
Against Bipolar Black Masculinity: Intersectionality, Assimilation, Identity Performance, and Hierarchy

Frank Rudy Cooper*

I contend that popular representations of heterosexual black men are bipolar. Those images alternate between a Bad Black Man who is crime-prone and hypersexual and a Good Black Man who distances himself from blackness and associates with white norms. The threat of the Bad Black Man label provides heterosexual black men with an assimilationist incentive to perform our identities consistent with the Good Black Man image.

The reason for bipolar black masculinity is that it helps resolve the white mainstream's post-civil rights anxiety. That anxiety results from the conflict between the nation's relatively recent determination that some black men merit inclusion into the mainstream and its longer-standing and ongoing belief that most black men should be excluded. Bipolar black masculinity addresses that anxiety by clearly demarcating which black men merit inclusion — only those who fit the assimilationist ideal. Bipolar depictions justify the status quo of the exclusion of most black men into jail or the lower-classes and the inclusion of only a token few white-acting black men into the mainstream.

I draw my conclusions by utilizing Critical Race Feminism's intersectionality theory — analysis of the interplay between race and gender narratives. Intersectionality theory is usually applied to the multiply subordinated, such as women of color, rather than the singly subordinated, such as middle-class heterosexual black men. Extending intersectionality theory to heterosexual black men is justifiable when we consider the shared interests of the multiply and singly subordinated in defeating the Western epistemological system of the scaling of bodies. The scaling of bodies is the assumption that we must rank identity characteristics against a norm and organize society according to those hierarchies. Bipolar black masculinity seeks to seduce heterosexual black men into accepting the right to subordinate others as compensation for our own subordination. If heterosexual black men are to disrupt bipolar black masculinity, we must refuse to accept the right to subordinate others and construct an antihierarchical black masculinity.

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[W]e have constructed in our films and in our media in general, between the love-hate polarities of Bill Cosby and Willie Horton, a vast, empty space in representation.

Ed Guerrero¹

INTRODUCTION

When I² try to convince students that hierarchy³ is not inevitable, I often face resistance. “Isn’t it true,” they say, “that if we raised children on the moon they’d still find a way to separate into groups?” No. Kindergarten teacher Vivian Gussin Paley demonstrated that hierarchy is not in fact natural. For example, children in kindergarten are often assumed to “naturally” exclude some classmates from their playgroup.⁴ When Paley made the rule “you can’t say ‘you can’t play,’” children learned to include everyone.⁵ It turns out that hierarchy is not an immutable characteristic.

^{*} Associate Professor, Suffolk University Law School. J.D., Duke University; B.A., Amherst College. © 2005 Frank Rudy Cooper. I dedicate this Article to my father, Clarence A. Cooper. I thank Seth Martin Cooper, Daniella Courban, Diane D’Angelo, Nancy Ehrenreich, Mitu Gulati, John McLean, Angela Onwuachi-Willig, Andrew Perlman, Gowri Ramachandran, and Miguel Schor. Special thanks to Brandy Christensen and the staff of the U.C. Davis Law Review. I invite comments at fcooper@suffolk.edu.

¹ Ed Guerrero, *The Black Man on Our Screens and the Empty Space in Representation*, in BLACK MALE: REPRESENTATIONS OF MASCULINITY IN CONTEMPORARY AMERICAN ART 181, 185 (Thelma Golden ed., 1994) (emphasis added).

² I will speak in the first person throughout this Article in order to emphasize my attempt to distance myself from hierarchical thinking, which is implied by subordinating the “I” to a universal voice. See Michael Awkward, *A Black Man’s Place in Black Feminist Criticism*, in BLACK MEN ON RACE, GENDER, AND SEXUALITY: A CRITICAL READER 362, 362 (Devon W. Carbado ed., 1999) (arguing for autobiographical stance in male feminism).

³ “Hierarchy” is the systematic positioning of one social group over another. See, e.g., Lisa C. Ikemoto, *Traces of the Master Narrative in the Story of African American/Korean American Conflict: How We Constructed “Los Angeles,”* 66 S. CAL. L. REV. 1581, 1583 (1993) (analyzing Rodney King uprising and arguing white supremacy “arranges the various racial identities so as to preserve the authority of whiteness and devalue difference”). Current hierarchies emanate from the Western epistemological system of “the scaling of bodies.” That system presumes that people’s identity characteristics must be ranked against a norm and that society must be organized to privilege those at the top of the overlapping hierarchies. See IRIS MARION YOUNG, *JUSTICE AND THE POLITICS OF DIFFERENCE* 126-28 (1990) (identifying Western epistemological system of hierarchizing identities against norm).

⁴ See generally VIVIAN GUSSIN PALEY, *YOU CAN’T SAY YOU CAN’T PLAY* (1992) (describing experience making rule against exclusion).

⁵ *Id.* at 93-134 (describing generally positive results of rule).

When we think of hierarchy, we tend to imagine discrete systems of racial, gender, sex orientation, and class oppression. Critical Race Feminism's intersectionality theory reveals that those systems overlap to create additional, hybrid forms of oppression. For instance, black women sometimes experience forms of race-sex discrimination suffered by neither black men nor white women.⁶ In this Article, I ask whether we might not expand upon that insight by analyzing the effects of the intersection of race, gender, and sex orientation upon popular representations of heterosexual black men.⁷ Those representations are especially important to me because I am not only a chronicler of heterosexual black men, but also a member of that group.

I am aware that intersectional analyses are usually applied to the multiply subordinated. The multiply subordinated are those who are denigrated within more than one major system of oppression, such as women who are also of color.⁸ The singly subordinated are those who

⁶ On intersectionality and women of color, see, for example, Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991) (arguing legal theorists must consider how intersections of race, class, and gender affect both laws and political movements); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990) (same).

⁷ I usually specify that I am talking about the representation of heterosexual black men because homosexual black men have a distinct experience. I am also presuming we are talking about middle-class, able-bodied, middle-aged, Christian citizens of the United States. I make those assumptions for the purpose of isolating the effects of blackness and maleness upon representation.

At the April 1, 2005 U.C. Davis Law Review Symposium, The Future of Critical Race Feminism, Adrien Katherine Wing asked whether we need a separate Critical Race Theory devoted to the study of men of color. I find that idea intriguing, but believe this analysis is properly conducted under the rubric of Critical Race Feminism for two reasons. First, men of color and women of color have a shared enemy in the system of the scaling of bodies. Second, the solution to misrepresentation of men of color involves our looking to Critical Race Feminism for ways to undo patriarchal white supremacy.

⁸ To be more precise, the multiply subordinated are subordinated along more than one major axis of identity while the singly subordinated are only subordinated along one major axis of identity. For purposes of this Article, I consider the major axes of identity to be race, gender, sex orientation, and class. Religion, able-bodiedness, and age are also major axes of identity in at least some contexts. As Nancy Ehrenreich reminds me, the idea of a singly subordinated individual is merely a heuristic device. Once we consider all of the axes of identity along which people are judged, including weight, height, looks, charisma, and so on, nearly everyone is at least slightly "subordinated" along multiple axes in at least some contexts. There is a real difference, however, between generally being either unsubordinated or singly subordinated and generally being multiply subordinated. See, e.g., Peter Kwan, *Jeffrey Dahmer and the Cosynthesis of Categories*, 48 HASTINGS L.J. 1257, 1275 (1997) (criticizing comparison between intersectionality of white males and women of color).

are only subordinated along one major axis of identity, such as economically privileged heterosexual black men. Extending intersectional analysis to the singly subordinated risks creating a false sense that our subordination is equivalent to that of the multiply subordinated.⁹ It might then become difficult to recognize heterosexual black men's subordination of black women and gays as an exercise of power by a relatively privileged group.

Subordination by the singly subordinated can be both recognized and critiqued. Doing so requires recognizing the shared interests of the multiply and singly subordinated in destroying the system of the scaling of bodies. The scaling of bodies is the Western epistemological system of ranking identity characteristics against a norm and organizing society according to the resulting hierarchies.¹⁰ The assumption that identity hierarchies are inevitable undergirds racism, sexism, homophobia, and other forms of oppression. If we are working to defeat those hierarchies, analysis of the singly subordinated does not contradict the interests of the multiply subordinated. Instead, intersectional analyses of the singly subordinated recognize and critique such groups' subordinating acts as part of a general strategy for disrupting the root source of all oppressions: the system of the scaling of bodies.

An intersectional analysis of representations of heterosexual black men finds that the predominant images depict us as either the completely threatening Bad Black Man or the fully assimilationist Good Black Man. The Bad Black Man is animalistic, sexually depraved, and crime-prone.¹¹ The Good Black Man distances himself from black people and emulates white views.¹² The images are bipolar in that they swing from one

⁹ See Sumi Cho, *Understanding White Women's Ambivalence Toward Affirmative Action: Theorizing Political Accountability in Coalitions*, 71 *UMKC L. REV.* 399, 405-06 (2002) (contending that applying intersectionality theory to singly subordinated risks reducing significance of their subordinating acts).

¹⁰ YOUNG, *supra* note 3, at 126-28. Francisco Valdes has also discussed the ways that racism, sexism, and homophobia have shared roots. See generally Francisco Valdes, *Unpacking Hetero-Patriarchy: Tracing the Conflation of Sex, Gender, and Sexual Orientation to its Origins*, 8 *YALE J.L. & HUMAN.* 161 (1996) (defining and explicating "Euroheteropatriarchy").

¹¹ See, e.g., N. Jeremi Duru, *The Central Park Five, the Scottsboro Boys, and the Myth of the Bestial Black Man*, 25 *CARDOZO L. REV.* 1315 (2004) (tracing image of "bestial black man"); see also D. Marvin Jones, "We're All Stuck Here for a While": *Law and the Social Construction of the Black Male*, 24 *J. CONTEMP. L.* 35 (1998) (identifying stereotypes of black men).

¹² See Devon W. Carbado & Mitu Gulati, *Race to the Top of the Corporate Ladder: What Minorities Do When They Get There*, 61 *WASH. & LEE L. REV.* 1645, 1654 (2004) (arguing corporations inculcate assimilationist tendencies in racial minority executives). Note that

extreme to another with little room for nuanced depictions.¹³ Threatened with the Bad Black Man image, black men are provided with an “assimilationist incentive” to pursue the Good Black Man image. The bipolarity of the images is an intersectional phenomenon because it is the product of the combination of narratives about blackness in general and narratives about black masculinity in particular.¹⁴

Although some scholars have discussed the contents of the Bad Black Man and Good Black Man images, they have rarely fully analyzed their combined function. The Bad Black Man image warrants surveillance and containment of the masses;¹⁵ the Good Black Man image conditions inclusion upon affirming white norms.¹⁶ Jointly, these bipolar representations provide a mechanism for resolving the white mainstream’s “post-civil rights anxiety.” The mainstream’s anxiety results from the conflict between its relatively recent public creed of inclusion and its continuing subconscious belief that most black men should be excluded.¹⁷ Many whites expect the Good Black Man to

when I describe “white views,” I merely refer to the dominant discourse. Not all white people participate in the discourse, and not all the participants in the discourse are white people. The mindset produced by the dominant discourse, which was initiated by (male) whites and designed to promote their interests, continues to promote norms most associated with (male) whites. Cf. Kathleen Daly, *Criminal Law and Justice System Practices as Racist, White, and Racialized*, 51 WASH. & LEE L. REV. 431, 440 (1994) (“[M]asculinity or male values need not be anchored to male bodies. Legal ideals of objectivity and neutrality, though framed as universal values, are revealed as masculine values.”). See generally Adele Morrison, *Changing the Domestic Violence (Dis)course: Moving from White Victim to Multi-Cultural Survivor*, 39 U.C. DAVIS L. REV. 1061 (2006) (explaining meaning of describing dominant culture as “white”).

¹³ Guerrero, *supra* note 1, at 185 (revealing polar nature of images); cf. Richard Delgado & Jean Stefancic, *Minority Men, Misery, and the Marketplace of Ideas*, in CONSTRUCTING MASCULINITY 211, 215 (Maurice Berger et al. eds., 1995) (“From the seventeenth century, Indians were placed on either end of a spectrum of social relations, but seldom in the middle.”).

¹⁴ See bell hooks, *Doing it for Daddy*, in CONSTRUCTING MASCULINITY, *supra* note 13, at 98, 106 (referring to joint “racist/sexist” stereotypes of black males).

¹⁵ See generally Thomas L. Dumm, *The New Enclosures: Racism in the Normalized Community*, in READING RODNEY KING/READING URBAN UPRISING 178 (Robert Gooding-Williams ed., 1993) (arguing new racism oriented to justifying containment of black men).

¹⁶ See, e.g., Carbado & Gulati, *supra* note 12, at 1658 (contending “the corporation will hire and promote some nonwhites — those it perceives to be, and those it perceives have the capacity to become, racially palatable”).

¹⁷ See generally HAZEL V. CARBY, RACE MEN 176 (1998) (arguing mainstream feels anxiety over how to distinguish good blacks from bad blacks). Amsterdam and Bruner mean something like this when they describe the conflict between “the American creed” and “the American caution.” The creed is our aspiration to equality and the common good; the caution is our retrenching insistence upon liberty and self-interest. See ANTHONY G.

assimilate as the price for his inclusion into the mainstream.¹⁸ Consequently, they feel no guilt when the nonassimilating Bad Black Man is consigned to the lower-classes or jail.¹⁹ Bipolar representation of black masculinity thus protects the status quo of exclusion of most black men into the lower-classes and jail and the inclusion of only a token few assimilationists into the white mainstream.

A hidden effect of bipolar representation is that it disciplines black men into accepting the present hierarchies as inevitable. First, the Good Black Man image suggests to black men that we should assimilate by means of emulating the white men who occupy the normative place in this culture.²⁰ Second, the normative masculinity heterosexual black men are to emulate is based on proving one's worth by subordinating those further down in the various identity hierarchies.²¹ Third, emulation of normative masculinity thus contributes to heterosexual black men subordinating women and gays²² as a form of compensation for our own oppression.²³ Finally, that process represents the seduction of

AMSTERDAM & JEROME BRUNER, *MINDING THE LAW* 261 (2000) (defining cultural dialectic between creed and caution).

¹⁸ See, e.g., hooks, *supra* note 14, at 104 (contending whites socialized to expect black self-effacement); see also Carbado & Gulati, *supra* note 12, at 1665 (arguing "people of color have the burden of making whites feel comfortable with their nonwhite identity").

¹⁹ See Marlon B. Ross, *In Search of Black Masculinities*, 24(3) *FEMINIST STUD.* 599, 606 (Fall 1998) ("The hypervisibility of these exceptional black men also bolsters the idea that black men who disappear into the anonymity of the underclass or the early grave have only themselves to blame.").

Allow me to make myself explicit. At no point in this Article am I saying that all, or even most, whites intentionally oppress black men. Rather, I am pointing to the combined effects of trends in representation.

²⁰ hooks, *supra* note 14, at 99 ("To become powerful, then, to occupy that omnipotent location, black males (and white females) must spend their lives striving to emulate white men.").

²¹ See Michael S. Kimmel, *Masculinity as Homophobia: Fear, Shame, and Silence in the Construction of Gender Identity*, in *THE GENDER OF DESIRE: ESSAYS ON MALE SEXUALITY* 25, 39 (2005) ("Manhood is equated with power — over women, over other men."); see also Michelle Fine et al., *(In)secure Times: Constructing White Working-Class Masculinities in the Late 20th Century*, 11 *GENDER & SOC'Y* 52, 66 (1997) (concluding "white men in various stages of adulthood, poor and working-class, are constructing identities on the backs of people of color and white women").

²² See BELL HOOKS, *WE REAL COOL: BLACK MEN AND MASCULINITY* 7 (2004) (arguing heterosexual black men's desire to be like white men led to their desire to subjugate black women). I use "gay" to denote lesbians, gay men, bisexuals, and transgendered. Accord Kenji Yoshino, *Covering*, 111 *YALE L.J.* 769, 771-72 (2002) (using term in article reviewing requirement for gays, racial minorities, and women to "cover," or downplay, their difference).

