

Alabama Law Scholarly Commons

Essays, Reviews, and Shorter Works

Faculty Scholarship

2013

Racial Templates 2014 Survey of Books Related to the Law: Review

Richard Delgado

University of Alabama - School of Law, rdelgado@law.ua.edu

Juan F. Perea

Follow this and additional works at: https://scholarship.law.ua.edu/fac_essays

Recommended Citation

Richard Delgado & Juan F. Perea, *Racial Templates 2014 Survey of Books Related to the Law: Review*, 112 Mich. L. Rev. 1133 (2013).

Available at: https://scholarship.law.ua.edu/fac_essays/191

This Article is brought to you for free and open access by the Faculty Scholarship at Alabama Law Scholarly Commons. It has been accepted for inclusion in Essays, Reviews, and Shorter Works by an authorized administrator of Alabama Law Scholarly Commons.

RACIAL TEMPLATES

*Richard Delgado**

*Juan F. Perea***

A WICKED WAR: POLK, CLAY, LINCOLN, AND THE 1846 U.S. INVASION OF MEXICO. By *Amy S. Greenberg*. New York: Alfred A. Knopf. 2012. Pp. xix, 279. Cloth, \$30; paper, \$16.95.

INTRODUCTION

This riveting tale of greed, international skullduggery, and behind-the-scenes heroism recounts the events that led up to America's "wicked war" with Mexico.¹ It depicts how expansionist ambitions in high circles fueled jingoistic propaganda (pp. 25, 34–35, 58), fed a public eager for national muscle flexing (pp. 57, 103, 108), and set the stage for a military skirmish in a disputed region between two rivers (pp. 75–77, 95, 100, 138) that provided the pretext for a savage and short-lived military campaign against the weak new nation of Mexico in which the U.S. Army, under General Scott, marched all the way to Mexico City, marauding as it went.² On arrival, President Polk's negotiator dictated terms of surrender under which Mexico ceded nearly half its territory—what is now the states of California, Nevada, and Utah, and parts of Arizona, Colorado, Kansas, New Mexico, Oklahoma, and Texas (pp. xvii, 258–61)—a land grab that accounts for about one-third of the current continental United States.³

As America's first foreign campaign, the War with Mexico strengthened the hold of slavery in the South, paving the way for the Civil War a generation later.⁴ It launched Lincoln's career, although he opposed it (p. xvi);

* John J. Sparkman Chair of Law, University of Alabama School of Law.

** Professor of Law, Loyola University Chicago School of Law.

1. This was Ulysses S. Grant's description of that war, uttered as he lay dying. Pp. xiii, 274. "I thought so at the time, when I was a youngster, only I had not moral courage enough to resign." P. 274. The Civil War, he said, was "our punishment" for that "transgression." P. 274.

2. Pp. 132–33, 156. General Taylor received most of the credit, p. 121, although he had help from a number of other detachments, one under Brigadier General Kearny that drove into Mexican lands to the west, another under General Wool that marched to Chihuahua, and a third under Captain Frémont that marched into California and declared it independent. Pp. 121–22, 138. Scott assumed overall command sometime later. P. 143. The officers in each unit were entitled to as many as four servants, most of whom were black. P. 139. Many of these servants deserted when they realized that Mexico, which had long since repudiated slavery, was the real land of freedom. P. 183.

3. See p. 56 (illustrating the geographic extent of Mexico prior to the war); RICHARD DELGADO, JUAN F. PEREA & JEAN STEFANCIC, *LATINOS AND THE LAW: CASES AND MATERIALS* 23–24 (2008) [hereinafter *LATINOS AND THE LAW*] (discussing the extent of the accession).

4. See p. xiii.

brought Henry Thoreau, who abhorred it, to national prominence;⁵ and sparked the country's first antiwar movement (p. xvi). With its explicitly racist rhetoric, the war marked the first time in the United States' seventy-year history that it invoked race as a justification for expanding its borders.⁶ The war also facilitated future uses of racist rhetoric in oppressing domestic minorities.⁷

Let us first examine the war itself as portrayed in Amy S. Greenberg's *A Wicked War: Polk, Clay, Lincoln, and the 1846 U.S. Invasion of Mexico*.⁸ This will first entail examining the parts played by five political figures—some young, some senior—together with their families and children.⁹ Then we shall show the prominent role of what we call “racial templates”—linguistic frames, habits, and attitudes of mind—in the War with Mexico and later. As we shall see, these templates, often operating at an unconscious level, predisposed society and individual actors to reproduce risky or oppressive behavior in arenas far beyond the ones in which they first emerged. Identifying these templates is a necessary first step in reducing their sway.

