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*I: Illuminating the Racial Contract:
Citizenship and the Institutionalization of
Racialized Labor Markets*

How should we understand and explain individual and societal acts of racism? Despite the extensive literature on the wrongfulness and irrationality of racial prejudice, there is surprisingly little on the effect that racism plays on academia and the social structure itself, particularly in a field like philosophy which is dominated by white academics. Despite such disparity, a long-understood sociological theory is that, at its most basic level, racism is an irrational psychological prejudice and contains within it feelings of resentment and seems to establish racial hierarchy.^{3 4} Due to scholars seeing race in this way, almost all within the primarily white discipline that is philosophy steer clear from examining the role that institutions and politics play in establishing and perpetuating racial disparity across social and economic

³ Pratto, Sidanius, and Shana Levin, "Social Dominance Theory and the Dynamics of Intergroup Relations: Taking Stock and Looking Forward," *European Review of Social Psychology*, no. 17, (2006), 271-320, 10.1080/10463280601055772.

⁴ Figgou and Condor, "Irrational Categorization, Natural Intolerance and Reasonable Discrimination: Lay Representations of Prejudice and Racism," *The British Journal of Social Psychology*, no. 45 Pt 2, (2006), 219-43.

spectrums. A pioneer in the critical philosophy of race, author Charles Mills, confronts this disparity head-on, and, as a philosopher, seeks to use contractarianism to reconcile abstract notions of justice and human rights with the reality of marginalized groups across the world.⁵ It is this uncomfortability, in addition to, as Mills would say, the privilege of white people limiting their epistemological pursuit of understanding the system that they themselves created, that race can become contextualized within the social contract tradition. As he writes in his aptly named 1997 work titled *The Racial Contract*, his aim is to “adopt a nonideal contract as a rhetorical trope and theoretical method for understanding the inner logic of racial domination.”⁶ While Mills primarily focuses on race as a metric, what is at stake are liberty, democracy, and citizenship. While wide-reaching in its consequences, *The Racial Contract* and the framework created are applicable to many other elements of social regulation. My aim is to first make clear the argument put forth by the Racial Contract and subsequently establish the history of the United States as a system founded with the guise of using racism as a political tool. Using this as a foundation, I argue that it is these same sociolegal structures that have established coercive labor systems that rely on racialized structures of control and economic outcomes. Thus, in upholding these structures, and therefore economic outcomes, we perpetuate what Mills calls Global White Supremacy.

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Before any work, we have to assert a working definition of race. Sociologists tell us that it is a social construction and it is how we attribute differential meaning to people of particular groups and how they are perceived in the world. It is important to establish this first and

⁵ Charles W. Mills, *The Racial Contract*, (Ithaca, NY: Cornell University Press, 1997).

⁶ Mills, *The Racial Contract*, 6.

foremost as what Mills calls race and racism is not a result of interpersonal interaction but rather a structural relation that emerges from our epistemological understanding of the world. Much in the same way as the sociological definition, Mills' use of the word race acts more as a superstructural element of social order and it becomes a way in which racial societies order human hierarchies to create "color-coded morality of the Racial Contract [which] restricts the possession of this natural freedom and equality to *white* men."⁷ As Mills further establishes in the first sentence of *The Racial Contract*, "white supremacy is the unnamed political system that has made the modern world what it is today."⁸ The reason for this theory being called the unnamed political system is that the Racial Contract provides what he calls an 'epistemology of ignorance' or an inverted epistemology of widespread social and psychological dysfunctions. It is from these same dysfunctions that, Mills claims, whites are unable to understand the racialized world that they themselves have created. This 'white ignorance' "is the product of an epistemic agreement among whites to see the world wrongly—that is, to cultivate and sustain a system of false beliefs."⁹ Such ignorance enables whites to maintain their socially dominant position with respect to racial minorities. It is then this knowledge of racial societies which, Mills says, is used to construct an ordered hierarchy, namely, a system by which nonwhites are given lower status on a moral, socioeconomic, and political ladder as unequal members of society. Doing so, the result is a system by which the world is divided between persons (white people) and racial sub-persons (non-white people). He calls this system Global White Supremacy.

