

COMPUTER GAMES, RACIAL PLEASURE, AND DISCURSIVE RACIAL SPACES

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For my discussion of the theme of this conference, *defining race*, I offer a different context for study—computer games. My approach to this non-traditional arena for defining race is not that of a gamer—my most complicated computer games are versions of solitaire. My son is a hard-core gamer, and I have often looked over his shoulder and thought, “wow, that looks amazing” as he whizzes through virtual worlds, slaying dragons or shooting his way through battlefields. With that very limited experience, I only started to research this area after I was invited to participate in State of Play II, a conference on law and computer games.¹

I. COMPUTER GAME RACIAL IMAGES

Computer games are now a very important part of popular culture. While television and cinema remain dominant media for popular expression, the internet has gained an enormous audience and may surpass them in influence. Computer gaming is less visible, but is an enormous enterprise. I was reminded of this size by a recent press release from Blizzard Entertainment on the latest version of World of Warcraft.² The makers of this Massively Multiplayer Online Role Playing Game (MMORPG) noted that their current online paid membership had passed eleven million subscribers, a number greater than the entire population of the state of Ohio.³ Further, beyond the initial cost of the game, each member pays a monthly fee to participate in the game online. No matter how one does the arithmetic, this is an enormous industry.

¹ See generally THE STATE OF PLAY: LAW, GAMES, AND VIRTUAL WORLDS (Jack M. Balkin & Beth Simone Noveck eds., 2006).

² Blizzard Entertainment, World of Warcraft Subscriber Base Reaches 11.5 Million Worldwide, <http://www.blizzard.com/us/press/081121.html> (last visited June 11, 2009).

³ Robin Wauters, *World of Warcraft Hits 11 Million Subscribers Mark, Shows Signs of Slowing*, WASH. POST, Oct. 29, 2008, available at http://www.washingtonpost.com/wp-dyn/content/article/2008/10/29/AR2008102902036_pf.html.

Within computer games, there are countless worlds of human and creature images. When you see the images, you look at some of them and observe, “these are racialized.” This intuition is well grounded and has been explored in cultural studies.⁴ But the study of racial images is not a well developed area of legal investigation. To examine this material, one needs to examine and study various computer games. Compared to normal legal research—reading cases and law review articles—this research is so much fun that it is difficult to stay focused upon the jurisprudence involved. But finding the law is central to this analysis. As a writer on race and law, my task was to develop an analysis of the racialized images in computer games that can be linked to existing legal discussions of race in the law. To pursue this examination, two queries shaped my research: First, I ask, How is this *racial*? Do I have criteria to test my assertion? Second, where’s the *law*? In what way is this a legal question? With these two considerations in mind, I present here an outline of my research to date.

The body images in computer games vary wildly. In some games, the settings are realistic and track familiar racial stereotypes. The very successful game “Grand Theft Auto” is set in a gritty urban environment.⁵ The most recent version, Grand Theft Auto IV is a thinly disguised New York City full of the usual stereotypical representations of criminal behavior.⁶ These representations are clearly susceptible to an analysis of the racial imagery. One could carry out a straightforward comparative examination of the stereotypes reproduced in Grand Theft Auto IV against a catalog of existing well-known and documented stereotypes. Such an examination would be possible, but did not attract my interest.

I was more interested in the body images found in fantasy games. Drawing from many fantasy traditions and the original role-playing game, Dungeons and Dragons, fantasy role-playing characters can include elves, dwarves, fairies, goblins, trolls and wizards. In seeing these images, there is again a sense that many of these are racialized. However, this intuition is not as strong. Various body-types may be dark and menacing, but are not so easily seen as a racial stereotype. Given these less closely related visual cues,

⁴ See generally RACE IN CYBERSPACE (Beth E. Kolko, Lisa Nakamura, & Gilbert B. Rodman eds., 2000); LISA NAKAMURA, DIGITIZING RACE: VISUAL CULTURES OF THE INTERNET (2008) (analyzing individuals “data images” online).

⁵ Rockstar Games: Grand Theft Auto IV, <http://www.rockstargames.com/IV/> (last visited June 11, 2009).

⁶ *Id.*

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fantasy figures are not susceptible to a simple representational analysis.

To investigate the fantasy figures, I turned to my research in other areas of cultural and social studies where race has already been identified as present. I looked at leisure—non-work or non-family settings. The areas that I examined were spectator sports, participation sports, theater, film, art history, and other computer game studies.