²³ See Nancy Ehrenreich, *Subordination and Symbiosis: Mechanisms of Mutual Support*

heterosexual black males into accepting the principle that identities must be hierarchized, which is the basis for our own subordination in the first place.²⁴ If heterosexual black men want to successfully challenge our treatment within the racial hierarchy, we must give up taking pleasure in exercising dominance over those below us in the gender and sex orientation hierarchies.²⁵

My thesis is that bipolar black masculinity both assuages the mainstream's post-civil rights anxiety by preserving the status quo and seduces heterosexual black men into accepting the present identity hierarchies. In Part I of this Article, I argue for utilizing a theoretical framework that merges insights gained from intersectionality theory with insights gained from recognizing the existence of the epistemological system of the scaling of bodies. In Part II, I describe the bipolar images of black men and how they create an assimilationist incentive. In Part III, I explain why post-civil rights anxiety and the desire to justify the status quo treatment of black men lead to bipolar representation. In Part IV, I reveal that bipolar representation seduces heterosexual black men into accepting the present hierarchies. In Part V, I conclude.

I. THEORETICAL FRAMEWORK: INTERSECTIONALITY THEORY AND THE SCALING OF BODIES

I am going to argue that there are two predominant images of black men: one as the threatening Bad Black Man and one as the assimilationist Good Black Man. Both are as much a product of myths about heterosexual black men's gender as they are a product of myths

Between Subordinating Systems, 71 UMKC L. REV. 251, 257 (2002) (noting people subordinated along one axis of identity and privileged along others are tempted to exercise "compensatory subordination"); see also Frank Rudy Cooper, *Understanding "Depolicing": Symbiosis Theory and Critical Cultural Theory*, 71 UMKC L. REV. 355, 366-67, 375 (2002) (analyzing police officer racial profiling as compensatory subordination). But see Cho, *supra* note 9, at 405-06 (critiquing symbiosis theory for overestimating white women's affinity with racial minorities).

²⁴ See Maria Grahn-Farley, *The Law Room: Hyperrealist Jurisprudence & Postmodern Politics*, 36 NEW ENG. L. REV. 29, 58 (2001) (concluding naturalization of hierarchy is root of all oppressions).

²⁵ See, e.g., bell hooks, *Feminism as a Persistent Critique of History: What's Love Got to Do With It?*, in *THE FACT OF BLACKNESS: FRANTZ FANON AND VISUAL REPRESENTATION* 76, 84 (1996) ("It is precisely the mutual patriarchal gazing — the competition for the status of 'real' man — that creates the blind spot in the liberatory analysis of those white and black men who cannot see 'the female' and thus cannot theorize an inclusive vision of freedom.").

about heterosexual black men's race.²⁶ In order to understand why heterosexual black men are represented in particular ways, therefore, we will need to first understand how racism and sexism combine in those images.

For instance, the Bad Black Man image emanates in part from a gender-specific assumption that heterosexual black men are a threat to the sexual security of white women.²⁷ There are also assumptions about sexual deviance of black women,²⁸ but they are often designed to make black women seem as though they are available for use by white men.²⁹ On the flipside, the Good Black Man image seems to be motivated in part by a desire to induce heterosexual black men to desexualize ourselves in order to make whites comfortable.³⁰ In contrast, the image of the desexualized black woman is often linked to a criticism of inadequately feminine black women as emasculating black men and thereby bringing down the black community.³¹

The impetus for such analysis of the gender-specificity of racism was provided by the intersectionality theory movement. In a nutshell, intersectionality theory grew out of the insight that black women are subordinated in ways not predicted by an analysis of the lowest common denominator experiences of just blacks or just women. Hence, stories about the implications of a particular racial status will vary when applied to men rather than women.

One controversy in intersectionality theory is whether its concepts are

²⁶ See Jones, *supra* note 11, at 51 ("[M]yths about the black male are like a two sided coin . . . on the flip side of our racial myths we find myths about the black male's gender.").

²⁷ See *infra* Part II.A (describing image).

²⁸ Black women's presumed lasciviousness was sometimes linked to the presumption that black men would rape white women. See Paula Giddings, *The Last Taboo*, in RACE-ING JUSTICE, EN-GENDERING POWER: ESSAYS ON ANITA HILL, CLARENCE THOMAS, AND THE CONSTRUCTION OF SOCIAL REALITY 441, 443-44 (Toni Morrison ed., 1992) (summarizing mainstream views at turn of 20th century).

²⁹ See bell hooks, *Eating the Other: Desire and Resistance*, in BLACK LOOKS: RACE AND REPRESENTATION 21, 24 (1992) (arguing white males use interracial sex to represent themselves as transgressive); Sherri Sharma, *Beyond "Driving While Black" and "Flying While Brown": Using Intersectionality to Uncover the Gendered Aspects of Racial Profiling*, 12 COLUM. J. GENDER & L. 275, 289-90 (2003) (arguing sexualization of blacks intersects with pure/impure dichotomy of women to support custom official profiling of black women as appropriate for invasive searches).

³⁰ See *infra* Part II.B.3 (describing intersectionality of image).

³¹ See Wahneema Lubiano, *Black Ladies, Welfare Queens, and State Minstrels: Ideological War by Narrative Means*, in RACE-ING JUSTICE, EN-GENDERING POWER, *supra* note 28, at 323, 335 (arguing black female achievement portrayed as gender strangeness betokening racial strangeness of black community).

appropriately applied to social groups that are subordinated along one major axis of identity but privileged along others. Middle-class heterosexual white women and middle-class heterosexual black men both fit into that category. Symbiosis theory extends intersectionality theory to the singly subordinated and finds that the particular ways in which we are subordinated may lead us to compensate ourselves for our own subordination by subordinating others.

The risk of applying intersectionality theory to the singly subordinated is that it will be seen as explaining away our own subordinating actions as the understandable consequence of larger forces. I seek to ameliorate that concern by identifying the shared roots of various forms of oppression in the Western system of the scaling of bodies, which is the idea that identity characteristics should be “scaled” into hierarchies. Recognition of that shared source of Western oppression provides a compelling reason for the singly subordinated not to exercise compensatory subordination. Doing so would only reinforce the idea that identity characteristics can be a basis for subordination, which is also the justification for oppression of the singly subordinated.

This Part of the Article describes my theoretical framework.³² The first

³² As a general matter, my intellectual project synthesizes Critical Race Theory and cultural studies. For more on that methodology, see generally Frank Rudy Cooper, *The “Seesaw Effect” from Racial Profiling to Depolicing: Toward a Critical Cultural Theory*, in *NEW CIVIL RIGHTS RESEARCH: A CONSTITUTIVE APPROACH* (Benjamin Fleury-Steiner et al. eds., forthcoming May 2006) (defining critical cultural theory methodology that synthesizes Critical Race Theory and cultural studies). Among the articles that have influenced me are Christian Halliburton, *Neither Separate Nor Equal: How Race-Sensitive Enforcement of Criminal Laws Threatens to Undo Brown v. Board of Education*, 3 SEATTLE J. FOR SOC. JUST. 45 (2004) (arguing racial profiling violates *Brown’s* spirit); Emily M.S. Houh, *Critical Interventions: Toward an Expansive Equality Approach to the Doctrine of Good Faith in Contract Law*, 88 CORNELL L. REV. 1025 (2002) (synthesizing Critical Race Theory and cultural studies to argue for good faith contract claim against discrimination); Adele Morrison, *Queering Domestic Violence to “Straighten Out” Criminal Law: What Might Happen When Queer Theory and Practice Meet Criminal Law’s Conventional Responses to Domestic Violence*, 13 S. CAL. REV. L. & WOMEN’S STUD. 81 (2003) (analyzing narratives about battered women); Camille Nelson, *Breaking the Camel’s Back: A Consideration of Mitigatory Criminal Defenses and Racism-Related Mental Illness*, 9 MICH. J. RACE & L. 77 (2003) (detailing health effects of fighting racism); Reginald Oh, *Re-Mapping Equal Protection Jurisprudence: A Legal Geography of Race and Affirmative Action*, 53 AM. U. L. REV. 1305 (2004) (critiquing common understandings of how racism operates); Angela Onwuachi-Willig & Mario Barnes, *On Being Regarded as Black: Why Title VII Should Apply Even if Lakisha and Jamal Are White*, 2005 WISC. L. REV. (forthcoming 2006) (contrasting everyday forms of discrimination with doctrinal assumptions about discrimination); Catherine E. Smith, *Intentional Infliction of Emotional Distress: An Old Arrow Targets the New Head of the Hate Hydra*, 80 DENV. U. L. REV. 1 (2002) (utilizing tort law to attack discrimination); Madhavi Sunder, *Cultural Dissent*, 54 STAN. L. REV. 495 (2001) (showing how cultures are fluid over time).

section summarizes intersectionality theory.³³ The second section both explains how symbiosis theory applies intersectionality theory to the singly subordinated and identifies a challenge to the utility of symbiosis theory. The third section explains how that concern is addressed by recognizing the existence of the scaling of bodies.

A. Intersectionality Theory

What is most important about intersectionality theory is its insight that identities are always formed at the place where categories of identity meet.³⁴ We are all always raced, gendered, sex oriented, and so on.³⁵ Whites have a race, men have a gender, “straights” have a sexual orientation, and “middle-class” status is a class identity.³⁶ What tends to hide those particular identities from careful inspection is the fact that each is defined as the norm in the United States.³⁷ Consequently, those

I am especially interested in exploring the lessons that gender and race theory teach Fourth Amendment scholars. For example, how has the intersection of police officers' whiteness and masculinity led them to racially profile? See, e.g., Mary Ellen Gale, *Calling in the Girl Scouts: Feminist Legal Theory and Police Misconduct*, 34 LOY. L.A. L. REV. 691 (2001) (analyzing police misconduct under five feminist theories); Angela P. Harris, *Gender, Violence, Race, and Criminal Justice*, 52 STAN. L. REV. 777 (2000) (analyzing role of “hypermasculinity” in criminality and police misconduct); Yvonne D. Newsome, *Border Patrol: The U.S. Customs Service and the Racial Profiling of African American Women*, 7 J. AFR. AM. STUD. 31 (2003) (linking historical cultural devaluation of black women with United States Customs Service profiling of black women for disproportionate searches); Sharma, *supra* note 29 (applying intersectional analysis to racial profiling).

³³ In this discussion I do not distinguish between intersectionality and “multidimensionality” theories. I blend the two because multidimensionality is a natural extension of intersectionality theory. See, e.g., Darren Lenard Hutchinson, *Critical Race Histories: In and Out*, 53 AM. U. L. REV. 1187, 1197 (2004) (discussing significance of intersectionality/multidimensionality scholarship). For a synthesis of identity performance and intersectionality theories, see generally Gowri Ramachandran, *Intersectionality as Catch-22: Why Identity Performance Demands Are Neither Harmless Nor Reasonable*, 69 ALBANY L. REV. (forthcoming 2006) (demonstrating harm of identity performance demands that create a catch-22 for employees).

³⁴ Kimberlé Williams Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 140.

³⁵ See Crenshaw, *supra* note 6, at 1241-45 (declaring that multiple grounds of identity operate all at once in any one individual).

³⁶ See Harris, *supra* note 6, at 608 (debunking normative assumptions about identity).

³⁷ See generally Kay Deaux & Abigail Stewart, *Framing Gendered Identities*, in HANDBOOK OF THE PSYCHOLOGY OF WOMEN AND GENDER 84 (Rhoda K. Unger ed., 2001) (arguing gender identity is enforced as norm because it is inculcated in children before they are capable of agency).

whose identities are the norm are often unaware they are privileged.³⁸ For instance, white women often fail to see the implication of their race, even when keenly aware of their gender.³⁹ To combat that phenomenon, intersectionality theory has focused on what it means to have *both* a race *and* a gender at the same time. Everyone has an intersectional identity in that sense, but the consequences of intersectionality are much greater when someone must confront multiple subordinated categories at once.⁴⁰ Being a black woman means being at the bottom of both a racial hierarchy and a gender hierarchy, and thereby creates an experience unique from that of a singly subordinated black man or white woman.⁴¹

Intersectionality theory's adaptation of poststructuralism allows it to establish the idea that a black woman's sense of self-identity is distinct from those of black men and white women.⁴² Poststructuralism is a school of thought that emphasizes the way a culture's broadly accepted stories construct people's senses of self.⁴³ Poststructuralism's "standpoint theory" can be used to argue that an individual's experience of identity is partially determined by her group's status in the social hierarchy.⁴⁴ A standpoint is a perspective on life that a member of a group has by virtue of her being a member of that group.⁴⁵ The existence

³⁸ See generally *id.* (arguing gendered expectations are normalized by everyday socialization).

³⁹ RUTH FRANKENBERG, *WHITE WOMEN, RACE MATTERS: THE SOCIAL CONSTRUCTION OF WHITENESS* 5-6 (1993).

⁴⁰ See Kwan, *supra* note 8, at 1275 (criticizing notion that white heterosexual males have "both . . . and . . ." experience that is comparable to that of black women).

⁴¹ The classic example of women of color's intersectionality is the case of the employer who discriminates against black women, but not black men or white women. See *Jefferies v. Harris County Cmty. Action Ass'n*, 615 F.2d 1025, 1032 (5th Cir. 1980) (accepting black female's intersectional basis for discrimination claim). See generally Crenshaw, *supra* note 34 (critiquing employment discrimination doctrine for failing to recognize intersectionality). For additional intersectionality cases, see Nancy Levit, *Introduction: Theorizing the Connections Among Systems of Subordination*, 71 *UMKC L. REV.* 227, 229 nn.19-20 (2002) (collecting cases).

⁴² See PATRICIA HILL COLLINS, *FIGHTING WORDS: BLACK WOMEN AND THE SEARCH FOR JUSTICE* 206 (1998) (providing theory to analyze uniqueness of black women's experiences).

⁴³ See Stuart Hall, *The Work of Representation*, in *REPRESENTATION: CULTURAL REPRESENTATIONS AND SIGNIFYING PRACTICES* 13, 51 (Stuart Hall ed., 1997) (describing Michel Foucault's poststructuralist approach as "concerned with the production of knowledge and meaning through discourse").

⁴⁴ See COLLINS, *supra* note 42, at 201 (lauding standpoint theory as tool for analyzing black women's experience).

⁴⁵ See *id.* at 281 (defining standpoint theory thusly: "A social theory arguing that group location in hierarchical power relations produces shared experiences for individuals in those groups. . .").

of shared standpoints can be demonstrated as a matter of logic: if society as a whole is sexist, individual women must share the perspective of needing to think about the fact that they may face sexism. What creates the coherence of a subordinated social group, then, is the fact that group members are forced to incorporate into their personalities a habit of thinking about how they might face a particular form of subordination.⁴⁶

The specificity of stereotyping explains why black women's specific position in social hierarchies creates experiences of identity that are distinct from those of black men and white women.⁴⁷ The norms of social institutions perpetuate specific stereotypes about the meanings of particular intersectional identities.⁴⁸ To illustrate, stereotypes tend to divide all women into sexually chaste "Madonnas" and sexually loose "whores."⁴⁹ Meanwhile, stereotypes tend to depict all blacks as hypersexual.⁵⁰ Accordingly, specific stereotypes about black women assign them to the category of "whore," and they are seen as available for sexual use and abuse.⁵¹ That intersection of stereotypes about women and blacks helped lead to the United States Customs Service strip-searching black women at rates vastly disproportionate to white men, black men, or white women.⁵²

Intersectionality theory impacts my analysis of representations of heterosexual black men. First, heterosexual black men, like women of color, are uniquely positioned within overlapping identity hierarchies.⁵³ Accordingly, stereotypes of heterosexual black men will be particular to our group.⁵⁴ Analysis of discourses about just heterosexuals, just blacks,

⁴⁶ See *id.* at 201-06 (describing how standpoint theory leads to intersectionality theory).

⁴⁷ See *id.* at 209 (describing black women as at intersection of distinct yet overlapping systems of categorizing identity).

⁴⁸ See *id.* at 204 ("African-American women, for example, all encounter some variation of what is expected of them as 'Black women.'").

⁴⁹ See Sharma, *supra* note 29, at 289-90 (referencing stereotype).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² See Newsome, *supra* note 32, at 50-51 (citing statistics); Sharma, *supra* note 29, at 289-90 (same).

⁵³ See Jesse B. Semple, Note, *Invisible Man: Black and Male Under Title VII*, 104 HARV. L. REV. 749, 751 (1991) ("[B]lack men, like black women, experience discrimination that is peculiar to their history and social position."); Pamela J. Smith, *Part II- Romantic Paternalism- The Ties That Bind: Hierarchies of Economic Oppression that Reveal Judicial Disaffinity for Black Women and Men*, 3 J. GENDER RACE & JUST. 181, 230 (1999) ("Like the Black woman and other race/gender subgroups, the Black male faces unique and particular discrimination from the white hierarchy because he is a Black man.").

