
JOHN LOCKE AND THE MYTH OF RACE IN AMERICA:
DEMYTHOLOGIZING THE PARADOXES OF THE ENLIGHTENMENT
AS VISITED IN THE PRESENT

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The English Enlightenment philosopher John Locke (1632-1704) is one of the most prominent figures in the development of liberal Anglo-American political thought.¹ Locke's writings had a significant influence on the American Revolution and founding principles of the United States in fundamental ways. I argue that Locke's influence is pervasive not only in American political ideology but also in the contradictions between stated ideals and institutions that have sustained inequality and oppression in a land that values equality and freedom.

Max Horkheimer and Theodore Adorno in their work on the Enlightenment note that every effort to rationalize the foundations of civil society also embedded those foundations in ideology and mythology.² One of the myths that emerged out of the scientific revolution and effort to ground human progress in reason was the fiction of multiple races of humankind. This idea, while not uncommon in Anglo-European thought by the 19th century, became especially important in the United States in spite of the fact that it directly contradicts the ideology of equality stated in the founding documents. I argue that this apparent contradiction reflects and is consistent with contradictions in Locke's attempt to logically ground the rationale for a civil society in self-evident laws of nature.

The political thought of John Locke is examined through his writings. Locke's personal life is also relevant as it set up the dialectic of his thought in relationship to the uneasy times in which he lived. Locke's political philosophy supported the rise of democratic institutions and basic principles of universal human rights and the character of just governments, while he was also a strong advocate for colonialism and early forms of entrepreneurial capitalism, including the formation of a colony based on slave labor.³ America had a special

¹ Peter Laslett, *John Locke: Two Treatises of Government* (Cambridge: Cambridge University Press, 1966), 3-4.

² Max Horkheimer and Theodor W. Adorno, *Dialectic of enlightenment* (New York: Continuum, 1990).

³ Jerome Huyler, *Locke in America: The Moral Philosophy of the Founding Era* (Lawrence: University of Kansas Press, 1995), 1-28.

meaning for Locke as he worked through his arguments on the rationale for human advancement in economic and civic life.⁴

This study focuses on the inconsistencies in Locke's political thought and writings related to equality and inequality.⁵ The discussion begins with the impact of the Lockean tradition in relationship to the origin of Locke's ideas in his personal circumstances. As such, the analysis examines the intersection of liberalism with illiberalism, democracy, and concepts of race and racism. The conclusion cites historical examples of legal racial segregation and inequality in the United States with a call to better understand the logic of the past so that we can advance arguments for the ideals of liberal government in the future.

LOCKE'S LIBERAL AND ILLIBERAL ARGUMENTS

Locke argues that human beings first existed in a state of nature governed by natural laws. For Locke political power is ultimately derived from this original state of being. The state of nature is, according to Locke, a "state of perfect freedom" where humans can order their own "actions, dispose of possessions and persons as they see fit within the bounds of the law of nature, without asking leave of any other man."⁶ This makes the state of nature one of perfect equality. Locke, in a familiar phrase, cites the truth that all men are equal as self-evident. Such equality, however, is problematical. If everyone is equal there isn't a higher authority that can adjudicate between parties with conflicting interests. Locke speculates that inevitably disputes would arise and create a state of war that would be permanent since no authority could end the conflict.

In *Two Tracts on Government*, a defense of absolutist government written when Locke was 30 years old, he concluded that arbitrary authority was necessary to avoid war and maintain order in human societies.⁷ Locke became increasingly dissatisfied with this conclusion, and in *Two Treatises on Government*, he tried to identify criteria for the development of a just and ordered society based on reason and consent. To achieve this goal Locke turned to ideas derived from his experiences with early colonialism in the New World where the American Indian experience served as a testing ground for his

⁴ Barbara Arneil, *John Locke and America: The Defense of Colonialism* (Oxford, UK: Clarendon Press, 1996).

