

CHAPTER SIX

The Measure of Humanity

In a parallel universe with laws of nature similar to our own, a conquering people with powerful weaponry journeyed across the oceans and discovered people who looked different from themselves. They were startled to chance upon humans who towered above them, were taller than any humans they had ever seen before. They did not know what to make of this discovery. They had thought of, and measured themselves as, the standard for human existence. But the indigenous people they saw were at the outer limits of a particular human trait: their height. Even the women averaged over six feet, some of the men approached seven. The well-armed explorers were the opposite. Their weapons were deadly, and their bodies were closer to the ground.

At this moment in human history, as the world was being claimed by competing tribes of the well-armed, two peoples who were at the extremes of a highly visible yet arbitrary human characteristic—being tall or short—were confronting each other for the first time. A tribe of the shortest humans were now face-to-face with the tallest. Those with the most advanced weapons prevailed and found use for the tallest people. They decided to transport them to the New World they were creating.

They joined forces with other Shorts around the world, with whom they made common cause. With their superior guns and stratagems, they conquered the Talls, captured and enslaved them

for a quarter millennium, and built a great democracy. They told themselves the Talls deserved no better, that they were uncultured, backward, inferior, had not made use of their strengths and resources. They were an altogether different species, born to serve the conquerors, deserving of their debasement. They were a separate and subordinate race.

This story of conquest sounds preposterous to our ears, not because it did not happen, but because of the seeming absurdity of height as a means of categorizing humanity and determining race.

We could have been divided up by any number of other traits. And yet height, like skin pigment, is overwhelmingly an inherited trait, controlled by as much as 80 percent of one's genes and fairly consistent in family and tribal groupings. As with the pigment of skin, height falls within a wide range among adults in the species, with most people in the middle and with extremes at the poles, from a maximum of seven feet for adults to a minimum of under four feet. Were height the measure for determining race, as arbitrary a measure as any and less arbitrary than some, the Dutch people of the Netherlands would be the same "race" as the Nilote people of South Sudan or the Tutsis of Rwanda, as they are all among the tallest in our species, even the women averaging well over six feet. On the other end, the Pygmies and Sardinians would be their own separate "race," as they have historically been among the shortest humans.

If current caste behavior were any guide, everyone else would be in the middle, perhaps playing up to whichever height was in power, wearing platform heels if the Tall people ruled, bragging that height ran in their families, choosing the tallest people to date and to marry to gain the advantages of the ruling caste. Stereotypes would calcify, as they already do for extremes in height, but magnify to justify the lowly or elevated position of whichever group was in power.

In a caste system dominated by Short people, anyone in the subordinate race of Tall people would be dismissed merely as brawn, consigned to menial, servile positions, seen as good only

for entertainment or servitude. Short people would be seen as born to leadership due to their presumed innate intellect and culture, admired for the longevity said to attend people smaller in stature, regarded as the standard of beauty, the default setting for human.

Tall people would be made to feel insecure and self-conscious, gangly and unappealing, having been born at the opposite end of the ideal. Society would assume that any Tall person was good at sports and physical labor, whether or not he or she had interest or aptitude. Scientists might devise tests to measure the difference between Talls and Shorts beyond height alone, tests that would largely track the results of generations of either advantage or exclusion and likely affirm widely held assumptions about the Shorts' inherent supremacy and the Talls' misfortune of deficits. There would be few Tall people in the boardrooms and corridors of power, and a disproportionate number of them in prisons and on the streets. Being tall would become shorthand for inferior in a caste system ruled by Short people, and vice versa.

Ludicrous though it may sound to us now, had height been the means of categorizing humans for centuries as it has been for skin color and facial features, people would have accepted it as the received wisdom of the laws of nature. It would have seemed ridiculous that, in an alternate universe, people would ever be divided by color, given that, clearly, it would have been obvious that height was the determining factor in beauty, intelligence, leadership, and supremacy. The idea of linking disparate groups together on the basis of an arbitrary shared characteristic of being extremely tall or short sounds farcical to us, but only because this characteristic is not the one that has been used to divide humans into seemingly immutable "races."

The idea of race is a recent phenomenon in human history. It dates to the start of the transatlantic slave trade and thus to the subsequent caste system that arose from slavery. The word *race* likely derived from the Spanish word *raza* and was originally used to refer to the "'caste or quality of authentic horses,' which are

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branded with an iron so as to be recognized," wrote the anthropologists Audrey and Brian Smedley. As Europeans explored the world, they began using the word to refer to the new people they encountered. Ultimately, "the English in North America developed the most rigid and exclusionist form of race ideology," the Smedleys wrote. "Race in the American mind was and is a statement about profound and unbridgeable differences. . . . It conveys the meaning of social distance that cannot be transcended."

