

# ESSAY

## Opposing Affirmative Action: The Social Psychology of Political Ideology and Racial Attitudes

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### INTRODUCTION

Affirmative action in higher education has been a contentious issue for almost forty years. Since about 1970, litigants have challenged such programs in undergraduate and professional schools. In 1971, Marco DeFunis, a young man of Jewish descent, applied for admission to the University of Washington Law School.<sup>1</sup> The law school received approximately 1,600 applications for these 150 slots.<sup>2</sup> DeFunis

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 1. DeFunis v. Odegaard, 416 U.S. 312, 314 (1974) (per curiam).  
 2. *Id.*

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was denied admission.<sup>3</sup> In response, he filed a lawsuit against the University president, arguing that his admission denial resulted from the law school's affirmative action policy, favoring the admission of minority applicants over better-qualified white candidates (during the pendency of the case, DeFunis was provisionally admitted).<sup>4</sup> In sum, he contended that the Law School Admissions Committee procedures and criteria invidiously discriminated against him on account of his race, violating the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.<sup>5</sup> The United States Supreme Court determined that the case was moot since DeFunis had been admitted to the University of Washington Law School.<sup>6</sup>

In 1973 and 1974, Allan Bakke, a white male, applied to the University of California at Davis Medical School.<sup>7</sup> Both years, Bakke's application was considered under the regular admissions program.<sup>8</sup> His application was rejected in 1973.<sup>9</sup> Though his application had been submitted late, there remained four slots open for affirmative action admits.<sup>10</sup> In response, Bakke wrote the Admissions Committee, protesting that the affirmative action program operated as a racial and ethnic quota.<sup>11</sup> Bakke completed his 1974 application early in the year.<sup>12</sup> Again, however, Bakke's application was rejected.<sup>13</sup> Bakke brought suit in California state court against the Regents of the University of California with the help of the Center for Individual Rights (CIR).<sup>14</sup> The case worked its way to the United States Supreme Court, which upheld affirmative action, permitting race to be one of several factors in college admissions.<sup>15</sup> However, the Court held that racial quotas were impermissible.<sup>16</sup>

Then in 1992, after having her application rejected by the University of Texas School of Law, Cheryl Hopwood, a white female, filed

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3. *Id.*

4. *See id.*

5. *Id.*

6. *See id.* at 319–20.

7. *See Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 276 (1978).

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.* at 277.

13. *Id.* at 276.

14. Ann Mallatt Killenbeck, Bakke, *with Teeth?: The Implications of Grutter v. Bollinger in an Outcomes-Based World*, 36 J.C. & U.L. 1, 20 (2009).

15. *Regents of the Univ. of Cal.*, 438 U.S. at 317.

16. *See id.* at 375.

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suit along with several other white individuals who were similarly rejected.<sup>17</sup> Their contention was that they had better combined LSAT and undergraduate grade point averages than many of the black and Latino students who had been admitted.<sup>18</sup> After the 1994 bench trial in federal court, the judge held that the University could continue to employ its affirmative action admissions program.<sup>19</sup> On appeal, the United States Court of Appeals for the Fifth Circuit reversed.<sup>20</sup> Despite the University's appeal, the United States Supreme Court denied certiorari.<sup>21</sup>

Almost a decade later, in 2003, the United States Supreme Court decided two seminal affirmative action cases. In one case, Jennifer Gratz and Patrick Hamacher, both white, applied for admission to the University of Michigan's College of Literature, Science, and the Arts.<sup>22</sup> Both were denied admission to the University.<sup>23</sup> The CIR contacted Gratz and Hamacher and ultimately filed a lawsuit on their behalf in 1997 in federal court.<sup>24</sup> Their class action lawsuit alleged violation of the Equal Protection Clause of the Fourteenth Amendment, given the University of Michigan's affirmative action admissions policy.<sup>25</sup> The federal district court granted Gratz and Hamacher's motion with respect to admissions programs in existence from 1995 through 1998.<sup>26</sup> Ultimately, the United States Supreme Court held, *inter alia*, that the University of Michigan's freshman admissions policy violated the Equal Protection Clause because its use of race was not narrowly tailored to achieve the University's asserted compelling state interest in diversity.<sup>27</sup>

In the other case, Barbara Grutter, a white female, applied to the University of Michigan Law School in 1996.<sup>28</sup> The law school initially

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17. Hopwood v. State, 861 F. Supp. 551, 553 (W.D. Tex. 1994), *rev'd*, 78 F.3d 932 (5th Cir. 1996), *abrogated by* Grutter v. Bollinger, 539 U.S. 306 (2003).

18. *Id.* at 563 n.32, 564–67.

19. *See id.* at 583–84 (holding that the affirmative action admissions program was unconstitutional as administered).

20. Hopwood v. Texas, 236 F.3d 256 (5th Cir. 2000).

21. Hopwood v. Texas, 236 F.3d 256 (5th Cir. 2000), *cert. denied*, 533 U.S. 929 (2001).

22. Gratz v. Bollinger, 539 U.S. 244, 251 (2003).

23. *Id.*

24. *Id.* at 248; Killenbeck, *supra* note 14.

25. Gratz, 539 U.S. at 249–50.

26. *Id.* at 252–53.

27. *See id.* at 270–75 (finding that automatically distributing twenty points to every “under-represented minority” applicant solely because of race” does not provide the necessary “individualized consideration” as articulated by Justice Powell’s opinion in *Bakke*).

28. Grutter v. Bollinger, 539 U.S. 306, 316 (2003).

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placed Grutter on a waiting list but later rejected her application.<sup>29</sup> In 1997, she filed suit in federal court against the law school, the Regents of the University of Michigan, Lee Bollinger (Dean of the law school from 1987 to 1994, and president of the University of Michigan from 1996 to 2002), Jeffrey Lehman (Dean of the law school), and Dennis Shields (Director of Admissions at the law school from 1991 until 1998).<sup>30</sup> Grutter alleged that the defendants discriminated against her on the basis of race in violation of, *inter alia*, the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964.<sup>31</sup> In sum, she sued because of the University of Michigan Law School's affirmative action admissions policy. The District Court found unlawful the law school's use of race as an admissions factor.<sup>32</sup> The United States Court of Appeals for the Sixth Circuit reversed and held that *Bakke*'s binding precedent established diversity as a compelling state interest.<sup>33</sup> Accordingly, the law school's affirmative action policy was narrowly tailored because race was merely a "potential 'plus' factor."<sup>34</sup> The Supreme Court affirmed.<sup>35</sup>

Then in 2008, Abigail Fisher and Rachel Michalewicz applied to the University of Texas at Austin for undergraduate admission and were both rejected.<sup>36</sup> The two women, both white, filed suit against the University of Texas.<sup>37</sup> They alleged that the University discriminated against them on the basis of their race in violation of the Equal Protection Clause of the Fourteenth Amendment.<sup>38</sup> The basis of their claim was the University's affirmative action admissions program.<sup>39</sup> In 2009, the District Court upheld the legality of the admissions policy on summary judgment.<sup>40</sup> In 2011, Michalewicz withdrew from the case, leaving Fisher as the sole plaintiff.<sup>41</sup> The case was appealed to the United States Court of Appeals for the Fifth Circuit, which af-

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29. *Id.*

30. *Id.*

31. *Id.* at 317.

32. *Id.* at 321.

33. *Id.*

34. *Id.*

35. *Id.* at 343–44.

36. *Fisher v. Univ. of Tex. at Austin*, 645 F. Supp. 2d 587, 590 (W.D. Tex. 2009), *aff'd*, 631 F.3d 213 (5th Cir. 2011) *vacated and remanded*, 133 S. Ct. 2411 (2013).

37. *Id.*

38. *Id.*

39. *Id.*

40. *Fisher v. Univ. of Tex. at Austin*, 133 S. Ct. 2411, 2413 (2013).

41. *Fisher v. University of Texas at Austin Challenges Affirmative Action in Higher Education*, THE DAILY TEXAN, Feb. 21, 2012.

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firmed the trial court's holding.<sup>42</sup> Two years later, in 2013, the Supreme Court vacated the Fifth Circuit's opinion and remanded the case for further consideration.<sup>43</sup>

Each of these cases underscores important constitutional issues that courts have had to grapple. This Essay, however, questions whether those constitutional ideals have truly driven efforts to end affirmative action in higher education or whether it is something else. For example, the CIR and other advocacy groups are politically conservative organizations that have conducted a nationwide litigation strategy to dismantle race-conscious preferences.<sup>44</sup> For example, the CIR represented the sponsors of Proposition 209, the California referendum that eliminated affirmative action in California State programs; fought bans on racial "hate speech"; and represented Cheryl Hopwood—a white woman denied admission to the University of Texas at Austin Law School—in a successful case to challenge a university's right to use affirmative action since *Regents of the University of California v. Bakke* in 1978.<sup>45</sup> While the CIR portrays itself as a "civil rights" organization, it engages largely in issues in which it believes whites to be unfairly treated by their race—a move that signals its defense of white privilege rather than a commitment to racial equality.<sup>46</sup>

It is this conservative movement and the attitudes and actions on the part of those seeking admission to programs of higher learning that underscore the racially-tinged nature of opposition to affirmative action. Take, for example, affirmative action bake sales. These events, generally hosted by conservative student groups on U.S. college and university campuses, attempt to sell baked goods at different price points based on the would-be customer's race and gender. For example, one might sell a cookie for \$1.00 to a white male whereas a black female would be sold the same cookie for .25¢. Importantly, the bake sale hosts oppose the differently priced items but engage in such

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42. *Fisher*, 133 S. Ct. at 2413.

43. *Id.* at 2414.

44. Philip C. Aka, *The Supreme Court and Affirmative Action in Public Education, with Special Reference to the Michigan Cases*, 2006 BYU EDUC. & L.J. 1, 46 n.303 (2006) (citing Vernon Jarrett, *Beware! Old Race War Still On!*, CHI. DEFENDER (May 10, 2003)).

