# Dreaming of a Self Beyond Whiteness and Isolation

## john a. powell[*]

> *We are all androgynous, not only because we are all born of a woman and impregnated by the seed of a man, but because each of us, helplessly and forever, contains the other—male in female, female in male, white in black and black in white. We are a part of each other. Many of my countrymen appear to find this fact exceedingly inconvenient and even unfair, and so, very often, do I. But none of us can do anything about it.[1]*
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> *—James Baldwin (1998)*

## I. INTRODUCTION

In thinking about whiteness, I am reminded of an exercise that I did several years ago in a class. The class was on the history and the nature of the self. Most of the students in the class were white, and most were law students. After reading some neo-Jungian articles about dreams, and dreams in relationship to self-identity, I decided to ask the class how many of them had dreamt they were something non-human; an animal perhaps, or something inanimate. The vast majority of the class affirmed that they had. Some had dreamt they were a fox, or a spirit, or a cloud. Then I asked them how many of them had ever dreamt they were humans, but of a different race. Only a couple of students raised their hands. The number who had dreamt about being of a different gender or sexual orientation was only slightly higher.

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1. JAMES BALDWIN, HERE BE DRAGONS, *in* THE PRICE OF THE TICKET: COLLECTED NONFICTION 1948–1985, at 677, 677–90 (1985).

In some ways, the discussion following this exercise was as interesting as the initial response. For many of the students, this was unremarkable; after all, why would someone dream they were a different race or gender? It was only after some prodding that they began to share my sense of amazement. Here we were in a class where many of the students would identify themselves as liberal or progressive, yet they were much more likely to imagine themselves as a fox than a person of a different race in their dreams. It was easier for a white man to dream he was a cloud than to dream he was a black woman. We returned to this theme many times throughout the course. I encouraged and challenged the students to imagine themselves across these racial, gender, and sexual orientation boundaries in their dreams. Before the semester had ended, virtually all the students had done just that. They had not only imagined themselves as the racial, gender or sexual other, but they had begun to question how these boundaries were erected, maintained, and given meaning.

I hope that to the reader it is obvious why I found this experience so interesting and disturbing, and also of great learning value. Dreams are the site of one of our most uninhibited states. We are allowed the license to experience sexual taboos or superhuman powers. Social constraints and reality itself have little grip on our dream experiences; so much so that we can imagine ourselves to be a fox or a cloud. Yet racial boundaries are still largely intact. How is it that such a line is drawn and policed, even in our sleep, and what does this mean for our waking consciousness?

Andrew Hacker conducted a similar experiment with white students. He asked them how much money they would require to switch their race to black. Even as the imagined amount of money increased, there were very few takers.[2] Yet in a different setting these students are likely to claim that race does not exist or matter. In a moment of intellectual clarity, many would insist that race, and therefore racial boundaries, are not real, but that they are socially constructed.[3] Yet here we are, with the license to imagine ourselves

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2. ANDREW HACKER, TWO NATIONS: BLACK AND WHITE, SEPARATE, HOSTILE, UNEQUAL 31–32 (1992).

3. There is often an assumption that if race is not biologically real but socially constructed it

as anyone and anything, but transgressing this apparent color line remains unimaginable.

In this Article I want to engage racial boundaries and social boundaries in general. I want to poke them, prod them, and examine how these boundaries are constructed—not only in the structures and arrangements of our society, but within our processes of self-identification. I want to look at how we create these boundaries, and how they, in turn, create us. I assert that these external boundaries and manifestations of whiteness and internal white identity are linked at a deep level and that a better understanding of this relationship helps to explain why whiteness and racial hierarchy are still reproduced across all of our spaces from the most public to a space as private as our dreams.

## II. BOUNDARIES

Looking at boundaries and borders in a racial context, we notice that these boundaries are collectively and socially constructed. It takes a great deal of work to establish these boundaries, and a great deal of work to keep them intact. Secondly, there are constant challenges and contestation around these boundaries: How are they drawn, do they even exist, who belongs in or out, what work do they do? Much of the protestation is about the selection of who properly belongs inside and outside of these boundaries, not the boundaries themselves. Some have suggested that the white border needs to be made more porous so that people are allowed to pass as white.[4] Some have asserted that a racially white border does not speak to their life experience, that they have an orthogonal position in relationship to these issues. And still others want the border to be a project of self-selection with no public or social role. But none of these perspectives closely examine what this white boundary is and what it does. While it is true that these boundaries are in a continual state of flux, of being drawn and redefined, whiteness remains consistent in its valuation.

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is not real in a social sense. I have written against the errors. *See* john a. powell, *The "Racing" of American Society: Race Functioning as a Verb Before Signifying as a Noun*, 15 LAW & INEQ. 99 (1997).

    4. Ian F. Haney López, *White By Law*, *in* CRITICAL RACE THEORY 542, 542–50 (R. Delgado ed., 1995).

As Derrick Bell states, for all the slipperiness involved in the signification of these boundaries, a stable racial hierarchy continues to exist with whiteness on top and blackness at the bottom.[5]

In examining racial boundaries, it is useful to situate them in the context of boundaries more generically. Boundaries are designed to keep something in, or out, or both. There needs to be some differential between who or what is inside and who or what is outside with a different valuation between them. If there is no differentiation, or if this differentiation is too weak, the boundaries will become meaningless. Boundaries and borders are not simply markers between equal spaces. They are put in place for the benefit of one group in opposition to another group.[6] Crossing from inside to out or from outside to in will have different meaning and require different energy. If what is valued most is inside, there will be much greater interest in getting in, and much greater interest in keeping out those who are not designated as belonging. But it is not just the direction of movement that is affected by the nature of boundaries, but also who is doing the traveling. One only has to think about racial, ethnic, and now religious profiling at national borders to understand how these boundaries are contained within and inscribed on the body.

Boundaries take on meaning only when we define them that way. It is the social power we ascribe to them. Even a natural boundary, like a mountain, may have meaning as a border in one society or period of time, and no meaning as a border in another society or period of time. When traveling in Detroit, there is little to tell an observer that she has left Detroit and is now in Grosse Pointe. Of course, there are visual differences in the constructed environment, but this is not the result of anything natural. While such an insight may seem obvious, it is often lost on the courts. Richard Thompson Ford aptly demonstrated that courts think of jurisdiction and municipal space as completely natural and transparent on some occasions, and as completely political and opaque at other times.[7]

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5. Derrick Bell, *White Superiority in America*, *in* BLACK ON WHITE 138 (D.R. Roediger ed., 1998).
6. MARILYN FRYE, THE POLITICS OF REALITY: ESSAYS IN FEMINIST THEORY 10–12 (1983).
7. Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, 107 HARV. L. REV. 1843, 1843–59 (1994).

The courts' shifting views about boundaries makes it all but impossible for them to acknowledge the racial work that these boundaries are doing and even more difficult to disturb these seemingly natural arrangements. The need to constantly police borders also suggests that they are not neutral or natural. One would expect that the greater the inequality between borders, the greater the pressure for migration in one direction, and the greater the need for protection in the other direction. In other words, the greater the motivation on one side, the greater the fear on the other side.

One of our strongest concepts of boundaries and borders is that of the nation-state. Our everyday discourse is replete with the idea of a national identity, and by extension, national boundaries. Part of this discourse is also about the invasion of the alien other. Anthony Marx and Michel Laguerre remind us that nation-making is complicated, contradictory, and inherently racial.[8] One is likely to think of a nation-state as a bounded territory that must be policed, but there is also always the issue of people who are already in the bounded territory who are not considered part of the nation-state. Membership in a nation-state seldom coincides with the demarcation of the territory, although the identification of territory is an important part of the process. What is being sorted in the making of a nation-state is not just the question of who is in a physical space, but who is in the psychic space, in the imagined community of that space. It is not just space that is being bounded; space and beingness are being racialized. So some space becomes white space that needs protection and regulation, and some space becomes non-white space that needs containment and regulation. Both spaces exist inside and outside of the national boundaries.[9] It is not enough to be in the physical space to be part of the imagined community; one also has to be able to assert that one is part of the "racial state of being" to claim legitimacy for membership in white space.

