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BUYING WHITE BEAUTY

IMANI PERRY*

I. INTRODUCTION

*I was responsible . . . for my race, for my ancestors. I subjected myself to an objective examination, I discovered my blackness, my ethnic characteristics; and I was battered down by tom-toms, cannibalism, intellectual deficiency, fetishism, racial defects, slave-ships and above all: "Sho good eatin."*¹

*New Sheer White, a revolutionary whitening skincare system that combines exceptional whitening and amazing skin strengthening abilities in an all-natural formula that's gentle on the Indian complexion. An unprecedented multi-benefit skin care system, Sheer White delivers exceptional brightening results while fortifying skin health to deliver maximum luminescence and a supple complexion.*²

At the turn of the twenty-first century, a flurry of international journalistic accounts began to appear, recounting the horrific consequences of the use of skin-bleaching creams by Africans.³ The stories were from South Africa,⁴ Zambia, the Sudan, Gambia,⁵ Zimbabwe, Nigeria, Senegal and others. The accounts told of permanent disfigurement, general illness, and serious dermatological damage.

Several years later, a look at cosmetics counters in the United States and abroad reveals a widespread marketing of "whiteness," which eerily echoes the skin-bleaching phenomenon in some of the world's poorest countries. As journalist Sally Wadyka has reported for *The New York Times*:

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¹ FRANTZ FANON, *BLACK SKIN, WHITE MASK* 112 (Charles Lam Markmann trans., 1967).

² Press Release, Elizabeth Arden (New Delhi July 27, 2005), available at http://203.200.89.21/news/company_news/Corporate/4925.html (last visited Feb. 21, 2006).

³ For one of the most recent examples of this body of accounts, see Amina Mire, *Pigmentation and Empire: The Emerging Skin-Whitening Industry*, COUNTERPUNCH, July 28, 2005, <http://www.counterpunch.org/mire07282005.html>.

⁴ Corinna Schuler, *Africans Look for Beauty in Western Mirror: Black Women Turn to Risky Bleaching Creams and Cosmetic Surgery*, CHRISTIAN SCI. MONITOR, Dec. 23, 1999, available at <http://csmonitor.com/cgi-bin/durableRedirect.pl?durable/1999/12/23/p1s4.htm> (last visited Feb. 21, 2006).

⁵ Editorial, *Skin Bleaching—A Cause for Concern*, THE INDEPENDENT (Banjul), Aug. 16, 2005.

Clinique makes Active White, Dior has Dior Snow and beginning in September, Shiseido's White Lucent line will be in stores. In the past year and a half, at least 30 such products have come on the market, according to Mintel's Global New Products Database, which tracks the cosmetics industry. Sephora stores have seen a 40 percent increase in sales of skin whitening and lightening products since the middle of last year, said Allison Slater, vice president of retail marketing for the beauty store chain.⁶

These relatively respectable department store preparations, marketed as less harsh than those of previous decades, and less harsh than those currently marketed in poor African, Asian and Caribbean countries, have troubling racial overtones explained away with the justification that the products are intended to be used merely for "complexion balancing," rather than wholesale whitening.

On one hand, the practice of skin-bleaching in Africa may be interpreted as a reflection of the residues of colonialism. However, an observation of the current wave of the global marketing of whiteness reveals that more than post-colonial residue is at issue. The hierarchy of bodies and products is a reflection of the color and racial stratifications of the world today, and it has only intensified as the War on Terror has become rife with racial symbols. This article examines the phenomenon of skin-bleaching as an issue which provides a provocative view of the intersection of race, poverty, and globalization in the contemporary world. This author argues that, like de jure segregation in the twentieth century south, buying and selling whiteness is a visual manifestation of structural inequality. Moreover, the challenge of combating skin-bleaching for social as well as epidemiologic reasons reveals the fundamental conflict between the regulatory structures of the nation-state and increasingly borderless commodity markets.

There are many potential ways to tell the story of skin whitening—one may narrate it as a legacy of white supremacy, or as a phenomenon at the intersection of neocolonialism and sexism using the analytic methods of literary theory, sociology, or the history of science. It is not immediately clear why one would choose to tell this story as a legal narrative,⁷ particularly given how inadequate the regulatory responses to skin-bleaching have proven to be in so many parts of the world. The story of skin-bleaching is very powerfully a story about law, however. It is an instructive, though bleak, tale that despite the ongoing intensity of our nationalisms and morality in places across the globe, law is often quite weak in the face of economic globalization.⁸ As long as law remains disproportionately the province of the nation-state, while commerce is nation-less, people are prone to support the

⁶ Sally Wadyka, *Skin Deep: Trouble Spots Got You Down? Lighten Up*, N.Y. TIMES, July 21, 2005, at G3, available at 2005 WLNR 11417775.

⁷ See Penelope Andrews & Taunya Lovell Banks, *Two 'Colored' Women's Conversation about the Relevance of Feminist Law Journals in the Twenty-First Century*, 12 COLUM. J. GENDER & L. 498 (2003) (questioning whether legal remedy is the appropriate response to skin-bleaching).

⁸ See John Goldring, *Consumer Protection, the Nation-State, Law, Globalization, and Democracy*, 2 J. COMPUTER-MEDIATED COMM. 2 (Sept. 1996).

effects of racial inequality because commodity is now a manifestation, symbolically and literally, of the numerous dimensions of inequality.⁹

While preparations intended to lighten dark skin have been around for centuries, their existence as commodities in a contemporary market context may be traced to the early twentieth century United States. A great deal of early black American entrepreneurship was dependent upon the popularity of skin lightening creams.¹⁰ The advertising sections of black newspapers and magazines of the early twentieth century were filled with seductive ads that promised lighter and brighter skin with the use of these products.¹¹ A number of female entrepreneurs who made their fortunes in beauty culture, such as Annie Turnbo Pope Malone and the Stone Sisters, sold very successful bleaching creams. However, the greatest producers of skin-bleaching creams soon became subsidiaries of large corporations.

The history of these beauty aids lives on in the cultural imagination. Moreover, the bleaching brands one encounters in early twentieth century American documents are often the same as those found in stores in various countries today.¹² Although the ownership of many of the companies has changed over time, the continuity of the brands lends credence to the idea that the bleaches themselves are signs of the residue of colonialism and Jim Crow in the minds and the lives of people. Although the African American market for skin lightening products has decreased in the United States since the 1960s due to the residual influence of the early 1970s ethic of self-esteem nationalism, the markets for products initially produced in the United States, the United Kingdom, and France have increased in African nations,¹³ and have continued to flourish in parts of the Caribbean.¹⁴ Furthermore, the products are now cycling within all of these nations. The phenomenon of bleaching is a direct reflection of the history of the transatlantic slave trade, and maintains its own complex trade routes.

⁹ For the roots of these problems as they relate to international private law, see KINGMAN BREWSTER, JR., *ANTITRUST AND AMERICAN BUSINESS ABROAD* (1958). See also LEA BREILMEYER, *AN INTRODUCTION TO JURISDICTION IN THE AMERICAN FEDERAL SYSTEM* (1986); J-G CASTEL, *EXTRATERRITORIALITY IN INTERNATIONAL TRADE* (1988). There is also an abundant body of scholarship treating the conflict of laws and international product standards that should be reviewed for anyone attempting to address these issues.

¹⁰ See NOLIWE ROOKS, *HAIR RAISING: BEAUTY, CULTURE AND AFRICAN AMERICAN WOMEN* (1997).

¹¹ See KATHY PEISS, *HOPE IN A JAR: THE MAKING OF AMERICA'S BEAUTY CULTURE* (1999). Also, any overview of popular black magazines in the pre-1970 era will demonstrate this phenomenon. This author encourages the curious reader to peruse *EBONY* magazine from 1945 to 1965, as well as *SEPIA* and *NEGRO DIGEST* in the same era.

¹² The author has observed this phenomenon through an overview of current store shelves in New York, London, Paris, Washington D.C., Boston, and Miami, through conversations with individuals in Ghana, Gambia, Cameroon, and Burkina Faso, as well as through review of mid-twentieth century African-American magazines.

¹³ N. Jamiyla Chisolm, *Fade to White: Skin Bleaching and the Rejection of Blackness*, *THE VILLAGE VOICE*, Jan. 23-29, 2002, available at <http://villagevoice.com/news/0204,chisolm,31703,1.html> (last visited Feb. 21, 2006).

¹⁴ Merrick A. Andrew, *Commentary, The Skin Bleaching Phenomenon*, Sept. 1, 2002, http://www.jamaicans.com/articles/primecomments/0902_bleaching.shtml (last visited Feb. 21, 2006).

A comparable market for skin-bleaching creams developed in Asia in the twentieth century. What was once a practice rooted in home-grown remedy became the basis for a lucrative arm of the cosmetics industry. Although the market for skin whitening or bleaching creams is currently largest in Asia, more attention has been drawn to the illness the products have caused in African nations. Nevertheless, on every continent, skin-bleaching is in practice, and negative health consequences exist.

Skin-bleaching is a grooming practice incident to white supremacy, even if it is not always directly a product of it. The association between a greater human value and white skin was born during the Enlightenment.¹⁵ Although the sophisticated reader will no doubt be able to recount cultures which valued whiter or lighter skin through a history distinct from Western Enlightenment, this author refers to the establishment of an international racial paradigm, rooted in shared philosophy, through which the concentration of power was justified. In justification of slavery, imperialism, and colonialism, the dark skins of African and Asian peoples were associated with danger, savagery, primitiveness, and child-like intellects. Moreover, the rise of white supremacy was tied to Enlightenment matrices which associated the white male body with rationality while the darker and/or female bodies were linked with the irrational and sensual aspects of humanity.

This had repercussions in law, governance and dominant epistemologies. In these schemas whiteness provided a person with an enriched and normative humanity. Both blackness and femaleness were marked for inferiority. Laws, ranging from anti-miscegenation statutes, to immigration law, reflected this ideology well into the twentieth century in the most economically developed nations. Although Enlightenment thought reified men, physical beauty was nevertheless seen as the province of white women. White women's bodies provided a physical corollary to the ideals of balance and harmony found in the intellectual realms of white men and their governments. The beauty of white women, therefore, became the aesthetic standard that reinforced the hierarchy of races, and exerted a particularly powerful and negative impact upon black women, and the evaluation of their physical appearances.¹⁶

Beauty culture has remained largely, although not exclusively, feminized in the contemporary era; both today and historically, women disproportionately engage in the use of skin-bleaching creams. Although the bleaching creams do not make one "white," they theoretically makes one's skin lighter, which is closer to the standard of beauty, and higher in the hierarchy of appearance.¹⁷ In nations with

¹⁵ See RACE AND THE ENLIGHTENMENT: A READER (Emmanuel Chukwudi Eze ed., 1997); see also THOMAS F. GOSSETT, RACE: THE HISTORY OF AN IDEA IN AMERICA (Oxford Univ. Press 1997) (1963); Loren Goldner, *Race and the Enlightenment, Part I: From Anti-Semitism to White Supremacy, 1492-1676*, RACE TRAITOR, No. 7, Spring 1997; Loren Goldner, *Race and the Enlightenment, Part II: The Anglo-French Enlightenment and Beyond*, RACE TRAITOR, No. 10, Winter 1999.

