

# Nigger Manifesto Institutional, Intellectual and Ideological Racism inside the American Academy

*“Nigger Manifesto” Racismo  
Institucional, Intelectual e Ideológico  
al interior de la Academia Americana*

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## Abstract

For over 30 years I have worked indefatigably, I have labored assiduously to build a relevant resume; as an iconoclastic law scholar zealous for natural law, natural rights, and the original intent of the constitutional Framers—a Black conservative intellectual born in the ghettos of Detroit. Yet as a Black intellectual what is my reward for 30 years of meticulous research? My reward is that in a de jure (legal) and de facto (unofficial) sense I am effectively blacklisted by White and Black Progressive academics who over the past 50 years have increasingly come to dominate the Academy. Instead of being welcomed as an equal, my prolific scholarly output has been mocked, marginalized, slandered, and scrupulously ignored by the academic community. We, conservative scholars, academics, and intellectuals have no home to go to in our futile, Sisyphus-like search for good faith faculty interviews. We are discriminated against, ignored, mocked, summarily rebuffed, and quickly learn that we are faced with the ubiquitous, chilling, yet invisible sign above every faculty inquiry —NO CONSERVATIVES NEED APPLY!

**Keywords:** Justice, Civil Rights, Natural Law, Constitutional Law, Jurisprudence.

## Resumen

Durante más de 30 años he trabajado infatigable, asiduamente para construir un currículum pertinente; como un estudioso de la ley iconoclasta entusiasta por la ley natural, los derechos naturales, y la intención original de los redactores de la Constitución —un intelectual conservador Negro nacido en los guetos de Detroit. Sin embargo, como un Negro intelectual ¿cuál es mi recompensa por 30 años de meticulosa investigación? Mi recompensa es que de jure (legal) y de facto (hecho), me encuentro efectivamente enlistado por el Blanco y Negro de los académicos progresivos que en los últimos 50 años se han acercado cada vez más a dominar la Academia. En lugar de ser acogido como a un igual, mi producción académica prolífica ha sido escarnecida, marginada, calumniada, y escrupulosamente ignorada por la comunidad académica. Nosotros, conservadores de la académica e intelectuales no tenemos lugar para buscar en nuestra búsqueda fútil, digna de Sísifo para nuestras entrevistas de buena fe en la Facultad. Somos discriminados, burlados, provocados y rápidamente entendimos que encaramos señales invisibles y ubicuas sobre todas las investigaciones en la facultad.

**Palabras clave:** Justicia, Derechos Civiles, Derecho Natural, Derecho Constitucional, Jurisprudencia

## 1. Breaking the Slave Chains of Affirmative Action

### Law Faculty Letter of Inquiry

January 1, 2012

Dear Law School or University Dean X:

This unsolicited letter expresses my strong and enduring desire to apply for any open faculty positions at your law school, college, or university within my areas of expertise, scholarly pursuits, and teaching experience which include — Natural Law, Constitutional Law, Jurisprudence, Legal History, First Amendment, International Law, Legal Ethics, Law & Education Policy, Critical Legal Studies, Family Law, Juvenile Law, Critical Race Theory, Criminal Law, Criminal Procedure, Contracts, Business Law, Administrative Law, Law and Politics, Law and Humanities, and Law and Literature.

Due to my numerous and unsuccessful efforts for 20 years in obtaining neither a real, fair, or good faith interview for a law faculty, university or college position, this year I have elected to pursue a new, novel, and proactive strategy which I am convinced will cause a paradigm shift inside the Academy...and beyond. I will write an original *Manifesto*-a confessional auto-biography if you will,<sup>1</sup> which outlines *some* of my scholarly accomplishments while exposing what I consider to be the endemic, racist, discriminatory, and frankly irrelevant criteria most American law schools and universities use to pick essentially the same vanilla, ideological-minded leftists for virtually all of their faculty appointments while others like myself of an “other” ideology;<sup>2</sup> a different but equally relevant experience and scholarly achievement has for over

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<sup>1</sup> This genesis of this *Manifesto* began shortly after I created my law blog: [www.EllisWashingtonReport.com](http://www.EllisWashingtonReport.com) with the help of my web administrator and friend, Hans Gruen in Feb. 2011.

<sup>2</sup> See generally *The Spook Who Sat by the Door*, Wikipedia.org (last visited April 20, 2013). [http://en.wikipedia.org/wiki/The\\_Spook\\_Who\\_Sat\\_By\\_The\\_Door\\_\(novel\)](http://en.wikipedia.org/wiki/The_Spook_Who_Sat_By_The_Door_(novel)).

20 years been ignored and shamefully treated as, to coin a phrase from that 1970s literary/movie classic, *The Spook Who Sat by the Door*.

*And I said to him, Michael [Parks], how many—he was Chairman—they made him Chairman of the Journalism Department at USC. I said, how many conservatives do you have on your faculty? He said, I can't think of one. And I said, well, do you think that's a good thing from the point of view of educating journalists? And he said, no. I said, well, what can you do about it? And he said, nothing, because the faculty chooses—they hire themselves. And so, once the left gets in, it's over.*<sup>3</sup>

## Prologue

Well...it ain't over! My name is Ellis Washington. I was born six weeks after President Barack Hussein Obama on 22 September 1961. I even went to Harvard Law School with him in 1989. I was educated in the ghettos of Detroit, Michigan and raised predominately by a single mother who in rearing three children, worked three jobs while going to school for 20 years to complete her college degree. I grew up several blocks from the home of Dr. Ossian Sweet, that iconic battleground domicile which achieved national attention in a famous legal case that desegregated my neighborhood called, “Jefferson–Chalmers Historic Business District” in 1925.<sup>4</sup> This milestone event of American legal history was achieved despite the original, outrageous verdict of murder against Dr. Sweet by the presiding judge, Frank Murphy (a future Justice of the Supreme Court)<sup>5</sup> and against all of the adults inside his home due to the unbridled

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<sup>3</sup> David Horowitz, Bernie Goldberg, *David Horowitz and Bernie Goldberg in Conversation*, FrontPageMag.com. (Dec. 9, 2011). <http://frontpagemag.com/2011/frontpagemag-com/bernie-goldberg-and-david-horowitz-in-conversation/>.

<sup>4</sup> My neighborhood I was born in is called the Jefferson–Chalmers Historic Business District, *Wikipedia.org* (Jan. 2, 2013) [http://en.wikipedia.org/wiki/Jefferson–Chalmers\\_Historic\\_Business\\_District](http://en.wikipedia.org/wiki/Jefferson–Chalmers_Historic_Business_District). A picture of the home of Dr. Ossian Sweet which still stands can be found at this address and link: Dr. Ossian H. Sweet House at 2905 Garland St., Detroit, Michigan, *Wikipedia.org*, [http://en.wikipedia.org/wiki/Ossian\\_H.\\_Sweet\\_House](http://en.wikipedia.org/wiki/Ossian_H._Sweet_House).

<sup>5</sup> Frank Murphy served 7 years as a judge on Recorder's Court in the Detroit from 1923 to 1930, and during his tenure there made many administrative reforms in the procedural operations of the court. While on Recorder's Court, he possessed a well-known reputation

bloodlust of a member of a White violent, racist lynch mob (perhaps a bystander) who hated the fact that Black people had moved into their neighborhood with racist animus repeatedly shot into Dr. Sweet's home, was himself ironically killed by a stray bullet.<sup>6</sup>

The court later deduced that the fatal bullet (presumably through an early form of ballistic evidence) was discharged by Dr. Sweet's brother, Henry Sweet. Detroit in the 1920s was so racially Balkanized that it took the combined forces of the NAACP with Clarence Darrow, then America's preeminent trial attorney<sup>7</sup> who through an epic legal battle eventually secured the acquittal of Dr. Ossian Sweet, his brother Henry<sup>8</sup> and all the

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as a trial judge where he was as a presiding judge in the famous murder trials of Dr. Ossian Sweet and his brother, Henry Sweet during the years 1925 and 1926. Clarence Darrow, then one of the foremost trial lawyers in America, was lead counsel for the defense, *Kevin Boyle, Arc of Justice: A Saga of Race, Civil Rights, and Murder in the Jazz Age* (Henry Holt & CO. 2004).

<sup>6</sup> *Id.*

<sup>7</sup> Here is a passage from a recent book loaned to me by my dearest intellectual mentor, Professor Arthur R. LaBrew which he graciously loaned to me after hearing a summary of this opus while he was recovering from surgery at a rehabilitation hospital during the summer of 2012. The writer gives the reader a rare and unique window into Murphy's political and psychological considerations that affected his rather iconoclastic judgment toward Dr. Ossian Sweet and his brother. Murphy, it was said, developed a need to decide cases based on his more holistic notions of justice, eschewing technical legal arguments. As one commentator wrote of his later Supreme Court service, he "tempered justice with Murphy." See Linda Rapp, *Frank Murphy, 1890–1949, A short biography of Frank Murphy*, [http://www.glbtc.com/social-sciences/murphy\\_frank.html](http://www.glbtc.com/social-sciences/murphy_frank.html) (last visited August 1, 2012).

By the time Toms stumbled to a finish, Walter White [head of the NAACP Legal Defense Fund] must have believed that victory was a hair's breadth away. It wasn't. [Judge] Murphy never explained his decision to rule against the defense. Some thought it was a political move; Father Frank was planning to run for mayor himself one day soon, they said, and he didn't want to be known in white neighborhoods as the judge who freed the Sweets. Others claimed he'd been thinking of the Negroes: a verdict of not guilty would be much stronger coming from a jury rather than from the bench, that's what they said. Still others thought he'd made a principled stand...

Kevin Boyle, *Arc of Justice: A Saga of Race, Civil Rights, and Murder in the Jazz Age* 286 (Henry Holt & Co. 2004).