I. FIVE MEN, THEIR WIVES, AND CHILDREN

Greenberg tells the war's story through the eyes of five men who played large parts in it,¹⁰ as well as through the experiences of their wives and

5. See p. 196.

6. See p. xviii.

7. See p. 115.

8. Amy S. Greenberg is the Edwin Erle Sparks Professor of History and Women's Studies at Pennsylvania State University.

9. P. xiii. As we will see, Greenberg's narrative approach, focusing as it does on individual lives, feelings, and ambitions, allows a deeper investigation of the roles of race and identity than does an approach focusing on the war in more conventional terms, such as the number of cannons that the two sides deployed against each other or the military maneuvers that the armies performed. Such an approach also enables the reader to see how domestic racism and colonial oppression are often linked by many of the same justifications and purposes.

10. The men are Henry Clay, James K. Polk, Abraham Lincoln, John J. Hardin, and Nicholas Trist. P. xiii. Two of the five names might be unfamiliar to readers. Colonel Hardin was a young congressman from Illinois and a contemporary of Lincoln's, and he died at the Battle of Buena Vista, as did Clay's son. Pp. 52–53, 162. Hardin's courage made him a national hero and for a brief period Lincoln's greatest rival, although not over the war, which, like Lincoln, he soon came to oppose. Pp. xiv, 151. In fact, Hardin's death “removed a key obstacle from Lincoln's rise to power.” P. xiv. His example was typical of many of those who fought in the war. They began as patriots who fought out of love of country but ended as opponents of a war whose premises they came to doubt. P. xiv.

Trist was Polk's peace negotiator who betrayed his president's ambitions and settled the war on comparatively mild terms. Pp. 174–75, 259–62. Like Hardin, Trist came to see the war as a betrayal of the young nation's ideals. P. 223. Lincoln opposed it from the beginning and may have lost his Illinois congressional seat because of this opposition. P. xvi. Yet his antiwar speeches won him national attention and enabled his subsequent run for the presidency. P. xvi. In opposing the war, Lincoln could count on the support of the three-time presidential candidate Henry Clay, whose courageous opposition to the war was, until Greenberg published her book, largely absent from the histories of that period. Pp. xv, xvii. *A Wicked War*

children.¹¹ Rather than focusing on the military side of the war, Greenberg develops the political narrative that accompanied the buildup to the war and the war itself (p. xiii), highlighting the role of ideology, expansionist fever, and the five individuals and their families in guiding or opposing a war that would shape this country's destiny, laws, and demographic realities (pp. xiii–xiv). The book also recounts the development of the country's first peace movement, which included workers, military deserters, and intellectuals such as Charles Sumner, James Russell Lowell, Ralph Waldo Emerson, William Lloyd Garrison, and Henry Thoreau, who went to jail rather than pay taxes that would support an unjust war (pp. xvii, 193–97). Thoreau subsequently wrote an essay, entitled *Civil Disobedience*, setting out his thoughts on the subject.¹²

Greenberg begins her treatment of this neglected chapter in American history by describing four years in the career of Polk, the war's most influential and effective backer (Chapters Two and Three). Egged on by his strong-willed wife, Sarah (pp. 29–31, 72–75), Polk, a childless man who lacked any military experience, nevertheless micromanaged the war (pp. xv, 28, 94–95, 144, 175, 219), beginning with the skirmish that enabled him to pin the blame on Mexico (pp. 9–12, 76–77, 95). The war's military maneuvers receive little attention from Greenberg, but the war was bloody, with one of the highest casualty rates of any American campaign. Over 10 percent of the 79,000 American soldiers who fought in the war ultimately died, most of them from disease (pp. xvii, 129). Mexican casualties ran high as well (p. xvii).

