

**The (Mono-) Racial Contract:  
Mixed-Race Implications**

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## I. Introduction

'Race'<sup>1</sup> is one of the most powerful social signifiers of identity and difference. More than simply externally or internally imposed, racial identity works to connect and divide the lives of individuals, encompassing intrinsic experiences of self and belonging, consciousness and recognition. Race, however, is not a fixed mode of categorisation: Canadian demographic trends indicate both a trajectory of ethnocultural hybridisation and a rise in the existence of 'mixed-race' identities, with over 11 million Canadians responding to the ethnic origin question on the 2001 census by checking off multiple boxes, including 73,000 people claiming identities as 'multiple visible minorities'.<sup>2</sup> This trend is exemplified even more in the United States, where 2.4 percent of the population, or over 6.8 million people, reported having "two or more" races.<sup>3</sup> This phenomenon, referred to as the "biracial baby boom," is predicted to "change the face of North America,"<sup>4</sup> and yet it is rare to find discussions in academia that directly address the unique implications of multiraciality; rather, mixed-race is often treated as a mere footnote in a thousand-page anthology on 'race'. However, racial boundaries and categorisations – and, coincidentally, those who transgress them – are a central aspect of the mythology of 'race'. The (albeit constructed) distinction between 'white' and 'nonwhite' is the foundation of what Mills calls the Racial Contract; that is, the idea that all social contracts are underwritten by the meta-political system of domination which privileges whites over nonwhites.<sup>5</sup> Mills argues that the Racial Contract is itself a political system of global white supremacy, in which the designation of nonwhite peoples as subpersons carries moral, epistemological and political consequences. However, in the *Racial Contract* Mills does not address the means by which whites and nonwhites are identified as such, or how they are distinguished from each other. Nor does he consider the implications of the Racial Contract for (s)he who challenges the taxonomy of distinct and segregated 'races' – the 'mixed-race' subject.<sup>6</sup>

The idea of the Racial Contract is a powerful theoretical tool for understanding the historical and contemporary manifestations of 'race' in North America. I contend that applying the terms of the Racial Contract within the context of multiraciality in North America will demonstrate both the unique racialised position of the mixed-race subject and will further solidify Mills' contention that the Racial Contract is explanatorily superior to the raceless social contract. Using *The Racial Contract* as a theoretical and methodological guide, this paper will follow three of Mills' main arguments, contending that: the Racial Contract norms (and races) the individual, establishing not just personhood and subpersonhood, but also liminal personhood; the ideological conditioning required by the Racial Contract involves a solidification of racial categories, rendering the mixed-race subject as theoretically and vernacularly deviant; and, thus, there are unique political, moral and epistemological consequences of the Racial Contract for multiracial people in North America.

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<sup>1</sup> Though scare quotes are, at times, dismissed as mere sarcasm, I use them here in all seriousness to reinforce the socially – and *politically* – constructed nature of 'race'.

<sup>2</sup> Statistics Canada, *Ethno-Cultural Portrait of Canada*, (Ottawa: 2001).

[<http://www12.statcan.ca/english/census01/products/highlight/Ethnicity/Index.cfm?Lang=E>] Site viewed 5 March 2007.

<sup>3</sup> U.S. Census Bureau, *Population by Race and Hispanic or Latino Origin, for All Ages and for 18 Years or Over, for the United States*, (Washington: 2000). [<http://www.census.gov/population/cen2000/phc-t1/tab01.pdf>] Site viewed 5 March 2007.

<sup>4</sup> Herman L. DeBose, "Introduction," *New Faces in a Changing America: Multiracial Identity in the 21<sup>st</sup> Century*, eds. Herman L. DeBose and Loretta I. Winters (Thousand Oaks, CA: Sage Publications, 2003) p. 1.

<sup>5</sup> Charles W. Mills, *The Racial Contract* (Ithaca and London: Cornell University Press, 1997) p. 3.

<sup>6</sup> Mills does, however, have an interesting discussion of racial transgressives in "'But What are you *Really*?': The Metaphysics of Race," *Blackness Visible: Essays on Philosophy and Race* (Ithaca and London: Cornell University Press, 1998) pp. 41-66.

## II. The Racial Contract and Liminal Personhood

Mills argues that the Racial Contract is a set of formal and informal agreements establishing (white) personhood and (nonwhite) subpersonhood. Subpersons are categorised and characterised as morally inferior, with the Racial Contract designating nonwhite groups and individuals with a subordinate civil standing in both white-ruled polities and the white-dominated global system.<sup>7</sup> Along similar lines, Michel Foucault points out that from the sixteenth century onwards the binary rift in Western society did not manifest through differences between distinct races, but instead was the result of the division of a single, human race into a *superrace* and a *subrace*.<sup>8</sup> Historically, Europeans sought to distinguish themselves from the racialised Others by invoking notions of biologically natural and cognitive superiority. As Mills points out, the racial hierarchy that followed from these distinctions was instrumental in the formation of the Racial Contract whose general purpose is “always the differential privileging of the whites as a group with respect to nonwhites as a group, the exploitation of their bodies, land, and resources, and the denial of equal socioeconomic opportunities to them.”<sup>9</sup>

The meaning of what we understand as ‘race’ itself has shifted over time. From the second half of the twentieth century onwards, ‘race’ has been tied almost exclusively to skin colour, yet the historical notion of a ‘race problem’ once referred to something quite different. The language of race “was usually anchored in the signification of certain forms of somatic difference (skin colour, facial characteristics, body shape and size, eye colour, skull shape) which were interpreted as the physical marks that accompanied, and which in some unexplained way determined, the ‘nature’ of those so marked.”<sup>10</sup> This tendency of using physiological and morphological traits to delineate seemingly distinct and segregated races is the epitome of the biological construction of race, dominant from the sixteenth century until the mid-twentieth century in North America.<sup>11</sup> The categorisation of distinct ‘races,’ however, is far more insidious than its instrumentality as a mechanism of (innocent) classification; rather, one’s ‘race’ was a determinant of not only social position (which is detrimental in and of itself), but also one’s morality, human potential and essential ‘nature’.