45. See Paul Burka, *Cheryl Hopwood, She Fought Affirmative Action at the University of Texas and Won*, TEX. MONTHLY (Sept. 1996), <http://www.texasmonthly.com/content/law-%E2%80%A2-cheryl-hopwood>; *Proposition 209 Ends Preferences in California*, CTR. FOR INDIVIDUAL RIGHTS, [http://www.cir-usa.org/cases/prop209\\_info.html](http://www.cir-usa.org/cases/prop209_info.html) (last visited Jan. 26, 2014).

46. Matthew W. Hughey, *White Backlash in the "Post-Racial" United States*, ETHNIC AND RACIAL STUDIES REVIEW (forthcoming 2014).

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a public critique of affirmative action that they believe will “bring the issue (of affirmative action) down to everyday terms.”<sup>47</sup> Such sales have taken place at UCLA and Texas A&M in 2003, the University of North Carolina at Greensboro and the University of Colorado at Boulder in 2004, Grand Valley State University in 2005, Kutztown University in 2006, the University of Nebraska in 2007, the University of California at Berkeley in 2011, and recently at the University of Texas at Austin.<sup>48</sup> The groups that support such bake sales often defend their provocative actions via the logic of “abstract liberalism.”<sup>49</sup> This approach synthesizes general social tenets such as “equal opportunity” and political and economic notions of “laissez-faire” into an idea that force should not be used to achieve social equity between groups but should be matters left up to individual choice. By discussing affirmative action within a “language of liberalism”<sup>50</sup> and appealing to the tenets of individual freedom within the free market ideology, these bake sales can be used to re-frame affirmative action as a violation of individual equality of opportunity, or simply put, “reverse discrimination”<sup>51</sup> against whites.<sup>52</sup> Accordingly, supporters of these bake sales might argue, “I am all for equal opportunity, that’s why I oppose affirmative action.”<sup>53</sup>

Most recently, on September 25, 2013, the University of Texas at Austin chapter of the Young Conservatives of Texas held a campus bake sale, charging different prices for treats based on the customer’s

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47. Nicolas Taborek, *Democrats Riled by Race and Gender-biased Bake Sale*, DAILY BRUIN (Feb. 14, 2003) (alteration in original), available at <http://www.freerepublic.com/focus/news/844214/posts>.

48. *Id.*; BILLS OF GOODS/ *Cookie Sale Was Half-baked Affirmative Action Protest*, Hous. Chron., Nov. 21, 2003, at A46; David Dietrich, *Racially Charged Cookies: Anti-Affirmative Action “Bake Sales” and the Defense of White Privilege*, in THE BULL. OF THE N.C. SOC. ASSOC., May 2011, at N2B, available at <http://www.rockinghamcc.edu/NCSA/Bulletinv37n2/v37n2b.htm>; Tim Mak, *Diversity Bake Sale Under Fire*, POLITICO (Sept. 26, 2011, 6:38 AM ), <http://www.politico.com/news/stories/0911/64391.html>; David Weigel, *Happy Ninth Anniversary, College Republican Stunt!*, SLATE (Sept. 26, 2011, 12:07 PM), [http://www.slate.com/blogs/weigel/2011/09/26/happy\\_ninth\\_anniversary\\_college\\_republican\\_stunt\\_.html](http://www.slate.com/blogs/weigel/2011/09/26/happy_ninth_anniversary_college_republican_stunt_.html).

49. See EDUARDO BONILLA-SILVA, *RACISM WITHOUT RACISTS: COLOR-BLIND RACISM AND THE PERSISTENCE OF RACIAL INEQUALITY IN AMERICA* 76 (4th ed. 2014).

50. *Id.* at 305.

51. See EBONI M. ZAMANI-GALLAHER, ET AL., *THE CASE FOR AFFIRMATIVE ACTION ON CAMPUS: CONCEPTS OF EQUITY, CONSIDERATIONS FOR PRACTICE* 54 (2009).

52. See BONILLA-SILVA, *supra* note 49, at 76.

53. Keith R. Walsh, Book Note, *Color-Blind Racism in Grutter and Gratz*, 24 B.C. THIRD WORLD L.J. 443, 447 (2004) (reviewing EDUARDO BONILLA-SILVA, *RACISM WITHOUT RACISTS: COLOR-BLIND RACISM AND THE PERSISTENCE OF RACIAL INEQUALITY IN AMERICA* (4th ed. 2014)).

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race.<sup>54</sup> The group claimed that it wanted to show why affirmative action is a bad policy. Lorenzo Garcia, the group's president, stated that the group wanted to show that affirmative action is "demeaning to minorities" and creates "reverse discrimination."<sup>55</sup>

High ideals, right? The problem is that the attack on affirmative action from the political Right has been shown, in social-psychological literature, to be predicted by racial attitudes. To elucidate this point, this Essay provides a backdrop to understanding racial attitudes among political conservatives in Part I. Part II contends that the way to think about racial bias on the political Right is at the automatic, implicit, and subconscious level. In doing so, Part II provides a framework for understanding implicit biases and how they originate. Part III discusses how implicit bias relates to political ideology. Part IV ties implicit racial attitudes to attitudes about affirmative action, specifically. This Essay concludes by underscoring that while the legal arguments made for why affirmative action in higher education should be held unlawful, based on constitutional ideals, what lies at the heart of the opposition is less about constitutional principles. Rather, the opposition emerges from racial hostility.

I. RACIAL ATTITUDES AND POLITICAL CONSERVATISM

Franklin D. Roosevelt and his "New Deal" helped the Democratic Party court blacks and Harry S. Truman's promotion of civil rights further cemented that relationship.<sup>56</sup> For example, Truman pushed for the Fair Employment Practices Act and made a worldwide radio address to the NAACP.<sup>57</sup> By the 1940s, the banality of entrenched white supremacy led many white Southerners to become disgruntled with the Democrats; they doubted that national Democratic leaders would uphold Jim Crow.<sup>58</sup> But by 1948, in the wake of Truman's announcement of his Civil Rights plan, southern Democrats

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54. Tyler Kingkade, *University of Texas Conservative Students Hold Affirmative Action Bake Sale*, HUFFINGTON POST (Oct. 1, 2013, 5:41 PM), [http://www.huffingtonpost.com/2013/10/01/affirmative-action-bake-sale\\_n\\_4025362.html](http://www.huffingtonpost.com/2013/10/01/affirmative-action-bake-sale_n_4025362.html).

55. Bacon, *Young Conservatives of Texas Throw "Affirmative Action Bake Sale" at University of Texas*, TOTAL FRAT MOVE, <http://totalfratmove.com/young-conservatives-of-texas-throw-affirmative-action-bake-sale-at-university-of-texas/#OrQhDYq8uvbtWE2r.99> (last visited Jan. 7, 2014).

56. JULES WITCOVER, *PARTY OF THE PEOPLE: A HISTORY OF THE DEMOCRATS* 426–27, 429–31 (2003).

57. *Id.*

58. MARY C. BRENNAN, *TURNING RIGHT IN THE SIXTIES: THE CONSERVATIVE CAPTURE OF THE GOP* 42 (1995).

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stormed out of the 1948 Democratic National Convention.<sup>59</sup> As a result, Southern Democrats and Conservative Republicans formed an alliance called the “Inner Club”<sup>60</sup> that later resulted in the States’ Rights Democratic Party or the more commonly known “Dixiecrats.” Led by Strom Thurmond, their platform was one of segregation and racial purity.<sup>61</sup> And while they won only thirty-nine electoral votes, they signaled a new racialization of the two-party system.<sup>62</sup>

By 1964, Thurmond switched his party allegiance to the Republicans, and in doing so, set a precedent for other GOP members to oppose measures to achieve racial equality and to abandon the chase for black votes—the “Southern Strategy.”<sup>63</sup> Thurmond, like many GOP members, opposed the 1964 Civil Rights Act and helped unify the Republican Party under the banner of staunch conservatism by critiquing Johnson’s handling of the disorder and violence of various 1960s protest movements.<sup>64</sup> The GOP actively contended that the Civil Rights Act would only worsen race relations.<sup>65</sup> Conservatives became a dominant force in the 1960s and gained control of the Republican Party by 1964.<sup>66</sup> Consequently, the riots of the summer of 1964, the Civil Rights Movement, and the growth of Black Power together put Lyndon Johnson in a precarious situation—he had to keep from alienating white voters without losing his black constituency.<sup>67</sup> By the late 1960s, the GOP had a firm hold on the white and conservative South; the Southern Strategy led to a full-scale electoral realignment of Southern states to the Republican Party, but at the expense of losing more than ninety percent of black voters to the Democratic Party.<sup>68</sup>

The GOP turned full scale to abstract and implicit racial messaging to retain white conservative voters. In 1981, former Republican Party strategist Lee Atwater gave an interview discussing the racialized political strategy of the GOP:

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59. LIBRARY OF CONGRESS, DEMOCRATIC NATIONAL POLITICAL CONVENTIONS, 1832-2008, (2013) available at [http://www.loc.gov/rr/main/democratic\\_conventions.pdf](http://www.loc.gov/rr/main/democratic_conventions.pdf).

60. EARL BLACK & MERLE BLACK, *THE RISE OF SOUTHERN REPUBLICANS* 54 (2003).

61. MATTHEW W. HUGHEY & GREGORY S. PARKS, *THE WRONGS OF THE RIGHT: RACE, LANGUAGE, AND THE REPUBLICAN PARTY IN THE AGE OF OBAMA* (forthcoming 2014).

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.*

66. BRENNAN, *supra* note 58, at 1–2.

67. *Id.* at 83.

68. R.W. Apple, Jr., *G.O.P. Tries Hard to Win Black Votes, but Recent History Works Against It*, N.Y. TIMES, Sept. 19, 1996, at B11.



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You start out in 1954 by saying, “Nigger, nigger, nigger.” By 1968 you can’t say “nigger”—that hurts you. Backfires. So you say stuff like forced busing, states’ rights and all that stuff. You’re getting so abstract now [that] you’re talking about cutting taxes, and all these things you’re talking about are totally economic things and a by-product of them is [that] blacks get hurt worse than whites.