In the context then of whiteness and race, we can say that the primary function of boundaries is to both create racial identities and

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8.  *See generally* MICHEL S. LAGUERRE, MINORITIZED SPACE: AN INQUIRY INTO THE SPATIAL ORDER OF THINGS (1999); ANTHONY MARX, MAKING RACE AND NATION: A COMPARISON OF THE UNITED STATES, SOUTH AFRICA, AND BRAZIL (1998).

9.  LAGUERRE, *supra* note 8, at 17–18.

then regulate and sort these identities in this racialized space. For example, we can see that the early zoning cases were fairly transparent in their goal to sort people by race, but even the more recent move to less transparent racial motives has not weakened the function or the desire to sort by race.[10] But this sorting of people can occur only after the racial subject has come into being. So the primary privilege (or disability) is racial identity and membership, or lack of membership, in the imagined space of the society.[11]

More than just keeping some people out and some people in, boundaries regulate the movement and status of people on the outside for the benefit of a more favored group. This entails having some outsiders inside the boundary, but in a prescribed number and under different conditions than those who have full membership. For example, there is little doubt that many interests in the United States are served by having people from Mexico and further south working on United States soil. For all the borders that continue to separate whites and non-whites, there is also a complicated relationship between the groups. Another example of outsiders placed inside (but regulated) can be seen in Aspen, Colorado, where an inclusionary zoning law was recently passed.[12] At first, this might seem like an unlikely community to support the inclusion of low- and moderate-priced housing as the inhabitants of Aspen are overwhelmingly white and wealthy. Aspen often wears the high price of housing as a badge of status and honor and it was clear that many of the beneficiaries of this inclusive housing would be Latinos. The cost of buying housing in Aspen has effectively maintained a segregated community. But the boundary was actually too effective at keeping some people out. Most Latinos in the Aspen community are essentially service workers for the wealthy whites. But because of the housing prices, many of

10. *See generally* KATE A. BERRY & MARTHA L. HENDERSON, GEOGRAPHICAL IDENTITIES OF ETHNIC AMERICA: RACE SPACE AND PLACE (2002); SHERYLL CASHIN, THE FAILURES OF INTEGRATION: HOW RACE AND CLASS ARE UNDERMINING THE AMERICAN DREAM (2004); KENNETH T. JACKSON, CRABGRASS FRONTIER: THE SUBURBANIZATION OF THE UNITED STATES (1985); DOUGLAS S. MASSEY & NANCY A. DENTON, AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS (1993).

11. STEVE MARTINOT, THE RULE OF RACIALIZATION 180–81 (2003); john a. powell, *The Needs of Members in a Legitimate Democratic State*, 44 SANTA CLARA L. REV. 969, 986–97 (2004).

12. *See generally* Aspen/Pitkin County Housing Authority, Aspen/Pitkin County Housing Guidelines (2003), *available at* http://www.aspenhousingoffice.com/images/other/guide.pdf.

these workers lived a great distance from the resorts of Aspen and could not get there on snowy days. The absence of their nannies and caretakers was disruptive to the lifestyle that the elite valued. To address this problem, they needed an arrangement in which some of the Latinos would always be available to work during inclement weather. This is only marginally different than large corporate farmers supporting the continuation of undocumented Latinos crossing the national border to work in their fields as undocumented laborers. It is not just their presence that is desired or not desired, but their presence under conditions regulated for others' benefit, that preclude full membership in the community.

### III. RACIAL BOUNDARIES

The precursor of these racial boundaries was a religious boundary, Christian and non-Christian. In some ways, the first "racial benefit" in the United States was that a Christian could not be a permanent slave.[13] However, because Christianity welcomed converts, this boundary was less than ideal for its primary function. It was too porous. The issue of slavery gave conversion to Christianity high value, regardless of religious benefit. Because substantial numbers of slaves converted to Christianity, a more rigid boundary was needed. Over the next hundred years, modern race—and racism—would be called into being. It would prove to be a much more acceptable boundary. There would be no conversion to whiteness by black slaves.[14]

There are likely to be many different people, groups and institutions inside and outside of these borders with different and even conflicting interests. If these interests, especially those on the inside, are too fractured, the ability to police the border will break down. The elite have the greatest role in calling these boundaries into being, but they need the support of the non-elite to maintain the boundaries effectively. If boundaries are to do their work, they must

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13. MARTINOT, *supra* note 11, at 47.

14. I do not mean to suggest that this boundary was perfect or simple to administer. It was neither. Who is black? Who is white? What if black and white mixed? For a more thorough discussion of this, see generally THEODORE W. ALLEN, THE INVENTION OF THE WHITE RACE (1994).

also be translated across several sites. If each institution had to start from scratch in classifying and giving meaning to boundaries, the cost would be much too high. There must be something like a meta-story about race that is easily accessible, which is why these boundaries are constructed along what Tilly would call a categorical characteristic. Boundaries from site to site must be in a relationship or aligned with each other.[15] While this seems accurate in what it states, it is not necessarily adequate. It understates the importance of the social construction of race and the creation of whiteness as a privileged space and a self-identity. In many ways, whiteness becomes our meta-story about race. Because it is inscribed in the self, it can easily be carried and transformed across multiple spheres.

Groups with different interests will often draw boundaries differently. As I have asserted above, it is in the interest of all those with a vested interest in the boundaries to keep them coherent enough to be stable, while individual groups still try to maximize their own interest and transfer the costs to others. If this shuffling process breaks down, it can escalate into open conflict and even violence at which point it becomes necessary for the elite to very overtly reinscribe the boundary. Perhaps the most important example of this dynamic in American history can be traced back to the *Dred Scott* case.[16] This case set clear parameters around who could access membership and opportunity. The Supreme Court concluded that because Scott, a runaway slave, was not a citizen, he could be excluded from membership in the imagined society.[17] At that time, not only were blacks denied the rights, privileges, and immunities of citizenship granted under the Constitution, they were viewed as "beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relation,"[18] and they were to be subjected to the authority of the dominant white race. In *Dred Scott*, Chief Justice Taney asserts that it is the authority of the federal government to confer citizenship, and to decide who belongs to our

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15. CHARLES TILLY, DURABLE INEQUALITY 6–8 (1998).

16. Dred Scott v. Sanford, 60 U.S. 393 (1856).

17. *Id.* at 454.

18. *Id.* at 407.

imagined society.[19] This applies to all blacks, emancipated or not. While we may decry Chief Justice Taney's decision, in some ways he was just regurgitating the underlying logic of whiteness. If whiteness was freedom, defined negatively as not slavery,[20] then blacks could never be free. They could be emancipated, they could be slaves, but they could not be free. Emancipated blacks still had their lives extremely regulated and in white space they did not enjoy many of the privileges and immunities associated with whiteness. This is the underlying logic that Chief Justice Taney is making reference to in his claims that no black could ever be a citizen.

But Chief Justice Taney was not just limiting black interest; much more importantly for whites, he was defining and distributing white interest. He was expanding the interest of slaveholding whites while limiting the interest of whites who wanted free states.[21] Chief Justice Taney was saying to these whites, you cannot regulate your space to keep out slaves. Slaves are property protected by the federal government and beyond the prerogative of wage-earning whites to regulate.[22] Whites feared that if slaves or even emancipated blacks were brought into free states, they would drive down wages and expose whites to slave conditions. Part of the reason they could think this is that they could not imagine solidarity with blacks.[23] There was an inability by both Northern and Southern whites to imagine blacks as full members of society.

The Civil War and the Civil War Amendments attempted to change this and overturn *Dred Scott* by redrawing the boundaries of citizenship and indeed the boundaries of whiteness. The Fourteenth Amendment conferred citizenship upon blacks and free slaves and all the privileges and immunities associated with it.[24] This claim of full

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19.  *Id.*

20.  *See generally* ERIC FONER, THE STORY OF AMERICAN FREEDOM (1998); ORLANDO PATTERSON, FREEDOM (1991).