In his nominal work on the definition of ‘black’ in the United States, James F. Davis identifies five key beliefs that underpin biological racialism, all of which scientists now generally agree to be false:

- (1) that some races are physically superior to others and that they can be ranked from strongest to weakest based on differences in longevity and rates of selected diseases;
- (2) that some races are mentally superior to others and that the races can be ranked from most intelligent to least intelligent;
- (3) that race causes culture, that each inbred population has a distinct culture that is genetically transmitted along with physical traits;

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<sup>7</sup> Mills, *The Racial Contract*, *op. cit.*, p. 11.

<sup>8</sup> Michel Foucault, *Society Must be Defended: Lectures at the College de France, 1975-76*, trans. David Macey, eds. Francois Ewald and Alessandro Fontana (New York: Picador, 2003) p. 61.

<sup>9</sup> Mills, *The Racial Contract*, *op. cit.*, p. 11.

<sup>10</sup> Robert Miles and Rudy Torres, “Does ‘Race’ Matter? Transatlantic Perspectives on Racism after ‘Race Relations’,” *Re-Situating Identities: The Politics of Ethnicity, Race and Culture*, eds. Vered Amit-Talai and Caroline Knowles (Peterborough: Broadview Press, 1996) p. 27.

<sup>11</sup> Though I will often describe and use the use and prominence of the biological construction of ‘race’ in the past tense, it is important to note that there are some scientists, psychologists and social scientists who have, in recent years, contended that race and racial differences are, in fact, a matter of biology. See J.P. Rushton, *Race, Evolution and Behavior: A Life History Perspective* (New Brunswick, NJ: Transaction Publishers, 1994) and R.J. Herrnstein, *The Bell Curve: Intelligence and Class Structure in American Life* (New York: Free Press, 1994).

- (4) that race determines temperamental dispositions of individuals, a view based on crude stereotypes of the personalities in ethnic groups; and
- (5) that racial mixing lowers biological quality.<sup>12</sup>

Needless to say, the ambiguous “superior” race that Davis refers to has historically been Caucasian, while other “inferior” or “weaker” races have been nonwhite. As should be clear, these supposed biological differences were far from objective in nature – they were used to discriminate, exploit, segregate and create a hierarchy of humanity, filled with normative judgments about, and degradation and subjugation of, the lower race, the subspecies, the Other. Mixed-race was truly just that: a mixed-ness of segregated races, the (obscene and highly scandalous) interruption of a solidified and timeless social hierarchy.

The biologically-driven hierarchy developed during and after the colonial era had severe consequences for the mixed-race subject, as “the most important thing about races was the boundaries between them. If races were pure (or had once been), and if one were a member of the race at the top, then it was essential to maintain the boundaries that defined one’s superiority, to keep people from the lower categories from slipping surreptitiously upward.”<sup>13</sup> Inherent in the design of racial boundaries was the deliberate attempt to separate inferior and superior races, to discourage and legally enshrine principles of purity within paradigms of dominance – social, political, and biological. The Racial Contract is, therefore, a *political* contract, where the role of the state is far from the neutrality prescribed by liberalism. As Mills writes, “the purpose of this state, by contrast with the neutral state of classic contractarianism, is, *inter alia*, specifically to maintain and reproduce this racial order, securing the privileges and advantages of the full white citizens and maintaining the subordination of nonwhites.”<sup>14</sup> More than this, the racial state is the protector of the purity of the dominant (white) race. And within a doctrine of purity, the mixing of white and nonwhite races was perceived as racial pollution.

Here we begin to see the explicit political implications that the Racial Contract holds for the mixed-race subject. I contend that when ‘race’ is conceptualised in terms of biological imperatives, it relegates multiracial individuals to a state of liminality – being neither ‘here’ nor ‘there’. Simply put, liminality (derived from the Latin term *limen*, meaning boundary or threshold) is not simply about being outside a given border, but is the state of being neither inside nor outside a space, place, or ‘race’ – a state of being neither here nor there. The concept of liminality finds its origins in anthropology, wherein scholars such as Arnold Van Gennep<sup>15</sup> and Victor Turner<sup>16</sup> have used it to describe the whole realm of ritual. Specifically, Turner identifies liminality as not just a thin line that provides the boundary between one phase and the next, but an expanded zone in which liminals may spend an extended period of transition. From anthropology the concept of liminality passed into literary studies, originally used to describe indeterminate states or stages, but then later morphing into a concept that seeks to describe transgressions and individuals who are neither here nor there – in a temporary or permanent state of flux. A classic example can be found in *King Lear*,

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<sup>12</sup> James F. Davis, *Who is Black?: One Nation’s Definition* (University Park, PA: Pennsylvania State University Press, 1991) pp. 23-25.

<sup>13</sup> Paul R. Spickhard, “The Illogic of American Racial Categories,” *Racially Mixed People in America*, ed. Maria P.P. Root (Newbury Park, CA: Sage Publications, 1992) p. 15.

<sup>14</sup> Mills, *op. cit.*, pp. 13-14.

<sup>15</sup> See Arnold Van Gennep, *The Rites of Passage*, trans. Monika B. Vizedom and Gabrielle L. Caffee (London: Routledge and Kegan Paul, 1960).

