

ALSO BY DOROTHY ROBERTS

Killing the Black Body: Race, Reproduction,

and the Meaning of Liberty

Shattered Bonds:

The Color of Child Welfare

FATAL INVENTION

How Science, Politics, and Big Business
Re-create Race in the Twenty-first Century

Dorothy Roberts



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For my parents, Iris and Robert Roberts,
who taught me that there is only one human race.

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our society. I argue that this paradox reflects the primary impact of the new biopolitics of race: the seemingly color-blind regime of coercive surveillance imposed on poor communities of color will seem more acceptable to a majority of Americans as their belief in intrinsic racial differences is validated by genomic science and technologies. The new racial biopolitics obscures this modern form of state brutality at a time when the United States claims to have moved beyond violent enforcement of racial hierarchies. As biological theories of race have always accomplished, the redefinition of race as a genetic category and the technologies it is generating make racial inequality, as well as the punitive apparatus that maintains it, seem perfectly natural.

Despite claims that genomic scientists are reconfiguring race in a more precise and accurate way, I have found rampant confusion about this new racial science among friends and colleagues trying to understand where it fits in their conceptions of humanity and social equality. What is the value and impact of modernizing racial classifications with new genomic technology? Will this new understanding of race provide the answers we need to solve the problem of persistent racial inequality in our society?

When I first began reading about scientific discoveries that purported to validate the biological reality of race, I wondered how the claims could be true. My parents, to whom this book is dedicated, taught me that there is only one human race. This has meant more than words to me since childhood. As a scholar and activist, I have studied and seen firsthand the injustices made possible by separating people into different kinds of human beings. I undertook this book project as a personal challenge to my conviction that race is a political system. Would my own racial beliefs withstand my interviews with genomic researchers, the enthusiasm of many African Americans for tracing their genetic ancestry, and arguments by political activists who believe race-based biotechnologies are promoting health?

After five years of intense research and soul-searching, I found not one shred of evidence to counter my belief in the political nature of race. In fact, my journey only strengthened my understanding of our common humanity and the dehumanizing consequences of believing in innate racial differences. The answer to the problem of race will not be found in our genes. Yes, human beings are remarkably similar at the genetic level. But what should link us together is not our genetic unity; we should be bound by a common struggle for the equal dignity of all of humankind.

PART I

Believing in Race in the Genomic Age

The Invention of Race

It is virtually impossible to pass a day in the United States without making use of race. Race is the main characteristic most Americans use to classify each other. It is the first or second thing we notice about a stranger we pass on the street or a new acquaintance approaching to shake our hand. Race determines which church most Americans attend, where they buy a house, the persons they choose to marry, whom they vote for, and the music they listen to. Race is evident in the color of inner-city and suburban schools, prison populations, the U.S. Senate, and Fortune 500 boardrooms. Race rears up every time a police officer is shot or an unarmed suspect is shot by the police. Yet most Americans are hard-pressed to define what race means.

Imagine walking into a room filled with people displaying a wide range of skin colors, hair textures, and facial features. It is likely that the very first thing you do, either consciously or unconsciously, is to identify the race of every single person in that room. Americans are so used to filtering our impressions of people through a racial lens that we engage in this exercise automatically—as if we were merely putting a label on people to match their innate racial identities. But the *only* way we know which racial designation to assign each person is by referring to the invented rules we have been taught since we were infants. And the *only* reason we engage in this exercise is the enormous social consequences of classifying people in this way. So we force the mélange of physical features and social clues into a code that tells us how to categorize each person—so as to know where each person fits in our society.

Aristotle claimed that he could tell if a man was a citizen by looking at him. Most intelligent people today would think it preposterous to judge someone's citizenship status by physical appearance. Citizenship is a political category, not a biological one. Citizenship doesn't describe a person's intrinsic characteristics; it defines her relationship to a nation's government, to the other people who are citizens, and to noncitizens. Whether someone qualifies as a citizen isn't inscribed in her body; citizenship is determined by the requirements set forth in the country's constitution. Even if the constitution stated that only people of a certain height qualified for citizenship, we would still understand it as a political category, a relationship among people that has to do with governing them.

Like citizenship, race is a political system that governs people by sorting them into social groupings based on invented biological demarcations. Race is not only interpreted according to invented rules, but, more important, race itself is an invented political grouping. Race is not a biological category that is politically charged. It is a political category that has been disguised as a biological one.

This distinction is important because many people misinterpret the phrase "race is socially constructed" to mean that the biological category of race has a social meaning, so that each society interprets differently what it means to belong to a biological race. According to this view, first we are born into a race, and then our society determines the consequences of this natural inheritance. There is, then, no contradiction between seeing race as both biological and socially constructed. Among liberal Americans, recognizing race as a social construction translates into an admonition against racial bias. Some say it is fine to acknowledge the existence of biological races as long as we do not construct them as socially unequal. The problem with this interpretation of race as a social construction is that it ignores its political—and not biological—origin. The very first step of creating race, dividing human beings into these categories, is a political practice.

How do we know race is a political and not a natural grouping?