Geneticists and anthropologists have long seen race as a man-made invention with no basis in science or biology. The nineteenth-century anthropologist Paul Broca tried to use thirty-four shades of skin color to delineate the races, but could come to no conclusion. If all the humans on the planet were lined up by a single physical trait, say, height or color, in ascending or descending order, tallest to shortest, darkest to lightest, it would confound us to choose the line between these arbitrary divisions. One human would blend into the next and it would be nearly impossible to make the cutoff between, say, the San people of South Africa and the indigenous people along the Marañón River in Peru, who are scientifically measured to be the same color, even though they live thousands of miles apart and do not share the same immediate ancestry.

As a window into the random nature of these categories, the use of the term *Caucasian* to label people descended from Europe is a relatively new and arbitrary practice in human history. The word was not passed down from the ancients but rather sprang from the mind of a German professor of medicine, Johann Friedrich Blumenbach, in 1795. Blumenbach spent decades studying and measuring human skulls—the foreheads, the jawbones, the eye sockets—in an attempt to classify the varieties of humankind.

He coined the term *Caucasian* on the basis of a favorite skull of his that had come into his possession from the Caucasus Mountains of Russia. To him, the skull was the most beautiful of all that he owned. So he gave the group to which he belonged, the Europeans, the same name as the region that had produced it. That is

how people now identified as white got the scientific-sounding yet random name Caucasian. More than a century later, in 1914, a citizenship trial was under way in America over whether a Syrian could be a Caucasian (and thus white), which led an expert witness in the case to say of Blumenbach's confusing and fateful discovery: "Never has a single head done more harm to science."

The epic mapping of the human genome and the quieter, long-dreamt-of results of DNA kits ordered in time for a family reunion have shown us that race as we have come to know it is not real. It is a fiction told by modern humans for so long that it has come to be seen as a sacred truth.

Two decades ago, analysis of the human genome established that all human beings are 99.9 percent the same. "Race is a social concept, not a scientific one," said J. Craig Venter, the geneticist who ran Celera Genomics when the mapping was completed in 2000. "We all evolved in the last 100,000 years from the small number of tribes that migrated out of Africa and colonized the world." Which means that an entire racial caste system, the catalyst of hatreds and civil war, was built on what the anthropologist Ashley Montagu called "an arbitrary and superficial selection of traits," derived from a few of the thousands of genes that make up a human being. "The idea of race," Montagu wrote, "was, in fact, the deliberate creation of an exploiting class seeking to maintain and defend its privileges against what was profitably regarded as an inferior caste."

We accept the illogic of race because these are the things we have been told. We see a person with skin that is whiter than that of most "white" people, and we accept that they are not "white" (and thus of a different category) because of the minutest difference in the folds of their eyelids and because perhaps their great-grandparents were born in Japan. We see a person whose skin is espresso, darker than most "black" people in America, and accept that he is, in fact, not "black," absolutely not "black" (and is thus a completely separate category), because his hair has a looser curl and perhaps he was born in Madagascar. We have to be taught

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this illogic. Small children who have yet to learn the rules will describe people as they see them, not by the political designations of black, white, Asian, or Latino, until adults "correct" them to use the proper caste designations to make the irrational sound reasoned. Color is a fact. Race is a social construct.

"We think we 'see' race when we encounter certain physical differences among people such as skin color, eye shape, and hair texture," the Smedleys wrote. "What we actually 'see' . . . are the learned social meanings, the stereotypes, that have been linked to those physical features by the ideology of race and the historical legacy it has left us."

And yet, observed the historian Nell Irvin Painter, "Americans cling to race as the unschooled cling to superstition."

The word *caste*, which has become synonymous with India, did not, it turns out, originate in India. It comes from the Portuguese word *casta*, a Renaissance-era word for "race" or "breed." The Portuguese, who were among the earliest European traders in South Asia, applied the term to the people of India upon observing Hindu divisions. Thus, a word we now ascribe to India actually arose from Europeans' interpretations of what they saw; it sprang from the Western culture that created America.

The Indian concept of rankings, however, goes back millennia and is thousands of years older than the European concept of race. The rankings were originally known as *varnas*, the ancient term for the major categories in what Indians have in recent centuries called the caste system. The human impulse to create hierarchies runs across societies and cultures, predates the idea of race, and thus is farther reaching, deeper, and older than raw racism and the comparatively new division of humans by skin color.

Before Europeans expanded to the New World and collided with people who looked different from themselves, the concept of racism as we know it did not exist in Western culture. "Racism is a modern conception," wrote the historian Dante Puzzo, "for prior

to the XVIth century there was virtually nothing in the life and thought of the West that can be described as racist."

