

Tulsa Law Review

Volume 51 | Number 2

Spring 2016

The Social Transmission of Racism

Lisa C. Ikemoto

University of California Davis School of Law

Follow this and additional works at: <https://digitalcommons.law.utulsa.edu/tlr>



Part of the [Law Commons](#)

Recommended Citation

Lisa C. Ikemoto, *The Social Transmission of Racism*, 51 Tulsa L. Rev. 531 (2016).

Available at: <https://digitalcommons.law.utulsa.edu/tlr/vol51/iss2/25>

This Book Review is brought to you for free and open access by TU Law Digital Commons. It has been accepted for inclusion in Tulsa Law Review by an authorized editor of TU Law Digital Commons. For more information, please contact megan-donald@utulsa.edu.

THE SOCIAL TRANSMISSION OF RACISM

Lisa C. Ikemoto*

OSAGIE K. OBASOGIE, *BLINDED BY SIGHT: SEEING RACE THROUGH THE EYES OF THE BLIND* (STANFORD UNIVERSITY PRESS 2014). PP. 269. PAPERBACK \$ 24.95.

ROBERT WALD SUSSMAN, *THE MYTH OF RACE: THE TROUBLING PERSISTENCE OF AN UNSCIENTIFIC IDEA* (HARVARD UNIVERSITY PRESS 2014). PP. 374. PAPERBACK \$ 19.95.

I. INTRODUCTION

At first glance, the reason for pairing Robert Wald Sussman and Osagie K. Obasogie's recently published books seems perfectly obvious.¹ Both books are not only about race and racism but also offer strong evidence of the social construction of race. That said the books differ significantly in approach and content. Sussman is an anthropologist. In *The Myth of Race: The Troubling Persistence of an Unscientific Idea*, he brings his anthropological expertise to bear upon tracing scientific racism through history. Obasogie is a legal scholar and sociologist. In *Blinded by Sight: Seeing Race Through the Eyes of the Blind*, he uses both qualitative data gathered through interviews with blind and sighted people and Critical Race Theory to explore racialization's dependence on the idea that race is visually obvious and the implications for law of that obviousness.

At their core, the projects are the same. Each book examines an idea that has sustained racism despite social and political change. A recent study analyzing media constructions of athletics, biology, and race shows the relationship between the ideas that Sussman and Obasogie's projects interrogate. In the study, Hughey and Goss examined English language sports stories in newspapers around the world.² The stories were published between 2003 and 2014. This period started shortly after science and world leaders

* Lisa C. Ikemoto, Martin Luther King, Jr. Professor, University of California-Davis School of Law. Thank you to Antonia Wong, King Hall class of 2016, for expert research assistance. All errors are my own.

1. ROBERT WALD SUSSMAN, *THE MYTH OF RACE: THE TROUBLING PERSISTENCE OF AN UNSCIENTIFIC IDEA* (2014); OSAGIE K. OBASOGIE, *BLINDED BY SIGHT: SEEING RACE THROUGH THE EYES OF THE BLIND* (2014).

2. Matthew W. Hughey & Devon R. Goss, *A Level Playing Field? Media Constructions of Athletics, Genetics, and Race*, 661 ANNALS AM. ACAD. POL. & SOC. SCI. 182, 182 (2015).

announced the completion of the Human Genome Project. In his remarks, President Bill Clinton stated:

All of us are created equal, entitled to equal treatment under the law. After all, I believe one of the great truths to emerge from this triumphant expedition inside the human genome is that in genetic terms, all human beings, regardless of race, are more than 99.9 percent the same.³

Many hoped this would mark the beginning of a post-racial world. Hughey and Goss point out that sports, in particular, seemingly offer a “color-blind space, affording a level playing field where only one’s training and skills are the hallmarks of competition.”⁴ Sports stories, therefore, provide a promising site for signs of post-racialism. Instead, the study revealed that sports narratives explain achievement by black athletes as due to race-specific biology.⁵ In contrast, the narratives attributed white athletic success to brains and hard work.⁶ Sports narratives’ use of so-called science masks the presence of racism, thus making it possible to claim color-blindness on the field of play. *The Myth of Race* provides the long history of the idea of biological race, while *Blinded by Sight* dissects the apparent visual obviousness of racial difference and claims of colorblindness.