⁵ See Arneil, *John Locke and America*; Philip Abrams, ed., *John Locke: Two Tracts on Government* (Cambridge, UK: Cambridge University Press, 1967); and Edward J. Harpham, ed., *John Locke's Two Treatises of Government: New Interpretations* (Lawrence: University of Kansas Press, 1992).

⁶ Locke uses the term "men" for humanity but it should be noted that he did not believe in gender equality. When he spoke about rights and equality he referred to equality among males. John Locke, *Two Treatises of Government, The Second Treatise*, Ch. 4, 6, ed. Peter Laslett (Cambridge, UK: Cambridge University Press, 1966), 287-295.

⁷ Phillip Abrams, ed., *John Locke: Two Tracts on Government* (Cambridge, UK: Cambridge University Press, 1967), 117-181

arguments about legitimate sources of equality and inequality among men based on property rights and labor.

The consent of the governed is central to Locke's portrayal of just political societies. The only way that a person can divest himself of his natural liberty is to agree to do so in order to join a community that secures comfort, safety, peaceful living, and property rights. Such a civil society is contrasted with American Indians as in a state of nature since "there is no government at all." For Locke, the New World constituted the realization of the state of nature not as a theoretical starting point or a hypothetical precondition for civil society but as a lived reality. America is likened to the early uncivilized stages of Asia and Europe. Locke viewed American Indian culture as disorderly and uncivilized. Locke argues that given the correspondence between the state of nature and disorder the true "liberty of man in society" can only be established by subordination to a higher authority, obtained when individuals voluntarily gave up the "state of nature" and put "themselves into society."⁸ Consensually giving up one's natural freedom becomes the true freedom of living under a social contract, the building block of a civil society. In a Lockean view, the superiority of the English as a civil people was a sound defense for the efficacy of English imperialism and colonialism.

A person under certain circumstances can also have limited, even unlimited, rights over another person based on property rights rather than consent. No one can legitimately consent to subordinate themselves or give their freedom to another person. Locke cites an exception, however, based on a distinction between just and unjust defenses against aggression. If the aggressor in an *unjust* war is captured, the captor has the right of life or death over the person. The captured person:

has forfeited his own life, by some act that deserves death; he, to whom he has forfeited it, may (when he has him in his power) delay to take it, and make use of him to his own service, and does him no injury by it. [If the] hardship of his slavery out-weighs the value of his life, 'tis in his power, by resisting the will of his master, to draw on himself the death he desires.⁹

The political philosophy of John Locke informed the development of the idea of a constitutional democracy in the United States that projected the natural right to life, liberty, happiness, and property.¹⁰ Lockean thought additionally supports the fundamental American canon that all men are created equal. Locke also justified illiberal practices.

⁸ Ibid., 287-295.

⁹ Ibid., 287-295.

¹⁰ See Carl Becker, *The Declaration of Independence: A Study in Historical Political Ideas* (New York: Vintage, 1942).

Locke grounded civil society within the framework of the state of nature and natural law. Natural law came to be used to justify social inequality and participation or non-participation. The principles of civic association and the capacity for reasonable discourse became a key to membership in or exclusion from the public arena. The goal of establishing, through discourse, a collective body politic (polis) separate from and superior to the private sphere was weakened and replaced with individualism based on personal acquisition and gain. This substitution allowed the conceptual transmogrification of the potential of humanity as a single body capable of moving from barbarism toward civilization into divided and stratified groups. It came to be used to defend racial division and possessive individualism in American thought.