<sup>8</sup> Was presiding Judge Frank Murphy friend or foe to the virulently racist, segregation and hatred that almost took the life of Dr. Ossian Sweet and the lives of his family and friends inside that besieged bungalow on the lower eastside of Detroit that fateful day in October 1925? Could there have been some type of *quid pro quo* which later led to the unprecedented rise from a Records Court judge to being tapped by Franklin Delano Roosevelt to become a justice on the U.S. Supreme Court?

other family members inside that besieged bungalow at 2905 Garland St. in Detroit, Michigan.<sup>9</sup>

I came of age during one of America's bloodiest race riots in July 1967.<sup>10</sup> I saw my beloved Detroit (once called "The Paris of America," "The city of trees," "Motown," "The Motor City," and during the dark days of World War II, "The arsenal of democracy") began her collective descent into racist madness and one-party Democratic Party hegemony which she would never recover from to this day.<sup>11</sup> I saw the soldiers fighting against looters, vandals, and existential chaos as they valiantly struggled to preserve order, peace and to keep Detroit from becoming like Watts in Los Angeles (1964) or Newark New Jersey (July 1967) who had horrific race riots contemporary with Detroit.<sup>12</sup> I witnessed their fearsome AK-47-type assault rifles. My mother even took pictures of me with some of those soldiers guarding our neighborhood high school (Southeastern).<sup>13</sup>

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<sup>9</sup> The horrific, racist events leading up to the Sweet case took place between June 7, 1925, when the Sweets bought the house for US\$18,500, about US\$6,000 more than the house's fair market value. See, *Manning Marable, Malcolm X: A Life of Reinvention* 27 (Penguin Books 2011) <http://books.google.com/books?id=X9iFvpxrd0kC&pg=PT49> (last visited August 4, 2012). The Sweets moved into the house on September 8, 1925. The trial of Henry Sweet started on April 19, 1926 and he was acquitted of murder charges by July 1927. See *Suzanne Barchers, Judge for yourself: Famous American Trials for Readers Theatre 115* (Teacher Ideas Press, 2004).

<sup>10</sup> The Detroit Race Riots of 1967, also known as the 12th Street Riot, was a civil upheaval in Detroit, Michigan that began in the early morning hours of Sunday, July 23, 1967. The catalyst event was a police raid of an unlicensed, after-hours bar colloquially known as a 'blind pig' on the corner of 12th St.

<sup>11</sup> Currently the City of Detroit is at the brink of economic collapse having recently filed chapter nine bankruptcy despite the stopgap measure Governor Rick Snyder (R-MI) appointed Emergency Manger Kevyn Orr to bring the city's debt into the black. See Josh Barro, *11 Charts to Show Why Detroit is Falling Apart and Headed for bankruptcy*, *BusinessInsider.com*, <http://www.businessinsider.com/11-charts-that-show-why-detroit-is-falling-apart-and-heading-for-bankruptcy-2013-6?op=1> (June 14, 2013). Michigan Governor George W. Romney (1963-69), father of 2012 GOP presidential candidate Mitt Romney, ordered the Michigan National Guard into Detroit in an effort to help end the Detroit riots of July 1967, and Army troops were sent into Detroit by President Lyndon B. Johnson.

<sup>12</sup> For a comprehensive listing of race riots in America, see article on *Mass Racial Violence in the U.S.*, (last visited April 20, 2013), *Wikipedia.org*, [http://en.wikipedia.org/wiki/Mass\\_racial\\_violence\\_in\\_the\\_United\\_States](http://en.wikipedia.org/wiki/Mass_racial_violence_in_the_United_States).

<sup>13</sup> My mother recently showed me that picture, perhaps my earliest memory as a child. My mother is standing near me and I'm holding nervously to the fence near two very young black soldiers in full military fatigues holding their military assault rifles.

Nevertheless, would a little Black ghetto boy like me be permitted to transcend the shackles of federally mandated racial quotas? Or is achieving real vs. token racial equality a dream deferred in America?<sup>14</sup>

‘They hire themselves’

In many respects, being a Black man in America is the most exceedingly difficult thing I have ever done in my life. However, being a Black conservative intellectual in America is tantamount to a self-imposed exile of masochistic dimensions.<sup>15</sup> First, you’re rejected by Black America, your closest family, friends, and associates who voted for President Obama in the 95 percentile, your home city of Detroit voted for Obama at a 98 percentile secondly, you’re taken for granted, ignored or tokenized by White conservatives who view you from a cold distance as marginalized because they have fulfilled their token conservative.

## 2. History must Triumph over Unconstitutional Balancing Tests

### Invidious Viewpoint Discrimination and Unconstitutional Balancing Tests

According to Black’s Law Dictionary *invidious discrimination* is based on prejudice. Invidious discrimination is arbitrary, irrational and not

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<sup>14</sup> Editorial, *Damage Suits: Who pays for riots?* *Time Magazine*, Aug. 4, 1967, Vol. 90, No. 5, <http://www.time.com/time/magazine/0,9263,7601670804,00.html>; Sidney Fine, *Rioters and Judges: The Response of the Criminal Justice System to the Detroit Riot of 1967*, (Retrieved 29 July 2012) *Wayne Law Review* 33 (5): 1723–1764. (1987).

<sup>15</sup> See, Yoel Inbar and Joris Lammers, *Political Diversity in Social and Personality Psychology*, last visited April 6, 2013) [http://yoelinbar.net/papers/political\\_diversity.pdf](http://yoelinbar.net/papers/political_diversity.pdf). Association for Psychological Science, XX(X) 1–8 (2012) (*hereinafter* Tilburg Study on *Political Diversity*); Bob Unruh, *Psychologist Blacklist Conservative Colleagues*, WND.com (Aug. 19, 2012, 2:03 PM) <http://www.wnd.com/2012/08/psychologists-blacklist-conservative-colleagues/?catorig=politics> (citing the Tilburg Study and applying its anti-conservative findings to current surreptitious attacks by liberal/progressives against their marginal, powerless conservative colleagues).



reasonably related to a legitimate purpose.<sup>16</sup> I cannot think of a more fitting description of the ubiquitous, arbitrary and irrational hatred White academics have demonstrated for decades by excluding Black conservative intellectuals from their ranks at the university and are to date allowed to get away with it because they have a monopoly over education at all levels especially higher education and because this invidious viewpoint discrimination isn't *de jure* (written, official), but *de facto* (unwritten, unofficial) this surreptitious form of ideological discrimination is entrenched and institutional.<sup>17</sup> The requirement that for a classification to be suspect, it must be invidious, is the main reason that only race and national origin have been categorized as suspect. The rationale is that the political process is the primary means by which different groups may protect themselves from disadvantage.<sup>18</sup> But, as Justice Harlan F. Stone first wrote in the *Carolene Products* case “Footnote 4” the judicial legislation from the bench provided three levels of scrutiny, “prejudice against “discrete and insular *minorities*” may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect *minorities*, and which may call for a correspondingly more searching judicial inquiry.”<sup>19</sup> In other words, not all forms of discrimination create this “special condition” of political impotence and thus, not all forms of discrimination warrant application of the strict scrutiny standard.<sup>20</sup>

<sup>16</sup> See definition of *invidious discrimination* from Black's Law Dictionary 826 (West Publishing Co., 1990).

<sup>17</sup> Joseph Blocher, *Viewpoint Neutrality and Government Speech*, 52 *Boston College Law Rev.* N° 3, 696–767 (2011) (author address a paradoxical contradiction inherent in viewpoint discrimination: Why is viewpoint discrimination flatly forbidden in one area of First Amendment law and entirely exempt from scrutiny in another?).

<sup>18</sup> Richard A. Posner, *The Federal Courts: Crisis and Reform* 365 (Harvard University Press 1986); Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 *University of Pennsylvania L. Rev.* N° 3, pp. 561–578 (Mar., 1984).

<sup>19</sup> *U.S. v. Carolene Products Co.*, 304 U.S. 144, 153 (1938); David Horowitz, Bernie Goldberg, *David Horowitz and Bernie Goldberg in Conversation*, *FrontPageMag.com* (Dec. 11, 2013), <http://frontpagemag.com/2011/frontpagemag-com/bernie-goldberg-and-david-horowitz-in-conversation/>.

<sup>20</sup> What criteria do courts use to determine whether a classification that differentiates between groups is a “suspect” classification or not? Courts will examine things like whether the class being “discriminated” against is a “discreet and insular minority.” That is, is it a group of people who inherently belong to that group and cannot switch back and forth between groups.



*Carolene Products* case in my opinion was a patently unconstitutional judicial activist opinion whose legal analysis essentially created out of whole cloth the structures of modern constitutional analysis or the Incorporation Doctrine whereby certain amendments in the Bill of Rights were applied to the states under the Fourteenth Amendment due process and equal protection clauses. Laws or policies that discriminate against any person or group must meet some degree of scrutiny or review: 1) Rational Basis Review; 2) Intermediate Scrutiny; 3) Strict Scrutiny.<sup>21</sup> This is an outrageous contention by the majority opinion of *Carolene Products* because neither that case, nor what I consider the infamous Footnote 4 which made that case famous had anything to do with helping Blacks ascend from de facto slavery in 1930s America but was used as a shameless pretext by the majority to justify this pseudo-constitutional analysis in a latter case. The pretext the Court would use to fully implement their legislation from the bench using levels of scrutiny came just six years later in the *Korematsu* case strict scrutiny whereby FDR used a strict scrutiny analysis and wartime expediency to force into internment camps hundreds of thousands of Japanese, Italian, and German Americans and the Court agreed.

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Also, is it a group that is likely to be unable to defend itself against maltreatment at the hands of another, larger, group? See Ellis Washington, *Birth of a conservative intellectual*, WND.com (February 1, 2013, 8:00 PM), <http://www.wnd.com/2013/02/birth-of-a-conservative-intellectual/>.