Both biological race and the visualness of race are mapped onto bodies of color. Sussman and Obasogie’s projects demonstrate how those ideas have configured the interior and exterior of those who are racialized. Both scholars probe the logic and obviousness of what we take as evidence of racial difference. What each reveals, in different ways, is how successful the claims of biological race and the visual obviousness of race have been. Both claims have positioned the racialized body as proof of racial difference and as buffer between the claims and their task in perpetuating racism. In addition, biological race and the visualness of race have proven to be remarkably persistent. They are, in a sense, evolutionary successes.

Sussman traces the idea of biological race from the fifteenth century forward in time, through a range of iterations. Obasogie’s qualitative study is contemporary. While his critical analysis is grounded in history and personal experience, his focus is on the present. He uses the interview data to reveal that dominant understandings of racial difference depend on visual concepts, even for people who have been blind from birth. What his analysis shares with Sussman’s is the light it sheds on how racializing concepts are transferred. Sussman shows how biological race persisted over time. Obasogie shows how racism inculcates in real time. Ultimately, both books examine the ways in which racism has been, and continues to be, socially transmitted.

II. THE MYTH OF RACE

Sussman builds an intellectual history of the idea of biological race. His account

3. Bill Clinton, Pres. of U.S., Remarks on Completion of First Human Genome Project (June 26, 2000), <https://www.genome.gov/10001356>.

4. Hughey & Goss, *supra* note 2, at 186.

5. *Id.* at 190.

6. *Id.* at 184, 187-88.

synthesizes existing scholarship and includes attributions throughout. This review focuses on Sussman's synthesis. The book's contributions lie in its totality. In my view, Sussman's book has two parts. The first tracks the history of biological race from the Spanish Inquisition to the fall of eugenics and the concomitant rise of cultural anthropology. In the second, Sussman addresses what he calls "modern scientific racism."⁷ He provides a biography of the political forces behind the resurgence of biological race (the Pioneer Fund, in particular). In the last chapter, he shows how those forces have shaped the most recent anti-immigration policies.

In the introduction, Sussman states that he is not a historian. Nevertheless, he provides a detailed historical account of two ideologies that have contributed to the development of modern anthropology and sustained the idea of biological race. Proponents of monogenism asserted that humans had a common origin and that differences arose later in time. Proponents of polygenism argued that the different categories of humans had different origins, and thus were different species. Sussman locates the origins of biological race in the Spanish Inquisition. "In order to squelch the large and rising number of Jews who had been forced to convert to Catholicism and who were gaining status financially and in the church, Old Christians were separated from New Christians, or *conversos*, on biological grounds."⁸ Scientific theories used to justify this new form of racism multiplied in content, spread geographically, and expanded in use to Native Americans, Asians, and Africans held in slavery. For the most part, the theories were versions of monogenism and polygenism. Throughout the book, Sussman highlights the role of different disciplines, including anthropology, in articulating the theories that sustained the idea of biological race.

Sussman's detailed account shows how monogenism and polygenism have shifted in relative influence over time. Monogenism aligns neatly with Darwin's theory of evolution and thus seems modern. Although, as Sussman points out, polygenism's proponents co-opted Darwin's work to substantiate Social Darwinism and its direct descendant, eugenics.⁹ One might wonder how polygenism, as defined above, persisted. From a twenty-first century perspective, it sounds patently unsound. In fact, in the eighteenth century, monogenism proved more persuasive.¹⁰ Monogenism's popularity, however, was not based on its scientific appeal, but on its creationist roots.¹¹ Only later, did a wholly non-theological version of monogenism emerge.

During the same period, polygenism retained vigorous, albeit minority, support.¹² Polygenism became a racist ideology during this period. Influential and still-revered intellectuals, such as Immanuel Kant, articulated a color-coded hierarchy of humanity that corresponded to Europe, Asia, Africa, and Native America.¹³ Kant's theory nods to creationist

7. See generally SUSSMAN, *supra* note 1.

8. *Id.* at 11.

9. *Id.* at 45.

10. *Id.* at 26.

11. *Id.* at 15, 26.

12. SUSSMAN, *supra* note 1, at 26.

13. *Id.* at 27.

beginnings but attributes innate superiority and inferiority to continental climate differences.¹⁴ The ideals of rationality and full personhood that form the core of his philosophy are for whites only.¹⁵ Both the rationale and its reliance on color sound eerily familiar. Here, Obasogie's point adds insight—racism's genius, if you will, arises from its effectiveness in making color the most obvious point of difference among people and freighting that visual cue with so much significance.

