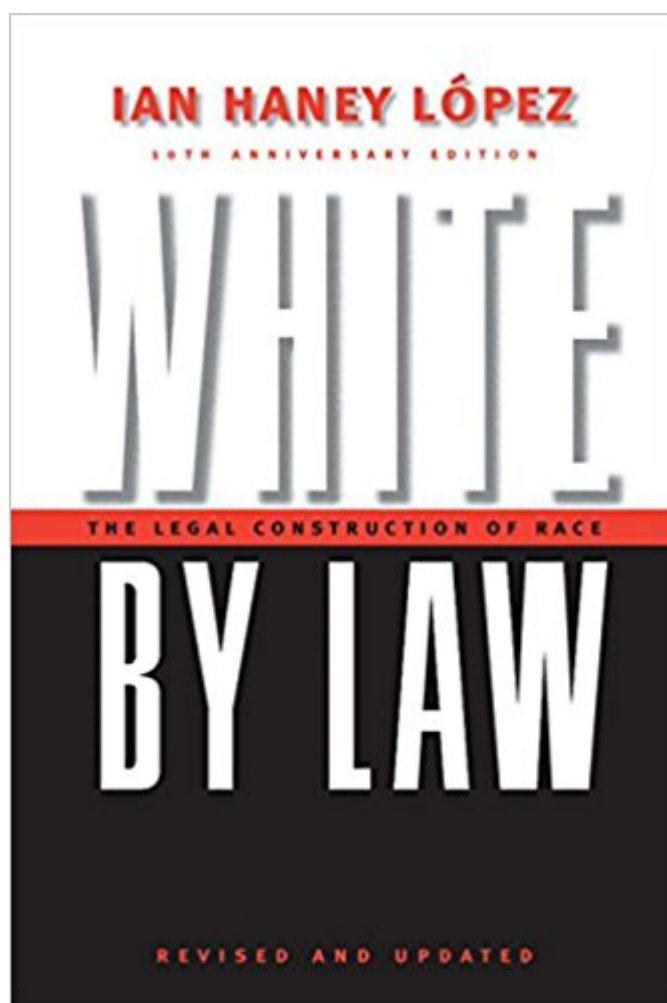


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# White By Law: The Legal Construction Of Race (Critical America)



## Synopsis

Lily white. White knights. The white dove of peace. White lie, white list, white magic. Our language and our culture are suffused, often subconsciously, with positive images of whiteness. Whiteness is so inextricably linked with the status quo that few whites, when asked, even identify themselves as such. And yet when asked what they would have to be paid to live as a black person, whites give figures running into the millions of dollars per year, suggesting just how valuable whiteness is in American society. Exploring the social, and specifically legal origins, of white racial identity, Ian F. Haney Lopez here examines cases in America's past that have been instrumental in forming contemporary conceptions of race, law, and whiteness. In 1790, Congress limited naturalization to white persons. This racial prerequisite for citizenship remained in force for over a century and a half, enduring until 1952. In a series of important cases, including two heard by the United States Supreme Court, judges around the country decided and defined who was white enough to become American. *White by Law* traces the reasoning employed by the courts in their efforts to justify the whiteness of some and the non-whiteness of others. Did light skin make a Japanese person white? Were Syrians white because they hailed geographically from the birthplace of Christ? Haney Lopez reveals the criteria that were used, often arbitrarily, to determine whiteness, and thus citizenship: skin color, facial features, national origin, language, culture, ancestry, scientific opinion, and, most importantly, popular opinion. Having defined the social and legal origins of whiteness, *White by Law* turns its attention to white identity today and concludes by calling upon whites to acknowledge and renounce their privileged racial identity.