⁵⁴ See Smith, *supra* note 53, at 232 ("Black men also face different stereotypes than Black

or just men will not be sufficient to understand the representation of heterosexual black men. Second, those representations always will be the product of the intersection of narratives about sex orientation, race, and gender, even when one of those identities seems to be predominant.⁵⁵ Precisely because heterosexuality and masculinity are considered normative and blackness is considered determinative, it will be necessary to look for the hidden influence of sex orientation and gender narratives upon representations of black masculinity.

*B. The Debate over Extending Intersectionality Theory to the
Singly Subordinated*

Before applying intersectionality theory to heterosexual black men, we must consider the consequences of extending a theory born of the experiences of the multiply subordinated to the singly subordinated. One such extension, symbiosis theory, helps explain why the singly subordinated sometimes subordinate others. That application of intersectionality theory can be criticized on grounds that it risks excusing the singly subordinated for subordinating others. This section of the Article describes both the benefits and potential pitfalls of applying intersectionality theory to singly subordinated groups, such as heterosexual black men.

1. Symbiosis Theory

Legal scholar Nancy Ehrenreich's article *Subordination and Symbiosis: Mechanisms of Mutual Support Between Subordinating Systems* extends intersectionality theory to analysis of the singly subordinated and yields two especially valuable insights.⁵⁶ First, systems of oppression are interlocking. We can make an analogy to the process of symbiosis in nature, which is the way organisms form mutually beneficial couplings. For instance, fungi gain carbohydrates by penetrating the roots of a plant and the fungi's penetration makes additional soil nutrients available to the plant.⁵⁷ Systems of subordination also form symbiotic relationships with one another. The logic of one system of subordination may support

women.").

⁵⁵ As Jones puts it, "myths about the black male are like a two sided coin. . . on the flip side of our racial myths we find myths about the black male's gender." Jones, *supra* note 11, at 51.

⁵⁶ See generally Ehrenreich, *supra* note 23 (reconsidering intersectionality theory).

⁵⁷ See *id.* at 278 (defining symbiosis).

other such systems, as in the way biologically based gender discrimination implies that finding a biological basis for racial difference would justify racial discrimination.⁵⁸ Additionally, two systems may be entwined, as in the inextricability of some race-based and gender-based reasonings for discrimination against black women.⁵⁹

Second, the interlocking nature of systems of subordination can lead people to exercise compensatory subordination. Compensatory subordination occurs when “individuals compensate for the powerlessness they experience by using their privileged position to subordinate others.”⁶⁰ For example, a working-class man who feels denigrated on the basis of class hierarchy may comfort himself by utilizing the existence of gender hierarchy to get away with harassing a female coworker.⁶¹ Because there are multiple systems of hierarchy, most people will be able to compensate themselves for their own subordination based on one identity status by subordinating someone else based on another identity status. Compensatory subordination is self-defeating, though, because exercising one’s identity privileges tends to weaken one’s resistance to one’s own subordination.⁶²

Put another way, vulnerability to any one form of oppression is heightened by the existence of other interlocking forms of oppression because it tempts individuals to accept the right to subordinate others as compensation for their own subordination.⁶³ The symbiotic way in which the right to oppress along one axis leads to acceptance of one’s own oppression along another axis is actually harmful to the singly subordinated. For instance, rather than accepting racial privilege as compensation for class subordination, “low income whites would have benefited *more* from a truly egalitarian society, in which economic and social privilege were distributed equally among all races and classes.”⁶⁴

⁵⁸ For an example of an attempt to ground racial discrimination in biological difference, see generally RICHARD J. HERRNSTEIN & CHARLES MURRAY, *THE BELL CURVE: INTELLIGENCE AND CLASS STRUCTURE IN AMERICAN LIFE* 269-315 (1994) (utilizing Nazi science to argue blacks tend to be less intelligent).

⁵⁹ See Ehrenreich, *supra* note 23, at 273 (arguing singly subordinated individuals also sit at intersection of various identity statuses).

⁶⁰ *Id.* at 257.

⁶¹ See *id.* at 293 (linking hierarchical workplaces with sexual harassment).

⁶² See *id.* at 290 (arguing fear of losing one’s privileges lessens likelihood of challenging one’s oppressions).

⁶³ See *id.* at 283 (introducing vulnerability as mechanism of mutual support of subordinating systems).

⁶⁴ *Id.* at 294-95 (emphasis added).

Compensatory subordination thus offers the following bargain: you get to subordinate others in return for accepting the status quo, including your own subordination.⁶⁵

Aspects of heterosexual black masculinity seem to support the theory of compensatory subordination. For example, “straight Black men’s strategies to avoid homosexual suspicion could relate to the racial aspects of men’s privileges: heterosexual privilege is one of the few privileges some Black men have.”⁶⁶ For that reason, the particular way that race and gender intersect in heterosexual black men’s lives incentivizes us to be homophobic. Relying on symbiosis theory, I will argue that heterosexual black men harm ourselves when we exercise our identity privileges. Specifically, heterosexual black men’s subordination of women and gays implies acceptance of the idea that some identity hierarchies are legitimate and thereby tacitly acknowledges the legitimacy of the racial hierarchy that oppresses us.

2. A Challenge to Extending Intersectionality Theory

Having described both the basic contours of intersectionality theory and its application to the singly subordinated in symbiosis theory, I now turn to the question of whether we ought to apply intersectionality theory to heterosexual black men. I do so by challenging symbiosis theory as being potentially insufficiently attentive to the differences between the singly and multiply subordinated.

⁶⁵ I believe the fundamental problem with exercising compensatory subordination is that it reinforces the principle behind the scaling of bodies. Accepting the idea that you ought to be able to subordinate others along a particular identity hierarchy implicitly accepts the idea that others ought to be able to subordinate you based on an identity hierarchy in which you are denigrated. It is the acceptance of the idea that identities ought to be hierarchized that is the problem.

My statement slightly recharacterizes Ehrenreich’s insight. She would say that working class men who take advantage of sexism by harassing women in the workplace do not consciously believe they have a right to subordinate or that their bosses ought to be able to subordinate them. Instead, they simply take advantage of an existing power structure that provides them the opportunity to subordinate others. But those who exercise compensatory subordination are likely to subconsciously rationalize their actions. They may tell themselves it is acceptable to subordinate those below them. In so doing, they accept the underlying logic of the system as a whole — that identity groups ought to be hierarchized. In taking advantage of one basis for subordination, one implicitly accepts not just the temporary reality of, but the claim to legitimacy of, one’s own subordination.

⁶⁶ Devon W. Carbado, *Straight Out of the Closet: Race, Gender, and Sexual Orientation*, in *CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY* 219, 233 (Francisco Valdes et al. eds., 2002) (describing heterosexual privilege).

A trenchant criticism of symbiosis theory is that it risks excusing the singly subordinated when their choices harm the multiply subordinated.⁶⁷ An example is white women's opposition to affirmative action in the state of Washington. Women of color tend to support affirmative action as a means of countering continuing discrimination against women and minorities. During the Washington campaign for an affirmative action ordinance, proponents of the policy made it clear to voters that white women are major beneficiaries of affirmative action.⁶⁸ Still, white women chose to protect the economic interests of their husbands and brothers over their own interests.⁶⁹ White women were not just suffering from false consciousness in the form of exercising compensatory subordination that was against their own interests.⁷⁰ Rather, when family interests were taken into account, white women's actual interests were divergent from those of women of color.⁷¹ This is true for two reasons. First, whiteness is not just a psychological benefit to white families, but also an economic benefit.⁷² Second, given the overwhelmingly intraracial nature of marriage by whites, family interests are inevitably racial interests.⁷³

We could find symbiosis theory lacking because it provides no basis for criticizing white women who choose to prioritize their interest in the prosperity of the white family over their interest in forming coalitions with women of color. Symbiosis theory expands the pool of people making legitimate claims to subordination by emphasizing the harms suffered by the singly subordinated.⁷⁴ This risks making the oppression of the singly subordinated seem to be the same as oppression of the

⁶⁷ Cho, *supra* note 9, at 405-06 (introducing criticisms of symbiosis theory).

⁶⁸ See *id.* at 405 (citing polling). Related to the anti-affirmative action ordinances are anti-immigrant ordinances. On those ordinances, see, for example, Kevin R. Johnson, *An Essay on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race*, 70 WASH. L. REV. 629, 650-58 (1995) (comparing California anti-affirmative action and anti-immigrant initiatives).

⁶⁹ See Cho, *supra* note 9, at 408-09 (citing polling).

⁷⁰ See *id.* at 404-08 (arguing compensatory subordination only partial explanation).

⁷¹ See *id.* at 411 ("Thus, the latent 'white family' rationale counteracts the individual material gains of affirmative action for white women.").

⁷² See *id.* at 408-10 (describing "material whiteness"). Since whites receive favorable terms on many types of transactions, it pays to be white. See generally IAN AYRES, *PERVASIVE PREJUDICE?: NON-TRADITIONAL EVIDENCE OF RACE AND GENDER DISCRIMINATION* (2002) (describing discrimination in everyday transactions).

⁷³ See Cho, *supra* note 9, at 410 (critiquing undervaluation of links between family and race).

⁷⁴ *Id.* at 411.

multiply subordinated.⁷⁵ Such a move obscures the “hierarchical power relations” involved when we compare the status of middle-class heterosexual white women to that of women of color in this society.⁷⁶ Symbiosis theory cannot prioritize women of color’s interests because it criticizes compensatory subordination for harming the singly subordinated’s own self interest, not because compensatory subordination contradicts a positive ethic of coalition building.⁷⁷ In that light, emphasizing the harms suffered by the singly subordinated seems to excuse them when they take advantage of their relative privilege over the multiply subordinated.⁷⁸ Symbiosis theory might imply that criticizing white women’s choices is either theoretically unsophisticated for its failure to understand those coercive pressures or coalition-busting by its fixation on the divergence between the interests of white women and women of color.⁷⁹

The critique of white women’s rejection of affirmative action in the state of Washington could well apply to compensatory subordination by heterosexual black men. Heterosexual black men have sometimes privileged our specific interests over those of women and gays. Examples include defending Clarence Thomas against allegations of sexual harassment⁸⁰ and rejecting the obvious analogy between exclusions of blacks and gays from the military.⁸¹ Such acts often manifest an essentialist view of the lowest common denominator interests of the black community as in keeping with the interests of heterosexual black men.⁸² Those who challenge that interpretation are

⁷⁵ See *id.* (identifying symbiosis theory’s potential relativism).

⁷⁶ See *id.* (critiquing symbiosis theory’s potential relativism).

⁷⁷ See *id.* at 416 n.89 (suggesting self-interest is insufficient to create coalitions).

⁷⁸ *Id.* at 416.

⁷⁹ *Id.* at 417. Ehrenreich did not intend symbiosis theory to imply these critiques. See Ehrenreich, *supra* note 23, at 294-95 (addressing Cho’s criticisms).

⁸⁰ See Orlando Patterson, *Race, Gender and Liberal Fallacies*, N.Y. TIMES, Oct. 20, 1991, at A1, A15 (claiming Thomas was simply engaging in “down-home . . . courting” of Anita Hill).

⁸¹ Devon W. Carbado, *Introduction: Where and When Black Men Enter*, in BLACK MEN, *supra* note 2, at 1, 8-9 [hereinafter Carbado, *Introduction*] (discussing analogy). Note that both exclusions were justified based on “esprit-de-corps,” which is the idea that troops should not be forced to accept an outsider group lest there be a breakdown in morale. See Devon W. Carbado, *Black Rights, Gay Rights, Civil Rights*, 47 UCLA. L. REV. 1467, 1485-88 (2000) (critiquing military’s esprit-de-corps defense of sex orientation segregation).

⁸² See Carbado, *Introduction*, *supra* note 81, at 4 (discussing endangered black male trope).

often depicted as unsophisticated coalition busters.⁸³ Nonetheless, in the next section of the Article, I will describe why the singly and multiply subordinated do indeed have a shared interest in defeating the assumption that identities must be hierarchized.

C. *The Scaling of Bodies*

The risk that symbiosis theory will give a pass to the singly subordinated raises a crucial concern about the value of compensatory subordination as a concept. I seek to resolve that dilemma by focusing on a concern shared by the singly and multiply subordinated: the scaling of bodies. The epistemology of the scaling of bodies holds that (1) people must be categorized according to qualities such as gender, race, sex orientation, and so on; (2) the types within each category must be hierarchized; and (3) society must be structured based on those hierarchies.⁸⁴ Given that the singly and multiply subordinated share a common enemy in the scaling of bodies, we can address the need for an ethic of action that forges broad antsubordination coalitions. Both the singly and multiply subordinated should be challenging the idea that identities must be hierarchized. Accordingly, heterosexual black men would not be excused for subordinating acts, despite being seduced into exercising compensatory subordination. Rather, each discrete subordinated group would be expected to take actions that tend to disrupt the very idea that there must be hierarchies. Consequently, when I say that we must resist hierarchy, I mean that we must resist the scaling of bodies.

The scaling of bodies is an assumption found within the core of Western Enlightenment thought. Nineteenth century Western thought presumed not only that able-bodied middle-class white male bodies were the ideal, but also that persons with those qualities were intellectually, aesthetically, and morally superior to other people.⁸⁵ Raising these ideas to the level of philosophy and science “endowed the aesthetic scaling of bodies with the authoritativeness of objective truth. All bodies can be located on a single scale whose apex is the strong and beautiful [White Christian male] youth and whose nadir is the degenerate.”⁸⁶ That is the basis for “the scaling of bodies.” The creation

⁸³ See *id.* at 10 (discussing divided loyalties argument).

⁸⁴ YOUNG, *supra* note 3, at 128 (defining term).

⁸⁵ See *id.* (noting assumption within Western thought).

⁸⁶ *Id.* (emphasis added).

of this scale means that people of color, non-Christians, women, the old, and other non-normative groups are deemed degenerate.⁸⁷ This hierarchization of identities makes subordination based on identity an intrinsic feature of Western philosophy.⁸⁸

Because the scaling of bodies creates a normative status within each identity category and ranks others against that norm, it renders invisible everyday norms that subordinate people with certain identity statuses. The normalization of certain identities makes it seem as though those identities are not a product of the intersection of race, gender, sex orientation, and so on. One normative assumption in the United States is that only women have a gender.⁸⁹ Manhood is presumed to describe universal qualities that are the norm from which women deviate.⁹⁰ The normative quality of assumptions about the male lack of gender thus translates into male gender dominance. Likewise, whiteness can be the baseline because "to be white is not to think about it."⁹¹ All people in the United States recognize race,⁹² but whites often view their own racial identity as immaterial.⁹³ Hence, the racial norm is unidirectional: whites often ignore the significance of their own racial identity (but not the significance of other people's racial identity) while racial minorities cannot afford to ignore the impact of their own racial identity.⁹⁴ This type of thinking effectively limits race to a status of subordinated minorities. Moreover, heterosexuals tend to view sexual orientation as something only homosexuals have, while heterosexuality is the unstated norm. Homosexuality is regarded as a disadvantage, but heterosexuality is not recognized as an advantage.⁹⁵ Once again, the result is to make

⁸⁷ See *id.* at 129 (listing those deemed degenerate).

⁸⁸ *Id.* at 125.

⁸⁹ See Devon W. Carbado, *Epilogue: Straight Out of the Closet: Men, Feminism and Male Heterosexual Privilege*, in BLACK MEN, *supra* note 2, at 417, 420 (citing Alice Jardine, *Men in Feminism: Odor di Uomo or Compagnons de Route?*, in MEN IN FEMINISM 60 (Alice Jardine & Paul Smith eds., 1987)) (raising possibility of black male feminism in epilogue to collection of black men's writings).

⁹⁰ See *id.* at 427 (quoting ELAINE SHOWALTER, SPEAKING OF GENDER 6 (1989)) (arguing there are "taboos . . . against male self-analysis").

⁹¹ Barbara J. Flagg, *Was Blind, but Now I See: White Race Consciousness and the Requirement of Discriminatory Intent*, 91 MICH. L. REV. 953, 969 (1993).

⁹² *Id.* at 970-71.

⁹³ *Id.* at 971.

⁹⁴ See Carbado, *supra* note 89, at 432 (contending whites repress their racial identity into subconscious).

