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Race Perception and the History of Racial Institutions

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Abstract:

This study examines the two distinct camps within critical race theory, the first of which views race as a social construct without any scientific relevance, and the other which uses science to validate race as a determination of human differences. The purpose of this research is to assess the claims made by both camps in order to remove the ambiguity of the discussion on race in order to facilitate solutions to social problems. Examples that attempt to demonstrate the construction of races do not illustrate the creation of race, but rather what it means to be a member of each race in social terms. Scientific confirmations of race have a history of going too far in explaining human differences and exceeding the bounds in which the science is based. Over 40 books, articles, journals, and documentaries were used to examine the way that race has been defined historically, both scientifically and socially, and its implications. The results indicate that races are local geographic or global human populations distinguished as a distinct group by genetically transmitted physical characteristics such as skin color. Therefore, there is no justification for the assertion that races are merely social constructs and such positions are harmful to productive social dialogues on social problems, racial or otherwise. Confinement to the proper definition and implementation of race will enable the detachment of the acceptance of racial stereotypes that are unwarranted and illegitimate. Observable differences amongst people should not allow for an entire group of people to be characterized under present social terms. In addition, defining race under proper terms has serious implications for Black identity and race relations. Application of an accurate definition of race, in combination with a realization of their shared history and experiences, will allow African Americans to unite and mobilize in order to combat inequality, racism, and disenfranchisement.

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Introduction

Race was a category devised by 18th century scholars to summarize an ostensibly natural set of divisions within the human species. It is defined as "local populations, loosely united in a tendency to share particular variations in phenotype (appearance) or genotype (genetic inheritance)" based on the geographical locations of the earliest human civilizations.[1] Conceptually, race is about division and difference; the major mode of social differentiation in U.S. society, cutting across and taking priority over class, gender, age, religion, ethnicity, and other differences. Critical Race Theory materialized in part due to questions over the accuracy, consequences, and validity of race as a biological category. Regardless of its practical interpretation, the concept of race has played an essential role in the institutional framework of U.S politics. Perceptions of racial identities help institutions materialize, while institutions not only construct race perceptions, but enforce racial attitudes and behaviors.

My research examines the role Black racial identity played in the structure and functions of U.S. institutions and the ways in which U.S. political institutions have interpreted and framed racial identity. A Critical Race methodology requires us to write as witnesses and to collect and understand narratives that explain racism and offer insight into its possible disruption. It provides a theoretical lens through which to understand

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[1] Lieberman, Leonard & Linda C. Jacobson. "Race and Three Models of Human Origin." *American Anthropologist. New Series*, Vol. 97, No. 2 June (1995) pp.239

and study individuals as members of groups. Institutions reflect and function according to how we perceive races, eventhough at times our political and legal institutions have contradicted this position. People need the ability to associate themselves as a racial group since people generally shift among other social categories collectively, which results in a sense of shared history experienced by those who generally look alike, or share a race. This is particularly the case with African Americans who as a group can rewrite and "reconstruct" their history and improve their collective status by mobilizing around racial solidarity as a result of their shared history and experiences. It does not matter if race is only skin deep as long as people are discriminated against and disenfranchised based on this premise, and can use it as a mechanism to advance their collective status.

This essay will proceed in the following manner: first the concept of race will be defined and examined within the literature of Critical Race Theory. Critical Race Theory has consistently investigated the relationship of race and the development of institutions in conjunction with the role U.S. institutions have played in interpreting race. Secondly, the structure and definition of institutions will be discussed, including the reinforcing nature within formal and informal institutions. Institutions are systems of established and prevalent social rules that structure social interaction.[2] One function of institutions is to reinforce our perceptions of race, and create and enforce the rules. U.S. institutions had a significant influence in interpreting race in North America through the use of its justice system, political system, and many other social institutions. Therefore, they can be used

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[2] Hodgson, Geoffrey M. "What are Institutions?" *Journal of Economic Issues*. Vol. XL No.1, March (2006) pp. 2

to not only enforce our perceptions and create norms and rules, but institutions establish standards of behavior towards people of another race. The third portion of this research will explore the impact of the perception of Blacks on U.S. institutions. Perceptions of Blacks have been used to justify their traditional and continual unequal treatment. Constructed through a historical record, creating social norms based on our perceptions of race, the differences between groups have generally been identified as a possible threat resulting in the formation of our social and political institutions. Our perception of race is based on how we observe people who are phenotypically different. Essentially society tends to group things that look alike and consequently treat them differently as well.

Fourthly, the influence U.S. institutions on how races are perceived will be discussed, in addition to an introduction into the concept of institutional racism. The rules and decisions derived from formal institutions within government have contributed to how Blacks are perceived and has created the norms of behavior in dealing with them politically. Furthermore, issues such as the institution of slavery and Jim Crow segregation will be reviewed in this section. This essay will conclude with suggestions that minorities, African-Americans in particular, can employ to combat the effects of race perceptions and institutions to ameliorate less visible forms of racism. To confront institutional racism and other less visible forms of racism, African-Americans can rely on solidarity surrounding certain aspect of their racial identity including a shared sense of history, to demand equal outcomes politically and socially instead of equal processes.

What is Race?

Race is a word widely and traditionally used in biology to identify sub-populations within a species; that is, varieties, extended families, fuzzy subsets of individuals of common descent, or sets more or less differentiable one from the other by appearance and/or behavior. Recognizable varieties in other species, as well as humans, turn out to be distinguishable at the level of genetics. For a race or variety to persist in time, its obvious distinguishing traits must be to some significant extent inheritable. Certain biological elements are present within the concept of race and assist society in developing our perceptions of race.

Sarich and Miele defines race as "populations or groups of populations within a species that are separated geographically from other such populations and distinguishable from them on the basis of heritable features."[3] The perceived geographic boundaries are sometimes modified by culture. Human genetic variation is another way of understanding race. Templeton gives credit for the priority of geography in determining human variation. He argues that geographic location is the single best explanation for human genetic variation. For predicting the genetic makeup of either an individual or group, there is not one more powerful piece of information than knowing from where on the map that they originate. The degree of genetic variation between any two human groups is almost entirely explained by the geographic distance between them.[4] Graves argues that human genetic variation is real and is best described by isolation in distance,

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[3] Sarich, Vincent and Frank Miele. *Race: The Reality of Human Differences*. Westview Press (2005), pp. 207

[4] Templeton, Alan R. "Human Race: A Genetic and Evolutionary Perspective." *American Anthropologist* Vol. 100, (1998)

meaning that individuals who share ancestry in a particular region are more likely to share genes than those from disparate regions.[5]

The overall amount of measured genetic variation, however, is small, yet this does not mean that it cannot be categorized. Indeed if we can acknowledge that the genetic variation is statistically small, perhaps only small enough to explain phenotypical differences, then society must refrain from using race as a determinant in the distribution of resources and the privileges of fundamental rights and freedoms. Recognizing difference, and celebrating one's background and culture must be disassociated with value of better or worst. In no attempt to render race as meaningless or insignificant, ultimately the inclusion of distinguishing individuals by race must be excluded from the political sphere and confined to the private life of the individual. People have the ability to value and have pride in certain aspects of their culture and history, communities of people with a similar background and appearance will continue to assemble, but the inclusion of distinguishing individuals by physical characteristics in U.S. social relations must be liberated from the functions of government and emancipated from its history of denying basic civil rights and freedoms to "others." The influence of phenotypic "otherness" on the political and cultural status of individuals within society has been at the focal point of the discipline of Critical Race Theory.

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[5] Graves, Joseph L. "What We Know and What We Don't Know: Human Genetic Variation and the Social Construction of Race." (June 2006) www.raceandgenomics.ssrc.org

Critical Race Theory

Critical Race Theory (CRT) emerged as a scholastic discipline in the mid 1970s, exploring the historical centrality and complicity of law in upholding white supremacy. As a discipline it attempts to emphasize the socially constructed element of race by considering judicial conclusions to be the result of workings of power, and consistently oppose the continuation of all forms of subordination. CRT emerged in part from critical legal studies, a field of inquiry that argues that preserving interest of power, rather than the demands of principle and precedent, is the guiding force behind legal judgments.[6] Scholars of Critical Race Theory begin with the assumption that "race" is not necessarily a fixed term, but a fluctuating de-centered complex of social meanings that are formed and transformed under the constant pressure of political struggles. Critical Race theorists believe that to appreciate the perspective of opposed racial minorities, the voice of a particular contributor must be understood in terms of that individuals' own narrative.