## Book Information

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## Customer Reviews

In this study, narrowly academic yet intriguing, Lopez, who teaches law at the University of Wisconsin, examines early-20th-century cases in which courts sought to determine who qualified as white for the purposes of citizenship and naturalization. His conclusion: whiteness is "a complex, falsely homogenizing term." For example, he shows how courts issued contradictory decisions regarding the whiteness of groups such as Syrians, Armenians and Asian Indians; some followed scientific evidence, while most ultimately relied on "common knowledge," thus finding many reasons?including culture and political sophistication?to reject foreigners who might be Caucasian. This leads the author to argue, a bit thinly, that whites must pursue a "self-deconstructive" race consciousness to pursue racial justice. Thus, whites must recognize the racial aspects of their privileged identity and daily engage in "choosing against Whiteness

Words carry social connotations. Some, like "lily white," have positive connotations. With this sense of "whiteness" as his thesis, Lopez (law, Univ. of Wisconsin) writes of the law's recognition of a white racial identity. He focuses on a series of cases, from 1878 to 1944, known as the "racial prerequisite cases." In those cases, state and federal courts sought to define characteristics of "whiteness" necessary to qualify an immigrant for naturalization as a U.S. citizen. Lopez concludes that the basis of today's racial inequality is to be found in the privileged status accorded to white Americans because of this legally sanctioned white racial identity. Sure to be controversial, this book will find a deserved place in academic libraries. The general reader might be advised to turn to Andrew Hacker's *Two Nations* (LJ 3/15/92), John Hope Franklin's *The Color Line* (LJ 3/1/93), and Cornel West's *Race Matters* (LJ 3/15/93).?Jerry E. Stephens, U.S. Court of Appeals Lib., Oklahoma CityCopyright 1995 Reed Business Information, Inc.

This is the first treatment of the U.S. legal systems attempt to prioritize race through a process of common acceptance of white superiority in the execution of law and justice. It is thorough and insightful. I found the author Haney Lopez to be honest and resourceful in his examination of the subject and capable of explaining a difficult subject.

Gems hidden among unnecessarily long sentences and jargon. Too academic for my taste, it just makes it hard to read and inaccessible.

exactly what i needed for class; arrived in great shape

Terrific book! Excellent vendor!

Mr. Lopez does a great service for those white people who have a genuine interest in examining the sources of their color based privileges. Lopez 's depth analysis of the tacit forms of knowledge that sustain the social relationships between the oppressor and the oppressed; the dominant and subordinate cultures, gives the reader enough insight and direction to begin their own self examination. It's a must read for those who want to develop an alternative to a world permeated with racism

White By Law: is the best account, that I have encountered, that explains the formulation of racial ideologies into law. It is well-written, flows easily, goes by quickly, and elucidates the way which American legal institutions have constructed race. This should be a "must-read" for all persons in this country.

In his book *White By Law*, Ian F. Haney Lopez argues that law creates race. To state that Lopez argues anything further than this basic point is moving into dangerous territory. Although Lopez asserts that Whiteness is a "hierarchical fantasy" that should be dismantled, he simultaneously "embraces and protects" Whiteness through arguments of complicitness and gross reversals of opinion, ultimately leading his writing to useless and uninspired conclusions. Through defense of the law, Lopez's personal affiliation with whiteness becomes increasingly apparent, cast in stark contradiction to his own "minority" identity. His own "unconscious whiteness" is more detrimental than David Roediger's because it leads Lopez to believe that the real possibility of deconstructing Whiteness is non-existent. Most telling is the pessimism of the conclusion itself, as only whites can afford to be so down on the possibility of greater racial equality. Lopez's indecisiveness within his own arguments create a sense of inert ranting, useless bitching about Whiteness in which prescriptions are suggested and defeated, depicting the solutions to whiteness as an infinite 'catch 22'. Handing whites the sole ability to deconstruct whiteness, Lopez perpetuates the hierarchical fantasy, the non-reality of a perceived "white privilege", a perspective that backs deconstruction into a corner and usurps the power in critiquing whiteness at all. *White By Law* opens with a harsh critique of whiteness calling it bluntly, "nothing good". From this beginning, Lopez advances himself

