

Spring 2009

Barack Obama, Implicit Bias, and the 2008 Election

Jeffrey J. Rachlinski

Cornell Law School, jjr7@cornell.edu

Gregory S. Parks

Cornell Law School, J.D. 2008

Follow this and additional works at: <http://scholarship.law.cornell.edu/facpub>

 Part of the [American Politics Commons](#), [Politics Commons](#), [Psychology Commons](#), [Race and Ethnicity Commons](#), and the [Social Psychology and Interaction Commons](#)

Recommended Citation

Rachlinski, Jeffrey J. and Parks, Gregory S., "Barack Obama, Implicit Bias, and the 2008 Election" (2009). *Cornell Law Faculty Publications*. Paper 1085.

<http://scholarship.law.cornell.edu/facpub/1085>

This Article is brought to you for free and open access by the Faculty Scholarship at Scholarship@Cornell Law: A Digital Repository. It has been accepted for inclusion in Cornell Law Faculty Publications by an authorized administrator of Scholarship@Cornell Law: A Digital Repository. For more information, please contact jmp8@cornell.edu.



Cornell University
Law School

Lawyers in the Best Sense

Myron Taylor Hall
Ithaca, New York 14853-4901

Change Service requested

www.lawschool.cornell.edu

NON-PROFIT ORG.
U.S. POSTAGE
PAID
ITHACA, N.Y.
PERMIT NO. 780

CORNELL LAW FORUM



Spring 2009



What
the New
Treasury
Must Do

SEE PAGE 4



Cornell University
Law School

Lawyers in the Best Sense

Spring 2009

Lipitor and Women

Implicit Bias and the 2008 Election

New Avon Center for Women
and Justice at Cornell Law School

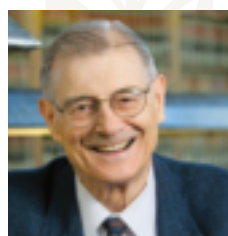
Kotz '90 Investigates SEC's
Handling of Madoff

2009 Reunion Schedule

FORUM
CORNELL
LAW
FORUM

FORUM

Spring 2009
Volume 35, No. 1



A Note from the Dean	2
What the New Treasury Must Do	4
<i>by</i> ROBERT C. HOCKETT	
Barack Obama, Implicit Bias, and the 2008 Election	8
<i>by</i> JEFFREY J. RACHLINSKI <i>and</i> GREGORY S. PARKS '08	
Lipitor and Women: Questionable Advertising and the Implications for FDA Preemption Claims	12
<i>by</i> THEODORE EISENBERG	
The Uniform Commercial Code: White & Summers Produce Fifth Edition	16
Briefs	20
New Avon Center for Women and Justice at Cornell Law School.....	20
Thomas Named Director of Middle East Clarke Initiative.....	21
Cornell Law School Partners with Leading Asian Institutions.....	22
Cornell Professors Awarded for Their Work Defending Death Row Inmates.....	23
Underkuffler Expands Ideas of Property.....	23
Defending the Legality of Controversial Wars.....	25
Sherwin "Demystifies" Legal Reasoning.....	25
Legal Remedies When Products Fail.....	25
Newest Cornell Law Students Bring Life and Work Skills to the Classroom.....	28
Faculty	32
Profiles	48
Claire M. Germain.....	48
Robert S. Summers.....	50
Margaret Finerty '78.....	54
Neil Getnick '78.....	56
K. Robert Hahn '48.....	58
Jia Jonathan Zhu '92.....	60
Quinton D. Lucas '09.....	62
Magdalena Hale Spencer J.D./LL.M./D.V.M. '09.....	64
Erin Kathleen Mawson Wiley '09.....	66
Alumni	68
Kotz '90 Investigates SEC's Handling of Madoff.....	69
Victor J. N. Cummings '89 Stands and Delivers.....	71
Marcia Goldstein '75 Receives Two Honors.....	73

Barack Obama, Implicit Bias, *and* *the* 2008 Election

by JEFFREY J. RACHLINSKI *and* GREGORY S. PARKS '08



Professor Rachlinski



Gregory S. Parks '08

The election of Barack Obama as the forty-fourth president of the United States suggests that the United States has made great strides with regard to race. The blogs and the pundits may laud Obama's win as evidence that we now live in a "post-racial America." But is it accurate to suggest that race no longer significantly influences how Americans evaluate each other? Does Obama's victory suggest that affirmative action and antidiscrimination protections are no longer necessary? We think not. Ironically, rather than marking the dawn of a post-racial America, Obama's candidacy reveals how deeply race affects judgment.