I soon found a descriptive term for these leisure activities in “flow theory.” The idea of flow is complete involvement in what one is doing and other ordinary considerations fall away.⁷ That notion from psychology and business studies of how to design e-commerce websites provided a starting point for my research.

Sports offered two different dimensions for examination. I looked at participation sports because computer games include an interactive dimension. Players are not passive, but are actively involved in the game. Players are constantly doing something. That participation is a crucial element in computer games. In contrast with that kind of participation, the sociological literature on sport and play examined the terms by which we participate in various sports.⁸ Besides the fact that the literature did not focus upon personal participation, the attractions of physical activity seem to me to be qualitatively different from those of computer gaming.

Spectator sports seemed more promising. The spectator is passive and enjoys or consumes the play on the field or on television. In the history of amateur and professional sports, there have been strong racial linkages. Legendary sport figures came to mind. Jim Thorpe in the Olympics, Jackie Robinson in professional baseball and current stars like Tiger Woods in professional golf and Venus and Serena Williams in professional tennis are obvious examples. Most of the racial commentary, however, focused upon social segregation and racial exclusion. Those are clearly racial, but they address a question different from the flow-experience nature of computer gaming.

The areas of theater studies, film theory, and traditional art history are overwhelming in their breadth. But I had already encountered some of the literature on race in film and race in theater through my work in Asian American Studies and Black

⁷ MIHALY CSIKSZENTMIHALYI, *FLOW: THE PSYCHOLOGY OF OPTIMAL EXPERIENCE* (1990).

⁸ Sports sociology is now a well established sub-field of sociology.

Studies.⁹ My observation, upon reflection, was that my own past interest had focused upon structural questions of white supremacy in cinema and theater. In reading about the classic case-study of race in cinema, D.W. Griffith's *Birth of a Nation*, I had been most interested in how the film had introduced revisionist racial histories into popular culture. I had been less interested in the aesthetic aspect of the racial portrayals. In short, I needed to look away from my past focus on structural analyses and examine alternative approaches to race. These observations pointed me towards questions of aesthetics and pleasure.¹⁰ While the connection was hardly direct, linking the flow-experience nature of computer gaming—activities with no conventional—to the aesthetic pleasures of watching racialized portrayals in film and theater seemed to be a promising approach.

II. RACIAL PLEASURE

The crucial link from law to these observations on aesthetics came through a re-reading of Anthony Farley's work on race. I looked again at *The Black Body as Fetish Object*, Farley's 1997 study applying psychoanalytic and Foucauldian themes, especially sadomasochism, to race in America.¹¹ In that article, Farley begins by explaining his basic understanding of race and pleasure:

Race is the preeminent pleasure of our time. Whiteness is not a color; it is a way of feeling pleasure in and about one's body. The black body is needed to fulfill this desire for race-pleasure. In our colorlined world, the white body is a form of desire and the black body is a form of pleasure.¹²

In this description of race, the racialized body is inextricably linked to what Farley calls *race-pleasure*, the peculiar form of pleasure that is part of the totality of race in America.¹³ He goes on to provide a context for race-pleasure and economic and political racial exploitation:

⁹ See, e.g., THE BIRTH OF WHITENESS: RACE AND THE EMERGENCE OF U.S. CINEMA, (Daniel Bernardi ed., 1996); FRAMING BLACKNESS: THE AFRICAN AMERICAN IMAGE IN FILM (1993); JOSEPHINE LEE, PERFORMING ASIAN AMERICA: RACE AND ETHNICITY ON THE CONTEMPORARY STAGE (1997).

¹⁰ For an introduction to aesthetics in a legal context, see Alfred C. Yen, *Copyright Opinions and Aesthetic Theory*, 71 S. CAL. L. REV. 247 (1998).

¹¹ Anthony Paul Farley, *The Black Body as Fetish Object*, 76 OR. L. REV. 457, 461, 464–65 (1997).

¹² *Id.* at 458.

¹³ *Id.* at 460–61.

