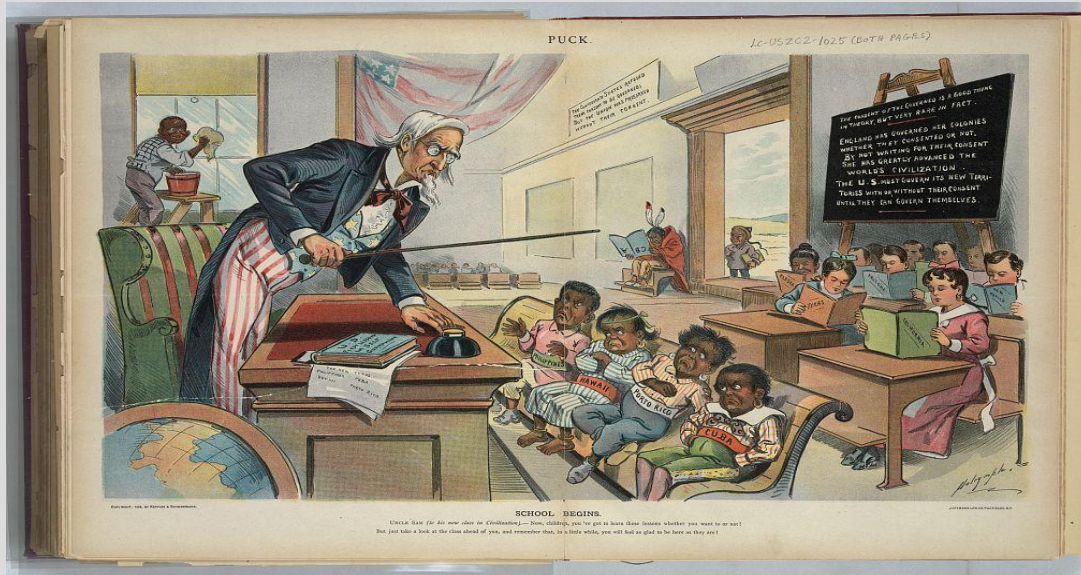




Racialization and Imperial Law: A Historical and Philosophical Primer

By
Nathan Luis Cartagena, PhD

Copyright © 2026 The Luisa Bosques House Of Studies - All Rights Reserved.

Racialization and Imperial Law: A Historical and Philosophical Primer

Nathan Luis Cartagena, PhD

“Where common memory is lacking, where people do not share the same past, there can be no real community. Where community is to be formed, common memory must be created.”

—George Erasmus (Dene)

“I cannot pretend that I, as a Japanese American, truly know the pain of, say, my Native American sister. But I can pledge to educate myself so that I do not receive her pain in ignorance.”

—Mari Matsuda

“Law organizes white society; then it helps maintain that society through both physical and ideological coercion. In addition, the law ‘provides hegemonic services’ to the institutions and practices of European and European-derived cultures by granting them a sense of legitimacy and superiority over nonwhite institutions.”—Kenneth B. Nunn

Prelude:

Few people know about the genealogical links between the rise of Constantinianism (~330 AD), the Crusades, and white supremacy’s legalized, global spread through European Empires and the United States. This collection of key texts aims to redress this widespread ignorance and help individuals and communities develop an historically informed, neighbor-love-enhancing common memory.

This collection of texts has *twelve* main parts. *Part One* pairs a presentation of Paul’s anti-imperial gospel of the Kingdom of God with Eusebius’s dedication speech for the Holy Sepulcher Church, which merged Roman imperialism with Christianity to create what scholars call “Constantinism.” *Part Two* houses four papal documents that belong to a discourse tradition that emphasizes papal authority and legal supremacy. *Interlude One* sketches key points about the relationships between the historic rise of “whiteness” and European imperialism. *Part Three* presents key texts in the development and defense of Iberian imperialism and racialized conquest in Africa, the Americas, and Spain. *Part Four* gives examples of how sixteenth-century Iberian missionaries thought and acted within a racialized imaginary. *Part Five* includes legal and ecclesiastical texts about

Spain's anti-Indigenous genocidal conquest. *Part Six* provides examples of racialized English colonial law. *Interlude Two* offers a brief reminder about the U.S. founders' commitment to make the country an empire. *Part Seven* considers the role of whiteness in early U.S. law and the founding generation's international correspondences. *Part Eight* presents key texts that depict the U.S.'s early efforts at expanding its White imperial power. *Part Nine* discusses whiteness and anti-Black racism around the time of the U.S. Civil War. And *Part Ten* considers examples of whiteness, anti-Indigenous, anti-Arab, anti-Asian, and anti-Black racism in post-bellum U.S. law between 1866 and 1942.

Three parting words. First, this collection of texts isn't exhaustive nor comprehensive. For example, it minimally engages anti-Arab racism and antisemitism and says little about anti-Latine racism. Second, this collection contains many *painful* texts. Readers do well to pace themselves and process what they read with others. Lastly, this collection ends in 1942; I hope that readers will seek to learn what's happened since then.

Part One: Paul, Eusebius, and Constantinianism

1. Biblical scholar N.T. Wright on the Anti-imperial Gospel in Paul's Epistle to the Romans¹

We have moved away quite rapidly in recent years from the old split, which was assumed by and built into the fabric of Western biblical studies, between 'religion' and 'politics.' We have come to see that trying to separate the two in the ancient world, not least in the Middle East, is as futile as trying to do so in certain parts of the modern world....

Now, however, we have all been alerted to the fact that the kingdom of God was itself, and remained, a thoroughly political concept; that Jesus' death was a thoroughly political event; that the existence and growth of the early church was a matter of community-building, in conflict, often enough, with other communities....

¹ From N.T. Wright's "Paul and Caesar: A New Reading of Romans" (2002). Citations omitted.

In the Mediterranean world where Paul exercised his vocation as the apostle to the Gentiles, the pagans, the fastest growing religion was the Imperial cult, the worship of Caesar.

In Rome itself, as is well known, the Julio-Claudian emperors did not receive explicit divine honours until after their deaths, although being hailed as the son of the newly deified Julius was an important part of Augustus' profile, and that of his successors, at home as well as abroad. But in the East—and the East here starts, effectively, in Greece, not just in Egypt—the provinces saw no need for restraint. With a long tradition of ruler-cults, going back at least to Alexander the Great, local cities and provinces were in many cases only too happy to demonstrate their loyalty to the emperor by establishing a cult in his honour, and indeed by vying for the privilege of looking after his shrine.

This feature of the roman empire has been extensively studied, and the continuing debates—on, for instance, the precise relationship between this cult and that of earlier Eastern rulers—do not affect the basic point I am making. The religious world of the day was of course thoroughly pluralistic, and there was no expectation that this new cult would displace, or itself be threatened by, the traditional Graeco-Roman religions in all their variety. Indeed, frequently the two were combined, as demonstrated by statues of the emperor in the guise of Jupiter or another well-known god. But, whereas traditional books and lecture courses that cover the religious world of late antiquity tend to add the emperor-cult simply as one element within a treatment of the multiple religions, philosophies and theologies of the ancient world, giving students the impression that it was a relatively insignificant addition to more important aspects of pagan thought and life, it is increasingly apparent that to many ordinary people in Greece, Asia Minor, the Middle East and Egypt—with the exception of the last, the focal points of Paul's missionary work—the Caesar-cult was fast-growing, highly visible, and powerful precisely in its interweaving of political and religious allegiance. As various writers have recently urged, you don't need such a strong military presence to police and empire if the citizens are worshipping the emperor. Conversely, where Rome had brought peace to the world, giving salvation from chaos, creating a new sense of unity out of previously warring pluralities, there was a certain inevitability about Rome itself, and the emperor as its ruler, being seen as divine. Rome had done—Augustus had done—the sort of thing that only gods can do. Rome had power: the power to sweep aside all opposition; the power,

in consequence, to create an extraordinary new world order. Rome claimed to have brought justice to the world; indeed, the goddess *Iustitia* was an Augustan innovation, closely associated with the principate. The accession of the emperor, and also his birthday, could therefore be hailed as *euaggelion*, good news (we should remember of course that most of the empire, and certainly the parts of it where Paul worked, were Greek-speaking). The emperor was the *kyrios*, the lord of the world, the one who claimed the allegiance and loyalty of subjects throughout his wide empire. When he came in person to pay a state visit to a colony or province, the word for his royal presence was *Parousia*.

With all this in mind, we open the first page of Paul's letters as they stand in the New Testament, and what do we find? We find Paul, writing a letter to the church in Rome itself, introducing himself as the accredited messenger of the one true God. He brings the gospel, the *euaggelion*, of the son of God, the Davidic Messiah, whose messiahship and divine sonship are validated by his resurrection, and who, as the Psalms insist, is the Lord, the *kyrios*, of the whole world. Paul's task is to bring the world, all the nations, into loyal allegiance—*hypakoē pisteos*, the obedience of faith—to the universal Lord. He is eager to announce this *euaggelion* in Rome, without shame, because this message is the power of God which creates salvation for all who are loyal to it, Jew and Greek alike. Why is this? Because in this message (this 'gospel of the son of God'), the justice of God, the *dikaiosynē theou*, is unveiled....[this thematic introduction] must have been heard in Rome, and Paul must have intended it, as a parody of the imperial cult.

If we go for a moment to the other end of Romans, the impression is the same. The thematic exposition concludes with 15:7-13, where the mutual welcome of Jewish Christian and Gentile Christian in the one family of God in Christ, producing united worldwide worship in fulfilment of scriptural prophecy, is the goal of the whole gospel. Paul builds up a careful sequence of scriptural passages to make the point, emphasizing on the way the universality of the rule of Jesus Christ, the *kyrios* (Psalm 117:1, quoted in v. 11, repeats 'all': all the nations, all the peoples). The final quotation is from Isaiah 11:10, one of Isaiah's great messianic passages, and Paul has chosen a passage which, in its Septuagintal form, looks right back to Romans 1:3f.: 'The root of Jesse shall appear, the one who rises up (*ho anistamenos*) to rule the nations; in him shall the nations hope.' Jesus' Davidic messiahship, once more, is confirmed by his resurrection, and means that he is the true ruler of the nations. This cannot, I

suggest, be other than a direct challenge to the present ruler of the nations, Caesar himself.

2. Eusebius of Caesarea, “Speech on the Dedication of the Holy Sepulchre Church” (335 AD)²

Of old the nations of the earth, the entire human race, were variously distributed into provincial, national, and local governments, subjects to kingdoms and principalities of many kinds. The consequence of this variety were war and strife, depopulation and captivity, which raged in country and city with unceasing fury. Hence, too, the countless subjects of history, adulteries and rapes of women; hence the woes of Troy and the ancient tragedies so known among all peoples. The origin of these may justly be ascribed to the delusion of polytheistic error. But when that instrument of our redemption, the thrice-holy body of Christ, which proved itself superior to all Satanic fraud and free from evil both in word and deed, was raised, at once for the abolition of ancient evils and in token of his victory over the powers of darkness; the energy of these evil spirits was at once destroyed. The manifold forms of government, the tyrannies and republics, the siege of cities and devastation of countries caused thereby, were now no more, and one God was proclaimed to all mankind. At the same time one universal power, the Roman empire, arose and flourished, while the enduring and implacable hatred of nation against nation was now removed; and as the knowledge of one God and one way of religion and salvation, even the doctrine of Christ, was made known to all mankind; so that the self-same period the entire dominion of the Roman empire being vested in a single sovereign, profound peace reigned throughout the world. And thus by the express appointment of the same God, two roots of blessing, the Roman empire and the doctrine of the Christian piety, sprang up together for the benefit of men. For before this time the various countries of the world, as Syria, Asia, Macedonia, Egypt and Arabia, had been severally subject to different rules. The Jewish people, again, had established their dominion in the land of Palestine. And these nations, in every village, city and district, actuated by some insane

² Note: Eusebius’ vision of Constantine and Rome comes immediately after a generation of intense Christian persecute and poverty and building on Origen’s views about Rome providentially promoting global governmental and linguistic unity.

spirit, were engaged in incessant and murderous war and conflict. But two mighty powers starting from the same point, the Roman empire which henceforth was swayed by a single sovereign and the Christian religion, subdued and reconciled these contending elements. Our Saviour's mighty power destroyed at once the many governments and the many gods of the powers of darkness, and proclaimed to all men, both rude and civilized, to the extremities of the earth, the sole sovereignty of God himself. Meantime the Roman empire, the causes of multiplied governments being thus removed, effected an easy conquest of those which yet remained, its object being to unite all nations in one harmonious whole, an object in great measure already secured and destined to be still more perfectly attained, even to the final conquest of the ends of the habitable world, by means of the salutary doctrine and through the aid of that divine power which facilitates and smoothes its way.

And surely this must appear a wonderous fact to those who will examine the question in the love of truth and desire not to cavil at these blessings. The falsehood of demon superstition was convicted; the inveterate strife and mutual hatred of the nations was removed; at the same time one God and the knowledge of that God were proclaimed to all; one universal empire prevailed; and the whole human race, subdued by the controlling power of peace and concord, received one another as brethren and responded to the feelings of their common nature. Hence as children of one God and Father, and owning true religion as their common mother, they saluted and welcomed each other with words of peace. Thus the whole world appeared like one well-ordered and united family; each one might journey unhindered as far as and withersover he pleased; men might securely trave from West to East and from East to West, as to their own native country; in short, the ancient oracles and predictions of the prophets were fulfilled, more numerous than we can at present cite, and those especially which speak as follows concerning the saving Word: "He shall have dominion from sea to sea and from the river to the ends of the earth" (Ps. 72:8). And again: "In his days shall righteousness flourish and abundance of peace" (Ps 72:7). "And they shall beat their swords into ploughshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more" (Isa. 2:4).

