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CULTURAL RACISM AND THE LIMITS OF RATIONALITY IN THE SAGA OF RODNEY KING

ANTHONY COOK*

This Essay develops a multidimensional understanding of racism necessitated by Rodney King's beating, the trial of his assailants and the acquittal of the defendants by an all-white Simi Valley jury. Many saw the episode as a blatant act of racism akin to the dark period of American history in which public mobs routinely lynched blacks. It also provided a birds-eye view of the complex development and intricate configuration of American racism.

This Essay argues that racism results from a complex process of acculturation in which individuals come to see and interpret the world through lenses carefully crafted by a history of racism. Racism manifests itself on three interrelated levels of human interaction: individual, institutional and cultural. All three of these levels of racism were present in the Rodney King saga. This Essay examines this multi-faceted understanding of racism and offers an explanation of how a jury could look at the tape of such a vicious beating and convince themselves that the defendants did not use excessive force.

I. BACKGROUND: THE RATIONALIST CONCEPT OF RACISM

As racism moves from the individual to the cultural level, it is more difficult to establish that a perceived racist effect, such as the acquittal, can be attributed to an individual or group. The problem lies principally in the rationalist conception of racism, an understanding largely embraced by our judicial system's race jurisprudence.¹ A rationalist understanding of racism links racism to deviant consciousness, bad intentions and mental culpability. Since minds cannot be read, however, the difficulty lies in identifying racism. The rationalist answer evinces a dependence on certain signs or outward manifestations, representative of the subject's conscious state. The rationalist depends largely, though not exclusively, on language as representative of consciousness. Thus, intentions are discovered through the words used to describe those intentions. Explicit racial classifications are reviewed with strict scrutiny, since it is presumed that they reflect an illicit purpose and unacceptable state of mind. While in the area of race jurisprudence our legal system

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1. See *Washington v. Davis*, 426 U.S. 229 (1976) (requiring a showing of discriminatory purpose under equal protection analysis); see also *Gomillion v. Lightfoot*, 364 U.S. 339 (1960) (inferring a discriminatory purpose from discriminatory effects). For the groundbreaking work on the importance of unconscious racism see Charles Lawrence, *The Id, and The Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987).

will sometimes infer a state of consciousness from the subject's behavior, under the rationalist model, discriminatory impact is but the flipside of discriminatory purpose. Both are part of a rationalist model that vacillates between what it considers the appropriate measure of mental state or consciousness.

The correspondence between language and thought is troubling. First, racist beliefs are not always conveyed through verbal expression. The rationalist model, therefore, punishes only those racists who are careless and do not attend to the proper window dressing required in a day where racism is publicly condemned. Second, it is often possible to interpret the expression of racist consciousness in a non-racist way. Thus, the expressions used by the Los Angeles police officers in reference to the beating of Rodney King like "gorillas in the midst," "raging bull" and "thin blue line separating us from the jungle," are given referents that diminish the possibilities of racist motivation. Finally, the link between words and consciousness is problematic because it is the conscious and not the subconscious that is important to the rationalist model. When focused on the conscious, words of intentionality imply the subject's culpability. When focused on the subconscious, on the other hand, the histories that shaped the subconsciousness and the behavior that proceeds from it became of paramount importance.

II. INDIVIDUAL RACISM AND THE MODEL OF RATIONALITY

Individual racism is a consciously held belief in the genetic, intellectual and/or anatomical inferiority of another group. While its manifestation is both overt and covert, it is solidly within the rationalist model described above. The individual or group is conscious of its racist beliefs and is prepared to act on those beliefs. This article illustrates how the public discourse on race shifted over time, altering the ways in which conscious racism might express itself in public. Realizing this shift, the jurors' racism need not be proved by reference to a framework of racist expression no longer tolerated in public life. Instead, evidence of racism must be gathered from a different framework that acknowledges the role and influence of institutional consciousness and cultural history.

Overt individual racism is the most easily discerned and vehemently condemned form of racism. It occurs when individuals publicize and/or act out their racist beliefs in an effort to dominate a group deemed inferior. Overt individual racists consist of such diverse figures as Thomas Jefferson, Abraham Lincoln, Senator Bo Bilbo, Dr. Shockley and Al Campanis.² Both Jefferson and Lincoln present interesting cases because in the prevailing folklore, they are seldom thought of as racists.