¹⁶ WENDY CHAPKIS, BEAUTY SECRETS: WOMEN AND THE POLITICS OF APPEARANCE (1986).

¹⁷ See Editorial, *supra* note 5.

color caste systems,¹⁸ being of a lighter complexion held a very obvious material benefit. However, this article posits that even in nations without current color caste systems, and even in those which never had color caste systems, there are benefits to having lighter skin.

Such benefits may perhaps best be understood, on an intellectual level, through several different disciplinary lenses. Feminist¹⁹ and Marxist²⁰ critiques of beauty have challenged the structure of domination that shapes aesthetics. At the same time, attention to beauty has been dismissed by many as either complicity with gender inequality, or a kind of intellectual false consciousness that is not nearly as useful as interrogating material inequality. The Multiculturalists²¹ of the late twentieth century tried to call for heterogeneous and relativist conceptions of beauty that would somehow correlate to a pluralistic notion of democracy. However, the critics of this multiculturalism questioned the aesthetic dimension of multiculturalism for its naïve inattention to power. Such intellectual debates reveal a quandary about beauty. It appears to be something that is always exceptionalizing and hierarchizing, and therefore, fundamentally subject to the impact of inequality. It almost seems absurd to suggest that standards of beauty could be anything but a reflection of inequality—roughly correlating to the distribution of power in terms of both the decision as to what is beautiful, as well as the evaluation as to who consumes beauty and who is consumed by it.

Yet a hierarchizing and exceptionalizing conception of beauty should not be assumed as an inherent characteristic of human social organization. For example, the Mende people of Sierra Leone demonstrate that the definition of beauty need not be dependent upon a hierarchy. Amongst the Mende, any woman who has a vagina and one attractive feature is considered beautiful.²² This means that the overwhelming majority of women are considered beautiful. It also means that for human beings, beauty can be a normative state rather than an exceptional one. The Mende aesthetic is simply offered as an example of the subjectivity of social norms; it is not meant to suggest that such a conception of beauty should be romantically and unrealistically pursued. The Mende standard of beauty is a

¹⁸ See MICHAEL CRATON, *EMPIRE, ENSLAVEMENT, AND FREEDOM IN THE CARIBBEAN* (1997); RACIAL POLITICS IN CONTEMPORARY BRAZIL (Michael Hanchard ed., 1999); Tekla Ali Johnson *The Enduring Function of Caste: Colonial and Modern Haiti, Jamaica, and Brazil: The Economy of Race, the Social Organization of Caste, and the Formulation of Racial Societies*, 2 COMPARATIVE AM. STUD. 61 (2004), available at <http://cas.sagepub.com/cgi/reprint/2/1/61> (last visited Feb. 21, 2006); PETER WADE, *RACE AND ETHNICITY IN LATIN AMERICA* (1997).

¹⁹ See, e.g., NAOMI WOLF, *THE BEAUTY MYTH: HOW IMAGES OF BEAUTY ARE USED AGAINST WOMEN* (Perennial 2002) (1991).

²⁰ See MICHAEL HARDT & ANTONIO NEGRI, *EMPIRE* (2000); TERESA EBERT, *LUDIC FEMINISM AND AFTER: POSTMODERNISM, DESIRE, AND LABOR IN LATE CAPITALISM* (1996).

²¹ See Nhi T. Lieu, *Remembering "The Nation" Through Pageantry: Femininity and the Politics of Vietnamese Womanhood in the Hoa Hâu Ao Dia Contest*, FRONTIERS, Vol. 21, Iss. 1-2, Dec. 31, 2000, at 127 (discussing the distinctions between superficial multiculturalists conceptions of beauty and locally-defined conceptions of beauty through an analysis of Vietnamese beauty pageants), available at 2000 WLNR 4566318.

²² See SYLVIA ARDEN BOONE, *RADIANCE FROM THE WATERS: IDEALS OF FEMININE BEAUTY IN MENDE ART* (1990).

philosophical reality as opposed to a mere egalitarian superficiality. It lies in contrast, for instance, to the conceptions of physical beauty projected by the Miss World and Miss Universe pageants. Women in those pageants come from dozens of different ethnicities; they put on traditional garments that adorn them as artifactual revisions of a basic idealized female form. They are almost all five foot eight to ten; they have oval shaped faces, lean limbs, high cheekbones, sculpted faces, as well as the walk of couture design houses. The ones with nappy hair have long weaves; the ones from East Asia often have double lids. The message offered by the pageant in some ways is this—one need not be white-skinned to be beautiful, women all over the globe can be beautiful. You can fit into a silhouette of beauty that possesses the shape and form of the physical ideal even if you are “other” as long as common ethnic features are muted for the sake of that ideal.

One might interpret this as an indicator of an aesthetic egalitarianism in the postcolonial world. One must remember, however, that the non-requirement of white skin for beauty does not mean that lighter skin, in and of itself, is not considered most objectively beautiful. What it does show is that there are intersecting and distinct forms of beauty hierarchies. It might be based upon an exceptional set of physical characteristics such as those embraced by the international beauty pageants. On the other hand, it might reflect economic or social inequality in a nation state that roughly correlates to race, ethnicity, religion, and so forth.

For the average woman anywhere in the world, being amongst the lightest-skinned in her particular society is likely a sure sign of beauty and prestige. The reification of ideals—esthetic, philosophic, moral—supports an exceptionalizing construction of physical beauty, which often reflects current poverty as well as political history.

II. AESTHETICS AND SOCIOECONOMICS

In recent years, Americans have read articles in popular science magazines arguing that beauty is hardwired into the brain. According to these articles, the scientists report that what is considered beautiful is directly related to fecundity. Thus, mathematic formulae or physical ratios—such as that of the waist to the hip—are markers of beauty.²³ “Aha!” they shout to unbelieving feminists, “Kate Moss and Marilyn Monroe had the same waist hip ratio—even though one was skinny and the other plump. Beauty isn’t about power after all, it is about biology!”

This much-heralded variable of pop biology, waist-hip ratio, as well as the much-acclaimed facial symmetry²⁴ may tell us something about basic attractiveness, but it does not tell us the story behind the appeal of the “California

²³ Geoffrey Cowley, *The Biology of Beauty*, NEWSWEEK, June 3, 1996, at 60.

²⁴ A.P. Møller & R. Thornhill, *Bilateral Symmetry and Sexual Selection: A Meta-Analysis*, 151 AM. NATURALIST 174 (1998); J.H. Langlois et al., *Maxims or Myths of Beauty? A Meta-Analytic and Theoretical Review*, 126 PSYCHOL. BULL. 390 (2000).

Blonde” or the “aquiline nose.” Yet some are quick to point out that there is science and anthropology for that too. It has been argued that there is simply a natural universal standard of beauty, in which the lighter-complexioned are considered more beautiful because lightness represents youth, as skin often darkens with age, and femininity, as the women are often lighter than the men of a population.²⁵ Like any other standard of beauty, such as a thin waist, lightness privileges, and some would argue, that privilege is “natural.”²⁶

All of these arguments form a kind of beauty determinism, and the problem is that they inadequately explain the fashions of beauty, and why they change over time, or why these standards might penetrate across groups.²⁷ In other words, the association of beauty and the standard of beauty do not correlate to known in-group features of femininity, but rather with a kind of physical extremism when compared with the norms of that population, such that the standard of beauty is far lighter than the youngest member within an ethnic group, or the waist-hip ratio is far higher than the curviest member of the group. For a given population of people of color, physical extremism that aligns more closely with the physical appearance of Europeans may become the standard of beauty, but that which is physically extreme *in contrast* to a European population has often been a signifier of inferiority, and even occasionally declared as grotesque. For example, when Saartje Baartman, a South African Khoisan woman, was displayed in a European circus in the nineteenth century for her extremely high waist-hip ratio, she was not lauded for her beauty, but celebrated for her grotesqueness.²⁸ Additionally, an examination of contemporary pornographic magazine cartoons reveals an image of inferior physical extremism amongst black people as well as Asians.²⁹

Indeed, the fashions of beauty are more compellingly described as related to economic power rather than as a result of biological programming. In feudal and early capitalist societies, standards of beauty were largely determined by power and

²⁵ E. Rebato et al., *Sibling Correlations of Skin Pigmentation During Growth*, 71 *HUM. BIOLOGY* 277, 277-93 (1999), available at http://www.findarticles.com/p/articles/mi_qa3659/is_199904/ai_n8848745.

²⁶ Karen K. Dion, *Cultural Perspectives on Facial Attractiveness*, in *FIACIAL ATTRACTIVENESS: EVOLUTIONARY, COGNITIVE, AND SOCIAL PERSPECTIVES* (Gillian Rhodes & Leslie A. Zebrowitz eds., 2002).

²⁷ See J.T. Manning et al., *The Mystery of Female Beauty*, 399 *NATURE* 214, 214-15 (1999) (suggesting the need for more cross cultural studies to determine whether aesthetics described as biologically based are actually universal, or a product of Western cultures), available at <http://www.geo.utexas.edu/courses/FS118/Index%20&%20papers2002&2003/butterfly.pdf>.

²⁸ See Yvette Abrahams, *Images of Sara Bartman: Sexuality, Race, and Gender in Early-Nineteenth-Century Britain*, in *NATION, EMPIRE, COLONY: HISTORICIZING GENDER AND RACE* 220, 220-222 (Ruth Roach Pierson & Nupur Chaudhuri eds., 1998); see also Priscilla Netto, *Reclaiming the Body of the “Hottentot”: The Vision and Visuality of the Body Speaking with Vengeance in Venus Hottentot 2000*, 12 *EUR. J. WOMEN'S STUD.* 149 (2005) (discussing the contemporary implications of the history of Saartje Baartman).

²⁹ Patricia Hill Collins, *Pornography and Black Women's Bodies*, in *MAKING VIOLENCE SEXY: FEMINIST VIEWS ON PORNOGRAPHY* 97-104 (Diana E.H. Russell ed., 1993); Alice Mayall & Diana E.H. Russell, *Racism in Pornography*, in *MAKING VIOLENCE SEXY, supra*, at 167-78.

wealth.³⁰ This was not limited to societies that devalued racial others, nor was it limited to the actual body. It was also tied to the way wealth allowed a person to modify the body—either through hygiene or dress, or cosmetic effect. In many eighteenth and early nineteenth century agricultural societies, light skin was valued as a sign of being part of the ruling class that did not have to work outside under the sun. After the industrial era, workers often work inside and in windowless rooms; therefore, in the West, tanned skin gained prestige as a sign of those who had the resources and leisure time to vacation.³¹ Furthermore, sexual selection in capitalist societies today has become a commodity-laden proposition. The exchange of goods is part of courting rituals, and the use of commodities is a central part of seduction, and in some cases, extending to the commodification of individuals themselves, usually women. As a result, beauty and its ideals are often reflective of economic power, or the operations of markets.