The pre-modern historical account also documents how the ideologies adapted to political needs over time. In the eighteenth century, polygenism's European iterations developed into distinctions among Nordics, Alpines, and Mediterraneans.¹⁶ At the time, Sussman explains, the theory justified class distinctions by casting working classes as inferior. The "Nordic" myth traces back to a theological claim of superiority that morphed into a claim of biological determinism. Then, in the nineteenth century, the "Nordic" myth became the claim of "Aryan" supremacy.¹⁷ Sussman follows polygenism forward in time to the early twentieth century. At that point, polygenism merged with eugenics and flourished in both Europe and America.¹⁸

Most legal and bioethics scholarship treats eugenics as if it spontaneously burst forth from Francis Galton in 1883.¹⁹ While historians acknowledge eugenics' foundations in Social Darwinism, the sole attribution to Galton suggests that eugenics was an isolated product of its time. Situating eugenics within the larger history of scientific racism, as Sussman does, illuminates both what made it distinctive and how it enabled the long-term persistence of biological race. In its distinctive form, eugenics channeled the power of the state into biological management of its populations, in the name of the social good.²⁰ In its adaptive form, eugenics carried forward belief in biological determinism. In the U.S., eugenics married Kantian scientific racism and rebirthed polygenism's color-coded hierarchy. One of the products was anti-miscegenation law.²¹ Others, which Sussman explores in depth, included anti-immigration law and intelligence testing.²²

The Myth of Race provides a long view, enabling the reader to follow the threads of biological race from its various progenitors through decades, centuries, and multiple iterations. This affords several insights. One can see, for example, how iterations of biological race originally viewed as inconsistent could be combined. Sussman's assessment of eugenics in the U.S. highlights Madison Grant's influence. Grant was "the eldest son of a very rich and distinguished family."²³ While Grant was Yale educated, he was not a scientist. The long view makes it obvious that Grant's version of biological race, published

14. *Id.*

15. *Id.* at 28.

16. *Id.* at 37.

17. SUSSMAN, *supra* note 1, at 37.

18. *Id.* at 64.

19. See, e.g., NICHOLAS AGAR, LIBERAL EUGENICS: IN DEFENCE OF HUMAN ENHANCEMENT 3 (2004); DANIEL J. KEVLES, IN THE NAME OF EUGENICS: GENETICS AND THE USES OF HUMAN HEREDITY 3 (1985) (Chapter 1 is titled, "Francis Galton, Founder of the Faith"); EDWARD J. LARSON, SEX, RACE, AND SCIENCE: EUGENICS IN THE DEEP SOUTH 18 (1995).

20. SUSSMAN, *supra* note 1, at 51.

21. *Id.* at 72.

22. *Id.* at 89, 91-106.

23. *Id.* at 85.

in *The Passing of the Great Race*, was an incoherent mash-up of theories dating back to the eighteenth century.²⁴ He combined “eighteenth-century, Humeian methodology of ‘historical inductive reasoning,’” with Mendelian terms and “pre-Darwinian concepts of human diversity.”²⁵ Yet, his popular book, in all its pseudo-scientific glory, provided fodder for eugenic measures in the U.S. and for Hitler.²⁶

The long view also enables a nuanced understanding of how purveyors of biological race adapted ideology to time and place. Grant’s views were tailored to leverage social stresses triggered by the influx of Southern and Eastern European immigrants and to co-opt pre-existing racism against African Americans and Native Americans. His views provided a semblance of scientific legitimacy and intellectual structure to racist nativism and class-based elitism. In the 1930s, the Nazi’s embraced the U.S. version of biological race with its emphasis on negative or elimination eugenics.²⁷ To mark the path of destruction that eugenic ideology took in Europe, Sussman uses selected examples of interactions between American and German proponents and of Nazi implementation. Here the approach is not to provide an exhaustive account—but a tour of the increasingly expansive iterations of eugenic thinking under a monstrous, authoritarian regime.