Part Two: Papal Authority and Holy War

Note Before Reading:

Pope Gelasius writes to Emperor Anastasius to reduce the chance that Emperor Anastasius rejects Chalcedonian Christology (494 AD). Pope Urban II calls upon Western Christians to help Eastern Christians by waging war against Muslims in Palestine (1095 AD). Pope Innocent IV affirmatively answers the question, “Is it licit to invade a land that infidels possess or which belongs to them?” (1245 AD). And Pope Boniface VIII argues that the Pope wields ultimate human authority in civil and spiritual matters (1302 AD).

1. Pope Gelasius I, Letter to Emperor Anastasius (494 AD)

Two there are, august Emperor, by which this world is ruled: the consecrated authority of priests and the royal power. Of these the priests have the greater responsibility, in that they will have to give account before God’s judgment seat for those who have been kings of men. You know, most clement son, that though first of the human race in dignity, you submit devoutly to those who are preeminent in God’s work, and inquire of them the causes of your salvation, so learning, as concerns the reception and due administration of the sacraments, to be subordinate in religious matters. You know, therefore, that you should depend upon their judgment in such questions, not attempt to bring them to your will. Even the masters of religion, conscious that divine providence has conferred the empire upon you, obey your laws as public discipline requires, lest they should seem to obstruct the judgment you pronounce even in trivialities. How resolutely, then, do you think should you obey those who were appointed to promulgate the venerable mysteries? As it is a serious matter, indeed, for bishops to remain silent on a question of proper observance in worship, so there would be grave danger if (perish the thought!) those who should obey them were to disregard them. And if the faithful ought in general to submit to the priesthood as a whole when it handles divine mysteries rightly, how much more should deference be shown to the occupant of the highest see, chosen by divine sovereignty to be first among priests and held in religious honor by the whole church ever since? Your Piety can plainly see that

by no human counsel whatever can one raise himself to the prerogative or status of one whom Christ's own words set over all, whom the venerable church has always acknowledged and devoutly accept as its Primate. Things fixed by divine judgment may by human presumption be assailed; overwhelmed by anybody's power they cannot be.

2. Pope Urban II's "Speech at Council of Clermont" (1095 AD), recounted by Fulcher of Chartres

"Although, O sons of God, you have promised more firmly than ever to keep the peace among yourselves and to preserve the rights of the church, there remains still an important work for you to do. Freshly quickened by the divine correction, you must apply the strength of your righteousness to another matter which concerns you as well as God. For your brethren who live in the east are in urgent need of your help, and you must hasten to give them the aid which has often been promised them. For, as the most of you have heard, the Turks and Arabs have attacked them and have conquered the territory of Romania [the Greek empire] as far west as the shore of the Mediterranean and the Hellespont, which is called the Arm of St. George. They have occupied more and more of the lands of those Christians, and have overcome them in seven battles. They have killed and captured many, and have destroyed the churches and devastated the empire. If you permit them to continue thus for awhile with impurity, the faithful of God will be much more widely attacked by them. On this account I, or rather the Lord, beseech you as Christ's heralds to publish this everywhere and to persuade all people of whatever rank, foot-soldiers and knights, poor and rich, to carry aid promptly to those Christians and to destroy that vile race from the lands of our friends. I say this to those who are present, it meant also for those who are absent. Moreover, Christ commands it.

"All who die by the way, whether by land or by sea, or in battle against the pagans, shall have immediate remission of sins. This I grant them

through the power of God with which I am invested. O what a disgrace if such a despised and base race, which worships demons, should conquer a people which has the faith of omnipotent God and is made glorious with the name of Christ! With what reproaches will the Lord overwhelm us if you do not aid those who, with us, profess the Christian religion! Let those who have been accustomed unjustly to wage private warfare against the faithful now go against the infidels and end with victory this war which should have been begun long ago. Let those who for a long time, have been robbers, now become knights. Let those who have been fighting against their brothers and relatives now fight in a proper way against the barbarians. Let those who have been serving as mercenaries for small pay now obtain the eternal reward. Let those who have been wearing themselves out in both body and soul now work for a double honor. Behold! on this side will be the sorrowful and poor, on that, the rich; on this side, the enemies of the Lord, on that, his friends. Let those who go not put off the journey, but rent their lands and collect money for their expenses; and as soon as winter is over and spring comes, let them eagerly set out on the way with God as their guide.”

3. Pope Innocent IV, *Commentaria Doctissima in Quinque Libros Decretalium* (1245)

Is it licit to invade a land that infidels possess or which belongs to them?...[T]he pope has jurisdiction over all men and power over them in law but not in fact, so that through this power which the pope possesses I believe that if a gentile, who has no law except the law of nature [to guide him], does something contrary to the law of nature, the pope can lawfully punish him, as for example in Genesis 19 where we see that the inhabitants of Sodom who sinned against the law of nature were punished by God. Since, however, the judgments of God are examples for us, I do not see why the pope, who is the vicar of Christ, cannot do the same and he ought to do it as long as he has the means to do so. And so some say that if they worship idols [the pope can judge and punish them] for it is natural for man to worship the one and only God, not creatures. Also, the pope can judge the Jews

if they violate the law of the Gospel in moral matters if their leaders do not punish them...The pope can order infidels to admit preachers of the Gospel in the lands that they administer, for every rational creature is made for the worship of God...If infidels prohibit preachers from preaching, they sin and so they ought to be punished. In all the aforementioned cases and in all others where it is licit for the pope to command those things, if the infidels do not obey, they ought to be compelled by the secular arm and war may be declared against them by the pope and not by anyone else.

4. Pope Boniface VIII, *Unam Sanctam* (1302 AD)

Certainly anyone who denies that the temporal sword is in the power of Peter has not paid heed to the words of the Lord. . . . Both then are in the power of the Church, the material sword and the spiritual. But the one is exercised for the church, the other by the church, the one by the hand of the priest, the other by the hand of kings and soldiers, though at the will and sufferance of the priest. One sword ought to be under the other and the temporal authority subject to the spiritual.

Interlude One: “Whiteness” and Imperialism

Many are confused about why law scholars discuss and analyze “whiteness” and “race.” This confusion is largely a product of what [Kendall Thomas](#) calls “organized forgetting”—the intentional, repetitive *omitting* of certain facts, narratives, and artifacts, and the repetitive *presenting* of other facts, narratives, and artifacts, communities form themselves to know some things and to overlook or disremember other things. Put bluntly, many don’t understand why law scholars discuss “whiteness” because they haven’t learned about how conceptions of “whiteness”—let alone white supremacy—have shaped countries including the U.S. They haven’t learned, as [Matthew Frye Jacobson](#) writes, that “Caucasians are made and not born”; that “White privilege in various forms has been a constant in American political culture since colonial times, but whiteness itself has been

subject to all kinds of contests and has gone through a series of historical vicissitudes”; or that “The contest over whiteness—its definition, its internal hierarchies, its proper boundaries, and its rightful claimants—has been critical to American culture throughout the nation’s history, and it has been a fairly untidy affair.” Their teachers omitted these histories.

One way to recover from these omissions is to recognize that conceptions of “whiteness” and “white people” aren’t eternal. Human beings invented them at particular moments in time. People in antiquity, for example, didn’t have or use either concept. Historian and race scholar Nell Irvin Painter makes this point in the first paragraph of [*The History of White People*](#).

Were there ‘white’ people in antiquity? Certainly some assume so, as though categories we use today could be read backwards over the millennia. People with light skin certainly existed well before our own times. But did anyone think they were ‘white’ or that their character related to their color? No, for neither the idea of race nor the idea of ‘white’ people had been invented, and people’s skin color did not carry useful meaning.

Law scholars widely agree that racial categories such as “whiteness” and “white people” are artifacts of European imperialism and colonization. As race scholar [Tommy Curry](#) writes, “[R]ace is a colonial category.”

We may be more specific. Whiteness is a colonial category birthed in Portugal. It is there, as theologian [Willie James Jennings](#) observes, that imperial expansion and a racial scale mingled and produced the start of whiteness. We see this in the first recorded slave auction. Reflecting on the year 1444, Portugal’s royal chronicler [Gomes Eanes de Azurara](#) writes:

[On] the next day, which was the 8th of the month of August, very early in the morning, by reason of the heat, the seamen began to make ready their boats, and to take out those captives, and carry them on shore, as they were commanded. And these, placed all together in that field, were a marvelous sight; for amongst them were some white enough, fair to look upon, and well proportioned; others were less

white like mulattoes; others again were as black as Ethiops [Ethiopians], and so ugly, both in features and in body, as almost to appear (to those who saw them) the images of a lower hemisphere.

All depicted are slaves; not all are equal. Some are “white,” and therefore “fair to look upon, and well proportioned.” Others are “black,” and hence “ugly”—as if they had come from Hell itself. In between the heavenly and hellish flesh are the mulattoes, the mixed who receive little discussion.

The scale Azurara presents is repackaged and disseminated by other European colonizers. The Spanish develop racial taxonomies ranging from sixteen to twenty-two categories deep. The Council of Provincial Mexico compile the latter for the Pope and the Spanish king in 1585—not even a century after Columbus’s initial voyage. This gift, like its counterparts, depict the movement of *limpieza de sangre*—“purity of blood”—with *limpieza de raza*—“purity of race.” Whiteness was pure and elite; everything else fell on a graded decline. Writing about this “pigmentocracy,” historian [C.R. Boxer](#) observes:

Persons of mixed blood were usually regarded with suspicion, dislike, and disdain, due to the erroneous belief that the colored blood contaminated the white, as the history of mesticos in the Portuguese empire and of mestizos in the Spanish empire shows.

Yes, Boxer acknowledges, there were exceptions. Some accepted the *mesticos* and *mestizos*—the racially mixed. “But both Iberian empires,” Boxer notes, “remained essentially a ‘pigmentocracy’ . . . based on the conviction of white racial, moral, and intellectual superiority—just as did their Dutch, English, and French successors.” As sociologist [Howard Winant](#) writes, those European powers held that they were “the whites, the masters, the true Christians.” Historian [Winthrop Jordan](#) succinctly captures this trend when he says the British colonists treated “Christian, free, English, and white” as metonyms. Each word is equivalent.

Conceptions of “whiteness” and “white people” shaped and suffused European colonialism—thus shaping and suffusing the globe.

Understanding European colonialism and its U.S. and global impacts requires discussing and analyzing its legal conceptions of “whiteness” and “race.” Let’s turn to see these connections in historical documents.

Part Three: Racialization, Iberian Conquest, & The Papacy

Note Before Reading:

Azurara, a Portuguese chronicler for Portugal’s royal court, recounts the first racialized slave auction that followed an initial phrase in Portugal’s imperial campaign and holy war in West Africa. Pope Nicholas V’s papal bulls justify this conquest, while Pope Alexander VI’s papal bull grants the majority of the Americas to Spain for conquest—something Christopher Columbus’s aim to dominate Indigenous communities anticipated.

1. Gomes Eanes de Azurara, *The Chronicle of the Discovery and Conquest of Guinea* (1444 AD)

O, Thou heavenly Father—who with thy powerful hand, without alteration of thy divine essence, governest all the infinite company of thy Holy City, and controlllest all the revolutions of higher worlds, divided into nine spheres, making the duration of ages long or short according as it pleaseth Thee—I pray Thee that my tears may not wrong my conscience; for it is not their religion but their humanity that maketh mine to weep in pity for their sufferings. And if the brute animals, with their bestial feelings, by a natural instinct understand the suffering of their own kind, what wouldst Thou have my human nature to do on seeing before my eyes that miserable company, and remembering that they too are of the generation of the sons of Adam.
..

[On] the next day, which was the 8th of the month of August, very early in the morning, by reason of the heat, the seamen began to make ready their boats, and to take out those captives, and carry them on shore, as they were commanded. And these, placed all together in that field, were a marvelous sight; for amongst them were some white enough, fair to look upon, and well proportioned; others were less

white like mulattoes; others again were as black as Ethiops [Ethiopians], and so ugly, both in features and in body, as almost to appear (to those who saw them) the images of a lower hemisphere. But what heart could be so hard as not to be pierced with piteous feelings to see that company? For some kept their heads low and their faces bathed in tears, looking one upon another; others stood groaning very dolorously, looking up to the height of heaven, fixing their eyes upon it, crying out loudly, as if asking help of the Father of Nature; others struck their faces with the palms of their hands, throwing themselves at full length upon the ground; others made their lamentations in the manner of a dirge, after the custom of their country. And though we could not understand the words of their language, the sound of it right well accorded with the measure of their sadness.

But to increase their sufferings still more, there now arrived those who had charge of the division of the captives, and who began to separate one from another, in order to make an equal partition of the fifts; and then was it needful to part fathers and sons, husbands and wives, brothers from brothers. No respect was shown either to friends or relations, but each fell where his lot took him. O powerful fortune, that with thy wheels doest and undoes, compassing the matters of this world as pleaseth thee, do thou at least put before the eyes of that miserable race some understanding of matters to come; that they may receive some consolation in the midst of their great sorrow. And you who are so busy in making that division of the captives, look with pity upon so much misery; and see how they cling to the other, so that you can hardly separate them. And who could finish that partition without very great toil? For as often as they had placed them in one part the sons, seeing their fathers in another, rose with great energy and rushed over to them; the mothers clasped their other children in their arms, and threw themselves flat on the ground with them; receiving blows with little pity for their own flesh, if only they might not be torn from them. And so troublously they finished the partition.

