

RACIAL PARADOX AND ECLIPSE: OBAMA AS A BALM FOR WHAT AILS US

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INTRODUCTION

The 2008 political season provided us with sublime political spectacle. The contest for presidential nominee of the Democratic National party was an exciting and historic race. The subsequent presidential race whipped Americans, and indeed many throughout the world, into a frenzy. Never before did two white women and a black man exemplify the dreams and aspirations of so many. People the world over hoped and sought to change the course of history through the selection of the President and Vice President of the United States of America. There appeared to be a captivating yet ironic handwringing around identitarian politics at the same time that this elephant in the room was downplayed. The contest elevated, yet simultaneously sublimated, Americans' struggle with race, gender, religion and national origin. As everyone was well aware of the monumental contests for symbolic firsts¹ the 2008 Presidential race took on added momentum. With the designation of "First black President of the United States of America" looming within sight, supporters and detractors of Barack Obama were plagued by the weighty history of America. This racist history was cast as both past and prologue. With so many "firsts" at stake—either the potential for the first woman President and Vice President or the first black President—both crude and subtle identity politics were revealed which challenged claims that the citizenry of the United States had moved beyond identity-politics, or race more specifically.²

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1. A professor in the audience at the Obama Phenomena symposium at the University of Denver College Of Law stated that this political season was a "contest of representational firsts."

2. See Erica John, *Why Am I So Afraid*, THE HUFFINGTON POST, Feb. 17, 2009, available at http://www.huffingtonpost.com/erica-jong/why-am-i-so-afraid_b_92876.html ("We have two great candidates—one a hard working, never give up eager beaver, and one an inspiring, heart-leapingly brilliant stallion. . . . There ought to be no ego, no genderizing and no racializing. . . . Americans are neither black nor white. We are all as mixed as Brazilians. We are a honey-colored race—with Africans, Europeans, Asians and Native Americans intermingled in our DNA. That's the glory of America. If Dick Cheney is genetically related to Barack Obama, what more do we need to know? DNA only goes so far politically.").

However, transcendent colorblind theories have been echoed in recent U.S. Supreme Court jurisprudence—they buttress a disconnect from our racialized past and present. In 2003, Justice O'Connor in *Grutter v. Bollinger*³ remarked that in twenty-five years we should no longer require affirmative action initiatives, presumably because we will have reached a post-racial epoch of cultural colorblindness.⁴ A few years later Chief Justice Roberts in *Parents Involved in Community Schools v. Seattle School Dist. No. 1*⁵—a case addressing affirmative action initiatives undertaken by school districts—similarly asserted that the best way to stop racial discrimination is to stop discriminating.⁶ Cases such as these encode a normative boundary between public and private. They establish a terrain of identity schizophrenia on which we are often deluded by our perceptions of reality—no longer can we tell what is real from what is fiction.

This is the terrain on which I would like to examine the Obama phenomenon to reveal Barack Obama as somewhat of a paradox, black but white, manly but feminist, alien yet familiar, foreign but quintessentially American, and of course dubiously Christian. Accordingly, this essay will explore what might be described as the disordered identity politics revealed at the site of Obama's ascendance. I will focus largely upon racial dynamics while recognizing the work of other identity constructs in constituting and reinforcing each other. Admittedly, race and racial politicking are the focus of this essay, but gender (specifically masculinity), religion, class and national origin also occupied the political landscape in meaningful ways. Essential to this exploration, therefore, is the intersecting identity of Barack Obama as not only a man, but a heterosexual black man of mixed racial, cultural and religious heritage. This multifaceted identity nexus carries incredible baggage in America—it complicates the desire for simplified identitarian politics but does not eliminate its force.

While to some people Barack Obama, as a mixed-race man who is Black identified, holds within him the specter of a post-racial America, it

3. 539 U.S. 306 (2003).

4. *Id.* at 343 (“We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today. In summary, the Equal Protection Clause does not prohibit the Law School’s narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body.”). In addressing this sentiment head on, Justice Ginsburg outlined the perilous situation for minority students throughout the country and commented that, “From today’s vantage point, one may hope, but not firmly forecast, that over the next generation’s span, progress toward nondiscrimination and genuinely equal opportunity will make it safe to sunset affirmative action.” *Id.* at 346.

5. 127 S. Ct. 2738 (2007).

6. *Id.* at 2768 (Justice Roberts stated that “[f]or schools that never segregated on the basis of race, such as Seattle, or that have removed the vestiges of past segregation, such as Jefferson County, the way ‘to achieve a system of determining admission to the public schools on a nonracial basis,’ is to stop assigning students on a racial basis.”) (quoting *Brown v. Board of Educ. (Brown II)*, 349 U.S. 294, 300-01 (1955)). Justice Roberts continued: “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” *Id.*

is my sense that we have not yet achieved this lofty goal, despite his election. Instead, America remains deeply invested in identitarian politics and race more specifically. No doubt some citizens cast a vote for Obama because of his race and others refused to do so for the same reason.⁷ Rather than being irrelevant, the visibility and salience of race in America is starkly demonstrated by Obama mania—Obamania—the frenzy, excitement and furor surrounding his candidacy for President of the United States. Obama supporters and detractors alike have seized specifically upon race, consciously or unconsciously,⁸ to reveal deep-seated identity-based paranoia. Thus, contrary to what the Supreme Court of the United States proclaims, race is not irrelevant in America, especially when politics and power are concerned.

This essay will explore some of the disordered permutations of race, specifically racial construction and deconstruction, as publicly demonstrated through Obamania. In Part I, particular emphasis will be placed upon the mixed-race rhetoric surrounding Obama—this framework casts Obama as racially transcendent and celebrates public American post-racialism.⁹ Curiously, though, despite this philosophy that dismisses the centrality of race in America, Obama himself acknowledges that he has had to make private race-based identity choices. Obama asserts that he is a black man in America—it is unlikely that he could assert that he is a white man and be legitimated and embraced as such. U.S. Representative G. K. Butterfield states, “Obama has chosen the heritage he feels comfortable with. His physical appearance is black. I don’t know how he could have chosen to be any other race. Let’s just say [if] he decided to be white people would have laughed at him.”¹⁰ Indeed, it is folly to believe that those who see him in dark, distrustful hues would embrace his white-half identity thereby seeing themselves in him to overcome their perception of his troublesome blackness. American public progressivity is out of step with our private racial ordering. Ironically, many in America can publicly celebrate the incredible reality of our first black

7. See Crispin Hull, *Figures Show Race Played a Part for Obama* (2008), <http://www.crispinhull.com.au/2008/11/08/figures-show-race-played-a-part-for-obama/> (“Sorry to rain on the party, but covert racism appears to be alive and well in America. . . . [the election of Obama] disguises other facts and figures which suggest many United States voters might have not voted for Obama because of race and others voted for him purely because of race.”).

8. See Charles R. Lawrence III, *The Id, The Ego, and Equal Protection: Reckoning with Unconscious Racism, A Reader on Race, Civil Rights, and American Law: A Multiracial Approach* 39 STAN. L. REV. 317, 322 (1986) (recognizing that racist behaviors are not always based on intent, but rather on unconscious racial motives stemming from our cultural heritage).

9. Jesse Washington, *AP: Many Insisting that Obama is not Black*, HUFFINGTON POST, Nov. 8, 2008 http://www.huffingtonpost.com/2008/12/14/ap-many-insisting-that-ob_n_150846.html (“There is at least one group eagerly waiting for Obama to embrace them. ‘To me, as to increasing numbers of mixed-race people, Barack Obama is not our first black president. He is our first biracial, bicultural president . . . a bridge between races, a living symbol of tolerance, a signal that strict racial categories must go,’ Marie Arana wrote in the Washington Post”).

10. *Id.*

President, yet self-righteously return to markedly and intentionally segregated private lives.

Part II will explore the racial tightrope that Obama skillfully crossed. Of all the major political candidates, only Obama was asked to be all things to all people. At times, he was not seen as black enough. At other times, Obama was too black. Yet on other occasions, Obama's Christianity was questioned with the post-9/11 weightiness of an ascribed Muslim identity. There were other occasions on which his masculinity was questioned, even as he undoubtedly felt the historical burden of hyper-masculinized black manhood. Identity politics were cast upon Obama with a furor seldom demonstrated in national politics. Skillful as ever, however, Obama emerged victorious and relatively unscathed. To my mind, navigating the swath of identitarian complaints and politics thrown only his way was one of his greatest accomplishments.

Ultimately, Part III will conclude with an exploration of the ways in which the political contest for the Democratic Party nominee exposed the primacy of identitarian politics, specifically of race, in America. In conclusion, this essay will assert that, in keeping with America's schizophrenic socio-legal history, race remains a challenging concept and its persistent relevance indicates that we have not yet achieved the racial healing or transcendence which Obama's public ascendancy proclaims. Obama, therefore, is *not* the balm for our racial ailments. Instead, Obama's ascendancy reveals our racial disorder. At the same time that Obama's eclipsing blackness comforts many of us in the knowledge that we have finally elected a black President, others are equally disappointed by this fact. Moreover, Obama's public trajectory to the forefront of the political super strata eclipses the pervasive reality that private prejudices remain steadfast throughout the social landscape and we remain more racially segregated than ever.

I. FROM ANTI-MISCEGENATION TO MISCEGENATION

Some have speculated that part of the appeal of Barack Obama as the first black President is that he is from, what I will dub, the Miscegenation. This notion of a mixed-race nation has tremendous salience, not only in America, but around the world. When combined with his middle name, Hussein, and his mixed origin and mixed race, he is situated firmly on several continents—Africa, Europe, Asia, and North America. Kenyans have reason to see themselves in Obama,¹¹ South East Asians do as well, particularly Indonesians,¹² as do many in the Arab world who

11. See Tom Maliti, *Kenya Declares Wednesday a National Holiday After Barack Obama*, HUFFINGTON POST, Nov. 5, 2008, http://www.huffingtonpost.com/2008/11/05/kenya-declares-wednesday_n_141270.html.

12. See Henry Chu, *World Reaction to Obama Victory: Elation*, L.A. TIMES, Nov. 6, 2008, available at <http://www.latimes.com/news/nationworld/world/la-fg-worldreax6-2008nov06,0,6037603.story>.

appreciate not only his middle name, but also his anti-Iraq war stance. But back home in America, Obama's story of miscegenation, a word with a historically ugly connotation,¹³ sheds light on a matter of great historical acrimony. Indeed, notable jurists and politicians feared that America would become a nation of mongrels like Mexico or Puerto Rico.¹⁴ The story of the mixing of the races in America, particularly of the Black and the White, is deeply rooted in the racialized founding of the nation itself.¹⁵ However, history reveals that this Nation, a nation of mixed-race people, is contested. Its existence is simultaneously perceived as a detested blight on American socio-legal history¹⁶ and as a cause for post-racial celebration.¹⁷

13. See generally Camille A. Nelson, *Loving the Man: The Legal Nexus of Irony, Hypocrisy, and Curiosity*, 2007 WIS. L. REV. 543 (2007); see also Reginald Oh, *Regulating White Desire*, 2007 WIS. L. REV. 463 (2007); RACHEL MORAN, *INTERRACIAL INTIMACY: THE REGULATION OF RACE AND ROMANCE* (2d. ed. 2003); Randall Kennedy, *How Are We Doing with Loving? Race, Law, and Intermarriage*, 77 B.U. L. REV. 815, 820 (1997).

14. Such people "warned that American democracy would be in jeopardy if the color line were compromised," thereby creating a nation of mongrels. MORAN, *supra* note 13, at 57; see Kennedy, *supra* note 13, at 13-14. These men feared that a burgeoning mixed-race population would convert America into a nation made up of a racially indeterminate populace, like Mexico or Puerto Rico. See MORAN, *supra* note 13, at 57 (Mexico); RUBIN FRANCIS WESTON, *RACISM IN U.S. IMPERIALISM: THE INFLUENCE OF RACIAL ASSUMPTIONS ON AMERICAN FOREIGN POLICY 1893-1946*, at 194-210 (1972) (Puerto Rico).

15. See generally MORAN, *supra* note 13.

16. *Id.* at 17-42 (exploring the ways in which the law was used to enforce the separation of the races). As Professor Randall Kennedy noted, "There are . . . powerful forces arrayed against increased rates of black-white intermarriage Through stares, catcalls and even . . . violence, they put a pall over interracial intimacy . . ." See Kennedy, *supra* note 13, at 820; see also RANDALL KENNEDY, *INTERRACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY, AND ADOPTION* 820 (2003) ("Some polls suggest that as much as twenty percent of the white population continues to believe that interracial marriage should be illegal." (citing Isabel Wilkerson, *Black-White Marriages Rise, but Couples Still Face Scorn*, N.Y. TIMES, Dec. 2, 1991, at A1)); RENEE C. ROMANO, *RACE MIXING: BLACK-WHITE MARRIAGE IN POSTWAR AMERICA*, 217-22 (2003) (exploring negative and hostile reactions of African Americans to black-white interracial relationships).