<sup>21</sup> In a WorldNet Daily essay on the *Carolene Products* case I did a historical analysis how for over 75 years Justices and judges alike have robotically used this inconspicuous words with no basis in legitimate constitutional jurisprudence to essentially give cover to judges to betray the U.S. Constitution of the United States they all swore on a Bible “to defend *against* all enemies: foreign and domestic. Here is the relevant excerpt: Footnote Four of *Carolene Products* would push FDR’s Progressive revolution beyond his initial results-oriented liberalism to an end-justifies-the-means political hegemony. Therefore, Footnote Four recognized this rational basis test for economic legislation, a very low standard of judicial review. The “rational basis test” mandates that legislation enacted by Congress or state legislatures that deals with economic regulation must be rationally related to a legitimate state interest. Note that under this new FDR-created judicial review, the goal is not fidelity to constitutional principle or, as in *Lochner*, et al., protection of property rights, but the wielding of unshackled progressive power, control and the obliteration of individual liberty and the Separation of Powers doctrine the framers held sacred. Ellis Washington, *The shadow power behind the Supreme Court*, WND.COM (March 9, 2012). <http://www.wnd.com/2012/03/the-shadow-power-behind-the-supreme-court/#3MYRgO6p70IUf6jf.99> (emphasis mine).

## The Spook who sat by the Door

Since graduating from law school in 1992 and despite my prolific scholarly record out of literally hundreds of applications for full-time faculty positions I've made inquiry to, all I've gotten in return was form rejection letter after form rejection letter<sup>22</sup> telling me how impressive my education background and scholarly record were, how competitive the process was, that my CV would be given full consideration by the 'Faculty Appointments Committee,' and most galling to me was this hypocritical statement printed at the bottom of every law school and university faculty application—"MINORITIES AND WOMEN ARE URGED TO APPLY."<sup>23</sup>

In a recent essay, *Birth of a conservative intellectual, Part 2*, I wrote of this rampant apostasy among modern conservatives in this manner:

...The social and professional blacklisting real conservatives suffer in America is just too high a price to pay, so for the acceptance and praise of the left so-called 'conservatives' become modern-day Neville Chamberlains ... they choose appeasement! George H.W. Bush, George W. Bush, Mitt Romney, Bob Dole, John McCain, John Boehner, Joe Scarborough, Condoleezza Rice, General Colin Powell, David Brooks, Ambassador Jon Huntsman, Justice Sandra Day O'Connor, Justice David Souter and Obama's current [appointee] for Secretary of Defense, Chuck Hagel, may be Republicans, but aren't real conservatives (emphasis mine).<sup>24</sup>

For several years I even naively, but in good faith, attended the so-called Law Faculty Recruitment Conferences sponsored by The Association of

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<sup>22</sup> I would estimate that I've received over 1,000 rejection letters over the 25 years I've tried to become a tenured college professor. Many of them I still have in my files so that when I finally break the barriers of ideological racism I can help other blacklisted conservatives to obtain faculty positions also.

<sup>23</sup> See David Strauss, *Is Carolene Products Obsolete?* 2010 University of Illinois Law Rev. No. 4, 1251-70, <http://illinoislawreview.org/wp-content/ilr-content/articles/2010/4/Strauss.pdf>.

<sup>24</sup> See Ellis Washington, *Our leftist propaganda factories*, supra note 56. *The Spook Who Sat by the Door*, supra note 2.

American Law Schools (AALS) where for three or four years I had about two dozen interviews at law schools all over America. However, as soon as they deduced that this Black man sitting before them was a doctrinaire conservative (in most cases they actually had many of my books and law review articles in their possession at the interview which quickly became obvious to me that they didn't read too deeply). The sham interview was always the same: 3–10 law faculty and administrators would on cue nervously smile at each other, shuffle some papers, and after their phony, perfunctory interview with the ubiquitous questions—“What do you view as the central purpose of law education today?” “How will your legal research and scholarship help today's students better understand their future roles as legal practitioners?”<sup>25</sup>

### 3. The Justice Clarence Thomas Effect

#### Blacklisting Black Conservative Scholars

On the one hand my case is paradoxical: I, as a Black conservative intellectual, like virtually every Black conservative in America, am ignored and despised by the legions of White Marxists, humanists, socialists, atheists, Darwinists, progressives, self-described “liberals” who pride themselves the guardians of equality, egalitarianism, justice and fairness, yet these same people dominate the Academy blacklisting conservative academics by exercising what Gramsci called “cultural hegemony with Nazi-like efficiency.”<sup>26</sup> This ubiquitous phenomenon I've

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<sup>25</sup> This incident ironically happened not at a leftist, progressive Ivy League school like Columbia or Yale but at Regent University Law School whom I had interviewed with two years in a row and rejected both times. If I as a Black academic can't get a fair shot at an overtly Christian school founded by Pat Robertson, then where can I go?

<sup>26</sup> Kevin A. Hassett, *Commencement speakers: Conservatives need not apply*, Los Angeles Times (May 20, 2013) <http://www.aei.org/article/society-and-culture/commencement-speakers-conservatives-need-not-apply/> (CNN published an article by John Blake entitled, “Three questions for Clarence Thomas,” that allows them to not only distort the black conservative judge's opinions, but also to tip-toe on the edge of racism, referring to Justice Thomas as a “sellout” and “Uncle Thomas” while hiding behind the cowardly journalistic trick of “Hey, we're just reporting what other people say!”). See John Blake, *Three questions for Clarence Thomas*, Cnn.com (June 9, 2013) <http://www.cnn.com/2013/06/09/us/clarence-thomas-three-questions/index.html>.

recently coined the “Justice Clarence Thomas Effect.” In other words, progressives so hate the fact that they were unsuccessful in personally destroying Clarence Thomas, a conspicuous Black conservative that White liberals/progressives utterly despise and hate especially his natural law jurisprudence. This invidious hatred united the Left on one accord for the singular purpose of derailing his Supreme Court nomination during the fateful summer of 1991.<sup>27</sup> Having narrowly failed at their Machiavellian efforts against Justice Thomas, nevertheless the Left has made a Faustian bargain that all subsequent doctrinaire conservatives such as myself must be stopped from following his lead and succeeding in mainstream America and thus their vocation aborted in the cradle... stopped at costs.<sup>28</sup> In a paradoxical sense every Black conservative in America will pay double for the “sin” of Justice Thomas’s ascendancy to the Olympus of the Supreme Court.<sup>29</sup> Notice how few Blacks have been allowed to follow in his footsteps since Oct. 1991.

Here is a case where the Justice Clarence Thomas Effect demonstrative. In an April 9, 2013 CSPAN interview of Justice Thomas by the Dean Gormley of the Duquesne School of Law, when asked about how he felt about the nation’s first Black President, Barack Obama, Thomas said he always knew it would have to be a person who was “approved by the elites and the media because if it was someone who they didn’t agree

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<sup>27</sup> See generally: R. George Wright, *Is Natural Law Theory of Any Use in Constitutional Interpretation?* 4 S. Cal. Interdisciplinary L.J. 463 (1995) (arguing that natural law is indeterminate such that it can be used to justify a variety of moral and judicial outcomes).

<sup>28</sup> Lee Stranahan, *Commencement speakers: Conservatives need not apply*, Breitbart.com (June 10, 2013) <http://www.breitbart.com/Big-Journalism/2013/06/09/CNN-Launches-Dishonest-Attack-On-Clarence-Thomas-To-Protect-Voter-Fraud> (Kevin Hassett is director of economic policy studies at the American Enterprise Institute in his essay on discrimination against conservatives as commencement speakers had this revealing data: There were only three identifiably conservative speakers at the top 50 colleges and 12 at the top 100 universities, compared with a total of 69 identifiably liberal speakers).

<sup>29</sup> Ellis Washington, *Clarence Thomas’s ‘My Grandfather’s Son,’* from *The Progressive Revolution*, Vol. 1, 367 (Univ. Press of Amer. 2013); Ellis Washington, *Clarence Thomas; No Black Self-respect*, from *The Progressive Revolution*, Vol. 1, 394 (Univ. Press of Amer. 2013).

with, that person would be picked apart.<sup>30</sup> Any black person who says something that is not the prescribed things that they expect from a black person will be picked apart... So, I always assumed it would be someone the media had to agree with," Thomas said.<sup>31</sup>

Thomas also claimed that he had only met Obama in passing, shaking his hand at the inauguration, but never engaging an in-depth conversation. Here's the dialogue between Dean Ken Gormley and Justice Clarence Thomas:

*Q: Did you ever expect to see an African American president during your lifetime?*

*THOMAS: Oh yeah, I guess I've always thought there would be black coaches, heads of universities -- maybe again as I said I'm naïve but the thing I always knew is that it would have to be a black president who was approved by the elites and the media because anybody that they didn't agree with, they would take apart. And that will happen with virtually - you pick your person, any black person who says something that is not the prescribed things that they expect from a black person will be picked apart. You can pick anybody, don't pick me, pick anyone who has decided not to go along with it [Ellis Washington, Allen West, Herman Cain, Pastor Levon Yuille]; there's a price to pay. So, I always assumed it would be somebody the media had to agree with.*

*Q: Have you ever met President Obama, have you had a chance to speak with him?*

*THOMAS: No. Well, in passing more he had the chance to visit the court, it's not like...I don't do a lot of Washington and I'm not into politics, so I mean there's not that many occasion. I shook hands with him at the inauguration to be polite but I've had no in depth conversation (emphasis mine).<sup>32</sup>*

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<sup>30</sup> See Op-ed, Clarence Thomas: Obama 'Approved by the Elites' Because He Says What They 'Expect From A Black Person', FoxNews.com (May 2, 2013), <http://nation.foxnews.com/justice-clarence-thomas/2013/05/02/clarence-thomas-obama-approved-elites> (last visited May 3, 2013).

<sup>31</sup> Id.

<sup>32</sup> See Thomas, *supra* note 81.

