproach is the ahistoricization of the colorblind policies and programs of the pre-civil rights era examined in section two. This ahistoricization requires the “splitting off,” as it were, of the plain malice aforethought characterizing those policies (previous chapters have discussed how this has occurred in Harlan’s dissent.) Similarly, I maintain that a racially innocent colorblindness further depends on the ahistoricization of the civil rights vision as put forth by the movement’s leaders—in particular, Martin Luther King, Jr. All told, this successful appropriation of the conflicted meanings of colorblindness opens the door for many to sincerely believe in the moral rightness of the colorblind vision today. While white conservatives moved from “massive resistance” to colorblindness (a decidedly “reactionary colorblindness,” as chapter two described), those born over the past forty-plus years are coming of age in a milieu where colorblindness is bandied about as a commonsense view of the racial world.

The final section of this chapter furthers the themes illumined above. Malicious or not, colorblind legislation guarantees the perpetuation and recreation of the racial chasms that permeate society today. How do promoters of colorblind policies justify the incontrovertible evidence of these ubiquitous inequalities—especially when its critics interpret them as flowing from those very policies? Here, I survey many of the

experiments and studies crafted with the purpose of probing the deeper realities behind sincere professions of colorblindness. I contend that a crucial ingredient in the denial of malice aforethought is the invisibility of white privilege. If whites do not see the plethora of privileges they continue to reap in post-civil rights society (whether willfully or obliviously), a commitment to colorblindness becomes a sensible and predictable racial option. In the end, I dedicate much of this section to making sense of the intentions of those who push forward colorblind policies today and how they rationalize the racial inequality that springs from them.

Jim Crow's Malice Aforethought

Plessy v. Ferguson represented a challenge to the constitutionality of “separate but equal” in the public realm. While many analyses of this case rightly focus on the consequences of the Supreme Court’s accession to legal segregation, *Plessy* can likewise be read as entertaining the question of whether Jim Crow itself contained racial malice aforethought—that is, as the Court’s attempt to render Jim Crow a malice-free institution. Today, of course, the belief in Jim Crow’s repugnance resides squarely in the mainstream. Henry Billings Brown’s majority opinion for the Court, however, took a different tack, and by studying out his insistence that no malice animated Jim Crow as well as John Marshall Harlan’s counterargument that its malice was plain and indefensible, we can begin to uncover the roots of a key debate surrounding colorblindness today. That debate revolves centrally around the idea that contemporary race-neutrality is uncontaminated by malice aforethought.

In chapter one, I discoursed at length regarding the Albion Tourgee-crafted construct of “whiteness as property”—the notion that whiteness was something to be held in value, “the master-key that unlocks the golden door of opportunity,” in Tourgee’s formulation. As I argued there, Harlan had also taken on this concept of whiteness as property in addition to colorblindness, declaring in his dissent that the latter would legally safeguard the former, activating and permitting a further “possessive investment in whiteness.” Henry Billings Brown had little time for such contentions, writing that “we are unable to see how this statute deprives [Plessy] of, or in any way affects his right to, such property.”⁵ The inquiry that springs from this is, Why did Brown and the other justices who sided against Plessy dismiss Tourgee’s whiteness as property argument? We shall see that the answer directly intersects this chapter’s main subject—that Brown and the majority could not acknowledge that Plessy had been deprived of any property because they did not consider Jim Crow practices as racially malicious.

Central to Brown’s reasoning is the formal equivalence he assigns to segregation. Jim Crow, in Brown’s language, is “separate *but equal*”—blacks cannot ride in the white railway cars, and whites cannot ride in the black cars. Since this practice subjects both groups to the same treatment, it does not infringe upon the Fourteenth Amendment’s “equal protection of the laws.” The crux of the debate becomes, then, the *implications* of this convention: in a word, whether Jim Crow was designed with the goal of inferiorizing blacks. And in conceiving of legal segregation as non-malicious, Brown empties Jim Crow of any complicity in inferiorization; as he wrote midway through his opinion, “Laws permitting, and even requiring, [the separation of blacks and whites] in places

where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other....”⁶

Later in his deliberation, Brown furthers this point in one of his opinion’s more frequently cited passages: “We consider the underlying fallacy of the plaintiff’s argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it.”⁷ Thus, Brown not only rejects the presence of malice aforethought in Jim Crow but accuses blacks of paranoiacally investing it with a malevolence that Brown avers is nonexistent. Brown is saying to blacks, in other words, “It’s all in your head—raising the specter of the alleged inferiorization of legal segregation is but an apparition of your own creation.” As Mark Golub remarks in his article “*Plessy as ‘Passing’*,” Brown’s statements above function as “a kind of double injury: it constitutionalizes the physical segregation of racial minorities while simultaneously disqualifying minority interpretations of their own lived experience.”⁸ Abstracting away from the rapidly devolving social situation of blacks,⁹ Brown thus posits that the formal equivalence embodied in Jim Crow segregation was absent of any racially odious objectives.

In his dissent, John Marshall Harlan took aim at Brown’s logic, constructing rebuttals at multiple locations therein and demonstrating with utter certainty that malice aforethought permeated Jim Crow through and through. Before examining these counterarguments up close, it is important to first note that Harlan concurred with Brown

regarding *Plessy*'s relationship to the Thirteenth Amendment; like the majority, Harlan considered slavery an unambiguously oppressive institution in fundamental conflict with the Constitution. In short, the malice aforethought animating slavery was not in question. Harlan's reading of the Fourteenth Amendment in relation to this case ultimately forced him to part ways with his colleagues, as he did interpret Jim Crow as imbued with racial malice aforethought. We see the connection between slavery and Jim Crow made in the final passage of Harlan's dissent:

Slavery, as an institution tolerated by law would, it is true, have disappeared from our country, but there would remain a power in the States, by sinister legislation, to interfere with the full enjoyment of the blessings of freedom to regulate civil rights, common to all citizens, upon the basis of race, and to place in a condition of legal inferiority a large body of American citizens now constituting a part of the political community called the People of the United States, for whom and by whom, through representatives, our government is administered.¹⁰

Employing *Brown*'s own language, Harlan proposes that legal segregation represents a continuation of the "legal inferiority" the majority considered to have been abandoned since the Civil War. Harlan directly speaks to the matter of Jim Crow's racial malice aforethought at three distinct locations in his dissent. Let us analyze them here.

Harlan's first rebuttal surfaces approximately midway through his dissent; addressing *Brown*'s proposition that legal segregation lacks malice aforethought because it treats blacks and whites similarly, Harlan declares that "*Everyone knows* that the statute in question had its origin in the purpose not so much to exclude white persons from railroad cars occupied by blacks as to exclude colored people from coaches occupied by or assigned to white persons."¹¹ Harlan submits here that Jim Crow was motivated by racial malice from its very genesis.

Harlan proffers his second rebuttal in the context of interpersonal race relations, arguing that what centrally provoked the segregation of railway cars was the belief “that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens. That, *as all will admit*, is the real meaning of such legislation as was enacted in Louisiana.”¹² In other words, the very existence of segregation pivoted upon the conviction of a black subhumanity that rationalized their subjugation through Jim Crow.

Lastly, Harlan again targets Brown’s reasoning—that because blacks cannot sit in white railway cars just as much as whites cannot sit in black railway cars, Jim Crow cannot be deemed guilty of racial subjugation—and asserts it to be a flimsy justification. “The thin disguise of ‘equal’ accommodations for passengers in railroad coaches *will not mislead anyone*, nor atone for the wrong this day done.”¹³

Harlan’s trio of counterarguments contains a common thread, established in the areas I italicized in each quotation. In all three cases, Harlan makes reference to other people and their knowledge of the real intent behind Jim Crow’s creation and existence (Brown’s paeans to the contrary.) “Everyone knows” that the railway act’s purpose was black exclusion; “all will admit” that the belief in antiblack inferiorization was the act’s lifeblood; and the suggestion that Jim Crow is constitutional because of its facial neutrality “will not mislead anyone.” It proves important to consider who, precisely, Harlan has in mind here. While he is clearly showing that people in general will in no way be fooled by the Supreme Court’s attempt to wipe away the racial malice aforethought fueling Jim Crow, we can see that Harlan has more specific audiences in

mind, a point that becomes clear in other parts of his dissent. One such audience in Harlan's field of vision is the international community, as demonstrated in the following passage that directly precedes his invocation of "The thin disguise": "We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow-citizens."¹⁴

As discussed in chapter four, Harlan understood the potentially damaging consequences legal segregation could have upon the US's international image; as I also argued there, this is one reason many today consider Harlan to have been decades ahead of his time, as the advent of the Cold War confirmed Harlan's foresight. This was not Harlan's sole reference to the international context, however; he affirms that the post-Civil War Amendments "were welcomed by the friends of liberty throughout the world. They removed the race line from our governmental systems."¹⁵ This connects to my earlier discussion of the separation between Harlan and Brown; the former feared that the re-introduction of a racially oppressive system would stain the country's image abroad—especially if it were given a judicial imprimatur by the highest court in the land. Harlan noted that abolition had been warmly received in other countries in part because of its removal of the "race line" on the governmental plane—an interesting choice of words that predated by several years the DuBoisian notion of the "color line" in *The Souls of Black Folk*. Harlan's overall argument makes it clear that this race line was horizontal: positioning whites on top and blacks on the bottom in an environment of legally encoded unequal power relations.

Implied here, of course, is Harlan's judgment that Jim Crow served to bring back the race line—a point the majority in *Plessy* would have rejected due to their conception of legal segregation as non-inferiorizing (in a sense, they posited a race line as well, but instead constructed it vertically.) His disdain over this state of affairs produced a *reaction* that he most plainly vocalizes partway through his dissent. No race line should exist, wrote Harlan, because “in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. *There is no caste here.* Our Constitution is color-blind, and neither knows nor tolerates classes among citizens.”¹⁶ In short, Harlan's appropriation of Albion Tourgee's colorblind metaphor (examined in chapter one and elsewhere) occurred in the context of a *reaction* to the *Plessy* Court's capitulation to the reappearance of the race line that had been abolished along with slavery. This re-emergence, Harlan warned, would produce pernicious consequences the nation would eventually have to face up to in its “aton[ing] for the wrong this day done”—exactly as happened in the post-World War II years.

We can conclude here that Ian Haney-Lopez's notion of “reactionary colorblindness” as discussed in chapter two was not the first instance that colorblindness had been brought out in reaction. In Harlan's dissent, then, we not only witness the first appropriation of colorblindness, but also the first application of colorblindness-in-reaction. It is a reaction imbued with the acknowledgment by Harlan and the international community that Jim Crow had inarguably germinated in the maelstrom of racial malice aforethought and forged in the flames of white supremacy, bringing back into legal existence a race line certain to compromise the US's assertions of freedom and

liberty. As Harlan laments at the end of his famous “Our Constitution is color-blind” paragraph, “It is therefore to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a State to regulate the enjoyment by citizens of their civil rights solely upon the basis of race.”¹⁷

But here we must return to the arguments I have formulated in several spots throughout this dissertation regarding Harlan’s deeper intentions in *Plessy v. Ferguson*. Harlan’s sophisticated criticisms regarding Brown’s proposition that Jim Crow was a neutral, subjugation-free institution should not be taken to imply his conviction in racial equality on the social or material plane. As I have elsewhere argued, many mistakenly interpret Harlan’s discourse as signaling not only an anti-segregation stance, but a belief in the inherent equality of blacks and whites as well.¹⁸ Even such luminaries as Thurgood Marshall missed Harlan’s designs in his dissent, calling upon him for judicial ammunition in the years surrounding *Brown v. Board of Education*.

Harlan, of course, made it clear that whites were “the dominant race in this country”—and that they would remain so “for all time” if they followed the colorblind Constitution. As I illuminated in chapter one, Harlan was insisting that Jim Crow—the legal sanctioning of the race line—was wholly unnecessary for whites to maintain their dominance “in prestige, in achievements, in education, in wealth and in power.”¹⁹ And such legal segregation was ultimately a bad idea because it contained a malice aforethought that “will not mislead anyone”—least of all an international community for whom the US was supposed to represent a beacon of freedom and hope. In short, Harlan was every bit as interested as the majority in *Plessy* in perpetuating white hegemony, but

he adroitly railed against any legal backing undergirding such hegemony. And he did so by bringing forth an alternative: colorblindness.

The racial malice characterizing Jim Crow, averred Harlan, “will not mislead anyone,” as other countries could easily locate black denigration within the apparatus of “separate but equal,” a “thin disguise” that made the US an open target for criticism (as legal segregation became in the early Cold War years.) And such was Harlan’s point: colorblindness in the legal realm *would* mislead people. Whites had amassed so much comparative wealth and power that simple blindness to it in legislation would guarantee its furtherance. Moreover, legal colorblindness would remove an otherwise persuasive argument as to the *explanation* for white dominance. The very presence of Jim Crow gave the international community something to point to in critiquing the degraded position of nonwhites—allowing them to locate the roots of their inferiorization in customs and policies given a legal stamp of approval. The lone dissenter in *Plessy* sought to avoid this, and found colorblindness ideal for this purpose. Thus is Harlan’s genius realized: *via colorblind legal policy, the nation could protect white advantage, locate its persistence in the inherent inferiority of blacks, and escape international scrutiny—all in one fell swoop.*

Here, we behold the initial linkage between colorblindness and racial malice aforethought. Harlan drew on the common understanding of the inferiorizing intentions of Jim Crow and introduced a means by which to protect the property value of whiteness without recourse to any overt legal apparatus as that backing “separate but equal.” Colorblindness, in this formulation, despite its complicity in maintaining white

domination, becomes an efficacious target-dissolving mechanism, as it provides other countries nothing to point at in accusing the US of hypocrisy in its racial relations. If everyone is equal “before the law” (as Harlan repeatedly stressed throughout his dissent), then it could easily be argued that the persistence of racial inequality was the fault of those groups on the bottom because no explicit framework openly prompting and producing such degradation existed. This, of course, is precisely what characterizes today’s hegemonic “survival of the fittest” ideology first examined in chapter two. Yet in so doing, we see that in its post-Tourgee enunciations, colorblindness possessed a malice aforethought designed to keep whites the master race—and a malice aforethought easily concealed. As we turn to the career of colorblindness in the Jim Crow and post-civil rights eras, it becomes clear that *Plessy v. Ferguson* remains an important starting point for illumination.

From Color-Conscious to Colorblind?

Many who analyze the import and impact of colorblind doctrine today present a framework that implies a clear transition from the blatant color-consciousness of the Jim Crow era to the colorblindness of the current conjuncture. Leland Saito’s *The Politics of Exclusion: The Failure of Race-Neutral Policies in Urban America* possesses precisely this theoretical focus. Saito draws a sharp line between the race-conscious practices of yesteryear and the race-blind practices that are omnipresent today.²⁰ He asserts: “The transformation of racial ideology and government policies in the post-World War II era, moving from state support of racial inequality to the era of civil rights legislation, framed the contemporary dialogue on race and the move to race-neutral public policies.”²¹

What Saito's formulation overlooks, however, is the ubiquity of colorblind policy in the pre-civil rights years. His discussion of the New Deal reveals this shortfall; as he writes, "Major policies of the New Deal covered whites but excluded racial minorities. The Social Security Act of 1935, for example, covered occupations held by whites and excluded domestic and agricultural workers, the domain of Asians, Latinos, and African Americans."²² These two sentences contradict each other: the first sentence stresses the racial directness of the exclusion and the second argues that the New Deal's racial omissions were oblique, achieved via occupational exclusions. While many policies and practices in the pre-civil rights era were explicitly race-targeted (Mexican American repatriation, the 1882 Chinese Exclusion Act, restrictive covenants, etc.), a significant number of policies were colorblind, such as those of the New Deal as quoted in Saito's text here. So the passage from the pre- to the post-civil rights era was not one of a transition from color-conscious to colorblind legislation; rather, it was a transition from a combination of color-conscious and colorblind policies to one of colorblindness only. The nation did not "move to" race-neutral policies as Saito suggests—they were already in existence, but operating in concert with race-conscious legislation.

However, from the angle of what I have been calling racial malice aforethought, Saito is essentially correct in his formulation. He places the New Deal in the realm of the color-conscious (though it wasn't) due to what I wrote earlier: the composers of such legislation as the Social Security Act made no attempt to camouflage the connection between these policies and the maintenance of white domination. In a Jim Crow atmosphere, there was little reason to deny the true intentions of the South's insistence on

removing maids and farmworkers from the benefits of the Social Security Act. The South merely needed to circumvent the Fourteenth Amendment's "equal protection of the laws," and found a convenient way of achieving it which happened to be colorblind.

This malice aforethought has significant implications for the contemporary debate over colorblindness, because today, as we have seen throughout this dissertation, the linkage between colorblindness and white domination is vehemently rejected by advocates of race-neutral policies. As Saito demonstrates in his work, many purveyors of colorblind legislation "sincerely believe that the policies they create and support are free of racial bias."²³ The clearest example of this in the foregoing pages came from Representative Bill McCollum's defense of the 100:1 ratio in chapter four, where he insisted that in no way were the differential penalties applied to crack versus powder cocaine a method of "intentionally attempting to put somebody in jail because of the color of their skin or to make them serve a longer sentence."²⁴ Indeed, supporters of colorblind policy are united in their adamant denial that such policies are racially unfair; on the contrary, as we saw in chapter two, race-neutral legislation was in part a *reaction* to the increasing prominence of such color-conscious policies as busing and affirmative action. Indeed, it is often these very policies that are decried as "racist" because they take race into account.

Here we behold a massive difference between colorblind policy in the age of Jim Crow and colorblind policy today. The crafters of colorblind legislation in the pre-civil rights era had no need to reject the intimation that such legislation was an attempt to benefit whites at the symbiotic expense of blacks and other racialized minorities, as the

doctrine of white supremacy maintained a firm grip on white consciousness. Today, in stark contrast, the cheerleaders of colorblindness perform rhetorical and discursive cartwheels to deny that race-neutrality is in any way complicit with the reproduction of white advantage. As I explained in earlier chapters, this need largely sources from the dissipation of white supremacist dogma in exchange for the belief—at least in principle—of racial equality.

Thus, what Ira Katznelson calls the “intensity” of the South’s desire “to safeguard their region’s social organization”²⁵ can easily result in the error made by Saito—relegating the existence of colorblind policy to the post-civil rights era, because the South’s racist objectives were fully obvious and transparent in their race-neutrality. Predictably, such objectives were not lost on those contesting the occupational exclusions of the Social Security Act, which NAACP board member Charles Hamilton Houston likened to “a sieve with holes just big enough for the majority of Negroes to fall through.”²⁶ In 1939, the *Pittsburgh Courier* likewise disparaged the unequivocal racism animating the New Deal:

With perhaps the best intentions of the world and with a Northern president in the White House, Washington has become overrun with Southerners and from the time of the [National Recovery Administration] to the present we have seen ample evidence of their attitude and handiwork where colored people are concerned....[T]he Southern-dominated administration has worked assiduously to establish color discrimination and segregation as a policy of the Federal government, and to a distressing extent it has succeeded.”²⁷

Key here is that critics of such policies as the Social Security Act were not contesting its colorblindness as a cover for the maintenance of the Jim Crow system, but rather its overt purpose in shutting most blacks out of its provisions. Challenging the Social Security

Act on the grounds of its colorblindness with malice aforethought would have been nonsensical and fruitless, as its defenders were not hiding under its banner and had no reason to. As a result, those fighting against racism failed to perceive race-neutrality's potential as an effective perpetuator of white advantage and continued to pine for a colorblindness defined as the end of Jim Crow and related policies and customs, as discussed both in chapter two and the first section of this chapter.

It should be noted here that those supporting "massive resistance" missed the point as well, as they too initially failed to see colorblindness *simpliciter* as an effectual means to maintain racial inequality in the absence of Jim Crow. This is a testament to how fully the colorblind programs of the pre-civil rights era were operating under an overtly color-conscious aegis. And it was this color-consciousness that held sway, both for those supporting Jim Crow and for those rallying to dethrone it. Colorblindness was not itself the concern then.

Those pledging "massive resistance" were painstakingly pried away from Jim Crow, and since its elimination, colorblindness has become the primary issue, as race-neutral programs no longer operate in conjunction with color-conscious legislation designed to subjugate people of color. Furthermore, as part of the politics of that transition, there now exists great motivation to deny what was unabashedly displayed in the pre-civil rights years: malice aforethought in the implementation of colorblind policies, especially as they are charged with the "intention" of disadvantaging people of color in the absence of a de jure discriminatory apparatus. As Michelle Alexander observes in *The New Jim Crow* (and echoing my arguments in chapter two), those whites

slowly surrendering “massive resistance” eventually came to “the understanding that whatever the new order would be, it would have to be formally race-neutral—it could not involve explicit or *clearly intentional* race discrimination.”²⁸ Alexander shows here that, at some level, colorblindness was formulated with the malice aforethought of maintaining white dominance; “Barred by law from invoking race explicitly,” she continues, “those committed to racial hierarchy were forced to search for new means of achieving their goals according to the new rules of American democracy.”²⁹ Clearly, this has been one of the overriding themes of this dissertation—colorblindness as ideal in reproducing material racial inequality in a conjuncture of legal racial equality, and in its earliest post-civil rights incarnations, it had the intention of perpetuating racial inequality—though such intentions were rapidly cloaked in race-neutral syntax as the changing political situation demanded. And it was at this same moment that conservatives began calling on John Marshall Harlan’s dissent in *Plessy v. Ferguson* for rhetorical support and ammunition. This being the case, one crucial objective becomes, then, how to *detect* malice aforethought, and one of the greatest obstacles to such detection is the sheer quantity of devices and techniques available to deflect it. As we shall see here, these devices are so numerous and alluring, they successfully produce sincerity among whites today who were themselves not a part of the “massive resistance” generation.

Denying Racial Malice Aforethought

My discussion of the *Chappelle’s Show* sketch “The Monsters In: ‘The System Is Not Designed for Us’” in the introduction to this dissertation theatrically showcases a handful of such devices designed to rationalize denials of malice aforethought in colorblind

behavior. Chappelle was undoubtedly attempting to provide an example of malice aforethought in action with the taxi driver; his first excuse to not pick up the black mummy, “No Brooklyn!,” while a feeble defense, was indeed colorblind. As was his second: “I’m off duty!” When the taxi driver completes his compendium of ostensibly non-racial excuses with “I don’t trust mummies,” *Chappelle’s Show* viewers have been provided a compelling demonstration of how easily race-neutrality can conceal race-hostility. The boundless multiplicity of ways to target racial groups without directly naming them, it is clear, blankets our present conjuncture. In this section, I investigate a series of these and other ways to neutralize malice aforethought in colorblind interactions and policy.

—*Code Words*

We visited one of the earliest devices to deny and deflect allegations of malice aforethought in chapter three: code words. “Brooklyn” is an example of a code word in “The Monsters” sketch; politicians, beginning in the waning years of the civil rights movement, quickly popularized them. Richard Nixon and George Wallace were two early prominent engineers of code words. As Kenneth O’Reilly notes in *Nixon’s Piano*, “Nixon took his cues from another racial alchemist, the true believer George Wallace....” Race, O’Reilly asserts, colorblindly permeated Wallace’s injunctions. O’Reilly quotes the following from a colleague of Wallace’s: “He can use all the other issues—law and order, running your own schools, protecting property rights—and never mention race....But people will know he’s telling them, ‘A nigger’s trying to get your job, trying to move into your neighborhood.’ What Wallace is doing is talking to them in a kind of

shorthand, a kind of code.”³⁰ Wallace’s approach became a portion of the “southern strategy” that Nixon pursued. As H.R. Haldeman, one of the latter’s key advisers, put it, Nixon “emphasized that you have to face the fact that the whole problem is really the blacks. The key is to devise a system that recognizes this *while not appearing to*.”³¹ This emergent popularity of code words and related colorblind strategies in the late 1960s represents further evidence of what I asserted above: New Deal legislation such as the Social Security Act was also conceived in a kind of “code” (e.g., farmworkers and maids), but it was not seen this way, nor debated on these terms, because there was no reason to cloak its intentions.