The Infante [Prince Henry of Portugal, the Navigator] was there, mounted upon a powerful steed, and accompanied by his retinue, making distribution of his favours, as a man who sought to gain but a small treasure from his share; for of the forty-six souls that fell to him as his fifth, he made a very speedy partition of these for his chief riches lay in his purpose; for he reflected with great pleasure upon the salvation of those souls that before were lost. And certainly his expectation was not in vain; for, as we said before, as soon as they understood our language they turned Christians with very little ado; and I who put together this history into this volume, saw in the town of Lagos boys and girls (the children and grandchildren of those first captives, born in this land) as good and true Christians as if they had directly descended, from the beginnings of the dispensation of Christ, from those who were first baptized....

[The Africans received] the greater benefit [than the Portuguese] for though their bodies were now brought into some subjection, that was a small matter in comparison of their souls, which would now possess true freedom for evermore.

2. Pope Nicholas V, *Dum Diversas* (1452)

[Decree grants King Alfonso V of Portugal permission] to invade, search out, capture, vanquish, and subdue all Saracens [Muslims] and pagans whatsoever, and other enemies of Christ wheresoever placed, and the kingdoms, dukedoms, principalities, dominions, possession, and all movable and immovable goods whatsoever held and possessed by them and to reduce their persons to perpetual slavery, and to apply and appropriate to himself and his successors the kingdoms, dukedoms, counties, principalities, dominions, possessions, and goods, and to convert them to his and their use and profit.

3. Pope Nicholas V, *Romanus Potifex* (1455)

The Roman pontiff, successor of the key-bearer of the heavenly kingdom and vicar of Jesus Christ, contemplating with a father's mind all the several climes of the world and the characteristics of all the nations dwelling in them and seeking and desiring the salvation of all, wholesomely ordains and disposes upon careful deliberation those things which he sees will be agreeable to the Divine Majesty and by which he may bring the sheep entrusted to him by God into the single divine fold, and may acquire for them the reward of eternal felicity, and obtain pardon for their souls. 'This we believe will more certainly come to pass, through the aid of the Lord, if we bestow suitable favors and special graces on those Catholic kings and princes, who like athletes and intrepid champions of the Christian faith. . . not only restrain the savage excesses of the Saracens and of other infidels, enemies of the Christian name, but also for the defense and increase of faith vanquish them and their kingdoms and habitations.

And so it came to pass that when a number of ships of this kind [caravels] had explored and taken possession of very many harbors, islands, and seas, they at length came to the province of Guinea, and having taken possession of some islands and harbors and the sea adjacent to that province, sailing farther they came to the mouth of a certain great river commonly supposed to be the Nile, and war was waged for some years against the people of those parts in the name of the said King Alfonso and of the Infante; and in it very many islands in that neighborhood were subdued and peacefully possessed, as they are still possessed together with the adjacent sea. Thence also many Guineamen and other negroes, taken by force, and some by barter of unprohibited articles, or by other lawful contracts of purchase, have been sent to the said Kingdoms. A larger number of these have been converted to the Catholic faith, and it is hoped by the help of divine mercy, that if such progress be continued with them, either those peoples will be converted to the faith or at least the souls of many of them will be gained for Christ.

4. Christopher Columbus, *Diary* (1492)

[October 12, 1492] They [Indigenous] ought to make good and skilled servants, for they repeat very quickly whatever we say to them. I think they can easily be made Christians, for they seem to have no religion. If it pleases our Lord, I will take six of them to Your Highness when I depart...

[October 14, 1492]...these people [Indigenous] are very unskilled in arms. Your Highnesses will see this for yourselves when I bring to you the seven that I have taken. After they learn our language I shall return them, unless Your Highnesses order that the entire population be taken to Castile, or held captive here. With 50 men you could subject everyone and make them do what you wished.

5. Pope Alexander VI, *Inter Caetera* (1493)

Alexander, bishop, servant of the servants of God, to the illustrious sovereigns, our very dear son in Christ, Ferdinand, king, and our very dear daughter in Christ, Isabella, queen of Castile, Leon, Aragon, Sicily, and Granada, health and apostolic benediction. Among other works well pleasing to the Divine Majesty and cherished of our heart, this assuredly ranks highest, that in our times especially the Catholic faith and the Christian religion be exalted and be everywhere increased and spread, that the health of souls be cared for and that barbarous nations be overthrown and brought to the faith itself. Wherefore inasmuch as by the favor of divine clemency, we, though of insufficient merits, have been called to this Holy See of Peter, recognizing that as true Catholic kings and princes, such as we have known you always to be, and as your illustrious deeds already known to almost the whole world declare, you not only eagerly desire but with every effort, zeal, and diligence, without regard to hardships, expenses, dangers, with the shedding even of your blood, are laboring to that end; recognizing also that you have long since dedicated to this purpose your whole soul and all your endeavors -- as witnessed in these times with so much glory to the Divine Name in your

recovery of the kingdom of Granada from the yoke of the Saracens -
- we therefore are rightly led, and hold it as our duty, to grant you even of our own accord and in your favor those things whereby with effort each day more hearty you may be enabled for the honor of God himself and the spread of the Christian rule to carry forward your holy and praiseworthy purpose so pleasing to immortal God.

We have indeed learned that you, who for a long time had intended to seek out and discover certain islands and mainlands remote and unknown and not hitherto discovered by others, to the end that you might bring to the worship of our Redeemer and the profession of the Catholic faith their residents and inhabitants, having been up to the present time greatly engaged in the siege and recovery of the kingdom itself of Granada were unable to accomplish this holy and praiseworthy purpose; but the said kingdom having at length been regained, as was pleasing to the Lord, you, with the wish to fulfill your desire, chose our beloved son, Christopher Columbus, a man assuredly worthy and of the highest recommendations and fitted for so great an undertaking, whom you furnished with ships and men equipped for like designs, not without the greatest hardships, dangers, and expenses, to make diligent quest for these remote and unknown mainlands and islands through the sea, where hitherto no one had sailed; and they at length, with divine aid and with the utmost diligence sailing in the ocean sea, discovered certain very remote islands and even mainlands that hitherto had not been discovered by others; wherein dwell very many peoples living in peace, and, as reported, going unclothed, and not eating flesh. Moreover, as your aforesaid envoys are of opinion, these very peoples living in the said islands and countries believe in one God, the Creator in heaven, and seem sufficiently disposed to embrace the Catholic faith and be trained in good morals. And it is hoped that, were they instructed, the name of the Savior, our Lord Jesus Christ, would easily be introduced into the said countries and islands.

....[Also] In the islands and countries already discovered are found gold, spices, and very many other precious things of divers kinds and

qualities. Wherefore, as becomes Catholic kings and princes, after earnest consideration of all matters, especially of the rise and spread of the Catholic faith, as was the fashion of your ancestors, kings of renowned memory, you have purposed with the favor of divine clemency to bring under your sway the said mainlands and islands with their residents and inhabitants and to bring them to the Catholic faith. Hence, heartily commending in the Lord this your holy and praiseworthy purpose, and desirous that it be duly accomplished, and that the name of our Savior be carried into those regions, we exhort you very earnestly in the Lord and by your reception of holy baptism, whereby you are bound to our apostolic commands, and by the bowels of the mercy of our Lord Jesus Christ, enjoin strictly, that inasmuch as with eager zeal for the true faith you design to equip and despatch this expedition, you purpose also, as is your duty, to lead the peoples dwelling in those islands and countries to embrace the Christian religion; nor at any time let dangers or hardships deter you therefrom, with the stout hope and trust in your hearts that Almighty God will further your undertakings.

And, in order that you may enter upon so great an undertaking with greater readiness and heartiness endowed with the benefit of our apostolic favor, we, of our own accord, not at your instance nor the request of anyone else in your regard, but of our own sole largess and certain knowledge and out of the fullness of our apostolic power, by the authority of Almighty God conferred upon us in blessed Peter and of the vicarship of Jesus Christ, which we hold on earth, do by tenor of these presents, should any of said islands have been found by your envoys and captains, give, grant, and assign to you and your heirs and successors, kings of Castile and Leon, forever, together with all their dominions, cities, camps, places, and villages, and all rights, jurisdictions, and appurtenances, all islands and mainlands found and to be found, discovered and to be discovered...[provides coordinates] With this proviso however that none of the islands and mainlands, found and to be found, discovered and to be discovered, beyond that said line towards the west and south, be in the actual possession of any Christian king or prince up to the birthday of our

Lord Jesus Christ just past from which the present year one thousand four hundred and ninety-three begins.

And we make, appoint, and depute you and your said heirs and successors lords of them with full and free power, authority, and jurisdiction of every kind; with this proviso however, that by this our gift, grant, and assignment no right acquired by any Christian prince, who may be in actual possession of said islands and mainlands prior to the said birthday of our Lord Jesus Christ, is hereby to be understood to be withdrawn or taken away. Moreover we command you in virtue of holy obedience that, employing all due diligence in the premises, as you also promise -- nor do we doubt your compliance therein in accordance with your loyalty and royal greatness of spirit - - you should appoint to the aforesaid mainlands and islands worthy, God-fearing, learned, skilled, and experienced men, in order to instruct the aforesaid inhabitants and residents in the Catholic faith and train them in good morals.

Furthermore, under penalty of excommunication late sententie to be incurred ipso facto, should anyone thus contravene, we strictly forbid all persons of whatsoever rank, even imperial and royal, or of whatsoever estate, degree, order, or condition, to dare, without your special permit or that of your aforesaid heirs and successors, to go for the purpose of trade or any other reason to the islands or mainlands, found and to be found, discovered and to be discovered, towards the west and south, by drawing and establishing a line from the Arctic pole to the Antarctic pole, no matter whether the mainlands and islands, found and to be found, lie in the direction of... [repeats aforementioned coordinates]

We trust in Him from whom empires and governments and all good things proceed, that, should you, with the Lord's guidance, pursue this holy and praiseworthy undertaking, in a short while your hardships and endeavors will attain the most felicitous result, to the happiness and glory of all Christendom. But inasmuch as it would be difficult to have these present letters sent to all places where desirable,

we wish, and with similar accord and knowledge do decree, that to copies of them, signed by the hand of a public notary commissioned therefor, and sealed with the seal of any ecclesiastical officer or ecclesiastical court, the same respect is to be shown in court and outside as well as anywhere else as would be given to these presents should they thus be exhibited or shown. Let no one, therefore, infringe, or with rash boldness contravene, this our recommendation, exhortation, requisition, gift, grant, assignment, constitution, deputation, decree, mandate, prohibition, and will. Should anyone presume to attempt this, be it known to him that he will incur the wrath of Almighty God and of the blessed apostles Peter and Paul. Given at Rome, at St. Peter's, in the year of the incarnation of our Lord one thousand four hundred and ninety-three, the fourth of May, and the first year of our pontificate.

Gratis by order of our most holy lord, the pope.

Part Four: Racialized Global Missions

Note Before Reading:

Nearly a century after Spain's 1492 edict expulsing Jews, Jesuit missionary Valignano employs a white supremacist racial scale while proposing global missions agendas and while discussing West Africans and American Indians.

1. The Alhambra Decree-- Edict of the Expulsion of the Jews of Spain (1492)

- (1) King Ferdinand and Queen Isabella, by the grace of God, King and Queen of Castile, Leon, Aragon, Sicily, Granada, Toledo, Valencia, Galicia, the Balearic Islands, Seville, Sardinia, Cordoba, Corsica, Murcia, Jaen, of the Algarve, Algeciras, Gibraltar, and of the Canary Islands, count and countess of Barcelona and lords of Biscay and Molina, dukes of Athens and Neopatria, counts of Rousillon and Cerdana, marquises of Oristan and of Gociano, to the prince Lord Juan, our very dear and much loved son, and to the other royal children, prelates, dukes, marquises, counts, masters of military orders,

priors, grandees, knight commanders, governors of castles and fortified places of our kingdoms and lordships, and to councils, magistrates, mayors, constables, district judges, knights, official squires, and all good men of the noble and loyal city of Burgos and other cities, towns, and villages of its bishopric and of other archbishoprics, bishoprics, dioceses of our kingdom and lordships, and to the residential quarters of the Jews of the said city of Burgos and of all the aforesaid cities, towns, and villages of its bishopric and of the other cities, towns, and villages of our aforementioned kingdoms and lordships, and to all Jews and to all individual Jews of those places, and to barons and women of whatever age they may be, and to all other persons of whatever law, estate, dignity, preeminence, and condition they may be, and to all to whom the matter contained in this charter pertains or may pertain. Salutations and grace.

- (2) You know well or ought to know, that whereas we have been informed that in these our kingdoms there were some wicked Christians who Judaized and apostatized from our holy Catholic faith, the great cause of which was interaction between the Jews and these Christians, in the courts which we held in the city of Toledo in the past year of one thousand, four hundred and eighty, we ordered the separation of the said Jews in all the cities, towns and villages of our kingdoms and lordships and [commanded] that they be given Jewish quarters and separated places where they should live, hoping that by their separation the situation would remedy itself. Furthermore, we procured and gave orders that inquisition should be made in our aforementioned kingdoms and lordships, which as you know has for twelve years been made and is being made, and by many guilty persons have been discovered, as is very well known, and accordingly we are informed by the inquisitors and by other devout persons, ecclesiastical and secular, that great injury has resulted and still results, since the Christians have engaged in and continue to engage in social interaction and communication they have had means and ways they can to subvert and to steal faithful Christians from our holy Catholic faith and to separate them from it, and to draw them to themselves and subvert them to their own wicked belief and conviction,

instructing them in the ceremonies and observances of their law, holding meetings at which they read and teach that which people must hold and believe according to their law, achieving that the Christians and their children be circumcised, and giving them books from which they may read their prayers and declaring to them the fasts that they must keep, and joining with them to read and teach them the history of their law, indicating to them the festivals before they occur, advising them of what in them they are to hold and observe, carrying to them and giving to them from their houses unleavened bread and meats ritually slaughtered, instructing them about the things from which they must refrain, as much in eating as in other things in order to observe their law, and persuading them as much as they can to hold and observe the law of Moses, convincing them that there is no other law or truth except for that one. This proved by many statements and confessions, both from these same Jews and from those who have been perverted and enticed by them, which has redounded to the great injury, detriment, and opprobrium of our holy Catholic faith.