In *The Myth of Race*, eugenics emerges as the most pernicious form of scientific racism in twentieth-century American and European history. The several chapters devoted to eugenics detail the academic and the social-political context in which eugenic ideology took hold and was challenged. Among academics in the U.S., Frank Boas emerged as eugenics’ primary intellectual opponent. Boas was a trained scientist and anthropologist. Sussman positions Boas’s work and its emphasis on complexity (rather than linearity) and culture (rather than genetics) as the “antidote” to eugenics. The work of Boas, his students, and other scholars such as Margaret Mead and Otto Klineberg challenged the primacy of physical anthropology over the emergent discipline of cultural anthropology. It also offered a strong critique of the “science” behind eugenics that prompted even anthropology’s eugenics stalwarts to doubt its claims.²⁸ Thus by 1930, while “eugenics was on the rise in physical anthropology in Europe, especially in Germany, it was undergoing a precipitous fall in America.”²⁹

At the same time, both American eugenicists and polygenism persisted in the world of politics. State legislatures continued to enact and implement involuntary sterilization and anti-miscegenation laws, and Congress maintained national origin quotas on immigration even during World War II when the plight of European Jews became undeniable.³⁰ However, as some of the political pressures that made eugenics appealing shifted in the 1920s and 1930s, support for eugenics softened. Sussman describes the resulting social and cultural changes that made scientific racism less tenable. As a result, by the late 1940s,

24. *Id.* at 88-90; MADISON GRANT, *THE PASSING OF GREAT RACE* (1916).

25. SUSSMAN, *supra* note 1, at 88-89.

26. *Id.* at 91.

27. *Id.* at 110.

28. *Id.* at 186-88.

29. *Id.* at 190.

30. SUSSMAN, *supra* note 1, at 104-05, 190.

the work of Boas and other cultural anthropologists stood ready as an alternative to eugenics. Sussman characterizes the rejection of eugenics and scientific racism that followed key events such as the Great Depression and Nazism in Kuhnian terms. Boas's work provided the opportunity for a paradigm shift.³¹

The last four chapters comprise what I have designated the second part of the book. This part addresses modern scientific racism. Modern scientific racism, in Sussman's terms, is the new polygenics; it has its roots in pre-World War II eugenics. This account begins in the 1920s and follows a particular group of eugenics die-hards into the post-World War II era. Sussman focuses on two sets of activities. The first center on the Pioneer Fund, a private agency created in 1937 to implement eugenics policy. The second set centers on anti-immigrant efforts.

The account of modern eugenics describes the individuals who created and shaped the Pioneer Fund, developing its goals and strategies over time. For those who believe that neo-Nazi, white separatist, and related white supremacist ideology flourishes only among economically oppressed whites with little formal education, the profile of the Pioneer Fund and its affiliates will prove disturbing. The list of supporters and grantees includes wealthy and influential individuals, as well as academics at well-regarded universities. During World War II, the agency was more or less dormant.³² After the war, the Fund took aim at racial desegregation and other civil rights efforts. The Pioneer Fund and like-minded organizations published their own journals, produced data that purported to show inherent racial differences in IQ, and used that data in efforts to overturn *Brown v. Board of Education*.³³ The biological myth underpinning the data echoed the eighteenth-century ideological distinction between the Nordics or Aryans and inferior races.³⁴ The updates used sociobiology's premise that evolutionary success depends on "selfish genes," thus presenting racism as "an evolutionary necessity."³⁵

The Pioneer Fund and other eugenics proponents remain active into the twenty-first century. Some of the individuals that Sussman profiled have been at this for decades. But eugenics has garnered a new generation of supporters, as well. Their strategies remain largely the same—data production, dissemination, publicity of the new scientific racism, and support of laws and policies that express eugenic goals. Sussman takes a first-person stance in this part of the discussion. He raises his voice, metaphorically, in assessing the so-called science and the publicity tactics the new polygenecists have used.³⁶ The shift in tone is a bit jarring and may be unnecessary, as the substance of his critique carries its own weight.

The last chapter documents the contemporary resurgence of pre-World War II eugenics justifications for immigration restrictions. This time, the targets are Latinos and

31. *Id.* at 197-98.

32. *Id.* at 217.

33. *Id.* at 230-31.

34. *Id.* at 246.

35. SUSSMAN, *supra* note 1, at 247.

36. *See, e.g., id.* at 282.

Asians.³⁷ In Sussman's account, the new eugenics organizations are The American Renaissance Foundation, The American Immigration Control Foundation, and the Federation for American Immigration Reform. The Pioneer Fund, along with other contributors, has supported all of these organizations. The first two organizations have used scientific racism as an express justification for their positions. The Federation of American Immigration Reform has not used biological race as a justification, but the organization's racist-nativist goals reflect eugenic beliefs that its leader, John Tanton, and no doubt many of its members hold.³⁸

While Sussman identifies the 1940s as the end of the eugenics era, he uses the last chapters to illustrate both its lunacy and its persistence. What disturbs is the extent to which the deep racial hatred behind the contemporary use of eugenics sustains the most crude, illogical semblance of science. As presented in these chapters, the myth of biological race has not evolved significantly. It persists but on the margins of larger movements fueled by racist-nativism.³⁹