In the contemporary United States, the widespread availability of tanning salons and artificial tanners has decoupled tanning from the exclusivity of the leisure class. Moreover, untanned skin is becoming a sign of health consciousness and higher educational status. The growing sale of skin-whitening creams in the dawn of the twenty-first century appears to emphasize this association, as the largely department store brands cater to a relatively affluent clientele. The high status of extreme physical whiteness is not entirely new, despite Malcolm X's homiletic amusement about "white people trying to look like 'us.'"³² Even at the height of the American tanned beauty standard, the standard went along with blond hair and blue eyes. In some ways it was about being so white that having darker skin would not even matter. It was about being clearly Western European, moneyed, and part of the leisure class.

In addition to a tan, hair and eye color may also serve as a class signifier in a racial hierarchy. The growing technologies of hair coloring attest to the heightening value of "blondness," as does the rise of the blonder and blonder racially-ambiguous celebrity who becomes more mainstream as her hair becomes lighter. As such, the lighter ideal allows the racially-ambiguous to become slightly whiter in the public imagination. For example, as their color became complemented by blonder hair, tan-skinned Latina actresses, such as Jennifer Lopez and Jessica Alba, have garnered more mainstream attention from the popular media.³³

Beauty correlates to wealth, power, and status not only within a country, but also amongst global hierarchies. Despite the noble efforts of liberation and

³⁰ See LYNN S. CHANCER, RECONCILABLE DIFFERENCES: CONFRONTING BEAUTY, POWER AND THE FUTURE OF FEMINISM (1998).

³¹ See Ruth G. Sikes, *The History of Suntanning: A Love/Hate Affair*, 1 J. AESTHETIC SCI. 6 (1998), available at <http://www.skincarederm.com/history.htm> (last visited Feb. 22, 2006).

³² MALCOLM X, MALCOLM X SPEAKS: SELECTED SPEECHES AND STATEMENTS (George Breitman ed., Grove Atlantic Press ed. 1990) (1965).

³³ See generally Imani Perry, *Of Desi, J. Lo and Color Matters: Law, Critical Race Theory and the Architecture of Race*, 52 CLEV. ST. L. REV. 139 (2005).

nationalist movements in Asia and Africa during the mid-twentieth century, economic domination continues to favor the physical ideals of “Americanness,” and in particular, the white “All-American” image of Americanness. Beauty standards throughout the world have been shaped by colonialism, neocolonialism, and most recently, economic globalization that delivers with its products promises of the life and the appearance of a higher status. For example, Iman Al Jazairi has noted that:

[L]ooking at Arabic poetry and novels, it is interesting to see that pre-Islamic poetry up until Western colonization at [sic] the eighteenth century, women were always described as having long, wavy, black hair, brown skin, black eyes with the white of the eyes very white. The body proportions were also bigger. During the later part of the nineteenth century and until very recently, light skinned, blond women have usurped the beauty standard in modern Arabic literature.³⁴

The use of skin lightening products, Europeanizing aesthetic surgery, and blond hair dye are present even in Arab communities, where Islam’s value of modesty conflicts with the messages of an international beauty culture.

In the Asian context, however, the prestige of whiter skin predates colonialism. It has been argued that in India, the preference for lighter skin was a result of the Aryan conquest in the fifteenth century.³⁵ In East Asia, it was an aesthetic manifested in the conceptions of imperial beauty.³⁶ It is clear, however, that even in those pre-colonial contexts, beauty was associated with the bodies and tools of the dominant classes. Hence, the influence of colonialists who had lighter complexions fortified light skin as a beauty ideal in the nineteenth and twentieth centuries.³⁷ The epigraph from Estee Lauder’s new product line for Indian women introduced at the beginning of this article demonstrates the complex intersection of history, colonialism, economic globalization, beauty, and race.

Throughout Asia, Africa, and the Americas, the alteration of physical characteristics that most distinctly distinguish them from whites or the ruling classes, particularly at times of greater admixture with Europeans, is a frequent

³⁴ Angela Aujla, *The Colour Bar of Beauty*, THE PEAK, Vol. 99, Iss. 1, May 4, 1998, available at <http://www.peak.sfu.ca/the-peak/98-2/issue1/colourbar.html> (last visited Feb. 22, 2006).

³⁵ See NICHOLAS B. DIRKS, *CASTES OF MIND: COLONIALISM AND THE MAKING OF MODERN INDIA* (2001); Nicholas B. Dirks, *Recasting Tamil India: The Politics of Caste and Race in Contemporary Southern India*, in *CASTE TODAY* (C.J. Fuller ed., 1996).

³⁶ See Marianne Bray, *Skin Deep: Dying to Be White*, CNN.com, May 15, 2002, <http://archives.cnn.com/2002/WORLD/asiapcf/east/05/13/asia.whitening/> (last visited Feb. 22, 2006); see also Jia-Rui Chong, *Desire for Ivory-White Skin Creates Cosmetics Boom in U.S. Creams, Scrubs and Medical Procedures Draw Many Asian-American Women Wanting to Enhance a Pale Complexion*, S.F. CHRON., Aug. 7, 2005, at A10; Patricia Goon & Allison Craven, *Whose Debt?: Globalisation and Whitefacing in Asia*, INTERSECTIONS: GENDER HISTORY & CULTURE IN THE ASIAN CONTEXT, Iss. 9, Aug. 2003, <http://www.she.murdoch.edu.au/intersections/issue9/gooncraven.html> (last visited Feb. 22, 2006).

³⁷ See Priya Lai, *Bollywood from Beyond: Beauty Queens to Fairness Creams*, POPMATTERS, Dec. 13, 2003, <http://www.popmatters.com/columns/lal/031218.shtml> (last visited Feb. 22, 2006).

practice.³⁸ Different iterations of the practice develop based on the economic culture, the wealth of the citizenry, and the social class of those who are altering themselves. Practices range from homemade formulas to complex surgical procedures, including everything from eye surgery, calf lengthening, breast enhancement, waist narrowing, hair straightening or weaving, and of course, skin-bleaching.³⁹ These practices often have a racial dimension. For example, when a Korean woman decides to have her calves thinned and lengthened, it is often to fit a western beauty ideal.⁴⁰

However, such physical modifications amongst non-European women may also reflect a uniform ideal of beauty that all women, including Europeans, aspire to and overwhelmingly fail to achieve. Furthermore, it reflects a certain racial and political ideology in which the body is representative of a state of mind and a state, or one's relationship to a high status nation state. When white women aspire to these beauty ideals, it is also a reflection of a racial order, and not merely an example of the effects of gender oppression. Although the discussion of race and beauty rarely considers the subjective experience of white women, the benefits of being beautiful are not simply to fit into a male-dominated notion of beauty, but also a race-dominated one. This racialized and gendered beauty ideal is so sanitized and distant that even white women suffer from it, despite given at least one fundamental feature of it upon birth. Still, it is undeniable that the more alterations that is required, the more difficult it is to reach the so-called ideal. In other words, while a blue-eyed blond with cellulite and a large nose may require a great amount of effort to become a standard beauty, it is not nearly comparable to that required of a voluptuous black woman.

III. RATIONAL SKIN-BLEACHING

*We must separate the methods used in skin lightening from the debate whether our sisters, being consenting adults, have a right to bleach their own skins in the first place. If the issue is resolved in the affirmative, then we can discuss ways of improving the hazardous bleaching processes. If resolved in the negative i.e. that to alter ones skin colour is in itself contemptible, the methods of bleaching automatically become irrelevant to the value judgment. Why? Coz it would no longer make a difference whether the methods are safe, if bleaching per se is inherently wrong.*⁴¹

Skin-bleaching amongst Africans and people in the African Diaspora is often presented as a simple narrative: As a result of slavery and colonialism, some

³⁸ See Sander L. Gilman, *Illusions, Scalpels and Stereotypes*, UNESCO COURIER, July 2001, http://www.unesco.org/courier/2001_07/uk/doss31.htm (last visited Feb. 22, 2006).

³⁹ See SANDER L. GILMAN, *CREATING BEAUTY TO CURE THE SOUL: RACE AND PSYCHOLOGY IN THE SHAPING OF AESTHETIC SURGERY* (1998).

⁴⁰ Michael Schuman, *Some Korean Women Are Taking Great Strides to Show a Little Leg*, WALL ST. J., Feb. 21, 2001.

⁴¹ Commentator on a Ugandan Message Board, Fall 2000, <http://pub5.ezboard.com/fugandahomemapagespoliticalstate.show> (on file with author).

African peoples believed that their dark skins were ugly and indicative of their inferiority. Some in the population began to make substantial efforts to change their inferior racial characteristic, even at the risk of their health. The marketing of bleaching creams exploits this psychological legacy. However, the fact that in most parts of the world, there are very real material benefits to having relatively lighter complexion than one's peers further complicates the issue. The story is not so simple. It is therefore likely that lightening the skin is a rational act—it is a way to secure greater material advantages to the bleached individual. A thriving marketplace for lightening products takes advantage of the great desire to have lighter skin, particularly amongst blacks, such that a sort of “deprogramming” of rational logic must ultimately occur to thwart attempts to regulate these potentially dangerous products. The failures of countries that have tried to regulate skin-bleaching creams thus far lend credence to this analysis.

The decision to bleach, however, is not merely a rational decision to become lighter, therefore enabling the accrual of the benefits from being lighter-complexioned, it also reflects inequality that exists according to color.⁴²

Moreover, the use of skin-bleaching creams perpetuates inequality by affirming global color castes, and by supporting the high valuation of bleaching creams as a useful commodity. It is not merely the case that people bleach their skin as a result of some colonial psychic injury, but rather that rational individuals will reasonably make attempts to lighten their skin to achieve social benefits in a society and world where a darker complexion makes one less valuable—as a mate, as an employee, etc.—leading to a cycle that replicates historically-based hierarchies. Therefore, any response to the phenomenon of skin-bleaching must not treat it simply as a kind of psychic injury, but also as an understandable feature of empire and commerce, as well as a practice strengthened by globalization. The practical response to the associations between color and power—skin-bleaching—continues as an effort to escape subjecting oneself to being imposed by the marked meaning of the color of the flesh.

Even if there is some rationality to the individual choice by the consumer, it does not justify bleaching, although it provides a more intricate explanation for the creation and widespread marketing of skin-bleaching technologies. Is the attempt to disallow people to reap the benefits of lighter skin equivalent to a paternalistic limit of individual possibilities? In historical retrospect, a similar dilemma occurred during a time when light-skinned African Americans were criticized for “passing” as whites. Was it evidence of their internalized racism, or was it actually a reasonable choice, given the economic and social privileges accorded to whites during the era of slavery and Jim Crow? However, the core of the problem is better stated as follows—it is not that Africans are making a bad decision to bleach themselves as a result of some psychological irrationality, but rather that the plain

⁴² See Taunya Lovell Banks, *Colorism: A Darker Shade of Pale*, 47 UCLA L. REV. 1705 (2000) (review of color prejudice).

fact of life in many places of the world gives benefits to those who are as light-skinned as possible.