For a start, human beings do not fit the zoological definition of race. A biological race is a population of organisms that can be distinguished from other populations in the same species based on differences in inherited traits.¹ There are no human populations with such a high degree of genetic differentiation that they objectively fall into races. There is only one human race. As Duke geneticist Charmaine Royal explained to me, in a subspecies or

race, "all the entities in that group are the same and different from the entities in the other subspecies." But, she pointed out, humans aren't like this: "Chimpanzees have races; honeybees have races; we don't have races."²

Royal makes a good point: human beings are not divided into races in the biological sense of the term. But we are divided into races in the political sense. In contrast to the title of the excellent PBS documentary refuting the biological basis for race, *Race: The Power of an Illusion*, race is not imaginary. Race is very real as a political grouping of human beings and has actual consequences for people's health, wealth, social status, reputation, and opportunities in life. The fact that dividing people into races has biological effects does not change the fact that this division is a political exercise. The distinction between the two meanings of race—as a biological versus a political grouping—is monumentally important. If race is a natural division, it is easy to dismiss the glaring differences in people's welfare as fair and even insurmountable; even liberals could feel comfortable with the current pace of racial progress, which leaves huge gaps between white and nonwhite well-being. But if race is a political system, then we must use political means to end its harmful impact on our society. So we cannot ditch the concept of race altogether. Paying attention to race as a political system—which is what it really is—is essential to fighting racism.

More important than the biological evidence is the political evidence of the meaning of race. We know race is a political grouping because it has political roots in slavery and colonialism, it has served a political function over the four hundred years since its inception, and its boundary lines—how many races there are and who belongs to each one—have shifted over time and across nations to suit those political purposes. Who qualifies as white, black, and Indian has been the matter of countless rule changes and judicial decisions. These racial reclassifications did not occur in response to scientific advances in human biology, but in response to sociopolitical imperatives. They reveal that what is being defined, organized, and interpreted is a political relationship and not an innate classification.

Where Does Race Come From?

The use of the term *race* to describe distinct categories of people is surprisingly recent. In 1508, William Dunbar, a Scottish member of King James IV's court, wrote a poem called "The Dance of Sevin Deidly Sins." One of the verses

listed among those guilty of Envy, "backbiters of sundry races. Some scholars believe this is the earliest use of the word "race" in the English language.³ Dunbar employed race to mean family lineage—kinship groups descended from the male line. He probably borrowed *racis* from the Spanish word *raza*, which the Spanish applied to breeds of horses and dogs.

The political origins of race are similarly an artifact of the fifteenth and sixteenth centuries, as Europeans increasingly tried to impose order on the movement of peoples between Christian and Islamic territories and the "Old" and "New" worlds. The Roman Catholic Church, in particular, found a need to distinguish between believers and infidels; the latter were deemed fit for conquest, capture, and enslavement.⁴ In 1455, Pope Nicholas V issued a papal directive authorizing the Portuguese to "attack, subject, and reduce to perpetual slavery" all "enemies of Christ" along the west coast of Africa. The authorization included the condition that the captives would be converted to Christianity and then set free. Spanish, Venetian, and Portuguese royalty vastly expanded the importation of dark-skinned slaves and, as the rationale of Christian conversion no longer suited the growing enterprise of perpetual forced black labor, began to evade the papal mandate to emancipate converted captives by describing them as less than human.

It has been argued in defense of a natural concept of race that human classification schemes existed prior to the period of European imperialism. Many millennia before the European age of exploration, for instance, the ancient Egyptians recorded in tomb paintings and hieroglyphs the physical differences between themselves and the lighter-skinned Syrians and the darker-skinned Nubians they conquered. The ancient Greek physician Hippocrates, known as the father of Western medicine, separated the Scythians, Asians, and Greeks into different body types explained by the typology and climate of the regions they lived in.⁵ The Bible offers the story of Noah's sons, Ham, Shem, and Japheth, as an explanation for the geographical origins of different groups of people, one that would later be interpreted by white Americans as evidence of a divine justification for slavery.

Believing in the uniqueness and superiority of one's own group may be universal, but it is not equivalent to race.⁶ These ancient attempts to describe and explain differences among peoples did not partition all human beings into a relatively small number of innately separable types. Nor did they treat these differences as markers of immutable distinctions that determine each

group's permanent social value. Unlike race, these observed differences did not create a set of discrete categories that every single person in the world must fit into from the day he or she is born. The Spanish and the Portuguese had experienced close contact with North Africa as well as domination by highly cultured Arab invaders for centuries. The Moors conquered the Iberian Peninsula in 711, bringing with them several hundred years of cultural influence and ethnic intermingling. Spanish and Portuguese traders did not automatically classify the people from the west coast of Africa as an innately inferior group.⁷

Historian Winthrop Jordan argues that, in contrast, English travelers immediately distinguished themselves from the dark-skinned people they encountered. "From the first, Englishmen tended to set Negroes over against themselves," Jordan writes, "to stress what they conceived to be radically contrasting qualities of color, religion, and style of life, as well as animality and a peculiarly potent sexuality." He goes on to note, however, that this attention to difference acquired a distinctive aspect as the English expanded the slave trade: "What Englishmen did not at first fully realize was that Negroes were potentially subjects for a *special kind* of obedience and subordination which was to arise as adventurous Englishmen sought to possess for themselves and their children one of the most bountiful dominions of the earth" (my emphasis).⁸

A Special Kind of Subjugation

What was this special kind of subjugation? It was not the enslavement of Africans alone, for human servitude was far from a novel practice. Societies across the globe had relied on compelled labor for thousands of years to generate wealth for those in power. All captives in the ancient Egyptian, Greek, and Roman empires could be enslaved, regardless of their geographic origins. People were also enslaved as payment for a debt or as punishment for a crime, and desperately poor parents in ancient Rome made money by selling their children into slavery. In addition, the inhabitants of regions we now call Europe had been enslaved by foreigners for centuries.⁹ The word "slave" comes from Slavs, who were held in bondage from as early as the ninth century. The ancestors of people now considered white, who think of themselves as the slaveholding race, were once held as slaves themselves.