17. Some scholars and commentators view interracial relationships and the production of mixed-race people in celebratory terms. They see in them the possibility of racial transcendence. With the "browning" of the United States it is hoped that racial constructs and prejudice will dissipate and tolerance will thrive. Elsewhere I have stated, "[T]o members of the sunshine brigade, mixed-race children represent the cure for our racial pathologies. These individuals see mixed-race children as the way of the future; they defy race and will lead us to racial harmony through their splendid existence." See, e.g., Kennedy, *supra* note 13, at 818-19 (arguing that increasing black-white intermarriage is one way to alleviate black isolation and social, political, and economic deprivation); see generally Jim Chen, *Unloving*, 80 IOWA L. REV. 145, 171-72 (1994) (arguing that the creolization of America offers hope for the end of racism as we know it, and that interracial intermarriage will prove that "love conquers all"). In dismissing "race-matching," Professor Chen celebrates an America in which we have interbred for generations: "[W]e Americans have 'mixed people as though they were of no more consequence than the swill [we have] slopped together for [our] pigs.' The rest of the world should be so fortunate." *Id.* at 152 (quoting O.E. ROLVAAG, *PEDER VICTORIOUS* 138-39 (Nora O. Solun & O.E. Rolvaag trans., 1929)); see also Mathijc Kalmijn, *Trends in Black/White Intermarriage*, 72 J. SOC. FORCES 119, 141 (1993) ("[Increasing intermarriage] is further consistent with . . . a continuous decline in white prejudice against blacks. The apparent growth of social tolerance towards blacks may make the marriage seekers themselves less reluctant to intermarry, and it may make it easier for the unprejudiced to marry because of the weakening social norms against such marriages." (citations omitted)). But see Garrett Epps, *What's Loving Got to Do with It?*, 81 IOWA L. REV. 1489, 1496 (1996) ("Professor Chen's reasoning . . . seems to be that . . . intermarriage of the races offers hope for a cessation of racial hostility and

For instance, in relaying his concerns for the maintenance of white racial purity, Benjamin Franklin, in *Observations Concerning the Increase of Mankind*, did not mince his words. This founding father was so concerned with the dilution of whiteness, and the corollary loss of privilege and status, that he was willing to forgo the profits of slavery in order to maintain racial purity. Fixated as he was upon the preservation of pure whiteness, Franklin linked nation-building to racial identity formation:

[W]hy increase the Sons of Africa, by Planting them in America, where we have so fair an Opportunity, by excluding all Blacks and Tawneys, of increasing the lovely White and Red? But perhaps I am partial to the Complexion of my Country, for such kind of Partiality is natural to Mankind.¹⁸

Again, connecting love of country to preservation of racial purity, founding father Thomas Jefferson commented that blacks' "amalgamation with the other color produces a degradation to which no lover of his country, no lover of excellence in the human character can innocently consent."¹⁹ Thus, the concerns of Jefferson and Franklin provide the historical context for analyzing some of the racial concerns with Obama's ascendancy.²⁰ In keeping with this perspective, legal barriers were erected to maintain and reinforce the "peculiar" institution of slavery and to ensure the subjugation of blacks in America.²¹ As Chief Justice Taney remarked in the now infamous *Dred Scott* case, blacks were "so far inferior, that they had no rights which the white man was bound to respect."²² According to the Chief Justice, "the negro might justly and lawfully be reduced to slavery for his own benefit."²³ A belief in the inherent debasement of "the Negro" further led to the enactment of anti-

oppression This logic is at best elusive."); Peter Kwan, *Unconvincing*, 81 IOWA L. REV. 1557, 1570 (1996) ("[I]t is far from clear there exists a necessary relationship between racial hatred at individual levels and at societal levels, with the diminution of one necessitating the diminution of the other."). See also Chen, *supra* note 17, at 153 ("Whatever else it might honor, multicultural America must surely venerate the 'half-breed' survivors who endured and eventually conquered racism.").

18. 4 BENJAMIN FRANKLIN, OBSERVATIONS CONCERNING THE INCREASE OF MANKIND, in PAPERS OF BENJAMIN FRANKLIN 225, 234 (Leonard W. Barabee et al. eds., 1961).

19. Letter from Thomas Jefferson to Edward Coles (Aug. 25, 1814), in PORTABLE THOMAS JEFFERSON 544, 546 (Merrill D. Peterson ed., 1975).

20. Contemporary hateful images and references to Obama, <http://tinyurl.com/ctgt5f> (last visited Mar. 15, 2009).

21. The comments in *Georgia v. Scott*, 39 Ga. 321, 323 (1869) are typical of the time. The court stated as follows:

The amalgamation of the races is not only unnatural, but is always productive of deplorable results [T]he offspring of these unnatural connections are generally sickly and effeminate, and . . . they are inferior in physical development and strength, to the full-blood of either race. . . . They are productive of evil, and evil only, without any corresponding good.

See also MORAN, *supra* note 13; Kennedy, *supra* note 13 (detailed examination of this jurisprudence).

22. 60 U.S. 393, 407 (1857).

23. *Id.*

miscegenation laws which imposed sanctions for interracial mixing. According to Chief Justice Taney, the laws prohibiting intermarriage in the colonies “show that a perpetual and impassable barrier was intended to be erected between the white race and the one which they had reduced to slavery.”²⁴ This terrible history of legally enforced debasement, separation and segregation is one thread of the American experience.

There are counter-narratives, however, that embrace the reality of race mixing that took place irrespective of legal barriers and which continues to take place in contemporary American society despite stigmatization. These perspectives, including that of Marty Perez of the New Republic, highlight a pan-ethnic mixed-race identity as equally legitimate. It posits a celebratory response to the anti-mixing perspective, one that situates the MiscegeNation as quintessentially American:

[Obama’s] mixed-race origins make him more and more like other people identified as Afro-American. This paradigm fits the type of other Americans: mixed race, mixed religion, mixed ethnicity, even mixed class. This is also an American experiment, an American achievement.²⁵

In order to address these conflicting notions—miscegenated threat or evidence and source of racial healing—Obama seizes the moment and constructs a new brand of American patriotism. His trajectory is thus cast as a quintessentially American story.²⁶ Despite the odds, given that he “was never the likeliest candidate for [the Presidency]”²⁷ and that his campaign “didn’t start with much money or many endorsements”²⁸ Obama invokes himself and his monumental ascendancy to the presi-

24. *Id.* at 409.

25. Marty Perez, *Andy Young, Barack Obama and the Black Vote*, THE NEW REPUBLIC, (Dec. 12, 2007), available at http://blogs.tnr.com/tnr/blogs/the_spine/archive/2007/12/15/andy-young-barack-obama-and-the-black-vote.aspx.

26. Senator Barack Obama, Acceptance Speech at the Democratic National Convention (Aug. 28, 2008), available at <http://www.demconvention.com/barack-obama/> [hereinafter Senator Obama].

Four years ago, I stood before you and told you my story—of the brief union between a young man from Kenya and a young woman from Kansas who weren’t well-off or well-known, but shared a belief that in America, their son could achieve whatever he put his mind to. It is that promise that has always set this country apart—that through hard work and sacrifice, each of us can pursue our individual dreams but still come together as one American family, to ensure that the next generation can pursue their dreams as well.

Similarly, President-elect Obama started his victory speech by proclaiming his triumph a success of American ideals: “If there is anyone out there who still doubts that America is a place where all things are possible; who still wonders if the dream of our founders is alive in our time; who still questions the power of our democracy, tonight is your answer.” President-Elect Barack Obama, Victory Speech after Winning Presidential Election (Nov. 4, 2008), available at http://news.bbc.co.uk/2/hi/americas/us_elections_2008/7710038.stm [hereinafter Obama].

27. Obama, *supra* note 26 (“But above all, I will never forget who this victory truly belongs to—it belongs to you. I was never the likeliest candidate for this office. We didn’t start with much money or many endorsements. Our campaign was not hatched in the halls of Washington—it began in the backyards of Des Moines and the living rooms of Concord and the front porches of Charleston.”).

28. *Id.*

dency as the realization of the American dream, “a promise that is the only reason that [he] is here”²⁹ Further, achievement of this dream is not just the symbolic coming together of people from all walks of life but the actual melding of black and white, foreign and local, young and old. Thus, despite the identitarian choices he has made to be a black man in America, Obama knows full well that he is much more. He is savvy in his elision of an all-encompassing blackness with gender, class, age and geography. As evidenced by his Democratic National Convention speech, his recognition of the identity axis around which his identity construction revolves is multifaceted and sophisticated. His particular vantage point is simultaneously retrospective and prospective:

Because in the faces of those young veterans who come back from Iraq and Afghanistan, I see my grandfather, who signed up after Pearl Harbor, marched in Patton’s Army, and was rewarded by a grateful nation with the chance to go to college on the GI Bill.

In the face of that young student who sleeps just three hours before working the night shift, I think about my mom, who raised my sister and me on her own while she worked and earned her degree; who once turned to food stamps but was still able to send us to the best schools in the country with the help of student loans and scholarships.

When I listen to another worker tell me that his factory has shut down, I remember all those men and women on the South Side of Chicago who I stood by and fought for two decades ago after the local steel plant closed.

And when I hear a woman talk about the difficulties of starting her own business, I think about my grandmother, who worked her way up from the secretarial pool to middle-management, despite years of being passed over for promotions because she was a woman. She’s the one who taught me about hard work. She’s the one who put off buying a new car or a new dress for herself so that I could have a better life. She poured everything she had into me. And although she can no longer travel, I know that she’s watching tonight, and that tonight is her night as well.³⁰

Of course, long before the culmination of his public journey to the presidency, Barack Obama made private identity choices. In *Dreams From My Father*, Obama wrote honestly about his racial journey and his attempt to “corroborate the nightmare vision” of Blackness in America

29. Obama, *supra* note 26 (“Tonight, I say to the American people, to Democrats and Republicans and Independents across this great land—enough! This moment—this election—is our chance to keep, in the 21st century, the American promise alive.”).

30. *Id.*

painted by a friend.³¹ He read the black canon, as it were—Baldwin, Ellison, Hughes, Wright, DuBois, and Malcolm X—ferociously attempting to find himself in their words.³² As a young man of mixed racial and mixed national ancestry, he had to figure out who he was and what his identity would be. In explaining how the *Autobiography of Malcolm X* resonated with him, Obama wrote:

Only Malcolm X's autobiography seemed to offer something different. His repeated acts of self-creation spoke to me; the blunt poetry of his words, his unadorned insistence on respect, promised a new and uncompromising order, martial in its discipline, forged through sheer force of will. All the other stuff, the talk of blue-eyed devils and apocalypse, was incidental to that program, I decided And yet, even as I imagined myself following Malcolm's call, one line in the book stayed me. He spoke of a wish he'd once had, the wish that the white blood that ran through him, there by an act of violence, might somehow be expunged I knew that traveling down the road to self-respect my own white blood would never recede into mere abstraction. I was left to wonder what else I would be severing if and when I left my mother and my grandparents at some uncharted border.³³

Artfully exploring his course away from whiteness, Obama indicated an awareness of the sting of black rejection as well. Obama "decided to keep [his] own counsel" after a racial snub by one of his black friends. After being challenged by Obama that "[he had] never read Malcolm. You don't even know what he says," Obama was stung by the blistering response—"I don't need no books to tell me how to be black."³⁴ He wrote insightfully of his search for racial identity, acknowledging how the matter of his own Grandmother's racial prejudice winded him: "the words were like a fist in [his] stomach."³⁵ His was a racial quest that was almost painful to read, its earnest probing revealing profound racialized loneliness.³⁶ This abandon is also reflected upon, almost psychoanalytically, in the retelling of his exploratory drug use.

Writing of the teenaged angst he felt in negotiating his racial identity, Obama admitted to having managed this anguish, his inexorable racial turmoil, to some extent, through recreational drug use. Instead of using drugs to somehow enhance his racial credibility, Obama "got high

31. BARACK OBAMA, *DREAMS FROM MY FATHER: A STORY OF RACE AND INHERITANCE* 85 (1995).

32. *Id.* at 85-86.

33. *Id.*

34. *Id.* at 87.

35. *Id.* at 88-89.

36. *Id.* at 91 (elaborating upon a conversation he had with an older mentor about the vagaries of segregation, Obama came away thinking that "[t]he earth shook under my feet, ready to crack open at any moment. I stopped, trying to steady myself, and knew for the first time that I was utterly alone.").

for just the opposite effect, something that could flatten out the landscape of my heart, blur the edges of my memory.”³⁷

Thus, Obama, knowing that to be black was no walk in the park, deliberately and purposefully chose to take on this identity. While I do not think he could pass as white in any event, his self-construction as black in a world that encounters him as black is still not to be lightly dismissed. I disagree, therefore, with those who would diminish Obama’s black-race credibility—to them racists measure one’s ancestry with niceness and parse one’s racial bona fides with precision. In reality, however, the everyday racist is not so nuanced as to hinge their vitriol upon one’s ancestry or personal racial deliberations—to them black is black. Yet still this racialized line of detraction proceeds as follows:

Obama has not suffered the indignities of racism, and came late to the civil-rights work that was a fact of life for Andrew Young. Obama’s father was African, not American, and Obama was in that sense severed from the struggle and history in which Young played so decisive a role. Yes, he worked as a community organizer in the South Side of Chicago, but this overture was “a determination to be black,” as Shelby Steele so penetratingly describes it in his writing on Obama—a “[quest] for racial authenticity.”³⁸

It is my sense that to be a black person in a hegemonic³⁹ white world necessitates a knowing management and negotiation of one’s identity. Indeed these skills become second nature to any person who becomes a racial “cross-over” success—one learns early to manage and negotiate one’s identity especially in integrated professional spaces. As W.E. B. DuBois early recognized, people of color who live, work or play in predominantly white settings acquire “double-consciousness.”⁴⁰ He stated that, “It is a peculiar sensation, this double-consciousness, this sense of always looking at one’s self through the eyes of others, of meas-

37. *Id.* at 93-94.

38. Joseph Abrams, *Black Like Whom? Obama vs. the Leaders*, NATIONAL REVIEW ONLINE, Jan. 16, 2008, <http://tinyurl.com/d56kck>.

39. I mean to convey that the hegemony, the very system of power and priorities, disburses privileges and benefits in an identitarian manner. At times the maintenance of power requires diversity, inclusion, and absorption of those in the minority into the halls of power. Often such gestures are benevolent. At all times, however, the fundamentals of the power structure are maintained even if it calls for the strategic appeasement or incorporation of those who might otherwise agitate for the destruction of the status quo.

40. W.E.B. DUBOIS, *THE SOULS OF BLACK FOLK* 3 (Washington Square Press 1970) (1903) (“After the Egyptian and Indian, the Greek and Roman, the Teuton and Mongolian, the Negro is a sort of seventh son, born with a veil, and gifted with second-sight in this American world—a world which yields him no true self-consciousness, but only lets himself through the revelation of the other world. It is a peculiar sensation, this double-consciousness, this sense of always looking at one’s self through the eyes of others, of measuring one’s soul by the tape of a world that looks on in amused contempt and pity. One ever feels his twoness,—an American, a Negro; two souls, two thoughts, two unreconciled strivings; two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder.”).

uring one's soul by the tape of a world that looks on in amused contempt and pity."⁴¹

Thus, seeing himself through the eyes of whites and knowing of the discomfort felt by some white people in dealing with blacks, Obama confesses to having managed his identity to put white people, even his own mother, at ease:

It was at the start of my senior year in high school; she was back in Hawaii, her field work completed, and one day she had marched into my room wanting to know the details of Pablo's arrest. I had given her a reassuring smile and patted her hand and told her not to worry, I wouldn't do anything stupid. It was usually an effective tactic, another one of those tricks I had learned: People were satisfied so long as you were courteous and smiled and made no sudden moves. They were more than satisfied: they were relieved—such a pleasant surprise to find a well-mannered black man who didn't seem angry all the time.⁴²

This racial negotiation is very much a part of the legacy of blackness in America. Indeed, the very title of Obama's first book, *Dreams From My Father: A Story of Race and Inheritance*, is revealing. The post-colon phrase betrayed his uneasy realization, so beautifully articulated in the pages of the book, that he must manage his racial identity. Obama contemplated his journey as trying to find a place and a community in the world for himself—this included the negotiation and articulation of a racial identity. More to the point, the "*Story of Race and Inheritance*" component probed Obama's crafting of a racial identity for himself out of whole cloth. In reflecting upon his feelings after receiving a letter from his father, Obama bluntly articulated his desire to fit somewhere and his need for acceptance:

And now he had answered me, cheerful and calm. Know where you belong, he had advised. He made it sound simple, like calling directory assistance.