Far from regretting it, Polk remained an enthusiastic backer to the very end (Chapters Four and Five). Like the other four men—even those, like Trist and Lincoln, who were of a more peaceable disposition—Polk was a product of a warrior period, forged in fights against England and the Indians (pp. xviii, 27). As the son of wealthy slaveowners and a slaveowner himself, he was also accustomed to thinking of nonwhite people as chattels or obstacles in the way of progress (pp. 27, 36, 95–96). It was thus easy for him and others of his inclination to view the War with Mexico as simply an extension of the struggle they had been waging against the Indians. It also explains how they came to see the Mexicans in much the same way as they saw their slaves, beings of a lower order of humanity.¹³

reveals Clay's opposition and its influence on the young, impressionable Lincoln for the first time.

11. Particularly Sarah Polk, the wife of President Polk, and Henry Clay, Jr., the son of Henry Clay, a prominent politician of liberal, antislavery leanings.

12. Thoreau's famous essay contains the following lines: "Witness the present Mexican war, the work of comparatively a few individuals using the standing government as their tool; for in the outset, the people would not have consented to this measure." P. 196 (internal quotation marks omitted). Other intellectuals and political figures also objected to the war. See, e.g., pp. 105–07 (describing the role of John Quincy Adams and Robert Winthrop).

13. See pp. xviii, 33. Treacherous, too—Polk and his cabinet pretended that it was the Mexicans who, by shooting eleven Americans in an incident around a campfire in a disputed border region, had declared war on the United States. When the U.S. Army marched all the

Not everyone subscribed to this view. The country waged war over the objection of significant numbers of Americans who were opposed to or ambivalent about it (pp. xvii, 196, 205–07). As well they should have been—historians now acknowledge that the land taken from Mexico at great cost to both sides could have been acquired by diplomacy and purchase (pp. xvii–xviii). The land was of little value to Mexico but of much to the United States. As with the Oregon Purchase and other deals by which the fledgling country increased its size, the United States might have traded things of value with Mexico and remained on good terms.¹⁴

Of the five narratives, Polk's story, which opens the book (Chapter Two), is one of the more revealing. An ambitious man with an even more ambitious wife, he was as single-minded a backer of war as others, especially Clay, were diehard opponents.¹⁵ Polk also embraced Texas's annexation, which he saw as a necessary preliminary to a war with Mexico, with rich stakes in the offing.¹⁶ A devotee of Manifest Destiny (pp. 36–37, 55–58), Polk also favored annexing the entire Oregon Country under the slogan "Fifty-four forty or fight,"¹⁷ envisioning a United States that spread from ocean to ocean and encompassed British Columbia and the island of Vancouver (pp. 34, 55). As a slaveholder, he also welcomed the entry of Texas into the Union as a means of strengthening the institution of slavery.¹⁸

His instinct proved right. Sensing that the public supported expansion (pp. 9–10, 55–57) and smarting over the small but decisive defeat Mexican

way to Mexico City, it was merely acting in self-defense, since Mexico's act had precipitated a state of war. P. 104.

14. See p. 97.

15. See generally chapter 1, describing the opposition of Clay, a three-time presidential candidate with a long record of public service, great charm, and rousing rhetorical skills.

16. See pp. 33–37. For Polk, those rich stakes included "a land of unparalleled ports and unfathomed natural resources, the richest, most beautiful, and the healthiest country in the world." Pp. 67, 257 (internal quotation marks omitted) (illustration).

17. Pp. 34, 58, 84–85 (internal quotation marks omitted). This vast expanse was jointly administered by Britain and the United States. P. 15. Many Americans hated the British and wanted the entire Northwest in U.S. hands alone, believing it was destined to become U.S. territory. P. 84.