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Not all bodily pleasures are sexual. People can create pleasures out of very peculiar things, even out of suffering or inflicting pain. Race is such a pleasure. The colorline, like love, is a many-splendored thing, and its definition is elusive. The colorline, in one aspect, is comprised of the rules of the sadomasochistic game also known to us as race relations. In other aspects the colorline appears as a form of economic or political exploitation. The economic and political contours of colorlined space are well-charted but the sensual aspects of colorlined space remain an undiscovered country. This exploration reveals the racialized body as a form of pleasure.¹⁴

Farley thus charts out a multiple mapping of the “colorline” or race relations.¹⁵ The very familiar terrains of economic or political exploitation have extensive literatures, including substantial legal analyses. The unfamiliar realm is that of race-pleasure.¹⁶ Race-pleasure encompasses the pleasures that can be derived from the racialized Black body.¹⁷ For this paper, I suggest that one can see the body in computer games as a dimension of race-pleasure. For a flow-experience activity such as computer gaming, the suggestion of pleasure as being a critical dimension seems intuitively obvious. My suggestion is that we can link the pleasures of computer gaming with Farley’s identification of race-pleasure.

Race-pleasure is where I am able to place the racial images found in computer games. We consume those images. To the extent that we experience in that consumption of racial images, the pleasures of the American “sadomasochistic game also known to us as race relations,” we derive race-pleasure.¹⁸ This experience of racial pleasure in computer games is derivative of the lived nature of the “colorline” and “colorlined space.”¹⁹ Even when seen as secondary experiences, the racialized body images in the context of the flow experience of a computer game seem a dimension of race-pleasure.

Through linking computer games and race-pleasure I am able to address one of my framing queries—are the images in computer games racial? With the analysis provided by *The Black Body as Fetish Object*, my answer is yes.

¹⁴ *Id.* at 459–460.

¹⁵ *Id.* at 461.

¹⁶ *Id.* at 460–61.

¹⁷ *Id.* at 464.

¹⁸ *Id.* at 459.

¹⁹ *Id.*

III. STRUCTURAL APPROACH TO COMPARATIVE RACIAL ANALYSIS

The next question in our exploration of race in computer games is whether there is a legal analysis of race in computer games. To address the legal question I drew upon my work studying the racialization of Asian Americans.²⁰ In that work, to provide a structural framework for a comparison of the Black racialization and Asian American racialization, I developed a three element approach using: 1) Body Primitive, 2) Racial Category, and 3) Ascribed Racial Profile.²¹

To provide a brief overview, consider the notion of a racial profile. The concept is related to the idea of a stereotype. Using the idea of a stereotype as a starting point, I suggest that the racial profile, when analyzed, reveals a structure that helps to understand the process of racialization as it is practiced today.²²

Consider first the standard scenario of a police stop for “driving while Black.” A law enforcement official sees a driver and recognizes a particular body type—African. That particular body type has been historically classified into a socially constructed racial category, Black or African American.²³ As part of the understandings associated with that racial category, a racial profile immediately enters the law enforcement officer’s mind. Black is associated with criminality and potential violence. The officer then acts based upon the linkage of these three elements: body, racial category, and racial profile.

In my work on Asian American Jurisprudence, I developed this three-element analysis to show how one can compare the processes of Black-White racialization with Asian American racialization.²⁴ A chart summarizes those three elements.

²⁰ See Neil Gotanda, *Comparative Racialization: Racial Profiling and the Case of Wen Ho Lee*, 47 UCLA L. REV. 1689 (2000).

²¹ *Id.* at 1692.

²² *Id.* at 1691.

²³ *Id.* at 1695.

²⁴ *Id.* at 1691–92.

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THREE ELEMENT ANALYSIS OF COMPARATIVE RACIALIZATION²⁵

<u>Body Primitive</u>	<u>Racial Category</u>	<u>Ascribed Racial Profile</u>
African	Black	Inferior, Criminal, Violent
Caucasian	White	Superior
Asiatic	Chinese, Japanese, etc.	Foreign, Inassimilable, Disloyal, Terrorist
Asiatic	Asian American	Model Minority

Each of the three elements is combined for the process of racialization in everyday life. The three elements also allow a better description of racial profiling. Racial profiling uses the “spaghetti-on-the-wall” technique as its basic methodology.²⁶ The profiler (whose race is largely irrelevant) selects a target individual. Based upon the target person’s body and cultural configuration (dress, style, language), the profiler selects a racial profile from available popular culture and “common sense” racial understandings.²⁷ The profiler then in some fashion applies the profile at the body to see if it sticks. If the target or others recognize the profile and act to carry out the effort at racial domination, then the profiling is complete. There has been an act of racial subordination.