21.  While it's true that some abolitionists who opposed slavery and saw blacks as potential equals, many more of those who wanted free states would surely not describe an emancipated black as "free." Freedom was whiteness, remember? Their opposition to bringing slavery into free states was more in opposition to all blacks, than to slavery as an unjust institution.

22.  FONER, *supra* note 20.

23.  *Id.*; DAVID ROEDIGER, THE WAGES OF WHITENESS: RACE AND THE MAKING OF THE AMERICAN WORKING CLASS NEW YORK (1991).

24.  As mentioned in the above section, membership may be the most important benefit in a

citizenship, which would bring blacks into the state as full members, threatened an end to whiteness, at least for the non-elite. After all, if the other has everything that I have, how is she the other? Most lawyers and law students today view the equal protection clause as being the most important part of the Fourteenth Amendment; however the privilege and immunities clause, with its much greater and explicit promise of full membership for blacks, had the potential to have much greater effects.

Almost immediately the country began to weaken on its promises for equal citizenship for blacks and the promise of full membership inherent in the Fourteenth Amendment. With a deft sleight of hand just five years after it became part of the Constitution, the Supreme Court asserted in the *Slaughter-House Cases* that while the Fourteenth Amendment had given blacks the right to national citizenship, the basic immunities and privileges of the citizen rest with the state and that the Fourteenth Amendment had *not* disturbed the state's authority to dispense those rights.[25]

This troublesome pattern would repeat itself many times over the next century and up to the present. Boundaries would be redrawn, or in some cases eviscerated, yet new boundaries would be created or old boundaries would be given new meaning that would always deprive blacks of full membership.[26] After the Civil War and Reconstruction, there would be a new rise of white dominance under Jim Crow and white terror. The promises of the Civil War and Reconstruction died quickly, as whites in the South staunchly resisted a redrawing of identity that would make blacks and whites equal members of society.[27] The tension between radical Republicans and

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truly democratic state as it then distributes all the other privileges. *See* MARX, *supra* note 8, at 5–6; powell, *supra* note 11, at 969–70, 987–88.

25. 83 U.S. 36 (1873). It is also worth noting that early civil rights laws were explicit regarding the privilege associated with whiteness so that §§ 1981–82 gave all citizens the same rights as whites. These statutes were both acknowledging the boundaries of whiteness and attempting to open them up.

26. For a good analysis of this under the modern civil rights laws, see generally GEORGE LIPSITZ, THE POSSESSIVE INVESTMENT IN WHITENESS (1998).

27. It is important to note here that the notion that black progress equates with white loss was exacerbated by the way that the white elite structured the redrawing of the racial boundaries to take away the rights of non-elite whites. This was not only true during Reconstruction, where rights were taken away from Southern whites as they were extended to blacks, but even in desegregation cases one hundred years later non-elite whites would be coerced to give up their control of white space (at

Southern whites would rise to such a fevered pitch that some feared another Civil War. This conflict was avoided by allowing the South to explicitly reinscribe white supremacy with the blessings of the North. The Hayes-Tilden Compromise was nothing short of a redrawing of white boundaries with blacks outside. In this way then, intra-white conflict was diminished, a new white identity was born, and a new black subordination was sealed that would exist until the 1950s and the struggles of the civil rights movement. Even after the civil rights movement, we would once again see the reconstruction of white identity and black subordination through the rearrangement of metropolitan space, policies, and governance. I will address this in a later section.

IV. ANTI-MISCEGENATION LAWS AND POST–CIVIL WAR JURISPRUDENCE: THE CONSTRAINTS OF WHITENESS AND THE NATURALIZATION OF RACIAL HIERARCHY

One of the most important and enduring boundaries for white identity and privilege was anti-miscegenation laws, supported by a deep naturalized assumption that race was fixed and that the mixing of races was absurd. When Lincoln's detractors attacked him, they often claimed that by supporting the expansion of free states and the end of slavery, he was laying the foundation for the amalgamation of the races and even interracial marriage. Lincoln responded that this was ridiculous. No one would support either of these propositions. There were enough black women for all the black men. The idea of interracial marriage was beyond the imagination of even anti-slavery supporters.[28]

The scare of interracial marriage (and its progeny: mixed-race children) would resurface in the context of integrated schools. Part of

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least temporarily) for the perceived benefit of blacks, while the elites would continue to protect their space. By searing this "black progress means white loss" mythology into the psyches of non-elite whites, the elite were often able to defer the hostility rightly directed at them to blacks. I am not asserting that non-elite whites were simply the pawns of the elite or that they would have easily accepted the demise of white boundaries if they wouldn't have been drawn in such a zero-sum way. Nevertheless, it is important to note the effects of redrawing these boundaries in a way that externalized the cost.

28. PETER WALLENSTEIN, TELL THE COURT I LOVE MY WIFE: RACE, MARRIAGE AND LAW—AN AMERICAN HISTORY 54–55 (2002).

the expressed fear of whites was the mixing of the races if students attended school together. It is interesting to note how many whites assumed that this ultimate black "penetration into" white space/body would mean the destruction of whiteness.[29] The regulation on crossing this boundary affected movement by both blacks and whites, but its eventual legal demise has not had the expected consequence. Whiteness is as enduring as ever. The legal anti-miscegenation rules regulating the private space of marriage and bodies for over 300 years help to expose the private and public nature of racial boundaries and identity.

During the seventeenth century, as racial slavery took hold, more people of African descent lived in Virginia and Maryland than in the other colonies combined. Thus, they were to become instrumental in the legal development of race. Virginia passed the first anti-miscegenation law in the colonies in 1691. This law was specifically designed "for prevention of that abominable mixture and spurious issue which hereafter may increase in this dominion, as well by negroes, mulattoes, and Indians intermarrying with English, or other white woman, as by their unlawful accompanying with one another."[30] A later law in Maryland would prohibit the marriage between white men and white women and the racial other.

At this time, the meaning of race and the drawing of racial boundaries was still in its initial stages. In order to have laws regulating racial boundaries, there needed to be some understanding or agreement regarding racial categories. A number of different approaches were adopted, and continue to this day in defining and sorting racial categories. For example, the first divide used to determine who could be enslaved was not based on race as we know it today, but instead, upon religion. These boundaries were later defined by language, and still later by racial terms as we know them today.[31] Even when the law moved to use race instead of other signifiers, it still begged the question: Who is white and who is negro or black? And although there were early questions about Indians and later Chinese immigrants and others, the question of race in its early

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29. CHARLES W. MILLS, THE RACIAL CONTRACT 52 (1997).
30. WALLENSTEIN, *supra* note 28, at 15.
31. *Id.* at 16.

development in the colonies was a question about who is white, and why are they white? Who is black, and why are they black? Despite the apparent "naturalness" and common sense logic of racial categories and their attendant boundaries, the law would never settle on a topology of race that would be stable.[32] Indeed, the various schemata were so convoluted that, in some cases, people who were married as white under one scheme would later become recategorized under the law so that one party remained white, and the other became black. This was then a violation of anti-miscegenation laws and the couples could be prosecuted.[33]

Early anti-miscegenation laws were much more likely to be designed to regulate and punish whites for crossing the racial boundary than to prosecute non-whites. Even among whites, the law approached the issue of interracial marriage and children differently for white men than for white women. For example, if a free white woman had a child with a black man and was not married, she was to pay a fine. If she could not pay the fine, her services were to be auctioned off for five years. However, there was no similar provision for white men having relationships with black women.[34] One of the implicit goals of these laws was to limit the sexual relations of white women to white men while simultaneously allowing white men, short of marriage, sexual liberty. This can be traced back to a larger effort to define white women and black slaves as property, and afford white men the legal protections of that property. It is clear that these laws and social practices were put in place by white men to define whiteness in general, and specifically for the benefit of those same white men. They were not about inter-racial marriage *per se* (there was little to no regulation of marriage between people of various non-white races) as much as they were about perceived white purity. Nevertheless, these boundaries limited the behavior of white men and women in order to service the broader goals attained by defining a coherent whiteness/blackness.