For all others who have expressly rejected the progressive *Weltanschauung* and embraced a conservative worldview, our status in America is quite the opposite as other favored minorities—LGBT, women, Hispanics, Asians, presently enjoy a measure of equality inside America’s Academy, and thus conservative intellectuals and academics are treated as second and third-class citizens by White Progressives and subjected to an existential, onerous burdens of the Justice Clarence Thomas Effect.<sup>33</sup>

In a 2012 essay I wrote about this infamous history of American jurisprudence titled, *The Shadow Power behind the Supreme Court*, this telling passage exposes the conventional wisdom and universal acceptance of the Courts use of unconstitutional balancing tests verses the Natural Law/historical model of constitutional analysis prior to the *Carolene Products* case:

Footnote Four of *Carolene Products* would push FDR’s Progressive revolution beyond his initial results-oriented liberalism to an end-justifies-the-means political hegemony. Therefore, Footnote Four recognized this rational basis test for economic legislation, a very low standard of judicial review. The “rational basis test” mandates that legislation enacted by Congress or state legislatures that deals with economic regulation must be rationally related to a legitimate state interest. Note that under this new FDR-created judicial review, the goal is not fidelity to constitutional principle or, as in *Lochner*, et al., protection of property rights, but the wielding of unshackled progressive power, control and the obliteration of individual liberty and the Separation of Powers doctrine the framers held sacred.<sup>34</sup>

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<sup>33</sup> Hearings On the Nomination of Clarence Thomas to be Associate Justice of the Supreme Court of the United States, Senate Comm. on the Judiciary, 102nd Cong., 1st Sess. 271 (1991) [hereinafter Hearings]. Also quoted in Washington, *Progressive Revolution*, *supra* note 30, at 15. Before the Clarence Thomas Effect, the expression “to bork” (used as a verb) became part of the political lexicon after the nomination of Judge Robert Bork to the U.S. Supreme Court was destroyed.

<sup>34</sup> Ellis Washington, *The Shadow Power behind the Supreme Court*, <http://www.wnd.com/2012/03/the-shadow-power-behind-the-supreme-court/> (March 9, 2012), WND.com, (writer gives the judicial legislative history behind the ubiquitous footnote 4 from the *Carolene v. U.S.* case and the unlikely person who from the grave still dictates constitutional analysis [3 levels of scrutiny] all judges must use to this day).

‘The more liberal respondents are, the more willing they are to discriminate’.

### **The Rothman, Lichter, Nevitte Study**

The opening sentence of the Nevitte study exposes the rampant, invidious ideological discrimination against conservative scholars by the Leftist Academy contains this revelatory aphorism—*The more liberal respondents are, the more willing they are to discriminate*.<sup>35</sup> For example, in a rare but significant study by Stanley Rothman, S. Robert Lichter and Neil Nevitte, the researchers found that fully 80 percent of professors teaching at American universities are liberal and 15 percent are conservative.<sup>36</sup> At elite universities, the ratio was 87 percent liberal to 13 percent conservative.<sup>37</sup> As depressing for conservative scholars as this entrenched liberal fascism is in controlling faculty membership inside the Academy, it gets worse.<sup>38</sup>

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<sup>35</sup> I'm certain by their own admission and assuming they were honest that 80% numbers is certainly higher. I would surmise that the actual number of liberal/progressive academics approaching 95-100 percentiles. Here is an excerpt from the Lichter study titled, "Liberal College Professors":

In a recent survey of the ideological persuasion of 1,643 full-time professors at 183 colleges and universities, three eminent scholars, Professors Robert Lichter of George Mason University and Stanley Rothman and Neil Nevitte of the University of Toronto, found that nearly three-quarters of college faculty call themselves liberal. In the study of classical languages and literature, the humanities, they counted 81 percent and in the social sciences 75 percent. Even among engineering faculty they found 51 percent and in business faculty 49 percent. But the greatest number of liberal professors taught in the departments of English literature, philosophy, political science, and religious studies where some 80 percent of professors called themselves liberal. At elite universities the ratios were even higher; according to the survey, 87 percent of faculty were liberal.

The schools of a country are pointing to the future. The survey of 1,643 full-time professors is hinting at more "leftward shifts" to come. We must brace for similar moves in public policy.

See *supra* note 16, study by Stanley Rothman, S. Robert Lichter and Neil Nevitte, <http://www.sennholz.com/article.php?a=032606> and <http://www.cwu.edu/~manwellerm/academic%20bias.pdf>.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*



Let us now return to a familiar theme of this Nigger Manifesto, to revisit a central question of this apologetic: Does strict scrutiny apply to my allegations of ideological racism?<sup>39</sup> Or is invidious viewpoint discrimination against Black conservative scholars by the White Academy the only racism still allowable in America today?<sup>40</sup> Admittedly, the Supreme Court says absent a legislative intent to discriminate on the basis of race or national origin, the classification will not be suspect and therefore not subject to strict scrutiny, none of which apply to my case because progressives would not be so obvious as to put federal or state laws on the books that specifically discriminate against black conservatives (in a de jure [official] sense), yet in a de facto (unofficial) sense invidious viewpoint discrimination against conservative intellectuals and academics flourishes in America for several reasons.

First, the numbers of Black conservative academics in America's colleges and universities is very small, far below their population proportion in society (12%) thus this "discrete and insular minority" group is easy to marginalize and discriminate against yet exceedingly difficult to organize special interest groups to lobby on behalf of their cause to Congress. There is no federal lobbying group like the Congressional Black Caucus or the Progressive Caucus to champion racist acts against Black conservatives;<sup>41</sup> Second, the *Justice Clarence Thomas Effect* intimidates the few Black (and White) conservatives inside the Academy pressuring them to keep their head down, their mouths shut and their "conservative" publication record not too conservative lest they be made a target like Clarence Thomas and be denied or lose their coveted tenure positions;<sup>42</sup> Third, because as I've said many times—"Show me a monopoly and I'll show you a tyranny."<sup>43</sup> In other words, liberals/progressives have such

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<sup>39</sup> See: Washington, *supra* note 89.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* Realizing that Thomas' affinity toward natural law would not derail his nomination, especially in view of Thomas' natural law disclaimer, his opponents then leveled charges of sexual harassment. For an account of the political motivation behind such charges and the lack of factual support, see David Brock, *The Real Anita Hill* (1994).

<sup>43</sup> Ellis Washington, *Darwin is freezing over*, *supra* note 68.

a controlling, existential hegemony over every conceivable facet of the college Academy—from President to Janitor—that they can continue to propagate the Big Lie that there are no Black conservatives qualified to teach at our university/law schools when in reality since the 1860s they have systematically used the technique of the *Darwin-Marx-Gramsci march through the institutions* to effect total control of the Academy and every major institution in society.<sup>44</sup>

In some cases, a law will be facially discriminatory, meaning that it explicitly discriminates based on racial classifications. In these cases, it is not necessary to make a separate showing that there was a racially discriminatory intent.<sup>45</sup> More subtly, a law which is facially neutral may be shown to have discriminatory intent based on legislative history, the law's effect, or other facts from which intent may be inferred.<sup>46</sup> Finally, some facially neutral laws which lack any racially discriminatory intent are carried out in a racially discriminatory manner.<sup>47</sup> These too meet the “purpose” requirement, and will be subjected to strict scrutiny.<sup>48</sup> Therefore, any Black American who claims to have “made it” in America without being a card-carrying member of the Democratic Socialist Party combined with constant, groveling gratitude lauding the absolute

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<sup>44</sup> *Id.*

<sup>45</sup> See Washington, *supra* note 89.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Example: (1) State X passes a law which mandates that “no person who was born in Detroit shall be eligible for jury service.” This law explicitly discriminates on the basis of national origin and no independent showing of discriminatory intent is required. The law will be subject to strict scrutiny, which most likely means that it will be struck down.

Example: (2) A law requires all city students be tested at the beginning of each school year to determine which classes they will take. Although the school district has approximately equal numbers of white and black students, a disproportionate number of black students are placed in “Special Education” classes. Absent a showing of discriminatory intent, the law will not be subjected to strict scrutiny. However, the disparate impact can be used as evidence in an attempt to show a discriminatory intent. If the discriminatory intent is found by the court, then the law will be subjected to strict scrutiny.

Example: (3) A city ordinance requires that all residents making alterations to their homes first obtain permission from the city council. In the past three years, approximately 98% of the requests made by white home owners have been approved while less than 5% of the requests by non-whites have been approved. This racially discriminatory administration of the facially neutral law could almost certainly be used to show that the law is purposefully discriminatory.

necessity of federal racial programs (i. e., FDR’s “New Deal”; LBJ’s “Great Society”; Barack Obama’s “Obamacare,” etc.)<sup>49</sup> as *the* only way for them to succeed in America, then that Black person is targeted as an “uppity Negro” an enemy of the Progressive State (e. g., Nigger), who must be destroyed by any means necessary as a vicious warning to all others secretly harboring conservative ideas. This is what I mean by the *Justice Clarence Thomas Effect*.<sup>50</sup> An open, naked retrenchment of invidious discrimination against Black academics and intellectuals by Leftist Black and White liberals and progressives for no other reason than their venal hatred of any Black person who exercised intellectual independence apart from doctrinaire socialist dogma of the Democrat Party.<sup>51</sup>

### **Tilburg University Study (Netherlands)**

Tilburg University (Netherlands), in a 2012 study on ideological discrimination has shaken the mainstream leftist academy to its foundations for its shocking conclusions that among psychologists, conservatives for decades indeed have great reason to fear negative consequences including harassment, tenure denial, collegial ostracism

<sup>49</sup> See: Martha Minnow, *Affordable Convergence: “Reasonable Interpretation” and the Affordable Care Act*, 126 Harv. L. Rev. 117 (2013) (writer delineates a “reasonable interpretation” of the major tenants of the Affordable Care Act [ACT] e. g., “Obamacare”, using the reasonable person standard).

<sup>50</sup> Ellis Washington, *Can Dole, Scarborough and Christie fix the GOP?* (June 7, 2013, 8:02 PM). <http://www.wnd.com/2013/06/can-dole-scarborough-christie-fix-gop/#U3dfTeQQiR5PIDc.99>, WND.com.

