

**WALKING
WHILE
BLACK**

**WHITE SUPREMACY AS
AMERICA'S RELIGION**

BY PHILLIP BABER



**THE PEOPLE'S CHURCH
OF JACKSONVILLE**

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1.

THE DISCOVERY THAT WALKING WHILE BLACK IS A CRIME IN JACKSONVILLE

In June of 2017, a young Black man, Devonte Shipman, was cited for jaywalking by a sheriff's officer in Jacksonville, Florida.¹ Shipman video-recorded the encounter. The video went "viral" on social media and garnered national media attention.² The officer in the video can be seen threatening Shipman with arrest and attempting to cite Shipman for walking without an I.D. (which is not actually against the law in Florida). Three months later, investigative reporters Topher Sanders, Kate Rabinowitz, and Ben Conarck published an explosive report indicating that over a five-year period (2012 - 2017) Jacksonville Sheriff's Office (JSO) had disproportionately

¹ Ben Conarck, "Video Shows Jacksonville Cop Threatening Young Black Man with Jail after Jaywalking," *Florida-Times Union* (Jacksonville, FL), Jun. 26, 2017. <https://www.jacksonville.com/news/publicsafety/2017-06-26/video-shows-jacksonville-cop-threatening-young-black-man-jail-after>.

² "Video Shows Florida Officer Threatening Man for Jaywalking," CBS This Morning, Jun. 29, 2017. <https://www.youtube.com/watch?v=FBX7yOYNEaU>.

cited Black individuals for pedestrian violations.³ Compared to their White counterparts, Black pedestrians in Jacksonville were three times as likely to be cited for jaywalking, while those jaywalking in the city's three poorest (and predominantly Black) zip codes were six times as likely to be cited.⁴ Sheriff Mike Williams denied that JSO was intentionally targeting Black people.⁵

The disproportionate punishment of Black pedestrians in Jacksonville is not simply an example of a racist governmental policy. Rather, it is corroborating evidence of Eric Weed's thesis that such racist policies themselves are an effect of a superseding theological cause.

³ Topher Sanders, Kate Rabinowitz, and Benjamin Conarck, "Walking While Black: Jacksonville's Enforcement of Pedestrian Violations Raises Concerns That It's Another Example of Racial Profiling," *Pro-Publica*, Nov. 16, 2017. <https://features.propublica.org/walking-while-black/jacksonville-pedestrian-violations-racialprofiling/>.

⁴ Sanders, Rabinowitz, and Conarck.

⁵ Sanders, Rabinowitz, and Conarck.

2.

THEO-HISTORICAL SUPPORT THAT WHITE SUPREMACY IS AMERICA'S RELIGION

Weed, building upon the work of Willie James Jennings and James W. Perkinson, forcefully argues that the *de facto* religion of the United States of America is not Christianity, but White Supremacy.⁶ His conclusion is derived through a “theo-historical” methodology:

The theo-historical method of analysis provides the lens through which the demonic nature of white supremacy is revealed through the analysis of history. Reading U.S. history in this particular fashion [...] demonstrates how this religious system is maintained through the elevation of whiteness beyond a scientific or political measure to a divine status.⁷

In support of his conclusion, Weed applies his theo-historical methodology in analyzing several events throughout the

⁶ Eric Weed, *The Religion of White Supremacy in the United States* (Lanham, MD: Lexington Books, 2017).

⁷ Weed, xxii-xxiii.

history of the United States, ranging from the Pequot War to Arizona's more recent passage of the anti-immigration legislation SB 1070. I will apply a similar methodology in analyzing Jacksonville's criminalization of "walking while Black" to further bolster Weed's claim that White Supremacy functions as—in the words of Paul Tillich—an "ultimate concern"⁸ in America that rightly classifies it as a religion.

⁸ Paul Tillich, *Dynamics of Faith* (New York: Harper & Row, 1957), 1.

3.

JUDEO-CHRISTIAN DICHOTOMIES USED TO ANOINT WHITE PEOPLE AS GOD'S CHOSEN

A recurring motif within Judeo-Christian religious traditions is the dichotomization of the human race into a divinely appointed “in-group” and “out-group.” The in-group is known as “God’s chosen people” or “the elect.” The out-group is everyone else, sometimes referred to as “heathen” or “the children of wrath,” etc. In Judaism, God’s chosen people are the Jews. Under Christianity, via the doctrine of supersessionism,⁹ the Jews were replaced as God’s chosen people by the Christian church. Weed notes that the doctrine of supersessionism was applied by theologians such as Alessandro Valignano to justify colonization of the New World, which led ultimately to another form of supersessionism in which the Christian church was replaced as God’s chosen by White people, leaving people of color to be identified as the otherized-enemy of Christ.¹⁰ This dichotomization has

⁹ Jim Fodor, “Scripture,” in *The Routledge Companion to the Practice of Christian Theology* ed. Mike Highton and Jim Fodor (Abingdon: Routledge, 2015). Accessed Feb. 6, 2020. Routledge Handbooks Online.