LOCKE'S LIFE IN RELATIONSHIP TO DEMOCRACY IN THE UNITED STATES

Locke lived in times that witnessed the early stages of the development of mercantile capitalism, colonialism, and imperialism in the 17th century. He also witnessed sharp transitions in the fortunes of absolute monarchs in England and the rising importance of Parliament, and thus he was consistently concerned with what constitutes a just government and when the people have a right to rebel against unjust governments. The tensions between proto democratic principles and economic imperatives underlay discrepancies in Locke's arguments that he did not resolve even though his arguments evolved. The early writings on government were strongly conservative in their defense of absolutism and monarchy in *Two Tracts on Government* and *The Fundamental Constitutions of Carolina, 1669*.¹¹ Locke's later scholarship expressed classic liberal positions in texts such as *Two Treatises on Government* and "A Letter Concerning Toleration."¹²

A common interpretation of Locke elevates his sense of individualism, natural rights, the ultimate sovereignty of the people, as well as the right to redress injustice. The philosophy of John Locke had a great impact on popular 18th century social and political thought leading up to the French and American Revolutions. Locke was a significant informant of Thomas Jefferson's thought, and his views are evident in the *Declaration of Independence*.¹³ Locke's views on the importance of education also informed the *Bill of Rights, U.S. Constitution*, and Jefferson's pioneering views on the importance of general education in a democratic society. It is useful to examine Locke's philosophy in light of dualisms in fundamental assumptions that were

¹¹ David Woolton, ed., *John Locke: Political Writings* (Indianapolis: Hackett Publishing Company, 2003), 210-232.

¹² *Ibid.*, 390-436.

¹³ Also see Becker, *The Declaration of Independence*; and Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA: Harvard University Press, 1967).

built into Enlightenment thought as it was translated into modern institutions and social divisions. Locke's life experiences also reveal the pressures that shaped his arguments.

John Locke served as an informal advisor to the governing elite in England in the 17th century. He was educated at Christ-Church, Oxford, as a physician and served as a lecturer until he became a physician and tutor to the son of Anthony Ashley Cooper. Baron Ashley became Lord Ashley and ultimately the first Earl of Shaftesbury and High Chancellor of England.¹⁴ Shaftesbury was a leader in the colonization of the Carolinas in America. John Locke became Shaftesbury's secretary and handled the correspondence of the business of the plantation as based on slave labor. This work included drafting *The Fundamental Constitution of the Carolinas*, written in 1668. Locke was "one of just half a dozen men who created and supervised both the colonies and their iniquitous system of servitude."¹⁵

Locke had a personal interest in Shaftesbury's enterprise and came to have a great interest in the American colonies in general, as witnessed by his extensive collection of travel materials and early reports on the Americas in his personal library.¹⁶ As noted previously, Locke regarded America as the living example of the state of nature with the American Indian peoples living examples of "natural men" in their primitive condition. Locke saw the many distinct nations of indigenous America as an undifferentiated mass likened to the original Garden of Eden.¹⁷ Locke judged American Indians as part of the lost tribes of Israel and argued that therefore they should be treated kindly and not enslaved. They were not, however, equal to English colonists and did not have any rights in a civil society. In contrast, African "negros," were considered subnatural or subhuman. Both groups were beneath the capacity to reason even though they lived under the organized conditions of natural law derived from God in its original form. "Indians" had the potential to be educated but "negros" did not.

For Locke, the problem of justifying power and governmental authority, which stemmed from the politics of the English Civil War (1670-1683), informed his life's work and philosophies of governance. The question of power revolved around the issue of authority and specifically the right of superiors to punish and demand obedience from inferiors as a natural right. Locke's writings on power relations often used parent-child relations as an example, where the child did not have the right to resist. Locke made distinctions between family relations, the subordination of women to men,

¹⁴ "Life of the Author," in John Locke, *The Works of John Locke in Ten Volumes* (St. John's Square Cherkenwell, UK: J. Johnson et al., 1801), xix-xxxix.

¹⁵ Martin Cohen, *Philosophical Tales* (New York: Blackwell, 2008), 101.

¹⁶ See Arneil, *John Locke and America*.

¹⁷ Woolton, *John Locke*, 285.

servant to master, and slave to lord. Capitalists and merchants had the right to protect their property against tyrannical governance. Nonetheless, Locke argued that there were circumstances where inferiors could resist the coercive force of superiors.