While Jefferson authored the Declaration of Independence proclaiming all men equal and endowed with inalienable rights of life, liberty and the pursuit of happiness, and, while he championed an antislavery clause that was ultimately negotiated out of the document by

2. See *infra* notes 3 - 7 and accompanying text.

Southern slaveholding interests, his views of Blacks were those of an overt racist.³ In his comparison of blacks and whites, Jefferson noted that:

The first difference which strikes us is that of colour. Whether the black of the negro resides in the reticular membrane between the skin and scarf-skin, or in the scarf-skin itself; whether it proceeds from the colour of the blood, the colour of the bile, or from that of some other secretion, the difference is fixed in nature, and is as real as if its seat and cause were better known to us. And is this difference of no importance? 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 colour in the one, preferable to that eternal monotony, which reigns in the countenances, that immoveable veil of black which covers all the emotions of the other race? Add to these, flowing hair, a more elegant symmetry of form, their own judgment in favour of the whites, declared by their preference of them, as uniformly as is the preference of the Oran-ootan for the black women 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?⁴

Similarly, Lincoln is warmly remembered in history as the Great Emancipator of black people, as if his decision to free black slaves during the Civil War in 1863 indicated his willingness to see them as equals. Lincoln made it clear that he did not.

I am not, nor ever have been, in favor of bringing about in any way the social and political equality of the white and black races . . . I am not nor ever have been in favor of making voters or jurors of negroes, nor of qualifying them to hold office . . . I will say in addition to this that there is a physical difference between the white and black races which will ever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together, there must be the position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned to the white race.⁵

It is almost inconceivable that individuals of the stature of Jefferson or Lincoln could get away with such overt racism today. This is not to say that such beliefs are not widely held. To the contrary, covert racists hold similar beliefs about the natural inferiority of blacks, but simply respond in ways that elicit greater approbation than overt racists.

Covert individual racism is an aversion to members of a group deemed inferior that manifests itself in efforts to avoid contact with the

3. See generally THOMAS JEFFERSON, NOTES ON THE STATE OF VIRGINIA (William Peden ed., 1972).

4. *Id.* at 138.

5. 1 ABRAHAM LINCOLN, COMPLETE WORKS 457 (John G. Nicolay & John Hay eds., 1907).

group in employment, residential and educational arrangements.⁶ Domination of the group results from the use of non-racial criteria. Covert racists are not likely to base their unwillingness to live in the same neighborhood as blacks on a belief that blacks are inferior. They veil their racism with an ostensibly race-neutral justification such as the fear of declining property values. Similarly, it is not that whites attain greater positions of authority and status because blacks are intellectually inferior, as suggested by Al Campanis,⁷ but rather that blacks are simply not qualified by some ostensibly objective and race-neutral criterion. While invisible to many, this form of racism is often visible to the dominated group that, in order to survive, learns to interpret the meaning of the complicated maze of unspoken but clearly communicated language.

Mental culpability is common to both overt and covert racism. Both the overt and covert racist predicate their behavior on the assumption that race makes their victims inferior and justifies the racist actions. Covert racists refuse to take responsibility for their racism and thus carefully manufacture alibis that deflect any attempts to blame them for the consequences of their actions. In this sense, individual overt and covert racism both involve forms of intentional racism and fall squarely within the rationalist model. Since there is little correspondence between the language and thought of the covert racist, however, the latter provides a more difficult case for legal prosecution and moral condemnation.

III. INSTITUTIONAL RACISM

Perhaps the verdict of the Simi Valley jury was not racist in the traditional rationalist sense. The jurors were not, it seems, consciously predicating their decisions on the supposed inferiority of blacks. The decision, however, may have been racist in an institutional sense. Institutions, like individuals, engage in both overt and covert racism. This is a part of our history, as the institutions of slavery and de jure segregation testify. Here the term is intended to characterize something different from this history. The term institutions reaches the problem of bureaucratic group think, the ways in which institutions develop their own sense of identity, consciousness, rules of operation and expectations, and their own normative universe that requires the loyalty of its constituent members in a way that supersedes their own personal loyalties. The Skolnick Report to the National Commission on the Causes and Prevention of Violence summarized the problem in this way:

Because of the influence of historical circumstances, it is theoretically possible to have a racist society in which most of the individual members of that society do not express racist atti-

6. See, e.g., *Washington v. Davis*, 426 U.S. 229 (1976) (black applicants for positions as Washington, D.C. police officers brought suit alleging a disproportionate racial impact of the police department testing procedure); *Shelley v. Kramer*, 334 U.S. 1 (1948) (white homeowners sued to enforce a racially restrictive covenant prohibiting blacks from occupying homes in their neighborhood); *Brown v. Bd. of Education*, 347 U.S. 483 (1954).