The R Word

What we face in our current day is not the classical racism of our forefathers' era, but a mutation of the software that adjusts to the updated needs of the operating system. In the half century since civil rights protests forced the United States into making state-sanctioned discrimination illegal, what Americans consider to be racism has shifted, and now the word is one of the most contentious and misunderstood in American culture. For the dominant caste, the word is radioactive—resented, feared, denied, lobbed back toward anyone who dares to suggest it. Resistance to the word often derails any discussion of the underlying behavior it is meant to describe, thus eroding it of meaning.

Social scientists often define racism as the combination of racial bias and systemic power, seeing racism, like sexism, as primarily the action of people or systems with personal or group power over another person or group with less power, as men have power over women, whites over people of color, and the dominant over the subordinate.

But over time, racism has often been reduced to a feeling, a character flaw, conflated with prejudice, connected to whether one is a good person or not. It has come to mean overt and declared hatred of a person or group because of the race ascribed to them, a perspective few would ever own up to. While people will admit to or call out sexism or xenophobia and homophobia, people may immediately deflect accusations of racism, saying they don't have "a racist bone in their body," or are the "least racist person you could ever meet," that they "don't see color," that their "best friend is black," and they may have even convinced themselves on a conscious level of these things.

What does *racist* mean in an era when even extremists won't admit to it? What is the litmus test for racism? Who is racist in a

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society where someone can refuse to rent to people of color, arrest brown immigrants en masse, or display a Confederate flag, but not be "certified" as a racist unless he or she confesses to it or is caught using derogatory signage or slurs? The fixation with smoking out individual racists or sexists can seem a losing battle in which we fool ourselves into thinking we are rooting out injustice by forcing an admission that (a) is not likely to come, (b) keeps the focus on a single individual rather than the system that created that individual, and (c) gives cover for those who, by aiming at others, can present themselves as noble and bias-free for having pointed the finger first, all of which keeps the hierarchy intact.

Oddly enough, the instinctive desire to reject the very idea of current discrimination on the basis of a chemical compound in the skin is an unconscious admission of the absurdity of race as a concept.

This is not to say that the consequences of this social construct are not real or that abuses should not be prosecuted to the full extent of the law. It is to say that the word *racism* may not stand as the only term or the most useful term to describe the phenomena and tensions we experience in our era. Rather than deploying *racism* as an either/or accusation against an individual, it may be more constructive to focus on derogatory actions that harm a less powerful group rather than on what is commonly seen as an easily deniable, impossible-to-measure attribute.

With no universally agreed-upon definition, we might see racism as a continuum rather than an absolute. We might release ourselves of the purity test of whether someone is or is not racist and exchange that mindset for one that sees people as existing on a scale based on the toxins they have absorbed from the polluted and inescapable air of social instruction we receive from childhood.

Caste, on the other hand, predates the notion of race and has survived the era of formal, state-sponsored racism that had long been openly practiced in the mainstream. The modern-day version of easily deniable racism may be able to cloak the invisible

structure that created and maintains hierarchy and inequality. But caste does not allow us to ignore structure. Caste is structure. Caste is ranking. Caste is the boundaries that reinforce the fixed assignments based upon what people look like. Caste is a living, breathing entity. It is like a corporation that seeks to sustain itself at all costs. To achieve a truly egalitarian world requires looking deeper than what we think we see. We cannot win against a hologram.

Caste is the granting or withholding of respect, status, honor, attention, privileges, resources, benefit of the doubt, and human kindness to someone on the basis of their perceived rank or standing in the hierarchy. Caste pushes back against an African-American woman who, without humor or apology, takes a seat at the head of the table speaking Russian. It prefers an Asian-American man to put his technological expertise at the service of the company but not aspire to CEO. Yet it sees as logical a sixteen-year-old white teenager serving as store manager over employees from the subordinate caste three times his age. Caste is insidious and therefore powerful because it is not hatred, it is not necessarily personal. It is the worn grooves of comforting routines and unthinking expectations, patterns of a social order that have been in place for so long that it looks like the natural order of things.

What is the difference between racism and casteism? Because caste and race are interwoven in America, it can be hard to separate the two. Any action or institution that mocks, harms, assumes, or attaches inferiority or stereotype on the basis of the social construct of race can be considered racism. Any action or structure that seeks to limit, hold back, or put someone in a defined ranking, seeks to keep someone in their place by elevating or denigrating that person on the basis of their perceived category, can be seen as casteism.

Casteism is the investment in keeping the hierarchy as it is in order to maintain your own ranking, advantage, privilege, or to elevate yourself above others or keep others beneath you. For those in the marginalized castes, casteism can mean seeking to keep

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those on your disfavored rung from gaining on you, to curry the favor and remain in the good graces of the dominant caste, all of which serve to keep the structure intact.