⁹⁵ See *id.* at 439 (arguing heterosexuals should recognize sexual orientation as an advantage).

heterosexuality the baseline of identity and homosexuality a special status associated with subordination.⁹⁶

Recognition of the effects of the Western episteme of the scaling of bodies adds to intersectionality theory by showing that the singly and multiply subordinated have a common enemy. We can summarize the system of the scaling of bodies thusly: “[R]ace is the way that the skin is made to mean hierarchy Gender is the way that sex is made to mean hierarchy Class is the way that gestures and habits and locations come to be associated with ownership and non-ownership”⁹⁷ In other words, each supposedly discrete system is a restatement of the principle that identities must be hierarchized. When people use their privileges to exercise compensatory subordination, they only strengthen the fundamental principle that identities ought to be hierarchized. What is needed is not only a recognition of the principle of intersectionality, but also a disruption of the system of the scaling of bodies. Consequently, we can legitimately apply intersectionality theory to singly subordinated groups such as heterosexual black men. We must do so if we are to find means of striking at the heart of subordination.

I apply intersectionality theory to heterosexual black men in order to demonstrate that normative assumptions spawned by the scaling of bodies affect how we are represented. The existence of whiteness as a hidden baseline allows colorblindness norms to implicitly promote assimilation to a white norm.⁹⁸ The failure to consider the effects of maleness as a gender leaves the intersectional aspects of heterosexual black men’s subordination largely unexplored.⁹⁹ Finally, the pervasiveness of homophobia allows it to be an assumption undergirding the normative United States masculinity that heterosexual black men too often mimic.¹⁰⁰ Understanding how the scaling of bodies operates is thus crucial to understanding how bipolar representations of heterosexual black men promote the present identity hierarchies.

⁹⁶ *Id.* The process of normalization can also be observed in the United States with respect to able-bodiedness, Christianity, and other identity statuses.

⁹⁷ Anthony Paul Farley, *Perfecting Slavery*, 36 *LOY. U. CHI. L.J.* 221, 223 n.9 (2004).

⁹⁸ See *infra* Part II.B.2 (discussing colorblindness).

⁹⁹ See *infra* Part II.A, B.3 (discussing intersectionality of Bad Black Man and Good Black Man images).

¹⁰⁰ See *infra* Part IV.B-C. (discussing normative United States masculinity and heterosexual black men’s exercise of compensatory subordination).

D. Conclusion

In setting up the theoretical framework for this Article, I described intersectionality theory as the method that considers how race, gender, and other identity narratives combine to produce particular results for multiply subordinated social groups. I identified a means of extending the theory to singly subordinated individuals by considering how the existence of interlocking systems of subordination allows groups to exercise compensatory subordination. I challenged the utility of that extension by asking whether the theory of compensatory subordination risks giving the singly subordinated a pass for their own acts of subordination. Finally, I resolved that debate by pointing to the shared root of all oppression: the scaling of bodies.

To the extent that a subordinated group develops strategies that go beyond addressing its particular forms of oppression and challenges the system of the scaling of bodies, it will necessarily disrupt the oppression of other groups.¹⁰¹ For example, heterosexual black men's disruption of the idea that masculinity is based on dominance of socially marginalized groups would not only help us, but also women and gays. Such a result addresses the concern that applying intersectionality theory to the singly subordinated would result in a theory that does not forge coalitions with other subordinated groups. In analyzing the representation of heterosexual black men, therefore, I will utilize intersectional analysis with an eye toward revealing the effects of the system of the scaling of bodies.

My intersectional analysis of representations of heterosexual black men ends up as an analysis of the binary way in which we are represented. Binary thinking is central to all modern Western thinking. But binary thinking is only pervasive at the meta-level. Unlike heterosexual black men, heterosexual white men are not popularly represented as, say, either devoid of emotion and mean-spirited or effusive and obsequious.¹⁰² Binary popular representation of the type I consider here is reserved for the socially marginalized. Hence, we

¹⁰¹ I do not argue that every singly subordinated group will inevitably arrive at a broad-based antisubordination strategy. For example, the privileged white men who dominate the Log Cabin Republicans tend to identify with dominant groups rather than subordinated groups. See generally Mary F. Rogers & Phillip B. Lott, *Backlash, The Matrix of Domination, and Log Cabin Republicans*, 38 SOC. Q. 497 (1997) (analyzing gay organization's identification with dominant groups).

¹⁰² I thank Nancy Ehrenreich for pointing out the need to distinguish binary thinking in general from the bipolar popular representation of heterosexual black men.

should trace the particular roots of the particular kinds of bipolar representations we see at work in popular culture. In the next Part of the Article, I detail the form bipolar representation of heterosexual black men takes.

II. THE BIPOLAR IMAGES OF BLACK MASCULINITY

Why be concerned about images of heterosexual black men? Because of “the facility of myths to mediate between the presence of black men and the perceptions of them.”¹⁰³ The myths are stories about the implications of an individual’s status as a black man.¹⁰⁴ Those stories are important:

[O]ur sense of the world is the product of hundreds and thousands of such stories or narratives, which we use to interpret, construct, and understand our experiences, including new stories and narratives that others offer us. This explains why the dominant narrative of race is so slow to change — individuals interpret new narratives in terms of their preexisting stock¹⁰⁵

The myths about heterosexual black men, therefore, structure the very way that whites think about us.¹⁰⁶ In that light, media images might be thought of as an omnipresent teacher that inculcates individuals to

¹⁰³ Jones, *supra* note 11, at 76.

¹⁰⁴ These are the prevailing popular assumptions or “cultural identity norms” about black men that influence the way individuals perceive us. See Frank Rudy Cooper, *Cultural Context Matters: Terry’s “See-Saw Effect,”* 56 OKLA. L. REV. 833, 844-45 (2003) (defining cultural identity norms).

¹⁰⁵ Delgado & Stefancic, *supra* note 13, at 218.

¹⁰⁶ See Judith Butler, *Endangered/Endangering: Schematic Racism and White Paranoia*, in *READING RODNEY KING/READING URBAN UPRISING*, *supra* note 15, at 15-16 (suggesting “racism pervades white perception . . .”). Tricia Rose describes the acquisition of myths about black men this way:

The white American public, many of whom only tangentially know any young black men personally, has been inundated with images of young black men who appear fully invested in a life of violent crime, who have participated in drug-related gang shoot-outs and other acts of violence for “no apparent reason.”

This last representation is crucial to the fear that current crime reporting encourages and crucial as well to the work of demonizing. Some people are violent for no apparent reason; they are not like us.

Tricia Rose, *Rap Music and the Demonization of Young Black Males*, in *BLACK MALE*, *supra* note 1, at 149, 153.

accept certain perceptions of heterosexual black men.¹⁰⁷ When black men are viewed as threatening, it is easier to pass social policies that contain us through means such as consignment to the lower-classes or incarceration.¹⁰⁸

With those consequences in mind, this Part of the Article details the two predominant images of heterosexual black men: the Bad Black Man and the Good Black Man. The first section describes key aspects of the image of the Bad Black Man. He is animalistic, crime-prone, and sexually unrestrained. The second section explicates the message of the image of the Good Black Man. He is supposed to distance himself from black people and assimilate into white culture. The third section argues the images combine to provide an assimilationist incentive for black men to emulate white norms.

A. *The Bad Black Man*

Legal scholar N. Jeremi Duru's article *The Central Park Five, the Scottsboro Boys, and the Myth of the Bestial Black Man* schematizes some of the key components of the Bad Black Man image in the figure of the "bestial black man." That figure is based upon three assumptions: (1) that black men are animalistic; (2) that black men are inherently criminal; and (3) that black men are sexually unrestrained.¹⁰⁹ These images are not exhaustive of the main components of representations of the Bad Black Man.¹¹⁰ The bestial black man images are crucial to the Bad Black Man image, however, because they lead to the hypercriminalization of black men, which I discuss in Part III.B.1 of this Article.

¹⁰⁷ Travis L. Dixon, *A Social Cognitive Approach to Studying Racial Stereotyping in Mass Media*, 6 AFR.-AM. RES. PERSP. 60, 64 (2000) (describing media's social learning function).

¹⁰⁸ See George Wilson et al., *Prejudice in Police Profiling: Assessing an Overlooked Aspect in Prior Research*, 47 AM. BEHAV. SCIENTIST 896, 900 (2004) ("Stereotypes . . . are a basis for projecting on the world a basis for . . . the unequal distribution of material and symbolic rewards."); see also *infra* Part III.B.1 (discussing maintenance of status quo through containment strategies).

¹⁰⁹ Duru, *supra* note 11, at 1320.

¹¹⁰ In the employment discrimination context, it would be necessary to consider, *inter alia*, images depicting black men as unintelligent and lazy. For a fuller cataloguing of the negative stereotypes of black men, see U.S. GLASS CEILING COMMISSION, GOOD FOR BUSINESS: MAKING FULL USE OF THE NATION'S HUMAN CAPITAL 71 (1995) ("African American men are stereotypically perceived as lazy/ undisciplined/ always late/ fail to pay their taxes/ unqualified but protected by affirmative action/ violent/ confrontational/ emotional/ hostile/ aggressive/ unpredictable/ unable to handle stressful situations/ threatening/ demanding/ militant/ loud/ and less intelligent than other racial or ethnic groups.").

The foundation of the image of the Bad Black Man is the accusation of bestiality. In the sixteenth and seventeenth centuries, Europeans alleged blacks were both part of the animal kingdom — they interbred with apes¹¹¹ — and animal-like — they had tails.¹¹² During United States bondage,¹¹³ blacks were reduced to the animal-like state of being chattel, which reinforced the image of blacks as animal-like.¹¹⁴ Following abolition, the image of black bestiality was focused on black men through films such as *The Birth of a Nation*.¹¹⁵ The image of blacks as animal-like then underwrote presumptions against heterosexual black men in pre-civil rights movement rape cases.¹¹⁶

Perhaps more disturbing is the persistence of the image of heterosexual black men as animal-like today. We can see this in the coverage of the rape of a white female stockbroker jogging in Central Park, which gained national media attention.¹¹⁷ The identification of the crime as a “wilding” is linked to a contemporary tendency to describe black suspects in animal-like terms in circumstances where whites would not be so described.¹¹⁸ That imagery played a part in the wrongful

¹¹¹ See Duru, *supra* note 11, at 1321 (citing contemporaneous commentators).

¹¹² See *id.* (citing contemporaneous commentators). The British empire also depicted the Irish as animal-like. See generally L. PERRY CURTIS, *APES AND ANGELS: THE IRISHMAN IN VICTORIAN CARICATURE* (2d ed. 1997) (1971) (critically reviewing British depictions of Irish).

¹¹³ I refer to slavery in the United States as “United States black chattel bondage” to highlight that this was a distinct form of slavery that was qualitatively harsher, both physically and ideologically, than pre-existing forms of slavery. Specifically, in African slavery, one could eventually join the community in a variety of ways, such as by marrying and owning property. See, e.g., HOWARD ZINN, *A PEOPLE’S HISTORY OF THE UNITED STATES: 1492-PRESENT* 26-28 (2d ed. 1999) (1980) (contrasting United States black chattel bondage with African slavery).

¹¹⁴ Duru, *supra* note 11, at 1322-23.

¹¹⁵ *Id.* at 1327-28. *The Birth of a Nation* depicts the Ku Klux Klan as heroes who save the nation from rapacious black men. It is often lauded as a film classic that created many modern techniques. Until recently, it was taught in many schools as history. On the film, see generally Michael Rogin, “*And the Sword Became a Flashing Vision*”: D.W. Griffith’s *The Birth of a Nation*, in RONALD REAGAN, *THE MOVIE AND OTHER EPISODES IN POLITICAL DEMONOLOGY* (1988) (analyzing film’s political ideology and popular reception).

¹¹⁶ See Duru, *supra* note 11, at 1330-33 (reviewing cases).

¹¹⁷ The Central Park Jogger coverage reflects the media’s scaling of bodies, wherein a white woman’s victimization is deemed much more newsworthy than that of a woman of color. The media ignored a comparably brutal rape of a black woman that occurred during the same period. See *id.* at 1349-50 (describing case).

¹¹⁸ See *id.* at 1348-52 (detailing animal imagery in responses to attack). The press reported that the Central Park Jogger suspects defined a random attack on an innocent as a “wilding.” There is some evidence they never said any such thing. See *id.* at 1348 (criticizing application of animal imagery to black suspects).

conviction of the suspects.¹¹⁹ The effect of such animal imagery was also evident in the Rodney King case, where defense attorneys described the victim of police brutality as a beast in need of control.¹²⁰ Numerous commentators have shown that the defense's use of animal imagery influenced the jury to acquit the officers.¹²¹ The imputing of animal-like qualities to black men is, therefore, a fundamental part of the image of the threatening Bad Black Man.¹²²

We can also see the roots of the identification of black men as criminals. Early European observers linked blackness to criminality.¹²³ During United States chattel bondage, states criminalized the very property of being black.¹²⁴ That resulted in an association of blackness with a criminal propensity.¹²⁵ The success of the notion that blacks are inherently criminal was seen in white people's panic over the possibility of crime waves by recently freed blacks.¹²⁶ With respect to black men, the image of black criminality merges with the myth of black men as having unrestrained sexuality to form the image of black men as incipient rapists.¹²⁷

Because of the convergence of the images of black men as criminals and heterosexual black men as having unrestrained sexuality, it is useful at this point to trace the roots of the sexualization of heterosexual black men. From the middle ages, Europeans associated blackness with unrestrained sexuality.¹²⁸ In Western epistemology, the black male is constructed as a mere body.¹²⁹ Heterosexual black men become figured

¹¹⁹ See *id.* at 1350 (decrying "rush to judgment").

¹²⁰ See Jones, *supra* note 11, at 61 (identifying strategy of reducing King to mere body).

¹²¹ See, e.g., Dumm, *supra* note 15, at 182 (arguing that defining body types prevalent among black males as inherently criminal results in officers' acquittal).

¹²² We must recognize that "[t]he function of knotting together the black male and the interlinked images of the body and bestiality is negation of black males as an autonomous subject." Jones, *supra* note 11, at 77. The result of those abstract associations is that black men are "quintessentially available for suspicionless stops, for duty as scapegoat or proxy for other more complex social problems, and to absorb arrests pursuant to profiles for crime." *Id.* at 78. See generally Kenneth B. Nunn, *Race, Crime and the Pool of Surplus Criminality: Or "Why the War on Drugs" Was a "War on Blacks,"* 6 J. GENDER, RACE & JUST. 381 (2002) (arguing blacks are kept in "ready reserve" for use as scapegoats).

¹²³ Duru, *supra* note 11, at 1322.

¹²⁴ *Id.* at 1323.

¹²⁵ *Id.* at 1322.

¹²⁶ See *id.* at 1326 (describing advent of lynching).

¹²⁷ See *id.* (describing rationale for lynching).

¹²⁸ *Id.* at 1322.

¹²⁹ Jones, *supra* note 11, at 57.

as men who cannot control themselves in the presence of women.¹³⁰ Toward the end of United States chattel bondage, black men's presumed unrestrained sexuality became associated with a presumed predilection for sexual predation upon white women.¹³¹ Thus, heterosexual black men were a threat to white women, requiring white men to control and repress those men.¹³² This justification for restraining black men lies at the heart of *The Birth of a Nation's* celebration of the Ku Klux Klan.¹³³

The fact that images of the heterosexual black man as both criminal and sexually unrestrained have survived to this day is revealed by analysis of the Central Park Jogger case. First, as I noted, the application of animalistic imagery to the Central Park Jogger suspects was not duplicated in cases where either the suspects were not black or the victim was not white.¹³⁴ That special treatment suggests that the fear of black men raping white women lives on.¹³⁵ Second, the public rushed to judgment, with Pat Buchanan suggesting the suspects should be publicly hung after a truncated legal process.¹³⁶ Such a race-tinged presumption of guilt and call for gross punishment are effects of the Bad Black Man image. Third, authorities took the fact that the youths had no discernible motive for the crime as evidence they committed the crime.¹³⁷ Only one who already thinks the suspects are animalistic, crime-prone, and sexually unrestrained could view evidence that contradicts guilt as evidence of extra depravity instead. In the Central Park Jogger case, then, the image of the Bad Black Man helped result in the false convictions.

Intersectionality theory helps explain the Bad Black Man image. As I noted, that theory analyzes ways that race and gender discourses

¹³⁰ See *id.* at 75 (discussing descriptions of black males as failing to comply with code of masculinity).

¹³¹ Duru, *supra* note 11, at 1323-24.

¹³² See Jones, *supra* note 11, at 58-59 (identifying anxiety over black men's supermasculinity).