"Information—what city, please?"

"Uh . . . I'm not sure. I was hoping you could tell me. The name's Obama. Where do I belong?"⁴³

...

And if I had come to understand myself as black in America, and was understood as such, that understanding remained unanchored to place. What I needed was a community, I realized, a community that

41. *Id.*

42. OBAMA, *supra* note 31, at 94-95.

43. *Id.* at 114-15.

cut deeper than the common despair that black friends and I shared when reading the latest crime statistics, or the high fives I might exchange on a basketball court. A place where I could put down stakes and test my commitments.⁴⁴

Thus, while the post-colon part of the book, *A Story of Race and Inheritance*, is usually ignored with emphasis placed upon the *Dreams From My Father* pre-colon component, it is the more poignant piece. The *Story of Race and Inheritance* bespeaks the amazing paradox of our racial landscape. That Obama is schooled in his racialization not by his absentee black father, nor his Indonesian stepfather, but by his white Kansan mother reveals the constructedness of race. It was his mother that was first to shepherd Obama's journey into blackness. She was his first tutor in African-American history, American history really.

Her message came to embrace black people generally. She would come home with books on the civil rights movement, the recordings of Mahalia Jackson, the speeches of Dr. King. When she told me stories of schoolchildren in the South who were forced to read books handed down from wealthier white schools but who went on to become doctors and lawyers and scientist, I felt chastened by my reluctance to wake up and study in the mornings. If I told her about the goose-stepping demonstrations my Indonesian Boy Scout troop performed in front of the president, she might mention a different kind of march, a march of children no older than me, a march for freedom. Every black man was Thurgood Marshall or Sidney Poitier; every black woman Fannie Lou Hamer or Lena Horne. To be black was to be the beneficiary of a great inheritance, a special destiny, glorious burdens that only we were strong enough to bear.⁴⁵

It is really little wonder, therefore, that Obama chose blackness. Even his mother realized the futility of Obama attempting to claim whiteness. The impetus for this decision, while surely a matter of more than simple racialized aesthetics or performance, is to be found in our public-private racial fracture. In private, you can be whatever you want to be. Such sanctity is nowhere to be found in the public sphere as crude identity politics are the order of the day. As such, Obama admits to having made a choice, a racial choice, to seek solace in blackness. It is a mark of determination, and perhaps empathy, that he did so whilst recognizing the plight of the black community. Obama wrote, "It was as if all middle ground had collapsed, utterly. And nowhere, it seemed, was that collapse more apparent than in the black community I had so lovingly imagined and within which I had hoped to find refuge."⁴⁶

44. *Id.* at 115.

45. *Id.* at 50-51.

46. *Id.* at 121.

Returning to the role of psychoanalyst, as if channeling Freud, Obama cleverly diagnoses disorders within the American racial body politic. He was suspicious, it seems, of interracial interactions, even in love. Perhaps he has overcome such pessimism, but for a time it appears that he struggled with the prospect of unloaded, neutral, interracial interactions. American history, it seemed, had bogged down our cross-racial relations and thereby prevented unfiltered dialogue.

The emotions between the races could never be pure; even love was tarnished by the desire to find in the other some element that was missing in ourselves. Whether we sought out our demon or salvation, the other race would always remain just that: menacing, alien, and apart.⁴⁷

If this was indeed Obama's philosophy at the time, it is no wonder that he felt compelled to reconcile his biracial identity, to eliminate cognitive dissonance and prevent the alienation of self. He has carefully, knowingly, privately ordered his racial self. But what of our public encounter with Obama? What have we transferred onto him?

Unlike the ascendance of any other political candidate, Barack Obama's presidency forces us to ask ourselves whether we see ourselves in him in some way, shape or form. For many whites, voting for Obama might be proof positive that we are post-racial or, more psychologically meaningful, that they are most definitely not racist. However we must be mindful that being non-racist is not the same as being post-racial. This theory lends credence to the interest convergence theory posited by Professor Bell over three decades ago.⁴⁸ He wrote, "Successful blacks serve white interests by providing the rationalizing link between the nation's espousal of racial equality and its practice of racial dominance. The nation's unspoken and totally facetious maxim is that with self-improvement, the opportunity is available for all blacks to be successful."⁴⁹

Under this rubric blacks who occupy power positions have cut a deal, knowingly or otherwise, with the white hegemony. According to this view, tokenism is the order of the day and power is disbursed to the "chosen ones" in a manner that does not upset the underlying structures of dominance. Shelby Steele refers to black people occupying this societal position as "bargainers."⁵⁰

47. *Id.* at 124.

48. Derrick Bell, *Racial Remediation: An Historical Perspective on Current Conditions*, 52 NOTRE DAME L. REV. 5, 6 (1976).

49. *Id.* at 24.

50. Shelby Steele, *The Identity Card*, TIME, Nov. 30, 2007, available at <http://www.time.com/time/magazine/article/0,9171,1689619,00.html> (Unlike racial challengers, "[b]argainers make a deal with white Americans that gives whites the benefit of the doubt: I will not rub America's history of racism in your face, if you will not hold my race against me. Especially in

Barack Obama is a plausible presidential candidate today because he is a natural born bargainer. Obama—like Oprah—is an opportunity for whites to think well of themselves, to give themselves one of the most self-flattering feelings a modern white can have: that they are not racist. He is the first to apply the bargainer's charms to presidential politics. Sharpton and Jackson were implausible presidential candidates because they suffered the charmlessness of challengers. Even given white guilt, no one wants to elect a scold.⁵¹

Interestingly the September issue of the *Advocate*, a gay, lesbian, bisexual and transgender magazine, had a cover story, “Obama: Worth Pinning Your Hopes On?”—it further posits “Does Barack Obama really love the gays? Let us count the ways. PLUS: If we can get a black president, how long will it take to elect a gay one?”⁵² It seems that many people are pinning their hopes for identity transcendence, or identity incorporation, on Obama. There are strategic interests which many people hope are now in alignment. Despite his choice of blackness and his construction and general recognition as black, Obama is the slate onto which our racial, and other identity-based, hopes and phobias are transferred. Indeed, in the wake of the controversy surrounding his former pastor Jeremiah Wright, a more mature Obama dealt with such racial nuance in his “A More Perfect Union” speech. In situating himself as a black man at many identity intersections, Obama stated,

I am the son of a black man from Kenya and a white woman from Kansas. I was raised with the help of a white grandfather who survived a Depression to serve in Patton's Army during World War II and a white grandmother who worked on a bomber assembly line at Fort Leavenworth while he was overseas. I've gone to some of the best schools in America and lived in one of the world's poorest nations. I am married to a black American who carries within her the blood of slaves and slaveowners—an inheritance we pass on to our two precious daughters. I have brothers, sisters, nieces, nephews, uncles and cousins, of every race and every hue, scattered across three continents, and for as long as I live, I will never forget that in no other country on Earth is my story even possible. It's a story that hasn't made me the most conventional candidate. But it is a story that has seared into my genetic makeup the idea that this nation is more than the sum of its parts—that out of many, we are truly one.⁵³

our era of political correctness, whites are inevitably grateful for this bargain that spares them the shame of America's racist past. They respond to bargainers with gratitude, warmth, and even affection. This “gratitude factor” can bring the black bargainer great popularity.”).

51. *Id.*

52. Michael Joseph Gross, *Should You Believe in Obama?*, THE ADVOCATE, Sept. 9, 2008, available at http://www.advocate.com/issue_story_ektid59219.asp.

53. Senator Barack Obama, Remarks at the Constitution Center Philadelphia, Pennsylvania: A More Perfect Union (March 18, 2008), available at http://www.huffingtonpost.com/2008/03/18/obama-race-speech-read-th_n_92077.html.

While these identitarian concerns seemed to have escaped many commentators covering the McCain, Palin and Clinton campaigns, it has plagued Obama's campaign from the start. Is Obama Black enough?⁵⁴ The question of "is he white enough" is implied also.⁵⁵ But we did not hear similar questions about whether John McCain, Sarah Palin or Hillary Clinton were black or white enough. Somehow, the other major candidates were raceless. Further, they were not expected to speak to race or identity at the same volume as was Obama. In the public political landscape it seemed that Obama, and Obama alone, owned race and racialization (and also reverse racism) in a way that no other candidate did. Thus, despite skillfully negotiating his racial identity, Obama's suspicious words written in his youth—"Whether we sought out our demon or salvation, the other race would always remain just that: menacing, alien, and apart,"—continue to ring true. As a man whose identity occupies the nexus of black and white, much more identity-based reassurance has been asked of Obama. This is the essence of our racial disorder.

In the same historical moment we saw the following race-based reactions to Obama: Men and women were moved to tears and unabashed ugly sobs by even the prospect of Obama being the first black President.⁵⁶ Numerous media reports bespeak the marvel and hope of people who never thought that they would see a black president in their lifetimes.⁵⁷ On the other hand, the fact of Obama being heckled by supposed Black nationalists accusing him of inattention to black issues makes primetime news.⁵⁸ Nowhere do we hear about John McCain, Sarah Palin, or Hillary Clinton being heckled based on their inattention to the needs of any communities of color. Ironically, it seems that they,

54. See Stanley Crouch, *What Obama Isn't: Black Like Me (Stanley Crouch Eats His Own)* N.Y. DAILY NEWS, Nov. 2, 2006, available at <http://www.freerepublic.com/focus/f-news/1730861/posts>.

55. See Jim Farber, *Geraldine Ferraro Lets Her Emotions Do the Talking*, THE DAILY BREEZE, Mar. 7, 2008; Paul Grondahl, *Celebrating Hope in Verse*, ALBANY TIMES, Nov. 10, 2008, available at <http://timesunion.com/AspStories/story.asp?storyID=737961> (interviewing the 85 year-old poet Mars Hill who stated, "I have to be honest, I had given up hope of a black president in my lifetime because of all the racism I've seen," Hill said. "Obama can't solve this country's race relations problems all by himself, but he has gifts we haven't seen in a very long time in a politician.").

56. John McWhorter, *ObamaKids: And the 10 Year-olds shall lead us*, NEW YORK MAGAZINE, Aug. 18, 2008, at 28, available at <http://nymag.com/news/features/49141/> (recalling that 40 years ago it would have been a stretch to think that a black boy could grow up to be the American President); Martha T. Moore, *Historic Night: Democrats Unite Around Obama*, USA TODAY, Aug. 28, 2008, at 1A, available at http://www.usatoday.com/news/politics/election2008/2008-08-27-obama-cover_N.htm (discussing how people did not expect a black president in their lifetime).

57. See, e.g., Wendi C. Thomas, *Possibility arises to shed cynicism, focus on hope*, MEMPHIS COMMERCIAL APPEAL, Nov. 9, 2008, at V4, available at <http://www.commercialappeal.com/news/2008/nov/09/possibility-arises-to-shed-cynicism-focus-on/> (stating her former belief that "never in [her] lifetime would the streak of white men in the White House would be broken.").

58. See *Obama Heckled By Blacks At Town Hall Meeting*, NPR (2008), <http://www.npr.org/templates/story/story.php?storyId=93191158>; see also Sam Stein, *Obama Heckled For Not Focusing On Black Issues*, HUFFINGTON POST (2008), http://www.huffingtonpost.com/2008/08/01/obama-heckled-for-not-foc_n_116308.html.

as white people, get a pass—a racial pass. They are not expected to be attuned to the identitarian issues of communities of color. But Obama, the mixed-race black man, is beholden both to black and white issues. Curiously, Obama does not get a racial pass on these issues—instead he aesthetically embodies them. As such, he is publicly rooted in simple identity politics in a way that no other candidate is. “My friends,”⁵⁹ we are not yet post-racial.

Thus, like the lone black student in a homogenously white classroom, Obama is expected to speak for his people (whoever that might be), but not too much. He is expected to be all things to all people: black (but not too black), feminist (but not effeminate),⁶⁰ erudite but not elitist, and certainly not uppity.⁶¹ The other candidates, more white than Obama, were not expected to negotiate their constructed whiteness or perform or outperform societal expectations of white people. In this way, their racial burdens were far less than Obama’s. But that is the essence, and the paradox, of racial privilege; those who are victimized by its construction own the problem of race and racism.

II. THE RACIAL TIGHTROPE, WITH LANDMINES . . .

Yet even the talk of being post-racial reveals the persistence of racial constructions. We seem to be unable to see our way out of discrete racial expectations and categorizations. Indeed, the very disbelief echoed in comments such as “I never thought I would see even the possibility of a black President in my lifetime . . .”⁶² reveals our shared understanding of racialization as Black. It highlights commonplace notions of the hurdle—Racial Hurdle—presented by blackness. But in light of Obama’s election, such logic begs the following question: Post-11/4/08 is it now the case that we are decidedly post-racial and that we have tran-

59. John McCain was known to use this prefatory language throughout the 2008 presidential campaign before he delivered the subject of his statement.

60. See Media Matters for America, *Imus: Obama is “almost a bigger pussy than” Clinton*, (2008), <http://mediamatters.org/discuss/200804170006> (last visited Feb. 4, 2009). In critiquing the civility of Barack Obama and Hillary Clinton during a debate, Don Imus referred to him as a “pussy.” He stated, “I thought Senator [Barack] Obama was on the defensive most of the night. But they’re both sissy boys or sissy girls, or whatever. Because they talk big when they’re out on the campaign trail, wolfing on each other.” Charles McCord interjected, “But then,” and Imus continued: “And then when they show up at the debate, they fold up like a couple of cheap lawn chairs. I mean, I don’t understand that. And he’s almost a bigger pussy than she is.” See *id.*

61. See Mark Silvia, *Clinton: Obama ‘Elitist’*, THE SWAMP (2008), http://www.swamppolitics.com/news/politics/blog/2008/04/clinton_obama_elitist.html (last visited Feb. 4, 2009); see also Brent Staples, *Barack Obama, John McCain and the Language of Race*, N.Y. TIMES, Sept. 21, 2008, at A22, available at <http://www.nytimes.com/2008/09/22/opinion/22observer.html> (stating that “race-based” wealth envy was often a trigger for vigilante violence such as lynching’s, burnings and other “cataclysmic episodes of violence.”). Note this characterization also smacks of racism as it serves the function of keeping uppity negroes in place. Indeed, “Georgia Republican Rep. Lynn Westmoreland used the racially-tinged term “uppity” to describe Democratic presidential candidate Barack Obama” Mike Soraghan, *Westmoreland Calls Obama ‘Uppity’*, THE HILL, Sept. 4, 2008, available at <http://thehill.com/leading-the-news/westmoreland-calls-obama-uppity-2008-09-04.html>.