Important Contributors to the Discipline

One of Critical Race Theory's most influential contributors is David Bell, a professor of Constitutional Law at New York University School of Law. As a critic of traditional civil rights discourse, Bell offers three major arguments in his analysis of racial patterns in American law: (1) constitutional contradiction, (2) the interest convergence principle, and (3) price of racial remedies. Bell argues that the framers of the Constitution chose the rewards of property over justice, mainly, that whites will

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[6] Crenshaw Williams, Kimberle', Neil Gotanda, Gary Peller, and Kendall Thomas. *Critical Race Theory: The Key Writings That Formed the Movement*. New Press, 1996

promote racial advances for Blacks only when they also promote white self-interest. He contends that whites will not support civil rights policies that may threaten white social status.[7]

Other significant contributors to Critical Race Theory include Richard Delgado, who argues that people of color speak from an experience framed by racism. Stories of people of color are born from a different frame of reference and therefore society should convey to them a voice that is different from the dominant culture of hegemonic whiteness and deserves to be heard. Kimberle' Crenshaw Williams argues that there is little difference between conservative and liberal discourse on race related law and policy. She highlights two distinct properties in anti-discrimination law: expansive properties and restrictive properties. Expansive property stresses equality as an outcome relying on courts to eliminate effects of racism. Restrictive property treats equality as a process. Its focus is to prevent any future wrongdoing. Both of these aspects coexist in anti-discrimination law. The failure of restrictive property to address or correct the racial injustices of the past simply perpetuates the status quo.[8]

The Methodology

Critical Race Theory developed, in part, to take up the issue of "otherness" and its impact on U.S. institutions. It is premised on the methodology of counter-storytelling. Counter-stories are the basis on which the theoretical concepts of race and racism are

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[7] Bell, Derek. *And We Are Not Saved: The Elusive Quest for Racial Justice. Basic Books*; Reprint Edition
    (March 1989)
[8] Crenshaw Williams, Kimberle', Neil Gotanda, Gary Peller, and Kendall Thomas. *Critical Race Theory: The Key Writings That Formed the Movement*. New Press, 1996

constructed. CRT is used to highlight the voices, experiences, and agency of people of color and to challenge the grand narratives of whiteness and its self-characterization as the norm. A Critical Race methodology suggests that we must effectively dissect cultural practices and systems, both formal and informal, through the specific, storied experiences of members of collective groups. Their stories give us illustrative insight into the systemic, not singular, nature and operation of the practices and systems of institutions. It is necessary to honor the complexity and difference within cultures and groups, but it is of equal importance not only to recognize cultures, but to investigate and analyze the distinct parts in order to engage scholarship. CRT seeks to counter oppressive and subordinating features within the texts of American legal, social, and cultural status, and its methodology requires that we write about culture to write against racism.

Institutions

Hodgson defines institutions as systems of established and prevalent social rules that structure social interactions.[9] They are commonly applied to customs and behavior patterns that are important to society as well as particular formal organizations of government and public service. Therefore, institutions can provide structure and guidelines for behavior by constraining or enabling certain behaviors. These constraints can open or deter certain possibilities and may also enable choices and actions that may not have otherwise existed.

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[9] Hodgson, Geoffrey. "What are institutions?" *Journal of Economic Issues*, Vol. XL, No. 1 (2006), pp. 2

Institutions can also be defined as a "stable collection of social practices consisting of easily recognized roles coupled with underlying norms and a set of rules or conventions defining appropriate behavior for, and governing relations among occupants of these roles."[10] Consequently, institutions portray ideas about how something should be done, look, or constituted to be viewed as legitimate. As a result, institutions manifest themselves in both real formal organizations such as U.S. Congress, or the Roman Catholic Church, and also informal social order and organizations reflecting human psychology, culture, habits, and customs. Similarly, D.C. North (1990) conceptualizes institutions as the "rules of the game," and identifies two distinct types: formal ones, for example constitutional, property-rights rules, and contracts, also identified as legal types, and informal ones, which are norms and customs.[11] Norms involve a network of mutual beliefs rather than actual agreements between individuals, so there is a minimal element of approval and disapproval.

Social sciences tend to reveal the nature of institutions as social constructions, artifacts of a particular time, culture, and society, produced by collective human choices, though not directly by individual intentions. Thus, Allport identifies two possible ways of defining institutions. The first treats institutions as entities of structure. In this way, institutions are "forms of social control which society places upon human life, or as the rational way of working out social purposes."[12] Consequently, institutions are things in themselves where human behavior is implied. The second way of defining institutions

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[10] Johnson, C. *Organization, Institutions, and Process: Three Approaches to the Study of International Organzation*. New York, (2007), pp. 5

[11] North, D.C. *Institutions, Institutional Change, and Economic Performance*. Columbia University Press, Cambridge (1990)

[12] Allport, Floyd H. "The Nature of Institutions." *Social Forces* Vol. VI, No. 2 (1927), pp.167

according to Allport classifies institutions as phases or segments of human behavior. In this way, institutions are discovered only by a study of the habits and attitudes of individuals. As a result, institutions tend to be directly and concretely experienced. Allport concludes that institutions are made up of three factors: (1) a system of approved group "ways" carried over from the past, (2) people interested in observing and perpetuating this system of "ways" and organized for the purpose of doing so, and (3) a group of things used by the people for the observance and perpetuation of the "ways."

The informal and formal aspects of institutions can lead to subjective and objective elements. Governments and religious institutions make and enforce rules and laws, and create and regulate various concepts of how people relate to one another, and what their rights, obligations, and duties may be as a consequence. Therefore, how people understand the rules and choose to follow them is important to understanding institutions. Institutional economists and modern and original pragmatist philosophers argue that institutions work only because the rules involved are embedded in shared habits of thought and behavior.[13] The prevailing rule structure provides incentives and constraints for individual actions. By structuring, constraining, and enabling individual behaviors, institutions have the power to mold the capacities and behavior of agents in fundamental ways. For example, they have the capacity to change aspirations instead of merely enabling or constraining them. The durability of institutions stems from the fact that they can usefully create stable expectations of behavior for others to follow.

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[13] Hodgson, Geoffrey. "What are institutions?" *Journal of Economic Issues*, Vol. XL, No. 1 (2006), pp. 6

Insofar as institutions lead to regularities of behavior, concordant habits are laid down among the population, leading to congruent purposes and beliefs. In this way institutional structure is further sustained. Institutions simultaneously depend upon activities of individuals and constrain and mold them through this position to have strong self-reinforcing and self-perpetuating characteristics. Institutions are not simply perpetuated through the convenient coordination of rules that they offer. They are perpetuated because they confine and mold individual aspirations and create a foundation for their existence upon the many individual minds that they taint with their conventions.[14] This does not mean, however, that institutions stand separately from the group of individuals involved. Institutions depend for their existence on individuals through their interactions, and particular shared patterns of thought. Nevertheless, any single individual is born into a pre-existing institutional world which confronts him or her with its rules and norms.

Since institutions are simultaneously both objective and subjective structures, they offer a link between the ideal and the real. Individual actors and institutional structure, although distinct, are thus connected in a circle of mutual interaction and interdependence. With institutions that are not self-organizing, there is a stronger dependence on other institutions that are required to enforce the rules. Institutions themselves are the outcomes of human interaction and aspirations, without being

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[14] Ibid., pp.7

consciously designed in every detail by any individual or group. While historically given, institutions precede any one individual.[15]

Influence of Black Race Perception on Institutions

What is African-American Identity?

African- American racial identity has been defined as the "process" of becoming black, also known as negrescence, and the Negro to Black conversion experience.[16] Sellers et al. (1997) defined racial identity as the extent to which one's blackness or race is central to one's sense of self.[17] Racial identity profiles have been characterized as either psychologically healthy or reflective of Black self-hatred (Nobles, 1976).[18] An African-American who does not consider race as an important component of identity would be characterized as psychologically unhealthy. One of the most popular and widely used theories of racial identity is Cross's (1971, 1991) Black Racial Identity Development model, or BRID. This model focuses on the process of how an individual's racial identity is formed and changes over time. The change is conceptualized as moving from a negative, unhealthy view or attitude about Blacks to a more positive healthier one.

Sellers et al. (1997) outline four dimensions to describe the significance and meaning of race in the self-concept of Blacks: (1) identity salience, (2) the centrality of identity, (3) the ideology associated with the identity, and (4) the regard in which the

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[15] Hodgson, Geoffrey. "What are institutions?" *Journal of Economic Issues*, Vol. XL, No. 1 (2006), pp.8
[16] Cross, W.E. "The Negro to Black Conversion Experience: Toward a Psychology of Black Liberation." *Black World*, Vol. 20, pp.13-27 (1971)
[17] Sellers et al. "Multidimensional Inventory of Black Identity: A Preliminary Investigation of Reliability and Construct Validity." *Journal of Personality and Social Psychology*, Vol. 73, (1997)
[18] Nobles, W. "Extended Self: Rethinking the So-called Negro Self Concept." *Journal of Black Psychology*, Vol. 2 (1976)

person holds Black people. "Salience and centrality refer to the significance of race, whereas ideology and regard refers to the qualitative measuring that individuals ascribe to their membership in the Black community."[19] Salience identifies the prominence or importance of a person's race in the individual's self-concept at a particular point in time. It allows for the consideration that certain events will bring into consciousness a person's racial identity, regardless of that person's racial awareness or ideological views about Blacks. Centrality refers to the stability and dominance of a person's race in the individual's self-concept. It implies the existence of a hierarchical ranking of several different identities such as sexual orientation and gender, in terms of how close they are to the individual's core definition of self. For example, when one calls himself a "black man," he is assuming the ranking that being black is a priority of equal or greater value to being a man.

