



IDENTITY, LIBERAL INDIVIDUALISM, AND THE NEUTRAL ALLURE OF POST-BLACKNESS

Cedric Merlin Powell

Reviewing
TOURÉ, WHO'S AFRAID OF POST-BLACKNESS?
WHAT IT MEANS TO BE BLACK NOW
(Free Press 2011)

CULTURAL CRITIC Touré's book, *Who's Afraid of Post Blackness?*, advances a comprehensive and provocative critique of the essentialist, narrow, and exclusionary aspects of Black authenticity.¹ He constructs a new Black national-

Cedric Merlin Powell is a Professor of law at the University of Louisville Louis D. Brandeis School of Law. Copyright © 2012 Cedric Merlin Powell.

¹ Touré's conception of post-Blackness is distinct from the seminal tenets of Critical Race Theory (CRT): he embraces liberal individualism while CRT rejects individualism and neutrality and advances a race-conscious, group centered approach to the eradication of structural inequality. See, e.g., Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction* 15-35 (NYU Press 2001); Kimberlé Crenshaw, Neil Gotanda, Gary Peller, and Kendall Thomas, *Critical Race Theory: The Key Writings That Formed the Movement* (The New Press 1995). There is a new wave of post-Blackness theory which will shape how race, racism, and society are analyzed. See, e.g., Baratunde Thurston, Jack and Jill Poli-

ist liberal individualism that acknowledges the commonality of shared racial experience and culture, but emphasizes the fluidity of Black identity. Referencing the Black artistic aesthetic and the power of free expression embodied in the First Amendment, Touré conceptualizes a boundless Black identity.

This new strand of liberal individualism rejects neutrality and stock definitions of Blackness. “There is no dogmatically narrow, authentic Blackness because the possibilities for Black identity are infinite.” (p. 5). So, colorblindness and post-racialism are rejected – race should not be ignored. Race should be embraced in all of its multiplicities, there are 40 million ways to be Black (p. 20). Post-racialism is a “bankrupt” (p. 12) concept because it ignores race and the underlying complexities of systemic racism; conversely, post-Blackness celebrates Blackness while being unconstrained by it. Oddly, this simultaneity of purpose returns the reader to the very *neutrality* that post-Blackness seeks to dismantle. There are so many ways to be “authentically” Black that the common thread of experience that connects all of the fluid conceptions of Black identity that Touré describes is lost. There is a post-racial underpinning to post-Blackness that cannot be easily discarded – “post” means beyond race and Blackness. The only question is how far can we move away from race and Blackness? While Touré acknowledges that “[t]here is a core, recognizable Black culture” (p. 12), he nevertheless advances an absolutist, forward-looking approach that largely ignores the present day effects of past discrimination.

After all, race is socially constructed,² and how racial identity is structured in society is directly related to race and the permanence of racism in American society.³ Notwithstanding the promise of self-

tics: A Black Bourgeoisie Perspective on U.S. Politics, www.jackandjillpolitics.com (a website, with a watermelon logo, dedicated to critically unpacking stereotypes and embracing the multiplicity of Black identity); Barantunde Thurston, *How To Be Black* (HarperCollins 2012).

² Ian F. Haney Lopez, *White By Law: The Legal Construction of Race* (NYU 1996); Neil Gotanda, *A Critique of “Our Constitution is Color-Blind,”* 44 *Stan. L. Rev.* 1 (1991).

³ Derrick Bell, *Faces At The Bottom Of The Well: The Permanence of Racism*

determination and unlimited Black identity espoused by Touré, President Obama is referred to as the “food stamp” President by Newt Gingrich,⁴ and a white voter “thanks” the former Speaker of the House for putting journalist Juan Williams “in his place” when he dared to ask whether this cynical appellation was racially charged.⁵ There is a sweet irony in the fact that Juan Williams, the epitome of the post-Black individual, who argues for post-racialism in his book *Enough*, is skewered for stepping out of his “Black” place. Where is this “place,” if Black identity is limitless? Mr. Williams can define himself anyway he wants, but he is still a Black man asking the wrong question. Malcolm X recognized this decades ago when he asked “What do you call a Black man with a Ph.D.?” (pp. xii; 131; 136).