¹⁰ Weed, 23.

historically been used to justify numerous atrocities, including genocide of Indigenous peoples and the enslavement of dark-skinned people of African heritage.¹¹

Of course, anti-Black racism did not end with the Civil War. Though the Emancipation Proclamation outlawed slavery in the Confederacy, it did not grant Black people “God’s-chosen-people status” enjoyed by White Americans. Black Americans continued to remain outsiders to the Kingdom of God, and this status was reinforced by continued assaults on Black communities throughout the rest of American history, from the crushing of post-Civil War Reconstruction, Southern Black Codes, Jim Crow, ghettoization and red-lining, to the War on Drugs.

¹¹ Weed, 13.

4.

CONTROLLING BLACK BODIES

Weed recognizes that White Supremacy, as an American religious system, enforces its values-structure via the state “through controlling the destiny of nonwhite bodies.”¹² This feat is accomplished first by separating Black bodies from White bodies through ghettoization. But racial segregation alone does not propitiate the god of White Supremacy. White Supremacy demands the continued subjugation and domination by God’s chosen over the outsiders, lest—through their own merits—the outsiders actually attain some semblance of equality and thereby disprove the underlying faith-claim that Whites are, inherently, divinely superior. This possibility ever remains an existential threat to the viability of White Supremacy as a worthy ultimate concern. Thus, White Supremacy, through the White state (with its monopoly on violence), intervenes. The police, as the enforcement arm of the state, punish Black bodies to subjugate, humiliate, and maintain domination over Black bodies and Black psyches.

But White control over Black bodies is not limited to police brutality. As Michelle Alexander deftly illumines in *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, the entire American criminal justice system—including the War on Drugs

¹² Weed, 16.

—is essentially a conspiracy to control the Black population by subjugating their bodies through legal means.¹³ “Conspiracy” is certainly the appropriate word here. In 2016, President Nixon’s domestic policy chief, John Ehrlichman, went on record saying the following:

The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people.... You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war, or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders. Raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.¹⁴

Alexander highlights America’s drug war as an example of nominally colorblind laws that were applied disproportionately—and thus discriminatorily—to decimate Black communities and control Black bodies, including chilling Black citizens’ freedom of movement. Alexander highlights a study from the 1990s demonstrating that although only 15 percent of drivers on the New Jersey Turnpike were racial minorities, 42 percent of all police stops and 73 percent of all arrests were of Black motorists.¹⁵ In Maryland, Black people comprised only 17 percent of all drivers along a stretch of I-95, yet 70 percent of those stopped and searched were Black—this despite the fact that White people were more likely than people of color to be

¹³ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012).

¹⁴ Dan Baum, “Legalize It All: How to Win the War on Drugs,” *Harper’s Magazine*, April 2016, <https://harpers.org/archive/2016/04/legalize-it-all/>.

¹⁵ Alexander, 133.

carrying illegal drugs in their vehicles.¹⁶ In New Jersey, White people were twice as likely to be carrying illegal drugs or other contraband compared to Black people.¹⁷ Similar results were found in studies in Florida, Illinois, and California.¹⁸

In the studies mentioned above, the target of police enforcement was motorists; in Jacksonville, the target was pedestrians. This may be the reason that the Jacksonville case caused such an immediate and visceral reaction among local residents and catapulted the report to national attention. It is a clear abuse of power when the state exerts such discriminatory and draconian control over the manner in which an individual moves their body through the simple act of walking, especially in their own community. It is an offense to bodily autonomy and thus also to human dignity. But for precisely this reason, it is not surprising that JSO chose to exert such domination over Black pedestrians in their own neighborhoods.

¹⁶ Alexander, 133.

¹⁷ Alexander, 133.

¹⁸ Alexander, 134.

5.

POLICE DISCRETION AS A GOD-LIKE EXERCISE OF GRACE AND CONDEMNATION

The Jacksonville law against jaywalking should have been a law of equal application. There was nothing in the statute indicating that Black pedestrians should be cited more often than White pedestrians. But, in execution, this is precisely what happened. Structural racism explains much of this disparity, but another salient factor is police officer discretion.