- (3) Notwithstanding that we were informed of the great part of this before now and we knew that the true remedy for all these injuries and inconveniences was to prohibit all interaction between the said Jews and Christians and banish them from all our kingdoms, we desired to content ourselves by commanding them to leave all cities, towns, and villages of Andalusia where it appears that they have done the greatest injury, believing that that would be sufficient so that those of other cities, towns, and villages of our kingdoms and lordships would cease to do and commit the aforesaid acts. And since we are informed that neither that step nor the passing of sentence [of condemnation] against the said Jews who have been most guilty of the said crimes and delicts against our holy Catholic faith have been sufficient as a complete remedy to obviate and correct so great an opprobrium and offense to the faith and the Christian religion, because every day it is found and appears that the said Jews increase in continuing their evil and wicked purpose wherever they live and congregate, and so that there will not be any place where they further offend our holy faith, and corrupt those whom God has until now

most desired to preserve, as well as those who had fallen but amended and returned to Holy Mother Church, the which according to the weakness of our humanity and by diabolical astuteness and suggestion that continually wages war against us may easily occur unless the principal cause of it be removed, which is to banish the said Jews from our kingdoms. Because whenever any grave and detestable crime is committed by members of any organization or corporation, it is reasonable that such an organization or corporation should be dissolved and annihilated and that the lesser members as well as tile greater and everyone for the others be punished, and that those who perturb the good and honest life of cities and towns and by contagion can injure others should be expelled from those places and even if for lighter causes, that may be injurious to the Republic, how Much more for those greater and most dangerous and most contagious crimes such as this.

- (4) Therefore, we, with the counsel and advice of prelates, great noblemen of our kingdoms, and other persons of learning and wisdom of our Council, having taken deliberation about this matter, resolve to order the said Jews and Jewesses of our kingdoms to depart and never to return or come back to them or to any of them. And concerning this we command this our charter to be given, by which we order all Jews and Jewesses of whatever age they may be, who live, reside, and exist in our said kingdoms and lordships, as much those who are natives as those who are not, who by whatever manner or whatever cause have come to live and reside therein, that by the end of the month of July next of the present year, they depart from all of these our said realms and lordships, along with their sons and daughters, menservants and maidservants, Jewish familiars, those who are great as well as the lesser folk, of whatever age they may be, and they shall not dare to return to those places, nor to reside in them, nor to live in any part of them, neither temporarily on the way to somewhere else nor in any other manner, under pain that if they do not perform and comply with this command and should be found in our said kingdom and lordships and should in any manner live in them, they incur the penalty of death and the confiscation of all their

possessions by our Chamber of Finance, incurring these penalties by the act itself, without further trial, sentence, or declaration. And we command and forbid that any person or persons of the said kingdoms, of whatever estate, condition, or dignity that they may be, shall dare to receive, protect, defend, nor hold publicly or secretly any Jew or Jewess beyond the date of the end of July and from henceforth forever, in their lands, houses, or in other parts of any of our said kingdoms and lordships, under pain of losing all their possessions, vassals, fortified places, and other inheritances, and beyond this of losing whatever financial grants they hold from us by our Chamber of Finance.

- (5) And so that the said Jews and Jewesses during the stated period of time until the end of the said month of July may be better able to dispose of themselves, and their possession, and their estates, for the present we take and receive them under our Security, protection, and royal safeguard, and we secure to them and to their possessions that for the duration of the said time until the said last day of the said month of July they may travel and be safe, they may enter, sell, trade, and alienate all their movable and rooted possessions and dispose of them freely and at their will, and that during the said time, no one shall harm them, nor injure them, no wrong shall be done to them against justice, in their persons or in their possessions, under the penalty which falls on and is incurred by those who violate the royal safeguard. And we likewise give license and faculty to those said Jews and Jewesses that they be able to export their goods and estates out of these our said kingdoms and lordships by sea or land as long as they do not export gold or silver or coined money or other things prohibited by the laws of our kingdoms, excepting merchandise and things that are not prohibited.
- (6) And we command all councils, justices, magistrates, knights, squires, officials, and all good men of the said city of Burgos and of the other cities, towns, and villages of our said kingdoms and lordships and all our new vassals, subjects, and natives that they preserve and comply with and cause to be preserved and complied with this our charter

and all that is contained in it, and to give and to cause to be given all assistance and favor in its application under penalty of [being at] our mercy and the confiscation of all their possessions and offices by our Chamber of Finance. And because this must be brought to the notice of all, so that no one may pretend ignorance, we command that this our charter be posted in the customary plazas and places of the said city and of the principal cities, towns, and villages of its bishopric as an announcement and as a public document. And no one shall do any damage to it in any manner under penalty of being at our mercy and the deprivation of their offices and the confiscation of their possessions, which will happen to each one who might do this. Moreover, we command the [man] who shows them this our charter that he summon [those who act against the charter] to appear before us at our court wherever we may be, on the day that they are summoned during the fifteen days following the crime under the said penalty, under which we command whichever public scribe who would be called for the purpose of reading this our charter that the signed charter with its seal should be shown to you all so that we may know that our command is carried out.

- (7) Given in our city of Granada, the XXXI day of the month of March, the year of the birth of our lord Jesus Christ one thousand four hundred and ninety-two years.

I, the King, I the Queen,

I, Juan de Coloma, secretary of the king and queen our lords, have caused this to be written at their command.

Registered by Cabrera, Almacan chancellor.

2. Alessandro Valignano, S.J. *Sumario* (1580)

These people are all white, courteous and highly civilized, so much so that they surpass all the other known races of the world. They are naturally very intelligent, although they have no knowledge of sciences, because they are the most warlike and bellicose race yet discovered on the earth...

There is this difference between Indian and Japanese Christians, which in itself proves that there is really no room for comparison between them, for each one of the former was converted from some individual ulterior motive, and since they are blacks, and of small sense, they are subsequently very difficult to improve and turn into good Christians; whereas the Japanese usually become converted, not on some whimsical individual ulterior motive (since it is their suzerians who expect to benefit thereby and not themselves) but only in obedience to their lord's command; and since they are white and of good understanding and behavior, and greatly given to outward show, they readily frequent churches and sermons, and when they are instructed become very good Christians.

3. Alessandro Valignano, S.J. speaking of people from Mozambique (~1580)

They are a very untalented race...incapable of grasping our holy religion or practicing it; because of their naturally low intelligence they cannot rise above the level of the senses....; they lack any culture and are given to savage ways and vices, and as a consequence they live like brute beasts...In fine, they are a race born to serve, with no natural aptitude for governing....But through a just though hidden judgment of God, they are left in that state of impotence and regarded as a sterile reprobate land which gives no hope of yielding fruit for a long time to come.

4. Alessandro Valignano, S.J. speaking again of Indians (~1580)

A trait common to all these people (I am not speaking now of the so-called white races of China or Japan) is a lack of distinction and talent. As Aristotle would say, they are born to serve rather than to command. They are miserable and poor beyond measure and are given to low and mean tasks.... Most of them are very poor, but even the rich tradesmen have to hide their wealth from their tyrannical rulers. They go half-naked and live unpretentiously. More, they are all of a very low standard of intelligence.

Part Five: Indigenous Genocide & Spain

Note Before Reading:

European colonial and settler-colonial powers repeated championed “benevolent” and “malevolent” conquests of Native communities. Queen Isabella’s commands to “compel and force” Natives to labor as “free people” demonstrates the former mode of conquest. Enciso’s Joshua-inspired martial rhetoric demonstrates the latter. The Laws of Burgos advance benevolent racist rhetoric; the Requerimiento shows that colonial governments weaponized Enico-like discourses. Dominican priest and bishop Bartolomé de Las Casas describes Spain’s Indigenous genocide in An Account and resists it in a government-sponsored debate with Sepulveda recounted in In Defense.

1. Queen Isabella’s Proto-*Encomienda* Command (Dec. 20, 1503)

We are informed that because of the excessive liberty enjoyed by said Indians they avoid contact...with the Spaniards but wander about idle, and cannot be had by the Christians to convert to the Holy Catholic Faith; and in order that the Christians of said island...may not lack people to work their holdings for their maintenance, and may be able to take out what gold there is on the island...and because we desire that the said Indians be converted to our Holy Catholic Faith and taught its doctrines; and because this can be better done by having the Indians living in community with the Christians of the island, and by having them go

among them and associate with them, by which means they will help each other to cultivate and settle and increase the fruits of the island and take the gold which may be there and bring profit to my kingdom and subjects:

...I command you, our said Governor, that beginning from the day you receive my letter you will *compel* and *force* the said Indians to associate with the Christians of the island and to work on their buildings, and to gather and mine the gold and other metals, and to till the fields and produce food for the Christian inhabitants and dwellers of the said island; and you are to have each one paid on the day he works the wage and maintenance which you think he should have...and you are to order each cacique to take charge of a certain number of Indians so that you may make them work wherever necessary, and so that on feast days and such days as you think proper they may be gathered together to hear and be taught in matters of the Faith....This the Indians shall perform as free people, which they are, and not as slaves. And see to it that the said Indians are well treated, those who become Christians better than the others and do no consent or allow any person to do them any harm or oppress them.

I, the Queen.

2. Spanish conquistador and lawyer Martín Frenández de Enciso (~1519 AD)

And afterwards Joshua conquered all the land of Canaan by force of arms, and many were killed and those who were captured were given as slaves and served the people of Israel. And all this was done by the will of God because they were idolaters...

The [Spanish] king might very justly send men to require those idolatrous Indians to hand over their lands to him, for it was given him by the pope. If the Indians would not do this, he might justly wage war against them, kill, and enslave those captured in war, precisely as Joshua treated the inhabitants of the land of Canaan.

3. Laws of Burgos (1512 AD)

By nature they [Indians] are inclined to idleness and vice, and have no manner of virtue or doctrine...

We order and command that the citizen to whom the said Indians are given in encomienda shall, upon the land that is assigned to him, be obliged to erect a structure to be used for a church...and he shall also teach them the Ten Commandments and the Seven Deadly Sins and the Articles of the Faith, that is, to those he thinks have the capacity and ability to learn them; but all this shall be done with great love and gentleness.

4. *El Requerimiento* (1513 AD)

If you do not do this [accept Spanish rule and the Christian faith], however, or resort maliciously to delay, we warn you that, with the aid of God, we will enter your land against you with force and will make war in every place and by every means we can and are able, we will then subject you to the yoke and authority of the Church and Their Highnesses [Spanish Monarchy]. We will take you and your wives and children and make them slaves, and as such we will sell them, and dispose of you and them as Their Highnesses order. And we will take your property and will do to you all the harm and evil we can, as is done to vassals who will not obey their lord or who do not wish to accept him, or who resist and defy him. We avow that the deaths and harm which you will receive thereby will be your own blame, and not that of Their Highnesses, nor ours, nor of the gentlemen who come with us.

5. Bartolomé de Las Casas, *A Short Account of the Destruction of the Indies* (1552)

As we have said, the island of Hispaniola was the first to witness the arrival of Europeans and the first to suffer the wholesale slaughter of its people and the devastation and depopulation of the land. It all began with the Europeans taking native women and children both as servants and to satisfy their own base appetites....They forced their way into native settlements, slaughtering everyone they found there, including small children, old men, pregnant women, and even women who had just given birth...they spared no one, erecting especially wide gibbets on which they could string their victims up from their feet just off the ground and burn them alive thirteen at a time, in honour of our Saviour and the twelve Apostles.

6. Bartolomé De Las Casas, *In Defense of the Indians* (1550)

They [Indians] are our brothers, redeemed by Christ's most precious blood, no less than the wisest and most learned men in the whole world.... Christ wanted love to be called his single commandment. This we owe to all men. Nobody is excepted. "There is no room for distinction between Greek and Jew, between the circumcised and the uncircumcised, or between barbarian and Scythian, slave and free man. There is only Christ: he is everything and he is in everything....

Long before they [Indians] had heard the word Spaniard, they had properly organized states, wisely ordered by excellent laws, religion, and custom....Furthermore they are so skilled in every mechanical art that with every right they should be set ahead of all the nations of the known world on this score, so very beautiful in their skill and artistry are the things these people produces in the grace of its architecture, its painting, and its needlework....

Therefore, if Sepulveda's opinion (that the campaigns against the Indians are lawful) is approved, the most holy faith of Christ, to the

reproach of the name Christian, will be hateful and detestable to all the peoples of the world to whom the word will come of the inhuman crimes that the Spaniards inflict on the unhappy race, so that neither in our lifetime nor in the future will they want to accept our faith under any condition, for they see that its first heralds are not pastors by plunderers, not fathers but tyrants, and that those who profess it are ungodly, cruel, and without pity in their merciless savagery.