Code words can also manifest themselves visually, as Tali Mendelberg’s analysis of the Willie Horton debacle reminds us. As she argues, Horton’s widely displayed image was never paired with his race—he was just a “man,” not a “black man.” The indispensability of the Horton advertisement for improving George H. W. Bush’s election prospects cannot be overstated. The advertisement’s popularity, Mendelberg demonstrates, plummeted once Jesse Jackson problematized its purpose and foregrounded its racial content (this occurred too soon before the election to save Michael Dukakis from defeat.) Jackson’s questioning of the employment of the stereotype of the criminal black male prompted American viewers to interpret the advertisement as violating what Mendelberg terms the “norm of racial equality”—in a word, Jackson posited racial malice aforethought in the content of an advertisement that did not mention race.

—*Cultural Survival of the Fittest*

Another powerful technique for rebuffing accusations of malice aforethought in colorblind policy and reasoning is the “cultural survival of the fittest” ideology, discussed in several locations in this dissertation. Its role is clear enough: if colorblind policy generates racial inequality, it is not the race-neutrality of the policy itself (nor its intentions, racially malicious or otherwise), but the defective behavior and values of racial groups hampered by such policies that ultimately accounts for the lack of racial parity that results from the implementation of such legislation.

—*The Ahistoricization of Harlan’s Plessy Dissent and the New Deal*

A further method to parry charges of malice aforethought is to construct a history in which it does not and cannot inhabit the universe of colorblindness in the first place. We have earlier witnessed one way in which this occurs—drawing off Justice John Marshall Harlan for judicial authorization for a colorblind legislative worldview but cutting out his “caveats” of white supremacy. Another instance of this surfaces in contemporary references to the New Deal by advocates of colorblind policy. Wielding a similar brand of the “splitting off of racial history” described in chapter three, such supporters reach back and insist that New Deal programs were “universal.” As the seven authors of *Whitewashing Race* write of the New Deal, “To assume that government policies benefited only blacks or were color-blind, as many white Americans commonly believe, is like looking at the world with one eye.”³² This recalls Rod Bush’s point, noted in chapter two, that colorblind activists interpreted the black power movement as a defection from “the alleged universal programs of the New Deal.”³³ In other words, they

“split off” the South’s brazenly racist, Jim Crow-perpetuating purposes with the New Deal, which, along with the ahistoricization of Harlan’s dissent in *Plessy v. Ferguson*, paints a picture of a colorblindness above reproach.

The case of Harlan is worth considering further in this context. As the (alleged) originator and chief inspiration for colorblindness today, making use of Harlan’s dissent is an ideal way to reach back and locate a racially pure colorblindness, one given a Constitutional stamp of approval. Of course, the price of this purity becomes the detachment of Harlan’s connection between colorblindness and the maintenance of white domination. A further question surrounding Harlan’s dissent surfaces here, one that expands on my analysis in this chapter’s first section: How did malice aforethought express itself in Harlan’s colorblindness? We can approach the answer by rescanning his dissent and further examining what he attempted to communicate to his Jim Crow-confirming colleagues therein. I discussed in chapter one and elsewhere that Harlan was trying to explain that de jure segregation and color-conscious policy were unnecessary in a context of already existing white material advantage—that colorblindness would be effective in keeping whites the master race. But more than this: Harlan was also endeavoring to demonstrate that colorblindness *was already working*.³⁴ By the time of *Plessy*, many colorblind policies were already in effect; for instance, devices deployed to curb the black vote (and the poor white vote) such as literacy tests and poll taxes began to come into use at the end of Reconstruction in the years before *Plessy*. Another example—one that Harlan was quite possibly familiar with, given his reference to Chinese immigration exclusion in *Plessy*³⁵—was the 1870 Sidewalk Ordinance passed in

San Francisco, which forbade pedestrians from walking the city's sidewalks carrying poles on their shoulders to haul their goods.³⁶ Facially colorblind, the ordinance's malice aforethought was unambiguous, being aimed at (especially poor) Chinese immigrants who carried their goods that way. In short, Harlan already had examples of colorblindness working for white benefit from which to draw as he lectured on the efficacy of colorblindness to sustain white supremacy. And even the Constitution itself (which, as Harlan correctly pointed out, was colorblind) contained malice aforethought in the three-fifths compromise—there was little hiding who was being targeted by this agreement designed to appease Southern constitutional delegates. Thus, when Harlan declared “Our Constitution is color-blind,” not only was he correct, but he also communicated that the colorblindness he had in mind contained thorough malice aforethought. This, to be sure, is not how Harlan's dissent is conceived by his supporters today.

—*The Appropriation of the Civil Rights Vision*

Another powerful way to enhance this ability to deny and deflect accusations of malice aforethought in colorblind thinking and legislation lies in appropriating the civil rights vision. In the same way that John Marshall Harlan appropriated Albion Tourgee's notion of “color-blind justice,” so too did those white conservatives pledging “massive resistance” appropriate the civil rights vision at the same moment Jim Crow breathed its last. Roopali Mukherjee makes a compelling case for this perspective in her recent book *The Racial Order of Things*. By recasting the civil rights revolution as solely a morality play pitting noble blacks and their white allies in the South against intractably racist and

vicious authorities (such as Bull Connor), advocates for colorblindness today selectively delete other debates and battles occurring in the civil rights era throughout the political spectrum. This semi-counterfeit rendering of the upheavals of the 1960s represents a prime example of a “sincere fiction” as described by Joe Feagin and Hernan Vera in their book *White Racism*. As Mukherjee argues, this erasure decontextualizes such key civil rights events as the August 1963 March on Washington, in which Martin Luther King, Jr. thunderously proclaimed his desire that his “four little children will live one day in a nation where they will not be judged by the color of their skin but by the content of their character.”

This appropriation and these selective recollections of the civil rights vision lie at the heart of the activation of sincerity on the part of whites who experience no moral dilemma in politically and psychically investing in colorblind policies despite their racial inequality-generating consequences. Mukherjee’s discussion of Proposition 209 (which outlawed affirmative action in California) helps clarify specifically how that truncated vision was called upon by its architects, then-governor Pete Wilson and University of California Regent Ward Connerly. As the latter two wrote in support of Proposition 209, “A generation ago, we did it right. We passed civil rights laws to prohibit discrimination. But special interests hijacked the civil rights movement. Instead of equality, governments imposed quotas, preferences, and set-asides.”³⁷ Mukherjee responds to Wilson and Connerly’s paeans with the following:

And so, promising relief from a range of malefactions that race-based regimes had ostensibly wrought, appropriations of the therapeutic motif of the sixties recounted a partial history of blacks and whites who, thirty years earlier, were seen speaking with one voice for a hegemonic agenda of civil rights reform. Such

appropriations renewed the work of healing and recovery, as sympathy-fatigued whites cast affirmative action for black Americans as an anachronous absurdity of the racial past, poisonous for America itself.³⁸

Such appropriations themselves have become hegemonic, producing sincerity in many whites and nonwhites alike that colorblind legislation represents the only reasonable manifestation of racial politics. As I have illuminated in multiple spots in the preceding chapters, this argument is fully outlined in cultural survival of the fittest ideology, as the racial inequality that sources from colorblind policies is explained away through reference to the culture and values possessed by racial groups that succeed or fail in 21st Century US society. Under this reading, disadvantaged groups are in no position to contest their debased position; “within the terms of neoliberalism,” Mukherjee avers, “they [have] only themselves to blame for their woes.”³⁹

The legacy of Martin Luther King, Jr. and *Brown v. Board of Education* remain emblematic of this appropriation of the civil rights vision. In this view, we witness another specific angle of the “splitting off of racial history” in the context of King and his complex commitments. As Nikhil Pal Singh and Eric Sundquist relate in their books *Black Is a Country* and *King’s Dream*, respectively, it is only a certain *part* of racial history being split off in this context. As they foreground, it is the nonviolent “I Have a Dream” persona of King whom propagators of the colorblind vision indefatigably promote today, not the outspoken opponent of the Vietnam War who described the US as a fundamentally “sick society” in the days before his assassination. By marginalizing (or simply deleting) this aspect of King, champions of colorblind policy today are able to draw upon that partial persona in support of their views, as actually occurred in the

Proposition 209 campaign.⁴⁰ The successful appropriation of King goes a long way in illuminating how racial malice aforethought is dispelled.⁴¹

Brown is also called upon today by those investing in colorblind legislation, as most notably demonstrated in the Supreme Court case *Parents Involved*, which disallowed school districts from using race as a criterion in combating educational racial segregation. As Eric Sundquist writes regarding this case (in a long passage that recalls Ian Haney-Lopez’s notion of “reactionary colorblindness” that considers affirmative action and slavery morally equivalent),

Making no constitutional distinction between segregation and racial balancing, [John] Roberts and [Clarence] Thomas held that *Parents Involved* rested on the same questions as *Brown*—namely, “the fact of legally separating children on the basis of race,” which the Court found to violate the Constitution in 1954....In recurring to John Marshall Harlan’s famous dissent in *Plessy v. Ferguson*...the majority in *Parents Involved* in effect retried *Brown*, responding more strongly to the first prong of the plaintiffs’ case, its appeal to the colorblind Constitution, than to the second prong, its appeal to the psychological and material harm done by segregation, which was the foundation of Earl Warren’s unanimous opinion.⁴²

This directly relates both to an argument I offered in chapter two (that even Thurgood Marshall drew upon Harlan’s dissent, suggesting his unawareness of Harlan’s purposes) as well as earlier in this section: the inability of those attempting to upend Jim Crow to understand that the colorblind legislation surrounding them could effectively function as a means to perpetuate white superiority once their battle to eradicate Jim Crow had been won.

Once the perspectives proffered by John Roberts and Clarence Thomas were made common sense via the appropriation of the civil rights legacy, the effortlessness in denying malice aforethought in the support of colorblind legislation follows easily.

—*Equating the Black Experience with the European Immigrant Experience*

Yet another appropriation that occurs in the confirmation of colorblind hegemony lies in the recalling of the history of mass immigration from Europe to the US in the late 1800s to the early 1900s. We discussed in chapter two that a crucial column in the ushering in of colorblindness in the wake of the civil rights movement was represented by the ahistorical equation of the European immigrant experience with that of blacks—notably in Nathan Glazer and Daniel Patrick Moynihan’s *Beyond the Melting Pot* and Irving Kristol’s essay “The Negro of Today is Like the Immigrant of Yesterday.” If the discrimination visited on newcomers from Europe was experientially congruent with blacks’ subjection to slavery and Jim Crow, then their eventual success (concomitant to their securing of whiteness)⁴³ must have resulted from their own merits. In this sense, what blacks are said to need are more merits, not race-conscious policy seen to uplift them at the expense of those more “deserving”—a moniker that not only includes European immigrants but Asian Americans cast as the model minority, as chapter two likewise illuminated.⁴⁴

Research confirms the success and utility of this appropriation, most clearly and definitively articulated in Charles Gallagher’s essay “Playing the White Ethnic Card,” based on interviews with eighty-nine whites. Gallagher demonstrates that the influence of the work of Glazer and Moynihan and Kristol remains in full force, as his interviewees tapped into the stories of their immigrant ancestors to dissolve any dissimilarities between the black and European immigrant experience. Such tales, Gallagher asserts, “validated many whites’ beliefs that if past generations could climb the social and

occupational ladder in an environment brutally hostile to white ethnic newcomers without government help, nonwhites, particularly blacks, should have been able to mirror their grandparents' mobility path."⁴⁵ Modifying the comparative realities whites ethnics faced thus give these stories the potential to confirm and defend a colorblind outlook: "The immigrant analogy," pens Gallagher, "rewrites white and black history as the same, while an all-things-are-now-equal view of race relations promotes the view that we now live in a color-blind society."⁴⁶

As the above makes evident, drawing upon an appropriated past becomes an indispensable tool in the belief in race-neutrality's lack of malice aforethought. All told, the ability of race-neutrality's devotees to suppress the specter of racial malice aforethought through such historical references to Harlan, the New Deal, the civil rights movement, and the experience of white ethnic immigrants ultimately confirms one of this dissertation's central arguments: that colorblindness renders a blindness to the legacy of slavery and Jim Crow. But not only do these ahistorical portrayals provide support for adherents of colorblindness today, it also mystifies the New Deal's function as "affirmative action for whites," obfuscating its role in pumping wealth and opportunities towards whites (including European immigrants) at the expense of people of color. Lastly, the splitting off of racial history in this context also invites the appropriation of the civil rights vision's promotion of colorblindness in the decades leading up to the civil rights movement, which is exactly what allows many to "sincerely believe" that colorblindness is the only route to racial fairness and equality.

When we consider the above, the task of detecting malice aforethought in those who advocate for colorblind programs proves a tricky and Herculean task indeed. The final section of this chapter now turns to research designed to bring such malice aforethought to the surface.

Individual Behavior, Institutional Patterns

In chapter four, I analyzed at length Devah Pager's audit study, which found that white males had more success obtaining employment than black males, and that such success carried over for whites even when they possessed a criminal background. I want to park on Pager's research again here as an entryway to an examination of colorblindness and its role in structuring individual behavior and the institutional patterns that collectively emerge from them. For as I wrote in the preceding chapter, we witness individual denials of racial malice aforethought ("I'm not a racist, *and how dare you claim otherwise*. Some of my best friends are black!") Arising from this cacophony of protests against the accusation of malice aforethought are the statistically significant racial patterns audit studies consistently uncover, in addition to the point made in chapter four that those collectively responsible for producing these racial patterns will individually deny any culpability in their alleged malice aforethought. This disjointedness between the individual and the institutional in this context is, I submit, vintage colorblindness.

A large part of the challenge of bringing malice aforethought to the surface, of course, lies in the fact that it very well may not exist. As many researchers have acknowledged, audit studies do possess methodological shortcomings (experimenter bias, Rubin's Model, etc.)⁴⁷ A broad spectrum of non-racial reasons could potentially account

for individual experiences, as Pager notes in her recent article “The Dynamics of Discrimination”:

Although some instances of discrimination leave little room for doubt, many others are subject to misinterpretation or distortion. A curt shop clerk might have been having a bad day; the security guard may be vigilant with all passersby; the cab driver may simply not have seen the pedestrian waving him down. What may be blatant evidence of discrimination from one vantage point could be a simple misunderstanding from another.⁴⁸

But in my view, these concerns drown in the tidal wave of the patterns countless audit studies have unearthed: from shopping for a car to buying real estate, such research persistently verifies the greater success whites experience in essentially every domain of life. Even names have demonstrable effects, as studies show that individuals with identifiably black-sounding names as Tyrone or Lakeisha have less success securing interest from prospective employers than do their counterparts with white-sounding names such as Keith or Emily.⁴⁹

The flagrant discrepancies between individual declarations of colorblindness and the patterns audit studies reveal present one of the central challenges to antiracist thinking today. How do researchers probe (and problematize) assertions of sincerity in those who maintain they have no malice aforethought in their investment in colorblind reasoning? Michelle Alexander illuminates some of these profound obstacles in her discussion of Ronald Reagan’s bid for the presidency in 1980.

To great effect, Reagan echoed white frustration in race-neutral terms through implicit racial appeals. His “colorblind” rhetoric on crime, welfare, taxes, and states’ rights was clearly understood by white (and black) voters as having a racial dimension, though claims to that effect *were impossible to prove*. The absence of explicitly racist rhetoric afforded the racial nature of his coded appeals a certain plausible deniability....His critics promptly alleged that he was signaling a racial message to his audience [in Philadelphia, Mississippi, where he kicked off his

presidential campaign], but Reagan firmly denied it, forcing liberals into a position that would soon become familiar—arguing that something is racist but finding it impossible to prove in the absence of explicitly racist language.⁵⁰

Alexander's point about the "impossibility" of proving the racism allegedly lurking underneath Reagan's race-neutral entreaties is what concerns me most here; the "plausible deniability" bound up in colorblind rhetoric provides these "coded appeals" incredible mileage in circuitously tapping into white fears. In this, Reagan and his ilk demonstrate their understanding and acceptance of John Marshall Harlan's insights in *Plessy v. Ferguson*. As Harlan had insisted, "everyone knows" that Jim Crow possessed racial malice aforethought, and argued that colorblindness would efface this common knowledge, sending it squarely into the realm of the "plausible deniability" Alexander speaks of here.⁵¹ With the ascendance of colorblindness in the post-civil rights era, now *not* "everyone knows" of race-neutrality's potential for race-baiting and white privilege-perpetuation; recalling Pager's pronouncements above, those wishing to maintain the racial status quo learned that colorblind discourse could leave *plenty* of "room for doubt" in allegations of racial discrimination. That Reagan and his associates had absorbed Harlan's point becomes evident when we consider the high degree to which their ideological tactics and approach closely follow Harlan's directives—to say nothing of the fact that the administration openly identified with him (as solicitor general Charles Fried did as noted in chapter one.) Despite the palpable challenges presented by Ronald Reagan *et al.* (and the ideologies they propagate), scholars have already made headway into capturing the negative racial views of individuals who insist they do not hold any. Let us analyze some of these studies.

Contemporary racial research has sought to capture racial thinking's rootedness in our psyches. In *Systemic Racism*, Joe R. Feagin summarizes the findings of some such studies:

...[R]esearchers have recently found that, when given a test of unconscious stereotyping, nearly 90 percent of whites who have taken the test implicitly associate the faces of black Americans with negative words and traits such as evil character or failure. That is, they have more difficulty linking black faces to pleasant words and positive traits than they do for white faces. Most whites show an antiblack, pro-white bias on psychological tests. In addition, when whites are shown photos of black faces, even for only 30 milliseconds, key areas of their brains that are designed to respond to perceived threats light up automatically. In addition, the more unconscious stereotyping they show on psychological tests, the greater their brains' threat responses when they are shown photos of black Americans.⁵²

The unconscious linking of black faces with danger and negative stereotypes is far from being normal or "natural." It signifies the extent to which color-consciousness pervades every aspect of our existence, in the sense of what Howard Winant meant when he recently wrote that race carries with it "a comprehensiveness that ranges from the world historical to the intrapsychic."⁵³ But further, in the post-civil rights era, we need to acknowledge colorblindness as an expression of the rootedness of color-consciousness in our psyches. When we apply the findings of the research cited by Feagin, the patterns that emerge from audit studies should come as little surprise.

One way to perform that application is to further investigate this link between threat responses and measured levels of unconscious stereotyping by including subjects' self-professed levels of colorblind thinking. As Sundiata Keita Cha-Jua laments, few empirical studies of colorblind racial attitudes yet exist.⁵⁴ Recent headway, however, has been made to link intensity of colorblind reasoning to other ideologies (for instance, the

belief that the US is fundamentally a meritocracy and that racism is no longer a significant hindrance for people of color.) Helen Neville and her colleagues have started to make inroads by developing the Color-Blind Racial Attitude Scale (CoBRAS.) Neville comments on their early findings:

Emerging data on the CoBRAS have suggested an association between color-blind racial ideology and theoretically relevant constructs. For example, among White college students, higher levels of CoBRAS have been found to be related to higher levels of fear of racial minorities, lower levels of White guilt, and less anger and sadness about the existence of racism, as well as increased racial and gender intolerance and the belief in a just world; among African Americans, the CoBRAS has been found to be related to internalized oppression, antiegalitarian beliefs, and victim-blame ideology.⁵⁵

Neville's empirical research supports the theoretical claim that the sincere belief that colorblindness is the only racially fair form of legislation—and contains no malice aforethought—should be subjected to serious scrutiny. This quoted passage also draws attention to the fact that many people of color likewise espouse high levels of colorblindness (as was also noted in Eduardo Bonilla-Silva's *Racism without Racists*.)⁵⁶ As Neville contends, nonwhites who “buy into” colorblind racial reasoning are reflecting a form of false consciousness.⁵⁷

An analogous argument could be made for whites, many more of whom “buy into” colorblindness in thought and policy. Instead of false consciousness, I suggest that colorblind racial reasoning on the part of whites is a species of bad faith, in a sense similar to Jean-Paul Sartre's initial usage of the concept in *Being and Nothingness*. In “The Bad Faith of Whiteness,” Robert E. Birt draws on this concept, arguing that, regarding whiteness, bad faith contains a more social dimension than that formulated by Sartre and others; as Birt puts it, “whiteness is a worldview and a way of life that is *lived*

in bad faith.”⁵⁸ More specifically, colorblind racial reasoning is a form of bad faith—a *socialized self-deception* in which vocalized declarations of colorblindness fundamentally conflict with the actual color-consciousness that so often dictates white behavior. As such, conceiving of white colorblindness as bad faith helps counter what Zeus Leonardo calls the “myth of white ignorance.” As Leonardo and others show, far from being colorblind, whites are ravenously color-conscious and hide behind their colorblindness and the plethora of devices to deflect intimations of malice aforethought as discussed directly above. From this perspective, colorblindness and color-consciousness are indelibly linked, as Leonardo notes here: “White racial knowledge is *knowing how* the world works in racially meaningful ways, but avoiding to name it in these terms.”⁵⁹ This relates to Neil Gotanda’s well-known insight that one must first be color-conscious in order to even claim colorblindness in the first place.

Scholarly research has exposed how this intense color-consciousness ideologically disguises itself in the shadow of a colorblindness that denies malice aforethought. As researchers who survey racial data and demographics demonstrate, a colossal mismatch exists between what whites say and what they do regarding such racial issues as residential segregation and intermarriage. “Discrepancies between racial attitudes and behavior,” assert the authors of *Whitewashing Race*, “are large and pervasive.”⁶⁰

In-depth interview research has also illuminated the palpable racial thinking extant in the white psyche, which can help us better understand (and question) assertions of colorblind sincerity, as well as make sense of the institutional patterns that ultimately

emerge from individuals who espouse such sincerity in racial matters. One critical study comes from Heather Beth Johnson and Thomas M. Shapiro, whose work I analyzed at length in chapter three. In a collaborative essay on their interviews with white families, Johnson and Shapiro point out a pattern that has great relevance for our larger argument here:

The interviews documented here were not given time constraints and in most cases were quite long (up to three hours). In most interviews with white participants, they did not begin overtly and explicitly discussing their views on race until far into the interview, with many not including explicit discussions about race until an hour or more into the interview. In some cases, the most explicit racist dialogue occurred in the last few minutes.⁶¹

Racial thinking proves all-encompassing, but the desire for racial innocence that often expresses itself in colorblindness maintains a firm grip on many whites today. The research of Johnson and Shapiro (and others) demonstrates that, despite claims of colorblindness, race profoundly structures essentially every major decision white families make, from where they will live to what school their children will attend.

Also included in this context are the advantages whites reap from contemporary “old boys’ networks,” which forefronts the understanding that the majority of jobs in the US are obtained via word-of-mouth employee recommendations, and not through open job advertisements. In *Race and the Invisible Hand*, Deidre Royster’s interview research confirms that a racial dimension exists within old boys’ networks—that whites disproportionately benefit from word-of-mouth job advertisements. Yet, as Nancy DiTomaso and her colleagues point out in their essay “White Views of Civil Rights,” even white-advantaging old boys’ networks become submerged in a discourse of racial fairness. While their two hundred white interviewees advocated both equality of

opportunity and colorblindness, they did not practice either in their own lives, as many of them had secured their own jobs through old boys' networks. As the authors write,

Intertwined with white views of color blindness is their frequently expressed belief that equal opportunity is the solution to racial (or gender) inequality.... Yet the majority of the interviewees in this study had gotten their own jobs primarily through the help of family, friends, and acquaintances.... In other words, the interviewees did not rely on equal opportunity. Instead, they sought and used advantage....

Because their own advantages were not salient or visible to them, the white interviewees espoused a commitment to color blindness and equal opportunity that they did not adhere to in their own lives.⁶²

Here, the authors illuminate a crucial and compelling contemporary mechanism to parry charges of malice aforethought in a colorblind outlook: *the invisibility of white privilege*, which structures both investments in colorblindness and opposition to affirmative action and similar policies.