7. Sam McManis, *Campanis Says He Apologizes for Comments; Aaron and Dodger Players are Among Those Angered*, L.A. TIMES, Apr. 8, 1987, part 3, at 1.

tudes. A society in which most of the good jobs are held by one race, and the dirty jobs by people of another color, is a society in which racism is institutionalized, no matter what the beliefs of its members are.⁸

Institutional racism occurs by defining an individual's actions according to institutional norms. These norms are not always racist on their face nor necessarily administered by individuals with racist motives, but they may have racist effects nevertheless.⁹ For example, a prevailing norm in American institutional life is the norm of meritocracy, the assumption that membership and mobility within institutions are contingent on individual qualification and merit. Membership or mobility even partially contingent on race is deemed an undesirable deviation from this central norm. While liberals justify the affirmative action deviation given the history of institutional exclusion of blacks, conservatives tolerate deviations only in the most egregious and unmistakable instances of intentional exclusion.¹⁰ Both groups view the remedial inclusion of blacks as a deviation from an unquestionably acceptable norm.

Institutional racism never questions the legitimacy of the norm itself. This is the central problem of cultural racism. Institutional racism denies the relationship between the exclusion of certain groups by the institutional norm and the history of overt institutional racism and deprivation that resulted in the absence of qualities now deemed fundamental to meritocratic consideration. It is in this manner that institutions willingly participate in the perpetuation of racist perceptions and domination that find their genesis in forms of conscious racism.

From the perspective of the institution, however, concerns of so-called societal discrimination stand beyond the pale of institutional consideration. Institutional administrators cannot redress every social imbalance and inequity supported by history and social science. They owe their fiduciary duties to the institutions they govern. The institution is best served by hiring and promoting the most qualified individuals to do the job.

The problem necessitating a theory of institutional racism is twofold. First, the institutional norms may be the by-product of covert racists who subordinated the disfavored group by ostensibly neutral criteria and deflected criticism of the consequences resulting from the norm's application. Second, even if the institutional norms are developed and applied in good faith, institutional racism recognizes the interrelationship among various spheres of social organization. It appreciates the

8. JEROME H. SKOLNICK, *THE POLITICS OF PROTEST* 180 (1969).

9. "Racist effect" means that the effect of applying the institutional norm is to perpetuate an existing distribution of benefits and burdens that sustains perceptions of racial inferiority and realities of racial domination.

10. See Gary Peller, *Race Consciousness*, 1990 DUKE L.J. 758 (describing the psychodynamics of integrationist philosophy); see also *Richmond v. J. A. Croson, Co.*, 488 U.S. 469 (1989) (race-based affirmative action plans are subject to strict scrutiny and must be necessary to achieve a compelling interest).

ways and extent to which a history of individual and institutional overt racism reinforces and perpetuates itself by ostensibly neutral norms that build on the uneven playing field created by that history.

Both the difficulty of assessing present state of mind and/or historical intent, as well as an awareness of the role ostensibly neutral norms play in a context of past and present racism, necessitates a way of thinking about racism that avoids the dilemma of feeling bad about the past while denying responsibility for the present. The concept of institutional racism responds to this dilemma by focusing on the effects as well as the intent of institutional practices.

IV. CULTURAL RACISM

Cultural racism is a process of social comparison that results in the subordination of an "out group" by an "in group" that uses its own group as the positive point of reference to measure the worth or merit of out group members. Cultural racism is the true foundation of racism in our society. On it rest the histories of institutional and individual racism, and because of it, the pervasive problems of black subordination remain intractable. Cultural racism socializes and conditions the individuals comprising the institutions whose norms, though neutral on their face, contain the countless assumptions of white superiority that countenance an insensitivity to the plight of the oppressed.

The following is an account of how a racist discourse of white supremacy infuses a culture's thinking and transmits from one generation to the next. After centuries of life predicated on the assumptions of white supremacy, society finally reaches a point at which the assumptions no longer need stating. They provide the backdrop for conversations, interactions and encounters that never utter a racist word, but yet reproduce the imagery of supremacy and inferiority that perpetuates the subordination of blacks in the society.

A. *Historical Cultural Racism — English Explorers*

The problem of cultural racism in American race relations finds its genesis in the earliest contacts between English explorers and the African peoples they encountered on their voyages.¹¹ The values that emerged were conditioned by a European cultural orientation that glorified whiteness, the Greco-Roman aesthetic and the life styles and behavior of the familiar. As long as it remained quartered within the mental constructs of prejudicial reflection, it was guilty of no more than an extreme ethnocentrism.