<sup>16</sup> Victor Turner, *The Ritual Process: Structure and Anti-Structure* (Chicago: Aldine, 1969).

when the chief protagonist has finally become divested of his role of the king and father, he tears off his clothing and enters into the cave, emerging the next morning a changed person.<sup>17</sup>

Herein, I argue that the Racial Contract establishes not just personhood and subpersonhood, but also liminal personhood. My interpretation of liminality does not entail a normative character; it is neither positive nor negative. It is simply a theoretical space of existence, marked by “ambiguity, ambivalence and contradiction”.<sup>18</sup> Those who exist in this liminal space, “constituted ‘betwixt and between’ existing orders, are constituted in contradiction...Each contradiction affirms their liminality. They are ‘not this’ and ‘not that’. They exist in defiance of categories.”<sup>19</sup> Yet, it is important to note that liminality is not an individual choice of racelessness. Mills makes the argument that subpersonhood is not a natural occurrence, but is rather an operationalisation of the Racial Contract. Likewise, through the biological construction of ‘race’ the mixed-race subject is explicitly *positioned* in a state of liminality by strict adherence to impermeable racial categories and the constructed boundary between personhood and subpersonhood. As a result, the possibility of interracial relationships and the resulting mixed-race offspring are (regulated and) negated. The mixed-race subject is either unable to identify with her dual or multiple heritages because she is legally or socially prevented from doing so, or she cannot attain social recognition of her identity as ‘mixed’. An examination of the manifestation of two major facets of the discourse of biological racialism - racial aesthetics and racial bloodlines - will exemplify this liminal positioning of the mixed-race subject.

Literally, aesthetic perspectives are concerned with beauty and the application of beauty. In racial aesthetics, the justification for why certain phenotypes are considered ‘beautiful’ must be considered alongside the more prudent and compelling question of who, exactly, defines ‘beauty’. Mills argues that normalisation plays a critical role in the determination of racial aesthetics, as the norming of personhood and subpersonhood (and, I would argue, liminal personhood) involves a very specific norming of the body.<sup>20</sup> The white (male) body thus becomes the somatic norm:

The Racial Contract makes the white body the somatic norm, so that in early racist theory one finds not only moral but aesthetic judgments, with beautiful and fair races pitted against ugly and dark races. Some nonwhites were close enough to Caucasians in appearance that they were sometimes seen as beautiful, attractive in an exotic way (Native Americans on occasion; Tahitians; some Asians). But those more distant from the Caucasoid somatotype – paradigmatically blacks (Africans and also Australian Aborigines) – were stigmatized as aesthetically repulsive and deviant.<sup>21</sup>

The reliance on the Caucasoid model of aesthetic normalcy is not just about the definition of beauty and deviance, though it is clearly that. This model also dictates the signifiers of aesthetic racial identity as distinct morphological characteristics – racial markers, if you will – that were assumed to distinguish one ‘race’ from another. As racial boundaries were created and solidified in order to preserve the racial hierarchy, the most important signifiers were, therefore, those that separated the superior race (singular) from other inferior races (plural). As Maria Root argues, “persons born to two parents of colour of different

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<sup>17</sup> Linda Woolbridge and Roland Anderson, “Liminality,” *Encyclopaedia of Contemporary Literary Theory: Approaches, Scholars, Terms*, ed. Irena R. Makaryk (Toronto: University of Toronto Press, 1993) p. 579.

<sup>18</sup> Anne Norton, *Reflections on Political Identity* (Baltimore and London: The John Hopkins University Press, 1988) p. 53.

<sup>19</sup> *Ibid.*, p. 67.

<sup>20</sup> Mills, *op. cit.*, p. 61.

<sup>21</sup> *Id.*

racial backgrounds are rendered invisible in... discussions of multiracial identity."<sup>22</sup> The most concerning mixture was clearly that which transgressed the assigned positions on the racial hierarchy.

The emphasis on aesthetics and appearance within biological racialism negates the existence of mixed-race individuals. This construction of 'race' relies on notions of racial purity and coherence; as such, multiracial offspring were deemed as threatening to this purity, perpetually representing the skeletons in the closets (and bedrooms) of a racially segmented society. Racially mixed offspring of white/non-white parents were classified as the same 'race' as whichever parent was non-white, so as to preserve the boundaries of whiteness. In *Colour-Coded: A Legal History of Racism in Canada*, Constance Backhouse's research into the 1901 census reveals that the nation was to be racially classified as being either white, red, black or yellow. She notes that Canadian census-takers were instructed that "only pure races will be classified as white; the children of begotten marriages between whites and any one of the other races will be classed as red, black or yellow...irrespective of the degree of colour."<sup>23</sup>

Though a powerful legal paradigm in the U.S. dictated the racial identities of mixed-race children as 'nonwhite' from birth, the phenomenon of 'passing' erupted while miscegenation laws were still firmly in place. The lighter one's skin happened to be, the finer his or her hair, the further away from a nonwhite racial identity (s)he could move, the less stigmatisation from dominant society (s)he faced. 'Passing,' therefore, always refers to passing *as white*. This phenomenon reinforces racial aesthetics as one of the means through which the biological construction of 'race' was able to negate the existence of multiraciality. If a multiracial person could pass for white and gain access to social and economic opportunities denied to people of colour, self-identifying as such was never a solidification of mixed-race heritage. Rather, it was a forced denial borne from the necessity to identify as *something* – but the choice of categories were strictly divided in broad strokes of black, white, yellow and red, leaving no room for anything that was *some* (or even all) of the above. Further, this phenomenon elucidates another aspect of multiraciality deemed threatening by the dominant race: that of *identifiability*. Using 'race' to distinguish between persons and subpersons, the Racial Contract requires a means of identifying each from the other. Those who blur this distinction indeed pose a problem for the maintenance of the racial hierarchy itself. Subpersons must be kept firmly in place through proactive measures; being able to identify them was crucial to the Racial Contract's continued existence. The alleged racial determinants of identity (and therefore destiny) were superficial morphological characteristics such as hair texture, eye, nose, and mouth shape and size, and, above all else, skin colour. Without these tell-tale signs of inferiority, the hierarchy itself would be in danger.