Whites' notoriously chronic inability to perceive or acknowledge their myriad race-based advantages has been the subject of much research,⁶³ and it resides in close association with the rejection of malice aforethought concomitant to the ideological adoption of colorblindness. White privilege, then, has become a taken-for-granted assumption upon which racial advantage becomes willfully dismissed and denied, which then spawns the racially innocent colorblindness interrogated in this chapter.

Added to this conversation is one major reason whites do not see (to carry along this example further) old boys' networks as a specifically *racial* advantage while simultaneously casting aspersions on affirmative action and similar policies, and that reason functions as a preview for my arguments in chapter six. Unlike affirmative action, which unambiguously targets racial groups in an unequivocal race-conscious fashion, the

white privileges outlined above are not directly racial. In other words, even though whites clearly reap the majority of the benefits tied to old boys' networks, some people of color have secured brighter employment prospects through them—and some whites, in contrast, have proven unable to make use of such networks (this is precisely the pattern Deidre Royster unearthed in *Race and the Invisible Hand*.) I label this disjuncture “the racial inexactness of colorblindness,” and it forms a significant part of my argument in chapter six. Again, as opposed to affirmative action, old boys' networks do not directly encompass any racial group, and in their resultant race-neutrality, they allow their white-advantaging properties to be denied and not interpreted as advantage at all.

In closing, I want to suggest a parallel here between this racial inexactness of colorblindness and racial profiling—this latter again taking center stage in the heated debate springing from Arizona's recent anti-illegal immigrant law, SB 1070. From being skipped by taxis to being followed around department stores to “driving while black,” racial profiling permeates contemporary US society. While government and police officials have formally disapproved of the practice, profiling continues unabated at every significant level of society, as the criticisms aimed at SB 1070 remind us. As Michelle Alexander explains it in *The New Jim Crow*, referring to profiling by law enforcement agencies (via the blessing of the Supreme Court) have whittled down the contours of racial profiling to the point where it is deemed to exist “only when race is the *sole* factor. Thus,” continues Alexander, “if race is one factor but not the only factor, then it doesn't really count as a factor at all.”⁶⁴

These observations coalesce with how the racial inexactness of race-neutrality foments a situation where whites fail to see color-based advantage. Analogous to Alexander's ruminations here, since race is not the "sole factor" governing old boys' networks—embedded as they are in a complex economic system and beyond—it is not seen as a "factor at all," and the actual white privileging that emanates from them is cast out of the acceptable discourse. Thus cast, white advantage is rendered invisible, with colorblindness brought in as the ideology-of-record in an atmosphere where racial privilege is judged nonexistent. Indeed, as chapter two illuminated, this colorblindness is broadcasted in reactionary terms—as a counter to affirmative action and similar policies in which race functions as one clear, objective factor. In the end, an allegedly racially innocent colorblindness with no malice aforethought must be squared with the findings of the research discussed here and the issues presented by the invisibility of white privilege.

Conclusion

The Twenty-First Century color line is best maintained by being colorblind. Racial inequality becomes most effectively embedded in society when public policy pretends that it does not exist. In order to win the hearts and minds of a sufficient number of Americans to this worldview, it becomes critical to fashion this colorblindness as racially pure—a way of adjudicating which contains no malice aforethought whatsoever. This chapter has discussed the various means by which this occurs, from the countless ways of denying malice aforethought (to others as well as oneself) to the decontextualized drawing upon of the civil rights vision by conservatives and others today. Capturing contemporary colorblindness necessitates that we appreciate the manifold ways

colorblindness is rendered innocent even as it contributes to entrenched nonwhite material deprivation.

As has been the case throughout this dissertation, the conversation over racial malice aforethought must commence with *Plessy v. Ferguson*, in which John Marshall Harlan accused Henry Billings Brown of attempting to evacuate Jim Crow of any racially malicious purposes or intentions. In reaction—and via Albion Tourgee—Harlan conceived of colorblindness as a way to stake out the furtherance of white domination without recourse to the race-conscious legal segregation that would prove to become the US's Achilles Heel in its proclamation of superiority over the Soviet Union at the outset of the Cold War. Understanding the subtleties of *Plessy* signals the crucial insight that imbuing colorblindness with malice aforethought has been a real(ized) possibility from *Plessy* forward: from the New Deal to the civil rights movement through the manifold race-neutral policies in existence today. As I will query in the conclusion to this dissertation, how can we empty colorblindness of malice aforethought and employ it in the crusade for the “color-blind justice” documented in the life's struggle of Albion Tourgee? Before addressing that issue, we must first take stock of one more critical dimension of race-neutrality: in a word, the relationship between colorblindness and *class*—the subject of the final chapter of this study.

CHAPTER 6: “The Class Consequences of Colorblindness”

Introduction

This dissertation has sought to illuminate new angles on the origins, functions, and purposes of colorblindness in the US today. Previous chapters have discoursed upon its relationship with racial wealth inequality, the prison-industrial complex, and neoliberalism. In this final chapter, I reflect on the various issues highlighted in this dissertation and consider how a further examination of those issues can bring us to the next step of our evolving understanding of colorblindness and its role in reproducing racial inequality today. As I have repeatedly stressed throughout, colorblindness is not solely a post-civil rights doctrine; it has threaded its way through policies and ideologies alike for centuries. Ultimately, what binds pre-civil rights and post-civil rights colorblindness is, simply, its ability to preserve racial inequality and protect the property value of whiteness.

My theoretical starting point in the chapter that follows sources from the understanding that the racial realm colorblindness inhabits is in no way disconnected from other axes of oppression and exclusion. My focus here rests on class, and this chapter seeks to contribute to the long-ongoing race/class debate by investigating what I term here the “class consequences of colorblindness.” If we consider colorblindness a crucial factor impacting racism and racial inequality today, then a more nuanced

conceptualization of the intertwined association between race and class requires that we pay attention to the role of race-neutrality in shaping that association. By interrogating the relationship between colorblindness and class, we can both capture contemporary colorblindness as well as consider avenues for further research. It is these directives that bind the three sections that follow.

In the first section, I introduce a concept I label the “racial inexactness of colorblindness.” Because colorblindness does not target racial groups directly (essentially by definition),¹ the advantages bestowed and injuries inflicted by colorblind programs do not fall on absolute racial lines. Unlike, say, a storefront sign declaring “No Mexicans Need Apply,” in which the exclusion was unambiguously color-conscious,² the myriad race-neutral policies inhabiting both the pre- and post-civil rights ages do not cleanly include and exclude members of racial groups. Among other examples, I will use the Social Security Act as an illustration of the racial inexactness of colorblindness. While the Jim Crow South intended to shut blacks out of the benefits of Social Security, the Fourteenth Amendment’s “equal protection of the laws” prohibited color-conscious exclusions. In this case, as we have seen previously, the South made use of what Robert Lieberman has termed “race-laden categories” to colorblindly perform the exclusion, in this case by preventing maids and farmworkers—lines of work that were overwhelmingly the employ of blacks—from receiving benefits.³ But by doing so—by not directly targeting blacks—the Social Security Act not only allowed some blacks to receive benefits, but it also shut out some whites. This leads to the question of whether we can identify patterns in the structural location of whites who are hindered by colorblind

policies and people of color who still benefit despite their intentions. I will suggest in the first section that such patterns indeed exist, and my discussion of the racial inexactness of colorblindness will allow us to consider these class consequences of race-neutrality.

The second and third sections further our understanding of the relationship between class and colorblindness by exploring the impact of neoliberalism upon it. As I argued in the early stages of this dissertation, neoliberalism magnifies the racial inequality-perpetuating characteristics of colorblindness. A class analytic cannot adequately illuminate without considering the impact of neoliberalism and its drive to privatize and penalize (as chapters three and four discoursed at length.) As such, these final two sections seek to expand on the notion of neoliberal colorblindness by arguing that attacks on neoliberalism must take account of the racial inequality upon which it dialectically feeds. Many scholars have contended over the past generation that “capital is colorblind,” and that the only color that counts in capitalism is green. These sections dispute these assertions by clarifying the relationship between capitalism and colorblindness.

To craft this argument, I begin by surveying the work of one of the key intellectual doyens of neoliberalism, Milton Friedman. In light of the arguments formulated in the previous chapters, Friedman’s *Capitalism and Freedom* deserves another look. I am especially interested in canvassing his chapter “Capitalism and Discrimination,” as his discussion there signals an early entry for the ideological promotion of what would later materialize as neoliberal colorblindness, both in respect to the influence his text had for the emerge of neoliberalism as well as in his views towards

race, which are shot through by a Harlanian colorblindness. When we take these in conjunction, the importance of *Capitalism and Freedom* becomes clear.

With this analysis of Friedman in full view, I then dedicate the final section primarily to a critique of one individual who has made vocal and influential calls for an attack on neoliberal political economy—but doing so in a way that this individual insists must be colorblind, through and through. English professor Walter Benn Michaels has constructed wide-ranging arguments regarding the relationship between neoliberalism and identity, and by closely appraising his work, we can better understand how neoliberalism has been thoroughly racialized, thus necessitating that we take racial inequality into account in dealing with it. The crux of my assessment centers on Michaels's recent book *The Trouble with Diversity: How We Learned to Love Identity and Ignore Inequality*. Michaels advances a cogent and theoretically sophisticated framework that details how the current fascination with diversity and multiculturalism serves to inhibit any quest towards dispelling economic inequality. As Michaels asserts, the celebration of diversity (he focuses primarily on racial, gender, and religious diversity) represents little more than a distraction from the problem of the growing gap between the nation's rich and poor; furthermore, the obsession with diversity swells to the point where it bleeds into the economic realm, producing a situation where even economic diversity becomes something to be "celebrated." My critique of Michaels commences from his notion of "inequality"—as we shall see, he is solely referring to *economic* inequality throughout *The Trouble with Diversity*. Thus, the very idea of a specifically *racial* inequality does not register in Michaels's argument, which is why I am

considering his work an example of an attack on “colorblind inequality.” For Michaels, the enemy is economic inequality, and he contends that focusing on the fact that people of color disproportionately fill the ranks of the nation’s poor becomes an impediment because (to employ the diction of an ongoing academic debate) we are focused on “recognition” at the expense of “redistribution.”⁴ My analysis of *The Trouble with Diversity* will ultimately point to an understanding of why a colorblind attack on a color-conscious neoliberalism cannot be successful.

In the end, my central purpose in this chapter is to make a critical inquiry into the new paths and ideas that one can illuminate through a study of the complex relationship between colorblindness and class—in essence, to broaden our understanding of “the political economy of colorblindness.”

The Racial Inexactness of Colorblindness

The century spanning the Civil War and the civil rights movement witnessed a Fourteenth- and Fifteenth Amendment-prompted admixture of color-conscious and colorblind policies. On the color-conscious front lay Jim Crow practices, “Blacks Not Permitted” signs, the World War II internment of Japanese Americans, and countless other race-conscious customs and traditions that unambiguously curtailed the advancement of Americans of color. We have visited many colorblind policies and practices from this era as well: the Grandfather Clause, the Social Security Act, the GI Bill, and myriad more. The civil rights movement pushed color-conscious legislation to the realm of illegality, thus propelling colorblindness to center stage, from the 100:1 ratio

to the insistence on colorblind jurisprudence in such cases as *Washington v. Davis* and *Parents Involved*.

One aspect shared by today's colorblindness and that of the pre-civil rights age is what I here label its "racial inexactness." The Social Security Act provides a succinct illustration of racial inexactness in action. Excluding farmworkers and maids from the provisions of the Social Security Act did not result in the complete purging of blacks from its benefits, since about 25 percent of blacks in the South (and roughly 40 percent in the US as a whole) were not employed in these professions. Whites experienced this as well: some whites worked as maids and farm laborers and were ergo excluded from the New Deal aid provided by the Social Security Act. As David Roediger notes in *How Race Survived U.S. History*, "Wage discrimination and other factors left over two in five African Americans who were working in occupational categories covered by the act nevertheless excluded by the system, *twice the proportion of whites*"⁵—in short, some whites were also left out. Though the South's intentions with the Act were still fulfilled despite its colorblind racial inexactness (as blacks were disproportionately negatively affected as the South desired it), the axis of inclusion and exclusion did not cleanly fall upon racial lines, as some blacks benefited from it and some whites did not. This pattern covers many of the colorblind policies enacted prior to the civil rights movement; as Jill Quadagno declares in *The Color of Welfare*, "Such measures as poll taxes and literacy tests introduced at the end of the nineteenth century had not only disfranchised African Americans but most poor whites as well."⁶

This racial inexactness has carried over into the post-civil rights era, and it covers essentially every colorblind policy and practice currently in existence (I covered one at the end of the previous chapter: old boys' networks.) A couple further entry examples to begin: ones that involve facially colorblind procedures conceived (unlike the Social Security Act) without racial (dis)advantage directly in mind—procedures that predate the “reactionary colorblindness” that materialized in the context of the backlash against the civil rights movement as described in chapter two. As Ellis Cose discusses in *The Rage of a Privileged Class*, the “legacy clause” (the preference given to the children of alumni at prestigious universities), despite its race-neutrality, benefits white applicants to a much higher degree than their counterparts of color.⁷ The reason for this is rooted in history—the children of alumni are more likely to be white because such universities were primarily white during their parents' generation. Yet, the consequences of the legacy clause remain racially inexact; some people of color (today, increasingly Asian Americans) benefit from legacy clauses and many whites do not.

The colorblind practice of seniority represents another instance of a colorblind procedure working to white advantage. When firms began letting workers go during the 1970s economic crisis, the old adage “Last hired, first fired” kicked in—and in comparison to whites, blacks were much more likely to experience this. Again, the reason was not because they were black, but because they lacked seniority. But similar to the legacy clause, the *reason* they lacked seniority is that many had only recently gotten their foot in the door of these companies, many of which had just started hiring blacks in response to the passage of the civil rights laws. As philosopher Lawrence Blum remarks,

“the principle of seniority itself is entirely race-neutral; it simply favors workers with the greatest longevity in the company.”⁸ Like the legacy clause, the practice of seniority arose outside the context of racial animus, as Blum further parenthetically notes: “(Nor was seniority originally adopted as a covert way to exclude or oppress blacks or Latinos.)”⁹ And like the legacy clause, seniority’s effects do not fully benefit whites or completely shackle people of color; many whites lost their jobs during deindustrialization because they did not have seniority (with many of them directing their animosity at such policies as affirmative action en route), and some people of color were able to keep their jobs because they did have seniority.

One could endlessly multiply these examples. I want to provide one more as a means to more deeply probe the specific effects of the racial inexactness of colorblindness and consider whether these effects produce patterns (in this case, specifically *class* patterns), the examination of which become imperative if we are to more fully conceptualize and capture contemporary colorblindness in its entirety. The particular example I have in mind emerges in a recent law review article entitled “The New Racial Preferences” by Devon Carbado and Cheryl Harris. The article’s purpose is to document a specific instance of colorblind policy working to the advantage of whites—in this instance, how the personal statement in applications to selective universities (under the requirements of colorblindness as adjudicated in California’s Proposition 209 and Michigan’s Proposal 2) gives preference to “race-negative” applicants. By “race-negative” and “race-positive,” Carbado and Harris are referencing individuals for whom race is either incidental or indispensable to their own sense of self,

respectively. As they argue, whites are much more likely to inhabit the ranks of the race-negative than people of color, and therefore whites stand to comparatively benefit from the personal statement, which becomes in effect a “new racial preference” in its colorblindness. As the authors comment on, for most people of color to colorblindly portray their lives requires them to paint a picture of their experiences and epistemology that “might literally not make sense” to admissions officials.¹⁰ In contrast, whites are more likely to be able to describe their lives in race-neutral terms in ways that retain their intelligibility.

How does the racial inexactness of colorblindness express itself in the subject Carbado and Harris are examining? They cogitate at some length on the hypothetical case of Dalton Conley, a white professor who writes and teaches on issues of race relations. Drawing off of Conley’s autobiographical overtures (which he has performed in such writings as *Honky* and “Universal Freckle,”) the authors show that Conley is unquestionably race-positive and would be hampered by a personal statement that required race-neutrality. Conley’s race-positivity sources from his childhood, growing up poor and in a mostly black neighborhood. So while most whites are race-negative—an observation confirmed by scores of scholars who write on the “whiteness question”¹¹—some whites do possess a keen sense of their whiteness.

Their discussion of Conley brings forth one largely unasked question from their article: Which whites are more likely to be race-positive (and vice-versa)? As the authors acknowledge: “Of course, not all white people experience the white side of race with privilege and power. And even when they do, the nature of that privilege is mediated by

other social categories, such as class, gender, and sexual orientation.”¹² We can pose the same question of David Roediger’s analysis of the Social Security Act: like Carbado and Harris, Roediger has little to say regarding which whites were more likely to suffer from the Act’s exclusions and which blacks were more likely to still benefit despite the South’s intentions to preclude their obtaining any pecuniary relief from Social Security.¹³

This racial inexactness obliges us to acknowledge that there exists a *class dimension* to colorblindness. This is likewise why a specifically political economic analysis of colorblindness is crucial. Analyzing the racial inexactness of colorblindness opens the conversation to the class consequences of colorblindness, assessing its implications for the white working class and the black middle class, to name a few. In other words, such a perspective centralizes the observation that colorblindness is about (to borrow from William Julius Wilson in an admittedly different context) “more than just race”¹⁴—colorblindness, in its racial inexactness, arguably falls more heavily on the nation’s have-nots. Let us look at some examples. While literacy tests and poll taxes were colorblind devices designed to disenfranchise blacks (because the Fifteenth Amendment disallowed direct racial exclusions), recalling Jill Quadagno’s quotation above, those whites who also lost the vote through these mechanisms were mostly *poor*. As Michelle Alexander reminds us, the Southern elite were actively trying to curb not just the black vote, but the poor white vote as well.¹⁵ Carbado and Harris’s discussion of Conley likewise demonstrates this, as his race-positive identity sources primarily from his experiences growing up poor and within multiracial environs. Wealthier whites, as racial demographics demonstrate, have used their wealth to move away from people of color

and into predominantly white areas (especially since World War II), which fosters a greater likelihood for the race-negativity from which they stand to benefit in the personal statement in applications to competitive universities.¹⁶

But colorblindness is still *primarily* about race. Research repeatedly reveals that, despite significant class differences, people of color are likely to be race-positive regardless of their structural location in other areas,¹⁷ which suggests the possibility that working-class whites suffer more from colorblind policies than upper-middle class nonwhites gain from them. Further research would be needed to test these theoretical claims. My earlier arguments in this dissertation, however, do support these contentions. Racial wealth inequality, for instance, does confirm these hypotheses, as the wealth-rich (whatever their race) stand to be rewarded by colorblindness and its splitting off of racial history, helping them to privately maintain their wealth and pass it to their next generations. The prison-industrial complex does so as well, as even the majority of incarcerated whites were poor and undereducated at the time of their arrests,¹⁸ to say nothing of Bruce Western's argument (discussed in chapter four) that the "mass imprisonment generation" consists of specifically "black men without college education born since 1965"¹⁹—that is, black males who are disproportionately lower and working class. The subtitle to Elijah Anderson's recent anthology *Against the Wall* is not *Young, Black, and Male*, but *Poor, Young, Black, and Male*. Collectively, we can clearly see that colorblindness, despite being predominately about race, does not have purely racial effects. (And even today's limited range of color-conscious policies also have class-

conscious effects, as the debate over affirmative action's primary beneficiaries reminds us.)²⁰

Whatever the actual specifics, colorblindness plays a role in the changing significance of class in the post-civil rights era. That is, while colorblindness's racial inexactness punctuates the pre- and post-civil rights eras alike, crucial distinctions remain, distinctions which turn on the simultaneous presence of colorblind and color-conscious policy in the pre-civil rights era. As scholars who examine US racial residential segregation have demonstrated,²¹ blacks were forced into central cities via restrictive covenants and other means—regardless of class. While wealthier blacks were less likely to suffer from the colorblind exclusions of the Social Security Act (for example), de jure segregation would still confine them to all- or mostly black neighborhoods. This served to at least partially neutralize any advantages higher-status blacks might procure from colorblind policies that did not directly affect them (such as those blacks still able to obtain Social Security relief.) Today, the consequences of the racial inexactness of colorblindness differ, because de jure discrimination is no more. Blacks' ability to move out of central cities has produced a more prominent class wedge in the black community, increasing its significance today. As such, in its own limited way, colorblindness restructures the significance of class in the post-civil rights age, especially as it operates in a neoliberal political economy with its aforementioned stress on privatization and penalty.

A second distinction involves the effects of the racial inexactness of colorblindness on the white poor as illuminated above. To the extent that poor whites are

comparatively hampered by race-neutral policies, this is not how they are perceived. This signals the potential that colorblindness—and its racially imprecise consequences—does some of the work of dividing poor whites from people of color with whom they might otherwise identify. We know from the work of Edmund Morgan, Theodore Allen, Steve Martinot, Winthrop Jordan, and numerous others how elite whites placed a powerful racial wedge between blacks and indentured whites during the colonial era.²² And we know from David Roediger, C. Vann Woodward, and countless more how that division persisted after slavery and into the Jim Crow era.²³ The fate of the Populist Party in the 1890s represents a compelling illustration of how poor whites banked on what WEB DuBois called “the wages of whiteness”; elite whites were able to convince a sufficient number of poor whites that their race mattered more than their class, effectively dissolving the momentum the Populist Party had briefly possessed.

The issue becomes how this split is fomented today. As Michelle Alexander writes of the later 1960s and 1970s,

Race had become, yet again, a powerful wedge, breaking up what had been a solid liberal coalition based on economic interests of the poor and the working and lower-middle classes....Just as race had been used at the turn of the century by Southern elites to rupture class solidarity at the bottom of the income ladder, race as a national issue had broken up the Democratic New Deal “bottom-up” coalition—a coalition dependent on substantial support from all voters, white and black, at or below the median income.²⁴

Yet, Alexander stresses, these racial appeals were now broadcast in colorblind terms.

White conservatives (and the nominal but burgeoning number of conservatives of color joining their ranks)

repeatedly raised the issue of welfare, subtly framing it as a contest between hardworking, blue-collar whites and poor blacks who refused to work. The not-

so-subtle message to working-class whites was that their tax dollars were going to support special programs for blacks who most certainly did not deserve them....A backlash against blacks was clearly in force, but no consensus had yet been reached regarding what racial and social order would ultimately emerge from these turbulent times.²⁵

Central to this discussion is the success of these race-neutral appeals at winning poor whites to the Republican side; as David Roediger laments in a self-scrutiny, his book *The Wages of Whiteness* was “Written in reaction to the appalling extent to which white male workers voted for Reaganism in the 1980s”²⁶—in a word, how colorblind racial appeals made poor whites *Prisoners of the American Dream*, as Mike Davis framed the issue. The working class whites to which Alexander and Roediger refer thus become unable to recognize how they suffer from the retreat from race, because they do not see how the racially inexact consequences of colorblindness fall negatively upon them, caught as many of them were at that time in the charms of conservatives (such as Nixon, quoted here) that their problems stemmed from “all...those damn Negro-Puerto Rican groups out there.”²⁷

A final distinction revolves around the criticism aimed at colorblind policy and its racialized effects. Recalling the arguments of chapter five, in the pre-civil rights era, such policies existed alongside color-conscious dogma and practices. The centrality of Jim Crow and its accessories made it the prime target of criticism from within (from people of color and their white allies) and without (from, for example, the Soviet Union in the Cold War’s early years.) Thus, while critics contended with racially inexact colorblind policies, they were still operating in a milieu where de jure color-consciousness still dominated as discussed above, and it was these that logically became

their focus. Pre-civil rights colorblind policies surely made their racial mark as chapter five highlighted, but the concomitant compendium of blatant race-conscious legislation overwhelmed any analysis of such colorblindness in isolation—malice aforethought or no. The abolition of de jure discrimination has moved colorblind policies to the heart of the conversation. The racially inexact consequences of colorblindness now take center stage, as seen for instance in the congressional debate over the 100:1 ratio, a debate that has taken place in terms vastly different from those visiting colorblind policies in the years before the civil rights movement, when there were no Bill McCollums attempting to deny the malice aforethought in race-neutral policy.