Jennifer Hochschild, a sociologist on the faculty at Harvard University, has shown that across different ethnicities in the United States, there are benefits to being lighter-complexioned.⁴³ This is clearly not just a third world phenomenon, but it likely has a more pronounced impact in places with the greatest levels of inequality. Moreover, the kind of surveillance instituted in various nations since 9/11 and other fundamentalist bombings has resulted in a complex racial drama that shows the benefits of being lighter skin. In the summer of 2005, a young Brazilian man, Jean Charles de Menezes, was killed as a result of mistaken identity in the aftermath of the London subway bombings.⁴⁴ Ironically, he was not Middle-Eastern; he just looked as though he might be. In the same summer, conservative pundits began to argue that there is a need for racial profiling, because it makes no sense to survey the ninety-year-old white grandmother, or the Congressman, in the airport queue.⁴⁵ While the counter-narrative to the defense of racial profiling has been that Islamic fundamentalists come in all colors,⁴⁶ another response should be that there are so many different peoples who fit the stereotypical “look” of the Arab. They may be Jewish, African-American, Italian, Latino, Persian, Indian, and so on. The indeterminacy inherent in terrorism-based racial profiling is perhaps the best example of how much slippage exists in the phenotypic descriptions of race.

In this age of terror, the presence of the whitening agents in the United States may be read as a means of distinction from the light brown masses. There may be a revitalization of the belief in a value associated with looking truly “white.” Why then have there not been a flurry of articles about this issue, at least as compared to the number of articles that exist about the injured African users of skin bleach, or the Asians who lighten their skin as a kind of cultural authenticity? The answer is two-fold. First, and most importantly, is yet another feature of the structure of colonial residues—wealth. The preparations at the beauty counters of major department stores are much safer. They have undergone more testing; they have utilized new and less dangerous products and formulas than those popularly used a few years ago, such as Vitamin C, Kojic Acid, combined with exfoliating treatments. The products are kept in heat-controlled environments, and attention is

⁴³ Jennifer Hochschild, *The Politics and Morality of a Skin Tone Ordering*, Wesson Lectures 2002-2003, Stanford University Barbara and Bowen McCoy Program in Ethics and Society (May 6, 2003). See also JENNIFER HOCHSCHILD, *FROM RACE TO SKIN COLOR; FROM RACE TO RACES* (forthcoming title on the meaning and impact of skin color hierarchy and multiracialism in American racial and ethnic stratification).

⁴⁴ Glen Frankel & Tamara Jones, *In Britain, A Divide Over Racial Profiling: Mistaken Killing by Police Sets Off Debate*, WASH. POST, July 27, 2005, at A01, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/07/26/AR2005072601789.html>.

⁴⁵ Edward Epstein, *Calls for Racial, Ethnic Profiling Renewed After Transit Attacks: Critics Say It Unfairly Singles Out Minorities*, S.F. CHRON., Aug. 10, 2005, available at <http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2005/08/10/MNG16E5JTC1.DTL&hw=calls+for+racial+ethnic+profiling&sn=001&sc=1000>.

⁴⁶ See, e.g., Colbert I. King, *You Can't Fight Terrorism with Racism*, WASH. POST, July 30, 2005, at A19.

paid to expiration dates and warning labels. The whitening of the world's wealthy is a much safer affair than that of its poorer, and blacker, populations. Second, it might simply be far easier to talk about racial pathologies or color preferences felt by people of color than it is to reflect on white, and particularly white American, anxieties about the stability of their whiteness, or their desire for whiteness, given the popular American narratives of racial egalitarianism.

However, there is then a necessary follow-up question—is there a relationship between the bleaching here and there? The answer clearly is yes. Globalization theory holds that the flow of capital across borders creates a globalized commodity culture,⁴⁷ and given the myriad points of contact, globalized culture is increasingly hybrid. Further, this globalization creates hybrid beauty norms, but the result is not a happy multiculturalist ending. Rather, the presence of patriarchy, classism, and racial inequality in different nations that have historically had dramatically different iterations of these “isms” is becoming unified via global intersections and the legacy of nineteenth and twentieth century world orders of colonialism and empire. Despite the social transformations of the post-colonial era, these old world orders have been ideologically revived in the unification of European economies, the rhetoric of the war on terror, and the persistence of infrastructural, economical, and informational inequalities. The unification of ideas of gender, class, and race is most apparent through commodities such as magazines or beauty products. Specifically as to physical modification, technology and commodity are intertwined.

IV. THE TECHNOLOGY OF WHITENING

*For several years certain laboratories have been trying to produce a serum for “denigrification” with all the earnestness in the world, laboratories have sterilized their test tubes, checked their scales, and embarked on researches that might make it possible for the miserable negro to whiten himself and thus throw off the burden of that corporeal malediction.*⁴⁸

In the November 1929 issue of the *Literary Digest*, a Dr. Noguchi claimed that his research and technological innovations would allow people to effectively change their race. He asserted that with his treatment, “parents of children with colored skin can have the pigment changed so that the Negro or the papoose will have the white skin of the Scandinavian,” and that “an infant body might change potentialities . . . small people could be made large and colored skins bleached of their darkness be it black, brown, red, or yellow.”⁴⁹ Noguchi's claims were clearly unfounded, but they inspired African-American author George Schuyler, to write

⁴⁷ JAN AART SCHOLTE, *GLOBALIZATION: A CRITICAL INTRODUCTION* (2000).

⁴⁸ FANON, *supra* note 1, at 111.

⁴⁹ Ishmael Reed, *Introduction to GEORGE S. SCHUYLER, BLACK NO MORE* (Modern Library 1999) (1931) (citing *LITERARY DIGEST*, Nov. 16, 1929).

his novel, *Black No More*,⁵⁰ about a scientist who invents a machine that could transform black people into whites. At the conclusion of the novel, when access to whiteness has become universal, the aesthetic status of whiteness descends and that of blackness ascends. Schuyler thus argues that there is nothing objective about the preference for white skin, but rather that the differences in skin color operate as a metaphor for the dynamic of privilege. Schuyler was apparently captivated by the concept of technological innovation as a corrective for blackness. Certainly much energy has been devoted to the development of such technologies, and the claims of innovation have been continually seductive to consumers, even at the risk of physical harm.

Both topical and internal treatments have been developed as means for skin lightening during the course of the last century. Around the turn to the twentieth century, the ingestion of arsenic wafers was a popular method of skin lightening. The following text appeared in an ad for this treatment in the 1902 *Sears and Roebuck Catalog*:

Perfectly harmless when used in accordance with our directions, it possesses the "Wizard's Touch" in producing, preserving and enhancing beauty of form and person in male and female by surely developing a translucency and pellucid clearness of complexion, shapely contour of form, brilliant eyes, soft and smooth skin where by nature the reverse exists . . .⁵¹

The advertisers, aware of that arsenic is a poison, provide the following assurances:

The great trouble hitherto has been how to make this beautifying principle safely available and at the same time avoid what is detrimental and injurious. Arsenical solutions have utterly failed, and until a recent discovery by a French physician and chemist, the internal administration of arsenic has been attended with more or less danger as well as disappointing results. In the direction for which they are intended their effect is simply magical, the most astounding transformation in personal appearance being brought about by their steady use. Ladies you can be beautiful. No matter who you are, what your disfigurements may be, you can make yourself as handsome as any lady in the land by the use of our French Arsenic Wafers. We recommend ordering one dozen large boxes and then carefully follow our directions.⁵²

Arsenic wafers were a beauty treatment marketed to both black and white women as a means of achieving beauty and status, or the perception of them. The heroine of Wallace Thurman's 1929 novel, *The Blacker the Berry*,⁵³ consumes

⁵⁰ GEORGE SCHUYLER, *BLACK NO MORE: BEING AN ACCOUNT OF THE STRANGE AND WONDERFUL WORKINGS OF SCIENCE IN THE LAND OF THE FREE, A.D. 1933-1940* (Macaulay Co.1931).

⁵¹ Drug and Medical Department List, in 1902 SEARS AND ROEBUCK CATALOG (on file with author).

⁵² *Id.*

⁵³ WALLACE THURMAN, *THE BLACKER THE BERRY* . . . (1929).

arsenic wafers regularly in pursuit of the lighter skin that will grant her full admittance into the black bourgeois community. The results she experienced, however, were illness and skin that was not much lighter—not unlike the results experienced by many real-life women.

Poisonous skin lightening treatments did not end with arsenic. Creams containing mercury were another popular remedy for a dark complexion. Mercury was effective, but like arsenic, poisonous. A host of lawsuits in the United States that involved people who suffered ill effects from mercury led to it being banned by the U.S. Food and Drug Administration (FDA) in cosmetic treatments.⁵⁴ However, in parts of Africa and the Caribbean, mercury continues to be an ingredient in lightening cosmetics, with ill effects seen not only in those using mercury-based cosmetics,⁵⁵ but in their children⁵⁶ and others in the community due to the environmental damage resulting from the presence of mercury in the water supply.⁵⁷

The most effective and popular technology of skin-bleaching has been hydroquinone. Both safer and more efficacious than preparations containing mercury or arsenic, the discovery of hydroquinone as a bleaching product occurred accidentally. In 1938, workers in the Greiss Pflegler tannery in Waukegan, Illinois received rubber gloves that were coated in hydroquinone ether, because it prevented the leather from being discolored in the treatment process. The black workers at the tannery began to find their arms and hands becoming lighter. Litigation ensued, the gloves were recalled, and eighteen black men whose

⁵⁴ See *Cundiff v. F.W. Woolworth Co.*, 1938 WL 3136 (Ohio Ct. App. 9th Dist. 1938); *Zager v. F.W. Woolworth Co.*, 86 P.2d 389 (Cal. Ct. App. 2d Dist. 1939). See also 21 C.F.R. § 250.250 (2005) (FDA regulations regarding Hexachlorophene); 21 C.F.R. §§ 700.11-700.23 (2005) (regulations regarding cosmetic products). See also U.S. FOOD AND DRUG ADMINISTRATION, FDA Statement, FDA WARNS CONSUMERS NOT TO USE CREMA DE BELLEZA (July 23, 1996), <http://www.cfsan.fda.gov/~lrd/belleza.html>. Further, as to mercury compounds, the U.S. FDA website states:

They may cause allergic reactions, skin irritation, or neurotoxic manifestations. The use of mercury compounds as cosmetic ingredients is limited to eye area cosmetics at concentrations not exceeding 65 parts per million (0.0065 percent) of mercury calculated as the metal (about 100 ppm or 0.01 percent phenylmercuric acetate or nitrate) and provided no other effective and safe preservative is available for use. All other cosmetics containing mercury are adulterated and subject to regulatory action unless it occurs in a trace amount of less than 1 part per million (0.0001 percent) calculated as the metal and its presence is unavoidable under conditions of good manufacturing practice.

