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“IF YOU IS WHITE, YOU’S ALRIGHT. . . .”† STORIES ABOUT COLORISM IN AMERICA

KIMBERLY JADE NORWOOD*

I. INTRODUCTION

*In a land that loves its blond, blue-eyed children, who weeps for the dreams of a black girl?*¹

I am well into my fifties now and yet I can still remember vividly interactions with complete strangers, at a very early age. Whenever my mother and I were out in public together, I almost always felt that something was wrong with me. You see, I have the same skin color as the current First Lady of the United States, Mrs. Michelle Obama. My mother has the same skin color as the actress Halle Berry. My hair was very short and kinky, “nappy” some would say. My hair was so thick that it would literally break combs on occasion! My mother on the other hand, had long, straight, flowing hair. People would see us walking down the street together or on a bus, on a train, in a doctor’s office, in a retail store, and the eyes would flip back and forth from mother to daughter and back. By all accounts my mother was then (and still is) quite attractive. People who looked at my mother physically responded to her as if they were looking at a work of fine art. As the eyes rolled over and down to me, something would happen. The final landing gaze on me always stung. The eyes said—yes, they spoke!—“poor you” or “I’m sorry.” I could not put my fingers on what I was experiencing at the time, but I eventually came to understand that those looks of contempt and pity related to the color of my

† BIG BILL BROONZ, *GET BACK (BLACK, BROWN, AND WHITE)* (Polygram 2010).

* Kimberly Jade Norwood, Professor of Law, Washington University School of Law. Two key people deserve a very special thank you on this project. First, my husband Ronald Alan Norwood, Esquire, who continues to drop everything he is doing, read my work, and provide valuable comments. Second, I owe a most sincere thank you to my colleague, Leila Sadat, the Henry H. Oberschelp Professor of Law and Director, Whitney R. Harris World Law Institute, Washington University School of Law; Special Adviser on Crimes Against Humanity to the ICC Prosecutor. Professor Sadat came to me one day and expressed her sincere interest in my colorism work. She wanted to help me give this work a voice. Together we put together one of the best conferences our law school has ever hosted. Without Professor Sadat’s vision, support, and power, the Global Colorism Conference sponsored by the Whitney R. Harris World Law Institute would not have happened, and the world would have lost the opportunity to learn from the powerful works contained in this publication. Thank you Leila.

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1. TONI MORRISON, *THE BLUEST EYE* (1970).

skin. I cannot recall how many days—and there were many—that I spent looking in a mirror and wishing I looked like my mother (I actually favor my father). I wanted her skin color most certainly and also her hair! Long, straight, acceptable. If only I could have just those two things, I'd be beautiful and smiled at too. Like eleven-year old Pecola Breedlove in *THE BLUEST EYE*,² I understood that things light and white were loved and valued. Who doesn't want to be loved and valued?

Colorism, a term believed to be first coined in 1982 by Pulitzer Prize winner Alice Walker, was defined by her to mean the “prejudicial or preferential treatment of same-race people based solely on their color.”³ It is not racism although there is a clear relationship. A clear example of racism would involve a business that refuses to hire black people. Colorism would not preclude the hiring of a black person, but there would be preference for a black person with a lighter skin tone than a darker skinned person. From this example one can see too that colorism can not only occur within same-raced peoples but also across races.⁴ Colorism also is often gendered. Because of its unique relationship to who and what is beautiful, it has a tendency, although not exclusively, to affect *and infect* women more than men.⁵

Although my first experience with colorism occurred very early in life, it never went away or otherwise resolved itself. Rather, it grew with me. And in many ways, I grew to understand that the color hierarchy was simply the way of the world. I would eventually marry and have children of my own. And through those children, I would again see colorism grow and sting. I saw in my male children a preference for white over black. My girls watched boys make choices based on skin color and hair length and

2. *Id.*

3. Alice Walker, *If the Present Looks Like the Past, What Does the Future Look Like?*, in *SEARCH OF OUR MOTHERS' GARDENS* 290 (1983).

4. It is necessary to lay out here that science has established that there is no such thing as biological race. The science demonstrates that the genetic markers between two black people, for example, could be greater than the difference between a black person and a white person. Race, then, is really more of a social construction than a biological one. *See, e.g.*, Jefferson M. Fish, *The Myth of Race*, in *RACE AND INTELLIGENCE: SEPARATING SCIENCE FROM MYTH* 114 (Jefferson M. Fish ed. 2002); *See, e.g.*, JOY DEGRUY LEARY, *POST TRAUMATIC SLAVE SYNDROME: AMERICA'S LEGACY OF ENDURING INJURY AND HEALING* 22–23 (2005); KWAME ANTHONY APPIAH & AMY GUTMANN, *COLOR CONSCIOUS* (1998); Anil Ananthaswamy, *Under the Skin: Our DNA Says There's No Such Thing as Race. So Why Do Doctors Still Think It Matters?*, *NEW SCIENTIST*, Apr. 20, 2002, at 34; Ian Haney Lopez, *The Social Construction of Race*, 29 *HARV. C.R.-C.L. L. REV.* 29 (1994). I use the term race here in that socially constructed sense because, as it turns out, while biological race might not be real, social constructed race absolutely is.

5. Yaba Amgborale Blay, *Struck by Lightning: The Transdiasporan Phenomenon of Skin Bleaching*, *JENdA* 14 (2009). *See also* Imani Perry, *Buying White Beauty*, 12 *CARDOZO J.L. & GENDER* 579–607 (2006).

texture. I listened to their friends and observed the interplay in their social interactions. I watched school plays with Black children playing roles but almost never Black children with my skin color. I knew that, some day, one day when I had time, I would spend time discussing, highlighting and helping to eradicate colorism.

II. MY EXPERIENCE WITH COLORISM IN AFRICA

Women in Africa are economically dependent on men. . . . Women need men in their lives to survive.

If the general view is that light-skinned women are more attractive, then it's an investment to try to lighten one's skin. They are not just buying cream. They are buying a dream of a better life."⁶

The power of colorism struck me again during trips to the Motherland. My visits to Ghana, to South Africa, and to Zambia in the mid-2000s opened up a whole new world to me. Even there, in a world of Black and shades of brown, lighter was better. I am embarrassed to admit that this shocked me. I did not understand the continued hold and power that the legacy of colonization had on African communities, no longer under colonial rule. Judges in Ghana dressed in long black flowing robes, white shirts with long flowing ruffles and most importantly—and shockingly of all—donned white wigs with the big curls and long flowing hair. Fifty years after their independence from British rule. I was seeing deeply entrenched British culture thrive. I had many women share with me their dreams of lighter skin. I do not mean to cast this as the universal story in Africa or even for the few countries I visited. I am simply revealing something I experienced, an experience that left me reeling.

My experience in Africa comports with what other scholars have found. And many of those scholars have pinned contemporary African preferences for light skin on colonization.⁷ Others have offered evidence

6. MARITA GOLDEN, DON'T PLAY IN THE SUN 155 (2004) (quoting Irene Njoroge, a Kenyan Cosmetologist and Anti-bleaching Activist).

7. Yaba Blay, *Skin Bleaching and Global White Supremacy: By Way of Introduction*, 4 J. PAN AFRICAN STUD. 4 (2011), available at http://www.academia.edu/602086/Skin_Bleaching_and_Global_White_Supremacy_By_Way_of_Introduction; GOLDEN, *supra* note 6; Melanie Miyanski de Souza, *The Concept of Skin Bleaching in Africa and Its Devastating Health Implications*, CLINICS IN DERMATOLOGY 27 (2008); Evelyn Glenn, *Consuming Lightness: Segmented Markets and Global Capital in the Skin-Whitening Trade*, in SHADES OF DIFFERENCE: WHY SKIN COLOR MATTERS 169 (Evelyn Glenn ed., 2009), Christopher A. D. Charles, *Skin Bleaching, Self-Hate, and Black Identity in Jamaica*, 33 J. BLACK STUD. 711–28 (2003); Kelly M. Lewis, Navit Robkin, Karie Gaska, & Lillian

that the preference for light skin had some hold *prior to* colonization. In some parts of precolonial Africa, light-brown, yellow, or reddish tints were the favored pigmentations for women.⁸ Yet, in precolonial Congo, dark skin was preferred to such an extent that babies were put in the sun to become darker.⁹

Today many African countries continue to be affected by colonialist skin color ideologies. Evidence of this is reflected in the large percentage of women who use skin-whitening creams. For example, 77 percent of women in parts of Nigeria, 60 percent of Zambian women ages 30–39, 59 percent in Togo, 50–60 percent of adult Ghanaian women, 52 percent in Dakar, Senegal 50 percent of women in Barnako, Mali, and 35 percent in Pretoria, South Africa, report using skin-whitening products on a regular basis.¹⁰ Lighter-complexioned women in many parts of Africa are considered more beautiful.¹¹ Light skin is believed to be necessary to attract, and even keep, a husband so many women in this vast land bleach their skin.¹² The practice is so widespread that in some areas, the women are known as “the bleachers.”¹³ This dangerous practice risks cancer and mercury poisoning, among other ailments,¹⁴ but it is the price they are willing to pay for desirability, love, and economic stability.¹⁵

Carol Njoki, *Investigating Motivations for Women's Skin Bleaching in Tanzania*, *Psychology of Women Quarterly* 29–37 (2001).