<sup>51</sup> This is what I think Justice Clarence Thomas meant by his “high-tech lynching” metaphor perpetrated against him by good, White, non-racist liberal Democrats on the Senate Judiciary Committee during that fateful summer and autumn of 1991. See Ellis Washington, *Darwin is freezing over*, *supra* note 68. Invidious Discrimination—The requirement that for a classification to be suspect, it must be invidious, is the main reason that only race and national origin have been categorized as suspect. The rationale is that the political process is the primary means by which different groups may protect themselves from disadvantage. But, as Justice Harlan Stone once wrote in his infamous footnote 4 which created three judicial levels of scrutiny out of whole cloth, “prejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and which may call for a correspondingly more searching judicial inquiry.”

and outright firings should their conservative political beliefs be revealed to their colleagues. “In decisions ranging from paper reviews to hiring, many social and personality psychologists admit that they would discriminate against openly conservative colleagues,” the authors, Yoel Inbar and Joris Lammers, wrote in their landmark study.<sup>52</sup>

“The more liberal respondents are, the more willing they are to discriminate,” was the *idée fixe* (fixed idea), an eternal and invidious *leitmotiv* of this revelatory study by a European university whose assumptions and findings I would theorize are even more of a reactionary discriminatory nature here in the United States where I was born, live and currently teach.<sup>53</sup> An invidious racial hatred against Black conservative intellectuals and academics every bit as reactionary as Hitler’s favorite film director Leni Riefenstahl whose vile but effective World War II propaganda films included the two gargantuan epics—*Triumph of the Will* (1935) and *Olympia, Part 1– Festival of Nations* (1938), *Olympia, Part 2 – Festival of Beauty* (1938) an epic 2 part film based on the Munich Olympics which Hitler hosted for the world in 1936.<sup>54</sup>

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<sup>52</sup> See: Tilburg Study on Political Diversity, *supra* note 16; Bob Unruh, *Psychologist Blacklist Conservative Colleagues*, WND.com (Aug. 19, 2012, 2:03 PM) [http://www.wnd.com/2012/08/psychologists-blacklist-conservative-colleagues/?cat\\_orig=politics](http://www.wnd.com/2012/08/psychologists-blacklist-conservative-colleagues/?cat_orig=politics) (last visited June 15, 2013); Association for Psychological Science, XX(X) 1–8 (2012) (hereinafter Tilburg Study, *Political Diversity*).

<sup>53</sup> Unruh, *Psychologist Blacklist*, *supra* note 16, at 1-5.

<sup>54</sup> Ellis Washington, *Art, Music and the Wagnerian Dilemma*, WND.com (Nov. 27, 2010), <http://www.wnd.com/2010/11/233105/> (last visited May 3, 2013). On Hitler’s favorite movie director the Nazi woman propagandist, Leni Riefenstahl, I wrote the following Socratic dialectical essay:

Leni Riefenstahl: The question of the intentional fallacy has tended to focus on controversial figures like Caravaggio, Van Gogh, Gauguin, Picasso, Andreas Serrano (“Pi– Christ” [1989]) or artists such as myself, for I was the German filmmaker for the Third Reich, the Nazi Party and for supreme chancellor of Germany, Adolf Hitler, whom I immortalized in such documentaries as “Triumph of the Will,” which chronicled the Nuremberg rallies, and “Olympia,” a documentary on the 1936 Berlin Olympics. I am profoundly ashamed of these movies now in light of Nazi atrocities and the human-rights genocide of the Holocaust, for my so-called art was exploited as Nazi propaganda. Nevertheless, many critics to this day consider my movies to be technically and artistically brilliant.

*Triumph des Willens* – (Triumph of the Will) (1935) [http://en.wikipedia.org/wiki/Triumph\\_of\\_the\\_Will](http://en.wikipedia.org/wiki/Triumph_of_the_Will) (last visited May 18, 2013) and *Olympia 1. Teil – Fest der Völker*

The study was done by the two members of the Department of Social Psychology at Tilburg University in the Netherlands. They particularly warned that faculty members who held conservative views who feared reprisals if their socialist/progressive colleagues discovered their ideas “are right to do so.” Contrary to the ubiquitous, egalitarian promises of the so-called “liberal–Arts Academy” and the “marketplace of ideas” rhetoric of Justice Oliver Wendell Holmes, the Tilburg study exposed the extensive and invidious ideological discrimination in Netherlands universities (and presumably throughout socialist Europe) got the attention of the U.S. –based Alliance Defending Freedom, which runs a Center for Academic Freedom. Travis C. Barham, their litigation staff counsel, noted the results “should come as a disappointment to those who think that we should—in the words of Thomas Jefferson who famously said— ‘follow the truth wherever it may lead.’”<sup>55</sup> Barham further said regarding the Tilburg study that, “these results should also disturb the millions of Americans who think that universities should serve as a ‘marketplace of ideas,’ where all perspectives are welcome and addressed on their merits.”<sup>56</sup>

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– (Festival of Nations) (1938), *Olympia 2. Teil – Fest der Schönheit* – (Festival of Beauty) (1938) an epic 2 part film based on the Munich Olympics which Hitler hosted for the world in 1936, [http://en.wikipedia.org/wiki/Olympia,\\_Parts\\_1\\_and\\_2](http://en.wikipedia.org/wiki/Olympia,_Parts_1_and_2) (last visited May 18, 2013). Noted American film critic Richard Corliss observed in *Time* that “The matter of Riefenstahl ‘the Nazi director’ is worth raising so it can be dismissed. [I]n the hallucinatory documentary *Triumph of the Will*... [she] painted Adolf Hitler as a Wagnerian deity... But that was in 1934–35. In [*Olympia*] Riefenstahl gave the same heroic treatment to Jesse Owens...” *Time Magazine, All –Time 100 Best Movies*, <http://entertainment.time.com/2005/02/12/all-time-100-movies/> (last visited May 18, 2013).

<sup>55</sup> Unruh, *Psychologist Blacklist*, supra note 16, at 1-5.

<sup>56</sup> *Id.* See also: Nathan Harden, *Man, Sex, God, and Yale*, vol. 42, No. 1 (Jan. 2013), pp. 1–2. Harden writes: “In 1951, William F. Buckley, Jr., a graduate of Yale the year before, published his first book, *God, Man at Yale*. In the preface, he described two ideas that he had brought with him to Yale and that governed his view of the world. Buckley writes:

I had always been taught, and experience had fortified the teachings, that an active faith in God and a rigid adherence to Christian principles are the most powerful influences toward the good life. I also believed, with only a scanty knowledge of economics, that free enterprise and limited government had served this country well and would probably continue to do so in the future.

The body of the book provided evidence that the academic agenda at Yale was openly antagonistic to those two ideas—that Buckley had encountered a teaching and a culture that were hostile to religious faith and that promoted collectivism over free market

Psychiatrist, Dr. Lyle Rossiter, in an interview with WND.com about his revelatory book, “The Liberal Mind: The Psychological Causes of Political Madness,” argues that leftists “see liberal principles as revealed truth, admitting of no debate.”<sup>57</sup> This is self-evident, because since the 1960s liberals and progressives have followed Lenin’s admonition to “take over the institutions.”<sup>58</sup> They did. Liberal/Progressives got their PhDs and systematically, overtime have established what Gramsci called “social hegemony” in K-12 public education, the Academy, foundations, Congress, the courts and in every major social and cultural institution in America.<sup>59</sup>

The Tilburg study concluded with this ominous observation: conservatives know of the discrimination, so they hide their views.<sup>60</sup> The fear is palpable and has the inimical effect of self-isolation by conservative academics, even those with the relative security of tenure because above all they covet the collegiality and social camaraderie of their colleagues despite the existential hostility against their conservative views by their socialist colleagues, invidious ideological discrimination remains the daily status quo. “If I keep my mouth shut and conceal or minimize my conservative views in my research and writings perhaps my colleagues will accept

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individualism. Rather than functioning as an open forum for ideas his book argued, Yale was waging open war upon the faith ad principles of its alumni and parents. Liberal bias at American colleges and universities is something we hear a lot about today. However, in 1950 Buckley’s expose was something new, and it stirred national controversy. The university counterattacked, and Yale trustee Frank Ashburn lambasted Buckley and his book in the pages of Saturday Review magazine.

<sup>57</sup> Unruh, *Psychologist Blacklist*, *supra* note 16, at 1-5. See generally: Dr. Lyle Rossiter, *The Liberal Mind: The Psychological Causes of Political Madness*, (Free World 2006), [http://superstore.wnd.com/books/The-Liberal-Mind-The-Psychological-Causes-of-Political-Madness-Paperback\\_3](http://superstore.wnd.com/books/The-Liberal-Mind-The-Psychological-Causes-of-Political-Madness-Paperback_3). Robert Clark, *Darwin: Before and After* 115 (Paternoster Press 1958).

<sup>58</sup> *Id.*

<sup>59</sup> See: Bill O’Reilly transcript FoxNews.com, *supra* (April 11, 2013). [http://livedash.ark.com/transcript/the\\_o\\_reilly\\_factor/51/Fox\\_News/Thursday\\_April\\_11\\_2013/634712/](http://livedash.ark.com/transcript/the_o_reilly_factor/51/Fox_News/Thursday_April_11_2013/634712/). See also: Todd Starnes, *Professor calls Republicans stupid & racist*, Townhall.com. <http://townhall.com/columnists/toddstarnes/2013/04/11/professor-calls-republicans-stupid--racist-n1564681/page/full>. (April 11, 2013) *Id.* Ellis Washington, *Democratic Socialists’ ‘Long March,’* WND.com (May 17, 2013, 7:50 PM). <http://www.wnd.com/2013/05/democratic-socialists-long-march/#iG31iqpw5HX141I1.99> (lasted visited May 18, 2013).