U.S. FOOD & DRUG ADMIN., CENTER FOR FOOD SAFETY & APPLIED NUTRITION, OFFICE OF COSMETICS & COLORS, PROHIBITED INGREDIENTS AND SAFETY ISSUES (Mar. 30, 2000, rev. May 2005), <http://www.cfsan.fda.gov/~dms/cos-210.html>.

⁵⁵ J.W. Kibukamusoke et al., *Membranous Nephropathy Due to Skin-Lightening Cream*, 2 BRIT. MED. J. 646-647 (1974).

⁵⁶ Dr. S. Allen Counter, *Whitening Skin Can Be Deadly*, BOSTON GLOBE, Dec. 16, 2003, available at http://www.boston.com/news/globe/health_science/articles/2003/12/16/whitening_skin_can_be_deadly/.

⁵⁷ WILLIAM E. BROOKS, U.S. GEOLOGICAL SURVEY (USGS), MERCURY, USGS MINERALS YEARBOOK—2003, available at <http://minerals.er.usgs.gov/minerals/pubs/commodity/mercury/mercumb03.pdf> (last visited Feb. 22, 2006); S. Lindberg et al., *Group Report: Mercury*, in LEAD, MERCURY, CADMIUM AND ARSENIC IN THE ENVIRONMENT 17, 17-34 (T.W. Hutchinson, & K.M. Meemz eds., 1987).

extremities had been discolored received settlements ranging from seventy-five to nine hundred dollars.⁵⁸

In the aftermath, however, beauty entrepreneurs quickly responded with research about the possibility that hydroquinone can be used for cosmetic skin bleach. If technology is understood as the practical application of knowledge, the knowledge of the bleaching properties of hydroquinone were soon developed into a well-marketed technology. However, the researchers gained another aspect of the knowledge that affected the history of the commodity. A number of people are intensely allergic to hydroquinone, and there are other potentially dangerous attendant consequences that result from the misuse of hydroquinone. During the course of the twentieth century, as the potential ill effects of hydroquinone became apparent, the products were more highly regulated in the United States and Europe.⁵⁹ In the twenty-first century, the European Union banned over-the-counter hydroquinone beauty products altogether.⁶⁰

There are ongoing efforts to develop new skin-whitening technologies, despite the relative success of hydroquinone, and there are always new products on the market to feed the demand for such commodities.⁶¹ Corporate labs are particularly focused on trying to find whiteners that do no harm. Recently, ingredients such as kojic acid and mild chemical peels have been explored as lightening agents. However, even kojic acid, which has been widely touted for its mildness, has reportedly caused dermatological damage extensive enough to be banned in Switzerland and Germany.⁶² Further, none of these newer treatments has been found to be as effective as hydroquinone. Hydroquinone remains the most potent and effective means of skin lightening, and the one agent that is found across the spectrum of color and class throughout the globe.

Hydroquinone works by suppressing melanin production.⁶³ With regular treatment, as old layers of skin are shed, new surface skin has a lower concentration of melanin. Hence, the hydroquinone-based products work by suppressing

⁵⁸ See Jean L. Bologna, Kim Lapia, & Sandra Somm, *Depigmentation Therapy*, 14 DERMATOLOGIC THERAPY ISSUE 1, 29 (2001).

⁵⁹ See *Harris v. Belton*, 65 Cal. Rptr. 808 (1968) (holding for manufacturer of hydroquinone-based cream, but case preceded greater FDA regulation of hydroquinone).

⁶⁰ For a discussion of the ban made under the Consumer Protection Act of 1987, and instituted in 2001, see *Clampdown on Dangerous Cosmetics*, RAISING THE STANDARD, (Southwark Trading Standards Service, London), Spring 2001, available at http://www.southwark.gov.uk/Uploads/FILE_3594.pdf (last visited Feb. 22, 2006); T.J. Kooyers & W. Westerhof, *Toxicology and Health Risks of Hydroquinone in Skin-Lightening Formulations*, J. EUR. ACAD. OF DERMATOLOGY & VENEREOLOGY (online early ed. 2005).

⁶¹ Lisa Panzica, *Skin Lighteners & Hydroquinone: Reformulated, Surviving Bad Press, and Continuing to Move Forward*, AESTHETIC TRENDS & TECHNOLOGIES, Vol. 2, Iss. 5, Winter 2003, http://www.aestheticstrends.com/journal/issue_win2003.cfm.

⁶² *Skin-Bleaching Products and Other Cosmetics from Ethnic Shops/Hydroquinone, Kojic Acid, Arbutin, Preservatives and Declaration*, Kantons Laboratorium BS, May, 25, 2005, <http://www.kantonslabor-bs.ch/files/75/Report0514.pdf> (last visited Feb. 22, 2006) (hereinafter *Skin-Bleaching Products*).

⁶³ See Marta I. Rendon & Jorge I. Gaviria, *Skin Lightening Agents*, in PROCEDURES IN COSMETIC DERMATOLOGY SERIES: COSMECEUTICALS (Zoe Draelos ed., 2005).

darkness, a tragically poetic metaphor for the efforts to suppress racial characteristics in the process of aspiring to what is considered an enhanced realm of humanity—that of the lighter and whiter. This physical suppression is analogous to the social suppressions that the technology affirms and reflects.

In many African countries, despite bans, the use of skin-bleaching creams occurs amongst the governmental and economic elites. In these elite communities, it is quite common to be educated in Europe or the United States, and even for those who are educated in their home countries, the educational and legal models are frequently adopted from the institutional forms of former colonial powers. The cultural Europeanization and hybridization of African people may play a part in the idealization of European bodies. More significantly, greater proximity to European-ness—either physically, or through other symbols like education, wealth, or access to commodity culture—is tied to higher status.

In a market, therefore, the technology operates to provide a physical symbol of the social realities of conceptions of blackness and whiteness. It allows people to approach the benefits of European-ness, either literally or symbolically. As the Fanon quotation indicates, dark skin is no longer merely a symbol or indicator of membership in a lower status racial group, but the skin itself is imagined as being inferior. Hence, the suppression of melanin, with hydroquinone or some other product, may notionally allow for an escape from that “corporeal malediction.” The government minister’s wife, who bears the telltale ashiness of bleached skin, is a trophy—and an aspiration.

How does one reconcile the perceived benefits to approaching physical whiteness with the understanding of the role of cosmetic technology as a sexist enterprise? Certainly, the whitening practice, like so many other cosmetic processes, reflects the objectification of women, and the control of women’s bodies in the midst of sexual politics, and as such, it transcends race and nationality. Yet is skin-bleaching just one element in a soup of products for the gender-oppressed? Given the fact that the cosmetic industry is a tool of sexist domination regardless of race, nationality, or class, how can one argue that the white female form—idealized for its whiteness and a signifier for freedom or full humanity—pushes dark-skinned people to aspire to that ideal? That is, is this really about race, or is this really about gender?

One answer to these questions is that technologies for physical modification reflect social ideals as well as the benefits of privilege. The further away one is from the ideal, the belief that one should modify one’s body may be greater, but the availability of technological resources is higher for those who are already privileged. Thus, wealth makes it easier for the privileged to maintain the physical manifestation of privilege—and yet does not destabilize the hierarchy of bodies. Indeed, it reinforces it. If one can afford to go to the Estee Lauder counter to purchase the gentler products, the odds are that the person is already closer to the ideal.

The mere fact that a woman is obliged to use cosmetics to modify her body, at all, in order to be perceived as respectable, acceptable, clean, and presentable, is alone a sign of a global patriarchy. As Laura Kipnis wrote, "Femininity is a system that tries to secure advantages for women, primarily by enhancing their sexual attractiveness to men. It also shores up masculinity through displays of feminine helplessness or deference. But femininity depends on a sense of female inadequacy to perpetuate itself."⁶⁴

Wouldn't they be surprised when one day I woke out of my black ugly dream, and my real hair, which was long and blond, would take the place of the kinky mass Momma wouldn't let me straighten? My light-blue eyes would hypnotize them . . .⁶⁵

Ofelia was afraid of the attention men once paid her but seemed more fearful now of her invisibility. In quiet moments she must have asked: Who am I whitening my skin for? Who notices the tortoiseshell combs in my hair? Would anyone care if the seams on my stockings were crooked. Or if I didn't wear any at all?⁶⁶

The disproportionate numbers of women who bleach their skin is a result of the objectification of the female body in sexual partnering. The women bleach to attract men.⁶⁷ Using a tort concept, a certain degree of risk is assumed by many women. Presumably, the potential payoff in finding a mate, in greater employment prospects, and more, is worth the potential ill effects of using skin-bleaching creams. The user may rationally consent to a high degree of risk in exchange for the social and economic benefits of lighter skin. However, this is not simply some dispassionate calculus. Often when people assume the risks of cosmetic alteration, they do so with the belief that the change will allow for self-actualization; a better, truer self will emerge with the altered or "revised" body.⁶⁸

V. TORTIOUS BLEACH

Those people in parts of the world who do not go to department store counters or air-conditioned drug stores to get their skin bleaches are far more likely to be injured by the use of the products. Medical research has demonstrated that hydroquinone is not absolutely safe as a bleaching agent, and that there are specific conditions under which it must be used to maximize its effectiveness, many of

⁶⁴ Laura Kipnis, *Navel Gazing: Why Even Feminists are Obsessed with Fat*, SLATE, Jan. 5, 2005, <http://www.slate.com/id/2111753>.

⁶⁵ MAYA ANGELOU, *I KNOW WHY THE CAGED BIRD SINGS 2* (Bantam Books 1995) (1983).

⁶⁶ CRISTINA GARCIA, *DREAMING IN CUBAN* 43 (1992).

⁶⁷ See Kathleen Robinson, *Skin-Bleaching in Independent Ghana*, Presentation at the Gender and Visuality Conference Proceedings, University of the Western Cape, South Africa (Aug. 26-29, 2004), available at <http://www.uwc.ac.za/arts/gendervisuality/prog.htm>.

⁶⁸ Examples may be found in the testimonies of the guests on the show *Extreme Makeover* (ABC Television), and in LUCY GREALY, *AUTOBIOGRAPHY OF A FACE* (2003).

which consumers, particularly in poorer nations, are unaware of for a variety of reasons.⁶⁹ First, hydroquinone is a photosensitizing agent. Its use requires avoidance of intense sunlight or use of a sun protection cream. Without such protections the work of hydroquinone can reverse, causing greater melanin production. Also, over time, and with extreme heat, hydroquinone-containing creams may increase in potency; therefore, creams used past their expiration dates, or those stored in very hot places, are more dangerous.