Part Six: English Colonial Law

Conceptions of whiteness and race filled English colonial law. We shall consider three such examples.

1. James Town Crown Charter (1606)

Following Queen Elizabeth I's death in 1603, a group of English merchants and investors organized the Virginia Company as a joint stock company to establish English colonies in North America. They received a patent to this end from King James in 1606. The Crown charter justified this colonial venture thus:

We, greatly commending, and graciously accepting of, their Desire [the Company's] for the furtherance of so noble a Work, which may, by Providence of Almighty God, hereafter lend to the glory of his divine Majesty, in propagating of Christian Religion to such People, as yet live in Darkness and miserable Ignorance of the true knowledge and worship of God, and may in time bring the Infidels and Savages, living in those Parts, to human Civility, and to a settled and quiet Government, Do, by these our Letters Patent, graciously accept of, and agree to, their humble and well-intended Desires.

Echoing Papal and Iberian royal documents, the Crown charter presents Natives as lost in “Darkness and miserable Ignorance,” as “Infidels and Savages” lacking Christianity, civility and government—all of which the charter presumes the English have.

2. Whiteness and Disparate Cruelty (1640)

In July of 1640, the General Virginia Court had to decide a case involving three runaway servants. The trio had fled Virginia, were captured in Maryland, and now stood before the colonial court, condemned guilty, and awaiting their sentencing.

An all-white English court delivered the sentencing for the same “crime” in three stages. First, it declared that each runaway servant was to be whipped. Then it pronounced additional sentencing for two of the three defendants:

One called *Victor, a dutchman*, the other a *Scotchman*, called *James Gregory*, shall first serve out their times with their master according to their Indentures, and one whole year a piece after the time of their service is Expired...and after that service...to serve the colony for three whole years apiece.

The court specified the names *and* nationalities of two Euro-descended defendants and gave them the same sentence.

The court closes by pivoting to third runaway servant. He isn’t Euro-descended; he hails from Africa. And the court sentences him thus:

The third being a negro named *John Punch* shall serve his said master or his assigns for the time of his natural Life here or elsewhere.

The court specifies the Afro-descendant defendant’s name but *not* his nationality. For the Court, John Punch is simply “a negro.” More important, the court further departs from sentencing parity by levying a drastically different servitude requirement for John than his counterparts. Whereas Victor and James must serve four years beyond their previously assigned indentures, John must remain in servitude for life.

Two additional legal factors in this ruling demand attention. First, the court's disparate cruelty lacked legal precedent. As renowned Judge and legal scholar [A. Leon Higginbotham Jr.](#) writes, the "imposition of lifetime servitude on the black participant alone was not predicated on any previous legislative enactment or any other colonial judicial precedent." Second, although the court grants that all three men committed the same "crime"—and that the Dutchman was the group's leader—the court never provided a rationale for its disparate sentencings. It appears the colonial court's members didn't believe they had to.

There are no records of anyone pleading John Punch's case. No one with any significant influence or power called for an appeal. Given the limited written records available, it appears likely that John suffered life-long servitude: The court hadn't even provided John the possibility that his master might free him. John suffered an activist court's intentional degrading treatment of "negroes." His body was unjustly condemned to keep a brutal score.

3. Whiteness and Black Sexuality (1662)

In 1662, the Virginia General Assembly gathered to craft legislation addressing what its members deemed were the colony's pressing problems. All gathered were English. All gathered were men. All gathered were self-identified Christians. And all gathered were committed to the colony's burgeoning racialized slavocracy.

These social locations and common commitment surfaced in a penal law the assembly passed about sexuality.

1662. Act XII. Children got by an Englishman upon a Negro woman should be bond or free according to the condition of the mother, and if any Christian shall commit fornication with a Negro man or woman, he shall pay double the fines of a former act.

The assembly's penal decree about interracial sexuality is short but dense. It opens by discussing the children of socially polarized parents: Englishmen and Negro women. "Englishman" is a precise code for "a free-White-Christian-English-male." "Negro woman" is less precise: It codes for "a Black-non-Christian-woman," thus eliding the woman's national or tribal heritage and leaving undesignated her social status as enslaved or free.

Having flagged the children of a socially asymmetrical couple, the penalty proceeds by stressing the limited application of normal English law. Traditionally, English law deemed that a child's status followed their father's status. The assembly refused to apply this paternalistic logic to the progeny of Englishmen and Negro women. The status of these children followed the maternal line: If their mother was free, they were free; if she was enslaved, they were enslaved. And at this point in colonial Virginia's history, enslavement was perpetual by legal default. The socio-economic consequences of this law were enormous. As Judge and legal scholar [A. Leon Higginbotham Jr.](#) writes: "Once it was established that the black woman's child took the mother's status, the master class gained a crucial economic advantage—its labor force reproduced itself." The thousands of illicit children of free White male slavers and enslaved Black women "were not only bastards, but slaves."

The penalty's midpoint introduces another social polarity: "Christian" and "Negro." The former is the unmarked category "White Christian"; the latter is the unmarked category "Negro Heathen." Hence, "Christian" is racially coded while "Negro" is religiously coded. And using this multi-layered discourse, the assembly decrees that fornication between *any Christian* and *any Negro* is profoundly immoral: It demands double the usual fine for fornication.

Law, gender, economics, race, sexuality, slavery, parents, progeny, and Christianity—the Virginia General Assembly crafted a penal code that put each in service of the colony's growing slavocracy. It enriched and advantaged white slavers and the English empire while it plundered and shackled the African diaspora. Indeed, what was a doubled fine to a

bastard-producing white slaver who could continue to grow his labor force through the Black women he owned? Given colonial Virginia's racial demographics, the answer appears to be "not much."

4. Negro Cloth (1735)

Colonial South Carolina's Slave Codes were extensive, regulating every aspect of an enslaved person's life. The Slave Codes' details make this clear. Consider, for instance, the 1735 Slave Codes' determination about what enslaved persons could wear. The enslaved had the government's permission to dress in:

Negro cloth, duffelds, coarse kearsies, osnabrigs, blue linen, checked linen or coarse garlix or calicoes, checked cottons, or scotch plaids, not exceeding ten shillings per yard for the said checked cottons, scotch plaids, glarix or calico...

The colonial government didn't simply prohibit the enslaved from wearing certain clothing; it specified precisely what kinds of clothes enslaved Blacks could wear. Textures, materials, colors, patterns, and costs—the 1735 Slave Code detailed each aspect of legal "Negro cloth." Thus, what the enslaved wore testified to how rigorous South Carolina's lawmakers were in codifying complete Black subjugation into law.

These colonial lawmakers were also ruthless in ensuring that enslaved Blacks who transgressed their laws suffered. Consider again the sphere of clothing. The 1735 Slave Code pronounced that any enslaved person who wore clothing "above" negro cloth could have their clothes taken by "all and every constable and other persons." It was lawful to forcefully disrobe enslaved Blacks whose clothes didn't comport with the slavocracy's totalizing white hegemony.

Interlude Two: A Word on U.S. Imperialism

The U.S.'s founding politicians intended to make an empire, and drafted laws accordingly. In journals for the federal convention, James Madison recorded the convenors' common belief that they gathered to "[lay] the foundation for a great empire."³ In the *Federalist Papers*, Alexander Hamilton, argued that the country is "an empire" and "in many respects the most interesting in the world."⁴ John Jay built on Hamilton's claims, contending that "Providence has in a particular manner blessed [independent America] with a variety of soils and productions" for the empire's settler colonial expansion.⁵ When Madison worried that White settler colonialism might fracture the nascent empire, Thomas Jefferson assured him that it would not. "We should have such an empire for liberty as...never surveyed since the creation; and I am persuaded no constitution was ever before so well calculated as ours for extensive empire and self-government."⁶

Following these founders, the fourth U.S. Supreme Court Justice explicitly referred to the "American Empire" in *Loughborough v. Blake* (1820) while considering the breadth of Congress' jurisdiction to impose taxation. He writes:

The 8th section of the 1st article gives to Congress the "power to lay and collect taxes, duties, imposts and excises" for the purposes thereafter mentioned. This grant is general, without limitation as to place. It consequently extends to all places over which the government extends. If this could be doubted, the doubt is removed by the subsequent words which modify the grant. These words are, "but all duties, imposts, and excises, shall be uniform throughout the United States." It will not be contended that the modification of the power extends to places to which the power itself does not extend. The power then to lay and collect duties, imposts, and excises may be exercised and must be exercised throughout

³ James Madison, *Records of the Federal Convention* Vol. 2, 452.

⁴ Alexander Hamilton, "Federalist #1," *The Federalist Papers*, 87.

⁵ John Jay, "Federalist #2," *The Federalist Papers*, 91.

⁶ Quoted in Adam Dahl, *Empire of The People: Settler Colonialism and the Foundations of Modern Democratic Thought* (Lawrence, KS: University Press of Kansas, 2018), 66.

the United States. Does this term designate the whole, or any particular portion of the American empire?

Eighty years later, the Supreme Court employed Marshall's phrase while deciding about the laws that would enact the U.S.'s jurisdiction over its newly acquired colony Puerto Rico.

In *Downes v. Bidwell* (1901), the court had to determine if “merchandise brought into the port of New York from Porto Rio since the passage of the Foraker act is exempt from duty, notwithstanding the 3d section of that act which requires the payment of ‘15 per centum of the duties which are required to be levied, collected, and paid upon like articles of merchandise imported from foreign countries.’” While providing the Court's determination, Justice Henry Brown twice alludes to Marshall's phrase “American Empire.” Allusion one arises in a passage about the U.S.'s power to acquire territories:

We are also of opinion that the power to acquire territory by treaty implies, not only the power to govern such territory, but to prescribe upon what terms the United States will receive its inhabitants, and what their status shall be in what Chief Justice Marshall termed the “American Empire.” There seems to be no middle ground between this position and the doctrine that if their inhabitants do not become, immediately upon annexation, citizens of the United States, their children thereafter born, whether savages or civilized, are such, and entitled to all the rights, privileges and immunities of citizens. If such be their status, the consequences will be extremely serious. Indeed, it is doubtful if Congress would ever assent to the annexation of territory upon the condition that its inhabitants, however foreign they may be to our habits, traditions, and modes of life, shall become at once citizens of the United States.

As Justice Brown notes, Congress wanted complete control over what rights, privileges, and immunities *savages*—a centuries old racist trope designating non-Whites—had within the U.S. White privilege must be protected, it must be policed. It cannot fall prey, Justice Brown implies, to those racial others—

those foreigners—with different “habits, traditions, and modes of life,” for these are what perpetuate the White Empire’s Whiteness into the future.

Justice Brown’s second allusion to Marshall’s “American Empire” comes at the end of his decision. He writes:

Patriotic and intelligent men may differ widely as to the desirableness of this or that acquisition, but this is solely a political question. We can only consider this aspect of the case so far as to say that no construction of the Constitution should be adopted which would prevent Congress from considering each case upon its merits, unless the language of the instrument imperatively demand it. A false step at this time might be fatal to the development of what Chief Justice Marshall called the American Empire. Choice in some cases, the natural gravitation of small bodies towards large ones in others, the result of successful war still in others, may bring about conditions which would render the annexation of distant possessions desirable. If those possessions are inhabited by alien races, differing from us in religion, custom, laws, methods of taxation, and modes of thought, the administration of government and justice, according to Anglo-Saxon principles, may for a time be impossible; and the question at once arises whether larger concessions ought not to be made for a time, that ultimately our own theories may be carried out, and the blessings of a free government under the Constitution extended them. We decline to hold that there is anything in the Constitution to forbid such action.

We are therefore of opinion that the island of Porto Rico is a territory appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution; that the Foraker act is constitutional, so far as it imposes duties upon imports from such island, and that the plaintiff cannot recover back the duties exacted in this case.

Having noted the potentially grave danger the White Empire faces by receiving non-White Puerto Ricans, Justice Brown stresses the differences between Puerto Ricans and Anglo-Saxons. [As Albert Memmi and Robert A.](#)

[Williams, Jr.](#) note, such emphasis on racial difference is a standard trope in racist documents of colonial empires. So too is benevolent racism, depicted here in the willingness to bestow “the blessings of a free government under the Constitution” to Puerto Rico’s native inhabitants—the non-Whites. Let’s keep these links between U.S. imperial power and legal conceptions of whiteness as we turn to consider examples of racialization in U.S. law.

Part Seven: Whiteness & Race in Early U.S. Law

U.S. Founders designed the country to be a White nation. We can see this in the laws they crafted and in their personal correspondence with other nations. We shall consider an example of each.

1. Whiteness in Early US Law

The US Constitution did not originally define the country’s citizenry. But it did give Congress the authority to establish the criteria for granting citizenship after birth. [Article I](#) grants Congress the power “To establish a uniform Rule of Naturalization.”

Though members of the US’s first Congress disagreed about slavery, they all supported the country’s first immigration law, the [1790 Naturalization Act](#). It reads:

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That any [Alien](#) being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof on application to any common law Court of record in any one of the States wherein he shall have resided for the term of one year at least, and making proof to the satisfaction of such Court that he is a person of good character, and taking the oath or affirmation prescribed by law to support the Constitution of the United States, which Oath or Affirmation such Court shall administer, and the Clerk of such Court shall record such Application, and the

proceedings thereon; and thereupon such person shall be considered as a Citizen of the United States.