8. Nakedi Ribane, *Beauty: A Black Perspective* 169 (2006).

9. Golden, *supra* note 6, at 166. Yaba Blay suggests that whiteness likely had negative connotations in traditional Ghanaian culture because the word “white” is used both to describe color and someone with a sickly disposition. YABA AMGBORALE BLAY, *YELLOW FEVER: SKIN BLEACHING AND THE POLITICS OF SKIN COLOR IN GHANA* 334–35 (2007). Blay also suggests that because early European travelers frequently died of tropical diseases, whiteness was likely seen as a weakness. *Id.*

10. See Yaba Blay, *Get Light or Die Trying*, available at <http://yabablav.com/get-light-or-die-trying/>.

11. *Tanzania Counts Cost of 'White Skin,'* BBC NEWS, Nov. 23, 2004, available at <http://news.bbc.co.uk/2/hi/africa/4032837.stm>.

12. Golden, *supra* note 6, at 155; *Investigating Motivations*, *supra* note 7, at 33, 34; Saritha Rai, *Indian Men Seek Whiter Shade of Pale*, GLOBAL POST, July 29, 2010, available at <http://www.globalpost.com/dispatch/india/100727/indian-culture-skin-lightening-shahid-kapur#1>.

13. Golden, *supra* note 6, at 149–50.

14. Dr. S. Allen Counter, *Whitening Skin Can Be Deadly*, THE BOSTON GLOBE, Dec. 16, 2003, available at http://www.boston.com/news/globe/health_science/articles/2003/12/16/whitening_skin_can_be_deadly/.

15. Pumza Fihlani, *Africa: Where Black is Not Really Beautiful*, BBC NEWS, Dec. 31, 2012, available at <http://www.bbc.co.uk/news/world-africa-20444798>.

III. CHINA OPENED MY EYES YET AGAIN TO COLORISM

*Data collected within the industry shows that 90 percent of the pistachios sold in the Chinese market have been bleached, said Fang Ming, dean of the food science and engineering department at the East China University of Science and Technology. Pistachios have become a major snack in China only within the past few years, Fang said. With no knowledge of the nuts' natural look, most consumers mistake the white-shelled pistachios as the good ones. The bleaching is to cater to the mass consumer idea of "the brighter, the better," which covers up quality flaws.*¹⁶

My experience in Africa really opened my eyes to the power of colonization on how one valued, *or not*, their own skin in a country where the majority were ruled by people with brown skin. But it would take a trip to China a few years later to finally push me over the edge and force me to *make time* to study colorism. While teaching in China in 2010, I read an article in the *China Daily* titled "New Standards to Ban Bleaching of Pistachios." According to the article, China was then the world's largest consumer of pistachio nuts. Before making them available to the consuming public, however, the nuts are bleached. They are not bleached to clean them or to remove natural bacteria or contagions. Rather, they are bleached *solely* "to cater to the mass consumer idea of 'the brighter, the better.'" The article shared the "mass perception" that brighter was better and that the lighter ones were the "the good ones."

From that day on, I began to experience my surroundings while traveling in China through colored lenses. I began to notice the skin colors of the professionals—usually legal professionals as I found myself, invariably, at one law firm or another—and compared their skin tone with that of the working class. I noticed television commercials and programming, magazines, billboards, advertisements of all sorts. In virtually every case, the professionals were lighter in skin tone than the laborers, and the Chinese images portrayed in the media were of very fair Chinese people. Indeed, not only were models, particularly the women, very fair in skin tone, one could just barely spot any remnants of their "Asianness." Eye shape, eyebrows, noses, mouths, looked strikingly

16. Wang Yan, *New Standards to Ban Bleaching of Pistachios*, CHINA DAILY, May 24, 2010, available at http://www.chinadaily.com.cn/china/2010-05/24/content_9882420.htm.

Caucasian. The Chinese are not Caucasian but yet they clamor for lighter and lighter skin.¹⁷ Even lighter nuts are better!

Of course, the preference for white food is neither new nor foreign. Consider flour, rice, and sugar, naturally brown, bleached for color.¹⁸ There is even evidence of a preference, or valuing differently, of the color white in animals. Consider the rare white bison, which when born, is glorified and cherished in some Native American communities as the rare jewel that not only is sign of prosperity from a prophet but also brings good things to all people in the world.¹⁹ In Spain, the famous white stallions, Lipizzaners, are not actually (or should I say naturally) white at all. Historically, they were black stallions but a line has known been bred to become white. The famous white stallions out of Spain today are cherished and revered but even now, despite the best science, the colts are still born black and dark brown. They do not turn white for several years. Once white, however, they are eligible for greatness.²⁰ Lighter is better, the world says, in people, in food, and even in animals.

During my return trip home, I thought about my experience with colorism in China. I reflected on what I already knew about colorism in India and in Africa. These three areas are home to *over* fifty percent of the world population!²¹ What does this portend for the future if these people are not comfortable in their own skin? My promise to chip away at colorism began.

17. See, e.g., JOANNE L. BONDILLA & PAUL SPICKARD, *IS LIGHTER BETTER?: SKIN-TONE DISCRIMINATION AMONG ASIAN AMERICANS* (2007). Of course, as with other nations, there is also another layer of colorism within China. So, for example, while the Chinese have skin color preferences among themselves, as a group, there is also a dislike of African and Black. This is not true of all Chinese; indeed, one can hope that it is not even true of most. But there is evidence to suggest that Chinese racial attitudes towards African and Blacks are negative. See generally M. DUJON JOHNSON, *RACE & RACISM IN THE CHINAS: CHINESE RACIAL ATTITUDES TOWARD AFRICANS AND AFRICAN AMERICANS* (2011).

18. There is even a color preference for chicken: white meat costs more than dark meat, allegedly because the demand for white meat is greater than that for dark. Ironically, that is the same conclusion we reach when we are talking about people.

19. Michael Melia, *Birth of White Bison Is Cause for Celebration; American Indians Consider Sacred Event Worthy of Gifts of Tobacco and Colored Flags at New England Farm*, ST. LOUIS POST DISPATCH, July 7, 2012, at A19.

20. *Legendary White Stallions*, PBS (2013).

21. Population and Vital Statistics Report, Statistical Papers, Series A Vol. LXVII, Department of Economic & Social Affairs, Statistics Division. UN # ST/ESA/STAT/SER.A/261 (World: 7,162,119 (100%); Africa: 1,110,635 (16%); China: 1,357,380 (19%); India: 1,213,370 (17%), available at unstats.un.org/unsd/demographic/products/vitstats/Sets/Series_A_2015.pdf.

IV. COLORISM IN THE UNITED STATES

If you is white, You's alright,

If you's brown, Stick around,

*But if you's black, oh, brother, Get back, get back, get back.*²²

My work in the United States on colorism resulted in a book, *COLOR MATTERS: SKIN TONE BIAS AND THE MYTH OF A POST-RACIAL AMERICA*, published in 2014.²³ That book, which contained a chapter on colorism globally, turned into the first international colorism conference on U.S. soil. It was hosted by Washington University and sponsored by the Whitney R. Harris World Law Institute at Washington University School of Law. The heart of the book focused on colorism as it exists within the United States between Black and Brown people on the one hand and non-Black and Brown people on the other. I discuss both forms briefly below.