With the foundations of the Racial Contract established and a working definition of race (and by extension racism), the last question we must answer is the ontology of race in the United States as a political technology. Ultimately, race is a global story that has played out for

⁷ Mills, *The Racial Contract*, 16.

⁸ Mills, *The Racial Contract*, 1.

⁹ Mills, *The Racial Contract*, 18.

thousands of years. Before we come to understand how to become active in participating, analyzing, and advocating contemporary social movements and movements of justice, we have to understand how the foundations of such movements come about in the first place. While certainly a global movement, much of this conversation has been directed and furthered by the United States. As I am most personally familiar with and as this is an issue most academically perpetuated within the United States, I will be focusing my analysis here.

Since the inception of the United States, as a nation defined by civil liberties, we have become enamored by idealistic equality and fighting against the injustice of disproportionate opportunity. From the foundations of race, which is so prevalent to contemporary movements such as Black Lives Matter, The Fight for \$15, and #MeToo, the United States continues to struggle with how its history can be reconciled with modern power dynamics between races. Although potentially thought of as a bygone relic of the past, many assert that racial thinking, codified by sociolegal systems of the past, became entrenched in colonial America and continues to do so into the present. From these foundations, the experience of lived individuals is intimately rooted in ideas of race and how it functions politically in power dynamics.

One of the earliest socio-legal declarations of race in American history comes just two years after the ratification of the Constitution in 1788 and 1 year since it was in operation: this being the Naturalization Act of 1790. Modeled after the British Plantation Act of 1740, the Naturalization Act set the first criteria for naturalized citizenship to be limited to “free White person(s)... of good character.”¹⁰ Further, in the implementation of this law, courts associated being a ‘White’ person with Christianity, and thus, Muslim and Jewish immigrants were also excluded from citizenship with this only being altered in 1944 in *Ex Parte Mohriez*.¹¹ The

¹⁰ H. R. 40, Naturalization Bill, March 4, 1790

¹¹ *Ex Parte Mohriez*, 54 F. Supp. 941 (D. Mass. 1944)

Naturalization Act of 1790 was first brought to the Supreme Court in 1922 by a Japanese immigrant named Takao Ozawa in the landmark case, *Ozawa v United States*. At the time of the case, Ozawa had been living in the United States for a number of decades and was a graduate of a U.S. college living in Hawaii who, from his skin tone and complexion, appeared very ‘white.’ In his case, Ozawa argued that, in line with the Naturalization Act, because he was ‘white’ and demonstrated good character by assimilating into U.S. culture, he should be able to become a naturalized citizen. His application was ultimately declined as although he was otherwise qualified for naturalization, he was made ineligible because of his race. In the summary of the ruling, they argued that “the words ‘white person’ were meant to indicate a person of what is popularly known as the Caucasian Race...”¹² From here, the precedence establishes the necessity of being Caucasian as an essential condition of ‘whiteness’ regardless of demonstrated acculturation and assimilation.

Just three months after *Ozawa v United States*, the Naturalization Act again took center stage in the 1923 *United States v Thind* case. Bhagat Singh Thind was an Indian-born career US military man who looked at the Ozawa case and, based on the precedent established there, claimed his Caucasian status as an Indian man. At the time, racial scientists were deeply concerned with the borders of the Caucasian race and, because of British rule of India, India was decided to be a Caucasian nation. Based on this, by the science of the time, Thind makes the argument that, by definition, he must be Caucasian, and therefore should be allowed to claim naturalization citizenship. In what is seen as an apparent contradiction to the Ozawa case, the Supreme Court again rejects the appeal stating that while he is Caucasian, he is not white as the average white American would be very surprised to think of someone like Thind being considered white. In the words of the Supreme Court, “‘Free white persons,’ as used in that

¹² *Ozawa v. United States*, 260 U.S. 178 (1922).

section, are words of common speech, to be interpreted in accordance with the understanding of the common man... only as that word is popularly understood.”¹³ From this case, the legal precedence becomes establishing a definition of ‘whiteness’ as what the everyday white person thinks ‘whiteness’ is.