And subconsciously maybe that is part of it. I’m not saying that. But I’m saying that if it is getting that abstract, and that coded, that we are doing away with the racial problem one way or the other. You follow me—because obviously sitting around saying, “We want to cut this,” is much more abstract than even the busing thing, and a hell of a lot more abstract than “Nigger, nigger.”<sup>69</sup>

When Ronald Reagan spoke of supposed “Welfare Queens” gaming the system, voters knew what he meant.<sup>70</sup> This latter imagery melded the Republicans’ focus on lower taxes and smaller government with whites’ racial animosity. The message to whites was implicit but clear: your taxes are high because Lyndon Johnson’s programs are funneling your money to undeserving black women. These seemingly race-neutral campaign themes, welfare and crime, have demonstrably racially-loaded undertones.<sup>71</sup>

In 1985, the national Democratic Party backed a series of focus groups to ascertain why working-class whites had abandoned their traditional support for the Party.<sup>72</sup> Pollster Stanley Greenberg attributed politicized white flight to dissatisfaction with the Democratic Party’s increasing association with black voters.<sup>73</sup> These defectors expressed an intense distaste for issues salient to black voters and even for black voters themselves. Whites’ racial animus influenced their thinking about, and attitudes toward, government and political issues. Blacks became an easy scapegoat for what whites perceived to be wrong in their lives; blacks were a “serious obstacle to their personal

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69. Bob Herbert, *Impossible, Ridiculous, Repugnant*, N.Y. TIMES, Oct. 6, 2005, at A37 (alterations in original).

70. See SUSAN J. DOUGLAS & MEREDITH W. MICHAELS, *THE MOMMY MYTH: THE IDEALIZATION OF MOTHERHOOD AND HOW IT HAS UNDERMINED WOMEN* 178 (2004).

71. See Jon Hurwitz & Mark Peffley, *Public Perceptions of Race and Crime: The Role of Racial Stereotypes*, 41 AM. J. POL. SCI. 375, 383–91 (1997) (analyzing several experiments demonstrating that blacks are more likely to be seen as criminal); see also Fred Slocum, *White Racial Attitudes and Implicit Racial Appeals: An Experimental Study of ‘Race Coding’ in Political Discourse*, 29 POL. & POL’Y 650, 650 (2001).

72. Stanley B. Greenberg, *Goodbye, Reagan Democrats*, N.Y. TIMES, Nov. 11, 2008, at A29.

73. *Id.*

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advancement.”<sup>74</sup> “Being black” then became a perceived social advantage. Conversely, their whiteness supposedly relegated them to lower-class status. Personal decisions to segregate themselves from blacks influenced their belief that white neighborhoods were safe and decent places. And just as these whites moved to the suburbs to flee increasing integration in urban public schools, so, too, they shunned the increasingly integrated Democratic Party and its support for “hot button” racial topics like affirmative action. Arguably, these former Democrats found a new home in the Republican Party.

In recent years, social scientists have measured the distinction between liberal and conservative racial attitudes. Some researchers suggest that personality and disposition serve to influence and guide racial prejudice and acts of discrimination.<sup>75</sup> Throughout the 1950s and ‘60s, social scientists argued that some individuals harbored a generalized bias against out-groups. This “authoritarian personality” disorder was marked by a robust sense of conventionalism, aggression, toughness, and power.<sup>76</sup> However, by the 1990s, researchers found that Right-wing authoritarians—individuals who strongly endorse traditional values—are inclined to act aggressively toward out-group members, including blacks, while acting kindly toward other members of their in-groups.<sup>77</sup> Soon, researchers centered their attention on more than aggression, addressing the “Big Five” personality traits (i.e., openness, conscientiousness, extroversion, agreeableness, and neuroticism). Psychologists Bo Ekehammar and Nazar Akrami’s review of studies on the relationship between personality and racial attitudes found that “Openness to Experience” seems to have a stronger

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74. Frederick Slocum & Yueh-Ting Lee, *Racism, Racial Stereotypes, and American Politics*, in 1 *THE PSYCHOLOGY OF PREJUDICE AND DISCRIMINATION* 61, 62 (Jean Lau Chin ed., 2004) (citation omitted).

75. See generally Bart Duriez & Bart Soenens, *The Intergenerational Transmission of Racism: The Role of Right-wing Authoritarianism and Social Dominance Orientation*, 43 *J. RES. PERSONALITY* 906 (2009) (explaining how research suggests that racism and prejudice dispositions are transmitted from one generation to the next due to a “fundamental intergenerational transmission of ideology”).

76. See Edward A. Shils, *Authoritarianism: “Right and “Left,”* in *STUDIES IN THE SCOPE AND METHOD OF “THE AUTHORITARIAN PERSONALITY:” CONTINUITIES IN SOCIAL RESEARCH* 24, 28–42 (Richard Christie & Marie Jahoda eds., 1954).

77. Bernard E. Whitley Jr., *Right-Wing Authoritarianism, Social Dominance Orientation, and Prejudice*, 77 *J. PERSONALITY & SOC. PSYCHOL.* 126, 126 (1999); see generally Bob Altemeyer, *The Other “Authoritarian Personality,”* in *ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOLOGY* 47–92 (Mark P. Zanna ed., 1998) (discussing research conducted in the 1990s which analyzes the personality traits of Right-wing authoritarians).

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relationship with measures of prejudice and interracial attitudes.<sup>78</sup> In a 2005 study, social psychologist Francis Flynn found that among whites, Openness was inversely related to racial attitudes and positively related to impressions of a fictitious black person.<sup>79</sup> Moreover, Openness to Experience was also inversely related to impressions of black interviewees after they observed informal interviews of white and black targets.<sup>80</sup> Accordingly, Openness to Experience is a key personality trait negatively correlated with right-wing political ideologies.<sup>81</sup> In fact, psychologist Paul Trapnell noted that although most scholars “do not equate [O]penness to values with liberalism, they have on occasion identified liberal values with this facet.”<sup>82</sup>

Other scholars have focused on “symbolic racism.” As sociologists Michael Tesler and David O. Sears write, the presence of symbolic racism is marked by four beliefs: (1) that discrimination against blacks has largely declined; (2) that black disadvantage is the fault of blacks’ supposedly poor work ethic; (3) that blacks demand too many resources; and (4) that blacks have received more than they deserve.<sup>83</sup> Hence, social scientists argue that symbolic racism has replaced the Jim Crow-style overt racism in three ways. First, virulent and overt forms of racism fell out of social favor in the United States—save in the Deep South—and thus could not influence politics writ large.<sup>84</sup> Second, full-scale opposition to black political candidates and liberal, racially targeted policies was less about real or perceived racial threats to whites’ interests than it was the result of beliefs in abstract moral principles, such as obedience, egalitarianism, and meritocracy.<sup>85</sup> Third, symbolic racism emerged from “early socialized negative feelings about [b]lacks” and conservative values.<sup>86</sup> It is this latter point that has caused a considerable backlash among academics and the lay

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78. Bo Ekehammar & Nazaf Akrami, *The Relation Between Personality and Prejudice: A Variable- and a Person-Centred Approach*, 17 EUR. J. PERSONALITY 449, 459–60 (2003).

79. Francis J. Flynn, *Having an Open Mind: The Impact of Openness to Experience on Interracial Attitudes and Impression Formation*, 88 J. PERSONALITY & SOC. PSYCHOL. 816, 816 (2005).

80. *Id.*

81. Alain Van Hiel et al., *The Relationship Between Openness to Experience and Political Ideology*, 28 PERSONALITY & INDIVIDUAL DIFFERENCES 741, 742 (2000).

82. Paul D. Trapnell, *Openness Versus Intellect: A Lexical Left Turn*, 8 EUR. J. PERSONALITY 273, 282 (1994).

83. MICHAEL TESLER & DAVID O. SEARS, OBAMA’S RACE: THE 2008 ELECTION AND THE DREAM OF A POST-RACIAL AMERICA 17–18 (Benjamin I. Page et al. eds., 2010).

84. *Id.*

85. *Id.*

86. *Id.*

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public.<sup>87</sup> The variety of theories that capture the relationship between political ideology and racial attitudes, though rich in their description and supported by a robust body of empirical social science, tend to not directly address the extent to which such attitudes may be automatic, if not subconscious. Implicit bias research over the past couple of decades, however, has helped elucidate this relationship.

## II. THE AUTOMATICITY OF RACIAL BIAS

People are complex. One's stated attitudes and beliefs often fail to align with one's actual thoughts and feelings. In experimental settings, for example, social desirability—the tendency of research study participants to reply in a manner that they believe will be viewed favorably by the experimenter—may serve as a motivating factor behind lack of candor.<sup>88</sup> In social settings, impression management, particularly saving face, may be a driving force.<sup>89</sup> Given that race remains such a contentious social issue, it serves as a catalyst for impression management—with whites, for example, seeking self- and other's-perceptions that they are racial egalitarians. As such, they attempt to cultivate a shared sense of self that is color-blind, or even non-prejudiced in disposition or political proclivity—even more so than nonwhite racial groups do.<sup>90</sup> This desire is expected given widely shared beliefs that whites are racially prejudiced.<sup>91</sup> White presentations of self, rest not necessarily on an effort to intentionally deceive others but rather on their lack of adequate appreciation for how deeply entrenched and collectively shared pro-white worldviews are.

The assumption that human thoughts are entirely accessible to conscious awareness, and that human behavior is largely governed by conscious agency, has been severely undermined in recent years. People's express reports of their cognitive processes are often inconsistent with their actual judgments. Hence, shared cultural logics and psycho-

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87. See Paul M. Sniderman & Philip E. Tetlock, *Symbolic Racism: Problems of Motive Attribution in Political Analysis*, 42 J. SOC. ISSUES 129, 130–31 (1986).