With notable exceptions, conscious or explicit racism was not part of the 2008 campaign. But social psychologists argue that unconscious or implicit biases have a powerful effect on how people evaluate each other.¹ Implicit racial bias is widespread; the vast majority of adult Americans, for example, more closely associate White faces with positive imagery and Black faces with negative imagery. Implicit bias induces dangerous assumptions; White Americans more readily associate Black Americans with weapons and White Americans with tools than the opposite pairing. Implicit bias is crude and ugly; White Americans associate apes and animals with Black Americans.

White adults also more frequently associate the concept of "American" with being White, and showing White adults subliminal images of the American flag increases their anti-Black bias. This last finding particularly shows the contrast between explicit beliefs and unconscious associations; African-Americans are obviously American, but they seem less so to most adult White brains.

Furthermore, implicit biases influence how people evaluate others. White interviewers who harbor strong anti-Black unconscious biases make less eye contact with Black job applicants, exhibit hostile body language, and report that these interviews are

The blogs and the pundits may laud Obama's win as evidence that we now live in a "post-racial America."

But is it accurate to suggest that race no longer significantly influences how Americans evaluate each other?



The election was marked by deeply racially stratified voting. Obama won among Black voters by 91 percentage points; among Latinos by 36 points; among Asians by 27 points; but he lost among White voters by 12 points.⁴ The spring Democratic Party primaries (which obviously control for political party preferences) were even more stratified. Exit polls showed that Obama never fared better among White voters than Black voters.⁵

uncomfortable. White interviewers who do not harbor such biases do not exhibit the same effects. And implicit biases have a documented neurobiological component. Those who evidence a strong association of White with good and Black with bad use a part of their brain associated with the fear response (the amygdala) to process Black faces. And at least one study also shows that unconscious racial biases can affect how people vote.

But did this landscape of unconscious bias affect the course of the 2008 election? Researchers have struggled to demonstrate the influence of unconscious biases in the real world. Ironically, several aspects of the election of the first Black president of the United States provide that demonstration.

First, throughout the campaign, criticisms abounded that Obama was unpatriotic or insufficiently American. These attacks began early, when a news story that Obama failed to place his hand over his heart during the singing of the national anthem at an Iowa fair gained traction. They continued as his detractors complained that he declined to wear an American flag pin on his lapel. The absence of a flag on Obama's lapel was small wonder when he was a little-known candidate, given the ability of American imagery to prompt negative associations toward Black Americans among some White Americans. Obama was vulnerable to such charges because many Americans associate being Black with being foreign.

So deep is the connection between "Black" and "foreign" in many Americans that one

early study, conducted in December 2007, showed not only that voters more closely associated Hillary Clinton with American imagery than Obama, they more closely associated Tony Blair with American imagery than Obama.²

In addition to conflating Obama's race with a lack of authentic Americanness, critics also alluded to his middle name, "Hussein," or alleged that he was Muslim or an Arab as indicators that he was, as Pat Buchanan often termed him, "exotic." It was perhaps no surprise that Senator John McCain's campaign theme was "country first," which takes fair advantage of McCain's war record, but also implies that Obama fails to put country first in the same way. Unconscious racial associations connecting "Black" with "foreign" helped make McCain's campaign theme seem a desirable strategy in opposing Obama.

Second, the campaign was not entirely free of explicit racial references, many mimicking the studies of associations between Black people and apes. At his restaurant, a White Georgia bar and grill owner began selling T-shirts depicting the image of Curious George, a cartoon monkey, with the slogan "Obama in '08." In June, a Utah company began making a sock monkey (doll) of Obama. During the fall, a man at a McCain rally carried a monkey doll with an Obama sticker wrapped around its head. At various points, both Democrats and Republicans used milder racial slurs to refer to Obama. Clinton surrogate, Andrew Cuomo, used the phrase "shuck and jive" in an indirect reference to Obama's campaign strategy. Republican congressman Tom Davis, in discussing how Obama would have difficulty

handling the immigration debate, described this issue as a "tar baby." Even when charging Obama with being an "elitist"—a charge that would seem to be inconsistent with stereotypes about Black Americans—many of his detractors used the more racially tinged word, "uppity."