A. *Blacks in White America & Colorism*

*In their book, Game Change, about the election of then-Senator Obama to the U.S. presidency, journalists Mark Halperin and John Heilemann write that Senator Reid, while pushing Obama to run for the presidency, privately described him as a "light-skinned African American" "with no Negro dialect, unless he wanted to have one," someone who would appeal to white voters. Reid's comment seems to confirm a long-held suspicion of many black Americans that some whites prefer "light-skinned" blacks over their dark-skinned counterparts.*²⁴

Turns out that the land of the free and the home of the brave is no different from most other places in the world. Colorism exists in the United States. Below is a look at some experiences with Black people in White America.

22. BROONZ, *supra* note †.

23. *COLOR MATTERS: SKIN TONE BIAS AND THE MYTH OF A POST RACIAL AMERICA* (Kimberly Jade Norwood ed., 2014).

24. Taunya Banks, *A Darker Shade of Pale Revisited: Light-Skinned Negroes, Neo-Mulattoes and Colorism in the 'Post-Racial' Obama Era*, Aug. 13, 2010, *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1658566. *COLOR MATTERS*, *supra* note 23 (quoting JOHN HEILEMANN & MARK HALPERIN, *GAME CHANGE: OBAMA AND THE CLINTONS, MCCAIN AND PALIN, AND THE RACE OF A LIFETIME* 36 (2010)).

Colonialism of the New World played a pivotal role in the centuries-old preference we see in the United States today for white and light skin.²⁵ In the United States this preference was a mixture of the culture carried to the New World by the colonists and the unique institution of enslavement of dark-skinned peoples here. Of course, slavery was not invented in the New World, but it did take on a life of its own and became so connected with dark skin that it was almost impossible to separate the two. Specifically, faced with the need for a controllable and cheap labor force to harvest tobacco, which was the chief source of wealth and very labor intensive, colonists began to pass laws that increasingly restricted Africans and their offspring permanently as servants and later as slaves, as well as established and harbored differential treatment of freed servants with European ancestry.²⁶ In early years of American slavery, African slaves in the Virginia and Carolina colonies could be released from bondage if they converted to Christianity, but after 1667 this loophole was eliminated and the legal status of Africans became tied to skin color.²⁷ Indeed, by the late 1600s white skin came to be synonymous with freedom and black skin with slavery.²⁸

Over the next few hundred years, a coalescence of needs, beliefs, justifications, and practices had the effect of placing white skin at a premium and dehumanizing black skin.²⁹ It was during these times, as well, that colorism took root. The sexual unions between whites and blacks—and largely between enslaved African women and their white male captors—produced children, half black, half white, then commonly called mulattoes.³⁰ Mulattoes were often lighter than Africans in skin color. Eventually the lighter-skinned mulattoes were preferred by white society over their darker-skin brethren because the lighter-skin blacks

25. For some insight into the reach of colonization, *see, e.g.*, CHARLES W. MILLS, *THE RACIAL CONTRACT* (1999); PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* (2006); FRANTZ FANON, *THE WRETCHED OF THE EARTH* (2005); AIMÉ CÉSAIRE, *DISCOURSE ON COLONIALISM* (2001).

26. Race-Human, *ENCYCLOPÆDIA BRITANNICA ONLINE*, <http://www.britannica.com/topic/race-human> (last visited Mar. 10, 2016).

27. NINA G. JABLONSKI, *LIVING COLOR: THE BIOLOGICAL AND SOCIAL MEANING OF SKIN COLOR* 145 (2012).

28. *Id.* “The social position of Africans in the early colonies has been a source of considerable debate. Some scholars have argued that they were separated from European servants and treated differently from the beginning. Later historians, however, have shown that there was no such uniformity in the treatment of Africans. Records indicate that many Africans and their descendants were set free after their periods of servitude.” *ENCYCLOPÆDIA BRITANNICA ONLINE*, *supra* note 26.

29. *See, e.g.*, POST TRAUMATIC SLAVE SYNDROME, *supra* note 4, at 54–55 (discussion of the cognitive dissonance that occurs in the minds of slave owners and captors to justify the horrors of slavery). *See also* Norwood, *supra* note 23, at 14–15.

30. E. FRANKLIN FRAZIER, *BLACK BOURGEOISIE* 136 (1957).

were considered more aesthetically appealing and intellectually superior to pure Africans.³¹

These beliefs and preferences hold true today. The closer one's skin color is to white, the closer one is to being treated with an elevated status: that of an "honorary white person" a term Professor Eduardo Bonilla-Silva has popularized.³² Focusing on current ways in which skin color impacts the lives of Blacks in America today, for example, consider the following:

- To the extent Blacks are represented in the most powerful positions in the United States, most in those leadership roles (CEOs and other corporate executives; government officials; the executive, legislative and judicial branches; and governors and mayors) are light in skin tone.
- Tenured and tenure-track professors at universities throughout America, particularly elite ones, are more likely to be light in skin tone.
- Not only are darker-skinned Blacks arrested and incarcerated at higher percentages, but they receive longer prison sentences for comparable offenses than lighter-skinned Blacks and are more likely to be on death row for comparable offenses than lighter-skin Blacks. Moreover, the "blacker" one's features (skin color, hair, lips), the greater the penalty.³³
- Darker skinned children are much more likely to be disciplined in school, including suspension;³⁴ indeed, the penalty is even harsher for dark-skinned girls.³⁵

31. Verna M. Keith and Cedric Herring, *Skin Tone and Stratification in the Black Community*, THE AM. J. SOC. 762 (Nov. 1991). See also, Margaret L. Hunter, "If You're Light You're Alright": *Light Skin Color as Social Capital for Women of Color*, 16 GENDER & SOC. 175–93 (2002).

32. EDUARDO BONILLA-SILVA AND DAVID R. DIETRICH, *The Latin Americanization of U.S. Race Relations: A New Pigmentocracy*, SHADES OF DIFFERENCE: WHY SKIN COLOR MATTERS (Evelyn Nakano Glenn ed., 2009).

33. See, e.g., Eberhardt et al., *Looking Deathworthy: Perceived Stereotypicality of Black Defendants Predicts Capital-Sentencing Outcomes* 383, 385 (2006). (Study finds, even when controls are made for a variety of racial factors that influence sentencing, the more stereotypically black features a criminal defendant has [i.e., darker skin tone, broad nose, thick lips], not only is the sentence given by judges longer, but the chances of receiving a death sentence, particularly in cases involving white victims, more than doubles).

34. Lance Hannon, Robert DeFina, & Sarah Bruch, *The Relationship Between Skin Tone and School Suspension for African Americans*, 5 RACE AND SOC. PROBS. 281–95 (2013).

35. Crenshaw, Ocen & Nanda, *Black Girls Matter: Pushed Out, Overpoliced, and Underprotected*, available at http://static1.squarespace.com/static/53f20d90e4b0b80451158d8c/t/54dcc1ece4b001c03e323448/1423753708557/AAPF_BlackGirlsMatterReport.pdf.

- Dark-skinned Blacks are more likely to be the victims of racial discrimination than lighter-skin Blacks.³⁶
- In the employment context, lighter-skinned blacks are both more employable and employed. Data on interviews and call backs even demonstrate that lighter skin is preferred over academic credentials³⁷
- Lighter-skinned blacks are more prevalent in all forms of advertising (store advertisements, magazines, and billboards) and on television: as news anchors,³⁸ as cast members in television shows, as dancers and love interests in music videos and as models in commercials.³⁹
- Hollywood has long expressed its preference for light-skin women of color, and even today, it is rare to find a dark-skin woman in a positive leading role or as a love interest.⁴⁰

36. Joni Hersch, *Skin Color, Physical Appearance, and Perceived Discriminatory Treatment*, THE J. SOCIO-ECONOMICS 671–78 (2011); Ronald Hall, *The Bleaching Syndrome: African Americans' Response to Cultural Domination Vis-à-vis Skin Color*, 26 J. BLACK STUD. 172–84 (1995). For disparities in health care, see VERNELLIA RANDALL, *DYING WHILE BLACK* (2006).