Discourses of passing also illustrate the unique moral implications that the Racial Contract holds for the mixed-race subject. In a chapter on the metaphysics of 'race,' Mills considers various cases of passing: conscious episodic passing for strategic reasons, conscious passing for ultimate assimilation, unconscious passing, *et cetera*.<sup>24</sup> In his query of the circumstances in which an individual is *really* one race versus another, Mills reveals an unavoidable moral element to 'passing'. For example, Mills discusses experience as a determinant of 'race' in hierarchically organised racial systems, stating that "since criterial divergence is possible, so that R2s who look like R1s and are not publicly identified as R2s will escape racism, it may then be alleged that these R2s are not 'really' R2s, insofar as the essence of being an R2 is the experience

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<sup>22</sup> Maria P.P. Root, "The Multiracial Contribution to the Browning of America," *American Mixed Race: The Culture of Microdiversity*, ed. Naomi Zack (London: Rowman & Littlefield Publishers, 1995) p. 233.

<sup>23</sup> Constance Backhouse, *Colour Coded: A Legal History of Racism in Canada: 1900-1950* (Toronto: University of Toronto Press, 1999) p. 3.

<sup>24</sup> Mills, "'But What are you Really?'" *op.cit.*, pp. 55-59.

of oppression as an R2."<sup>25</sup> While Mills is not necessarily advocating such a position, the idea that the multiracial's ability (in some cases) to 'pass as white' to gain access to socio-economic privilege speaks to both the existence of presupposed notions of racial authenticity and the possibility of a betrayal of whatever an 'authentic' nonwhite identity is deemed to be. The very idea of 'passing' invokes the idea of deceit, of camouflage, "of concealing true identity of group membership and gaining false access. Concealment of 'true' identity or group membership is considered a synonymous with comprised integrity and impostership."<sup>26</sup> The reason that the mixed-race subject's ability to pass as white is a moral issue is, of course, related to the Racial Contract itself; without a racial hierarchy, who passes as what would not matter.

Racial aesthetics is, above all, a mode of observing the body. Power is thus instilled in the materiality of bodies, making biological characteristics instead morphological, phenological and superficial. If these traits are not immediately identifiable as belonging to a particular racial group, the mixed-race subject's ambiguous (racial) appearance results in his/her relegation to liminality. It is crucial to recall that this is a positioned and relativistic ambiguity; it is only because of aesthetic precepts that certain morphological characteristics are regulated according to racial difference. Aesthetics, however, are an unreliable means distinguishing separate and segregated 'races,' as evidenced by those liminals were could pass for white. A reliance on racial bloodlines was far more effective at maintaining social, political, economic, and theoretical segregation among whites and nonwhites.

In 1892 Homer Plessy, a legally classified octoroon (someone of 7/8 Caucasian ancestry and 1/8 African American ancestry) bought a first-class ticket for the train from New Orleans to Covington, Louisiana and was arrested for violating a state statute that required separate accommodations for whites and blacks on railway cars. His case, *Plessy v. Ferguson*,<sup>27</sup> unsuccessfully challenged this particular Jim Crow law, yet spoke volumes to the definitions of 'white,' 'black,' and hence, 'mixed-race' identities in the United States:

The U.S. Supreme Court quickly dispensed with Plessy's contention that because he was only one-eighth Negro and could pass as a white he was entitled to ride in the seats reserved for whites. Without ruling directly on the definition of a Negro. The Supreme Court briefly took what is called 'judicial notice' of what it assumed to be common knowledge: that a Negro or black is any person with any black ancestry.<sup>28</sup>

The court's decision in *Plessy* is significant for several reasons, though its demarcation of racial bloodlines as a signifier of racial identity is especially important for comprehending the constitution of the mixed-race subject through the biological construction of 'race'. In this instance, racial aesthetics is trumped by blood and the supposed transfusion of racial identity through it. Though Plessy could pass as white, it mattered not; he was one-eighth black, and that was black enough to be nonwhite.

In its biological construction, bloodlines and blood quantum become the measure of 'race'. Plessy's troubles on the Louisiana railway were far from an isolated incident, as the rules of 'hypodescent,' or the 'one-drop rule,' dictated that any person with a drop of black blood was racially black in the eyes of the law, becoming the legal manifestation of centuries of effort to preserve the purity of 'white blood'. However, while

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<sup>25</sup> *Ibid.*, p. 53.

<sup>26</sup> Carla K. Bradshaw, "Beauty and the Beast: On Racial Ambiguity," *Racially Mixed People in America*, ed. Maria P.P. Root (Newbury Park, CA: Sage Publications, 1992) p. 79.

<sup>27</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896)

<sup>28</sup> James F. Davis, *op. cit.*, p. 8.

the legacy of hypodescent “shaped the normative process of racial identity development for people monoracially identified, these same historical forces virtually negate the existence of the multiracial person contemporarily.”<sup>29</sup> As with aesthetics, the discourse surrounding racial bloodlines necessitates that mixed-race people are positioned in a state of liminality, as legal requirements attempted to categorise ‘races’ based on blood – hence the coinage of terms such as mulatto, quadroon and octoroon to describe people of mixed European and African ancestry in the Southern United States well into the twentieth century. These further categorisations were, of course, never considered parallel to the designation of ‘white’ and the one-drop rule required that they were legally synonymous with ‘black’.