62. Thomas, *supra* note 57.

scended race and racialization as many commentators and pundits have claimed?⁶³ Specifically, has the post-racial promise of America been achieved, as evinced by Obama's ascendancy? Perhaps we have achieved this end under the 25-year time forecast by Justice O'Connor in *Grutter*.⁶⁴

To many people Obama's mixed-race heritage indicates the triumph of colorblindness over racism. That colorblindness, as opposed to color-consciousness without negative ascription, is seen as the *sine qua non* of racial progress is itself revealing of our racial disorder. For many in America the only way to overcome racism is to deny the consequences of race and colorism.⁶⁵ Instead I suggest that we think about eliminating the negative connotations and consequences tethered to racialization rather than seeking to avoid any recognition of the socio-cultural concept of race itself. In the political landscape Obama was paradoxically wedged between these two competing viewpoints. Steele summarized these perspectives as follows:

There is the unspoken hope that his mixed-race freshness carries a broader political originality. And, in fact, he does embody something that no other presidential candidate possibly can: the idealism that race is but a negligible human difference. Here is the radicalism, innate to his pedigree, which automatically casts him as the perfect antidote to America's exhausted racial politics. This is the radicalism by which Martin Luther King Jr. put Americans in touch—if only briefly—with their human universality. Barack Obama is the progeny of this idealism. As such, he is a living rebuke to both racism and racialism, to both segregation and identity politics—any form of collective chauvinism.⁶⁶

I read the identitarian discourses surrounding Obama differently. The posing of these questions around identity betrays our subconscious recognition that we are not there yet—we remain burdened by a default racial calculus. Even the semantics of being post-racial reveals the persistence of race and racial constructions. We do not even have terminology, let alone the ideological substance, to take us beyond racial fixity.

63. See John Brummett, *Of Course He's No Racist*, LAS VEGAS REVIEW, Aug. 10, 2008, at 3D, available at <http://www.lvrj.com/opinion/26582199.html> (claiming that "Obama had been emerging as a transcendent, post-race figure."); Rachel L. Swarns, *If Elected . . . Delicate Obama Path on Class and Race Preferences*, N.Y. TIMES, Aug. 3, 2008, at A1, available at <http://tinyurl.com/cqyb3l> (stating "[w]hile Obama's biracial background in many ways makes him an ideal bridge between racial sensibilities, the issue [of race] remains politically treacherous, especially with race taking an increasingly prominent role in the campaign."); see also Andrew Sullivan, *Goodbye to All That: Why Obama Matters*, THE ATLANTIC MONTHLY, Dec. 2007, at 40, available at <http://www.theatlantic.com/doc/200712/obama> (referring to Obama's candidacy as "potentially transformational.").

64. See *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

65. See generally SKIN DEEP: HOW RACE AND COMPLEXION MATTER IN THE "COLOR-BLIND" ERA (Cedric Herring, Verna M. Keith & Hayward Derrick Horton eds., 2004).

66. Steele, *supra* note 50.

These questions further indicate our quest for a racial healing that we know has not yet been achieved. Hence the racial schizophrenia. We are deeply conflicted. It is unclear what is reality versus what is merely our distorted perception. It is my ultimate conclusion that our distorted racial perception is our reality.

It is no wonder, therefore, that Barack Obama is simultaneously viewed in conflicting ways. First, Obama is cast as the lightning rod for the supposed post-racial nation.⁶⁷ A New York Times report proclaimed that Obama presented “An Appeal Beyond Race.”⁶⁸ Obama “offers his face.”⁶⁹ While not without some basis in truth,⁷⁰ Obama is cast as poster-boy for the browning of the world.⁷¹ Therefore, strategically and pragmatically, in our dealings with the rest of the world, and specifically with the constituency that hates America, we offer Obama as evidence of “the new face of America.” In this way Barack Hussein Obama stands alone. Proclaiming the end of a racialized era, Thomas Friedman in a New York Times Op-ed proclaimed, “And so it came to pass that on November 4, 2008, shortly after 11 p.m. Eastern time, the American Civil War ended, as a black man—Barack Hussein Obama—won enough electoral votes to become president of the United States.”⁷² He is the deliverer of what the *Atlantic Monthly* called “racial catharsis” and our “bridge to [a post-racial] 21st century.”⁷³ “His mixed-race heritage grants him a level of

67. See *NBC/Wall Street Journal Survey*, July 2008, at 25, http://s.wsj.net/public/resources/documents/WSJ_Poll_072308.pdf. In a Wall Street Journal/NBC news poll in July 2008, 8% of white voters said race was the most important factor in their vote; another 15% said it was one of several important factors, a slight increase from June. The poll also found that 20% of black voters said that race was the most important factor in their vote and another 14% said it was one of several important factors. In either case these polls reveal that Obama is deeply racialized and invokes both race-based fears and race-based hopes. *Id.*

68. See Scott L. Malcomson, *The Nation; An Appeal Beyond Race*, N.Y. TIMES, Aug. 1, 2004, at 45 (commenting that part of his appeal stemmed from the fact that some whites find him “attractive because, while he’s black, he is not the direct product of generations of black life in America: he is not black in the usual way.”).

69. Sullivan, *supra* note 63 (stating “[b]ut Obama’s reach outside his own ranks remains striking. Why? . . . How has a black, urban liberal gained far stronger support among Republicans than the made-over moderate Clinton or the southern charmer Edwards? . . . What does he offer? [H]is face.”).

70. See, e.g., Farah Stockman, *Much of the World Exults in Obama: His Diverse Background is Inspiration*, Boston Globe, Nov. 6, 2008, at 21, available at http://www.boston.com/news/world/articles/2008/11/06/much_of_the_world_exults_in_obama/; see also *Obama Grabs News Headlines in the Americas*, November 5, 2008, <http://obama2008.s3.amazonaws.com/headlines.html> (last visited Feb. 4, 2009).

71. See Robert Bernstein, *More Than 300 Counties Now “Majority-Minority”*, U.S. CENSUS BUREAU NEWS (2007), <http://www.census.gov/Press-Release/www/releases/archives/population/010482.html>.

72. Thomas L. Friedman, *Finishing Our Work*, N.Y. TIMES, Nov. 4, 2008, at A35, available at <http://www.nytimes.com/2008/11/05/opinion/05friedman.html> (recognizing the amount of work yet to be done, Friedman states, “of all the changes that will be ushered in by an Obama presidency, breaking with our racial past may turn out to be the least of them. There is just so much work to be done. The Civil War is over. Let reconstruction begin.”).

73. Sullivan, *supra* note 63.

insight into our racial divide that we have never had in the Oval office.”⁷⁴ Similarly, a New York Times article proclaimed, “The power of Obama’s exotic background to neutralize race as an issue, combined with his elite education and his credentials as the first African-American Harvard Law Review president, made him an African-American candidate who was not stereotypically African-American.”⁷⁵ This language is telling.

Race is toxic—it has to be neutralized. In order to transcend a negative racialization African-Americans must overcome stereotypical blackness. In surmounting this obstacle of the racialized white imagination, exoticism helps. What is it, therefore, that makes Obama exotic? What makes him unlike the African-American caricatures to which the writer eludes? I believe Obama’s mixed-race heritage goes a long way to distance him from the likes of Reverends Al Sharpton and Jesse Jackson, black men of slave stock who are easily dismissed as too black, and hence too threatening. Not to be outdone, these civil rights leaders are also inclined to dismiss Obama on the basis that he is not authentically black, whatever that means, and whatever that is.⁷⁶ It is ironic that they should feel so confident regulating blackness. Their policing posture is deeply disconcerting in light of their principled stance against racial profiling in other domains. The ramblings of Al Sharpton, Jesse Jackson, Andrew Young and John Lewis⁷⁷ did them a disservice. It further cast them as beleaguered race-men-of-old and easily presented a foil of disunity against which Obama could pitch a new era of racial harmony and healing. They are the ones in the white American imagination who are prone to make sudden movements, always bringing up issues of race and civil rights. These are the landmines a savvy Obama long ago negotiated away. The comments of Joseph Abrams are insightful:

In sum, Obama is not radical enough, nor miserable enough, nor angry enough to pass that old, vile litmus test that judges authenticity. If Obama is not black because he has not suffered the right way, if Obama is not black because he has succeeded on his own, if Obama is not black because he has embraced the system rather than attacking it, then what is it to be black? Is it to be hopeless, to occupy a state

74. *Election Serves as Tangible Reaffirmation of Our Democracy’s Inclusiveness*, KANSAS CITY STAR, Nov. 9, 2008, at E3 (adding “[h]is unique birthright and upbringing provided him cover to walk intimately with each of us. At this critical juncture in our nation’s journey, his rare path supplies the proper sunlight to heal festering wounds and a flashlight to navigate a world in conflict and rapid change.”).

75. Malcomson, *supra* note 68.

76. See Steele, *supra* note 50. Steele writes: “Racist societies make race into a hard fate. So people who are the progeny of two races become curiosities not because they are particularly interesting, but because they are so unexpected. This must be an old and tiresome vulnerability in Barack Obama’s life (as it is in mine), and all the more so because he has chosen a public life.” *Id.*

77. See Jeff Zeleny and Patrick Healy, *Black Leader, A Clinton Ally, Tilts to Obama*, N.Y. TIMES, Feb. 15, 2008, at A1, available at <http://www.nytimes.com/2008/02/15/us/politics/15clinton.html>.

of mind rather than a human form? To believe that is to be an out-right racist. The embrace of Obama is an embrace of his success, a rejection of the failures that Sharpton and Jackson represent and feed on—and a signal that blackness is not comprised of Toni Morrison’s tropes⁷⁸ and a life of opposition.

It clearly stings those Brahmins of the black community that this young man, who has not shared in their suffering, should claim their triumph. And it may sting them that someone of “mixed race” should bring this about, but even that is fitting⁷⁹

The second conflicting way in which Obama is cast is as frightening. Some people in “mainstream America” are fearful of Obama as he seems unknowable and incomprehensible; to them he is foreign and alien. Indeed much of this disparagement is tinged not only with racism but also with what has been termed “the Muslim smear.”⁸⁰ Thus, the intersection of his racialization and his dubious Christianity made uneasy bedfellows as “regular” Americans assessed his candidacy.⁸¹ For these people Obama signaled the unknowable other—incomprehensible, alien, and foreign. It speaks volumes that despite a confluence of factors in his favor—President Bush being perhaps the most unpopular president in the history of the United States, two unsuccessful wars, climate change concerns, and what might be the worst financial crisis since the Great Depression—Obama did not capture even more of the popular vote.⁸²

In this mix, “[t]he Democrats should have romped in with a massive victory in the popular vote.”⁸³ For individuals disinclined to vote for a

78. See Toni Morrison, *The Talk of the Town: Comment*, NEW YORKER, Oct. 5, 1998, available at http://www.newyorker.com/archive/1998/10/05/1998_10_05_031_TNY_LIBRY_0000_16504. In it she reiterated a claim that had started during the Whitewater investigation, that Bill Clinton was the first black president as he displayed “almost every trope of blackness: single-parent household, born poor, working-class, saxophone-playing, McDonald’s-and-junk-food-loving boy from Arkansas.” *Id.*

79. Abrams, *supra* note 38.

80. See Naomi Klein, *Obama, Being Called a Muslim Is Not a Smear—Updated*, HUFFINGTON POST (2008), http://www.huffingtonpost.com/naomi-klein/obama-being-called-a-muslim_b_89228.html (last visited Feb. 4, 2009) (“Of course Obama must correct the record, but he doesn’t have to stop there. What is disturbing about the campaign’s response is that it leaves unchallenged the disgraceful and racist premise behind the entire “Muslim smear”: that being Muslim is *de facto* a source of shame. Obama’s supporters often say they are being “Swiftboated,” casually accepting the idea that being accused of Muslimhood is tantamount to being accused of treason.”); see also Anderson Cooper 360 Blog: *What’s Wrong with Being a Muslim?*, CNN (2008), <http://ac360.blogs.cnn.com/2008/10/15/what%E2%80%99s-wrong-with-being-a-muslim/> (last visited Feb. 4, 2009) (where responses to Campbell Brown’s question, “So what if Obama were a Muslim or an Arab?” are posted).

81. See, e.g., Martina Stewart, *Palin Hits Obama for ‘Terrorist’ Connection*, CNN (2008), <http://www.cnn.com/2008/POLITICS/10/04/palin.obama/index.html> (last visited Feb. 4, 2009).

82. See Hull, *supra* note 7 (“The Electoral College vote disguises the relatively close popular vote of 52 to 46 per cent. McCain won his states handsomely. Obama won a lot of his more narrowly. It is the nature of winner-take-all constituency elections (whether states or single-member seats) that a narrow lead in the popular vote translates to a major win in the Electoral College or parliamentary chamber.”).

83. *Id.*

black man, there is absolutely nothing that Obama could have done to convince them otherwise, political persuasion notwithstanding. Accordingly, an “interesting comparison is between the Senate vote and the presidential vote across eight races in the north-east and centre [sic] involving successful white Democrats. In Michigan, Iowa, South Dakota, Montana, West Virginia, Virginia and Massachusetts successful white Democrats got between 6 and 20 percentage points more [of the] vote than Obama got in each of those respective states.”⁸⁴ Indeed, in pointing out the racial dynamic at play in corners of the south, Adam Nossiter of the New York Times observed that, “[t]he Deep South still resonates with negative feelings about the race of President[] Barack Obama Mr. Obama’s race appears to have been the critical deciding factor in pushing ever greater numbers of white Southerners away from Democrats.”⁸⁵

Perhaps more to the point, some have questioned why the presidential race was even close.