Studies have shown a classic trajectory in the overuse of hydroquinone-containing creams. First, the skin lightening reverses and the skin becomes darker and coarser, developing hyper-pigmented papules and swollen patches. This condition has been termed exogenous ochronosis.⁷⁰ Next, hydroquinone may penetrate the skin, and make its way into the bloodstream, causing a host of deleterious physical changes.⁷¹ Studies conducted by the American Biogenics Corporation have showed that hydroquinone is carcinogenic and may cause liver damage and reproductive risks.⁷²

In the United States, the percentage of hydroquinone in over-the-counter skin lightening creams has been limited to two percent, and prescription strengths are available up to five percent. Preparations above two percent are classified as medicines rather than cosmetics in the United States. Five years ago, the European Union, which had previously had comparable standards to the United States, banned hydroquinone in over-the-counter cosmetic preparations.⁷³ Many of the skin-bleaching creams that are sold in Africa are produced in the United States and Europe. These products often contain much higher percentages of hydroquinone than are or were allowable in the countries in which they are manufactured. Similar to the circumstances in tobacco control,⁷⁴ the regulation and reduction of the use of hydroquinone-based creams in the manufacturers' home countries has encouraged companies to find active markets elsewhere. The fact that the creams are often sent with higher preparations is only part of the story. The time in transit

⁶⁹ G.H. Findlay et al., *Exogenous Ochronosis and Pigmented Colloid Milium from Hydroquinone Bleaching Creams*, 93 BRIT. J. DERMATOLOGY 613 (1975); Fiona Godlee, *Skin Lighteners Cause Permanent Damage*, BRIT. MED. J., Aug. 8, 1992, at 305, 333.

⁷⁰ Maria Rita Bongiorno & Mario Aricò, *Exogenous Ochronosis and Striae Atrophicæ Following the Use of Bleaching Creams*, 44 INT'L J. DERMATOLOGY 112 (2005).

⁷¹ A. Mahe et al., *Enquete Epidemiologique Sur L'utilisation Cosmetique De Produits Depigmentants Par Les Femmes De Bamako (Mali)*, 120 ANN. DERMATOL. VENEREOL. 870 (1993).

⁷² NATIONAL TOXICOLOGY PROGRAM, TARGET ORGANS AND LEVELS OF EVIDENCE NTP TECHNICAL REPORT NUMBER 366 (Sept. 19, 2001), available at <http://ntp.niehs.nih.gov/ntpweb/printFriendly.cfm?objectId=03F1AD9E-E1C9-7508-E7F24D6902E21EF6> (last visited Feb. 23, 2006).

⁷³ *Skin Bleaching Products*, supra note 62.

⁷⁴ Derek Yach, Executive Director, World Health Organization, *Towards a Framework Convention on Tobacco Control: Africa Provides a Leadership Role*, Speech at Johannesburg (Mar. 12, 2001), available at http://www.who.int/tobacco/dy_speeches8/en/ (last visited Feb. 23, 2006). See also Naututu Okhoya & Gumisai Mutume, "Golden Leaf" Loses Its Luster: *International Tobacco Controls Spurring Production Shifts*, AFR. RENEWAL, Vol. 18, No. 3, Oct. 2004, at 4, available at <http://www.un.org/ecosocdev/geninfo/afrec/vol18no3/183tobacco.htm> (last visited Feb. 23, 2006).

and the effects of heat and sun in African climates make the creams even stronger.⁷⁵

The detection of exogenous ochronosis initially occurred in five percent preparations in South Africa, but later research showed it also occurred in the use of two percent preparations in the United States. However, one commentator of the latter study noted that chemical assays had not been done on the creams as they were being used, which suggested that the percentages of hydroquinone may have been higher than the labels stated as a result of corporate non-compliance with FDA regulations.⁷⁶ Hence, it is unclear as to the percentage of preparations in creams as they are being used, and as to the percentage of damage that is actually occurring. Sujata Jolly, a British dermatologist and anti-skin-bleaching activist, has argued that the proportion of the chemical does not even matter because “[i]t is the accumulation that causes the problems The skin breaks open and it penetrates into the bloodstream, the kidneys and the liver. The disfigurements that we see are quite horrible.”⁷⁷

Dr. Jolly was reportedly offered millions of pounds to develop a safe skin-bleaching cream—she declined, which is telling.⁷⁸ She not only objected to the physical harm of hydroquinone- or mercury-based creams, but the significance of the practice of skin-bleaching. The truth is that as long as the value of whiteness is affirmed by the sale of skin-bleaching products, those who are poorer and darker will be using products that are unsafe because of the economics of research and product safety standards. Only a political climate that decouples value with white skin, and that inspires consumers to act against their perceived interests for the sake of a political or health value, can counter the impact of wealth and color on the sale of beauty products that promise lighter skin.⁷⁹

Anecdotes offered in journalistic discussions by doctors and users suggest that when people begin to experience exogenous ochronosis, they often do not attribute it to hydroquinone, but instead switch to another cream, or use more of it. This is perhaps because they are so invested in the promise of lighter skin that they are willing to risk further damage. Over time, the effects become more dramatic and permanent. One South African doctor, Dr. Souleymane Chehadi, observed that of the 200 patients in his dermatologist practice, approximately 80 to 100 are there because of problems linked to skin-bleaching, and of those patients, half have

⁷⁵ Findlay et al., *supra* note 69, at 613-22; Godlee, *supra* note 69, at 333.

⁷⁶ R.A. Hoshaw et al., *Ochronosis-Like Pigmentation from Hydroquinone Bleaching Creams in American Blacks*, 121 ARCH. OF DERMATOLOGY 1 (Jan. 1985).

⁷⁷ See *When Black Isn't Beautiful*, GUARDIAN, Sept. 7, 1999, available at <http://www.guardian.co.uk/Archive/Article/0,4273,3899316,00.html>.

⁷⁸ Prisca McGuire, *Beyond the Pale: Hydroquinone Widely Used in Skin-bleaching Creams is Soon to Be Banned Altogether*, BLACK BEAUTY & HAIR, available at <http://www.blackbeautyandhair.com/html/display/features.asp?ID=15&bypass=> (last visited Feb. 23, 2006).

⁷⁹ Banks, *supra* note 42 (discussing the importance of recognizing colorism as the basis for Equal Protection claims in the United States). This may be one strategy for such decoupling of advantage and color.

permanent skin damage.⁸⁰ In Zambia, one of the countries where the use of mercury as a skin-bleaching agent still exists, the effects of mercury poisoning, including fevers, convulsions, discolored nails, a blue-gray face, and the malfunction of nervous systems, have all been reported. Women in Zambia reportedly use soaps containing mercury and leave it on overnight; they then use bleaching creams containing hydroquinone for maintenance once the desired level of lightening is achieved.⁸¹

Dangers also come from the mere presence of the products in the environment. Ecological harms have been reported because of cream residue in the water supply. Accidental ingestion may lead to cyanosis,⁸² dyspnea,⁸³ and if great enough, death.⁸⁴ This is of course a great threat in households where children are present. Moreover, it is still uncertain whether hydroquinone is excreted in human breast milk. All of this information begs the question, why would someone use these creams given that the harms are so great? This article posits that the answer has to do with the problem of consent. On the one hand, it is clear that there are certain conditions under which individuals will consent to injury; on the other hand, consent to the use of these products is often not informed.

VI. ASSUMING THE RISK AND UNINFORMED CONSENT

Invoking legal notice 66 of 1999, legal notice 155 of 1998, and read together with legal notice 75 of 2000, the Kenya Bureau of Standards issued a public notice in the media to inform and educate consumers about the harmful effects of mercury, hydroquinone, and hormonal preparations and oxidizing agents contained in some cosmetic products in the market. The action was consistent with the legal notices, which empower the Kenya Bureau of Standards to prohibit any goods that do not comply with Kenya Standards or any other approved standards.⁸⁵ This notice was both a regulatory intervention and an effort to inform citizens.

Moreover, there are serious questions as to whether the consent to the medical risks of these harsh skin bleaches is in fact informed. The reality is that by the time many of the bleaching products arrive in African countries, the labels that contain the warnings have either faded or been removed.⁸⁶ Even where present, the

⁸⁰ *Senegal Doctors Demand Skin Cream Ban*, BBC News, Sept. 3, 2000, <http://news.bbc.co.uk/2/hi/africa/908882.stm> (last visited Feb. 23, 2006).

⁸¹ See JEROME O. NRIAGU, WILDLIFE & ENVTL. CONSERVATION SOC'Y OF ZAMBIA, USAID, AFRICA BUREAU, HAZARDOUS WASTES IN ZAMBIAN HOUSEHOLDS: A PILOT STUDY (Sept. 1999), available at http://greencom.org/greencom/get_report.asp?id=50 (last visited Feb. 23, 2006).

⁸² Cyanosis is a bluish or purplish tinge to the skin and mucous membranes.

⁸³ Dyspnea is difficult or labored breathing.

⁸⁴ See NRIAGU, *supra* note 81.

⁸⁵ Banned Cosmetic Products Containing Harmful Substances, <http://www.kebs.org/banned%20cosmetics.htm> (last visited Feb. 23, 2006); see KENYA BUREAU OF STANDARDS (KEBS), CATALOGUE OF KENYA STANDARDS 2005, available at <http://www.kebs.org/Standards%20Catalogue%20-%202005.pdf>.

⁸⁶ The FDA requires fair packaging in exported products under the Fair Packaging and Labeling Act, 15 U.S.C. §§ 1451-1453 (2003). However, the FDA does not control removal of packaging by third parties in other countries.

warnings usually merely caution the user to avoid contact with the eyes, to use externally only, and to discontinue use if irritation occurs. They do not state the documented harms, or that the products are poisonous if ingested. Hence, many consumers do not know how to safely use the product or when to discontinue use—that they must protect their skin from the sun while using the product, that if the product is old, it may be stronger than that which is medically safe, that the products with mercury contains poison, and that serious medical risks may occur if ingested or if misused topically. Such circumstances can hardly be considered informed consent.

One might contend that consent is informed because the users see the effects of bleaching on others around them. It is difficult to imagine that the risks are not discussed frequently in colloquial contexts in countries where the use of such creams is popular. It may be, however, quite possible that the potential benefits are seen as being worth the potential dangers.

The pursuit of enhanced self-ness is a powerful motivator for consent to injury. It may even impact the reasonableness of the thought process—making a party decide to hedge the harms, though the odds are long and the risks high—especially if the given body is perceived as bad or deficient in its current state. Mercy Lebakeng, a psychologist who treats patients that have been using bleaching creams, was cited as saying that there was a “subconscious association of white with perfection and competence, while black was seen as being bad.”⁸⁷ For a person who sees herself as competent or intelligent, the aspiration for lighter skin may reflect a desire to reveal that self, contrasted against a belief that the blackness cannot get much worse—despite the evidence of heavy blue-black scar tissue that is seen in exogenous ochronosis.

If the bleach-using party is seeking to reveal a “truer self”—one that cannot be seen with black skin—then perhaps the evidence of the consequences upon others with dark skin proves less than compelling. The true, lighter, whiter self is necessarily an exceptional one in a color-stratified society, and therefore, the individual’s belief in her merit might also lead her to believe that the greatest harms will not befall her. Evidence of such thinking is seen with the growing rates of women getting breast implants in the United States, despite the high rates of hardening, disfigurement, and illness. The suspended disbelief in risk may be occasioned by a strong belief in self-actualization and exceptionalism.