18. See pp. 8–9, 36–37. When Polk arrived on the national scene, Texas had just declared its independence from Mexico. Earlier, Mexico had encouraged Americans to migrate to its thinly populated North in the hope of bolstering relations with the United States. It allowed the Americans to homestead on favorable terms and acquire Mexican citizenship. See pp. 8–9, 36–37; see also Margaret Swett Henson, *Anglo-American Colonization*, TEX. STATE HIST. ASS'N, <https://www.tshaonline.org/handbook/online/articles/uma01> (last visited Jan. 10, 2014). Mexico had, however, failed to reckon with two things: First, the Yankees would bring slaves, in contravention of Mexican law, which had abolished the institution decades earlier. P. 183. And second, the Americans would not settle quietly into their new status as Mexicans. Texans were soon agitating for independence, which they achieved in 1836 after capturing the Mexican commander and forcing him to sign a treaty recognizing Texas's independence. Mexico's Congress quickly repudiated the treaty, but the Texans managed to hang onto independence for over a decade while repeatedly importuning the American government to grant it statehood. See pp. 8–11. These requests set in motion a great national debate over slavery's role in the fledgling American nation.

forces dealt the Americans at the Alamo, he rode to victory in the presidential election of 1844 when his opponent, Clay, made the biggest mistake of a long and distinguished career: opposing intervention in Mexico.¹⁹ Polk also had the support of Andrew Jackson—or Old Hickory, as he was popularly known—who saw in his young protégé a continuation of his own bloody policies (pp. 24–25, 27, 29, 31–35, 40–42, 46–47, 62, 267).

Polk quickly made good on his campaign promises, sending an emissary to Mexico City to negotiate the purchase of northern Mexico (pp. 77–79). When Mexico refused to sell, he dispatched Taylor to a disputed border region in hopes of provoking conflict.²⁰ The Mexicans obliged, firing on a small detachment of U.S. soldiers and killing eleven of them.²¹ Congress promptly declared war, but Polk did not wait for the declaration (Chapter Five). Even before news of the attack reached Washington, Polk's cabinet had decided to ask Congress for a declaration of war, citing Mexico's refusal to cooperate with U.S. territorial ambitions.²²

Much of the country was soon in the grip of wartime fervor (Chapter Five). Clay's son and Hardin, Lincoln's fellow politician from Illinois and one of Greenberg's five signature figures, quickly signed up as colonels to fight in the Mexican campaign (pp. 113–17). Hardin, the namesake and grandson of a Revolutionary War patriot and Indian fighter,²³ had been the first from his state to enlist (p. 180). Henry Clay Jr. was less enthusiastic, agreeing with his father's misgivings but still feeling an obligation to fight for his country (p. 124). Both died martyrs' deaths in the Battle of Buena Vista, Hardin when twenty Mexican lancers charged at him while firing.²⁴

19. Chapter 3. A Kentuckian, Clay opposed slavery and believed, as did Lincoln and many others, that the country should expand through developing industry, trade, and infrastructure rather than by conquest and territorial expansion. See pp. 21, 32, 47, 51, 234.

20. Namely, the land between the Nueces and Rio Grande rivers. P. 100; see also pp. 9–10, 67 (describing the nature of the conflicting claims to the region). Polk hoped to provoke a "messy little incident." See pp. 76–77, 84 ("[Polk] ordered Taylor's forces to march to the Rio Grande and take up a defensive position deep in the heart of the disputed territory. . . . Surely this would force Mexico's hand . . . [T]he Mexicans would throw the first punch . . . or . . . back down."); see also pp. 95–100 (explaining Taylor's reluctance to cooperate in creating such a pretext).

21. See pp. 77, 84, 95 (describing the provocation); p. 102 (describing the skirmish itself).

22. Pp. 95, 102–05. Polk demanded that Congress recognize that Mexico, by its actions, had declared war on the United States and that Congress should recognize this reality and appropriate funds for a war that had already started. P. 104. Any congressman who voted no, then, could be seen as betraying the troops. Pp. 95, 104.

23. The grandfather, an expert marksman, fought in many Indian campaigns, taking scalps and laying many villages to waste, including one that was amicable. After leading his troops into a trap that resulted in 22 American deaths, the grandfather responded by burning 300 Indian houses and 20,000 bushels of corn. Pp. 52–53. He died a coward's death when some Shawnee Indians, bent on revenge, murdered him and his slave while they slept. P. 53.