Leaving race aside, one can argue that Obama should have done better this year than Kerry did in 2004. He was a better campaigner; he had more money and a more extensive campaign; his opponent was not as popular among voters as George W. Bush had been in 2004; and he could place the blame for the growing economic crisis on his opponent’s party. But despite that, there were states and counties where Obama did much worse than Kerry among white voters. In Alabama, for instance, Kerry won 19% of white votes in 2004; in 2008 Obama got only 10%. In Mississippi, Kerry won 18% of white males; Obama won a measly 9%.⁸⁶

These factors, together with the reality that many black people no doubt voted for Obama because of his race,⁸⁷ lead to the conclusion that race was indeed a significant factor in the 2008 election. That Obama gained any traction amongst rural and exurban whites was marveled upon. “Obama’s reach outside his own ranks remains striking. Why? [] How has a black, urban liberal gained far stronger support among Repub-

84. *Id.*

85. Adam Nossiter, *For South, a Waning Hold on National Politics*, N.Y. TIMES, Nov. 11, 2008, at A1, available at <http://www.nytimes.com/2008/11/11/us/politics/11south.html>.

86. John B. Judis, *It’s a Wrap—The 2008 Campaign: Did race really matter?: It Counted to Some Voters in Some Places, but it Didn’t Decide the Election*, L.A. TIMES, Nov. 9, 2008, at A34.

87. Hull, *supra* note 7. While I think these exchanges might also indicate polite deference to a reporter and the reluctance of interviewees to appear abrasive on camera, the Canaberra Times reference the following exchanges as indicative of blacks voting for Obama merely because of his race. In CNN interviews in which black people insisted they were voting for Obama on the issues, as opposed to race, the interviewees apparently betrayed what seemed profound ignorance of the issues. “When asked by the journalist if it would trouble them that it would mean ‘staying the course in Iraq,’ ‘a ban on abortion,’ and ‘the possibility of Sarah Palin being President,’ they still said they would vote for Obama.”

licans than the made-over Clinton or the southern charmer Edwards?”⁸⁸ In other words, the standard logic would have held that Obama is too unlike them, despite being in many respects as he has stated “quintessentially American,” and in fact half white. Stated simply, the expectation of many people was that whites would not recognize or accept Obama’s whiteness and would not see themselves in him, as many people of color would.⁸⁹ Why was focus thereby placed upon an assumed inability of white people to racially empathize and not upon a parallel inability of Blacks?

It is because Blackness traditionally has and still does eclipse (literally covers like a lunar or solar eclipse) whiteness, belying the fiction of a post-racial America. This aspect of our distorted racial reality highlights what John McWhorter refers to as “widened conceptions of black authenticity,”⁹⁰ or what I like to call the diversity of Blackness. This Blackness is vast and subsumes other identities. Indeed, in critiquing Shelby Steele’s *A Bound Man: Why We Are Excited About Obama and Why He Can’t Win*, author Ta-Nehisi Coates eloquently captured this phenomenon when he wrote,

What follows is a flat and contemptuous rendering of black America. Steele argues that Obama can’t win because blacks will not vote for a man who doesn’t yell “white supremacy” whenever he’s presented with an open mike. Steele, like his compatriots in the pundit class, isn’t one to allow actual people to get in the way of a good argument. . . . At his roots, Steele lacks the nuance to approach black America not as an idea but as a collection of actual thinking, breathing, contradicting (and self-contradictory) human beings.

This is why so much of what’s been said about Barack Obama and African-Americans has been so shockingly wrong. Intellectuals examining Obama are trapped in an ancient dynamic—one that even in its heyday was overstated—in which white and black America are

88. Sullivan, *supra* note 63. “But Obama’s reach outside his own ranks remains striking. Why? . . . How has a black, urban liberal gained far stronger support among Republicans than the made-over Clinton or the southern charmer Edwards?—What does he offer . . . his face.” In this way in our dealings with the rest of the world and the brown world in particular and the world that hates Americans we offer Obama as evidence of “the new face of America”—in this way Barack Hussein Obama stands alone. Sullivan, *supra* note 63.

89. Ron Fournier & Trevor Tompson, *Poll: Racial Views Steer Some White Dems Away from Obama*, YAHOO NEWS, <http://news.yahoo.com/page/election-2008-political-pulse-obama-race> (last visited Feb. 4, 2009) (“Deep-seated racial misgivings could cost Barack Obama the White House if the election is close, according to an AP-Yahoo News poll that found one-third of white Democrats harbor negative views toward blacks—many calling them ‘lazy,’ ‘violent,’ responsible for their own troubles. The poll, conducted with Stanford University, suggests that the percentage of voters who may turn away from Obama because of his race could easily be larger than the final difference between the candidates in 2004—about two and one-half percentage points.”).

90. McWhorter, *supra* note 56 (stating that members of an Obama generation “would be suckled . . . on a widened conception of black authenticity”).

constantly at each other's throats, and agree on nothing. The either/or fallacy is their default setting.⁹¹

In recognizing that "black was a country, a broad, beautiful America refracted through a smoky lens," Coates recognized the need for an expansive notion of Blackness.⁹² Thus, part of this dynamic rejects what Coates refers to as "definition[s] of Blackness defined by opposition."⁹³ Yet in my view, we must still appreciate that racialization as Black often becomes the hole into which other racial identities are sucked. This black-hole consumes whiteness and displaces, not always for negative reasons,⁹⁴ other racial dynamics at work.

As such, it is little wonder that Obama has constructed himself as a Black man. I question what realistic alternative he had given what seems his aesthetic presentation and inability to pass as white. So, Obama navigates his Blackness carefully "avoiding sudden movements," careful not to distress or unsettle white people nervous about and unaccustomed to Black manhood and masculinity. Obama has revealed himself to be a master of racial and gender performativity. He performs his Blackness and his gender in a nuanced way that is mindful of the landmines which exist for black men deemed dangerous, threatening, or wanton.⁹⁵ As Brent Staples wrote in a New York Times editorial, "Mr. Obama seems to understand that he is always an utterance away from a statement—or a phrase—that could transform him in a campaign ad from the affable, rational and racially ambiguous candidate into the archetypical angry black man who scares off the white vote."⁹⁶ In this way, Obama is cast as shrewd racial strategist. He is the quintessential "cross-over success"—he knows American history, gestures towards it through rhetoric and soaring oratory, and performs his identity against its more hazardous grain.⁹⁷ This matter of performativity speaks to the third simultaneous phenomenon.

91. Ta-Nehisi Coates, *A Deeper Black*, THE NATION, May 19, 2008, at 31, 32.

92. *Id.* at 34.

93. *Id.*

94. See Thomas L. Friedman, Op-Ed., *Finishing Our Work*, N.Y. TIMES, Nov. 5, 2008, at 35A, available at <http://www.nytimes.com/2008/11/05/opinion/05friedman.html?ref=opinion> (suggesting that the Buffett effect may have countered some of the expected Bradley effect). The Bradley effect hypothesizes that, despite their proclamations to the contrary, some white voters would not—indeed could not—bring themselves to vote for a black person. The Buffet effect asserts the opposite—that some whites would lie to other whites claiming that they would never vote for a black person, but would ultimately do so in the anonymity of the voting booth. *Id.*

95. Staples, *supra* note 61, at 22A ("His caution is evident from the way he sifts and searches the language as he speaks, stepping around words that might push him into the danger zone. These maneuvers are often painful to watch. The troubling part is that they are necessary.")

96. *Id.*

97. Peter Beinart, *Erasing the Race Factor—Obama's Best Hope is to Face the Issue Directly*, WASH. POST, Aug. 13, 2008, at A15, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/08/12/AR2008081202827.html> ("Race will be central to this campaign because McCain needs it to be. He simply doesn't have many other cards to play. And it will be central because every time Republicans light the match, the press will create a forest fire. Race is

Obama is supposed to represent race on the one hand and disown it on the other. This third phenomenon reveals the truism that you cannot please all the people all of the time. Some blacks worry, as does Professor Glenn Loury of Brown University, that blacks voting for Obama means “the end of affirmative action and they don’t even know it.”⁹⁸ Additionally he stated that those who vote for Obama are “voting for the end of race and they don’t even know it.”⁹⁹ Now factually Obama is on record as saying he supports affirmative action and calls for enhanced attention to class, but these types of critiques are aimed at something else. They seek to fix the swirling racial undertow surrounding Obama’s constructed Blackness.¹⁰⁰ Obama alone walks this “racial tightrope.”¹⁰¹ Part of his absolute brilliance is his ability to navigate these racial hot-buttons. He could not disappoint the legions of Americans of color on whose support and turn-out he desperately needed. At the same time he had to be careful not to alienate white voters without whom he could not have been a viable candidate.

just too titillating to ignore. The history of post-Vietnam presidential elections is littered with Democratic nominees who thought they could run on policy and ignore symbolism. This year, the symbolism will be largely racial. Obama can’t avoid that. He needs to control the race debate instead.”).

98. Johnathan Tilove, *For America’s Scholars of Race an Obama Delimma*, REAL CLEAR POLITICS, Aug. 13, 2008, http://www.realclearpolitics.com/articles/2008/08/for_americas_scholars_of_race.html.

99. *Id.*

100. See David Paul Kuhn, *Obama Shifts Affirmative Action Rhetoric*, THE POLITICO, Aug. 10, 2008, <http://www.politico.com/news/stories/0808/12421.html>.

Obama opposes the current state ballot measures (McCain supports them), thus offering at least *de facto* support for the current policy that gives preference to minorities and women and is rooted in the programs begun by President Kennedy and later significantly expanded by President Nixon. On the other hand, Obama’s said that his two daughters should not be given preferential treatment, owing to their relatively privileged upbringing, and has called for government to ‘craft’ a policy ‘in such a way where some of our children who are advantaged aren’t getting more favorable treatment than a poor white kid who has struggled more.’ Such hints of a possible new policy focus are a relatively recent development from Obama, who once said that he had ‘undoubtedly benefited from affirmative action’ in his own academic career, though he didn’t specify at what institution he had so benefited. Friends have since recalled him saying that he did not list his race on his Harvard Law School application, though the candidate has said only that ‘I have no way of knowing whether I was a beneficiary of affirmative action either in my admission to Harvard or my initial election to the Review. If I was, then I certainly am not ashamed of the fact, for I would argue that affirmative action is important precisely because those who benefit typically rise to the challenge when given an opportunity.’

See also Seth Colter Walls, *Obama’s Postracial Test—Obama’s Affirmative Action Test*, NEWSWEEK, March 27, 2008, <http://www.newsweek.com/id/129295>.

Obama has yet to take a definitive public stance on affirmative action in this campaign, but he did voice a radio ad in opposition to Connerly’s successful 2006 campaign in Michigan. Darren Davis, a professor of political science at Notre Dame, calls the emerging Connerly question ‘one of the most profound’ of Obama’s campaign—especially in the wake of the controversy over his former pastor, Jeremiah Wright. ‘Basically, on every racial issue Barack Obama is walking the tightrope,’ Davis says. ‘The more he supports traditional black issues like affirmative action, the more that will eat into his white base of support.’ Obama has been careful when broaching this issue; in a 2007 ABC News interview he suggested that the affirmative action of the future should consider economic status more than race.

101. Walls, *supra* note 100.

To some extent, no matter what his position on racial issues, Obama's presidency signals to many that we have indeed overcome, despite any protestations to the contrary.¹⁰² These sentiments are founded upon the representational power of Obama. Even if he were to be outspoken about the continuation of rampant racism, his articulations, as the most powerful man in the world, and a black man, would undoubtedly be met with suspicion and the retort that his victory establishes that racism is clearly but a figment of the past.¹⁰³ This past, and its ongoing salience were explored briefly above. For without a concrete appreciation of this past, we cannot fully understand Obamania and our continuing racial disorder.

By drawing on the representational and symbolic role of Obama's race as black, his views are taken as a proxy of his racial consciousness. As a black man in America, Obama is expected to fall in line and to adhere to an orthodox racial script. The disappointment from some of our elders that he has not so adhered has been exposed in inappropriate ways. For instance, in July 2008 Jesse Jackson's tirade that he wanted to cut-off certain parts of Obama's anatomy for "talking down to black folks" and "giving moral lectures to African-Americans" was deeply problematic.¹⁰⁴ It is, however, not surprising, especially since shortly thereafter Jackson accused Obama of "acting white" when he did not march for the Jena-6.¹⁰⁵ Thus for Jackson and other civil rights men of his generation, Obama has broken from the American racial playbook. The way in which Obama negotiates his race has been interpreted by some detractors as inauthentic and hence troubling.¹⁰⁶

This bespeaks a simple binary by which blacks are expected to align on certain issues, with whites presumably aligning in the opposite direction. This is understandable yet it exposes simplistic cultural formulae for racial performativity. But the corollary unspoken dynamic at work is the racial pass given to white candidates on this front. That neither Hillary Clinton nor John McCain faced this race-based disparagement bespeaks the great racial divide. Black people have come to expect more

102. Todd Gitlin, *Yes We Did. Overcome*, ATLANTIC MONTHLY, Nov. 7, 2008, available at <http://www.theatlantic.com/doc/200811u/obama-melting-pot>.

103. See Kuhn, *supra* note 100 ("A lot of non-black people will say that the election of Barack Obama is now proof we don't need affirmative action," said Democratic House Majority Whip Jim Clyburn, who is concerned by the notion.").

104. See Charles Hurst, *Jesse Jackson Says He Wants to Cut Obama's 'Nuts Out'*, N.Y. POST, July 9, 2008, available at http://www.nypost.com/seven/07092008/news/nationalnews/jesse_jackson_sharply_criticizes_obama_119161.htm; *Jesse Jackson Disparages Barack Obama: Caught On Tape* (VIDEO), HUFFINGTON POST, July 9, 2008, available at http://www.huffingtonpost.com/2008/07/09/jesse-jackson-caught-on-m_n_111732.html.

105. *Report: Jesse Jackson Says Barack Obama 'Acting White' in Case of Six Blacks Accused in Assault Case*, FOXNEWS.COM, Sept. 17, 2008, <http://www.foxnews.com/story/0,2933,297332,00.html> ("Jackson, who endorsed Obama for president in March, reportedly blasted the Illinois senator for failing to bring attention to the case of six black kids arrested on attempted murder charges in Jena, La.").

106. Abrams, *supra* note 38.

from black politicians on the issue of race despite the fact that any real movement on race and racism is, necessarily, an effort in coalition building across race and ethnicity. Jackson's folly, therefore, is not so much his calling on Obama to support the Jena-6 or to stop lecturing on black family values, but his failure to insist that McCain and Clinton similarly care about and address issues impacting people of color. It is unacceptable that they were again given a pass on these pressing racialized issues. Neither McCain nor Clinton were cast as racially insensitive or uncaring for their inattention to matters for which Obama was expected, as a black man, to devote himself.