88. Douglas P. Crowne & David Marlowe, *A New Scale of Social Desirability Independent of Psychopathology*, 24 J. OF CONSULTING PSYCHOL. 349, 349 (1960); Maryon F. King & Gordon C. Bruner, *Social Desirability Bias: A Neglected Aspect of Validity Testing*, 17 PSYCHOL. & MARKETING 79, 80 (2000).

89. Erving Goffman, *Embarrassment and Social Interaction*, 62 AM. J. SOC. 264, 265 (1956).

90. Hilary B. Bergsieker & J. Nicole Shelton, *To Be Liked Versus Respected: Divergent Goals in Interracial Interactions*, 99 J. PERSONALITY & SOC. PSYCHOL. 248, 249 (2010).

91. Jacquie D. Vorauer et al., *How Do Individuals Expect to Be Viewed by Members of Lower Status Groups? Content and Implications of Meta-Stereotypes*, 75 J. PERSONALITY & SOC. PSYCHOL. 917, 917 (1998).

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logical influences on judgment seem to operate wholly above people's heads and outside of people's conscious awareness,<sup>92</sup> so much so that social psychologists now contend that people rely on two distinct systems of judgment. One system is rapid, intuitive, unconscious, and error prone.<sup>93</sup> Another is slow, deductive, and deliberative, but much more accurate.<sup>94</sup> The two systems may operate simultaneously, but produce contradictory responses.<sup>95</sup> Moreover, the intuitive system can often dictate choice, while the deductive system may fall behind to search for rationales that align with accessible memories and understandings.<sup>96</sup> As a result, individuals may be unaware (1) of the existence of a significant stimulus that influenced a response, (2) of the existence of the response, and (3) that the stimulus affected the response.<sup>97</sup>

Putting this dual system to a test, social psychologists Timothy Wilson and Richard Nisbett required participants to rate four identical pairs of stockings.<sup>98</sup> Forty percent selected the stocking in the right-most displayed position, while thirty-one percent selected the stocking just to the left of the most selected stocking.<sup>99</sup> In essence, there was a position effect. Out of the fifty-two participants, eighty spontaneous responses were given for why they made their selection.<sup>100</sup> None mentioned the position of the stocking as the reason for

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92. Anthony G. Greenwald & Mahzarin R. Banaji, *Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes*, 102 *PSYCHOL. REV.* 4, 10–11 (1995); Anthony G. Greenwald et al., *A Unified Theory of Implicit Attitudes, Stereotypes, Self-Esteem, and Self-Concept*, 109 *PSYCHOL. REV.* 3, 17–18 (2002).

93. See generally Daniel Kahneman & Shane Frederick, *Representativeness Revisited: Attribute Substitution in Intuitive Judgment*, in *HEURISTICS AND BIASES: THE PSYCHOLOGY OF INTUITIVE JUDGMENT* 49–81 (Thomas Gilovich et al. eds., 2002) (describing the intuitive cognitive system as rapid, intuitive, unconscious, and error prone).

94. See generally *id.* (describing the reflective cognitive system as slow, deductive, deliberate, and more accurate); Steven A. Sloman, *Two Systems of Reasoning*, in *HEURISTICS AND BIASES: THE PSYCHOLOGY OF INTUITIVE JUDGMENT* 379–96 (Thomas Gilovich et al. eds., 2002) (describing the qualities of two forms of cognitive reasoning).

95. Sloman, *supra* note 94, at 383.

96. See Richard E. Nisbett & Timothy DeCamp Wilson, *Telling More Than We Can Know: Verbal Reports on Mental Processes*, 84 *PSYCHOL. REV.* 231, 248 (1977) (noting that people's reports are based on a priori, implicit causal theories, or judgments about the extent to which a particular stimulus is a plausible cause of a given response). Cf. Steven A. Sloman, *The Empirical Case for Two Systems of Reasoning*, 119 *PSYCHOL. BULL.* 3, 15 (1996) (“The associative system however always has its opinion heard and, because of its speed and efficiency, often precedes and thus neutralizes the rule-based response.”).

97. Nisbett & Wilson, *supra* note 96, at 231.

98. Timothy DeCamp Wilson & Richard E. Nisbett, *The Accuracy of Verbal Reports About the Effects of Stimuli on Evaluations and Behavior*, 41 *SOC. PSYCHOL.* 118, 123 (1978).

99. *Id.*

100. *Id.* at 124.

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the selection.<sup>101</sup> When the subjects were directly asked whether the order of the stockings might have influenced their decision, only one indicated that reason as a possibility.<sup>102</sup> One participant noted that she was currently taking multiple psychology classes and knew a great deal about order effects.<sup>103</sup> But she, nonetheless, did not display a bias for stockings further to the right on the display. In fact, she chose the stocking in the second position.<sup>104</sup>

Conventional wisdom and even “naïve” psychological conceptions of human thought and social behavior<sup>105</sup> may place heavy influence on select thoughts and conscious intentions as the primary cause of beliefs and behavior.<sup>106</sup> The challenge to such an assessment is that it has long been known that social influences within interview and research settings can lead individuals to inaccurately describe their explicit beliefs.<sup>107</sup> Furthermore, people’s explanations as to their behavior often consist of irrational groping for answers, and thus they produce answers that are highly improbable, if not impossible.<sup>108</sup> Hence, when politically conservative voters, activists, commentators, or politicians are asked about what appears to be overly harsh or even racially motivated speech or actions, many defend themselves with the certainty that they know themselves not to be “racist.”<sup>109</sup> That is, in our culture, we define the “racists” as hood-wearing and swastika-

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101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. DANIEL D. HUTTO & MATTHEW RATCLIFFE, *FOLK PSYCHOLOGY RE-ASSESSED* 2 (2007); MATTHEW RATCLIFFE, *RETHINKING COMMONSENSE PSYCHOLOGY: A CRITIQUE OF FOLK PSYCHOLOGY*, *THEORY OF MIND AND SIMULATION* 42 (2007); Terrence Horgan & James Woodward, *Folk Psychology Is Here to Stay*, in *MIND AND COGNITION: AN ANTHOLOGY*, 419–36 (William G. Lycan & Jesse J. Prinz eds., 2008).

106. Anna Wierzbicka, *On Folk Conceptions of Mind, Agency and Morality*, 6 *J. COGNITION & CULTURE* 165, 169 (2006).

107. See LEON FESTINGER, *A THEORY OF COGNITIVE DISSONANCE* 230–31 (1957) (aiding our understanding of individuals’ inability to accurately identify the causes of their thought and behavior); Milton J. Rosenberg, *The Conditions and Consequences of Evaluation Apprehension*, in *ARTIFACT IN BEHAVIORAL RESEARCH*, 279 (Robert Rosenthal & Ralph L. Rosnow eds., 1969); Martin T. Orne, *On the Social Psychology of the Psychological Experiment: With Particular Reference to Demand Characteristics and Their Implications*, 17 *AM. PSYCHOL.* 779, 777–78 (1962); see also Stephen J. Weber & Thomas D. Cook, *Subject Effects in Laboratory Research: An Examination of Subject Roles, Demand Characteristics, and Valid Inference*, 77 *PSYCHOL. BULL.* 278 (1972).

108. See generally DANIEL KAHNEMAN, *THINKING FAST AND SLOW* (2013) (describing the two-systems of cognitive judgment and how individuals seek to explain their beliefs and conduct in ways that are consistent with what they know or believe about themselves).

109. MATTHEW W. HUGHEY, *WHITE BOUND: NATIONALISTS, ANTIRACISTS, AND THE SHARED MEANINGS OF RACE* 8 (2012).

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bearing ignoramuses. They can't be "racist," so they think, because they do not comport with the image of such a racist and they do not actively "hate" people of color. Once racism is conceived as a conscious and overt stereotypical thought or action, one too easily divides the world into those who are "sick" with the disease of prejudice and those who are "healthy" anti- or non-racists.

Thus, a growing body of research on implicit social cognition destabilizes the notion that human thoughts and behaviors are purely accessible and volitional. This body of research suggests that individuals lack absolute awareness of their own thoughts and the ability to control behaviors resulting from those thoughts. Since the 1980s, research on implicit memory has opened the door for the development of measures of other implicit and socially shared mental phenomena. Chief among these advancements were several measures for implicit attitudes.<sup>110</sup> By "attitude" we mean a hypothetical construct that represents the degree to which an individual likes or dislikes, or acts favorably or unfavorably toward, someone or something.<sup>111</sup> By using the term "implicit," we follow psychologists Anthony Greenwald and Mahzarin Banaji, who define implicit attitudes as "introspectively unidentified (or inaccurately identified) traces of past experience that mediate favorable or unfavorable feeling, thought, or action toward social objects."<sup>112</sup> So, also, people can evidence ambivalence toward select persons, groups, or objects, such that they are imbued with both positive and negative attitudes toward the subject in question. Yet, implicit attitudes are of greatest interest when they differ from explicit attitudes about the same category of individuals or things. Such discrepancies, referred to as dissociations,<sup>113</sup> are often observed in attitudes toward stigmatized groups—e.g., blacks.<sup>114</sup>

Biases certainly reflect preferences for particular groups or individuals. Accordingly, within biases, there are opposite sides to the

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110. See generally MAHZARIN R. BANAJI & ANTHONY G. GREENWALD, *BLINDSPOT: HIDDEN BIASES OF GOOD PEOPLE* 41 (2013) (examining new evidence supporting the position that social behavior is an unconscious function).

111. See Alice H. Eagly & Shelly Chaiken, *Attitude Structure and Function*, in *THE HANDBOOK OF SOCIAL PSYCHOLOGY* 269, 269 (Daniel T. Gilbert et al. eds., 4th ed. 1998).

112. Anthony G. Greenwald & Mahzarin R. Banaji, *Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes*, 102 *PSYCHOL. REV.* 4, 8 (1995).

113. See generally Michael A. Olson & Russell H. Fazio, *Implicit and Explicit Measures of Attitudes: The Perspective of the MODE Model*, in *ATTITUDES: INSIGHTS FROM THE NEW IMPLICIT MEASURES* 19–64 (Richard E. Petty et al. eds., 2009) (exploring the implications of interpreting observed dissociations).