Racial classification systems are thus imposed, not negotiated. The question of bloodlines, like aesthetics, was a one-sided affair. With only one drop of ‘black blood,’ a mixed-race person was (legally and socially) considered to be black, yet no amount of ‘white blood’ would ever allow the multiracial individual to attain the privileges and persona of whiteness. Cecile Lawrence calls this biased standard of blood quantum two-faced hypocrisy:

Why is it two-faced hypocrisy? On the one hand, the dominant culture says you are less than ideal because you have a drop of ‘black’ in you, or a ‘touch of the tar brush’ in your ancestry, and no amount of white blood is good or strong enough to outweigh that stain. On the other had, that same dominant culture also says that the more ‘white’ blood you have in you, the closer to the ‘white’ ideal you are, the more we will let you into positions and maybe our houses, but you and your progeny can never attain the ideal status of ‘white-ness’.<sup>30</sup>

With ‘race’ conceived as differences of blood, the goal of the preservation of the purity of the European bloodline became embedded in both law and society. Racial essentialism and blood quantum solidify the racial hierarchy and its purist characterisation, again rendering the mixed-race subject as liminal. Such a hierarchy dictates that a person must be assigned a racial identity from the categories provided – and the underlying purpose of these assignments was the maintenance of impermeable boundaries between hierarchically-ordered ‘races’.

The importance that hypodescent places on ancestry and bloodlines thus make it impossible for the multiracial individual to be anything other than a member of the nonwhite dimension of his or her racial identity. For those who could physically ‘pass’ for white, laws prohibiting miscegenation and inflexible rules about the determination of one’s ‘race’ at birth (and in accordance with the one-drop rule in the United States) functioned to deny the existence of mixed-race people. In the eyes of those who dominated society, “the fine distinction of mixed-race formation scarcely hid the dysgenic fear of sanguinary pollution: ‘Mixed bloods’ were considered as potentially polluting of the body politic as ‘full blooded blacks’.”<sup>31</sup> As such, those with mixed-race ancestry were effectively erased from the national memory; as far as most were concerned, mixed-race was the same as nonwhite. The identities of multiracial people were relegated to liminality, as American society at large refused to acknowledge the duality or plurality of racial identities.

But just how useful is liminality as a concept to explore and explain the positioning of the mixed-race subject outside both personhood and subpersonhood? There are, of course, several weaknesses to

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<sup>29</sup> Maria P.P. Root, *op. cit.*, pp. 302.

<sup>30</sup> Cecile Ann Lawrence, “Racelessness,” *American Mixed Race: The Culture of Microdiversity*, ed. Naomi Zack (London: Rowman & Littlefield Publishers, 1995) p. 28.

<sup>31</sup> David Theo Goldberg, “Made in the USA,” *American Mixed Race: The Culture of Microdiversity*, ed. Naomi Zack (London: Rowman & Littlefield Publishers, 1995) p. 241.



such a line of reasoning. First, as liminality is the state of being neither here nor there, its application to the politics of racial identity infers that there are, in fact, such things or places as 'here' and 'there'. In the context of racial identity, liminality encompasses an inherent categorisation associated with race and racial discourse. In other words, in classifying multiracial people as liminals, that is, existing in the grey area between one or more 'races,' we assume that there is such a thing as 'race' – whether it be biologically, socially, or otherwise constructed. Secondly, giving this state of ambiguity a label like 'liminality' indicates a sense of cohesiveness – that all multiracial individuals have something in common, and have the potential to create a new mixed-race 'race,' as it were. However, I believe that this assumption is dangerously misleading. If liminality was to be indicative of a cohesive group identity, we would find that the only thing multiracial individuals have in common is their difference from prescribed racial categories and groups. Most racial groups find their coherence and strength in a collectivity – a combined social or cultural identity that reproduces a sense of belonging and mutual recognition amongst group members. Hence, the African response to Descartes' "I think, therefore I am," elucidated by John Mbiti, is "I am because we are; and since we are, therefore I am."<sup>32</sup> However, multiraciality is fundamentally different – and this is key: *there is no mixed-race collectivity* in North America. There are some exceptions, of course, such as the Métis of Canada, who have formed their own distinct collective and cultural identity from their French and Aboriginal ancestry, and the Coloureds in South Africa. Yet, even the existence of these groups cannot deny that there is no all-encompassing mixed-race 'race' through which other mixed-race people can find the belonging afforded to other racial groups.

These problems aside, I maintain that the application of liminal theory to this discussion is previously unexplored, though highly illuminating. Though it inherently naturalises the concept of 'race,' so does its construction within biological terms. Moreover, liminality demonstrates the ways in which personhood and subpersonhood are constructed differently – and hence, carry different consequences – for the mixed-race subject.

### III. The Racial Contract's (Extra-)Legal Mechanisms, Ideological Conditioning and Racial Category Solidification

Mills argues that the Racial Contract has to be enforced through violence and ideological conditioning, referring to both legal and extra-legal mechanisms that ensure the Racial Contract's adoption and success. The state is clearly not the neutral state proscribed by liberalism, since "its purpose is to bring about conformity to the terms of the Racial Contract among the subperson population, which will obviously have no reason to accept these terms voluntarily, since the contract is an exploitation contract."<sup>33</sup> Importantly, Mills contends that the terms of the Racial Contract necessitate a certain ideological conditioning on behalf of both whites and nonwhites – each must be conditioned to see the Other as such, and themselves as persons and subpersons, respectively. Mills states that "this project requires labor at *both* ends, involving the development of a depersonizing conceptual apparatus through which whites must learn to see nonwhites and also, crucially, through which nonwhites must learn to see themselves."<sup>34</sup>

While the existence of the Racial Contract is obvious during the era of colonialism and even up to the mid-twentieth century, the Racial Contract of today is more insidious. Most in the social sciences now

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<sup>32</sup> As cited in Charles Mills, "Non-Cartesian Sums: Philosophy and the African American Experience," *Blackness Visible: Essays on Philosophy and Race* (Ithaca and London: Cornell University Press, 1998) p. 11.

<sup>33</sup> Charles Mills, *The Racial Contract*, *op. cit.*, p. 83.