The central tension of Touré’s book is that while it embraces absolute Black individuality,⁶ it is still limited by its own post-Black authenticity. Just as there is a limited way to be “authentically” Black, there are unlimited ways to perform post-Blackness. But this means that the performers must be able to embrace the fluidity of Black identity without being influenced or impacted by societal conventions – this is virtually impossible (p. 118). Touré references this as the ability to avoid the white and Black gaze (p. 55). As powerful as post-Blackness is as a theory of individual self-expression, it is limited as a tool for eradicating structural inequality and subtle racism. Perhaps this is asking too much of post-Blackness as a theory (p. 117), but the question remains how can race (or Blackness) ever be “post” when we cannot change Blackness and what it means in society? The way that this country was founded all but guarantees that race will always be at the center of identity no matter how one defines it.⁷

109-126 (Basic Books 1992).

⁴ www.cnn.com/2012/01/26/opinion/Mosley (January 26, 2012).

⁵ www.youtube.com/watch?v=_PuPs_-a9A8 (January 18, 2012).

⁶ Randall Kennedy, *The Fallacy of Touré’s Post-Blackness Theory*, www.theroot.com/print/54971 (August 11, 2011).

⁷ Thurgood Marshall, *Reflections on the Bicentennial of the United States Constitution*, 101 Harv. L. Rev. 1 (1987).

I.

IDENTITY AND SELF-DETERMINATION

One could take issue with Touré's 105 person test sample – an assemblage of scholars, public intellectuals, pathbreaking artists, and political figures – individuals who clearly have “transcended” race through the power of self-expression. So, post-Blackness does not squarely address the group dynamic that Touré identifies. This is because post-Blackness is a doctrinal and rhetorical move away from group-based inclusiveness premised upon shared “authentic” views and experiences to a limitless Black identity. Ultimately, group identity will be displaced, and the individual will be isolated.

Touré describes the collapse of African-American comedian David Chappelle's show as “The Rise and Fall of a Post-Black King” (p. 57). This is an illuminating example of the commodification of Blackness. Blackness is commodified, it becomes a fungible cultural product to be traded based upon its appeal to white majoritarian aesthetics.⁸ So, a dominant theme of post-Blackness is “non-threatening Blackness” (p. 182) that will be appealable and credible to whites. But what does this say about the essence of post-Black identity? It is certainly limited when it is viewed through the lens of whiteness. Recounting the comedic brilliance of Chappelle's provocative and insightful social commentary, Touré exhibits empathy that later becomes slightly scornful and accusatory:

. . . [I]t's Chappelle who's put himself in a position he doesn't want to be in, a place that makes him feel like a prostitute because he's questioning whether he's bringing down the race with work that's too subtle for a massive audience, including white people who don't understand Black comedy and culture. . . . He thinks maybe they are laughing

⁸ Ruthann Robson, *To Market, To Market, Considering Class in the Context of Lesbian Legal Theories and Reforms*, 5 U.S.C. J. L. & Women's Stud. 173, 180 (1995) (“The commodification of blackness makes it ‘possible for white supremacist culture to be perpetuated and maintained even as it appears to be inclusive.’”) (quoting bell hooks, *Outlaw Culture: Resisting Representations* 149, 150 (Routledge 1994)); see generally E. Christi Cunningham, *Identity Markets*, 45 How. L. J. 491 (2002).

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at him and helping trap him and keep him prostituting. Chappelle's comic mouth has written checks his body is afraid to cash. And the abundance of whites at the party that is his edgy cultural production makes him wonder if he's gone from brilliant culture commentator to a culture-damaging sellout. . . . The freedom of the post-Black era has scared him to death. So he picks up the gauntlet he threw down at the beginning of the show and he runs (pp. 73-74).