Even in the New World, "slave" did not automatically mean "black." The

vast majority of people compelled to work in the fields of the American colonies were vagrant children, convicts, and indentured servants shipped from Britain. As Nell Irvin Painter notes in her history of white people, "before the eighteenth-century boom in the African slave trade, between one-half and two-thirds of all early white immigrants to the British colonies in the Western Hemisphere came as unfree laborers, some 300,000 to 400,000 people."¹⁰ At first, European settlers in the American colonies gave the blacks they shipped from Africa and the indigenous people they captured the same status as white indentured servants.¹¹ Many worked alongside each other for a term of service regardless of color, sharing everyday life together and sometimes forming families. European, African, and Indian servants also joined ranks in a series of revolts demanding better food rations, less arduous working conditions, and rights to property. The few Africans who were able to gain their freedom and purchase land seem to have been treated as equals to other landowners.

By 1700, however, Africans were treated as a distinctly different kind of slave: they were made into the actual property of their masters, a lifelong bondage that passed down to their children. In contrast, the status of white indentured servants was neither permanent nor inherited; whites could work off their bond. Then came Bacon's Rebellion. In 1676, European and African servants in colonial Virginia joined forces to demand that the royal governor, William Berkeley, move more aggressively against Indian tribes to settle lands on the frontier. Led by wealthy planter Nathaniel Bacon, five hundred black and white men, united by enmity against the Indians, marched into the colonial capital, Jamestown, and burned it to the ground. The uprising continued for several months before Bacon died suddenly and Berkeley was able to restore order, later hanging twenty-three of the rebels.

After Bacon's Rebellion and similar revolts, it was imperative for European landowners to prevent future interracial solidarity by driving an impenetrable wedge between African and European laborers.¹² The elite class feared black and white servants joining ranks against it more than it desired a brotherhood of servants fighting against Indians. The colonists increased the importation of African slaves, relying more and more on compelled black labor to produce profits. There was an insufficient supply of white servants making the transatlantic migration, and Indian tribes, with a home territory advantage, had mounted a formidable resistance to wholesale capture. Captive Africans, whose skills at farming, carpentry, and metalworking proved immensely

valuable to European capitalists, filled the labor gap. But more significant than the numerical shift from white to black exploitation was a monumental legislative effort to differentiate the status of blacks and whites. As officials split white indenture from black enslavement and established "white," "Negro," and "Indian" as distinct legal categories, race was literally manufactured by law.

The emerging legal regime set *all* blacks clearly apart from *all* whites in terms of power and privilege. Gradually, lawmakers degraded the form of bondage assigned exclusively to Africans. Under a 1705 Virginia statute, for example, white servants received freedom dues, including a musket, money, and bushels of corn, when they completed a term of indentured servitude. Black servants were not entitled to freedom and were banned from carrying firearms. The Virginia racial laws not only treated enslaved Africans worse than white servants, they gave propertyless whites special rights over slaves. Historian David Roediger writes:

Pass laws restricted the movement of slaves; poor whites patrolled to enforce the laws. Laws required public, often naked, whippings of recalcitrant black slaves but set limits on penal violence against even indentured whites. Beatings awaited any "negro or other [Indian] slave" attacking "any Christian," according to a 1680 law, putting state power firmly on the side of Europeans in altercations among servants. The term "Christian" increasingly meant "white." Africans would not be defined as such.¹³

A South Carolina statute followed Virginia's example, giving every white man "absolute power and authority over his negro slave," regardless of religion. Converting to Christianity no longer provided Africans an escape from their condition as the lifelong chattel of their masters.

Laws regulating sex and marriage hardened the lines between the emerging racial categories. Virginia had already outlawed interracial sex in 1662, when the legislature amended its prohibition of all fornication to impose heavier penalties if the guilty parties were "negroes" and "Christians." In 1691, the Virginia Assembly beefed up its laws against racial mixing by making it a crime for Negro, mulatto, and Indian men to marry or "accompany" a white woman. By shielding white women from marriage by all nonwhites, Virginia aimed to preserve white racial purity; the statute left Negroes, mulattos, and

Indians free to intermix and marry each other. White people were held out as a privileged race that should be protected from contamination by inferior races.

Antimiscegenation laws also ensured that black men, women, and children would not benefit from the privileges of legal marriage to a white person. As W.J. Cash explained in *The Mind of the South* in 1941, whites passed these laws to protect "the right of their sons in the legitimate line, through all the generations to come, to be born to the great heritage of the white race."¹⁴ The Virginia law, later revised to prohibit all marriages between "a white person and a colored person," remained in force until 1967, when the U.S. Supreme Court ruled it, along with antimiscegenation laws still existing in sixteen other states, unconstitutional in *Loving v. Virginia*. South Carolina did not overturn its ban on interracial marriage until 1998, and even then 38 percent of voters opposed the referendum.