<sup>34</sup> *Ibid.*, pp. 87-88.

agree that there is little or no biological basis in race;<sup>35</sup> rather, it should be viewed as a social construction. In this (more) contemporary form, 'race' is perceived to have been created and maintained through the existence of specific spatial, temporal, sociological, cultural and political factors. In effect, 'race' is not *real* – historical racism was the means through which societies were typically organised into hierarchies of domination and subjugation. The idea that 'race' is socially constructed, combined with 'triumph' of liberal democracy and its egalitarian premise, make the Racial Contract simultaneously more powerful, more permeating, and better concealed than ever before. Mills argues that today the Racial Contract requires an ideological conditioning that necessitates an epistemology of ignorance,<sup>36</sup> a political and mental state whereby whites (and nonwhites) are able to separate the historical actuality of the Racial Contract from the current state of local, state and global politics today.

A social conceptualisation of 'race' at first glance seems to alleviate some of the most damaging concerns surrounding the biological construction of 'race'. Blood is no longer the measure of one's 'race'; in accepting 'race' within a socio-political paradigm, theories of the roles of and interrelationships among race, ethnicity and culture replace rules of hypodescent. In effect, the discourse on 'race' moves away from biological determinism. At best, "social constructionist arguments will challenge 'essentialist' notions that individual persons can have singular, integral altogether harmonious, and unproblematic identities,"<sup>37</sup> yet more often than not these arguments fail to challenge the ubiquitous nature of 'race' itself. As Goldberg argues, "race serves to naturalize the groupings it identifies in its own name. In articulating as natural ways of being in the world and the institutional structures in and through which such ways of being are expressed, race both establishes and rationalizes the order of difference as the law of nature."<sup>38</sup>

The Racial Contract thus ensures that 'race' remains a salient discourse in vernacular conceptions of society. 'Race' is cognitively ingrained in everyday life; social constructivist accounts run the risk of becoming socially deterministic, too easily paired with an overly fixed, 'essentialist' notion of 'race'.<sup>39</sup> A reliance on essentialism – that is, the idea that all 'races,' cultures, or even sexual orientations have a natural essence or inner core that defines this identity – is concerning:

The essentializing moment is weak because it naturalizes difference, mistaking what is historical and cultural for what is natural, biological and genetic. The moment the signifier 'black' is torn from its historical, cultural and political embedding and lodged in a biologically constituted racial category, we valorize by inversion, the very ground of racism we are trying to deconstruct. In addition, as always happens when we naturalize historical categories...we fix that signifier outside of history, outside of change, outside of political intervention.<sup>40</sup>

There is power in meanings: essentialising 'race' attaches very particular definitions to racial identities, binding them and their signifiers according to traits that may or may not be socially, culturally or historically accurate.

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<sup>35</sup> Again: most, but not all; *supra* note 5.

<sup>36</sup> Charles Mills, *The Racial Contract*, *op. cit.*, p. 97.

<sup>37</sup> Craig Calhoun, *Critical Social Theory* (Oxford: Blackwell Publishers, 1995) p. 198.

<sup>38</sup> David Theo Goldberg, *Racist Culture: Philosophy and the Politics of Meaning* (Oxford: Blackwell Publishers, 1993) p. 81.

<sup>39</sup> Calhoun, *op. cit.*, p. 199.

<sup>40</sup> Stuart Hall, "What is this 'Black' in Black Popular Culture?" *Stuart Hall: Critical Dialogues in Cultural Studies*, eds. David Morley and Juan-Hsing Chen (London and New York: Routledge, 1996) p. 472.

To a certain extent, then, the very notion of 'mixed-race' itself reifies the racial project – for discrete, separate and segregated 'races' are assumed to exist, and hence individuals who are the progeny of relationships between people of different 'races' are a 'mix' of the two. 'Mixed-race' indicates that there are such things as 'races' that can be divided and labeled, and, more significantly, that people who are 'mixed' possess identifiable (and possibly essentialist) traits from each parent 'race'. With the very term 'race' comes its reification:

When we think of people in terms of groups based on 'race'...we have already reified those groups. By identifying a person as a 'member' of a racial group, we semantically trick ourselves into believing that the group itself is a pre-existing entity...these 'groups' are categories that are constituted through social discourse, rather than material entities that have been named. When we identify someone as a member of a racial group, it is easy to forget that the category represented by the idea of the group was constructed through discourse such as that in which we have just engaged and that our discourse has reinforced the category.<sup>41</sup>

The Racial Contract's ideological conditioning continuously operates through the normalisation of the notion that 'race' is a valid divisor of social beings. But why, exactly, should the reification of racial categories be considered problematic for monoracials and multiracials alike? I contend that the implications of meanings, labels and history cannot be taken lightly; it is impossible to separate contemporary visions of 'race' from its biological emergence and the methods of domination for which it was instituted. Further, there is an inherent misrecognition that occurs when identities are reduced to the broad categories in which they are positioned. Recognition requires that we engage in naming, but a blind adherence to contemporary racial categories assumes that the definitions of concepts within these categories are fixed and unchangeable.

The Racial Contract ensures that 'race' is not just a social construction, but also a political and legal one. Multiraciality, as evidence of the permeability of racial categories and the constructed-ness of the racial hierarchy, is conceptualised as threatening; a deviation from the norm of (supposedly) unambiguous racial categories and systems of classification. The threat of mixed-race, however, is not the same in all contexts: thus, different legal and extra-legal mechanisms were used to solidify racial categories for different reasons. For example, as has been discussed above, the United States relied upon a strong legal paradigm prohibiting interracial sex and marriage that persisted well into the twentieth century.<sup>42</sup>

The aesthetic concern over mixed-race involved only the appearance of people with partial European heritage; before the abolition of slavery in the United States, slave owners feared that the offspring of black slave women raped by slave masters would attempt to claim the rights of their European heritage, thus providing yet another justification for denying the existence of racial mixing. After the U.S. civil war, the concern shifted to one of economic prowess; the boundaries among races had to become solidified (through rules of hypodescent and miscegenation) because since slavery could no longer distinguish the dominant and subjugated, an entrenched mechanism was required to keep 'White' pure and privileged.

