

## **Thesis**

White Americans used hypodescent and blood Quantum as systems to define Blackness and Indigeneity via miscegenation practices in the 17th and 18th centuries, which in the 19th century were used to marginalise Black people while assimilating Indigenous people to seize tribal lands. This dichotomy was expanded in the 20th century via State-imposed Jim Crow segregationist laws and Federal Acts about tribal citizenship which continue to impact Black and Indigenous people today.

## **Outline**

- I. 17th and 18th century social practices and ordinances by the colonies were used to discourage miscegenation (sexual relationships or marriages) between White and non-White peoples.
  - A. Slave codes and Ordinances by colonies especially around the 1690s were used to discourage White people from entering into relationships with Black people. The punishments and regulations of marriages and offspring in these early policies act as the framework for later miscegenation and blood quantum laws.
    1. Fines and the defining of racial status via the mother of children as punishment and discouragement of creation of “mulattoes” were often written into colonial statutes or ordinances. (Wilkinson 25).
      - a) “Virginia’s 1691 statute aimed at ‘preventing abominable mixture and spurious issue’ between Europeans and those of African, Native American, or mixed ancestry.” (Wilkinson 26)
        - (1) This, along with other statutes like Maryland’s provincial slave codes from 1664 that defined the inheritance of a slave’s social status, are examples of White colonists forming the basis for hypodescent.
        - (2) Virginia’s statute above was also in response to the General Assembly of Virginia’s question about what the status of mulatto children born to a black female slave should be.
      - b) The use of “black blood” according to “at least one-quarter, one-eighth, or one sixteenth” of hypodescent to be legally considered black (Sharfstein 604). These very specific cut-offs of were very common, and would eventually become codified into differing versions of the ‘one-drop rule’ policies developed by state governments in the 19th and 20th centuries.
    2. Were used mainly to preserve the ‘purity’ of noble lineages in the colonies (Wilkinson 35). This is to prevent slave masters from producing mixed children born to Black mothers who might try to get their freedom based on blood, and act as a precedent for establishing White purity as a social basis for not having mulatto children.
      - a) Records from Barbados, Virginia, Maryland, and Bermuda record ‘mulattoes’ in court records in cases related to freedom from bondage (Wilkinson 38-40)
      - b) Wilkinson here employs a bar graph from Susan B. Carter and slavevoyages.org to show how populations in the above records depict the growth of ethnoracial diversity from 1650-1690 as the

number of White and Black people grow, especially in Barbados where over 3/4ths of the population by 1690 were 'slaves' that were either Black or Mulatto. (Wilkinson 41)

- B. Spanish and English persons attempted to assimilate Indigenous people as a strategy for expanding land holdings or forming peace.
  - 1. The Key, Greenstead, Rolfe, and Bollings families (Wilkinson 58). These families are all examples of Indigenous-White miscegenation, the most famous of which being the Rolfe family in which John Rolfe and Pocahontas had a mixed son.
  - 2. Spanish "limpieza de sangre" system in which so many people had children with Indigenous or Black people that hypodescent was used to track White-Indigenous mestizos, White-Black mulattoes, and Black-Indigenous zambos. (Wilkinson 35)
    - a) The famous *Las Castas* painting from the 18th century depicting 20 different racial castes constructed by the Spanish (Rodríguez-García 2013)
    - b) In English colonies, for "Anglo-Indigenous" people an "acceptance into English society required cultural assimilation, which included the adoption of Christianity." (Wilkinson 33).
      - (1) Missionaries like De Las Casas played a major role in converting Indigenous peoples to Christianity for the purpose of erasing them to claim Indigenous lands.
      - (2) This more passive assimilation would be the precursor to boarding schools and blood quantum.
- II. 19th Century state laws and constitutions, especially during the Reconstruction era, were used to formally codify miscegenation laws in response to the manumission of slaves after the Civil War.
  - A. Out of fear of uprooting White supremacy, southern and conservative Whites in state governments wrote new constitutions to codify the 'one-drop rule' and miscegenation laws.
    - 1. Acts and Resolutions of the General Assembly of the State of Florida of 1865.
      - a) "If any white female resident within this state shall hereafter attempt to intermarry, or shall live in a state of adultery, or fornication with any negro, mulatto, or other person of color, she shall be deemed to be guilty of a misdemeanor and upon conviction shall be fined in a sum not exceeding one thousand dollars[...]." (Section 1, Chapter 1,468). Here, we see an example of fears about Black men making White women impure, and so punishing White women with fines or imprisonment per older ordinances from the colonial period.
      - b) "Every person who shall have one-eighth or more of negro blood shall be deemed and held to be a person of color." (Section 3, Chapter 1,468). This acts as an example of "black blood" from the earlier colonial period being codified.