Police officers have long possessed wide discretion in how they enforce the law. Some defend this power of discretion by arguing that such flexibility spares citizens from over-zealous enforcement.¹⁹ Because of the multitude of federal, state, and local statutes, we are all, constantly, breaking the law whenever we step outside our homes. D. Arthur Kelsey, then judge on

¹⁹ See, e.g., The American Bar Association, “Standards on Urban Police Function,” Standard 1-4.1. “Exercise of discretion by police: The nature of the responsibilities currently placed upon the police requires that the police exercise a great deal of discretion—a situation that has long existed but is not always recognized.” Accessed Feb. 6, 2020. https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_urbanpolice/#1-4.1.

Virginia’s Court of Criminal Appeals, wrote in a 2015 case involving a traffic stop: “So dense is the modern web of motor vehicle regulations that every motorist is likely to get caught in it every time he drives to the grocery store.”²⁰ In some jurisdictions, drivers have been pulled over simply for having a pine-tree air-freshener hanging from their rearview mirror.²¹ Pedestrian laws are similarly convoluted and over-reaching. When the “Walking While Black” report was released, Jacksonville had at least 28 different pedestrian statutes that allowed for citations when crossing during a yellow light, failing to cross a street at a right angle, failing to walk on the left side of a road when there are no sidewalks, and not walking on a sidewalk when one is available.”²²

America’s complex “modern web” of laws bears striking similarities to St. Paul’s dim view of the Mosaic Law. And the results are identical. To paraphrase the Apostle: The law has made sinners of us all. And if indeed we have all fallen short of the glory of God, then the discretion exercised by police to enforce or not enforce the letter of the law is a God-like function. Predictably, grace is bestowed to the chosen of God—in this case White people; condemnation under the full penalty of the law is granted to the rest—i.e., Black people. The obvious racial discrepancies that occur as a direct result of police discretion (the power to grant or withhold grace) may be the most damning evidence that our nation treats White persons as the chosen people of God while ensuring people of color—and especially Black people—will always remain reprobates.

²⁰ Mason v. Commonwealth, Record No. 1542-13-2 (VA CT. APP 2015). <https://caselaw.findlaw.com/va-court-of-appeals/1691076.html>.

²¹ Ken Armstrong, “How the Supreme Court Made It Legal for Cops to Pull You Over for Just About Anything: Even Hanging an Air Freshener,” *The Marshall Project*, Aug. 3, 2015. <https://www.themarshallproject.org/2015/08/03/how-the-supreme-court-made-it-legal-for-cops-to-pull-you-over-for-just-about-anything>.

²² Sanders, Rabinowitz, and Conarck.

6.

THE SPECTER OF INTENTION VIS-À-VIS HAMARTIOLOGICAL AND SOTERIOLOGICAL CONCERNS

Structural racism propagates itself without the need for personal racial animus in the minds or hearts of individual actors. Likewise, an exercise of police discretion that results in substantially more Black people being cited for breaking a nominally race-neutral law is not necessarily indicative of actual intent to racially profile by any police officer.²³ Intent, of course, is not required for White Supremacy to operate. In fact, the absence of racist intent may be a better indicator of the true insidiousness and ubiquity of White Supremacy in our country. (God is invisible, after all.) However, this defense was repeatedly wielded by the Sheriff when asked to correct the problem: The police denied the seriousness of the harm and demanded to be absolved of their sinful actions because they did not *intentionally* target Black pedestrians.

²³ “Subjecting people to stops and searches because they live in ‘high crime’ ghettos cannot be said to be truly race-neutral, given that the ghetto itself was constructed to contain and control groups of people defined by race.” Alexander, 132.

Intent can be an important factor for constitutional analyses of state actions;²⁴ however, intent is not required to define an action as “sinful” according to many hamartiologies. That said, I do not find Augustine’s doctrine of Original Sin or Calvin’s conception of Total Depravity to be an appropriate model to understand the nature of the evil presented by White Supremacy in the Jacksonville case. I prefer instead the conception of the “hamartiosphere,” coined by José María González Ruiz and developed by Gustavo Gutiérrez.

Gutiérrez argues that “Sin is found in oppressive structures, in the exploitation of humans by humans, in the domination and slavery of peoples, races, and social classes. Sin arises... [as] the fundamental alienation, the root situation of injustice and exploitation.”²⁵ He identifies sin as “a social historical fact, the absence of fellowship and love in relationships among persons, the breach of friendship with God and with other persons, and as a consequence, an interior, personal division.”²⁶ Thus he appeals to a model of sin that José María González Ruiz calls “the hamartiosphere,” which is “a kind of parameter or structure which objectively conditions the progress of human history itself.”²⁷

Gutiérrez does not absolve humans of their responsibility for the creation or maintenance of the hamartiosphere; however, he emphasizes the social dimension of sin and the power of it to “objectively condition[] the progress of human history.” Under the hamartiosphere model, JSO officers are essentially replicating the evil of the social system of which they are a part,

²⁴ See, e.g., See *Washington v. Davis*, 426 U.S. 229 (1976), which required plaintiffs to prove a perpetrator’s discriminatory “intent” to prove an anti-discrimination claim.