Ideology is defined as the individual's beliefs, opinions, and attributes regarding the way he or she feels that a member of the race should act. Sellers et al. propose four ideologies: (1) individuals with a nationalist philosophy emphasize the importance and uniqueness of being black, (2) individuals with an oppressed minority ideology are characterized by a viewpoint that emphasizes the commonalities between Blacks and other oppressed groups, (3) individuals with an assimilation philosophy stress the commonalities between Blacks and the rest of American society, and (4) individuals with a humanistic philosophy emphasize the commonalities of all human beings. These four ideologies manifest themselves across four areas of functionality: (1) political-economic

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[19] Sellers et al. "Multidimensional Inventory of Black Identity: A Preliminary Investigation of Reliability and Construct Validity." *Journal of Personality and Social Psychology*, Vol. 73, (1997), pp.806

issues, (2) cultural-social activities, (3) intergroup relations, and (4) interaction with the dominant group. Although some Blacks may hold one primary ideology, others may hold different aspects of more than one ideology.

Regard can be defined as how one looks upon or feels about oneself. It refers to an individual's effective and evaluative judgment of his or her race. More so, the extents to which individuals feel positively towards Blacks and their membership in that group. Regard divides into two sets; public and private regard. Public regard is defined as "the extent to which individuals feel that others view African-Americans positively or negatively." Private regard is defined as "the extent to which individuals feel positively or negatively towards African-Americans and their membership in that group."[20]

Individuals within the African-American community may subscribe to any combination of racial identity variables, and value certain aspects of black identity more than others. For example, an individual can feel strongly about identifying herself as a black woman, but have an assimilation or humanistic ideology that de-emphasizes race and emphasizes the commonalities of humans globally. Although black racial identity is associated closely with the attitude one feels towards his or her race, on the level of appearance, African-American identity has traditionally been more expansive in identifying members. Mixed race individuals with just one black parent have traditionally been categorized as black, thus introducing a new set of cultural and historical variables that contribute to African-American identity.

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[20] Ibid., pp.807

The "one drop" rule

F. James Davis explores the presence of "passing" and the "one drop rule" in order to come to an operational definition of blackness. The offspring of mixed race relationships were often defined by the "one drop rule," where even one drop of Black blood makes one Black. Many were harassed by Blacks because they were too light, while others were forced to "pass" as white, ignoring the one drop rule, and as a result, part of their heritage.

The "one drop rule" is unique in two aspects: first, it is "found only in the United States and not in any other nation in the world."[21] Secondly, it applies solely to African-Americans. No other ethnic group in this country, including those with visibly non-Caucasoid features, is defined according to the one drop rule of another race. This peculiar conception of "blackness" arose in the American south to protect the institution of slavery and later served to strengthen the Jim Crow system of segregation. The "one drop" rule eventually came to be accepted by blacks and whites alike. Today, the "American cultural definition of Black is taken for granted as readily by judges, affirmative action officers, and Black protestors as it is by Ku Klux Klansmen."[22] Legal decisions, bureaucratic procedures, census enumeration, and social customs are all premised on it, although it is estimated that between three fourths and nine tenths of all Blacks in America have some white ancestry and one fourth have some Indian ancestry.

Perceptions of Race

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[21] Davis, F. James. *Who is Black? One Nation's Definition*. Pennsylvania State University Press (1991), pp.13
[22] Ibid., pp.5

Early social psychologists, such as Lindesmith and Strauss argued that the individual's behavior towards racial groups is dependent upon what he learns to perceive through symbolic interaction with others, even prior to seeing.[23] Thus perception itself assumes a critical role in the study of individual beliefs, attitudes, thinking, and action. The perceiver represents a social being whose perception is influenced by the meanings and values of the groups to which he is psychologically bound through past experiences and learning.

According to Gary Peller, race consciousness is associated with status-based social coercion, where individuals are treated in a particular way because of the arbitrary fact of membership in a social group they did not choose.[24] The particular fact of membership that an individual is branded with evolves into association with the entire group based on attitude and behavior. In *Perceptions of Race*, Cosmides et al. argue that the race of an individual must be noticed and remembered before a racial stereotype can be activated or racially motivated behavior can occur.[25] They found that eventhough race exists in the minds of human beings; genetics have failed to discover objective patterns in the world that could easily explain the racial categories that seem so perceptually obvious to adults. Along with an individual's race, when encountering a new individual adults encode that person's age and sex as well.

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[23] Riddleberger, Alice B. and Annabelle B. Motz, "Prejudice and Perception" *The American Journal of Sociology*, Vol. 62, No. 5 (1957), pp.498
[24] Peller, Gary. "Race Consciousness" *Duke Law Journal*, Vol. No. 4 Frontiers of Legal Thought III (1990), pp. 774
[25] Cosmides, Linda, John Tooby & Robert Kurzba. "Perceptions of Race" *Trends in Cognitive Science*, Vol. 7, No. 4 (2003), pp.1

Whereas the perception of race can begin at the level of observable differences, historically it has expanded into categorical memberships that associate individual behavior with that of the collective group. The developing clusters then easily allow for a system to develop where people take what they see in one person, and apply it to everyone they see who looks similar. Attaching individual and collective behaviors allow for racial stereotypes to develop and racially motivated behavior to occur in order to limit the impact or influence of the negative characteristics of a particular group or the group entirely. Therefore, perceptions of race are based on how we observe people who are phenotypically similar or different, and potentially formulating a sense of their collective behavior.

In racially dominated societies in particular, such as the one found in the United States, the creation of social norms linked with the negative behaviors of phenotypically similar groups result in the formation of institutions that manipulate status. According to Sidney Hollander Jr. and Lorraine C. Scarpa, it appears that the perception of the size of minority groups in an integrated situation is a function of race. Therefore one may conjecture that the tendency to overestimate the size or influence of a minority group is a function of social distance or feelings of threat.[26] The perception of a possible threat that is produced by race perception extends the scope and power of many of our social and political institutions. Kimberle' Crenshaw Williams argues that everyday institutional practices embody "white norms" that are camouflaged by a stance of cultural neutrality

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[26] Hollander, Sidney & Lorraine Scarpa. "A Note on the Perception of Race" *Public Opinion Quarterly*, Vol.35, No.4 (1971)

presented as "perspectivelessness."[27] Thus, perceptions of increased size of minorities

threaten a political landscape dominated by "white norms," eventhough on the surface

political institutions may resemble neutrality and equal processes.

Perception to Separation

The developed and perceived inequality of races is a product of mankind's

manipulation of the concept of race, mainly by the socially dominant race and class,

which for the most part as Fields points out, were whites. Smedley locates the formation

of racist institutions in the culture of the English, "who developed the most rigid and

exclusionist form of race ideology"[28] of all time. Because the English had little contact

with "human diversity," they were more likely than the Spanish or the Portuguese to

generate a race-based social system. Thus race illustrates the conceptual changes and

shifts from one that indicates a range from high status to low status, through one

indicating a range from high status to non-human status; "an ordering system structured

out of the political, economic, and social realities of people who had emerged as

expansionist, conquering, and dominating nations on a worldwide quest for wealth and

power."[29] This classification was then incorporated into the scientific and legal

discourses by the end of the 18th century to enable elites to rationalize and to justify the

existing Northern and Western European dominance over Native Americans, Africans,

and Asians. The idea of race, Smedley argues, "continues in large part because of its

[27] Crenshaw Williams, Kimberle'. "Race, Reform, and Retrenchment: Transformation and Legitimating in Anti-discriminatory Law" *Harvard Law Review*, Vol. 1331, (1988)
[28] Smedley, Audrey. *Race in North America: Origin and Evolution of a Worldview*. Boulder Westview Press (1993), pp. 16
[29] Ibid., pp 25

value as a mechanism for identifying who should have access to wealth, privilege, loyalty, respect, and power, and who should not."[30]

The Perception of Blacks in U.S. History

Charles Mills argues that the racial contract is a set of agreements between whites which places non-whites in a subhuman subordinate status. "The racial contract is a rhetorical trope and a theoretical method which will allow us to understand the inner logic of racial domination and how race is structured in America."[31] Although all whites are beneficiaries of this contract, not all whites are signatories. The racial contract allows us to understand that white supremacy is a political system built upon racial exclusion and domination and that this system was the hidden system of the polity for the last 500 years. It is therefore a system of exclusion and Mills claims that the racial contract is historically superior to the social contract as an explanation and description of historical reality.

The emergence of race as a formal constitutive factor in western society was linked to things: (1) racial slavery, and (2) notions of servitude transported from the discourses of Roman civil liberty.[32] In this process of transformation, Africans became Negroes and black slavery a contract between the white political and economic elites and the state. Black servitude and slavery then became distinguishable in America through the implementation of a series of laws. After one of its most revolutionary moments, the American Revolution, America established a set of legal norms that positioned Blacks in

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[30] Ibid., pp 29
[31] Mills, Charles. *The Racial Contract*. Cornell University Press (1999), pp.6
[32] Ibid.

chattel slavery. The development of anti-black racial ideals was critical to those legal norms, and these ideas became hegemonic, turning into norms and a central element of our society.

Conquest, colonialism, and racial slavery were all systems of exclusion. All were constructed on the inferiority of the "native" or slave. Mills argues that the contracts of colonial exploration were made by white males amongst themselves.[33] He argues that these contracts were made by white males amongst themselves. The contradiction between the ideals of human white male equality and the lack of conferral of human equality on African slaves was not a slippage or deceitful; it was calculated in the same way that the profits of a labor system are calculated.