2. “All marriages between a white person and a negro, or between a white person and a person of negro descent to the third generation inclusive, are hereby forever prohibited.” (Article 14, Section 8 of the Constitution of North Carolina, as amended by the Constitutional Convention of 1875 by Johnstone Jones and the Assembly.)
  - a) Here we see how the earlier demarcation of degrees of “black blood” are very much still effect and being codified to a 1/4 of Blackness like the above 1/8th blood measure in Florida.
  - b) We also have an acknowledgement of a “person of negro descent” i.e. mulattoes, who were seen as a threat to White society in during and post-Reconstruction since they could pass as White, which would then later on become a reason for segregation during Jim Crow.

B. “Black Codes” were used by states to enforce miscegenation laws for Black people living in the south that were recently manumitted after the Civil War. These are reminiscent of how slave codes like *The Code Noir* in French Caribbean colonies and English slave codes in South Carolina introduced miscegenation practices, though here they are codified into law.

1. Mississippi Black Codes (1865) – “An Act to Confer Civil Rights on Freedmen, and for other Purposes”. (National Constitution Centre 2024).
2. South Carolina Black Codes (1865) – “Some Misdemeanors”. (National Constitution Centre 2024).

III. 19th Century federal laws were used to establish blood quantum as a measurement of indigeneity for the purpose of land grabbing/allotment, and for sending and ‘saving’ Indigenous children from themselves as a two-pronged attack on Indigenous people.

A. Dawes Act of 1887

1. “Kill the Indian, Save the Man” became the motto of Richard Henry Pratt, the founder of the first major Indigenous boarding school, the Pratt Carlisle Institute. (Berkhofer 1978; Tallbear 45; Sleeper-Smith 267)
  - a) “Kill the Indian, Save the Man” as a quote that embodies blood quantum in that blood quantum works to assimilate Indigenous people by reducing the amount of “Indian” blood in people while making them “closer” to Whiteness or non-Indigenous people to save them from their “savage” ways.
  - b) Oka Crisis as an example of how Indigenous hate still exists. Or Nez Perce and the Dawes Act (Sleeper Smith 272).
2. Dawes Act Rolls of the Cherokee and other tribes (Indian Census Roles, 1885-1940, 2016)
  - a) Dawes Rolls as a way for both the tribes and the US to measure the indigeneity of individuals, originally here for the purpose of allotment via tribal citizenship.
  - b) Cherokee Freedmen and how the Cherokee treated formerly Black slaves who were part Indigenous as lesser or non-Indigenous members to preserve blood quantum in the face of federal Indigenous land allotment policies like the Dawes Act.