114. RICHARD E. PETTY ET AL., *ATTITUDES: INSIGHTS FROM THE NEW IMPLICIT MEASURES* (2008).

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same coin—favorable and unfavorable categorizations of comparative groups. For example, in-group bias designates favoritism toward one's own group.<sup>115</sup> Such preferences may result in discriminatory biases. These biases are called implicit biases, which may diverge from an individual's expressed beliefs and result in behavior inconsistent with individuals' intended behavior. Accordingly, these implicit attitudes and biases on race might very well shape opinions in other realms, such as politics or public policy. To measure such an effect, social scientists would need to develop a strategy that avoided self-reporting. While self-reports of explicit attitudes have served as the social and behavioral sciences' typical method of attitude measurement, the drawback is that respondents may be unwilling or unable to report their attitudes in an unbiased or accurate manner.<sup>116</sup> Moreover, research shows respondents' answers are dependent on social desirability and interviewer effects—e.g., who asks, how they ask, and what the context of their asking is.<sup>117</sup> These concerns gave rise to measures that would indirectly gauge attitude. It is presumed that research participants are unaware of the relationship between these measures and the attitudes they are employed to ascertain. Indirect measures thus seem to minimize respondents' strategic responses to incentives.<sup>118</sup>

Such indirect measures were realized when social scientists applied subliminal priming techniques to measure implicit attitudes.<sup>119</sup> First, one uses a priming procedure to establish the degree to which the presentation of an object would influence study participants' positive or negative indication of a subsequently presented target. In one study, researchers found greater facilitation “when positively valued primes were followed by positive targets and when negatively valued primes were followed by negative targets than when the prime-target pairs were incongruent in valence.”<sup>120</sup> That is, objects that evoked negative attitudes caused subsequent evaluations of other, even nonrelated objects, to be negative. Nearly a decade later, researchers

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115. Luigi Castelli et al., *Implicit Ingroup Metafavoritism: Subtle Preference for Ingroup Members Displaying Ingroup Bias*, 34 *PERSONALITY & SOC. PSYCHOL. BULL.* 807, 807–18 (2008).

116. See KAHNEMAN, *supra* note 108, at 1, 3.

117. SEYMOUR SUDMAN ET AL., *THINKING ABOUT ANSWERS: THE APPLICATION OF COGNITIVE PROCESSES TO SURVEY METHODOLOGY* 74 (1995); ROGER TOURANGEAU ET AL., *THE PSYCHOLOGY OF SURVEY RESPONSE* 302 (2000).

118. BERND WITTENBRINK & NORBERT SCHWARTZ, *IMPLICIT MEASURES OF ATTITUDES* 1–16 (Bernd Wittenbrink & Norbert Schwartz eds., 2007).

119. Russell H. Fazio et al., *On the Automatic Activation of Attitudes*, 50 *J. PERSONALITY & SOC. PSYCHOL.* 229, 230 (1986).

120. *Id.* at 235.



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used African American and white faces as primes and then employed adjectives with positive or negative connotations.<sup>121</sup> Participants pushed keys labeled either “good” or “bad” as quickly as possible.<sup>122</sup> White study participants’ reaction times to the good words were faster following presentation of white faces.<sup>123</sup> Their reaction times to the bad words were quicker when those words followed the presentation of black faces.<sup>124</sup> This work was monumental in that it gave direct, empirical support for the long-theorized hypothesis that within the context of a historically white-dominated society, blackness reproduced negative dispositions compared to whiteness.

Building upon this work, the Implicit Association Test (IAT) became the dominant attitude measure.<sup>125</sup> Today, it is employed to circumvent strategic responding. IAT-related research has found people to harbor a wide range of implicit attitudes concerning many aspects of social life, some of which people had previously thought rather mundane. For example, the research indicates that people hold implicit attitudes about such everyday aspects of life as yogurt brands, fast food restaurants, and soft drinks.<sup>126</sup> While these implicit attitudes may predict behavior thought inconsequential,<sup>127</sup> the effect of implicit attitudes toward group identities—whether racial or political—engenders a heightened level of concern.

Research on implicit racial attitudes and bias—particularly research focused on blacks—stands as the most robust area of current research. As previously indicated, people’s explicit and implicit attitudes are not completely concordant. Such discordance is most evident when it comes to the sensitive topic of race. Research suggests that Latinos demonstrate a limited explicit preference for whites (25.3% favor) over blacks (15.0% favor), with most showing no pref-

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121. Russell H. Fazio et al., *Variability in Automatic Activation as an Unobtrusive Measure of Racial Attitudes: A Bona Fide Pipeline?*, 69 J. PERSONALITY & SOC. PSYCHOL. 1013, 1015 (1995).

122. *Id.*

123. *Id.* at 1017.

124. *Id.*

125. Steven R. Pruet & Fong Chan, *The Development and Psychometric Validation of the Disability Attitude Implicit Association Test*, 51 REHABILITATION PSYCHOL. 202–13 (2006).

126. Dominika Maison et al., *Predictive Validity of the Implicit Association Test in Studies of Brands, Consumer Attitudes, and Behavior*, 14 J. CONSUMER PSYCHOL. 405, 408–12 (2005).

127. Malte Friese et al., *Implicit Consumer Preferences and Their Influences on Product Choice*, 23 PSYCHOL. & MARKETING 727, 727, 733–34 (2006) (finding that participants who possessed incongruent explicit and implicit preferences in regard to generic food products and well-known food brands were more likely to choose the implicitly preferred brand when choices were made under time pressure).

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erence (59.7%).<sup>128</sup> At the implicit level, however, Latinos show a substantial preference for whites (60.5% favor) over blacks (10.2% favor), with far fewer showing preferential neutrality (29.2%) in comparison to their explicit preferences.<sup>129</sup> In comparison to Latinos, Asians and Pacific Islanders show more of an explicit preference for whites (32.9% favor) over blacks (9.6% favor), with only slightly fewer showing preferential neutrality (57.5%).<sup>130</sup> At the implicit level, however, Asians and Pacific Islanders demonstrate a substantial preference for whites (67.5% favor) over blacks (7.7% favor), with far fewer showing preferential neutrality (24.8%) in comparison to their explicit preferences.<sup>131</sup> Whites show much more of an explicit preference for whites (40.7% favor) than blacks (3.4% favor), especially when compared to other racial groups, but still more than half (56.0%) show no preference.<sup>132</sup> At the implicit level, however, whites show a robust preference for whites (71.5% favor) over blacks (6.8% favor), with only 21.7% showing no preference.<sup>133</sup> Indeed, whites express more in-group favoritism on implicit measures (78.4%) than on explicit measures (51.1%).<sup>134</sup>

From where do racial biases stem? Consider that the mild distinction between liberals and conservatives in implicit racial biases may reflect differential exposures to anti-black sentiments, even very early in life. In an IAT assessment of white American six-year-olds, ten-year-olds, and adults, even the youngest group showed implicit pro-white/anti-black bias (self-reports also aligned with this finding).<sup>135</sup> The ten-year-olds and adults showed the same magnitude of implicit race bias, but self-reported racial attitudes became substantially less biased in older children and vanished entirely in adults.<sup>136</sup> Though this research does not indicate where such implicit biases originate, it does underscore that individuals both learn biases early on

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128. Anthony G. Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 CALIF. L. REV. 945, 958 (2006).

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. John T. Jost et al., *A Decade of System Justification Theory: Accumulated Evidence of Conscious and Unconscious Bolstering of the Status Quo*, 25 POL. PSYCHOL. 881, 897 (2004).

135. Andrew Scott Baron & Mahzarin R. Banaji, *The Development of Implicit Attitudes: Evidence of Race Evaluations from Ages 6 and 10 and Adulthood*, 17 PSYCHOL. SCI. 53, 55–56 (2006).

136. *Id.* at 56.

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and learn how to hide such biases through an overt comportment with socially desirable answers and egalitarian norms.

Another study underscores these findings. Children's implicit racial attitudes may develop from exposure to anti-black socializing agents. Fourth- and fifth-grade children were asked to complete measures of implicit and explicit racial attitudes, as well as a survey assessing the degree to which the children identified with their parents.<sup>137</sup> Parents completed a survey that measured their attitudes toward blacks.<sup>138</sup> Results reveal a greater correspondence between parents' prejudice and children's prejudice among those children who were highly identified with their parents vis-à-vis those who were less identified with their parents.<sup>139</sup> Similarly, another study indicated that mothers' (but not fathers') implicit racial attitudes predict racial preferences among three- to six-year-olds. Parents' explicit racial attitudes, however, did not predict their children's preferences.<sup>140</sup>

These findings suggest that early life experiences greatly shape how individuals become oriented toward liberal or conservative political ideologies. Given this research, one can imagine a household that explicitly espouses the ideals of racial equality and recounts the horrors of American slavery, the virtues of the Civil Rights Movement, and the value of racial egalitarian policies, like affirmative action. Comparatively, imagine a household where parents bemoan blacks' acquisition of "unearned" advances and rights, complain about blacks on welfare, and describe blacks' supposed biologically or culturally rooted dysfunctions. One would reasonably expect children growing up in these environments to cultivate vastly different racial dispositions, especially toward blacks. Accordingly, if we consider the still-racialized social institutions of the nation, from racially segregated schools to houses of worship, neighborhoods, media, and workplaces, we face a possibly static, if not worsening, political-racial divide in coming generations.

Social psychologist, Laurie Rudman's proposition that individuals' early experiences may more strongly be reflected in implicit than explicit attitudes may explain why implicit attitudes generally high-

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137. Stacey Sinclair et al., *The Relationship Between Parental Racial Attitudes and Children's Implicit Prejudice*, 41 J. EXPERIMENTAL SOC. PSYCHOL. 283, 284–85 (2005).

138. *Id.* at 285.

139. *Id.* at 287.