As an aspiration that is motivated by sexual competition, status yearning, and/or emotional factors, the desire for lighter skin may be so great that simple failures of assessment fuel the continuity of the process. Novelist Wallace Thurman addresses such a failure of assessment by his character, Emma Lou; so great was her desire to be lighter that she was unable to actually see the damage she was doing to her own body:

⁸⁷ Babalwa Shota & Dina Seeger, *How They Took My Dignity*, SUNDAY TIMES (S. AFR.), Dec. 12, 1999.

Emma Lou had obtained some of these arsenic wafers and eaten them, but they had only served to give her pains in the pit of her stomach. Next she determined upon a peroxide solution in addition to something which was known as black and white ointment. After she had been using these for a month she thought that she could notice some change. But in reality the only effects were an increase in rashes and a burning skin.⁸⁸

Thus, users may not only fail to actually recognize that the creams are ineffective, but they may also face impaired judgment with respect to deciding when to stop using them altogether as opposed to switching brands or using more. Faith in the technology, which is a critical element to the seduction of consumer culture, and profound hope, lead to a consent to injury that can only be seen as a weak consent at best.

VI. ILLEGAL TRAFFICKING

A number of African nations, in response to the medical dangers and social impact of skin-bleaching, have instituted strong regulatory responses. In South Africa and Kenya, for example, policies like that of the FDA were initially instituted. The policies require a two percent solution or less for over-the-counter products, and up to five percent for prescriptions. South Africa subsequently instituted a complete ban of the products. Other nations such as Zimbabwe, Zambia, and Gambia instituted absolute bans on bleaching creams from the beginning. Yahya Jammeh, during his tenure as the military leader of Gambia, asserted that the bleaching creams were banned because of the health effects; but also because they were foreign to African culture.⁸⁹

The bans on bleaching creams have often had a nationalist ethos behind them. In an effort to erase colonial residues, leaders have argued that they must move beyond the physical ideals that were created under colonial power. In this case, the regulations that ban importation of the products and defend the borders against illegal trafficking are an effort to protect the integrity of the national identity. The borders of the nation are imagined proxies for the borders of the flesh, which are penetrated by the bleaching creams to alter the physical self. Both the national borders and the flesh borders are symbolic of identity and the integrity of national identity recovered after the exploitation of colonialism. Yet just as national identity is fictional insofar as it refuses the penetration of the non-national into the national self, actual borders refuse such protection.

While one may question the potential for expulsion of European desire in a cultural colonialist world, there is a literal danger associated with the borderlessness of commodity in such a world. The national borders are notoriously difficult to protect. Raids and fines are small and inadequate weapons compared to the constant influx of products from neighboring countries, which are often those

⁸⁸ THURMAN, *supra* note 53.

⁸⁹ *Gambia, Indonesia Ban Skin-Bleaching in Fight Against Cultural Imperialism*, SUN REP., May 15, 1997.

that do not ban the products and are pass-through routes for the black market. The inability to protect the borders provides evidence of growing global markets that are increasingly borderless, yet which have neocolonial impact through the influence of first-world commodity culture upon third world nations.⁹⁰

Ironically, the borderlessness of commodity has created a situation in which many of the products that are banned in the United States eventually cycle back to store shelves in the United States. Frequently, these products are found in neighborhoods which have large black or Asian immigrant populations. The products that are popular in their home nations follow them in their patterns of migration and immigration. Trademark litigation over one such product that originated in the Dominican Republic revealed that while the company created two products, one for sale in the United States and the other for sale in the Dominican Republic—the Dominican one containing the US banned mercury—the Dominican product was found on U.S. store shelves.⁹¹

VII. POST-COLONIAL LIABILITY

The regulatory difficulties need not be met with resignation. Rather, it indicates that alternative approaches may be necessary to respond to the problem of skin-bleaching. Manufacturers of the creams should be held to some international standards with respect to both preparation and information. There is ample information available to manufacturers that the products are being misused and that appropriate precautions are not being taken in their exportation and marketing at the second and third level of sale.

Product liability theory in the United States recognizes that, when producers have a reason to know that their products are being misused to the detriment of their consumers, they must take action to protect those consumers.⁹² Such responsibilities may include the creation of international standards of the percentage of hydroquinone allowed to be in products at the point of production rather than at the point of sale, thus shifting the burden of compliance from the low-level entrepreneur to the lucrative corporation.⁹³ Alternatively, manufacturers

⁹⁰ Dina Seeger & Babalwa Shota, *Toxic UK Creams Scar SA Women: Victims Suffer Grotesque Injuries from Contraband Potions*, SUNDAY TIMES (S. AFR.), Dec. 12, 1999.

⁹¹ *Laboratories Roldan, C. v. Tex Int'l, Inc.*, 902 F. Supp. 1555 (S.D. Fla. 1995). Indeed, the author of this article found the mercury-containing product on the shelves of a Duane Reade store in Midtown Manhattan in New York City. In stores in Silver Spring, Maryland and Cambridge, Massachusetts, the author found products that did not specify the percentage of hydroquinone they contained—a violation of FDA regulations. Intended for consumers in the Antilles and Haiti, the labels of these products were written in French. There were also products with a higher than two percent concentration of hydroquinone listed on the label, which is also a violation of FDA rules. The borders are obviously porous, even in the most medically paternalistic of nations.

⁹² *Erickson v. Am. Honda Motor Co., Inc.*, 455 N.W.2d 74 (Minn. Ct. App. 1990).

⁹³ See Julie Chadwick, *Toxic Racism: The Dirty Tale of the EU, Soap and Mercury Poisoning*, GREENPEPPER MAG., Apr. 1, 2001 (argued similarly with respect to mercury-based soaps), available at <http://squat.net/cia/gp/hom.php?iid=26>. In 2003, the European Union banned the export of mercury-based soaps. For a discussion of this ban, see D. Kinaboo, *Comparative Analysis of Mercury Content in*

may be required to invest in labeling that cannot be removed. Manufacturers should also bear some responsibility for knowing that their products are arriving in destinations where there are absolute bans on those products, and if the manufacturers are complicit in this illegal practice, they should be subject to liability for the breach of regulatory rules. Jurisdiction should be granted to courts of both nations where the creams are produced and sold, thus increasing the options for those wishing to sue manufacturers for product liability.

The U.S. and European manufacturers of skin-bleaching creams exploit the effects of colonialism, and also facilitate ongoing color stratifications, even in nations where there is no significant history of a color caste system—as opposed to racial caste system—because the populations are overwhelmingly African. There is a repetition of the values of colonialism, in which a new cycle of economic exploitation results from the residues of empire and colonialism. Moreover, new iterations of empire—economic and cultural ones—are also facilitated and extended by this practice. The potential liability of these first-world corporations might easily be seen as a kind of post-colonial liability, resulting from the exploitation of the legacy of empire accompanied by corporate irresponsibility.

In the globalized world, the regulations of the nation-state, particularly poor nation-states, are often weak or crude matches for the spread of commodity. For example, for decades the World Health Organization has lobbied for countries to ban mercury-based soaps because of their dangerous health effects.⁹⁴ Yet, even where such bans were implemented, it is difficult to control the spread of the use of the products in a black market that bears minimal consequences. To the extent that there are some international product liability rules, they are difficult to litigate, particularly when evidence of the harms of the products is not organized or representative because of the underground web of the black market. Raids, as previously mentioned, have limited success. Public health campaigns are somewhat more useful, but they hold no adverse consequences for the marketers, unless they are extraordinarily successful in affecting the purchasing desires of the general populace.

It is not enough to penalize manufacturers, and to regulate access, without affecting the desire to bleach the skin. At the very least, people should truly have informed consent about the damage of skin-bleaching creams. Several nations have pursued public health campaigns with this objective.⁹⁵ The failure of such campaigns to create dramatic change may evince that the benefits and yearning are

Cosmetic Products Used in Dar es Salaam, Tanzania, Unpublished Paper Presented at the Seventh International Mercury Conference in Slovenia (2004) (on file with author).

⁹⁴ See WORLD HEALTH ORGANIZATION, ELEMENTAL MERCURY AND INORGANIC MERCURY COMPOUNDS: HUMAN HEALTH ASPECTS (2003) (first draft prepared by Dr. J.F. Risher, Agency of Toxic Substances and Disease Registry), available at <http://whqlibdoc.who.int/publications/2003/9241530502.pdf> (last visited Feb. 23, 2006). See also INTERNATIONAL PROGRAMME ON CHEMICAL SAFETY, ENVIRONMENTAL HEALTH CRITERIA 118: INORGANIC MERCURY (1991) (first draft prepared by Dr. L. Friberg, Karolinska Institute, Sweden), available at <http://www.inchem.org/documents/ehc/ehc/ehc118.htm> (last visited Feb. 23, 2006).

⁹⁵ Chisolm, *supra* note 13.

too great for such a campaign to be effective. It may also indicate that the imbalance of resources is still at work, and that public health initiatives need to be more sophisticated.

On a policy level, perhaps one should look at the work done in response to the closest market analogy to skin-bleaching—the tobacco industry. As with skin-bleaching, the new markets for stronger products are found in poorer countries, while technologies to reduce harm are passionately pursued in richer ones.⁹⁶ International organizations, professional and otherwise, have created activist networks to address the growing marketing and use of tobacco use in third-world countries, and to expose the efforts of tobacco manufacturers to replace markets lost in wealthy nations with those in poor ones.⁹⁷ The problem with the comparison, however, is that the harms of skin-bleaching are not as definitive or as uniform as that of tobacco. It is far more difficult to obtain resources devoted to addressing the harms of skin-bleaching, given the breadth of issues from poverty to AIDS plaguing the world's poorest nations.

However, various interests are or should be invested in as a response to the dangers of skin-bleaching. Environmentalists, feminists, civil rights activists, physicians, epidemiologists, child advocates, and grassroots activists all have a vested interest in responding to the effects and/or phenomenon of skin-bleaching. Drawing on the efforts of all of these groups, strategies that blend regulation, international product liability standards, and policy measures may be developed, even with a relatively small number of people from each group working on the issue.

The globalized world, which facilitates the damage of bleaching, may also facilitate working against it. Using any major search engine, one finds thousands of references to skin-bleaching. Some of these are for the sale of skin-bleaching, but many are links to sites, articles, or commentaries from every continent that express concern about the effects and political meaning of these popular products. Surely, developing international networks that use the tools of cyberspace to pull together these various distant constituents will have a significant impact on helping the problem.

Innovative litigators may even combine the tobacco analogy with collaborative work across nations in order to discover the paths of these damaging products, and to structure liability claims based on its points of origin. Additionally, the attorneys on these teams may be able to utilize the knowledge of other professionals and community members to develop compelling strategies for

⁹⁶ R. CRAIG STOTTS & DONALD R. SHOPLAND, NAT'L CANCER INST., DIV. OF CANCER PREVENTION & CONTROL, Overview and Summary, in NATIONAL CANCER INSTITUTE, SMOKING AND TOBACCO CONTROL MONOGRAPHS, SMOKELESS TOBACCO OR HEALTH: AN INTERNATIONAL PERSPECTIVE (1993) (Monograph 2), available at http://cancercontrol.cancer.gov/tcrb/monographs/2/m2_complete.pdf (last visited Feb. 23, 2006).