The people generally ill treated, and contrary to the right, will be ready upon any occasion to ease themselves of a burden that sits heavy upon them. They will wish and seek for the opportunity, which in the change, weakness, and accidents of human affairs seldom delays long to offer itself.¹⁸

The ultimate question is “who shall be judge whether the prince or legislative act [is] contrary to their trust?” [The answer is] “the people shall be judge.” Beyond this, “God in heaven is judge...but every man is judge for himself.”¹⁹

Ideally, in Locke’s view, the legislative, executive, and federal powers of a commonwealth were required to work on behalf of the people, who legitimize the power of those bodies through consent.

The consent of the governed as legitimating representative government is, of course, a central premise in the formation of the United States as a nation-state and constitutional democracy. In relation to his defense of imperialism and the monarchy, Locke identifies two practical objections to the ideal form of governance as based on consent: (1) There are no instances where the people actually exercise consent in support of governing bodies. This is because (2) everyone is born into society and has no choice. Therefore, in practice, consent is never actually given. This places representative governance at odds with natural law.²⁰ This fact requires that since “government is hardly ever to be avoided amongst men who live together,” a “paternal affection must secure the property and interests [of the people] under [the elite’s] care.”²¹ Using “natural judgment and reason” in order to set up a practicing form of government, it is necessary to choose the “ablest, as most likely to rule over them [the people] well.”²²

Locke thus believed that the monarchy is an “obvious, simple” and the “best” solution “suited to their [the people’s] present state and condition.” Further, Locke asserts that the governance of benevolent elites protects the

¹⁸ Locke, “Second Treatise,” 224, 287-295.

¹⁹ Alfred Cobban, *In Search of Humanity: The Role of the Enlightenment in Modern History* (London: Jonathan Cape, 1960), 95, quoting Locke’s “Second Treatise on Civil Government” (London: J.D. Gough, 1946), 240.

²⁰ *Ibid.*, 101, 399.

²¹ *Ibid.*, 105, 400.

²² *Ibid.*, 107, 401.

people against “foreign invasion and injury.” In this way the commonwealth becomes a family led by the “wisest and bravest” men.²³

FROM A DEFENSE OF MARKET AND AGRARIAN CAPITALISM TO RACISM

Locke’s contradictions foresaw the tensions between democratic ideals and the inherent divisions in society brought about by capitalism as an economic system. The rise of imperialism and early mercantile capitalism necessitated Locke’s exploration of the dynamics of economics and economic theory, given the growing money economy and its connection to the slave trade.

Locke’s popular *Two Treatises on Government* was published in the comprehensive collection of this work in 1801. It is prefaced by three essays on the origin and value of the money economy, which are largely ignored today.²⁴ Locke observes that there are two ways to grow rich, “either conquest or commerce.” Locke goes on to say that the “defense of imperialism and commerce, therefore is the only way left to us [the English] either for riches, or subsistence.” And further, the “industry and inclination of our people...do naturally fit us [England]” for this role. While Locke asserts, “private men’s interests ought not thus be neglected, nor sacrificed to anything, but the manifest interest of the public,” the public is fundamentally represented by the wealth of the English nation and its proprietors in entrepreneurial capitalists and hereditary nobles. As an encouragement to trade, Locke cited the pursuit of wealth as an objective in itself as a path to prosperity and progress. This path to progress was outlined by Locke and practically illustrated in his projection of the ideal entrepreneurial colony in British North America. John Locke set up the deliberately exploitive nature of the social structure of the southern plantation in his contributions to writing the Carolina constitution in 1668.

John Locke’s relationship with the Earl of Shaftesbury, occasioned him to participate in writing a constitution for the Carolinas. Shaftesbury was a member of the Royal African Society that staged a war with the Dutch in order to acquire the *Asiento* right to the slave trade and to dominate the worldwide market in captured Africans. Shaftesbury and an elite group of nobles and early capitalist entrepreneurs envisioned not only the lucrative sale of human laborers but to use the labor potential for their own enrichment in a new British North American colony set up for its own purposes and self-aggrandizement. Locke dutifully, and there is no reason to believe reluctantly, supported the

²³ Ibid., 108, 401.

