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## Deconstructing the Ideology of White Aesthetics

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## DECONSTRUCTING THE IDEOLOGY OF WHITE AESTHETICS

John M. Kang\*

*In this Article, the author provides a discussion on the dynamic between race and aesthetics. The author states that because Whites are the dominant group in America, they dictate what is beautiful. The consequence of this power dynamic is that the dominant group, Whites, can exercise preferences in deciding how to look or express themselves, whereas people of color are limited to either conforming to an imposed White standard or rejecting it. The author starts by laying out some of the features to what he terms the "ideology of White aesthetics." He then commences to examine how this ideology has played out in Black-White relations and in relations between Asian Americans and Whites, and how it may be used to shed new light both on race relations and on behavior within communities of color. The author concludes by addressing potential counter-arguments.*

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*"Beauty is truth, truth beauty,"—that is all  
Ye know on earth, and all ye need to know.*<sup>1</sup>

—John Keats

## INTRODUCTION

In 1819, through these pithy lines, the English poet John Keats inserted himself into Western literary history. There is something about Keats' simple lines that resonate with us. He claims that beauty and truth are the same. Moreover, he tells us that his bold axiom is the basis, and limit, of our epistemology: it is all we need to know. But what exactly do we know? What is "beauty"? And what is "truth"? Are they in fact the same thing? If not, what is the relationship between these two? Can these two things be enough for us to comprehend reality and existence as Keats eloquently proclaims? This Article explores these questions within the context of race, bodily appearances, political power, and the law. As will be shown, throughout America's history, the terms "beauty" and "truth" were either explicitly or implicitly employed in political rhetoric and judicial opinions in order to construct subordinating images of people of color, justify legal oppression, and perhaps most profoundly, produce an epistemology of racial bodily aesthetics that, to some degree, possibly alienated people of color from their own bodies because they failed to resemble those of White people.<sup>2</sup>

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1. John Keats, *Ode to a Grecian Urn*, in *MAJOR BRITISH POETS 196–97* (Oscar Williams ed., 1963).

2. Throughout this Article, I use the term "White people" to describe White Americans, White Europeans, as well as people who derive from such ancestry and who possess those physical features that would generally distinguish them morphologically as belonging to such ancestry. Of course, the reader may object that given our

More specifically, the thesis of this Article is that with respect to using one's body as a means of expression, white people have *preferences* in deciding how to express themselves, whereas people of color lack such *choice* and must resign themselves to either *conforming to* or *rejecting* the dominant group's aesthetic values.

This difference between people of color and White people originates from what I call the ideology of White aesthetics. I define this concept in Part I as the belief that the physical racial features of White Americans are seen as objectively appealing and universally true whereas the physical racial features of people of color are seen as subjective and deviant. Part II examines the ideology in the historical context of Black-White relations since seventeenth-century America. This section shows how White Americans during this time used the courts and other means to advance the ideology of White aesthetics. This section further explains how they imposed their aesthetic values upon Black Americans and forced them to internalize a sense of aesthetic inferiority regarding their distinctive physical features. I suggest in Part II that White Americans in our country's early history invoked the ideology of White aesthetics, at least implicitly, to support the disenfranchisement of Black Americans as well as campaigns for their physical removal from America. In Part III, I discuss how the ideology of White aesthetics expresses itself in more subtle ways today vis-à-vis Black Americans. The end result is that Black Americans might be limited to either accepting the aesthetic values of White Americans or rejecting them, whereas White Americans can enjoy the freedom to *prefer* various aesthetic styles relating to their physical features.

In Part IV, I explain how the ideology of White aesthetics has affected Asian Americans. I show how White Americans stigmatized the racial features of Asian immigrants, as shown most notably by the internment of Japanese Americans during World War II. I argue in Part IV that Asian Americans, as a result of the ideology of White aesthetics, have internalized the view that they possess racially inferior physical features. Therefore, they have resorted to various surgical procedures to look "Whiter."

In Part V, I address some potential counter-arguments. Specifically, I distinguish between aesthetic acceptance of people of color and racial exoticism. I explain that true acceptance of the

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multiracial world, the whole notion of appearing "White" is problematic. One can conceivably spend several volumes addressing this issue. For the purposes of this Article, I would like to rely on generally accepted morphological conceptions of race despite the inherently ambiguous nature of such conceptions. I realize that such an approach is inadequate but I also realize that relying on commonly held conceptions is neither unreasonable nor ineffective in making certain claims and arguments.

As for capitalizing "White," I do so in accordance with the *Michigan Journal of Race & Law's* policy to capitalize both "White" and "Black."

physical features of people of color entails viewing different races as aesthetic equals. By contrast, racial exoticism involves attributing some extraordinary quality to a race by virtue of the members' physical features which, in turn, makes them appear somehow alluring or attractive. I argue that in the case of both Asian Americans and African Americans, mainstream media tends to portray them in a manner that has a greater connection to racial exoticism than genuine racial aesthetic acceptance.

### I. DEFINING THE IDEOLOGY OF WHITE AESTHETICS

The ideology of White aesthetics is like other modern ideologies in that it seeks to explain the external world to a person through a system of assumed beliefs.<sup>3</sup> These assumed beliefs allow the individual to make certain judgments and evaluations about the world whereby he can justify his thoughts and actions. For example, male chauvinism can be seen as a type of ideology that allows men with certain assumed beliefs of innate female inferiority to justify the subordination and degradation of women.<sup>4</sup> Similarly, the ideology of White aesthetics allows the dominant group, in this case, White people, to use certain assumed beliefs of aesthetic inferiority to justify their subordination of people of color. Like male chauvinism, the ideology of White aesthetics assumes that the politically dominant group, White people, are inherently superior to a weaker group, people of color. The ideology of White aesthetics holds that people of color, by virtue of their aesthetic inferiority to White people, deserve to remain subordinated.

This is not to say that Whites intentionally or even consciously seek to use aesthetics as an instrument to further or reinforce social hierarchy. Rather, this Article discusses ideology from the premise that it is a set of implicit ideas, often subconscious, that people of all races use to make sense of, among other things, social hierarchy and cultural differences. However, these ideas can also spur a group to establish the social hierarchy and social constructions of "culture" that it seeks to explain. In this Article, I am less concerned with trying to prove the question of the extent to which the ideology of White aesthetics is conscious or subconscious, than with trying to uncover its basic traits, contours, and practices.

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3. See generally IAN ADAMS, *POLITICAL IDEOLOGY TODAY* (1993) (tracing the evolution of several political ideologies); WILLIAM T. BLUHM, *IDEOLOGIES AND ATTITUDES: MODERN POLITICAL CULTURE* (1974) (discussing ideology in relation to "those complexes of ideas, attitudes, and feelings . . . call[ed] political culture").

4. See ARTHUR BRITTAN & MARY MAYNARD, *SEXISM, RACISM AND OPPRESSION* 186-97 (1984).

Specifically, I begin by showing that the ideology has four main qualities. First, the ideology attaches a powerful normative component to aesthetics. Second, it involves a process of negative self-identification which results in racialization. Third, the ideology speaks in an unmediated, aperspective voice that casts its subjective preferences as objectively legitimate. Fourth, the ideology deculturizes the unique cultural expressions of people of color.

#### *A. Normative Content of Aesthetics*

The ideology of White aesthetics generally attaches some kind of normative meaning to aesthetics. We can see examples of this in the writings of Western political theorists and philosophers. For Nietzsche, an aesthetics of the body symbolizes the height of value.<sup>5</sup> For Schopenhauer, aesthetics is the only means by which the individual can transcend his material desires and reach a state of enlightenment.<sup>6</sup> For Kant, aesthetics alone can bridge his strict dichotomy between the rationality of the mind and the spontaneity of nature.<sup>7</sup> Indeed, throughout the course of Western intellectual history, numerous philosophers and political theorists have argued that aesthetics provided glimpses into metaphysical truth; deeply imbedded in Western thought is the belief that beauty is a transcending concept that is fundamental to our worldview of reality.<sup>8</sup> Thus, the Western tradition of philosophy and political theory was imbued with aesthetic significance. Accordingly, the ideology of White aesthetics attaches great symbolic meaning to concepts such as truth and morality.

#### *B. Negative Self-Identification and Racialization*

The ideology of White aesthetics is also based on negative self-identification. White people project onto people of color what the latter, in turn, subconsciously perceive as their own aesthetic unpleasantness. By doing so, White people can see themselves as

5. See, e.g., FRIEDRICH NIETZSCHE, *THE GAY SCIENCE* 35 (Walter Kaufmann trans., 1974); FRIEDRICH NIETZSCHE, *A NIETZSCHE READER* 145–46 (R.J. Hollingdale ed., 1977).

6. See, e.g., 1 ARTHUR SCHOPENHAUER, *THE WORLD AS WILL AND REPRESENTATION* 195–200 (E.F.J. Payne trans., 1969).

7. See generally DONALD W. CRAWFORD, *KANT'S AESTHETIC THEORY* (1974) (discussing Kant's theory of the beautiful and the sublime); EVA SCHAPER, *STUDIES IN KANT'S AESTHETICS* (1979) (tracing Kant's central themes on aesthetics).

8. See generally TERRY EAGLETON, *THE IDEOLOGY OF THE AESTHETIC* (1990) (critiquing Kant, Hegel, Kierkegaard, Schopenhauer, Nietzsche, Marx, Freud, and others).

aesthetically attractive and devoid of ugliness. In addition, through this projection, the concept of beauty becomes *racialized*.<sup>9</sup> That is, the concept of beauty, at one time devoid of any meaningful racial connotation, is now imbued with racial meaning.

For the purposes of this Article, “projection” is defined as that process by which an individual locates certain undesirable qualities within himself but, because of their negative quality, comes to project them onto others.<sup>10</sup> Through projection, members of the

9. I use the term “racialization” and “racialized” in a manner similar to that of Michael Omi and Howard Winant. See MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960S TO THE 1980S* at 64 (1986).

10. Although I do not wish to explore the intricacies of Carl Jung, much of my definition is based on the Jungian idea of projection. See ANDREW SAMUELS ET AL., *A CRITICAL DICTIONARY OF JUNGIAN ANALYSIS* 113–14 (1986). Samuels and his co-authors describe “projection” in the following manner:

Jung’s approach to projection builds upon a psychoanalytic base. Projection may be seen as normal or pathological and as a defen[s]e against anxiety. Difficult emotions and unacceptable parts of the personality may be located in a person or object external to the subject . . . . The problematic content is thereby controlled and the individual feels a (temporary) release and sense of well-being. . . . In terms of experience, a person feels something about another person (or institution or group) which he regards as applicable to that person; later he may reali[z]e that this is not the case. An impartial observer, an analyst, perhaps, may reali[z]e this sooner rather than later. The general result of projection beyond an optimum level is an impoverishment of personality. Normal levels of projection in infancy are considered pathological in an adult.

. . . .

For anything of value to be gained, though, it is necessary for some re-integration or re-collection of that which is projected to take place. Jung suggested that, for convenience of understanding, this process could be divided into five phases:

- (1) The person is convinced that what he sees in the other is the case.
- (2) A gradual recognition dawns of a differentiation between the other as she/he “really” is and the projected image. The dawning of such awareness may be facilitated by DREAMS or, equally, events.
- (3) Some kind of assessment or judgment is made of the discrepancy.
- (4) A conclusion is reached that what was felt was erroneous or illusory. (Jung argued that this was as far as psychoanalysis went.)
- (5) A conscious search for the sources and origin of the projection is undertaken. This includes COLLECTIVE as well as personal determinants of the projection . . . .

*Id.*; see also HORACE B. ENGLISH, *A COMPREHENSIVE DICTIONARY OF PSYCHOLOGICAL AND PSYCHOANALYTICAL TERMS* 412 (1958) (defining “projection” as “attributing one’s own traits, attitudes, or subjective processes to others . . . . [or] the process of ascribing to others one’s own unacknowledged desires or faults”).

Kenneth Karst specifically discusses how projection works in terms of gender and race:



dominant group<sup>11</sup> can “project” their collective forbidden longings, darkest qualities, and unspoken fears onto some external group.<sup>12</sup> Thus, these negative qualities come to exist *out there*, not among the dominant group’s members. This allows the dominant group to feel

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One standard mode of repression of our negative identities is to project them onto other people, and especially onto members of groups that have been subordinated. The process works so well that it becomes second nature to see those people not as persons, but as the abstractions we have projected upon them. Each abstraction is a mask, and it bears a label: Blackness, for example, or femininity, or homosexuality. To a great many White heterosexual men these masks of the Other are frightening; when we police the color line and the gender line in the world around us, we are policing the same line in our own minds, defending our senses of self. The fear of members of subordinated groups is more than a fear of competition, or even retaliation. No spectre is more terrifying than our own negative identity.

Kenneth L. Karst, *The Pursuit of Manhood and the Desegregation of the Armed Forces*, 38 UCLA L. REV. 499, 507–08 (1991).

11. All people, to a certain extent, define their *individual* identities by comparing themselves with others. I may project those negative qualities actually within myself onto others in order to believe that I am pure and “normal” while those others are flawed and lacking. No doubt, all individuals engage in this type of psychological projection, at least on some level, for purposes of forming and reinforcing their identities. Yet we must distinguish between projection on the individual level and that on the group level.

The consequences for each differ significantly. This is especially true when a politically, militarily, or economically powerful racial group projects its negative characteristics onto a weak racial group. The dominant racial group can use projection to accomplish two things: First, it can absolve itself of guilt for conquering and subordinating a vulnerable group that has done nothing to provoke attack. Second, the projection forces the weak group to internalize the projected qualities, thereby causing it to feel that it somehow *deserves* to be disenfranchised. Thus, through group projection, the dominant group can maintain its vision of social reality by enforcing a system of racial hierarchy. Moreover, the dominant racial group legitimizes the projection through its courts, legislatures, and religious organizations. The effects of group projection, then, go beyond mischaracterizing a single individual or even a large number of individuals. Rather, it entrenches and justifies itself on an institutional level. This is not the case with projection on an individual level. Granted, projection on an individual level could lead to harmful, even deadly, results, but it does not have the same pervasive power and cannot claim the legitimizing support of institutions such as churches and legislatures. Thus, one cannot discount the importance of projection analysis in the subordination of people of color simply because “everyone engages in it to some extent.”

12. Granted, a person or a group of persons can project what could be interpreted as positive qualities onto another. See SAMUELS ET AL., *supra* note 10, at 113 (“Alternatively, aspects of the personality sensed to be good and valuable may be projected . . .”). For example, a man can project a sense of heroism which he finds in himself onto an athlete and see the athlete as being a larger and more demonstrative example of heroism. For the purposes of this Article, I will focus mostly on the projection of negative qualities. Later in the Article, I will discuss the implications of White people’s projection of what might be construed as supposedly positive qualities. I will show why these ostensibly positive qualities in fact serve to subordinate people of color. However, by no means is this Article claiming that the widely complex process of projection cannot entail the projection of positive qualities onto others.

rational, pure, beautiful, and just.<sup>13</sup> The dominant group's self-identification, then, is often, perhaps generally, negative. That is, it must often define itself vis-à-vis some other group instead of feeling secure enough to evaluate itself in its search for self-worth. The question of racial beauty, then, necessarily involves negative self-identification. In order for something to be beautiful, something else must be ugly.

Because this negative self-identification dehumanizes some other group as abnormal and dangerous while reinforcing the dominant group's self-perception as being just and pure, the dominant group can subordinate and disenfranchise other groups, and even commit horrific acts of violence against them without feelings of remorse or moral doubt.<sup>14</sup> Indeed, since someone else comes to embody those darker, sinful qualities in ourselves, we *must* subordinate and punish the "other group" in order to exercise a form of external discipline over ourselves. This external discipline is necessary to mold and confirm our collective normality and correctness. This quality of negative self-identification constitutes the second aspect of the ideology of White aesthetics.

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13. With regard to Western representations of the Orient, Edward Said has written: "[T]he Orient has helped to define Europe (or the West) as its contrasting image, idea, personality, experience. . . . The Oriental is irrational, depraved (fallen), childlike, 'different'; thus the European is rational, virtuous, mature, 'normal.'" EDWARD W. SAID, *ORIENTALISM* 1-2, 40 (1978).

Various authorities discussing the notion of the subordinated "other" in Western culture are cited in Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1372 n.153 (1988). See also JAMES BALDWIN, *THE FIRE NEXT TIME* 103 (1963) ("The white man's unadmitted—and apparently, to him, unspeakable—private fears and longings are projected onto the Negro."); WINTHROP JORDAN, *WHITE OVER BLACK: AMERICAN ATTITUDES TOWARD THE NEGRO, 1550-1812*, at 40 (1968) (The Puritans "used peoples overseas as social mirrors and . . . they were especially inclined to discover attributes in savages which they found first but could not speak of in themselves."); RONALD T. TAKAKI, *IRON CAGES: RACE AND CULTURE IN 19TH-CENTURY AMERICA* 12 (1990) ("As patriot leaders and culture-makers [in the American Revolution] urged white Americans to be self-governing, they cast onto blacks and Indians those qualities they felt republicans should not have, and they denied the 'black bucks' contained within themselves."); Charles R. Lawrence, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 331-44 (1987) (describing psychoanalytic and cognitive approaches to unconscious racism).

14. See KAI T. ERIKSON, *WAYWARD PURITANS: A STUDY IN THE SOCIOLOGY OF DEVIANCE* 3-29 (1966); JOEL WILLIAMSON, *THE CRUCIBLE OF RACE: BLACK-WHITE RELATIONS IN THE AMERICAN SOUTH SINCE EMANCIPATION* (1984). See generally JORDAN, *supra* note 13 (exploring the attitudes of White men toward Black people from 1550 to 1812 in what became the United States); TAKAKI, *supra* note 13 (engaging in a comparative analysis of race in America and focusing on the psychology of nineteenth-century White America).

### C. Appropriating the Voice of Aperspectivity

In defining the ideology of White aesthetics, what must be made absolutely clear is that the appropriation of an “aperspective” voice<sup>15</sup> is not unique to White people or to any particular race. To make this assumption would be extremely myopic and potentially dangerous. Rather, various dominant groups can present and justify their values as being universal and aperspective. For example, from a Marxist standpoint, the dominant economic class often speaks in the voice of aperspectivity and forces its values upon the lower classes.<sup>16</sup> Marx was the first one to shatter the naive assumption that the state stood for the “universal” interests of all members without any meaningful bias.<sup>17</sup> Dramatically exposing the dangerously illusive nature of Hegel’s “objective” state, Marx made the powerfully insightful statement that terms such as “equality” and “freedom” as interpreted by the courts were not reassuringly value-neutral ideas, but rather, both reflected and reinforced the interests of the dominant class.<sup>18</sup> Much influenced by Marx, feminist scholars began to question whether the state and men in general had appropriated the “objective” and “universal” voice of reason that in fact represented the distinct interests of men and worked to subordinate and exploit women.<sup>19</sup> As demonstrated by feminist scholars as well as Marxists, the appropriation of objective truth can occur by economically advantaged groups as well as by men.<sup>20</sup> Therefore, by no means is the appropriation of objective truth limited to White people as a group. Nonetheless, White Europeans

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15. By an “aperspective voice,” I mean a voice that is privileged by virtue of lacking any biased, subjective point of view.

16. See generally Karl Marx, *The German Ideology*, in THE MARX-ENGELS READER 146 (Robert C. Tucker ed., 2d ed. 1978) (discussing the illusively objective community of interests created by the capitalist class).

17. See *id.* at 172–75.

18. See *id.* at 173.

19. Catharine MacKinnon writes:

[M]en create the world from their own point of view, which then becomes the truth to be described. . . . *Power to create the world from one's point of view is power in its male form.* The male epistemological stance, which corresponds to the world it creates, is objectivity: the ostensibly noninvolved stance, the view from a distance and from no particular perspective, apparently transparent to its reality. It does not comprehend its own perspectivity, does not recognize what it sees as subject like itself, or that the way it apprehends its world is a form of its subjugation and presupposes it.

Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: An Agenda for Theory*, in FEMINIST LEGAL THEORY: FOUNDATIONS 437, 448 (D. Kelly Weisberg ed., 1993).

20. See *id.* (comparing and contrasting Marxism and feminism).

and White Americans have historically employed, either consciously or subconsciously, the aperspective, universal voice in order to subordinate people of color and to justify the subordination itself.<sup>21</sup>

Through this aperspective voice, the ideology of White aesthetics claims that the physical features of White people are universally good and objectively true.<sup>22</sup> White people institutionalize these beliefs through the media and, more generally, popular culture.<sup>23</sup> In addition, the ideology of White aesthetics expresses itself through the legal system,<sup>24</sup> which can be especially effective in legitimizing it. This seems likely given that Americans have traditionally accorded a peculiar deference to the legal system and the language of legal analysis as being rational, dispassionate, and objective.<sup>25</sup> Therefore, when a court recognizes a certain set of aesthetic values, those values can achieve a level of legitimacy that cannot be obtained through the media or through political rhetoric.

By having either consciously or subconsciously institutionalized the ideology of White aesthetics through the law and other means, White Americans feel very secure about their bodily features. White people, free of coercion, can prefer to look, dress, or express

21. See generally SAID, *supra* note 13 (arguing that Europeans hid their cultural biases in the detached voice of objectivity to describe and to subordinate people of color). See also RENATO ROSALDO, *CULTURE & TRUTH: THE REMAKING OF SOCIAL ANALYSIS* (1989) (criticizing the classic ethnographer for claiming "detached impartiality" while perpetuating a system that includes "a complicity with imperialism" and a "[stated] commitment to objectivism").

22. See discussion *infra* Part II.B.

23. See discussion *infra* Part IV.E.

24. See discussion *infra* Parts II.C, III.B, IV.D.

25. Law professor David Kairys writes:

Basic to the popular perception of the judicial process is the notion of government by law, not people. Law is depicted as separate from—and "above"—politics, economics, culture, or the values or preferences of judges. This separation is supposedly accomplished and ensured by a number of perceived attributes of the decision-making process, including judicial subservience to a Constitution, statutes, and precedent; the quasi-scientific, objective nature of legal analysis; and the technical expertise of judges and lawyers.

Together, these attributes constitute decision-making process in which (1) the law on a particular issue is preexisting, clear, predictable, and available to anyone with reasonable legal skill; (2) the facts relevant to disposition of a case are ascertained by objective hearing and evidentiary rules that reasonably ensure that the truth will emerge; (3) the result in a particular case is determined by a rather routine application of the law to the facts; and (4) except for the occasional bad judge, any reasonably competent and fair judge will reach the "correct" decision.

David Kairys, *Introduction* to *THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* 1, 1–2 (David Kairys ed., 1990). Kairys' collection of essays serves as a good introduction to the work of various critical scholars who challenge the perception of an objective legal system.

themselves in any way they please through the medium of the body. People of color do not have such freedom because the dominant group forces its aesthetic values upon them. At the very least, members of the weaker group *perceive* this to be true, even though the dominant group may not *intentionally* mean to force its aesthetic standards upon them. Thus, in many cases, people of color cannot prefer certain aesthetic values over others. They may only reject the values of the dominant group or submit to them.<sup>26</sup> Quite often, that is the extent of their “choice.”

The difference between “preference” and “rejection” is not a matter of degree. Rather, they are qualitatively different in significant ways; they might even be opposite. For the purposes of this Article, I define “preference” as “the act or attitude of liking better,”<sup>27</sup> which involves selection or choice that is devoid of any notable coercion. This notable coercion, however, is present in my definition of “rejection” because it lacks a sense of meaningful choice present in “preference.”<sup>28</sup> “Rejection” is defined in this Article such that one

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26. Like any conceptual framework, there are, of course, exceptions to the rule. Hopefully, this Article will show that these exceptions are not significant enough to undermine the rule.