This analysis provides us with three distinct elements for consideration. One dimension, racial profiles, are part of our popular culture and everyday understandings about race. Such cultural notions are difficult to address in the law. The controversies surrounding racial profiling in law enforcement reinforce the idea that cultural factors are not easily modified by such traditional avenues as statutory reforms or judicial decisions. This does not mean that racial profiles may not be addressed, but that the politics of the racial profile will not be the same as those involving equal protection.

²⁵ *Id.* at 1692.

²⁶ This refers to testing whether spaghetti is cooked by throwing it against the wall to see if it sticks.

²⁷ In *New Directions in Asian American Jurisprudence*, I refer to this as the “Free Floating Body of Racial Knowledge.” See Neil Gotanda, *New Directions in Asian American Jurisprudence*, 16 ASIAN AM. L.J. (forthcoming Summer 2009).

The second element, Racial Categories, are more familiar. In constitutional law, a racial governmental classification can be the basis for the traditional strict scrutiny standard of review.²⁸ Racial classifications also are a foundational element to examine race discrimination under Title VII and other parts of the Civil Rights Act of 1964.²⁹ To find discrimination on the basis of race in employment, there must be stable racial categories to identify the various parties. Thus, this second element provides a familiar link to race in the law. This is the area that is most familiar to us as the domain of traditional civil rights. This is a rich and complex history, but one that remains the center of legal attention on questions of race.

The final element—the Body Primitive—does not seem to be a part of current treatment of race in the law. The notion of the body is, however, essential in the manner in which race is lived. In our perception, we recognize people based upon body types. We racially classify an individual based upon some notion that there are standard physical body aspects that we can use to assign race. These body types are no longer explicitly recognized in the law but are easily recognized. I refer to them as Body Primitives because they relate back to the most basic color schemes of racial classifications: Black, Brown, White, Yellow. This element seems least susceptible to legal critique and legal politics since it remains invisible.

The body classifications are the link to race-pleasure. We may recognize a body type and relate to that person through a racial profile, but racial pleasures seem to be tied to the *body* in a process that is not an explicit calculation. Race-pleasure is enjoyed and is not part of a rational process. We can see this through the example of employment discrimination. Recall the observation that employment discrimination is based upon racial categories. If an employer discriminates on the basis of race, there are economic consequences and an economic analysis.

There is also an added dimension of race-pleasure associated with this act of racial subordination. Thus, when a supervisor denies employment to the Asian American employee by saying that “she has an accent” (when she speaks perfectly well), or fails to hire an

²⁸ For my examination of the origins of this doctrine, see Neil Gotanda, *The Story of Korematsu: The Japanese-American Cases in CONSTITUTIONAL LAW STORIES* 249, 270 (Michael C. Dorf ed., 2004).

²⁹ See, e.g., THEODORE EISENBERG, *CIVIL RIGHTS AND EMPLOYMENT DISCRIMINATION LAW* 10 (1996) (listing selected statutes addressing employment discrimination based on race).

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African American arguing that “he doesn’t have the necessary skills to do the job” (when he is perfectly well qualified) there is an important component of race-pleasure enjoyed by the supervisor. That race-pleasure is linked to the body and the stereotypes used to deny employment.

IV. DISCURSIVE RACIAL SPACE

After this exploration, I feel strongly that we can say that the images in computer games—even fantasy games—are susceptible to a legal analysis. We can use our three-element analysis to further refine how we might seek racial social change. If we seek to address traditional racial discrimination, then our focus is upon the racial category. If we are engaged with the other two elements—the racial profile or race-pleasure linked to the body—then our legal politics must be different. The racial profile is located in our general popular culture. And such culture and ideas are traditionally protected. Such images and culture are protected from government interference with our beliefs under the First Amendment. And if the images are to be bought and sold, they are protected by copyright and contract.

The elements of profiling and the body seem sufficiently different from the traditional legal treatment of race-discrimination that an alternative terminology may be appropriate. I suggest that we use the term discursive racial spaces to describe the domains in which we engage racial profiles and the body primitive. The term provides a suggestion for the different kind of social change that is needed to address racialization involving the body or racial profiles.

The pleasures of computer gaming do not seem to be the most natural starting point for a racial analysis. But the powerful nature of the flow-experience in computer games and the extraordinary breadth and social power of gamers and the gaming industry suggest that this is an area deserving of critical analysis and social activism.