What Sussman leaves unstated is that, in the meantime, a more sophisticated, more widely accepted form of biological race has formed. Others, including Troy Duster,⁴⁰ Osagie Obasogie,⁴¹ and Dorothy Roberts,⁴² have explicated "genetic race" and its pervasive use in biomedicine, law enforcement, and, as Hughey and Goss show, sports. Genetic race has become another vehicle for polygenism and biological determinism. It may be that genetic race makes the new-old eugenics seem plausible enough. That link between the margin and the mainstream is important. At the same time, Sussman's primary target, white nativism and the role it plays in anti-immigrant law and policy, is both sizeable and pressing, now more than ever.

III. BLINDED BY SIGHT

Obasogie has written about biological race, but scientific racism plays a supporting role in *Blinded by Sight*. In *Blinded by Sight*, Obasogie focuses on what seems obvious, with emphasis on "seems." He probes the assumption he calls "*race*" *ipsa loquitur*, that race is so obvious that it speaks for itself.⁴³ He digs down to uncover how we come to see race and racial difference. Obasogie uses both empirical method and critical theory. In fact, the combination of the two approaches is part of the point he makes. Critical Race Theory (CRT) provides a valuable interpretive tool of the data collected by traditional sociological method, and the empirical data provides a basis for testing, substantiating, and extending the critical inquiry.

37. *Id.* at 283.

38. *Id.* at 287-91.

39. *See, e.g.*, ROBERT S. CHANG, *DISORIENTED: ASIAN AMERICANS, LAW AND THE NATION-STATE* (1999).

40. *See, e.g.*, Troy Duster, *Buried Alive: The Concept of Race in Science*, in *GENETIC NATURE/CULTURE: ANTHROPOLOGY AND SCIENCE BEYOND THE TWO-CULTURE DIVIDE* 258-77 (Alan H. Goodman et al. eds., 2003).

41. *See, e.g.*, Osagie Obasogie, *The Return of Biological Race? Regulating Race and Genetics Through Administrative Agency Race Impact Assessments*, 22 *S. CAL. INTERDISC. L.J.* 1 (2012).

42. *See, e.g.*, DOROTHY ROBERTS, *FATAL INVENTION: HOW SCIENCE, POLITICS, AND BIG BUSINESS RE-CREATE RACE IN THE TWENTY-FIRST CENTURY* (2011).

43. OBASOGIE, *supra* note 1, at 2.

Blinded by Sight has two parts. Both parts are packed. Part I sets out the theoretical framework and the findings based on interviews with blind and sighted people. Part II examines the concept of colorblindness and its effects in law and society in light of the empirical data. Obasogie then turns to the critique of Equal Protection jurisprudence and of the claims of post-racialism. His goal is to expand the social constructionist question from “how is racial difference constructed?” to include “how do we come to see race and racial difference in the first place?” In Part II, he explores why and how that makes a difference in our social and legal understandings of justice.

Obasogie’s touchstone for inquiry is that race is visually obvious. It is this point that he calls “*race*” *ipsa loquitur*.⁴⁴ The irony is that making race visually obvious has been so successful that the question he asks is difficult to grasp. The question is how or what makes race obvious? Or, perhaps, how is it that when we look at others, we first see race and gender? The question reminded me of the experience I have when friends visiting from other countries ask, “How do you tell U.S. dollars apart?” I do not mean to trivialize Obasogie’s important question with this example. It helps, however, to illustrate his question and the difficulty of seeing the question. If your country’s paper currency has different colors for different amounts, then the all-green U.S. dollars are difficult to sort. They all look alike. I answer my friends truthfully—I look at the numbers. The fact is that I have learned to look first at the corners of the bills and read the numbers, and my friends have learned to look first at the colors and infer the values they learned earlier. Obasogie’s question asks how is it that with respect to people, we have learned to look at colors and other visual cues and infer values we learned earlier?