When extreme ethnocentrism linked itself to the domination of African peoples through the slave trade, it became cultural racism—the support system for institutional and individual racism. The English ac-

11. English explorers did not first land on the African west coast until after 1550. WINTHROP D. JORDAN, *WHITE OVER BLACK: AMERICAN ATTITUDES TOWARD THE NEGRO, 1550-1812* 3 (1969). See *Id.* at 3-43, for further discussion of English exploration of Africa.

counted for a number of differences and assured superiority for their people and culture in all such social encounters and comparisons.¹² These accounts of difference provided the basis for what Winthrop Jordan perspicaciously called the history of white over black.¹³

The impact of African color on the English mind cannot be understated. Before the first substantive contacts by England with West Africa in the middle of the 16th century, there was little actual knowledge of the people that inhabited these lands. By contrast, both the Spanish and Portuguese made contact with North Africa centuries earlier. Indeed, both countries experienced invasion by "people both darker and more highly civilized than themselves."¹⁴ Thus, the voyages of British ships to West Africa brought some of the palest and darkest shades of the human color spectrum face to face. Given the limited nature of prior English contact with people of color, the shock was probably greater for the English. "Travelers rarely failed to comment upon it; indeed when describing Negroes they frequently began with complexion and then moved on to dress . . . and manners."¹⁵

Initial shock does not account, however, for the contempt and disdain accompanying the reality of difference. Jordan noted the importance that the "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."¹⁶ The general disdain for the appearance of Africans was not limited to pigmentation but encompassed the entire African physiology. In contrast to the white ideal, blacks were deemed inferior by reason of their "color . . . [their] 'horrid Curles' and 'disfigured' lips and nose[s]."¹⁷

African sexuality was another source of English fascination and ultimate disdain, further proof of African inferiority. Jordan observed that

12. These differences consisted of a physiological and cultural differences that related to the size of nose, lip and texture of hair as well as forms of political, cultural and familial organizations.

13. JORDAN, *supra* note 11.

14. *Id.* at 6.

15. *Id.* at 4.

16. *Id.* at 9. Jordan explores the meaning and significance of the English encounter with Black people in greater detail.

In England perhaps more than in southern Europe, the concept of blackness was loaded with intense meaning. Long before they found that some men were black, Englishmen found in the idea of blackness a way of expressing some of their most ingrained values. No other color except white conveyed so much emotional impact. As described by the *Oxford English Dictionary*, the meaning of *black* before the sixteenth century included, "Deeply stained with dirt; soiled, dirty, foul. . . . Having dark or deadly purposes, malignant; pertaining to or involving death, deadly; baneful, disastrous, sinister. . . . Indicating disgrace, censure, liability to punishment, etc." Black was an emotionally partisan color, the handmaid and symbol of baseness and evil, a sign of danger and repulsion.

Id. at 7.

17. *Id.* at 8 (quoting ROBERT R. CAWLEY, *THE VOYAGERS AND ELIZABETHAN DRAMA* 86 (1938)). See WALTER CLYDE CURRY, *THE MIDDLE ENGLISH IDEAL OF PERSONAL BEAUTY; AS FOUND IN THE METRICAL ROMANCES, CHRONICLES, AND LEGENDS OF THE XIII, XIV, AND XV CENTURIES* 64-67 & 310 (Baltimore 1916) (indirectly makes clear how very far African women were from matching prevalent English ideals of beautiful noses and lips).

“[d]epiction of the Negro as a lustful creature was not radically new . . . when Englishmen first met Negroes face to face. Seizing upon and reconfirming . . . long-standing and apparently common notions about Africa, Elizabethan travelers and literati spoke very explicitly of Negroes as being especially sexual.”¹⁸ As early as 1566, Jean Bodin studied the writings of the ancients on Africa and concluded that “heat and lust went hand in hand and that ‘in Ethiopia . . . the race of men is very keen and lustful.’ ”¹⁹ The obsession over male African genitalia provided a constant source of condescension. African men, reported a seventeenth-century traveler, “sported ‘large Propagators’ ”²⁰ and the “Mandingo men were ‘furnisht with such members as are after a sort burthensome unto them.’ ”²¹

It was common in the commentary of the day to compare African sexuality to that of apes and thus to always perceive the African male as a beastly threat to the *norms* of white purity and chastity.²² During the same period, however, African women were cast as “ ‘hot constitution’d Ladies’ ”²³ possessed of a ‘temper hot and lascivious, making no scruple to prostitute themselves to the *Europeans* for a very slender profit, so great [was] their inclination to white men.’ ”²⁴ Even in these early encounters, the sexual jealousies and obsessions that manifested themselves and resulted in the domination of black males and the subjugation of black females.

In addition to reckoning with the differences of black physiology and sexuality, the entire cultural ethos of West Africa around the middle of the 16th century was strikingly different from Elizabethan England. James Jones catalogued many of these differences in an attempt to illustrate the many points on which the English felt compelled to assert their cultural superiority and thereby justify their domination of Africans.²⁵ According to Jones, African culture differed significantly from English culture on matters of religion, social organization, the role of property, education, the sense of time, nature of music and view of the world.²⁶

The meaning attributed to these cultural differences by white

18. *Id.* at 34.

19. *Id.* (quoting JEAN BODIN, *METHOD FOR EASY COMPREHENSION OF HISTORY* 103-06, 143 (Beatrice Reynolds trans., 1945)).