¹³³ See Duru, *supra* note 11, at 1327-29 (citing film as popularizing image of black men as rapists).

¹³⁴ *Id.* at 1349.

¹³⁵ See *id.* at 1347 (linking Central Park Jogger case to Scottsboro case where black boys were falsely accused of rape). The lack of coverage of contemporaneous rapes of women of color reflects a presumption that nonwhite women cannot really be raped. Sharma, *supra* note 29, at 290 (citing coverage of Central Park Jogger case as example of devaluation of black women's bodies).

¹³⁶ See Duru, *supra* note 11, at 1351 (arguing Buchanan statement amounted to call for lynching).

¹³⁷ See *id.* at 1351-53 (describing facts contradicting guilt).

combine to create a particular narrative. First, in keeping with the Enlightenment's mind/body split, white men associate themselves with reason and black men with uncontrolled libidinal passions.¹³⁸ The focus on black men more so than black women in the claim of animalism illustrates the gendered nature of that act. Second, the image of heterosexual black men as hypersexual evidences a similar en-gendering of racism. The gendering of that image is seen in popular culture's focus on black men's penises.¹³⁹ Third, the imputation of black male criminality flows in part from a gender-based fear of heterosexual black men as potential competitors for white women.¹⁴⁰ That is the fear expressed by *The Birth of a Nation*. It was also the interest protected by Southern laws presuming sexual contact between black men and white women was rape.¹⁴¹ Consequently, the image of the Bad Black Man should be seen as emanating from the intersection of race and gender.

B. *The Good Black Man*

I have reviewed some of the basic ideas behind the Bad Black Man image: that we are animalistic, crime-prone, and hypersexual. I will now describe some of the aspects of the Good Black Man image. Most notably, the Good Black Man is portrayed as one who distances himself from other blacks and affiliates himself with white norms.

Like the image of the Bad Black Man, the Good Black Man image has a long history. We can summarize that history in the figure of the Uncle Tom. Uncle Tom was the title character in Harriet Beecher Stowe's historically significant antebellum novel, *Uncle Tom's Cabin*. He endured slavery with Christ-like patience.¹⁴² He has come to represent the strategy of "selling out" the black community in return for preferential

¹³⁸ See Jones, *supra* note 11, at 57 (describing process of projection).

¹³⁹ See IMANI PERRY, *PROPHETS OF THE HOOD: POLITICS AND POETICS IN HIP-HOP* 120 (2004) (arguing "pornographic obsessions with the size of black male genitalia" evidences "the intersectionality of blackness and masculinity").

¹⁴⁰ See Fine et al., *supra* note 21, at 57-58 (describing white boys' definitions of selves as protectors of white women). The extreme form of this is the occasional killing of black boys for dating white girls. In a recent example, on July 3, 2005, in Ayer, Massachusetts, two white boys beat a black boy to death for dating a white girl. See Maria Sacchetti & David Abel, *Twin Brothers Held in Ayer Slaying: Investigators to Eye Race Among Motives*, BOSTON GLOBE, July 4, 2005, at A1 (reporting potential racial motivation for crime).

¹⁴¹ See Duru, *supra* note 11, at 1338 (noting Southern presumptions).

¹⁴² Lisa Clayton Robinson, *Uncle Tom's Cabin*, in *AFRICANA: THE ENCYCLOPEDIA OF THE AFRICAN AND AFRICAN AMERICAN EXPERIENCE 1915* (Kwame Anthony Appiah & Henry Louis Gates, Jr. eds., 1999).

treatment by whites.¹⁴³ That strategy has often been promoted by mainstream popular culture in attempts to forestall more radical strategies for black progress.¹⁴⁴

In this part of the Article, I will use the story of black attorney Larry Mungin to demonstrate some of the elements of the Good Black Man image. I will then describe how the image is perpetuated in corporate culture in general. Finally, I will explain why the Good Black Man image should be viewed to be a result of the intersection of race and gender narratives.

1. Larry Mungin's Story

An example of the nature of the Good Black Man image is seen in Paul M. Barrett's portrayal of black attorney Lawrence Mungin in his book, *The Good Black: A True Story of Race in America*.¹⁴⁵ Mungin grew up poor in New York City. He was raised by a mother who told him, "[y]ou are a human being first, . . . an American second, a black third." Mungin chose his undergraduate institution because the recruiter de-emphasized race.¹⁴⁶ As an undergraduate, Mungin avoided contact with other blacks.¹⁴⁷ When he experienced racism, Mungin did not discuss it with his white friends.¹⁴⁸ As a law student, Mungin continued to avoid other blacks.¹⁴⁹ He worked for several prestigious law firms, where he again avoided other blacks.¹⁵⁰ Finally, he landed at the firm of Katten, Muchin & Zavis. There, he encountered roadblocks and eventually sued the firm under the employment discrimination laws.¹⁵¹ Mungin won a \$2.5 million dollar judgment at the federal district court level, but the

¹⁴³ *Id.*

¹⁴⁴ See Dixon, *supra* note 107, at 61 (listing "Toms" among traditional media stereotypes of blacks).

¹⁴⁵ PAUL M. BARRETT, *THE GOOD BLACK: A TRUE STORY OF RACE IN AMERICA* 24 (1999). For a discussion of what the concept of the "good black" tells us about employment discrimination law, see generally Onwuachi-Willig & Barnes, *supra* note 32 (noting some employers prefer blacks who display their racial identity in particular ways).

¹⁴⁶ See BARRETT, *supra* note 145, at 34 (contrasting another institution's race-conscious recruitment).

¹⁴⁷ See *id.* at 66 (providing examples).

¹⁴⁸ See Paul Barrett, *Black, White and True: Can I See What He Saw?*, WASH. POST, Feb. 3, 1999, at B1 (describing Mungin as refusing to tell white friends of racist incidents).

¹⁴⁹ See BARRETT, *supra* note 145, at 75-76 (describing Mungin's law school experience).

¹⁵⁰ See *id.* at 43 (describing Mungin counseling junior black associate to deemphasize race).

¹⁵¹ See *id.* at 121 (summarizing reasons for suit).

appellate court vacated that award.¹⁵² Barrett sums up the moral of the story by lamenting that, in the wake of Mungin's experience, fewer blacks will attempt to "transcend race."¹⁵³

Barrett's message that blacks should try to transcend race is the predominant alternative to the image of the Bad Black Man. In other words, the way to be a Good Black Man is to downplay one's race.¹⁵⁴ That is the message this widely read book sends,¹⁵⁵ and the message Mungin thought he had been sent by society. Mungin read his mother's above-quoted statement as meaning that "a human being" refuses to identify himself as black.¹⁵⁶ Further, Mungin probably accurately read whites as requiring such an assimilationist philosophy, for "many Americans long for the simplicity of the racial landscape of the 1950s and 60s, when the only question seemed to be whether blacks would be allowed to 'integrate' into mainstream society."¹⁵⁷ Since many whites are uncomfortable discussing race, especially racism, Mungin was correct in believing many whites would not want him to raise the issue of race at all.¹⁵⁸

We can say, then, that many whites carry around an image of a "paradigmatic black man" against whom they measure other blacks.¹⁵⁹ That Good Black Man is "passive, nonassertive, and nonaggressive. He has made a virtue of identification with the aggressor, and he has adopted an ingratiating and compliant manner."¹⁶⁰ The image of the Good Black Man thus requires that he assimilate into white culture by

¹⁵² See *id.* at 176, 239, 271-74 (describing lawsuit).

¹⁵³ See *id.* at 282 (lauding Tiger Woods and Colin Powell).

¹⁵⁴ See David B. Wilkins, *On Being Good and Black*, 112 HARV. L. REV. 1924, 1927 (1999) (book review) (characterizing Barrett's view).

¹⁵⁵ As of July 5, 2005, Barrett's book was sold out at major booksellers and unavailable for order.

¹⁵⁶ See Wilkins, *supra* note 154, at 1953 (interpreting Mungin's behavior).

¹⁵⁷ *Id.* at 1953-54.

¹⁵⁸ See *id.* at 1966-67 (discussing Mungin's "racial comfort strategy" of not discussing race).

¹⁵⁹ See HOOKS, *supra* note 22, at 42 (describing assumptions about black men).

¹⁶⁰ *Id.* (quoting WILLIAM GRIER & PRICE COBBS, *BLACK RAGE* (1992)). For example, whites screen racial minorities for racial palatability in the form of a willingness to cover their difference. See Carbado & Gulati, *supra* note 12, at 1676 ("firms will screen for racial palatability and against performative racial difference"). To "cover" is to make someone feel comfortable with a quality that marks you as an outsider by downplaying your difference. See Yoshino, *supra* note 22, at 772 (describing how outsiders not required to "convert" or "pass" are sometimes forced to comfort insiders by "covering" their difference).

downplaying his race. In a sense, he must become a Good White Man.¹⁶¹

2. Corporate Production of the Good Black Man

Analysis of the treatment of black men within the corporate world demonstrates that Mungin's story is not aberrational, but predictable. This fact is revealed by analysis of how large corporations select their racial minority employees. The corporation is an appropriate place to look for signals of what is socially expected since it functions as a sort of model environment for the rest of society. After all, corporate executives are thought to be among our best and brightest and collectively carry great influence over the United States' economic and other policies.

My model of the behavior of corporate executives draws from the identity performance school of jurisprudence. Briefly, it holds that, in many workplaces, promotion is not based solely on the amount of widgets you produce.¹⁶² Performance is often difficult to measure¹⁶³ and

¹⁶¹ See Jerome M. Culp Jr., *Black People in White Face: Assimilation, Culture, and the Brown Case*, 36 WM. & MARY L. REV. 665, 670 (1995) ("This requirement of black assimilation is akin to a requirement that black people put on white face . . .").

¹⁶² Carbado & Gulati, *supra* note 12, at 1673. For additional explication of identity performance theory, see generally Devon W. Carbado & Mitu Gulati, *Conversations at Work*, 79 OR. L. REV. 103 (2000) (describing ways people use conversations to signal how they wish to be perceived); Devon W. Carbado & Mitu Gulati, *The Fifth Black Woman*, 11 J. CONTEMP. LEGAL ISSUES 701 (2001) (comparing intersectionality theory with identity performance theory); Devon W. Carbado & Mitu Gulati, *The Law and Economics of Critical Race Theory*, 112 YALE L.J. 1757 (2003) (arguing Critical Race Theory should consider how economic incentives shape thinking about race); Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 CORNELL L. REV. 1259 (2000) [hereinafter Carbado & Gulati, *Working Identity*] (contrasting "self identity," "attributed identity," and process of "working identity"); Culp, *supra* note 161 (discussing ways *Brown* decision forced blacks to perform assimilating acts); Ramachandran, *supra* note 33 (synthesizing identity performance and intersectionality theories); Yoshino, *supra* note 22 (comparing demands that outsiders convert, pass, or cover).

Identity performance theory relies on distinctions between the components of self-identity and attributed identity on the one hand and the process of identity negotiation on the other. See Carbado & Gulati, *Working Identity*, *supra*, at 1261 n.2 (describing how facets of identity interact); see also Cooper, *supra* note 104, at 841-46 (describing four aspects of identity negotiation model: self-identity, attributed identity, performance practices, and cultural identity norms); Frank Rudy Cooper, *The Un-Balanced Fourth Amendment: A Cultural Study of the Drug War, Racial Profiling, and Arvizu*, 47 VILL. L. REV. 851, 873 n.156 (2002) [hereinafter Cooper, *The Un-Balanced Fourth Amendment*] (defining attributed identity); Cooper, *supra* note 23, at 357-58 nn.13-14 (2002) (defining self-identity and attributed identity).

I add several concepts to identity performance theory. First, I accept Christian Halliburton's definition of "claiming" as the public assertion of an outsider status. See Christian Halliburton, *Are You [Blank] Enough?: Claiming and Minimum Compliance*

is instead judged based on a subjective evaluation that is influenced by one's relationships with higher-ups.¹⁶⁴ For that reason, one's reputation within the institution, one's attributed identity, may be as important to advancement as one's actual performance.¹⁶⁵ The minority employee will attempt to create the impression that is rewarded by the corporation by engaging in identity performance practices, such as sending emails at late hours, in order to imply he is hardworking.¹⁶⁶ The problem for black men in the corporation is that we are often subject to stereotypes that negatively affect our attributed identity. This requires us to do extra identity performance work in order to succeed.¹⁶⁷

In order to succeed, black men will engage in behavior that conforms to corporate expectations. It turns out that corporations provide assimilationist incentives designed to make it likely that only those black men who affirm white male norms will succeed.¹⁶⁸ That approach is successful, as those minorities who make it to the upper echelons of corporations tend to adopt strategies that do not promote, and sometimes even harm, the interests of their racial group.¹⁶⁹ The Good

With Outsider Conventions 2 (Nov. 23, 2005) (unpublished manuscript, on file with author) (defining term in context of interracial relationships). Second, I define "renting" as temporary claiming of outsider status in a manner dictated by an insider in return for some form of compensation. See generally Frank Rudy Cooper, Do Interracial Couples "Rent" Blackness? (Nov. 18, 2005) (unpublished manuscript, on file with author) (defining term in context of identity performance theory and asking whether permanent interracial relationships are tainted by the existence of shorter term relations revolving around fetishization of blackness). Renting occurs when a white person trades on his or her friendship with a black person to get their "professional" opinion on blackness. For example, a white person might ask his black friend: "Hey, how do you think black people are going to vote in the upcoming election? My office is working on an ad campaign and we need to know what you think of the candidates." DAMALI AYO, HOW TO RENT A NEGRO 99 (2005) (contending, somewhat tongue-in-cheek, that black people should get paid money for "being black on demand"). Third, overall, I am exploring what I see as an economy in which identity performances are a commodity; i.e., outsiders are trading insiders comforting identity performance practices in return for acceptance.

¹⁶³ Carbado & Gulati, *supra* note 12, at 1673.

¹⁶⁴ See *id.* at 1646 (declaring negotiating corporate political landscape is necessary to success).

¹⁶⁵ See Carbado & Gulati, *Working Identity*, *supra* note 162, at 1261 n.2 (distinguishing self-identity and attributed identity).

¹⁶⁶ See *id.* (describing signaling strategies); see also Cooper, *supra* note 104, at 844 n.39 (defining performance practices).

¹⁶⁷ See Carbado & Gulati, *Working Identity*, *supra* note 162, at 1262 (describing outsider's identity performance dilemma).

¹⁶⁸ See Carbado & Gulati, *supra* note 12, at 1676 (arguing workplace structure rewards racial minorities "who exhibit the greatest insider-group affinity").

¹⁶⁹ See *id.* at 1678 (arguing "there is a greater incentive for seniors to perform individual

Black Man of the corporation adopts those strategies because those institutions reward race-distancing strategies and punish race-identifying strategies.¹⁷⁰

One of the institutional norms of most corporations is “colorblindness.” Colorblindness sees the mere recognition of someone’s race as racism.¹⁷¹ The colorblind ideal was developed in the late 1960s and early 1970s to forestall more transformative modes of fighting racism, such as redistribution of wealth.¹⁷² The social goal of colorblindness is to “melt” difference into homogeneity.¹⁷³ That is what the “melting pot” metaphor for America implies.

In practice, colorblindness means that we are all supposed to act the same and that no one should point out how racial identity makes people different. Recall, however, that behaviors most associated with whites are usually deemed the baseline for what is normal.¹⁷⁴ Melting racial difference into homogeneity thus implies accepting white norms as the model for everyone’s behavior.

The norm of not noting racial difference can present special difficulties for black male corporate executives. Suppose a black male corporate executive believes the hiring committee is making negative assumptions about a black candidate based on racial stereotypes.¹⁷⁵ The black male executive has an incentive not to say anything. To intervene would

identity negation strategies than group negation strategies, and the former do little to improve the advancement opportunities of junior minorities”).

¹⁷⁰ See *id.* at 1654 (contrasting costs and benefits of identity performance strategies).

¹⁷¹ See Kimberlé Crenshaw et al., *Introduction* to *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT*, at xiii, xiv (Kimberlé Crenshaw et al. eds., 1995) (critiquing colorblindness). Proponents of colorblindness often claim antiessentialism requires refusing to use race consciousness as either a basis for forming a positive sense of cultural identity or a shield against discrimination. That argument is both analytically unsound — given the ongoing material significance of race — and dangerous — given its use to lock in the results of prior de jure racial discrimination and ignore ongoing subconscious prejudice.

¹⁷² See *id.* (critiquing colorblindness ideal).