As is quite evident in the circumstance of these three cases (and the many others not included here), the legal system of the United States in both its beginnings and in its continuation rationalized a system of continual oppression by which members of the non-dominant race are systematically excluded on the basis of seemingly arbitrary criteria. Here, I argue that law becomes the main avenue by which society creates a structure of inferiority and the othering of nonwhite individuals. In the least amount, these examples illustrate that the definition of a citizen in the United States, was, at one point, not a neutral term but both a political and racialized concept. As we see from the Naturalization Act of 1790 and the two following Supreme Court cases, the United States has defined race to meet its end of establishing racial purity through racialized criteria of citizenship. Subsequently, from doctrines of citizenship to Indian laws, slave codes, and colonial native acts, the subordinate status of nonwhites was, practically speaking, regulated in their daily lives creating a distinct legal subsection for non-European non-Caucasians as a separate category of beings from the dominant society. With this in mind, we have established that race has, in some way, informed the naturalization and socio-legal definition of citizenship and that by doing so, race became used as a political tool for the dominant power, namely, white ethnic-European people.

While seemingly the case in past times, one of the fiery keynote topics of modern debate is whether these systems are still upheld today. While seemingly settled in academia, discourse among the common political body is massively rampant with the Conservative Party positing the

¹³ Ozawa v. United States, 260 U.S. 178 (1922).

non-existence of institutional race-based inequality. My concern here is not to settle this debate. Rather, and what I think is a more useful tool to educate Americans on race is in looking at the structural dynamics of today. Even if we are to say that there are no longer codified racial

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inequalities (as contemporary conservatives pose), it is considerably more difficult to deny that these past inequalities have likely informed and influenced the power relations of today. This follows up much with how Mills views race as he claims that white supremacy is not about people but rather the way that systems and institutions operate the social, political, and economic orders themselves. I again highlight this distinction as it is most often misused in media and therefore in common language. It is very easy to associate Mills’ Global White Supremacy with white

supremacist *individuals* who wear hoods and march with Tiki torches and institutional racism gets misused as only legal policy. Instead, what we are concerned with here is a framework in order to understand the spoken and unspoken structures of society given a differential of power between races and that is what Mills (and I) refer to as the theory of Global White Supremacy.

As we have seen, law is one of the most powerful mechanisms by which a society can create, define, and regulate itself. In defining whiteness, legislatures and courts have served not only to fix the boundaries of race in the forms we recognize today, but also to define the content of racial identities and to specify their relative privilege or disadvantage in US society. In this way, law acts as the construction of race. However, if this is said to be true, we must return to the

foundational legal principle that the United States is said to be founded on. Placing this in reference to the historical account of the US as a society that proclaims freedom, individualism, and unlimited mobility, the persistence of rampant inequality along ascriptive lines of race seems to be a contradiction. While on the surface it may seem so, this is precisely how the system was established and structured. As Evelyn Nakano Glenn says, from African Americans in the South, Mexicans in the Southwest, and Asian Americans in Hawaii, “all three regions developed coercive labor systems that relied on racialized structures of control, and in all three, struggles over labor and citizenship rights were dominant issues that shaped relations among white and nonwhite groups.”¹⁴ The claims of inequality, the huge number of people at the US-Mexico border, or even taking on the label of essential workers, this is all precisely part of the legacy of domination over labor.