The preceding passage suggests that post-Blackness is not as fluid as Touré believes it is; indeed, it is obvious that Chappelle is not post-Black enough because he “runs” when he is faced with the absolute freedom at the core of post-Blackness. To Touré, Chappelle is stuck in the antiquated conception that an individual has to serve as the representative of an entire race. Individuals are free to perform Blackness in any way they see fit. If only it were that simple. Over a century ago, W.E.B. Du Bois unpacked the inherent duality of the Black experience in America when he theorized the concept of double-consciousness.⁹ Chappelle is unable to avoid the white gaze and the Black gaze (p. 55) – he believes that whites are imprisoning him in a societal jail of rank stereotypes and he cannot live up to the burden of advancing the race (p. 58). But this is the conceptual limitation of post-Blackness – it purports to move away from rigid standards of authenticity, but it is still limited by its own literal absoluteness.

That is, in order to reject the Black identity police and arbiters of Black authenticity (pp. xv-xvi), Touré has to construct a boundless conception of Black identity. It is so inclusive that the core Black experiential commonality, which he seeks to preserve, is subsumed by what Professor Randall Kennedy terms “libertarian absolutism.”¹⁰

⁹ W.E.B. Du Bois, *The Souls of Black Folk* (1903), in *Three Negro Classics* 207, 214-15 (Avon Books 1965) (“. . . the Negro is a sort of seventh son, born with a veil, and gifted with second-sight in this American world,— a world which yields him no true self-consciousness, but only lets him see himself through the revelation of the other world. . . . One ever feels this twoness,— an American, a Negro; two souls, two thoughts, two unreconciled strivings; two warring ideas in one dark body, whose dogged strength alone keeps it from being torn asunder.”).

¹⁰ Kennedy, *supra* note 6.

“Touré’s response is to so broaden the boundaries of blackness that no black person can be properly “convicted” of straying outside.”¹¹ Kennedy argues that this is a conceptual problem because “Touré himself does not fully believe in the unbounded conceptions of blackness or post-blackness that he sometimes seems to propound.”¹² By locating shared commonality in the Black experience while simultaneously diffusing it to include everyone who is “post-Black,” Touré succeeds in embracing the multiplicities of Black identity, but fails in advancing a substantive theory of empowerment that unifies Blacks. Kennedy concludes that

If post-black opens the door to everything, does that mean that *anyone* can rightly be deemed “Black”? Just suppose that Glenn Beck and Bill O’Reilly, as a joke, declared themselves to be black. If there really are *no* restraints on blackness, *no* boundaries distinguishing “Blacks” from “non-Blacks,” then it follows that there would be no basis on which to deny their claim. That, in my view, would be unsatisfactory.¹³

Of course, Beck and O’Reilly are neither Black nor post-Black, their identities are not rooted in the Black experience, culture, or history of liberation, they are free to perform identity in any manner that they please, but they cannot do so as Blacks. They lack Black *authenticity*. This is not a bad thing. “One should differentiate . . . between specious and defensible notions of racial authenticity.”¹⁴ Certainly, Justice Clarence Thomas is “post-Black;” he can perform and articulate his views as a Black man in any way he chooses, and just because those views diverge from those of progressives does not mean that he is not Black (pp. 24-25). However, the reason that Justice Thomas is referred to as an “Uncle Tom”¹⁵ or “not Black enough” is that he shares the inauthenticity of Beck and O’Reilly – he advances literal colorblindness and post-racialism as

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* (emphasis in original).