The perception of Blacks in the U.S. has been historically and consistently negative. In 1781, Thomas Jefferson suggested the inferiority of Blacks. He states: "I advance it therefore, as a suspicion only, that blacks, either by nature or circumstances, are inferior to the whites in the endowments of body and mind." While Jefferson became the first prominent American to suggest that Africans are innately inferior, scientists thereafter began to conduct scientific experiments to validate these claims. Countless studies have been done throughout history to try and explain races in this manner, and all today are viewed by scholars and scientists alike with skepticism. In the Post- WWII era, and other key points in U.S. history such as the slavery era, American intellectuals and officials elaborated highly visible, self-conscious, and excruciatingly articulate doctrines of "whiteness" that evolved into "common sense" in which the courts appealed. For

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[33] Ibid., pp.24-26

example, Josiah Nott's <u>Varieties of Mankind</u>, Josiah Strong's <u>Our Country</u>, Madison

Grant's <u>Passing of the Great Race</u>, and in the writings of politicians such as Thomas

Jefferson, Stephen Douglas, and Theodore Roosevelt, all wrote on the natural orders of

"race," in particular the inferiority of the Black race. Explicit attention was given to the

traits of whites, especially Anglo- Saxon English speaking whites. Their alleged

superiorities of intellect, courage, moral endowment, attractiveness, and their eventual

evolution as the master race, were all in full detail and abundant.

Historically, the American institution of slavery is one example where both

"constructionist" and scientific definitions go askew. Scientifically, if Blacks were

naturally inferior to whites, and it was not circumstances as Jefferson deliberated, then it

was only natural for them to be subordinate and submissive to whites. As a group they

belonged subservient to white people and it was in their best interest to supplement the

superior race. Black people, in this way, were seen by whites as incapable of the same

qualifications and mental capacities, therefore it was only natural that they would be

slaves, and thus not necessarily an injustice.

Racial Influence on the Development of Institutions

The entanglement of the biological and cultural elements of race is based on an

individual's perception of race, developing into the creation of social norms that result in

the formation of our social and political institutions. How African-Americans are

perceived as a race is used as a justification of their traditional and continual unequal

treatment. The perceived natural inferiority of Blacks administered segregation, fostering

the need for separate facilities for Blacks and whites. Woodward emphasizes the results of perceived inferiority of Blacks when describing segregation. He states: "that code (of separate, inferior races) lent the sanction of law to social ostracism that extended to churches and schools, housing and jobs, eating and drinking. Whether by law or custom, that ostracism extended to virtually all forms of public transportation, sports and recreation, hospitals, orphanages, prisons and asylums, and ultimately to funeral homes, morgues, and cemeteries."[34]   Perceptions of race matter because its influence on interpersonal interactions.

Racial beliefs saturate our society and many of these beliefs operate as racial institutions, meaning, "they constitute unconsidered understandings of race that are taken for granted, consistently relied on, and disrupted if at all, with great difficulty."[35] Lopez (2000) argues that individuals inherit and remake racial institutions, which ultimately depend upon group dynamics for their perpetuation. When people absorb and rely on racial ideas cognitively, treating race as an accepted, expected part of the natural order, race functions institutionally. Consequently, "a racial institution is any understanding of race that has come to be so widely shared within a community that it operates as an unexamined cognitive resource for understanding one's self, others, and the way the world is."[36] As a result, the perception of African-Americans has consistently been used to justify inequality.

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[34] Canad, Charles T. "America's Struggle for Racial Equality." *Policy Review*. Jan/ Feb 1998 Issue #87
[35] Haney-Lopez, Ian. "Institutional Racism: Judicial Conduct and a New Theory of Racial Discrimination."
 The Yale Law Journal, Vol. 109, No. 8 (Jan 2000), pp.1806
[36] Ibid., pp.1808

The perception of races historically contributed to the formation of institutions. Ancient societies did not divide people according to physical differences, but according to religion, status, class, and even language. Throughout history, societies have enslaved others, often as a result of conquest or war, but not because of physical characteristics or a belief in a natural inferiority of people who are distinguishable by appearance only. When the U.S. was founded, equality was a radical new idea. But America's early economy was based largely on slavery. Therefore, the concept of race helped explain why some people could be denied the rights and freedoms that others took for granted. Race justified social inequalities as natural. As the white race evolved, it justified the extermination of Native Americans, exclusion of Asian immigrants, and the taking of Mexican lands. Racial practices were thus institutionalized within government, laws, and society. Race is a powerful social idea that gives people different access to opportunities and resources. Thus race became associated with slavery in America the instant that Blacks alone were designated to supplement the nations growing need for labor to stimulate a new and growing economy. Europeans had previous experiences with slavery in which the poor or immigrants were indebted to servitude for a period of time until they could potentially purchase their freedom, or work off their debt. But those who experienced American slavery were treated to a system of exclusion in which servitude and subjugation were designated to people who looked physically different and perceived to be inferior. In combination with the denial of rights and freedoms, slavery became intrinsically associated with Blacks who continually bore the brunt of this traumatic

experience. Slavery in the U.S. supported a developing culture that would continually recognize racial difference.

The Impact of Racial Culture and Multiculturalism

During the "white ethnic revival" of the 1960s and 1970s, narratives of 19th century and early 20th century immigration supplanted earlier settlement narratives in popular and scholarly accounts of America history. The white ethnic revival was modeled to a great extent on movements of ethnic self-assertion among minority people of color, but the institutionalization of the "Ellis Island epic" "blunted the charges of the Civil Rights and Black Power movements and eased the conscience of a nation that had just barely begun to reckon with the harshest contours of its history forged in white supremacism."[37] The new history of race relations is criticized because it disregards many aspects from before the New Immigration. For example, conquest, genocide, slavery, segregation, and the exclusion of non-white immigrants, have largely been neglected at a time when many Americans currently presume that no forms of institutionalized racism or structural inequality have survived into the present. In a society reconceived as a "nation of immigrants," people of color are expected to follow the trajectory of a victorious immigrant philosophy of adjustment and success. For about a century beginning in the 1840s, many European ethnic groups had often been marked as racially distinct from Anglo- Saxon whites. But by the 1960s their whiteness had become certain.

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[37] Jacobson, Mathew F. *Roots Too: White Ethnic Revival in Post-Civil Rights America*. Harvard University Press, (2008), pp.9

Jacobson observes how popular media, literature, and politicians have created a new ethnic America and gave the immigrant a place beside the pilgrim and the cowboy in the American pantheon. This development results in the formation of ethnicity, not as race's replacement, but its "inseparable sibling."[38] Ethnicity and multiculturalism has also allowed the descendants of those who imposed the system of political inequality and injustice to claim kinship with the victims whose experiences they have attributed to themselves. The Civil Rights Movement and the "Roots" phenomenon provided whites with the conceptual framework, an organizational model, and a vocabulary of victimization and perseverance which ultimately produced a "hyphen nation." Multiculturalism started out as assimilation and later switched to a pluralist model whose goal was to honor everyone's past since, "everyone comes from some other place besides Native Americans." Thus multiculturalism can be used to argue "we have all had trouble so get over it." Whereas differences in racial culture were traditionally used to separate and exclude certain portions of the population, multiculturalism has somewhat enabled different cultures to be celebrated by members of all races, meanwhile limiting the impact felt by those with a distinctly different perspective on the outcomes produced by looking physically different. Everyone may have had trouble at some point in their history, but some groups have been better equipped to "get over it" than others, while some racial groups continue to feel the impact and suffer the consequences of their troubled past. Culture thus contributes to the perceptions of races, and ultimately provides a base for

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[38] Ibid., pp.35

which individuals can address and resolve racial disparities concerning access to resources institutionally.

Influence of U.S. Institutions on Race

The influence of U.S. institutions on the concept of race can be illustrated by its experiences with slavery, the early development of the U.S. economic system, and the concept of the State itself, by investigating the judicial system, immigration policy, and presidential politics. Institutions have also played a role in how the "one drop" rule was interpreted and socially controlled. As a result, the concept of institutional racism identifies and explores racism and inequality that take place specifically within U.S. institutions. Finally, how African-Americans are perceived has been used by the individual actors within institutions as a justification for disenfranchisement.

Slavery and the State

Theodore Allen argues that the installment of the 17th century institution of slavery clearly symbolizes the creation of the white race. For him, racial oppression is sociogenic rather than phylogenic.[39] It is not rooted in physical dissimilarity but is a concocted method of social control. There are three essential points to Allen's argument: (1) racial slavery was a response to a problem of labor solidarity, (2) that the system of racial privileges for property-less whites was the result of deliberate and conscious

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[39] Allen, Theodore. *The Invention of the White Race: The Origin of Racial Oppression in Anglo-America.* Verso (1997), pp.1

ruling-class choice, and (3) that it was ruinous to "whites" as well as black laborers. Thus, the institution of slavery introduced economics as a significant method of social control in the development of the U.S. Racial oppression relies on the support of subjugated classes within the dominant group, a support that depends on the conferring of a favored racial status on its most degraded minorities. In America, it made all indigenous people, from Chief to farmer "Indians," and all from African descent, from King to peasant, into "Negroes." Allen is fundamentally opposed to the notion of a natural allegiance between wealthy and poor whites. He charts the process whereby the plantation bourgeoisie in Virginia looked to the institutionalization of slavery for Africans and African-Americans to deal with the rising labor difficulties. In this process, they sought to use poor whites as a buffer social control stratum, differentiating their status from that of blacks and thus constructing the immutable character of modern American social relations. This highlights the importance of the cleavages between class and race. Poor whites could certainly be withheld from certain political and economic advantages, but never to the extent where their basic freedoms would be compromised. Thus, no matter what standing an African-American had within his or her own community, in the greater scheme of society and the culture, they would consistently and routinely be regarded as less favorable and of a lower social status than any white person.