20. *Id.* (quoting JOHN OGILBY, *AFRICA: BEING AN ACCURATE DESCRIPTION OF THE REGIONS OF AEGYPT, BARBARY, LYBIA, AND BILLEDULGERID, THE LAND OF NEGROES, GUINEE, AETHIOPIA, AND THE ABYSSINES . . . COLLECTED AND TRANSLATED FROM MOST AUTHENTICK AUTHORS, AND AUGMENTED WITH LATER OBSERVATIONS* 451 (London, 1670)).

21. *Id.* (citing RICHARD JOBSON, *GOLDEN TRADE: OR, A DISCOVERY OF THE RIVER GAMBRA, AND THE GOLDEN TRADE OF THE AETHIOPAINS* 65-67 (Charles G. Kingsley ed., 1904)).

22. *See Id.* at 29 (citing H. W. JANSON, *APES AND APE LORE IN THE MIDDLE AGES AND THE RENAISSANCE* chap. 11 (1952); ROBERT M. & EDA W. YERKES, *THE GREAT APES: A STUDY OF ANTHROPOID LIFE* 1-26 (1929)).

23. *Id.* at 35 (quoting WILLIAM SMITH, *A NEW VOYAGE TO GUINEA . . .* 146 (London, 1744)).

24. *Id.* (quoting John Barbot, *A Description of the Coasts of North and South-Guinea*, in V A COLLECTION OF VOYAGES AND TRAVELS 100 (John & Awsham Churchill compilers, London, 1704-32)).

25. JAMES M. JONES, *PREJUDICE AND RACISM* (1972).

26. *Id.* at 150.

Europeans and the high value associated with Eurocentric norms, left no doubt about the superiority of white culture. Few saw the question of biological and cultural difference between Africans and Europeans as did Captain Thomas Phillips, a master of a 1694 slave vessel. He wrote of the difference of color:

'I can't think there is any intrinsick value in one colour more than another, nor that white is better than black, only we think it so because we are so, and are prone to judge favourably in our own case, as well as the blacks, who in odium of the colour, say, the devil is white, and so paint him.'²⁷

As is clear from the subsequent history of slavery and racism, most rejected Phillips' biological relativism and were quite prepared to hold, as they were in the sphere of cultural differences generally, that the difference was profoundly important. Religious, scientific and quasi-scientific justifications were marshalled in support of their prejudices and racism.

B. *Religious and Scientific Influences on Cultural Racism*

The religious and scientific discourses help legitimize practices of racial domination. Common sense is no more than the way a given culture organizes its understanding of the world. That organization is profoundly shaped, among other things, by religious and scientific stories that give its members a sense of identity and purpose. Thus, when life and the realities of domination are explained and tacitly sanctioned by religion and science, socially constructed oppression takes on a mystique of naturalness and inevitability, an appearance that things were always meant to be just so. The transformation of the socially constructed into the naturally constituted is facilitated, then, by religious and scientific discourses that tap into the common sense notions of those expected to acquiesce in the practices of racist domination. Many sought to explain the inferiority of Africans and their culture in terms of religious and scientific discourses.

1. Religious Influences

The Judeo-Christian account of Black inferiority begins with the Old Testament story of Noah, who in his drunkenness, unclothed himself and fell asleep in his tent.²⁸ One son, Ham, looked upon his father's nakedness, while the other sons, Shem and Japheth, covered their father without looking.²⁹ Noah later awoke and cursed one of Ham's sons, Canaan, denouncing him as a "servant of servants" unto his brothers.³⁰ Distorted scriptural exegesis over the years somehow managed to turn

27. JORDAN, *supra* note 11, at 11 (quoting Thomas Phillips, *A Journal of a Voyage Made in the Hannibal of London, Ann. 1693, 1694, from England to Cape Monseradoe, in Africa; and Thence Along the Coast of Guiney to Whidaw, the Island of St. Thomas, and So Forward to Barbadoes. With a Cursory Account of the Country, the People, Their Manners, Forts, Trade, etc.*, in VI A COLLECTION OF VOYAGES AND TRAVELS, *supra* note 24, at 219).

28. *Genesis* 9:21.

29. *Genesis* 9:22-23.

30. *Genesis* 9:24-25.

this curse into an explanation of African skin color and a justification for their domination by the supposed progeny of Shem and Japheth.