¹⁴ *Id.*

¹⁵ See Jack E. White, *Uncle Tom Justice*, Time, June 26, 1995, at 36.

guiding principles in his constitutional jurisprudence.¹⁶

Post-Blackness, then, serves as a rhetorical and doctrinal move away from colorblindness, where race is defined through the prism of neutrality,¹⁷ and post-racialism, which is premised on racial transcendence,¹⁸ to expansive Black self-identity. Post-Blackness is not a theory that addresses structural inequality; rather, its focus is on the fluidity of Black identity. Thus, it loses its potency as an antidote to post-racialism. Ironically, the commonality of struggle and purpose forged in the crucible of centuries of oppression has been splintered because of the success of that struggle. Blacks move through all arenas of American society; and, to a certain extent, can define their identities without the constraints that stunted the growth of previous generations. This is not enough, however, because racism and structural inequalities adapt,¹⁹ and the fluidity of Black identity does not serve as an effective counterweight to subtle racism. Indeed, racism is fluid as well. So, the key question is how do we balance the fluidity of Black identity with the permanence of racism? This is a salient question because as Black identity expands, there are many Blacks who cannot claim the power of modern individualistic Blackness.²⁰ Touré acknowledges this when he states that “[i]t would be

¹⁶ Cedric Merlin Powell, *Rhetorical Neutrality: Colorblindness, Frederick Douglass, and Inverted Critical Race Theory*, 56 *Cleve. St. L. Rev.* 823, 888-92 (2008).

¹⁷ Cedric Merlin Powell, *Blinded By Color: The New Equal Protection, the Second Deconstruction, and Affirmative Inaction*, 51 *U. Miami L. Rev.* 191 (1997).

¹⁸ See Sumi Cho, *Post-Racialism*, 94 *Iowa L. Rev.* 1589, 1593 (2009) (discussing post-racialism as an ideology that is even more pernicious than colorblind constitutionalism because (i) it obscures the centrality of race and racism in society; (ii) it encourages a retreat from race-conscious remedial approaches because society has “transcended” race; (iii) it privileges liberal individualism to refute any claims about the lingering effects of centuries of racial oppression; and (iv) it “denigrates collective Black political organization.”); Darren Hutchinson, *Racial Exhaustion*, 86 *Wash. U. L. Rev.* 917 (2009) (discussing the rhetorical power of neutral narratives designed to displace any meaningful efforts at dismantling racial discrimination).

¹⁹ Bell, *supra* note 3.

²⁰ Eugene Robinson, *Disintegration: The Splintering of Black America* 5 (Doubleday 2010) (Pulitzer Prize winning author Robinson explores the splintering effect in

silly to believe that Black people are not judged as a group even though we argue for this robust individualism” (p. 9). This is the central tension in the United States Supreme Court’s race jurisprudence under the Equal Protection Clause of the Fourteenth Amendment:²¹ whether the Constitution protects historically oppressed groups or individuals under the doctrine of colorblindness (or post-racialism).

II. THE FOURTEENTH AMENDMENT AND LIBERAL INDIVIDUALISM

Paradoxically, post-Blackness is both a direct rebuke of the liberal individualism that underpins the Court’s race jurisprudence²² and an endorsement of the concept of individual rights (at least in the public sphere). Rejecting post-racialism and colorblindness (p.

which he describes four distinct groups of African-Americans: (i) mainstream middle-class; (ii) a large, abandoned minority steeped in poverty; (iii) a small transcendent elite with unlimited privileges; and (iv) an immigrant or mixed race community that exemplifies the fluidity of race and the multiple meanings of Blackness).

²¹ “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1 (1868).

²² See, e.g., *Grutter v. Bollinger*, 539 U.S. 306, 326 (2003) (citation omitted) (group classifications based on race are strictly prohibited by the Equal Protection Clause because the amendment “protects persons, not groups”); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 230 (1995) (“Consistency *does* recognize that any individual suffers an injury when he or she is disadvantaged by the government because of his or her race, whatever that race may be.”) (emphasis in original); *Miller v. Johnson*, 515 U.S. 900, 904 (1995) (noting that the central mandate of the Fourteenth Amendment is race neutrality); *City of Richmond v. Croson*, 488 U.S. 469, 493 (stating that “the rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. The rights established are personal rights.”) (quoting *Shelley v. Kraemer*, 334 U.S. 1, 22 (1948)); *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 283-84 (1986) (emphasizing the effect of layoffs on innocent individuals, and holding race-based layoff system designed to preserve diversity in the faculty teaching ranks unconstitutional); *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 289-90 (1978) (“The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color.”).