When I tell my friends, “I look at the numbers,” some of them think I am teasing. My answer seems circular. How do I know the value difference among the green bills? I look at the number. “*Race*” *ipsa loquitur* relies on circular logic. Racial difference seems obvious because race seems obvious. Obasogie points out that while social construction theory has been around for a while, scholars have focused almost exclusively on how we make the inferred assessment of value.⁴⁵ Sussman’s work fits into this body of scholarship. He reveals the long-term view of the social-political forces that gave momentum to scientific racism as a vehicle for constructing racial difference. Obasogie positions his work as *a priori*—“a constitutive theory of race that highlights the way in which social practices produce the ability to see and experience race in particular ways.”⁴⁶

Obasogie’s methodology joins two theoretical approaches. Empirical scholarship has been gaining influence in law. Yet critics have pointed out that it lends itself to description, and only small, discrete ideas. Critical race theory, on the other hand, has suffered from the charge that the weighty claims it articulates lack evidence. Obasogie provides a detailed account of the two methods. He reviews their strengths and the criticisms of each. He then observes that what each lacks, the other provides. What he offers is a “constitutive theory of race.”⁴⁷ Constitutive analysis uses a constructivist approach but

44. *Id.*

45. *Id.* at 28-29.

46. *Id.* at 4 (emphasis omitted).

47. *Id.* at 48.

with empirical evidence. “[C]onstitutive analyses empirically situate the social practices and interactions that make certain outcomes possible.”⁴⁸ *Blinded by Sight* is his effort to demonstrate that using both methods produces valuable insights about how race becomes “visually salient,” and what implications that process has for law and society.⁴⁹ His work fits into an emerging body of work by scholars like Angela Onwuachi-Willig⁵⁰ and Meera Deo.⁵¹

In Part I, Obasogie uses qualitative data collected through interviews with sighted and blind people to address the question of how race becomes visually salient. The study is driven by the commonly held assumption that because blind people cannot literally see race, they are “color-blind” or hold a race-neutral view of society. The assumption indicates the extent to which common understandings of race are premised on visual cues, and how reliance on visual descriptions of racial difference masks the social-political content used to construct racial difference. The interview data is fascinating. Among other things, it reveals, more baldly than I anticipated, the ways in which racialization filters the features we see and depend upon to signify racial difference. Respondents identified skin color and facial features most consistently as markers of racial identity, and tended to filter out subtleties and complicating information.⁵²

Obasogie identifies the implications of these findings but never overworks the data. For example, many sighted respondents expressed the belief that “race reflects biological differences between human groups.”⁵³ Obasogie suggests “that visual distinctions stand in for a whole host of secondary meanings.”⁵⁴ He also draws on the larger scholarly discourse on race in his analysis of respondent statements. For example, he observes that respondents who identified as white often provided longer, more ambiguous answers than people of color did. Here, Obasogie refers to Barbara Flagg’s elucidation of the “transparency phenomena,” a form of white consciousness (or unconsciousness) in which whiteness is so normative that whites understand race as something people of color have.⁵⁵ In doing so, he forms a discursive link between the data and critical race theory.

The constitutive analysis of the data nicely draws out a great deal of nuance, but two findings stand out. The first is that blind people described and understood race in visual terms. “When asked what is the first thing that comes to mind when hearing the word race, Carrie said, ‘I think of colors. Varying colors in people’s skin colors.’”⁵⁶ This only seems surprising if you assume that blindness affects the ability to learn, not just the ability to use sight. In other words, the assumption that blind people must be color-blind rests not

48. OBASOGIE, *supra* note 1, at 49.

49. *Id.* at 50.

50. See, e.g., Angela Onwuachi-Willig, *Still Hazy After All These Years: The Lack of Empirical Evidence and Logic Supporting Mismatch*, 92 TEX. L. REV. 895 (2014).

51. See, e.g., Meera E. Deo, *Empirically-Derived Compelling State Interests in Affirmative Action Jurisprudence*, 65 HASTINGS L.J. 661 (2014); Meera E. Deo, *The Ugly Truth about Legal Academia*, 80 BROOK. L. REV. 943 (2015).

52. OBASOGIE, *supra* note 1, at 54.

53. *Id.* at 56.

54. *Id.*

55. *Id.* at 57 (citing Barbara J. Flagg, “Was Blind, But Now I See”: White Race Consciousness and the Requirement of Discriminatory Intent, 91 MICH. L. REV. 953, 957 (1993)).

56. *Id.* at 60 (emphasis in original).

only on the claim that race is what we see, but also on the claim that those without sight cannot know racism. The assumption, it turns out, is a two-edged sword. On the one hand, it expresses the idea that race (and racism) is only skin-deep, and therefore, that blindness or color-blindness can eliminate racism. Obasogie's analysis in Part II shows that color-blind law and policy preserve white privilege. The other edge cuts against blind people. It turns blindness into an intellectual disability. Blind respondents, in fact, commented on the ways that ability norms positioned them as outsiders, even within their own racial groups. Some drew parallels between their own social marginalization and those of people of color.