27. 2 THE WORLD BOOK DICTIONARY 1643 (Clarence L. Barnhart & Robert K. Barnhart eds., 1979).

28. There is also outside support for my definitions. For example, *The World Book Dictionary* defines “rejection” as the act of “resisting . . . repulsing or rebuffing.” *Id.* at 1763. The words “repulsing” and “rebuffing” generally suggest fighting off an attack or reacting to someone who forcibly asserts his control over another. *See id.* at 1775, 1741 (defining “repulse” as “to drive back; repel . . . ; the condition of being driven back”; and “rebuff” as “a blunt or sudden check to a person who makes advances”). If these words suggest “choice,” the only choice is to submit or resist.

A “preference,” however, involves the absence of such a forcible assertion of control by another. When I exercise my preference, I can look however I please without feeling that someone forces me to look that way. The idea of “preference” implicitly relies on the existence of freedom. Accordingly, the idea of a “coerced preference” is contradictory and idiomatically bizarre, whereas the idea of “rejecting” something that is “coerced” sounds entirely consistent and can be maintained without sounding clumsy. Again, this is not to say that “rejection” must always be defined as involving a lack of freedom. Yet, we can associate the idea of “rejection” with an absence of freedom in most cases without worrying about a contradiction in terms or the appearance of inconsistency.

The reader may take exception to this definition. Admittedly, one can argue that there is indeed choice and preference in *all* actions, whether coerced or not. This Article, within its limited thesis, cannot adequately respond to such a statement. Rather, at the expense of making what might be seen as crude, if not erroneous, generalizations, I feel that my definitions are more helpful than detrimental in illuminating certain ideas about how aesthetics interacts with race. If we were to rely on the definition that “rejection,” like “preference,” also involves a similar sense of choice, then this would, in my opinion, tend to obliterate the different life experiences between White people and people of color. Such a blurring definition would suggest that the problems involving aesthetics are basically the same for all people—White, Black, Asian, Latino, Native American, etc. However, as this Article will attempt to show, this cannot be

can generally only reject something when someone is *forcing* her to accept it. On the other hand, she can only prefer to do something when someone is not forcing her.

Because White people can enjoy the freedom to prefer certain aesthetic styles over others, they can enjoy the ability to make *private* fashion statements for amusement, but people of color are often pushed into the *political* arena of racial defiance or submission through such simple acts as hair-straightening procedures. The ideology of White aesthetics creates a world of aesthetics where, for people of color, the personal is still very much the political.

#### D. *The Deculturalization of Racial Aesthetic Expression*

Lastly, the ideology of White aesthetics deculturalizes the uniquely cultural expression of people of color. That is, White people use various institutional means, including the courts, to remove or diminish the cultural aspects from the aesthetic expression of people of color.<sup>29</sup> The ideology of White aesthetics insists that such expression by people of color is simply a fashion statement in the capitalist marketplace because White people can also express themselves in an "exotic" ethnic manner.<sup>30</sup> This confusion over fashion statement and cultural expression allows courts to dismiss as frivolous those claims by plaintiffs who seek to reject the ideology of White aesthetics as manifested, for example, through their employers' dress codes.<sup>31</sup>

#### 1. Immigrant Analogy or Assimilationist Theory

The confusion over fashion statement and cultural expression stems from the assumed immigrant analogy or assimilationist view as expounded by writers such as Nathan Glazer and Daniel Patrick

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true and the presumption that it is can lead to dangerous inferences about how racism is no longer a significant factor in America or that aesthetics is somehow an isolated area of purity untouched by racial hegemony. To avoid either of these very misleading conclusions, I think that "preference" and "rejection" cannot be defined as both involving the same sense of "choice."

Given the incredibly fluid and complex nature of human relations, aesthetics, and race relations, my definition of "rejection" will not always be accurate. However, I feel that my definitions do more to illuminate the dynamics of aesthetics in race relations than to obfuscate or distort them. And without my definitions, I would have a very difficult time expressing my ideas at all. In this respect, whatever fallacies are inherent in my definitions, I think the price is worth the potential meanings that might be derived by the reader.

29. See discussion *infra* Part III.B.1.

30. See *id.*

31. See *id.*

Moynihan.<sup>32</sup> These theorists argue that people of color can, like White ethnic groups, also assimilate into American culture.<sup>33</sup> Yes, they face severe obstacles from racism, but ultimately, people of color, like White European ethnic groups, will assimilate into American culture.<sup>34</sup>

In terms of aesthetics, the assimilationist view is consistent with the ideology of White aesthetics. Both are predicated upon the belief that White ethnic groups and people of color share important experiential similarities in their attempts to assimilate into America. White ethnic groups and people of color come to accept the dominant aesthetic standards of White Americans in the same manner. Neither one is “coerced” into accepting the aesthetic values of White people. Rather, both groups voluntarily “prefer” the aesthetic values of White Americans.

## 2. Internal Colonialism Theory

While the assimilationist theory would tend to legitimize the ideology of White aesthetics, internal colonialism theory as discussed most notably by Robert Blauner<sup>35</sup> reveals its coercive character. Although spurred heavily by the leftist politics of the 1960s and

32. NATHAN GLAZER & DANIEL PATRICK MOYNIHAN, *BEYOND THE MELTING POT* 53 (1963) (“[I]t is not possible for Negroes to view themselves as other ethnic groups viewed themselves because—and this is the key to much in the Negro world—the Negro is only an American and nothing else. He has no values and culture to guard and protect.”).

33. *See id.*

34. Robert Blauner explains:

Although the immigrant analogy need not deny the special impact of racism, in practice its advocates tend to discount or minimize the pervasiveness of racial oppression, especially as a reality of the present period. In their view racism tends to be located in our *past* heritage of slavery, segregation, and discrimination. These historical forces and their present-day effects on the racially oppressed have slowed the assimilation and social mobility of people of color, maintaining minority groups in lower-class status for a longer period than was the case for the European ethnics. But for the common man who subscribes to this folk sociology, as well as for its academic exponents, racism is now largely a thing of the past. Therefore, those who hold this perspective are not pessimistic, despite the massive economic imbalances and social problems correlated with race. They assume that black, Chicano, and even Native Americans will eventually follow the path of acculturation and “Americanization” marked out by the white immigrants. Thus the immigrant analogy serves to bolster a desperate need of many Americans to believe that our society can solve its internal problems; it is a contemporary version of the myth of progress and opportunity.

ROBERT BLAUNER, *RACIAL OPPRESSION IN AMERICA* 10 (1972).

35. *Id.* at 82–84.

late 1970s, and subsequently attacked and criticized by scholars,<sup>36</sup> Blauner's theory still possesses merit and serves as a useful analytical tool to illustrate the ideology of White aesthetics.

Internal colonialism theory holds that people of color undergo significantly different experiences upon their arrival in America.<sup>37</sup> This theory concedes that White ethnic groups, such as the Irish and the Jews, have definitely experienced discrimination in America.<sup>38</sup> However, internal colonialism distinguishes this type of discrimination from that suffered by people of color in America.<sup>39</sup> People of color have suffered experiences similar to those groups that have been colonized abroad by European and American governments. Therefore, although White ethnic groups certainly suffered discrimination—often terribly cruel discrimination—as a whole theirs never rose to the level of exploitation suffered by people of color.<sup>40</sup> The colonial-like exploitation of people of color consisted not only of using the non-White immigrants for cheap labor, but also consisted of destroying their traditions, their religious beliefs, and even tearing apart families for the ultimate purpose of destroying their culture and making them more vulnerable to political and capitalist exploitation.<sup>41</sup> Therefore, people of color perceive reality in a considerably different way from ethnic White

36. See, e.g., OMI & WINANT, *supra* note 9, at 48–50. Specifically, Blauner's theory fails to address the class cleavages within non-White communities. *Id.* at 49. In addition, Blauner's often vague analysis does not persuasively analogize between "colonized" peoples in America and those who have been truly colonized abroad. See *id.* at 48 n.46.

Despite pointing out the flaws in Blauner's theory, Omi and Winant credit him with helping to construct part of their "racial formation" theory. *Id.* at 51. In their theory, Omi and Winant, like Blauner, argue that a race-based paradigm is essential to understanding the problems and relationships among Americans. See *id.* at 2, 4. Like Blauner, they argue that analysis predicated upon class or gender alone, while important, fail to adequately explain our world because they inevitably ignore the systemic presence of race. See *id.*

37. BLAUNER, *supra* note 34, at 65–67.

38. *Id.* at 65.

39. *Id.*

40. Indeed, Robert Blauner argues:

European ethnics [in America] were exploited on the job, but in the urban ghettos where they lived they had the insulation and freedom to carry on many aspects of their old country cultures—to speak their languages, establish their religions and build institutions such as schools, newspapers, welfare societies, and political organizations. In fact, because they had been oppressed in Europe—by such imperial powers as England, Tsarist Russia, and the Hapsburg Monarchy—the Irish, Poles, Jews, and other East Europeans actually had more autonomy in the New World for their cultural and political development.

*Id.*

41. See *id.* at 66–67.



Americans.<sup>42</sup> Because much of their cultures have been systematically dismantled and ridiculed, people of color tend to view their native values with great ambivalence and sometimes with shame.<sup>43</sup>

## II. WHITE OVER BLACK: THE PROCESS OF PROJECTION AND GIVING NORMATIVE CONTENT TO SKIN COLOR

### A. *Black and White in Europe*

The ideology of White aesthetics involves negative self-identification in which the concept of Whiteness is only possible by contrasting it with non-Whiteness. In the sixteenth century, Europeans extolled Whiteness as beautiful by degrading its opposite, Blackness, as being ugly.<sup>44</sup> Winthrop Jordan writes:

Whiteness, moreover, carried a special significance for Elizabethan Englishmen: it was, particularly when complemented

42. See *id.* (stating that the cultural experience has been different for non-Whites).

43. I must qualify this statement because culture tends to be dynamic rather than static. Therefore, people of color can, at certain periods of American history, grow extremely proud of their physical aesthetic features. For example, Part III.B.4 specifically addresses the 1960s mentality among African Americans that "Black is Beautiful." However, I argue that even such attempts at asserting racial beauty are presented in the rhetoric of *rejecting* White aesthetic values, rather than the great freedom of aesthetic expression enjoyed by White people.

44. See JORDAN, *supra* note 13, at 8–9. There is reason to believe that this negative self-identification continues today in modern Europe. Frantz Fanon wrote in the late 1960s:

*In Europe, the black man is the symbol of Evil.* One must move softly, I know, but it is not easy. The torturer is the black man, Satan is black, one talks of shadows, when one is dirty one is black—whether one is thinking of physical dirtiness or of moral dirtiness. It would be astonishing, if the trouble were taken to bring them all together, to see the vast number of expressions that make the black man the equivalent of sin. . . . Blackness, darkness, shadow, shades, night, the labyrinths of the earth, abysmal depths, blacken someone's reputation; and, on the other side, the bright look of innocence, the white dove of peace, magical, heavenly light. A magnificent blond child—how much peace there is in that phrase, how much joy, and above all how much hope! There is no comparison with a magnificent black child: literally, such a thing is unwanted. . . .

. . . .

. . . In Europe the Negro has one function: that of symbolizing the lower emotions, the baser inclinations, the dark side of the soul. In the collective unconscious of *homo occidentalis*, the Negro—or, if one prefers, the color Black—symbolizes evil, sin, wretchedness, death, war, famine.

FRANTZ FANON, BLACK SKIN WHITE MASKS 188–91 (Charles Lam Markmann trans., 1967).

by red, the color of perfect human beauty, especially *female* beauty. This ideal was already centuries old in Elizabeth's time, and their fair Queen was its very embodiment: her cheeks were "roses in a bed of lilies."

. . . It was important, if incalculably so, that English discovery of black Africans came at a time when the accepted standard of ideal beauty was a fair complexion of rose and white. Negroes not only failed to fit this ideal but seemed the very picture of perverse negation.<sup>45</sup>

More importantly, Whiteness and Blackness transcended mere aesthetic qualities. White Europeans attributed skin color with moral significance and divine meaning. They projected their own negative traits onto Black people. For Europeans during the sixteenth and seventeenth centuries, "[w]hite and black connoted purity and filthiness, virginity and sin, virtue and baseness, . . . beneficence and evil, God and the devil."<sup>46</sup> Therefore, even before the founding of America, racial aesthetics was used to explain morality and sin.

When White settlers arrived in the New World, they too would harbor similar views of Blackness and Whiteness.<sup>47</sup> As with their European ancestors, for the early White settlers, black skin came to symbolize the fear and psychological "blackness" within Whites themselves. They thus projected their darker qualities onto Black people, among others.<sup>48</sup> The new settlers viewed black skin and other distinguishing racial features of the slaves as symbolizing lust,<sup>49</sup> savagery,<sup>50</sup> and the darkness of human character.<sup>51</sup> Yet, there

45. JORDAN, *supra* note 13, at 8–9 (footnotes omitted). One European who wanted to present Black people as heroic presented them as "capable of blushing and turning pale." *Id.* at 9.

46. *Id.* at 7.

47. See Lynn D. Trost, *Western Metaphysical Dualism as an Element in Racism*, in CULTURAL BASES OF RACISM AND GROUP OPPRESSION 50, 53–54 (John L. Hodge et al. eds., 1975) (discussing how English views of race were influential in early America).

48. See WILLIAMSON, *supra* note 14, at 151, 308 (discussing how racism against Blacks in Southern history is a result of projection).

49. Ronald Takaki explains:

Regarded as a savage, the black was fearfully thought to be a creature under the domination of his passions, especially his sexuality. He lived in the section of town called "New Liberia" or "New Guinea" or "Little Africa"—places which whites associated with vice, promiscuity, and immoral entertainment. Northern whites anxiously saw him as a sexual threat to white women and white racial purity. During an anti-Republican parade in New York in 1860, floats showed a thick-lipped black embracing a white woman and a black man leading a white woman into the White House. . . .

was no real factual basis for such determination. Rather, the Puritans “used peoples overseas as social mirrors and . . . they were especially inclined to discover attributes in savages which they found first but could not speak of in themselves.”<sup>52</sup> Through projection, then, young America had begun to racialize beauty as “White.” Accordingly, conceptions of racial beauty would come to justify an ideology of White supremacy intended to physically

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Thus, whites saw the black “child/savage” in counterpoint to their own self-image: The antithesis of themselves and of what they valued, he lacked “incentive to industry,” “moral restraint,” the principle of “accumulation,” and control over the “animal part” of man.

TAKAKI, *supra* note 13, at 114, 126.

50. Winthrop Jordan wrote that the English settlers saw Black slaves as “the living image of primitive aggressions which they said was the Negro but was really their own. . . . Intermixture and insurrection, violent sex and sexual violence, creation and destruction, life and death—the stuff of animal existence was rumbling at the gates of rational and moral judgment.” JORDAN, *supra* note 13, at 579.

Jordan further hypothesized as to what the settlers might have thought:

We, therefore, we do not lust and destroy; it is someone else. We are not great black bucks of the fields. But a buck is loose, his great horns menacing to gore into us with life and destruction. Chain him, either chain him or expel his black shape from our midst, before we realize that he is ourselves.

*Id.*

51. Among Europeans, “there was a feeling that Blackness could scarcely be anything *but* a curse and [was probably sustained] by the common need to confirm the facts of nature by specific reference to Scripture.” *Id.* at 19. Furthermore, “[b]lackness was eminently functional in a slave society where White men were masters. It served as an easily grasped symbol of the Negro’s baseness and wickedness.” *Id.* at 257–58; see also *supra* note 44 (quoting Frantz Fanon’s explication on negative self-identification).

52. JORDAN, *supra* note 13, at 40. Toni Morrison explains how early American literature reflected this kind of negative self-identification:

As for culture, the imaginative and historical terrain upon which early American writers journeyed is in large measure shaped by the presence of the racial other.

....

Explicit or implicit, the Africanist presence informs in compelling and inescapable ways the texture of American literature. It is a dark and abiding presence, there for the literary imagination as both a visible and an invisible mediating force. Even, and especially, when American texts are not “about” Africanist presences or characters or narrative or idiom, the shadow hovers in implication, in sign, in line of demarcation. It is no accident and no mistake that immigrant populations (and much immigrant literature) understood their “Americanness” as an opposition to the resident Black population. Race, in fact, now functions as a metaphor so necessary to the construction of Americanness that it rivals the old pseudo-scientific and class-informed racism whose dynamics we are more used to deciphering.

TONI MORRISON, *PLAYING IN THE DARK: WHITENESS AND THE LITERARY IMAGINATION* 46–47 (1992).

exclude people of color and legally disenfranchise those already present.

B. *Physical Exclusion: To Preserve the "Lovely White"*

Based heavily on notions of White beauty and Black ugliness, the Founding Fathers such as Thomas Jefferson justified the physical expulsion of Black people from America. Jefferson expressly and insistently equated America with "White." He opposed the idea of racial integration and instead favored the forcible return of Blacks to Africa.<sup>53</sup> Although Jefferson cited various reasons for such a government policy, his main argument in favor of expulsion involved the question of White beauty and Black ugliness.<sup>54</sup> He expounded upon these views in *Notes on Virginia*:

It will probably be asked, Why not retain and incorporate the blacks into the State, and thus save the expense of supplying by importation of white settlers, the vacancies they will leave? . . . To these objections, which are political, may be added others, which are physical and moral. The first difference which strikes us is that of color. . . . Is it not the foundation of a greater or less share of beauty in the two races? Are not the fine mixtures of red and white, the expressions of every passion by greater or less suffusions of color in the one, preferable to that eternal monotony, which reigns in the countenances, that immovable veil of black which covers the *emotions* of the other race? Add to these, flowing hair, a more elegant symmetry of form, their own judgment in favor of the whites, declared by their preference of them, as uniformly as is the preference of the Oran-utan for the black woman over those of his own species. The circumstance of superior beauty, is thought worthy attention in the propagation of our horses, dogs, and other domestic animals; why not in that of man?<sup>55</sup>

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53. See TAKAKI, *supra* note 13, at 45, 49–50.

54. Ronald Takaki states that "[w]hat distressed [Jefferson] most profoundly was the danger that the Black 'blot' would lead to 'mixture' and the 'staining' of Whites." *Id.* at 49; see also JORDAN, *supra* note 13, at 458 (noting that Jefferson's "ensuing remarks made evident which factor carried greatest weight with him, for he immediately entered into a long discussion of other 'objections' which were 'physical and moral.' 'The first difference which strikes us . . . is that of colour.'").

55. THOMAS JEFFERSON, *Notes on Virginia*, in THE LIFE AND SELECTED WRITINGS OF THOMAS JEFFERSON 187, 256 (Adrienne Koch & William Peden eds., 1944) (emphasis added) (quoted in TAKAKI, *supra* note 13, at 47). This passage by Jefferson attests to the profoundly powerful effect of aesthetics on political domination and racial

Here, in this most revealing passage, Jefferson, like the Puritans and their European forebears, imbues racial aesthetics with normative meaning. First, he argues that the “eternal monotony” of ugly Blackness not only covers the physical appearances of Black people but their emotions as well.<sup>56</sup> Thus, Black people are reduced to one-dimensional beings because of their skin color. By contrast, he argues that White people can express “every passion” because of their beautiful white hues.<sup>57</sup> Racial aesthetics, then, confers a three-dimensional humanity upon White people while dehumanizing Black people and thus implicitly justifying physical removal from America.

In *Notes on Virginia*, Jefferson also argues that the ugly character of Blackness is indicative of promiscuity and an inability for tender affections.<sup>58</sup> Because Black women are so unattractive, Jefferson explains, they must necessarily engage in sex with apes (who are also Black) since no one else, including Black men, desire them.<sup>59</sup> Black men, who are also beast-like because of their racial traits, desire White women who are far more beautiful than their own women.<sup>60</sup> Through this gross misrepresentation of truth, Jefferson projected onto Black men the sexual sadism found among White slaveholders. In response to Jefferson’s assertion that Black men lust after White women as opposed to White men lusting after Black women, Michael Rogin argues that Jefferson’s statement “[reverses] the actual direction of interracial sexual exploitation under slavery.”<sup>61</sup> Indeed, Jefferson’s own father-in-law, and perhaps even Jefferson himself,

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exploitation. In the aforementioned passage, Jefferson’s views on aesthetics are used to literally distort reality. Jefferson used claims of beauty to mask White patriarchal oppression of Black women and girls:

This unfortunate difference of color, and perhaps of faculty, is a powerful obstacle to the emancipation of these people. Many of their advocates, while they wish to vindicate the liberty of human nature, are anxious also to preserve its dignity and beauty. . . . Among the Romans emancipation required but one effort. The slave, when made free, might mix with, without staining the blood of his master. But with us a second is necessary, unknown to history. When freed, he is to be removed beyond the reach of mixture.

*Id.* at 262 (quoted in TAKAKI, *supra* note 13, at 49).

56. *See id.* at 256.

57. *See id.*

58. Jefferson wrote: “In general, their existence appears to participate more of sensation than reflection. . . . [Black men] are more ardent after their female; but love seems with them to be more an eager desire, than a tender delicate mixture of sentiment and sensation.” *Id.* at 257 (quoted in TAKAKI, *supra* note 13, at 48–49).

59. *See id.* at 256 (noting that Black male preference for White women is as uniform as “the preference of the [orangutan] for the black woman over those of his own species”).

60. *See id.*

61. MICHAEL PAUL ROGIN, RONALD REAGAN, THE MOVIE: AND OTHER EPISODES IN POLITICAL DEMONOLOGY 52 (1987).

sexually exploited Black women and girls.<sup>62</sup> Jefferson used claims of racial beauty to mask White patriarchal oppression of Black women and young girls. Moreover, through this act of projection, he freed the White masters from the tyranny of their conscience. *They* were not lustful and depraved, the Blacks were. They as rational, republican men deserved to remain in America, but the Blacks did not. By employing the ideology of White aesthetics, either consciously or subconsciously, White people could view themselves as chaste and moral while justifying the physical expulsion of Blacks from America. As Joel Williamson argued, "To paint the Black as ugly and then to destroy him was to destroy the evil within themselves."<sup>63</sup>

Jefferson also associated Blackness with intellectual inferiority. He wrote:

[I]n reason [Blacks are] much inferior, as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid; and that in imagination they are dull, tasteless, and anomalous. . . . [N]ever yet could I find that a black had uttered a thought above the level of plain narration; never saw even an elementary trait of painting or sculpture.<sup>64</sup>

Jefferson largely attributed these failings to biology rather than the detrimental effects of slavery.<sup>65</sup> Furthermore, these failings seemed entirely consistent with the perceived lack of racial beauty among Black people. Because Black people seemed ugly to Jefferson, he could better deny their self-worth.<sup>66</sup> Ultimately, Jefferson's numerous associations

62. See TAKAKI, *supra* note 13, at 50–53.

63. WILLIAMSON, *supra* note 14, at 308.

64. JEFFERSON, *supra* note 55, at 257–58; JORDAN, *supra* note 13, at 436–37.

65. Ronald Takaki writes: "Jefferson did not view black 'inferiority' as a consequence of slavery or as a social rather than a biological condition. Instead he seized evidence which set blacks apart as 'a distinct race,' and which emphasized the importance of biology over conditions or circumstances in the determination of intelligence." TAKAKI, *supra* note 13, at 48. Jefferson explained: "The improvement of the blacks in body and mind, in the first instance of their mixture with the whites, has been observed by every one, and proves that their inferiority is not the effect merely of their condition of life." JEFFERSON, *supra* note 55, at 259 (quoted in TAKAKI, *supra* note 13, at 48).