24. Pp. 159, 162–65. In the words of one of his men, "[T]hus perished an officer, than whom none was ever more beloved." P. 159 (internal quotation marks omitted). Hardin's death, which cleared the way for Lincoln's successful run for Illinois political office, pp. 180–81, may have resulted from a blunder, p. 182 (noting that he led his men into a trap,

The war itself went well at first and was very popular²⁵ but then took a turn for the worse. After a string of successes, the U.S. Army marched into Mexico City in September 1847, massacring large numbers of Mexican villagers along the way and sustaining numerous casualties, many of them from disease.²⁶ Many soldiers defected, with some of them joining the Mexican troops against their former comrades.²⁷ When news of the ill-disciplined troops' many murders reached the American public,²⁸ the tide turned. Even papers that had backed the war turned against it.²⁹ Except in the South and

which resulted in 91 of them dying). He nevertheless received a hero's funeral that lasted for days and featured eloquent speeches by scores of dignitaries, virtually all of them oblivious of how, by the time of his death, Hardin, like Trist and Lincoln, was beginning to question the premises of the very war he was fighting. Pp. 182–89.

25. See p. 120 (quoting sources attributing the U.S. Army's early successes to "the order of providence that the Anglo-Saxon race was not only to take possession of the whole North American continent, but to influence and modify the character of the world" and praising how the American troops made the "perfidious Mexicans bite the dust" (internal quotation marks omitted)). An Illinois paper rhapsodized that "[t]he serpent of the Mexicans arms now writhes in death agony in the beak of the American eagle." P. 120 (internal quotation marks omitted). Others showered praise on Taylor, whom they considered a military genius. Pp. 120–21. With victory all but assured, an All Mexico Movement sprang up. See pp. 212–13, 258. Some urged that the United States not rest content with just a few states but annex all of Mexico, where white soldiers and colonial administrators might marry and have children with pretty *senoritas*. See, e.g., pp. 216–17. Others saw taking Mexico as a favor that the superior Anglo-Saxons would do for the country's brown-skinned people. See p. 224 ("I have made up my mind that we have to conquer and occupy the whole country and regenerate this ignorant, superstitious and vicious race." (internal quotation marks omitted)); p. 216 ("[T]his fantasy was [not] limited to politicians, editors, and novelists. Some in the occupying army had similar thoughts.").

26. See pp. 129–34, 209–11. American deaths totaled over 13,000, a mortality rate Greenberg believes is the highest of any American foreign war. See pp. xvii, 287 n.15. The 1846 campaigns in Matamoros and Monterrey produced particularly high casualties from illness and disease.

27. P. 204 (describing the St. Patrick's Battalion ("San Patricios") of European deserters); see also pp. xvii, 102, 203–04, 209. Many of Taylor's troops were recent immigrants whose loyalty to America was tenuous. Quickly realizing that the war they were fighting was one of colonial occupation, like the war they had experienced in their home country at the hands of the British, they were reluctant to impose more of the same on the underdog Mexicans. They stole away and fought bravely for the Mexican forces, earning the undying gratitude of the Mexican nation. See p. 203. On the fate of some of them when Mexico City fell, see p. 210.

28. See the young Grant's reaction, in a letter to his fiancée, Julia, to the

"great many murders" and "weak means made use of to prevent frequent repetitions. Some of the volunteers and about all the Texans seem to think it perfectly right . . . even to murder [the villagers] where the act can be covered by the dark. And how much they seem to enjoy acts of violence too! I would not pretend to guess the number of murders that have been committed upon the persons of poor Mexicans . . . but the number would startle you."

P. 131; see also p. 193 (noting the many "robberies, rapes, and even murders committed by soldiers"); pp. 194–95 (noting the killing and scalping of twenty-five Mexican civilians hiding in a cave and the killing of twenty-four Mexican rancho residents to avenge the battlefield death of a comrade), pp. 210–11 (noting that "[d]ecades of Indian Wars had left their mark on U.S. combat," including racist attitudes toward the Mexican people).

29. See, e.g., pp. 192–95.

West, the war was now unpopular.³⁰ These polarized attitudes set the stage for the Civil War a few years later.