Just as significant as the peculiar form of black slavery was the peculiar form of black freedom. In addition to destroying political unity between white and black servants, white landowners had to make absolutely certain that free blacks would never become socially equal to whites or encourage slaves to revolt in order to join their ranks. Being black had to be equivalent to slavery, regardless of blacks' status as actual property. Free blacks created a particularly vexing dilemma even for abolitionists: if no longer enslaved, would a black person be entitled to the same rights and privileges as a white person? "Suddenly, the country became obsessed with racial distinctions and the problem of freed blacks," writes Gordon S. Wood in *Empire of Liberty*, his recent history of the early republic.¹⁵

Eighteenth-century lawmakers subjected free blacks and mulattoes to a permanent status of legal degradation that resembled the bondage of their brothers and sisters. "Like slaves, free Negroes were generally without political rights, were unable to move freely, were prohibited from testifying against whites, and were often punished with the lash," writes historian Ira Berlin in his classic *Slaves Without Masters*.¹⁶ Southern statutes provided multiple ways for free blacks to be put in bondage; according to a Virginia law passed in 1782, defaulting on their taxes was sufficient. Many states implemented registration requirements for free blacks, while others barred their entry altogether or banished them from the state. Blacks in the North, too, occupied an inferior position, held in place by a slew of legal restrictions on their mobility, civil rights, and economic opportunities. "Even in the North," writes

Wood, "the liberal atmosphere of the immediate post-Revolutionary years evaporated, and whites began to react against the increasing numbers of freed blacks."¹⁷ By the early 1800s, Northern states tried to keep free blacks from entering their borders and restricted those who lived there to distinct neighborhoods as well as to segregated sections of restaurants, churches, and theaters. Blacks hoping to move to Ohio had to post a \$500 bond guaranteeing their good behavior and produce court documents proving they were free. Interracial marriage was outlawed in Massachusetts, just as it was in Mississippi. The New York State legislature, dominated by Republicans who supported universal manhood suffrage without property qualifications, voted to strip blacks of the franchise.¹⁸ Extending greater freedoms to white men necessitated depriving blacks of theirs because it was inconceivable that the two races could share equal political strength.

As a result of the new racial regime, "Negro" and "slave" were becoming synonymous as free and enslaved blacks were grouped together at the bottom rung of society. Combining Africans into a single race eventually obliterated the physical, linguistic, and cultural distinctions that had existed among thousands of ethnic groups on the African continent. The New World Europeans also began to perceive themselves as a different kind of master. English, Scottish, German, French, and Dutch settlers were uniting under the general label "white." W.E.B. Du Bois observed that "the discovery of personal whiteness among the world's peoples is a very modern thing."¹⁹ It was only with the slave trade, Indian conquests, and a legal regime that installed a racial order that Europeans assumed whiteness as a personal identity and possession that naturally entitled them to a privileged social position. White identity itself, apart from individual wealth or achievement, "conferred tangible and economically valuable benefits," effectively creating what legal scholar Cheryl Harris calls "whiteness as property."²⁰ By giving poor white laborers legal dominion over all blacks, enslaved or free, wealthy landowners secured their racial loyalty. Poor whites would cherish their privileged status over blacks—what Du Bois called their "psychological wage"—rather than joining with blacks to fight for a more equitable society.

By 1857, the racial order in the United States was firmly in place. When Dred Scott, an African American slave who had lived on free soil in Illinois and Wisconsin, sued for his freedom in Missouri, the U.S. Supreme Court could point to a coherent system of discrimination against blacks that proved they were not full citizens of the United States. Black Americans, Chief

Justice Roger B. Taney declared, possessed "no rights which the white man was bound to respect." Dred Scott remained a slave, and all blacks, whether in chains or free, were recognized as a separate race that was politically subordinate to all whites.

This is why the Emancipation Proclamation of 1863 did not grant true freedom to black citizens or change the racial definition of citizenship. Despite the passage of the Reconstruction amendments to extend citizenship rights to freed slaves, blacks remained members of an inferior race, and an official regime of segregation, disenfranchisement, and terror effectively reduced them to their former status.²¹ Soon after the Civil War, Frederick Douglass observed that the same racial ideas employed in defense of slavery were "employed as a justification of the fraud and violence by which colored men are divested of citizenship, and robbed of their constitutional rights."²² In addition to the grotesque lynchings that terrorized blacks throughout the South, an especially brutal form of reenslavement was the false imprisonment of thousands of black men who were then leased to white farmers, entrepreneurs, and corporations as a source of cheap labor.

It is in this acute distinction between the *political* status of whites and blacks, this way of governing the power relationship between them, that we find the origins of race. Colonial landowners inherited slavery as an ancient practice, but they invented race as a modern system of power. They employed Aristotle's concept of natural slaves and natural rulers to define permanent features of black and white people. Race separated human beings into two fundamentally distinct groups: those who were indelibly born to be lifelong servants and those who were born to be their masters. Race radically transformed not only what it meant to be enslaved, but also what it meant to be free.

Racial Identity on Trial

One of the most sensational trials in New York in 1925 involved the annulment sought by wealthy socialite Leonard Kip Rhinelandt of his marriage to Alice Beatrice Jones. It wasn't the couple's fortune that made tabloid headlines and packed the courtroom with curious spectators. It was the scandal of Alice's race. Leonard sued Alice to end their union on the grounds that she had fooled him into believing she was white when she actually was black. If the jurors found that Alice had perpetrated this racial fraud and that

Leonard would not have married her had he known the truth, their vows would be null and void. It was rumored that Leonard was madly in love with Alice and brought the lawsuit under pressure from his millionaire father, who disapproved of the marriage.²³