As demonstrated in the above, the racially inexact consequences of colorblindness prove evident throughout society—especially when we approach it through the lens of class. This analysis strongly suggests that colorblindness’s contours cannot be fully limned without assessing the relationship between race-neutrality and class. We have incontestably established the effects of colorblindness on racial groups, but such effects are necessarily mediated by class structure, producing a situation where—as I have hypothesized here—race-neutral policy wreaks more negative consequences upon the nation’s poor. The following sections continue on this theme of class and colorblindness, but from different perspectives: first, from a close analysis of the racial views of one of neoliberalism’s progenitors, Milton Friedman, and second, from the idea that economic inequality—especially as it increases in our contemporary neoliberal moment—can be apprehended in a colorblind manner.

Milton Friedman: An Early Advocate for Neoliberal Colorblindness

Languishing in relative obscurity in the Economics department of the University of Chicago, Milton Friedman's free-market theories—now seen as the building blocks of neoliberalism—foundered on the margins of the respectable during the New Deal era.²⁸ Friedman and his free-market compatriots (FA Hayek, most notably) would have their comeuppance during the 1970s financial crises in the US and around the world, as they sought to open markets to capital accumulation via deregulation, structural adjustment policies, and the like.²⁹ Friedman, however, had at that point already largely painted his theoretical canvas, as demonstrated in the 1962 publication of *Capitalism and Freedom*—a book that has gone through multiple editions and sold over half a million copies. As it outlines the major tenets of what we now call neoliberalism, *Capitalism and Freedom* represents a crucial benchmark for study. Friedman has some things to say in his book about race and racism, and as I demonstrate here, he drafts there an early blueprint for neoliberal colorblindness.

The importance and impact of *Capitalism and Freedom* cannot be overstated; its role in fomenting economic changes at the international level (starting with Chile in 1973) has been widely documented. The central argument of the book is well-known and does not necessitate stultifying and exhaustive elaboration here: the free market “as a system of economic freedom and a necessary condition for political freedom” in which the state's role is primarily relegated to “protect[ing] our freedom both from the enemies outside our gates and from our fellow-citizens: to preserve law and order, to enforce private contracts, to foster competitive markets.”³⁰ The chapter upon which I will be

focusing, “Capitalism and Discrimination,” logically flows from the overall argument *Capitalism and Freedom* advances. We will see how Friedman’s views are foundational to the notion of neoliberal colorblindness I have brought forth in this dissertation.

The temporal placement of *Capitalism and Freedom* becomes a necessary starting point for our discussion—1962, at a moment where the civil rights movement was exerting a great influence, but before the passage of the civil rights laws. Jim Crow was under attack nationwide, but segregation still held fast in many areas and institutions throughout the country, a situation to which Friedman was well attuned. What was Friedman’s perspective towards segregation and discrimination, and how does that perspective presuppose Friedman’s commitment to a neoliberal worldview that was still very much in embryo in 1962?

Friedman makes his preference for integration unambiguous: “If one must choose between the evils of enforced segregation or enforced integration, I myself would find it impossible not to choose integration.”³¹ Yet even here his neoliberalist impulses expose themselves—the word “enforced” becomes the quotation’s keyword in this context. Thus, while in principle Friedman finds integration the path of choice, both are in the final view “evil” because their existence turns on their “enforced” nature, that is, that both are ultimately a state mandate. The shrinking of the role of the state in society is, as we have seen, a key tenet of neoliberal governance.³² In this, Friedman anticipates many of the arguments leveled against affirmative action; along with another Milton—Milton Gordon, in *Assimilation in American Life*—we see that such anti-affirmative action

arguments have their genesis in the belief that the state should play no role in racial matters, be it segregation or integration.

At issue is this insistence that the state should not be involved either way in racial issues. What leads Friedman to this viewpoint turns on his conception of “race” itself—a conception firmly rooted in colorblindness. For Friedman, race is simply a matter of “taste” that can be interchanged with an infinite number of other “tastes,” from a preference for blues singers rather than opera singers to a preference for attractive servants over ugly servants (to employ Friedman’s own examples.)³³ This is further confirmed in a moment of autobiographical openness on the part of the author: again, Friedman’s parting phrase regarding the state’s “coercive power to enforce” racial tastes remains at the center of his perspective. This perspective is likewise individualist—prejudice should best be overcome, according to Friedman, at a personal level in which individuals “seek to persuade” others that their prejudicial views are flawed. From this, two important ideas flow, ideas upon which I will concentrate in the remainder of this section. First, the notion that racial difference merely represents a “taste” communicates Friedman’s commitment to colorblindness, and second, his insistence that the state play no role in enforcing these tastes demonstrates his allegiance to neoliberal doctrine.

First, to ontologize race as merely a matter of preference or taste renders it utterly apolitical. In this, one of the key themes of colorblindness is realized: conceiving race exclusively as a matter of skin color and not a sociopolitical reality. A concise overview of the theme of colorblindness that renders race a skin-or-bodies phenomenon and not a

sociopolitical phenomenon appears in Peter McLaren's essay "Unthinking Whiteness, Rethinking Democracy":

Current legal definitions of race embrace the norm of color blindness and thus disconnect race from social identity and race consciousness. Within the discourse of color blindness, blackness and whiteness are seen as neutral and apolitical descriptions reflecting skin color and as unrelated to social conditions of domination and subordination and to social attributes such as class, culture, language, and education. In other words, color blindness is a concept that symmetrizes relations of power and privilege and flattens them out so that they appear symmetrical or equivalent.³⁵

Similar perspectives on this theme surface in several other places, such as Steve Martinot's *The Rule of Racialization* and Cheryl Harris's seminal essay "Whiteness as Property." Collectively, these interventions demonstrate how colorblindness reinvents race as skin-or-bodies disconnected from the social. This is precisely what we find in Friedman's discussion in "Capitalism and Discrimination."

Though he never cites it, Friedman's perspectives clearly reflect the ideas of Gunnar Myrdal, whose book *An American Dilemma* had been published not long before Friedman delivered the lectures upon which *Capitalism and Freedom* is based. In the *Weltanschauung* of Myrdal, antiblack racism posed a dilemma for (white) America, as that racism violated the ideals of American democracy. Myrdal's view was that racism would inevitably dissipate as whites performed a collective heart-check and recalibrated their attitudes to bring them into alignment with American ideals. It is evident that Friedman was banking on a similar idea—that the end of enforced segregation would arrive in the same manner: through a white racial repentance that the state would neither discourage nor encourage. Myrdal and Friedman's congruent obloquy towards race-targeted policy such as affirmative action, then, should come as little surprise.³⁶

Second, promoting a vision of the state's neutrality in relation to race points up Friedman's investment in a neoliberal outlook upon the social. As a matter of "taste," race belongs in the private domain, away from state intervention.³⁷ Even prejudice punctuating the public realm should be hands-off for the state, with those exhibiting such attitudes worthy of belittlement, but to be in no way positively or negatively sanctioned by the state for such behavior. But more than this: Friedman centrally contends that free market capitalism will structurally rebuke the nation's unrepentant, as "The man who exercises discrimination pays a price for doing so."³⁸ That is, according to Friedman, capitalism generates penalties for racists, producing market disadvantages that will result in their marginalization of economic influence.

The view of capitalism's role in structurally diminishing discrimination lies at the heart of Friedman's argument in "Capitalism and Discrimination."

It is a striking historical fact that the development of capitalism has been accompanied by a major reduction in the extent to which particular religious, racial, or social groups have operated under special handicaps in respect of their economic activities; have, as the saying goes, been discriminated against....The maintenance of the general rules of private property and of capitalism have been a major source of opportunity for Negroes and have permitted them to make greater progress than they otherwise could have made.³⁹

This is why Friedman interprets blacks' vocal criticism of capitalism as paradoxical—"They have tended to attribute to capitalism the residual restrictions they experience rather than to recognize that the free market has been the major factor enabling these restrictions to be as small as they are."⁴⁰ Capital is colorblind in this formulation, predictably leading to the dissipation of prejudice and discrimination and asserting the superiority of the neoliberalist worldview.

The chasm separating Friedman from opposing views on this issue, of course, could scarcely be wider. Consider the perspective of Ellen Meiksins Wood, who pens in *Democracy against Capitalism* that the history of capitalism “has been marked by probably the most virulent racisms ever known,” positing that capitalism was central to the germination of a specifically *racial* slavery that came to the fore several centuries ago.⁴¹ This point of view is articulated by those who see in capitalism a color-consciousness that (ab)uses race as a useful means for its own self-valorization. As Stuart Hall put it in his well-known article “Gramsci’s Relevance for the Study of Race and Ethnicity,” capitalism’s color-consciousness becomes exposed in “the many ways in which capital can preserve, adapt to its fundamental trajectory, harness and exploit these particularistic qualities of labour power, building them into its regimes.”⁴² “Capitalism did not invent ‘the other’,” remarks David Harvey in *The Condition of Postmodernity*, “but it certainly made use of and promoted it in highly structured ways.”⁴³ Also commenting on the race-consciousness of capitalism, Steve Martinot writes in *The Rule of Racialization* that “capitalism constructs itself using the differences between people that it finds useful, and conditions its own historical trajectory through the character of those differences.”⁴⁴ These scholars collectively demonstrate the fallacy of conceiving of capitalism as a political economic system that is not only colorblind, but one that structurally enforces race-neutrality upon the owners of capital (and a system, Friedman suggests, to which people of color owe their gratitude.)⁴⁵

Furthering this point requires that we draw upon Marx and his conception of capitalism as an inherently *social* relation between people. To provide just one of the

near-innumerable examples Marx gives, consider this passage from his 1846 letter to

P.V. Annenkov:

Monsieur Proudhon has very well grasped the fact that men produce cloth, linen, silks, and it is a great merit on his part to have grasped this small amount! What he has not grasped is that these men, according to their abilities, also produce the *social relations* amid which they prepare cloth and linen. Still less has he understood that men, who produce their social relations in accordance with their material productivity, also produce *ideas, categories*, that is to say the abstract ideal expressions of these same social relations. Thus the categories are no more eternal than the relations they express. They are historical and transitory products (Tucker 1978:140, Marx's emphases).⁴⁶

How can we apply Marx's insights to race and capitalism? As definitely established in this and previous chapters, color-consciousness indisputably saturates the social. Thus, if said social relations are race-conscious—that is, if race structures the social relation between people of which Marx speaks—then we must conclude that capital is itself color-obsessive, taking full advantage of the phenotype-based cleavages characterizing the US from its inception. Friedman, by defining race as merely a matter of preference or taste—one with no bearing on capitalist/neoliberal political economy beyond its being worthy of interpersonal castigation—becomes unable to acknowledge how capitalism has built race “into its regimes” from its very beginning. Friedman's free-market cheerleading prevents him from perceiving or acknowledging this reality, advocating for capitalist privatization to the very end, as Naomi Klein notes in *The Shock Doctrine* in her discussion of Friedman's final policy recommendation to privatize the New Orleans school system in the wake of Hurricane Katrina.⁴⁷

It is clear how the viewpoint of Milton Friedman vis-à-vis race and capitalism positions him as a prime progenitor of the notion of neoliberal colorblindness, advocating

as he did for the superiority of a race-neutral free market: more specifically, for a free market that would structurally reward race-neutral enterprise, whatever prejudices or sensibilities one happened to hold of racial others in the private realm. In the section that now follows, I turn to an analysis of another individual who shares Friedman's enshrining of the colorblind, but has in contrast also taken a forceful stand against neoliberalism. I will demonstrate there that Walter Benn Michaels's campaign for a colorblind assault on neoliberalism only serves to protect it from intrusion and critique.

Colorblind Inequality in the Work of Walter Benn Michaels

In the post-civil rights era, many liberals and others who embrace legislation to lessen economic inequality shun race as an element in their proposals. In other words, they argue that race should not be a factor in ameliorating poverty; while they acknowledge poverty's racial dimension, many consider race-targeted antipoverty policies inherently divisive and unpopular with American voters. Instead, they insist upon colorblind programs under the banner of the dictum "a rising tide lifts all boats."⁴⁸ Stephen Steinberg explains how such an approach salves their racial conscience: eliminate poverty "and blacks, who count disproportionately among the poor, will be the winners."⁴⁹

As Steinberg further notes, however, the basis of this stance resides in the splitting off of racial history. Critiquing one well-known exponent of this thesis—William Julius Wilson and his claim in *The Truly Disadvantaged* that "capital is colorblind"—Steinberg illumines the roots of race-neutral antipoverty legislation: "Because the causes are not race-specific—that is, based on patterns of deliberate racial

exclusion—neither can the remedy be race-specific.”⁵⁰ (To say nothing of the fact that even these colorblind universal programs are often viewed as race-specific anyway, as Tim Wise reminds us.)⁵¹ Gathering support, then, for universal programs that target all Americans regardless of race requires that one turn a blind eye to the independent effects of *racial* inequality. And it presumes more broadly that capitalism cannot and will not make use of racial differences as a means to both increase accumulation and displace its own contradictions. We have witnessed some of the argumentative weaknesses of these axioms in the previous section, and my discussion here seeks to further challenge them.

I accomplish this by way of an analysis primarily focusing on the work of Walter Benn Michaels. While the aforementioned William Julius Wilson has been the target of much criticism for his championing of universal, colorblind legislation, Michaels has himself crafted similar perspectives with a special emphasis on neoliberalism. While the details of their theoretical agendas inevitably differ, Wilson and Michaels are united by their conviction that, however we are to confront and overturn poverty (Wilson) or neoliberalism (Michaels), the route to be taken to accomplish that task must be colorblind. Directing my attention here towards Michaels (and, in particular, his 2006 book *The Trouble with Diversity*) resides in my dissertation’s focus on the notion of *neoliberal* colorblindness; the comments that follow ultimately serve to make the complex and mutually reinforcing relationship between race-neutrality and neoliberalism more intelligible. I will argue below that Michaels’s colorblind programmatic—far from helping wage a concerted attack on neoliberalism and its destructive effects—actually serves to *strengthen* neoliberalism by skirting a crucial component upholding it: in a

word, the role a specifically *racial* inequality plays in structuring and maintaining the yawning economic gaps that characterize 21st Century US society.

The central thesis of *The Trouble with Diversity* is made clear in its opening pages:

The argument, in its simplest form, will be that we love race—we love identity—because we don't love class. We love thinking that the differences that divide us are not the differences between those of us who have money and those who don't but are instead the differences between those of us who are black and those who are white or Asian or Latino or whatever....So we like to talk about the differences we can appreciate, and we don't like to talk about the ones we can't....

....So for thirty years, while the gap between the rich and the poor has grown larger, we've been urged to respect people's identities—as if the problem of poverty would be solved if we just appreciated the poor....Celebrating the diversity of American life has become the American left's way of accepting their poverty, of accepting inequality.⁵²

Moreover, author Walter Benn Michaels maintains, diversity blocks challenges to dispelling economic inequality because even class develops into another axis of diversity; as he remarks later in the book, “Where you used to just distract yourself from economic difference by focusing on cultural difference, now you can celebrate economic difference by pretending that it *is* cultural difference.”⁵³ Class becomes another “identity” to which we have become attached at the expense of an attack on inequality. Within Michaels's argument is a complex contribution to the race/class debate, one that attempts to shine the light on economic inequality in a colorblind fashion by contending that the very notion of identity has proven useful to neoliberalism.⁵⁴ Let's look more closely at the theoretical claims formulated by Michaels, starting with his understanding of inequality and race.

A thorough perusal of *The Trouble with Diversity* reveals that when Michaels refers to “inequality,” he has only *economic* inequality in mind. It is economic inequality

that we “ignore,” as Michaels frames it in his tome’s subtitle, in our fascination with culture and identity. In contrast, Michaels contends that our attention must be trained upon economic inequality if there is to be any hope of transcending the widening class disparities characterizing our current neoliberal moment.

Michaels’s insistence on the economic as the sole vector of importance regarding inequality surfaces throughout *The Trouble with Diversity*. Examples abound; in his chapter “Our Favorite Victims” (which includes everyone but the poor), Michaels writes of “the rich people’s mall” from an episode of *The Simpsons*, which has a sign in the front that says, “our prices discriminate because we can’t.”

Part of the joke in *The Simpsons*...is the way the banner tells the truth about racism: high prices can achieve what the law forbids. But the real joke is the way in which the banner tells a quite different truth, not so much about racism as about the new irrelevance of racism. After all, it’s the rich people’s mall, not the white people’s mall, and the monetarization of the technology of discrimination involves not just a new way of keeping the wrong people out but a new description of who the wrong people are—not the blacks, not the Jews, but the poor....The purpose of charging high prices is not to find an indirect way of excluding those whom the law no longer allows you to exclude. People who...shop at (not to mention work at) Wal-Mart instead of at the rich people’s mall, are the victims of poverty, not prejudice.⁵⁵

This thematic guides the whole of *The Trouble with Diversity*; our focus should be on the poor (whatever their identity) and how their poverty precludes their ability to excel in US society. The trouble with diversity, for Michaels, is that it subverts an assault on class inequality. If, for instance, blacks are grossly underrepresented at elite colleges, it is not their skin color that acts as a blockade, but rather “their lack of wealth.”⁵⁶

Michaels’s point is that by making “our favorite victims” those of prejudice, we dodge an engagement with the degree to which poverty victimizes in decidedly more

pernicious ways; in addition, focusing on prejudice rather than poverty points up an embracement of neoliberalism and the free market as the sole legitimate arbiters of justice. As Michaels writes, antiracism's

commitment to rooting out the residual prejudices that too many of us no doubt continue to harbor deep inside is a tacit commitment to the efficiency of the market. And its commitment to the idea that the victims of social injustice today are the victims of racism, sexism and heterosexism (the victims of discrimination rather than exploitation, of intolerance rather than oppression, or of oppression in the form of intolerance) is a commitment to the essential justice of the market. The preferred crimes of neoliberalism are always hate crimes; when our favorite victims are the victims of prejudice, we are all neoliberals.⁵⁷

The incubi of exploitation and economic oppression as they engulf those in poverty's ambit cannot be denied. But does race itself play a role? Everything argued in this dissertation points towards an affirmative answer; moreover, race's influence on economic inequality proves sufficiently foundational that one cannot circumvent it (as does Michaels) and attain the economic parity to which he eloquently appeals in *The Trouble with Diversity*. In this, we can paraphrase Justice Harry Blackmun's famous decree in *Bakke*: "In order to annihilate economic inequality, we must take account of race. There is no other way." Understanding why Michaels does not concur with such a pronouncement requires us to peer briefly into his conceptualization of "race" itself.

Michaels adopts an idealist framework on race and racism; this is why he considers race a major inhabitant in the universe of identity. For Michaels, race is a scientifically bankrupt atavism, a biological unreality we have no reason holding on to apart from its function as a distraction from challenging economic inequality.

Furthermore, the ontology of race turns on its presence in the cultural realm (and not the economic realm, as his discussion of the rich people's mall reminds us.) This represents

a colorblind view of race—as we saw in the above analysis of Milton Friedman, race is merely phenotype devoid of any political economic influence. While for Friedman race is simply a matter of taste, for Michaels race is simply a matter of identity, and the latter veers perilously close to the former when he avers that, “in an ideal universe,” race and skin color (he conflates the two) “would have no political significance whatsoever.”⁵⁸ And while Friedman viewed race as interchangeable with singers and servants, Michaels equates race with hair color: “No issue of social justice hangs on appreciating hair color diversity; no issue of social justice hangs on appreciating racial or cultural diversity.”⁵⁹

As aforementioned, the disconnection between racial diversity and social justice hinges on race’s presence in the cultural realm of identity. The ideological convergence between Michaels and Friedman on these issues brings forth serious questions regarding the overall framework upon which Michaels is working in his book. Despite such convergences, however, Michaels does depart from Friedman in important ways. Notwithstanding the innumerable red flags that Michaels’s flirtations with Friedman should raise, a further complexity of *The Trouble with Diversity* emerges, as Michaels nevertheless exhibits a solid understanding of the ubiquity of racial inequality.

The mission here becomes how to square Michaels’s discernment of racial inequality with his insistence on ignoring race and interpreting our attention to it as a detriment to dissolving economic inequality. His understanding of racial inequality shows up throughout the book; for example, I quoted Michaels earlier regarding blacks’ disproportionate inability to secure admission to the nation’s top universities. And he adamantly maintained that the issue of record there is not their blackness, but their wealth

poverty. As we saw in chapter three, racial wealth inequality is largely a function of past racism, of past opportunities for whites to amass wealth at the expense of people of color. Michaels does not engage in the splitting off of racial history in *The Trouble with Diversity*, as he likewise clearly recognizes the role of past racism in accounting for racial inequality today. Yet he simultaneously holds (and quotes) Henry Ford's view that "History is bunk"; that is, in Michaels's perspective, "our current near obsession with the importance of history is profoundly misplaced."⁶⁰ His discussion of slave reparations helps illuminate these seemingly contradictory positions Michaels possesses vis-à-vis racial inequality and economic inequality.

Michaels throws his support behind the principle of slave reparations: "Even if we agree that African Americans today are not themselves the victims of slavery and racism," he asserts, "we can't plausibly deny that the economic circumstances of African Americans today are importantly a consequence of slavery and past racism."⁶¹ In this, Michaels rejects outright the views of such conservative pundits as Dinesh D'Souza and Thomas Sowell, who advance "cultural survival of the fittest" ideology, since he interprets black material disadvantage as the present-day consequence of past racial discrimination. And this is exactly the merit of slave reparations; they represent "a technology for trying to create a world that comes as close as possible to the world we would have had if neither slavery nor Jim Crow had happened."⁶²

Despite these qualities of slave reparations, Michaels sees them as a noble yet ultimately misguided attempt to attain justice—*economic* justice. All racial justice would accomplish "is eliminating racial inequality in the division of wealth."⁶³ In post-

reparations and racially equal America, blacks would only constitute 13 percent of the poor rather than 32 percent, as they currently do, but the overall number of poor in the US would not budge. The “obvious objection” to this, Michaels notes, “is that leaving the economic inequalities of American society intact while rearranging the skin color of those who suffer from and those who benefit from those inequalities doesn’t exactly count as progress.”⁶⁴

Michaels’s stance against slave reparations again uncovers his investment in colorblind racial ideology, as seen in his point that reparations would simply switch around the skin colors of America’s poor and rich. To approach racial inequality in this way evades the myriad racial investments in the economic inequality which is at the center of the author’s conceptual radar. And it harkens back to the same motif Michaels embroiders throughout *The Trouble with Diversity*: if the parents who can send their children to ritzy private schools happen to be mostly white, it is not their race that matters but the fact that economic inequality provides some children a major head start in achieving educational success.⁶⁵

At bottom, Michaels has mounted a colorblind offensive on neoliberalism. But as I have asserted in this chapter, capital is not colorblind, and because it is not colorblind, colorblind assaults upon it cannot prove successful. We can identify two major reasons why this is so, one that correlate with the arguments advanced in chapters three and four.

