

Profit, Power, and Privilege: The Racial Politics of Ancestry

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In March 2000, each adult residing in the United States was supposed to receive a census form—and was then confronted, once again, by those ominous racial boxes. This time you could check more than one box. Your ability to check more than one box was a compromise worked out by the Commerce Department and two opposing efforts to lobby the administration. One effort was launched by people who identify as biracial, or of mixed-race descent, and who wanted their own box. The other effort was led by the NAACP and the National Council of La Raza, who argued that the boxes should remain the same. Although virtually every Latino, black, or Native American person should go ahead and check “all of the above,” the powerful biracial lobby did not want to force its constituents to choose between identifying with one ancestor or another. The NAACP and others argued that the census was about identification—not identity—and pressed the administration to make an accu-

rate count of people who are identified as racial minorities in order to gain a better understanding of intercity demographics and to maintain the ability to demonstrate disparate impact. These organizations wanted to be able to account for all people identified as black, Hispanic, and so on. In this case, the biracial lobby viewed race as a proxy for ancestry, whereas the NAACP viewed race as a proxy for political status.

In February 2000, the U.S. Supreme Court ruled that the statewide election for the commissioners of the Office of Hawaiian Affairs, an agency that allocates resources set aside since Hawaii became a state in 1959, was not valid. Since these resources were for the explicit purpose of bettering “the conditions of Native Hawaiians,” previously only indigenous Hawaiians could vote for commissioners. The Court deemed the election unconstitutional, invoking the rarely used Fifteenth Amendment, which provides that the right to vote “shall not be denied or abridged by the

United States or by any state on account of race, color, or previous conditions of servitude." Justice Anthony M. Kennedy explained in his majority opinion that "ancestry can be a proxy for race" and ruled the elections unconstitutional. But elections held by Indian tribes remained constitutional, Kennedy argued, because of their "unique political status."

A few years ago, the Lumbee Tribe of Pembroke, North Carolina, petitioned the U.S. Congress for federally designated tribal status. At stake was over \$70 million in federal aid targeted for health and education. Although members of the Lumbee Tribe have made treaties with the federal government and some 40,000 are recognized as a tribe by the state of North Carolina and enjoy a very salient "political status," the federal government in 1994 refused to recognize their tribal status because they did not meet the stringent requirements imposed by the Bureau of Indian Affairs (BIA). BIA requirements include tracing descent from a "historic tribe." The Lumbees, however, have a mixed ancestry that includes earlier Hatteras and Cheraw groups. Unlike western tribes, the Lumbees have participated in the crosscurrents of culture since 1585 when Sir Walter Raleigh embarked on his ill-fated colony. For centuries, the Lumbees have absorbed the culture and people from neighboring black, white, and Indian populations, and today they are hard-pressed to meet the requirements set by the BIA that simply ignore processes of culture change. In this case, the Lumbees viewed political status as a proxy for ancestry, but Congress did not.

Race and racism in the United States today are the historical end products of a gamy mix of social, political, and economic pressures grinding against each other. Like the tectonics of the earth's plates, the process is usually slow and certain, but one never knows when

these forces will quake, forever changing the social landscape.

Although the outcomes of the cases I briefly described seem more like a game of "rock-scissors-paper," they fall within the slow racial tectonics. From the centuries-old "one-drop" rule to the complex equations used to claim tribal membership, race, culture, and heritage have always been used inconsistently in a struggle to define social, political, and economic relationships. As W.E.B. Du Bois once penned, the concept of race was "a group of contradictory forces, facts and tendencies."¹

I have long thought that Du Bois's was one of the best definitions of race, but it does not get us very far. Anthropologists are supposed to identify patterns in process, but it is often difficult to do so when such salient modalities in American culture are used willy-nilly by even our most esteemed institutions. Although it appears in the above cases that race, ancestry, and political status are applied in a sort of catch-as-catch-can manner, there is a simple and usually predictable logic that shapes these "contradictory forces, facts and tendencies"—profit, power, and privilege. Like the investigative reporter who "follows the money," a scholar is well served if he or she looks for the way people use race to acquire or protect any one of these three "Ps."

Race As Ancestry

The first and most recent case, regarding census categories, is perhaps the trickiest. The census has always been a politically charged exercise. Not only does the census serve to allocate billions of federal dollars and reapportion congressional districts, it accounts for who and how people in the United States view themselves as a nation. One can map the various permutations of racial categories throughout history by simply documenting

how these categories change over time. Former categories included Hindu, mulatto, octoroon, and even "part Hawaiian." The administrators of this national rite have routinely added or subtracted categories as the political winds changed.