At trial, numerous witnesses painted a confused portrait of the evidence of Alice's race. Neighbors testified that Alice's family was "generally known" as "colored," but that she and her sisters did not "associate with Negroes."²⁴ Although her teacher said she recognized Alice as colored, her classmates thought she was Spanish. Alice had been admitted into respectable hotels with Leonard, but Dr. Caesar McClendon, a colored doctor, testified that Alice was one of his patients; if Alice were white, she would have been treated by a doctor of her own race.²⁵ In her defense, Alice surprised Leonard and his attorneys by choosing not to prove she was white. She admitted that she had some "colored blood" but insisted that Leonard—who prior to the wedding had met her family, spent many nights with her at the Hotel Marie Antoinette, and even bathed her naked body—was well aware of her true identity. The climax of the trial occurred when Alice was compelled to provide the key evidence in her defense. The judge, lawyers, jurors, and Leonard waited in the jury room while Alice stripped to her underwear, covered by a coat, in an adjoining lavatory. At her lawyer's direction, a weeping Alice let down the coat before the white male jurors so they could see for themselves how easy it was to tell that she was black. Her lawyer rested his case with one question to Leonard: "Your wife's body is the same shade as when you saw her in the Marie Antoinette with all of her clothing removed?" Leonard replied, "Yes."²⁶

The jury found in favor of Alice: they believed that Leonard knew that Alice was colored before he married her. But the verdict was hardly a victory for Alice, who paid a dear price in the humiliating act of disrobing in the public courtroom and, in the end, lost her husband because of her race. W.E.B. Du Bois represented the outrage of the black community when he wrote, "If Rhinelandt had used this girl as concubine or prostitute, white America would have raised no word of protest. . . . It is when he legally and decently marries the girl that Hell breaks loose and literally tears the pair apart."²⁷ Alice and Leonard never reunited after the trial.

Though more dramatic than most, the Rhinelandt trial was not unique in its task—to establish the race of a litigant. Trials to determine an individual's racial identity were commonplace in courts throughout the country

from the late eighteenth century until well into the twentieth century.²⁸ Before the Civil War, slaves suing their masters for their freedom and people charged with crimes reserved for blacks, such as traveling without a pass, claimed that they were really white to avoid the disabilities the law imposed solely on blacks. At first, during the colonial era, these racial trials pivoted on documenting the claimant's legal status as slave or free. But as whites justified the slavery and Jim Crow systems on more explicitly racial grounds, juries were given wide latitude to decide a litigant's racial identity based on "performance, reputation, and common sense."²⁹

The legal separation of whites from blacks and other people of color created a myriad of reasons to contest racial identity. As legal historian Ariela J. Gross chronicles, "family members tried to have heirs disinherited by alleging that they were of mixed race and therefore the product of an illegitimate marriage. Marriage bans gave rise to criminal prosecutions against husbands and wives, who defended themselves by claiming that the state had mistaken their racial identities. And sometimes husbands sought to avoid the obligations of marriage by claiming they had been tricked into an interracial union."³⁰ In addition to these family disputes, parents sued school districts for admission by asserting their children were white, feuding neighbors accused their rivals of being black, and Native Americans had their authenticity adjudicated to claim federal land allotments.

In her book *What Blood Won't Tell*, Gross emphasizes that racial identity trials did not always hinge on documentary evidence, physical markers of race, or scientific fact. Although judges and legislators specified a legal definition of racial categories, jury verdicts depended more on social considerations than on the precise fraction of colored blood in the claimants' veins.³¹ When a South Carolina judge declared in 1835 that "a slave cannot be a white man," he made clear that racial identity was not a biological fact that could be ascertained with scientific proofs, but rather "a socially and legally defined status that rested on a deeper ideological commitment to race, in which white equaled free (civic, responsible, manly) and black equaled slave (degraded, irresponsible, unfit for manly duties)."³² Whites pretended that race was inherited biologically but used a mixed bag of legal tools to determine racial identity in order to maintain race as a political system for governing relationships between enslaved and free people.

Another set of racial cases involved litigation over the legal question, Who is white? The Naturalization Act of 1790, the nation's first definition of

American citizenship, restricted eligibility to free white immigrants. Until this racial requirement was abolished in 1952, being either a "white person" or (after the Civil War) a person of "African nativity, or African descent" was a prerequisite of becoming a citizen. Determining which groups of immigrants met the whiteness test for naturalization became a vital legal issue for almost a century. Between 1878 and 1952, state and federal judges issued decisions in fifty-two racial prerequisite cases, including two argued before the U.S. Supreme Court in the 1920s.³³ In these cases, judges ruled that Chinese, Japanese, Koreans, Filipinos, Hawaiians, Afghans, Native Americans, and anyone of mixed ancestry were not white. Arabs, Syrians, and Asian Indians were considered white by some judges and not by others. Armenians were more successful at claiming whiteness, despite their geographic origins east of the Bosphorus Strait, which separates Europe from Asia.³⁴

Reviewing these cases, legal scholar Ian Haney Lopez discerned two chief rationales advanced by judges to justify their racial designations: common knowledge and scientific evidence. At times, courts relied on both widely held understandings about race and scientific expertise on the subject to determine which groups qualified as white. The very first case, decided by a California judge in 1878, arose when Ah Yup, "a native and citizen of the empire of China," petitioned in writing to be admitted as a citizen of the United States, raising the central question, "Is a person of the Mongolian race a 'white person' within the meaning of the [naturalization] statute?"³⁵ Judge Sawyer dismissed the argument that the category "white person" was indefinite, noting that "these words in this country, at least, have undoubtedly acquired a well settled meaning in common popular speech." The phrase "white person," the court stated, ordinarily referred to someone of the Caucasian race. The judge then turned for guidance to the racial typologies developed by European naturalists Johann Friedrich Blumenbach, George Louis de Buffon, Carl Linnaeus, and Georges Cuvier, observing that all grouped Caucasians separately from Mongolians.