<sup>60</sup> *Id.*

me.”<sup>61</sup> Barham wrote, “The results of this study will not come as news to students who have experienced professors that inject their political views into class or to students who feel pressured [to] agree with those views to get a good grade.<sup>62</sup> Nor will they surprise conservative professors like Dr. Mike Adams (who was denied a promotion because his colleagues vociferously disliked his conservative beliefs), Kenneth Howell (who was fired for teaching Catholic theology in a class about Catholic theology), June Sheldon (who was terminated for answering questions about homosexuality in a genetics class) and Theresa Wagner (who was not hired because of her pro-life views).”<sup>63</sup>

### *Weltanschauung und Gleichschaltung* (Worldview and Bringing, forcing into line).

This opus will revolutionize how America, Europe, and the world will understand, interpret, and characterize the Progressive movement and the destructive effects of the Progressive *Weltanschauung* (worldview) which I describe as omnipresent, systematic, Machiavellian manipulation of every aspect of culture and society.<sup>64</sup> For example, when Hitler came to power to become *Die Fürher* (the Leader)—the Supreme Chancellor of Germany on January 31, 1933, (and later combining the Chancellorship with the Presidency at the death of the moribund von Hindenburg in August 2, 1933) the Nazis effectively exercised *de jure* absolute control over the German people in part because they used certain policy ideas

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<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> See: Tilburg Study on *Political Diversity*, *supra* note 16.

<sup>64</sup> A comprehensive worldview is the underlying cognitive reference of a person or society encompassing the whole of the individual or society’s understanding and judgment, including natural philosophy; fundamental, existential, and normative positions; or themes, values, emotions, and ethics. The term is derivative of the German word *Weltanschauung* composed of *Welt* (‘world’) and *Anschauung* (‘view’, ‘perception’ or ‘outlook’). It is an idea fundamental to German philosophy and epistemology and refers to a *wide world perception*. Moreover, it applies to the structure of ideas and beliefs by which an individual, group or culture interprets the world and interrelates with it. See Online Etymology Dictionary, <http://www.etymonline.com/index.php?term=worldview>. (Etymonline.com. Retrieved 2012-08-13).



and proven tactics rooted in tyrannical rule<sup>65</sup>—one was a radical promotion of a Nazi worldview or *Weltanschauung*, the other they called *Gleichschaltung* (coordination, synchronization, or bringing into line).<sup>66</sup> These two primary philosophical tactics and strategies dominated and controlled every German citizen, placing every man, woman, boy and girl efficiently under the iron boot of the Gestapo and Nazi control from birth to death.<sup>67</sup>

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<sup>65</sup> The “lawful” rise to power of Adolph Hitler in 1933 with the collapse of the Weimar Republic and the legal sanction given to the slaughter of the unborn by the Supreme Court in *Roe v. Wade* are two notable examples where majoritarian rule becomes the only justification for state action.

<sup>66</sup> The original title of this game-changing 1859 book was: Charles Darwin, *On the Origins of Species by Means of Natural Selection, or the Preservation of Favored Races in the Struggle for Life* (1859) (hereinafter, *Darwin Origins of Species*). To hide the obvious reactionary racism evident in Darwin’s work, in the sixth edition of *Origins* (1872), the title was shortened to what has become customary in modern times, *The Origin of Species*. Darwin’s book introduced the scientific theory that populations evolve over the course of generations through a process of natural selection. It presented a body of evidence that the diversity of life arose by common descent through a branching pattern of evolution. For a comprehensive analysis on how Social Darwinism has deconstructed a Christian worldview and Western civilization. Regarding the Nazi philosophy *Gleichschaltung* which means bringing together, coordination, bring into line, or forcing into line, is reminiscent of Obama former Regulation Czar and current Professor of Law at Harvard, Cass Sunstein coined the controversial title “nudge” as a strategy bureaucrats can use to force socialism on a population used to liberty. Sunstein wrote:

People often make poor choices – and look back at them with bafflement! We do this because as human beings, we all are susceptible to a wide array of routine biases that can lead to an equally wide array of embarrassing blunders in education, personal finance, health care, mortgages and credit cards, happiness, and even the planet itself.

Cass Sunstein, Richard Thaler, *Nudge: Improving Decisions about Health, Wealth, and Happiness* (2008). See generally: Ellis Washington, *Cass Sunstein: Regulating America to death, from The Progressive Revolution*, 74–76 (Univ. Press of Amer. 2013).

<sup>67</sup> See generally: Ellis Washington, *Social Darwinism in Nazi Family and Inheritance Law*, 13 *Rutgers Journal of Law and Religion* 173 (2011); Ellis Washington, *Darwin is freezing over*, WND.com (Feb. 20, 2010, 1:00 AM), <http://www.wnd.com/2010/02/125611/> (author likens Darwin’s evolution atheism of the 19th century to Orwellian Groupthink prevalent in the existential global warming/climate change pseudo-science of modern times) (last visited May 4, 2013).

## Conservatives Academics Marked with the Nazi Yellow Star of David

I believe that one result of this tragic state of affairs in modern times is the systematic eradication of conservative Christians like myself from achieving or holding any positions of power in the Academy or have legitimacy in any part of society for that matter.<sup>68</sup> Like the Jews of Hitler's Holocaust who collectively was forced to wear the identifying yellow Star of David, conservatives such as me and thousands of others have been marked; perpetually blacklisted if you will with the yellow star of "conservative."<sup>69</sup> Why? This allows progressives and liberals as society's gatekeepers and the ones holding decision making positions of power in these and every realm of society to exercise *de facto*, invidious discrimination against those holding viewpoints representing "the other" with impunity<sup>70</sup> all under the guise of the hypocritical yet ineffective federal anti-discrimination statutes which patently prohibit discrimination based on creed violates the First, Fifth, and Fourteenth Amendments of the U.S. Constitution and also violates the 1964 Civil Rights Act, 42 U.S.C. § 21 which has the repeated refrain: "...prevents discrimination because of race, color, religion, *creed*, sex, disability, familial status or national origin."<sup>71</sup>

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<sup>68</sup> *Id.*

<sup>69</sup> Ellis Washington, *A new age of socialist hell* (originally titled, *Arbeit macht frei?* [Work makes you free?]) WND.com (Nov. 19, 2012, 7:42 PM) <http://www.wnd.com/2012/11/a-new-age-of-socialist-hell/> (writer analogizes Obama's socialist progressive policies to the propaganda, cynical Nazi philosophy emblazoned over the gates at Auschwitz and other Nazi death camps—*Arbeit macht frei*).

<sup>70</sup> When I was a Staff Editor at the Michigan Law Review, an article I was the principle editor of and which had a profound influence helping me to understand the profound and unjustified loneliness and disrespect of having a philosophy not respected by the majority of the Academy, but looked down upon as "other" or in Professor Delgado's words, "opponentist." See Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 Mich. Law Rev. No. 8 (1989).

<sup>71</sup> This miscarriage of justice is amplified by the fact that virtually every public and private college, university, graduate school and law school receives some significant levels of federal funding. See 1964 Civil Rights Act, 42 U.S.C. § 21, <http://uscode.house.gov/download/pls/42C21.txt>.

## Epilogue

### Searching for LeBron James and Dr. Thomas Sowell

If I could run fast, jump high, or dribble a basketball wearing the buffoonish costumes of professional sports teams, this *Nigger Manifesto* doubtlessly would never have been written, nor would I conceivably have ever thought to write such an extended diatribe as this because I would be part of the vast civil rights hypocrisy.<sup>72</sup> I, Ellis Washington, would be a direct beneficiary happily suckling on the teat of the Big Brother Progressive System.<sup>73</sup> There would be no need to become a revolutionary against the existential Progressive Revolution because I, and others reliant on the stability of my vocation, would have too much to lose if I spoke out against the Progressive Revolution.<sup>74</sup> Yet, speak I must. Therefore, a central premise of my apologetic contained in this *Nigger Manifesto* is this singular statement:

If sports organizations like university sports departments all over America, the NFL and NBA can literally spend hundreds of millions and collectively billions of dollars to go into the most dangerous and uninviting Black ghettos of America and even into the deep jungles of Africa, Hawaii, the Caribbean, South America, and other far flung places in search of gifted Black athletes as early as middle school, and give multi-million dollar contracts to fundamentally illiterate young Black men, many who can't think independently, rationally, logically, speak proper English, or even compose a coherent sentence without a paid tutor,

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<sup>72</sup> Ellis Washington, *A Voice Crying Out in the Wilderness: A Word About Brown v. Board of Education*, 39 Valparaiso Law Rev. 1, 93–4 (2004) (writer in an Addendum at the end of this law review article commemorating the 50th anniversary of *Brown v. Board of Education* is an iconoclastic treatment of NBA basketball star, LeBron James and how he unwittingly used the racial segregated, depressed environment of Akron, Ohio to transcend his lower estate to become a champion despite the failed promises of *Brown* being relevant to his social situation).

<sup>73</sup> See: Tilburg Study, *supra* note 16. Ellis Washington, *Orwell's '1984' in 2013*, WND.com (June 14, 2013) <http://www.wnd.com/2013/06/orwells-1984-in-2013/>. (writer warns of today's State power in light of Orwell's dystopian novels *Animal Farm* and *1984*).