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32.   MICHAEL OMI & HOWARD WINANT, RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960S TO THE 1990S, at 1–5 (2d ed. 1994).

33.   *Id.* at 137–41.

34.   *Id.* at 16.

Wallenstein and others make the observation that there is an interconnected series of boundaries that serve to both define identities and create and distribute opportunities and burdens. Anti-miscegenation laws were part of a larger system of property rights, citizenship, and voting—each reinforcing the other. As recently as the 1940s and 1950s, supporters of these laws asserted that they were necessary to prevent interracial marriage, lest the boundaries become too amorphous and the racial caste system fail to function.[35] The need to maintain white purity only hardened as blacks became less enslaved.[36] Yet, when *Loving* struck down anti-miscegenation laws in 1967, whiteness did not end. There continued to be an assertion of the need to control if not marriage then the children from marriages. Concern about the "best interests" of the children would be used (and is still used today) to oppose children from "mixed marriages" or the adoption of children based on the race of the parents.[37] The end of anti-miscegenation law has not ended the social control and policing of social relations to promote and regulate white space.

It is obvious that the history of racialization in the United States was a long and often conflicted process.[38] It was anything but natural. Yet, as these racial boundaries began to take root, the courts would begin to explain them as determined by natural law as well as elusive individual preference. In *Plessy v. Ferguson*,[39] the Court constitutionalized the segregation of black from white. There are a number of things that are significant and disturbing about this case.

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35.  *Id.* at 3.

36.  *Id.*

37.  In INTERRACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY AND ADOPTION (2004), Randall Kennedy describes and critiques the opposition to white families adopting black children. He asserts that many black professionals argue that it is better for a black child to become a ward of the state than to be adopted by a white family. One may notice that this concern for the child accepts and leaves undisturbed the racial boundary that would punish those who would dare to transgress it. Even as we have moved as a society towards acceptance of interracial relationships and marriage (for example, the widespread condemnation of George W. Bush speaking at a college that prohibits interracial dating), it is still not uncommon to hear objections to these couples having children based on the claim that individuals can do what they please, but they should not subject children to the "confusion" or "problems" of being interracial. This reflects a widespread acceptance of racial boundaries and our collective discomfort of seeing them destabilized.

38.  *See generally* THEODORE ALLEN, THE INVENTION OF THE WHITE RACE: ORIGIN OF RACIAL OPPRESSION IN ANGLO-AMERICA (1998).

39.  163 U.S. 537 (1896).

We are now discussing post–Civil War jurisprudence. The country
had recently been through the bloodiest war in its history. There had
been a radical restructuring of the government and the Constitution to
include the concept of equality, citizenship and the right of political
participation for freed slaves. As a number of observers have
suggested, this was not just a restructuring of the meaning of
whiteness, but a profound restructuring of the country. The power
was to be shifted from the state to the federal constitution for the
protection of citizens and blacks were to be equal.[40] Both of these
substantive aspirations would soon be lost, taking with them the
opportunity for eviscerating racial boundaries and promoting racial
justice and democracy. Marx and Bell observe that the end of
Reconstruction   was   largely   a   compromise   between   the
disenfranchised whites who were reeling from the loss of an explicit
racialized status over blacks with the Northern elite who feared
another major white confrontation and wanted to win the contested
election of 1876. White boundaries and privilege were being remade
on the backs of former slaves, and through the promise of democracy
and fairness to white members.[41]

  It is perhaps not surprising that, after the North agreed to
withdraw troops and return rule of the South back to Southern racists
under the rhetoric of states' rights, blacks were both systematically
terrorized and disenfranchised. It is not surprising that *Plessy* allowed
new racial boundaries as the definition of what constituted whiteness
was being narrowed for blacks during this time, even as it was being
expanded for new immigrants.[42] What is surprising about *Plessy*, and
tells much about the quick reification of these racialized boundaries,
is the discourse about naturalness that the Court relied on for this
justification. They used the social and economic inequality of race,
and the distinctions of race, to enforce separation based on race.[43]
They noted some of the segregation imposed by state courts as proof
of its naturalness and legal soundness; they cited the widespread use

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40.  *See generally* CHARLES BLACK, A NEW BIRTH OF FREEDOM: HUMAN RIGHTS (1997).
41.  MARX, *supra* note 8, at 134–35.
42.  See generally the work of David Roediger, especially ROEDIGER, *supra* note 23. *See also*
NOEL IGNATIEV, HOW THE IRISH BECAME WHITE (1995); ALLEN, *supra* note 38.
43.  *Plessy*, 163 U.S. at 544.

of anti-miscegenation laws, and they referred to the legal acceptance of school segregation.[44] (Although, when citing the *Robert* case from Massachusetts that upheld racially segregated schools, the Court does not mention that the case was decided before the passing of the Fourteenth Amendment and had been subsequently overturned by the Massachusetts Supreme Judicial Court.) Even Justice Harlan, in his trenchant dissent from the ruling, accepted the naturalness and the logic of white superiority and did not see the Civil War Amendments or the Court as having a role in disturbing that superiority:

> The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So I doubt not, it will continue to be for all time, if it remains true to its great heritage and holds fast to the principles of constitutional liberty.[45]

In essence, the Court posited in *Plessy* that, given the pervasiveness of segregation and racial boundaries, it is not reasonable to assume that these practices were meant to be changed by the Civil War Amendments. This form of logic—that if a solution requires action across multiple different sites, it must be unreasonable—is still used by the Court in racial issues.[46]

The very presence of racial borders and their pervasiveness makes them seem natural and inevitable, yet there is a history of the development of these boundaries. There is a history to the development of racial hierarchy that is full of contingencies and contradictions. And there is also a history of social upheaval that attempts to challenge and upset the logic underlying racial meaning and the boundaries of whiteness. Anthony Marx notes that there were at least three major opportunities for racial restructuring:[47] the

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44. *Id.*

45. *Id.* at 559.

46. *See* McCleskey v. Kemp, 481 U.S. 279, 297 (1987). In *McCleskey*, the Court complained that adopting an effects test in the use of the death penalty could have the effect of disallowing a great deal of criminal justice practice. Justice Brennan noted that the Court seemed to be concerned with too much justice. *Id.* at 339 (Brennan, J., dissenting).

47. This is not meant to suggest that these boundaries remain stable and clear outside of these more turbulent periods. They do not. There is always contestation at these sites and subtle and not-so-subtle adjustments.

Revolutionary War, the Civil War, and the Civil Rights Movement.[48] Indeed, these periods did reformulate racial understanding and boundaries, especially the latter two. While there was progress, there was also a rearticulation and retrenchment that reestablished racial boundaries and continued to forestall a racially just democracy.[49]

## V. SPATIAL RACISM

In the post–civil-rights era, how is it that whiteness and racial hierarchy endure despite the end of Jim Crow and the end of the legal enforcement of what many considered to be the ultimate boundary, anti-miscegenation laws? I have argued elsewhere[50] and will continue to argue here that the way we organize our metropolitan areas, especially through persistent segregation, plays a large part in maintaining a way of racially distributing benefits and burdens, and provides the necessary space and boundary for whiteness to continue to flourish. It is clear, and increasingly accepted by contemporary geographers, that the spatial and the social are mutually constitutive.

Historically, Jim Crow laws had been most heavily developed in the South. However, the North had long used more rhetorically benign ways of inscribing whiteness. While the South was using specific laws that separated whites and blacks more by status than by physical space, the North was much more likely to use spatial

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48.  MARX, *supra* note 8.