66. Cf. RONALD TAKAKI, *A DIFFERENT MIRROR: A HISTORY OF MULTICULTURAL AMERICA* 71–72 (1993) (describing Jefferson as drawing a connection between aesthetic hierarchy and intellectual hierarchy). One of those whom Jefferson dismissed was the poet Phillis Wheatley. *Id.* at 72–73. She was born in Africa and forcibly brought to America at the age of ten to be sold as a slave. *Id.* at 72. She managed to publish her poems in 1773, a time when White intellectuals such as Thomas Jefferson raised serious questions about the mental competency of Blacks. *Id.* at 71–72. Wheatley's poetry gave an eloquent response that implicitly answered Jefferson's questions:

between negative qualities and Black people prompted him to support a policy of forcibly removing them and transplanting them onto Africa.

Benjamin Franklin also invoked the idea of White beauty and Black vileness as a prime reason for the removal of Black people from America. Ronald Takaki explains that for Franklin

the number of "purely white People" in the world was proportionately very small. All Africa was black or tawny, Asian chiefly tawny, and "America (exclusive of the new comers) wholly so." The English were the "principle Body of white People," and Franklin wanted more of this type in America. "And while we are . . . *Scouring* our Planet, by clearing America of Woods, and so making this Side of our globe reflect a brighter Light to the Eyes of Inhabitants in Mars or Venus," he declared, "why should we in the Sight of Superior Beings, darken its People? Why increase the Sons of Africa, by Planting them in America, where we have so fair an opportunity, by excluding all blacks and Tawnys, of increasing the lovely white . . . ?"<sup>67</sup>

As in Jefferson's case, for Franklin, Whiteness was more than skin color. It symbolized aesthetic purity and national identity. Therefore, the forced removal of Black people from America was morally justified. Removal was necessary to preserve and proliferate the "lovely white." Like his contemporary Jefferson, Franklin also thought of America as being synonymous with White and the antithesis of Black.

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'Twas mercy brought me from my *Pagan* land,  
 Taught my benighted soul to understand  
 That there's a God, that there's a *Savior* too:  
 Once I redemption neither sought nor knew.  
 Some view our sable race with scornful eye,  
 "Their colour is a diabolic die."  
 Remember, *Christians, Negroes*, black as *Cain*,  
 May be refin'd, and join th'angelic train.

*Id.* at 72 (quoting PHILLIS WHEATLEY, *THE POEMS OF PHILLIS WHEATLEY* (Julian Mason ed., 1966)). Concerning Wheatley's poetry, Jefferson remarked, "The compositions published under her name are below the dignity of criticism." *Id.* at 73 (citing JORDAN, *supra* note 13, at 437); JEFFERSON, *supra* note 55, at 259.

67. TAKAKI, *supra* note 66, at 79 (quoting BENJAMIN FRANKLIN, *Observations Concerning the Increase of Mankind*, in 4 *THE PAPERS OF BENJAMIN FRANKLIN* 225, 234 (Leonard W. Labaree ed., 1959)).

C. Legal Exclusion: Tort Damages for  
Injuring White Aesthetic Dignity

The aesthetic implications in slavery were spelled out even more clearly in the field of tort law. Tort law was used as a means to preserve the hierarchical status quo of White beauty over Black ugliness. The idea of being seen as a Black person was so offensive to White Americans that a number of southern courts used to provide a tort remedy for those White people who suffered the "injury" of being called Black. As late as the 1930s, southern courts recognized slander and libel as being valid causes of action when a "pure" White person was intentionally or recklessly mischaracterized as Black.<sup>68</sup> However, there was no such action available to a Black person falsely accused of being White.<sup>69</sup>

Indeed, being seen as White was probably a benefit which many Black Americans sought through the practice of "passing."<sup>70</sup> Cheryl Harris has argued that at the time of these tort suits for libel and slander, White skin and White physical features were "privileged property."<sup>71</sup> And like other forms of property, Whiteness was characterized by the right to exclude. Specifically, courts and legislatures rewarded White people for being devoid of any color

68. Charles S. Mangum, Jr., writes:

There can be no doubt that the term "Negro" or "colored persons," when applied to a person who is wholly of Caucasian blood, carries with it a certain degree of opprobrium. Such language constitutes a grievous insult in the South where the resentment is particularly strong as a result of historic factors and anti-Negro social attitudes which are taken judicial notice of by the southern courts . . . . Every court which has considered the question has held that writing that a White man is a Negro is libelous per se. In the case of spoken words, . . . [courts of] Arkansas, Georgia, Louisiana, Mississippi, South Carolina, and Virginia . . . have employed language in their opinions which can only be interpreted as recognizing the doctrine that such an utterance is actionable per se . . . .

CHARLES S. MANGUM, JR., *THE LEGAL STATUS OF THE NEGRO* 18-19 (1940).

69. See Cheryl I. Harris, *Whiteness as Property*, 106 *HARV. L. REV.* 1707, 1736 (1993) ("A Black person . . . could not sue for defamation if she was called 'white.' Because the law expressed and reinforced the social hierarchy as it existed, it was presumed that no harm could flow from such a reversal.").

70. In his classic study, Gunnar Myrdal explains:

[I]n all male and female trades where Negroes are excluded, there must be a similar incentive to attempt to "pass professionally." . . . In view of the advantages to be had by passing, it is not difficult to explain why Negroes pass, professionally or completely. It is more difficult, however, to explain why Negroes do not pass over to the white race more often than they actually do.

2 GUNNAR MYRDAL, *AN AMERICAN DILEMMA: THE NEGRO SOCIAL STRUCTURES* 685-86 (1964).

71. Harris, *supra* note 69, at 1707.



while excluding and subordinating people of color for possessing it.<sup>72</sup> In terms of bodily aesthetics, then, Whiteness was characterized by purity, by the absence of any color or besmirchment. This legal characterization of racial appearance had “[t]he effect of protecting whiteness at law [and] to devalue those who were not white by coercing them to deny their identity in order to survive.”<sup>73</sup> Both Whites and Blacks could easily infer that in the eyes of the law, Whiteness was beautiful and thus worth protecting against Blackness, whereas Blackness was ugly and thus unworthy of any protection.

### III. OBJECTIVITY IN THE IDEOLOGY OF WHITE AESTHETICS: ITS SOCIAL, POLITICAL, AND EPISTEMOLOGICAL CONSEQUENCES

Given such a historical backdrop of legal oppression, it would be an understatement to say that Black Americans tended to view White physical features as aesthetically “better” than their own. After all, Whiteness literally meant life while Blackness often meant death.<sup>74</sup> Under such circumstances, Whiteness transcended mundane terms such as “prettiness” and “handsomeness.”

Rather, Whiteness still assumes a lofty position of aesthetics that is somehow universal, objective, acontextual, and natural. *Whiteness became the paradigm of beauty itself*, not simply the highest level in an aesthetic hierarchy. This necessarily meant that the racial features of people of color were seen as not only ugly—but subjective and deviant. The beauty of any other race had to be measured against this paradigm of White aesthetics. The closer the racial group’s physical features resembled those of White people, the more attractive that group’s features actually appeared.

This ideology of White aesthetics was crucial for racial hierarchy. As Paulette Caldwell has stated:

Judgments about aesthetics do not exist apart from judgments about the social, political, and economic order of society. They are an essential part of that order. Aesthetic

72. Indeed, Harris goes on to say that the very identity of Whiteness rests on not being Black, brown, or some other non-White. *Id.* at 1736 (“The right to exclude was the central principle, too, of whiteness as identity, for mainly whiteness has been characterized, not by an inherent unifying characteristic, but by the exclusion of others deemed to be ‘not white.’”).

73. *Id.* at 1744.

74. For example, Black men were lynched because of their race. “[B]etween 1892 and 1901, lynchings occurred at the rate of three to four per week. In 1892, there were 161 lynchings. By 1913, the estimate had dropped to 79, was down to 38 in 1917, but rose to 83 by 1919 . . . .” Roderick W. Pugh, *Psychological Aspects of the Black Revolution*, in *BLACK PSYCHOLOGY* 344, 350 (Reginald L. Jones ed., 1972) (citation omitted).

values determine who and what is valued, beautiful, and entitled to control. Thus established, the structure of society at other levels is also justified.<sup>75</sup>

Cornel West similarly explains the significance of aesthetics in the subordination and oppression of people of color.

White supremacist ideology is based first and foremost on the degradation of black bodies in order to control them. One of the best ways to instill fear in people is to terrorize them. Yet this fear is best sustained by convincing them that their bodies are ugly . . . .<sup>76</sup>

The ideology of White aesthetics, then, justified and reinforced a system of political subordination. It sought to explain why people of color continued to suffer and be oppressed: Because they were ugly, they deserved to be on the bottom.

*A. Internalizing Aesthetic Values: Ugly  
People Don't Deserve to Have Rights*

The ideology of White aesthetics had the effect of producing a sense of ambivalence and possibly inferiority among Black Americans.<sup>77</sup> There is a great deal of literature about how African Americans might have internalized the ideology of White superiority.<sup>78</sup> As part of this ambivalence, Black Americans might

75. Paulette M. Caldwell, *A Hair Piece: Perspectives on the Intersection of Race and Gender*, 1991 DUKE L.J. 365, 393.

76. CORNEL WEST, RACE MATTERS 85 (1993).

77. For a discussion of the counter movement of "Black Is Beautiful" during the 1960s, see *infra* Part III.B.4.

78. See E. EARL BAUGHMAN, BLACK AMERICANS: A PSYCHOLOGICAL ANALYSIS 38 (1971) ("Since an individual's self-concept is based upon his experiences and since American society has gone to great lengths to teach the black that he is inferior, it has commonly been accepted that the black has somehow internalized this prevailing valuation and made it his own."); WILLIAM H. GRIER & PRICE M. COBBS, BLACK RAGE 191 (1968) ("The fact of the matter is that black people are inclined to regard the white man as superior. There are examples without number in the patois and the everyday behavior of millions of blacks which speak for the fact that they do indeed feel that the white man is intrinsically better."); ADELBERT H. JENKINS, THE PSYCHOLOGY OF THE AFRO-AMERICAN: A HUMANISTIC APPROACH 24 (1982) ("Many observers have concluded that there is a considerable amount of 'self-hatred' in the Black community, even among Black children."); Pugh, *supra* note 74, at 351 (discussing a condition of "adaptive inferiority" among Black Americans). Anthropologist Mary Ellen Goodman's research revealed "almost a third of our Negro children favoring a white (child or teacher), and nearly as many making it very clear that the whiteness is importantly involved." MARY ELLEN GOODMAN, RACE AWARENESS IN YOUNG CHILDREN 161 (1964).

have viewed their physical features as being unattractive while favoring those features of White people.<sup>79</sup> Perhaps the most notable

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In a less clinical and more literary vein, Maya Angelou writes in her autobiography:

Wouldn't they be surprised when one day I woke out of my black ugly dream, and my real hair, which was long and blond, would take the place of the kinky mass that Momma wouldn't let me straighten? . . . . Because I was really white and because a cruel fairy stepmother, who was understandably jealous of my beauty, had turned me into a too-big Negro girl, with nappy black hair, broad feet and a space between her teeth that would hold a number-two pencil.

MAYA ANGELOU, *I KNOW WHY THE CAGED BIRD SINGS 2* (1971). Similarly, consider the following scene from Toni Morrison's *The Bluest Eye*, where a Black girl comes to the local Black "spiritualist" to ask him to grant her a wish. The spiritualist asks,

"Help you how? Tell me. Don't be frightened."

"My eyes."

"What about your eyes?"

"I want them blue."

. . . [Soaphead the spiritualist] thought it was at once the most fantastic and the most logical petition he had ever received. Here was an ugly little girl asking for beauty. A surge of love and understanding swept through him, but was quickly replaced by anger. Anger that he was powerless to help her. Of all the wishes people had brought him—money, love, revenge—this seemed to him the most poignant and the one most deserving of fulfillment. A little black girl who wanted to rise up out of the pit of her blackness and see the world with blue eyes.

TONI MORRISON, *THE BLUEST EYE* 174 (1993).

79. Much of this research focuses on children perhaps because they, unlike adults in many instances, tend to be more explicit and honest about their feelings. In a study of four year olds, one anthropologist noted:

Our white children never indicate a sense of inferiority in relation to browns. Neutrality—a kind of lukewarm midpoint on the superiority-inferiority continuum—does not appear frequently. About half of our white children give us no reason to suppose that they feel anything more marked than a passive neutrality. The other half falls close to the superiority end of the scale.

Our Negro children feel superior only to one another and never, in our experience, do they assume a posture of superiority toward whites. The subtleties of expression which spelled superiority orientation among the whites are missing in these children. They express neutrality (some 40% of them), but over half of our Negro children convey a sense of inferiority to whites. They convey this orientation primarily through their implicit acceptance of the judgments which are made on the other side of the line. They agree that whites are "prettier," "nicer," more desirable playmates, and even that Negroes are "dirty," "ugly," and generally undesirable.

GOODMAN, *supra* note 78, at 86. Perhaps the most frequently used test for aesthetic orientation has been the doll-preference technique made famous by Kenneth and Mamie Clark. Adelbert Jenkins explains:

The method consisted of presenting a pair of dolls, one brown and one white, to black children, age 3 to 7 years . . . . [T]he Clarks found that preschool

judicial example involves the studies of the psychiatrist Kenneth B. Clark.<sup>80</sup> In *Brown v. Board of Education*,<sup>81</sup> the Supreme Court used Clark's findings to support its argument that de jure school segregation exacerbates an already present sense of racial inferiority among Black children.

The ideology of White aesthetics not only affects how Black people view Whites, but how they view each other. Because White aesthetic standards are the paradigm of beauty itself, Black Americans have tended to value lighter skin amongst themselves as being more beautiful than darker skin. Shortly after the Civil War, mulattoes formed exclusive social clubs reserved for those colored persons with "blue blood." Membership was predicated on whether an applicant's skin color was light enough so that the club members could actually see blue veins on her wrist.<sup>82</sup> Even in historically Black universities such as Spelman, there were at least informal skin color tests to admit lighter skinned Black students.<sup>83</sup> In government as well, "[t]hroughout the twentieth century most of the leaders of the black community have been extraordinarily light skinned."<sup>84</sup> Perhaps the most surprising remark pertaining to the internalization of racial ambivalence came from no less a figure than W.E.B. DuBois. DuBois, for all of his immense contributions to African American political struggle, was human like the rest of us, and as such, he too

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black children had considerable knowledge of racial labels ("colored," "Negro," "white"), and preferred the white doll as the "pretty" doll and the more desirable object of play. In general the Clarks concluded that there was evidence here of a negative attitude toward racial identity on the part of a large number of these children.

Several decades of research using variations of the doll study design produced evidence that seemed to corroborate the Clark findings [made in 1952] about the poor self-image of black children.

....

In a series of studies using a different kind of methodology Williams and Morland (1976) also found that young children—both black and white—in various regions of the country expressed a preference for light-colored objects, animals, and people over dark ones.

JENKINS, *supra* note 78, at 24–25.

80. See, e.g., KENNETH B. CLARK, EFFECT OF PREJUDICE AND DISCRIMINATION ON PERSONALITY DEVELOPMENT (1950) (conveying the results of the doll-preference study, see *supra* note 79).

81. 347 U.S. 483 (1954).

82. KATHY RUSSELL ET AL., THE COLOR COMPLEX: THE POLITICS OF SKIN COLOR AMONG AFRICAN AMERICANS 24–25 (1992).

83. *Id.* at 28.

84. *Id.* at 33 (citing the following examples, among others: Congressman Adam Clayton Powell, Jr.; Walter White (first president of the N.A.A.C.P.); A. Philip Randolph (newspaper editor and head of the influential Brotherhood of Sleeping Car Porters labor union); Congressman Andrew Young; Congressman Julian Bond).

was vulnerable to a degree of racial ambivalence.<sup>85</sup> When the very dark-skinned nationalist leader Marcus Garvey accused the much lighter skinned DuBois of being “everything else but a Negro,” DuBois responded by calling Garvey “fat, black, and ugly.”<sup>86</sup>

Aside from this general collective sense of racial ambivalence, for Black women, lighter skin and other White features were usually necessary to achieve a sense of acceptable femininity. This is because, as stated earlier, White people, from as early as the sixteenth century, explicitly equated Whiteness with feminine beauty.<sup>87</sup> Four hundred years later, this paradigm of beauty often works to make women of color feel inadequate. In their classic *Black Rage*, psychiatrists William Grier and Price Cobbs write that “beauty among Negro girls has been synonymous with fair skin and a minimum of Negroid features.”<sup>88</sup> This explains why, for as many as eighty years, American beauty aid companies have manufactured products specifically tailored to Black women to help them look “Whiter.”<sup>89</sup> These

85. Note also that the vast majority of DuBois’ Talented Tenth who would presumably uplift Black America was of light complexion. *See id.* at 31.

86. *Id.* at 33.

87. *See* discussion *supra* Part II.A.

88. GRIER & COBBS, *supra* note 78, at 79. Is it not surprising that the first “Black” Miss America, Vanessa Williams—*see, e.g.,* Susan Chira, *First Black Miss America Finds Unforeseen Issues*, N.Y. TIMES, Apr. 3, 1984, at B1—with her green eyes, straight hair, and very light skin possessed none of those “Black” features traditionally associated with Black women? *See, e.g.,* Letters to the Editor, CHI. SUN-TIMES, Sept. 23, 1996, at 30, available in 1996 WL 6765045 (“When Vanessa Williams was named Miss America, she was not the epitome of an African-American woman (with green eyes and long flaxen hair).”). Yet mainstream media ceremoniously extolled her as the model of American beauty. This dubious compliment by White America to praise Black Americans actually tended to reinforce the traditional White paradigm of aesthetics.

Also striking is a scene from Toni Morrison’s *The Bluest Eye*. Two Black girls think about another girl who is a “high-yellow dream child with long brown hair braided into two lynch ropes.” MORRISON, *supra* note 78, at 62. The Black girls thought:

If she was cute—and if anything could be believed, she *was*—then we were not. And what did that mean? We were lesser. Nicer, brighter, but still lesser. Dolls we could destroy, but we could not destroy the honey voices of parents and aunts, the obedience in the eyes of our peers, the slippery light in the eyes of our teachers when they encountered the Maureen Peals of the world. What was the secret? What did we lack? Why was it important? And so what? Guileless and without vanity, we were still in love with ourselves then. We felt comfortable in our skins, enjoyed the news that our senses released to us, admired our dirt, cultivated our scars, and could not comprehend this unworthiness.

*Id.* at 74.

89. These included hair-straightening preparations, skin-bleaching products, and blue contact lenses. *See* RUSSELL ET AL., *supra* note 82, at 43–48. As Lisa Jones recounts:

Fade creams kind of laid low in the seventies (in *Jet* they were replaced by ads for Raveen and Duke grooming aids for Afros). They made a comeback in the eighties, which saw a return to “lighter, brighter” standards of African-

products might be seen as an example of the racial ambivalence among African Americans who differ from the White paradigm of beauty.<sup>90</sup>

B. *The Limits of Aesthetic Expression: Those Who  
Can Prefer, Those Who Cannot*

Thus far, I have argued that the ideology of White aesthetics places Whiteness as the paradigm of beauty itself by speaking of it as universal, objective, and acontextual while dismissing the appearances of other races as subjective and deviant. The remainder of Part III will offer modern case law to show examples of this aspect of the ideology of White aesthetics. In making this argument, I was very influenced by the work of theorists in the fields of critical race theory, critical legal studies, and feminist jurisprudence.<sup>91</sup> Despite the different methodologies and goals between and among themselves, these scholars have all focused on the need to unearth the latent prejudices behind the legal language of neutrality, rationalism, and objectivity. They have analyzed how dominant political groups, most notably White men, have either consciously or subconsciously sought to advance their self-interest through the appearance of legal neutrality and "objective" goals. By discovering and revealing the subjective worldview behind the language of objective reality, the scholars in these three fields have opened doors for the rest of us to question critically those legal pronouncements justified by so-called objective analysis.

In the context of something as bias-laden as aesthetics, this desire to look behind the veneer of formal neutrality is essential. By analyzing laws in terms of hidden biases, we can see that those laws and court decisions regulating aesthetics reflect and reinforce the view that White people can enjoy *preferences* in their physical appearance while people of color can only reject or accept White aesthetic values. After all, if a certain value is objective and true, a

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American beauty. (Dark and Lovely, a line of hair products born in the black-is-beautiful seventies, proclaimed in 1986: "Dark and Lovely Lightens!")

LISA JONES, BULLETPROOF DIVA: TALES OF RACE, SEX, AND HAIR 154 (1994)

90. This is not to say that Black Americans did not adopt "White" features and aesthetics for instrumental reasons. Clearly, many African Americans throughout history have tried to "pass" for White to gain employment, legal protection, and even for survival itself. See *supra* notes 70–71 and accompanying text. My aim in this Article is, of course, not to deny such functional aspects of passing. Rather, it is to address and, hopefully, illuminate those aesthetic aspects to passing that focus on fundamental issues of identity and self-definition.

91. For representative works, see CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al. eds., 1995); CRITICAL LEGAL STUDIES (Allan C. Hutchinson ed., 1989); FEMINIST LEGAL THEORY, *supra* note 19.

person cannot, idiomatically speaking, “prefer” to choose this value. Rather, the person merely deviates from it or adheres to it. For people of color, then, they are left with the “choice” of either being seen as “deviants” or as those *attempting* to become the impossible—White. People of color are relegated to the position of conformity or rejection, whereas White people have the luxury to choose. This power dynamic is both reflected by the legal system and reinforced by it.

### 1. The Objective Nature of White Women’s Beauty

Although many of us remember the “corn-row” hairstyle from Bo Derek in the movie *10*,<sup>92</sup> it actually originated among Black women as a distinct aesthetic expression that was tied to ideas of African culture.<sup>93</sup> The tightly braided corn-row hairstyle differed from the flowing, “silky” style of White women’s hair. Therefore, by adopting the corn-row hairstyle, Black women might be said to be rejecting White aesthetic norms.

In *Rogers v. American Airlines*,<sup>94</sup> the court’s language showed that by adopting the corn-row hairstyle, a Black woman deviates not from White aesthetic values, but from a universal, objective standard. Renee Rogers worked as an operations agent<sup>95</sup> for American Airlines. When American refused to let her wear her hair in a corn-row style, Rogers sued, seeking damages and injunctive and declaratory relief against enforcement of American’s hair regulation.<sup>96</sup> District Judge Sofaer rejected her challenge and granted American’s motion to dismiss<sup>97</sup> in an opinion that was quite short, but revealed more by saying less. Sofaer reasoned that American could legitimately seek to present a “conservative and business-like image.”<sup>98</sup>

92. *10* (Warner Bros./Orion Pictures 1979).

93. See RUSSELL ET AL., *supra* note 82, at 90; Caldwell, *supra* note 75, at 379; see also Marcia Ann Gillespie, *Mirror Mirror*, ESSENCE, Jan. 1993, at 73–74 (noting that “[w]e [Black women] afrocentrize by wearing . . . cornrows . . .”); Donna Britt, *Film Gets to the Coifed Roots of the African American Aesthetic*, WASH. POST, June 16, 1992, at B1; Karen Grigsby Bates, *Letting Our Hair Down*, L.A. TIMES, June 26, 1992, (Magazine), at 26.