37. See, e.g., Philip Lee Williams, *Skin Tone More Important than Educational Background for African Americans Seeking Jobs, According to New Research from the University of Georgia*, BROWARD TIMES (2006), available at <http://proquest.umi.com/pqdweb?did=1134125241&sid=1&Fmt=3&clientId=9108&RQT=309&VName=PQD> (Study indicates that dark-skinned African Americans face a distinct disadvantage when applying for jobs, even if they have resumes superior to lighter-skinner black applicants). See also Travis Loller, *Study Says Skin Tone Affects Earnings*, ASSOCIATED PRESS, Jan. 26, 2007, available at <http://sfgate.com/cgi-bin/article.cgi?file=/News/archive/2007/01/26/national/a135252S09.DTL>.

38. Nadra Kareem Nittle, *CNN's Don Lemon: 'Anchors of Color on Television are Light-Skinned'*, ABOUT.COM, June 30, 2011, available at <http://racerelations.about.com/b/2011/06/30/cnns-don-lemon-anchors-of-color-on-television-are-light-skinned.htm?p=1>. See generally SHARON BRAMLETT-SOLOMON, *RACE, GENDER, CLASS AND MEDIA: STUDYING MULTICULTURALISM AND MASS COMMUNICATION* (2012).

39. See, e.g., ANDREW ROJECKI & ROBERT ENTMAN, *THE BLACK IMAGE IN THE WHITE MIND* (2012). See also TOM BURRELL, *BRAINWASHED: CHALLENGING THE MYTH OF BLACK INFERIORITY* (2010).

40. Common leading ladies of color in Hollywood today include Halle Berry, Zoe Saldana, Paula Patton, Thandie Newton, and Jada Pinkett-Smith. Consider casting in movies such as *Precious*, where sad, pitiful, and downright evil characters were played by dark-skinned actors, good characters by white or biracial actors. BURRELL, *BRAINWASHED*, at 179. This is a small example to highlight that women are much more often the victims of skin color discrimination. So, for example, while one can point to many famous and/or powerful black men who are dark in complexion—take athletes, for example—black women are not so lucky and indeed are sometimes even pitted against one another. Consider the dialogue within the black community over the casting of Zoe Saldana, the café au lait-colored Latina, to play Nina Simone, a dark chocolate woman who wore her African features prominently and proudly. See Tanzina Vega, *Stir Builds Over Actress to Portray Nina Simone*, THE N.Y. TIMES, Sept. 9, 2012, available at <http://www.nytimes.com/2012/09/13/movies/should-zoe-saldana-play-nina-simone-some-say-no.html?>

- Many of today's successful entertainers—actors and actresses, singers and musicians—tend to be lighter, rather than darker, in skin tone.
- Lighter-skinned blacks are often better educated, have higher occupational status (better jobs, careers, higher incomes), earn more money, have more overall wealth, tend to marry higher on the socioeconomic ladder, and are perceived as being more competent than darker-skinned blacks.⁴¹
- Lighter-skinned blacks, particularly females, are more likely to be married than darker-skinned blacks.⁴²
- In nationwide beauty pageants, such as the Miss America Pageant, the rare black contestant and even rarer black winner, have almost always been women with European features: light skin tone, keen features, and long, straight flowing hair.⁴³
- In the adoption market, race and color combine to create another preference hierarchy: white children are preferred over nonwhite.⁴⁴ When African American children are considered, the data suggest there is a preference for light skin and biracial children over dark-skinned children.⁴⁵ There is also a price

41. RUSSELL, WILSON, & HALL, *THE COLOR COMPLEX* (1993); Michael Hughes & Bradley R. Hertel, *The Significance of Color Remains: A Study of Life Chances, Mate Selection, and Ethnic Consciousness among Black Americans*, 68 *SOCIAL FORCES* 1105, 1116 (1990); Arthur H. Goldsmith, Darrick Hamilton, and William Darity, Jr., *From Dark to Light: Skin Color and Wages Among African-Americans*, 42 *THE J. HUM. RES.* 701–38 (Fall 2007).

42. Darrick Hamilton, Arthur H. Goldsmith, & William Darity, Jr., *Shedding "Light" on Marriage: The Influence of Skin Shade on Marriage for Black Females*, 72 *J. ECON. BEHAV. & ORG.* 30–50 (2009).

43. See, e.g., *Katie Stam*, Miss America, accessed May 09, 2013, <http://www.missamerica.org/our-miss-americas/2000/2009.aspx>. International adoptions, from primarily Asia, Russia and Guatemala are the next highest ranking. *Id.* See also *THERE SHE IS, MISS AMERICA: THE POLITICS OF SEX, BEAUTY, AND RACE IN AMERICA'S MOST FAMOUS PAGEANT* (Elwood Watson & Darcy Martin eds., 2004). The black women who have light skin and European features or attributes are the most sought-after black women, whether in business, modeling, marriage, or beauty pageants.

44. See generally Solangel Maldonado, *Discouraging Racial Preferences in Adoptions*, 39 *U.C. DAVIS L. REV.* 1415 (2005–2006).

45. See, e.g., Zanita E. Fenton, *In a World Not Their Own: The Adoption of Black Children*, 10 *HARV. BLACKLETTER L.J.* 39, 54 (1993). Of course, family blending has been raised as an issue that comes up in this area. See generally ELIZABETH BARTHOLET, *FAMILY BONDS: ADOPTION, INFERTILITY, AND THE NEW WORLD OF CHILD PRODUCTION* 87 (1993). In fact, that is the number one response when adopting parents are asked about how they came about their skin tone preferences. Only the adopting parent knows if the child's skin color preference was based on this reason. It is important to remember, however, the role implicit bias plays in this. Data clearly demonstrates that people discriminate based on color without even realizing it and even when believing that they do not. See, e.g., Jerry Kang, *Trojan Horses of Race*, 118 *HARV. L. REV.* 1489, 1512 (2005). Moreover, it

hierarchy based on demand, with white children commanding top dollar, biracial children half as much, and black children being the cheapest.⁴⁶

- Parents have been known to request light-skinned child-care providers for their children.⁴⁷
- Even in cases where the media has taken a lead role in exposing colorism, it paradoxically continues to broadcast its own preference for light skin tones. CNN, for example, has recently run a series of shows with such provocative titles as “Who is Black in America” Or “The State of Black America.” Ironically, although these dealt with the skin color biases affecting black Americans, they were narrated by the very fair Soledad O’Brien. Indeed, the overwhelming majority of the newsmen and women of color visible on CNN—Soledad O’Brien, Suzanne Malveaux, Tony Harris, T. J. Holmes, Don Lemon, and Fredricka Whitfield—are all *very* fair in skin complexion. Aside from the occasional appearances by the beautiful Donna Brazile or former appearances by Roland Martin, they simply do not have regular reporters, anchors or broadcasters who are dark in skin color.
- Twenty-first century doll tests, where white and black preschool and elementary school children, asked various questions about a color palette of faces placed in front of them, revealed an overwhelming preference for positive relationships with the light skin images and negative associations with dark skin images.⁴⁸

seems that even drug-exposed children are preferred over African American babies. See Richard Banks, *The Color of Desire: Fulfilling Adoptive Parents’ Racial Preferences Through Discriminatory State Action*, 107 YALE L.J. 875, 964 n.20 (1998). Data as powerful as this suggests that mere family blending is not always all that is important.

46. See generally Barbara Fedders, *Race and Market Values in Domestic Infant Adoption*, 88 N.C. L. REV. 1687 (2010).

47. Boyce Watkins, *CNN Does Show on Colorism, But Are They Guilty of Colorism Themselves*, YOURBLACKWORLD.NET, <http://www.yourblackworld.net/2012/12/black-news/cnn-does-show-on-colorism-but-are-they-guilty-of-colorism-themselves/>. “Consider the black and Latino people anchoring news on CNN. This should tell us something the kind of complexion that makes white people feel most comfortable.” See, e.g., Perry, *supra* note 5, at 608.

48. *Black or White: Kids on Race*, CNN, available at <http://www.cnn.com/SPECIALS/2010/kids.on.race/>.

Today, the preference for light skin over dark skin is completely sown into the American fabric.⁴⁹ In the United States, people with light skin have higher annual earnings and wealth, live in more affluent neighborhoods, are more educated, have higher status jobs, and marry higher status spouses than their darker skinned counterparts. The data for darker-skin blacks is not only the polar opposite in these categories, but darker skin blacks also suffer at greater percentages in the criminal justice system and even in health.⁵⁰

Try your own experiment. Watch the news for a week; watch television shows for a week. Go to restaurants; theatre. Go the movies. Look at the people on and in popular magazines. Look at greeting cards. Look at advertisements (commercials, billboards, mall walls, stores). Who are the judges? Lawyers? CEOs? Congressmen and women? CEOs, managers, supervisors? Actors? Actresses? Doctors? Accountants? Teachers? And what do their spouses (or significant others) look like? Their friends? Their neighborhoods? Places of worship? Schools? Can you see a color hierarchy? And what about the Blacks, if any, represented. Will you be able to say: “But! Wait! I saw ONE!” (One? *Really?*) So now, *look* at that one. How many will have the complexion of Emmy Winner Viola Davis?