First, colorblindness produces an inability to account for racism’s role in both the constitution and burgeoning legitimacy of neoliberalism. Recall Steve Martinot’s point from above, that “capitalism constructs itself using the differences between people that it

finds useful, and conditions its own historical trajectory through the character of those differences.” We witnessed this as neoliberalism began edging out the New Deal consensus in the 1970s; as I related in chapter three, Americans’ growing disdain for welfare fundamentally turned on their conviction that its beneficiaries were “undeserving” (as opposed to their contempt for the concept of welfare itself.) And the very parameters of “undeserving” lay deep in the recesses of racial stereotypes. Challenges to that neoliberalism, then, will necessarily run up against the flexible and enigmatic wall of race. Michaels thus cannot account for many of the reasons whites disparage policies to lessen economic inequality—including those of wealth-rich whites convinced that hard work brought them to their position in life (see chapter three), whose private wealth better situates them to succeed in an increasingly privatized and deregulated society. And he fails to acknowledge race’s salience in explaining why the poor so often vote against their own economic interests.⁶⁶

The second reason colorblindness cannot transcend economic inequality lies in the analysis of race and criminalization offered in chapter four. As noted there, the prison-industrial complex and its accessories gave the state a way to continue exerting power in the face of the free market’s expansion of influence—to keep at bay those who threaten the ever-more rapid circulation of capital (to “protect our freedom...from our fellow citizens,” as Friedman put it.) This serves to further strengthen the free market, which now faces less interference from the state in the form of economic policies such as welfare that do serve to lessen economic inequality, if only partially.⁶⁷ The criminalization of race and poverty thus provides free market neoliberalism with a wider

inventory of alternatives by which to displace its own contradictions. The plethora of linkages between race and neoliberalism leads to the conclusion that the latter is too fully shot through by race and racial meanings to effectively combat it with the armament of colorblindness. Assessing what needs to be done to achieve greater economic parity thus requires that we pay attention to race and racial inequality—and the ideologies they spawn.

Michaels's colorblindness prevents him from accounting for how racial inequality in the economic realm fundamentally shapes that realm and shields it from critique. Intellectually grappling with color-conscious capitalism necessitates going beyond the observation that nonwhites just so happen to be disproportionately poor (and that this fact owes to past and present racism) to a sober acknowledgment that racial inequality itself forms of major part of the terrain of economic inequality as well as a self-defense mechanism for that terrain. We might call Michaels's maneuver here the "splitting off of racial *poverty*"—that is, splitting off these racial dimensions of poverty and tackling neoliberalism in a race-neutral, class-conscious fashion. Again, Michaels's colorblindness sources from his position that race is simply skin color; as Howard Winant argues in a similar critique of Michaels's earlier work, the author's refusal to view race as a "social fact" (unlike slavery or class) impedes his ability to recognize the manifold independent effects of racial inequality on the free market and beyond.⁶⁸ Consequently, one cannot decouple race and class; the "race/class debate" cannot become simply the "class debate."

This is another reason why it is so important to understand how racial inequality reproduces itself across generations. If racial inequality shapes the form and trajectory of economic inequality (including its justifications) as I have contended here, and if colorblindness is essential to the reproduction of racial inequality, then economic inequality cannot be confronted in a colorblind manner.

And this interrogation takes us full circle to the divide separating Albion Tourgee and John Marshall Harlan. Unsurprisingly, Michaels largely adheres to a Harlanian view of colorblindness. As Mark Elliott highlights, Tourgee was fully attuned to white material advantage, and while Tourgee did not outright embrace socialism, he demonstrated a compelling awareness not only of white economic advantage, but of capitalism's culpability in creating it.⁶⁹ On the other hand, while Harlan showed little desire to eclipse economic inequality during his time as Supreme Court justice, his views do converge with Michaels's in the following way: as we have witnessed in previous chapters, Harlan's lesson to the Supreme Court was to acknowledge racial inequality, but to legislate as if it wasn't there. Similarly, Michaels's intention was also to acknowledge racial inequality, but to attack economic inequality as if it wasn't there. Thus, despite their differences, both Michaels and Harlan propagate a colorblindness designed to ignore the "social fact" of race in legislation (Harlan) and in attempts to topple neoliberalism (Michaels.)

In the end, Michaels advances a framework that snubs diversity for its alleged interference in attempts to eradicate economic inequality. His further concern is how the celebration of identity and diversity ambushes class itself, where poor people end up

constituting part of the tapestry of diversity. His framework of colorblind capitalism, however, prevents him from mirroring and reversing his own line of reasoning: diversity bleeds into class, but inequality also bleeds into (especially) race. And this specifically *racial* inequality, I have suggested throughout this chapter, forms an integral part of neoliberalism itself.

Conclusion

It is simple enough to criticize the work of Milton Friedman *tout court*, as scores of analysts and critics have done in their contentions over the harm his free market theories have wrought, particularly in developing countries.⁷⁰ Walter Benn Michaels, on the other hand, has the great merit of training our focus upon economic inequality and the devastating consequences of poverty in the contemporary US. Whatever else is said, at some level Michaels sheds light upon the destitution and deprivation endemic to millions of Americans. However, his theoretical shortsightedness prevents him from accurately capturing the roles of race, racism, and racial inequality in the nature and structuring of poverty in the US. For as I have argued here, if capital represents a social relation between people, and if those relations are ubiquitously shot through by race and racism, then capital cannot be colorblind a priori.

Acknowledging the color-consciousness of capital(ism) requires us to cogitate—as I did in chapter two—upon how the *racial character* of class has mutually influenced both discourse and political economy since the passage of the civil rights laws in the 1960s. As the popular adage in academic circles goes, class is raced and race is classed—but the race-ing of class and the class-ing of race has taken on decidedly

different forms in this era of formal equality of opportunity. In short, an adequate assessment of economic inequality today must take stock of the racial inequality that characterizes the economic realm.

Soberly addressing the import of racial inequality recalls the weaknesses inherent in Michaels's approach to exterminating economic inequality. The task is not simply to acknowledge racial inequality, but to acknowledge that racial inequality has consequences upon class. As many aspersions as Michaels casts upon the concept of diversity, many scholars have demonstrated that transcending economic inequality in the US cannot take place apart from tackling racial inequality head-on.⁷¹ These same scholars have shown how easily diversity can function as a diversion from a thorough critique of inequality in all its manifestations—that is, not simply as a distraction from economic inequality (as Michaels contends) but from racial inequality as well.

And this brings us back to my arguments in the first section of this chapter. For all Michaels's race-neutral focus on class inequality, my discussion of the racial inexactness of colorblindness underlines how class is *itself* molded by race-neutral policy and discourse. In other words, the very colorblindness he champions has effects on the economic inequality he inveighs against. As such, it is not enough to argue that race and racial inequality produce effects upon class stratification, as *blindness* to race likewise tweaks class inequality in heretofore unstudied ways. The terrain of class in the US today is itself a partial product of the insistence on colorblind legislation, in which racial groups inexactly benefit and suffer from eliminating race from public policy. We cannot understand neoliberal colorblindness fully, I have argued in this chapter, without laying

bare the relationship between not only colorblindness and race, but colorblindness and class as well. Only through grappling with the specificities and contradictions of race-neutral thinking and legislation can we fully make sense of the race/class debate.

CONCLUSION: “‘Color-Blind Justice’ in the Twenty-First Century”

Eddie S. Glaude’s *In a Shade of Blue* calls for a profound rethinking of the legacy of the civil rights movement and the ways in which that legacy is called upon regarding matters of race and racism today. Glaude argues that, while the upheavals of the civil rights era continue to merit our attention and inspiration, the nature of contemporary racial struggles renders straightforward comparisons between that time and our own counterproductive. As he asserts, “analogies with the 1960s obscure the nuances of the contemporary scene, thus affecting our descriptions and, by extension, our responses.”¹ This runs parallel to what Glaude recently relayed to influential journalist Gwen Ifill: “What’s interesting is we know the languages of [the civil rights movement] don’t quite capture our own and we are groping.”²

One of the key differences to which Glaude alludes, of course, is the tantamount absence of the overt and color-conscious racist symbols against which the civil rights movement drew political and moral support to itself: water hoses aimed at nonviolent protesters, vicious backlashes against blacks attempting to register to vote in the South, *ad infinitum*. Such reprehensible racist violence occasionally crops up in today’s society—the dragging-death killing of James Byrd, Jr. in Jasper, Texas, for one³—but on the whole, the emblems of de jure discrimination are gone, and most whites support the principle of racial equality. As Glaude illuminates, today’s racial structure has undergone

an enormous shift, and one central component and column of that structure is the hegemony of colorblindness.

This dissertation has sought to critically approach colorblindness as a powerful influence upon “the nuances of the contemporary scene,” in Glaude’s phrasing. Colorblindness has threaded its way through the ontology of race since its inception, but as I have maintained in the preceding pages, it takes center stage in a conjuncture where color-conscious policy in such forms as slavery and Jim Crow have been decisively marginalized and the conviction—again, at least in principle—that no racial group is inherently superior or inferior has become common sense.

This belief in the principle of racial equality cohabits with material racial inequality as a salient reality. On every social indicator, major gaps exist in the life chances between racial groups, from life expectancy to income to (as chapters three and four elaborated on) wealth and prison rates. Colorblindness, I have centrally asserted throughout, is indispensable to the *reproduction* of racial inequality across generations today. In an era where “Blacks Need Not Apply” signs are no more, colorblindness moves in as an effective way to perpetuate the racial gaps inherited from the past. Moreover, this colorblindness is operating in a neoliberal political economy that has engendered the accelerating privatization and penalization of US society. These neoliberal tenets help us understand why racial inequality is particularly suited to thrive in an atmosphere embracing both neoliberalism and colorblindness in combination, as neoliberalism intensifies the racial inequality-reproducing properties of colorblindness, as

(for example) whites possess a much higher degree of private wealth with benefits that rebound into myriad other life chances.

I want to conclude here by returning to the definitional malleability present in colorblindness. Today's colorblindness, I have argued, is of a species announced in Justice John Marshall Harlan's dissent in *Plessy v. Ferguson*. As chapter one explored at length, this was not the original incarnation of colorblindness; rather, the concept originated in the life's work of radical Reconstructionist judge Albion Tourgee, the counsel for Homer Plessy. His notion of "color-blind justice" further commands our attention here, and I consider in closing how to resurrect Tourgee's outlook in light of Harlan's appropriation of him. Just as contemporary advocates of neoliberal colorblindness reach back and gain inspiration from Harlan, so the task at hand is to do the same with Tourgee. Colorblindness, Reva Siegel reminds us, is a remarkably discursively unstable concept; such instability signals the potential of wresting colorblindness away from its current Harlanian manifestation and re-instilling it with the notion of racial *justice*. Recalling Glaude, however, any argument designed to bring the conversation back to Tourgee must be privy to the manifold nuances distinguishing Tourgee and Harlan's time from our own.

Tourgee and Today: Continuity and Change

When Tourgee wrote of color-blind justice, he expressed an idea that had a pedigree stretching back to the earliest battles against racial slavery and subjugation. At its most general level, color-blind justice as Tourgee conceived it has direct relevance for our discussions of entrenched racial inequality today. However, Tourgee pitched the concept

at a time in which race itself—and the everyday meaning of race—was much different, and it is important to point such differences out, as they make one-dimensional applications of color-blind justice to our moment problematic.

One crucial distinction relates to my arguments in chapter five: specifically, to the understanding that, up until the civil rights movement, flagrant color-conscious legislation ruled the day. At no moment prior to the civil rights movement did colorblindness ideologically command attention by the nation's powers-that-be; the closest pre-civil rights US society came to the centralization of colorblind policy was when John Marshall Harlan unsuccessfully advertised the ideological and legislative value of colorblindness to maintaining already existing material racial inequality “for all time.” As I contended in this dissertation, it is not a coincidence that Harlan's views were recovered at the same moment color-conscious legislation was declared illegal. In short, it proves crucial to establish that Tourgee crafted the concept of color-blind justice at a time when blatant, unabashed prejudice and discrimination held sway; color-blind justice was articulated with the unambiguous intention of dispelling and eradicating not just beliefs in nonwhite inferiority, but their material bases. In the Twenty-First century, we no longer have recourse to countering these beliefs and the legislation that flowed from them; furthermore, colorblindness itself is broadcasted in the sense constructed by Harlan, making a colorblindness shaped by Tourgee that much more difficult to popularize in a society where many insist that the battle for racial equality ended in the 1960s.

Another obstacle standing in the way of any recuperation of color-blind justice is our radically altered views of “race” itself. As Mark Elliott notes, Tourgee—like most of his contemporaries—was invested in the then-commonsense conviction in the immutable differences separating racial groups. Where Tourgee differed from most other whites of his day was his belief that such differences did not connote superiority or inferiority (this idea is known as *racialism*.)⁴ Today, unlike Tourgee’s era, this idea of biological differences separating racial groups no longer holds; in contrast, much energy is directed toward disproving the entire foundation of “race” itself. Under this view, race is simply an illusion, a scientific holdover from a bygone era, a “pigment of our imagination,” in the words of Henry Louis Gates. Such a perspective directly impacts any recovery attempt of color-blind justice, as the conviction in race’s atavistic ontology leads to an investment in race-neutrality.⁵ In other words, if race has no reality, legislation designed to rectify racial inequality will logically be perceived as unmerited. But this is precisely where Tourgee’s outlook lends clarification: color-blind justice centered on not just prejudice, but white material advantage in every walk of life. As numerous scholars today have demonstrated, race may be a “social construction,” but it is one imbued with materiality, privilege, and deprivation—and as such, race is a way “both to distribute resources and to camouflage the unfairness in that distribution,” in the words of Lani Guinier and Gerald Torres.⁶ Any effort to achieve color-blind justice in the Twenty-First century must confront—as Tourgee did—white material advantage head-on, regardless of whether something called “race” exists in our genes or only in our minds.

The final point here illuminates a central commonality between Tourgee’s time and our own: the idea of whiteness as property, which I first discussed in chapter one. Tourgee, Mark Elliott points out, was the first individual to critically tie together the concepts of whiteness and property, contending that, in our race-obsessed nation, the former was inextricably bound up in the latter. “Indeed,” Tourgee inquired of the *Plessy* Court, is whiteness “not the most valuable sort of property, being the master-key that unlocks the golden door of opportunity?”⁷ The idea of whiteness as property—given an influential theoretical treatment in Cheryl Harris’s 1991 law review article of the same name—is an even more relevant reality today, given the escalating importance of privatization under neoliberalism. As I postulated in chapter three, private wealth and private property ownership become increasingly vital in securing success today. Since whites have exponentially more of it, they are situated to comparatively reap privatization’s rewards.⁸ And colorblindness, with its splitting off of racial history and fashioning a blindness to the legacy of de jure racism, emerges as the ideal ideology to safeguard this structural inequality from critique. Colorblindness, in Charles Gallagher’s view, becomes “a natural extension of neoliberalism,”⁹ the archetypal way of “governing through freedom” now that such de jure racism is no more.

The relationship between whiteness as property and colorblindness—more specifically, colorblindness’s ability to protect the property value of whiteness—suggests a strong association between colorblindness and whiteness, an association that must be demystified if color-blind justice is ever to become a reality. My final arguments in this dissertation make a start towards that demystification.

Whiteness and Colorblindness: White Colorblindness, Colorblind Whiteness

Colorblindness, I submit, is a fundamentally white way of viewing the world. Whites often view themselves as race-neutral and wax blind to the racialized dimensions of their lives. This connection between colorblindness and whiteness emerges in myriad ways and places. One revolves around the (white) notion that “race” is something only people of color have, as demonstrated in this statement by a white student at UC Berkeley: “Many whites don’t feel like they have an ethnic identity at all and I pretty much feel that way too. It’s not something that bothers me tremendously but I think maybe I could be missing something that other people have, that I am not experiencing.”¹⁰ The implication here is that in calls to get “beyond race,” it is only people of color who have something to “give up” in our transcendence to a truly colorblind world. As Tim Wise contends in *Between Barack and a Hard Place*, Barack Obama’s appeal turns on (and depends on) his having “transcended” his blackness in the minds of white voters. The recent controversy surrounding political commentator Chris Matthews’s remark “I forgot he was black” in response to Obama’s 2010 State of the Union address (which Matthews meant as a compliment) suggests only a continuation of this issue.¹¹ In his 2009 essay “White without End?,” David Roediger speaks to these very debates:

To an alarming extent, such discussions echo long-standing assumptions that the identities of people of color (and especially African Americans) are “the problem” when race is considered. Whiteness flies beneath the radar as a norm, not a racial identity. Thus, in the spring of 1997, newsstands sported simultaneously two mass-market magazines featuring an impassioned call for African Americans, but not whites, to shed their racial identities.”¹²

Conceiving of nonwhites as “the problem” in race relations, to be sure, predates today’s age of colorblindness; one recalls the hubbub over “the Negro problem” that so

consumed social scientists like Gunnar Myrdal in the years prior to the civil rights movement.

In envisioning a colorblindness that asks people of color (but not whites) to “shed their racial identities,” the permanence of whiteness becomes the presumed commitment of colorblindness. This point is made chillingly evident in a recent ethnographic study entitled “Shared Fates in Asian Transracial Adoption” by Jiannbin Lee Shiao and Mia H. Tuan. In discussing the experiences of Korean adoptees raised by white families, Shiao and Tuan note that many such families, despite vocalizing a colorblind worldview, disapproved of their Korean-born daughters dating interracially—but in this case, “interracially” meant nonwhite, even though their children were part of that nonwhite category. The authors stress this issue: “To repeat, what some families did in the name of colorblindness was actually to teach their children to think and act like a White person.”¹³

The insights of Roediger and Shiao and Tuan are given further dimensionalization in Steve Martinot’s analysis of colorblindness in *The Rule of Racialization*. In this important passage, Martinot is scrutinizing the relationship between colorblindness and the law:

If you claim to be colorblind (as does the law nowadays), you consider “color” real, pertaining to skin or bodies rather than functioning as a reference to social categories that “blindness” is not a relevant mode of “ignoring.” *To claim to be colorblind is to see color from a white point of view.* In confusing the two, the law reifies race while claiming not to recognize it any longer. In adopting the white point of view, it establishes white as the one color it sees in its colorblindness. In other words, the corollary to colorblindness is that black people are supposed to stop seeing themselves as black, while whites do not have to stop seeing themselves as white, which in turn relies on seeing black people as black.¹⁴

In this formulation, colorblindness becomes a space of pure whiteness, of white purity.¹⁵ In this way, colorblindness provides the ideological space for whites to negotiate their perceived race-neutrality, allowing them to openly wonder “what the fuss is about” when people of color and their white supporters insist upon the continuing significance of race.¹⁶ And it ultimately activates and gives substance to that most “innocently” colorblind of rejoinders, “I don’t even see you as black!” The colorblind whiteness of such a phrase becomes patently clear, as Charles Lawrence III contends, when one considers “the incongruity of the response, ‘I don’t think of you as white’.”¹⁷ Lawrence’s point is that the nonsensicalness of such a response is precisely what places the first statement squarely in the realm of colorblind whiteness.

From the dissent of Harlan to the present, this marriage of whiteness and colorblindness has been evident, though it had been temporarily annulled during the Jim Crow era when Harlan was ignored. To reiterate my contentions in the previous chapters, Harlan well understood the ability of race-neutrality to maintain what George Lipsitz has termed “the possessive investment in whiteness.” Despite the rebuffing of Harlan, whiteness was not emptied of its property value, as instead of colorblind legislation, Jim Crow and related color-conscious policies performed that role (and the colorblind policies in existence back then were crafted, as I argued in chapter five, with unambiguous malice aforethought.)

With this in mind, we can assert the following: *Neoliberal colorblindness represents the reassertion and re-exercising of the property value of whiteness in the absence of its de jure supports.* Colorblindness rose to ideological hegemony as a

primary component of the backlash that took place in the waning years of the civil rights movement as discussed in chapter two, and it is this colorblindness that furthers the possessive investment in whiteness upon the exiting of the de jure. We see this in what colorblindness produces: a blindness to the legacy of slavery and Jim Crow and how that legacy is directly implicated in whiteness being able to retain its value (and increase it, as our discussion of subprime loans in chapter three reminds us.) Neoliberalism represents a key part of this discussion, as it magnifies whites' private ownership and holds at bay "the threat of race" via the prison-industrial complex. The idea of whiteness as property takes new shape under neoliberal dictates, as property only means *more* in a conjuncture where whites possess a relatively higher quantity of it than they did during previous eras. On the ground, whites may vociferously wield colorblindness as a weapon to paint themselves as racially innocent,¹⁸ but their collective behavior suggests otherwise, as I argued in chapter five. Indeed, scholars have clearly shown that every major decision white families make has race in the foreground. The discrepancy between belief and behavior prompts George Lipsitz to inquire: "How can we account for the ways in which white people refuse to acknowledge their possessive investment in whiteness even as they work to increase its value every day?"¹⁹ If anything, we can appreciate the forceful linkages between colorblindness and whiteness—and how colorblindness is truly a white way of seeing the world.

In "neoliberal colorblindness," then, this dissertation has argued for the mutually reinforcing relationship between colorblindness and neoliberalism, and—more generally—between whiteness and capitalism. I have posited in the preceding chapters

that neoliberalism and colorblindness are an ideal fit for one another in an era that has rejected legally sanctioned racism. If neoliberal governance today helps secure and further the possessive investment in whiteness (primarily via penalty and privatization), we must also acknowledge *that whiteness has returned the favor*, helping hegemonize that ominous Thatcherian acronym, TINA—“there is no alternative” to the end of history: an advanced globalized capitalism opening all corners of the world to its dictates.²⁰ So, not only does this neoliberalism help whiteness thrive, in so doing, it creates the conditions for its own self-furtherance. As Greta de Jong contends in *Invisible Enemy* (and echoing points made in chapters two and three), once blacks began gaining equal access to public spaces in the civil rights movement, whites retreated “to private facilities that they could control.”²¹ As neoliberalism began edging out the New Deal consensus, many whites were able to find racial sanctuary in the benevolence of the free market—toting their private wealth, a good portion of which they had gained access to at the behest of the very public programs (such as welfare) they would later spurn. The concept of “laissez-faire racism” communicates precisely this: the free market—as a fair arbiter—has done its work, and sifted racial groups in accordance with their merits. As argued in chapter three, such a colorblind rendering of affairs prevents whites’ unearned advantages (such as their “wealthfare,” as Thomas M. Shapiro coined it)²² from becoming a part of any politically acceptable explanation for contemporary racial inequality. White colorblindness thus *normalizes* neoliberalism, helping whites (and others) to place their faith in a system which they view as a cornerstone to their success.

The material legacy of de jure discrimination have given both whiteness and neoliberalism something to work with in the absence of that de jure and the ascendance of the belief-in-principle of racial equality. Drawing off the notion of the splitting off of racial history, we can see how colorblindness reinvigorates whiteness by splitting off the legacy of de jure discrimination, reproducing the racial inequality created during those centuries. Moreover, as I have repeatedly related in the previous chapters, colorblindness also displaces and misidentifies that legacy through the “cultural survival of the fittest” ideology, one that gives whites yet another “out” when called to account for racial disparities.

The Road Ahead

Given the above, how might we endeavor to obtain color-blind justice in the Twenty-First century? In chapter one, I argued that John Marshall Harlan specifically appropriated Albion Tourgee’s concept of color-blind justice by detaching justice from colorblindness, exploiting the latter notion’s ideological flexibility and potential deployability in the service of reproducing white mastery. The logical first step becomes to reattach “justice” to colorblindness. Harlan emptied colorblindness of justice and filled it with whiteness—as a means to increase the possessive investment in whiteness. Harlan well understood that the property value of whiteness was best fortified by not announcing itself; with whites firmly in disproportionate control of the nation’s resources and institutions, the sure way to lock this structure in place was to adjudicate as if it wasn’t there. Thus today, to achieve color-blind justice, we must do the opposite: empty colorblindness of whiteness and adjudicate, as Tourgee did, in the full awareness of white material

domination. Support, then, for unabashed race-conscious legislation (and not simply class-conscious universal policies, as chapter six related) necessarily follows, as a means to upend racial inequality at its core. In such a context, justice and whiteness function as antipodes, diametric opposites that cannot coexist. This is voiced in David Roediger's oft-quoted formulation, "It is not merely that whiteness is oppressive and false; it is that whiteness is *nothing but* oppressive and false....It is the empty and terrifying attempt to build an identity based on what one isn't and on whom one can hold back."²³

The myriad analyses and positions of this dissertation lead me then to endorse (as Roediger does) "the abolition of whiteness" over calls for its "rearticulation" or "rehabilitation." Color-blind justice must fully and thoroughly divorce itself from anything and everything whiteness. The abolition-versus-rearticulation of whiteness debate remains prominent in the literature, and I have not the space to exhaustively elucidate the particulars here.²⁴ While both perspectives contain their respective menus of strengths and weaknesses, my primary sympathies lie in the abolitionist camp. With color-blind justice as my guide, however, I propose here the need to step beyond the abolitionist tradition and argue that what Albion Tourgee sought via color-blind justice was not the abolition of whiteness per se, but the *abolition of whiteness as property*. As I related above (and in previous chapters), Tourgee's employment of color-blind justice was to voice and generate opposition to whiteness as property (with John Marshall Harlan then jettisoning colorblindness's association with justice with the goal of safeguarding that property interest.) Championing the abolition of whiteness as property retains the radical edge of the abolitionist tradition whilst acknowledging—and making

use of—the merits of the potential to rearticulate whiteness into something that isn't oppressive and false. To abolish the property interest in whiteness necessarily implies the ushering in of new horizons of antiracism and racial equality. In a word, the rearticulation of whiteness (and race itself) cannot but accompany the eradication of whiteness as property.