- B. Richard Henry Pratt and Alice Fletcher as “Friends of the Indians” to take away lands from tribes like the Nez Perce via blood quantum.
  - 1. Alice Fletcher’s bloc quote here (to be included later) at the Lake Mohonk Conference shows settler/White indifference to allotting/selling plots of land to the Nez Perce from their own reservation based on blood quantum percentage after the passage of the Dawes Act. (Sleeper-Smith 267)
  - 2. Here talk about how the Nez Perce were hit with a two-pronged attack of having tribal lands allotted via blood quantum while also having their children kidnapped to be beaten and murdered in boarding schools like the Carlisle Institute. Also include statistics of the corpses of the children found at the remains of where these schools were from the *Federal Indian Boarding School Initiative Investigative Report* from May 2022 by the Bureau of Indian Affairs in the Department of the Interior.
    - a) Here, also discuss how boarding schools were intrinsically linked to religious institutions like the Presbyterian Church per the report. (DOI 48).
    - b) Which ties back to the colonial period’s use of the Catholic church to assimilate Indigenous people into White society to erase indigeneity.
- IV. During the 19th century, then, States led the charge in codifying miscegenation practices into law with a focus on hypodescent while Federal Acts concerning allotment laws introduced blood quantum.
  - A. Compared to previous practices of miscegenation in the late 17th and early 18th centuries, these new laws were aimed specifically at Black people so as to prevent Mulattoes and Black people from entering White society via hypodescent by the Southern States.
    - 1. Namely, hypodescent, or more commonly known as the “one-drop rule” aimed to make anyone with a certain fraction of Black ancestry as *completely* Black on paper, regardless of if they had mixed ancestry.
    - 2. This was done to *exclude* Black people from society and to discourage White men from fathering Mullattoe children with slaves while discouraging White women from engaging in relationships with free black men.
  - B. On the flip side, the Federal government passed Acts like the Dawes Act to steal Indigenous lands by introducing blood quantum aimed specifically at Indigenous tribes so as to keep track of their “Indigeneity”.
    - 1. This is the antithesis of hypodescent, since blood quantum was based on the goal of *diminishing* fractions of “Indigeneity” in order to claim that a tribe no longer had claim to their lands if they wen’t below a certain threshold of “blood”.
    - 2. As such, blood quantum worked to *assimilate* and therefore erase Indigenous people, *encouraging* Indigenous people to marry into White families or at least join White American culture beaten into them in boarding schools like Pratt’s to achieve this goal of land grabbing and voiding treaties.

- V. 20th Century shifts to Jim Crow laws by the states to further exclude Black people to prevent any chance of miscegenation by using hypodescent to enforce segregation.
- A. States expanded beyond marriage and sexual relationships by using Jim Crow segregationist laws to separate Black and White people using the ruling from *Plessy v. Ferguson*'s "separate but equal clause" to do so.
1. State law/statute of Colorado from 1908 (miscegenation) in which persons engaged in mixed marriages were to be fined between \$50 to \$500 dollars for it. (Murray 1997).
  2. State law statute from California in 1885-1954 (Education/schooling). Needs proper online citation. Acts an example of how "Negroes, Mongolians, and Indians" were forced into Jim Crow segregation.
  3. State law statute 2 (Railroad cars) in Maryland from 1904 which demands that "All railroad companies and corporations, and all persons running or operating cars or coaches by steam on any railroad line or track in the State of Maryland, for the transportation of passengers, are hereby required to provide separate cars or coaches for the travel and transportation of the White and colored passengers." (Chapter 109, pg. 186 of Laws of the State of Maryland)
    - a) Such that there were no chances of sexual or friendly interracial relations among adults and children who were Black with White people.
    - b) Furthermore, beyond having mixed children, the expansion of hypodescent-based segregation goes back to the earlier fear held by White planters and now White politicians in the 20th century of having mulatto individuals pass off as White.
      - (1) Ex. Trevor Noah growing up (story about how on camera he was seen as White, not Black as a kid shoplifting with his friend Teddy)  
<https://www.youtube.com/watch?v=RVYGpVamshI>
      - (2) Peola's character in *Imitation of Life* (1934) as a mixed woman is an example from pop. culture during the 20th century of how mulattoes were a threat because of this ability.
      - (3) *Birth of a Nation* (1915) is another example in which mulattoes are seen as belonging to neither White nor Black society yet undermine "rightful" White supremacy because of their mixed heritage and claim power, like the character of Silas Lynch.
- B. This was only stopped in 1967 when the Supreme Court ruled in *Loving v. Virginia* that state laws pertaining to miscegenation were unconstitutional based on the Fourteenth Amendment.
1. Ruling from *Loving v. Virginia* that "the freedom to marry, or not marry, a person of another race resides with the individual, and cannot be infringed by the State." (NARA 2021)
  2. This ruling was based on the 14th amendment, whose first section says that "No State shall make or enforce any law which shall abridge the

privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws” (NARA 2024).