49.  This cycle is not something only observed by academics. When Johnson signed the Civil Rights Act of 1963 he reportedly declared that he just gave the South to the Republicans. It was not long after this that the Republicans began to develop what became known as the Southern strategy. This strategy was initially pushed by Goldwater and implemented by Nixon and every Republican president since. The strategy is to appeal to Southern whites by adopting anti-black and anti–civil-rights policies and rhetoric. The trick is to do so without explicit racist references that have been discredited by the civil rights movement and tend to be rejected by more moderate whites. Consider that in 1964, none of the traditional Southern states were won by the Republicans whereas in 2000 and 2004 every Southern state went Republican. The Republican party was the party of Lincoln— what changed was the racial realignment that made the Republicans the party of the Southern whites. The Democrats have not yet developed a counter strategy: the closest they came was with Clinton's efforts to also appear to be tough on blacks with his welfare policies, law and order rhetoric, and expansion of the criminal justice system.

50.  john a. powell, *Addressing Regional Dilemmas for Minority Communities*, *in* REFLECTIONS ON REGIONALISM 218, 218–46 (Bruce Katz ed., 2000); INSTITUTE ON RACE AND POVERTY, UNIVERSITY OF MINNESOTA, RACISM AND METROPOLITAN DYNAMICS (2002), *available at* http://umn.edu/irp/publications/racismandmetrodynamics.pdf.

separation. At the time that blacks began to demand an end to Jim Crow laws and started moving north, the country was creating, on a massive scale, a new white place called the suburbs. From its inception, this place was explicitly white space.[51] When this space was challenged by Dr. King in Cicero, a Chicago suburb, by leading a march against housing discrimination, he was attacked by angry whites and there was a withdrawing of Northern support for civil rights. In many respects, the civil rights movement in this country was about the South, and attacking the ways that the South had constructed white space. Not only was the Northern form of white space not successfully attacked, but it was actually expanded to protect and extend white privilege.

Today, our arrangements of metropolitan space—persistent segregation, concentrated poverty, and fragmented governments[52]— sort people and opportunity in a racialized way reinscribing whiteness and its attendant privileges. We can, in part, trace this back to the government. The executive and legislative branches help finance white flight through transportation spending, subsidies and other measures, and the courts help to develop legal barriers to facilitate the exclusion of blacks and, to a lesser extent, other non-whites.[53]

For years, blacks and other marginalized groups fought to get into public space as full members, in part to have access to opportunity, but also to change the rules around space. What has happened in the last fifty years since the dismantling of Jim Crow is that rules related to public space have changed and shifted, and white space has become quasi-private. So now, the suburbs are treated as private, with the implicit right to exclude, and cities are treated as public.[54] Blacks are now moving to the suburbs in record numbers, trying to take advantage of well-financed, high-functioning schools, and to gain access to emerging job markets and other opportunities. But to date, much of their efforts have been frustrated by the protections that

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51. *See generally* JACKSON, *supra* note 10; MASSEY & DENTON, *supra* note 10.

52. In 1942, we had 24,500 municipalities and special districts in the U.S. By 2002, that number had more than doubled to 54,481. U.S. DEP'T OF COMMERCE, 2002 CENSUS OF GOVERNMENTS xiii (2002).

53. *See generally* CASHIN, *supra* note 10; MASSEY & DENTON, *supra* note 10.

54. Ford, *supra* note 7, at 1859.

the law and public policy have extended to this new white space. At one point, the Court treated local space only as a function of the State, and therefore, accessible to and able to be regulated by the State. Nevertheless, as blacks began to move to these spaces, there was an important shift as local autonomy became constitutionalized.[55] What we are seeing today is a devolution not just back to States' Rights, which was always bound up in the right to regulate blacks and create white space, but also a devolution back to local rights, which is increasingly being used to draw boundaries around white space.

The civil rights movement has been successful in opening up public space just in time to see that power and privilege shift to private space. Blacks gained power in the cities as opportunities left. This is why Winant can note that "the elimination of Jim Crow did not really occur" and that civil rights laws fail to "address the deeper logic of race in U.S. history and culture."[56] This is not about individual preference on the part of whites. Whites did not and could not create this space without the economic and legal support of the government. This realignment has caused another major shift in political alliances in this country. Northern suburban whites have realigned with Southern whites. The realignment has been both facilitated and exploited by the Republican Party. It is based on maintaining white space by preying on white fears without the explicit use of Jim Crow laws. Even though this process was complex, some variation of it was predicted by President Johnson when he signed the voting rights act into law.[57] So despite *Brown*, lunch counter sit-ins, marches on Washington, riots, speeches, hundreds of civil rights laws, and considerable gains in terms of racial attitudes, today we still live in racially segregated neighborhoods, send our children to racially segregated schools, have a transportation system and a health care system that is highly

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55. CASHIN, *supra* note 10, at 104–07.

56. HOWARD WINANT, THE WORLD IS A GHETTO: RACE AND DEMOCRACY SINCE WORLD WAR II, at 167–68 (2001).

57. Later asked by Bill Moyers about this legislative triumph, Johnson replied, "I think we've just handed the South over to the Republican party for the rest of our lives." DAVID HALBERSTAM, THE CHILDREN 517 (1998).

racialized, and distribute future opportunity through racialized wealth, all with virtually no reference to racism.

What is particularly important to the focus of this paper is that this phenomenon of spatial racism helps explain why the ending of anti-miscegenation laws and other old white boundaries did not bring about the destruction of whiteness as a social category. Too often, we tend to focus on particular borders or boundaries, obscuring our understanding of the fluid and relational nature of these boundaries. There is not a singular way to arrange institutions and structures to preserve whiteness and recreate racial hierarchy. Our focus on what was and its demise may obscure what is, and more importantly, what will be. At the same time that Jim Crow laws were being attacked and dismantled, the country was restructuring with new boundaries that would facilitate a new form of racial hierarchy. Federal Judge Robert Carter has noted that he was mistaken in thinking that the principle problem of racial exclusion was segregation. He now notes that segregation was but a symptom of the more intractable problem of white supremacy.[58] I do not say this in order to be pessimistic, nor to downplay the roles that segregation and white space have in creating whiteness, but simply to urge us to be aware that while we are fighting to change these racial boundaries, new and transformed structures, institutions and arrangements may be emerging to shore up whiteness.

VI. WHITENESS AND THE SELF: MODERNITY, REARTICULATION OF BACON'S REBELLION, THE ONTOLOGICAL EMPTINESS OF WHITENESS

"As long as you think you're white, there's no hope for you."—James Baldwin[59]

It is clear that for years the challenge of racial justice has been how to think about a new racial arrangement. It is also clear that we have not been successful in that effort. I think that part of the reason

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58.   "The mistake we made was that segregation was the evil . . . It was the symptom. The evil is white supremacy . . . that evil is marring this country." Adam Van Osdol, *Lawyer Analyzes Landmark Case Progress*, IDSNEWS.COM, Nov. 17, 2004, *at* http://idsnews.com/print.php?id= 26334 (quoting Robert Carter, Address at Indiana University School of Law on the fiftieth anniversary of *Brown v. Board of Education* (Nov. 16, 2004)).

59.   THE PRICE OF THE TICKET (American Masters and Maysles Films (1985)).

for this is our failure to fully understand whiteness, its pervasiveness, its qualities of both apparent instability and apparent permanence, and why it is seemingly so easy for whites to consistently realign in a way that excludes and punishes non-whites, particularly blacks. Much of the writing on whiteness has focused on whiteness as privilege, or to paraphrase Roediger and others, the notion that white privilege is a redundant term. To the extent that whiteness is equated with privilege and that privilege is racialized, there is a push by those concerned about racial inequality to eliminate white privilege. While this has been and continues to be a useful intervention, it is also limited. It fails to look at the non-material aspects of whiteness, and doesn't necessarily answer the question posed by James Baldwin's statement: What is lost in being white? Why is there "no hope" for whiteness? To better understand this, I want to look at what I think may be the most lucid case on the formation of whiteness in American history, and examine how it contributed to the formation of white identity in the early colonial period, and the embedding of whiteness/blackness in our modern sense of self.