Allen's study traces the process in close detail and provides evidence of the complex status of Africans and African-Americans in early 17th century Virginia, with examples of holding land and other forms of labor besides slavery. He highlights alliances between Blacks and poor whites in resistance to the controls and exploitation of

the plantation bourgeoisie. Jacobson makes a very similar argument, focusing on the multicultural aspect of ethnicity in order to demonstrate the fluctuating legal, political, and cultural construction of race, as a result of the cleavages between class and race. The process of regulating the dilemma surrounding class and race are administered by U.S. political institutions.

The rules and decisions that come out of U.S. political institutions contribute to how races are perceived, and developed norms of behavior in dealing with members of another race. Our perceptions of race are reinforced by institutions through the enforcement of racial categories and exclusions. Goldberg explores not just the way in which the State is implicated in reproducing racial categories and exclusions, but how the modern state has always conceived of itself as racially configured. The connections between race and the State date back to the emergence of the modern nation state itself. Race, Goldberg argues, is integral to modernity and therefore integral to one of modernity's primary discourses, mainly liberalism. Historically, the modern state developed in a way that was distinctly racially coded though there were many more variables than just race alone. This racist coding continues to inform the modern state of today. Whether it is through racial definitions of the population, the regulation of social, political, legal, or cultured relations, or managing the economy, "the modern state is nothing less than a racial state."[40]

The modern state comprises of a range of contradictory and internally fragmented agencies and bureaucracies, legislations, and courts. Included in this analysis are the

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[40] Goldberg, David. *The Racial State*. Wiley-Blackwell (2002), pp.2

norms and values that such bodies and institutions bring into play. Race became

embedded into the character and ordering of the modern state at its very inception, as a

result of the desire to ensure a homogenous national character in the face of increasingly

mobile and heterogeneous societies.

Goldberg traces and compares two distinct theories or traditions that have

informed and helped shape the racial character of the modern state: a "naturalist"

tradition and a "historicist" tradition. The naturalist tradition is premised on the idea that

those not included in the homogenous community of the modern state are inherently

inferior. Historicist tradition considers those outside the state as racially immature and

not yet at the same level of development. Over time, the historicist logic was to become

predominant, but does not mean that as modern states developed there has been a

progressive shift away from racial rule. In fact, one way to impede this shift away from

racial rule and reinforce control over the distribution of resources is the legal system.

Race and the Judicial System

Race's legal consequences result from laws interpreting racial identities and their

relating status. Lopez (1997) focuses on naturalization cases in the late 19th and 20th

century in which judges interpreted the statutory requirements that applicants be either

"white" or of African descent. First, the lower courts, then the Supreme Court tried to

use scientific depictions of race to define "whiteness." The courts soon realized a

coherent, widely accepted account of race did not exist, and therefore relied on "common

sense" to give "whiteness" an operational interpretation. Race has been legally

interpreted, consciously and unconsciously, by defining who is "white" by who is "non-white." "Whiteness" has been defined in the U.S. as superior and a more "American" identity, and many whites still gain material and psychological advantages from these inherently stigmatizing definitions.

The courts rejected confusing scientific doctrines in favor of common sense views of "whiteness" because judges had a "deep conviction that race was natural."[41] The unwillingness to challenge the legitimacy of a status quo in which judges possessed privilege and benefits from the racial hierarchy demonstrates the value of politics, economics, and culture as the deeper source and influence on decision making rather than the investigation into the validity of their position. The Congress of 1790, only a few months after the ratification of the Constitution, restricted naturalization to "any alien, being a free white person who shall have resided within the limits and under the jurisdiction of the U.S. for a time period of two years." Examining 37 prerequisite cases between 1878 and 1952, Lopez found that during those years, the courts ruled that mixed-race applicants and those from Hawaii and Armenia were "white." Legal interpretations of race are an important contribution to the debate about the role of whites and racism.

Racial categories can, in part, "be demonstrated by reviewing historical developments in which the commonly used racial categories were established in addition to showing the way in which these categories and their meanings changed over time."[42] The 1932 Court case of the U.S. v. Bhigat Sing Thind and the 1922 case of the U.S. v. Takao Ozawa, demonstrate this contradiction in overlooking obvious "common sense"

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[41] Haney-Lopez, Ian. *White by Law: The Legal Construction of Race*. NYU Press (1997), pp. 95
[42] Obach, Brian K. "Demonstrating the Social Construction of Race." *Teaching Sociology*. Vol. 27, No. 3, July (1999), pp..253

perceptions of race. Thind, an Indian American man, filed for citizenship in the U.S. in 1923, and was denied since he was not considered white. The U.S. Supreme court found that while Indians were anthropologically categorized as Caucasian, the "understanding of the common man", wrote Justice George Sutherland, "knows perfectly well that there are unmistakable and profound differences."[43] Hence, despite being Caucasian, Thind was denied his status as white. The effects of the Supreme Court's ruling retroactively affected all Indians who had already been granted citizenship. In the Takao Ozawa case of 1922, Takao argued that based on scientific evidence, he was white. Nonetheless, Justice Sutherland argued that he was not Caucasian, and hence could not be white, and consequently denied his citizenship. Thind was not granted citizenship because he was not white, regardless of being Caucasian, and Ozawa was denied citizenship for not being Caucasian, despite being white.

As a result, Thind and Ozawa were excluded by being barred from all the various powers enabled by the status of U.S. Citizenship. Such powers included the right to vote, run for political office, and various other legal powers. In addition, other powers that are not as codified or legal, such as access to work unions, certain academic institutions, and certain neighborhoods were also disabled. The effects of the Supreme Court's ruling trickled down and strengthened racist immigration policies, for example the Asian Exclusion Act of 1924, as well as affected the lives of people of color in general. The above contradiction points out how racist thinking can at times have little to do with skin color, and much to do with status, power, and fear.

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[43] Haney-Lopez, Ian. *White by Law: The Legal Construction of Race*. NYU Press (1997), pp. 89

The manipulation demonstrated by these contradictions reinforce the self-sustaining and enforcement nature of all institutions. Dominant group theory articulates that whites will reinforce the social norms and standards of behavior of their dominant place and status in society in order to maintain the institutions. Any instance where political and legal institutions seem to contradict the observable "common sense" perceptions of race is because the advantage or disadvantage to the actors' dominant place in society, which is perceived as a natural right, has been compromised. This results in an attempt to maintain the order and existence of the institution. As Takaki describes, the "power to define" enables whites to contradict themselves to maintain the institutions and their dominant position within it.[44] Race is consistently utilized to maintain and control due to fear of losing power and the current dominant position. Oddly enough, the ideology of white supremacy is inspired and maintained due to fear. Race and status are defined by the dominant group in society politically, economically, socio-culturally, and historically. Consequently, the definition produced by the dominant group in society is constituted by collective acceptance, agreement, and imposition. Due to perceptions, race became the ideological medium through which people posed and apprehended basic questions of power and dominance, sovereignty and citizenship, and justice and rights. The resulting institutions came to manifest these perceptions.[45] The role of poor whites as a social class enabled the dominant group to sustain the perception of a favored racial group by securing minorities' standing customarily below that of any

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[44] Takaki, Ronald. *A Different Mirror: A History of Multicultural America*. Back Bay Books (1993)

[45] Fields, Barbra J. *Ideology and Race in American History*.   New York/ Oxford: Oxford University Press, (1982)

white person. Institutions present society with a mechanism to systematically enforce these boundaries.

Race and Immigration

Similar to Lopez, Roediger argues the white- nonwhite cleavage expressed itself in the complex categorization of immigrant identity, race, and ethnicity. Roediger formulates the idea of "inbetween-ness" to describe the position of European immigrants whose identity and race were deemed neither black nor white in 20th century America and shows how the confusions resulting from this status entrenched existing standards and practices. Immigrants were not white on arrival, but in practice absorbed the local prejudices in hopes of finding grounds for advancement through them. Roediger gives attention to the role of U.S. states in shaping immigration laws and therefore the parameters within which definitions of whiteness and group categories more generally unfolded. The linking of biological and essentialist conceptions of race to official measurement policy, as in the census, and eugenic presumptions to restrictive immigration policy, were fundamentally expressions of state policy favoring white Americans' preferences and categories. "What was so striking about restrictionist and racist thought at the beginning (and indeed at the end) of the 20th century was its very entanglement of the biological and the cultural."[46]

"Inbetween" immigrants stood midway between native-born workers and Blacks. After 1929, the great migration enabled employers to further exploit non-white workers

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[46] Roediger, David R. *Working Towards Whiteness: How America's Immigrants Became White*. Perseus Books Group (2006), pp.66

and to consolidate whiteness as a currency in the labor market. "With the main source of immigrant labor suddenly shut off, capital turned to the recruitment of workers racialized as non-white, not as "inbetween.""[47] This outcome helped sustain the segregationist Jim Crow order as a nationwide system, not as one simply expressed in the south. Crucially, the legacies of progressives and practices of the New Deal years transformed new immigrants from a race into ethnic Americans, thereby serving the tradition of "exclusion-based white nationalism" over that of "inclusion based reform."[48] In turn, this contrasts the receptions given to those identified as part of an ethnic group, and those identified as belonging to a different race. "Ethnics" could assimilate, though it may take some time. But for those of a different race, gaining recognition adequate with "white" comes slow if at all.