140. Luigi Castelli et al., *The Transmission of Racial Attitudes Within the Family*, 45 DEVELOPMENTAL PSYCHOL. 586, 587 (2009).

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light more bias.<sup>141</sup> Strikingly, as Rudman also noted, cultural factors' influences on implicit attitudes also helps to explain why individuals often display implicit attitudes that appear more in line with their general cultural milieu than with experiences from their individual upbringing.<sup>142</sup>

Empirical research lends some credence to the argument that culture informs implicit attitudes. For example, mere exposure to negative representations of certain categories of people may bias individuals against such categories of individuals.<sup>143</sup> In one study by Rudman and Lee, primed subjects were exposed to violent and misogynistic rap music.<sup>144</sup> Control subjects were exposed to popular music.<sup>145</sup> In their first experiment, violent and misogynistic rap music increased the automatic associations underlying evaluative racial stereotypes in both high and low prejudiced subjects.<sup>146</sup> Explicit stereotyping, however, was dependent on priming and subjects' prejudice level.<sup>147</sup> In their second experiment, the priming manipulation was followed by what seemed to be an unrelated person perception task in which subjects rated black or white targets described as behaving ambiguously.<sup>148</sup> Primed subjects judged a black target less favorably than a white target.<sup>149</sup> Control subjects, however, rated black and white targets similarly.<sup>150</sup> Subjects' prejudice levels did not moderate these findings, suggesting the robustness of priming effects on implicit attitudes.<sup>151</sup>

In another study, Gilliam and Iyengar explored how local news crime scripts might create ingrained heuristics for understanding crime and race.<sup>152</sup> They created variations of a local newscast, and

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141. Anthony G. Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 CALIF. L. REV. 945, 959 (2006) (citing Laurie A. Rudman, *Sources of Implicit Attitudes*, 13 CURRENT DIRECTIONS IN PSYCHOL. SCI. 79, 79–80 (2004)).

142. *Id.*

143. *But see* Nilanjana Dasgupta & Anthony G. Greenwald, *On the Malleability of Automatic Attitudes: Combating Automatic Prejudice with Images of Admired and Disliked Individuals*, 81 J. PERSONALITY & SOC. PSYCHOL. 800, 806–07 (2001).

144. Laurie A. Rudman & Matthew R. Lee, *Implicit and Explicit Consequences of Exposure to Violent and Misogynous Rap Music*, 5 GROUP PROCESSES & INTERGROUP REL. 133, 135 (2002).

145. *Id.*

146. *Id.* at 138–39.

147. *Id.* at 139.

148. *Id.*

149. *Id.* at 145.

150. *Id.*

151. *Id.*

152. Franklin D. Gilliam, Jr. & Shanto Iyengar, *Prime Suspects: The Influence of Local Television News on the Viewing Public*, 44 AM. J. POL. SCI. 560, 561 (2000).

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among them was one in which there was a crime story with a black suspect mug shot, and another crime story with a white-suspect mug shot.<sup>153</sup> Both suspects were represented by the same morphed photograph; the only difference was skin hue in order to control for facial expression and features.<sup>154</sup> The suspect appeared for only five seconds in a ten-minute newscast.<sup>155</sup> Nonetheless, having seen the black suspect, whites showed 6% more support for punitive remedies than did the control group, which saw no crime story.<sup>156</sup> When they were instead exposed to the white suspect, their support for punitive remedies increased by only 1%, which was not statistically significant.<sup>157</sup> These studies suggest that at least some portion of implicit biases is learned from the cultural milieu. Here, a daily diet of media content (e.g., FOX News, Rush Limbaugh) that focuses on the depravity of people of color and framing them as moochers—seeking and attaining unearned privileges—may amplify racial hostility on the political Right and opposition to policies and programs that seek to level the racial playing-field.

Without question, race matters. And racial categories influence how people perceive and judge phenomena. This process occurs whether people are conscious of it or not. Such findings point toward the necessity to move past discussions of whether or not people are “racist” based on their self-appraisals—which is clearly methodologically flawed if not an obvious conflict of interest. The use of such research is particularly important in a context of the political Right’s opposition to policies like affirmative action.

### III. POLITICAL IDEOLOGY AND UNCONSCIOUS RACE BIAS

The theory of “principled conservatism” suggests that white opposition to policies, like affirmative action, is largely derived from race-neutral political ideologies and value systems (e.g., self-reliance and a desire for small government), rather than racist or racialized ideologies or opinion.<sup>158</sup> The principled conservatism perspective

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153. *Id.* at 563.

154. *Id.*

155. *Id.* at 567.

156. *Id.* at 567–68.

157. *Id.* at 568.

158. DONALD R. KINDER & LYNN M. SANDERS, *DIVIDED BY COLOR: RACIAL POLITICS AND DEMOCRATIC IDEALS* 203 (Benjamin I. Page ed., 1996); Jack Citrin & Donald Green, *The Self-Interest Motive in American Public Opinion*, in 3 *RESEARCH IN MICROPOLITICS* 1 (Samuel Long

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emerged from the dominant discourse of perceived American post-racialism<sup>159</sup>—a widely shared perspective and narrative that racism and dominance-oriented motives no longer undergird white attitudes toward race-targeted policies.<sup>160</sup> Proponents of principled conservatism contend that political values—not racism—provide the dominant framework for understanding race-based policies.<sup>161</sup> Accordingly, those who subscribe to the principled conservative model believe that once the effects of ideology (i.e., conservatism) and race-neutral political values are accounted for, racism and dominance-oriented attitudes should hold no predictive power in whites' opposition to race-based policies, such as affirmative action.<sup>162</sup> This theory has found some support in studies that indicate (1) that the anti-black effect is weakly related to conservatism and opposition to race-targeted policies<sup>163</sup> and (2) that conservatives are not more likely to hold a double standard with regard to blacks in the allocation of aid vis-à-vis disadvantaged members of other groups.<sup>164</sup> These are points we aim to upend.

To be clear, the principled-conservatism model does not suggest that opposition to race-targeted policies is free from racism, but rather that the opposition-racism relationship is more likely to be found among the poorly educated.<sup>165</sup> Theoretically, then, since some individuals supposedly lack the intellectual sophistication to understand both the explicitly egalitarian ethos of American political culture and abstract ideas, their attitudes toward race-based policies and politics

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ed., 1990); David O. Sears, *Symbolic Racism*, in *ELIMINATING RACISM: PROFILES IN CONTROVERSY* 53, 55–56 (Phyllis A. Katz & Dalmas A. Taylor eds., 1988); John B. McConahay, *Modern Racism and Modern Discrimination: The Effects of Race, Racial Attitudes, and Context on Simulated Hiring Decisions*, 9 *PERSONALITY & SOC. PSYCHOL. BULL.* 551 (1983); Jim Sidanius et al., *Racism, Conservatism, Affirmative Action, and Intellectual Sophistication: A Matter of Principled Conservatism or Group Dominance?*, 70 *J. PERSONALITY & SOC. PSYCHOL.* 476–90 (1996).

159. See Sears, *supra* note 158, at 55; Sidanius et al., *supra* note 158.

160. Kristina A. Lane & John T. Jost, *Black Man in the White House: Ideology and Implicit Racial Bias in the Age of Obama*, in *THE OBAMAS AND A (POST) RACIAL AMERICA?* 48, 48 (Gregory S. Parks & Matthew W. Hughey eds., 2011).

161. See PAUL M. SNIDERMAN & EDWARD G. CARMINES, *REACHING BEYOND RACE* 78 (1997); Paul M. Sniderman, Gretchen C. Crosby & William G. Howell, *The Politics of Race*, in *RACIALIZED POLITICS: THE DEBATE ABOUT RACISM IN AMERICA* 236, 236–37 (David O. Sears, Jim Sidanius & Lawrence Bobo eds., 2000).

162. SNIDERMAN & CARMINES, *supra* note 161, at 78.

163. See Paul M. Sniderman et al., *Policy Reasoning and Political Values: The Problem of Racial Equality*, 28 *AM. J. POL. SCI.* 75, 84 (1984); Paul M. Sniderman et al., *The New Racism*, 35 *AM. J. POL. SCI.* 423, 436 (1991).

164. See SNIDERMAN & CARMINES, *supra* note 161, at 78; PAUL M. SNIDERMAN & THOMAS PIAZZA, *THE SCAR OF RACE* 113 (Harvard Univ. Press 1993); Sniderman et al., *The New Racism*, *supra* note 163.

165. See Sniderman et al., *The New Racism*, *supra* note 163, at 437.

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are driven by racial animus.<sup>166</sup> In contrast, well-educated, principled conservatives will base their policy positions on abstract principles and articulate them in light of express racial egalitarian norms, thus attenuating the influence of racism and in-group preference.<sup>167</sup>

However, scholars have long argued that Right-wing political conservatism hinges on the embrace of social inequality and resistance to change.<sup>168</sup> Studies of large datasets (ranging from  $n = 28,816$  to 732,881) found that at the explicit level, conservatives, when compared to liberals, generally favor higher-status groups to lower-status groups (e.g., others to Arabs-Muslims, others to Jews, straight people to gays, whites to blacks, light-skinned to dark-skinned people, and white to black children).<sup>169</sup> Such research destabilizes the contention that education, to the exclusion of political orientation, is the key variable for determining explicit racial bias. But what about implicit racial bias? The same pattern occurs. For example, at the implicit level, research suggests that conservatives, when compared to liberals, favor higher-status groups to lower-status groups (e.g., thin people to overweight people, others to Arabs-Muslims, others to Jews, others to the disabled, straight people to gays, whites to blacks, light-skinned to dark-skinned people, and white to black children).<sup>170</sup> The notion that liberals hold more egalitarian implicit attitudes than conservatives has found support in an array of studies.<sup>171</sup> Importantly, for whites and blacks both, the more conservative they are, the more they prefer whites over blacks.<sup>172</sup>

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166. Christopher M. Frederico & Jim Sidanius, *Racism, Ideology, and Affirmative Action Revisited: The Antecedents and Consequences of "Principled Objections" to Affirmative Action*, 82 J. PERSONALITY & SOC. PSYCHOL. 488, 489 (2002).