¹⁷³ See Carbado & Gulati, *Working Identity*, *supra* note 162, at 1286 (critiquing colorblind workplace norms). Criticism of multiculturalism as itself creating racial strife is part of a (merely subconscious?) strategy to deflect responsibility for racial inequality from its source: past and ongoing white supremacy. See Ikemoto, *supra* note 3, at 1595 (connecting constructions of black/Korean conflict following Rodney King uprising to broader trends in racial hierarchy). *But see* RICHARD T. FORD, *RACIAL CULTURE: A CRITIQUE* 117 (2005) (arguing people pushed to colorblindness position by inappropriate cultural difference arguments).

¹⁷⁴ See Flagg, *supra* note 91, at 969-71 (detailing subconscious privileging of whiteness); see also *supra* Part I.C (discussing present effects of scaling of bodies).

¹⁷⁵ This example is adapted from Carbado & Gulati, *supra* note 12, at 1678.

require talking about race and maybe racism. Doing so would contradict the corporation's colorblind norms. In addition, the black male executive risks harming his own standing as a racially palatable and institutionally oriented corporate citizen.¹⁷⁶ Instead, the black male executive is likely to see the potential moment of intervention as a "loyalty test" that he must pass by demonstrating he has bought into the firm's colorblind norms.¹⁷⁷ The black male executive thereby "rents" his special credibility to affirm the general lack of racial minority hiring in return for personal acceptance.¹⁷⁸

The corporate notion of what it takes to be a Good Black Man trickles down into popular culture as a general expectation that black men will act in a race-distancing manner.¹⁷⁹ Barrett's message that blacks ought to be "race transcending" has been nurtured by the promotion of a certain notion of what it takes to be a Good Black Man. What it takes is distancing oneself from blacks and affiliating oneself with white norms. Given the lure of corporate success, we should expect a ready supply of Larry Mungin-types willing to play the Good Black Man role.¹⁸⁰

3. The Intersectionality of the Good Black Man Image

Mungin's story appears to be all about race, but there are hints that gender concerns lie beneath the call for black male assimilation. One of Mungin's experiences of racism occurred when the father of a white female classmate declared that he could not allow Mungin and his daughter to walk together in public.¹⁸¹ Their being together socially suggested a sexual togetherness that was unacceptable. That fear of heterosexual black men's sexuality has other manifestations. Mungin often experienced racism at his post-Katten Muchin jobs in the form of secretaries giving the impression that they feared Mungin would rape

¹⁷⁶ See *id.* at 1681 (summarizing difficulties of direct intervention).

¹⁷⁷ See *id.* at 1684 n.73 (describing difficulties of monitoring firm activities).

¹⁷⁸ See *supra* note 162 (defining renting identity performance practices).

¹⁷⁹ See *infra* Part III.B.2 (discussing expectation that black men will assimilate).

¹⁸⁰ Do whites sometimes intentionally seek to induce blacks to "sell out" their racial interests? An interesting story: when William Weld became the first Republican Governor of Massachusetts in some time, his administration sought black appointees. Apparently, pre-existing black Republicans were in short supply. Black Democrats were sought out and told they would receive good positions if they were willing to switch to the Republican Party. Of course, many people can smell an opportunity without being explicitly told that being willing to contradict the views of the vast majority of blacks will be rewarded.

¹⁸¹ See BARRETT, *supra* note 145, at 69 (detailing incident). This occurred in New Jersey, not one of the "Red States" of the old Confederacy.

them on the way to their cars.¹⁸² Consequently, part of the assimilationist demand placed upon black men is that we affirmatively dissuade people of our (presumed hetero) sexuality.

Given the historical presumption that the Bad Black Man is sexually unrestrained and must be suppressed by white men to protect white women,¹⁸³ it follows that the contemporary Good Black Man must demonstrate his goodness by desexualizing himself.¹⁸⁴ It should be acknowledged that, “a structure of sociosexual relations that confers an inordinately threatening status upon black men remains very firmly in place in the United States.”¹⁸⁵ One scholar declares that “I consider this management of black male sexuality to be an operation that is continually underway in United States culture, with any black man subject to its direct effects at any moment.”¹⁸⁶ With those thoughts in mind, we can consider desexualization to be part of the project of the Good Black Man image. Again, then, representations of black masculinity emanate from the intersection of race and gender narratives.

C. *Conclusion: The Relationship Between the Bipolar Images and the Assimilationist Incentive*

There is an aporia between the negative and positive images of heterosexual black men. The gap reflects the fact that “we have constructed in our films and in our media in general, between the love-hate polarities of Bill Cosby and Willie Horton, a vast, *empty space in representation*.”¹⁸⁷ The result of the bipolarity of black masculinity is a lack of any nuanced image for heterosexual black men to fit into.¹⁸⁸

¹⁸² See *id.* at 148 (describing Mungin’s post-law firm experiences).

¹⁸³ See, e.g., Duru, *supra* note 11, at 1322-29 (summarizing development of black rapist image).

¹⁸⁴ Early twentieth century black manhood reformers were keenly aware that social and political progress required addressing the hypersexualization of black men in popular culture. See, e.g., MARLON B. ROSS, *MANNING THE RACE: REFORMING BLACK MEN IN THE JIM CROW ERA* 24 (2004) (contrasting “unsexing,” “desexing,” and “resexing” strategies).

¹⁸⁵ See PHILLIP BRIAN HARPER, *ARE WE NOT MEN?: MASCULINE ANXIETY AND THE PROBLEM OF AFRICAN-AMERICAN IDENTITY* 204 n.8 (1996) (referring to tradition of hypersexualizing black men).

¹⁸⁶ See *id.* at 204 n.9 (arguing emphasis on successful black men’s “articulate” speech stands in for attempt to suppress those men’s sexuality).

¹⁸⁷ Guerrero, *supra* note 1, at 185.

¹⁸⁸ See *id.* (“What is missing from Hollywood’s flat, binary depiction of black manhood is the intellectual, cultural, and political depth and humanity of black men . . .”); hooks, *supra* note 14, at 106 (“[T]hese images work together to censor and suppress any complex representation of black masculinity.”); cf. Delgado & Stefancic, *supra* note 13, at 215 (“From

It is important to note that the structure of the assimilationist incentive establishes a default assumption that most black men are bad. Black men who want to be deemed good must jump through numerous assimilationist hoops to attain that status. The fact that Mungin and others feel they must go to extremes to prove their goodness demonstrates that minimal association with blackness is presumed to make one a Bad Black Man. The presumption of badness is thus the default position for black men.

Because it serves as the default position, the image of the Bad Black Man stands ever ready to be applied to those who do not surrender their blackness.¹⁸⁹ The Mungin story is instructive, as “the most plausible explanation for Mungin’s race-specific [albeit assimilationist] choices is that they were a response to pervasive negative stereotypes about blacks.”¹⁹⁰ Blacks in white institutions are thus correct when they perceive that they are being asked to surrender their blackness in return for success.¹⁹¹ It is the need not to be associated with the Bad Black Man stereotype that pushes the would-be Good Black Man to de-race (and desexualize) himself.

Bipolar representations of black masculinity thus provide black men with an “assimilationist incentive” to try to fit the Good Black Man image.¹⁹² The negative representation of the Bad Black Man pushes black

the seventeenth century, Indians were placed on either end of a spectrum of social relations, but seldom in the middle.”).

¹⁸⁹ See PERRY, *supra* note 139, at 125-26 (“Even when the vast majority of our public representation showed the clean-cut, straitlaced African American, the image of the black brute did not disappear.”).

¹⁹⁰ Wilkins, *supra* note 154, at 1964. The very incentive system of white institutions utilizes the negative stereotypes of black men to push us toward acting in an assimilationist fashion:

Given that “partners with power,” who are overwhelmingly white, are more likely to mentor associates who remind them of themselves, it is not surprising that Mungin believed that distancing himself as much as possible from anything that marked him as “black” — and therefore different — would make whites feel more comfortable with him, thereby increasing his chances of building the kind of relationships that he needed to succeed.

Id. at 1965 (citation omitted).

¹⁹¹ hooks points to Michael Jordan as an example of a black man who has understood what success requires and adopted the politically-neutral stance that is taken as apolitical assimilation but actually represents support for the present hierarchies. See bell hooks, *Feminism Inside: Toward a Black Body Politic*, in BLACK MALE, *supra* note 1, at 127, 134 (“Repudiating identification with a politicized notion of blackness, Jordan . . . lends his image to the money-making schemes of the mainstream culture . . .”).

¹⁹² One could say the bipolar representation encourages black men to “sell out” other

men away from behavior associated with that image. The positive representation of the Good Black Man pulls black men toward behavior associated with that image. Since there is little in the way of nuanced images of black men, we are put to the choice between the bipolar images.¹⁹³ The price paid for obtaining the Good Black Man image is that one must assimilate “as much as possible into the white mainstream.”¹⁹⁴ In that way, the bipolarity of representations of black men incentivizes us to assimilate.

III. WHY THE IMAGES ARE BIPOLAR: POST-CIVIL RIGHTS ANXIETY AND THE STATUS QUO

Having identified the bipolar nature of representations of black men, I now wish to explore why those images are bipolar. Bipolar images help resolve mainstream whites’ post-civil rights anxiety. That anxiety springs from the conflict between the nation’s tradition of excluding black men from the mainstream of society and its more recent commitment to providing the opportunity for some black men to be included. The question becomes, how does one tell black men who are excludable from those who are includable? The answer is to define some black men as bad and some as good.

Such bipolar images of black men also justify the status quo. The status quo calls for the exclusion of most black men from mainstream opportunities via their consignment to the lower-classes or jail and the inclusion of only a token few assimilationists. Thus, the Bad Black Man image justifies containment of the masses while the Good Black Man image justifies conditioning inclusion upon assimilation.

A. *Post-Civil Rights Anxiety*

Since its inception, the United States has been subject to a tug-of-war between the “creed” of equality and pursuit of the common good and

blacks. See Carbado & Gulati, *supra* note 12, at 1673 (“[T]he racial types who race their way to the top of the corporate hierarchy, ‘successful racial types,’ are not likely to exercise racial agency to ‘lift [other racial minorities] as they climb.’”).

¹⁹³ Cf. Delgado & Stefancic, *supra* note 13, at 215 (“From the seventeenth century, Indians were placed on either end of a spectrum of social relations, but seldom in the middle.”).

¹⁹⁴ See Yoshino, *supra* note 22, at 879 (characterizing behavior of Lawrence Mungin, subject of the book *THE GOOD BLACK*, *supra* note 145).

the "caution" of liberty and pursuit of self-interest.¹⁹⁵ The creed reflects our aspiration to create an ideal society. In that mode, we promote ourselves as a land of equality.¹⁹⁶ We also focus on what will be good for the society as a whole rather than on our own narrow self-interests. For instance, welfare programs theoretically symbolize our commitment to the common good.

The caution is the fear that there will not be enough of the pie to go around.¹⁹⁷ In its more laudable form, the caution merely says that people's liberty includes the right to accrue advantages over others.¹⁹⁸ It is fair, says this voice, for those who have worked hard to have the right to pass on wealth and cultural capital to their heirs. In its less laudable form, the caution says, "every man for himself." For instance, the reduction of the estate tax reflects a commitment to the liberty to pass on advantages over others and thereby perpetuate inequality.

The tug-of-war between the creed and the caution has often been reflected in the treatment of blacks.¹⁹⁹ Some of the Founding Fathers sought to end black chattel bondage based on the principle of equality expressed in the Declaration of Independence. Others prevailed in pursuing their self-interest based on the notion of the property owner's liberty.²⁰⁰

From that founding moment until 1960, this nation had a long and virtually unbroken tradition of representing black men as singularly inappropriate for inclusion into the mainstream.²⁰¹ Then the black civil rights movement blossomed. The passing of numerous antidiscrimination laws seemed to represent a national consensus that at least some blacks were appropriate for inclusion into the mainstream. But the negative image of black men persisted beneath the surface and the ideas of ex-

¹⁹⁵ See AMSTERDAM & BRUNER, *supra* note 17, at 261 (contrasting "the need to be inclusive and the need to be exclusive").

¹⁹⁶ See *id.* (describing "uniquely American commitment to make its opportunities available to all").

¹⁹⁷ See *id.* at 262 (defining "the American caution").

¹⁹⁸ See *id.* at 261 (explicating the caution).

¹⁹⁹ See *id.* at 262-63 ("Racism has played an important role in reconciling the American Creed and the American Caution.").

²⁰⁰ See, e.g., JERRY FRESIA, TOWARD AN AMERICAN REVOLUTION 18 (1988) ("George Mason did not object to the anti-democratic features of the Constitution, rather he objected to the fact that a national government might someday interfere with his individual freedom as a property owner, that is, his 'rights.'").

²⁰¹ See generally JUAN F. PEREA ET AL., RACE AND RACES: CASES AND RESOURCES FOR A DIVERSE AMERICA 5-50, 91-172 (2000) (defining racism and tracing treatment of African Americans).

panding equality and continuing denigration are in conflict. The result is that, in the post-civil rights era, the mainstream feels anxiety over how to tell which black men warrant inclusion and which black men are not appropriate for inclusion.²⁰²

Post-civil rights anxiety is an expression of a backlash against black civil rights. By the end of the 1960s, the urban civil rights uprisings were used by many whites as examples of blacks demanding too much.²⁰³ As I have noted elsewhere, the civil rights uprisings led the United States Supreme Court to abandon its precedent and expand police officer powers.²⁰⁴ That change merely reflected the fact that 1968 was the beginning of a dramatic shift in white opinion against black civil rights.²⁰⁵ Many whites felt they had been betrayed by blacks.²⁰⁶ They fell back on the old opinion that blacks are not deserving of broader inclusion into the mainstream.²⁰⁷ Today, in the wake of the 1960s black civil rights movement, the battle between the creed and the caution is in full swing. Our creed has been permanently altered to hold that some blacks merit inclusion into the mainstream, but nagging doubts remain about including too many blacks.²⁰⁸

Post-civil rights anxiety creates a tension over how to tell the Bad Black Man from the Good Black Man. The bipolarity of these images provides an easy guide for making the distinction. The default position is that black men are bad. If, however, a black man meets the criteria set forth in the Good Black Man image, the creed applies. The need to soothe post-civil rights anxiety is the primary reason the contemporary form of bipolar representation of black men has taken hold.

²⁰² See CARBY, *supra* note 17, at 176 (arguing certain films express this anxiety).

²⁰³ See *id.* at 187 (summarizing backlash).

²⁰⁴ See Cooper, *supra* note 104, at 857-58 (noting *Terry v. Ohio* dissent's criticism of majority for expanding police officer powers based solely on fears of "modern forms of lawlessness"); see also Lewis R. Katz, *Terry v. Ohio at Thirty Five: A Revisionist View*, 74 *MISS. L.J.* 423, 435-41 (2004) (reviewing historical context of *Terry* decision).

²⁰⁵ See Cooper, *supra* note 104, at 857-58 (citing opinion research). For an excellent recent analysis of police-racial minority relations in the 1960s, see Liyah Kaprice Brown, *Officer or Overseer?: Why Police Desegregation Fails as an Adequate Solution to Racist, Oppressive, and Violent Policing in Black Communities*, 29 *N.Y.U. REV. L. & SOC. CHANGE* 757, 766-69 (2005) (applying depolicing theory to desegregation of police forces).

²⁰⁶ See CARBY, *supra* note 17, at 186-87 (describing mainstream anxiety).

²⁰⁷ See *id.* at 187 (characterizing white opinion).

²⁰⁸ See generally Gary Peller, *Race Consciousness*, 1990 *DUKE L.J.* 758 (examining stasis between impulses toward inclusiveness and exclusiveness).

B. *How Bipolar Images Justify the Status Quo*

In addition to soothing post-civil rights anxiety, bipolar representations of black men also help to justify the status quo. The status quo of inclusiveness is that most blacks are excluded from the mainstream. Bipolar representation of black men helps justify that status quo. If black men are divided into bad and good camps, whites surely cannot include all of us into the mainstream. Further, if the default position is that most black men are bad, the mainstream is justified in its present token level of inclusion. The Bad Black Man image is used to justify containment of the masses while the Good Black Man image is used to justify requiring the remaining black men to assimilate according to white norms. In those ways, the status quo of token inclusion and resistance to substantive change are maintained.