Race and Politics

The roles played by the policies of early 20th century unions, federal and local courts, and then FDR's administration in denying Asians and Blacks the privileges and rights granted to other immigrant groups who came to be considered ethnic whites, is also significant. When immigrants from southern and eastern Europe arrived in America, their status was somewhere below that of "native" white-Americans, but above that of Blacks and other non-whites. In the period of 1890 to 1945, social upheavals in labor, housing, and politics shifted and allowed these immigrants to take on the mantle of "white." Segregated housing practices, and labor unions favoring the immigrant over

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[47] Ibid., pp.150
[48] Ibid., pp.234

Blacks, helped to solidify the whiteness status. U.S. policy, notably the New Deal, also helped to confirm the inclusion of people who had formerly suffered the low social status of unassimilated immigrants. It is this ability to switch social statuses based on being an ethnic white, and not non-white, that makes for not only the social construction of race, but a legal and political construction as well.

All of these examples demonstrate the ability of the dominant group to interpret or define race in terms that is appropriate and beneficial for them either politically, socially, or economically. People identified as "inbetween" races eventually being promoted to the social status of "white," the role played by FDR's New Deal allowing for immigrant groups to shift and become ethnic whites in order to solidify the status of whiteness, and the position of poor whites as buffers between upper class whites and inferior Blacks, demonstrate the ability to change the interpretation of race in certain circumstances throughout American history.

Allen reports on the liberating consequences of "becoming" protestant in subjugated Ireland and even on the incentives created for Catholics to do so. Few Blacks could "become" white, and certainly were not encouraged to "pass." One can call the English domination in Ireland "religio-racial oppression."[49] This argument requires all scholars to agree that either the northern white working class had no rational economic reasons to feel anxious about slavery's end, hence their racism was manipulated, or that white workers legitimately feared "negro strike breakers."[50]

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[49] Allen, Theodore. *The Invention of the White Race: The Origin of Racial Oppression in Anglo-America.* Verso (1997), pp.97
[50] Ibid., pp.192

Shared political, economic, and cultural ideologies came together in order to subjugate Blacks into slavery. On the other hand, these three concepts do not necessarily lead to a natural allegiance amongst the members of a particular race, although legal constructionist theory admits that it depends on the fact that the politicians and judges in charge of creating and carry out the laws had these three essential elements in common when they routinely shifted and abandoned one racial argument for another. Besides their shared phenotype, judges and politicians generally shared the same ideology on what is good for Black and white laborers (economics), solving the problem of labor solidarity (politics), and racial privileges for property-less whites (cultural).

More recent cases of where we see race having severe consequences in our society through our institutions of education is in the debate over affirmative action. Affirmative action depicts policies aimed at historically viewed minorities in order to promote access to education or employment. The motivation behind affirmative action is a desire to redress the effects of past and current discrimination that is regarded as unfair and unequal, and to encourage public institutions such as universities, hospitals, and police forces to be more representative of the population.

Opponents of affirmative action argue that it involves giving preferential treatment to minorities. They argue that it is based on collectivism and merely another form of discrimination because it can result in qualified applicants being denied entry to higher education or employment because they belong to a majority or dominant group.[51] Opponents also argue that preferential treatment should be based on current social and

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[51] Seldon, Sally C. "A Solution in Search of a Problem? Discrimination, Affirmative Action, and the New public Service" *Public Administration Review*. November/ December (2006), Vol. 66, No. 6

economic standing, not what happened to another groups' ancestors. Others say that affirmative action devalues the accomplishments of people who are chosen because of the social group they belong to rather than their qualifications and merit. They also make the argument that affirmative action hurts mainstream groups for the injustices suffered by other groups whom they had no hand in causing nor do they condone. Mixed race individuals complicate the process of distributing equal resources to minority groups who have routinely been disadvantaged.

The Politics of the "one drop" Rule

The "one drop rule" emerged in the upper south of the colonial U.S. to prevent sexual liaisons and marriages between white women and Black slaves or freedmen. In 1662, Virginia passed the first anti-miscegenation law prohibiting sexual intercourse between the "races." By the 1700s the rule had become dominant and hardened during the Jim Crow era when animosity towards miscegenation took on the form of collective hysteria. Fourteen of fifteen southern states promptly adopted legal statutes that firmly defined the racial status of "negro" on some variation of the "one drop" rule, even though this did not resolve whites' insecurities about their own racial identity, and later grew into paranoia over "invisible blackness."

The emergence of "brown Americans," as Blacks mobilizing for unity would like to call them in the 1930s, was spurred by an increasing alliance of mulattoes with other Blacks. They also grew as anxious about "invisible blackness" as the whites had previously been fearful of "passing." On the eve of the Great Depression, "the nation had

become firmly committed to the "one drop" rule."[52] Proof of this is whereas the

proportion of mulattoes among Blacks had increased from 11.2 to 20.9 percent between

1850 and 1910, after the 1920 census, no attempt was made to enumerate them as the

census bureau endorsed the definition of race embodied by the one drop rule.

The "one drop" rule has come to be one of the most vigorously defended concepts

by African-Americans. Since the 1850s, and especially since the 1920s, Blacks,

including most prominently lighter skin mulattoes, have given broad and forceful support

to the notion that any mixed person belongs in body and soul to the Black community.

For instance, in 1972 the National Association of Black Social Workers passed a

resolution condemning the adoption of Black children by white parents, calling such an

adoption "genocidal."[53]

While most Blacks are well aware of their mixed ancestry and recognize the

historical role of the "one drop" rule in slavery, "black protests and political demands for

equal opportunity have not included a challenge to the long-standing definition of who is

Black."[54] The stress on Black pride as an expression of group solidarity eradicates racial

and class diversity among Blacks. Yet Blacks are the ones who continue to bear the

collective trauma and personal strains that come with the social and cultural tensions built

by the "one drop" rule. Race stands as a stigmatizing influence that is both socially

costly and inescapable since "blackness" cannot be shed. Today, "the Black community

is enforcing the one drop rule almost as determinedly, if not so violently, as Jim Crow

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[52] Davis, F. James. *Who is Black? One Nation's Definition*. Pennsylvania State University Press (1991), pp. 58
[53] Ibid., pp. 129
[54] Ibid., pp. 139

terrorists enforcers ever did."[55] The inclusion of "one drop" rule African-Americans increase the need to structure and enforce specific rules and behaviors in coexisting with a potentially growing and threatening population.

Institutional Racism

Institutional racism gained popularity in the 1970s and 1980s as a means of highlighting the continued systematic production of inequality, despite declines in overt acts of individual racial hostility. It is referred to as any form of racism that occurs specifically within institutions such as public bodies, corporations, and universities. Generally, institutional racism admonishes differential access to goods, services, and opportunities within society. When this differential access seeps into our institutions, it eventually becomes common practice, making it harder to rectify, thus it becomes reinforced by the actions of individuals. When racism is built into institutions, it appears to be an act of the collective population. Consequently, institutional racism is distinguished from racial bigotry of individuals by the existence of systematic policies and practices within the institutions that have the effect of disadvantaging certain racial or ethnic groups.

According to Lopez (2000), some consider institutional racism to be intentional racism in institutions, that is, "purposeful discrimination in formally organized settings."[56] Institutional racism refers to widespread race-neutral practices that impose harmful affects on minority communities, irrespective of actions or attitudes of individual decision-makers. Action influenced by racial institutions becomes institutional racism

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[55] Ibid., pp. 179

[56] Lopez, Ian Haney. "Institutional Racism: Judicial Conduct and a New Theory of Racial Discrimination." *The Yale Law Journal* Vol. 109, No. 8 (Jan 2000), pp. 1727

when those actions produce disadvantages and cause harm to the status of minorities.

Racial institutions take many forms and function differently across various domains.

Some racist institutions, such as those regarding the virtues of whites, operate in diverse

forms across geography, time, and social groups. Other forms, such as beliefs regarding

Hispanic Americans, "remain more restricted in structure and more specific to certain

places and eras."[57] To conclude, institutions not only help construct race perceptions, but

institutions also reinforce racial attitudes, and behaviors about minorities. Negative

perceptions can result in harmful impacts on minorities through the establishment and

distribution of resources, particularly, who gets what. Minorities must combat negative

perceptions and institutional racism by mobilizing around particular aspects of their racial

identity to demand equal outcomes from the political process, rather than equal political

and institutional processes.