<sup>74</sup> *Id.*

then why can't America's good white, self-enlightened, progressive, egalitarian, liberal Academy over the past 20 years not find "the Thomas Sowell of his generation" and give this man a job as a professor?... Haven't I earned it yet!?"<sup>75</sup>

In 2004, on the 50th anniversary of the landmark case, *Brown v. Board of Education*, I explored that very question in a way that no other academic or legal scholar that I am aware of has done.<sup>76</sup> In the *Addendum* section, at the end of that law review article I wrote an iconoclastic critique of NBA star LeBron James using Socratic dialectical techniques and poetical verse reminiscent of Poet Laureate Maya Angelou, to expose the deficiency of *stare decisis*, pseudo-constitutionalism, legal emotivism and progressive philosophy, contained in that iconic, landmark racial desegregation case of 1954.<sup>77</sup>

The primary purpose of writing this Nigger Manifesto is to alert the public that everything you've been told about Affirmative Action, Diversity and the good intentions of Progressives has been fundamentally wrong. Therefore, I don't honestly expect anyone to invite me to join your university or law faculty. Why?<sup>78</sup> Because on the one hand I've spent

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<sup>75</sup> This idea was restated with certain rhetorical variations in Ellis Washington, *Blacks' obsession with sports, Hollywood & acceptance*, WND.com (April 26, 2013, 7:36 PM) <http://www.wnd.com/2013/04/blacks-obsession-with-sports-hollywood-acceptance/> (writer wants parents to demand kids put down 'the damn basketball', turn off the TV, iPod and X-Box, read the Classics and write detailed analytical essays on them to improve cognitive ability, critical thinking, historical awareness). Dr. Ben Carson's often tells the story of how his illiterate single-mom from a family of 23 kids and a third grade education made young Ben and his brother read two books a week and write a book report on each book in addition to his normal homework obligation. He did this mired in the despair and chaos of 1950s Detroit, Michigan; Newsday Sports, New York, *Recruiting Risky Kids is Risky Business for All*, (last visited March 12, 2012) <http://www.ncsasports.org/who-is-ncsa/in-the-news/Recruiting-Kids-is-Risky-Business-for-All>.

<sup>76</sup> See: Ellis Washington, *A Voice Crying Out in the Wilderness: A Word About Brown v. Board of Education*, 39 Valparaiso University Law Review 1, 87-94 (2004), also posted on my law blog, [www.EllisWashingtonReport.com](http://www.EllisWashingtonReport.com) under the link titled, "Selected Scholarly Works."

<sup>77</sup> See: Washington, *A Word About Brown v. Board of Education*, *supra* note 73, at 92-4, also posted on my law blog under "Selected Scholarly Works": <http://www.elliswashingtonreport.com/blog/category/selected-works/>.

<sup>78</sup> See: Ellis Washington, "Confessions to 9 Strangers and a Preacher," in *Beyond the Veil: Essays in the Dialectical Style of Socrates* (Hamilton Books, 2004), pp. 17-20.

nearly 30 good years of my life literally begging for the crumbs that fall from the master's table; 30 good years of begging liberal White folks at all the colleges, universities, and law schools all over America for a faculty position even at my own alma maters, but to no avail.<sup>79</sup> Nevertheless, what continues to give me the strength to fight against the ideological racism of the liberal Academy is contained in these transcendent words of Dr. Martin Luther King (another conservative Republican who like me wrote eloquently on Natural Law).<sup>80</sup> Dr. King said: "All we say to America is to be true to what you said on paper."<sup>81</sup> Discrimination based on creed violates the First, Fifth, and Fourteenth Amendments of the U.S. Constitution and also violates the 1964 Civil Rights Act, 42 U.S.C. § 21 which has the repeated refrain: "...prevents discrimination because of race, color, religion, *creed*, sex, disability, familial status or national origin."<sup>82</sup>

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<sup>79</sup> See: Sophie Hoffman, *Ellis Washington: From Musician to Political Journalist*, The DePauw (Feb. 28, 2013) <http://www.thedepauw.com/features/ellis-washington-from-musician-to-political-journalist-1.3002214>. (Writer asked his alma mater to do a feature celebrating his ideological journey to conservatism as a young Black intellectual at DePauw and the publication of his first essays as a Reagan conservative 30 years ago).

<sup>80</sup> Like MLK, Justice Thomas reveres natural law philosophy of St. Thomas Aquinas integrating it into his jurisprudence and has on several occasions in his speeches and writings made positive references to St. Thomas Aquinas. See e.g. Justice Clarence Thomas, Address at The Federalist Society in Washington, D.C. (May. 16, 1994), reprinted in *Legal Times*, May 23, 1994, at 25; Clarence Thomas, *No Room at the Inn-The Loneliness of the Black Conservative*, *Pol'y Rev.* Fall 1991, at 72, 78 [hereinafter *The Loneliness of the Black Conservative*]; Clarence Thomas, *Toward a "Plain Reading" of the Constitution—The Declaration of Independence in Constitutional Interpretation*, 30 *Howard Law Journal* 983, 989 (1987). See Washington, *Confessions to 9 Strangers and a Preacher*, *supra* note 79. See generally: A. P. D'Entreves, *Natural Law: An Historical Survey* 38-40 (1965); Aquinas, *Summa Theological*, 11, Q. 91, Art. 2; Etienne Gilson, *The Philosophy of St. Thomas Aquinas* 328-29 (1993).

<sup>81</sup> Dr. Martin Luther King, Jr., *I've Been to the Mountaintop*, Mason Temple Memphis, TN (April 3, 1968). <http://www.afscme.org/union/history/mlk/live-been-to-the-mountaintop-by-dr-martin-luther-king-jr>. Thomistic natural law philosophy is grounded in the work of St. Thomas Aquinas which greatly influenced MLK's natural law worldview which is especially evident in his famous. See discussion *infra*, pp. 42-43. Thomism is characteristically definite and free from the moral ambiguities present in secular natural law systems constructed and defended by Fuller and other secular natural lawyers. See generally, Martin Luther King, Jr., *Letter from Birmingham Jail*, <http://www.uscrossier.org/pullias/wp-content/uploads/2012/06/king.pdf>. [Aug. 1963] (Last visited October 25, 2015).

<sup>82</sup> Id.: King, *Letter from a Birmingham Jail*; 42 USC CHAPTER 21 – CIVIL RIGHTS, <http://uscdoe.house.gov/download/pls/42C21.txt>. (Last visited July 4, 2014).

## I Am an Intellectual—I Am a Scholar—I Am a Man!<sup>83</sup>

Although I despise the levels of scrutiny the Court frequently resorts to in constitutional analysis as diametrical to the historical approach to constitutional interpretation the constitutional Framers used, to make me point here I will resort to it: Let's take for example State X wants to enact an affirmative action policy that requires that state programs always seek to ensure that minorities are adequately represented in the workforce on various state projects.<sup>84</sup> If this policy is challenged in court, State X has to show strict scrutiny to allow the policy to be upheld.<sup>85</sup> Since this is a classification based on race, the state needs to show that the policy is necessary to achieve a compelling state interest.<sup>86</sup> The interest may be a diversified workforce or to remedy past discrimination in State X.<sup>87</sup> It will also have to show that there is no other narrower rule that could accomplish the same objective, for the rule to pass a strict scrutiny analysis.<sup>88</sup>

## Darwin-Marx-Gramsci's 'Long march through the Institutions'

In many respects Reagan's vaunted Reagan Revolution (1982-2006) the longest post-war period of economic growth in American history, an economic revolution that generated more wealth than his 39 predecessor

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<sup>83</sup> I realize that law reviews don't typically publish pictures, therefore the iconic picture which prompted this subtitle of Black sanitation workers protesting in Memphis during their 1968 strike for better working conditions just days before the martyrdom of civil rights icon, Rev. Dr. Martin Luther King (Jan. 15, 1929-April 4, 1968).

<sup>84</sup> See: Ronald Dworkin, *Taking Rights Seriously* (1978); Cass Sunstein, *The Partial Construtor*. (1993) (advocating an approach to constitutional interpretation that would subject all government action to heightened judicial scrutiny); Catharine MacKinnon, *Rape, Genocide, and Women's Human Rights*, 17 Harv. Women's L. J. 5 (1994).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> See Strauss, *Is Carolene Products Obsolete?* *supra* note 20; Washington, *The Shadow Power behind the Supreme Court*, *supra* note 35 (writer gives the judicial legislative history behind the ubiquitous footnote 4 from the *Carolene v. U.S.* case and the unlikely person who from the grave still dictates constitutional analysis [3 levels of scrutiny] all judges must use to this day).

administrations combined. This revolution was to supposed to become not only the death knell to Soviet communism abroad, but to Democrat socialism at home in the two major explosions of socialism in America—FDR’s “New Deal,” social security and the apotheosis of the welfare state and LBJ’s expansion of the welfare state he called, the “Great Society” programs of the 1960s.<sup>89</sup> Although Article 1, Sec. 8 of the U.S. Constitution only allows for 18 enumerated powers of the federal power by Congress, FDR and LBJ’s expansion of federal power in a *de facto* sense made the federalism or state’s rights a deadletter while more significantly further paved the way for socialists, progressives, and liberals to seize the vast machinery of federal power (socialism) to effect fundamental change upon society.<sup>90</sup> And through an existential, Machiavellian tactic of cultural hegemony infiltrated its thousands of American institutions—This is what I mean when I write of the Darwin-Marx-Gramsci “Long March through the Institutions”.<sup>91</sup>

Milton Friedman, the legendary libertarian economist and writer once said that “Universities exist to transmit knowledge and understanding of

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<sup>89</sup> These two largest expansions of federal government power not only plunged America, the greatest exponent of free market capitalism in the world, but had an anti-historical component in that as de Tocqueville noted 100 years before FDR that America, her institutions particularly her laws and lawyers were decidedly conservative. See: Alexis de Tocqueville, *Democracy in America* 243 (Phillips Bradley ed. 1945). De Tocqueville persuasively argued that America lawyers and American law generally were by nature conservative in their orientation and resistant to sweeping radical social phenomena – exemplified in the French Revolution-that sought to undermine societies committed to the rule of law. *Id.*

<sup>90</sup> Alasdair C. McIntyre, *Three Rival Versions of Moral Enquiry: Encyclopedia, Genealogy, and Tradition* 17 (1990) (author address the central issue in Justice Oliver Wendell Holmes ‘marketplace of ideas’ paradigm: “who is performing these tasks and what his or her theological and moral standpoint and perspective is”).