In the United States, racism and casteism frequently occur at the same time, or overlap or figure into the same scenario. Casteism is about positioning and restricting those positions, vis-à-vis others. What race and its precursor, racism, do extraordinarily well is to confuse and distract from the underlying structural and more powerful Sith Lord of caste. Like the cast on a broken arm, like the cast in a play, a caste system holds everyone in a fixed place.

For this reason, many people—including those we might see as good and kind people—could be casteist, meaning invested in keeping the hierarchy as it is or content to do nothing to change it, but not racist in the classical sense, not active and openly hateful of this or that group. Actual racists, actual haters, would by definition be casteist, as their hatred demands that those they perceive as beneath them know and keep their place in the hierarchy.

In everyday terms, it is not racism that prompts a white shopper in a clothing store to go up to a random black or brown person who is also shopping and to ask for a sweater in a different size, or for a white guest at a party to ask a black or brown person who is also a guest to fetch them a drink, as happened to Barack Obama as a state senator, or even perhaps a judge to sentence a subordinate-caste person for an offense for which a dominant-caste person might not even be charged. It is caste or rather the policing of and adherence to the caste system. It's the autonomic, unconscious, reflexive response to expectations from a thousand imaging inputs and neurological societal downloads that affix people to certain roles based upon what they look like and what they historically have been assigned to or the characteristics and stereotypes by which they have been categorized. No ethnic or racial category is immune to the messaging we all receive about the hierarchy, and thus no one escapes its consequences.

What some people call racism could be seen as merely one

manifestation of the degree to which we have internalized the larger American caste system, a measure of how much we ascribe to it and how deeply we uphold it, act upon it, and enforce it, often unconsciously, in our daily lives.

When we assume that the woman is not equipped to lead the meeting or the company or the country, or that a person of color or an immigrant could not be the one in authority, is not a resident of a certain community, could not have attended a particular school or deserved to have attended a particular school, when we feel a pang of shock and resentment, a personal wounding and sense of unfairness and perhaps even shame at our discomfort upon seeing someone from a marginalized group in a job or car or house or college or appointment more prestigious than we have been led to expect, when we assume that the senior citizen should be playing Parcheesi rather than developing software, we are reflecting the efficient encoding of caste, the subconscious recognition that the person has stepped out of his or her assumed place in our society. We are responding to our embedded instructions of who should be where and who should be doing what, the breaching of the structure and boundaries that are the hallmarks of caste.

Race and caste are not the cause and do not account for every poor outcome or unpleasant encounter. But caste becomes a factor, to whatever infinitesimal degree, in interactions and decisions across gender, ethnicity, race, immigrant status, sexual orientation, age, or religion that have consequences in our everyday lives and in policies that affect our country and beyond. It may not be as all-consuming as its targets may perceive it to be, but neither is it the ancient relic, the long-ago anachronism, that post-racialists, post-haters of everything, keep wishing away. Its invisibility is what gives it power and longevity. Caste, along with its faithful servant race, is an x-factor in most any American equation, and any answer one might ever come up with to address our current challenges is flawed without it.

CHAPTER SEVEN

Through the Fog of Delhi to the Parallels in India and America

The flight to India landed in a gray veil that hid the terminal and its tower at the international airport in Delhi. It was January 2018, my first moments on the subcontinent. The pilot searched for a jetway through the drapery of mist. It was two in the morning, and it was as if we had landed in a steam kettle, were still airborne in a cloud, the night air pressing against cabin windows, and we could see nothing of the ground. I had not heard of rain in the forecast and was fascinated by this supernatural fog in the middle of the night, until I realized that it was not fog at all, but smoke—from coal plants, cars, and burning stubble—trapped in stagnant wind. The pollution was a shroud at first to seeing India as it truly was.

At daybreak, the sun pushed through the haze, and, once I connected with my hosts, I raced along with them to cross an intersection, an open stretch of asphalt with cars hurtling in every direction with no lanes or speed limits. We made our way along the side streets to the conference we were attending. I saw the wayside altars and mushroom temples with their garlands and silk flowers to the Hindu deities at the base of the sacred fig trees. There, commuters can pause for reflection as they head to work or an exam or a doctor's visit. The sidewalk shrines seemed exotic to me until I thought of the American ritual of spontaneous altars of flowers and balloons at the site of something very different, at the site of

an accident or tragedy, as for the young woman killed at the infamous rally in Charlottesville, Virginia, just months before. Both reflect a human desire to connect with and honor something or someone beyond ourselves.

The United States and India are profoundly different from each other—in culture, technology, economics, ethnic makeup. And yet, many generations ago, these two great lands paralleled each other, both protected by oceans and ruled for a time by the British, fertile and coveted. Both adopted social hierarchies and abide great chasms between the highest and the lowest in their respective lands. Both were conquered by people said to be Aryans arriving, in one case, from across the Atlantic Ocean, in the other, from the north. Those deemed lowest in each country would serve those deemed high. The younger country, the United States, would become the most powerful democracy on earth. The older country, India, the largest.