12), Touré posits post-Blackness as validating a limitless Black identity which embraces a core culture and the splintered variations derived from it. So, race exists, yet we are “rooted in but not restricted by Blackness” (p. 12). This individuality is powerful in affirming Black self-determination, but it overlaps with the doctrinal strand of colorblind liberal individualism favored by the Court. This is where post-Blackness falls short. Touré himself observes that “post-Blackness is no wonder drug that can cure or even significantly alter American white supremacy. . . .” (p. 117). Of course, this is true. Yet we should be skeptical of any argument, no matter how appealing, that is rooted in neutrality. Neutrality actually reinforces inequality:

Rhetorical Neutrality is the linchpin of the Court’s colorblind jurisprudence. Three underlying myths – historical, definitional, and rhetorical – all serve to shift the interpretative (doctrinal) framework on questions of race from an analysis of systemic racism to a literal conception of equality where the anti-differentiation principle is the guiding touchstone. “The traditional fonts of Fourteenth Amendment jurisprudence – the anti-subjugation and anti-caste principles – have been effectively replaced by an anti-differentiation principle.” Literal equality, without regard to context or history, is the unifying principle of the Court’s race jurisprudence.²³

“The historical myth, underlying Rhetorical Neutrality, essentially erases any connection between the legislative history of the Civil War Amendments (the Thirteenth, Fourteenth, and Fifteenth Amendments) and race.”²⁴ Specifically, there is a doctrinal shift from the anti-caste principle underlying these amendments to an anti-differentiation principle premised on the rights of *individuals*, not historically oppressed racial minorities. Thus, the Court always begins its analysis of race under the Fourteenth Amendment with the proposition that the Constitution protects individuals, not groups. So, there is no analysis of the present day effects of past dis-

²³ Powell, *supra* note 16, at 831 (citation omitted).

²⁴ *Id.* at 831 n.31.

crimination – the focus is on a forward-looking, neutral approach that preserves structural inequality.²⁵

By contrast, post-Blackness explicitly acknowledges the existence of race and structural racism, but it nevertheless adopts a forward-looking approach to the conception of an unlimited Black identity (pp. 200-01). Post-Blackness is more concerned with individual expression as a path to liberation²⁶ rather than a race-conscious, group rights approach to the eradication of systemic inequalities. Thus, while post-Blackness certainly explains some aspects in the evolution of Black struggle and cultural expression, it suffers from some of the same flaws that are found in the Court’s race jurisprudence. This is the neutral allure of post-Blackness.

III. THE NEUTRAL ALLURE OF POST-BLACKNESS

Two Supreme Court decisions illustrate how neutrality functions: in *Grutter v. Bollinger*,²⁷ the Court adopted a colorblind approach that resembled, in some respects, Touré’s conception of post-Blackness. Here, the Court balanced liberal individualism and a group-based racial remedial approach.²⁸ In *Parents Involved in Community Schools v. Seattle School District No. 1*,²⁹ the Court announced its first post-racial decision proclaiming that “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”³⁰ Both decisions are important because, taken together, they represent a seminal shift in the Court’s race jurisprudence from colorblindness (*Grutter*) to post-racialism (*Parents Involved*). Post-

²⁵ *Id.* at 840-45.

²⁶ Touré, *Who’s Afraid of Post-Blackness* 175-88 (Free Press 2011) (discussing “how to build more Baracks” by employing the rhetorical tools of neutrality while embracing Blackness in a manner that is non-threatening to white voters).

²⁷ 539 U.S. 306 (2003).

²⁸ *Id.* at 343.

²⁹ 551 U.S. 701 (2007).

³⁰ *Id.* at 748.

Blackness provides an analytical tool with which to unpack the Court's colorblind neutrality.