This law's racial prerequisite clause reflects Congress's commitment to construct a pigmentocracy. And it had several historic predecessors and antecedents. As [Ian Haney López](#) writes:

The racial prerequisite clause “mirrored not only the de facto laws of birthright citizenship, but also the racially restrictive naturalization laws of several states. At least three states had previously limited citizenship to “white persons”: Virginia in 1779, South Carolina in 1784, and Georgia in 1785. Though there would be many subsequent changes in the requirements for federal naturalization, racial identity endured as the bedrock requirement for the next 162 years. In every naturalization act from 1790 until 1952, Congress included the “white person” prerequisite.

From 1790 until 1870, U.S. law only allowed white people to naturalize. From 1870 to 1952, it allowed white people and “persons of African nativity, or African descent”—the descendants of US slaves—to naturalize, but no others. Thus, the Founder's white-person racial prerequisite clause permeated U.S. naturalization laws and their accompanying legal, social, and economic privileges for over 160 years.

2. Whiteness in The Founders' Correspondence

While serving as President Washington's Secretary of State in 1792, [Thomas Jefferson](#) wrote the following response to the British minister who asked him what the U.S.'s positions were on Indian land rights and the Doctrine of Discovery:

We consider it as established by the usage of different nations into a kind of *Jus gentium* [Law of Nations] for America, that a white nation settling down and declaring that such and such are there limits, makes an invasion of those by any other white nation an act of war, but gives no right of soil against the native possessors.

Speaking as Secretary of State, Jefferson acknowledges that the U.S.'s leaders see the country as a White nation, just as they see other European countries as White nations, under the Law of Nations, which does not require White nations to “give” Indigenous peoples land rights. This racialization of law, nation, and land undergirded US settler colonialism and imperialism.

Part Eight: Whiteness & Race in Early U.S. Imperialism

U.S. Founders and prominent ante-Bellum governmental leaders labor to build the U.S. empire through treaties with Arab countries, doctrines about U.S. Western-Hemispheric hegemony, and war-infused legal strategizing over western-expansion against Indigenous communities and Mexico.

1. Treaty of Peace and Friendship, Signed at Tripoli Nov. 4, 1796

Treaty of Peace and Friendship, signed at Tripoli November 4, 1796 (3 Ramada I, A. H. 1211), and at Algiers January 3, 1797 (4 Rajab, A. H. 1211). Original in Arabic. Submitted to the Senate May 29, 1797. (Message of May 26, 1797.) Resolution of advice and consent June 7, 1797. Ratified by the United States June 10, 1797. As to the ratification generally, see the notes. Proclaimed June 10, 1797.

ARTICLE 1.

There is a firm and perpetual Peace and friendship between the United States of America and the Bey and subjects of Tripoli of Barbary, made by the free consent of both parties, and guaranteed by the most potent Dey & regency of Algiers.

ARTICLE 2.

If any goods belonging to any nation with which either of the parties is at war shall be loaded on board of vessels belonging to the other party they shall pass free, and no attempt shall be made to take or detain them.

ARTICLE 3.

If any citizens, subjects or effects belonging to either party shall be found on board a prize vessel taken from an enemy by the other party, such citizens or subjects shall be set at liberty, and the effects restored to the owners.

ARTICLE 4.

Proper passports are to be given to all vessels of both parties, by which they are to be known. And, considering the distance between the two countries, eighteen months from the date of this treaty shall be allowed for procuring such passports. During this interval the other papers belonging to such vessels shall be sufficient for their protection.

ARTICLE 5

A citizen or subject of either party having bought a prize vessel condemned by the other party or by any other nation, the certificate of condemnation and bill of sale shall be a sufficient passport for such vessel for one year; this being a reasonable time for her to procure a proper passport.

ARTICLE 6

Vessels of either party putting into the ports of the other and having need of provisions or other supplies, they shall be furnished at the market price. And if any such vessel shall so put in from a disaster at sea and have occasion to repair, she shall be at liberty to land and reembark her cargo without paying any duties. But in no case shall she be compelled to land her cargo.

ARTICLE 7.

Should a vessel of either party be cast on the shore of the other, all proper assistance shall be given to her and her people; no pillage shall be allowed; the property shall remain at the disposition of the owners, and the crew protected and succoured till they can be sent to their country.

ARTICLE 8.

If a vessel of either party should be attacked by an enemy within gunshot of the forts of the other she shall be defended as much as possible. If she be in port she shall not be seized or attacked when it is in the power of the other party to protect her. And when she proceeds to sea no enemy shall be allowed to pursue her from the same port within twenty four hours after her departure.

ARTICLE 9.

The commerce between the United States and Tripoli,-the protection to be given to merchants, masters of vessels and seamen,- the reciprocal right of establishing consuls in each country, and the privileges, immunities and jurisdictions to be enjoyed by such consuls, are declared to be on the same footing with those of the most favoured nations respectively.

ARTICLE 10.

The money and presents demanded by the Bey of Tripoli as a full and satisfactory consideration on his part and on the part of his subjects for this treaty of perpetual peace and friendship are acknowledged to have been received by him previous to his signing the same, according to a receipt which is hereto annexed, except such part as is promised on the part of the United States to be delivered and paid by them on the arrival of their Consul in Tripoly, of which part a note is likewise hereto annexed. And no presence of any periodical tribute or farther payment is ever to be made by either party.

ARTICLE 11.

As the government of the United States of America is not in any sense founded on the Christian Religion,-as it has in itself no character of enmity against the laws, religion or tranquility of Musselmen,-and as the said States never have entered into any war or act of hostility against any Mehomitan nation, it is declared by the parties that no pretext arising from religious opinions shall ever produce an interruption of the harmony existing between the two countries.

ARTICLE 12.

In case of any dispute arising from a notation of any of the articles of this treaty no appeal shall be made to arms, nor shall war be declared on any pretext whatever. But if the (consul residing at the place where the dispute shall happen shall not be able to settle the same, an amicable reference shall be made to the mutual friend of the parties, the Dey of Algiers, the parties hereby engaging to abide by his decision. And he by virtue of his signature to this treaty engages for himself and successors to declare the justice of the case according to the true interpretation of the treaty, and to use all the means in his power to enforce the observance of the same.

2. Monroe Doctrine (1823)

In 1823, many within the U.S. Federal Government sought to remove colonizing Europeans from the western hemisphere. To this end, Secretary of State John Quincy Adams crafted a foreign policy that came to be called the “Monroe Doctrine” in honor of President James Monroe. President Monroe outlined the principles of this policy in his seventh annual message to Congress, excerpted here.

... At the proposal of the Russian Imperial Government, made through the minister of the Emperor residing here, a full power and instructions have been transmitted to the minister of the United States at St. Petersburg to arrange by amicable negotiation the respective rights and interests of the two nations on the northwest coast of this continent. A

similar proposal has been made by His Imperial Majesty to the Government of Great Britain, which has likewise been acceded to. The Government of the United States has been desirous by this friendly proceeding of manifesting the great value which they have invariably attached to the friendship of the Emperor and their solicitude to cultivate the best understanding with his Government. *In the discussions to which this interest has given rise and in the arrangements by which they may terminate the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers. . .*⁷

It was stated at the commencement of the last session that a great effort was then making in Spain and Portugal *to improve the condition* of the people of those countries, and that it appeared to be conducted with extraordinary moderation. It need scarcely be remarked that *the results have been so far very different from what was then anticipated*. Of events in that quarter of the globe, with which we have so much intercourse and from which we derive our origin, we have always been anxious and interested spectators. The citizens of the United States cherish sentiments the most friendly in favor of the liberty and happiness of their fellow-men on that side of the Atlantic. In the wars of the European powers in matters relating to themselves we have never taken any part, nor does it comport with our policy to do so. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defense. *With the movements in this hemisphere we are of necessity more immediately connected, and by causes which must be obvious to all enlightened and impartial observers*. The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments; and to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled

⁷ Emphases in this document are added.

felicity, this whole nation is devoted. *We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintain it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States.* In the war between those new Governments and Spain we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur which, in the judgment of the competent authorities of this Government, shall make a corresponding change on the part of the United States indispensable to their security.

The late events in Spain and Portugal shew that Europe is still unsettled. Of this important fact no stronger proof can be adduced than that the allied powers should have thought it proper, on any principle satisfactory to themselves, to have interposed by force in the internal concerns of Spain. To what extent such interposition may be carried, on the same principle, is a question in which all independent powers whose governments differ from theirs are interested, even those most remote, and surely none of them more so than the United States. *Our policy in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is, not to interfere in the internal concerns of any of its powers; to consider the government de facto as the legitimate government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy, meeting in all instances the just claims of every power, submitting to injuries from none. But in regard to those continents circumstances are eminently and conspicuously different.*

It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can anyone believe that our southern brethren, if left to themselves, would adopt it of their

own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference. If we look to the comparative strength and resources of Spain and those new Governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in hope that other powers will pursue the same course. . . .

3. Doctrines of Discovery and Indigenous Dispossession

The Supreme Courts of the United States and Canada explicitly link Christianity and racist practices of Indigenous dispossession. Consider the U.S. Supreme Court's ruling in [*Johnson v. McIntosh* \(1823\)](#). There Chief Justice John Marshall grounds the United State's power to "extinguish the Indian title of occupancy, either by purchase or by conquest" in the fifteenth-century, Papal-produced *doctrine of discovery*. Here's Chief Justice Marshall at length:

On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all; and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendancy. The potentates of the old world found no difficulty in convincing themselves that they made ample compensation to the inhabitants of the new, by bestowing on them civilization and Christianity, in exchange for unlimited independence. But, as they were all in pursuit of nearly the same object, it was necessary, in order to avoid conflicting settlements, and conquest war with each other, to establish a principle, which all should acknowledge as the law by which the right of acquisition, which they all asserted, should be regulated as between themselves. This principle was, that discover gave title to the government by whose subjects, or by whose authority, it was made, against all other European governments, which title might be consummated by possession.

The exclusion of all other Europeans, necessarily gave to the nation making the discovery the sole right of acquiring the soil from the natives and establishing settlements upon it. It was a right with which no Europeans could interfere. It was a right which all asserted for themselves, and to the assertion of which, by others, all assented.

. . . In establishment of these relations, the rights of the original inhabitants were, in no instance, entirely disregarded; but were necessarily, to a considerable extent, impaired. They were admitted to the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle, that discovery gave exclusive title to those who made it.

. . . No one of the powers of Europe gave its full assent of this principle more unequivocally than England. The documents upon this subject are ample and complete. So early as the year 1496, her monarch granted a commission to the Cabots, to discover countries then unknown to *Christian people*, and to take possession of them in the name of the king of England. Two years afterwards, Cabot proceeded on this voyage, and discovered the continent of North America, along which he sailed as far south as Virginia. To this discovery the English trace their title.

In this effort made by the English government to acquire territory on this continent, we perceive a complete recognition of the principle which has been mentioned. The right of discovery given by this commission is confined to countries “then unknown to all Christian people;” and of these countries Cabot was empowered to take possession in the name of the King of England.

. . . [The United State’s “civilized inhabitants”] maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest . . .

. . . Frequent and bloody wars, in which the whites were not always the aggressors, unavoidably ensued. European policy, numbers, and skill prevailed. As the white population advanced, that of the Indians necessarily receded.

. . . However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear; if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land, and cannot be questioned. So, too, with respect to the concomitant principle, that the Indian inhabitants are to be considered merely as occupants, to be protected, indeed, while in peace, in the possession of their lands, but to be deemed incapable of transferring the absolute title to others. However this restriction may be opposed to natural right, and to the usages of civilized nations, yet, if it be indispensable to that system under which the country has been settled, and be adapted to the actual condition of the two people, it may, perhaps, be supported by reason, and certainly cannot be rejected by Courts of justice.

Do you see the legal linking of Christianity and Indigenous dispossession? Do you see the presumptions that Europeans are Christians and White? Do you see the linking of Christianity and whiteness? Do you see the presumed white supremacy detailed in terms of character, culture, and religion? And do you see how these conceptual ties frame Chief Justice Marshall’s contention that the U.S. government has the power to extinguish Indigenous occupancy titles?

Now, more briefly, consider Canada’s Supreme Court ruling in [*St. Catherine’s Milling and Lumber Co. v. R. \(1887\)*](#). Drawing upon Chief Justice Marshall’s ruling in *Johnson v. McIntosh*, Lord Watson’s decision argued:

At the time of the discovery of America, and long after, it was an accepted rule that heathen and infidel nations were perpetual enemies, and that the Christian prince or people first discovering and taking possession of the country became its absolute proprietor, and could deal with the lands as such. It is a rule of the common law that property is the creature of the law and only continues to exist while the law that creates and regulates it subsist. The Indians had no rules or regulations which could be considered laws.

Do you again see the legal linking of Christianity to Indigenous dispossession? Do you see the white-supremacy saturated presumptions about European superiority? Do you see how those presumptions relate to Christianity (“Christian prince or people”)?

Johnson v. McIntosh and *St. Catherine's Milling* make it clear: The Supreme Courts of the United States and Canada explicitly link Christianity and racist practices of Indigenous dispossession.

4. Senator Calhoun's Congressional Speech

The U.S. waged an expansionist war against Mexico between 1846 and 1848. As the war concluded, the annexation of Mexican land posed a profound problem for white politicians. As [Juan Perea](#) observes: “Adding Mexican lands to the United States meant adding racially undesirable Mexicans to the population. The prospect of bringing mixed-race Mexicans into the Anglo-Saxon republic of the United States ignited fears of the degradation of white supremacy as well as fears concerning the survival of American democracy.” [Senator John C. Calhoun's](#) comments before Congress are representative of this common Congressional concern.