In *Rogers v. American Airlines, Inc.*, 527 F. Supp. 229 (S.D.N.Y. 1981), discussed *infra*, plaintiff Renee Rogers, in suing her employer over its grooming regulations, told the court that the corn-row “has been, historically, a fashion and style adopted by Black American women, reflective of cultural, historical essence of Black women in American society.” *Id.* at 231–32.

94. 527 F. Supp. 229 (S.D.N.Y. 1983).

95. Her duties involved “extensive passenger contact, including greeting passengers, issuing boarding passes, and checking luggage.” *Id.* at 231.

96. *Id.*

97. *Id.* at 234.

98. *Id.* at 233.

Yet not once did Sofaer mention that the company sought to impose the aesthetic values of White people on women of color.

For Judge Sofaer, the case did not involve a conflict between two subjective systems of aesthetics. Rather, one was objective—"conservative and business-like"<sup>99</sup>—and the other was not—just one of "relatively low importance."<sup>100</sup> American's hair regulation was based on professionalism whereas Rogers' decidedly Black ethnic look undermined her professionalism. Therefore, according to Judge Sofaer, White aesthetic values are not a *higher* form of professionalism than Black aesthetic values. Rather, White aesthetic values *are* professionalism. White aesthetic values take on a paradigmatic presence that is removed from any cultural perspective. Indeed, for Judge Sofaer, American's dress code was so universally valid that American need not have made any showing of business purpose.<sup>101</sup> Rogers demonstrates that the dominant group's aesthetic values have been accepted as universally true while all others constitute subjective deviations.<sup>102</sup>

We also see how the court, like all courts, employs the voice of an unmediated, neutral third party in order to lend credibility to its holding.<sup>103</sup> In Anglo-American jurisprudence, judges and attorneys

99. *Id.*

100. *Id.* at 231.

101. *Id.* at 233.

102. Regina Austin presents arguments that are consistent with the idea that White people have aesthetic preferences with respect to their body whereas people of color, in particular Black women, can only reject or conform to White standards. See Regina Austin, *Black Women, Sisterhood, and the Difference/Deviance Divide*, 26 NEW ENG. L. REV. 877, 883 (1992) ("Of course, many Black women *dismiss* and *defy* the dominant standards [of White aesthetics] by adopting distinctively black styles of dress and adornment. They pay for their *resistance*, however." (emphasis added)). White women do not "dismiss" or "defy" or "resist" the aesthetic standards of Black women or of any other non-White group.

103. Patricia Williams writes that "theoretical legal understanding" in Anglo-American jurisprudence is marked, in part, by

[t]he existence of objective, "unmediated" voices by which those transcendent, universal truths find their expression. Judges, lawyers, logicians, and practitioners of empirical methodologies are obvious examples, but the supposed existence of such voices is also given power in romanticized notions of "real people" having "real" experiences—not because real people have experienced what they really experienced, but because their experiences are somehow *made* legitimate—either because they are viewed as empirically legitimate (directly corroborated by consensus, by a community of outsiders) or, more frequently, because those experiences are corroborated by hidden or unspoken models of legitimacy. The Noble Savage as well as the Great White Father, the Good-Hearted Masses, the Real American, the Rational Consumer, and the Arm's-Length Transactor are all versions of this Idealized Other whose gaze provides us either with internalized censure or externalized approval; internalized paralysis or externalized legitimacy; internalized false consciousness or externalized claims of exaggerated authenticity.



frequently invoke the character of the “reasonable man,” “experienced merchant,” or some other objective third party voice.<sup>104</sup> Judges and attorneys use these voices to lend credence to their arguments as being universal, objective, and true. In *Rogers*, Judge Sofaer implicitly invokes the voice of the competent professional. He implies that this external, objective entity, the competent professional, would not wear her hair in a corn-row, *even if* it were a bona-fide example of racial aesthetic expression.<sup>105</sup> We infer from Judge Sofaer’s opinion that the competent Black woman professional would eschew wearing the corn-row because it would deviate from the universal, aperspective nature of the ideology of White aesthetics. A culturally biased invention—the competent professional—is used to validate another culturally biased invention, White people’s aesthetic values. Nonetheless, Judge Sofaer attempts to convey the impression that an external, objective entity legitimizes an aperspective, objective standard of aesthetics. Not only are the aesthetic values, themselves, seen as objective and universal, but because they are legitimated by the legal system, the appearance of objective truth is reinforced.

## 2. The Naturalness and Immutability of White Features

In addition to employing the voice of the unmediated objective third person, Judge Sofaer also dismissed Renee Rogers’ complaint by characterizing her corn-row as the result of “artifice.”<sup>106</sup> Judge Sofaer argued that while *hairstyle* was the result of “artifice” and manipulation, hair itself was a “natural” outgrowth and, therefore, was “immutable.”<sup>107</sup> A person cannot help it if she has black curly hair as opposed to straight blond hair. According to Judge Sofaer, therefore, to discriminate against someone because of the color and texture of her natural hair or other immutable features could violate Title VII and the Constitution.<sup>108</sup> However, discriminating on the basis of *hairstyle* did not violate either Title VII or the Constitution because the person consciously *chose* to wear her hair in that style. Furthermore, in Judge Sofaer’s eyes, “an all-braided hairstyle is an ‘easily changed characteristic.’”<sup>109</sup> Hairstyle, then, was hardly

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PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* 8–9 (1991).

104. *See id.*

105. Judge Sofaer insisted that “even if [the corn-row is] socioculturally associated with a particular race or nationality, [it] is not an impermissible basis for distinctions in the application of employment practices by an employer.” 527 F. Supp. at 232.

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

immutable. Thus, he reasoned that Renee Rogers should be held accountable for this conscious choice to alter her physical appearance. After all, she *chose* to look this way—no one forced her.

This argument is superficially sound, but realistically wanting. To begin, Judge Sofaer's view of immutability is troubling. His definition of immutability hinges on the idea that something is "natural."<sup>110</sup> But society, like Judge Sofaer, imposes different ideas of "natural" on White women and Black women. Specifically, White people believe that their aesthetic values are "natural" whereas those of Black people are "artificial" or at least "unnatural." This perception allows White people to enjoy a much greater range of aesthetic expression without worrying about the appearance of "artifice."

In *Rogers*, Judge Sofaer distinguishes between corn-row hair-styles, which involve "artifice," and a natural "Afro/bush" style, which is immutable.<sup>111</sup> Granted, Sofaer seems to be stating that people of color, like White people, can have "natural" appearances too. However, he must point out what is a Black woman's "natural" hair style. One can hardly imagine him doing the same for White women. What is a White woman's "natural" hair style? None of us, including Judge Sofaer, bother to think about this because we have already accepted the hair of White women as synonymous with *the* natural hair style, whether this involves curls, straight perms, short "page boy" cuts, etc. Indeed, the extent to which White women's hair styles are seen as "natural" despite their exhaustively varied styles suggests the degree of freedom granted to White women to be "natural."<sup>112</sup> Whereas in *Rogers*, Black women basically have only one "natural" style (i.e., the Afro) and all the rest are the result of "artifice."<sup>113</sup>

Because Black women's hair styles are less likely to be viewed as "natural," they are more vulnerable to corporate control and less protected by Title VII. The Afro—and the Afro alone—is natural and therefore immutable.<sup>114</sup> Hence, a corporation cannot discriminate

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110. *See id.*

111. *Id.*

112. *Id.*

113. *Id.* The first Black Miss America was Vanessa Williams, who had long, flowing shoulder-length hair that was light brown with highlights. *See supra* note 88. According to Judge Sofaer's line of argument, this would be considered an example of "artifice." Can we imagine him saying that if the contestant had the same type of hair but was White?

Moreover, the very fact that a "Black" woman with such obvious white features would be named the first "Black" Miss America suggests that white features are viewed as being normal and objective in character, whereas the physical features of Black people are seen as abnormal and subjective.

114. However, we do not know whether Judge Sofaer would have allowed American Airlines to limit the size of the Afro.

against a Black woman for wearing an Afro. But everything else is artifice, pure and simple. And thus, under Judge Sofaer's reasoning, everything else is subject to corporate regulation and White cultural bias. Black women, then, are far more vulnerable than their White sisters to discriminatory practices based on physical appearance. Because White women, unlike Black women, have the privilege to prefer various styles without the risk of engaging in "artifice," they also tend to enjoy greater protection by the law when aesthetics is at issue.<sup>115</sup> And because bodily aesthetics is such a critical part of our individual identities, White women receive greater protection from the law for their identities. Judge Sofaer's discussion of immutability implicitly reveals that because White women can enjoy a far greater range than Black women of aesthetic freedom, they can enjoy the luxury of aesthetic preferences.

### 3. Deculturalization and Appropriation of Black Aesthetics

In addition to institutionalizing the aesthetic values of White people and thus granting them more stylistic freedom, Judge Sofaer manifested another aspect of the ideology of White aesthetics by deculturalizing the unique aesthetic expression of Black Americans. In *Rogers v. American Airlines, Inc.*,<sup>116</sup> Judge Sofaer could, without guilt, dismiss Renee Rogers' complaint because he managed to "deculturalize" the racial content of her corn-row. That is, he stripped it of its unique African heritage and cultural meaning. By doing so, he also managed to depoliticize it as a symbolic defiance, at least an indirect one, of the ideology of White aesthetics. Judge Sofaer simply reduced it to another hairstyle fad popular with women of all races, including White women. Indeed, he tried to show that corn-rows were not even made popular by Black women. Judge Sofaer associated the corn-row, a hairstyle with origins extending back to ancient Africa,<sup>117</sup> as being popularized by the White actress Bo Derek in the 1979 movie *10*.<sup>118</sup> By doing so, he discounted Rogers' Memorandum in Opposition to Motion to Dismiss, which cited the Black actress Cicely Tyson as having made the corn-row

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115. Cf. Caldwell, *supra* note 75, at 395 ("Stereotypes and negative images of black women . . . separate black and white women from each other, and limit all women's choices by perpetuating competing ideologies of womanhood based on race.").

116. 527 F. Supp. 229 (S.D.N.Y. 1983).

117. See, e.g., Rhonda B. Sewell, *More Black Women Are Do-ing the Natural Thing—with Braids*, Detroit News, July 1, 1993, available in 1993 WL 6064843 (describing braids to be "a hairstyle worn by some black people since ancient Africa").

118. 527 F. Supp. at 232.

style popular among modern-day Black women.<sup>119</sup> In fact, Tyson had worn this style during the Academy Awards nearly a decade before Bo Derek's appearance in *10*.<sup>120</sup> In Judge Sofaer's eyes, the corn-row style derived its authenticity and popularity from a White actress.

By using a White actress to legitimize the popularity of the corn-row within the private sphere of market consumers, Judge Sofaer also delegitimized its political significance for Black women in the public sphere. Judge Sofaer brought the corn-row into the private arena of recreational preference among White women and thereby removed it from the public arena of political defiance among Black women. Ultimately, this removal into the fad-oriented private arena allowed Judge Sofaer to dismiss it as a silly, conscious style choice among African American women. This process of deculturalization is an essential part of the ideology of White aesthetics because it justifies ignoring the claims of people of color when they assert their rejection of White cultural hegemony.

Judge Sofaer is certainly not alone in deculturalizing and depoliticizing the corn-row hairstyle of Black culture. By citing a mainstream 1979 movie, he was obviously influenced by the media. And aside from *10*, there are other examples of deculturalization in the media as well. One interesting and revealing example is a March 1993 article in the popular women's magazine *Redbook*. In it, there is a two page fold-out pictorial history of women's hair styles throughout the century. All of the pictures, except one of Diana Ross, are of White women (incidentally, the picture of Ross has her in a long, wavy hairstyle which *Redbook* compares to that of the White Cher's, again reminding one of the appropriation of White culture by Black women). There is also a picture of Bo Derek. Like Judge Sofaer, *Redbook* manages to deculturalize the corn-row style by stripping the corn-row of its relationship to Black culture, political oppression, and the ideology of White aesthetics. In the true vein of capitalist pop culture, *Redbook* simply calls Derek's corn-row "hot." Therefore, according to *Redbook* and other members of the mainstream media, when Black women choose to wear their hair like the White Bo Derek, they, too, choose to do what is "hot." They become consumers of pop culture and trivial fads, not communicators of Black aesthetic pride.

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119. *Id.*

120. Caldwell, *supra* note 75, at 379.

#### 4. More Than Hair: Black Power and Political Defiance

What Judge Sofaer and *Redbook* fail to understand is that when White people decide to adopt certain variations on what may be perceived as non-White physical features, White people, unlike people of color, do not adopt them out of compulsion, but do so out of preference. White people adopt these features because doing so would be exotic, “cool,” or novel. They do not do it because they feel that their natural racial features are inherently shameful and reflective of subordination and powerlessness. Therefore, when Bo Derek wants to look exotic by wearing her corn-row, she is exercising a recreational preference; but for Black Americans, the corn-row and other hairstyles were often imbued with political meaning and unique cultural significance. For Black Americans, hairstyle, whether they intended or not, never existed in a vacuum from political and social implications. By straightening their hair like that of White people, Black Americans necessarily acknowledge and accept the ideology of White aesthetics, and they thereby reject their own features as aesthetically inferior.<sup>121</sup> Conversely, by styling their hair in a manner contrary to White aesthetic standards, Black Americans in effect reject an aesthetic standard associated with their historical oppressors and used by them to justify that very oppression. It is, in effect, a form of political resistance. The corn-row style contrasted the flowing permed or straight hairstyles of White people. During slavery, it was essentially a form of aesthetic rejection of hegemonic White culture and served as a mode of expressing Black pride.<sup>122</sup>

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121. Russell and her co-authors write:

[At the turn of the century] it was certainly no secret that many, if not most, black women were or ashamed of their hair.

....

Until the 1960s most black women, and some black men, regularly straightened their hair. It was rare for a black woman to be seen in public with unprocessed hair, and those who dared risked the ridicule and even the chastisement of close friends and family members.

....

Today’s popular black magazines, including *Ebony* and *Essence*, still carry prominent ads promising to fix the “black hair problem.” When sociologist Bertice Berry analyzed the advertisements in *Ebony*, *Jet*, and *Essence* between 1985 and 1987, she found that over a third were for various kinds of hair products. The vast majority of the ads, . . . used fair-skinned black models with long, flowing tresses.

RUSSELL ET AL., *supra* note 82, at 45, 47.

122. See RUSSELL ET AL., *supra* note 82, at 90; Caldwell, *supra* note 75, at 379. Renee Rogers herself told the court that the corn-row “has been, historically, a fashion and style adopted by Black American women, reflective of cultural, historical essence of

By the time of the "Black Power Movement" in the 1960s, the Afro assumed a similar role of political defiance. As part of the general civil rights movement and the rise of Black nationalism, hair was never just hair. Paulette Caldwell explains that "[d]uring the 1960s, in the midst of the violent upheaval and the rapid social change that characterized that period, many blacks chose to wear 'natural' or Afro hairstyles as a celebration of self-esteem, a *rejection* of the shackles of racist oppression, or a claim to cultural identity."<sup>123</sup> William L. Van Deburg also argues:

Black Power was a revolutionary cultural concept that demanded important changes in extant patterns of American cultural hegemony. . . . But first, black Americans had to be awakened, unified, and made to see that if they were to succeed they must define and establish their own values while rejecting the cultural prescriptions of their oppressors.<sup>124</sup>

Thus, rejection of White aesthetic values and the creation of authentic Black aesthetic values was the necessary first step in the formation of Black self-awareness and political empowerment. Hair played an important role in this racial self-awareness. Stokely Carmichael remarked in 1966, "We have to stop being ashamed of being black. A broad nose, a thick lip and nappy hair is us and we are going to call that beautiful whether they like it or not."<sup>125</sup> As made particularly clear by the Black Power movement, corn-rows and afros were often steeped in political meaning. In contrast to the

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Black women in American society." 527 F. Supp. at 231-32 (quoting Plaintiff's Memo. in Opposition to Motion to Dismiss).

123. Caldwell, *supra* note 75, at 384 (emphasis added). William L. Van Deburg writes that during the "Black Power" movement, African Americans sought to define their own

[d]istinctive hair styles . . . [which] won endorsement from a wide range of age groups within black America. Although it was predictable that nearly 80 percent of northern blacks under the age of 30 surveyed in one poll liked the new natural hair styles, it was surprising to find that roughly half of *all* Afro-Americans agreed.

WILLIAM L. VAN DEBURG, *NEW DAY BABYLON: THE BLACK POWER MOVEMENT AND AMERICAN CULTURE, 1965-1975*, at 17-18 (1992). Van Deburg later comments that a "natural hair style [i.e., Afro] served as a highly visible imprimatur of blackness; a tribute to group unity; a statement of self-love and personal significance." *Id.* at 201.

What is lamentable is the statement offered by Kathy Russell and her co-authors: "Although some black women in the sixties and seventies were wearing beaded braids and cornrows as an expression of their African heritage, this was not considered a mainstream thing to do within the black community until after 10 came out." RUSSELL ET AL., *supra* note 82, at 90.

124. VAN DEBURG, *supra* note 123, at 27.

125. *Id.* at 201 (quoting Stokely Carmichael, *Stokely Carmichael on Black Power*, in *THE AFRO-AMERICANS: SELECTED DOCUMENTS*, (John H. Bracey, Jr., et al. eds., 1972)).

comfortable aesthetic preferences of White people, the corn-row and the afro both showed that Black people are, in some sense, limited to either accepting the ideology of White aesthetics or rejecting it. Therefore, Black people's appearances are rooted in the political arena of cultural rejection or submission, but White people can simply enjoy aesthetic preferences in their private sphere of fashion and popular fads. When Bo Derek wanted to look like a "10," she merely wanted to give her Whiteness an exotic flavor. She was merely exercising her aesthetic preference without any desire to reject her Whiteness as being a shameful stigma of exploitation and racial inferiority.

### 5. Example of Amusement: Tanning

When Americans of any race think of the actor George Hamilton, they always mention his "ferocious tan." It gives him an exotic and perhaps youthful appearance by conjuring images of palm laden beaches, sciroccos, piña coladas, and upscale midnight parties.<sup>126</sup> We look at Hamilton's tanned face and we think, "this is a man who knows how to enjoy life and cherishes youthful vitality." Dark skin, then, is equated with the good life. This is true even though Hamilton, in fact, is considerably darker than many so-called "black" people. Yet, one can hardly imagine Hamilton being subject to the discrimination accorded to African Americans. One can easily see Hamilton in the position of a CEO or a partner for a big firm or the head of a hospital. Yes, he has very dark skin, but he *is* White. In fact, the tan does not subsume his Whiteness but indeed complements and enhances his privileged status as a White person. His dark tan suggests that he is a White man who loves the outdoors and exudes youthfulness and vitality, even sophistication. For Hamilton, his dark skin symbolizes amusement and recreation.<sup>127</sup>

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126. Joan Muller, *Farsighted Entrepreneur Richard Golden's Vision Has Kept D.O.C. Focused on Growth*, DET. FREE PRESS, Sept. 17, 1990, at 3E ("With his George Hamilton tan, double-breasted designer suits and brushed-back, collar-length hair, Richard Golden looks every bit the Hollywood star."); Martha Sherrill, *The Jet-Setter from Jail*, WASH. POST, Aug. 28, 1991, at D1 ("The International Jet Set' may seem to you like a hoary term from the '70s—wind-free yachts and oily tans and George Hamilton suavely pushing his way into black-and-white photographs with Jackie and Ari . . .").

127. One can see evidence of this elsewhere, too. There is an association between tanning and other "recreational" activities. See Laura Blumenfeld, *The Paling of America: Hey, Gang, Sun's Out . . . Time to Slather Up*, WASH. POST, June 30, 1992, at D5 ("Now that Sun = Bad, tanning joins drinking and sex in the club of activities we're supposed to enjoy safely and in moderation."); Ann Chambers, *Skin and Eyes Need Protection from Hazardous Ultraviolet Rays*, CHI. TRIB., June 19, 1988, §12, at 22 ("The sunbathing sins of our youth—all those careful tans . . ."); Marla Williams, *The Tan Turnoff Even in Lauderdale: They're Slathering on Sunscreen as the Ideal Tan Fades into a Thing of the Past*, FT. LAUDERDALE NEWS & SUN SENTINEL, June 15, 1988, Style Section,

For African Americans, it symbolizes oppression and political defiance. Black people have been subject to a wide range of oppression—from the most heinous lynchings to the subtlest of employment discrimination—in large part because they possessed dark skin. Thus, it has been a profound stigma that has justified their disenfranchisement and engendered severe ambivalence regarding their identity.<sup>128</sup> Yet it has also been a source of great pride attesting to their political resistance against racism.<sup>129</sup> Either way, dark skin has always involved an element of political symbolism for Black Americans that grew out of the racism they faced from White people.<sup>130</sup> Procedures to lighten or darken their skin, then, are not mere forms of “amusement” or “recreation” for Black people.<sup>131</sup> These procedures represent an act of political defiance or submission to the ideology of White aesthetics, whereas for White people, dark skin is

at 16 (“Suntans are out. . . . [I]like shoulder pads, Swatch watches, Reeboks and Cyndi Lauper . . . . It seems all the reports linking sunshine with skin cancer and premature aging have made tans as tacky as recreational drugs. . . . Not in vogue, you might say. In the pages of that magazine—and a number of others—tans are fading from sight.”).

Granted, for some, a dark tan might imply a reckless disregard for skin cancer. However, this newfound consciousness for health is unlikely to undermine the general belief that tanned skin is better than pale skin. This is especially true since pale skin suggests a lack of vigor and vitality.

128. With respect to ambivalence, even though Black Americans have created beauty skin care products that are not intended to make them White, these products still conform to White standards of aesthetics. See *supra* notes 88–90 and accompanying text.

129. See RUSSELL ET AL., *supra* note 82, at 66 (noting that especially among Black youth, “[m]any believe that light skin is feminine and dark skin is masculine”); see also VAN DEBURG, *supra* note 123, at 52 (discussing the reversal of traditional color associations during the Black Power Movement). Mulattoes often resented their own lighter skin color, preferring a darker skin color. JOEL WILLIAMSON, *NEW PEOPLE: MISCEGENATION AND MULATTOES IN THE UNITED STATES* 116–17 (1980). For them, the lighter skin was a symbol of the White slaveholder’s raping of Black girls and women. *Id.* at 116. Thus, their lighter skin color symbolized political oppression.

130. African Americans, of course, have faced discrimination from non-White groups as well because of their so-called “black” skins. However, throughout history, White Americans, far more than any other group, have been responsible for the subordination of their fellow Black citizens. In this respect, it seems reasonable to infer that the political symbolism associated with black skin is primarily targeted at White Americans.

131. While I am unaware of any Black Americans who sought to darken their skin, Michael Jackson seems to be the most notable example of someone who sought to lighten it. Russell and her co-authors write:

Many are curious about his motives for doing this to himself. Some blacks are angry, accusing him of no longer wanting to be black—a sentiment attributed to him by the writers of *Saturday Night Live* to the fictional queen Shenequa. Others worry about the kind of message he is sending to his youngest fans: more powerfully than words ever could, isn’t his surgical transformation telling black children that if they have dark skin, large lips, Negroid features, and nappy hair, they are not beautiful?