Grutter is essentially a colorblind decision and a post-Black decision. The Court held that "the Equal Protection Clause does not prohibit the [University of Michigan Law School's] narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body."³¹ Emphasizing the liberal individualism that is at the core of the Fourteenth Amendment, the Court sought to balance "personal rights" and a group-based racial remedial approach to remove existing barriers to equality. In her decision for the Court, Justice O'Connor relied heavily on the fact that a "critical mass" of racial minorities in law school classrooms was essential to a diverse and meaningful education.³² Critical mass is a compromise between liberal individualism and a group-based racial remedial approach: rather than an unconstitutionally rigid quota, a critical mass means that there will be a group of historically underrepresented students with diverse viewpoints who will promote "cross-racial understanding," break down stereotypes, and provide leadership in a diverse global marketplace.³³

It might seem odd to refer to *Grutter* as a post-Black decision, but it is. *Grutter* derives much of its analytical power from the notion that a diverse education is particularly valuable in breaking down societal barriers. In other words, opening up public institutions to all, especially African-Americans and other people of color, who express their identities without the constraints of authenticity, will only enhance the educational experience. If there are 40 million ways to be Black, then this difference (diversity) will add to the educational experience of all. Yet post-Blackness, like Justice O'Connor's nuanced strain of colorblind constitutionalism,³⁴ is lim-

³¹ 539 U.S. at 343.

³² *Id.* at 330.

³³ *Id.* at 330-31.

³⁴ Powell, *supra* note 16, at 883 ("By focusing on individual access, Justice O'Connor achieves a tenuous compromise between liberal individualism and group rights theories of social justice.").

ited in its potential beneficial impact. The First Amendment value of diversity is rooted in process, not substantive equality. “[T]he Court now emphasizes neutrality by focusing almost exclusively on minimizing the impact on white privilege if race-conscious remedies are permitted, or on the marketplace paradigm of the First Amendment as a substitute for the anti-caste and anti-subjugation principles.”³⁵ *Grutter* is much more about defining how a diverse education will benefit white students than about eradicating the present day effects of past discrimination in law school admissions. Likewise, post-Blackness is much more about defining the boundless scope of Black identity than about restructuring the society that previously limited Black identity. While post-Blackness’ approach to identity is expansive, its approach to structural inequality is incremental.

In fairness, it should be noted that post-Blackness provides a powerful rationale for interpreting *Brown v. Board of Education*³⁶ as a substantive decision. In *Parents Involved*, the Court held that the cities of Louisville and Seattle’s voluntary desegregation plans were unconstitutional because race was a predominant consideration in student school assignments.³⁷ To reach this conclusion, the Court reinterpreted *Brown* to stand for the proposition that there was an *individual* right to attend a neighborhood school of choice notwithstanding the political community’s *voluntary* decision to establish and maintain integrated schools.³⁸ This perverse brand of liberal individualism would be rejected by post-Blackness – the First Amendment should be interpreted substantively to complement the constitutional mandate of the Fourteenth Amendment:

The key to this understanding of *Brown* is that the practice of segregation, the practice the Court held inherently unconstitutional, was *speech*. *Brown* held that segregation is uncon-

³⁵ Powell, *supra* note 16, at 874.

³⁶ 347 U.S. 483 (1954).

³⁷ 551 U.S. at 748.

³⁸ Cedric Merlin Powell, *Harvesting New Conceptions of Equality: Opportunity, Results, and Neutrality*, 31 St. Louis U. Pub. L. Rev. ___ (forthcoming 2012); Girardeau Spann, *Disintegration*, 46 U. Louisville L. Rev. 565, 628 (2008).