Polk finally bowed to the inevitable. Realizing that the war was encountering opposition—not to mention incessant guerrilla activity by the Mexicans, who refused to be defeated (pp. 222–23)—he resolved to negotiate peace with the Mexicans on terms that would satisfy his party's territorial ambitions (pp. 212–13). Two final figures played a part in winding down the war: Trist and Clay. Trist, a young protégé and family member of Thomas Jefferson (having married his granddaughter), was serving in the War Department as a translator when Polk appointed him chief negotiator in charge of dictating peace terms with the Mexicans (p. 174). But as the negotiations began, Trist realized he could not in good conscience drive the hard bargain with the Mexicans that Polk wanted. He had begun government service enthusiastically, believing the propaganda that was sweeping the nation; he also felt, like Hardin, that service in the campaign was his patriotic duty (p. 90). He believed in Polk and his party's expansionist agenda (p. 93). But his travels in Mexico with Scott's army persuaded him otherwise. The Mexicans fought bravely, and the many slaughters the inexperienced, undisciplined American troops committed must have given him pause.³¹ Trist finally negotiated a treaty on terms much less favorable than the ones Polk sought, incurring the president's wrath and effectively ending Trist's career.³²

When he learned of the treaty Trist had signed, Polk was furious, but the growing antiwar movement forced his hand. Clay, Polk's former rival, was continuing to speak against the war, with its "waste of human treasure . . .

30. It was especially unpopular with readers and intellectuals astute enough to realize that the war proceeded in part from the desire to spread slavery. Pp. 197–98; *see also* pp. 129, 190, 196–97, 262, 266 (discussing the Wilmot Proviso, which would have forbidden slavery in all of the territories taken from Mexico); *supra* notes 11–12 and accompanying text. Walt Whitman, who began as an enthusiastic supporter of the war, had second thoughts when he realized that its costs were being borne by workingmen and slaves. P. 197. Even Taylor, encamped with his troops in Mexico, had his doubts, writing to his son-in-law that he had lost faith in Polk and his war. P. 199.

31. *See* p. 238 (noting that Trist came to realize that the Mexicans "were fighting to protect their homes and families" and that the U.S. forces were senselessly violent, making "him 'ashamed' to be an American"). Even Scott (who supervised the infamous Trail of Tears, p. 171) noted the "atrocities" and "horrors" that American forces committed in Mexico. Pp. 134 & 301 n.49 (internal quotation marks omitted). The siege of Veracruz was an illustrative event. The Mexicans refused to surrender; Scott prevented the evacuation of women and children; and then his forces rained down 48 consecutive hours of artillery—463,000 pounds of shot and shell—which inflicted "staggering" casualties and left the city a smoking ruin. Pp. 170–72. In response to this carnage, American newspapers and liberals redoubled their resistance. Pp. 171–72. Similar episodes, such as the fall of Mexico City, mortified and shamed Trist, influencing the tenor of subsequent peace negotiations. Pp. 222–23, 238.

32. Pp. 218–24, 238–40, 260–61. In doing so, Trist ignored Polk's earlier order to come home, realizing that his defiance was unprecedented in the annals of diplomacy and would cost him dearly. Pp. 239–40. Trist arranged to sign the Treaty of Guadalupe Hidalgo in the town of the same name, considered by the Mexican people the most sacred site on earth, being the scene of the Virgin Mary's appearance to a poor Indian many years earlier. P. 259.

mangled bodies . . . death.”³³ When newly elected Congressman Lincoln, who was travelling with his family, happened to hear Clay’s most famous antiwar speech, which a crowd of thousands attended and which accused Polk in earnest, eloquent tones of waging a war of aggression,³⁴ Lincoln felt emboldened to speak out against the war for the first time.³⁵ He even challenged Polk to identify the very spot where Mexican soldiers shed American blood, implying that if this were known it might turn out that the Mexicans killed the Americans on Mexican soil in defense of their own homeland.³⁶ The “tame spiritless fellow” was beginning to spread his wings;³⁷ later, he would come out against slavery as well (p. 262).