49. Lighter hair is apparently better as well. See, e.g., Carole Jahme, *Why Do Men Find Blonde Women So Very Attractive?*, THE GUARDIAN, available at <http://www.guardian.co.uk/science/2010/jun/04/men-blonde-women-attractive>. The benefits of being blonde have even taken some already successful women of color by storm. Beyoncé, one of the most famous singers in the world, recently appeared on the cover of her 2012 album demonstrably lighter in skin tone and blonde. See Julee Wilson, *Beyoncé Accused of Skin Lightening in New Album Promo Ad*, HUFFINGTON POST, available at http://www.huffingtonpost.com/2012/01/17/beyonce-skin-lightening-ad_n_1210377.html.

50. For quality of life, wage data, see, e.g., Ronald Hall, *The Bleaching Syndrome: African Americans' Response to Cultural Domination Vis-à-vis Skin Color*, 26 J. BLACK STUD. 172–84 (Nov. 1995); Leonard Baynes, *If It's Not Just Black and White Anymore, Why Does Darkness Cast a Longer Discriminatory Shadow than Lightness? An Investigation and Analysis of the Color Hierarchy*, 75 DENV. U. LAW REV. 132–33 (1997–98); Verna M. Keith & Cedric Herring, *Skin Tone and Stratification in the Black Community*, 97 AM. J. SOC. 775 (1991); Travis Loller, *Study Says Skin Tone Affects Earnings*, ASSOCIATED PRESS, Jan. 26, 2007, available at <http://sfgate.com/cgi-bin/article.cgi?file=/News/archive/2007/01/26/national/a135252S09.DTL>; Arthur H. Goldsmith, Darrick Hamilton, & William Darity, Jr., *From Dark to Light: Skin Color and Wages Among African-Americans*, 42 J. HUM. RESOURCES 7–138 (Fall 2007). In the criminal justice area, see Jill Viglione, Lance Hannon, & Robert DeFina, *The Impact of Light Skin on Prison Time for Black Female Offenders*, 48 SOC. SCI. J. 250–58 (2011); Joni Hersch, *Skin Color, Physical Appearance, and Perceived Discriminatory Treatment*, 40 J. SOCIO-ECON. 671–78 (2011); Jennifer L. Eberhardt, Paul G. Davies, Valerie J. Purdie-Vaughns, and Sheri Lynn Johnson, *Looking Deathworthy: Perceived Stereotypicality of Black Defendants Predicts Capital-Sentencing Outcomes*, 17 Psy. Sci. 383, 385 (2006). Finally, there are strong indicators linking dark skin color and stressors like high blood pressure and the like. See, e.g., POST TRAUMATIC SLAVE SYNDROME, *supra* note 4, at 114–44 (2005); Camille A. Nelson, *Of Eggshells and Thin-skulls: A Consideration of Racism-related Mental Illness Impacting Black Women*, 29 INT'L J.L. & PSYCHIATRY 112–36 (2006); Camille Nelson, *Considering Tortious Racism*, 9 DEPAUL J. HEALTH CARE L. 905 (2005).

B. Colorism within Black America: Is That a Thing?

*There is no mystery as to why after all these years of black resistance to white racism, skin-color politics continues to be a negative force in our lives. White-supremacist thinking about color is so embedded in every aspect of contemporary life that we are daily bombarded in the mass media with images that suggest blackness is not beautiful.*⁵¹

As mentioned earlier, the children born of the sexual unions between whites and blacks—and largely between enslaved African women and their white male captors—produced children, half black, half white, then commonly called mulattoes.⁵² Because of the frequent lighter skin complexion of these children, they commonly held a different status relative to their nonmixed race and/or darker-skinned counterparts. There is evidence that these lighter-skinned individuals, who also often had hair closer in texture to the hair of whites—often called “good” hair⁵³—were valued more by whites for example, higher prices were paid for them on the auction blocks than for the darker-skinned counterparts. The lighter-skin slaves often had a better quality of life.⁵⁴ Because they often worked inside the home of the slave owners, they were more familiar with, and thus comfortable around, the language, the speech, the culture and religious practices of the slave owners. Additionally, many were taught to read and write, taught trades and hired out as craftsmen. Many were even freed by their slave-owning fathers and/or left property upon the father’s death—property that in some cases included slaves of their own.⁵⁵

Mulattoes ultimately became a buffer class between whites and blacks, and whites preferred to deal with them, believing them to be more intelligent and culturally refined than Africans.⁵⁶ Many Africans, too, came to see mulattoes not only as their connection to white America, but

51. BELL HOOKS, *SISTERS OF THE YAM: BLACK WOMEN AND SELF-RECOVERY* 70 (2005).

52. BLACK BOURGEOISIE, *supra* note 30.

53. “Good” hair is hair that is the same texture as Caucasian hair and the straighter the better. *See* AYANA D. BYRD & LORI L. THARP, *HAIR STORY: UNTANGLING THE ROOTS OF BLACK HAIR IN AMERICA* 19 (2001). No chemicals needed. No kinks, no naps, no excessive tight curls, no resemblance to African hair in its natural state. It is “real to the roots” as some rap lyrics suggest.

54. *See, e.g.*, POST TRAUMATIC SLAVE SYNDROME, *supra* note 4, at 140. There is some evidence, too, that lighter skinned enslaved women were more sexually exploited than their darker skinned sisters. *See* THE COLOR COMPLEX, *supra* note 41, at 18.

55. *Id.* at 15, 18; *see also* RONALD E. HALL, *AN HISTORICAL ANALYSIS OF SKIN COLOR DISCRIMINATION IN AMERICA: VICTIMISM AMONG VICTIM GROUP POPULATIONS* 112 (2010).

56. Trina Jones, *Shades of Brown: The Law of Skin Color*, 49 DUKE L.J. 1487, 1508–09 (2000).

better than them.⁵⁷ This created tension, hatred and disunity in the enslaved community. And, indeed, some mulattoes actually did come to believe themselves better than their dark-skin counterparts,⁵⁸ but of course, not all did. Many dedicated their lives to the advancement of all blacks, skin color notwithstanding.⁵⁹

Interestingly, however, slavery's end highlighted the differences between light-skinned and dark-skinned blacks. Indeed, many, if not most, mulattoes were already free by the end of the Civil War.⁶⁰ That group entered Reconstruction with more property, wealth, education, employment skills, and knowledge of the etiquette and culture of the white slave-owning class than their darker-skin slaves.⁶¹ Even mulattoes who were not free by the end of the Civil War often entered Reconstruction with skills like the ability to read, to write, to cook, to drive, to do carpentry work, and other valuable skills) and more knowledge and understanding of white life and culture than darker-skinned enslaved people not granted the same access to white life. All of these benefits, combined with the attributes of light skin and straight hair, became valuable capital for the mulatto class. Whites were more comfortable around them and thus they were preferable to darker-skinned blacks. Skills and knowledge of white culture led to employment, access to housing, and ultimately income and assets that were passed down to children and grandchildren. Status, skin color, and superior education helped mulattoes become the elite of the black classes. *Who's Who in Colored America*, 1918, for example, was comprised light-skin mulattoes.⁶² Even Dr. W. E. B. Du Bois' Talented Tenth, who he hoped would uplift the masses of black people were, with one exception, all mulattoes.⁶³

57. THE COLOR COMPLEX, *supra* note 41, at 15.

58. An Historical Analysis of Skin Color Discrimination, *supra* note 55, at 112–13; LAWRENCE OTIS GRAHAM, *OUR KIND OF PEOPLE: INSIDE AMERICAN'S BLACK UPPER CLASS* 7 (1999). There is evidence that some of this thinking still exists among light-skin blacks in the twenty-first century.