Combating Race Perception and Racist Institutions

The ways in which African-Americans can overcome less visible forms of racism

have been investigated and debated by scholars and individuals within the Black

community alike. Ideally, solutions proposed in this section are suggestions that can be

applied to any minority group and institutional mechanisms that can further assist in the

eradication of persistent forms of racism. Black Political theorists such as Washington,

Du Bois, and Garvey have disputed the ways African-Americans could achieve political

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[57] Ibid., pp.1807

and social equality, and what those concepts would mean to the emancipated Blacks. Inclusion and mobilizing around a shared sense of history, in addition to other aspects of their racial identity, can help African-Americans combat less visible forms of racism. While "antiracist" rhetoric, rejection of multiculturalism approaches, and a move towards a more active "fight the power" campaign that demands equal outcomes could deter negative perceptions and institutional racism. Assimilation, Black Nationalism, and "Back to Africa" movements are all popular solutions presented by activists within Black Political Theory.

Black Political Thought

Historically the relationship of black identity and ideology has been debated among many Black scholars and authors of Black political thought. A focal point of the debate is the ways in which Black people can improve their conditions given the political and societal climate. In 1843, Martin Delany began publishing *The Mystery*, a black controlled newspaper in Pittsburgh. He used his writings to express his viewpoints and philosophy on the black experience and black liberation. Delany writes: "Spurned the right of election as representatives, and peerage as jurors, denied and robbed of the elective franchise and consequently the right of representation; in many of the states deprived of the right of testimony even against a vagabond; though our hoary headed father or mother may be maltreated, abused or murdered, our wives and sisters ravished before our eyes!" In May 1859 Delany departed from New York Harbor for Liberia,

arriving two months later, with the aim of investigating the possibility of a new Black nation in the region.

Booker T. Washington and W.E.B. Du Bois disagreed on the strategies for black liberation including how to end class and racial injustice, the role of black leadership, and what the "have's" owe the "have not's" in the black community. Washington's philosophy preached self help, racial solidarity, and accommodation. He argued that Blacks should accept discrimination for the time being and concentrate on elevating themselves through hard work and material prosperity. Material prosperity could be gained through education in crafts, industrial and farming skills, and the cultivation of such virtues as patience, enterprise, and thrift. For Washington, this would lead Blacks to win the respect of whites and lead to full acceptance as citizens and integrated into all aspects of society. Technically, according to Washington, the "have's" did not owe the "have not's" within the black community anything. By demonstrating the good civic virtues of "whiteness," preaching education and hard work, the "have's" of the black community could then be an example to the "have not's" that they could work along with the white man in accommodation to gain equality.

W.E.B Du Bois argued that Washington's strategy would only perpetuate white oppression; therefore, Du Bois was an advocate for political action. For Du Bois the "have's" owed it to the "have not's" to help raise them up out of their condition. "The Negro race, like all races, is going to be saved by its exceptional men. It is the problem of developing the best of this race that they may guide the mass away from the

contamination and death of the worst."[58] In 1909 Du Bois helped found the National

Association for the Advancement of Colored People (NAACP). He resigned from the

NAACP staff in 1934 because he was unwilling to advocate racial integration in all

aspects of life, a position adopted by the NAACP. He argued that Blacks should join

together, apart from whites, to start businesses and industries that would allow Blacks to

advance themselves economically.

The Washington- Du Bois debate polarized Black people into two wings: the

conservative, Washington supporters and their radical critics, the Du Bois supporters. Du

Bois' philosophy of agitation and protest for civil rights eventually took hold in the 1950s

and exploded in the 1960s with the Civil Rights Movement and the Black Power

Movement. Coincidentally, the Civil Rights Movement of the 1950s and 60s would later

be closely associated with Booker T. Washington's accommodation and non-violent

approach, while Du Bois' political action approach would later evolve into the militant

Black Power Movement.

Marcus Garvey, founder of the Universal Negro Improvement Association and

African Communities League (UNIA-ACL), advocated African Diaspora in African

affairs. He was unique in advancing a Pan-African philosophy to inspire a global mass

movement focusing on a return to Africa, which would later be known as Garveyism.

The intention of the movement was for those of African ancestry to "redeem" Africa and

for European colonial powers to leave it.

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[58] Du Bois, W.E.B. *The Negro Problem: A Series of Articles by Representative American Negroes of Today*
New York: J. Pott & Company, 1903, pp. 33-75

The tenets of Garveyism are: (1) race first, (2) self-reliance, and (3) nationhood. The ultimate goal was a United States of Africa which will protect the interests of Black people worldwide. It urged American Blacks to be proud of their race and preached their return to Africa, their ancestry and homeland. Quote: "the Black skin is not a badge of shame, but rather a glorious symbol of national greatness.[59] To this end he founded the Black Star Line in 1919 to provide steamship transportation, and the Negro Factories Corporation to encourage black economic independence. In the Advice of the Negro to Peace Conference Garvey states: "if Black men have to die in Africa or anywhere else, then they might as well die for the best of things, and that is liberty, true freedom and true democracy."[60] Criticizing Garvey, Du Bois states: "Marcus Garvey is, without a doubt, the most dangerous enemy of the Negro race in America and the world. He is either a lunatic or traitor."[61] Du Bois feared that Garvey's activities would undermine his efforts towards Black rights.

Garvey suspected Du Bois was prejudiced against him because he was a Caribbean native with darker skin. He called Du Bois "purely and simply a white man's nigger" and "a little Dutch, a little French, a little Negro… a mulatto… a monstrosity."[62] This led to a spiteful relationship between Garvey and the NAACP. Garvey accused Du Bois of paying conspirators to sabotage the Black Star Line to destroy his reputation. Regardless of how Black political theorists proposed to solve the dilemma of racial

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[59] Garvey, Marcus. "Advice to the Negro to Peace Conference." *The Negro World*. (November 30, 1918)
[60] Ibid.
[61] Du Bois, W.E.B. *The Crisis: A Record of the Darker Races Magazine*. Vol. 28 May 1924, pp. 8-9
[62] Grant, Colin. *Negro with a Hat: The Rise and Fall of Marcus Garvey and His Dream of Mother Africa*. Vintage Books (2009)

discrimination, a shared sense of history consisting of inequality, violence, and disenfranchisement were backdrops.

Inclusion and a Shared Sense of History

A shared history that binds African-Americans is developed through related experiences that allow them to overcome less visible forms of racism. More recently, Black political theorists and scholars have looked to include other cultural, societal, and historical explanations and descriptions in order to expand purely scientific interpretations of black identity to be more inclusive. The motivation for inclusion is an attempt to speculate on the significance of repercussions in relation to African-Americans' ability to mobilize. By expanding racial definitions and making them more inclusive, the population and influence of the Black community, as well as the possibility of improving its condition as a whole, are increased.

Shelby takes an alternative approach to inclusive efforts in defining and explaining Black identity. Black identity is not some occult force, binding Blacks together naturally. It is an ensemble of superficial traits that has no deeper meaning apart from serving as a criterion for racist mistreatment and as a symbol of "subordinate social standing."[63] Making this "thin conception" of blackness the political in salient conception of black identity would help overcome the intra-racial barriers to cooperation. Pragmatism, or stressing practical consequences as the essential criteria in determining truth, meaning, and value, sees that "what holds Blacks together as a unified people with

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[63] Shelby, Tommie. *We Who Are Dark: The Philosophical Foundations of Black Solidarity*. Belknap Press (2007), pp. 57

shared political interests is the fact of their racial subordination and their collective resolve to triumph over it."[64]

If this conception of Black identity were able to evolve, differences of culture, age, gender, class, and political ideology, along with geographic dispersal and divergent ideas about the deeper meaning of Black identity, would not stand in the way of Black unity in the name of a collective self-defense and the struggle for freedom and equality. Shelby defines solidarity in a way that detaches it from particular ideologies. Solidarity, according to Shelby, is a sentiment that moves people to collective action, and that exists whenever five conditions are satisfied: (1) whenever a set of individuals identify with each other as members of a group, (2) show special concern for one another, (3) are jointly committed to certain values or goals, (4) are loyal to the group and its ideals, and (5) trust each other.

Based on the development of association among "one drop" rule victims and their darker skinned associates, through their shared experiences as discriminated groups, Shelby develops his "thin conception" of blackness in an attempt to facilitate cooperation based on their collective resolve to triumph over their shared racial subordination. The struggle for freedom and equality for Blacks is facilitated by their ability to get past differences of culture, age, gender, class, political ideology, geographic dispersal, and conflicting ideas about what it means to be Black. It is one thing for whites, the oppressors, to accept the "one drop" rule, but something entirely different for Blacks, the oppressed, to accept and to promote this concept as well. The fact that the Black

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[64] Ibid., pp.56

community accepts the "one drop" rule, although surprising to some, reflects the fact that those with "one drop" of Black blood share the experiences of discrimination and mistreatment of equal or greater consequence of the "full" Black community. This shared experience of discrimination allows for the acceptance and combining of mulattoes and Blacks, and united this population can mobilize to combat institutional and less visible forms of racism.