[I]t is without example or precedent, either to hold Mexico as a province, or to incorporate her into our Union. No example of such a line of policy can be found. We have conquered many of the neighboring tribes of Indians, but we have never thought of holding

them in subjection—never of incorporating them into our Union. They have either been left as an independent people amongst us, or been driven into the forests.

I know further, sir, that we have never dreamt of incorporating into our Union any but the Caucasian race—the free white race. To incorporate Mexico, would be the very first instance of the kind of incorporating an Indian race; for more than half the Mexicans are Indians, and the other is composed chiefly of mixed tribes. I protest against such a union as that! Ours, sir, is the Government of a white race. The greatest misfortunes of Spanish America are to be traced to the fatal error of placing these colored races on an equality with the white race. That error destroyed the social arrangement which formed the basis of society.... And yet it is professed and talked about to erect these Mexicans into a Territorial Government and place them on an equality with the people of the United States. I protest utterly against such a project.

Are we to associate with ourselves as equal, companions, and fellow citizens, the Indians and mixed race of Mexico? Sir, I should consider such a thing as fatal to our institutions.

Senator Calhoun's defense of the U.S. as a White nation echoes Thomas Jefferson. So do his comments about Indigenous peoples. Not all in Congress agreed with Calhoun's stance on slavery; none could deny the veracity of his claim about the US being a "Government of a white race" that hadn't "dreamt of incorporating into our Union any but the Caucasian race—the free white race." Indeed, that's what the 1790 Naturalization Act ensured.

Part Nine: Whiteness and Race and the U.S. Civil War

Conceptions of whiteness and race shaped legal proceedings that catalyzed the U.S. Civil War. We shall consider one Supreme Court decision and one speech about the Confederacy that show this trend.

1. Whiteness, Black Disempowerment, and the Supreme Court

Dred Scott was enslaved slave in Missouri. From 1833 to 1843, he lived with his White master in Illinois (a free state) and in the Louisiana Territory, where slavery was forbidden by the Missouri Compromise of 1820. After returning to Missouri, Scott filed suit in Missouri court for his freedom, claiming that his residence in free territory made him a free man. After losing, Scott brought a new suit in federal court. Scott's White master countered by arguing that no "negro" or descendant of African slaves could be a citizen in the sense of Article III of the Constitution. Chief Justice Roger Taney, writing on behalf of the Court, considered if the Declaration of Independence and Constitution applied to Blacks. I quote Chief Justice Taney at length:

In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument.

It is difficult at this day to realize the state of public opinion in relation to that unfortunate race, which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted. But the public history of every European nation displays it in a manner too plain to be mistaken.

They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and

that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.

And in no nation was this opinion more firmly fixed or more uniformly acted upon than by the English Government and English people. They not only seized them on the coast of Africa, and sold them or held them in slavery for their own use; but they took them as ordinary articles of merchandise to every country where they could make a profit on them, and were far more extensively engaged in this commerce than any other nation in the world.

The opinion thus entertained and acted upon in England was naturally impressed upon the colonies they founded on this side of the Atlantic. And, accordingly, a negro of the African race was regarded by them as an article of property, and held, and bought and sold as such, in every one of the thirteen colonies which united in the Declaration of Independence, and afterwards formed the Constitution of the United States. The slaves were more or less numerous in the different colonies, as slave labor was found more or less profitable. But no one seems to have doubted the correctness of the prevailing opinion of the time.

The legislation of the different colonies furnishes positive and indisputable proof of this fact.

Chief Justice Taney is clear: White supremacy and visions of Black inferiority permeated English colonial theory and practice; and the

Declaration and Constitution that arose within such a racist climate did not apply to Blacks nor establish their U.S. citizenship.

2. Whiteness, Black Disempowerment and The Confederacy's Cornerstone

Before the U.S. Civil War commenced, the seceded, former-States who formed the Confederacy crafted a new constitution for their budding government. White supremacy and racialized chattel slavery were two of this document's foundational commitments. Confederacy Vice President Alexander Stephens bragged about this truth while delivering a speech in March 21, 1861 in Savannah, GA.

...[W]e are passing through one of the greatest revolutions in the annals of the world. Seven states have within the last three months thrown off an old government and formed a new. This revolution has been signally marked, up to this time, by the fact of its having been accomplished without the loss of a single drop of blood.

This new constitution, or form of government, constitutes the subject to which your attention will be partly invited. In reference to it, I make this first general remark: it amply secures all our ancient rights, franchises, and liberties. All the great principles of Magna Charta are retained in it. No citizen is deprived of life, liberty, or property, but by the judgment of his peers under the laws of the land. The great principle of religious liberty, which was the honor and pride of the old Constitution, is still maintained and secured. All the essentials of the old Constitution, which have endeared it to the hearts of the American people, have been preserved and perpetuated. Some changes have been made. Some of these I should have preferred not to have seen made; but other important changes do meet my cordial approbation. They form great improvements upon the old Constitution. So, taking the whole new constitution, I have no hesitancy in giving it as my judgment that it is decidedly better than the old. Allow me briefly to allude to some of these improvements....

But not to be tedious in enumerating the numerous changes for the better, allow me to allude to one other though last, not least. The new constitution has put at rest, forever, all the agitating questions relating to our peculiar institution—African slavery as it exists amongst us—the proper status of the negro in our form of civilization. This was the immediate cause of the late rupture and present revolution. Jefferson in his forecast, had anticipated this, as the “rock upon which the old Union would split.” He was right. What was conjecture with him, is now a realized fact. But whether he fully comprehended the great truth upon which that rock stood and stands, may be doubted. The prevailing ideas entertained by him and most of the leading statesmen at the time of the formation of the old Constitution, were that the enslavement of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally, and politically. It was an evil they knew not well how to deal with, but the general opinion of the men of that day was that, somehow or other in the order of Providence, the institution would be evanescent and pass away. This idea, though not incorporated in the Constitution, was the prevailing idea at that time. The Constitution, it is true, secured every essential guarantee to the institution while it should last, and hence no argument can be justly urged against the constitutional guarantees thus secured, because of the common sentiment of the day. Those ideas, however, were fundamentally wrong. They rested upon the assumption of the equality of races. This was an error. It was a sandy foundation, and the government built upon it fell when the “storm came and the wind blew.”

Our new government is founded upon exactly the opposite idea; its foundations are laid, its corner-stone rests, upon the great truth that the negro is not equal to the white man; that slavery, subordination to the superior race, is his natural and normal condition. This, our new government, is the first, in the history of the world, based upon this great physical, philosophical, and moral truth. This truth has been slow in the process of its development, like all other truths in the various departments of science....

As I have stated, the truth of this principle may be slow in development, as all truths are and ever have been, in the various branches of science. It was so with the principles announced by Galileo [and] it was so with Adam Smith and his principles of political economy. It was so with Harvey, and his theory of the circulation of the blood. It is stated that not a single one of the medical profession, living at the time of the announcement of the truths made by him, admitted them. Now, they are universally acknowledged. May we not, therefore, look with confidence to the ultimate universal acknowledgment of the truths upon which our system rests? It is the first government ever instituted upon the principles in strict conformity to nature, and the ordination of Providence, in furnishing the materials of human society. Many governments have been founded upon the principle of the subordination and serfdom of certain classes of the same race; such were and are in violation of the laws of nature. Our system commits no such violation of nature's laws. With us, all of the white race, however high or low, rich or poor, are equal in the eye of the law. Not so with the negro. Subordination is his place. He, by nature, or by the curse against Canaan, is fitted for that condition which he occupies in our system. The architect, in the construction of buildings, lays the foundation with the proper material—the granite; then comes the brick or the marble. The substratum of our society is made of the material fitted by nature for it, and by experience we know that it is best, not only for the superior, but for the inferior race, that it should be so. It is, indeed, in conformity with the ordinance of the Creator. It is not for us to inquire into the wisdom of His ordinances, or to question them. For His own purposes, He has made one race to differ from another, as He has made “one star to differ from another star in glory.” The great objects of humanity are best attained when there is conformity to His laws and decrees, in the formation of governments as well as in all things else. Our confederacy is founded upon principles in strict conformity with these laws. This stone which was rejected by the first builders “is become the chief of the corner” the real “corner-stone” in our new

edifice. I have been asked, what of the future? It has been apprehended by some that we would have arrayed against us the civilized world. I care not who or how many they may be against us, when we stand upon the eternal principles of truth, if we are true to ourselves and the principles for which we contend, we are obliged to, and must triumph.

Stephen's speech rests upon a biblical allusion: If Jesus is the cornerstone of the Kingdom of God, white supremacy and racialized chattel slavery are the Confederacy's cornerstone. Thus, Stephen's argues, the Confederacy adheres to divine and natural law.

Part Ten: Whiteness, Racism, & Post-bellum U.S. Imperialism

Whiteness shaped the racialized laws the U.S. Federal government passed between 1865 and 1903. We shall consider five examples of this trend.

1. Whiteness in post-bellum Civil Rights Legislation

The end of the US Civil War ushered in [major changes](#) to the [White republic](#). Recognizing the historic privilege and status granted to U.S. “white people,” the [1866 Civil Rights Act](#) mandated that *nearly* all people under U.S. jurisdiction have the same right to make contracts and pursue business opportunities “as is enjoyed by white citizens.” As the 1866 Civil Rights Act declared:

Be it enacted . . . , That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce

contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

The Civil Rights Act that Congress designed to support a multi-racialized body politic demanded the lifting of many non-Whites under U.S. sovereignty to a status equal to “white citizens.” Yet even this law explicitly restricted its racial scope so as not to apply to “Indians not taxed.” Thus this act perpetuated U.S. Federal Indian Law’s racist, empire-enabling notion that Indian Nations within the U.S.’s “territory” were “domestic dependent nations” (*Cherokee Nation v. Georgia*, 1831) without U.S. citizenship and its accompanying privileges and protections—something not “granted” to Natives until the [1924 Indian Citizenship Act](#).

2. Whiteness and White Power over Natives

If post-bellum Civil Rights legislation linked political power to White privilege, so did late nineteenth-century U.S. Federal Indian Law. The U.S. Supreme Court acknowledged this truth in their decision for the 1891 case [In Re Mayfield](#). According to the Court:

The policy of Congress has evidently been to vest in the inhabitants of the Indian Country such power of self-government as was thought to be consistent with the safety of the white population with which they may have come in contact, and to encourage them as far as possible in raising themselves to our standard of civilization. We are bound to recognize and respect such policy, and to construe the acts of the legislative authority in consonance therewith. The general object of these statutes is to vest in the courts of the nation jurisdiction of all controversies between Indians or where a member of the nation is the only party to the proceeding, and to reserve to the

courts of the United States jurisdiction of all actions to which its own citizens are parties on either side.

The White men running Congress and the Supreme Court allowed Native Nations “such power of self-government” that they deemed consistent with their conception of White safety *and* White civilizing projects of Indians. Thus, White power energizes a legal structure which manifests White privilege *by* establishing White safety against racist conceptions of Indigenous savagery and violence.

3. Chae Chan Ping v. United States (1889)

Desiring to limit Asian migration to the U.S. and pacify White protests about economic turmoil and job security, the United States passed the Chinese Exclusion Act in 1882. Seven years later, the Supreme Court considered deemed the Chinese Exclusion Act constitutional in *Chae Chan Ping v. United States*. The cases central question was if Chae Chan Ping, who had been granted a federal certificate assuring reentry into the United States following a visit to his native China, could be prevented from returning to the U.S. During Ping’s time in China, Congress rescinded an earlier treaty that would have guaranteed him the right to return to the U.S., where he had resided and worked as a laborer for many years.

Writing for a unanimous Court, Justice Stephen J. Fields upheld the government’s barring of Ping. The Court argued that Congress had the power to exclude *and* that its decision to use this power was justified. Justice Fields writes:

[T]he presence of Chinese Laborers had a baneful effect upon the material interest of the State, and upon public morals;...their immigration was in numbers approaching the character of an Oriental invasion, and was a menace to our civilization; ...the discontent from this cause was not confined to any political party...but was well-nigh universal;...they retained the habits and customs of their own country,

and in fact constituted a Chinese settlement within the State, without any interest in our country or its institutions.

Justice Fields decision trades in old racist, xenophobic tropes. It also furthered the U.S.'s commitment to remain a White Empire after Reconstruction's demise. *Plessy v. Ferguson* (1896) furthered this commitment, too.

4. Whiteness and Legalizing Jim and Jane Crow

Returning to a White-over-Black binary, the robustly multi-racialized political structures such post-war Civil Rights legislation promised couldn't survive the [Compromise of 1877](#). As [C. Van Woodward](#) writes, "Just as the Negro gained his [sic] emancipation and new rights through a falling out between white men, he now stood to lose his rights through the reconciliation of white men."

This national, white-centered reconciliation involved the policing of whiteness. [Plessy v. Ferguson \(1896\)](#), the Court decision that legalized Jim and Jane Crow, makes this clear. Though Homer Plessy looked white, the Court deemed his "one-eighth African blood" sufficient to render him non-white, and so unentitled to the privileges of US whiteness. Indeed, as the following quotations showed, the Court denied Plessy property rights in whiteness even as it noted the varied legal conceptions of "whiteness" throughout the country.

Petitioner [Homer Plessy] was a citizen of the United States and a resident of the state of Louisiana of mixed descent, in the proportion of seven eighths Caucasian and one eighth African blood; that the mixture of colored blood was not discernible in him, and that he was entitled to every recognition, right, privilege and immunity secured to the citizens of the United States of the white race by its Constitution and laws . . . and thereupon entered a passenger train and took possession of a vacant seat in a coach where passengers of the white race were accommodated.