1. Containment of the Masses

The first step in maintaining the status quo is to justify the exclusion of most black men from the mainstream of civil society. That desire is expressed in the way United States popular culture utilizes the image of black men to work through anxieties about the nation's virility.²⁰⁹ Mass culture disseminates an image of our national self through sports, music, television, and movies.²¹⁰ Because of black men's overrepresentation in those industries, we have become the symbol of aggressive manliness.²¹¹ For example, images of professional basketball players represent a "Black supermanliness" that "fantasizes a unified national virility ready to enforce its will on the world."²¹² The subconscious fear, however, is that without another global superpower as the enemy,²¹³ the nation's

²⁰⁹ See Ross, *supra* note 19, at 599 (detailing thesis).

²¹⁰ See *id.* (introducing thesis).

²¹¹ See *id.* (describing use of Olympic basketball team as representative of United States).

²¹² *Id.* at 600. See generally Nancy Ehrenreich, *Disguising Empire: Racialized Masculinity and the "Civilizing" of Iraq*, 52 CLEV. ST. L. REV. 131 (2005) (considering "reflected masculinity").

²¹³ We have since found such an enemy with our "War on Terror." Natsu Taylor Saito expresses the fear that the War on Terror will be used to harass racial minority and left-wing internal dissidents. See generally Natsu Taylor Saito, *For "Our" Security: Who Is an "American" and What Is Protected by Enhanced Law Enforcement and Intelligence Powers*, 2 SEATTLE J. SOC. JUST. 23 (2003) (connecting USA PATRIOT Act to civil liberties violations against 1960s internal liberation movements). The discovery of another scapegoat has never meant a permanent respite in the process of scapegoating blacks. See generally Nunn, *supra* note 122 (identifying ongoing use of blacks as scapegoats).

masculine drive to dominate will be turned within.²¹⁴ Hence, the flipside of images of representative black supermanliness are images of black men as self-destructive and thereby representative of the potential for the division of the nation into warring identity groups.²¹⁵ That image of the Bad Black Man as divisive is the natural corollary of the Good Black Man image's valorization of assimilation. This is an assumption of bipolar masculinity: when we are not fitting in with the national culture, we must be doing the opposite and destroying the national culture.

Making black men representative of the nation's masculinity has tended to make black men seem to be either supermen or the dregs of society.²¹⁶ Black men are alternately depicted as either an example of the nation's inclusiveness or a threat to the nation's success. On the one hand, the assimilationist image of a Colin Powell or Tiger Woods is there to promote a triumphalism about equality. Such images are in a league with the colorblindness narrative in that both suggest the success of some blacks means the nation has done enough to promote equality.²¹⁷ On the other hand, the corollary of the triumphalism argument is that blacks who have not "made it" deserve their fate.²¹⁸ The success stories of those who fit within the Good Black Man image are used to depict those black men who have not made it as the "dregs" of the black community.²¹⁹ They are depicted as an inchoate danger in order to justify aggressive containment strategies.²²⁰

²¹⁴ See Ross, *supra* note 19, at 600 (detailing thesis).

²¹⁵ See *id.* at 601 (noting bipolarity of images of black men). Ross's thesis, therefore, is that "[t]hrough the making and unmaking of Black supermen, the national media rehearse the thrills and dangers of masculine menace." *Id.*

²¹⁶ See *id.* ("[P]opular culture has focused on Black superbodies and Black corpses, the former to claim Black men's inclusion in a continuing national ascent, the latter to project the nation's collective violence on to Black men as a natural criminal class that threatens to pull the rest of the country down to a savage grave.").

²¹⁷ See generally Neil Gotanda, *A Critique of "Our Constitution in Color-Blind,"* 44 STAN. L. REV. 1 (1991) (contending colorblindness narrative serves purpose of declaring victory on civil rights in order to prevent further action).

²¹⁸ See Ross, *supra* note 19, at 606 ("The hypervisibility of these exceptional Black men also bolsters the idea that Black men who disappear into the anonymity of the underclass or the early grave have only themselves to blame."); see also Ikemoto, *supra* note 3, at 1588 (describing how construction of Rodney King uprising as conflict between blacks and Koreans relied in part on Social Darwinism narrative that poor deserve their fate).

²¹⁹ See AMSTERDAM & BRUNER, *supra* note 17, at 277-78 (characterizing whites' views of poor blacks).

²²⁰ See, e.g., *id.* at 278 (noting justification of police profiling and brutality); Dumm, *supra* note 15, at 183 (arguing black men's bodies viewed as inchoate threat in order to justify surveillance and containment of outsider populations); Herman Gray, *Black Masculinity and*

As one example, consider the way the Bad Black Man image helps justify the status quo system of hyperincarceration of black men. Since black men must be fully assimilationist to warrant inclusion into mainstream society, marginalization of those who do not assimilate seems appropriate. The existence and the hue of the underclass are well-documented.²²¹ The problem, of course, is that “[i]f the class of the contingent must be left outside of the ken of work, there is a high chance that they will demand collective power or your individual wallet.”²²² Because it removes from society those who might demand change, “[i]ncarceration . . . is an economic solution to the problem of the contingent class”²²³ A primary reason why we have a continuing stream of Bad Black Man images, contrasted only by the fully assimilationist Good Black Man images, is that they justify containment of the masses of black men.

2. The Assimilationist Incentive as False Inclusiveness

The other way bipolar representations of black men props up the status quo is by providing the assimilationist incentive to the black men who are not socially marginalized. If those men assimilate into the mainstream norm, there is no need to negotiate difference. If the Good Black Man becomes a Good White Man, the mainstream does not have to change its ways of doing business in order to include those men. Whereas marginalized black men are contained because they demand change, successful black men are encouraged to assimilate so that we will be unlikely to demand change.

Assimilationist images not only encourage black men to engage in race-distancing strategies, but also subtly depict the Good Black Man as one who envies white men. A consequence of the popular representation of the Good Black Man as envying white males is that

Visual Culture, in *BLACK MALE*, *supra* note 1, at 175, 177 (“This figure of black masculinity consistently appears in the popular imagination as the logical and legitimate object of surveillance and policing, containment and punishment.”).

²²¹ See generally WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* (1996) (describing underclass).

²²² See Vijay Prashad, *Prison*, in *KEEPING UP WITH THE DOW JONESES: DEBT, PRISON, WORKFARE* 69, 88 (2003) (critiquing hyperincarceration of contingent class).

²²³ See *id.* at 84 (describing economics of hyperincarceration). One example of the impact of this strategy was seen in the 2000 election of George Bush. Consider that the margin of victory in Florida was less than 1000 votes, while the number of black males removed from the voter rolls for having a prior conviction (removal that was accomplished while Latina/o and other names were not challenged) was in the tens of thousands.

whites will accept no substitute:

Socializing, via images, by a pedagogy of white supremacy, young whites who see such “innocent” images of black males eagerly affirming white male superiority *come to expect this behavior in real life*. Black males who do not conform to the roles suggested in these films are deemed dangerous, bad, out of control — and, most importantly, white-hating.²²⁴

Depicting the Good Black Man as envying whites causes whites to have the expectation to be treated with such envy.²²⁵ This is reflected in the fact that many whites expect the Good Black Man to engage in acts that make whites comfortable with his blackness.²²⁶ For instance, blacks may be expected to smile and may be labeled as unfriendly if they instead adopt a neutral demeanor.²²⁷

Given the mainstream’s expectation of assimilation, we ought to investigate the ways that assimilation is a false inclusiveness. The requirement to assimilate is especially strenuous for some groups.²²⁸ The norm is white, male, and heterosexual.²²⁹ Accordingly, racial minorities, women, and gays are sent the message that they must “cover” signs of their differences.²³⁰ To cover is to make someone feel comfortable with a quality that marks you as an outsider by downplaying that quality.²³¹ Especially in corporate environments, “people of color will have the burden of making whites feel comfortable with their nonwhite identity.”²³² Further, especially in corporate environments, whites screen racial minorities for racial palatability in the form of a willingness to

²²⁴ hooks, *supra* note 14, at 104 (emphasis added).

²²⁵ See Dixon, *supra* note 107, at 65 (arguing whites have come to expect black behaviors depicted in media).

²²⁶ See Carbado & Gulati, *Working Identity*, *supra* note 162, at 1301 n.110 (noting “insider employers may expect this comfort”).

²²⁷ Pamela J. Smith, *Teaching the Retrenchment Generation: When Sapphire Meets Socrates at the Intersection of Race, Gender, and Authority*, 6 WM. & MARY J. WOMEN & L. 53, 124 n.272 (1999).

²²⁸ See Yoshino, *supra* note 22, at 885 (emphasizing covering requirement “is imposed on all groups outside the mainstream”).

²²⁹ Carbado, *Epilogue*, *supra* note 89, at 427 (citing Martha Minow, *Feminist Reason: Getting It and Losing It*, 38 J. LEGAL EDUC. 47, 48 (1988)).

²³⁰ See Yoshino, *supra* note 22, at 779 (noting blacks, women, gays “similarly situated along the axis of covering”).

²³¹ *Id.* at 772.

²³² Carbado & Gulati, *supra* note 12, at 1665.

cover.²³³ Inclusion of black men into the corporate mainstream is thus a mirage. We can be accepted, but only after eradicating our blackness to the fullest extent possible.²³⁴ That is a false inclusion because it seeks men who are phenotypically black, but culturally white.²³⁵ It is only these new black-skinned white men who are being welcomed into the mainstream.

By affirming mainstream white norms, the assimilationist incentive also reinforces the status quo. The inclusion of black men into the mainstream is conditioned upon our agreement not to challenge colorblind norms. This is a false inclusiveness, but one which facially satisfies the post-civil rights ethos that some blacks merit inclusion into the mainstream. Contrasted with the “stick” of containment strategies for the masses, the assimilationist incentive seems to be a quite palatable “carrot.” In fact, the requirement of assimilation serves the same function as containment of the masses: maintenance of the status quo.

C. Conclusion

In this Part of the Article, I have argued that bipolar representation of black men is part of an ongoing national tug-of-war between the creed of equality and the caution of self-interest. Mainstream whites thus face a post-civil rights anxiety over how to tell which black men to include in the mainstream and which to exclude. Bipolar representation soothes that anxiety because it clearly demarcates which men fall into which category. Bipolar representation also thrives because of the way it protects the status quo. The Bad Black Man image justifies containing the masses of black men while the Good Black Man image justifies conditioning inclusion of a token few into the mainstream upon their assimilation to the white norm. Bipolar representation of black men thus serves both psychic (soothing post-civil rights anxiety) and material (maintenance of status quo) needs.

Discovering why mainstream whites might be served by bipolar representation of black men leaves another question: what effects do

²³³ See *id.* at 1676 (“[F]irms will screen for racial palatability and against performative racial difference.”).

²³⁴ See Yoshino, *supra* note 22, at 879 (characterizing need to assimilate “as much as possible” as lesson of Larry Mungin story discussed *supra* Part II.B.1).

²³⁵ See Carbado & Gulati, *supra* note 12, at 1676-77 (declaring “firms will hire people who are phenotypically but unconventionally black — that is to say, people who ‘look’ but do not ‘act’ black”).

these representations have upon heterosexual black men? The short answer to this question is that they seduce heterosexual black men into accepting the present hierarchies of identity. I provide the longer answer in the next part of the Article.

IV. THE HIDDEN EFFECT OF THE BIPOLARITY: THE SEDUCTION INTO HIERARCHY

In the previous Part of the Article, I considered why mainstream whites would be comforted by bipolar representation of heterosexual black men. In this Part, I ask how bipolar representation affects heterosexual black men. I have not conducted empirical analysis of the actual thoughts of heterosexual black men who have been exposed to bipolar representation. Rather, I ask what types of behaviors would be consistent with the ideas promoted by bipolar representation.

In analyzing what types of behaviors bipolar representation promotes, I do not distinguish between the likely behaviors of Bad Black Men and those of Good Black Men. That dichotomy is itself a false one and limits our ability to see that heterosexual black men have a wide variety of personalities. However, we can identify an abstract set of behaviors that are consistent with bipolar representation and might be engaged in by a variety of heterosexual black men. In this Part of the Article, I seek to reveal that abstract set of behaviors.

I will argue that the hidden effect of bipolar representation is that it seduces heterosexual black men into taking pleasure in the present hierarchies.²³⁶ First, heterosexual black men are taught to emulate the economically-empowered heterosexual white men who set the norms in this culture.²³⁷ Second, emulating normative white men means emulating a version of masculinity that is based on the dominance of those below you in the identity hierarchies. Third, heterosexual black

²³⁶ The fundamental problem with, and the epistemological foundation of, Western societies is the assumption that there must be a hierarchical ordering of people based on their identities. See YOUNG, *supra* note 3, at 128 (identifying epistemology of scaling bodies); see also Farley, *supra* note 97, at 227 (arguing education in hierarchy is foundational to society); Grahn-Farley, *supra* note 24, at 58 (concluding naturalization of hierarchy is fundamental source of oppressions).

²³⁷ bell hooks argues that “patriarchy invites us all to learn how to ‘do it for daddy,’ and find the ultimate pleasure, satisfaction, and fulfillment in that act of performance and submission.” See hooks, *supra* note 14, at 98 (defining “doing it for daddy”). “Daddy” is an abstracted image of the normative white male. *Id.* at 99. I modify and extend that thesis as applied to heterosexual black men.

men's emulation of white men is thus consistent with the taking of compensation for our own subordination in the form of oppressing black women and gays. Finally, those subordinating acts lead heterosexual black men to the final step in our seduction into accepting the present hierarchies: the naturalization of the principle that identities must be hierarchized and its implication that our own subordination is justified. In this Part of the Article, I will describe that four-step process by which bipolar representation of heterosexual black men has the effect of seducing us into accepting the present hierarchies of identity.

A. *Assimilation as Emulation of Normative White Men*

Black men are encouraged to view assimilation into the mainstream as something that is accomplished through the emulation of white men. The Good Black Man image encourages heterosexual black men to engage in race-emulating strategies. For instance, heterosexual black men have often sought to "crossover" by adopting the dress and even vocal patterns associated with mainstream white culture.²³⁸ Black male corporate executives tend to do this by affirming the corporation's colorblind ideology.

According to popular representation, the Good Black Man spends his life trying to be like white men.²³⁹ The upshot of bipolar representation of heterosexual black men is that there is an overarching stereotype of us as envious of white men and wanting to emulate them.²⁴⁰ The stereotype of black males' envy of white males is part of a comprehensive strategy (albeit one arrived at through a confluence of acts not necessarily intended to produce this result) to socialize black males to see ourselves as lacking something that only white male approval can provide. Specifically, "[r]epresentations that socialize black males to embrace subordination as 'natural' tend to construct a worldview where white men are depicted as all-powerful. To become powerful, then, to occupy that omnipotent location, black males (and white females) must spend their lives striving to emulate white men."²⁴¹ Hence, naturalization of the

²³⁸ See HARPER, *supra* note 185, at 5-7 (describing obituary emphasis on newscaster Max Robinson's precise diction as sign of his acceptability to the white mainstream); *id.* at 85-86 (noting Motown development of crossover voices and performance styles in its artists).

²³⁹ See hooks, *supra* note 14, at 99 (asserting that black men are depicted as striving to emulate white men).

²⁴⁰ *Id.* (contending that "images of black males in popular culture represent them . . . as individuals tortured by . . . 'unrequited longing for white male love'").

²⁴¹ *Id.*

present identity hierarchies tends to enthrone normative white men as the model. The embrace of the present hierarchies, which is promoted by the Good Black Man image, encourages black men to see assimilation into the mainstream as something best accomplished by emulating normative white men. I fear bipolar representations of black masculinity have succeeded in spreading an ethic of assimilation through emulation.²⁴²

The idea that assimilation is accomplished through emulation of normative white men allows reinterpretation of Mungin's race-distancing identity performance strategies as attempts to gain white affirmation. Mungin wanted his firm's partners to say, "You're like us." Psychically, Mungin desired affirmation that he had become "an American" as much as he desired the material benefit attached to that affirmation. For Mungin, being an American meant distancing himself from blackness and emulating whiteness.²⁴³ The bipolar images promote such strategies by providing the assimilationist incentive to become the Good Black Man, who is really the Good White Man.²⁴⁴

B. Normative Masculinity as Domination

Given heterosexual black male emulation of normative white men, what is it that we will reproduce? While there are many masculinities,²⁴⁵ there is also a "code of masculinity" that might be described as normative masculinity.²⁴⁶ The Good Black Man image's call for heterosexual black men to emulate normative white men will result in emulation of normative masculinity. That is so because "[w]ithin the dominant culture, the masculinity that defines white, middle-class, early middle-aged heterosexual men is the masculinity that sets the standards for other men."²⁴⁷

²⁴² See, e.g., Harris, *supra* note 32, at 784 (noting that "black men, while denigrating white men and white masculinity, also pay homage to the white masculine ideal").