Consider the alternative. If Obama had chosen to perform his race as a "civil rights man," he, as a black man, would have felt the wrath of many white supporters and detractors alike. Specifically, his viability as a presidential candidate would have been jeopardized. As a master of racial nuance, Obama has grown keenly aware of the racial resentment generated by his rise to power and has carefully negotiated landmines on both sides of his biracial identity.¹⁰⁷

Accordingly, the fourth phenomenon surrounding Obamania relates to the counter-expectations to those outlined above. That Obama has not been all things to the black community is evident from the remarks of Jesse Jackson, Andrew Young,¹⁰⁸ and others.¹⁰⁹ In joking that racial performance reveals a lacking Obama, former United Nations Ambassador and Veteran Civil Rights leader Andrew Young asserted that Bill Clinton outperformed Obama on what I call the black-o-meter, the imposed barometer of authentic blackness.

Bill [Clinton] is every bit as black as Barack. He's probably gone out with more black women than Barack. [laughs] I'm clowning, but when they went to Nelson Mandela's inauguration—there was a whole plane load of black folks who went down there. After the inauguration, there was a party. [Bill] Clinton was the one who said,

107. *Obama Race and Us*, NEWSWEEK, May 25, 2008, available at <http://blog.newsweek.com/blogs/pr/archive/2008/05/25/newsweek-press-release-cover-obama-race-and-us.aspx> (referring to a Racial Resentment Index created by pollsters which revealed that "about a third of . . . voters scored 'high' on this index; 29 percent of all Democrats did").

108. See Geoffrey Bennett, *Andrew Young: Obama's Time Will Come*, NPR NEWS & VIEWS, Dec. 7 2007, http://www.npr.org/blogs/newsandviews/2007/12/andrew_young_obamas_time_will.html (last visited Feb. 19, 2009) (Former Ambassador and civil rights leader Andrew Young declared "I want Obama to be president, . . . in 2016. It's not a matter of being inexperienced. It is a matter of being young.").

109. See Abrams, *supra* note 38 ("A funny thing happened on the road to the White House: Black voters got behind Sen. Barack Obama in his race for the presidency; black leaders did not. There was Andrew Young, who lobbied a black audience for the Clintons and reassured them that 'Bill [Clinton] is every bit as black as Barack;' there was Al Sharpton, who has withheld his political endorsement, reserving his trump for a safer hand; and there was Jesse Jackson, who scolded Obama for 'acting like he's white.' Such an accusation has quietly dogged Obama during his campaign, though Jackson has since rallied to the senator's side. For these critics, Obama is a troubling figure, a man with black skin who is not fundamentally 'black' in their understanding. And therein lies the most interesting part of Obama's run for president.").

“Let’s start a Soul Train line!” All these middle class, bourgie folks looked around . . . and Bill did the moon walk down the Soul Train line. And Hillary pulled her skirt up above her knees and she got down and went on through, too.¹¹⁰

It is hard to ignore the stereotypical racial, sexist and gendered tropes seized upon by Young to undergird his notions of identity. His is a problematic notion of black authenticity steeped in a mentality that many civil rights leaders, ironically Young included, worked hard to eradicate. Young’s invocation of the Clintons “going Native” in Africa is equally unfortunate, especially, when used to entrench an authentic notion of a constructed identity, race.

Complicating these essentializing frameworks it is paradoxical that Obama has similarly rankled those who claim he is too racially performative. Viewed in this light, Obama, as black man, is leaving them, Whites, behind.¹¹¹ Thus, some white people, like Geraldine Ferraro and the fellow travelers she invoked, sought racial reassurance that Obama will not forget them.¹¹² These detractors felt that “his campaign [was] captured by black interests.”¹¹³

At this moment, the ongoing salience of race is undeniable—to some Obama is not black enough; to others he is too black. The race play is remarkable. No other candidate had to contend with or maneuver around such contradictory racial demands. Simply, America cannot even keep its racial dictates straight—they are a contorted mess of competing demands, morphing over space and time, ever present, yet always existing in a state of denial. Geraldine Ferraro weighed in on this racial quagmire, and created quite a furor:

Since March, when I was accused of being racist for a statement I made about the influence of blacks on Obama’s historic campaign, people have been stopping me to express a common sentiment: If you’re white you can’t open your mouth without being accused of being racist. They see Obama’s playing the race card throughout the campaign and no one calling him for it as frightening. They’re not upset with Obama because he’s black; they’re upset because they don’t expect to be treated fairly because they’re white.¹¹⁴

In a move that anticipates the obvious response, Ferraro situated her concerns as not about race. “It’s not racism that is driving them. It’s racial resentment. And that is enforced because they don’t believe he

110. Bennett, *supra* note 108.

111. Geraldine A. Ferraro, Op-Ed, *Healing the wounds of Democrats’ Sexism*, BOSTON GLOBE, May 30, 2008, at A15, available at http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2008/05/30/healing_the_wounds_of_democrats_sexism/.

112. *Id.*

113. *See id.*

114. *Id.*

understands them and their problem. That when he said in South Carolina after his victory, “Our Time Has Come” they believe he is telling them that their time has passed.”¹¹⁵

The difference between racial resentment and racism is too fine a point—it is what attorneys like to mock as the difference between midnight gray and battleship gray. It is, thus, perhaps a technicality, but a pervasive attitude nonetheless. Such racial resentment speaks identitarian privilege.¹¹⁶ Literally defined, resentment means a feeling of displeasure, insult and indignation.¹¹⁷ The racial component adds fuel to this identity-based fire in that it reveals a hierarchical gaze steeped in racial politics. Obama’s every word and deed is assessed through an optic that finds its roots in America’s racialized history. Brent Staples has noted as much in his article on the language of race:

This obsession with black subservience was based in nostalgia for slavery. No sane person would openly express such a sentiment today. But the discomfort with certain forms of black assertiveness is too deeply rooted in the national psyche—and the national language—to just disappear. It has been a persistent theme in the public discourse since Barack Obama became a plausible candidate for the presidency.

A blatant example surfaced earlier this month, when a Georgia Republican, Representative Lynn Westmoreland, described the Obamas as “uppity” in response to a reporter’s question.¹¹⁸

That a phrase as innocuous as “Our Time Has Come” out of the mouth of a mixed-race, black-identified, man could be interpreted as “it is the time for black folks now, we are leaving you whites behind” is

115. *Id.* Ferraro also stated, “[h]ere we are at the end of the primary season, and the effects of racism and sexism on the campaign have resulted in a split within the Democratic Party that will not be easy to heal before election day. Perhaps it’s because neither the Barack Obama campaign nor the media seem to understand what is at the heart of the anger on the part of women who feel that Hillary Clinton was treated unfairly because she is a woman or what is fueling the concern of Reagan Democrats for whom sexism isn’t an issue, but reverse racism is.”

116. Peter Beinart, *Erasing the Race Factor*, WASH. POST, Aug. 13, 2008, available at <http://www.washingtonpost.com/wpdyn/content/article/2008/08/12/AR2008081202827.html> (“For these voters, Obama can’t make race go away by ignoring it, especially because the GOP and the media won’t. He needs to acknowledge their fears and do something dramatic to assuage them. Paradoxically, his best shot at deracializing the campaign is to explicitly make race an issue. He can do that with a high-profile speech—and maybe a TV ad—calling for the replacement of race-based preferences with class-based ones. That would confront head-on white fears that an Obama administration would favor minorities at whites’ expense. It would be a sharper, more dramatic, way of making the point that Obama has made ever since he took the national stage (but which some whites still refuse to believe): that he represents not racial division but national unity.”).

117. SHORTER OXFORD ENGLISH DICTIONARY 2544 (5th ed. 2002). See also the comment of Geoff Davis, Republican of Kentucky, who, in disparagingly referring to Obama a “boy,” brought the old ways of viewing black men into contemporary focus. While condemning Obama as unprepared for control of nuclear policy he said, “[t]hat boy’s finger does not need to be on the button.” Brent Staples, *Barack Obama, John McCain and the Language of Race*, N.Y. TIMES, Sept. 21, 2008, available at <http://www.nytimes.com/2008/09/22/opinion/22observer.html>.

118. Staples, *Language of Race*, *supra* note 117.

remarkable in its racial hysteria. Obama is not seen by Ferraro and her followers as speaking for them, yet he is them too. Despite his attributing everything that is good about him to his white family and his white upbringing¹¹⁹ his Blackness is blinding. These unnamed supporters agree with Ferraro that they do not see themselves in Obama—his Blackness eclipses their shared whiteness. Instead he is read as shutting them (Whites) out and leaving them behind.

The only way to solve this racial resentment, according to Ferraro, is to provide some “racial reassurance.”¹²⁰ This is curious indeed, as no one demanded that McCain, Clinton, nor Palin make any racial reassurances to Blacks, Asian, American Indians, Latina/os, or Whites for that matter that they would not similarly “leave them behind.” They are not held racially accountable in the way that Obama was and is. To these critics Obama is inherently untrustworthy based on his “otherness.” It is telling that Ferraro went on to concede that there was little Obama could do to assuage these concerns amongst fellow democrats—only his pure whiteness it seems might have made him comprehensible. Tellingly she admonished:

Whom he chooses for his vice president makes no difference to them. That he is pro-choice means little. Learning more about his bio doesn't do it. They don't identify with someone who has gone to Columbia and Harvard Law School and is married to a Princeton-Harvard Law graduate. His experience with an educated single mother and being raised by middle class [white] grandparents is not something they can empathize with. They may lack a formal education, but they're not stupid.¹²¹

What is it that Ferraro asserts “they” are being duped into? Apparently “they” are not stupid as they recognize that Obama is not one of them. The phrase, “What they're waiting for is assurance that an Obama administration won't leave them behind” might infer that “they” cannot identify with or trust a black person who has gone to an Ivy League school and attained some degree of wealth and prosperity. Yet “they” can so identify with a white person with power, prestige and an ivy-league education.¹²² Instead, it seems that many are much more comfort-

119. Ferraro, *supra* note 111.

120. *See id.*

121. *Id.*

122. George Bush Presidential Library and Museum, *Biography of George Herbert Walker Bush*, http://bushlibrary.tamu.edu/research/bio_ghwbush.php (George H.W. Bush graduated Phi Beta Kappa in 1948 from Yale University “where he pursued a degree in economics and served as captain of the varsity baseball team.”); *see also* The White House, *George W. Bush*, <http://www.whitehouse.gov/about/presidents/georgewbush/> (explaining that George W. Bush earned a bachelor's degree in history from Yale University in 1968 and a Master of Business Administration from Harvard Business School in 1975); The White House, *Bill Clinton*, <http://www.whitehouse.gov/about/presidents/williamjclinton/> (stating that Bill Clinton was a Georgetown University undergrad, received a 1968 Rhodes Scholarship to Oxford University, and earned

able with the well-worked stereotypes of the black-male super-predator or with members of the black underclass. It would appear that black elites are incomprehensible due to their relative absence from our socio-political landscape as well as from the popular culture more generally.

It seems impossible to cut through this racial anxiety—it is persistent and intractable. This supposed common sense reveals a deep-seated distrust of the Obamas, not merely as Ivy-Leaguers. Indeed, the Clintons, George H.W. Bush and George W. Bush all attended Ivy League schools.¹²³ Rather, it reveals an inability to comprehend the Obamas as they do not fit the racial “type” typically cast for them. The Obamas truly explode the racial stereotypes with which many people prefer to deal—they cannot be readily type-cast. Their racial reality is not what we are typically fed in the media. The social distance between Blacks and Whites in America reinforces this racial stereotyping and misunderstanding. Indeed, the reality is that few white and black people in America actually have meaningful cross-racial relationships.¹²⁴

III. RACIAL PERCEPTIONS AGAINST THE BACKDROP OF RACIAL REALITY

All of this racial handwringing highlights the looming question: Are we yet post-racial? In my humble estimation the answer is not yet. Despite significant racial progress, we still labor under a seldom-acknowledged fascination, if not fixation, with race. Race remains the elephant in the room. The ongoing relevance of race is the great unspeakable.

In the current politico-legal environment, talking about race has become sullied. I think that many people are more comfortable cursing than they are speaking honestly about race. Curiously using the word “racism,” in particular, is the semantic equivalent of dropping an explosive—its destructive potential often outweighs any inherent value in its detonation. Indeed, noted legal theorist Professor Patricia Williams believes that we are more comfortable discussing sex than we are discussing race.¹²⁵

a Law degree from Yale University in 1973); The White House, *Bill Clinton*, <http://www.whitehouse.gov/about/presidents/williamjclinton/> (indicating that Hillary Clinton was a Wellesley College undergrad and a graduate of Yale Law School).

123. *Supra* note 122.

124. Studies prove that Blacks and Whites maintain the greatest social distance of any pairing or racial groups. Erica Chito Childs, *Looking Behind the Stereotypes of the “Angry Black Woman”: An Exploration of Black Women’s Responses to Interracial Relationships*, 19 GENDER & SOC’Y 544, 544 (2005) (“Blacks and whites continue to be the two groups with the greatest social distance, the most spatial separation, and the strongest taboos against interracial marriage.”); see also Dennis D. Parker, *Are Reports of Brown’s Demise Exaggerated? Perspectives of a School Desegregation Litigator*, 49 N.Y.L. SCH. L. REV. 1069 (2004-05); Daria Roithmayr, *Locked in Segregation*, 12 VA. J. SOC. POL’Y & L. 197 (2004).

125. *Speaking of Race*, THE ATLANTIC, May 14, 1998, available at <http://www.theatlantic.com/unbound/bookauth/ba980514.htm> (interview with Patricia Williams).