The final blow to Ah Yup's claim to whiteness was evidence of Congress's intent to exclude Chinese from citizenship. In the wake of the Civil War and the Fourteenth Amendment, Congress amended the law in 1870 to extend naturalization to persons of "African nativity, or African descent," while deliberately denying Chinese immigrants that right on the grounds they posed a risk to American morals and jobs. Whether to retain the "white person" prerequisite hinged on a heated debate on the Senate floor over the

influx of low-paid Chinese laborers to the West Coast. Judge Sawyer quoted Indiana Republican Oliver Perry Morton's tirade against the "Chinese problem," which threatened "a possible immigration of many millions, involving another civilization; involving labor problems that no intellect can solve without study and time."³⁶

Congress moved more directly to stanch the "Mongolian invasion" with the Chinese Immigration Act of 1882, barring entry to Chinese workers for ten years, including the wives and families of immigrants already in the country. Subsequent laws passed in 1917, 1924, and 1934 extended the exclusion to immigrants from Japan, India, and the Philippines. The supposedly biological category "Asian" commonly employed today was solidified by the series of statutes and court decisions that classified immigrants from each nation as nonwhite.³⁷ The racial question was ultimately a political question about which groups the federal government deemed qualified for citizenship.

Further evidence of the political nature of the prerequisite cases is the judges' willingness to repudiate scientific racial classifications when they clashed with popular notions of whiteness. The U.S. Supreme Court was quick to reject scientific evidence on race when the prevailing anthropological classification of Asian Indians as Caucasians rather than Mongolians would have meant citizenship rights to thousands of immigrants from the Indian subcontinent.³⁸ Bhagat Singh Thind was born to a high-caste family in the Punjab region of India. At age twenty-three, he arrived in Oregon on July 4, 1913, as part of a new wave of Asian Indian immigrants that numbered more than six thousand by 1920.³⁹ A federal judge initially granted him citizenship in 1920 on the grounds that, because Asian Indians were scientifically classified as Caucasians, they were therefore legally white.

But by this time, a campaign to formally deny all Asians entrance to U.S. shores had gained momentum. Congress had recently passed the Immigration Act of 1917, which prohibited immigration from an "Asiatic barred zone" that stretched beyond China to include much of eastern Asia, the Pacific Islands, and India. The subsequent Oriental Exclusion Act of 1924 put a halt to all immigration from Asia, including Japan. What remained was to deny citizenship to those Asian immigrants like Thind who had entered prior to these exclusionary laws. The federal government challenged Thind's naturalization in the Ninth Circuit, which asked the Supreme Court for instruction on the question: "Is a high caste Hindu of full Indian blood, born at Amrit Sar, Punjab, India, a white person?" Only three months before, in

Ozawa v. United States, the Court unanimously held that Japanese immigrants did not qualify as "white persons" for purposes of naturalization.⁴⁰ Relying on "numerous scientific authorities," the opinion by Justice Sutherland determined that the Japanese did not belong to the Caucasian race, despite their fair skin color.

Based on the Court's equation of Caucasian and white, Thind mounted what should have been an airtight case. In addition to deploying numerous anthropological texts that classified Asian Indians as Caucasian, he emphasized that experts placed inhabitants of the Punjab in the Aryan race. To this scientific evidence, Thind added an insightful political proof. High-caste Aryans like himself were white, he argued, because they occupied a superior position in the Hindu caste system comparable to white people's supremacy in the United States. "The high-class Hindu regards the aboriginal Indian Mongoloid in the same manner as the American regards the negro, speaking from a marriage standpoint," he wrote. "The caste system prevails in India to a degree unsurpassed elsewhere." According to Thind, the Indian caste system maintained Aryan racial purity more effectively than did Jim Crow laws in the United States.⁴¹ He was therefore as pure white as any white American.

Despite Thind's anthropological and political evidence, a unanimous Court (in an opinion also written by Justice Sutherland) rejected its precedent in *Ozawa*. Conceding the anthropological classification of Asian Indians as Caucasian, the Court nonetheless dismissed the authority of science as the arbiter of race in favor of "familiar observation and knowledge." "It may be true that a blond Scandinavian and the brown Hindu have a common ancestor in the dim reaches of antiquity," wrote the Court, "but the average man knows perfectly well that there are unmistakable and profound differences between them today." Discrepancies in the leading racial typologies and their inclusion of a range of peoples in the Caucasian category further proved to the Court their unreliability: "We venture to think that the average well informed white American would learn with some degree of astonishment that the race to which he belongs is made up of such heterogeneous elements."⁴²

In the 1897 case *In re Rodriguez*, a federal judge in San Antonio, Texas, also disregarded the prevailing racial classification scheme and legal precedent in determining the eligibility of Mexican immigrants to be naturalized as U.S. citizens. Thirty-seven-year-old Ricardo Rodriguez, a Mexican national, had been living in San Antonio for ten years when his application for U.S.