The second striking finding is that blind respondents were better able than sighted respondents to account for how they learned the salience of race. Because those blind since birth had not visually observed the many, often subtle, acts that family, friends, teachers, and strangers use to maintain racial boundaries, respondents learned the boundaries in other, more memorable ways. Many of the memories respondents shared to illustrate how they learned what race means were of lessons learned with pain. Sighted people also had family, friends, and others pointedly draw racial boundaries for them. But those socializations often confirmed rules they had seen in action. For blind people, the schooling felt starker. Once learned, however, the lesson was the same—that race and all the difference it signifies are self-evident. What Obasogie shows is that race is not what you see. Rather, the ability to see or know race in visual terms is socially transmitted. Because “[s]kin color and other visual cues become shorthand for difference,”⁵⁷ thus making race seem obvious, the visual cues hide the social transmitting work that preceded them.

The qualitative data substantiates much social constructionist work. It counters charges that Critical Race Theory primarily consists of a set of political claims. The constitutive analysis also expands the critical inquiry. In the first part of *Blinded by Sight*, the analysis helps clarify the relationship between the visualness of race and the persistence of biological race in the twenty-first century. Sussman highlights the role of political organization and funding in perpetuating scientific racism. Obasogie's constitutive approach shows how neatly the idea that race is self-evident dovetails with the widely pervasive, unscientific idea of biological race. The resulting embodiment of difference merges into the visual obviousness of race.

In Part II of *Blinded by Sight*, Obasogie delves into the implications of the findings. He first examines the concept of colorblindness, and then critiques its role in both Equal Protection jurisprudence and public discourse about post-racialism. Much of his assessment of colorblindness is familiar. He challenges the premise of colorblindness—that intentional disregard of race will lead to equality.⁵⁸ He draws on critical theory's attacks on formal equality for some key points. The idea of colorblindness minimizes the role of race as a social-political force.⁵⁹ It treats race as only a physical trait and denies the social meaning that makes race so very obvious. Obasogie points out that colorblindness is also ahistorical; it treats race as if the social-political structures built on race do not have the

57. OBASOGIE, *supra* note 1, at 63.

58. *Id.* at 117.

59. *Id.* at 116.

weight of history behind them.⁶⁰

The examination of colorblindness identifies Justice John Marshall Harlan's dissent in *Plessy v. Ferguson* as the source of the concept. Harlan's assertion of white supremacy as fact in the sentences immediately preceding his statement that the "Constitution is colorblind," foreshadows Obasogie's core argument.⁶¹ Obasogie's analysis of the ways in which the idea of colorblindness has been used leads to his conclusion that colorblindness produces white privilege.⁶² He concludes: "[T]he metaphor should simply be retired from social, legal, and political thought."⁶³

The critique of the role of colorblindness in Equal Protection jurisprudence opens with the observation that metaphors can distort and oversimplify.⁶⁴ Obasogie comments on two recent Supreme Court decisions on affirmative action, *Parents Involved in Community Schools v. Seattle School District No. 1* and *Meredith v. Jefferson County Board of Education*. He reveals the operation of colorblindness in these cases. More specifically, he shows how equality defined as colorblindness disassociates race from the social significance of race and from its group dynamics.⁶⁵ He uses this analysis to make the case for empirically undercutting the use and power of the blindness metaphor.⁶⁶ Here, the focus is on the constitutive theory of race and the work it does. Obasogie then shifts the focus to close examination of the role of "race" *ipsa loquitur* in Equal Protection jurisprudence. He focuses on the role of visibility and how it screens from the Court's view the ways in which race structures and weights social life and political authority. Here, the book's title becomes substance. Because sighted people are blinded by sight, "their vision prevents them from appreciating the role of social practices in producing the salience of race."⁶⁷ While other scholars have made similar points, Obasogie's work in Part I significantly elaborates upon and substantiates this point. Thus, Obasogie calls into question the Court's (and dominant society's) normative account of equality.