as non-white asserting a critical analysis of whiteness. He states that law attaches meaning to race, that white people "cannot be measured or found in nature" and the definition of white is "socially fashioned" (p. 9) with the aid of the law's authority. He most brilliantly describes whiteness as a "hierarchical fantasy" that relies on "inferior minority identities" (p. 31). Despite this, Lopez fails to follow through with the fierce intensity of his arguments. Instead, within this seemingly brutal attack, Lopez contradicts himself incessantly within these first few chapters. The danger of these contradictions lies within their subtlety (his reversals evolutionarily become more apparent in future chapters). Only through scrutinizing examination of his word choice and phrasing does his internal struggle and "white" analysis of whiteness and its construction by law become painfully apparent. A prime example of his contradictory self-defeat lies within the same aforementioned sentence and the entire following page in which he seems to pin point the very nature of Whiteness "Because whiteness is a hierarchical fantasy that requires inferior minority identities, Whiteness as it currently exists should be dismantled" (p.31). In this sentence Lopez simultaneously damns and saves whiteness. The second part of this statement reneges his earlier assertion that Whiteness is void of all positives and his argument that Whiteness is socially fashioned, a fantasy, not real, tangible or measurable in two severely detrimental ways. First, the phrase "as it currently exists," suggests that Whiteness can exist in some other form which is not oppressive or offensive. As long as Whiteness "exists", so does the myth of a racial hierarchy and as long as that myth "exists" people are placed in imaginary boxes with various connotations attached. There is no other form in which whiteness can "exist" without it necessitating dismantling. But, this is not the most contradictory aspect of this sentence. The word "exist" itself entirely, contradicts Lopez's former assertion. For if Whiteness is a "fantasy", then it does not exist. Referring to it as existing demonstrates that Lopez has not denounced Whiteness and its mentality continues to enslave him. If this reference to whiteness as existing was simply a poor word choice, the repercussions may be different, but Lopez refers to Whiteness' "existence" two more times on page thirty-one alone. Therefore the crux of his critique of Whiteness, its instability and falsity, is reputed and the idea of real existence of a white race is, yet again, given credibility. As this page continues he does not in anyway redeem himself, instead he further digs himself into a hole of contradictory statements. He asserts that "in this violent context, Whites should renounce their privileged racial status," once again calling for the deconstruction of whiteness and following this sentence with a buffer, "They should do so, however, not simply out of guilt or any sense of self-depreciation...but because ...whiteness in its current incarnation necessitates and perpetuates patterns of superiority" (p.31). Lopez again suggests there is another incarnation for whiteness that could somehow be good, that would not necessitate superiority. But,

because Whiteness originates as a fantasized lie, it is impossible for it to be reincarnated into some form of truth. Lopez's internal battle continues to undermine his assertions in his analysis of Whiteness' construction through the prerequisite cases. With the prerequisite cases Lopez proves that the law determines race through usage of "common knowledge," "science," or both. He demonstrates the fluidity of whiteness, the absence of a definition, how it is "nothing in particular." Case after case judges indiscriminately choose whichever argument most powerfully confines their defendant to the category of non-white, adamantly protecting their personal idea, as defendants of the status quo of who and what is White. But there is a very damaging element to this approach. By utilizing the prerequisite cases as his founding argument to demonstrate the nature of Whiteness, Lopez paints a misleading portrait of non-white complicitness. While these cases did occur in such a manner, Lopez solely demonstrates non-whites surrendering to the laws' construction of race and attempting to become something else (White) to attain citizenship. The argument of complicitness fails to address the foundational decisions that created these naturalization laws and fails to acknowledge a crucial ingredient in the construction and deconstruction of Whiteness; resistance. Cases in which individuals sought to fight for equal rights and to actively deconstruct these laws (vs. play into them) would equally prove Lopez's arguments about the nature of Whiteness and its legal construction while depicting non-whites power within the situation. By failing to use examples of non-white resistance and solely representing complicitness, Lopez ignores former non-white struggles against the law and current non-white participation in deconstructing Whiteness as represented by law. This perpetuates White mentality that non-white people want to be White while simultaneously arresting non-white power to deconstruct whiteness, thus disregarding an imperative component in the nature of Whiteness and its dismantling. Yet, this is not the height of Lopez's downfall.(...)

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