In the early seventeenth century, the English came to the new world. Many of them were indentured servants or poor workers. There is also an elite class that ran the government, the industries, and the economy of the colonies. At this point, Africans were brought to the new world, most of them coming by way of the Caribbean. While in the Caribbean, they were prepared for work in the colonies and most of them learned to speak English. At this point in colonial history, race was not a developed concept. There was a sense of being Christian or English or African, but hardened racial boundaries had not come into being. There were some relationships between the Africans, the English and the Indians. At this point, few laws regulated behavior between what we would now define as races. Actually, there was some amount of cooperation between English workers and blacks, a solidarity born of not being part of the elite. Indeed, during this time period, there was a rebellion directed toward both the English elite and the indigenous people for more land and democratic reform. Bacon's Rebellion created a great deal of fear in the elite both because of its temporary successes and, more importantly, because of the cooperation between the growing number of Africans and poor English.

At the original hearing on Bacon's Rebellion there was no mention of African or English. It was not yet salient in the minds of the people. What *was* salient was the need to prevent cooperation between these different groups against the elite. The Rebellion is cited by a number of authorities as the wake-up call to the elite to begin to construct the barriers to separate the poor English from the Africans. Allen, in *The Invention of the White Race*, cites this rebellion and the need for control as an important development in the racial plan that would be developed over the next several decades.[60] So in essence what we are seeing here is the deliberate creation of whiteness to keep poor Europeans, mainly English, and African slaves from uniting. What was being gained by this turn to whiteness are important property and membership rights, and most importantly, the right to never become a slave.

Bacon's Rebellion was rearticulated to the general English population. But now, it was being told not as a rebellion against the elite, but as an armed rebellion against English Christians by African slaves. The framing of the story created a need to unite and police the slaves, and those uniting were Christians and English and soon to be white. Martinot notes that while the other, the negro African, was clearly identified from the beginning, it would take some time for the top of the binary to crystallize into a stable racial category. It would come to rest on the cloudy concept of whiteness. Note that this concept of whiteness was, from the very start, in opposition to the dangerous African other. As Martinot states, "the effects of setting aside the African population as an . . . ostracized category, was to construct a social consciousness on the part of all English as a commonality against the African."[61] But as Malcomson notes, part of the insecurity of whiteness was not just the insecurity of defending against the racialized other, but the uncertainness contained in the negative ontology of whiteness itself.[62]

Later, Africans were sent to the colonies without the transition time in the Caribbean. They arrived without knowing English or

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60. ALLEN, *supra* note 14, at 16–17.
61. MARTINOT, *supra* note 11, at 64.
62. SCOTT MALCOLMSON, ONE DROP OF BLOOD: THE AMERICAN MISADVENTURE OF RACE 299 (2000).

being otherwise acculturated. It would make it easier to imagine them as alien and dangerous. The governing councils further refined the poor whites by forming them into a patrol and giving them the power to police the governing slave system. This was a victory for the elites on all levels: poor whites did not have the ability to create laws, which undermined the original democratic and egalitarian impulses of Bacon's Rebellion, but they did now have enough of a stake in the system to begin to think of themselves as white. Whites would return to this theme of the need to regulate and literally police dangerous blacks again and again. What made blacks "dangerous" in the colonial period was their desire for freedom and to be full members in a newly forming democratic society.[63]

When one considers the timing of this racialization process, the powerful impacts of the structuring of the collective and individual self become even more pronounced. This process started early in the seventeenth century and continued for the next century. In many respects we can say that during the dawn of modernity and the enlightenment period, the modern self was born. Many things that we take for granted today, both internally and externally, were taking shape in this period. So the self that was being shaped in this context had a great deal of leeway for growth. This was particularly true for the residents of the colonies in the new world. Concepts like freedom, democracy, liberalism, citizenship, private property, the rise of the modern nation-state, and individualism were all being developed at this time. The self that was forming was a new and modern self, and this self continues to be the bedrock of the self that we experience today. That it was marked by the emergence of whiteness and

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63. One can easily think of many justifications that whites use to reinforce the notion that blacks are dangerous and black space must be regulated and policed today.

One of the interesting things that came out of a racial profiling report we did at the Institute on Race and Poverty looking at self-reported police practices in Minnesota was that as one moved from the Twin Cities into extremely white areas of rural Minnesota, the disparities in traffic stops and searches increased greatly for blacks and Latinos. *See generally* Institute on Race & Poverty, University of Minnesota, Minnesota Statewide Racial Profiling Reports, *at* http://umn.edu/irp/mnrpreport.html (last modified Sept. 24, 2003). The more a geographic space is defined as white, the more that others who enter it on their own terms—not working or directly servicing whites—will be suspect. *See id.* Even though the rates of found contraband were higher for searches of whites in most jurisdictions, the rates of searches of blacks and Latinos was egregiously high. This suggests not only a prejudice towards the racial other, but that searches have a regulatory role in maintaining the present racial boundaries *both for the searcher and the searchee. Id.*

racialized hierarchy while it was forming is exceptionally significant. Inasmuch as we are inheritors of this modern self, we are inheritors of a racialized self.

When we look at many of the enlightenment theorists, such as Locke, Hume, and Hobbes, we can see that they all share a view of a separate and isolated self. The most extreme example of this self, and the fear associated with its separation, is found in Hobbes. Hobbes' self is full of fear and dread. According to Hobbes, this self enters society with his things, scared that others will try to steal his things. The State, for Hobbes, is called into being to police these predatory selves and ensure harmony. There is an assumption here that the self and his possessions precede society. More importantly, this self is always at risk of being at war with all of the other fearful selves. If these selves come together, their connection is tenuous at best. It is this self that many of our laws and structures are designed to protect, but by constructing forms around this particular idea of the self, they are part of calling the self into being.

This view has undoubtedly been influential in Anglo-American thought and tradition, but there are other Western theorists, the romanticists and Rousseau particularly, that viewed the self as interrelated to other selves. Unger has suggested that there are dangers with either extreme. He asserts that the paradox of modern society is that "[w]e present to one another both an unlimited need and an unlimited danger, and the very resources by which we attempt to satisfy the former aggravate the latter."[64] We desperately need each other, but our longing exposes us to a heightened vulnerability.

Goldberg suggests in his writings that many of the things we value are bound up with the racial self, and that the white racial self in particular is bound up with a process of violence, exclusion and fear, particularly a fear of the black other.[65] This fear is increased by the codependence of the white subject and its other, as Shannon Winnubst notes, "the more a subject realizes his dependence on the Other, the more vehemently he rejects all connection to and distances

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64.  ROBERTO M. UNGER, PASSION: AN ESSAY ON PERSONALITY 20 (1986).
65.  *See generally* DAVID THEO GOLDBERG, RACIST CULTURE: PHILOSOPHY AND THE POLITICS OF MEANING (1993).

himself from that Other."[66] This is the hard edge of white space, the inherent fear of Hobbes' isolated self. Whiteness, as an ontological space, is called into existence by this process and is only there in the presence of the other. Importantly, blackness is bound up with whiteness—it is already and always present in the white self. It is because whiteness is empty and derivative that it needs the constitutive other for the grounding of its being. This is how I understand Baldwin's quotation. This is why Roediger, Ignatiev, and others assert that there is no such thing as white culture.[67] At its core, whiteness is vacant.

One may object that this emptiness is equally true of blackness, or any other race. This objection is partly true, but substantially wrong. While it is true that blackness is inherently devoid of meaning outside of contextual relationships and hierarchies of privilege and oppression, it is not equal to whiteness. The yearnings of blackness have largely been a crying out for liberation and membership. These cries have often been distorted into a mimicking of whiteness, including wanting to be seen as just an individual (colorblindness, etc.). At times, it has tried to hold an alternative space to whiteness by defining itself in opposition to whiteness, or as the reverse of it. While the history of blackness has been a cry for freedom, the history of whiteness has been to provide a space where exclusion, exploitation, conquest, violence, and subordination could be rationalized and normalized.[68]

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66. Shannon Winnubst, *Vampires, Anxieties and Dreams: Race and Sex in the Contemporary United States*, *in* 18 HYPATIA 3, 4 (2003).