Our inability to speak our racial truths is starkly revealed by our ongoing racial polarization. Returning to the public/private course charted by Supreme Court jurisprudence, American racial politics has taken on a decidedly frenetic character. The perception of America as a place of promise is undisputable; the opportunities offered in this country are what make it the destination of choice for the disenfranchised, and the ambitious, the world over. The fact remains, however, that despite the improbable ascendance of Obama, these opportunities are skewed along racial lines. Moreover, the public rhetoric of rights and equality is out of sync with the private racial ordering which is well entrenched in America.¹²⁶ Harvard Sociology Professor, Orlando Patterson, relays the grim reality by stating,

But if the work of political inclusion is largely done, that of social incorporation is half finished and may be regressing. While blacks have made absolute gains in income and education since the 1960s, their relative position has not changed and, after the Bush years, threatens to worsen. The black middle class has a fragile hold on its status. Its median household income declined to \$30,945 between 2003 and 2005, a mere 62 percent of the white median. In 2002 the median net worth of white Americans (\$88,000) was 14.5 times that of blacks, whose net worth (the total value of all their assets, less all their debts and liabilities) was a paltry \$6,000. The fragility of their status is reflected in extraordinarily high rates of downward mobility: half of all blacks born to middle-class parents are downwardly mobile; more than half of them fall to the very bottom of the income ladder. The black poverty rate rose from 21.2 percent in 2000 to 24.5 percent last year, and the bottom fifth of the black population is worse off relative to poor whites than at any time over the past three decades.

In the private sphere, blacks remain almost completely apart from whites. Indeed, they are more separate now, in most areas of the country, than at the end of the '60s.¹²⁷

Recent Supreme Court jurisprudence, however, reinforces these disparities as uncontestable. The Supreme Court consecrates a system of private racial ordering by relegating much of the systemic racism found in contemporary society to the margins. Writing for the plurality in *Parents Involved* Chief Justice Roberts stated:

[R]acial balance is not to be achieved for its own sake.

Accepting racial balancing as a compelling state interest would justify the imposition of racial proportionality throughout American so-

126. Orlando Patterson, *The New Mainstream: Obama's win would be the culmination of a process of inclusion that began with Andrew Jackson*, NEWSWEEK, Nov. 1, 2008, available at <http://www.newsweek.com/id/166827>.

127. *Id.*

ciety, contrary to our repeated recognition that “[a]t the heart of the Constitution’s guarantee of equal protection lies the simple command that the Government must treat citizens as individuals, not simply components of a racial, religious, sexual or national class.”¹²⁸

Thus, while some would proclaim Obama’s historic triumph as indicative of a post-racial reality, we are jurisprudentially empowered to continue exercising private preferences that betray our raced-based prejudices.¹²⁹ The court eschewed racial balancing for its own sake. Thus just because the achievement of societal racial equality might be an admirable goal it does not portend jurisprudential support given that it entails moving beyond public ordering. The achievement of racial balancing instead would require private reordering to ameliorate the dysfunction that persists from the history and legacy of legalized racial edicts and racial bi-partisanship. Thus, the Court mandates that private racial preferences remain legally ignored. To the Court, the ongoing legacy of such private racial ordering is largely irremedial.

Thus in some ways the law is impotent when it comes to “remedy[ing] past societal discrimination.”¹³⁰ This task is “too amorphous”¹³¹ for constitutional remedy. Accordingly, in walking away from the opportunity to fashion a remedy for “societal discrimination”¹³² the Court differentiates between appropriate legal involvement in public matters as distinct from merely “private choices.”¹³³ Private choices are cabined as decisions which do not have “constitutional consequences” and which are, therefore, constitutionally out of bounds.¹³⁴ This is the racial milieu in which the rise of Barack Obama is possible. It is a terrain that is ironically captured by the banter of late night television hosts in chastising white Americans not to worry as Obama was not trying to marry their daughters, so they need not fret.¹³⁵ Yet at precisely the same historical moment, millions of white Americans supported the first black President. This is the irony of our public-private racial disorder.

Obama’s Blackness is distant. While making conflicting demands on the manner in which he performs his Blackness, or indeed his White-

128. *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist.* 127 S.Ct 2738, 2757 (2007).

129. *See, e.g.,* Joseph G. Altonji, Ulrich Doraszelski, & Lewis Segal, BLACK/WHITE DIFFERENCES IN WEALTH, <http://www.economics.harvard.edu/faculty/doraszelski/files/ep-24-2000.pdf> (citing statistical sources showing that on average blacks enjoy significantly less wealth than their white counterparts across various demographics); *see also* The United States Department of Justice Bureau of Justice Statistics, <http://www.ojp.usdoj.gov/bjs/glance/jailrair.htm> (citing statistics showing that blacks are incarcerated at a rate five times that of whites); Patterson, *supra* note 126.

130. *Parents*, 127 S.Ct at 2758.

131. *Id.*

132. *Id.*

133. *Id.* at 2761.

134. *Id.*

135. I am reminded of the quips of both John Stewart and Bill Maher in the midst of the 2008 political campaigns joking with their audience along these raced and gendered lines.

ness, Americans are well aware of the public distance of his race. While Obama's racial abstraction and construction was mobilized and exercised during the election campaign, it is nonetheless so remote that its likely impact on private racial ordering remains unknown. As such, in the interim, it is unlikely that much private racial re-ordering will take place. Our public racial perception of ourselves as demonstrably embracing racial change through the election of Obama will thus remain in stark contrast to the reality of lived social distance between racial communities, most acutely Blacks and Whites in America. As Professor Orlando Patterson has recognized, "Separate but truly equal in private life is increasingly the preferred position, though glossed over with multicultural rhetoric."¹³⁶ This is precisely the landscape of prejudice that the Supreme Court has declined to traverse—their jurisprudence will not permeate the schools, homes, universities, streets, places of worship, hospitals nor prisons that still mark America as deeply racially divided. Unless it is the product of "state action," private identitarian choices whether racist, sexist, classist, religious or otherwise, are untouchable.¹³⁷

Given the backdrop of ongoing and persistent racial separation, Barack Obama is an enigma. He has made private choices to seek refuge in Blackness. Shelby Steele described this as "quests for racial authenticity—for a resolution of that peculiar alienation that trails mixed-race people, that absence of a simple racial solidarity that is the easy birthright of others."¹³⁸ Thus the truism that race and racialization matter in America is revealed through the choices made by a young Obama. Quite the opposite of being racially transcendent, Obama has chosen to secure himself in Blackness. He has, thereby, constructed himself as black. This fact alone flies in the face of his supposed racial transcendence.

Many Americans want to believe that there are people on whom race sits very lightly, people whose very hybridism suggests the possibility of transcending race.

But Barack Obama is not such a person. His books show a man nothing less than driven by a determination to be black, as if Blackness were more a specific achievement than a birthright. This drive puts Obama at odds with his own political persona. Much of the excitement that surrounds him comes from the perception that he is only lightly tethered to race. Yet the very arc of his life—from Hawaii to the South Side of Chicago—has been shaped by an often conscious resolve to "belong" irrefutably to the black identity.¹³⁹

Indeed, part of Obama's self-construction as black, relates to his marriage to a black woman. It is noteworthy that Barack referred to his

136. Patterson, *supra* note 126.

137. *Parents*, 127 S.Ct. at 2823 (Stevens, J., dissenting) (criticizing plurality opinion).

138. Steele, *supra* note 50.

139. *Id.*

wife as “the most quintessentially American woman I know.”¹⁴⁰ With this birthright Michelle anchors Barack in Blackness in a way that his African father could not—hers is the African-American story, not a story of pan-Africanism tersely dismissed by some of Obama’s detractors.¹⁴¹

To those inclined to police Blackness through slave descendancy, Obama is a racial fraud—he might have skin to which one would ascribe the black moniker, however, he is but “the son of a white woman and an African immigrant.” To these people Obama is Black but not African-American.¹⁴² From this vantage point those of us who embrace Obama as black have been hoodwinked by a fraudulent, inauthentic, perhaps even foreign, Blackness. Stanley Crouch’s comments are representative:

Why then do we still have such a simple-minded conception of black and white—and how does it color the way we see Obama? The naive ideas coming out of Pan-Africanism are at the root of the confusion. When Pan-African ideas began to take shape in the 19th century, all black people, regardless of where in the world they lived, suffered and shared a common body of injustices. Europe, after all, had colonized much of the black world, and the United States had enslaved people of African descent for nearly 250 years. Suffice it to say: This is no longer the case. So when black Americans refer to Obama as “one of us,” I do not know what they are talking about.¹⁴³

Therefore, it would be folly to assume that whites alone regarded Obama with suspicion. Just as there is no monolithic white community, there is no monolithic black community. Crouch’s comments above reveal that conceptions of a post-racial reality are also at odds with the viewpoints of many in the black community as well. Extrapolating from this line of reasoning, Obama is the house-negro, able to access privileges and benefits denied to darker-skinned blacks on account of their complexions.¹⁴⁴

Thus, despite Obama’s skillful negotiation of his identity he is externally morphed into various race-based constructions. He is constructed as our Racial Salvation, the “Tiger Woods of Politics,”¹⁴⁵ the

140. Shailagh Murray, *A Family Tree Rooted in American Soil; Michelle Obama Learns About Her Slave Ancestors, Herself and Her Country*, WASH. POST, Oct. 2, 2008.

141. Stanley Crouch, *What Obama Isn't: Black Like Me on Race*, N.Y. DAILY NEWS, Nov. 2, 2006, available at http://www.nydailynews.com/opinions/2006/11/02/2006-11-02_what_obama_isnt_black_like_me_on_race.html.

142. *Id.*

143. *Id.*

144. SKIN DEEP, *supra* note 65, at 4.

145. Phil Trounstine, *The New Tiger/Obama Calculation*, HUFFINGTON POST, Nov. 12, 2007, http://www.huffingtonpost.com/phil-trounstine/the-new-tigerobama-calcul_b_72217.html (“With his extraordinary athletic prowess, Tiger Woods cut a swath through America’s calcified racial prejudice. He excelled in what had historically been a wealthy white man’s leisure pastime. In doing so, he caused a tectonic shift in race relations. Suddenly, it was okay—terrific even—for a black man to stand atop the leader board of American life. This is why Barack Obama has a chance to become president of the United States in 2008. Woods has opened up a pathway for Obama in the American

culmination of a post-racial epoch exemplifying victory and the belief that we can be all things and all identities at once. But on the other hand, he is simultaneously the racial boogey man,¹⁴⁶ embodying a threat to the white hegemony that he will dismantle all the socio-political edifices constructed to ensure their systemic privilege. Of course, Obama is also the hope of legions of black people in this country and throughout the world.

African-Americans, men and women alike, well up with tears at the thought of the first black president. He has unshackled our stilted dreams of equality. My Ethiopian taxi driver in Denver on the first night of the Democratic National Convention proclaimed “Barack Obama will be good for Black people you know—he gives us hope.” Parents commence naming their newborn infants Barack, Obama and Michelle.¹⁴⁷ West Indian recording artists in Trinidad¹⁴⁸ and Jamaica¹⁴⁹ craft calypso and reggae songs in his honor. Politicians of other Caribbean nations move to name mountains in Obama’s honor.¹⁵⁰ French rap artist, Yous-saupha, proclaims that “Obama tells us everything is possible.”¹⁵¹ At the same time the *Advocate* features an Open Letter to President-Elect

political psyche as no one before him. Of course there are other black superstars who have established broad appeal that transformed race: Oprah Winfrey, Michael Jordan, Bill Cosby, to name a few. But basketball and entertainment don’t occupy the same place in the American iconography as does golf—born in Scotland and played in America (until very recently) by affluent white people.”). See also Steve Benen, *The Problem with Comparing Obama to Tiger Woods*, SALON.COM, Apr. 9, 2008, http://www.salon.com/politics/war_room/2008/04/09/woods/ (“David Bellavia [was quoted as] saying, ‘Rest assured that people like Senator McCain will be the goal and the men that my two young boys will emulate and admire. You can have your Tiger Woods. We have Senator McCain.’”); Elliott C. McLaughlin, *Atlantans Thank Obama: ‘We Can Become Something Great’*, CNN, Nov. 7, 2008, <http://www.cnn.com/2008/POLITICS/11/05/atlanta.react.obama.win/> (“Sutton likens Obama’s rise through the political ranks to Tiger Woods’ rise through professional golf. Until about 12 years ago, when Woods turned pro, it was rare to find black youngsters swinging clubs at their local links. Even if they had the natural skills, they did not believe the game belonged to them, he said.”).

146. See Bob Herbert, *Running While Black*, N.Y. TIMES, Aug. 2, 2008, available at <http://www.nytimes.com/2008/08/02/opinion/02herbert.html?ex=1218340800&en=b7dde21dcfe596c0&ei=5070&emc=eta1> (“There was nothing subtle about that attempt to position Senator Obama as the Other, a candidate who might technically be American but who remained in some sense foreign, not sufficiently patriotic and certainly not one of us—the ‘us’ being the genuine red-white-and-blue Americans who the ad was aimed at.”).

147. Jennifer 8. Lee, *Like the Dwights and Lyndons of Old, Baby Baracks All Over*, N.Y. TIMES, Nov 9, 2008, available at <http://www.nytimes.com/2008/11/10/us/politics/10babies.html?scp=1&sq=naming%20babies%20barack&st=cse>.

148. Video: The Mighty Sparrow—Barack the Magnificent (fefeTV 2008), <http://www.youtube.com/watch?v=tnjKmpIIFn8>.

149. Video: Coco Tea—Barack Obama (fiwireggae 2008), <http://www.youtube.com/watch?v=Zxn9jhypHfo>.

150. See *Antigua Plans to Rename Highest Peak After Barack Obama*, THE GUARDIAN, Nov. 7, 2008, available at <http://www.guardian.co.uk/world/2008/nov/07/antigua-mountain-barack-obama>.

151. Michael Kimmelmann, *For Blacks in France, Obama’s Rise is Reason to Rejoice, and to Hope*, N.Y. TIMES, June 17, 2008, available at <http://www.nytimes.com/2008/06/17/arts/17abroad.html>.

Obama stating, "We gave you our vote (at least most of us did). Will you now fight for our full equality?"¹⁵²

Yet the racial disorder is further complicated by allegations made by the McCain campaign that Obama deals the race card from the bottom of the deck (for his pointing out that they would attempt to scare people away from supporting him since he does not look like the other presidents on the dollar bills).¹⁵³ Fox News disparages Michelle Obama as "Obama's baby mama."¹⁵⁴ The *New Yorker* runs a now infamous cover of Michelle and Barack as Muslim or Black Nationalist flag-burning militants.¹⁵⁵ There is great furor over the meaning of the "fist jab" exchanged between Michelle and Barack,¹⁵⁶ the question being "was it a terrorist fist jab?" Geraldine Ferraro proclaims "[i]f Obama was a white man, he would not be in this position. And if he was a woman of any color, he would not be in this position. He happens to be very lucky to be who he is."¹⁵⁷ Not surprisingly therefore, "As Senator Barack Obama open[ed] his campaign as the first African American on a major party presidential ticket, nearly half of all Americans [said] race relations in the country are in bad shape and three in 10 acknowledge[d] feelings of racial prejudice."¹⁵⁸

All this contradictory and confused race talk reveals that despite societal hopes and jurisprudential holdings to the contrary¹⁵⁹ America is neither post-racial nor colorblind. To the contrary, the recent election of Barack Obama as President led to a spike in race-based threats and

152. Tammy Baldwin, *Open Letters from 17 Gay Men and Lesbians*, ADVOCATE, Dec. 16, 2008, at 44.

153. Michael Cooper & Michael Powell, *McCain Camp Says Obama is Playing 'Race Card'*, N.Y. TIMES, Aug. 1, 2008, available at <http://www.nytimes.com/2008/08/01/us/politics/01campaign.html>.