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stitutional not simply because the physical separation of Black and white children is bad or because resources were distributed unequally among Black and white schools. *Brown* held that segregated schools were unconstitutional primarily because of the *message* segregation conveys – the message that Black children are an untouchable caste, unfit to be educated with white children. . . . It stamps a badge of inferiority upon Blacks, and this badge communicates a message to others in the community, as well as to Blacks wearing the badge, that is injurious to Blacks. Therefore, *Brown* may be read as regulating the content of racist speech.³⁹

Race does matter;⁴⁰ and, if *Brown* means anything, it must mean that identity cannot be used to stigmatize and imprison Blacks on the basis of race. Indeed, *Brown* makes it possible for Touré to argue that the boundaries on Black identity have dissipated, and that authenticity can place no limits on the Black imagination.

Post-Blackness reminds us that our American polity has matured for the better. The laws of this country have been transformed: first, Blacks did not exist as full members of society, there was no Black identity;⁴¹ next, during Reconstruction and its aftermath, Blacks were accorded the “rights” of second class citizenship complete with the absurd admonition that any stigmatizing effect of their inferior status was purely a product of their own imagination;⁴² *Brown* and the Civil Rights Era ushered in a new conception of Black identity and empowerment;⁴³ and, today because so many formal barriers of oppression have fallen, the question is: what does it mean to be Black now? Post-Blackness is an affirmation of Black self-determination through *individuality*. But the central paradox of post-Blackness is that it unites Blacks by jettisoning a rigid litmus test of

³⁹ Mari J. Matsuda et. al., *Words That Wound: Critical Race Theory, Assaultive Speech, and the First Amendment* 59 (Westview 1993) (emphasis in original).

⁴⁰ Cornel West, *Race Matters* (Beacon Press 1993).

⁴¹ *Dred Scott v. Sanford*, 60 U.S. (19 How.) 393 (1857).

⁴² *Plessy v. Ferguson*, 106 U.S. 537, 550-51 (1896).

⁴³ Kwame Ture & Charles V. Hamilton, *Black Power: The Politics of Liberation* (Vintage 1992).

authenticity while disintegrating the shared historical bond of struggle.⁴⁴

We must go beyond the fluidity of identity; we must advance theories of group empowerment which seek to dismantle the present day effects of past discrimination.⁴⁵ Of course, no one theory or conception can do all of this work. Touré, along with others in this burgeoning canon,⁴⁶ offer an important place to start our conversation on race in a society that is neither totally post-racial nor post-Black.⁴⁷



⁴⁴ Rejecting post-Blackness and arguing that “mixed-race blacks have an ethical obligation to identify as black,” Thomas Chatterton Williams asks a seminal question:

At a moment when prominent, upwardly mobile African-Americans are experimenting with terms like “post-black,” and outwardly mobile ones peel off at the margins and disappear into the multiracial ether, what happens to the core of black people who cannot or do not want to do either?

Thomas Chatterton Williams, *As Black as We Wish to Be*, N.Y. Times, March 18, 2012, at 5. Post-Blackness does not attempt to answer this question because it is rooted in malleable identities, liberal individualism, and neutral conceptions of access.

⁴⁵ Recent events like the tragic death of Trayvon Martin remind us that “virtually every aspect of life and material well-being is influenced by skin color, in addition to race.” Brent Staples, *Young, Black, Male, and Stalked by Bias*, N.Y. Times, April 15, 2012, at 10 (quoting Vesla Weaver, a political science professor at the University of Virginia); see also Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (The New Press 2011) (conceptualizing the prison system as a current manifestation of caste-based, Jim Crow oppression with more African-American males under correctional control than were enslaved in 1850).

⁴⁶ See *supra* nn. 1 & 20. Other scholars and cultural commentators are skeptical of liberal individualism and the fluidity of identity, and instead focus on the core centrality of the Black experience in America. See, e.g., David Shields, *Race, the Remix*, N.Y. Times, Book Review, April 22, 2012, at 15 (reviewing Kevin Young, *The Grey Album: On the Blackness of Blackness* (Graywolf Press 2012)).

⁴⁷ The conversation should begin with an acknowledgement of the permanence of race and racism in American society. See *supra* note 3. Post-Blackness is essentially a neutral aesthetic – a means of individual expression disconnected from an explicit critique of structural inequality.