For the 2000 census, various groups joined together in an effort to add a category for people with parents who are of different races. Although the census is ultimately about identification—not identity—people view checking boxes as an important way to signify their identity and are understandably upset when their identity is not represented in the "official" count of all Americans. The countless newspaper and magazine articles documenting this effort usually got it wrong: The venerable NAACP, acting as the indomitable "soul patrol," was usually pitted against hapless children forced to choose between the identity of one or the other parent.

The stakes for the NAACP and La Raza were straightforward—the contest was about power. The leaders and constituents of these organizations feared that muddying the waters, so to speak, with multiracial categories would adversely impact congressional redistricting, the number of race-based federal programs, and efforts to litigate against institutional racism by documenting racial disparity. The stakes on the other side of the debate are more complicated. These tech-savvy parents and their young adult kids mobilized through a network of grassroots and college organizations. Outraged that their identity was marginalized as "other," they advanced compelling arguments that resisted racial formation and questioned the foundations of the so-called one-drop rule. What was missing from both sides of the debate, however, was a sophisticated discussion about what race is and why the government wants to use it.

Individuals who yoke their identity to categories of race often miss the fact that most

people stitch together an ethnic identity from various cultural heritages and that cultural identity has nothing to do with racial categories. This distinction between race and ethnicity was thrown into vivid relief when I used to walk out my backdoor and stroll down 125th Street—affectionately known as the "Heart of Harlem." The everyday lives of Puerto Ricans, Dominicans, Haitians, Nigerians, and African Americans commingle and converge in this community in a way that has transposed historic segregation into a form of congregation that exhibits the rich tapestry of the African diaspora.

The question remains, why does the mixed-race lobby insist on using ancestry as a proxy for race? I think the answer lies in the one argument I have not seen made by members of this lobbying effort. People advocating for a mixed-race category should also advocate that every racial minority check that box too. Barring recent immigrants, virtually no person today considered black, Indian, or Hawaiian can trace an uninterrupted genealogy back to Africa, Hawaii, or any ancestral group. Moreover, everyone with a mythical "Cherokee grandmother" should be encouraged to check that box.

In lieu of this argument, it appears that these advocates are trying to institutionalize a mixed-race category, which, in other countries at least, turns on a claim to white privilege. We can learn from South Africa, Jamaica, Haiti, and even Louisiana and South Carolina that efforts to institutionalize not a hybrid heritage but a mixed-race category actually advances racial injustice.

Ancestry As Race

The state of Hawaii has a complicated history. Native Hawaiians came from eastern Polynesia perhaps a thousand years ago. After the British explorer Captain James Cook

arrived in 1778, the islands' ports became important way stations for ships trading with Asia. In 1810, King Kamehameha I unified the islands as the kingdom of Hawaii to stem the rising tide of colonial practices. The king staved off colonialism, in part, by brokering six agreements for peace and economic reciprocity with the United States. When Kamehameha I died in 1819, his son succeeded him, ushering in the so-called Great Awakening. Destabilized by epidemics of new infectious diseases, an influx of people, and new agricultural products, Native Hawaiians converted to Christianity in large numbers. Protestant missionaries began exerting enormous influence on Hawaiian society and politics, often using force to convert religion, morality, and lifestyle.

In 1839, the king's younger brother, Kamehameha III, assumed power and tried to stem the growing influence of foreign profiteers and missionaries by establishing a legislature and a constitution and declaring basic rights for his subjects. He remained, however, the sole title holder of land. Although he began to allow his people to own tracts of land, his land tenure reform spun out of control, and foreigners soon purchased most of the arable tracts. By the end of the nineteenth century, whites owned four times as much land as natives, planting sugarcane on nearly every acre.

An 1876 treaty enabled Hawaiian sugar to replace Southern cotton as king. Raw sugar could now enter the United States duty free, and American investors chased the sweet profits. A veritable cane cartel emerged that aggressively "recruited" thousands of Chinese and Japanese laborers while usurping and concentrating the islands' economic and political power. With the blessings of their missionaries and the force of their militia, the cartel, in 1887, took control of the islands—all but deposing King David Kalakua. Like

Captain Cook a century earlier, these captains of industry claimed Hawaii as their own. They imposed a new constitution that disfranchised most native Hawaiians and all Asian immigrants. When Queen Liliuokalani assumed the throne, she made a gallant last stand. By 1893, however, her efforts were crushed, and the sovereign kingdom of Hawaii was overthrown, thanks in part to the U.S. military. Five years later, the United States formally annexed Hawaii as a territory.