Obasogie writes gracefully, with both precision and eloquence. He transitions between interview data and analysis smoothly, with none of the choppiness that characterizes much of empirical scholarship. In addition, he incorporates popular culture, personal narrative, and actual events throughout *Blinded by Sight*. He references the sermons of Fredrick K.C. Price, *Life* magazine's World War II-era photographic tutorial on "typical" Chinese and Japanese facial features, a controversy over Hewlett Packard's facial recognition software, the two versions of "Guess Who's Coming to Dinner," and other sources as texts and as additional evidence of the pervasiveness of the visualness of race and its blinding force. He opens discussion of post-racialism with reference to the now freighted-with-death "hoodie" worn by Trayvon Martin and other youth.⁶⁸ George Zimmerman's shooting of African American, seventeen-year-old Martin and the many other recent acts

60. *Id.* at 117.

61. *Plessy v. Ferguson*, 163 U.S. 537, 559 (1896).

62. OBASOGIE, *supra* note 1, at 115.

63. *Id.* at 128.

64. *Id.* at 130.

65. *Id.* at 136.

66. *Id.* at 137.

67. OBASOGIE, *supra* note 1, at 158.

68. *Id.* at 163.

of violence against men and women of color have proven the fallacy of post-racialism.

Post-racialism, Obasogie shows, is a companion of colorblindness. There may be a hopeful, Pollyanna-ish version and a more strategic version. Both versions, however, require willful disregard of social reality. Obasogie probes President Obama's early silence on race and his shift in response to Trayvon Martin's death to illustrate both the fallacy of post-racialism and the way it produces white privilege. This recalls a preceding discussion on the way in which many whites perceive racism as a zero sum game. In response to a survey about the persistence of racism in the present day, whites were not only more likely to say that racism against blacks had ended but also that racism against whites was a significant problem.⁶⁹ In this view, equality results in deprivation—deprivation of white privilege. This describes relationships between racial groups as inherently problematic and equality as inherently threatening. In the last chapter, Obasogie explains the synergy between colorblindness and post-racialism, and concludes that “colorblind post-racialism redeems whiteness and places it back in the cherished social position that it occupied before the civil rights movement.”⁷⁰ He ends, however, by pointing to the lessons learned from blind people who are able to see beyond the claim that race is self-evident.⁷¹

IV. CONCLUSION

The Myth of Race and *Blinded by Sight* provide a rich pairing. Sussman provides a centuries' long account of the persistence of scientific racism by ideological adaptation. Obasogie provides a present time account that challenges the self-evident nature of race and explicates the implications of the visual obviousness of race. Reading either is enriching and satisfying. Pairing them puts the two approaches in conversation with each other. They have similar aims—busting the myths that sustain racism. Because of that, neither Obasogie nor Sussman highlights the forces that have disrupted the transmission of race. Obasogie does point to blind people's lack of sight as a key factor in seeing beyond the claim that race is self-evident. But both his and Sussman's material seems rich enough to hold additional nuggets. That disappointment is minor, given the books' goals and accomplishments.

Both analyses situate human physiology as central to the forms of racial ideology at issue in their respective projects. Sussman's account, going back to the Spanish Inquisition, mirrors changes in understandings of the human body. Scientific racism and medical accounts of the body started with gross anatomy (e.g., skull differences) and eventually shifted to the molecular level (e.g., genetic race). Obasogie's analysis focuses on the role of sight. In her critique of the Supreme Court's abortion jurisprudence, Reva Siegel states, “[m]ore than any doctrinal factor, it is the physiological framework in which the Court reasons about reproductive regulation that obscures the gender-based judgments that may animate such regulations and the gender-based injuries they can inflict on women.”⁷² Situating race in a physiological framework has had a similar effect. It calls attention to the

69. *Id.* at 115.

70. *Id.* at 176.

71. *Id.*

72. Reva Siegel, *Reasoning From the Body*, 44 STAN. L. REV. 261, 265 (1992).

2016]

THE SOCIAL TRANSMISSION OF RACISM

543

relevant biological paradigm—the skull, the brain, muscles, and the genes—rather than onto the social content of that paradigm and its political use.

Sussman and Obasogie both cite the United Nations Educational, Scientific and Cultural Organization's (UNESCO) 1950 statement that "race" is not a biological reality.⁷³ As noted, genome scientists and world leaders made a similar pronouncement in 2000. In fact, resurgences in both marginal and mainstream uses of biological race have followed each announcement. Sussman and Obasogie document the depth to which racism is inscribed in our social and national mythology. They illuminate the social practices and political forces that sustain racism. What becomes clear is that neither science nor law has countered the force of white privilege embedded in nativism, colorblindness, and post-racialism.

73. OBASOGIE, *supra* note 1, at 24, 26-27; SUSSMAN, *supra* note 1, at 1, 207-08.