One could see the old testament story as motivated by the same concerns that have motivated many of the myths of Christianity, the need to show that one's power and status comes from God, thus authorized by one higher than those who threaten to take it away.³¹ In this case, God approved of the Hebrew conquest of Canaan, a land predestined for conquest by a 'convenient' curse upon its inhabitants. That this story survived so many centuries as a plausible account of why black people have been subjected to such oppression is a testimony of the power of religious ideology. While the curse quite clearly envisions the servitude of Canaan, there is no mention of skin color. Thus, the curse may have just as logically or illogically condemned the nation of Canaan to a skin color lighter than the already dark Noah. Only social convention and European ethnocentrism assumed the curse involved color and that darkness rather than paleness constituted the distortion of purity. Second, the curse was put on only one of Ham's children, Canaan. If one follows biblical genealogy and geography, most of Africa and all of West Africa were peopled by Ham's remaining children on whom no curse befell.³²

Much of the tolerance of inconsistency may be attributed to the willingness of racists to rely on inconsistent and speculative accounts to justify their practices. A good deal of the tolerance may also be attributed to an oral and written tradition that explicitly altered scriptural text and meaning. For instance, Talmudic and Midrashic sources suggested that " 'Ham was smitten in his skin,' that Noah told Ham 'your seed will be ugly and dark-skinned,' and that Ham was father 'of Canaan who brought curses into the world, of Canaan who was cursed, of Canaan who darkened the faces of mankind,' of Canaan 'the notorious world-darkener.' " ³³ The authority of historic Hebrew sources provided a veneer of authenticity to subsequent Christian interpretations in the 17th century that the enslavement and subjugation of Africans was scripturally predestined. Christian nations combined this with the New Testament's seeming approval of slavery and concluded that the Black people of the earth were predestined to serve the superior white race through the institution of slavery.

The story of Ham played a dual role in the subjugation of Africans. Not only did it explain the quandary of color in a way that privileged the status of whiteness, but it also explained the strange sexuality of African peoples. The infraction that resulted in the curse was one of sexual impropriety. Black men were thus accursed or 'burdened' with large penis', and, because of their size, could not, as Adam did in the Garden of

31. See EUGENE GENOVESE, *ROLL JORDAN ROLL: THE WORLD THE SLAVES MADE* (1972) (discussing the legitimation and delegitimation function of Christianity in the era of American slavery).

32. *Genesis* 10:6-20.

33. JORDAN, *supra* note 11, at 18 (quoting *THE BABYLONIAN TALMUD* (I. Epstein et al. trans., 1935-60) (The TALMUD consists of 35 volumes)).

Eden, conceal their shame.³⁴ The curse eternally subjected black men to the invasion of privacy inflicted upon Noah. In addition, African men and women were cursed with an animal-like, lascivious and promiscuous sexuality, lacking the capacity for shame and constraint, qualities found among the more civilized races. Taken together, the myths manifested themselves throughout history in countless acts of white sexual jealousy, insecurity and aggressiveness that often resulted in the aversion to and punishment by castration of black males and the desire for and exploitation of "hot constitution'd" black females.³⁵

2. Scientific Influences

If religious discourse played an important role in the transmission of cultural racism, the discourse of science figured prominently as well. Although anthropology and psychology are younger disciplines than theology and history, their impact on the study of race has been monumental. Both disciplines developed on the coattails of a sweeping European cultural secularization that heralded the powers of Man and Reason and embraced an ever growing skepticism toward religious and theological accounts of natural phenomena. Newtonian science and the Enlightenment nurtured an insatiable appetite for exploration, explanation and the domination of mind over matter. The study of man and the consternation over physiological and cultural human diversity provided an irresistible forum for empirical research, measurement and classification of natural phenomena. It was anthropology that first directed its Enlightenment-inspired energies toward the study of race and the perpetuation of mythologies of racial inferiority.

While Johann Friedrich Blumenbach is credited as the founder of anthropology,³⁶ Carolus Linnaeus, the 18th century Swedish Botanist, was the first to attempt a comprehensive classification of humans according to physiognomy, temperament and culture. Thus, Linnaeus' *Systema Naturae*³⁷ provided an imprimatur of objectivity and truth to the casual comparisons and speculations that were by that time commonplace in European and American cultures. Blumenbach advanced the work of Linnaeus and purported to prove that the original type of man was

34. According to the Old Testament account of Genesis, when Adam and Eve disobeyed God's commandment and became aware of their nakedness and sexuality, they covered themselves with the leaves of fig trees. *Genesis* 3:7.

35. Jordan notes that castration was a legislated punishment in many colonies, and in some, the punishment applied to both free and slave Black men.

Castration of Negroes clearly indicated a desperate, generalized need in white men to persuade themselves that they were really masters and in all ways masterful, and it illustrated dramatically the ease with which white men slipped over into treating their Negroes like their bulls and stallions whose "spirit" could be subdued by emasculation. In some colonies, moreover, the specifically sexual aspect of castration was so obvious as to underline how much of the white man's insecurity vis-a-vis the Negro was fundamentally sexual.

JORDAN, *supra* note 11, at 156.

36. JORDAN, *supra* note 11, at 222.

37. *Carolus Linnaeus, Systema Naturae*, reprinted in Thomas Bendyshe, *The History of Anthropology*, in ANTHROPOLOGICAL SOCIETY OF LONDON, 1 MEMOIRS (1863-64).