67. *See* DAVID ROEDIGER, TOWARDS THE ABOLITION OF WHITENESS (1994); Noel Ignatiev, The Point Is Not to Interpret Whiteness but to Abolish It, Remarks at the University of California, Berkeley (Apr. 11–13, 1997), *available at* http://racetraitor.org/abolishthepoint.pdf.

68. I should add that I am not talking about individual people called black or white, nor is my intention to demonize whites or romanticize blacks. However, just as there is a history to the space associated with maleness in relationship to femaleness that is not very attractive, there is a history to whiteness that is not very attractive. This history of maleness does not describe my personal history or aspirations, but it does impact me and the world I inhabit.

VII. CONCLUSIONS: WHITENESS AND THE MULTIPLE SELF,
BOUNDARIES, SOME PRESCRIPTIONS FOR CHANGE

The question of whiteness is really a question of humanness. More specifically, can non-whites, and particularly blacks, be considered to be part of the political community with all the rights and privileges of such membership? Let us consider again the role of the white patrol to capture and police blacks in opposition to their struggle for freedom. Let us consider *Dred Scott*, perhaps the most defining case on black/white relations in our history. In his opinion, Chief Justice Taney reasoned that it was not possible for blacks to even consider being part of the political community.[69] He asserted that the only rights that blacks could have, free or enslaved, were those rights that whites granted them. In many ways, this is still our operative norm today. Whiteness is the field in which social and political power operates. Despite the Civil War, despite the civil rights movement, despite *Brown v. Board of Education*,[70] the question remains—can blacks be full members of civil society?[71] A positive answer to this question requires a rejection of whiteness.

When we look at racial boundaries and ask ourselves again what problems they are trying to solve, we can answer that they are solving the problem of how to create and maintain racial hierarchy. I have already suggested that these boundaries are designed to regulate status and behavior, constitute being and non-being, and distribute benefits and burdens. But, as we have also seen, these boundaries are part of the process of creating whiteness itself. It may appear that there are only a limited number of boundary arrangements that will maintain white space and racial hierarchy, which explains why they are so strongly defended. (Consider, for example, the almost manic flight of whites from neighborhoods or schools once a critical mass of blacks show up.) But this view, even though it is often held by both those who support and oppose racial hierarchy, is in error.

We have seen, throughout history, that whiteness is able to be constituted in a multitude of different ways, and that even when

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69.  Dred Scott v. Sanford, 60 U.S. 393, 403–06 (1856).
70.  347 U.S. 483 (1954).
71.  powell, *supra* note 11, at 994–97.

structures seen as key to maintaining whiteness fell apart, whiteness remained. Sometimes this has occurred by replacing overt discrimination with structures that were seemingly benign in intent, but still regulated white space. Other times it has occurred by devaluing the social space which was no longer white. For example, the prowess of white boxers was once seen as a testament to whites' inherent superiority in strength, skill, and intelligence. As Jack Johnson rose in prominence in the early 1900s, many prominent white social critics worried that if a black man were to become heavyweight champion of the world, it would significantly devalue whiteness. Jim Jeffries, the man who would challenge Jack Johnson after he first gained the title belt, would become the Great White Hope. Jack London spoke for millions of whites when he wrote in the *New York Herald*, "Jeff, it's up to you. The White Man must be rescued."[72] Jeffries lost, Johnson won, but whiteness remained. Why? Largely because boxing became an irrelevant social space, no longer a sport of skill and strength, but a savage sport of brute aggression. At times, whiteness is able to embrace token integrationism and other complexities—look, for example, at the policies being advanced by the current administration and its "multicultural" cabinet, or the fact that Southern segregationists who had supported anti-miscegenation laws were able to support Clarence Thomas and his white wife. So what I am again suggesting is that the problem is whiteness itself, not simply the ever-changing structures that are able to form and defend whiteness. This means that we need to tug at the deep relationship between whiteness and the self.

We can now return to the question with which we began this article. Why is it that white law students would more likely dream that they are a fox than that they are black, and what exactly is policing that racial boundary? A reading of Foucault is useful here, as I assert that it is the student's own internal gaze that is policing these boundaries. For Foucault, the subject interiorizes regulatory norms:

72.  Lerone Bennett, Jr., *Jack Johnson and the Great White Hope*, EBONY, Apr. 1994, at 88.

> He who is subjected to a field of visibility, and who knows it,
> assumes responsibility for the constraints of power; he makes
> them play spontaneously upon himself; he inscribes in himself
> the power relation in which he simultaneously plays both roles;
> he becomes the principle of his own subjection.[73]

So this monitoring is both within and without; the subject becomes the subjectifier and the subjected. The racialization process, then, is a process by which we police ourselves in concert with social norms and sanctions for crossing prohibited racial boundaries.

The overarching reason for this interiorization, the reason that whites cannot bear to transgress the color line even in their dreams, is that the sense of self, constructed from whiteness, is in constant fear of being contaminated by the racial other that is already present *in absentia*. In fact, the fear is not just of contamination *per se*, but of the destruction of whiteness. Since this whiteness is bound up with the sense of self and gives meaning and value to the self, the destruction of whiteness equals the destruction of the self—ontological death, or perhaps even worse. Patterson shows how the Greeks consider slavery worse than death.[74] If one is bound up in the imagined space of whiteness, to leave that space does not take one into nothingness—as scary as that is—but into blackness. In this blackness one is alive, yet there is a social death. It is a self that is owned, dominated, and regulated by others. It is a negation that remains present. It is a self that one would not dare to be even in one's dreams.

So then the fear of the racial other, the racial black other, is not just about the loss of a job, the decline in property values, or other material privileges, but the very loss of the self. Of course, what I am suggesting here is that the self that is being so violently protected is itself the problem.[75] But a group is not likely to ease into ontological annihilation. There must be an alternative. Part of that alternative must be the

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73. MICHEL FOUCAULT, DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON 202–03 (1997).

74. ORLANDO PATTERSON, SLAVERY AND SOCIAL DEATH 100 (1982).

75. From a Buddhist perspective, the idea of emptiness is not something terrifying that must be filled. Perhaps this ideology is too much of a leap for most racialized Americans. For a discussion of the Buddhist perspective of the self, see generally john a. powell, *Lessons From Suffering: How Social Justice Informs Spirituality*, 1 ST. THOMAS L.J. 102 (2003); DAVID R. LOY, A BUDDHIST HISTORY OF THE WEST: STUDIES IN LACK (2002); ANN CAROLYN KLEIN, MEETING THE GREAT BLISS QUEEN: BUDDHISTS, FEMINISTS AND THE ART OF THE SELF (1995).

recognition of the inherent compounded nature of the self. When the tight boundaries of self/non-self can become loosened, so can other boundaries.

Before turning more directly to the outlines of a proscription, there are a number of important caveats to make. The recognition that we are contextual and multiple is not the same as assimilation. We are individual as a matter of convention. As I have said in other places, we are individuals, but none of us are just individuals. Our connectedness will allow something called "individual expression." This is particularly important in the context of race given the inclination to either reduce everyone and everything to me or to make the other the infinite and unreachable other.

Nor am I suggesting that we will alleviate racial hierarchy by simply having people cross these problematic boundaries in their sleep (or in wakefulness for that matter). Some authors have suggested that the solution to the racial boundary issue is likely to be an increasing number of people passing for white as "white Latinos" become white, much as earlier immigrants like the Irish and Italians did. Lani Guinier and Gerald Torres disapprove of this approach, referring to it as "the racial bribe."[76] Even if more and more people are allowed to pass, and notice the connotations of those words "allowed to pass," it does nothing to transform the meaning associated with that boundary in the first place. In the context of this article, it leaves the inherently problematic category of whiteness intact. Simply allowing more people to cross over to the benefits side of the boundary is not enough. The very need to pass indicates the continued salience of racial hierarchy. There is a similar problem with an uncritical notion of inclusion. I am not arguing for exclusion, but on what terms is the inclusion taking place? What exactly are people being included into? To paraphrase Baldwin, who wants to be integrated into a burning house?[77]

What about whites renouncing white privilege? While it is important to interrogate how privilege is generated and how it

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76. LANI GUINIER & GERALD TORRES, THE MINER'S CANARY: ENLISTING RACE, RESISTING POWER, TRANSFORMING DEMOCRACY 225 (2002).