For nearly a century after the end of the Civil War, American law on both the state and federal levels worked to actively prohibit employers from discrimination on the basis of race beginning with the Civil Rights Act of 1866. While not labor specific, the policy was written to guarantee all citizens, including newly freed slaves, “full and equal benefit of all laws and proceedings for the security of person and property” (House.gov). In much the same way, the 14th Amendment, ratified in 1868, affirms that “No state shall... deny to any person within its jurisdiction the equal protection of the laws”¹⁵ and also proved to be a toothless defense of the rights and protections of nonwhite individuals. Thus, we see how the plain language of these texts, while suggesting a sense of equality, was in practice markedly ineffective. It was not until the work of the Civil Rights Movement of the 1960s culminating in Title VII and the Civil

¹⁴ Evelyn Nakano Glenn, “Settler Colonialism as Structure: A Framework for Comparative Studies of U.S. Race and Gender Formation,” *American Sociological Association, I(I)* (2015), 54-74, <https://doi.org/10.1177/2332649214560440>.

¹⁵ U.S. Constitution. amend. XIV, sec. 1.

Rights Act of 1964, 98 years after the first one, did it finally embed itself into mainstream white culture.¹⁶ In a field with such a high effort of litigation, would this, as contemporary Conservatives say, be the end of institutional racism and the beginning of a time where color-blinded policy needs to be adopted? As I will conclude in this essay, I argue not, as the effects of law, particularly on the labor market, demand a non-color-blinded look into socioeconomic divisions and outcomes.

One of the most powerful institutions that came in great support and is attributed much to the success of the Civil Rights Movement was the formation of more inclusive labor unions. While unions have advocated both for and against color and immigrant exclusion, it was only with the beginnings of the Civil Rights Movement in the 1950s that labor unions became a political centerpiece for racial equity. Economically, unions had significant sway over the distribution and pay of jobs, particularly at the height of the Great Migration of Black Southerners to Northern and Western Cities during this 1950s period.¹⁷ Unions also had substantial social and political weight, affecting public policy on a variety of topics in numerous cities and states, particularly New York City. As a result, the modern Civil Rights movement's main goals shifted to include fighting for a progressive labor movement and against discriminatory unions.¹⁸ I highlight this distinction in particular because it is an example by which the institutions of American society made ascriptive claims of the value of labor done by different races. In much the way as citizenship, the definition of 'free white person' was seen as a potential threat to the dominating power of whiteness, and as James Baldwin said to Esquire

¹⁶ Graham Boone, "Labor Law Highlights, 1915–2015," *Monthly Labor Review*, (2015), <http://www.jstor.org/stable/monthlylaborrev.2015.10.003>.

¹⁷ Lee Sutar, "Black Power at the Point of Production, 1968–73," *Black Power at the Point of Production, 1968–73* | *International Socialist Review*, International Socialist Review (ISR), <https://isreview.org/issue/111/black-power-point-production-1968-73/index.html>.

¹⁸ James Gilbert Cassedy, "African Americans and the American Labor Movement," *National Archives and Records Administration*, National Archives and Records Administration, (1997).

magazine, "labor unions along with the bosses created the Negro as a kind of threat to the white worker."^{19 20} In creating such a distinction, it again reaffirms the normative quality that non-white individuals are automatically characterized as challenges to the status quo of the labor market and that, to maintain such a system, one ought to (indirectly) seek racial purity within the labor market. In this way, we can see how a racialized labor market, by definition, creates inequality such that white people were unable to recognize it as a feature of the market and thereby socioeconomic landscape of the time.

In a more contemporary sense, much of these effects still permeate. A 2012 study shows that the black-white wage gap decreased by 29% between 1940 and 1980, increased during the 1980s, and decreased very slightly during the 1990s with whites earning roughly 30% more per hour.²¹ Even though there are historical improvements to the closing of this gap, some studies conclude that these gains are ultimately offset by mass joblessness and incarceration, especially among men.^{22 23 24} Another study done in 2012 shows that African Americans primarily join unions for protection against discriminatory treatment. In addition, they calculated that among women, black-white weekly wage gaps would be between 13% and 30% lower with union representation.²⁵ For men, racial wage inequality was less substantial but unionization increased

¹⁹ Martha Biondi, "Labor and the Fight for Racial Equality," In *City of Workers, City of Struggle: How Labor Movements Changed New York*, ed. Joshua B. Freeman, 130–41, (Columbia University Press, 2019), <http://www.jstor.org/stable/10.7312/free19192.16>.