Institutional Combatants

Goldberg concludes that though "racelessness" discourses indicate a move away from overt racial classification, such discourses still rely upon and implicitly accept the racial rule and assumptions of the past. So much so, that Goldberg suggests that "racelessness implies not the end of racial consciousness but its ultimate elevation to the given."[65] He suggests that one critical element is the initial premise of state formation. Therefore as a solution to the racist and discriminatory consequences of a racial state, "the post-racist state is one that is premised upon 'heterogenizing' openness and incorporation."[66] Goldberg challenges anyone who thinks that by embracing some form of "racelessness," the modern state can untangle itself from its racial configurations. Race has shaped modern social character as both a state of existence and as a form of rule. But "racelessness" is merely an insistence upon rendering invisible "the racial sinews of the body politic."[67] To offer "racelessness" as a solution to the racism and

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[65] Goldberg, David. *The Racial State*. Wiley-Blackwell (2002), pp. 236
[66] Ibid., pp. 242
[67] Ibid., pp.203

discriminatory practices of the state, is to do more harm than good, and impedes upon the solution process.

Silva offers an alternative perspective on the ways in which solutions to racial problems can be reached by presenting the contradiction between the alleged color blindness of most whites and the persistence of a color-coded system of inequality, even though most whites insist that race is no longer relevant. Fostering a multiculturalism approach which positions all individuals as foreigners limits the impact and responsibility of aid to those populations that have directly been affected by, and continue to be disenfranchised by their "otherness."

Silva seeks not to blame individuals, but to uncover collective practices that help reinforce the contemporary racial order. Society needs to shift its attention away from claiming to be "nonracist" to becoming "antiracist," which means understanding the institutional nature of racial matters and accepting that all actors in a racialized society are affected materially and ideologically by the racial structure. There are four interpretive frameworks that recur in the discourse in color-blind racism: abstract liberalism, naturalization, cultural racism, and minimalization of racism. Out of all of these, liberalism is the most important since the language of abstract liberalism allows whites to seem reasonable and moral while opposing all practical proposals for ameliorating 'de facto' racial inequality.[68] The tendency of abstract liberalism and 'de facto' racial inequality is to naturalize racial inequality; to say "that is simply the way it is."

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[68] Bonilla-Silva, Eduardo. *Racism Without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States*. Rowman & Littlefield Publishers, Inc. 2nd Edition (2006)

Similarly, Sabina E. Vaught argues that in a world so heavily entrenched in collective racial, gender, class, and other hierarchies, empathy will not come collectively from those who benefit from domination. Critical Race scholars Richard Delgado and Jean Stefancic term this mistaken dynamic "empathetic fallacy." An "empathetic fallacy" is the belief that one can change a narrative by merely offering another, better one, and that readers' or listener's empathy will graciously and reliably take over. The combination of naturalization and abstract liberalism allows for the meritocratic claim that the most qualified rise to the top, although most jobs are obtained through informal networks. Cultural racism is often combined with the minimization of racism, with disastrous effects. Thus whites accuse Blacks of exaggerating charges of discrimination as an excuse to hide the real reason for their lagging behind whites, mainly their presumed laziness. Opposition to affirmative action is often expressed through concern for how Blacks must feel about themselves by being awarded an "unearned" position. Likewise, whites use a number of storylines to support their claim to be innocent of racial privilege: "the past is the past," "I didn't own slaves," "if other groups have made it why haven't Blacks?", "I did not get the job or promotion because of a Black man."[69] Such assertions are typically abstractions forcefully decontextualized. For example, slavery was indeed "in the past," but pro-white policies have had, and continue to have a multiplier effect for all deemed "white."

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[69] Ibid., pp.77

So, what do we do? Silva argues that Blacks and their allies should be the core of a new Civil Rights Movement which "demands equality of results."[70] Williams (1995) conceptualizes "formal equality" as the white instantiation of a system that functions by defining equality through the process being undertaken, not the outcome of that process, for example the Supreme Court case Brown v. Board of Education.[71] The complex and unfortunate effects of "formal equality" include: first, creating a false sense of racial neutrality. This illusion of neutrality legitimates the system as just and fair. Second, if the system is racially neutral (equal opportunity), then the source of Blacks' failure resides within Black culture. Lastly, a narrative of equality effectively masks the system of white domination, making resistance difficult. Part of the task in demanding equality of results is to educate both people of color and whites about color-blind racism. It must also nurture a large cohort of "antiracist" whites to fight color-blind racism from within. All vulnerable whites should be approached, counter-ideological arguments must be developed, focus on white segregation, and together this nucleus of people of color and antiracist whites must become militant once again. Workshops on racism, education, and moral reforms are not enough.[72] A "fight the power" approach is needed and must demand equality now, not just equality of opportunity.

Mills suggests that one solution to racial oppression is the implementation of the ideals of the social contract in which all persons have equal moral worth. He points out that the story of the original social contract in the modern world excluded Blacks and

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[70] Ibid., pp.182

[71] Crenshaw Williams, Kimberle', Neil Gotanda, Gary Peller, and Kendall Thomas. *Critical Race Theory: The Key Writings That Formed the Movement*. New Press (1996)

[72] Bonilla-Silva, Eduardo. *Racism Without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States*. Rowman & Littlefield Publishers, Inc. 2nd Edition (2006)

women from political obligation, from the rights of liberty, and therefore rights of citizenship. For Blacks this exclusion was based on both the nation of Africans being savages and subhuman and on the construction of racial slavery in the new world. The resulting political system that emerged from this exclusionary social contract was obviously white male supremacist.

In addition, the voice of Blacks that is separate and different from the culture of hegemonic whiteness deserves and needs to be heard, as suggested by Delgado. The ideology of uniting Blacks based on the shared experiences of slavery, Jim Crow segregation, racism and racial discrimination is also very important to the solution. Instead of tension within the Black community, unity based on these factors for the sake of solidarity and collective action must be explored. This includes acknowledgement of the conditions and shared experiences of Blacks globally, including the Caribbean, Europe, and Asia. The combination of a cohesive Black community in America based on their shared experiences and not societal inflicted differences, inclusion of Blacks globally and "antiracist" whites, who are more than just sympathetic to their cause, is an undeniable political force, capable of undermining perceptual restraints and reconstructing institutional responsibilities.

Conclusion

In conclusion, this thesis examined the concept of race and describes how perceptions of racial identities help construct institutions, in particular how historical interpretations of race have assisted the development of U.S. political institutions. In

addition, institutions not only construct race perceptions, but also enforce racial attitudes and racial behaviors. The academic discipline of Critical Race Theory has consistently considered the relationship of race and the development of institutions, including the role institutions have played in interpreting race. Institutions are structures and mechanisms of social order and cooperation that govern the behavior of individuals and their interaction. As structures and mechanisms of social order, they are generally applied to customs and behaviors that are important to society, as well as formal organizations of government that establish "rules of the game" and norms of behavior.

The influence of African-American race perception can be illustrated in the framework of U.S. institutions. Negative perceptions of particular races justified social inequalities as natural. Perceptions of race matter because they in part structure interactions and attitudes towards different racial groups. Racial practices were institutionalized within government, laws, and society. By making policy and reaching legal decisions in U.S. courts, institutions have also influenced the way individuals and groups are racially perceived. In particular, how African-Americans are perceived are partially the result of the rules, policies, and decision derived from formal U.S. political institutions. Institutional racism takes place specifically within these formal institutions. Jim Crow segregation and miscegenation laws are some examples of racism built into U.S. political institutions.

In the end, African-Americans can rely on solidarity surrounding certain aspects of their racial identity including mobilizing around a shared sense of history to combat institutional racism and other less visible forms of racism. Although Black political

theorists have continually debated the ways in which Blacks can gain equal access to resources that are generally distributed through political institutions, I would argue that inclusionary efforts to expand the scope and influence of Black identity, a more active and consolidated "fight the power" approach, and rejecting multicultural approaches that place all American citizens as immigrants, are all significant ways in which African-Americans can demand equal outcomes in the distribution of valuable resources, including access to wealth, health, and education, instead of equal political process as prescribed by classical liberalism approaches.

Understanding race as consisting of a combination of physical characteristics and historical experiences with cultural consequences, the influence of Black race perception on institutions can be illustrated in the justification of inequality based on perceived inferiority. Justifying inequality and separation creates norms of behavior and rules for dealing with people who look different and are perceived to be different, thus institutional racism progresses to the point where institutions within our political system validate unequal treatment.

To combat negative race perceptions and institutional racism we must systematically exclude race from the political sphere and confine it to the private life of the citizen. The goal is to celebrate diversity without assigning value and priority of "mine is better." If we are to succeed in guaranteeing basic inalienable rights to our citizens then eliminating race as a factor in the distribution of goods and resources is paramount. The most successful and efficient venue for this to take place is within formal institutions of government which have the authority to liberate race from the

realm of politics. As history has illustrated, institutions have the capacity to interpret and enforce the rules of racial diversity, thus establish a system in which opportunities and resources are distributed regardless of race. In turn, given the opportunity and privilege of equal access, minorities will be able to shed the labels of inferiority and the incapacity to succeed at similar rates as the dominant racial group. By demanding institutions to force the equal distribution of political and economic resources, minority groups can ensure the access for future generations despite society's attempts to perceive races unequally, or for individuals to prioritize their particular race over the advantages of an "antiracist" perspective.

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