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<sup>41</sup> A. Stubblefield, "Racial Identity and Non-Essentialism About Race," 21 *Social Theory and Practice* (1995): p. 360

<sup>42</sup> Rachel Moran, *Interracial Intimacy: The Regulation of Race and Romance* (Chicago: University of Chicago Press, 2001) p. 5.

These laws were not deemed unconstitutional until the U.S. Supreme Court's decision in the 1967 case of *Loving v. Virginia*.<sup>43</sup> The goal of such legislation was not simply the regulation of social relationships, though it was clearly that, but also – and, more importantly – the maintenance of the racial hierarchy:

For blacks, the laws identified them as diminished persons marked with the taint of slavery and inferiority, even after they were nominally free. Although the statutes formally limited the freedom of blacks and whites alike, the restrictions clearly functioned to block black access to the privileges of associating with whites. For Asians, antimiscegenation laws confirmed their status as unassimilable foreigners.<sup>44</sup>

Mixed-race progeny, then, were a clear threat to this hierarchy, for their ambiguous racial positions served to challenge the hierarchy altogether. Were 'mixed' people to be positioned between persons and subpersons? If they could pass as white, what would prevent them from actually *being* white? Paul Gilroy argues that new hatreds and violence are no longer based on supposedly reliable knowledge about the inferiority of the Other, but rather arise from the (supposedly) new problem of not being able to locate the Other's difference. The greatest threat comes not from the 'different', but from the half-different and partially familiar.<sup>45</sup>

In the late 1980's and early 1990's, the United States saw a proliferation of multiracial organizations and movements intent on securing an official 'mixed-race' category on the census. The discourse surrounding mixed-race identity is "built on the premise that persons who have multiple racial heritages should be able to claim and assert all of them and not be forced to choose or assume only one."<sup>46</sup> Though this new emphasis on the uniqueness of multiracial identity (as distinct from the monoracial categories listed on the census) has resulted in the inclusion of a 'mixed-race' category, how far does this new method of classification go towards normalising mixed-race? The answer is paradoxical: on one hand, mixed-race people in the United States who identify as such are no longer forced to identify as one 'race' or another. On the other, the very notion of 'mixed-ness' presupposes monoracial identities and, to a certain extent, posits 'pure races' as *the* natural, normal circumstance of identity proliferation. The unavoidable result is a conception of 'race' in terms of immutable essences, thereby making racial boundaries solidified and impermeable. In this formulation, that which separates one 'race' from another becomes critical. In both vernacular and theoretical formulations, multiraciality is rendered as a *new* phenomenon, and in its novelty it is confirmed as deviant: the transgression of (supposedly) impermeable racial boundaries.

Previous to this development, mixed-race identity in the United States was regulated so that multiracial people were ideologically associated with the nonwhite aspects of their identities (thus keeping the racial hierarchy firmly intact). Mixed-race identity was also regulated in Canada, but in one specific circumstance the goal of this regulation was to disassociate the mixed-race subject from his or her nonwhite roots. Here, the Métis of Canada<sup>47</sup> make an interesting comparison, demonstrating that the regulation of

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<sup>43</sup> *Loving v. Virginia* 388 U.S. 1 (1967)

<sup>44</sup> *Ibid.*, pp. 17-18.

<sup>45</sup> Paul Gilroy, *Against Race: Imagining Political Culture Beyond the Color Line* (Cambridge: Harvard University Press, 2000) p. 106.

<sup>46</sup> Melissa Nobles, *Shades of Citizenship: Race and the Census in Modern Politics* (Stanford, CA: Stanford University Press, 2000) p. 132.

<sup>47</sup> Though the Métis are considered to be official Aboriginal peoples of Canada as per section 35 of the *Constitution Act, 1982*, their genesis and evolution is significantly different from that of other Aboriginal peoples. Though the exact definition of Métis is disputed, the Métis are often associated with a distinct group of people who share a unique history and culture, historically associated with the Red River rebellion, descended from the union of French and Scottish fur traders and Aboriginal women. The word 'Métis', in fact, is a reference to this 'mixed' heritage.

mixed-race identity was developed as a response to a particular perception of the threat posed by multiracial people. Before the *Constitution Act* of 1982, Aboriginal identities were legally constructed so as to remove Métis from the state's conception of Aboriginality itself. In other words, legal mechanisms were instrumental in providing a narrow and specific definition of 'Indian,' often based on blood quantum/descent, lifestyle, place of residence and registration on a national list.

These legal mechanisms were multiple. First, the *Constitution Act, 1867* places jurisdiction over "Indians and lands reserved for Indians"<sup>48</sup> clearly in the hands of the federal government. The application of s.91(24) has historically excluded the Métis as Parliament has narrowed its interpretation of legislative jurisdiction and responsibility to only 'Indians on lands reserved for Indians' and those who the law has defined as 'Indian':

Canada's current position is that the term 'Indian' in section 91(24) refers only to Indians and Inuit. Moreover, Canada argues that it refers only to those persons of Indian and Inuit ancestry or affiliation that it has chosen to recognize, namely, status Indians and accepted members of recognized Inuit communities, respectively. Canada resists acceptance of constitutional jurisdiction over Métis, non-status Indians, and persons of Inuit descent who are not accepted as members by Inuit communities.<sup>49</sup>

The government's choice to exclude the Métis outside from section 91(24) has the consequence of diminishing (or even denying) the fiduciary relationship between the Crown and Aboriginal peoples. The Métis have not only been denied a partnership in this relationship, but their perspectives also are excluded from the formulation of federal policies and programs designed for the benefit of Aboriginal peoples.