When Hawaii became a state in 1959, the federal government conveyed 1.4 million acres of land to the new state with the explicit understanding that a share of the revenues generated from this land go "for the betterment of the conditions of Native Hawaiians." Not until 1978 did the state fulfill its responsibility and allocate 20 percent of these revenues to the Office of Hawaiian Affairs (OHA). The OHA is governed by nine trustees of Native Hawaiian ancestry, and they are elected by people with Hawaiian ancestry. The office is charged with redressing the ills not only of the nineteenth century but those of the twentieth century too. From 1898 until 1959, when Hawaii became a state, Native Hawaiians were prohibited from speaking their language and discouraged from practicing their cultural traditions. Today, the more than 200,000 descendants of the original Polynesian population are at the bottom of the socioeconomic ladder, are 2.5 times more likely to be below the poverty level, and have an unemployment level almost twice that of any other group on the islands.

For the past twenty-two years, OHA has used its money to elevate the well-being of Native Hawaiians by providing job training, underwriting entrepreneurs, delivering health care, erecting housing, and promoting the use of the Hawaiian language. Moreover, the office has been an important impetus in a cultural renaissance that includes efforts to re-

cover land, language, and self-determination. Perhaps the high-water mark of this renaissance was the 1993 apology rendered by Congress. Congress actually admitted that the overthrow of the kingdom of Hawaii violated international law and that the United States acquired the land "without the consent of or compensation to the native Hawaiian people of Hawaii or their sovereign government." Congress also apologized for the participation of its diplomatic corps and U.S. troops in the 1893 coup d'état and finally acknowledged that the United States deprived Native Hawaiians of "their inherent sovereignty as a people."²

These precepts articulated by the legislative branch stand in contradiction to precepts articulated last February by the judicial branch, in *Rice v. Cayetano* (2000), which found OHA elections to be in violation of the Fifteenth Amendment. This case was originally filed in federal district court in 1996 by Harold Rice, a white rancher on the Big Island, who was denied the right to vote in the election for OHA commissioners. Although Rice's ancestors migrated to Hawaii in 1831, he does not claim to be indigenous and therefore could not vote that election.

To qualify as a Native Hawaiian, the state legislature employed a cumbersome and indeed untenable definition that included a so-called blood quantum, and Harold Rice argued that he was being denied the right to vote on account of his race. The crux of the argument, however, turned on whether the Court should apply a "strict scrutiny test" or "rational basis review." The strict scrutiny test is required by *Adarand v. Peña* (1995), and the Court has used it to strike down affirmative action programs, majority minority congressional districts, and contract set-aside programs. The more lenient rational basis review applies to legislation affecting American Indians under *Morton v. Mancari* (1974)

and employs the notion of "political status"—as opposed to racial categories—to rationalize special programs and entitlements. The Supreme Court ultimately jettisoned the political status argument to fall back on the oft-cited color-blind mantra that has typified the Rehnquist Court, explaining that "it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her merit," which motivated Justice Kennedy in his majority opinion to conclude that "ancestry can be a proxy for race," and thus OHA elections had violated the Fifteenth Amendment.³

Clearly OHA and its indigenous constituents were attempting to maintain their powers of self-determination and their right to control land revenues. The partisan polarity of this case becomes apparent when one peruses the many amicus briefs submitted by competing interests. Tribal governments, as well as Alaska's Inuit groups—who are not considered tribes but vote for representatives to native corporations—were compelled to weigh in on the side of OHA.

This case, however, became the latest cause célèbre for all of those "think tanks" and "action committees" that have fought so hard to maintain white privilege and right-wing conservative power by dismantling everything from affirmative action to bilingual education. The case was bankrolled by the Campaign for a Color Blind America (CCBA). Simply put, the case would never have been appealed if it were not for the deep pockets and the ardent support of conservative critics. The list of other supporters of Rice included a veritable who's who of Washington's most conservative think tanks: the American Enterprise Institute, the Pacific Legal Foundation, the United State Justice Foundation, and Americans Against Discrimination and Preference. As Robert Bork weighed in with a brief, George Will fol-

lowed up with pithy punch lines in the *Wall Street Journal*, and newsletters and monthlies across the nation were littered with claims about the "racism" perpetuated by Native Hawaiians. In this case, it was the power of conservative Washington lobbyists, who from many miles away erased the brutal history of indigenous Hawaiians to ensure their own ideal of a color-blind America, which turns a blind eye to white supremacy.