77. JAMES BALDWIN, *East River, Downtown: Postscript to a Letter from Harlem*, in COLLECTED ESSAYS 180 (Toni Morrison ed., Library of America 1998).

functions, it is not clear to me that much of what is called privilege can or even should be given up. There is often a false symmetry: If blacks are denied something that whites have, then it must be a privilege, which is not necessarily the case if we are defining privilege as an illegitimate benefit that injures others. Consider voting rights, or being treated fairly in the judicial system, or any number of other benefits that a disproportionate number of blacks are denied. These are privileges of whiteness, to be sure, yet they are not something whites should aspire to give up. The structures of whiteness often deprive non-whites of things that we would associate with human dignity, but not all deprivation means there is privilege on the other side of the ledger.[78]

Where whites do in fact have white privilege, it is not clear that they can ever give it up if we remember the assertion that white privilege is redundant. To renounce the privileges would be to give up whiteness itself. However, this cannot be accomplished at an individual level. "[W]hite people cannot individually abandon whiteness in order to adjure their white skin privilege; it is bestowed upon them by social institutions in white society. It will be continually reimposed by the social institutions that preserve and reconstitute it."[79] While Ignatiev and other abolitionists posit that "the task is to gather together a minority determined to make it impossible for anyone to be white,"[80] it is not clear that this is at all a viable objective. Warren, using Judith Butler's theories of performativity to critique the new abolitionists, notes that any attempt to eliminate racial hierarchy and whiteness based on intention and choice on the part of the white subject makes the implicit assumption that the choice exists. However, "a subject is not accidental but rather a product of historical choices and discursive norms . . . whiteness . . . is a reproducing of a historical situation . . . a product of time, not individual intent."[81]

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78.  IRIS MARION YOUNG, JUSTICE AND THE POLITICS OF DIFFERENCE (1990).
79.  MARTINOT, *supra* note 11, at 201.
80.  IGNATIEV, *supra* note 42.
81.  John Warren, *Performing Whiteness Differently: Rethinking the Abolitionist Project*, 51 EDUC. THEORY 454 (2001).

I am not suggesting that the interrogation of whiteness and the privileges bound up in it is not useful. I have attempted to do some of that in another article,[82] but these approaches are both incomplete and likely to be misdirected. Any particular focus on privilege as being something that can possibly be separated from whiteness is likely to leave the structure of whiteness in place with the reinscribing of a new arrangement of privileges. Any focus on the deconstruction of whiteness through the individual intent of whites risks, as Wiegman notes, "reproducing . . . the white male rebel as the . . . subject of antiracist struggle."[83] In our increasingly complicated postmodern world, transgression is much more complicated than deciding "not to be white." One could point to the Civil War and the Civil Rights Movement as two examples of the attempt to disturb white privilege without striking at its core.

But how are we to strike at the core of white racial hierarchy? What I have been asserting throughout this article is that we must address the ontological question. This is not a retreat from the possible or a retreat to the interior. It is not just race that is socially constructed; so is the self.[84] We must better understand and address how this self is constructed and what maintains its attachment to whiteness. The self, and particularly the white self, has a history. Because the self has a history, it is constantly being made and remade. This process goes largely unnoticed and hides behind a veil of naturalness. But it would be a serious error to see this as only an internal undertaking. This is part of the myth of the individual subject, that the self is internal and private. We must expose the social nature of the subject. This subject is not just held together by other subjects but also by our norms, practices and institutions. This subject is related to other subjects and to the world. Together this creates a context that the subject lives in both externally and internally. But this fix is never perfect. This context always denies

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82. *See generally* john a. powell, *Whites Will Be Whites: The Failure to Interrogate Racial Privilege*, 34 U.S.F. L. REV. 419 (2000).

83. Robyn Wiegman, *Whiteness Studies and the Paradox of Particularity*, 26 BOUNDARY 2, at 115, 141 (1999).

84. ANNE CAROLYN KLEIN, *supra* note 75, at 25–37 (1995); powell, *supra* note 3.

some possibility that yearns for expression. This yearning itself is part of the hope.

As we think about institutional arrangements, we must think about what they mean for routine expression and the experience of internal space. Unger reminds us that the way institutions are arranged will either mutilate or provide space for the emancipation of our being.[85] For those of us with privilege, we must use those privileges we cannot reject to better understand, expose, and destabilize the structures and cultural norms that support and reinscribe whiteness. We must raise the cost of maintaining whiteness by seeking strategic interventions that reduce racialized disparities across multiple areas, but still seek to better understand and problematize whiteness. We must begin to work for a new set of arrangements that will support a new way of relating, a new way of being.

So, part of this answer is in the material world, the arrangements of structures and institutions—not only because we need to address material needs and disparities, but because structures are not separate from our self. But we must keep an eye on the self that we are trying to call into being. Without working on the interiorization of whiteness, we simply cannot solve the problem of whiteness. There has been some development in this region, but I believe that the ontological question of whiteness remains largely undertheorized.[86] The purpose of this understanding is to end the performance of whiteness, not so that whites can be non-white or uncolored people, but so we can all be human with all our social amalgamation and complexity that has so long been denied and dreaded. Feminist theory has developed a view of the self as radically relational. It is this relational self that whiteness is created in, but fearful to acknowledge. How can we create communities of kinship that allow us to explore these connections?

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85.   ROBERTO M. UNGER, DEMOCRACY REALIZED: THE PROGRESSIVE ALTERNATIVE (1998).

86.   I should mention that there is an emerging concern in whiteness studies that worries that whiteness studies itself runs the risk of recentering whiteness or reifying racial categories. I share that concern. But the examination of whiteness I am suggesting is not simply about the study of white people, or whiteness as something that can be separate from blackness, but the study of race and racial hierarchy and the lynchpin role of whiteness in maintaining that structure. Whiteness and race must be deconstructed together. From this perspective, the work of critical race theorists, feminist theorists, and queer theorists becomes essential.

Another part of the answer is in interior work. As Ken Jones notes, "[w]ithout the inner work we become part of the problem rather than part of the solution . . . As Mahatma Gandhi observed, the belief . . . that we can devise a social system so perfect that no one will need to be good, is one of the great delusions of our time."[87] (However, even this is not cut off from our transformation of structures. He also notes that "without the outer work [of transforming structures and arrangements], the inner work cannot be socially manifested on the scale that is now required.")[88] It is clear that the solution to whiteness will not arise within a worldview or a self view based on separation. Moving beyond this view of the self as separate and unconnected is a profoundly spiritual project. It is the urge and yearning for connection that lies within us all. We are often not comfortable mixing our spiritual yearnings and our secular work for social justice, but I have argued that this is a false and problematic separation.[89]

Perhaps then, we must end by talking about love. "Love gives us the hope and reality of reconnecting. It heals the sense of loss and separation that haunts the egoistic self . . . for love to be realized the ego must be called beyond itself."[90] Who are we when we are free from the illusions of a separate self? I am talking about calling something new into being, but I do not know exactly how this space can be created. While I think I can see some possibilities, they are all vague. However, our present condition of separateness should be, no must be, put to rest if we are to live a future that is worth living. Can we imagine a self beyond isolation and whiteness? Can we imagine Dr. King's beloved community? Perhaps we can start this imaginative process in our dreams . . .

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87. KEN JONES, WESTERN CHAN FELLOWSHIP, THE ZEN OF SOCIAL ACTION (1995), *at* http://westernchanfellowship.org/reading/ncf11_TheZenOfSocialAction.html.

88. *Id.*

89. *See generally* powell, *Lessons from Suffering*, *supra* note 75.

90. *Id.* at 122.