The first step of reattaching “justice” to “colorblindness,” then, must take sober stock of the obstacles standing in the way of the abolition of whiteness as property. Transcending those obstacles requires that we contemplate Steve Martinot’s inquiry in his recent book *The Machinery of Whiteness*: “what is the nature of whiteness and white supremacy that even in the face of the pro-democratic ethics of the civil rights movements, it must keep coming back and reasserting itself?”²⁵ An antiracist politics of color-blind justice must strive to illuminate the post-civil rights reassertion of whiteness (as property)—especially at a moment where (recalling George Lipsitz) most whites firmly disavow their possessive investment in it. The property value of whiteness has shifted in the wake of the civil rights movement; the “nuances of the contemporary scene” require that we recognize that unlike the Jim Crow era, where whites invested in whiteness via racist policies and practices simultaneously bald and de jure, today that investment coheres in (for instance) racial profiling practices and the splitting off of racial history that serves to shield racial wealth inequality, which whites in turn use to leverage further protections of their property interest (a leveraging that has thus far borne fruit, as Thomas M. Shapiro and his colleagues remind us in their recent study “The Racial Wealth Gap Increases Fourfold.”)²⁶

The life's work of Albion Tourgee, this dissertation has made clear, opens new vistas into both attacking color-blind racism and achieving color-blind justice through the abolition of whiteness as property. Charles W. Mills quotes a black folk aphorism in his epigraph to *The Racial Contract*: "When white people say 'Justice,' they mean 'Just us'." This dissertation has, however, illuminated one significant exception to this in the very person of Albion Tourgee. Future examinations of contemporary colorblindness and racism would do well to draw upon his life's work, as the founders of the Niagara Movement did in 1905 when they memorialized Tourgee (along with William Lloyd Garrison and Frederick Douglass) as the "Friends of Freedom" from whom they drew their antiracist inspiration.

A second step required for securing color-blind justice harkens back to the theme of the splitting off of racial history as variously analyzed throughout this dissertation. As before, if neoliberal colorblindness splits off racial history, color-blind justice must endeavor to draw that history back into the conversation. Two positions follow. The first centers on the difficulty of that reattachment of racial history—convinced as many whites (and some people of color) are that "the past is the past." This represents a significant yet not insurmountable hurdle. Citing research by Philip Mazzocco, Tim Wise writes that "when whites are confronted with comprehensive information about ongoing racial disparities, the structural reasons for such disparities *and* a critique of the common belief in meritocracy, they are often willing to support progressive social policy aimed at producing racial equity."²⁷ Implied here is the evasion of a critical pedagogy that seeks

to entwine past and present in all its complexity: in other words, this is precisely the type of history whites are *not* taught in schools.²⁸

Such an analysis, however, must likewise demonstrate that “the structural reasons for [racial] disparities” are in part *a direct function of colorblind public policy*, from the Social Security Act’s exclusion of farmworkers and maids to the segregation of Mexican American schoolchildren by way of perceived language ability to the maintenance of all-white suburbs via appeals to “neighborhood stability.”²⁹ If whites are similarly confronted with historical evidence of the profound ease by which race-neutral legislation can produce race-salient effects, they might also question in turn the continued investment in colorblind policy today—be it in its main guises of the calumny many aim at anything race-conscious, or (in its leftist incarnation) the insistence on “universal” policy that seeks to “lift all boats” in an economic “rising tide.” That is, through a presentation that clarifies the destructive effects of colorblindness in the pre-civil rights era, whites can begin interrogating whether contemporary race-blind legislation is not similarly culpable in the reproduction of racial inequality today. The challenge again resides in chapter five’s examination of racial malice aforethought and the “sincere belief” (recalling Leland Saito) that colorblind public policy represents the sole fair path of racial adjudication—to say nothing of the proponents of race neutrality, who appropriate the legacy of the civil rights movement and Martin Luther King, Jr.’s “I Have a Dream” speech. Such beliefs and appropriations must remain central on the radars of those seeking effective ways to confront colorblindness and expose its role in the continued unjust enrichment of whites in the Twenty-First century.

James Baldwin wrote later in his career, “As long as you think you’re white, there’s no hope for you.” Baldwin was referencing a concept similar to George Lipsitz’s quoted question above: a refusal on the part of most whites to acknowledge whiteness as a fabrication, a means to arrogate resources and opportunities to oneself and withhold them from others. As Baldwin declared in his well-known essay “On Being ‘White’...and Other Lies,”

Because they think they are white, they do not dare confront the ravage and the lie of their history. Because they think they are white, they cannot allow themselves to be tormented by the suspicion that all men are brothers. Because they think they are white, they are looking for, or bombing into existence, stable populations, cheerful natives and cheap labor. Because they think they are white, they believe, as even no child believes, in the dream of safety.³⁰

As this dissertation has endeavored to demonstrate, neoliberal colorblindness encourages a continued investment in this very lie of whiteness, and all that comes with it—all that Baldwin’s condemnatory oration accurately illuminates. In a colorblind universe, writes David Roediger, “Race will vanish, and whiteness will persist”³¹—as will all the advantages that continue to accrue to white people. Just as there’s no hope for whites (and people of color) who continue to invest in the lie of whiteness, there’s no hope of transcending whiteness and racial inequality without appreciating the forged connection between whiteness and colorblindness and how neoliberalism keeps the two yoked together. Releasing that yoke requires a thorough rethinking of race-neutrality, neoliberalism, and what the investment in a colorblind worldview means for the nation’s future.

ENDNOTES

Introduction Endnotes

1. Dave Chappelle, “The Monsters In: ‘The System Is Not Designed for Us’.”
2. Vijay Prashad, *Keeping Up with the Dow Joneses*, 84.
3. Tim Wise, *Colorblind*, 77.
4. Ibid, 70-1.
5. For the purposes of this dissertation, I will treat the terms “colorblindness,” “race-neutral(ity),” “race-blind(ness),” and “raceless(ness)” as functionally equivalent. However, we will witness examples of scholars who do raise some concerns about some of these terms over others (for instance, only “colorblindness” has another distinct meaning—the literal inability to distinguish between colors, a genetic condition more frequently present in males.) Also of burgeoning popularity is the term “post-racial,” which analysts posit as slightly analytically distinct from these earlier terms (see Tim Wise, *Colorblind*, 16, for a discussion of what he terms “post-racial liberalism.”) The term “post-racial” is also linked to Paul Gilroy’s thesis in *Against Race*: to wit, the desire to transcend racial thinking of any kind due to its relationship with fascism. For a discussion, see Zeus Leonardo, *Race, Whiteness, and Education*. Beyond my engagement with these scholars where appropriate, I will not make definitional distinctions here—though “colorblindness” will be my preferred term throughout.
6. The controversy over the casting of *The Last Airbender* (based upon the cartoon *Avatar: The Last Airbender*) is a recent prominent example of this. Despite the common knowledge that the main characters in the cartoon are considered to be Asian, the four main character in the film adaptation are white (one of the main characters—the primary antagonist—was later replaced by a British actor of Asian Indian descent.)
7. Reva Siegel, “The Racial Rhetorics of Colorblind Constitutionalism,” 56.
8. Richard Thompson Ford, *Racial Culture*, 32.
9. See Mark Elliott, *Color-Blind Justice*, 315 and Nancy MacLean, *Freedom Is Not Enough*, 206-7.

10. Nancy MacLean, *Freedom Is Not Enough*, 225.
11. Reagan's ascendance coincides with that of Margaret Thatcher in Britain; my focus in this dissertation will be on the US context. See David Harvey, *The New Imperialism*, 157-8. As Harvey also notes in the same text, "Neo-liberal imperialism abroad tended to produce chronic insecurity at home" (188); in other words, a thorough account of the US's adoption of neoliberal dictates is necessarily incomplete without a discussion of the international context.
12. Lisa Duggan, *The Twilight of Equality?*, x. We can add to this Vijay Prashad's comments on the same: "The rollback of social services within the United States is the domestic variant of 'neoliberalism,' the recomposition of capital to the interests of large transnational firms and to those elites who live their lives by the logic of the Dow Jones." *Everybody Was Kung Fu Fighting*, 46.
13. Roopali Mukherjee, *The Racial Order of Things*, 202-5.
14. Mike Davis and Daniel Bertrand Monk, "Introduction," x.
15. David Harvey, *A Brief History of Neoliberalism*, 13. See also Harvey, *The New Imperialism*, 62.
16. *Ibid.*, 7.
17. Naomi Klein, *The Shock Doctrine*, 3-6.
18. Aihwa Ong, *Neoliberalism as Exception*, 4.
19. Lisa Duggan, *The Twilight of Equality?*, xi.
20. Henry Giroux, *Against the Terror of Neoliberalism*, 63.
21. Reva Siegel, "The Racial Rhetorics of Colorblind Constitutionalism," 31.
22. David Theo Goldberg, *The Racial State*, 212.
23. Ann Chih Lin and David R. Harris, eds., *The Colors of Poverty: Why Racial and Ethnic Disparities Persist*; Joe R. Feagin, *Systemic Racism*.
24. It is interesting in this context that the subtitle to Eduardo Bonilla-Silva's book *Racism without Racists* changed between the second and third editions, from *Color-Blind Racism and the Persistence of Racial Inequality in America* to *Color-Blind Racism and Racial Inequality in Contemporary America*, eliminating the word "persistence" therein.

25. Thus, when Tim Wise writes (in *Colorblind*, 77) in the context of racial wealth inequality (see chapter three) that “the inertia of past inequity carries over into present and future generations,” I am not sure that “inertia” is the accurate descriptor here. Neoliberal colorblindness has found—and exploited—new spaces for the reproduction of racial inequality based on the contingencies of past racial exploitation.
26. Ira Katznelson, *When Affirmative Action Was White*.
27. David Roediger, *How Race Survived U.S. History*, ch. 5.
28. Lawrence Bobo, James R. Kluegel, and Ryan A. Smith, “Laissez-Faire Racism,” 41.
29. David Roediger, *How Race Survived U.S. History*, 213.
30. Nikhil Pal Singh, *Black Is a Country*.
31. Loic Wacquant, *Punishing the Poor*, xiii.

Literature Review Endnotes

1. Roopali Mukherjee, *The Racial Order of Things*, 244n4.
2. Charles A. Gallagher, “‘The End of Racism’ as the New Doxa,” 166.
3. Charles A. Gallagher, “The Challenge to Public Sociology” and “Color Blindness: An Obstacle to Racial Justice.” Vijay Prashad also weds colorblindness and neoliberalism in *Everybody Was Kung Fu Fighting*, ch. 2.
4. Diane Harriford and Becky Thompson, *When the Center Is on Fire*, 29.
5. Charles W. Mills, *The Racial Contract*, 72, Mills’s emphasis.
6. Alison Bailey, “Strategic Ignorance.”
7. Timothy V. Kaufman-Osborn, “Capital Punishment as Legal Lynching?”
8. Helen Neville, “Rationalizing the Racial Order,” 123, emphasis removed.
9. Evelyn Nakano Glenn, “Consuming Lightness,” 166.
10. David Theo Goldberg, *The Racial State*, 72, Goldberg’s emphasis.

11. Joel Olson, *The Abolition of White Democracy*, back matter.
12. Richard Delgado and Jean Stefancic, *Critical Race Theory*, 22.
13. Howard Winant, *The New Politics of Race*, xiv. In light of my analysis of David Theo Goldberg's "Raceless States," I will be placing Winant's assertion into question.
14. Woody Doane, "Rethinking Whiteness Studies," 13.
15. Tony Zaragosa, "Legal Lines," 81-2.
16. Nancy DiTomaso, Rochelle Parks-Yancy, and Corrine Post, "White Views of Civil Rights," 197-8.
17. Lani Guinier and Gerald Torres, *The Miner's Canary*, 90.
18. Celine-Marie Pascale, *Making Sense of Race, Class, and Gender*, 29.
19. Kenneth O'Reilly, *Nixon's Piano*, 365.
20. Shannon Sullivan, *Revealing Whiteness*, 191.
21. David Theo Goldberg, *The Racial State*, 222-3; Shannon Sullivan also makes this point in *Revealing Whiteness*, 191.
22. Frances Rains, "Is the Benign Really Harmless?"
23. Charles R. Lawrence III, "The ID, the EGO, and Equal Protection Reckoning with Unconscious Racism," 240.
24. Steve Martinot, *The Rule of Racialization*, 143.
25. Ibid.
26. Peter McLaren, "Unthinking Whiteness, Rethinking Democracy," 32.
27. Cheryl Harris, "Whiteness as Property," 1768.
28. Allison Bailey, "Strategic Ignorance," 84.
29. Charles A. Gallagher, "'The End of Racism' as the New Doxa," 163.
30. Doris Marie Provine, *Unequal under Law*, 121.

31. Kimberle Williams Crenshaw, "Race, Reform, and Retrenchment," 105.
32. Stokely Carmichael and Charles V. Hamilton, *Black Power*; Robert Blauner, *Racial Oppression in America*. See also Stephen Steinberg, *Turning Back*, Andrew Barlow, *Between Fear and Hope*, 8, and Penny Von Eschen, *Race against Empire*.
33. Woody Doane, "Rethinking Whiteness Studies," 13.
34. Eugene Victor Wolfenstein, *Psychoanalytic-Marxism*, 334.
35. David Theo Goldberg, *The Racial State*, 223.
36. Diane Harriford and Becky Thompson, *When the Center Is on Fire*.
37. Alison Bailey, "Strategic Ignorance," 85-6. Charles W. Mills (whom Bailey references) coined the term "epistemology of ignorance" in *The Racial Contract*, but he does not discuss colorblindness in that work. Shannon Sullivan links colorblindness to ignorance generally, but does not make direct reference to the epistemology of ignorance in *Revealing Whiteness*, 189.
38. Eduardo Bonilla-Silva, *Racism without Racists*, 9, Bonilla-Silva's emphasis.
39. *Ibid*, 54.
40. Eileen O'Brien, *The Racial Middle*, 85. Ian Haney-Lopez also uses the word "wield" in the context of the way (reactionary) colorblindness has been used by Supreme Court Justices in the post-civil rights era (988.)
41. Leslie Carr, "*Color-Blind*" *Racism*, ix.
42. *Ibid*, x.
43. Mel Leiman, *The Political Economy of Racism*; Carter G. Wilson, *Racism: From Slavery to Advanced Capitalism*.
44. Leslie Carr, "*Color-Blind*" *Racism*, 116. Note that, similar to other Marxist scholars who explore racial issues, Carr uses the word "nation" instead of "race."
45. Kimberle Williams Crenshaw, "Color Blindness, History, and the Law," 283.
46. Michael K. Brown et. al., *Whitewashing Race*, viii.
47. *Ibid*, 1.

48. Ibid, 1-2.

49. Nancy MacLean, *Freedom Is Not Enough*.

50. Nathan Glazer, *Affirmative Discrimination*.

51. On the “ethnic paradigm,” see Michael Omi and Howard Winant, *Racial Formation in the United States*; Matthew Frye Jacobson, *Roots Too*; Thomas J. Sugrue and John D. Skrentny, “The White Ethnic Strategy.”

52. Nancy MacLean, *Freedom Is Not Enough*, 240-1.

53. Clarence Thomas quoted in Ian Haney-Lopez, “‘A Nation of Minorities’.”

54. Neil Gotanda, “A Critique of ‘Our Constitution Is Color-Blind’,” 257-8.

55. Ibid, 263.

56. Ibid, 261.

57. Reva Siegel, “The Racial Rhetorics of Colorblind Constitutionalism,” 30-1.

58. Ibid, 31.

59. Ibid, 52.

60. See Stephen Steinberg, *The Ethnic Myth*, 77-81.

61. Reva Siegel, “The Racial Rhetorics of Colorblind Constitutionalism,” 31.

62. Ibid, 59.

63. Ibid, 32.

64. Joel Olson, *The Abolition of White Democracy*, xxv.

65. Chapter two will comment upon the emergence of the notion of the “cultural survival of the fittest”; it has a longer ancestry than I can describe here. As I will explain in that chapter, the work of Oscar Lewis is often seen as the direct antecedent to Daniel Patrick Moynihan’s thoughts in the Moynihan Report. Additionally, the discourse that became the model minority myth had existed in embryo prior to its invention by white sociologist William Petersen in 1966, as K. Scott Wong notes in his book *Americans First: Chinese Americans and the Second World War*.

66. Lani Guinier and Gerald Torres, *The Miner's Canary*, 50.
67. Stephen Steinberg, *Turning Back*; Linda Faye Williams, *The Constraint of Race*.
68. See David Roediger, *How Race Survived U.S. History*, 207.
69. One prolonged investigation into this matter is Barbara Flagg, “‘Was Blind, but Now I See’”; see also Steve Martinot, *The Rule of Racialization*, 143; as David Theo Goldberg points out in *The Racial State*, “In the historical ambiguity of the failure of whiteness to recognize itself as a racial color, the implication must be that colorblindness concern itself exclusively with being blind to *people* of color” (222-3, Goldberg’s emphasis).
70. Devon Carbado and Cheryl Harris, “The New Racial Preferences,” 1149.
71. In *How Race Survived U.S. History*, Roediger opines on the Social Security Act: “Wage discrimination and other factors left over two in five African Americans who were working in occupational categories covered by the act nevertheless excluded by the system, *twice the proportion of whites*” (177, my emphasis.) This demonstrates that some whites were injured by what Roediger called “Colorblind Inequalities,” but he does not directly identify that harm (thus my use of the word “obliquely” in the text.)
72. As Michael Bennett notes in “Cities in the New Millennium,” “Affirmative action, the argument goes, violates the very principle of ‘color blind’ justice (so long as we discount any socio-historical analysis of how justice has been applied in the United States)” (247).
73. Devon Carbado and Cheryl Harris, “The New Racial Preferences,” 1171.
74. David Theo Goldberg, *The Racial State*, 205.
75. *Ibid*, 221.
76. *Ibid*, 204.
77. “Naturalism and historicism accordingly remain dialectically definitive, as they have been from the outset of their formulation, of each other’s respective parameters of possible articulation.” *Ibid*.
78. *Ibid*, 203-4.
79. “By the mid-nineteenth century racial naturalism had helped to effect a global capitalism the conditions for the sustenance of which it conceptually contradicted.” *Ibid*, 206.

80. Ibid, 212.

81. The commodification of blackness in the post-civil rights era has been the subject of many studies. See David Roediger, *Towards the Abolition of Whiteness* and Pamela Perry, *Shades of White*. Perry uncovered this particular attitude in her interviews with white high school students—“We love your style, your clothes, your music... *just don't move next door to us!*”

82. David Theo Goldberg, *The Racial State*, 231.

83. Ibid, 233.

84. Ibid, 206.

85. Ibid, 236.

86. David Theo Goldberg, *The Threat of Race*, 19.

87. Ibid, 23.

88. Ibid, 361.

89. Ibid, 29.

Chapter 1 Endnotes

1. Frank Wu, *Yellow*, 147.

2. Cheryl Harris, “Whiteness as Property,” 1721.

3. As Henry Billings Brown wrote for the majority, “It is claimed by the plaintiff in error that, in any mixed community, the reputation of belonging to the dominant race, in this instance the white race, is property in the same sense that a right of action or of inheritance is property.”

4. Ian Haney-Lopez, “‘A Nation of Minorities’: Race, Ethnicity, and Reactionary Colorblindness,” 989.

5. Mark Elliott, *Color-Blind Justice*, 34.

6. See *ibid*, ch. 1.

7. Ibid, 35.
8. Ibid, 21.
9. Ibid, 6.
10. Quoted in *ibid*.
11. George Lipsitz, *The Possessive Investment in Whiteness*.
12. Cheryl Harris, "Whiteness as Property," 1726. Samuel Roundfield Lucas crafts a similar argument in *Theorizing Discrimination in an Era of Contested Prejudice*, 107-10.
13. Albion Tourgee, "Brief for Homer A. Plessy," p. 2.
14. Nancy MacLean, *Freedom Is Not Enough*, 207.
15. Mark Elliott, *Color-Blind Justice*, 5.
16. 163 U.S. 537, 559.
17. Leslie Carr, "*Color-Blind*" *Racism*, 115.
18. Kenneth O'Reilly, *Nixon's Piano*, 365.
19. David Theo Goldberg, *The Racial State*, 212.
20. Charles Henry, *Long Overdue*, 17, author's emphases.
21. Such decoupling was relatively easy to accomplish, as Tourgee's did not happen to directly link the word "justice" to "color-blind" in his single use of the metaphor in his *Plessy* brief. The metaphor appears thus: "Justice is pictured blind and her daughter, the Law, ought at least to be color-blind." Albion Tourgee, "Brief for Homer A. Plessy," p. 6.
22. Jack Balkin, "*Plessy, Brown, and Grutter: A Play in Three Acts*."
23. Neil Gotanda, "A Critique of 'Our Constitution Is Color-Blind'."
24. Joel Olson, *The Abolition of White Democracy*, 102.
25. Jack Balkin, "*Plessy, Brown, and Grutter: A Play in Three Acts*," 112.

26. As chapter five will discuss at length, public policy in the Jim Crow era was colorblind, yet had clearly and unabashedly been crafted with the “malice aforethought” of discriminating against people of color.
27. Kelly Oliver, *Witnessing: Beyond Recognition*, 158.
28. Nikhil Pal Singh, *Black Is a Country*, 40.
29. Terry Eastland, *Ending Affirmative Action: The Case for Colorblind Justice*.
30. A. Leon Higginbotham, *Shades of Freedom*, 116.
31. For instance, Bryan K. Fair also misreads Harlan in his book *Notes of an Affirmative Action Baby*, as does Mark Golub in his essay “Plessy as ‘Passing’.”

Chapter 2 Endnotes

1. David Theo Goldberg, *The Racial State*,
2. Ira Katnelson, *When Affirmative Action Was White*, 22.
3. Ibid, 140.
4. Linda Faye Williams, *The Constraint of Race*, 113. Williams echoes my argument in the introduction to this dissertation: that what centrally activates the racial inequality-perpetuating properties of neoliberal colorblindness is *already existing material racial inequality*.
5. Kenneth Jackson, *Crabgrass Frontier*, 208.
6. George Lipsitz, *The Possessive Investment in Whiteness*, 6.
7. Beryl Satter, *Family Properties*, 4.
8. Ibid, 5.
9. Ibid.
10. Kenneth Jackson, *Crabgrass Frontier*, 208.
11. Dolores Hayden, *Building Suburbia*, 135.