167. See Paul M. Sniderman et al., *Reasoning Chains: Causal Models of Policy Reasoning in Mass Publics*, 16 BRIT. J. POL. SCI. 405, 417 (1986); Sniderman et al., *The New Racism*, *supra* note 163, at 437.

168. See generally FRED N. KERLINGER, *LIBERALISM AND CONSERVATISM: THE NATURE AND STRUCTURE OF SOCIAL ATTITUDES* (1984) (explaining that liberalism and conservatism are social attitudes and cognitive processes that are tied to the life of society); Jerry Z. Muller, *Conservatism: Historical Aspects*, in INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL & BEHAVIORAL SCIENCES 2624, 2625–26 (Neil J. Smelser & Paul B. Baltes eds., Vol. 4 2001); Samuel P. Huntington, *Conservatism as an Ideology*, 51 AM. POL. SCI. REV. 454, 455 (1957).

169. Brian A. Nosek et al., *The Politics of Intergroup Attitudes*, in SOCIAL AND PSYCHOLOGICAL BASES OF IDEOLOGY AND SYSTEM JUSTIFICATION 486 (John T. Jost et al. eds., 2009).

170. *Id.* at 486–87.

171. See generally Jost et al., *supra* note 134, at 881 (reviewing research regarding implicit favoritism in relation to liberalism and conservatism); William A. Cunningham, John B. Nezlek & Mahzarin R. Banaji, *Implicit and Explicit Ethnocentrism: Revisiting the Ideologies of Prejudice*, 30 PERSONALITY & SOC. PSYCHOL. BULL. 1333 (2004).

172. Jost et al., *supra* note 134, at 902. Some research does indicate that while liberals and conservatives differ substantially in their explicit preferences, they are much more similar at the implicit level. *Id.* Still, at both the explicit and implicit levels, conservatives showed little dis-

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At the implicit level, empirical research suggests that conservatives, when compared to liberals, favor higher status groups to lower status groups—i.e., thin to over-weight people, others to Arabs-Muslims, others to Jews, others to the disabled, straight to gay, whites to blacks, light-skinned to dark-skinned, and white to black children.<sup>173</sup> The notion that liberals hold more egalitarian implicit attitudes than conservatives has been supported by others.<sup>174</sup> For example, Jost and colleagues found that conservatism exerts opposite effects on implicit racial group preference.<sup>175</sup> For whites, the more conservative they are, the more they prefer whites over blacks. For blacks, the more conservative they are, the more they also prefer whites over blacks.<sup>176</sup>

Nosek and colleagues found, however, that while liberals and conservatives differed substantially in their explicit preferences, they were much more similar at the implicit level.<sup>177</sup> That being said, conservatives showed little discrepancy between their strong preference for higher-status groups, at both the explicit and implicit levels.<sup>178</sup> In contrast, liberals demonstrated a larger discrepancy between their implicit preference for those who are higher status and their relatively weaker explicit preference for those who are higher status.<sup>179</sup> Nosek and colleagues interpreted the results as suggesting that liberals likely have complicated or conflicted social evaluative perspectives.<sup>180</sup> As such, liberals try harder to override their implicit biases in an effort to be more explicitly egalitarian.<sup>181</sup> Comparatively, conservatives' greater consistency in their implicit and explicit social evaluations sug-

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crepancy in their strong preference for higher-status groups. *Id.* In contrast, liberals demonstrated a larger discrepancy between their implicit preference for higher-status persons and their relatively weaker explicit preference for higher-status persons. *Id.*

173. Brian A. Nosek et al., *The Politics of Intergroup Attitudes*, in *Social and Psychological Bases of Ideology and System Justification* 481–83, 485–86 (John T. Jost et al. eds., 2009) (citing Brian A. Nosek et al., *Pervasiveness and Correlates of Implicit Attitudes and Stereotypes*, 18 *EUR. REV. SOC. PSYCHOL.* 1, 38–88 (2007)).

174. William A. Cunningham et al., *Implicit and Explicit Ethnocentrism: Revisiting the Ideologies of Prejudice*, 30 *PERSONALITY & SOC. PSYCHOL. BULL.* 1332, 1333 (2004); Jost et al., *supra* note 135, at 902.

175. Nosek et al., *supra* note 173 at 480–506.

176. John T. Jost et al., *A Decade of System Justification Theory: Accumulated Evidence of Conscious and Unconscious Bolstering of the Status Quo*, 25 *POL. PSYCHOL.* 881, 902 (2004).

177. Nosek et al., *supra* note 173, at 480–506.

178. *Id.*

179. *Id.*

180. *Id.*

181. Nosek et al., *supra* note 169, at 488 (citing Linda J. Skitka et al., *Dispositions, Ideological Scripts, or Motivated Correction? Understanding Ideological Differences in Attributions for Social Problems*, 83 *J. PERSONALITY & SOC. PSYCHOL.* 470, 470–87 (2002)).



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gests that they may be more inclined than liberals to justify and use their implicit biases for explicit judgment.<sup>182</sup>

Several empirical studies suggest that the distinction between political liberals and conservatives at the implicit level is meaningful beyond the extent to which that distinction predicts egalitarian attitudes. The distinction also appears to predict attitudes about public policy. In one study, Rudman and Ashmore analyzed the effect of implicit biases on economic discrimination vis-à-vis minority student organizations.<sup>183</sup> They found that a stereotype IAT—i.e., the degree to which people associate minority group members with negative attributes and majority group members with positive attributes—predicted participants' recommended funding for religious and racial minority and majority student organizations.<sup>184</sup> Participants who had implicit minority-negative and majority-positive stereotypes were more likely to recommend budget cuts for target minority student group organizations.<sup>185</sup> That is, among this group, Jewish (versus Christian), Asian (versus white), and black (versus white) student organizations were recommended to receive less money. They similarly found that an attitude IAT—i.e., the degree to which people associate pleasant and unpleasant words with blacks and whites—predicted participants' recommended funding for racial minority and majority student organizations.<sup>186</sup> Participants who had implicit pro-white associations were more likely to recommend budget cuts for Asian (versus white) and black (versus white) student organizations.<sup>187</sup>

With an eye toward national policy, Hurwitz and Peffley surveyed a representative sample of whites in order to gauge their support for allocating funds to prisons “to lock up violent criminals.”<sup>188</sup> Half the time, the researchers inserted “inner-city” between “violent” and “criminals.”<sup>189</sup> They presumed that the racialized connotation of the prime—“inner-city”—occurred outside of conscious awareness for

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182. *Id.* at 488 (citing John T. Jost et al., *Political Conservativeness as Motivated Social Cognition*, 129 *PSYCHOL. BULL.* 339, 339–75 (2003)); Jost et al., *supra* note 134, at 902; Paul M. Siderman et al., *The Politics of Race*, *supra* note 161, at 236.

183. Laurie A. Rudman & Richard D. Ashmore, *Discrimination and the Implicit Association Test*, 10 *GROUP PROCESSES & INTERGROUP REL.* 359, 372 (2007).

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.* at 363–68.

188. Jon Hurwitz & Mark Peffley, *Playing the Race Card in a Post-Willie Horton Era: The Impact of Racialized Code Words on Support for Punitive Crime Policy*, 69 *PUB. OPINION Q.* 99, 104–09 (2005).

189. *Id.*

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participants, even the participants in the prime condition were likely aware of the phrase.<sup>190</sup> Results showed that insertion of the prime made whites with negative attitudes toward blacks more likely to support prison funding; that is, explicit racial attitudes predicted policy support only when the racialized code-word was subliminally primed.<sup>191</sup>

Other studies, though not focusing on the liberal-conservative continuum, identified how implicit racial attitudes predict public policy—policies where there is a clear liberal-conservative divide. In one study, Perez focused on implicit attitudes and U.S. immigration policy.<sup>192</sup> He initially designed an IAT to measure automatic attitudes toward Latino, vis-à-vis white, immigrants.<sup>193</sup> Stimuli consisted of Latino and white surnames, and words with positive and negative connotations.<sup>194</sup> In both Perez's pilot study and web study, on average, participants more easily associated positive words with whites and negative words with Latinos.<sup>195</sup> More importantly, these implicit racial associations predict attitudes about immigration policy, above and beyond political ideology, socio-economic concerns, and measures of intolerance toward immigrants—e.g., authoritarianism and ethnocentrism.<sup>196</sup>

In their work, Knowles and colleagues found that implicit racial associations predict attitudes about legislative proposals that themselves have nothing to do with race. In this longitudinal study, researchers collected data on participants' implicit racial associations (October 28–30, 2008).<sup>197</sup> From November 1–3, 2008, researchers assessed participants' attitudes on a Likert-scale about Barack Obama—i.e., *American, patriotic, presidential, and trustworthy* versus *elitist, up-pity, and radical*.<sup>198</sup> Then from November 19–21, 2008, they asked participants to report their vote for the general election.<sup>199</sup> Finally, between October 1–3, 2009, they divided participants into two

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190. *Id.*

191. *Id.*

192. Efrén O Pérez, *Explicit Evidence on the Import of Implicit Attitudes: The IAT and Immigration Policy Judgments*, 32 *POL. BEHAV.* 517, 536–39 (2010).

193. *Id.* at 525.

194. *Id.*

195. *Id.* at 528–29.

196. *Id.* at 524.

197. Eric D. Knowles et al., *Racial Prejudice Predicts Opposition to Obama and His Health Care Reform Plan*, 46 *J. EXPERIMENTAL SOC. PSYCHOL.* 420, 422–23 (2009).