- VI. 20th Century shifts using blood quantum define tribal citizenship rather than general indigeneity as a means of cracking down on individual tribal land claims. This contrasts with Jim Crow segregation via Indigenous assimilation or erasure (both in terms of diminishing blood quantum and in terms of claiming land).
  - A. The Indian Reorganisation Act of 1934 ends the policy of allotment from the Dawes Act, however blood quantum is shifted from allotment to more subtle land grabbing by changing the focus to be about general Indigenous enrollment.
  - B. Post-WWII/1970s changes to tribal citizenship (Tallbear 57; Gover 244).
- VII. Hypodescent and blood quantum from the 19th century were therefore reinforced during the 20th century.
  - A. Jim Crow laws from the States went beyond preventing marriages and sexual relations by stopping *any* sort of interaction between Black and White people. In effect, segregation is a step above miscegenation since it created entirely different worlds built on an enhanced *exclusion* of Black people from White society in America.
  - B. Tribal Citizenship laws by the Federal government that Indigenous tribes internalised also expanded the role of blood quantum. Rather than defining general “Indigeneity” that did not care for inter-tribal relations, tribal citizenship laws shifted to aim at assimilating specific tribes to take their lands, while tribes themselves used blood quantum to maintain their individual cultural identities in the wake of the waves of Post-WWII Indigenous-White marriages.
- VIII. Conclusion
  - A. Hypodescent and Blood Quantum both define race for Black and Indigenous peoples but in juxtaposed manners in that hypodescent functions to exclude Black people to preserve the purity of Whiteness, while blood quantum is used to assimilate indigeneity into Whiteness under the pretense of saving Indigenous people from themselves.
    - 1. **Counterpoint to arguments that blood quantum/hypodescent don’t exist today:** They both also still have lasting legacies in how blood quantum continues to define tribal citizenship as part of Indigenous social practices now in tribal governments, despite what many right-wing politicians and influencers say.
      - a) Navajo Nation
      - b) Federal vs. state-recognised tribes and how they use blood quantum ex. Hawaii’s 1/2 or 50% blood quantum minimum requirement and the adverse effects that has on Native Hawaiian women (Tallbear 65; Hall 273-280; Trask 1991; Department of Hawaiian Homelands 2024).
    - 2. Notions of hypodescent continue to emerge in regard to individuals who are Bi-racial Black people are still wildly done by conservative people today despite hypodescent-based laws like miscegenation being outlawed.
      - a) Barack Obama

- b) Tiger Woods
- c) Halle Berry.

### **MLA9 Citations**

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## **Memo**

### **Audience**

The journal that I've selected for my audience is "New Errands - The Undergraduate Journal of American Studies". It is a journal that publishes articles written by undergraduate students within the incredibly broad scope of topics that relate to "America". As such, the readers are most likely either fellow undergraduates or academics like American Studies majors from across the country to see what fellow students are researching. I know that besides this broad requirement, the journal is jointly published by Penn State University at Harrisburg and the Eastern American Studies Association (EASA) and has published articles from UMD students (and other East Coast-centric colleges) in the past. New Errands is published bi-annually, specifically at the end of every fall and spring semester which means that I would be able to theoretically send in a manuscript of my article to them either at the end of this semester or later this year if I wanted to publish my final paper.