Caucasian.³⁸

The studies implied the supposed superiority of white Europeans, even though neither system of classification explicitly ranked humans in terms of superior and inferior races.³⁹ For instance, while Linnaeus described the European as gentle, acute, inventive, covered with vestments and governed by customs, he described the African as crafty, indolent, negligent, covered with grease and governed by caprice.⁴⁰ Similarly, Blumenbach situated the Caucasian type at the center of his horizontal scale of comparison and situated the Ethiopian and Mongolian types at opposite ends of the spectrum.⁴¹ The clear implication was that value, beauty and worth were a function of ones' proximity to the white norm, thought to represent the point of perfection.

The implicit hierarchy of supposedly value-free scientific observation and classification developed into explicit hierarchical rankings by race. These scientific studies always situated whites at the very top of the Chain of Being and blacks at the very bottom. Physiognomy, Craniology, Cultural Anthropology and Evolutionary Biology were all used between the 18th and 19th centuries intentionally and unintentionally to justify the increasing pillage and domination of Africa, its people and descendants.

In 1883, Francis Galton, Charles Darwin's cousin, founded the science of eugenics as " 'the study of the agencies under social control that may improve or impair the racial qualities of future generations either physically or mentally.' "⁴² Galton suggested that " 'it would be quite practical to produce a highly gifted race of men by judicious marriages during several consecutive generations.' "⁴³ The science of eugenics received a devastating blow during WWII when used by Hitler and the Nazi regime to justify the barbaric treatment and extermination of Jews in death camps. It proved resilient, however, as the more recent work of William Shockley, suggesting the genetic inferiority of blacks, attests.⁴⁴

Psychology gained acceptance as a field of science in 1883, around the same time as eugenics appeared on the scene. The former immediately charted a course purporting to measure mental processes or intelligence. It was not long before tests purporting to measure a so-called

38. *Id.* at 223.

39. JORDAN, *supra* note 11, at 220-21 (citing *Carolus Linnnaeus, Systema Naturae*, reprinted in Thomas Bendyshe, *The History of Anthropology*, in ANTHROPOLOGICAL SOCIETY OF LONDON, 1 MEMOIRS 424-26 (1863-64)).

40. *Id.*

41. JORDAN, *supra* note 11, at 223 (citing to ANTHROPOLOGICAL TREATISES OF JOHANN FRIEDERICH BLUMENBACH 265-65 (THOMAS BENDYSHE TRANS. & ED., LONDON 1865)).

42. ROBERT V. GUTHRIE, EVEN THE RAT WAS WHITE: A HISTORICAL VIEW OF PSYCHOLOGY 78 (1976) (quoting A. H. Hersh, *Eugenics*, in 10 THE ENCYCLOPEDIA AMERICANA 567 (1969)).

43. *Id.* (quoting FRANCIS GALTON, HEREDITARY GENIUS: ITS LAWS AND CONSEQUENCES (1869)).

44. See, e.g., Joseph Berger, *Professors' Theories on Race Stir Turmoil at City College*, N.Y. TIMES, Apr. 20, 1990, at B1; *Milestones*, TIME, Aug. 28, 1989, at 61; *Missing Circuits*, DAILY TELEGRAPH, Aug. 24, 1989, at 17; see also Charlotte Allen, *Gray Matter, Black-and-White*, WASH. TIMES, Jan. 13, 1992, at 4.

intelligence quotient provided its contribution to the science of racism, conclusive proof that, as had been conjectured for centuries, blacks were mentally inferior to whites.

V. ANALYSIS: RODNEY KING

Institutional and cultural racism provide ways of breaking out of the narrowly constructed understanding of the rationalist model. The jurors in Simi Valley may have consciously desired to acquit the white police officers because they believed the race of the latter entitled them to absolution for beating a black man. Such an explanation, however, appears too simplistic. Although it is unlikely that the jurors consciously held racist beliefs as individuals or a group, their common sense frame for viewing the tape, hearing the arguments and understanding the world was shaped by racist forces. If the jurors were covert racists in the Rodney King trial, society will never know. Institutional ideology often provides a convenient window dressing for covert racists, but its difficulties are even more profound for it often serves to diminish the responsibility of non-racist individuals for what might be called racist effects.

The jurors in Simi Valley operated within an institutional and legal culture that urged them to put aside all personal biases and feelings in order to render an objective and fair verdict. Defense lawyers showed a film over and over again so that it urged the separation of law from morality and passion. Cloaked in a dispassionate and quasi-scientific detailing of frame by frame blows, accounting for and justifying each by reference to police department policies and the "threat" of King type scenarios, the jurors were desensitized and eventually internalized the positivist dichotomies that separated their consideration of "the law" from their "visceral feeling" of injustice and inhumanity.