RUSSELL ET AL., *supra* note 82, at 161.



the result of tanning, a leisurely act based on *preference* designed to enhance their aesthetic style.<sup>132</sup>

#### IV. ASIAN AMERICANS AND THEIR EARLY HISTORY OF DISCRIMINATION

Asian Americans did not suffer as much overt discrimination as did African Americans. This difference was the result of a number of factors. Most notably, Asians did not arrive in large numbers until the latter half of the twentieth century. And therefore, Asian immigrants were not subject to the equivalent racial oppression reserved for Black Americans and Native Americans prior to the twentieth century. However, like in the case of Black Americans, White courts and legislatures sought to prevent the physical presence of Asians in White America except to serve as cheap, exploitable labor.<sup>133</sup> In addition, White Americans also passed

132. Kathy Russell and her co-authors write:

For black women, skin color is even more central identity [than for black men]. Despite more than twenty years of 'Black is Beautiful' rhetoric, negative attitudes about women with dark skin persist. In a recent study at DePaul University [the researchers] selected almost eighty people, evenly divided between males and females, blacks and whites, and asked them to look at photographs of twelve black women and characterize their impressions of each. Regardless of the individual woman's attractiveness (prejudged to be high or low), the study participants nearly always rated the dark-skinned women as less successful, less happy in love, less popular, less physically attractive, less physically and emotionally healthy, and less intelligent than their light-skinned counterparts.

*Id.* at 67.

133. Robert Blauner writes:

The majority [of Chinese immigrants in the nineteenth century] came to work in the mines and fields for an extended period of debt servitude; many individuals were "shanghai'd" or pressed into service; many others evidently signed up voluntarily for serflike labor. A similar pattern held for the Japanese who came toward the end of the century, except that the voluntary element in the Japanese entry appears to have been considerably more significant. Thus, for the two largest Asian groups, we have an original entry into American society that might be termed semicolonial, followed in the twentieth century by immigration. Yet the exclusion of Asian immigrants and the restriction acts that followed were unique blows, which marked off the status of the Chinese and Japanese in America, limiting their numbers and potential power. For this reason it is misleading to equate the Asian experience with the European immigrant pattern. Despite the fact that some individuals and families have been able to immigrate freely, the status and size of these ethnic groups have been rigidly controlled.

....

... Beginning in the 1850s, shipments of Chinese workmen—who had sold themselves or had been forced into debt servitude—were imported to

anti-miscegenation laws against Asian immigrants like those used against Black Americans.<sup>134</sup> And like Native Americans, Asian Americans were also subject to forcible removal and relocation because of their racial features.<sup>135</sup> These events, along with countless other instances of de jure discrimination, left Asian Americans with a sense of severe ambivalence, and quite often, shame at lacking those cherished White physical features which the law systematically rewarded and protected at the expense of peoples of color.

### A. *Excluding the Yellow Peril*

Like Thomas Jefferson's fear of the "Negroization" of White America,<sup>136</sup> White political and legal figures in the late nineteenth century and the early twentieth century feared the spread of Chinese immigrants. Indeed, Ronald Takaki explains that especially in the nineteenth century, "[t]ime and again the Chinese immigrants were likened to blacks. . . . Racial qualities that had been assigned to blacks became Chinese characteristics."<sup>137</sup> Takaki writes that while

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build railroads and to mine gold and other metals. Later other colonized Asian populations, Filipinos and East Indians, were used as gang laborers for Western Farm factories. . . .

. . . .

. . . The first generations of Chinese in the United States were recruited for gang labor; they therefore entered without women and children. . . . But as bonded laborers without even the legal rights of immigrants, the Chinese were powerless to fight the exclusion acts of the late nineteenth century, which left predominantly male communities in America's Chinatowns for many decades. In such a skewed social structure, leading features of Chinese culture could not be reconstructed.

BLAUNER, *supra* note 34, at 54–55, 60, 67 (citations omitted). Sucheng Chan similarly explains:

American schemes facilitated the outflow of people from Japan, Korea, and the Philippines to Hawaii and the Pacific Coast. Because what Euro-Americans desired was muscle power, the vast majority of the Asians they enticed to the other side of the Pacific were young men in their prime working years, most of whom came without their wives, parents, or children. Abused and maligned, their deeds unsung, these men were an indispens[able] work force that helped to build the American West.

SUCHENG CHAN, *ASIAN AMERICANS: AN INTERPRETIVE HISTORY* 23 (1991).

134. Indeed, a major anti-miscegenation case before the Virginia Supreme Court involved an Asian American. *Naim v. Naim*, 87 S.E.2d 749 (Va. 1955) (involving a Virginia statute prohibiting marriage between White persons and non-White persons).

135. For an interesting comparison of the racism involved in both kinds of forced relocation, see RICHARD DRINNON, *KEEPER OF CONCENTRATION CAMPS: DILLON S. MYER AND AMERICAN RACISM* (1987).

136. See *supra* notes 53–54 and accompanying text.

137. TAKAKI, *supra* note 13, at 216–17.

their complexions in some instances approached "fair," one writer observed, their whole physiognomy indicated "but a slight removal from the African race." . . .

. . . .

. . . The "Negroization" of the Chinese reached a high point when a magazine cartoon depicted them as a blood-sucking vampire with slanted eyes, a pigtail, dark skin, and thick lips. White workers made the identification even more explicit when they referred to the Chinese as "nagurs."<sup>138</sup>

As Thomas Jefferson had so clearly disparaged Blacks as ugly and Whites as beautiful,<sup>139</sup> Whites in the latter half of the nineteenth century also regarded Asian immigrants as aesthetically repulsive and therefore necessitating physical exclusion.

Accordingly, White legislatures passed a series of highly discriminatory immigration laws. Most notoriously, the 1882 Chinese Exclusion Act prevented Chinese laborers from entering the country.<sup>140</sup> When this act expired in 1892, Congress passed the even more stringent Geary Act which required all Chinese in America to carry registration certificates or risk being deported back to China.<sup>141</sup> In the coming years, there were other highly exclusionary immigration laws.<sup>142</sup> In large part, these laws were motivated by White perceptions of Asian immigrants as being culturally unassimilable.<sup>143</sup>

This sense of unassimilability also prevented Asian immigrants, like Black Americans, from enjoying those privileges commensurate

138. *Id.* at 217, 219.

139. *See supra* text accompanying note 55.

140. Act of May 6, 1882, ch. 126, § 1, 22 Stat. 58, 59 (suspending immigration of Chinese laborers to the U.S. for 10 years), *repealed by* Act of Dec. 17, 1943, ch. 344, § 1, 57 Stat. 601. The particularly racist nature of the Chinese Exclusion Act is obvious given that the Chinese constituted only .002% of the American population, hardly posing a threat to the racial purity of Whites or to the jobs of White workers. TAKAKI, *supra* note 66, at 206.

141. Geary Act, ch. 60, 27 Stat. 25 (1892).

142. The Immigration Act of 1917 prohibited the influx of Asian Indians. Immigration Act of Feb. 5, 1917, ch. 29, § 3, 39 Stat. 874, 875-76 (1917). Also, while providing independence to the Philippines, the so-called Tydings-McDuffie Act of 1934, ch. 84, § 14, 48 Stat. 456, 464 (applying U.S. immigration laws to persons born in the newly independent Philippines), allowed only about 50 Filipinos to immigrate to America. *See* RONALD TAKAKI, *STRANGERS FROM A DIFFERENT SHORE: A HISTORY OF ASIAN AMERICANS* 331-32 (1989).

143. Such views were expressed by Chief Justice Fuller and Justice Harlan in *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898). In their dissent, they wrote: "[L]arge numbers of Chinese laborers, of a distinct race and religion . . . apparently incapable of assimilating with our people, might endanger good order, and be injurious to the public interests . . ." *Id.* at 731 (quoting *Fong Yue Ting v. United States*, 149 U.S. 698, 717 (1893)).

with citizenship. Most obviously, the Naturalization Act of 1790 explicitly forbade Asians and other non-immigrants from becoming naturalized citizens.<sup>144</sup> In addition, Asian immigrants were precluded from serving as court witnesses. In *People v. Hall*,<sup>145</sup> the California Supreme Court declared that Chinese immigrants, like other non-White peoples, were unfit to testify in a court of law against White people, even though one of their own had been murdered by a White man.<sup>146</sup> Asian immigrants were also victims of de jure segregation in public facilities.<sup>147</sup>

B. *Anti-Miscegenation Laws:*  
*White Beauty as Sacred Commodity*

In addition to segregation laws for public facilities, the government also passed anti-miscegenation statutes prohibiting Asians from marrying Whites, thus preventing interracial union in the intimate private setting as well. Just as anti-miscegenation laws against White-Black marriages were aimed at preserving America as a predominantly White country, so too were these laws aimed at Asian-White intermarriage. At the 1878 California constitutional convention, a White official named John Miller stated: "Were the Chinese to amalgamate at all with our people, it would be the lowest, most vile and degraded of our race, and the result of that amalgamation would be a hybrid of the most despicable, a mongrel of the most detestable that has ever afflicted the earth."<sup>148</sup> Two years after Miller's ominous admonishment, California passed a law prohibiting the issuance of marriage licenses for any White person who was married to a "negro, mulatto, or Mongolian."<sup>149</sup> Various other White government officials,<sup>150</sup> judges,<sup>151</sup> and writers<sup>152</sup> warned that racial

144. Act of Mar. 26, 1790, ch. 3, § 1, 1 Stat. 103, *repealed by* Act of Jan. 29, 1795, ch. 20, 1 Stat. 414 (allowing naturalized citizenship for alien Whites only, not non-Whites).

145. 4 Cal. 399 (1854).

146. *Id.* at 403-05; see TAKAKI, *supra* note 66, at 205-06 (discussing *People v. Hall*).

147. *Gong Lum v. Rice*, 275 U.S. 78 (1927). Referring to *Plessy v. Ferguson*, 163 U.S. 537 (1896), the Chief Justice wrote that a "child of Chinese blood, born in, and a citizen of, the United States, is not denied the equal protection of the laws by being classed by the State among the colored races who are assigned to public schools separate from those provided for the whites, when equal facilities for education are afforded to both classes." *Gong Lum*, 275 U.S. at 78; see CHAN, *supra* note 133, at 8.

148. TAKAKI, *supra* note 142, at 101.

149. *Id.* at 101-02.

150. California Attorney General argued that anti-miscegenation laws against Asian immigrants were intended for "[r]ace preservation." *Id.* at 330.

151. Monterey Superior Court Judge H.C. Jorgensen "ruled that immigrant-white wives of Filipinos were not entitled to naturalized citizenship." *Id.* at 342. Judge D.W. Rohrback warned that unless Filipinos are prevented from intermarrying with Whites, there would be "40,000 half-breeds" within 10 years. *Id.* at 329.

amalgamation between Whites and Asians would destroy America because it would destroy Whiteness.<sup>153</sup> This paranoia over amalgamation was unfounded. Sucheng Chan explains that with the exception of some Filipinos, “[i]n those days, Chinese, Japanese, or Koreans were not particularly inclined to marry whites, so while these statutes did pose obstacles, they affected relatively few individuals.”<sup>154</sup> The anti-miscegenation laws, then, seemed to carry more symbolic value than practical effect. They were just another legal expression of the frenzied obsession to preserve the aesthetic value of the White race from the exaggeratedly imagined yellow peril.

Because the anti-miscegenation laws sought to prevent White/non-White marriages only, they implicitly allowed non-White peoples, regardless of their race, to marry each other with impunity.<sup>155</sup> Through these laws, White Americans, in effect, told Asian Americans: “You may taint your dirtied blood and ugly racial features with others like yourself—be they black, brown, red, whatever—but you may not mix your blood with the beautiful White race.”

### C. “American” Means White: Japanese Internment

For Asian Americans, there is no single event that equals the internment of Japanese Americans in dramatically illustrating the extent to which physical racial features are seen as a source of stigmatization and a symbol of inferiority. In what Michael Rogin calls “perhaps the greatest single deprivation of rights in all American history,”<sup>156</sup> White government officials forcibly relocated over 110,000 Japanese Americans into “concentration camps,” a name used by Franklin Roosevelt.<sup>157</sup> American citizens of Japanese ancestry lost their homes, their jobs, and sometimes even their loved ones as White soldiers forced them to relocate into bleak, mostly remote, desert areas.<sup>158</sup> German Americans and Italian Americans, despite being associated with the enemy, were not subject to similar

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152. The *Stockton Record* carried an editorial reading: “While the ‘little brown brothers’ may flock here . . . they are unassimilable and miscegenation would be unthinkable.” *Id.* at 330.

153. *See id.*

154. CHAN, *supra* note 133, at 60.

155. Consider the Virginia statute in *Naim v. Naim*, 87 S.E.2d 749, 750 (Va. 1955): “It shall hereafter be unlawful for any white person in this State to marry any save a white person . . .” VA. CODE ANN. § 20-54 (repl. vol. 1950) (overturned by *Loving v. Virginia*, 388 U.S. 1 (1967)).

156. ROGIN, *supra* note 61, at 55.

157. *Id.*

158. *See* TAKAKI, *supra* note 142, at 395.

discrimination.<sup>159</sup> Only Japanese Americans as a group were systematically targeted for internment.

This difference in treatment was based on a morphological concept of race, that is, on physical racial features. Americans of German and Italian descent possessed a commodity that Toni Morrison, among others, argued was necessary for social acceptance in America—Whiteness.<sup>160</sup> This preferential treatment for White ethnic groups attested to the longevity of Thomas Jefferson's original vision of America as an exclusively White country.<sup>161</sup> By excusing German Americans and Italian Americans from internment and instead affording them full citizenship rights, the courts and the federal government rewarded them for possessing White physical features. By contrast, Japanese Americans, who obviously lacked Whiteness, were disparaged as untrustworthy foreigners.<sup>162</sup>

#### *D. Legal Justification: The Unmediated Voice of the Loyal Patriot*

In order for Japanese Americans to be dismissed as political traitors, the government, like the court in *Rogers v. American Airlines, Inc.*,<sup>163</sup> employed an unmediated, objective, third-party voice to validate its racially motivated claims. This time, the government could incarcerate the Japanese Americans by comparing them to the "loyal patriot." Because Japanese Americans alone, as opposed to the Italian Americans and German Americans, were interned and had to take a "loyalty" test,<sup>164</sup> the loyal patriot was presumptively White. In addition to this formal test, informal comments by government officials also implicitly characterized the loyal patriot as being White. Consider the statements by Lieutenant General John L. DeWitt, head of the evacuation process:

The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil, possessed of United States citizenship, have become

159. See *id.* at 391–92.

160. See *supra* Part II.A.; cf. *supra* note 88.

161. See *supra* notes 53–55 and accompanying text.

162. See CHAN, *supra* note 133, at 124 ("Unlike individuals of German and Italian ancestry, said these private [legal] advisors [to the Justice Department], who could be individually recognized and kept under watch, 'the Occidental eye cannot rapidly distinguish one Japanese resident from another.'"). See generally Neil Gotanda, "Other Non-Whites" in *American Legal History: A Review of Justice at War*, 85 COLUM. L. REV. 1186 (1985) (book review) (stating that even American-born non-Whites are seen as "foreign").

163. 527 F. Supp. 229 (S.D.N.Y. 1981).

164. DRINNON, *supra* note 135, at 77–79.

“Americanized,” the racial strains are undiluted. . . . It, therefore, follows that along the vital Pacific Coast over 112,000 potential enemies, of Japanese extraction, are at large today.<sup>165</sup>

General DeWitt’s conception of the loyal patriot associated the racial physical features of the foreign Japanese “other” with the domestic Japanese “other.” This conflation of a foreign enemy with a domestic one might be peculiar to Asian Americans; African Americans do not face this kind of discrimination.<sup>166</sup> This pattern of conflation was repeated by government officials,<sup>167</sup> labor groups,<sup>168</sup> and various

165. TAKAKI, *supra* note 142, at 391.

166. Neil Gotanda has similarly argued:

From the beginning of judicial review of first Chinese Americans and then Japanese Americans in the nineteenth century, there has been a persistent view that the racial identity of Asians within the United States, even those born here and culturally assimilated, were distinctly “foreign.” This peculiar nature of this treatment is illustrated by separating the social from the legal aspects of “alien” vs. “citizen.”

....

For African Americans and whites in twentieth century America, there is presumed a close correlation between U.S. citizenship and social status as an American. . . . [T]hese presumptions are *not* present for Asian Americans, Latinos, Arab Americans, and other non-black racial minorities. Rather, there is the opposite presumption that these people are foreigners; or, if they are U.S. citizens, then their racial identity includes a foreign component. These are the racial groups who, collectively, I have called “Other non-whites.” One example of this presumption which arises in conversational ‘racial first encounters’ between Other non-whites and white or black Americans is the “Where are you from?” question (this is not an inquiry about residence in the U.S.). Another is the comment, “You speak without an accent.” (intended as a compliment).

Neil Gotanda, *Asian American Rights and the “Miss Saigon Syndrome,”* in *ASIAN AMERICANS AND THE SUPREME COURT 1095–96* (Hyung-Chan Kim ed., 1994).

167. Then-California Attorney General, Earl Warren, forebode that the Japanese Americans in California “may well be the Achilles heel of the entire civilian defense effort. Unless something is done it may bring about a repetition of Pearl Harbor.” TAKAKI, *supra* note 142, at 389. Congressman Leland Ford of Los Angeles urged the federal government that “all Japanese, whether citizens or not, be placed in concentration camps.” *Id.*

168. Ronald Takaki explains that:

Beginning in January and early February, the anti-Japanese chorus included voices from farming interests such as the Grower-Shipper Vegetable Association, the Western Growers Protective Association, and the California Farm Bureau Federation. “We’ve been charged with wanting to get rid of the Japs for selfish reasons,” the Grower-Shipper Vegetable Association stated in the *Saturday Evening Post* in May. “We might as well be honest. We do. It’s a question of whether the white man lives on the Pacific Coast or the brown man. They came into this valley to work, and they stayed to take over. . . . If all the Japs were

periodicals.<sup>169</sup> Especially noteworthy are the editorial sentiments expressed by the *Los Angeles Times* during World War II: "A viper is nonetheless a viper wherever the egg is hatched—so a Japanese American, born of Japanese parents—grows up to be a Japanese, not an American."<sup>170</sup> Such graphic and disturbing analogies suggest the extent to which White people focused on racial physical features in deciding to support the internment. Attesting to the power of the ideology of White aesthetics, demeanor, speech, and other actions were irrelevant signs of assimilation—bodily features alone determined patriotism and acceptance.

Because racial physical features played such a prominent role, this presumption of foreigner could not be overcome by length of residency or contributions to America. Japanese Americans may have lived here for decades. They may have contributed to the American war effort, including with their very lives.<sup>171</sup> It did not matter—they were foreigners. As General DeWitt unabashedly stated, "A Jap is a Jap."<sup>172</sup> Thus, through the internment process, Asian Americans came to understand, in a most disturbing manner, that their physical racial features, more than anything else, would subject them to a Kafkaesque world where they are unexpectedly and suddenly tried and punished without any reasonable explanation.<sup>173</sup>

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removed tomorrow, we'd never miss them in two weeks, because the white farmers can take over and produce everything the Jap grows."

*Id.*

169. For example, one newspaper read:

In Hawaii . . . treachery by residents, who although of Japanese ancestry had been regarded as loyal, has played an important part in the success of Japanese attacks. . . . Every Japanese . . . should be moved out of the coastal area and to a point of safety far enough inland to nullify any inclination they may have to tamper with our safety here.

*Id.* at 388 (citing the *San Diego Union*). Even the self-professed liberal Walter Lippmann joined the frenzied paranoia:

The Pacific Coast is in imminent danger of a combined attack from within and without. . . . The Pacific Coast is officially a combat zone. . . . And nobody ought to be on a battlefield who has no good reason for being there. There is plenty of room elsewhere for him to exercise his rights.

*Id.*

170. *Id.*

171. During the internment, the all-Japanese American 442nd Regiment fought in Europe. After World War II, it would become the most decorated military unit in American history. TAKAKI, *supra* note 66, at 384.

172. See, e.g., Jon Nordheimer, *Remembering a Haven from Shame*, N.Y. TIMES, July 20, 1994, at B1 (quoting General John L. DeWitt).

173. See, e.g., FRANZ KAFKA, *THE TRIAL* (1992).



E. Media Influence During  
World War II and Beyond: Deviating  
from the Objective Norm of White Aesthetics

During World War II and thereafter, the media further reinforced the view that possessing Asian features was not only “un-American” but simply not *normal*. In 1944, Hollywood produced a series of war films deriding Japanese racial features. These films contained cartoon characters such as Bugs Bunny. In *Bugs Nips the Nips*, Bugs mocks and abuses Japanese soldiers whom he calls “slant-eyes.”<sup>174</sup> The soldiers are drawn with buck teeth and painted yellow.<sup>175</sup> This ugly caricature of Asian physical features did not stop with World War II. San Francisco State University conducted a study showing that in 1992, there were ten editorial cartoons depicting Asians with “buck teeth, slanted eyes and with thick glasses—a image straight out of U.S. World War II propaganda.”<sup>176</sup>

Beginning in the 1920s, White actors with made-up slant eyes began to play the diabolical Chinese villain Fu Manchu who sought the destruction of the White race.<sup>177</sup> As late as 1968, Fu continued to make cinematic and television appearances.<sup>178</sup> Indeed, in 1994, we again saw the image of Fu resurrected from the dead. Only this time, in *The Shadow*<sup>179</sup> his name is “Shiwan Khan,” heir to his evil Asian ancestor Genghis Khan. Like the films of Fu Manchu, we again have a White actor playing an Asian character who seeks to destroy the White race. The White Alec Baldwin, as *The Shadow*, manages to

174. See Terry Lawson, *Bomber and Bunny Take Some Major Flak*, DAYTON DAILY NEWS, Feb. 11, 1995, at 1C.

175. See *id.*

176. K. Connie Kang, *Asian-Americans Battle Media-Made Negative Stereotypes*, HOUS. CHRON., Aug. 29, 1993, at A12.

177. See Bob Thomas, *Oriental Bristle at Hollywood Stereotype*, CHI. TRIB., Nov. 22, 1985, § 7, at K.

178. See JAMES S. MOY, MARGINAL SIGHTINGS: STAGING THE CHINESE IN AMERICA 104–14 (1993). Fu Manchu is the fictional invention of British writer Sax Rohmer, who conceived him in 1913. DARRELL Y. HAMAMOTO, MONITORED PERIL: ASIAN AMERICANS AND THE POLITICS OF TV REPRESENTATION 111–12 (1994). Darrell Hamamoto describes Rohmer’s motivation:

Lurid newspaper reports of the Chinese population residing in the Limehouse district of London drew his attention. The Chinese of London’s East End were commonly viewed as leading unspeakably squalid, criminally depraved lives. The market for a Chinese villain was ripe as well. “I wondered why it had never before occurred to me,” Rohmer mused. Not only had news of the Boxer Rebellion “started off rumors of a Yellow Peril which had not yet died down,” but the goings-on in Limehouse virtually invited the sensationalism of Rohmer’s literary imagination.

*Id.* at 112 (citation omitted).