²⁴ John Locke, “Some Considerations on the Consequences of Lowering the Interest and Raising the Value of Money,” a letter sent to Parliament in 1691, 102-116; “Short Observations on a Printed Paper,” a letter to “Sir John Sommers, knt, Lord Keeper of the Seal of England and One of His Majesty’s Most Honorable Privy Council,” 117-130; and, “Further Considerations Concerning Raising the Value of Money,” 131-207, in *The Works of John Locke in Ten Volumes, Vol. V.*

Fundamental Constitution of Carolina. It was adopted as the law of the land by the eight reigning proprietors of the colony, including Shaftesbury, on March 1, 1669. The structure of the society openly rejects democracy as a choice of the people, the people, in this instance, being the eight proprietors themselves.

Our Sovereign Lord the King having, out of his royal grace and bounty, granted us the province of Carolina... establishing the interests of the Lord's Proprietors with equality, and without confusion avoid erecting a numerous democracy; we the Lords and Proprietors of the province of aforesaid [Carolina], have agreed to this following form of government to be perpetually established among us, unto which we do oblige ourselves, our heirs, and successors, in the most binding ways that can be devised.²⁵

The document assured the original eight groups of nobles and entrepreneurs continuing privilege as hereditary along the male line. They constituted all of the important governance roles and established beneath them a formal hierarchy grid that subdivided the territory into eight signories, and within them eight baronies divided by four precincts with six colonies each. There was to be no freedom of movement, habitation, production, or commerce that did not serve the Lord Proprietors. A provision required that there would be “no freemen” who did not “acknowledge a God,” as represented by the Church of England. In this way all members of the American Indian nations, Africans, Catholics, Jews and other non-Church of England members were excluded from the free, semi-free, or wage workforce. A social control buffer between the proprietors automatically put in place in order to subjugate a colony whose inhabitants and workforce would be overwhelmingly unfree, unpaid African labor was consigned to hereditary chattel bondage.²⁶ This arrangement contradicted Locke's description of circumstances of perpetual war where slavery was justified as an alternative to death imposed by a just victor on a captive transgressor.

This practice seems overwhelmingly in direct opposition to the *Two Treatises of Government*. The first treatise is a sharp critique of the rationale for absolutist government and the power of monarchs as expressed in Sir Robert Filmer's discourses and the ideas of his followers in defense of absolutist monarchy published in the 1680s, *Patriarcha*. In this work Filmer claims that “all government is absolute monarchy,” and further, “that no man is

²⁵ Locke, “The Fundamental Constitution of Carolina,” in *The Works of John Locke in Ten Volumes, Vol. X*, 175-199.

²⁶ *Ibid.*, see Sections XCV, XCVI, XCVII, 175-199.

born free...we are all born slaves and we must continue to do so.”²⁷ Locke decries:

slavery so vile and miserable estate for man, and so directly opposite to his generous temper and courage of the nation, that it is hardly to be conceived that an Englishman, much less a gentleman should plead for it.²⁸

In “The Second Treatise on Civil Government” the chapter on slavery asserts that:

the natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but have only the law of nature for his rule.²⁹

The condition of slavery exists as a “state of war continued between a lawful conqueror and a captive.” Yet, this does not give the captive the collective right of rebellion, to wage war. As noted earlier, since man by nature is free, he cannot give his consent to slavery, as an unnatural state. The act of capture becomes an act of forfeiting his own life and “drawing upon himself the death he desires.”³⁰ This logic denies the right to rebellion against oppression, Locke’s arguments for the right to self-preservation and resistance to absolutism. No other colonial power took up this logic, and in no other British North American colonies except in the southern colonies in colonial United States territory was this acted out.³¹