<sup>91</sup> See: (writer puts President Obama’s scandals in the historical perspective of a systematic takeover of America’s societal institutions he called the “Lenin–Gramsci” long march through the institutions as a tried and test method to exert cultural hegemony and control over society). See: *Works on Gramsci’s political theories, supra* note 94. To cover the comprehensive historical sweep of the left’s long march through the institutions which I date to circa 1860, I’ve now added the name “Darwin–Marx–Gramsci” as the intellectual trilogy of the Socialist-Progressive “Long March through the institutions” strategy.



ideas and values to students not to provide entertainment for spectators or employment for athletes.”<sup>92</sup>

Historically speaking, *the Long March through the Institutions* is a cultural hegemony of Eurocommunism that has philosophically deconstructed Western Civilization and society transforming the education paradigm including all of the social sciences by infusing activist polices of socialist, liberal and progressive politics throughout America, Europe and the world. The methodical discourse of cultural hegemony is vital to research and synthesis in sociology, political science, anthropology and cultural studies; in education, cultural hegemony devised crucial paradigms, by which the foundation of social and political discontent can be recognized, deconstructed and transformed. Rudi Dutschke, the German student-movement leader, in 1967 reformulated Antonio Gramsci (1891-1937), a Leninist professor who brought communism to Italy along with his philosophy of cultural hegemony contained in the idea—*Der lange Marsch durch die Institutionen* (The Long March through the Institutions)—an overt war metaphor harkening back to Mao’s Long March (1934–35) of the Communist Chinese People’s Liberation Army.<sup>93</sup> Democrat Socialists throughout Europe, Russia, South America and here in America used “The Long March through the Institutions,” where the working class, through persistence and force, would fabricate their own organic intellectuals and culture (dominant ideology) to replace those imposed by the bourgeoisie culture Marx despised and since Nietzsche in 1886 infamously proclaimed “god is dead,” therefore Christian “slave

<sup>92</sup> See: Milton Friedman quotes, <http://www.inspirationalstories.com/quotes/milton-friedman-universities-exist-to-transmit-knowledge-and-understanding/> (last visited June 29, 2013) also quoted in Ellis Washington, *Blacks’ obsession with sports, Hollywood and acceptance*, WND.com, (April 26, 2013, 7:36 PM) <http://www.wnd.com/2013/04/blacks-obsession-with-sports-hollywood-acceptance/>.

<sup>93</sup> Rudi Dutschke, *Mein langer Marsch: Reden, Schriften und Tagebuecher aus zwanzig Jahren* (Rowohlt 1980) (in German); Rudi Dutschke, Gretchen, ed., *Jeder hat sein Leben ganz zu leben (1963-1979)* (Kiepenheuer & Witsch, 2003) (diaries) (in German), DE., ISBN 3-462-03224-0; Rudi Dutschke, *It Is Not Easy to Walk Upright 52* (Telos Press 1982); Joseph A. Buttigieg, *The Contemporary Discourse on Civil Society: A Gramscian Critique*, *Boundary, 2* 32 (1): 33–52 (2005) (retrieved June 30, 2010); Carl Davidson, *Strategy, Hegemony & ‘The Long March’: Gramsci’s Lessons for the Antiwar Movement*, (6 April 2006) <http://carldavidson.blogspot.com/2006/04/strategy-hegemony-long-march.html>.

morality” as he called religion and all moral views, would likewise be rendered irrelevant to philosophy and deconstructed.<sup>94</sup>

### **Republican Congress must act to Defund their own Self-Immolation by Deconstructing the Progressive Revolution**

The question of ultimate concern is this: With my *Nigger Manifesto* now published for the world to see, will the White Progressive Academy who exercise cultural hegemony over all America’s institutions, who controls public education, most private education through regulation at virtually all colleges, universities and law schools now stop sowing divisiveness, hate, revulsion, and scorn among the masses against those who disagree with whom you disagree—people of an “other” ideology<sup>95</sup> including conservative scholars, academics and intellectuals like me, or will you continue to perpetrate invidious viewpoint discrimination and ideological racism against all who disagree with you?<sup>96</sup> Time will tell.

Therefore I will not trust the Academy to do the right thing. Thomas Jefferson said it best— In questions of power let no more be heard of confidence in man, but bind him down from mischief by the chains of

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<sup>94</sup> *Id.*

<sup>95</sup> *Id.* One particularly cruel tactic of the progressive Left is to ignore, disregard or marginalize conservatives and isolate us so that the few token numbers inside the Academy walk around with the Sword of Damocles hanging over their heads, too afraid to reach out to other conservatives lest they get harassed or fired. Justice Clarence Thomas writes of this existential isolation. Being Black conservative means treachery against Democratic Socialist Party gentrification, against the sham equality policies of affirmative action. Collectively we have been punished with the curse of Cassandra—having the gift of prophecy, intellectualism, philosophy and legal historicism combined with the curse of having no one (or very few) listen to or read our ideas. See Clarence Thomas, *No Room at the Inn-The Loneliness of the Black Conservative*, *supra* note 81.

<sup>96</sup> Mounting evidence of President Obama’s progressive government surreptitious abuse of power using the IRS to blacklist conservative, tea party, Christian, Jewish, conservative, and patriotic organizations, denying them their deserved 501(C) (4) non-profit status had direct implications to suppressing the Republican vote in the 2012 election—Barack Obama vs. Mitt Romney. See Wynton Hall, *Progressive Group: IRS gave us conservative groups confidential docs*, Breitbart.com (May 14, 2013, 7:59 AM), <http://www.breitbart.com/Big-Government/2013/05/14/Progressive-Group-Says-IRS-Gave-Them-Confidential-Docs-On-Conservative-Groups>Breitbart, *supra* note 139.

the Constitution.<sup>97</sup> Congress, it is to your charge, particularly the 435 members of the House of Representatives that holds the purse strings that fund the thousands of colleges and universities including graduate schools like law schools and business schools.<sup>98</sup> It is in Congress where the gauntlet must be thrown down and courageous men who still venerate natural law and the original intent of the Framers will rise up and finally say ENOUGH!—No longer will we allow the progressives and leftists to take over all of our sacred institutions with their Darwin–Marx–Gramsci long march through the institutions tactics.<sup>99</sup> Why do I use the trilogy—Darwin, Marx and Gramsci to identify the socialist tactic?—Because all three philosophers contributed to the propagation of their diabolical ideas to deconstruct Judeo–Christian traditions through Hegelian dialectical materialism.

It is only in natural law jurisprudence and natural rights philosophy that the constitution is truly a living constitution... Wilson–Tribe “living constitution” false theory which allows for survival of the fittest, natural selection, triumph of the will, and Nietzsche’s Will to Power where slaves, pre-born babies and conservative scholars have little power in the arena of ideas. All of the philosophies are rooted in collectivist thinking and evolution atheism which have been debunked time and time again except inside the Academy, especially inside the elite Ivy–League institutions like Harvard, Yale, Princeton and Columbia.<sup>100</sup> Yea, it is only in natural law that the fundamental principle of the doctrine of subsidiarity (e.g., federalism, states’ rights) to true equality and justice under the law. Subsidiarity presupposes that society should not put off a

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<sup>97</sup> See: Thomas Jefferson, *Federal v. Consolidated Government*, from Resolutions Relative to the Alien and Sedition Acts 10 Nov. 1798, Writings 17:379–80, 385–91, Chapter 8, Document 41, <http://press-pubs.uchicago.edu/founders/documents/v1ch8s41.html>.

<sup>98</sup> See: Abstract, *supra* note 1. Perhaps just as John Hooker writings on natural law synthesized Aristotelian natural law with medieval natural law, may Justice Clarence Thomas natural law jurisprudence can do the same for American jurisprudence in modern times. Robert P. George, *From Jefferson’s “Letter to Henry Lee” to Martin Luther King’s “Letter From Birmingham Jail,”* 43 Cath. U. L. Rev. 143, 153 (1993).

<sup>99</sup> See: note on the works of writer Rudi Dutschke and his theory of the Socialism’s “Long March through the institutions,” *supra* note 94.

<sup>100</sup> *Roe v. Wade*, 410 U.S. 113 (1973).

social responsibility to a state or federal level of civil government that could be effectively carried out at a local level.<sup>101</sup>

America must reclaim a righteous jurisprudence that hearken back to the original intent of the constitutional Framers, to restore the natural law principle of liberty of contract enshrined in *Lochner v. New York*. So that conservative academics, scholars and intellectuals can come out of the closet, stop the Darwin–Marx–Gramsci *long march through the institutions*, and fully embrace their positions in society as transmitters of values and knowledge to our next generations inside the Academy as opposed to their liberal/progressive corollaries who consider themselves to be activist socialist agents of progressive change.<sup>102</sup> *Quis custodiet ipsos custodiet?*<sup>103</sup> Who guards the guardians?

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<sup>101</sup> Pope Pius XI defined the doctrine of subsidiarity by stating that “it is an injustice, a grave evil and a disturbance of rights order for a larger and higher organization to arrogate to itself functions which can be performed efficiently by smaller and lower [governmental] bodies.” Pope Pius XI, *Quadragesimo Anno* (1939). See also Douglas W. Kmiec, *Liberty Misconceived: Hayek’s Incomplete Relationship Between Natural and Customary Law* 40 *AM. J. JURIS* 209, 215 (1995) (explaining that the Tenth Amendment to the U.S. Constitution incorporates the doctrine of subsidiarity).

<sup>102</sup> 198 U.S. 45 (1905) (recognizing the liberty to contract as a fundamental economic right emanating from the due process clause of the Fourteenth Amendment). See also Clarence Thomas, *The Higher Law Background of the Privileges and Immunities Clause of the Fourteenth Amendment*, 12 *HARV. J.L. & PUB. POL’Y* 63, 68 (1989). For a discussion and explanation of how the Privileges and Immunities Clause provides for the protection of property rights, see *infra* pp. 63–64.

<sup>103</sup> Juvenal, *Satires* (Satire), *supra* note 1—Who guards the guardians? This Socratic dialectical question was written as a dedication page insert by my dear son, Stone Allen Washington for my two-volume book, see *supra* note 1, *The Progressive Revolution, vols. 1 & 2* (dedication page inserted opposite title page).