²⁴³ See Wilkins, *supra* note 154, at 1953 (contending Mungin thought being American first required removing all signs of his blackness).

²⁴⁴ See Culp, *supra* note 161, at 670 (arguing assimilation is whitening); *supra* Part II.B (describing assimilation requirement of Good Black Man image).

²⁴⁵ Paul Smith, *Introduction* to BOYS: MASCULINITIES IN CONTEMPORARY CULTURE 1, 3 (Paul Smith ed., 1996) ("[M]asculinity is not; rather, there are only masculinities in the plural . . .").

²⁴⁶ See Ronald F. Levant & William S. Pollack, *Introduction* to A NEW PSYCHOTHERAPY FOR MEN 1, 1 (Ronald F. Levant & William S. Pollack, eds. 1998) (identifying "code of masculinity").

²⁴⁷ Kimmel, *supra* note 21, at 30. Kimmel quotes Erving Goffman for the proposition

The predominant account of normative United States masculinity describes it as fundamentally based on a fear of being associated with denigrated “others.”²⁴⁸ To be a full man, one must distinguish oneself from femininity. One accomplishes that by distancing himself from the qualities associated with women and from women themselves.²⁴⁹ Instead, one treats women as possessions to be displayed as evidence of one’s manhood.²⁵⁰ Similarly, one must distance oneself from gay men.²⁵¹ This is the attempted repudiation of the presence of feminine qualities in men.²⁵² Men often seek to demonstrate extremely masculine qualities as a means of fending off the perception that they are gay.²⁵³ Finally, the normative American male must reject socially marginalized males, such as racial minorities. Since minority men are traditionally either feminized or hypersexualized, we are outside of the norm to which men are supposed to aspire.²⁵⁴

When bipolar representation of heterosexual black men encourages assimilation in the form of emulation of normative white men, it simultaneously encourages emulation of normative masculinity. That means heterosexual black men will feel compelled to prove their manhood through acts that distance them from marginalized others. Emulation of normative masculinity thus makes it more likely heterosexual black men will seek to offset their feelings of powerlessness by subordinating others. This discussion of normative masculinity as

that “[e]very American male tends to look out upon the world from this perspective” ERVING GOFFMAN, *STIGMA* 128 (1963), *quoted in* Kimmel, *supra* note 21, at 30.

²⁴⁸ See Kimmel, *supra* note 21, at 25 (“We come to know what it means to be a man in our culture by setting our definitions in opposition to a set of ‘others’ — racial minorities, sexual minorities, and, above all, women.”).

²⁴⁹ See *id.* at 31-33 (describing flight from feminine); see also Harris, *supra* note 32, at 786 n.34 (asserting “[m]en’s need to defend themselves at all costs from being contaminated by femininity”).

²⁵⁰ See Kimmel, *supra* note 21, at 33 (noting “how we constantly parade the markers of manhood — wealth, power, status, sexy women”).

²⁵¹ See Harris, *supra* note 32, at 780 (contending “to be a heterosexual man is precisely to be terrified of homosexuality”).

²⁵² See Kimmel, *supra* note 21, at 34 (arguing “homoerotic desire is cast as feminine desire” that must be repudiated). Kimmel goes on to define homophobia more broadly as men’s fears that other men will unmask them as insufficiently manly. *Id.* at 39.

²⁵³ See *id.* at 37 (describing men’s fears of being associated with homosexuality). Angela Harris argues that “the potential loss of masculinity brings shame and humiliation, and the man who finds these emotions intolerable may turn them into rage and act violently in expression of that rage.” Harris, *supra* note 32, at 789.

²⁵⁴ See *id.* at 38 (tracing feminization and hypersexualization of blacks, southern Europeans, Jews, Native Americans, and gay men).

dominance thus leads us back to the concept of compensatory subordination.²⁵⁵

C. *The Desire for Compensatory Subordination*

As I described in Part I.B.1, the concept of compensatory subordination captures the idea that people who are subordinated may seek to compensate themselves for their own oppression by subordinating others. By doing so, however, they accept the principle that identities should be hierarchized and thereby weaken their ability to reject the legitimacy of their own oppression.²⁵⁶ The desire to subordinate others will be especially strong in those who have multiple major aspects of identity they can use to exercise compensatory subordination. For heterosexual black men, patriarchy and heterosexism serve as two tempting bases for subordinating others.

Intersectionality theorists have pointed out that black male acceptance of hierarchy takes the form of subordination of black women and gays through physical and symbolic abuse. In a sense, this is not surprising, as “men achieve masculinity at the expense of women — at best by being ‘not a woman,’ at worst by excluding, hurting, exploiting, or otherwise abusing actual women.”²⁵⁷ Likewise, men achieve masculinity at the expense of gays.²⁵⁸ Heterosexual black men’s masculinity will be especially insecure since denigration of blackness starts us off “one down” from the masculine norm.²⁵⁹

Hip-hop music and videos provide one example of heterosexual black men exercising compensatory subordination through symbolic means. While heterosexual black men sometimes physically abuse women and gays,²⁶⁰ hip-hop is so pervasive that it seems to stand as an example of a

²⁵⁵ It is usually one’s vulnerability to subordination that leads one to compensatorily subordinate others. What is unusual here is that it is the structure of the privilege that creates a sense of lack.

²⁵⁶ See Ehrenreich, *supra* note 23, at 290 (arguing desire to protect privilege weakens resistance).

²⁵⁷ Harris, *supra* note 32, at 785; see also *supra* Part IV.B (discussing normative masculinity).

²⁵⁸ See Harris, *supra* note 32, at 786 (summarizing queer theory insights into masculinity); see also *supra* Part IV.B (discussing normative masculinity).

²⁵⁹ Regarding the insecurity that is structured into normative masculinity, see generally Kimmel, *supra* note 21, at 33-34 (describing masculinity as ceaseless competition constantly requiring new proof of one’s manhood); *id.* at 39-41 (explaining contradiction between men’s group power and their individual senses of powerlessness).

²⁶⁰ For an analysis of black male rapes of black women that were met with indifference

mass act of representational compensatory subordination. The misogyny and homophobia of the most popular forms of hip-hop lyrics and videos has been well-documented.²⁶¹ As black men are the primary creators of popular hip-hop music, we might ask what its misogyny and homophobia betokens. My answer is that this is an opportunity for heterosexual black men to compensate for our own subordination by dominating groups we perceive to be below us in various identity hierarchies.²⁶² Given the systemic pressures for black men to emulate normative masculinity by exercising dominance over others, hip-hop's misogyny and homophobia appear to be an instance of compensatory subordination.²⁶³

What leads to such compensatorily subordinating acts? Our popular culture spreads the logic of compensatory subordination. Popular images of both white women and black men "suggest that white females and black males should not be disturbed by racist and sexist hierarchies that pit them against one another, but rather that they should enjoy playing the game, reaping the rewards."²⁶⁴ These two groups, which share the position of being "one down" from the norm, are being taught that hierarchy is not only inevitable, but also pleasurable.²⁶⁵ Popular representations suggest that the way to gain that pleasure is to exercise compensatory subordination.

on the grounds that black men are already subordinated, see Salamishah Tillet, *Fragmented Silhouettes*, in *VIOLENCE IN THE LIVES OF BLACK WOMEN: BATTERED, BLACK, AND BLUE* 159, 162-64 (Carolyn M. West ed., 2002) (discussing black community emphasis on black men's interests over addressing gender violence). This is an example of intragroup silencing, which is sometimes itself a form of compensatory subordination.

²⁶¹ See, e.g., Daly, *supra* note 12, at 462 (internal citation omitted) (noting "some adolescent minority males 'are so thoroughly constituted as victims that they . . . demand to be viewed as the hunters and 'savages' that the general population . . . is more than willing to see them as.' Rap lyrics can be another instance of this phenomena."); Travis L. Dixon & TaKeshia Brooks, *Rap Music and Rap Audiences: Controversial Themes, Psychological Effects and Political Resistance*, 8 *AFR.-AM. RES. PERSP.* 106, 109 (2002) (declaring "much of the most popular rap music appears to contain objectionable lyrics"). See generally PERRY, *supra* note 139, at 117-90 (analyzing hip-hop culture in relation to masculinity and femininity).

²⁶² See Dixon & Brooks, *supra* note 261, at 109 (noting "black women have historically been convenient targets on which black men release their aggression").

²⁶³ See, e.g., Karen D. Pyke, *Class-Based Masculinities: The Interdependence of Gender, Class, and Interpersonal Power*, 10 *GENDER & SOC'Y* 527, 531 (1996), cited in Harris, *supra* note 32, at 785 ("To further compensate for their subordination, some lower-status men also engage in pervasive talk of their sexual prowess and ritualistic put-down of women.").

²⁶⁴ hooks, *supra* note 14, at 105.

²⁶⁵ See, e.g., Farley, *supra* note 97, at 223 ("Our education cultivates our desire in the direction of our hierarchies.").

Compensatory subordination is definitely expressed in hip-hop, but might also be expressed by a heterosexual black male executive who chooses to support the corporation's norm of identity-blindness, even though he believes the process stereotypes other racial minorities, women, or gays.²⁶⁶ The fact that heterosexual black men have been seduced into exercising compensatory subordination does not excuse our subordinating acts, but it does call upon us to better understand the ways of the system.

D. Seduction into Accepting the Present Hierarchies

The ultimate problem with heterosexual black men's exercise of compensatory subordination is the way it seduces us into accepting the present hierarchies. Exercising one's privileges makes one less likely to challenge the system that provides those privileges. Bipolar representation encourages heterosexual black men to exercise compensatory subordination at the price of not challenging the ultimate roots of our own subordination.²⁶⁷ It is no surprise that bipolar representation encourages heterosexual black men to support the status quo. After all, bipolar representation is motivated by mainstream whites' desire to soothe their post-civil rights anxiety by justifying the status quo.

As I discussed in Part I.C, the foundation of identity subordination is the way the system of the scaling of bodies assumes that identity characteristics must be hierarchized against a norm and society organized around those hierarchies. That system renders large groups of people essentially degenerate: racial minorities, women, gays, and so on. The fundamental source of all of those oppressions is the idea that identities must be hierarchized.

The crucial step in acceptance of the present hierarchies is the naturalization of hierarchy. This is a two-step process. First, hierarchy is made to seem inevitable rather than socially constructed.²⁶⁸ People presume there is a human instinct to separate individuals into groups

²⁶⁶ See Carbado & Gulati, *supra* note 12, at 1679-80 (presenting scenario where Latino executive subtly reinforces discrimination against other Latinas/os).

²⁶⁷ See hooks, *supra* note 14, at 105 (arguing popular representation encourages black men and white women to enjoy "the game" of subordinating others).

²⁶⁸ See COLETTE GUILLAUMIN, *Race and Nature: The System of Marks*, in RACISM, SEXISM, POWER AND IDEOLOGY 133, 137 (1995) (critiquing naturalization of hierarchy); Grahm-Farley, *supra* note 24, at 33 (arguing discourses about nature promote hierarchy).

and rank them.²⁶⁹ That idea makes it seem that hierarchy is inevitable and thereby reduces resistance to the present hierarchies.²⁷⁰ Second, hierarchy is made to seem justified.²⁷¹ When people presume there is a human instinct for hierarchy, they ground the present hierarchies in biology, which is assumed to be a morally appropriate basis for structuring society. In fact, “[t]o talk about the natural is to hide the mechanisms that uphold and re-create social hierarchy.”²⁷²

The bipolar images of heterosexual black men promote the naturalization of hierarchy through a radical segregation of black men into groups and ranked ordering of their dispositions. The hierarchy is simply Good Black Man over Bad Black Man, with no nuanced representation in between. Bipolar black masculinity’s micro-level representation of the legitimacy of the Good Black-over-Bad Black hierarchy implies the macro-level patterns of white-over-black, male-over-female, straight-over-gay, and so on.

Hierarchy reproduces through bipolar black masculinity via acceptance of the right to subordinate. Good Black Man images promote assimilation according to the white male norm, which implies that there must be a hierarchy in the first place. Simultaneously, Bad Black Man images denigrate black men’s place within the hierarchy. Next, the right to subordinate others is offered to heterosexual black men as compensation for our own subordination. The catch, however, is that exercising compensatory subordination implies acceptance of the very system of hierarchy that subordinates us in the first place. That is the final step in the seduction into hierarchy.

It is hard to talk about something as abstract and pervasive as hierarchy, but it is necessary. The idea that identity groups must be hierarchized has been naturalized. As I noted in the introduction to this Article, hierarchy is not in fact inevitable. That means that heterosexual black men can and must resist the seduction into hierarchy.

²⁶⁹ *But see generally* PALEY, *supra* note 4 (arguing children do not inherently exclude some members).

²⁷⁰ *See* Grahn-Farley, *supra* note 24, at 33 (“When the relationship between the oppressed and the oppressor is made ‘natural,’ the possibility of a change, and a rejection of the existing hierarchy, is made a nullity.”); *see also* Awkward, *supra* note 2, at 363 (“[A]ndrocentric perspectives are learned, transmitted by specific sociocultural practices in such effective ways that they appear natural.”).

²⁷¹ *See* Grahn-Farley, *supra* note 24, at 33 (“The system of marks is an ideology of social hierarchy justified by regarding submission as something within the Woman and the Colored.”).

²⁷² *Id.*

E. *Conclusion: Against Bipolar Black Masculinity*

Application of my theoretical framework to bipolar black masculinity requires rejection of the seduction into hierarchy. Symbiosis theory explained that systems of oppression are interlocking. Thus, to successfully challenge heterosexual black men's treatment under the white supremacy hierarchy, we must refuse to exercise dominance under the patriarchal and heterosexist hierarchies. The concept of the scaling of bodies reveals that various oppressions have a shared source. To disrupt bipolar representation of black men, therefore, we must reject the very idea that identities must be hierarchized. This obviously has a self-interested component. It also has a coalitional component, as strategies aimed at disrupting the principle of hierarchy both aid other subordinated groups and require cooperation from those other groups.²⁷³ On both accounts, we must be "against bipolar black masculinity."

CONCLUSION

Given my focus on culture, what is the place of the law? Law is for the meantime. Now more than ever, we need laws to limit police discretion to act on the stereotypes of the Bad Black Man image and laws allowing difference in the workplace to counter the assimilationist assumptions of the Good Black Man image. Only when we get beyond bipolar black masculinity might we have arrived at the point when we can get beyond law.

How might we get beyond bipolar black masculinity? We might ask, "Where is a model of black male sexuality and self-pleasure that can narrate itself without a concurrent narrative of dominion, which apes the very system it abhors?"²⁷⁴ We will be able to answer that question when heterosexual black men disrupt the idea that masculinity is based on dominance of socially marginalized groups.²⁷⁵ Such a disruption would

²⁷³ This point responds to Sumi Cho's concern that application of intersectionality theory to the singly subordinated might result in an antisubordination theory that can only be justified on the basis of self-interest. See Cho, *supra* note 9, at 416 n.89 (raising concern).

²⁷⁴ ELIZABETH ALEXANDER, *THE BLACK INTERIOR* 173-74 (2004). It is possible to refigure masculinity, as masculinity is "a constantly changing collection of meanings that we construct through our relationships with ourselves, with each other, and with our world." Kimmel, *supra* note 21, at 25. For example, a recent book calls for a "new black man" who fights sexism and homophobia. See generally MARK ANTHONY NEAL, *NEW BLACK MAN* 151 (2005) (summoning "a generation of pro-feminist, anti-homophobic, nurturing black men").

²⁷⁵ I find the seeds of such a reconstructed masculinity in queer photography by black

not only help us, but also women and gays. The representations I imagine would resist exercising compensatory subordination and challenge the assumptions of the system of the scaling of bodies. In that sense, a post-hierarchical black masculinity would take us back to the Introduction to this Article and enact Paley's rule that "you can't say 'you can't play.'"²⁷⁶

men. See DIFFERENT 119-20 (Stuart Hall & Mark Sealy eds., 2001) (reproducing Ike Ude photographs from 1994 series Cover Girl). In those representations, finding pleasure in the text does not require that one enjoy the idea of exercising power over others.

²⁷⁶ See PALEY, *supra* note 4 (coining term).