Their respective hierarchies are profoundly different. And yet, as if operating from the same instruction manual translated to fit their distinctive cultures, both countries adopted similar methods of maintaining rigid lines of demarcation and protocols. Both countries kept their dominant caste separate, apart and above those deemed lower. Both exiled their indigenous peoples—the Adivasi in India, the Native Americans in the United States—to remote lands and to the unseen margins of society. Both countries enacted a fretwork of laws to chain the lowliest group—Dalits in India and African-Americans in the United States—to the bottom, using terror and force to keep them there.

"Perhaps only the Jews have as long a history of suffering from discrimination as the Dalits," wrote the Dalit journalist V. T. Rajshekar. "However, when we consider the nature of the suffering endured by the Dalits, it is only the African American parallel of enslavement, apartheid and forced assimilation that comes to mind."

Both countries have since abolished the formal laws that defined their caste systems—the United States in a series of civil

rights laws in the 1960s and India decades before, in the 1940s, but both caste systems live on in hearts and habits, institutions and infrastructures. Both countries still live with the residue of codes that prevailed for far longer than they have not.

This description of caste history from the 2017 Indian book *Ground Down by Growth* could be said of the American caste system with only a few word changes, as noted by parentheses: "The colonial powers officially abolished slavery in India (the United States) in 1843 (1865), but this simply led to its transformation into bondage through relations of debt, what has been called 'debt peonage' by scholars."

In both countries and at the same time, the lowest castes toiled for their masters—African-Americans in the tobacco fields along the Chesapeake or in the cotton fields of Mississippi, Dalits plucking tea in Kerala and cotton in Nandurbar. Both worked as enslaved people and later for the right to live on the land that they were farming, African-Americans in the system of sharecropping, Dalits in the Indian equivalent, known as *saldari*, both still confined to their fixed roles at the bottom of their respective worlds.

"Both occupy the lowest positions on the status hierarchies in their societies," wrote Harvard political scientist Sidney Verba and his colleagues in a study of Dalits and African-Americans. Both have been "particularly singled out from other groups" based on characteristics ascribed to them.

While doors have opened to the subordinated castes in India and in America in the decades since discrimination was officially prohibited, the same spasms of resistance have afflicted both countries. What is called "affirmative action" in the United States is called "reservations" in India, and they are equally unpopular with the upper castes in both countries, language tracking in lock-step, with complaints of reverse discrimination in one and reverse casteism in the other.

There are many overarching similarities but they are not the same in how they are structured or operate. The American system was founded as a primarily two-tiered hierarchy with its contours

defined by the uppermost group, those identified as white, and by the subordinated group, those identified as black, with immigrants from outside of Europe forming blurred middle castes that sought to adjust themselves within a bipolar structure.

The Indian caste system, by contrast, is an elaborate fretwork of thousands of subcastes, or *jatis*, correlated to region and village, which fall under the four main *varnas*, Brahmin, Kshatriya, Vaishya, and Shudra, and the excluded fifth, known as Untouchables or Dalits. It is further complicated by non-Hindus—Muslims, Buddhists, and Christians—who are outside the caste system but have incorporated themselves into the workings of the country and, while eschewing rigid caste, may or may not have informal rankings among themselves and in relation to the *varnas*.

Unlike the United States, which primarily uses physical features to tell the castes apart, in India it is people's surnames that may most readily convey their caste. Dalit names are generally "contemptible" in meaning, referring to the humble or dirty work they were relegated to, while the Brahmins carry the names of the gods. Generally, you must know the significance of the name, learn the occupation of their forefathers, and perhaps know their village or their place in the village to ascertain their caste. But after centuries of forced submission and in-group marriage, they may also be identified by their bearing, accents, and clothing, all of which, over the centuries, were required to be lowly and menial, as well as a tendency to be darker than upper-caste people, though not always.

The Indian caste system is said to be stable and unquestioned by those within it, bound as it is by religion and in the Hindu belief in reincarnation, the belief that one lives out in this life the karma of the previous ones, suffers the punishment or reaps the rewards for one's deeds in a past life, and that the more keenly one follows the rules for the caste they were born to, the higher their station will be in the next life.

Some observers say that this is what distinguishes the Indian caste system from any other, that people in the lowest caste accept

their lot, that it is fixed and unbending, that Dalits live out their karma decreed by the gods, and do their lowly work without complaint, knowing not to dream of anything more. In order to survive, some people in a subordinated caste may learn and believe that resistance is futile. But this condescending view disregards generations of resistance, as well as the work of Ambedkar and the reformer Jotiba Phule before him. It was also wrongly assumed of enslaved Africans, and it disregards a fundamental truth of the species, that all human beings want to be free.