LIBERALISM, DEMOCRACY, MULTICULTURALISM AND RACISM

The relationship between the ideas of the Enlightenment and the concept of human races challenges us to examine the unorthodox history of liberalism and its relationship to racism. As western colonial imperial powers conquered the territory of others on a global scale, those who were subdued and exploited were argued to be of “savage” and “barbaric” character similar to Locke’s state of nature. The illusion of the superiority of “white” Anglo-Saxons can be traced in the United States to its colonial origins where white supremacy became codified into law in tandem with the legalization of inheritable lifelong slavery and the exemption of whites or American Indians

²⁷ Locke, “Two Treatises on Government, Book I” in *The Works of John Locke in Ten Volumes, Vol. V*, 285-409.

²⁸ *Ibid.*, §2, 212.

²⁹ *Ibid.*, Book II, §22, 351.

³⁰ *Ibid.*, 352.

³¹ See Theodore W. Allen, *The Invention of the White Race*, 2 vols. (London, New York: Verso, 1994, 1997); and George M. Frederickson, *Racism: A Short History* (Princeton, NJ: Princeton University Press, 2002).

from such extreme forms of bondage.³² The outcome of Enlightenment liberalism, or normative Enlightenment theory, with its contributions to the formation of modern liberal democracies beg questions of the illiberal logic of Enlightenment thought as represented by major figures who influenced the formation and philosophy of the United States, which includes Locke.³³ Desmond King argues that illiberal elements appear to be a part of liberalism itself. It is a defining but neglected feature of liberal democracy.³⁴

In Locke's *Second Treatise*, liberalism and colonialism are conceived as mutually beneficial in the promotion of progress. However, even those theorists who established the fundamental canons of liberal democratic political thought and rejected colonialism such as David Hume, Immanuel Kant, John Stuart Mill, and Georg Hegel also expressed contempt for non-whites in their writing.³⁵

THE ILLIBERAL PARADOX

The successes of Western social, political, and economic institutions are argued to have projected humanity into the modern era and also to have universalized fundamental principles applicable to all civil societies. The paradox is that these very prescriptions were not argued to apply to all of humanity. In fact, the belief in liberal principles co-exists with their exclusive application. John Locke had direct influence on the British North American colonies in the South. He contributed to the rationale for the expansion of capitalism and eventual formation of a liberal political constitutional democracy. He also set up arguments that excused basic contradictions in U.S. society marked by extremes of racial, class, and gender inequality amid the belief that it is self-evident that “all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”³⁶

Locke was a person of his times. He took ideas from his contemporaries and transformed them to apply to the dynamics of his own beliefs and experiences. Enlightenment thought argued for human experience as a source of knowledge and civility in a practical or utilitarian sense.³⁷ This directed modern secular thought to look for progress and truth in science, and it freed autonomous individuals to pursue their well-being in worldly interactions

³² Ibid.

³³ See Charles W. Mills, “Multiculturalism as/and/or anti-racism,” in Anthony Simon Laden and David Owen, eds., *Multiculturalism and Political Theory* (Cambridge, UK: Cambridge University Press, 2007), 110.

³⁴ Desmond King, *In the Name of Liberalism: Illiberal Social Policy in the United States and Britain* (New York: Oxford University Press, 1999), 27.

³⁵ See Mills, “Multiculturalism as/and/or anti-racism.”

³⁶ Continental Congress, *Declaration of Independence*, Philadelphia, July 4, 1776.

³⁷ See Cobban, *In Search of Humanity*.

rather than otherworldly asceticism. The value of politics and civic action by the people as a primary source of progress toward a civil society retained, however, the idea of the legitimacy of external authority. Science opened the possibility for modern technology, economics, and social organization characterized in the United States by freedom from a monarchy linked to divine providence to a hierarchy of secular authority grounded in white supremacy, paradoxically, like aristocracy, an inborn characteristic that cannot be acquired. In this process, the application of ideas on universal rights was seriously limited by the redefinition of the division between civilization and barbarism in ways that promoted the class divisions of capitalist economics into a new barbarism, racism. Science with its natural laws became the source of authority for modern racist theory and practice both in its overt and covert institutionalized forms.