citizenship was denied because he wasn't white. On appeal, the government's attorney argued that Rodriguez was "one of the six million [Mexican] Indians of unmixed blood" and belonged to the same Mongoloid race that the California court in *In re: Ah Yup* had declared ineligible for U.S. citizenship. The Texas judge conceded that, based on his appearance, Rodriguez would be grouped with the "copper-colored or red men": "If the strict scientific classification of the anthropologist should be adopted, he would probably not be classed as white." Nevertheless, the judge ruled that the same state and federal laws that gave political rights to Mexicans living in Texas when it became a republic and was later annexed as a state also bestowed white status on Mexicans, at least for purposes of naturalization.⁴³

Even certain European groups whose whiteness seems unquestionable today were not considered full members of the white race one hundred years ago. In the late 1800s, Irish immigrants were considered to be closer to Africans than to the English and were often portrayed as apellie in caricatures. Italian newcomers were called Guineas, an epithet originally reserved for African Americans and derived from their motherland along the west coast of Africa. Scholars in a number of fields have puzzled over the question, How did the Irish, Italians, Slavs, and Jews "become white"?⁴⁴ The wave of immigrants who arrived from southern and eastern Europe from the 1840s to the 1930s were included among the undesirables targeted by the exclusionary immigration laws passed by Congress in 1924. They threw off their native customs, accents, and names not only to become assimilated into American culture, but also to be granted entrance to the privileged rank of whiteness. Obviously, their ancestry did not change to make them whiter; their racial transformation occurred as a result of changing political qualifications for inclusion in the ruling class. There is no biological test for whiteness. *White* means belonging to the group of people who are entitled to claim white privilege.

American judges and legislatures have repeatedly amended the legal contours of racial groups. Before the Civil War, some Southern states had not yet implemented rules specifying the amount of African ancestry that made someone Negro. In South Carolina, for example, until the 1840s, mulattoes could establish they were white through their behavior, reputation, and social standing in order to marry a white person.⁴⁵ The Jim Crow era ushered in a regime of official segregation that required stricter enforcement of the borders delimiting whiteness. Laws prohibiting interracial marriage were

rife with varying tests for what made someone black enough to be banned from marrying a white person. The infamous one-drop rule, passed in Tennessee in 1910 and mimicked by other Southern states, defined a person as Negro if he or she had any Negro ancestor—or one drop of Negro blood. Other states specified varying fractions of Negro ancestry to qualify as a Negro. Indiana, for example, made it a crime for a white person to marry anyone "possessed of one-eighth or more of negro blood." Oregon used a one-fourth test. The Utah legislature divided blacks into mulattos, quadroons, and octotoons. Only politics and not nature (or genetic science) can explain why in some states "a single black great-grandparent was sufficient to establish a person as 'black,' while seven white great-grandparents were insufficient to establish one as 'white,'" notes anthropologist Jonathan Marks.⁴⁶ Only politics and not nature can explain why what legal scholar and sociologist Laura Gomez calls a "reverse one-drop rule" applied to Mexicans, whose fraction of Spanish ancestry enabled them in some circumstances to be deemed "white enough" to acquire certain political rights.⁴⁷

The legal significance of race extends far beyond official definitions of racial categories. Laws have governed not only the formal racial classification of citizens and immigrants but also the material consequences of being classified in one race or another. As Ariela Gross reminds us about racial identity tests, "a lot was at stake in these cases: personal freedom or enslavement, the right to marry the person of one's choice, the right to be a citizen."⁴⁸ Colonists first began establishing the distinction between whites, Negroes, and Indians when they passed statutes that specified the privileges and disabilities that accrued to each group. The effort to legislate the political status of whites and nonwhites necessitated legal specifications for these categories. State laws banning interracial marriage, for example, had to stipulate a test for Negroes, who were barred from marrying whites. In other words, the legal construction of racial categories was a means of implementing the white supremacist regime.

Today, the government's identification of racial categories is less directly tied to discrimination, yet it remains part of a complex legal apparatus that enforces racial inequality in the education, economic, political, criminal justice, and health care systems. Dividing people by race facilitates, and is in turn reinforced by, institutions that treat people unequally depending on their racial identity. Reviewing the history of official racial classifications reminds us that these categories are not natural—and neither are the institutional

The census forms illustrate another American assumption about race: that each person belongs to a clearly defined racial category. Do people whose parents are from different races fall into a distinct racial box? Beginning with the census of 1850, people of African descent were divided into blacks and mulattoes; those with a mixture of both African and recognized European lineage. Every census between 1850 and 1920 except for 1880 and 1900 included a separate category for mulattoes. Indians filling out the 1930 census were asked for the first time to disclose whether they were "full" or "mixed" blood. Despite these prior examples of mixed-race categories, the 2000 census sparked a fierce controversy when it added an option for people of some "other" race. Although prior enumerations contained "mixed blood" and "other" options, individuals were forced to designate only one racial identity. The 2000 census, by contrast, permitted a person to select multiple races—creating the possibility of sixty-three different racial permutations. Despite this range of options, only about 2 percent of Americans chose more than one race. According to a White House spokesperson, President Obama checked only the box for black/African American when he filled out the 2010 questionnaire.⁵²

Racial boundary lines also change when we traverse national borders. My birth certificate, issued in Chicago in 1956, states, "Mother—Negro; Father—white." It does not designate my race. Because of long-standing legal and social rules in the United States, it was an unstated given that I was born a Negro. Although a mulatto category was officially recognized until 1920, the system of Jim Crow segregation had settled the rule that one drop of black blood makes you black, even in Chicago. If I had been born in South Africa, I would have fallen into the Coloured category. The Population Registration Act, passed in 1950 during the apartheid era, divided the South African population into three groups—White, Native, and Coloured—and required that every citizen be assigned a single racial classification. Government classifiers based their decisions on both physical traits, such as skin color and hair texture, and social standing, such as the citizen's job, acquaintances, neighborhood, and lifestyle. There was the infamous comb test, which helped to determine race by how easily a comb passed through an individual's hair. The act defined a coloured person as anyone who was not white or a native member of an indigenous African tribe. Whites and natives were racially pure, while coloureds were the product of racial mixing.⁵³