Institutional racism is difficult because it requires individuals to discard personal subjectivity and cloak themselves with institutional objectivity. Through this process, the jurors believe that their institutional duty requires a verdict very different from their own subjective feelings and beliefs. Thus, by diminishing individual responsibility for the decision, the institutional process might, ironically, encourage the very racism its impartiality was designed to overcome. The racist beliefs delve further into the subconscious because one has a task to complete, governed by procedural guidelines which provide that if such procedures are followed, no one can call you racist or challenge your personal integrity. Excessive force was not found because the defense attorneys succeeded in convincing the jurors that the visual images of abuse were other than they appeared. The attorneys referenced the minds of white defendants that were not consciously racist, hateful or inhumane, but minds that believed they were reasonably endangered by King's behavior.

Deeply socialized into the myths of white supremacy, the Simi Valley jurors were predisposed to embrace their institutional role and to view the officers' brutality as a reasonable response to the threat posed

by King. Neither the change of venue nor the detailed instructions on the institutional role and duty of jurors could neutralize this process of acculturation. Even in the absence of conscious racist beliefs, this socialization provided a common sense frame through which discrete facts like the frame by frame analysis of the film took on new meaning and the language comparing King to "a raging bull" and the police to "the thin blue line standing between us and the jungle" was decoded and acted upon.

Both the theological and scientific paradigms embrace a process of social comparison resulting in the subordination of an "out group" by an "in group" using its own group as the positive point of reference in measuring the worth or merit of out group members. In the story of Ham, therefore, blackness represents a curse and deviation from the unquestionable purity of whiteness. In science, the curse and norm are disguised by the detailed descriptions of natural phenomena that pass as objective study. Cultural racism is the unreflective acceptance of the norm and its consequential curse on black people. It is a failure to understand that norms and curses are socially constructed meanings, and that in a social context characterized by pervasive racism, they are likely to perpetuate the domination of blacks.

In many ways the Simi Valley jurors inherited this cultural tradition. History conditioned them as it conditions us all. The way they view the world is unquestionably influenced by the way racism shaped the world. When an officer testified that King appeared as a "raging bull," the imagery of animal-like appearance and behavior connected with a long history supported by religious and scientific doctrine that black men were more like animals than men. The dehumanization of King diminished the empathy that one human being feels for another suffering unjustifiably. Viewed not as human but as standing somewhere between human and beast, Rodney King was a threat and deserved his suffering. If he could not hear and heed the call of human reason to "not move" and "stay down," perhaps he could not feel the human pain inflicted by over ninety blows of the club and shoe heels stomped forcefully into his neck and head.

The defense attorneys' plea to the jury that policemen must receive the benefit of the doubt because they constituted the "thin blue line separating us from the jungle," connected with centuries of racist imagery that pictured black life as mysterious, uncivilized and ghastly. The defense attorneys' plea connected with a place where reason succumbs to passion and, if unleashed, destroys life as we know it. These influences had to be contained, at all costs, lest they infiltrated the pristine suburbs of Simi Valley in which many, perhaps like the jurors, seek refuge from the evils of the inner-city jungle. The thin blue line transformed in this imagery to both hero and victim. How could a criminal justice system victimize these heroes who daily put their lives on the line to make the community safe from the forces of darkness that lurked in the asphalt jungles of the inner city?

American culture teaches these lessons in countless ways and the morals are neatly tucked away into the subconscious and retrieved when needed. They vent themselves in a myriad of ways that span the gamut between conscious overt racism and unconscious subtle covert racism, convincing the mind of the juror that its eyes see something other than a prone, unarmed man, writhing in pain as he is beaten unmercifully by three police officers while twelve other officers looked on and did nothing.⁴⁵ The socialized and acculturated mind convinces the juror, instead, that the eyes view a threat, one that justifies this reasonable use of force by heroes now victimized by a criminal justice system that does not appreciate what is really at stake.

VI. SUMMARY AND CONCLUSION

The rationalist understanding of racism views it as deviant consciousness. It fails to realize that racism manifests itself on three interrelated levels, and may be neither deviant nor conscious in its operation. Both institutional and cultural racism operate at the unconscious level, and given the pervasiveness of cultural racism and its influence on how society views and understands the world, racism is as American as cherry pie.

The implications of such a view of racism fall beyond the scope of this article. Needless to say, however, it calls for a far reaching plan geared toward the transformation of a society whose educational, economic and political systems all perpetuate the reproduction of socio-psychological frameworks that continue to produce the kind of brutality, inhumanity and injustice depicted in the saga of Rodney King.

45. William Raspberry, *L.A. Cops*, WASH. POST, Mar. 11, 1991, at A11.