154. See David Bauder, *Fox News Refers to Michelle Obama as 'Baby Mama'*, FOX NEWS, June 13, 2008, <http://www.foxnews.com/wires/2008Jun13/0,4670,TVFoxObama,00.html>.

155. See B. Blitt, *NEW YORKER*, July 21, 2008, available at <http://archives.newyorker.com/?i=2008-07-21>.

156. See *Fox Anchor Calls Obama Fist Pound a "Terrorist Fist Jab,"* HUFFINGTON POST, June 9, 2008, http://www.huffingtonpost.com/2008/06/09/fox-anchor-calls-obama-fi_n_106027.html; Video: *Terrorist Fist Jab*, (leidheiser 2008), http://www.youtube.com/watch?v=G_vmQrTi3aM.

157. Katharine Q. Seelye & Julie Bosman, *Ferraro's Obama Remarks Become Talk of Campaign*, N.Y. TIMES, Mar. 12, 2008, available at <http://www.nytimes.com/2008/03/12/us/politics/12campaign.html> ("And the county is caught up in the concept."); see also Orlando Patterson, *The New Mainstream*, NEWSWEEK, Nov. 1, 2008, available at <http://www.newsweek.com/id/166827/page/2>; Joyce Purnick, *Ferraro is Unapologetic for Remarks and Ends her Role in Clinton Campaign*, N.Y. TIMES, Mar. 13, 2008, available at <http://www.nytimes.com/2008/03/13/us/politics/13ferraro.html?scp=2&sq=ferraro&st=nyt> ("If Obama was a white man, he would not be in this position," Ferraro told California's "Daily Breeze" newspaper. "And if he was a woman of any color, he would not be in this position. He happens to be very lucky to be who he is. And the country is caught up in the concept.")

158. Jon Cohen & Jennifer Agiesta, *3 in 10 Americans Admit to Race Bias: Survey Shows Age, Too, May Affect Election Views*, WASH. POST, June 22, 2008, at A01, available at <http://www.washingtonpost.com/wp-dyn/content/story/2008/06/22/ST2008062200049.html>.

159. See *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003); see also *Gratz v. Bollinger*, 539 U.S. 244, 251 (2003).

crimes throughout the United States.¹⁶⁰ Even before the election there was a noticeable increase in such incidents.¹⁶¹ Recall the racial hoax of McCain campaign worker, Ashley Todd, who claimed that a 6 foot 4 inch “black male attacker” had carved a “B” for Barack in her cheek.¹⁶² Indeed, it has been reported that;

Threats against a new president historically spike right after an election, but from Maine to Idaho law enforcement officials are seeing more against Barack Obama than ever before. . . . [S]ince the November 4 election, law enforcement officials have seen more potentially threatening writings, Internet postings and other activity directed at Obama than has been seen with any past president-elect.¹⁶³

While this is not surprising to many people, such race-crimes indicate that as a nation we have far to go in terms of racial healing. Perhaps a post-11/4 America is not starkly different in its racial mindset than a pre-11/4 America—the election of Obama notwithstanding. Even in the midst of his historic campaign, in his now famous speech on race, Barack Obama did not shy away from the reality of racial prejudice. Instead he spoke at length, remarking on the reality of a deeply racialized America. He connected these realities to the terrible history of legalized racism.

159. *Obama Election Spurs Race Threats, Crimes: From California to Maine, ‘Hundreds’ of Incidents Reveal Racism in America*, MSNBC, Nov. 15, 2008, <http://www.msnbc.msn.com/id/27738018/> (“Cross burnings. Schoolchildren chanting ‘Assassinate Obama.’ Black figures hung from nooses. Racial epithets scrawled on homes and cars. Incidents around the country referring to President-elect Barack Obama are dampening the postelection glow of racial progress and harmony, highlighting the stubborn racism that remains in America.”); see also Mark Potok, *Neo-Nazis and White Supremacists Publish Ominous Threats to Obama’s Life*, ALTERNET, Feb. 22, 2008, <http://www.alternet.org/blogs/peek/77509> (commenting on the prevalence of anonymous hate speech against Obama on blogs. “‘OBAMA WILL DIE, KKK FOREVER,’ concludes a Feb. 15 post by ‘Rodney’ to a blog run by a person identified only as Strider333. Above that signoff, Rodney wrote: ‘The KKK or someone WILL assassinate Obama! If we get a NIGGER President all you NIGGER’s [sic] will think you’ve won and that the WHITE people will have to bow to you[.] FUCK THAT.’ . . . ‘I’m hoping someone will do his public duty of putting a bullet through Obama’s head,’ said a poster identified as ‘Kill Da Nigga.’ Another poster suggests ‘bring[ing] back lynchings’ and concludes with a warning: ‘LOOK OUT NIGGER. THE KLAN IS GETTING BIGGER!!!!!!’ And a third, using the screen name ‘amerikkkan,’ says only, ‘The deep south is making plans.’”). A simple search of “threats against Obama” on the Southern Poverty Law Center website revealed numerous incidents throughout the nation. See SPLCenter.org, *Hate Incidents*, <http://www.splcenter.org/intel/hatewatch/forthecord.jsp> (last visited Feb. 4, 2009) (search “2008”).

161. Suzanne Pardington, *Effigy of Obama Alarms George Fox Campus*, OREGONIAN, Sept. 24, 2008, http://www.oregonlive.com/news/index.ssf/2008/09/racial_incident_rattles_george.html (A custodial crew at the 3,355-student Christian university found the Obama likeness hanging by fishing wire from a tree at 7 a.m. Tuesday and tore it down before students arrived for classes. A sign taped to the cutout said, “Act Six reject,” referring to a scholarship program for Portland students, many of whom are minorities. . . . The Obama image at George Fox is the third publicized incident on Oregon college campuses in the past year involving racist images hanging from trees.)

162. *Campaign Volunteer Faces Charges in Attack Hoax*, KDKA, Oct. 24, 2008, <http://kdka.com/local/attack.McCain.Bloomfield.2.847628.html>; see also KATHERYN K. RUSSELL, *THE COLOR OF CRIME 1* (N.Y. Univ. Press 1998) (1961) (detailing a litany of racial hoaxes).

163. Eileen Sullivan, *Obama Has More Threats than Other Presidents-Elect*, YAHOO NEWS, Nov. 15, 2008, http://news.yahoo.com/s/ap/20081115/ap_on_el_pr/obama_threats.

We do not need to recite here the history of racial injustice in this country. But we do need to remind ourselves that so many of the disparities that exist in the African-American community today can be directly traced to inequalities passed on from an earlier generation that suffered under the brutal legacy of slavery and Jim Crow.

Segregated schools were, and are, inferior schools; we still haven't fixed them, fifty years after *Brown v. Board of Education*, and the inferior education they provided, then and now, helps explain the pervasive achievement gap between today's black and white students.

Legalized discrimination—where blacks were prevented, often through violence, from owning property, or loans were not granted to African-American business owners, or black homeowners could not access FHA mortgages, or blacks were excluded from unions, or the police force, or fire departments—meant that black families could not amass any meaningful wealth to bequeath to future generations. That history helps explain the wealth and income gap between black and white, and the concentrated pockets of poverty that persists in so many of today's urban and rural communities.

A lack of economic opportunity among black men, and the shame and frustration that came from not being able to provide for one's family, contributed to the erosion of black families—a problem that welfare policies for many years may have worsened. And the lack of basic services in so many urban black neighborhoods—parks for kids to play in, police walking the beat, regular garbage pick-up and building code enforcement—all helped create a cycle of violence, blight and neglect that continue to haunt us.¹⁶⁴

Thus the symbolic nature of Obama's ascendancy, and Obama himself, hold up a mirror to American society to reveal just how racially contorted, distorted and confused we truly are. Even Obama, in what was as honest an account that any politician has given of his or her view of race in American, gestured towards the fiction of colorblindness. I think many of us would agree that colorblindness is a commendable aspiration, but it is certainly not yet reality.

Obama is incredibly racially self-actualized. He too knows that he cannot escape the specter of race. He realizes that he is the focus of our racial ruminations and the slate onto which we have projected our highest racial aspirations and our lowest racial fears, anxieties and paranoia. American history has constructed infirm racial ground.

Writer Rebecca Walker states, "Of course Obama is black. And he's not black, too. . . . He's white, and he's not white, too. Obama is whatever people project onto him . . . he's a lot of things, and neither of

164. Barack Obama, Senator, Ill., A More Perfect Union (Mar. 18, 2008), in *Obama Race Speech*, HUFFINGTON POST, Mar. 18, 2008, http://www.huffingtonpost.com/2008/03/18/obama-race-speech-read-th_n_92077.html.

them necessarily exclude the other.”¹⁶⁵ At times, we still sink into a racial quicksand as the logic and illogic between black and white is deep and vast.¹⁶⁶ But at other times we have genuine cause for celebration at the remarkable distance all races have advanced in America. In either case, we look to Obama. However, as the old adage advises, “NURSE, HEAL THYSELF.”

CONCLUSION

We cannot and should not place all of our racial hopes and aspirations on Obama. There is simply too much baggage and we must all be a part of this racial cure. Obama is, therefore, not the balm for what ails us, though I believe he is part of the solution. As he himself realized, it was not about him. Rather, he is but the embodiment of the change many in America, and the world, are looking for. Indeed, in his speech at the Democratic National Convention he stated as much.

But I stand before you tonight because all across America something is stirring. What the nay-sayers don't understand is that this election has never been about me. It's been about you.

For eighteen long months, you have stood up, one by one, and said enough to the politics of the past. You understand that in this election, the greatest risk we can take is to try the same old politics with the same old players and expect a different result. You have shown what history teaches us—that at defining moments like this one, the change we need doesn't come from Washington. Change comes to Washington. Change happens because the American people demand it—because they rise up and insist on new ideas and new leadership, a new politics for a new time.

165. Jesse Washington, *Many Insisting that Obama is Not Black*, HUFFINGTON POST, Dec. 14, 2008, http://www.huffingtonpost.com/2008/12/14/ap-many-insisting-that-ob_n_150846.html (“Rebecca Walker, a 38-year-old writer with light brown skin who is of Russian, African, Irish, Scottish and Native American descent, said she used to identify herself as ‘human,’ which upset people of all backgrounds. So she went back to multiracial or biracial, ‘but only because there has yet to be a way of breaking through the need to racially identify and be identified by the culture at large.’”).

166. *Id.*; see also Nicholas D. Kristof, *Obama and Race*, N.Y. TIMES, Mar. 20, 2008, available at <http://www.nytimes.com/2008/03/20/opinion/20kristof.html>:

Many white Americans seem concerned that Mr. Obama, who seems so reasonable, should enjoy the company of Mr. Wright, who seems so militant, angry and threatening. To whites, for example, it has been shocking to hear Mr. Wright suggest that the AIDS virus was released as a deliberate government plot to kill black people.

That may be an absurd view in white circles, but a 1990 survey found that 30 percent of African-Americans believed this was at least plausible.

“That’s a real standard belief,” noted Melissa Harris-Lacewell, a political scientist at Princeton (and former member of Trinity church, when she lived in Chicago). “One of the things fascinating to me watching these responses to Jeremiah Wright is that white Americans find his beliefs so fringe or so extreme. When if you’ve spent time in black communities, they are not shared by everyone, but they are pretty common beliefs.”

America, this is one of those moments.¹⁶⁷

I agree that this is one of those, perhaps once in a lifetime, moments of change. While the tectonic plates of the American political landscape have indeed shifted, this seismology conceals the fissures just beneath the surface. Obama's historic race for President of the United States of America reveals both the splendor of this monumental occasion when all seems possible, but it also reveals a perplexing array of conflicting moods and episodes. This essay has focused upon those moments during the historic 2008 campaign that reveal racial ironies, paradox and division. Obama spoke directly to these matters of identity in his speech, "A More Perfect Union":

This is not to say that race has not been an issue in the campaign. At various stages in the campaign, some commentators have deemed me either "too black" or "not black enough." We saw racial tensions bubble to the surface during the week before the South Carolina primary. The press has scoured every exit poll for the latest evidence of racial polarization, not just in terms of white and black, but black and brown as well.¹⁶⁸

It would seem that contrary to being post-racial, we are as steeped in identity politics as ever.¹⁶⁹ In America, race is the nuclear bomb in the arsenal of those inclined to wage this identity war—its mere mention invokes pangs of guilt, denial, fear, hostility, claims of victimization and raw emotion (rarely does it invoke ambivalence).¹⁷⁰ Some have speculated that the metaphorical alignment of the stars allowed Obama to squeak through as the first black President, despite his race. According to this theory, "America got its first black president by a fairly narrow margin and only because of a fortuitous alignment of many factors to overcome about the only handicap Obama had, one that he could do nothing about, his race."¹⁷¹

These identity disputes were an essential part of what made Obama's victory all the more impressive. In the end Obama dealt with opposing political candidates, addressing issues such as the wars in Iraq and Afghanistan, the failing economy, and a crisis of confidence in the government; but he alone was forced to negotiate an intersectional identity put to the test both directly and indirectly. Perhaps this racial nego-

167. Obama, *supra* note 26.

168. *Id.*

169. Steele, *supra* note 50, at 1 ("So, yes, Obama's interracial background puts him at cross purposes. It gives him a racelessness that is politically appealing to whites, but it also draws him toward precisely the kind of self-conscious black identity that alienates whites.").

170. See Michael Scherer, *The Anti-Obama Campaign That Didn't Happen*, TIME, Nov. 24, 2008, available at <http://www.time.com/time/politics/article/0,8599,1861831,00.html> (reporting on the manner in which the McCain campaign felt censored due to Obama's race).

171. Hull, *supra* note 7.

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tiation was actually Obama's greatest victory. Our racial disorders would indicate that this was no easy task.