### **Context**

In my introduction, I will define what hypodescent and blood quantum are, by first introducing hypodescent as the "one-drop rule" that many readers will be familiar with from grade school and then defining blood quantum as the antithesis of that concept, despite both systems' goal of marginalising Black and Indigenous people. I will also need to provide context about settler-colonialism, coined by Patrick Wolfe in 2006 and how it relates to blood quantum as part of the "logic of elimination" of white America, though due to the complexity of the theory I need to figure out where exactly to put this context. I also need to expand significantly on the historical developments regarding the constitutions and Acts passed by the state and federal governments for both hypodescent and blood quantum since I haven't done that in the outline yet and will need to do so in my article. I plan to incorporate this historical and theoretical context in a case-study like manner in one or two sentences when introducing cases like *Loving v. Virginia* or Reconstruction-era state constitutions. I will also need to expand more on how hypodescent and blood quantum functioned in juxtaposed fashions to exclude black people and assimilate indigenous people, which created a racial caste in which black people remained at the bottom, while indigenous people could rise up to "whiteness" in the caste (to a certain extent) if they assimilated and abandoned their lands and cultures. Although I also do not have an introductory page outlined here as one of my main points, I do also plan to discuss how scholarship so far (like my examples below) has analysed these two histories separately, while I'm looking at them through an intersectional lens.

### **Situating the Argument**

I will be using Kim Tallbear's chapter "Racial Science, Blood, and DNA" in her book *Native American DNA* to help situate the historical context of my argument for blood quantum. Her chapter will help to provide a broad overview of how blood quantum was established and how tribes reacted to and internalised it over time. I will be confirming these sources with works that go into more specific temporal detail like Kirsty Gover's article "Genealogy as Continuity:

Explaining the Growing Tribal Preference for Descent Rules in Membership Governance in the United States” which will bring to light specific shifts in blood quantum policies like tribal citizenship in the 1970s.

I will also be using A.B. Wilkinson’s chapter “The Rise of Hypodescent in Seventeenth-Century English America” in his book *Blurring the Lines of Race & Freedom: Mulattoes & Mixed Bloods in English Colonial America* to situate my argument about the origins of hypodescent during the early colonial period. I will be confirming and expanding on this chapter by using the multitude of primary sources that I have (state constitutions, ordinances, Supreme Court rulings, etc.) to affirm how strategies like fines and imprisonment that Wilkinson identifies (as well as the role of religion in hypodescent and blood quantum) began during the colonial period and later became codified in said primary sources both as an immediate response to the end of the Civil War in the 19th century and in their reinforcement in Jim Crow laws of the 20th century.

In using these two sources (among the other secondary sources I have), my aim is to situate my own argument in between these currently isolated histories to reveal how they in fact worked in tandem to form and maintain a racial caste between Black, Indigenous, and White (mainly ethnically Protestant-Anglo) people in the US.

### **Honour Pledge**

*I, James Cho, pledge on my honor that I have not given or received any unauthorized assistance on this assignment/examination.*

### **Peer Feedback Response**

Thanks to Emma’s peer review I have created a revised version of my thesis that I hope makes the distinction that my paper is comparing hypodescent and blood quantum over a chronological period of time. However, I’ve also kept in my original thesis from the rough draft because of Professor Forrester’s preference for it when discussing the outline with him on Friday. I’ve also acted on Brendan’s feedback and capitalised any use of “Indigenous peoples”, “Black people”, “White people”. From Emma and Brendan’s feedback, I’ve also added Main Points IV and VII for the 19th and 20th centuries that go into much more of a compare/contrast analysis of the evolution of hypodescent and blood quantum, as well as a mini-counterpoint in the conclusion (that I plan to work into my introduction) to right-wing people like Trump and others like Ben Shapiro that these two systems don’t affect Black and Indigenous people anymore. Lastly, to Emma’s point about the 20th century expansion on miscegenation, my Main Point VII and additional sub-points now show how laws from different states went beyond marriage and sex by using segregation to completely divide Black and White people to prevent even the likelihood of friendships between Black and Indigenous people during the Jim Crow era.