Secondly, the *Indian Act* regimes have been instrumental in creating and maintaining a narrow definition of Aboriginal identity, effectively regulating Native identity and precluding the legal recognition of any Aboriginal identities other than 'status Indian'. The first regulatory instrument governing Aboriginal identity can be traced back to 1850, when both Upper and Lower Canada passed Acts characterising Indians based on blood quantum, descent, and women married to those who met the first two criteria.<sup>50</sup> Between the first *Indian Act* (designated as such) and the most recent amendments in 1985, there were at least six revisions. Over the decades the historical legislation (1850-1970) provided increasingly stringent requirements on the definition of who was entitled to Indian status, a concept legalised in the *Gradual Enfranchisement Act* of 1869. While the original idea was that enfranchisement would be voluntary, over the years it became involuntary in a number of circumstances; losing one's status as Indian was actually quite easy: an Indian woman who married a non-Indian lost status, and the children of that marriage were not entitled to status (1869); Indian status became contingent on male lineage (1876)<sup>51</sup>; obtaining a university degree (1876); being deemed 'fit for enfranchisement' by a board of examiners who could then make it so (1920); the Indian Registrar could add – but more importantly, delete – names from either General Lists (of status Indians) or Band Membership Lists (1951).<sup>52</sup>

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<sup>48</sup> *Constitution Act, 1867*, s. 91(24).

<sup>49</sup> John Giokas and Robert K. Groves, "Collective and Individual Recognition in Canada: The *Indian Act* Regime," *Who are Canada's Aboriginal Peoples? Recognition, Definition and Jurisdiction*, ed. Paul L.A.H. Chartrand (Saskatoon: Purich Publishing Ltd., 2002) p. 42.

<sup>50</sup> John Leslie, *The Historical Development of the Indian Act* (Ottawa: Treaties and Historical Research Centre, Department of Indian Affairs, 1978) p. 23.

<sup>51</sup> These first two examples demonstrate the deeply gendered nature of the retention or loss of Indian status. Racial hierarchies are usually gendered as well, though this is especially so in the case of status Indians in Canada.

<sup>52</sup> Canada, *The Indian Act, Past and Present: A Manual on Registration and Entitlement Legislation* (Ottawa: Indian Band Lists and Registration Directorate, Indian and Northern Affairs Canada, 1991) pp. 7-19.

Thirdly, a more direct means of eradicating Métis legal claims to Aboriginality occurred through the scrip systems implemented in the prairie provinces. Giokas and Chartrand explain that “scrip was a certificate by means of which the federal government distributed Crown land on an individual basis to members of particular groups...”<sup>53</sup> Though scrip was also offered to groups such as the North West Mounted Police and veterans of the Boer War, to accept scrip when one was Métis carried the consequence of being denied any future claim to Aboriginal title over traditional territories.

What should be clear from the brief examination of these legal mechanisms is that the threat posed by the mixed-race Métis was their claims to Aboriginal rights and title against the Canadian state. The Royal Proclamation of 1763 confirmed the Crown’s – and later, Canada’s – responsibility for “Her Majesty’s Indians,” who live “under the protection of the Crown”. Once its own country, though not free of the constitutional conventions tied to the Crown, Canada used its own legal mechanisms to enfranchise Indians – that is, remove any inkling of special status or rights that could alter their position on the racial hierarchy. The legal category of ‘status Indian,’ after all, “is the only category to whom a historic nation-to-nation relationship between the Canadian and the Indigenous people is recognized.”<sup>54</sup> The same logic held true for the Métis in the denial that they were, in fact, Aboriginal peoples with rights to land or resources. The threat of mixed-race was not just about title to the land, but also about the definition of whiteness. As Bonita Lawrence writes:

Clearly, if the mixed-race offspring of white men who married Native women were to inherit property, they had to be legally classified as white...Because of the racist patriarchal framework governing white identities, European women who married Native men were considered to have stepped outside the social boundaries of whiteness. They became, officially, status Indians.<sup>55</sup>

Métis was thus defined at the boundary of the legal definition of Indian identity; mixed-race was again bound by nonwhite mono-racial categories. One bounded identity binds another, and in either case the law is instrumental in ensuring the racial hierarchy remains firmly intact.

Therefore, in both Canada and the United States, multiraciality is conceptualised as a deviation from normalised mono-racial identities, often perceived as threatening to the racial hierarchy of these white settler societies. This hierarchy is better concealed through constructivist accounts of ‘race,’ with the Racial Contract necessitating a solidification of racial categories and an epistemology that ensures both the centrality and ignorance of ‘race’.

#### **IV. Conclusion**

This project has explored some of the multiracial implications of the Racial Contract. Following three of Mills’ main arguments, this paper has demonstrated how a reliance on racial aesthetics and bloodlines positions the mixed-race subject to a state of liminality within the biological construction of ‘race,’ a theoretical space of existence that carries different consequences than either personhood nor

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<sup>53</sup> John Giokas and Paul L.A.H. Chartrand, “Who are the Métis? A Review of Law and Policy,” *Who are Canada’s Aboriginal Peoples? Recognition, Definition and Jurisdiction*, ed. Paul L.A.H. Chartrand (Saskatoon: Purich Publishing Ltd., 2002) p. 88.

<sup>54</sup> Bonita Lawrence, “Gender, Race, and Regulation of Native Identity in Canada and the United States: An Overview,” 18 *Hypatia* (2003): p. 6.

<sup>55</sup> *Ibid.*, pp. 8-9.

subpersonhood. It has also considered several situations in which constructivist accounts of 'race' have rendered multiraciality as a deviation from normalised, impermeable mono-racial categories. In so doing, this project has elucidated upon the unique political, moral and epistemological consequences of the Racial Contract for multiracial people in North America. What should be clear from the above discussion, however, is that mixed-race is always a concern about the demographic peopling and power – or, more the point, there is always a concern about *which* people are able to access power. By transgressing the boundaries of the racial hierarchy, the multiraciality implicitly challenges the hierarchy itself.

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