The Dalits were no more contented with their lot than anyone would be. In a caste system, conflating compliance with approval can be dehumanizing in itself. Many Dalits looked out beyond their homeland, surveyed the oppressed people all over the world, and identified the people closest to their lamentations. They recognized a shared fate with African-Americans, few of whom would have known of the suffering of Dalits. Some Dalits felt so strong a kinship with one wing of the American civil rights movement and had followed it so closely that, in the 1970s, they created the Dalit Panthers, inspired by the Black Panther Party.

A few years ago, a group of African-American professors made a trip to a rural village in Uttar Pradesh, India. There, hundreds of villagers from the lowliest subcaste, the scavengers, came together for a ceremony to welcome the Americans. The villagers sang Dalit liberation songs for the occasion. Then they turned to their American guests and invited them to sing a liberation song of their own. A law professor from Indiana University, Kenneth Dau Schmidt, began a song that the civil rights marchers sang in Birmingham and Selma before they faced sheriffs' dogs and water hoses. As he reached the refrain, the Dalit hosts joined in and began to sing with their American counterparts. Across the oceans, they well knew the words to "We Shall Overcome."

The Nazis and the Acceleration of Caste

Berlin, June 1934

In the early stages of the Third Reich, before the world could imagine the horrors to come, a committee of Nazi bureaucrats met to weigh the options for imposing a rigid new hierarchy, one that would isolate Jewish people from Aryans now that the Nazis had taken control. The men summoned in the late spring of 1934 were not, at that time, planning, nor in a position to plan, extermination. That would come years later at a chillingly bloodless and cataclysmic meeting in Wannsee deeper into a world war that had not yet begun.

On this day, June 5, 1934, they were there to debate the legal framework for an Aryan nation, to turn ideology into law, and were now anxious to discuss the findings of their research into how other countries protected racial purity from the taint of the disfavored. They sat down for a closed-door session in the Reich capital that day, and considered it serious enough to bring a stenographer to record the proceedings and produce a transcript. As they settled into their chairs to hash out what would eventually become the Nuremberg Laws, the first topic on the agenda was the United States and what they could learn from it.

The man chairing the meeting, Franz Gürtner, the Reich minister of justice, introduced a memorandum in the opening minutes, detailing the ministry's investigation into how the United States

managed its marginalized groups and guarded its ruling white citizenry. The seventeen legal scholars and functionaries went back and forth over American purity laws governing intermarriage and immigration. In debating "how to institutionalize racism in the Third Reich," wrote the Yale legal historian James Q. Whitman, "they began by asking how the Americans did it."

The Nazis needed no outsiders to plant the seeds of hatred within them. But in the early years of the regime, when they still had a stake in the appearance of legitimacy and the hope of foreign investment, they were seeking legal prototypes for the caste system they were building. They were looking to move quickly with their plans for racial separation and purity, and knew that the United States was centuries ahead of them with its anti-miscegenation statutes and race-based immigration bans. "For us Germans, it is especially important to know and see how one of the biggest states in the world with Nordic stock already has race legislation which is quite comparable to that of the German Reich," the German press agency Grossdeutscher Pressedienst wrote as the Nazis were solidifying their grip on the country.

Western Europeans had long been aware of the American paradox of proclaiming liberty for all men while holding subsets of its citizenry in near total subjugation. The French writer Alexis de Tocqueville toured antebellum America in the 1830s and observed that only the "surface of American society is covered with a layer of democratic paint." Germany well understood the U.S. fixation on race purity and eugenics, the pseudoscience of grading humans by presumed group superiority. Many leading Americans had joined the eugenics movement of the early twentieth century, including the inventor Alexander Graham Bell, the auto magnate Henry Ford, and Charles W. Eliot, the president of Harvard University. During the First World War, the German Society for Racial Hygiene applauded "the dedication with which Americans sponsor research in the field of racial hygiene and with which they translate theoretical knowledge into practice."

The Nazis had been especially taken with the militant race the-

In their search for prototypes, the Nazis had looked into white-dominated countries such as Australia and South Africa, but "there were no other models for miscegenation law that the Nazis could find in the world," Whitman wrote. "Their overwhelming interest was in the 'classic example,' the United States of America."

These seventeen men were convening at a time of intrigue and upheaval in a country descending into dictatorship. The Nazis were in the final throes of consolidating their power after their takeover the year before. Hitler had been sworn in as chancellor but was not yet the *Führer*. That would not happen until later that summer, in August 1934, when the death of Germany's ailing president, Paul von Hindenburg, the last holdover of the Weimar regime, cleared the way for Hitler to seize total control.