59. AN HISTORICAL ANALYSIS OF SKIN COLOR DISCRIMINATION, *supra* note 55, at 125.

60. BLACK BOURGEOISIE, *supra* note 30, at 14. "In 1850, mulattoes or mixed-bloods constituted 37 per cent of the free Negro population but only 8 per cent of the slave population. *Id.*

61. *Id. Our Kind of People*, *supra* note 58, at 9.

62. AN HISTORICAL ANALYSIS OF SKIN COLOR DISCRIMINATION, *supra* note 55, at 113. Dark-skinned blacks were rarely eligible for consideration to be included in *Who's Who in Colored America*. Such recognition was possible but only in circumstances where they performed some extraordinary feat. *Id.*

63. THE COLOR COMPLEX, *supra* note 41, at 31. For the text of "The Talented Tenth," see W. E. B. Du Bois, *The Talented Tenth*, in *THE NEGRO PROBLEM: A SERIES OF ARTICLES BY REPRESENTATIVE NEGROES OF TO-DAY* (1903).

By the beginning of the twentieth century, it was clear in Black America that the lighter one's skin, the greater the societal and communal bestowed/received/obtained benefits. As during slavery, life after slavery was better for light-skin black people. The elevation in success and status based on white blood was so clear, so unequivocal, so profound that the mulatto group almost always socialized and married people whose skin tone matched their own or was lighter. Aside from actual assimilation via the phenomenon of "passing,"⁶⁴ mulattoes who elected not to pass often created their own communities, separate and distinct from their darker-skinned brethren. This included living in separate neighborhoods, marrying other mulattoes, establishing and attending separate churches, and establishing separate schools.⁶⁵ Duke Law Professor Trina Jones has documented that not only were there separate schools based on color, but even the curricula differed: mulattoes were exposed to a boarder liberal arts curriculum while darker-skinned blacks received the lower paying vocational education tracks.⁶⁶ The self-segregation included invitation-only social networks that required invitees to pass the ruler test or brown paper bag test—your skin had to be lighter than a ruler or lighter than a brown paper bag for admission⁶⁷—or one had to be able to show clearly visible blue veins under pale skin as required by the so-called "blue vein societies."⁶⁸ The segregation here was a smaller version of larger Jim Crow practice.

64. AN HISTORICAL ANALYSIS OF SKIN COLOR DISCRIMINATION, *supra* note 55, at 119–24; *see also* SHIRLEE TAYLOR HAZLIP, *THE SWEETER THE JUICE: A FAMILY MEMOIR IN BLACK AND WHITE* (1994) (story of family, some of whom passed for white and lived white lives for all of their lives and the other side of the family who elected not to pass).

65. *Shades of Brown*, *supra* note 56, at 1515–16. *See also* AN HISTORICAL ANALYSIS OF SKIN COLOR DISCRIMINATION, *supra* note 55, at 113.

66. *Shades of Brown*, *supra* note 56, at 1516. Of course, historically, black schools often showed preferences for light-skin students. Even the great HBCU, Howard University, had a reputation for admitting more light-skin applicants than darker-skinned applicants into its university; photographs required as part of the application package assured such results. AUDREY ELISA KERR, *THE PAPER BAG PRINCIPLE: CLASS, COLORISM, AND RUMOR AND THE CASE OF BLACK WASHINGTON, D.C.* 89–94 (2006). Some of the best black high schools also screened children based on skin color. *Id.* at 82–87.

67. *Id.* *Brown Paper Bag Test*, URBAN DICTIONARY, <http://www.urbandictionary.com/define.php?term=brown%20paper%20bag%20test>

68. *Blue Veins*, URBAN DICTIONARY, [http://www.urbandictionary.com/define.php?term=blue veins](http://www.urbandictionary.com/define.php?term=blue%20veins). *See also* SKIN DEEP: RACE AND COMPLEXION IN THE "COLOR-BLIND" ERA 5 (Cedric Herring, Verna M. Keith, & Hayward Derrick Horton eds., 2004); *THE COLOR COMPLEX*, *supra* note 41, at 24–30.

As is true in society at large, the benefits of lighter skin within black America are undeniable and clear. Consider the following:

- Within black family members, it is not uncommon to have family members, including elderly family members, who not only favor the lighter children in the family over the darker siblings but who also visibly discriminate against the darker-skin children because of their skin color.⁶⁹ This, of course, also causes the darker-skin children to despise the lighter-skin children and creates all kinds of hatred, stress, and familial dissention.⁷⁰
- Dark-skin blacks have been vilified by other blacks for their dark skin with names such as buckwheat, jigaboo, darkie, blackie, tar baby, burnt, baboon, and skillet blonde.⁷¹ It is not unheard of even today to hear kids joke: “Yo mama so black, she” “Get your black ass over here!” “Shut up ‘fore I beat the black off you!” “Sit your black ass down!”⁷² Nappy hair makes the hatred even more intense! Naturally wooly hair, also referred to as kinky or nappy hair, is often looked upon with hatred, ridicule, and scorn.⁷³ Even at some historically black colleges and universities (HBCUs), black hair in its natural state, despite cleanliness and neatness, is considered unacceptable, unprofessional, and unwelcomed.⁷⁴

69. See, e.g., KATHE SANDLER, *A QUESTION OF COLOR: COLOR CONSCIOUSNESS IN BLACK AMERICA* (Cal. NewsReel 1992).

70. *THE COLOR COMPLEX*, *supra* note 41, at 95–96.

71. See, e.g., *A Question of Color*, *supra* note 69.

72. Listen up at playgrounds, schoolyards, bus stops, train stops, malls, supermarkets, barber shops, and beauty shops just to name a few. This is happening in 2013. See also *THE COLOR COMPLEX*, *supra* note 41, at 95.

73. See *GOOD HAIR* (Chris Rock Productions 2009); see also Ayana Byrd & Lori Tharps, *HAIR STORY: UNTANGLING THE ROOTS OF BLACK HAIR IN AMERICA* (2002).

74. In 2012, Hampton University famously banded braids and locs for men in certain business school programs. See Julee Wilson, *Hampton University’s Cornrows And Dreadlock Ban: Is It Right?*, HUFFINGTON POST, Aug. 23, 2012, available at http://www.huffingtonpost.com/2012/08/23/hampton-university-cornrows-dreadlock-ban_n_1826349.html. This issue of black hair in its natural, nonchemicalized state also plagues campus queens at HBCUs. See, e.g., Chandra R. Thomas, *Scared Straight: At some HBCUs, Administrators and Campus Queens are Clashing Over Natural Hair*, 40 ESSENCE MAGAZINE 126 (Nov. 2009). In the winter of 2012, a news meteorologist, Rhonda Lee, was fired for responding to a viewer about her decision to wear her hair in a short “afro.” The viewer’s comments, wondering if Ms. Lee’s hair was so short because she was a cancer survivor, wondered if the station could make her wear a wig “or grow some more hair.” Ms. Lee responded to the viewer’s concern: “I’m sorry you don’t like my ethnic hair. And no I don’t have cancer. . . . I am very proud of my African-American ancestry which includes my hair.” She was promptly fired by the news station.

- Some black parents tell their black boys not to bring home “dark girls” and to marry light in order to lighten up the race.”⁷⁵
- Some black mothers have been heard thanking God that their newborn babies are not dark skinned.⁷⁶
- When seeking to adopt, many black women “come in and ask for . . . a ‘Cadillac’ description: Light-skinned, gray-green eyes, good hair, musically inclined.”⁷⁷
- Young black girls are told that they are “pretty to be so black.” Or “she’s dark but she’s pretty.”⁷⁸
- Little girls in showers try to wash the black off of their skins.⁷⁹ In public pools groups of black girls have been caught trying to “scrub the black off” of dark-skinned children in the pool.
- Little light-skin girls have told their darker sisters to stay away from them for fear of the black taint rubbing off on them.⁸⁰
- Leaders of black political and social organizations, including governors, mayors, federal and state legislatures, those in the Obama inner circle, the NAACP, the Urban League, fraternities and particularly sororities, black social organizations like the Links, Jack & Jill of America, 100 Black Men, 100 Black

See Julee Wilson, *Rhonda Lee Fired: TV Station Responds to Meteorologist’s Claim She Was Fired For Facebook Comments About Her Natural Hair*, HUFFINGTON POST, available at http://www.huffingtonpost.com/2012/12/11/rhonda-lee-fired-natural-hair-comments_n_2279950.html. Although there is some dispute in the Lee case concerning the reasons why the station fired her, it is not out of the question for one to consider whether honoring customer preferences played some role in the decision. Vogue magazine editor Anna Wintour once observed: when it comes to fashion magazines, “it is a fact of life that the color of a model’s skin (or hair for that matter) dramatically affects newsstand sales.” ROBERT M. ENTMAN & ANDREW ROJECKI, *THE BLACK IMAGE IN THE WHITE MIND: MEDIA AND RACE IN AMERICA* 179 (2000).