198. *Id.*

199. *Id.*

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groups.<sup>200</sup> One group completed a questionnaire that solicited ratings for Obama's health care reform plan.<sup>201</sup> The second group participated in an experiment designed to test any possible relationship between implicit racial associations and support for Obama's health reform policies.<sup>202</sup> Knowles and colleagues found that participants' implicit racial associations and their support for Obama's health care plan were mediated by negative attitudes about Obama.<sup>203</sup> Moreover, increased implicit prejudice was associated with concerns over Obama's health care policy implications.<sup>204</sup> That being said, those with higher levels of implicit pro-white associations took greater issues with a proposed health-care plan when the plan was represented as Obama's, but not when it was represented as Bill Clinton's plan.<sup>205</sup>

This robust correlation certainly poses a chicken-or-egg problem: Does being conservative make you more likely to harbor racial biases, or does the possession of racial biases make conservative ideological paradigms more attractive? While we make no claims regarding which it could be, we are confident that the "principled-conservatism" retort often evidenced is both intellectually bankrupt and morally deficient. In consideration of the former, the evidence simply fails to uphold the mantra of principled conservatism. In regard to the latter, the repeated refusal to admit that racial meanings might play a role in conservative ideology only drives home the point that the banner of "post-racialism" is devoid of ethical currency.

#### IV. THE POLITICAL PSYCHOLOGY OF AFFIRMATIVE ACTION

The contention that opposition to affirmative action is about high, constitutional ideals or simply broader notions about fairness, especially among political conservatives, is dubious. At the greatest level of abstraction, it likely has to do, generally, with whites' belief that racial progress for racial minorities is a "zero-sum" game. In their research, Norton and Sommers found that whites view racism in this way.<sup>206</sup> Specifically, to the extent that racism has decreased—at

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200. *Id.*

201. *Id.*

202. *Id.*

203. *Id.*

204. *Id.*

205. *Id.*

206. Michael I. Norton & Samuel R. Sommers, *Whites See Racism as a Zero-Sum Game that They are Now Losing*, 6 *PERSP. PSYCHOL. SCI.* 215, 215–17 (2011).

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least in public expressions—against blacks since the 1940s, whites believe the racism against them has increased.<sup>207</sup> This is consistent with prior research finding that whites perceive the increase in racial equality as a threat to their dominant position in the United States.<sup>208</sup>

Indeed, whites generally oppose affirmative action when they believe it threatens their group's chances of receiving positive outcomes.<sup>209</sup> Even where affirmative action opponents suggest that their opposition is responsive to the concern that such a policy harms beneficiaries is largely a rouse. In one study, O'Brien and colleagues explored this issue.<sup>210</sup> Interestingly, they found that when whites believe that affirmative action harms whites, they endorse the "harm to beneficiaries" objection whereas they tend to endorse it much less when they believe otherwise.<sup>211</sup>

These findings are underscored by an extensive social scientific literature, finding that, for example, whites, when compared to racial minorities, not only view affirmative action as a harmful policy,<sup>212</sup> but rather that their hostility to the policy is undergirded by racist beliefs.<sup>213</sup> Not surprisingly, among whites, those who are high on measures of modern racism and collective relative deprivation, the belief that whites are disadvantaged relative to racial minorities,<sup>214</sup> perceive white disadvantage where organizations apply affirmative action.<sup>215</sup> While these lab-based experiments are helpful in understanding opposition to affirmative action, one national survey found that negative racial affect and the general denial of unequal opportunity are predictive, among other things.<sup>216</sup>

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207. *Id.*

208. JIM SIDANIUS & FELICIA PRATTO, *SOCIAL DOMINANCE: AN INTERGROUP THEORY OF SOCIAL HIERARCHY AND OPPRESSION* 171–75 (1999).

209. Researchers have made this finding in the employment context. See David A. Harrison et al., *Understanding Attitudes Toward Affirmative Action Programs in Employment: Summary and Meta-Analysis of 35 Years of Research*, 91 *J. APPLIED PSYCHOL.* 1013, 1013–31 (2006).

210. Laurie T. O'Brien et al., *White Americans' Opposition to Affirmative Action: Group Interest and the Harm to Beneficiaries Objection*, 49 *BRIT. J. SOC. PSYCHOL.* 895, 900 (2010).

211. *Id.*

212. Euna Oh et al., *Beliefs About Affirmative Action: A Test of the Group Self-Interest and Racism Beliefs Models*, 3 *J. DIVERSITY IN HIGHER EDUC.* 163, 164–65 (2010).

213. *Id.*

214. See generally Faye Crosby, *A Model of Egotistical Relative Deprivation*, 83 *PSYCHOL. REV.* 85 (1976) (examining the theory of relative deprivation, which basically states that those who are the most objectively deprived are not the ones most likely to experience deprivation).

215. Garriy Shteyberg et al., *But Affirmative Action Hurts Us! Race-Related Beliefs Shape Perceptions of White Disadvantage and Policy Unfairness*, 115 *ORG. BEHAV. & HUM. DECISION PROCESSES* 1, 1–2 (2011).

216. James R. Kluegel & Eliot R. Smith, *Affirmative Action Attitudes: Effects of Self-Interest, Racial Affect, and Stratification Beliefs on Whites' Views*, 61 *SOC. FORCES* 797, 797 (1987).

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Not surprisingly, despite the “equality” rhetoric associated with opposition to affirmative action, another variable that is predictive of opposition to affirmative action is political ideology. Political conservatives oppose it more so than liberals.<sup>217</sup> The link between political conservatism, racial attitudes, and opposition to affirmative action has direct and indirect links. With regard to the former, Gutierrez and Unzueta’s work investigated the extent to which social dominance predicted attitudes about affirmative action.<sup>218</sup> Social dominance orientation reflects an individual’s specific desire to protect in-group interests versus the general desire to maintain status hierarchies.<sup>219</sup> Gutierrez and Unzueta found that social dominance orientation predicted opposition to affirmative action.<sup>220</sup> One would think that this is based on egalitarian ideals and not based on race. However, social dominance orientation predicted support for legacy policies. In sum, those high on social dominance predicted policies that seem to favor whites and opposition to policies that favor racial minorities.<sup>221</sup> Importantly, research has demonstrated that there is a strong correlation between social dominance orientation and political conservatism.<sup>222</sup>

More directly, in two studies exploring these issues, Frederico and Sidanius looked at the antecedents and consequences of whites’ specific, race-neutral reasons for opposing affirmative action. In one study of a community sample of adults, they found three results. First, principled-objection endorsement was driven not only by race-neutral values, but also by dominance-related concerns like racism.<sup>223</sup> Second, the effects of group dominance operated via principled objections.<sup>224</sup> Third, education strengthened the relationship between dominance-related concerns and principled objections, but left the relationship between race-neutral values and the latter almost unchanged.<sup>225</sup> In the second study (a replication of the first study)

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217. Harrison et al., *supra* note 212, at 1016; Sidanius et al., *supra* note 159, at 476.

218. Angelica S. Gutierrez & Miguel M. Unzueta, *Are Admissions Decisions Based on Family Ties Fairer Than Those That Consider Race? Social Dominance Orientations and Attitudes Toward Legacy vs. Affirmative Action Policies*, 49 J. EXPERIMENTAL SOC. PSYCHOL. 554, 554–57 (2013).

219. JIM SIDANIUS & FELICIA PRATTO, *supra* note 208, at 61.

220. Gutierrez & Unzueta, *supra* note 218, at 555.

221. *Id.*

222. See Sidanius et al., *supra* note 158, at 478; Alain Van Hiel & Ivan Mervielde, *Explaining Conservative Beliefs and Political Preferences: A Comparison of Social Dominance Orientation and Authoritarianism*, 32 J. APPLIED SOC. PSYCHOL. 965, 965–66 (2002).

223. Sidanius et al., *supra* note 158, at 479–81.

224. *Id.* at 482–85.

225. *Id.* at 486.

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focusing, however, on an undergraduate sample, Federico and Sidanius similarly found that the completion of additional years of college increased the relationship between racism and principled objections, but it had no effect on the predictive power of conservatism.<sup>226</sup> Further undermining the notion principled conservatism as reflecting some lofty ideals, Reyna and colleagues also conducted two studies. In their work, they explored the principled conservative precept of fairness with regard to affirmative action.<sup>227</sup> In their work, they demonstrated two major findings. First, conservatives opposed affirmative action more for blacks than for women.<sup>228</sup> Second, the relationship between conservatism and affirmative action attitudes operated best via group-based stereotypes, predicated on notions of deservingness rather than other potential mediators like explicit racism or the perceived threat that affirmative action poses to oneself.<sup>229</sup>

## CONCLUSION

Opposition to, and litigation against, affirmative action—as seen in *Fisher v. Texas* and many other cases—may be framed in the context of high constitutional ideals or noble ideals such as merit. However, the reality is that such opposition and litigation is likely less about these ideals and more about racial hostility or preservation of racial group interest. It should not be expected that these litigants or the outside groups who support them will or can frame their opposition in the context of racial opposition. The research on implicit racial bias illustrates that out of fear of being labeled “racist,” such frankness is not likely forthcoming. Even more, however, many people may be wholly unaware of the negative associations they have with racial minorities, especially blacks. As such, while making automatic negative associations with blacks and basing cognitive judgments and decision-making on such associations, individuals are likely to reach for arguments that support their conscious beliefs and/or actions in a way that comports with what they believe about themselves. In the context of affirmative action litigation, and the Right-wing hostility to

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226. Christopher M. Federico & Jim Sidanius, *Racism, Ideology, and Affirmative Action Revisited: The Antecedents and Consequences of “Principled Objections” to Affirmative Action*, 82 J. PERSONALITY & SOC. PSYCHOL. 488, 496–99 (2002).

227. Christine Reyna et al., *Examining the Principles in Principled Conservatism: The Role of Responsibility Stereotypes as Cues for Deservingness in Racial Policy Decisions*, 90 J. PERSONALITY & SOC. PSYCHOL. 109, 114 (2005).

228. *Id.* at 122.

229. *Id.*

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it, the political Right has a long history of racial hostility and xenophobia. Nonetheless, this eschewing of “racist” opposition and embracing of egalitarian and broader constitutional ideals is not surprising.