179. THE SHADOW (Universal Pictures 1994).

save mankind.<sup>180</sup> Like the Fu Manchu films of the past, in *The Shadow*, an Asian villain with his dark black eyes is juxtaposed against a White hero with deep blue eyes.<sup>181</sup>

White round eyes and slanted Asian eyes are exploited again in the musical *Miss Saigon*.<sup>182</sup> In the opening scene, Asian prostitutes vie for the coveted title of "Miss Saigon" as will be conferred upon them by a bunch of White soldiers in a Vietnamese bar. The musical begins:

the heat is on in Saigon  
the girls are hotter 'n hell  
one of these slits here  
will be Miss Saigon  
God, the tension is high,  
not to mention the smell.<sup>183</sup>

In *Miss Saigon*, most of the Asian characters are either pimps or prostitutes. Even Jonathan Pryce, a White actor, taped up his eyelids to make them look slanted as he played a Eurasian pimp. Therefore, Asian racial features are again associated with moral depravity, not simply "foreignness." These aesthetic implications in the media are repeated in real life, sometimes with deadly consequences. In June 1982, Ronald Ebens and Richard Nitz clubbed Vincent Chin to death in Detroit.<sup>184</sup> As they were beating Chin to death, one of them yelled: "[I]t's because of you little mother fuckers that we're out of work."<sup>185</sup> Here, the White men mistook Chin, a Chinese American, to be a

180. *Id.* Alec Baldwin openly touts his association with the Democratic Party, *cf.*, e.g., Remarks to the Saxophone Club in Culver City, California, 32 WEEKLY COMP. PRES. DOC. 1029 (June 10, 1996) (President Clinton thanking Alex Baldwin for "his years of support" to the Democratic Party), a party that presumably represents the underclass and peoples of color. Therefore, I find it especially peculiar that he would earn his income by exploiting racism in such a blunt manner. Perhaps Baldwin has his own Hollywood take on what the Democratic Party means.

181. See David Sterritt, *A Mysterious 1930s Superhero Comes Out of the Shadows*, CHRISTIAN SCIENCE MONITOR, June 30, 1994, Arts Section, at 13, available in LEXIS, News Library, Arcnws File ("[I]t seems odd that a present-day Hollywood studio would produce a racially charged story that pits its handsome white hero against a horde of monstrous 'Mongol warriors.' There's nothing subtle about this attempt to exploit racial stereotypes in the guise of old-fashioned fun."); *cf.* *Which Is the Real Face of Asia?*, STRAITS TIMES (Singapore), Apr. 25, 1993, Cinema Section, at 17 (describing the portrayal of Asia and Asians in various Western films).

182. See *A Musical Homepage* (visited April 15, 1997) <<http://www.clark.net/pub/rsjdfg/Complete.txt>>.

183. See *id.*

184. See *United States v. Ebens*, 800 F.2d 1422, 1427-28 (6th Cir. 1986). For an analysis of the film *Who Killed Vincent Chin?* as a form of legal pedagogy, see Paula C. Johnson, *The Social Construction of Identity in Criminal Cases: Cinema Verité and the Pedagogy of Vincent Chin*, 1 MICH. J. RACE & L. 347 (1996).

185. 800 F.2d at 1427.

Japanese national. They saw him as a foreign threat solely because of his distinguishing physical features. The White men might have seen the sneaky Japanese soldier, Cpl. Yo, Fu Manchu, Shiwan Khan, and the ruthless Japanese investor all rolled up into Chin. Although the relationship between media portrayal and audience reaction is always extremely difficult to gauge, one cannot help but think that the media played a significant role by associating—over a course of seventy years—Asian features with depravity and deceit.

Sometimes, Asian features are associated with a monolithic subhumanness that allows the White observer to casually dismiss the entire group as ugly. This point was made clearly by P.J. O'Rourke, a self-described humorist. O'Rourke, covering the 1988 Seoul Olympics for *Rolling Stone* commented that Koreans have "the same Blackgama complexion, the same high-boned, pie-plate face . . . the same sharp-focused look in one million identical anthracite eyes."<sup>186</sup> Even though O'Rourke described Korean nationals, he made no distinction between Korean nationals and Korean Americans. All Koreans would likely possess all of these uncomplimentary physical features. And therefore, all Koreans, no matter whether they are American citizens or not, would be seen as foreign, abnormal, and uniformly ugly. O'Rourke's private (and, yes, humorous) observations about the monolithic Asian aesthetic surfaced in violent form during the Vietnam War. Darrell Hamamoto explained that many American soldiers fought with the mentality of the "Mere Gook Rule," the perception that Asians were monolithically subhuman and ugly—thus deserving of physical punishment, terror, and death. Hamamoto explains:

The Asian enemy does not feel pain, emotional or physical, to the same degree as the invading army of Americans. And most horrific of all, the dehumanized Asians—"dinks," "gooks," and "slopes"—place a low premium on life itself. Life is cheap in Asia, but not so in the West. So commonplace was this assumption in Vietnam that GIs coined a phrase to describe it: The Mere Gook Rule. . . . [T]he Mere Gook Rule allowed Americans to view Asians as less than human and therefore all the more legitimate as targets to be mocked, exploited, and perhaps murdered.<sup>187</sup>

Although O'Rourke made his racist comments regarding physical aesthetics in the name of humor, they also seem to hide something far more terrifying and always potentially dangerous.

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186. Magda Krance, *Global Gadfly*, CHI. TRIB., June 27, 1988, Tempo Section, at 1.

187. HAMAMOTO *supra* note 178, at 156.

Nonetheless, most Asian Americans seldom encounter racial violence on a daily basis. Rather, many do suffer the not uncommon hurt of being called “slant eyes,” which reminds them that according to the ideology of White aesthetics, their racial features are ugly and worthy of contempt. Oftentimes, racist and sexist slurs go together. Newspaper columnist Jimmy Breslin, who likes to pride himself on his sensitivity towards African Americans and the underclass, called an Asian American staff member a “yellow cur” and “slant-eyed bitch.”<sup>188</sup> This sexist-racist tale is retold by a Korean American college student at Berkeley: “One Friday, I was walking through [campus] when a white male fraternity member, whom I did not know, put his arms around me. When I told him to get the hell away from me, he said, ‘YOU SLANTY-EYED CUNTS ARE ALL ALIKE.’”<sup>189</sup> Perhaps things are worst for the youngest Asian Americans. Elementary school children in particular want to feel accepted and liked by their classmates. Yet how many of us Asian Americans have gone through elementary school without our non-Asian classmates slanting their eyes at us while mimicking some ching-chong Oriental nonsense words?<sup>190</sup>

#### F. *Internalizing Our Deviance and Accepting the Objective Nature of White Aesthetics*

##### 1. Surgery: Aquiline Noses and Larger Eyes

From our immigration to America in the nineteenth century to our settlement today, and from our earliest days as children to our old age and retirement, we Asian Americans have lived and continue to live with the belief that Asian physical features can constitute legal, political, and social liabilities. Because we are said to possess slanted eyes, flat noses, and yellow skin, we have been subject to exclusionary immigration laws, internment camps, and numerous cases of racial violence. Furthermore, the government and media have historically justified these oppressive policies by either explicitly or implicitly invoking the ideology of White aesthetics. For over one hundred years, we have been told that our slanted eyes

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188. Lee Michael Katz, *Columnist Under Fire: Outrage at Breslin's Ethnic Slur*, USA TODAY, May 8, 1990, at 2A.

189. Helen Choi, *Racism: A Personal Perspective on Anti-Asian Pacific Sentiment on Campus*, ASIAN PACIFIC VOICES, Spring 1990, at 1, 3.

190. Anthropologist Akemi Kikumura is sadly reminded that America can still think of Asian Americans as foreigners when her young son's classmates slant their eyes with their fingers and call him “Chinese.” Stan Yogi, *Piecing Together a Father's Life*, S.F. CHRON., Feb. 16, 1992, Sunday Review, at 4 (reviewing Kikumura's new book about her Japanese immigrant father).

make us appear deceitful, untrustworthy, and at the very least, abnormal. Many Asian Americans have come to internalize these beliefs.

Like Black Americans, Asian Americans have also sought to “pass” for White. One symbolically apt example is Fred Korematsu, the most well-known legal challenger to Executive Order 9066.<sup>191</sup> As Peter Irons explains, “On the surface, Korematsu seemed an unlikely candidate for a test case.”<sup>192</sup> Instead of being a lifelong champion of Asian American rights, Korematsu seems to have lived most of his life desperately wanting to become something impossible—White. Therefore, he had apparently internalized the assumption in the ideology of White aesthetics that White physical features were universally correct whereas Asian physical features were deviant and abnormal. For example, despite all of the hostility surrounding interracial marriage at the time, Korematsu wanted to marry a White woman, thus intimately associating himself with White culture and aesthetics. While engaged to Ida Boitano, Korematsu “feared violence should anyone discover that he, a Japanese, was married to an American girl.”<sup>193</sup> Consequently, Korematsu had undergone surgery to conceal his Japanese physical features. He went to one Dr. Bennett Matsen who explained to Korematsu that “he could build up his nose and remove the folds from the inner corner of his upper eyelids but that he could not make the subject look like an American.”<sup>194</sup> Still, Korematsu wanted the operation, and judging by one person’s account, it was not a success. In his report, an F.B.I. agent who interrogated Korematsu referred to him as a member of the “yellow race” who had “[s]cars or marks—[c]ut scar on the forehead, lump between eyebrows on nose.”<sup>195</sup> Mutilation was the price for wanting to become American, that is, White. Despite Korematsu’s later admirable resolve to fight racial oppression through the courts,<sup>196</sup> his story began with a profound desire to reject his racial physical features and submit to the ideology of White aesthetics.

As Korematsu’s life vividly demonstrates, many Asian Americans, because of a history of immense racial exploitation, do not

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191. Exec. Order No. 9066, 3 C.F.R. § 1092 (1938–1943), *reprinted in* 56 Stat. 173 (1942).

192. PETER IRONS, *JUSTICE AT WAR* 97 (1983).

193. *Id.* at 95 (quoting Memorandum from Special Agent G.E. Goodwin (July 11, 1942) (Dep’t of Justice File No. 146-42-7)).

194. *Id.* at 96 (quoting Memorandum from Special Agent G.E. Goodwin, *supra* note 193).

195. *Id.* at 94 (quoting Memorandum from Special Agent O.T. Mansfield (June 4, 1942) (Dep’t of Justice File No. 146-42-7)).

196. *Id.* at 98 (“There is considerable evidence . . . that this shy young man shared . . . [a devotion] to constitutional principle in offering himself as a test case challenger.”).

simply look upon White physical features as being better or preferable. Rather, they internalize the ideology of White aesthetics and look upon White features as being somehow *normal* and objectively correct, the paradigm for beauty itself. White aesthetic standards do not appear more attractive—they become the norm. Therefore, in trying to make their eyes look rounder and larger, Asian Americans are trying to look *normal*.<sup>197</sup> By undergoing eye and nose surgery like Korematsu, Asian Americans reject Asian aesthetic standards as deviating from the seemingly objective aesthetic values of White people.<sup>198</sup> Writer Amy Tan had used clothes pins on her nose, “presumably to make it more like the aquiline noses of her European American friends.”<sup>199</sup> Similarly, journalist Edward Iwata confessed to his “eye and nose job” as being “an ill-advised attempt to make himself look more European American; afterward, he realized that it was ‘psychic surgery, an act of mutilation, a symbolic suicide.’”<sup>200</sup>

Iwata and Tan are not alone. A newspaper article recounts a Japanese American woman who always felt that her Asian slanted eyes made her look “tired and unattractive.”<sup>201</sup> As a result, in high school, she applied heavy makeup to create the illusion of a larger more “Caucasian-looking” eyelid.<sup>202</sup> And she even “taped her lids up high to achieve the same effect.”<sup>203</sup> She eventually underwent eyelid surgery or blepharoplasty to look more like a White person. Her

197. Eugenia Kaw, “Opening” Faces: *The Politics of Cosmetic Surgery and Asian American Women*, in *MANY MIRRORS: BODY IMAGE AND SOCIAL RELATIONS* 241, 260 (Nicole Sault ed., 1994) (noting that many Asian American women stated that they had undergone eyelid surgery to achieve a “natural” look that was “in balance” with the rest of their features).

198. Author Maxine Hong Kingston states that eyelid surgery amounts to a kind of cultural suicide. . . . Asian Americans have only white models and entertainers as role models for beauty because there’s a dearth of prominent Asian actresses and actors in the United States.

“Culture gives us many examples of Caucasian beauty or blond beauty but society does not teach us to look for our own beauty,” said Kingston . . . .

“We do not even see our faces on television,” she said. “We have no starting point for our young people. They look at themselves in the mirror and all they have to compare themselves to is caricatures.”

Irene Chang, *For Asians in U.S., a New Focus on Eye Surgery*, L.A. TIMES, Aug. 22, 1989, Part V, at 1 (interviewing Maxine Hong Kingston).

199. WILLIAM WEI, *THE ASIAN AMERICAN MOVEMENT* 46 (1993).

200. *Id.*

201. Chang, *supra* note 198.

202. *Id.*

203. *Id.* One can hardly think of a White woman lamenting, on a daily basis, her lack of having slanted Asian eyes or not having the flat noses of many Asians.

story is retold numerous times.<sup>204</sup> One especially revealing comment was made by a Korean American male actor. "Recalling he was teased as a boy in his all-white neighborhood about his 'droopy eyes and flat nose,' the 18-year-old actor, who declined to identify himself, said he yearned for leading television roles but was stereotyped into 'smart Oriental' parts."<sup>205</sup>

Thus, having Asian eyes means one is ugly or at least unidimensional. This Korean American man's experience echoes Thomas Jefferson's pronouncements about how black skin color is distasteful because it fails to capture all of the varied emotions; it was just monotonously black whereas white skin allowed people to blush and express embarrassment, happiness and other emotions.<sup>206</sup> The Korean American actor's words suggest that Jefferson's ideology of White aesthetics is still very much alive today. Indeed, attesting to the power of White aesthetic domination, even Asian nationals see White physical features as being the norm.<sup>207</sup> Eyelid

204. One Japanese American woman comments that even in a multicultural place such as Hawaii where purely White people are a minority, "the Asian girls wanted to have double eyelids so they could do their makeup like the magazines. If you have single eyelids [like almost all Asians], it is just not going to work. If you want to look beautiful like the women in the magazines, you have to have the double fold [like most White people]." Mary Elizabeth Cronin, *About Beauty—More Women of Different Races Wash Away the White Standard*, SEATTLE TIMES, Aug. 26, 1990, Pacific Section, at 1. Similarly, a fairly recent study by Eugenia Kaw revealed that Asian Americans seem to view their ethnic features with great ambivalence and sometimes shame. The study focused exclusively on Asian American women and the participants made the following statements:

"When I look at other Asians who have no folds and their eyes are slanted and closed, I think of how they would look better more awake." Nellee, a 21-year-old Chinese American, said that she seriously considered surgery for double eyelids in high school so that she could "avoid the stereotype of the 'oriental bookworm' " who is "dull and doesn't know how to have fun." . . . Pam, a Chinese American, age 44, who received double-eyelid surgery from another doctor in my study, stated, "Yes. Of course. Bigger eyes look prettier. . . . Lots of Asians' eyes are so small they become little lines when the person laughs, making the person look sleepy." Likewise, Annie, an 18-year-old Korean American woman who had an implant placed on her nasal dorsum to build up her nose bridge at age 15, said: "I guess I always wanted that sharp look—a look like you are smart. If you have a roundish kind of nose it's like you don't know what's going on. If you have that sharp look, you know, with black eyebrows, a pointy nose, you look more alert. I always thought that was cool."

Kaw, *supra* note 197, at 248–49.

205. Chang, *supra* note 198.

206. See *supra* text accompanying note 55.

207. Journalist Sheila McNulty writes of Naree Krajang, a 24-year-old Thai singer:

Makeup artists complained about her slanted eyes and broad nose. . . .

surgery is very big business among Asian nationals and Asian Americans.<sup>208</sup> This medical procedure involves creating “double eyelids” among the Asian patients so as to make their eyes appear larger and more animated like those of White people. Perhaps because a majority of the patients are of Asian descent, physicians commonly refer to it as “westernizing the Oriental eye.”<sup>209</sup> Thus, one could view the surgical procedure, itself, unlike the vast majority of medical techniques, as being race-specific because of the large number of Asian patients. Like Black Americans, Asian Americans also feel that they lack preference and must resign themselves to

Although the Thai singer was beautiful by traditional Asian standards—with delicate features, smooth skin and thick, dark hair—she didn’t look Western.

That was hurting her career.

Last spring, [she] finally gave in. She underwent plastic surgery to remove some of the skin and fatty tissue on her upper eyelids to make her eyes look rounder and put a fold in the lid. The doctor also implanted a piece of silicone on the bridge of her nose to make it look less flat.

“I didn’t want others to criticize or insult me anymore,” she said.

....

“It’s a trend,” said Kanjana Spindler, editor in chief of the Thai edition of the women’s magazine *Elle*. “You can see all these plastic surgery clinics popping up like mushrooms.”

....

[One Asian actress stated that] [i]nstead of the smaller, unhappy parts that dominated her career in the past, when she always looked sad, the actress says she now is able to get key roles to play happy women who attract men.

Sheila McNulty, *Asian Women Rate Western Beauty a Cut Above Their Own*, L.A. TIMES, Mar. 26, 1995 at A2.

208. Irene Chang writes:

In the United States, plastic surgeons who once rarely saw Asian patients now are learning new techniques to satisfy a growing demand among Asian Americans for larger eyelids . . . . “Anglicizing” Asian eyes, and other ethnic features, is becoming a hot lecture topic at state-of-the-art cosmetic surgery seminars. . . . The demand by Asian Americans for eye work has captured the attention of the American Academy of Cosmetic Surgery, which conducts annual surveys of its 2,000 or so members. For the first time last year, the survey asked plastic surgeons whether they have noticed an increase in ethnic minorities who want more Westernized features.

“The answer was overwhelmingly yes,” said Kimberly Davey, an academy spokeswoman. Although statistics . . . were unavailable, Davey said Asians are the largest ethnic minority served by plastic surgeons; eyelid lifts are the most popular procedure. Surgeons in the San Gabriel Valley, with the largest concentration of Asians in Southern California, perform more eyelid lift surgery than in other parts of the country . . . .

Chang, *supra* note 198.

209. *Id.*



either rejecting or conforming to White aesthetic standards.<sup>210</sup> These Asian Americans do not undergo eyelid or nose surgery in order simply to look “pretty” or “nice” or “novel.” Rather, they are striving to look *normal* as White people define it.

## 2. Deculturalization

White people, on the other hand, undergo cosmetic surgery in order to look more attractive, not because they are ashamed of their own racial features.<sup>211</sup> White people, as a group, merely exercise their *choice* to improve their racial features, while Asians, like other peoples of color, generally cannot exercise such luxury of choice but are often limited to the extreme options of conformity to or rejection of the White aesthetic model. Of course, the doctors who perform these operations may not readily concede that they are trying to make their Asian patients look “Whiter.” They argue that Asian patients do not wish to look “White” at all, but just to look more “attractive.”<sup>212</sup> However, we naturally suspect these doctors of presenting biased views, given their obvious financial interest.<sup>213</sup> Nonetheless, some might argue that many Asians who undergo cosmetic surgery do so as a matter of “personal preference,” motivated by style and nothing else.<sup>214</sup> However, even if these participants answered sincerely, given the context of cultural interaction and political power relationships, we would be naive to think of “westernizing the Oriental eye” as

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210. *See id.*

211. Donna Kato, *The Eyes Have It*, CHI. TRIB., Oct. 19, 1988, § 7, at 26 (“While American Caucasians seek plastic surgeons mostly for facelifts, lipectomies, nose reductions and breast augmentations, Asians want doctors specifically skilled in building up small or flat noses and creating eyelid folds to make eyes appear larger . . .”); *see also* Chang, *supra* note 198 (interviewing Maxine Hong Kingston, who call eyelid surgery for Asians a “mutilation and perversion,” and express concern that when young Asian Americans “look at themselves in the mirror . . . all they have to compare themselves to is caricatures). One can hardly think of a White woman lamenting, on a daily basis, her lack of having slanted Asian eyes, or not having the flat noses of many Asians.

212. The following doctors have argued that blepharoplasty is merely meant to “enhance” Asian features, not to turn their Asian patients into White people: William P. Cohen, *Asian Blepharoplasty: Update on Anatomy and Techniques*, in OPTHALMIC PLASTIC & RECONSTRUCTIVE SURGERY 135 (1986); S. Amrith, *Oriental Eyelids—Anatomical and Surgical Considerations*, 32 SINGAPORE MED. J. 316 (1991); Don Liu & Wen Ming Hsu, *Oriental Eyelids: Anatomic Difference and Surgical Consideration*, in OPTHALMIC PLASTIC AND RECONSTRUCTIVE SURGERY 59 (1986).

213. *Cf.* Chang, *supra* note 198 (discussing how plastic surgeons are learning this new technique to “satisfy a growing demand among Asian Americans” for “[e]yelid lifts, which cost from \$900 . . . to \$4000”).

214. In Eugenia Kaw’s 1994 study, some of her Asian women participants claimed that their cosmetic surgery was prompted by a mere desire to look “prettier,” without any conscious attempt to reject their ethnic features. Kaw, *supra* note 197, at 248.

being a simple style preference. After all, while we can easily imagine Asian Americans wanting to have large blue eyes, can we really imagine White Americans wanting to have small black eyes? Can we imagine a novel called *The Slantest Eye*<sup>215</sup> where a young White girl resented her large blue eyes and wished that they were small, slanted, and black like those of Asian girls? By removing the issue of aesthetics from its proper historical context of racial oppression and exploitation, we can comfortably reassure ourselves that beauty is always in the eye of the beholder.

#### V. RACIAL EXOTICISM AND RACIAL ACCEPTANCE: THE DIFFERENCES AND THEIR SIGNIFICANCE

Thus far, this Article has discussed how the ideology of White aesthetics has stigmatized the racial features of people of color as deviating from the "normal" standard of White beauty. However, there are instances where White society actually seems to *embrace* the aesthetic features of people of color. In the media, we see examples of Black men in the masculine role of rappers and athletes. We also see images of Asian American women as news anchors and beautiful actresses. How do we account for these examples? Do they undermine the ideology of White aesthetics? In addressing this question, we must distinguish between *racial exoticism* and *racial aesthetic acceptance*. Racial exoticism involves attributing some supernatural or mysterious quality onto a racial group which apparently makes its members attractive or, perhaps more often, *alluring*.<sup>216</sup> By contrast, racial aesthetic acceptance involves including members of different races into a common community without viewing them as strangely repugnant or strangely attractive by virtue of their physical features. Throughout the discussion of racial exoticism or aesthetic acceptance, we must bear in mind that a discussion of race and aesthetics necessarily involves a discussion of gender and sexual stereotypes.

##### A. *Femininity, Masculinity and the Body: The Construction of Gender Identity and Its Relationship to Bodily Aesthetics*

Conceptions of masculinity and femininity have been intimately tied with perceptions about physical appearances. Masculinity has been associated, perhaps most notably, by a powerful physique. By

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215. For comparison, see *supra* note 78 (discussing Toni Morrison's *The Bluest Eye*).

216. See ERVING GOFFMAN, *STIGMA: NOTES ON THE MANAGEMENT OF SPOILED IDENTITY* 5 (1963) (stating how we sometimes attribute supernatural qualities onto a socially excluded group).

contrast, femininity is associated with a slight, delicate body. While this conclusion is not novel, one would have a difficult time trying to find an adequate number of feminist scholars who have seriously explored how masculinity and femininity are produced on a *multiracial, comparative* level involving, among others, Asian Americans. Because of this unfortunate absence of a multiracial, comparative approach, the discussion of “masculinity” and “femininity” among mostly White feminists has been wanting. And even when the discussion includes people of color, it often cannot transcend the traditional and limiting discourse of Black-White relations. Nonetheless, within the framework of racial aesthetics, it is paramount that we explore the perception of masculinity and femininity within a comparative, multiracial approach.