²⁵ Gustavo Gutiérrez, *A Theology of Liberation: History, Politics and Salvation*, trans. and ed. Caridad Inda and John Eagleson (Maryknoll, NY: Orbis Books, 1973), 175.

²⁶ Gutiérrez, 175-176.

²⁷ Gutiérrez, 175.

which may not require a willful, intentional decision. The JSO are conditioned/influenced by the hamartiosphere, as are its more obvious and direct victims (e.g., people of color).²⁸ And so JSO—and White people more generally—find themselves in desperate need of salvation. But the spirit of Christ that can deliver them is found only in the people they oppress. Paulo Freire famously observed, “It is only the oppressed who, by freeing themselves, can free their oppressors.”²⁹ Thus, while the moral responsibility to tear down idolatrous altars dedicated to White Supremacy is primarily borne by those who benefit the most from the continued existence of that religious system, the actual work of tearing down systemic racism is borne by all, both people of color and White people, but for very different reasons: “People of color must work to tear down White Supremacy in order to save their lives; White people must do so in order to save their *souls*.”³⁰

²⁸ The hamartiosphere strikes me as an apt model to also explain the phenomenon of internalized oppression. One of the most tragic examples of internalized anti-Black racism was revealed in Mamie and Kenneth Clark’s infamous “doll test” of the 1940s, in which Black children expressed a preference for White baby dolls over Black baby dolls. (See “How Dolls Helped Win *Brown v. Board of Education*: Deceptively Simple Doll Tests Helped Convince the Supreme Court to Strike Down School Segregation,” *History Stories*, Aug. 31, 2018. <https://www.history.com/news/brown-v-board-of-education-doll-experiment>. Likely no individual ever explicitly taught these children that White skin is more beautiful than Black skin. Rather, Black children—like White children—absorbed this idea through cultural osmosis, which I take to be an example of how the hamartiosphere quietly and insidiously “conditions the progress of human history” without drawing attention to itself.

²⁹ Paulo Freire, *Pedagogy of the Oppressed*, 30th anniversary ed., trans. Myra Bergman Ramos (New York: Continuum, 2000), 1.

³⁰ It was anecdotally communicated to me that this is a paraphrase of a statement written or spoken by cofounder of the Black Lives Matter movement, Alicia Garza. Unfortunately, I have been unable to track down the original quote.

7.

CONCLUSION/EPILOGUE

The “Walking While Black” report galvanized local Jacksonville activist groups, including the city’s largest faith-based, direct-action organization, ICARE (the Interfaith Coalition for Action, Reconciliation, and Empowerment). I served as co-President of ICARE when this report was published and was directly involved in numerous closed-door meetings and public actions with Sheriff Williams. At our largest annual meeting in April 23, 2018, in front of nearly 1500 constituents, I asked Sheriff Williams the following question: “Can you commit to us that whatever changes you have made in light of [...] these reports that have come out [...] that you will continue those changes—this trajectory—to ensure that the rates of pedestrian fines [...] will look much closer to the proportion of Black and poor residents in this city?”³¹ He responded: “Absolutely. I think there’s a fairness principle to that.”³²

Whether or not Sheriff Williams kept this promise is a question of debate between JSO and the reporters who initially

³¹ From unreleased video of April 23, 2018 ICARE Nehemiah Assembly at Abyssinia Baptist Church in Jacksonville, FL. Video is in my possession.

³² Unreleased video.

published the report.³³ However, the fervor over this issue among the people of Jacksonville diminished greatly after the ICARE event. I believe this was partially a result of the Sheriff's promise to the assembled citizens, but more likely because of his response to a separate question regarding increasing funding to the city's anti-recidivism program. Sheriff Williams stated, "You will continue to see initiatives and operations that work to build trust, that are very strategic in their approach to enforcement. *Again, to work to repair some of the damage that's been done over years and years and decades of bad practices in not only Jacksonville but nationwide.*"³⁴

Many longtime Jacksonville residents spoke with me after the event and indicated that this was the first time they had ever heard a police officer—let alone a Sheriff—admit to "decades of bad practices." I believe the Sheriff's confession of the sins of his office went a long way that evening to mollify the righteous anger of the assembled. While much more is still needed in terms of police accountability, this statement was an acceptable starting point for many in our communities.

³³ Topher Sanders and Benjamin Conarck, "Jacksonville Sheriff Uses Misleading Data to Defend Pedestrian Ticketing," *ProPublica*, Apr. 20, 2018. <https://www.propublica.org/article/jacksonville-sheriff-uses-misleading-data-to-defend-pedestrian-ticketing>.

³⁴ Unreleased video.

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