Political Status As Ancestry

The Supreme Court decided that ancestry could not replace the unique political status of Native American tribes because it was cast in racial terms, but Congress has argued that ancestry cast in distinctly racial terms is a prerequisite for that political status. For years, the Lumbee Indians of Robeson County, North Carolina, have been struggling for federal recognition of their tribal status. In 1956, Congress passed the Lumbee Act, which recognized the Lumbee tribe but did not grant it "tribal status." Although the state of North Carolina recognizes the Lumbee Indians as a tribe, they have been unable to meet the stringent requirements set up by the BIA to attain that coveted federal status, in large measure because they failed to meet the criteria promulgated in Title 25 of the Code of Federal Regulations, Section 83.7(e).

Approximately 40,000 Lumbee Indians live along the stretch of gray loam flatlands that straddle the North and South Carolina border. Concentrated in a ten-mile radius of Pembroke, North Carolina, the Lumbees' strong middle class of lawyers, tobacco growers, and businesspeople developed the powerful Lumbee Regional Development Association, which for years served as the de facto tribal government.

In 1994, the Lumbee Indians tried to bypass the BIA requirements for tribal status

and appealed directly to Congress. Passed by the House, their legislation failed on the Senate floor, thanks in part to Jesse Helms, who sided with those Cherokees in the western part of the state who insisted on the same BIA processes that the Lumbees had already failed to satisfy. The Eastern Band of the Cherokee Nation did not want to be upstaged at the federal level by the Lumbees—the largest tribe east of the Mississippi. At stake was over \$70 million in federal aid, and the Cherokees did not want to share the dwindling dollars allocated by the BIA. As the Lumbee petitions muddled through Congress, Vice Chief Gerard Parker was quoted by the *Atlanta Journal and Constitution* as saying, "If they're Indian, where is the Language? Where is the cultural background? I hope Congress won't be fooled." He went on to explain, "If they met the criteria to be Indian they should be Indians. But they don't; they don't even look like Indians."⁴ Chief Parker is right: Lumbee Indians don't look like stereotypical braves-on-bareback—and that's part of the problem.

Part 83 of Title 25 of the Code of Federal Regulations outlines the mandatory criteria for federal acknowledgment of tribal status. Although most of the byzantine criteria involve history, culture, and political solidarity, Subsection 7(e) emerges as a very racialized criterion. Tribes must document "individuals who descend from a historical Indian tribe." The process of meeting this criterion becomes a percentage game, not unlike the blood quantum or fractions used in previous years. In a more recent case that mirrors the Lumbees' in important ways, the BIA denied tribal recognition to the Mobile-Washington County Band of Choctaw Indians of South Alabama (MOWA) because "there was no evidence in the substantial body of documentation submitted by the petitioner . . . to demonstrate Choctaw ancestry or any other

Indian ancestry for 99 percent of the petitioner's membership. Thus, the petitioner fails to meet criterion (e), descent from a historical tribe."⁵ In its *Final Determination Against Federal Acknowledgment*,

the BIA found that most of the records of the known MOWA ancestors did not document them as Indian, but described them racially or ethnically with ambiguous terms, such as: "Black," "Cajun," "Caucasian," "Creole," "French," "Mulatto," "Spanish," or "White." . . . None of the primary records revealed their documented known ancestors as "Native American or Indian."⁶

Like the MOWA Indians, the Lumbee Indians failed to gain recognition in the executive branch. The Lumbees also failed with the legislative branch because their racial ancestry was ostensibly not pure enough to warrant their claim to a "unique political status." Conversely, the judicial branch found the ancestry of Native Hawaiians too racial to warrant

their claim to a "unique political status." Finally, the political status of the mixed-race lobby was powerful enough to warrant the executive branch changing the census forms. Again, it appears that we are back to that old game of rock-scissors-paper. But I hope you get a better understanding that it is not a game of chance but a life-and-death struggle between competing forces of profit, power, and privilege.

Notes

1. W.E.B. Du Bois, "Dusk of Dawn: An Essay Toward an Autobiography of a Race Concept," in his *Writings*, ed. Nathan Huggins (1940; New York: Library of America, 1986), p. 651.
2. Senate Joint Resolution 19, Congressional Record, 103rd Cong., H9627 (November 15, 1993).
3. *Rice v. Cayetano* (2000), opinion of Justice Kennedy, p. 20 [http://supct.law.cornell.edu/supct/pdf/98_818PZO].
4. "Cherokee Objections," *Atlanta Journal and Constitution*, May 2, 1992, p. A1.
5. www.doi.gov/bia/mowa_not.htm.
6. www.doi.gov/bia/mowanew.htm.