²⁰ Bruce Western and Becky Pettit, "Black-White Wage Inequality, Employment Rates, and Incarceration," *American Journal of Sociology* 111, no. 2 (2005): 553–78, <https://doi.org/10.1086/432780>.

²¹ James P. Smith and Finis R. Welch, "Black Economic Progress After Myrdal," *Journal of Economic Literature* 27, no. 2 (1989): 519–64, <http://www.jstor.org/stable/2726688>.

²² Richard J. Butler and James Heckman, "The Government's Impact on the Labor Market Status of Black Americans: A Critical Review," Working Paper No. 183, National Bureau of Economic Research, (Cambridge, MA: 1977).

²³ Bruce Western, "Mass Imprisonment and Economic Inequality," *Social Research* 74, no. 2 (2007): 509–32, <http://www.jstor.org/stable/40971942>.

²⁴ Michael T. Light and Jeffery T. Ulmer, "Explaining the Gaps in White, Black, and Hispanic Violence since 1990: Accounting for Immigration, Incarceration, and Inequality," *American Sociological Review* 81, no. 2 (2016): 290–315, <http://www.jstor.org/stable/24756461>.

²⁵ Virginia Parks, "The Uneven Geography of Racial and Ethnic Wage Inequality: Specifying Local Labor Market Effects," *Annals of the Association of American Geographers* 102, no. 3 (2012): 700–725, <http://www.jstor.org/stable/23275551>.

weekly wage by \$49.²⁶ Thus, as we see, organized labor is an institution vital for the economic inclusivity of, at least, African-American men and women. I specify at least here as the effect likely exists within other non-white groups but this study assesses only the white-black wage gap. Additional studies such as the 1993 work done by Morales and Bonilla, although dated, point to similar conclusions in other non-white groups. In short, this is telling that racial wage inequality remains, despite efforts, a persistent feature of the American labor market. More specifically, unionization remains one of the most critical mediators of the black-white wage gap, particularly for black men. At the same time, what these contemporary studies show is that race is not the only axis of oppression that exists in this creation of a hierarchical labor model and that there is an intersectionality element to the problem of labor. Other metrics such as religion and gender identity are confronted by occupational segregation occurring as a result of a link between structural and cultural explanations which integrate gender with race-ethnicity alongside other political factors like citizenship.²⁷

Thus, I argue that using the framework of the epistemology of ignorance and the formation and maintenance of the theory of Global White Supremacy put forth by the *Racial Contract*, we can illuminate features of both past and contemporary elements of the social superstructure. Two ways that I chose to focus on this was by first investigating how the United States has defined race to meet its end of establishing racial purity as a political technology. This is most evidently put with the case studies of *U.S. v Thind* and *Ozawa v U.S.*. From these cases, we can come to understand that the way that citizenship is defined directly establishes a hierarchy of race and that to preserve this hierarchy, laws of racial purity are politically

²⁶ Jake Rosenfeld and Meredith Kleykamp, "Organized Labor and Racial Wage Inequality in the United States," *American Journal of Sociology* 117, no. 5 (2012): 1460–1502, <https://doi.org/10.1086/663673>.

²⁷ Mignon Duffy, "Doing the Dirty Work: Gender, Race, and Reproductive Labor in Historical Perspective," *Gender and Society* 21, no. 3 (2007): 313–36, <http://www.jstor.org/stable/27640972>.

established. Using this historical basis as my foundation, I then argued that these racial purity policies, although since reversed in modern law, have a profound carry-over effect, particularly in the labor market. Here, I highlighted the role of unions in the formation and dissolution of a racialized and therefore unequal labor market. As a result, we saw, through an array of statistical analyses, the effects on income inequality between white and non-white individuals that exist as recently as 2016. Thus, there seems to exist a connection between citizenship and labor resulting in a system in which the definition of citizenship was created to establish particular economic outcomes and that, in doing so, it spawned a hierarchical labor market culminating in what Mills calls the untold and unobserved theory of Global White Supremacy