75. See, e.g., *A Question of Color*, *supra* note 69.

76. *Dark Girls Documentary Trailer*, YOUTUBE, <http://www.youtube.com/watch?v=pXG38QxXY-s>.

77. Chris Levister, *No Equity in Adoption for Black Children*, BLACK VOICE NEWS, Feb. 2, 2011, available at <http://www.blackvoicenews.com/news/45680-no-equity-in-adoption-for-black-children.html>. See also John Blake, *Single Black Women Choosing To Adopt*, CNN, July 20, 2009, available at <http://www.cnn.com/2009/LIVING/07/01/bia.single.black.women.adopt/index.html>.

78. Adrienne P. Samuels, *Two Sides: Do Light-Skinned Black People Have an Advantage? Yes. They are likely to Get Hired First and May Earn More Money*, EBONY 165 (Feb. 2008); see also *A Question of Color*, *supra* note 69.

79. Interview with Elaine Lee, program director of Girls, Inc., in St. Louis, July 30, 2012. Ms. Lee also told me stories of beautiful dark skin black girls who hated looking at their dark skin in the mirror and who refused to even play with dark skin dolls.

80. *Two Sides*, *supra* note 78, at 165.

Women, and past and current presidents at HBCUs, are often fair in skin tone. The preference for light over dark has been expressed even when the darker-skinned person held degrees from three different Ivy League institutions!⁸¹

- Light-skin females are the preferred mates of successful black males of any skin color⁸² and are more likely to be married.⁸³ Those who also have European facial features and good hair are more valued.⁸⁴

81. Dr. Benjamin Payton, Tuskegee University's fifth black president (1981–2010), was shunned by blacks in Tuskegee, Alabama, when he was being courted as the famous university's next president because his skin was "too dark to be a President." While Dr. Payton not only became the first dark-skinned president of Tuskegee, but he was also the first president to have a dark-skinned wife. See *A Question of Color*, *supra* note 69.

82. For an example of the preference of successful black males for light skin partners, see, e.g., <http://www.ballerwives.com>; see also <http://www.afieldnegro.com>. A substantial percentage of the black men in the images are paired with white women. Recent data suggests that although the number of interracial marriages in the United States is slowing down, blacks were much more likely than any other group to marry whites. See *Interracial Marriages in US Slow Down*, THE SHANGHAI DAILY, May 27, 2010, at A11. Moreover, black men are more likely to marry white women than black women are to marry white men. Ralph Richard Banks, IS MARRIAGE FOR WHITE PEOPLE? HOW THE AFRICAN AMERICAN MARRIAGE DECLINE AFFECTS EVERYONE 117 (2011). "From 1970 to 2000, black men increased their rate of marrying white women almost six fold, so that by 2007, nearly 6% of black men were married to white women. Fewer than half as many—approximately 2.9% of—black women were married to white men." Elizabeth F. Emens, *Intimate Discrimination: The State's Role in the Accidents of Sex and Love*, 112 HARV. LAW REV. 1307, 1320 (2009) (footnotes omitted). Many consider light skin the next best thing to white skin, particularly if the person does not want to cross racial barriers. See, e.g., *A Question of Color*, *supra* note 69.

83. Darrick Hamilton, Arthur H. Goldsmith, & William Darity, Jr., *Shedding 'Light' on Marriage: The Influence of Skin Shade on Marriage for Black Females*, 72 J. ECON. BEHAVIOR & ORG. 30-50 (2009); Michael Hughes & Bradley R. Hertel, *The Significance of Color Remains: A Study of Life Chances, Mate Selection, and Ethnic Consciousness among Black Americans*, 68 SOCIAL FORCES 1105–20 (1990).

84. For excellent commentary on good hair, see GOOD HAIR, *supra* note 73. The next best thing to good hair is hair straighten from chemical processing, i.e., a permanent. While the correlation between light skin and good hair is quite high, some black men have expressed a willingness to date a dark-skinned black woman if she had long, straight hair. See, e.g., *A Question of Color*, *supra* note 69. The infatuation many black Americans, male and female, have with good hair and with straight hair is beyond the scope of this work. Because of the strong correlation between good hair and light skin, however, the topic cannot be avoided. Even Olympic gold medalist gymnast Gabby Douglas was scolded by *black women* for her nappy (and thus embarrassing hair during her Olympic debut. See Dahleen Glanton, *Our Hair-brained Obsession*, CHI. TRIB., Aug. 25, 2012, available at http://articles.chicagotribune.com/2012-08-25/news/ct-perspec-0826-hair-20120825_1_hair-black-women-african-american-women. Douglas now sports a long, straight weave. See *Gabby Douglas Graces the December Issue of ESSENCE*, ESSENCE, available at <http://www.essence.com/2012/11/02/gabby-douglas-graces-december-issue-essence/>.

Even black women who purport to value black hair in its natural state sometimes get weaved into the good hair trap. Consider the interview of Chris Rock's wife on why her husband decided to make the film: GOOD HAIR. While donning an 18-inch weave, she explained to an audience why it was important for her and her husband to make a film that exposed the roots of the good hair myth so that

- Light-skin females are more likely to appear in and be the love interest in music videos of famous black music artists.⁸⁵ So, while Dr. Nancy Etcoff, a Harvard Medical School and Massachusetts General Hospital psychologist, recently stated that “[o]ur standards of beauty are changing and ethnic women are at the forefront today. It emulates our growing sense of cultural awareness,”⁸⁶ the data show otherwise. Not only are dark-skin women shunned generally, but in the music industry, they are rarely considered for music video roles unless they offer something more than their pretty faces.⁸⁷ Exotic and ethnic beauty has a visible place in the media, to be sure, but the ethnic beauties who are paraded in front of us are rarely dark skinned or have woolly, kinky, nappy hair.
- In twenty-first century doll tests, young black girls almost unanimously attach positive associations with light-skin images; similarly, they almost unanimously attach negative feelings to the images of children with dark skin.⁸⁸

their own daughter would begin to love her own natural hair. See TOM BURRELL, *BRAINWASHED: CHALLENGING THE MYTH OF BLACK INFERIORITY* 79 (2010).

85. See, e.g., Where Are All the Dark Skinned Women in Music Videos, <http://www.urbanperspectivemag.com/2010/09/28/where-are-all-the-dark-skinned-women-in-music-videos/>; Sean Combs Angers Many with ‘Only Light-Skinned’ Black Women Remark, *STYLE NEWS WIRE*, Apr. 6, 2009, available at <http://www.stylemagazine.com/sean-combs-angers-many-with-%E2%80%9COnly-light-skinned%E2%80%9D-black-women-remark/>. (“In issuing the call for women to participate in [a Vodka commercial with the Hip Hop Mogul], Combs specifically said that only ‘White, Hispanic and Light-skinned African American women’ need apply.”) Id.

86. See Liane Membis, *Is Ethnic Beauty the New ‘It’ Factor*, CNN, Sept. 13, 2010, available at http://articles.cnn.com/2010-09-13/living/ethnic.beauty_1_ethnic-beauty-ethnic-cultures-etcoff?_s=PM:LIVING.

87. As one in the music industry recently shared with JoyDaily.TV:

Light skin women, the way the light hit they face, the way they show up from far away, the way they look from far away, you could see the prettiness in their face, you could see how they face shaped, you could see their facial expressions a lot better. When a dark skin woman try to do it from far away, it’s kinda hard to get her facial expressions and the faces that she making and the (interviewee starts moving to imaginary music) so that’s why they tend to focus on the dark skin’s woman’s body. That’s why a dark skin woman, when she gets in the video, she gotta have a crazy fat ass or some titties busting out or something that stick out so they can focus on that [as] opposed to her face.

See *Complexion Obsession*, film by <http://www.joydaily.tv> [on file with author].

88. *Black or White: Kids on Race*, CNN, available at <http://www.cnn.com/SPECIALS/2010/kids.on.race/>; *A Girl Like Me* documentary, http://www.kiridavis.com/index.php?option=com_content&task=view&id=17&Itemid=88888953.