Within this comparative, multiracial approach, masculinity and femininity *vis-à-vis* the body are only *relative*. We have come to believe that some races appear more masculine or feminine than others. This results from the stereotypic view regarding the physical appearances of different races. Asians, for example, are at least *perceived* as being physically smaller and weaker than White people. Black people, however, are seen as being physically larger and stronger. Thus, when we discuss masculinity and femininity as manifested through the body, we must necessarily consider the significance of race.

### B. *Black Masculinity: The Early European Metaphor of Beasts*

As stated previously, the nineteenth-century creation of an American national identity was predicated upon the ideology of White aesthetics which explicitly focused on the distinguishing features of African Americans.<sup>217</sup> Therefore, a discussion of masculinity and femininity with respect to bodily aesthetics in American history must surely begin with the sexual-racial politics surrounding black Americans and people of African descent. As will be shown, the sexual component of racial stereotyping played a crucial role in constructing and justifying a worldview of institutional subordination, most notably through slavery. The White settlers' attitudes toward Black people were not new to America but originated in Europe. From as early as the sixteenth century, Europeans, while never believing that the Black people they encountered in Africa were beasts, nonetheless used the metaphor of

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217. See *supra* text accompanying note 137 (noting that nineteenth-century White Americans used a Black paradigm to deal with Asians); *cf. supra* notes 60–63 and accompanying text (describing eighteenth-century White Americans' projecting onto Blacks their negative attributes).

apes to describe them.<sup>218</sup> The focus on apes would have significant implications because this particular animal seemed to symbolize the excesses of masculinity, including sexual aggressiveness and virility. In America, the metaphorical connection to beasts was expostulated in scientific circles. One writer who had great influence among intellectuals in eighteenth-century America was Dr. Charles White. In a pseudo-scientific tone, White declared: "That the PENIS of an African is larger than that of an European has, I believe, been shewn in every anatomical school in London. Preparations of them are preserved in most anatomical museums; and I have one in mine."<sup>219</sup> This fascination with the perceived virility of Black men was integrated into a program of propaganda justifying political terror, especially lynchings.<sup>220</sup> Whereas Dr. White discussed his fascination with Black masculinity in clinical terms, other White Americans invoked an image of Black men as "beasts" and "lustful brutes" with "uncontrollable sexual passions."<sup>221</sup> Historian George M. Fredrickson argues that the "most obvious and immediate function of this kind of propaganda was to counter doubts about the necessity of lynching."<sup>222</sup> Furthermore, aside from lynching, the "Negro's overpowering desire for White women was often described as the central fact legitimizing the whole program of legalized segregation and disfranchisement."<sup>223</sup> Thus, one might infer that *Plessy v. Ferguson*<sup>224</sup> was prompted, at least in part, by the fear of overly masculine, lustful Black men who wanted to rape White women.

Even today, the image of the overly masculine Black man persists in political discourse.<sup>225</sup> The image is so pervasive and powerful that a former American President used it to help win his election. For George Bush, Willie Horton might have proved more valuable than his closest advisers. The large, dark, unkempt face of Horton

218. See JORDAN, *supra* note 13, at 28–31, 238.

219. JORDAN, *supra* note 13, at 501 (quoting CHARLES WHITE, AN ACCOUNT OF THE REGULAR GRADATION IN MAN, AND IN DIFFERENT ANIMALS AND VEGETABLES; AND FROM THE FORMER TO THE LATTER (1799)).

220. GEORGE M. FREDRICKSON, THE BLACK IMAGE IN THE WHITE MIND: THE DEBATE ON AFRO-AMERICAN CHARACTER AND DESTINY, 1817–1914, at 274–76 (1971).

221. *Id.* at 275–76.

222. *Id.* at 281–82.

223. *Id.* at 282.

224. 163 U.S. 537 (1896).

225. bell hooks argues:

These images appeal to white audiences, who simultaneously fear them and are fascinated by them. . . . Popular works like Nancy Friday's study of white female sexual fantasies reveal that one of the most consistent images is that of the black male seducer/rapist. It is consistent with racism that this imagery has so much power to captivate, titillate, and simultaneously horrify.

was juxtaposed against the smiling White wholesome face of his female victim. Through his Horton ads, Bush promised that as President, he would, unlike his opponent Michael Dukakis, contain Black masculinity in order to protect the sanctity of White womanhood. Black men were dangerous, and White women needed to be saved. And the only one who could stop one and protect the other was a White man, President Bush. Thus, for Bush, racially and sexually contrived images worked on two levels to elevate his White manhood into a special sphere of privilege, power, and heroism.

C. *The Ambivalence of Masculinity:  
Viewing Black Men as Heroes*

While the negative aspects of Black masculinity are often obvious, the stereotype of the super-masculine Black male, like most other stereotypes, is multidimensional and ambivalent. While Black men were, and still remain, subject to political violence and subordination because of their apparent physical masculinity, they are also admired and idolized by White men and boys. In our present society of "political correctness" where masculinity is often besieged and uncertain, young White men and boys might seek reassuringly clear examples of manliness as personified by Black men. Perhaps this explains why Black men are most often seen in athletic competition or rap music videos. In both cases, the audience sees images of violent, aggressive, and intimidating Black men. Particularly to young White men, the Black athletes and rappers symbolize assertiveness, self-efficacy, toughness, and bravery. bell hooks, for example, has noted that "[r]epresentations of black men in mass media usually depict them as . . . super-masculine."<sup>226</sup> Although the political implications are always potentially dangerous, on some level, White men admire Black men as physically superior masculine beings.

The White boy begins to associate himself with the masculinity displayed by young Black men.<sup>227</sup> This process includes the White

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226. *Id.* at 71.

227. Sometimes, White boys' efforts to emulate their Black heroes can translate into violence. For example, there is a "spread of white gangs drawn from middle-class families. Police and social workers are baffled why such an affluent group wants to demonstrate the fierce tribal loyalties and violence of the black and Hispanic gangs of Los Angeles. . . . The white gangs of Las Vegas borrow the names, colours, initiation rites, slang and rap music of their [black] LA counterparts." Susan Ellicot, *White "Wannabes" Join Gang Mayhem in Vegas*, SUNDAY TIMES, May 31, 1992, available in LEXIS, News Library, Arcnws File. One police officer commented, "'We're at a turning point,' he said. 'Black gangs are a society problem. Hispanics have a heritage thing. But white gangs are kids that feel left off the bandwagon. They're the scariest because they feel they have so much to prove.'" *Id.*

boy's fascination with rap music,<sup>228</sup> especially violent, sexist rap music<sup>229</sup> performed by young Black men, in short, a kind of music designed to reinforce the boy's burgeoning and very insecure sense of masculinity. The mostly White, mostly young audience admires the Black rappers because they symbolize the physical conquest of men as well as women. The Black rappers confer onto the suburban White youth a distinctly "Black" masculinity that generally derives from some caricatured version "authentic" ghetto life. Therefore, although there are pictures of Black rap stars everywhere, quite clearly, mainstream society accepted them for their racial exoticism.

Aside from music, the White boy also reveres Black athletes as heroes. Even grown-up White men tend to view Black athletes with

228. See Laura Blumenfeld, *Black Like Who? Why White Teens Find Hip-Hop Cool*, WASH. POST, July 22, 1992, at C5 ("A generation of white teenagers is adopting hip-hop, the culture associated with rap music, and claiming it for themselves. . . . Teens have few white role models for rebellion . . . . James Dean is forgotten, the Rolling Stones are wrinkled. So they wear Malcolm X hats flipped backward."); Jonathan Tilo, *Whites Face Reality Check in Hip-Hop*, THE PLAIN DEALER, Nov. 8, 1992, at 1H ("[T]he white audience, who it is estimated represent more than 70% of rap consumers, got turned onto the harder, more genuine sounds of rap."). Reginald Dennis, a Black editor of *The Source*, a music magazine, stated that "[t]here's this Albanian kid from the Bronx and it always fascinates me. . . . Here are all these Albanian kids wearing matching baseball caps and sweat shirts and sneakers and they're all listening to rap music . . . ." *Id.* Similarly, Renee Graham argues:

[R]ap has found a loyal and unshakable audience among many young whites who relate to its challenges to systems of authority that they too feel alienated from. From the nicely manicured lawns of suburbia to brick row houses of city neighborhoods, white youths are finding messages of their own in this defiantly black music.

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According to record industry statistics, more than half of those purchasing rap music are white.

Renee Graham, *White Kids Who Love to Rap: Black Artists' Music, with Its Raw Political Messages, Is Reaching an Unlikely Audience*, BOSTON GLOBE, Oct. 30, 1992, at 29. One author has stated that "three-quarters of all rap albums are bought by whites." Jason Talerman, *The Death of Tupac: Will Gangsta Rap Kill the First Amendment?*, 14 B.C. THIRD WORLD L.J. 117, 138 (1994).

229. See Nels Jacobson, Note, *Faith, Hope & Parody: Campbell v. Acuff-Rose, "Oh, Pretty Woman," and Parodists' Rights*, 31 HOUS. L. REV. 955, 968 (1994) ("No doubt it is the predominance of the violent and sexual themes in rap music that white middle class America finds most offensive, and which the younger generation living in our cities' ghettos and elsewhere find most honest and endearing."); see also Shirley Ann Williams, *Two Words on Music: Black Community in BLACK POPULAR CULTURE* 164, 167 (Gina Dent, ed., 1992) ("[B]lack people have to ask ourselves why so much of [rap] has become so vehemently misogynistic, violent, and sexually explicit . . ."); BELL HOOKS, *BLACK LOOKS: RACE AND REPRESENTATION* 109 (1992) ("The very images of phallogocentric black masculinity that are glorified and celebrated in rap music . . . are the representations that are evoked when white supremacists seek to gain public acceptance and support for genocidal assault on black men, particularly youth.").

a certain amount of hero worship. It is certainly not unusual to find generations of White men who grew up to have admired someone like Willie Mays or Kareem Abdul-Jabbar. While such examples might seem indicative of a general acceptance of the physical features of African American men, one must be careful to note that all of them inevitably focus on a masculinity associated with physical power or intimidation. In these heroic images of Black athletes, there is nonetheless the fixation on their racially peculiar masculinity. Hence, the prevalence of these seemingly positive images are more akin to *racial exoticism* than racial aesthetic acceptance.

The images do bear a connection, although a vague one, to the political rhetoric reminiscent of a more avowedly prejudiced America. Indeed, this element of a racially exotic Black masculinity always runs the risk of being easily manipulated and being fluidly, often subconsciously, transformed into a paradigm that has historically subordinated Black men. In the area of racial exoticism, the difference between admiring fascination and loathsome fear is often a tenuous one. We admire the Black athlete because he is powerful, intimidating, and, at times, threatening. We also fear and loathe Willie Horton because he too is ominously portrayed as powerful, intimidating, and tragically, threatening. Thus, the over-emphasis in the media on the masculinity of Black men is superficially complimentary and inherently dangerous because of its association with a racial exoticism that is always unstable and readily amenable to manipulation in the political arena.

The recent O.J. Simpson trial illustrated this dynamic. We were initially shocked to hear that O.J. was accused of killing his wife and a White man. O.J. has always been regarded fondly by White America, mainly because he has come across as a symbol of self-assured, charismatic Black masculinity; no one admired O.J. because of his wit, his generosity, or his character. Instead, he reminds a White audience of the high school football star who was loved and admired by everyone solely because of his athletic accomplishment and masculine appearance. Fully aware of his reputation, the district attorney feared that even White jurors, especially the men, would feel sympathy for the Hall of Fame running back.<sup>230</sup> This fear existed even though our Black athlete was accused of killing two White

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230. Los Angeles District Attorney Gil Garcetti said: "There is no doubt that O.J. Simpson the persona, the hero, is something that most people don't want to let go. We're going to have to make sure that *any* jury . . . can understand and appreciate that even a person you may love, admire, and respect, may have committed a horrendous crime." *Difficult Defense*, NEWSDAY, June 20, 1994, at A17 (emphasis added). Consider also the responses from a cable television poll: "According to a nationwide ESPN/Chilton Sports Poll taken Friday night, 72 percent of respondents hoped Simpson was not guilty, but 50 percent thought he was . . ." *Id.* I would venture to guess that many of the callers in the poll were white men.

people. The general incredulity among White society and the concern over *voir dire* expressed by the district attorney was an impressive testament to the power of hero worship among White men towards Black athletes.

However, as illustrated in grim detail by Detective Mark Fuhrman, another powerful image of O.J. was that of an excessively masculine beast-like man who needed to be punished for sexually seducing, and then killing, a White woman. Hence, Simpson was also symbolically connected to the same racist language used among some White police officers as revealed during investigation of the Rodney King beating. We learned that some White Los Angeles police officers had referred to African American men as being overly masculine beasts without intellect and humanity, thereby making them more prone to violence and racism. Thus, whenever Black men are extolled for their physical masculinity, the complement is always an ambivalently dangerous one that has its foundations in racial exoticism. And the argument that the media has largely accepted the aesthetic qualities of Black men becomes problematic and vulnerable given the fact that Black men in the media are perhaps most noticeably presented as examples of racial exoticism in the form of athletes or violent rappers, or some variant of both. Therefore, the apparent acceptance of Black men in mainstream media does not necessarily undermine the ideology of White aesthetics, but instead can be explained as examples of racial exoticism.

#### *D. Asian and Asian American Men: "Without Sinful Manhood"*

##### 1. Early Stereotypes

While African American men tend to be "embraced" for their super masculinity, Asian American men tend to be rejected for lacking the masculinity associated with bodily aesthetics. Early White American rhetoric surrounding Black men focused on their masculine appearances, but the rhetoric surrounding Asian men emphasized either their asexuality or their perceived femininity. This is not to say, of course, that Asian men were not stereotyped as sexual threats to White women or other menacing threats. However, the prevalent caricature of Asian men in the nineteenth century as well as today has been unmistakably imbued with those stereotypically patronizing qualities we generally associate with women. In his late nineteenth century short story, "Wan Lee, the Pagan," Bret Harte describes a Chinese boy in terms that are decidedly



feminine.<sup>231</sup> After befriending a White girl, Wan Lee carries her books and makes beautiful presents for her. She in return gives him a yellow ribbon for his queue. Even Wan Lee's death is indicative of feminine passivity as an enraged White mob kills him and the other local unarmed and unprovoked Chinese citizens in San Francisco. In another one of Harte's stories, "See Yup," a Chinese immigrant man in a mining town performs the traditional roles assigned to women.<sup>232</sup> Ronald Takaki writes:

The dichotomization between men (the world of business) and women (the world of home) seems to have become regionalized, located respectively in the West and the East. And in the male society of the mining camp, white men turn to the Chinese—to See Yup—to do their laundry.<sup>233</sup>

Indeed, time and again, nineteenth-century American newspapers praised Chinese men in factories for being so "obedient," "acquiescent" and "hard working" in serving the interest of their White capitalist bosses.<sup>234</sup> When the Chinese workers were seen as an economic threat to the White laborers, the rhetoric was not that of a masculine group of Asian workers. The image was one of effeminate Asian men who would *out perform* their White counterparts—men who would persistently work *within* the system, without complaint or unions, and thereby beating the White workers at their own game.<sup>235</sup> This paranoia was expressed in Ignatius Donnelly's 1890 novel *Caesar's Column*.<sup>236</sup> Donnelly forebode a bloody apocalypse where White laborers would topple what he called a "scheme" by Chinese workers and their White bosses to destroy White labor and its chances for economic survival. In describing the Chinese workers, Donnelly wrote: "And the wretched, yellow, under-fed coolies, with women's garments over their effeminate limbs, will not have the courage or the desire or the capacity to make soldiers and defend their oppressors."<sup>237</sup> Donnelly's statement well illustrates the nineteenth century American view of Asian men as being physically effeminate, and accordingly, aesthetically unacceptable as men. Their racial identity thus *preempted* their sexual identity, whereas for Black

231. Bret Harte, *Wan Lee, the Pagan*, in 3 HARTE'S COMPLETE WORKS 262–79 (Bret Harte ed., 1929) (discussed in TAKAKI, *supra* note 13, at 225–26).

232. Bret Harte, *See Yup*, in 7 HARTE'S COMPLETE WORKS 144 (Bret Harte ed., 1929) (discussed in TAKAKI, *supra* note 13, at 227).

233. TAKAKI, *supra* note 13, at 227.

234. *Id.* at 232–33.

235. *Id.* at 239.

236. IGNATIUS DONNELLY, *CAESAR'S COLUMN: A STORY OF THE TWENTIETH CENTURY* (1960) (orig. 1890) (quoted in TAKAKI, *supra* note 13, at 249).

237. *Id.* at 97.

men, their racial identity *exaggerated* their sexual identity. In both cases, the element of racial exoticism worked on the level of political rhetoric to subordinate the men of color.

## 2. Asian American Men Today: Chan Is Not Dead

The stereotypical view of effeminate Asian American men continued throughout the twentieth century and up to today. In cinema, American viewers were introduced to the very popular Charlie Chan, "the detective who outsmarted others with his cleverness [and who unlike] white American males acting in leading roles . . . was depicted as sexless or effeminate."<sup>238</sup> We see this same theme in John Hughes' 1984 comedy, *Sixteen Candles*.<sup>239</sup> There, a sixteen-year-old Molly Ringwald encounters a foreign exchange student from China. He is portrayed as infantile, feeble and weak. And he is also juxtaposed against a strong, physically large White man, Molly's love interest. The Asian male is again reduced to the role of being a boy, while the White male, by virtue of his race, stands out as being a man. This infantilization of Asian men would seem to be consistent with the idea that masculinity is predicated on disassociating one's self from boyhood and trying to reach manhood.<sup>240</sup> Through Asian male characters, White men can see themselves as men and point to their Asian counterparts as images of impotent, helpless boys. Whereas the racial exoticism of Black American men was used to demonize a threatening masculinity that allowed White men to see themselves as rational and intelligent, the racial exoticism of Asian American men allows White men to reaffirm their physical superiority and manhood.

The media emasculation of Asian men has provoked some Asian American male artists to respond.<sup>241</sup> Perhaps the most colorful spokesman is Chinese American writer Frank Chin.<sup>242</sup> Chin argues that acceptance of Asian Americans as *Americans* is especially important for Asian men because this would help confer onto them

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238. Pat K. Chew, *Asian Americans: The "Reticent" Minority And Their Paradoxes*, 36 WM. & MARY L. REV. 1, 39 (1994).

239. *SIXTEEN CANDLES* (John Hughes 1984).

240. Andrea Dworkin argues that boys and men feel this way because being a boy conjures images of being a victim to one's mother, of being helplessly dependent upon her. Thus, visions of being a boy, instead of a man, conjure images of fear and impotence. ANDREA DWORKIN, *PORNOGRAPHY: MEN POSSESSING WOMEN* 48-51 (1981).

241. See ELAINE H. KIM, *ASIAN AMERICAN LITERATURE: AN INTRODUCTION TO THE WRITINGS AND THEIR SOCIAL CONTEXT* 173-75 (1982) (noting the efforts by various Asian American male writers to refute the emasculating stereotype).

242. Frank Chin was the first Asian American to have a play open on Broadway. Sara Solovitch, *When East Meets West*, PHILA. INQUIRER, Aug. 4, 1991, Features Inquirer Magazine, at 10.

a masculine identity that is otherwise preempted by their racial stereotype.<sup>243</sup> For Chin, racial aesthetic acceptance is more than acquiring an identity as an American; it also means acquiring an identity as a man. This is an obstacle that White male immigrants have never encountered in America. In a piece he co-wrote with Jeffrey Paul Chan, Frank Chin realizes that the obstacles to acquiring manhood are formidable given that Chinese American men have become “the white male’s dream minority . . . patient, submissive, esthetic, passive, accommodating, essentially feminine in character,” a race without “sinful manhood.”<sup>244</sup> Chin focuses on the pervasive image of the effeminate Asian male stereotype as exemplified by Fu Manchu:

[T]he evil of the evil Dr. Fu Manchu was not sexual, but homosexual. The sexual “evil” offered by Fu Manchu to the white race is nothing less than satisfaction of the white male fantasy of white balls being irresistible. Instead of threatening white goddess blond bigtits [sic] with sexual assault, Dr. Fu swishes in to threaten all-Joe American with his beautiful nymphomaniac daughter. . . . Fu Manchu and [Charlie] Chan are visions of the same mythic being, brewed up in the subconscious regions of the white Christian’s racial wetdream. Devil and angel, the Chinese is a sexual joke glorifying white power. Dr. Fu, a man wearing a long dress, batting his eyelashes, surrounded by muscular black servants in loin cloths, and with his bad habit of caressingly touching white men on the leg, wrist, and face with his long fingernails is not so much a threat as he is a frivolous offense to white manhood. Chan’s gestures are the same, except he doesn’t touch, and instead of being graceful like Fu in flowing robes, he is awkward in a baggy suit and clumsy. His sexuality is the source of a joke running through all of the forty[-]seven Chan films. The large family of the bovine detective isn’t the product of sex, but animal husbandry. . . . [He does] not smoke, drink, or womanize. . . . He never gets into violent things.<sup>245</sup>

While the zealotry of Chin’s attack might tend to discount the legitimacy of his message, his fundamental criticism would be difficult to dismiss in light of the numerous examples—ranging

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243. See KIM, *supra* note 241, at 177.

244. *Id.* at 179 (quoting Frank Chin & Jeffrey P. Chan, *Racist Love*, in *SEEING THROUGH SHUCK* 66 (Richard Kostelanetz ed., 1972)).

245. *Id.* (quoting Chin & Chan, *supra* note 244).

from D.W. Griffiths' works<sup>246</sup> to the very latest popular films—of the media presenting Asian American men as effeminate and ridiculous.<sup>247</sup>

E. *Asian American Women:*  
*All the Butterflies—Madame, Miss, and M*

While Asian men tend to be derided because their bodily aesthetics contradict popular White notions of masculinity, the bodily aesthetics of Asian women are lauded because they complement, and perhaps even symbolize, the ideal of femininity. As Asian men are perceived as physically small and weak, so too are Asian women. However, a small physical build has been traditionally associated with ideas of submissiveness, passivity, and vulnerability—qualities indicative of feminine beauty.<sup>248</sup> Therefore, it is not unusual to find White men being fascinated with the racial exoticism of Asian women, often to such an extent that it eclipses the femininity of White women.<sup>249</sup> In numerous films, plays, books, and stories,

246. See, e.g., *BROKEN BLOSSOMS* (United Artists 1919) (showing a completely effeminate and asexual Asian male character who poses no sexual threat).

247. The following films and television shows portray Asian men as being either effeminate or decidedly asexual or infantilized: *Bonanza* (1959–73) (portraying the bungling Hop Sing as the housemaid for the all-male Cartwright family); *FATHER OF THE BRIDE* (Touchstone Pictures 1991) (portraying an infantilized Asian man); *GUNG HO* (Paramount Pictures 1986) (showing infantilized Japanese auto workers next to large blue collar White workers); *Happy Days* (1974–84) (showing Pat Morita as an asexual, infantilized character juxtaposed against the masculinely cartoonish Fonz); *THE KARATE KID* (Columbia Pictures 1984) (showing an asexual old man as a White boy's karate master); *REVENGE OF THE NERDS* (Twentieth Century Fox 1984) (presenting nerds who are White, as well, but deliberately pointing out only one non-White nerd, an Asian); *THE SHADOW* (Universal Pictures 1994) (showing a Fu-Manchu-style character who is completely asexual juxtaposed against the masculine and sexually seductive Alec Baldwin character); *VOLUNTEERS* (Tri-Star Pictures 1985) (presenting an asexual, infantilized sidekick for Tom Hanks' character).