12. “Levittown’s Palimpsest.”
13. Scott Kurashige, *The Shifting Grounds of Race*, 235.
14. Ibid, 237.
15. Ibid.
16. Ibid, 262.
17. Ibid, 235. As David Freund writes in *Colored Properties*, “private acts of racial discrimination in the sale or rental of property were not legally prohibited until 1968, and real estate publications, used nationwide in college and university courses and by practicing realtors, continued to outline the original market imperative defense of segregating “inharmonious” populations, long after the FHA abandoned explicit discussion of racial exclusion.” (210)
18. To be sure, that which has been etched onto our collective memories is itself contentious, as Nikhil Pal Singh argues in the opening pages of *Black Is a Country*.
19. Howard Winant, *The World Is a Ghetto*, 149.
20. Ira Katznelson, *When Affirmative Action Was White*, 10-11. As James Patterson points out in his recent book *Freedom Is Not Enough*, we also witness this paucity of policy recommendations in the Moynihan Report, written by Daniel Patrick Moynihan (who co-authored the Howard speech.)
21. Lyndon Johnson quoted in Stephen Steinberg, *Turning Back*, 114.
22. Ibid, 114-5.
23. Leon Litwack, *How Free Is Free?*, 128.
24. James Cone, *Martin and Malcolm and America*, 280.
25. Ibid, 282.
26. Joe R. Feagin, *The White Racial Frame*, 97. This is hardly to imply that racist people no longer exert an influence on our current racial order.
27. Ellen Meiksins Wood, *Democracy against Capitalism*, 259.
28. What Paul Smith argues in *Primitive America* regarding globalization can also be applied to its close cousin, neoliberalism: “Far too often—even on the left—analysis has

been complicit with the mainstream insistence on the *rupture* that globalization ostensibly makes with previous forms of capitalism.” (59, Smith’s emphasis)

29. Aihwa Ong, *Neoliberalism as Exception*, 14.

30. The same point is made in a different context in the article “Laissez-Faire Racism” by Lawrence Bobo, James Kluegel, and Ryan Smith. They write, “To an important degree, issues of the role of government in bringing about progressive racial change could not emerge until sufficient change had taken place at the level of the basic principles involved.” (25) These arguments’ binding thread is how drastically the political and theoretical atmosphere changed upon the granting of legal racial equality. The terrain of politics proved—by necessity—profoundly different when the obstacles were at once unambiguous and de jure.

31. Howard Winant, *The New Politics of Race*, 173, my emphasis. On this point, see Stephen Steinberg, *Turning Back*, 123.

32. Daniel Patrick Moynihan, *The Negro Family*.

33. Ibid.

34. Stephen Steinberg, *The Ethnic Myth*, 79.

35. Linda Faye Williams, *The Constraint of Race*, 158. On this point, see James Patterson, *Freedom Is Not Enough*, 19 and Tim Wise, *Colorblind*, 28.

36. Vijay Prashad, *The Karma of Brown Folk*, 166-7.

37. William Ryan, *Blaming the Victim*, 5.

38. Martin Luther King quoted in Nikhil Pal Singh, *Black Is a Country*, 8.

39. Timothy Fong, *The Contemporary Asian American Experience*.

40. Victor Bascara, *Model-Minority Imperialism*, 1.

41. Frank Wu, *Yellow*, 40.

42. Keith Osajima, “Asian Americans as a Model Minority,” 165.

43. “Success Story of One Minority Group in the U.S.” *U.S. News and World Report* 61 (26) December 26th, 1996, 74.

44. Eduardo Bonilla-Silva, *White Supremacy and Racism in the Post-Civil Rights Era*, 160.
45. K. Scott Wong, *Americans First*, 24. See also Min Zhou, *Contemporary Chinese America*, 231 and Cynthia Tolentino, *America's Experts*, ch. 2.
46. Rod Bush, *The End of White World Supremacy*.
47. The real estate practices of racial steering and predatory lending (analyzed in chapter three) provide but two examples of many that demonstrate how race maintains a significant presence in the public sphere.
48. Joel Olson, *The Abolition of White Democracy*, 102.
49. Melvin Oliver and Thomas M. Shapiro, *Black Wealth/White Wealth*.
50. Reva Siegel, "The Racial Rhetorics of Colorblind Constitutionalism," 31.
51. *Ibid.*
52. *Ibid.*, 59.
53. Nancy MacLean, *Freedom Is Not Enough*, 226. This runs parallel to Julie Novkov's statements in her article "Rethinking Race in American Politics," 650: "By the late 1960s, the anticlassification understanding had largely won the day within mainstream liberal American politics, but it had also become an effective fallback position for those who recognized that segregation was no longer viable while emphatically rejecting the transformative agenda of antisubordination." Such anticlassification, argues Novkov, "transformed into conservative colorblindness."
54. These mechanisms, of course, would have worked perfectly well in a Jim Crow atmosphere. But such mechanisms proved invaluable in a conjuncture where Jim Crow had been marginalized.
55. Samuel Roundfield Lucas, *Theorizing Discrimination in an Era of Contested Prejudice*, 54. For a discussion, see Philip Klinkner with Rogers Smith, *The Unsteady March*.
56. On the obsolescence of Jim Crow political economy, see Jack Bloom, *Class, Race, and the Civil Rights Movement*.
57. Quoted in Kenan Malik, *The Meaning of Race*, 16. The fullest account of the effect of Soviet propaganda comes in Mary Dudziak, *Cold War Civil Rights*.

58. And, as Jack Bloom centrally argues in *Class, Race, and the Civil Rights Movement*, one must also take into account the increasing obsolescence of Jim Crow political economy.

59. Ian Haney-Lopez, "'A Nation of Minorities'," 988.

60. Derrick Bell, *Silent Covenants*, 44.

61. As Cedric Johnson puts it in *Revolutionaries to Race Leaders* (xxxiv), this is often expressed as the "good sixties/bad sixties" dichotomy.

62. Rod Bush, *The End of White World Supremacy*, 87. As Bush elsewhere notes concerning the backlash thesis, "The conservatism of the Reagan-Bush years was a reaction to the challenges of the 1960s and 1970s and fundamentally a reaction to the revolution of 1968. Too often this period is viewed as simply a society-wide revulsion for the extremes of the New Left. But the extremes of the New Left reflected the real polarization of the world-system, in which subaltern groups allied with the American hegemon all over the world were under challenge." The anti-Vietnam War protests, Bush stresses, constituted a significant portion of these alleged "extremes." (164)

63. Thomas Sugrue and John Skrentny, "The White Ethnic Strategy," 172, 175.

64. Nancy MacLean, *Freedom Is Not Enough*, 244. See also Matthew Frye Jacobson, *Roots Too*, 36.

65. Ian Haney-Lopez, "'A Nation of Minorities'," 1006-7.

66. Nancy MacLean, *Freedom Is Not Enough*, 205-6.

67. Stephen Steinberg, *The Ethnic Myth*, ch. 5.

68. George Lipsitz, *The Possessive Investment in Whiteness*.

69. Nancy MacLean, *Freedom Is Not Enough*, 206.

70. Mark Elliott, *Color-Blind Justice*.

71. Richard Thompson Ford, *Racial Culture*, 32.

72. Eric J. Sundquist, *King's Dream*, 203-13. For a discussion, see also Richard Thompson Ford, *Racial Culture*, 31-6.

73. Michael Omi and Howard Winant, *Racial Formation in the United States*, 102.

74. Ian Haney-Lopez, “‘A Nation of Minorities’,” 988.

75. The implication becomes thus: at that moment, even such antiracist luminaries as Marshall insufficiently grappled with the already-existing ubiquity of colorblind policies, policies that effectively maintained white dominance. This pattern continues today, as seen in Leland Saito’s *The Politics of Exclusion*. Like Marshall, Saito fails to consider how thoroughgoing race-neutral policies were in the pre-civil rights era, insinuating that the racial inequality-reproducing effects of colorblind policies are solely a product of the post-civil rights era.

76. Ian Haney-Lopez, “‘A Nation of Minorities’,” 989.

77. Lee Rainwater and William Yancey, *The Moynihan Report and the Politics of Controversy*, 11.

78. Joel Olson, *The Abolition of White Democracy*, 100.

79. Lawrence Bobo, James Kluegel, and Ryan Smith, “Laissez-Faire Racism,” 26. For discussions of studies that revealed similar conclusions, see George Lipsitz, *The Possessive Investment in Whiteness*, 173, and Douglas Massey and Nancy Denton, *American Apartheid*, 91.

80. David Theo Goldberg, *The Threat of Race*, 341.

81. Heather Beth Johnson and Thomas M. Shapiro, “Good Neighborhoods, Good Schools.”

82. Leslie Carr, “Color-Blind” *Racism*, 116, emphasis removed.

Chapter 3 Endnotes

1. David Roediger, *How Race Survived U.S. History*, 213; see also Andrew Barlow, *Between Fear and Hope*, ch. 5.

2. In this chapter, I consider the words “deracializing” and “whitewashing” interchangeable. As Lani Guinier and Gerald Torres, and Celine-Marie Pascale assert, (see notes 38 and 39, below), colorblindness represents an inherently “white” way of apprehending the world. Henry Giroux remarks similarly in a recent book: “Veiled by a denial of how racial histories accrue political, economic, and cultural weight to the social power of whiteness, color-blindness deletes the relationship between racial differences and power.” *Against the Terror of Neoliberalism*, 69. Giroux’s statement directly relates

to the “splitting off of racial history” that informs the interaction between colorblindness and racial wealth inequality, as will become clear.

3. Nikhil Pal Singh, *Black Is a Country*, 42.

4. Nancy MacLean (*Freedom Is Not Enough*) and David Harvey (*A Brief History of Neoliberalism*), among others, note the role of big business in solidifying this turn to neoliberal policies, creating a movement on their own, modeled in part on the civil rights organizations of the 1960s and 1970s. For a discussion of privatization as part of the “mantra” of the neoliberal movement, see David Harvey, *The New Imperialism*, 157-61.

5. Andrew Barlow, *Between Fear and Hope*, 110.

6. *Ibid.*, 60. See also Vijay Prashad, *Everybody Was Kung Fu Fighting*, 46.

7. Kenneth O’Reilly notes in *Nixon’s Piano*, “Nixon took his cues from another racial alchemist, the true believer George Wallace....” Race, O’Reilly asserts, colorblindly permeated Wallace’s injunctions. O’Reilly quotes the following from a colleague of Wallace’s: “He can use all the other issues—law and order, running your own schools, protecting property rights—and never mention race....But people will know he’s telling them, ‘A nigger’s trying to get your job, trying to move into your neighborhood.’ What Wallace is doing is talking to them in a kind of shorthand, a kind of code.” Kenneth O’Reilly, *Nixon’s Piano*, 280-1.

8. Zeus Leonardo, *Race, Whiteness, and Education*, 136.

9. *Ibid.*, 137.

10. *Ibid.*, 136; see also Naomi Klein’s critique of Milton Friedman’s plan to privatize the New Orleans educational system in the wake of Hurricane Katrina in *The Shock Doctrine*, 5-6.

11. This was the concept behind the Thatcher/Reagan-supported notion of “trickle-down economics.” See David Harvey, *A Brief History of Neoliberalism*.

12. Lisa Keister, *Getting Rich*, 7. For data on wealth broken down by racial group, see Shawna Orzechowski and Peter Sepielli, “Net Worth and Asset Ownership of Households: 1998 and 2000.”

13. Thomas M. Shapiro, *The Hidden Cost of Being African American*.

14. George Lipsitz, *The Possessive Investment in Whiteness*, 32.

15. *Ibid.*, 14.

16. Andrew Barlow, *Between Fear and Hope*, 110.
17. Matthew Lassiter, *The Silent Majority*, ch. 5.
18. David Wellman, “Minstrel Shows, Affirmative Action Talk, and Angry White Men,” 318. On this point, see also Michael K. Brown et al., *Whitewashing Race*, Robert Lieberman, *Shifting the Color Line*, and Jill Quadagno, *The Color of Welfare*.
19. Lisa Duggan, *The Twilight of Equality?*, 14, author’s emphases.
20. Ibid.
21. As Eduardo Bonilla-Silva asserts in *Racism without Racists* (54), “the actions of individual actors are largely irrelevant to the explanation of social outcomes.” However, other commentators (such as Zeus Leonardo, in *Race, Whiteness, and Education*) contend that, in many respects, whites still actively participate in reproducing their own domination. The essay “Structural Racism and Color Lines in the United States” by Andrew Grant-Thomas and John Powell imparts clarification. “In arenas from employment to housing to health care,” they write, “interpersonal racial bias remains an active and powerful contributor to racial inequality.” However, they argue, racial bias alone cannot account for a lack of racial parity today, as such inequality will persist “even in the absence of avowed ‘racists’...” (119). They summarize their point two pages later: “Racist institutional policies neither require nor preclude the participation of attitudinally racist individuals.” See note 47, below.
22. Heather Beth Johnson, *The American Dream and the Power of Wealth*, 134.
23. Thomas M. Shapiro, *The Hidden Cost of Being African American*, 76.
24. This sense of entitlement, of course, transcends wealth, encompassing jobs, housing, college admissions, and so forth. On this point, see Frances Rains, “Is the Benign Really Harmless?”
25. David MP Freund, *Colored Properties*; Kevin Kruse, *White Flight*, 126.
26. Michael K. Brown et al., *Whitewashing Race*.
27. David Theo Goldberg, *The Racial State*, 212.
28. Eduardo Bonilla-Silva, *Racism without Racists*, ch. 4.
29. Samuel Roundfield Lucas, *Theorizing Discrimination in an Era of Contested Prejudice*, 59.

30. Ngina Chiteji and Darrick Hamilton, “Estimating the Effect of Race and Ethnicity,” 67.
31. The authors distinguish “in-market” discrimination from “premarket discrimination.” See note 34, below.
32. Ngina Chiteji and Darrick Hamilton, “Estimating the Effect of Race and Ethnicity,” 71.
33. Ibid, 71-2.
34. The authors point out “that it is possible that discrimination may manifest in the acquisition of wealth-generating characteristics” through what is known as “premarket” discrimination. My argument is that such premarket discrimination is instrumental in conceptualizing racial wealth inequality and thus cannot be relegated to secondary status. Ngina Chiteji and Darrick Hamilton, “Estimating the Effect of Race and Ethnicity,” 85n8.
35. Ibid, 85n11.
36. Alfred Brophy, *Reparations: Pro and Con*, 107. See also Tim Wise, *Colorblind*, 199n57.
37. Doris Marie Provine, *Unequal under Law*, 121.
38. This discussion of entitlement highlights a directly related issue I do not have the room to discuss more in-depth here: the idea that inherited advantage is unearned, *regardless* of how that advantage was obtained (e.g., through legal capitalist channels, through racial exploitation, etc.) As Daniel Rigney notes, early American leaders such as Thomas Jefferson and Benjamin Franklin challenged “excessive accumulations of wealth as a threat to the ideals of democracy” (*The Matthew Effect*, 72), a point that was not lost on Alexis de Tocqueville, who wrote in *Democracy in America* that the “American experiment presupposes a rejection of inherited privilege” (quoted in Daniel Rigney, *The Matthew Effect*, 73.) See also Charles W. Mills, “Contract of Breach,” 128.
39. Lani Guinier and Gerald Torres, *The Miner’s Canary*, 90.
40. Celine-Marie Pascale, *Making Sense of Race, Class, and Gender*, 29.
41. Slavoj Zizek, *First as Tragedy, Then as Farce*, 21-22n.
42. Many nonwhites also subscribe to colorblind racial ideology. See Eduardo Bonilla-Silva, *Racism without Racists*, ch. 7.

43. See Meizhu Lui et. al., *The Color of Wealth*.

44. And a recent report by Thomas M. Shapiro, Tatjana Meschede, and Laura Sullivan found that the wealth gap between white and black families has increased fourfold between 1984 and 2007. (“The Racial Gap Increases Fourfold.”)

45. David Roediger, *How Race Survived U.S. History*, 228-9.

46. Beryl Satter, *Family Properties*, 5.

47. Gregory Squires and Charis Kubrin, *Privileged Places*, 63.

48. Douglas Massey, *Categorically Unequal*, 112.

49. I have not the room here to fully document the debate over the degree to which racial animus prompts white flight. For various positions on this, see Dalton Conley, *Being Black, Living in the Red* and Amanda E. Lewis et al., “Institutional Patterns and Transformations.” These two interventions contemplate the interaction of racial and racist ideology and economic (self-) interest. As Heather Beth Johnson and Thomas M. Shapiro note in a collaborative essay (“Good Neighborhoods, Good Schools,” 178), many of the white families they interviewed “will literally make more money on their house if they participate in white flight.” Thus, the interaction of the ideological and the economic is not yet settled. These choices, writes Andrew Barlow in *Between Fear and Hope* (87), are “rooted in more than racial prejudice; [they are] also about people’s calculations about how to advance their personal interests by claiming geographically defined racial privileges.”

50. Robert Lieberman, *Shifting the Color Line*, 228.

Chapter 4 Endnotes

1. Richard Alba, *Blurring the Color Line*, 2-3.

2. Angela Y. Davis, *Are Prisons Obsolete?*, 11.

3. The term “prison-industrial complex” was coined by Mike Davis in “Hell Factories in the Field: A Prison-Industrial Complex,” cited in Angela Y. Davis, *Are Prisons Obsolete?*, 100n3. Loic Wacquant, whose book *Punishing the Poor* is analyzed below, is a harsh critic of the term, as in his view it presumes the escalation of the prison population as the project of a “conspiratorial visions” and a “deliberate ‘plan’.” (xx) In addition, Wacquant chafes against the term because it implies that prisons are massive centers of surplus labor extraction, which they are not. (182) Despite Wacquant’s

reservations, I still prefer this term as it denotes a *system* with its attendant structure of (dis)advantages; I do not see the term as implying its formation as a function of a conspiracy.

4. Andrew Coyle, Allison Campbell, and Rodney Neufeld, eds., *Capitalist Punishment*.

5. Jonathan Simon, *Governing through Crime*, 6.

6. David Theo Goldberg, *The Threat of Race*, 28.

7. Ibid, 29.

8. Ibid. As Bruce Western points out in this vein, in *Punishment and Inequality in America* (53), “The social turbulence of the 1960s—a volatile mixture of rising crime, social protest, and the erosion of white privilege—sharpened the punitive sentiments of white voters.” And Lawrence Bobo, James R. Kluegel, and Ryan A. Smith likewise argue that “many whites perceived black demands as threatening incursions on their interests.” (22)

9. See chapters two and five.

10. See Douglas Massey, “Origins of Economic Disparities,” 42, table 2.1.

11. In certain areas of the US—especially the Southwest—this same trend occurred but with many of the central city areas being inhabited by Latinos and Asian Americans. However, as many racial demographers have shown, compared to blacks, these groups are less segregated from whites—particularly those who are American-born. See Camille Zubrinsky Charles, *Won't You Be My Neighbor?* and Richard Alba, *Blurring the Color Line*, 220, for discussions.

12. Richard Alba, *Blurring the Color Line*, 200.

13. The media’s influence is also crucial, as Angela Y. Davis argues in *Are Prisons Obsolete?*, 17-8.

14. See Michael Bennett, “Cities in the New Millennium,” 251.

15. James Kyung-Jin Lee, *Urban Triage*, 9.

16. Erik Olin Wright, *Interrogating Inequality*, 49.

17. David Theo Goldberg, *The Threat of Race*, 332.

18. As Ben Fine notes in *Marx's Capital*, "Money only acts as capital when it is used to generate more money. The purpose and nature of capital is to act as self-expanding value." (29)
19. See Thomas I. Palley, "From Keynesianism to Neoliberalism," 27; Michael Hallett, *Private Prisons in America*.
20. Paul Smith, *Primitive America*, 55.
21. David Theo Goldberg, *The Threat of Race*, 333. See also Michelle Alexander, *The New Jim Crow*, 49.
22. Loic Wacquant, *Punishing the Poor*, xiv-xv.
23. See note 3, above.
24. Loic Wacquant, *Punishing the Poor*, xv.
25. Loic Wacquant, *Urban Outcasts*.
26. Loic Wacquant, *Punishing the Poor*, 4.
27. *Ibid*, 12.
28. See Jonathan Simon, *Governing through Crime*, 141; Angela Y. Davis, *Are Prisons Obsolete?*, 16; Howard Winant, *The New Politics of Race*, 209.
29. Loic Wacquant, *Punishing the Poor*, 153. See also Vijay Prashad, *Keeping Up with the (Dow) Joneses*, 69-72 and Michelle Alexander, *The New Jim Crow*, 55.
30. *Ibid*, 77.
31. *Ibid*, 14.
32. *Ibid*.
33. It also helps to explain why the Rusche/Kirchheimer thesis involving the relationship between the economy and prison rates no longer holds. See Michael J. Lynch, *Big Prisons, Big Dreams*, ch. 5.
34. Michelle Alexander, *The New Jim Crow*, 4.
35. Bruce Western, *Punishment and Inequality in America*, 53.

36. This stands in sharp contrast to the predictions of such scholars as Michel Foucault and Stanley Cohen in the early 1970s that prisons were on the eve of decline. See Loic Wacquant, *Punishing the Poor*, 6; Wacquant, *Prisons of Poverty*, 59, 144.
37. Doris Marie Provine, *Unequal under Law*, 120.
38. Manning Marable, *The Great Wells of Democracy*, 154. See also Marc Mauer, *Race to Incarcerate*, 158-64 and Michael J. Lynch, *Big Prisons, Big Dreams*, 165.
39. Doris Marie Provine, *Unequal under Law*, 122.
40. Ibid, 125.
41. Ibid.
42. Michelle Alexander, *The New Jim Crow*, 52.
43. Doris Marie Provine, *Unequal under Law*, 128.
44. Michael J. Lynch, *Big Prisons, Big Dreams*, 165.
45. Doris Marie Provine, *Unequal under Law*, 127.
46. One example of this is seen in the reaction members of Congress gave to Representative Barney Frank's declaration that "The sentencing disparity is overwhelmingly objectively a racist one." Bill McCollum's arguments below were part of that reaction. Frank quoted in Doris Marie Provine, *Unequal under Law*, 133.
47. Bill McCollum quoted in Doris Marie Provine, *Unequal under Law*, 134. On this point, see Terrance MacMullan, *Habits of Whiteness*, 135.
48. Quoted in Charles Ogletree, "Making Race Matter in Death Matters," 63.
49. Richard Thompson Ford, *Racial Culture*, 13.
50. Frank Wu, *Yellow*, 147.
51. Kenneth Neubeck and Noel Cazenave, *Welfare Racism*, 221.
52. Leslie Carr, "Color-Blind" Racism, 116.
53. 163 U.S. 537, 562. This recalls my arguments in chapter one, where I wrote that Harlan understood that white domination would continue to punctuate the private realm.

54. Eduardo Bonilla-Silva, *Racism without Racists*; see also Lawrence Blum, “*I’m Not a Racist, But...*”
55. In *Two-Faced Racism*, Leslie Houts Picca and Joe R. Feagin distinguish between the “frontstage” (white behavior in racially mixed company) and the “backstage” (white behavior when no people of color [actual or perceived] are around.) Their book centers on the sheer behavioral differences on the part of whites in the frontstage and the backstage—whites’ insistence on colorblindness notwithstanding.
56. See Michael Klarman, *From Jim Crow to Civil Rights*.
57. Albion Tourgee quoted in Mark Elliott, *Color-Blind Justice*, 6.
58. Leslie Carr, “*Color-Blind*” *Racism*, 116.
59. Charles R. Lawrence III, “The ID, the EGO, and Equal Protection Reckoning with Unconscious Racism.”
60. Samuel Roundfield Lucas, *Theorizing Discrimination in an Era of Contested Prejudice*, ch. 4; J. Morgan Kousser, *Colorblind Injustice*, 5.
61. Charles Ogletree, “Making Race Matter in Death Matters,” 63.
62. Vijay Prashad, *Keeping Up with the (Dow) Joneses*, 84.
63. Charles Ogletree and Austin Sarat, eds., *From Lynch Mobs to the Killing State*.
64. Samuel Roundfield Lucas, *Theorizing Discrimination in an Era of Contested Prejudice*.
65. Michael Klarman, *From Jim Crow to Civil Rights*, 22.
66. Timothy Brennan, *Wars of Position*, 30.
67. Lawrence Bobo, James R. Kluegel, and Ryan A. Smith, “Laissez-Faire Racism,” 41.
68. See Zeus Leonardo, *Race, Whiteness, and Education*, ch. 5.
69. In this particular instance, focus attached to the test given to applicants—a test that blacks disproportionately failed. The Supreme Court held that the test was merely a (colorblind) racist screen designed to weed out blacks, as it was deemed insufficiently related to potential job performance.
70. Jack Balkin and Reva Siegel, “Remembering How to Do Equality,” 95.