- Dark-skin women in the twenty-first century continue to be shameful of their skin color.⁸⁹
- Successful black women are often portrayed in the media as lighter than they actually are.⁹⁰
- Light-skin parties and “battle of the complexions” contests still take place in black nightclubs across America.⁹¹

Indeed, beauty itself in America is defined by European ideals.⁹² Dark-skinned women continue to tell stories of rejection based on their skin color.⁹³ Dark-skin males complain of discrimination against them in favor of their lighter-skin counterparts as well. Yet, because beauty is gendered, dark-skin women feel the brunt of rejection in ways that dark skinned males do not. Indeed, it is not uncommon for darker-skinned males to find love in the arms of much lighter mates; the same is not as true for darker-skinned women.⁹⁴ The seeds of colonization have grown and thrive, playing a role here too, in the black consciousness of what is beautiful, what is worthy, what is successful, what is valuable. This perfect storm informs what valued black women look like. Glance at the centerfolds and covers of many black magazines—Black Enterprise, Ebony, Essence, Jet. Pictures don’t lie as the saying goes and as you will quickly conclude “[i]n the eyes of many, including black people, beauty is to be seen only in women who have an infusion of Caucasian blood.”⁹⁵ No wonder little

89. Julee Wilson, *Kelly Rowland Didn’t Like Her Dark Skin Color, Says Beyoncé’s Mom Helped Her Embrace ‘Chocolatiness.’* HUFFINGTON POST, Mar. 7, 2013, available at http://www.huffingtonpost.com/2013/03/07/kelly-rowland-dark-skin-color-beyonces-mom-embrace-chocolatiness_n_2831583.html.

90. See, e.g., Ernest Owens, *Beyoncé, Colorism, and Why All of This Needs to End in 2013*, HUFFINGTON POST, Feb. 14, 2013, available at http://www.huffingtonpost.com/ernest-owens/beyonce-colorism-and-why-_b_2687029.html.

91. See, e.g., *Light-skinned vs. Dark-skinned African-American Beauty Complexion Pageant Causes Outrage*, DAILY MAIL, Feb. 12, 2012, available at <http://www.dailymail.co.uk/news/article-2106322/Racist-African-American-Battle-Complexions-causes-outrage.html>; Ayanna Guyhto, *Light Skinned Vs. Dark Skinned: The Battle Continues*, YAHOO, Aug. 12, 2009, available at <http://voices.yahoo.com/light-skinned-vs-dark-skinned-battle-continues-3970606.html>; Jay Scott Smith, *Americans Rank Mixed Race People Ahead of Blacks Socially*, THE GRIO, available at <http://thegrio.com/2011/12/21/americans-rank-mixed-race-people-ahead-of-blacks-socially/>.

92. DEBORAH L. RHODE, *THE BEAUTY BIAS: THE INJUSTICE OF APPEARANCE IN LIFE AND LAW* (2010).

93. See, e.g., *Dark Girls*, *supra* note 76.

94. *THE BEAUTY BIAS*, *supra* note 92, at 30; *Buying White Beauty*, *supra* note 5, at 579. See also RALPH BANKS, *IS MARRIAGE FOR WHITE PEOPLE?: HOW THE AFRICAN AMERICAN MARRIAGE DECLINE AFFECTS EVERYONE* (2012).

95. Trelle Jeffers, *The Black, Black Woman and the Black Middle Class*, 12 THE BLACK SCHOLAR 48 (1981). Light skin is a beauty marker for women. This issue, then, clearly affects women

black girls, with tears in their eyes, beg God to wash their black skin away. They got and get the same messages I did decades ago that society and even one's own community might (and often does) value you based on the color of your skin.⁹⁶

V. CONCLUSION

What happens when white video game players see themselves as black characters in a violent game?

*A new study suggest some disturbing answers: It makes the white players act more aggressively after the game is over, have stronger explicit negative attitudes toward blacks and display stronger implicit attitudes linking blacks to weapons.*⁹⁷

We make choices—consciously in some cases and unconsciously in others—based on skin color every day.⁹⁸ Yet American society pretends it is colorblind. Of course, we cannot help but see color, despite verbal assertions to the contrary.⁹⁹ Even babies see color.¹⁰⁰ By and large, however, the colorblind rhetoric continues.

This refusal to see this elephant in the room comes at a high price: it results in a divisive society that continues to pit one color against another.

more than men. *Shedding "Light," supra* note 42, at 30–50; Margaret L. Hunter, *If You're Light You're Alright*: *Light Skin Color as Social Capital for Women of Color*, 16 GENDER & SOC. 178 (Apr. 2002); *Buying White Beauty, supra* note 5, at 579.

96. See generally Hunter, *supra* note 95.

97. *Playing as Black: Avatar Race Affects White Video Game Payers: Whites Act More Aggressively After They Play as Black Avatars*, Ohio State University (Mar. 21, 2014) <http://researchnews.osu.edu/archive/raceavatar.htm>. Color matters even in uniform colors! In a study involving uniform colors and the NHL, teams that wore the color black racked up penalties at much higher rates than any other color. See Ronald Hall, *Dark Skin, Black Men, and Colorism in Missouri: Murder vis-à-vis Psychological Icons of Western Masculinity*, 3 SPECTRUM: A JOURNAL ON BLACK MEN 31–32 (2015).

98. Ian F. Haney Lopez, *Is the 'Post' in Post-Racial The 'Blind' in Colorblind?*, 732 CARDOZO L. REV. 807 (2011); Charles R. Lawrence III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 333 (1987).

99. See, e.g., Jerry Kang and Kristin Lane, *Seeing Through Colorblindness: Implicit Bias and the Law*, 58 UCLA L. REV. 465 (2010). I find the online data interesting in this area. While so many profess colorblindness, the data for online dating reveals very specific and targeted racial requests in potential mates. See RANDALL KENNEDY, *INTERRACIAL INTIMACIES* 27–37 (2003); Elizabeth F. Emens, *Intimate Discrimination: The State's Role in the Accidents of Sex and Love*, 122 HARV. L. REV. 1307 (2009); Russell K. Robinson, *Structural Dimensions of Romantic Preferences*, 76 FORDHAM L. REV. 2787–2819 (2008).

100. PO BRONSON & ASHLEY MERMEN, *NURTURESHOCK: NEW THINKING ABOUT CHILDREN* (2009).

It reeks havoc within families. It challenges friendships.¹⁰¹ This is not only is not blind, but it actually feeds stereotypes, tensions, bigotry and hate.¹⁰² The purported blindness to color hurts; it harms; it kills. We cannot begin to detangle this problem if we won't recognize it. With Black and Brown people expected to be a majority in America by 2043, now more than ever, is the time to grapple with this ism. Failure to act will only entrench racism, in the form of colorism and it will come back with a vengeance.

101. Drexel University Professor and author Yaba Blay, is also similar in skin tone to Michelle Obama, maybe slightly darker. In a recently written piece on Beyoncé's "Formation" video, Professor Blay shares the following:

I've had my own painful personal experiences with this. For example, two years prior to conducting this research, I was excluded from the wedding of a Creole-identifying colleague whom I considered a friend. Thinking she had made a mistake, I asked her, "Girl, where is my invitation?" And she responded, very matter-of-factly, "Oh girl, my mama and 'nem would pass out if you came to my wedding."

Yaba Blay, *On 'Jackson Five Nostrils,' Creole vs. 'Negro' and Beefing Over Beyoncé's 'Formation'*, COLOR LINES, Feb. 8, 2016, available at <http://www.colorlines.com/articles/jackson-five-nostrils-creole-vs-negro-and-beefing-over-beyonc%C3%A9s-formation>.

102. See, e.g., POST TRAUMATIC SLAVE SYNDROME, *supra* note 4, at 114–44; Maxine S. Thompson & Verna M. Keith, *Copper Brown and Blue Black*, in SKIN DEEP: HOW RACE AND COMPLEXION MATTER IN THE "COLORBLIND" ERA 47 (Cedrick Herring, Verna M. Keith & Hayward Derrick Horton, eds. 2003); Elizabeth A. Klonoff and Hope Landrine, *Is Skin Color a Marker for Racial Discrimination? Explaining the Skin Color-Hypertension Relationship*, 23 J. BEHAV. MED. 329–38 (2000).