What if I were born in Brazil? Brazilian society recognizes an even wider

range of identities for people who are neither white (*branco*) nor black (*preto*). In the 1950s, anthropologist Harry Hutchinson found eight in-between categories in the community of Reconcavo, located in northeastern Brazil, ranging from *Cabo verde* ("lighter than the *preto* but still quite dark, but with straight hair, thin lips, and narrow, straight nose") to *Moreno* ("light skin with straight hair, but not viewed as white").⁵⁴ I probably would have been classified as *pardo*, designating mulattoes who are the children of the union of *pretos* and *brancos*.

Of course, my genetic makeup remains the same no matter where I was born. But my race, along with all the privileges and disadvantages that go with it, differs depending on which country I am born in or travel to, because race is a political category that is defined according to invented rules.

Making Race Seem Biological

In a respected text, *Anthropology: Biology and Race* (first published in 1923 and reprinted in 1948 and 1963), the influential anthropologist Alfred Kroeber stated the nature of race as a matter of hereditary fact: "To the question why a Louisiana Negro is black and longheaded, the answer is ready. He was born so. As cows produce calves, and lions, cubs, so Negro springs from Negro and Caucasian from Caucasian. We call the force at work *heredity*."⁵⁵ As an inherited status, race seems to be passed down simply through the biological process of procreation. But because race is a political category, reproducing it has never been left to heredity alone. One of America's very first laws, enacted in Virginia in 1662, concerned the inherited status of children. "Whereas some doubts have arisen whether children got by an Englishman upon a negro woman should be slave or free," the statute clarified the matter by declaring that the children's status followed the condition of their mother.⁵⁶ This ensured that children born from white men's rape of enslaved African women were treated as property.

Making race revolve around biology constructed it as an innate, permanent, and inescapable status. No matter how someone changes her appearance or mannerisms, she remains deep down a member of the race to which she was born. At the time of the Civil War, white Southerners were haunted by the specter of mistaking a Negro for a white person: "What if people of African descent were lurking unknown in their midst, enjoying all the privileges of

whiteness despite their hidden black essence?"⁵⁷ writes Ariela Gross. This anxiety over telling which race is which may seem like the vestige of a prior era, yet even today most Americans are anxious to know each other's race and remain unsettled until they discover the true identity of any racially ambiguous person.⁵⁸

Making race a biological concept served an important ideological function in revolutionary America. Biological difference was essential to justifying the enslavement of Africans in a nation founded on a radical commitment to liberty, equality, and natural rights. White Americans had to explain black subjugation as a natural condition, not one they imposed by brute force for the nation's economic profit. Treating race as biology constituted the only suitable "moral apology," as Swedish sociologist Gunnar Myrdal put it, for slavery in a society that claimed equality as its most cherished ideal.⁵⁹

While race is not imaginary—it is a very real way our society categorizes people—its intrinsic origin in biology is. Race is not an illusion. Rather, the belief in intrinsic racial difference is a delusion. The diabolical genius of making this political system seem biological is that the very unequal conditions it produces become an excuse for racial injustice. Whites pointed to sickness, fatigue, and illiteracy among the Africans they exploited as evidence of black biological inferiority rather than white inhumanity. So it appears that nature determines one's race and race determines one's nature. In his classic analysis of racial pathology, E. Franklin Frazier incisively describes the delusional rationalization of black inequality that resists all objective evidence:

The insane support their delusions by the same mechanism of rationalization that normal people employ to support beliefs having a non-rational origin. The delusions of the insane, however, have a greater imperviousness to objective fact. The delusions of the white man under the Negro-complex show the same imperviousness to objective facts concerning the Negro. We have heard lately an intelligent Southern woman insisting that nine-tenths of all Negroes have syphilis, in spite of statistical and other authoritative evidence to the contrary. . . . When the lunatic is met with ideas incompatible with his delusion he distorts facts by rationalization to preserve the inner consistency of his delusions. Of a similar nature is the argument of the white man who de-

clares that white blood is responsible for character and genius in mixed Negroes, and at the same time that white blood harms the Negroes.⁶⁰

To this day, the delusion that race is a biological inheritance rather than a political relationship leads plenty of intelligent people to make the most ludicrous statements about black biological traits. Worse yet, this delusion permits a majority of Americans to live in perfect comfort with a host of barbaric practices and conditions that befall blacks primarily—infant deaths at numbers worse than in developing countries, locking up children in adult prisons for life, the highest incarceration rate in the history of the free world—and still view their country as a bastion of freedom and equality for all.

Some people argue that continuing to treat race as a biological category in genetic research, medicine, and technology is not harmful by itself, as long as safeguards are in place to prevent its abuse by bigoted people. Understanding race as a political classification that supports racism exposes the flaw in this view. British sociologist Paul Gilroy underscores this key premise of the relationship between race and racism: "For me, 'race' refers primarily to an impersonal, discursive arrangement, the brutal result of the racialized ordering of the world, not its cause."⁶¹ In less academic terms: race is the product of racism; racism is not the product of race.