Third, the primary elections exhibited what has been called the Bradley Effect—the tendency of polls to overestimate support for a Black candidate in an election against a White candidate.³ Although commentators denied that the Bradley Effect occurred, a clear pattern emerged in the spring primaries. States that held primaries and reported small percentages of Black voters (California, Massachusetts, New Hampshire, and Rhode Island) exhibited the Bradley Effect. By contrast, polls were basically accurate in states with Black populations in line with the national Black population of 12.3% (Illinois, Indiana, Ohio, Tennessee, and Texas). A reverse Bradley Effect—whereby pollsters underestimate support for Obama—occurred in Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Virginia, all of which are 19% or more Black. Of the eighteen states with open primaries and available data, only Wisconsin was inconsistent with this trend.

The pattern of polling error suggests strongly that voters either lied to pollsters or changed their minds at the last minute. White voters flinched at the last moment, unwilling to pull the lever in favor of the Black candidate. Black voters did the opposite: finding themselves unable to resist the prospect of voting for a viable Black candidate when the time came to



cast their ballots (or turning up at polls in numbers greater than expected). That this pattern did not persist in the fall is an interesting and promising development. But no pollster who assesses the spring primary data carefully will advise a future Black candidate to ignore the possibility of the Bradley Effect occurring.

Fourth, the election was marked by deeply racially stratified voting. Obama won among Black voters by 91 percentage points; among Latinos by 36 points; among Asians by 27 points; but he lost among White voters by 12 points.⁴ The spring Democratic Party primaries (which obviously control for political party preferences) were even more stratified. Exit polls showed that Obama never fared better among White voters than Black voters.⁵ Although he won overwhelmingly among Black voters everywhere, only in Iowa, Illinois, Vermont, Indiana, and North Carolina did he win among White voters. After the news reports about his former pastor, Reverend Jeremiah Wright, surfaced, he performed even less well among White voters. He lost White voters in Pennsylvania, Ohio, and Kentucky by 26, 30, and 49 points, respectively. All of this occurred even as less than 10 percent of voters indicated to pollsters that race influenced their vote, suggesting that voters might not understand their own motives well.

The campaign was thus a reflection of how contemporary racism works. Modern racism does not produce an overt smoking gun marking its influence; one has to look fairly carefully. It operates not as an absolute barrier, but as a kind of tax on members of

racial minorities. It facilitates certain negative assumptions through an invisible influence. McCain, after all, did not face a fair fight. Obama's success arose in large measure from his success in raising significantly more money than McCain and from the specter of an unpopular Republican president presiding over a horrific financial crisis that induced great demand for the kind of government intervention more closely associated with Democrats. And of course, implicit and explicit biases against older Americans' abilities are common as well.

Obama navigated the racial waters well. He spent a great deal of time and money creating positive imagery to combat the negative associations that are so common. For most of the spring campaign, his message was one of raw optimism, unadorned with details. Wisely so, as studies of implicit racial bias suggest that details concerning resumes and qualifications are influenced by unconscious associations. Once Obama created his own set of associations, he was rarely seen without a bevy of American flags behind him. Although campaign leaders now report that they only rarely discussed race, they ran a campaign well-suited to combating unconscious bias, just as McCain ran one well-suited to taking advantage of it.

But, of course, Obama had an army of strategists and pollsters backing his lengthy job interview with America. The ordinary Black job applicant faces the same racial environment without such assistance. Affirmative action and antidiscrimination laws can hardly be said to be unnecessary in a world in which the enormous resources Obama had available

are necessary to combat bias. The 2008 campaign thus teaches us that America is not so virulently racist as to reject outright a Black applicant for a serious position. The nature of the campaign, however, shows that race continues to play a complex and profound role in how Americans judge each other. The post-racial American may be on its way, but has yet to arrive. ■

Jeffrey J. Rachlinski, J.D. and Ph.D., is a professor at Cornell Law School. Gregory S. Parks, Ph.D., is a 2008 graduate of Cornell Law School and is presently a law clerk in the U. S. District of Columbia Court of Appeals. Next year he will be a law clerk in the U. S. District Court for the District of Maryland.

1. Except where noted, the work described in these paragraphs is documented in full at www.projectimplicit.net/.

2. Thierry Devos et al, "Is Barack Obama American Enough to Be the Next President? The Role of Racial and National Identity in American Politics," available at www-rohan.sdsu.edu/~tdevos/thd/Devos_spsp2008.pdf.

3. www.pewresearch.org/pubs/755/tracking-the-race-factor (providing the source of the data reported here).

4. www.abcnews.go.com/PollingUnit/ExitPolls2008#Pres_All.

5. www.msnbc.msn.com/id/21660890/; www.projects.washingtonpost.com/2008-presidential-candidates/primaries/exit-polls/.