Racial theory and practice are the antonym of politics as viewed by classic Greek philosophers. Racial divisions of humanity are a modern phenomenon, a long term product of Enlightenment thought, which when finalized in the 18th and 19th centuries traded the elevation of political discourse for pseudoscientific racial discourse as a basis for social cohesion by the 20th century. Early Enlightenment thinkers began to deflect the idea that political discourse among peers was the primary humanly constructed path out of barbarism. Locke and his followers identified the rules of civilization with natural law. The idea of natural law in this sense did not free humanity but bound it to universal rules that were considered hierarchical and immutable. Some individuals or groups were naturally civilized, and others were outside the circle of those with the right to rise against despotism or to consent to a social contract and become members in civil society.

THEN AND NOW

The Enlightenment produced the ideological freedom to pursue secular goals rather than spiritual redemption. It also opened the door to the commercial revolution and the slave trade. The contradiction between ideals and actions perpetuates and excuses inequalities to this day. These arguments take new forms as disparities between rich and poor increase, and similarly to Locke, contemporary advisors to the current leadership argue that inequality is not inequitable.³⁸ Human beings are created equal, but their inequality in social standing is not unfair or unjust since it is a fact and a forgone conclusion. A and B are equal ($A=B$); however, A is not equal to B ($A \neq B$), A is greater than B ($A>B$), B is less than A ($B<A$). This does not violate the law that they are equal because we can observe their inequality. The laws of nature that affirm equality are also used to justify inequality.

Locke's justification of elite white privilege as an inheritable property right in the constitution of Carolina found its way into other affirmations of

³⁸ "Editorial," *Tampa Tribune*, January 24, 2000.

white privilege. *Roberts v the City of Boston* in 1850 affirmed the right of the School Board of Boston, Massachusetts to make special provisions for the separate “instruction of colored children.”³⁹ The Roberts decision became a precedent cited in the segregation affirming decision of *Plessy v Ferguson* in 1896. In spite of the civil rights legislation and the 13th, 14th, and 15th Amendments, the Supreme Court refused to guarantee that the 14th Amendment serve as a protection for African Americans. A precedent was established that a white person had a natural right to be treated as a white person and that this right was a “property right.” Further, “If he be a colored man and be so assigned he has been deprived of no property, since he is not lawfully entitled to the reputation of being a white man.”⁴⁰ These laws were overturned, but the de facto effects of natural rights of the privileged classes and races remain embedded in institutions and practices. Structural inequalities persist in every aspect of life in the United States along the boundaries of class, race/ethnicity, and gender.

The orthodoxy of race relations is not effectively countered by the politically correct attack on the verbal ideology of racism. Excising race language masks race and does not dislodge it. Only political action can dislodge race as a guiding principle in Western and especially social thought and social structure in the United States. The conduct of human affairs needs explicit reference to expelling postulates, axioms, assumptions, and biases that support the pseudoscience of racial division. Empowerment needs to be experienced directly. There are real choices in the immediate future. We can dismember the paradoxes in liberal thinking. To do so we must limit the misuse of possessive individualism in the justification of oppression. The purpose of governance should be for the benefit of humanity and the public expression of the polity over the rule of bloodlines and the mythologies of hierarchy. Laws as well as reason can offset the irrational extreme of the dominance of whiteness in the hierarchy of power and authority in the historic formation of the liberal nation-state. The nemesis of humanity in the next millennium is the undermining of the law by the monopoly of power, whether held by elites in their own self-interest or in the texts and axioms of the paradigms we inherit through our past.

³⁹ *Roberts v City of Boston*. 59 Mass. (5 Cush), 1850, 198.

⁴⁰ Bell, Derek. “Race, Racism and American Law.” *Aspen Law and Business* (1992), §3, 2, 115.