71. This idea can be further illuminated by the concept of the “zero-sum game.” As Richard Alba explains it in *Blurring the Color Line*, civil rights victories were partially won because of the general strength of the economy at that time; minority gains were “non-zero sum,” funded by the economic surplus. This was not longer the case when the economic crisis hit in the 1970s. As Leland Saito writes in *The Politics of Exclusion* (9-10), “Beginning in the 1970s, deindustrialization and the loss of jobs in the United States contributed to economic uncertainty, especially in the lives of people in the lower economic levels.”

72. On this point, see Alfredo Saad-Filho and Deborah Johnston, “Introduction” and David Harvey, *A Brief History of Neoliberalism*.

73. Leslie Carr, “Color-Blind” *Racism*, 116.

74. Peter McLaren, “Unthinking Whiteness, Rethinking Democracy,” 32; Clevis Headley, 96, “Delegitimizing the Normativity of Whiteness,” 96.

75. Many more consequences exist than the ones I will be discussing. In *City of Quartz*, Mike Davis argues that the prison-industrial complex must also be studied alongside the coterminous explosion in gated communities (on this, see also Jonathan Simon, *Governing Through Crime*, 6-7.) Felons’ loss of voting rights is another important consequence, one that briefly took center stage in the 2000 Presidential election; see Michael J. Lynch, *Big Prisons, Big Dreams*, 168. At bottom, time in the prison-industrial complex carries with it a bundle of disadvantages that hew very closely to those found in the Jim Crow system (such as disenfranchisement), which is why Michelle Alexander calls it *The New Jim Crow*.

76. Angela Y. Davis, “Race and Criminalization,” 265-6.

77. Loic Wacquant, *Punishing the Poor*, 310; see also Jonathan Simon, *Governing through Crime*, 143.

78. Christian Parenti, *Lockdown America*, 213.

79. *Ibid.*, 212.

80. As Steven Donziger writes, “[C]ompanies that service the criminal justice system need sufficient quantities of raw materials to guarantee long-term growth...In the criminal justice field, *the raw material is prisoners*, and industry will do what is necessary to guarantee a steady supply. For the supply of prisoners to grow, criminal justice policies must ensure a sufficient number of incarcerated Americans regardless of whether crime is rising or the incarceration is necessary.” Quoted in Angela Y. Davis, *Are Prisons Obsolete?*, 94 (emphasis in original.) Furthermore, as Michelle Alexander highlights, ramped-up drug forfeiture laws also provide the police a pecuniary interest in

escalating a maintaining the War on Drugs. See Michelle Alexander, *The New Jim Crow*, 77, 82; on this point, see also Houston A. Baker, *Betrayal*, 208.

81. Angela Y. Davis, *Are Prisons Obsolete?*, 99-100.

82. Ruth Wilson Gilmore, *Golden Gulag*, ch. 4.

83. Bruce Western, *Punishment and Inequality in America*, 28-9; see also Jonathan Simon, *Governing through Crime*, 141.

84. *Ibid*, 30.

85. *Ibid*, 87.

86. Christian Parenti, *Lockdown America*, ch. 10; see also the essays in section 6 of Tara Herivel and Paul Wright, eds., *Prison Nation*.

87. Jeremy Travis, *But They All Come Back*, xviii.

88. David Oshinsky, "Worse Than Slavery."

89. Michelle Alexander, *The New Jim Crow*, 93. See also Houston A. Baker, *Betrayal*, 207.

90. "Governing this population through the criminal justice system has not provided the guarantees of security that might inspire greater investment in inner cities, but instead has further stigmatized communities already beset by concentrated poverty." Jonathan Simon, *Governing Through Crime*, 6. See also Anthony Thompson, *Releasing Prisoners, Redeeming Communities* and Richard Alba, *Blurring the Color Line*, 2-3.

91. Devah Pager, *Marked*, chs. 3-4. On the reticence of employers to hire ex-convicts, see Loic Wacquant, *Prisons of Poverty*, 66.

92. See Anthony Thompson, *Releasing Prisoners, Redeeming Communities*, 21-6; William McKee Evans, *Open Wound*, 241-2.

93. One major reason for this, of course, is that such actions are illegal. We saw an example of this in the introduction to this dissertation with the taxi driver in the *Chappelle's Show* sketch "The Monsters In: 'The System Is Not Designed for Us'."

94. Samuel L. Gaertner *et al.*, "Does White Racism Necessarily Mean Antiblackness?" and Joe R. Feagin, *System Racism*, 26.

95. Kimberle Williams Crenshaw, "Race, Reform, and Retrenchment," 105.

96. Steve Martinot, *The Rule of Racialization*, 143.

97. Kimberle Williams Crenshaw, “Race, Reform, and Retrenchment,” 105. See also Robert Lieberman, *Shaping Race Policy*, 220-1.

98. The media, to be sure, plays a major role in this. As Helen Neville notes in “Rationalizing the Racial Order,” “my first premise is that *racial inequalities are part of an objective reality*; racial oppression exists!” 120, author’s emphasis.

99. Michelle Alexander, *The New Jim Crow*.

100. Angela Y. Davis, *Are Prisons Obsolete?*, 16.

101. Michael J. Lynch, *Big Prisons, Big Dreams*, 167.

Chapter 5 Endnotes

1. On this point, see Mab Segrest, “‘The Souls of White Folks’”; Vron Ware, “Room with a View.” Likewise crucial are the complex and shifting ways in which racial malice was justified—see John L. Jackson, Jr., *Racial Paranoia* ch 1; Larry E. Tise, *Proslavery*.

2. This concept is brought forth in Douglas Massey and Nancy Denton, *American Apartheid*.

3. David Theo Goldberg, *The Threat of Race*, 342-3. This concept comes from the Brazilian context.

4. And when whites in the pre-civil rights era insisted that (for instance) restrictive covenants and related segregation-promulgating practices were free of malice aforethought, they did so in the discourse of free-market anticommunism: segregation as wise business practice, an insight that challenges Milton Friedman’s views of de jure racism in his book *Capitalism and Freedom* (I discuss this book in chapter six.) On these points, see John L. Jackson, Jr., *Racial Paranoia*, 226; David MP Freund, *Colored Property*; and Thomas Sugrue, *Sweet Land of Liberty*, ch. 6.

5. 163 U.S. 537, 549.

6. 163 U.S. 537, 544.

7. 163 U.S. 537, 551.

8. Mark Golub, “*Plessy* as ‘Passing’,” 582. As Neil Foley writes in *Quest for Equality* (125), the *Plessy* majority “fraudulently claimed [that the ‘badge of inferiority argument’] was a figment of the African American imagination.”
9. J.R. Pole, *The Pursuit of Equality in American History*, 196; Michael Klarman, *From Jim Crow to Civil Rights*, 21.
10. 163 U.S. 537, 563-4.
11. 163 U.S. 537, 557, my emphasis.
12. 163 U.S. 537, 560, my emphasis.
13. 163 U.S. 537, 562, my emphasis.
14. 163 U.S. 537, 562.
15. 163 U.S. 537, 555.
16. Harlan briefly blends race and class here, which he employs to assert the implication that Jim Crow’s race line was horizontal, not vertical.
17. 163 U.S. 537, 559.
18. See chapter 1, notes 30 and 31.
19. 163 U.S. 537, 559.
20. Leland Saito, *The Politics of Exclusion*, 2, 196.
21. *Ibid*, 9.
22. *Ibid*, 212n12.
23. *Ibid*, 2.
24. Quoted in Doris Marie Provine, *Unequal under Law*, 134.
25. Ira Katznelson, *When Affirmative Action Was White*, 22.
26. Quoted in Linda Faye Williams, *The Constraint of Race*, 82 and Michael K. Brown et al., *Whitewashing Race*, 28.
27. Quoted in Ira Katznelson, *When Affirmative Action Was White*, 26-7.

28. Michelle Alexander, *The New Jim Crow*, 40, my emphasis.
29. Ibid.
30. Kenneth O'Reilly, *Nixon's Piano*, 280-1. On this point, see also Joe Feagin, *Systemic Racism*, 254-7.
31. Quoted in Michelle Alexander, *The New Jim Crow*, 43-4, my emphasis.
32. Michael K. Brown et al., *Whitewashing Race*, 27.
33. Rod Bush, *The End of White World Supremacy*, 87. See also Tim Wise, *Colorblind*, 29.
34. Thanks to Mike O'Malley for pressing me on this point.
35. Frank Wu, *Yellow*, 145.
36. Sucheng Chan, *Asian Californians*, 42.
37. Quoted in Roopali Mukherjee, *The Racial Order of Things*, 218-9.
38. Ibid, 219.
39. Ibid.
40. Ibid, 148.
41. Sean Wilentz, *The Age of Reagan*, 182.
42. Eric Sundquist, *King's Dream*, 214. See also Terrance MacMullan, *Habits of Whiteness*, 152.
43. The "whitening" of European immigrants has a large place in the literature; the central debate lies in whether these immigrants "became" white or were already (in Thomas Guglielmo's book title) *White on Arrival*. See Noel Ignatiev, *How the Irish Became White*; Karen Brodtkin, *How Jews Became White Folks*; David Roediger, *Working towards Whiteness*.
44. Michael Omi and Dana Y. Takagi, "Situating Asian Americans in the Political Discourse of Affirmative Action"; Vijay Prashad "Second-Hand Dreams," 80-1.
45. Charles A. Gallagher, "Playing the White Ethnic Card," 146.

46. Ibid, 158.
47. Samuel Roundfield Lucas, *Theorizing Discrimination in an Era of Contested Prejudice*, 167-70.
48. Devah Pager, “The Dynamics of Discrimination,” 24.
49. See Joe Feagin, *Systemic Racism*, xiv.
50. Michelle Alexander, *The New Jim Crow*, 47-8, my emphasis.
51. On this point, see also John L. Jackson, Jr., *Racial Paranoia*.
52. Joe Feagin, *Systemic Racism*, 26. For an overview of similar studies, see Jerry Kang, “Trojan Horses of Race.”
53. Howard Winant, *The New Politics of Race*, ix.
54. Sundiata Keita Cha-Jua, “The Changing Same,” 38.
55. Helen Neville, “Rationalizing the Racial Order,” 128-9.
56. Eduardo Bonilla-Silva, *Racism without Racists*, ch. 7.
57. Helen Neville, “Rationalizing the Racial Order,” 126-7.
58. Robert E. Birt, “The Bad Faith of Whiteness,” 56, my emphasis.
59. Zeus Leonardo, *Race, Whiteness, and Education*, 113. See chapter 4, note 55.
60. Michael K. Brown et al., *Whitewashing Race*, 42.
61. Heather Beth Johnson and Thomas M. Shapiro, “Good Neighborhoods, Good Schools,” 185.
62. Nancy DiTomaso, Rochelle Parks-Yancy, and Corinne Post, “White Views of Civil Rights,” 197-8.
63. Barbara Flagg, “‘Was Blind, But Now I See’.”
64. Michelle Alexander, *The New Jim Crow*, 129.

Chapter 6 Endnotes

1. Hypothetically, this could occur; the best example is the Constitution's three-fifths compromise, which targeted black slaves. While not all blacks became three-fifths of a person for Census counts (because not all blacks were slaves), the three-fifths compromise did not impact whites at all. Some Native Americans who were slaves were affected by the compromise. As I discuss in the second section of this chapter, the three-fifths compromise is a good example of pre-civil rights colorblind legislation designed with "malice aforethought"; the framers of the Constitution had no need to hide which racial groups would fall under the compromise. This of course, allowed John Marshall Harlan to declare "Our Constitution is color-blind" in good faith. See Sundiata Keita Cha-Jua, "The Changing Same," 20-1.
2. Yet even here we encounter complexities, as the history of "passing" informs. Race's corporeal fluidity opened spaces for subverting the absolute color-conscious exclusions of such signs.
3. Robert Lieberman, *Shifting the Color Line*, 7.
4. See Nancy Fraser and Axel Honneth, *Redistribution or Recognition*; Nancy Fraser, *Justice Interruptus*; Nancy Fraser, *Scales of Justice*.
5. David Roediger, *How Race Survived U.S. History*, 177, my emphasis.
6. Jill Quadagno, *The Color of Welfare*, 21.
7. Ellis Cose, *The Rage of a Privileged Class*, 115-6.
8. Lawrence Blum, "I'm Not a Racist, But..." , 23.
9. Ibid.
10. Devon Carbado and Cheryl Harris, "The New Racial Preferences," 1149. See also Tim Wise, *Colorblind*, 19.
11. Among others, see Barbara Flagg, "'Was Blind, But Now I See'" and Eduardo Bonilla-Silva, *Racism without Racists*, 116.
12. Devon Carbado and Cheryl Harris, "The New Racial Preferences," 1171. See also Nell Irvin Painter, *The History of White People*, 388.
13. The specific case of race-positivity and -negativity encounters various other potential problematics (e.g., members of white nationalist groups such as the Ku Klux Klan are

obsessively conscious of their whiteness.) The “white trash” moniker further informs the complicated nature of this issue.

14. William Julius Wilson, *More Than Just Race*.

15. Michelle Alexander, *The New Jim Crow*, 33-5.

16. Further complexities arise here, however: Poor whites are less likely than poor people of color to reside in areas of concentrated poverty. See note 13, above.

17. See Joe R. Feagin and Melvin P. Sykes, *Living with Racism*; Ellis Cose, *The Rage of a Privileged Class*; Mary Patillo-McCoy, *Black Picket Fences*; Karyn R. Lacy, *Blue-Chip Black*.

18. That the focus of the prison-industrial complex is not just blacks and Latinos but also the poor is reflected in the titles of various books on the issue, such as the edited collection by Tara Herivel and Paul Wright, *Prison Nation: the Warehousing of America's Poor*, as well as Loic Wacquant's *Punishing the Poor*, analyzed at length in chapter four. On the overrepresentation of the white poor in the nation's prisons and jails, see Christian Parenti, *Lockdown America*, 242; Michael J. Lynch, *Big Prisons, Big Dreams*, 169-70; Loic Wacquant, *Punishing the Poor*, 69.

19. Bruce Western, *Punishment and Inequality in America*, 30.

20. Stephen Steinberg, *Turning Back*, ch. 8.

21. See, among others, Douglas Massey and Nancy Denton, *American Apartheid* and David MP Freund, *Colored Property*.

22. Edmund Morgan, *American Slavery, American Freedom*; Theodore Allen, *The Invention of the White Race*, vol. 2; Steve Martinot, *The Rule of Racialization*; Winthrop Jordan, *White over Black*.

23. David Roediger, *The Wages of Whiteness*; C. Vann Woodward, *The Strange Career of Jim Crow*.

24. Michelle Alexander, *The New Jim Crow*, 46-7.

25. *Ibid*, 47.

26. David Roediger, *The Wages of Whiteness*, 188.

27. Quoted in Michelle Alexander, *The New Jim Crow*, 46.

28. David Harvey, *The New Imperialism*, 157.
29. David Harvey, *A Brief History of Neoliberalism*; John Perkins, *Confessions of an Economic Hit Man*.
30. Milton Friedman, *Capitalism and Freedom*, 4, 2.
31. Ibid, 117.
32. The prison-industrial complex represents an exception to this, as chapter four noted.
33. Milton Friedman, *Capitalism and Freedom*, 110, 112. We can critique Friedman even further in asserting that even such “eye of the beholder” assessments as ugliness and attractiveness are themselves racialized, what with the preference for blond hair, blue eyes, and fair skin that still shapes US society and beyond. For a discussion, see the essays in Evelyn Nakano Glenn’s edited anthology *Shades of Difference* as well as the essays in Cedric Herring, Verna Keith, and Derrick Hayward Horton’s edited anthology *Skin Deep*.
34. Milton Friedman, *Capitalism and Freedom*, 111.
35. Peter McLaren, “Unthinking Whiteness, Rethinking Democracy,” 32.
36. See Stephen Steinberg, *Race Relations*, 89.
37. See Reva Siegel, “The Racial Rhetorics of Colorblind Constitutionalism.”
38. Milton Friedman, *Capitalism and Freedom*, 110.
39. Ibid, 108-9. Note the assumption, made in the final sentence of this quotation, regarding the naturalness of racial difference.
40. Ibid, 109.
41. Ellen Meiksins Wood, *Democracy against Capitalism*, 267.
42. Stuart Hall, “Gramsci’s Relevance for the Study of Race and Ethnicity,” 436.
43. David Harvey, *The Condition of Postmodernity*, 104.
44. Steve Martinot, *The Rule of Racialization*, 191-2.

45. And many blacks have given their gratitude to the capitalist system, as Manning Marable reminds us in his examination of black capitalists in *How Capitalism Underdeveloped Black America*.
46. Robert C. Tucker, *The Marx-Engels Reader*, 140, Marx's emphases.
47. Naomi Klein, *The Shock Doctrine*, 7.
48. Linda Faye Williams, *The Constraint of Race*, 394. Defenders of universal programs also believe in the essential justice of the free market; with Jim Crow and related racial barriers eliminated, the free market can now come in and perform its proper function. See L. Richard DellaFave, *Race and Revolution*, 154.
49. Stephen Steinberg, *Turning Back*, 113.
50. Ibid, 143.
51. Tim Wise, *Colorblind*, 17. We saw this issue in chapter three, particularly in Martin Gilens's discussion of whites' aversion to welfare sourcing from its rootedness in racial stereotypes and the belief that its recipients are (racially) "undeserving." Elsewhere, Wise argues that universal program represent the epitome—the apex—of what he calls "post-racial liberalism" (36).
52. Walter Benn Michaels, *The Trouble with Diversity*, 6-7. Some of Michaels's points were earlier enunciated in his 2005 article "The University Declasse."
53. Ibid, 201.
54. Ibid, 206n3.
55. Ibid, 64-5.
56. Ibid, 99.
57. Ibid, 75-6.
58. Ibid, 14-5.
59. Ibid, 15.
60. Ibid, 18.
61. Ibid, 127.

62. Ibid, 128-9.

63. Ibid, 129.

64. Ibid. I do not have the room to analyze the larger issue Michaels hints at here—to wit, the argument over whether racial equality is achievable within capitalism. Charles W. Mills, for instance, contends in his 2004 essay “Racial Exploitation and the Wages of Whiteness” that “racial exploitation is at least in theory eliminable within a capitalist framework” (42). But later that same page, Mills stresses that this is simply *in theory*—as he avers, “the capitalism in *our* world has been so thoroughly racialized from its inception...that racial inequality has long been crucial to its reproduction *as* a particular kind of capitalist formation” (Mills’s emphases). L. Richard DellaFave remarks similarly in *Race and Revolution*: “one of the central arguments of the entire theory [of racial inequality and political economy] is that the racial equality that so many Americans say they want may well be unattainable under our present system of economic and political organization” (140). These sentiments do not solely inhabit the present conjuncture; as Harold Cruse asserted during the civil rights movement: “The Negro movement represents an *indirect* challenge to the capitalist status quo not because it is programmatically anti-capitalist, but because full integration of the Negro in all levels of American society *is not possible within the present framework of the American system*” (quoted in Cedric Johnson, *Revolutionaries to Race Leaders*, xix, Cruse’s emphases.) I also discussed these issues within the context of the civil rights movement in chapter two, particularly as regards Martin Luther King, Jr. and Malcolm X.

65. Ibid, 87.

66. Ibid, 134-40. A similar (and similarly problematic) account comes in Benjamin I. Page and Lawrence R. Jacobs, *Class War?* See note 26, above.

67. As many commentators on this issue point out, overall economic inequality was markedly less during the New Deal era.

68. Howard Winant, “White Racial Projects,” 104.

69. See Mark Elliott, *Color-Blind Justice*, ch 7, esp 228-30.

70. See note 29, above.

71. See David Roediger, “White without End?” and Charles W. Mills, “Contract of Breach.”

Conclusion Endnotes

1. Eddie S. Glaude, *In a Shade of Blue*, 136.
2. Gwen Ifill, *The Breakthrough*, 47.
3. On James Byrd, Jr., see Debra Walker King, *African Americans and the Culture of Pain*, introduction.
4. Mark Elliott, *Color-Blind Justice*, introduction; on racialism, See Anthony Appiah, "Race, Culture, Identity," 61-4.
5. Lani Guiner and Gerald Torres, *The Miner's Canary*, 38-9.
6. *Ibid.*, 43.
7. Quoted in Mark Elliott, *Color-Blind Justice*, 6.
8. This is not to imply that all whites benefit from it evenly, as my discussion of the racial inexactness of colorblindness (among other things) reminds us.
9. Charles A. Gallagher, "The Challenge to Public Sociology," 303.
10. Quoted in Howard Winant, *Racial Conditions*, 65-6. See also Eduardo Bonilla-Silva, *Racism without Racists*, 116.
11. Tim Wise, *Between Barack and a Hard Place*, preface. See also Tavia Nyong'o, *The Amalgamation Waltz*, 1-2, 5-6; Ricky Jones, *What's Wrong with Obamamania?*, ch. 1; Angela Dillard, *Guess Who's Coming to Dinner Now?*, 178-9.
12. David Roediger, "White without End?," 98-9. As Houston A. Baker reminds us (in *Betrayal*, 72-3), some blacks have willingly shed their racial identities.
13. Jiannbin Lee Shiao and Mia H. Tuan, "Shared Fates in Asian Transracial Adoption," 193.
14. Steve Martinot, *The Rule of Racialization*, 143, my emphasis.
15. Shannon Sullivan, *Revealing Whiteness*, 191.
16. Nancy DiTomaso, Corrine Post, and Rochelle Parks-Yancy, "White Views of Civil Rights," 189.
17. Charles R. Lawrence III, "The ID, the EGO, and Equal Protection Reckoning with

Unconscious Racism,” 240.

18. The metaphorization of colorblindness as a “weapon” appears in the following: Eileen O’Brien, *The Racial Middle*, 85; Ian Haney-Lopez, “‘A Nation of Minorities’,” 988; and Henry Giroux, *Against the Terror of Neoliberalism*, 71.

19. George Lipsitz, *The Possessive Investment in Whiteness*, 233.

20. David Roediger, *Towards the Abolition of Whiteness*, 13.

21. On the “rearticulation” and “rehabilitation” of whiteness, see, respectively, Joe L. Kincheloe and Shirley R. Steinberg, “Addressing the Crisis of Whiteness” and Lucius Outlaw, “Rehabilitate Racial *Whiteness*?” On the “abolition” of whiteness, see Noel Ignatiev and David Garvey, eds., *Race Traitor*. The abolitionist perspective, to be sure, is not without its own theoretical shortcomings. For critiques from various angles, see Howard Winant, “Behind Blue Eyes”; Terrance MacMullan, *Habits of Whiteness*, 154-6; Steve Martinot, *The Machinery of Whiteness*, 29. A recent thorough account of these positions is given in Zeus Leonardo, *Race, Whiteness, and Education*, chs. 4 and 6. Leonardo provides a particularly convincing exposition of the potential pitfalls of the abolitionist perspective, positing that it does not properly take into account whiteness’s ability to morph and adapt to novel political and socioeconomic situations (72).

22. Tim Wise, *Colorblind*, 167.

23. The classic text on this matter remains James W. Loewen, *Lies My Teacher Told Me*.

24. Neil Foley, *Quest for Equality*, 108-9, discussing how the “language handicap” excuse was used in Texas “as a pretext to segregate Mexican children in the lower grades.”

25. James Baldwin, “On Being ‘White’ ...and Other Lies,” 180.

26. David Roediger, “White without End?,” 98.

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