Hitler had made it to the chancellery in a brokered deal that conservative elites agreed to only because they were convinced they could hold him in check and make use of him for their own political aims. They underestimated his cunning and overestimated his base of support, which had been the very reason they had felt they needed him in the first place. At the height of their power at the polls, the Nazis never pulled the majority they coveted and drew only 38 percent of the vote in the country's last free and fair elections at the onset of their twelve-year reign. The old guard did not foresee, or chose not to see, that his actual mission was "to exploit the methods of democracy to destroy democracy."

By the time they recognized their fatal miscalculation, it was too late. Hitler had risen as an outside agitator, a cult figure enamored of pageantry and rallies with parades of people carrying torches that an observer said looked like "rivers of fire." Hitler saw himself as the voice of the *Volk*, of their grievances and fears, especially those in the rural districts, as a god-chosen savior, running on instinct. He had never held elected office before.

As soon as he was sworn in as chancellor, the Nazis unfurled

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their swastikas, a Sanskrit symbol linking them to their Aryan "roots," and began to close in on the Jews. They stoked ancient resentments that dated back to the Middle Ages but that rose again when the Jews were made the scapegoats for Germany's loss and humiliation at the end of World War I. Seen as dominant in banking and finance, Jews were blamed for the insufficient financial support of the war effort, although historians now widely acknowledge that Germany lost on the battlefield and not solely for lack of funds.

Still, Nazi propaganda worked to turn Germans against Jewish citizens. Nazi thugs taunted and beat up Jews in the streets and any Aryans who were found to be in relationships with them. The regime began restricting Jews from working in government or in high-status professions like medicine or the law, fields that incited jealousy among ordinary Germans who could not afford the expensive cars and villas on the lake that many successful Jews had acquired. This was the middle of the Great Depression, and more than a third of Germans were out of work in 1933, the year the Nazis came to power. The Jews' prestige and wealth were seen as above the station of a group that Nazis decreed were beneath the Aryans.

Mindful of appearances beyond their borders, for the time being at least, the Nazis wondered how the United States had managed to turn its racial hierarchy into rigid law yet retain such a sterling reputation on the world stage. They noticed that in the United States, when it came to these racial prohibitions, "public opinion accepted them as natural," wrote the historian Claudia Koonz.

A young Nazi intellectual named Herbert Kier was tasked with compiling a table of U.S. race laws, and was confounded by the lengths to which America went to segregate its population. He made note that, by law in most southern states, "white children and colored children are sent to different schools" and that most states "further demand that race be given in birth certificates, licenses and death certificates." He discovered that "many Ameri-

can states even go so far as to require by statute segregated facilities for coloreds and whites in waiting rooms, train cars, sleeping cars, street cars, buses, steamboats and even in prisons and jails." In Arkansas, he noted, the tax rolls were segregated. He later remarked that, given the "fundamental proposition of the equality of everything that bears a human countenance, it is all the more astonishing how extensive race legislation is in the USA."

Kier was just one of several Nazi researchers "who thought American law went overboard," Whitman wrote.

With the results of their research laid out before them, the men at the June meeting began debating two main pathways to their version of a caste system: first, creating a legal definition for the categories of Jews and Aryans, and, second, prohibiting intermarriage between the two. Germany had looked at America's miscegenation laws decades before and tested its own intermarriage ban at the turn of the twentieth century, when it forbade its settlers to mix with indigenous people in its colonies in South West Africa. In so doing, Germany went further than most colonial powers, but it did not come close to the American model. Now Nazi extremists pushed for ways to prevent "any further penetration of Jewish blood into the body of the German *Volk*."

As the debate got under way, Krieger, the former University of Arkansas law student, reported that Americans had gone so far as to make interracial marriage a crime punishable by as much as ten years' imprisonment in many jurisdictions. He pointed out that the United States had divided its population in two with "artificial line-drawing" between white and colored people. He and other Nazis showed a fascination with the American habit of assigning humans to categories by fractions of perceived ancestry. "There is a growing tendency in judicial practice," Krieger said, "to assign a person to a group of coloreds whenever there is even a trace of visible Negro physical features."

The men who gathered for that meeting did not agree on how much to draw from American jurisprudence. The moderates at the table, among them the chair himself, Franz Gürtner, argued for

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less onerous methods than the Americans were using. He suggested that "education and enlightenment" about "the perils of race-mixing" might be enough to discourage Aryans from intermarrying with others. At one point, he sought to downplay the U.S. prototype because he had a hard time believing that Americans actually enforced the laws the Nazis had uncovered. "Gürtner simply refused to concede that the Americans actually went so far as to prosecute miscegenists," Whitman wrote.

One of the hard-liners at the table, the Nazi radical Roland Freisler, was impatient with the pace of the proceedings. He had joined the Nazi Party back in the 1920s and was pushing for a law to punish Jews and Aryans for "racial treason" if they intermarried. Time and again, he and the other extremists in the room brought the discussion back to the American statutes, explained and defended them and tried to convince the skeptics.