⁹⁷ See, e.g., Center for Tobacco Control Research and Education at the University of California, San Francisco, <http://tobacco.ucsf.edu/> (last visited Feb. 23, 2006). See also Yach, *supra* note 74.

broaching the jurisdictional issue in product liability cases brought by those who seek legal remedies for injuries suffered as a result of bleaching in poor nations.

The cultural force of the United States is vast. For example, to the extent that Federal Communications Commission (FCC) rules have limited the range of programming on American television, they have also limited the range of images marketed and presented to the rest of the world by American media abroad.⁹⁸ The marketing of whiteness across the globe begins at home for Americans, however, and as cultural producers, our nation should consider how we should support the work of people who fight an ideology that tells consumers to buy whiteness to be beautiful.

VIII. CONCLUSION: CONSUMER CULTURE AND MULTICULTURALIST HIERARCHIES

One of the critical forms of new empire is found in the exportation of American popular culture to the third world through commodities that are symbols of wealth, glamour, sexiness, and power.⁹⁹ Bleaching creams in Africa today are stratified according to global power. The upper strata of women prefer American or European products because they can afford it. The second strata buy products from Asia, and the poor women in the community often share home grown preparations. Thus, status is associated with this branch of American consumerism.¹⁰⁰

There is also the impact of the exportation of black American popular culture in the form of music videos, film and television.¹⁰¹ Associated with the most powerful nation, the media-cultural representation of African-Americans is perhaps the most globally recognized image of blackness today. On the one hand, racist depictions of blackness are often represented through black Americans, which encourage other blacks to distinguish themselves from black Americans who are often depicted as pathological or immoral; on the other hand, Black Americans provide the international image of "black beauty." This, combined with the relative sophistication of ethnic beauty technology in the United States, makes black America a kind of beauty product capital for the rest of the black world.

Media images of black American female beauty disproportionately highlight women with lighter complexions and longer hair, and reify this standard of beauty.¹⁰² One of the commodity images of the high-status American is that of a light-skinned black woman. Even in exported images of medium brown-skinned black American women, the average black American is of a lighter complexion

⁹⁸ For a discussion of the racial representation issues raised by recent FCC rulings, see Jerry Kang, *Trojan Horses of Race*, 118 HARV. L. REV. 1489, 1495 (2005).

⁹⁹ See Laurie Belsie, *Sink or Swim*, CHRISTIAN SCI. MONITOR, May 3, 2001, available at <http://csmonitor.com/cgi-bin/durableRedirect.pl?durable/2001/05/03/fp15s1-csm.shtml>.

¹⁰⁰ Schuler, *supra* note 4.

¹⁰¹ See Kerri A. Reddick-Morgan, *Emulated Through Images: The Globalization of Misonstrued African American Beauty and Hip Hop Culture*, GLOBALIZATION, Vol 4, Iss. 1, Spring 2004, available at <http://globalization.icaap.org/content/v4.1/reddick-morgan.html> (last visited Feb. 23, 2006).

¹⁰² See BELL HOOKS, BLACK LOOKS: RACE AND REPRESENTATION (1992).

than the average West African because of the history of miscegenation. Thus, links to images of wealth and glamour reinforce and is reinforced by the notion that the physically "best" black person one can be is one of a lighter complexion.

The beauty hierarchy of people of African descent found in Caribbean color caste systems and American colorism¹⁰³ have now been translated to an international commodity culture that is centered in the United States, but also draws on images from other "new world" nations. This was dramatically apparent in the scandal associated with the Rio hair relaxer system. Rio was marketed in the United States as a "natural" hair straightener, but the product caused scalp damage and hair to fall out. The resulting litigation ultimately led to a settlement.¹⁰⁴ However, a similar product called Copa followed shortly thereafter. Both of these American products referred to Brazil, where the degree of racial admixture of Africans with Europeans and indigenous Americans is perhaps one of the greatest in the New World. Brazilian hybridity proved an effective marketing tool for black American and Caribbean women, who because of the aspiration for a higher status of blackness, were the target consumers for the product. The representative of Copa was Debbie Allen, a light-skinned, loosely curly-haired black celebrity who, while claiming not to have used the product herself, embodied the "ideal" aspired to by the users of Copa. Recently, hip-hop culture has discovered Brazilian women, featuring them in music videos, adding variation to the light-complexioned, long, straight-haired beauty standard.¹⁰⁵

Academy award-winning actor Jamie Foxx noted with glee in a stand-up routine that he had been mistaken about Africa because when he visited South Africa, he saw women who looked like Halle Berry, i.e., women who were light-skinned and straight-haired, or in other words, women who were more beautiful than dark-skinned, kinky-haired women.¹⁰⁶ However, Foxx's own admission about his misperception of Africa was not about his internalization of European-influenced beauty standards, but in his failure to understand that Africa also possesses women of "high-status" beauty. This higher-status beauty refutes the primitive and backward image of Africa, providing more evidence that the Enlightenment-era racial hierarchies are still alive and well today. It is another example of the rationale that many women bleach in their efforts to become more like Halle Berry.

¹⁰³ See H. HOETNICK, "Race" and Color in the Caribbean, in *CARIBBEAN CONTOURS* 55 (Sidney W. Mintz & Sally Price eds., 1985); KATHY RUSSELL ET AL., *THE COLOR COMPLEX: THE POLITICS OF SKIN COLOR AMONG AFRICAN AMERICANS* (Anchor Books 1993) (1992); Angela Jorge, *The Black Puerto Rican Woman in Contemporary American Society*, in *THE PUERTO RICAN WOMAN: PERSPECTIVES ON CULTURE, HISTORY AND SOCIETY* 134-41 (Edna Acosta-Belen ed., Praeger Paperback 2d ed. 1986) (1979); *CROSSING BOUNDARIES: COMPARATIVE HISTORY OF BLACK PEOPLE IN DIASPORA* (Darlene Clark Hine & Jacqueline McLeod eds., 1999).

¹⁰⁴ See Paula Kurtzweil, *Hair Relaxers Destroyed After Consumers Complain*, *FDA CONSUMER MAG.*, Mar. 1996, available at http://www.fda.gov/fdac/departs/296_irs.html; Emanuel Parker, *World RIO: Hair Products Co. Must Pay \$ 500,000*, *L.A. SENTINEL*, Oct. 25, 1995.

¹⁰⁵ See SNOOP DOGG, *FEATURING PHARRELL & UNCLE CHARLIE WILSON, BEAUTIFUL* (EMI Video 2003); LUDACRIS, *PIMPIN' ALL OVER THE WORLD* (Def Jam DVD 2005).

¹⁰⁶ JAMIE FOXX—*I MIGHT NEED SECURITY* (Image Entertainment 2002).

Likewise, the popularization of Dominican beauty parlors, particularly in the Eastern regions of the United States,¹⁰⁷ might be indicative of the association of Dominican-ness with greater racial admixture, which has resulted in a significant proportion of Dominicans having non-kinky hair and reddish-colored skin.¹⁰⁸ U.S. consumers are trying to purchase Dominican beauty as well as Dominican services. Similarly, the production and use of skin lightening creams in the Dominican Republic is tied to the historic efforts of Dominicans to distinguish themselves from the darker half of their island—Haiti.

Therefore, Americans—in their tastes and international images—are both negatively affected by the international commodity culture of bleaching, and act as powerful agents for it. As powerful agents, attention should be paid to the images not only of white beauty, but also of black, Asian, and Latino beauty distributed across the globe. Buying white beauty may not be the correct description for this phenomenon at all. Instead, it should be described as “buying out of blackness.”

Even those who reject the prospect of taking responsibility for the third world effects of skin bleach might be concerned by the cycles these products take. While it is currently true that Americans of all ethnicities are relatively secure from the ill effects of cosmetic whitening, they are not absolutely secure. Hypothetically, if I wish to advance my prospects in life, I might analyze Jennifer Hochschild’s research,¹⁰⁹ and taking cues from the most popular music videos, and decide to lighten my skin. I travel to the “hood” after being frustrated by the slow progress from the products at the department store counters. In that “hood,” which is multicultural, I find a product imported from the Caribbean, which I use to lighten my skin. The results could be dramatic. Perhaps a colleague of mine who is white, and affluent, plagued by her age spots and hungry for a quick-acting agent, is impressed by the results and asks me what I use. I would of course share it with her. Over time, perhaps after a Caribbean vacation spent largely on the beach, or just as a result of allergies, we both begin to see our skin hardening and even scarring. Fortunately, we have medical insurance, and physicians who speak our language to listen and intervene. They tell us to stop using the products and even reverse the damage to our skin. Our blood streams are not affected and our bodies and our health remain intact. However, the undocumented worker who cleans homes is often not so lucky. She may have a much greater incentive to make herself “pretty” in the pursuit of the elusive American dream, and must suffer the consequences of bleaching without a physician’s care. A relevant anecdote is the story of a friend of mine, an undocumented nanny from the Caribbean, who has

¹⁰⁷ Joyce Shelby, *Smiles[,] Hair, There, Everywhere: Everyone is Family at Boro Salons*, N.Y. DAILY NEWS, July 24, 2005, available at <http://www.nydailynews.com/boroughs/story/330873p-282799c.html>.

¹⁰⁸ Shannon Shelton, *Getting that Special Dominican Touch*, NaturallyCurly.com, Nov. 2004, <http://www.naturallycurly2.com/curlscene/articles.php?id=365&PHPSESSID=48ef49d72db1f4e5f3351e95b0ab4c10>.

¹⁰⁹ Hochschild, *supra* note 43.

told me of employers specifically requesting lighter skinned child care providers for their children.

The use of skin-bleaching creams was dramatically reduced in the United States when the institution of FDA regulations in the late 1960s dovetailed with the rise of black power and the slogan of “black is beautiful.” Political movement and government regulation reduced the prevalence of the harmful practice. However, globalization introduces a new dimension to the problem. It is likely that as patterns of immigration and the subsequent global cycling of creams increases, along with the growing racialization of global conflicts, the use of skin-bleaching in the United States will dramatically increase.

At a recent conference, a black male law professor said “I try to be as white as possible” in response to a question about how he conducted himself given the circumstances of post-9/11 surveillance. For him, that meant attire, speech, and other status signifiers. For others, the intention is far more literal. Certainly, the prevalence of whitening creams marketed to largely white, affluent, female consumers supports the slogan that encourages everyone to be as white as possible. How do we reconcile the narrative of a vibrantly multicultural America with one that ratifies gentle whitening at home, and markets violently painful whitening in exchange for higher status abroad? A critical response is necessary as to both the products liability issues of the third world and the racial beauty narrative of the U.S. to challenge aesthetics that reflect, ratify, and perhaps even extend color inequality.