248. See *SIMONE DE BEAUVOIR, THE SECOND SEX* 331 (1971) (arguing that passivity and submissiveness are traditionally "feminine" traits).

249. Perhaps White men give Asian women various pejorative names in order to reinforce their characterization and perception of Asian women as symbols of femininity. For example, they refer to them as "Lotus Blossoms" or "China Dolls." See Renee E. Tajima, *Lotus Blossoms Don't Bleed: Images of Asian Women*, in *MAKING WAVES: AN ANTHOLOGY OF WRITINGS BY AND ABOUT ASIAN AMERICAN WOMEN* 308, 309 (Asian Women United of California ed., 1989) ("The Lotus Blossom Baby, a sexual-romantic object, has been the prominent type throughout the years. These 'Oriental flowers' are utterly feminine, delicate, and welcome respites from their often loud, independent American counterparts."). Consider also an article written by Tony Rivers in *Gentlemen's Quarterly*, where Rivers describes Oriental girls in relation to White women:

Her skin colour—ah, that delicious discrimination—and its texture—no blotches, no hint of unwanted hair, lotus-fed, innocent of roses, silky, silky. Her hair—long and black and shiny, serenely straight . . . eyes almond shaped for

Asian women are presented as the ideal woman by virtue of their feminine physique. Femininity, however, as stated earlier, is a *racially relative* concept that exists only insofar as there is a point of contrast. And in all of these films and stories, the femininity of Asian women is realized largely because it is contrasted with the physical masculinity of White characters.

Perhaps the most well-known example of this relationship is Puccini's *Madame Butterfly*. Canonized as one of the great operas, Puccini's opera is based on a 1898 short story by American John Luther Long. Puccini's work begins recently after what is euphemistically referred to as the American "opening" of Japan. Pinkerton, a naval officer stationed in Nagasaki, represents Western culture as being a decidedly masculine figure existing in the public sphere of combat. He is physically taller and bigger than the Japanese girl, Cho-Cho-San, our little Butterfly. Pinkerton's juxtaposed masculinity is highlighted by other trappings of manhood. He rides a battleship. He wears an officer's uniform. He is captain. And he is a member of an occupying military force. Cho-Cho-San, our little Butterfly, has no such public identity. She is the feminine private sphere of emotion, bias, irrationality, and delicacy. She cannot hide behind a battleship, a uniform, and the title of captain; she has nowhere to hide at all. Instead, her Japanese family oppresses her into feminine submission. Thus, she hopes that Captain Pinkerton will save her from this suffocating Asian culture. They marry, but Pinkerton only desires a night of passion without any commitments. He leaves her, but she remains in Japan and faithfully awaits his return. The Asian female awaits her White savior to rescue her from Asian culture. Pinkerton returns, but not for Butterfly. He only returns for their child.

Cho-Cho-San kills herself knowing that "death with honor is better than life with dishonor." By having killed herself, she confirms both her racial and sexual stereotype. As Catherine Clement states, this honorable death reunites Butterfly with her Oriental culture.<sup>250</sup> For Western viewers, Asians become authentic through suicide. Death also confirms her femininity. To transcend Pinkerton's refusal and seek to find her own life would not be feminine. Instead, through suicide, she engages in the ultimate act of femininity, a complete relinquishment of resolve and the greatest abnegation of self-worth; through death, she is redeemed as the purest

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mystery . . . . She doesn't go to assertiveness-training classes, insist on being treated like a person, fret about her career moves, wielding her orgasm as a non-negotiable demand.

Tony Rivers, *Oriental Girls: The Ultimate Accessory*, GENTLEMAN'S QUARTERLY, British Edition, Oct. 1990, at 158, 161.

250. CATHERINE CLEMENT, OPERA, OR THE UNDOING OF WOMEN 8 (1986) (cited in MOY, *supra* note 178).

embodiment of femininity, and Cho-Cho-San dies beautifully as both a Japanese and as the feminine Butterfly.

Yet Butterfly never really dies at all. Through death, she becomes the immortal, transfixed symbol of Asian womanhood. So she appears again in *Miss Saigon*. This time, instead of the opening of Japan, it's the opening of Vietnam. But it's still the same story. White men come to rescue defenseless Asian women from a threatening Asian culture. Our White hero is again clearly associated with masculinity. He is physically larger and taller than the Asian woman. And he is again a member of an occupying military force seeking, among other things, to liberate Asian women from Asian men. The soldier again spends a night of passion with this innocent, feminine Asian girl. He leaves and she faithfully waits her savior. The results are again tragic. We all know the story, but we love to see the ending. We long to adore Asian women for their self-sacrifice, their honor, and their complete and unmitigated willingness to die a pure feminine death of resignation and despair. The immense acclaim for *Madame Butterfly*, the popularity of *Miss Saigon*, and White society's pity and fascination for the various incarnations of little Cho-Cho-San are examples of racial exoticism, not racial aesthetic acceptance.

Upon closer analysis, the fascination with Butterfly reflects not just a fascination with a submissive Asian *female* body, but with a submissive Asian body *in general*. An illuminating work by playwright David Henry Hwang<sup>251</sup> suggests this to be the case. In his *M. Butterfly*, Hwang resurrects Puccini's opera.<sup>252</sup> Like in *Madame Butterfly* and *Miss Saigon*, the Asian woman character is noticeably shorter and slighter than her White male co-star. But unlike *Madame Butterfly* or *Miss Saigon*, in *M. Butterfly*, an Asian American subverts the traditional Western characterizations of Cho-Cho-San. Hwang's play takes place primarily during the Chinese Cultural Revolution in the 1960s. Based on a true story, a French diplomat named Gallimard becomes obsessed with Song Liling, a Chinese opera star. After seeing Liling perform Puccini's opera, Gallimard tells her, "You were utterly convincing. It's the first time . . . I've seen the beauty of the story."<sup>253</sup> Liling responds,

It's one of your favorite fantasies, isn't it? The submissive Oriental woman and the cruel white man. . . . Consider it this way: what would you say if a blonde homecoming queen fell in love with a short Japanese businessman? He

251. DAVID H. HWANG, *M. BUTTERFLY* (1988).

252. See *id.* at 95 (stating in author's Afterword: "The idea of doing a deconstructivist *Madame Butterfly* immediately appealed to me").

253. *Id.* at 17.

treats her cruelly, then goes home for three years, during which time she prays to his picture and turns down marriage from a young Kennedy. Then, when she learns he has remarried, she kills herself. Now, I believe you would consider this girl to be a deranged idiot, correct? But because it's an Oriental who kills herself for a Westerner—ah!—you find it beautiful.<sup>254</sup>

Gallimard is nonetheless obsessed with Liling.

After sexually “conquering” Butterfly, Gallimard analogizes to the then American military campaign in Vietnam: “If the Americans demonstrate the will to win, the Vietnamese will welcome them into a mutually beneficial union. . . . Orientals will always submit to a greater force.”<sup>255</sup> Through this statement, Gallimard uses the metaphor of sexual domination of the Asian body to understand Asians in disparate contexts. The small, feminine opera singer’s failure to protect her body from foreign sexual invasion is likened to the failure of an entire nation to protect itself from foreign military invasion. The sexual exploitation of a female Asian body in China is likened to the killing of Asian bodies in Vietnam. Thus, the bodies of fearless Vietnamese soldiers are implicitly connected with the body of Liling, a delicate female opera star. Gallimard’s connection of these two completely different “bodies” demonstrates the extent to which his understanding of Asians is one deeply rooted in gender identity and bodily aesthetics. He is not solely interested in the femininity of Asian women. Rather, he is fascinated in the femininity of Asians *in general*. Liling just happened to be the most demonstrative example of his desire to dominate the elusive Oriental body.

At the end of the play, Gallimard discovers, to his immense surprise, that Liling is not a woman—but a man.<sup>256</sup> What is even more surprising is that Gallimard still clings to his fantasy of Oriental submissiveness. In an incredible act of denial and delusion, he still longs for Liling even after discovering that she is really a he.<sup>257</sup> Gallimard calls himself

a man who loved a woman created by a man. . . . Tonight, I’ve finally learned to tell fantasy from reality. And, knowing the difference, I choose fantasy . . . [a vision of] slender women in chong sams and kimonos who die for the love of unworthy foreign devils. Who are born and raised to be the perfect women. Who take whatever

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254. *Id.*

255. *Id.* at 46.

256. *See id.* at 87–88.

257. *See id.* at 89–90.

punishment we give them, and bounce back, strengthened by love, unconditionally. It is a vision that has become my life.<sup>258</sup>

What began as Puccini's sentimental love for the female Asian body ends with the pathological obsession for control and domination of a socially constructed Asian body that is mythical. Hwang's brilliantly subversive work reveals how the aesthetic acceptance of Asian women—even if it comes in an elegant high-brow package by Puccini—is nonetheless a distorted and delusional fascination with racial exoticism.

F. *Black Women and Feminine Bodily Aesthetics: The Problematic Equation of Blackness and Masculinity in White Society*

Whereas the socially constructed image of the Asian female body celebrates the bodily aesthetics of femininity, White constructed images of Black women either threaten it or appear contradictory. Perhaps most fundamentally, throughout European and American history, black skin color has been seen, among other things, as a sign of masculinity, whereas white skin color has been associated with the feminine ideal. In Shakespeare, we can see an example of this study in contrasts. As various authors have argued, Shakespeare was not simply a lone artist but a conveyor of his Elizabethan society's mores.<sup>259</sup> In one of his sonnets, Shakespeare, reflecting the aesthetic values of his times, dismisses those features characteristic of Black women:

My mistress' eyes are nothing like the sun;  
Coral is far more red than her lips' red:  
If snow be white, why then her breasts are dun;  
If hairs be wires, black wires grow on her head.  
I have seen roses damask'd, red and white,  
But no such roses see I in her cheeks.<sup>260</sup>

Clearly, here, the distinguishing physical features of Black women would be seen as decidedly unfeminine and unattractive whereas the unique physical features of White women are equated with beauty itself. In other instances, Shakespeare is more explicit in

258. *Id.* at 90–91.

259. See JORDAN, *supra* note 13, at 37 (“Shakespeare was writing both about and to his countrymen’s feelings concerning physical distinctions between kinds of people . . .”).

260. WILLIAM SHAKESPEARE, *Sonnet CXXX*, in *THE SONNETS OF WILLIAM SHAKESPEARE* 130 (Edward Dowden ed. 1853); see also *id.* at 127, 131–32 (establishing a relationship between Blackness and beauty in *Sonnets CXXVII, CXXXI, CXXXII*).



equating black physical features with masculinity, sometimes a bestial masculinity.<sup>261</sup> In Shakespeare's *Othello*, this connection is made explicit. Referring to the sexual liaison between the Black Othello and the White, "fair" Desdemona, Iago tells the young maiden's father that Othello is an "old black ram/Is tugging your white ewe" and that "[his] daughter [is] cover'd with a Barbary horse." In Shakespeare, then, we see that blackness is the opposite of femininity while Whiteness is its embodiment.

This view of bodily aesthetics and race continued throughout antebellum America. In *Notes on Virginia*, Thomas Jefferson specifically argued that feminine beauty was located in White women, not Black women, as made evident by the attraction of black apes for Black women and Black men for White women.<sup>262</sup> In 1799, Dr. Charles White wrote an influential and precedent setting book comparing the biological development of Blacks to Whites. Although ostensibly "scientific" in its approach, the book also included some revealing statements on bodily aesthetics that clearly located femininity in White women while rejecting its existence in their Black sisters:

Where the perpendicular face, the prominent nose, and round projecting chin? Where that variety of features, and fulness of expression; those long, flowing graceful ringlets . . . those rosy cheeks and coral lips. . . . In what other quarter of the globe shall we find the blush that overspreads the soft features of the beautiful women of Europe, *that emblem* of modesty, of delicate feelings, and of sense? Where that nice expression of the amiable and softer passions in the countenance; and that general elegance of features and complexion? Where, except on the bosom of the European woman, two such plump and snowy white hemispheres, tipt with vermillion?<sup>263</sup>

Similar to Thomas Jefferson, Dr. White says that the physical features of White women are an "emblem" of "delicate feelings." It is an emblem that only White women can possess. Dr. White, however, persists in asking "where" such features can be found outside of White women. By asking this question, Dr. White's celebration of White feminine beauty in early America necessarily required at least the implicit denigration of the unique physical features of Black women.

261. See *supra* Part V.A.1.

262. JEFFERSON, *supra* note 55, at 256; see *supra* notes 58–60 and accompanying text.

263. JORDAN, *supra* note 13, at 501–02 (quoting WHITE, *supra* note 219) (emphasis added).

When there were examples of aesthetic acceptance, they generally suggested racial exoticism. One pervasive image during slavery was that of the asexual matriarch, Mammy.<sup>264</sup> Mammy was the faithful Black woman, the surrogate White mother who reared the children of White folks, a type of saint-like eunuch. Regina Austin has stated that the image of "Mammy, 'Aunt Jemima,' Beulah, and even the emasculating matriarch is that of an overweight, rotund female, devoid of the curves that are indicative of the more seductive examples of her sex."<sup>265</sup> In contrast to the asexual Mammy, there was also the image of Jezebel, a sexually out-of-control Black woman who lacked what Dr. White called "softer passions in the countenance"<sup>266</sup> indicative of feminine beauty. Finally, there was the image of Sapphire. Regina Austin describes her:

I grew up thinking that "Sapphire" was merely a character on the Amos 'n Andy program, a figment of a white man's racist/sexist comic imagination. Little did I suspect that Sapphire was a more generally employed appellation for the stereotypical BLACK BITCH—tough, domineering, emasculating, strident, and shrill. Sapphire is the sort of person you look at and wonder how she can possibly stand herself.<sup>267</sup>

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264. See Austin, *supra* note 102, at 883 (discussing various stereotypes of Black women, including that of the "Mammy").

265. *Id.*

266. See *supra* text accompanying note 263 (quoting WHITE, *supra* note 219).

267. Regina Austin, *Sapphire Bound!*, 1989 WIS. L. REV. 539, 539–40 (footnotes omitted). Jacqueline Jones explains that the view of Black women as aggressive and obnoxious has existed at least as far back as the Civil War. Jones writes that shortly after the Civil War,

Yankee journalists, officials, travelers, and planters were intrigued by exceptionally strong-willed freedwomen and so tended to highlight individual cases and exaggerate their importance. Defenders of the notion of early Victorian (white) womanhood could not help but be struck by black women who openly challenged conventional standards of female submissiveness. Freedwomen were described as "growling," "impertinent," "impudent," "vulgar" persons who "spoke up bold as brass" and, with their "loud and boisterous talking," demanded fair treatment for "we people [left] way back."

JACQUELINE JONES, LABOR OF LOVE, LABOR OF SORROW: BLACK WOMEN, WORK AND THE FAMILY, FROM SLAVERY TO THE PRESENT 70 (1985).

Black women are still viewed as overly aggressive and obnoxious. A Black woman and member of the Links, a Boston Black women's social club, Elaine Pinderhughes remarks, "Black women are weary of being seen as angry Sapphires [the name of the obnoxious, domineering character from 'Amos 'n Andy,'] . . ." John Robinson, *Building the Links for the Benefit of Black Women*, BOSTON GLOBE, Feb. 18, 1993, at 57. In the television series, *Martin* (Fox television broadcast), Black comedian Martin Lawrence stars as a local disc jockey. Dolores Williams, President of the Black Women's Alliance Association, stated that "Lawrence does not counterbalance with real and

These three caricatures of Black women helped to undermine efforts to equate Black physical features to ideals of feminine beauty. While American history had associated Asian women with the patronizing image of Madame Butterfly, Black women were subordinated with the overly masculine image of Sapphire and Mammy along with the sexual aggressiveness of Jezebel. A socially imposed *racial* identity exaggerated the feminine identity of Asian women whereas a socially imposed racial identity on Black women preempted their feminine identity. But both images contributed to a rhetoric that subordinated both women of color from equal participation and recognition in the political arena.

Today, Hollywood has continued to reproduce these examples of racial exoticism. Harking back to the notion that blackness is equated with masculinity and lightness with femininity, in numerous movies, the leading Black male character is much darker than his Black female partner.<sup>268</sup> Indeed, at times, the connection between black skin and masculinity is made unmistakably clear. We see this example most clearly in the form of actress and singer Grace Jones. Jones appears as masculine and aggressive, but not in a manner that attests to her or her character's sense of dignity and social independence. The masculinity and aggressiveness is instead the kind associated with a type of sadomasochism, a type suggesting violence, death, and domination.<sup>269</sup> Jones is tall, muscular, extremely dark in skin color, and entirely intimidating. She once appeared in a James Bond movie where she starred as a martial arts expert, sexual seductress, and killer.<sup>270</sup> Jones is the socially constructed amalgam of the "black beast" reminiscent in pro-lynching literature and an intensified version of Sapphire and Jezebel.

While Jones represents a type of savagery because of her Black physical features, Whoopi Goldberg is often cast in roles where she

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positive images of black women; instead, he uses the lightest-color black women to co-star with him, and other black women are seen as hostile, strong-willed or failing in some way." Dolores Williams, *Stereotypes Limit Equality*, L.A. TIMES, Nov. 2, 1992, at F2.

268. See, e.g., ACTION JACKSON (Lorimar Film Entertainment 1988); BOOMERANG (Paramount Pictures 1992); DO THE RIGHT THING (Universal Pictures 1989); COMING TO AMERICA (Paramount Pictures 1988); JUNGLE FEVER (Universal Pictures 1991); THE LAST DRAGON (Tri-Star Pictures 1985); MAJOR PAYNE (Universal Pictures 1994); MO' BETTER BLUES (Universal Pictures 1990); A RAGE IN HARLEM (Miramax Films 1991); RICOCHET (Warner Brothers 1991); STRICTLY BUSINESS (Warner Brothers 1991).

269. See Claire Rosemberg, *Guillotines, Sheep Chopped From French Revolution Parade*, Reuters, July 12, 1989 available in LEXIS, News Library, Arcnws file (calling Jones a "jungle cat"); *The Stars, the Sounds, the Screens of June*, LIFE, June 1985, at 139, available in LEXIS, News Library, Arcnws file (reporting that Jones once appeared in a cage gnawing raw meat); Michela Wrong, *French Impresario Plans Surrealist Bastille Day Parade*, Reuters, Feb. 11, 1989, available in LEXIS, News Library, Arcnws file (describing Jones as "androgynous").

270. A VIEW TO A KILL (United Artists 1985).

plays unattractive asexual comedic characters who evoke some domesticated image of Sapphire, Mammy, or some variation of both.<sup>271</sup> She is funny because there is some subtle domesticated hint of Sapphire. Goldberg's characters exhibit street smarts, swagger, and an assertiveness uncharacteristic of White femininity. Interestingly, in at least one film, she also played a type of Mammy character where she successfully cared for a White child who seemed incorrigible. Thus, in Goldberg's characters, White society can apparently accept the bodily aesthetics of Black women but generally in the context of comedy which tends to doubt the sincerity of the aesthetic acceptance and instead suggests an "acceptance" of bodily aesthetics associated with racial exoticism.

There are, however, instances when White society seems to be accepting Black women as models of physical beauty. Most notably, there is Vanessa Williams who was the first Black woman to win the Miss America pageant.<sup>272</sup> Yet Williams, by all accounts, lacked any of the features we associate with Black women. She had very light skin, straight brown hair, the straight nose, the narrow face, the thin lips and all the other feminine features<sup>273</sup> which Thomas Jefferson<sup>274</sup> and Charles White<sup>275</sup> admired about White women and which they pointed out were lacking in Black women. The mainstream compliment to Williams was an ambiguous one that allowed White Americans to "accept" the bodily aesthetics of Black women and yet thoroughly reject them as well. Not surprisingly, the Congress of Racial Equality commented in a statement that Williams was not "in essence Black."<sup>276</sup>

## CONCLUSION

Throughout this Article, I have presented examples of how White American legislatures, courts, leaders, and the media have employed the rhetoric of bodily aesthetics, either consciously or subconsciously, to justify a host of political measures that have disenfranchised or subordinated people of color. I have argued that White Americans have employed what I call the ideology of White aesthetics in order to justify their political subordination of people of

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271. *GHOST* (Paramount Pictures 1990) (appearing as a good-hearted but fraudulent and comedic psychic); *JUMPIN' JACK FLASH* (Twentieth Century Fox 1986); *SISTER ACT* (Touchstone Pictures 1992) (appearing as an aggressive lounge singer posing as a nun).

272. *See supra* note 88.

273. *See id.*

274. *See supra* text accompanying notes 58–60, 262.

275. *See supra* text accompanying note 263.

276. RUSSELL ET AL., *supra* note 82, at 153.

color. The ideology created a paradigm that allowed White people to enjoy the freedom to express themselves aesthetically through their bodies, whereas people of color were limited to either accepting or rejecting the aesthetic values of White people. Thus, I have tried to show that what is commonly considered mere aesthetic expression is often inextricably connected to political expression. The seemingly trivial examples of eyelid surgery among Asian Americans or the hair straightening procedures of some African Americans are inherently political because they are examples of people of color of who have, on some level, accepted and internalized the superiority of White aesthetic values, values that have been historically used to oppress people of color. Similarly, as dramatically demonstrated during the Black Power Movement, efforts to look “ethnic” by people of color are also examples of political expression. Thus, because of the ideology of White aesthetics, for people of color, the personal is still deeply the political, and the distinction between “private” aesthetic expression and “public” political expression is often intimately connected. By contrast, for White people, they can enjoy the freedom to make aesthetic choices without having to “accept” or “reject” the aesthetic values of people of color. This freedom creates the impression that they, unlike people of color, can indeed distinguish between their “private” world of aesthetic bodily expression and the “public” world of political expression.

Cognizant that such a statement would invoke criticism, I have attempted to address counter-arguments to my thesis by distinguishing between racial exoticism with racial aesthetic acceptance by the White mainstream. I have argued that the prevalence of African American and Asian American people in the media is often examples of racial exoticism rather than genuine racial aesthetic acceptance. Furthermore, I suggested that the seemingly positive images on the screen, because of their aesthetic connection to racial exoticism, can be easily manipulated into the type of rhetoric that was prevalent during a racially hostile nineteenth century America.

Nonetheless, this Article, of course, is not flawless and I ask the reader to view it in the proper perspective. I have tried to make my thesis as clear and forthright as possible, sometimes at the expense of addressing subtleties, and as such, it is susceptible to criticism. However, I was prompted by what I perceived as the lack of a coherent theory that addressed the dynamics of racial bodily aesthetics in the arena of political culture and jurisprudence. Moreover, despite the popular tendency in academia, I wanted to address this issue on a comparative *multiracial* historical level that included Asian Americans along with the traditional discussion of Black-White relations. Through this approach, I have sought to offer a theory of racial aesthetics that will hopefully provide some modest contribution to the further study in this area. As I have shown in this

Article, what I have called “racial bodily aesthetics” has played a powerful role in shaping not only political discourse but the fundamental way in which we view our individual self-worth. Moreover, as demonstrated especially by the court cases that I have examined, the ideology of White aesthetics often operates on a very subtle, subconscious level, and yet manages to produce extraordinary effects. Therefore, the study of racial bodily aesthetics must be given attention particularly among those scholars who wish to explore race relations.