"How have they gone about doing this?" Freisler asked at one point, breaking down his research into the United States and its laws of human classification. The Americans, he explained, used a range of motley parameters to separate white people from everyone else. One state, he said, classified as nonwhite any and all "persons from Africa, Korea or Malaysia." In another example, he said, "Nevada speaks of Ethiopians or of the black race, Malaysians or of the brown race, Mongols or of the yellow race." Freisler argued that the overlapping contradictions could work to their advantage. The tangle of American definitions lent a measure of latitude and a useful inconsistency to the task of human division. The Americans had come up with a definition of race apart from logic or science, an approach that Freisler called the "political construction of race."

What the Nazis could not understand, however, was why, in America, "the Jews, who are also of interest to us, are not reckoned among the coloreds," when it was so obvious to the Nazis that Jews were a separate "race" and when America had already shown some aversion by imposing quotas on Jewish immigration. Aside from what, to the Nazis, was a single vexing omission, "this juris-

prudence would suit us perfectly," said Freisler, who, unbeknownst to those at the table would one day be in a position to make heartless use of it in his career as the hanging judge of the Reich. "I am of the opinion that we need to proceed with the same primitivity that is used by these American states," he said. "Such a procedure would be crude but it would suffice."

The doubters continued to question the American statutes. They went back and forth on exactly how a marriage ban would work, parsed the proposed definitions of Jew and Aryan, tried to make sense of the American fraction system. Moderates were disturbed by the idea that people who were half-Jewish and half-Aryan would be cut off from their Aryan side and deprived of caste privileges they would otherwise be accorded. Rather than defining such people as half-Jewish, the skeptics wondered, would they not also be half-Aryan? But one hard-liner, Achim Gercke, referred back to the prototype they had been studying. He proposed a definition of one-sixteenth Jewish for classification of Jews, Koonz wrote, "because he did not wish to be less rigorous than the Americans."

The men debated for ten hours that day and ended without agreement. "We have been talking past one another," Freisler, frustrated by the lack of progress, said toward the end. The moderates had managed for now to contain the radicals who had pushed for the American prototype. But fifteen months later, the radicals would prevail.

In September 1935, Hitler summoned the Reichstag to the annual Nazi rally in Nuremberg to announce new legislation that had been incubating since the Nazi takeover. By then, Hitler had either imprisoned or killed many of his political opponents, including the murders of twelve members of the Reichstag and of his longtime friend Ernst Röhm, the head of a Nazi paramilitary unit, the S.A. All of this rendered the Reichstag a puppet arm of the government, having been intimidated into submission. At that very moment, the Nazis were building concentration camps all

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over the country. One was soon to open in Sachsenhausen, north of the Reich capital, and would become one of their "showcases."

The plan was to announce the legislation, ultimately known as the Blood Laws, on the final day of the rally. The night before, Hitler directed a small group of deputies to draft a version for him to deliver to the Reichstag to rubber-stamp. The Nazi researchers had come across a provision in some of the U.S. miscegenation laws that could help them define whether a person who was half-Jewish should count as a Jew or an Aryan. It turned out that Texas and North Carolina had an "association clause" in their marriage bans that helped those states decide if an ambiguous person was black or white, privileged or disfavored. Such a person would be counted in the disfavored group if they had been married to or had been known to associate with people in the disfavored group, thus defying caste purity.

This was what Hitler announced that September and expanded in the months to come: The Law for the Protection of German Blood and German Honor defined a Jew as a person with three Jewish grandparents. It also "counted" as Jewish anyone descended from two Jewish grandparents and who practiced Judaism or was accepted into the Jewish community or was married to a Jew, in line with the Americans' association clause.

Secondly, the law banned marriage and intercourse outside of marriage between Jews and Germans, and it forbade German women under forty-five to work in a Jewish household.

Thus began a campaign of ever-tightening restrictions. Jews were henceforth stripped of citizenship, prohibited from displaying the German flag, denied passports. With that announcement, "Germany became a full-fledged racist regime," the historian George M. Fredrickson wrote. "American laws were the main foreign precedents for such legislation."

But given the Nazis' own fixation on race, the American prototype had its limits. "The scholars who see parallels between the American and Nazi racial classification schemes are to that extent

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wrong," Whitman said, "but only because they understate the relative severity of American law."

As cataclysmic as the Nuremberg Laws were, the Nazis had not gone as far with the legislation as their research into America had taken them. What did not gain traction on the day of the closed-door session or in the final version of the Nuremberg Laws was one aspect of the American system. While the Nazis praised "the American commitment to legislating racial purity," they could not abide "the unforgiving hardness" under which "'an American man or woman who has even a drop of Negro blood in their veins' counted as blacks," Whitman wrote. "The one-drop rule was too harsh for the Nazis."