...It is claimed by the plaintiff in error that, in an mixed community, the reputation of belonging to the dominant race, in this instance the white race, is “property,” in the same sense that a right of action or of inheritance is property. Conceding this to be so, for the purposes of this case, we are unable to see how this statute deprives him of, or in any way affects his right to, such property. If he be a white man, and assigned to a colored coach, he may have his action for damages against the company for being deprived of his so-called “property.” Upon the other hand, if he be a colored man, and be so assigned, he has been deprived of no property, since he is not lawfully entitled to the reputation of being a white man.

...It is true that the question of the proportion of colored blood necessary to constitute a colored person, as distinguished from a white person, is one upon which there is a difference of opinion in the different states; some holding that any visible admixture of black blood stamps the person as belonging to the colored race (State v. Chavers, 5 Jones [N. C.] 1); others, that it depends upon the preponderance of blood (Gray v. State, 4 Ohio, 354; Monroe v. Collins, 17 Ohio St. 665); and still others, that the predominance of white blood must only be in the proportion of three-fourths (People v. Dean, 14 Mich. 406; Jones v. Com., 80 Va. 544). But these are questions to be determined under the laws of each state, and are not properly put in issue in this case. Under the allegations of his petition, it may undoubtedly become a question of importance whether, under the laws of Louisiana, the petitioner belongs to the white or colored race.

It’s striking to note that the lone [dissenting opinion](#) in *Plessey*, written by Justice John Harlan, declared the U.S. Constitution “colorblind” while also maintaining that “There is a race so different from our own that we do not permit those belonging to it to become citizens of the US...I allude to the Chinese race.” White supremacy and the Chinese Exclusion Act (1882) energize Justice Harlan’s claim. Regarding the former, Justice Harlan also proposed the eternal reign of white supremacy in the US: “The white race deems itself to be the dominant race in this country. And

so it is, in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time.”

5. Whiteness, U.S. Imperialism, and the Philippines (1903)

After the surrender of the Spanish in the Spanish-American War, the United States assumed control of the Philippines but struggled to contain an anti-American insurgency. Five years later, President Willaim McKinley justified the U.S. continued occupation of the Philippines with these words:

... I would like to say just a word about the Philippine business. I have been criticized a good deal about the Philippines, but don't deserve it. The truth is I didn't want the Philippines, and when they came to us, as a gift from the gods, I did not know what to do with them. When the Spanish War broke out Dewey was at Hongkong, and I ordered him to go to Manila and to capture or destroy the Spanish fleet, and he had to; because, if defeated, he had no place to refit on that side of the globe, and if the Dons were victorious they would likely cross the Pacific and ravage our Oregon and California coasts. And so he had to destroy the Spanish fleet, and did it! But that was as far as I thought then.

When I next realized that the Philippines had dropped into our laps I confess I did not know what to do with them. I sought counsel from all sides—Democrats as well as Republicans—but got little help. I thought first we would take only Manila; then Luzon; then other islands perhaps also. I walked the floor of the White House night after night until midnight; and I am not ashamed to tell you, gentlemen, that I went down on my knees and prayed Almighty God for light and guidance more than one night. And one night late it came to me this way—I don't know how it was, but it came: (1) That we could not give them back to Spain—that would be cowardly and dishonorable; (2) that we could not turn them over to France and Germany—our commercial rivals in the Orient—that would be bad business and

discreditable; (3) that we could not leave them to themselves—they were unfit for self-government—and they would soon have anarchy and misrule over there worse than Spain’s was; and (4) that there was nothing left for us to do but to take them all, and to educate the Filipinos, and uplift and civilize and Christianize them, and by God’s grace do the very best we could by them, as our fellow-men for whom Christ also died. And then I went to bed, and went to sleep, and slept soundly, and the next morning I sent for the chief engineer of the War Department (our map-maker), and I told him to put the Philippines on the map of the United States (pointing to a large map on the wall of his office), and there they are, and there they will stay while I am President!

Hear the White Christian Nationalism? Hear the racialized evolution of Eusebius’s Constantinianism? Frightening, no?

6. Historian Deirdre M. Moloney on the Muslim Ban of 1910⁸

The Muslim Ban of 1910

Anti-Muslim sentiment and policies in the United States have intensified since the September 11, 2001, terrorist attacks on the United States, culminating in President Donald Trump’s two successive 2017 Executive Orders, each subjected to injunctions by federal judges.

This presidential election, like others since 9/11, was characterized by anti-Muslim rhetoric, much of it virulent. Trump first stoked the “birther” controversy over President Obama’s birthplace and religious identity in the 2008 and 2012 presidential campaigns, and those embers continued to burn in this race. Then, in November 2015, when two people sympathetic to radical Islamic groups

⁸ The following is a blog post written by historian Deirdre M. Moloney for the UNC Blog Post April 4, 2017. It is accessible here: <https://uncpressblog.com/2017/04/04/deirdre-m-moloney-muslim-ban-1910/>

murdered 14 people in San Bernardino, California, Trump advocated that all Muslims be barred from entering the United States. In 2016, on the campaign trail, Trump repeatedly insulted the religious beliefs and cultural practices of Muslims, most egregiously in his response to Khizr and Ghazala Khan, the Muslim parents of an American soldier, Humayun Khan, who died in combat in Iraq. Trump's extreme statements, along with his invectives against Mexicans and Mexican-Americans, have justifiably provoked outrage.

Many argue that President Trump's two recent Executive Orders barring immigrants and others from several predominantly Muslim countries are unprecedented.^[1] However, the history of federal immigration regulation in the United States illustrates that non-U.S. citizens were often denied constitutional protections. In fact, anti-Muslim immigration policies were first implemented in the early twentieth century.

The Religious History of Immigration Policy

A significant American controversy over Muslim polygamy in 1910 highlights the historical and current limits of religious toleration of immigrants and others outside the mainstream Judeo-Christian tradition.

Historians have written extensively about how race and ethnicity affected U.S. immigration policy, as well as on anti-Semitism and anti-Catholicism. Yet relatively few scholars have focused on how immigrants outside the mainstream Judeo-Christian tradition were formally regulated by the U.S. federal government based on their religious beliefs or affiliations. A significant American controversy over Muslim polygamy in 1910 highlights the historical and current limits of religious toleration of immigrants and others outside the mainstream Judeo-Christian tradition, including Muslims. That prejudice led to efforts to exclude, expel, or deport Muslims from the United States, both in the early twentieth century and today.

But this anti-Muslim strain in American politics is not new. Certain immigrants, including Mormons, Hindus, and Muslims faced barriers in their effort to settle in the United States in the late nineteenth and early twentieth centuries because they were perceived as adhering to belief systems that were un-American. Though those religiously based cases were small relative to those immigrants facing exclusion or deportation based on their poverty or on medical grounds, they suggest that religious bias has long been a significant factor in early federal immigration policies. Adherents of those traditions and beliefs came into contact with immigration and other officials, who sometimes did not understand non-Christian traditions, their institutions, beliefs, and practices.

Islam, Polygamy, and the Case of Turkey

As early as 1910, Muslim immigrants arriving in the United States faced exclusion at the country's ports as a result of their religious beliefs. Islam was considered incompatible with American values, based in significant part on immigration officials' perceptions of Muslims as polygamists.^[2] That year, 43 Muslims from the Ottoman Empire, soon to become the Turkish Republic, were barred from the United States over a six-month period, based on their belief in a religion that allowed polygamy or on grounds that they were unable to be economically self-sufficient and would be "Likely to Become a Public Charge." In its enforcement of that policy, the immigration bureau had determined that simply adhering to the tenets of Islam, rather than the actual practice of polygamy, served as sufficient grounds for deportation from the United States.

The Imperial Ottoman government, communicating through its Washington embassy, registered a complaint with the U.S. Department of State about its policy toward Turkish immigrants. The American Embassy in Turkey and, in turn, the U.S. Department of State, advocated for a change in enforcement by immigration officials. The polygamy ban was articulated in section two of the Immigration Act of 1907, having been originally addressed in the provisions of the 1891 law outlining grounds for deportation.^[3]

Federal agencies often clash over policies because their imperatives and cultures vary greatly.

Because the United States had significant economic interests in Turkey, the State Department sought to protect that diplomatic relationship and to address any matters that might harm existing business negotiations. In response to pressure from State department officials, those regulating immigration developed a questionnaire for use during hearings that provided careful instructions about addressing polygamy. It was intended to distinguish between those who practiced polygamy (or intended to practice it) and observant Muslims who did not intend to practice polygamy. Only the latter group would be allowed entry to the United States. However, under this new policy, it remained unclear under which circumstances these questions would be posed—whether it would be limited to cases in which an immigrant was Muslim, from various countries with significant Muslim populations, or to all male immigrants arriving at U.S. immigration stations.^[4]

Under this new line of inquiry, it appears that if an immigrant stated that polygamy was “right” or an acceptable practice, but had no intent to practice it, that response would still serve as grounds for exclusion. Further, those Turkish immigrants who relied on language interpreters or who knew only limited English would probably miss the nuances implicit in those questions.^[5] Hence, as a result of the continuing controversy surrounding the polygamy clause and the exclusion of Turkish immigrants on the basis of religion, immigrant officials decided to appease the State Department by employing equally effective, but non-religious, grounds on which to exclude Turkish immigrants.

Religious Freedom for Non-Citizens

This controversy illustrates that federal agencies often clash over policies because their imperatives and cultures vary greatly. The State Department sought a more inclusive approach to Turkish immigrants

largely because that region provided new economic opportunities for the United States. Today, those facing bias because of U.S. officials' unfamiliarity, or discomfort, with their religious traditions do so in part because most within their religious communities have arrived since 1965, when federal legislation removed many discriminatory features of immigration policy.

Immigration authorities' perceptions of religious minority groups highlight how the federal government's protection of religious freedom has been a relatively recent phenomenon and does not necessarily extend to non-citizens. Post-9/11 events, including the wars in Iraq and Afghanistan, have also aptly demonstrated the significant tensions between the U.S. State Department in its public diplomacy strategies and more domestically based agencies in the U.S. government that emerged so dramatically in the 1910 Turkish Muslim controversy.

That early policy, and the debates it engendered, helps to explain why anti-Muslim traditions and actions in the United States have a longer history than is often recognized and why religious freedom for non-citizens in the context of federal immigration policy has not been as widespread or longstanding a right as commonly assumed.

1. Signed on January 27, followed by a revised version on March 6, 2017.
2. "List of Debarred Aliens" dated August 12, 1910. Eight of the 43 Muslim individuals (all males) on this list were deported to Turkey on charges of polygamy. The others were deported on "Likely to Become a Public Charge" (LPC) grounds. File: 52737/499; The Turkish ambassador (representing the Imperial Ottoman Embassy) issued a formal complaint about deportations of Muslim immigrants and questioned whether Turkish immigrants were being treated unfairly by immigration officials. Letter to [William Jennings Bryan], Secretary of State from J.B. Densmore, May 9, 1914. File: 52737/499. Both files in RG 85. National

Archives (NARA). Religion and early immigration policy is discussed more extensively in chapter five of *National Insecurities*.

3. Caroline Finkel, Osman. *Dream: The Story of the Ottoman Empire, 1300-1923*. New York: Basic Books, 2005.
4. "Examination of alien applicants for the purpose of determining whether a polygamist or a person who believes in the practice of polygamy," May 5, 1913 and June 16, 1913.
5. Letter to the Secretary of State, from Charles Nagel, January 9, 1913. 53200.

7. Immigration Act of 1917 ("Asiatic" Barred Zone Act)

CHAP. 29.-An Act To regulate the immigration of aliens to, and the residence of aliens in, the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SEC. 2. That there shall be levied, collected, and paid a tax of \$8 for every alien, including alien seamen regularly admitted as provided in this Act, entering the United States

SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons: persons who have had one or more attacks of insanity at any time previously; persons of constitutional psychopathic inferiority; persons with chronic alcoholism; paupers . . . persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons . . . mentally or physically defective . . . persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists . . . anarchists . . . prostitutes . . . persons who directly or indirectly procure or attempt to procure or import prostitutes . . . contract laborers . . . persons likely to become a public charge; persons who have been

deported under any of the provisions of this Act . . . persons whose tickets or passage is paid for with the money of another . . . stowaways . . . all children under sixteen years of age, unaccompanied by or not coming to one or both of their parents, except that any such children may, in the discretion of the Secretary of Labor, be admitted if in his opinion they are not likely to become a public charge and are otherwise eligible;

[Barred Zone]

unless otherwise provided for by existing treaties, persons who are natives of islands not possessed by the United States adjacent to the Continent of Asia . . . The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil engineers, teachers, students, authors, artists, merchants, and travelers for curiosity or pleasure, nor to their legal, wives or their children under sixteen years of age who shall accompany them or who subsequently may apply for admission to the United States . . .

[Literacy Requirement]

That after three months from the passage of this Act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit: All aliens over sixteen years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish . . .

[Asylum Exception]

That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Labor that they are seeking admission to the United States to avoid religious persecution in the country of their last permanent residence, whether such persecution be evidenced by overt acts or by laws or

governmental regulations that discriminate against the alien or the race to which he belongs because of his religious faith;

8. Executive Order No. 9066, Feb. 19, 1942 (Order for Japanese Internment)

Executive Order No. 9066

The President

Executive Order

Authorizing the Secretary of War to Prescribe Military Areas

Whereas the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104);

Now, therefore, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede

designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

Franklin D. Roosevelt
The White House,
February 19, 1942.