Clay’s courageous speech, and a separate speech by Lincoln (pp. 248–54), unleashed a wave of public protest against the war (pp. 236–37, 253). Clerics began preaching against it, and embedded journalists found the courage to report atrocities (p. 263). The people of Massachusetts rose up against the war, inspiring those in other states to do the same (p. 263). Faced with growing opposition, as well as stubborn Mexican resistance, Polk gave in, submitting for signature Trist’s draft treaty, which protected some of the rights of Mexicans living in the region that would become part of the United States while limiting the amount of territory that would change hands.³⁸ The Senate passed a revised version by an overwhelming margin (p. 262). With the war over, Polk fired Trist from his temporary position in the State Department and withheld his pay for the period he served in Mexico.³⁹ Polk also did everything in his power to deny Trist future employment. Still, Trist left Mexico convinced he had done the right thing.⁴⁰

33. P. 232 (internal quotation marks omitted).

34. Pp. 228–32. For Clay, “it was Mexico, not the United States, that was ‘defending her firesides, her castles, and her altars.’” P. 232.

35. Pp. 228–38, 248–54. Hardin’s death cleared the way. Until then, the wealthy and well-connected Hardin had held the advantage. See p. 181. When Lincoln won his seat, he renewed his opposition to the war, borrowing some of Clay’s arguments. P. 249. His opposition was courageous, since it could have cost him reelection two years later. Pp. xvi, 250–51, 254. Before this time, he opposed the war mainly on pragmatic grounds, as a distraction from nation building. P. 119.

36. Pp. 248–49. Theodore Parker wrote that it was the Mexican soldier, not the American, who was in the right, since the former “fought for his country, her altars and her homes, while the American volunteer fell inglorious and disgraced, a willing murderer, in that war so treacherous and so cruel.” P. 168 (internal quotation marks omitted).

37. P. 118 (internal quotation marks omitted).

38. See pp. 260–61. At one point, Polk and some of his allies wanted to take all of Mexico. See pp. 256–57 and *supra* note 25 for a discussion of the various boundaries Polk and his allies considered. Trist’s treaty recognized Mexican land grants and property rights, provided for U.S. citizenship of former Mexicans living in the annexed territory, and protected the occupants from Indian raids. The treaty established the border between the two countries at the Rio Grande. P. 259.

39. See p. 264.

40. Chapter 13. The other young idealist, Hardin, had died a senseless death a few years earlier in the Battle of Buena Vista. See *supra* note 24 and accompanying text. In similar fashion, his grandfather, a famous Revolutionary War figure, had died at the hands of Shawnee

Even with overwhelming force on its side, America ended its Mexican adventure in compromise: "Polk got California, but it was the antiwar movement that conquered a peace" (p. 263). Trist and Clay did what they felt was right, ignited a national movement, and set the young Lincoln on his anti-slavery path (pp. 262–63). The first two paid with their careers. The war-hungry Democrats expanded the country's borders, incurred the everlasting ire of Mexico, and revealed a side the rest of the world had not seen before.⁴¹ Some of them paid with their lives. The rest merely took those of others.⁴²

Lincoln learned many lessons from the war, including when to compromise and when to blend politics with ethics and ethics with expediency. He paid a price with many of his true-blue Illinois constituents who detested his refusal to sign on wholeheartedly to the Mexican campaign. But of all the figures that this rich story interweaves, Lincoln alone went on to greatness (pp. 269–71).

II. RACIAL TEMPLATES

Young lawyers can learn from the courage of the Clays, father and son, as well as from Trist and Lincoln, who stopped an avaricious war and, in Lincoln's case, a little later, slavery.

But readers of all ages and political orientations can learn from Greenberg's book. One lesson we find particularly noteworthy is *recurrence*. Many of the same racial scripts that Greenberg highlights (*they* are evil and base, *they* have it coming, *we* deserve the best for ourselves) are familiar from earlier chapters in American history, in particular from Indian campaigns and African slavery.⁴³ But just as remarkably, these scripts recur decades or centuries later in connection with oppressive measures against Chinese and

Indians, murdered while he slept. The Indians hated him for his vicious and underhanded style of fighting. Pp. 52–53.

41. As Greenberg puts it, "After dismantling a neighboring republic for the sole purpose of aggrandizement, could the United States any longer make claims to altruism in international affairs?" P. 269.

42. See p. 268 ("In total more than 12,500 U.S. soldiers perished, as well as at least 25,000 Mexicans.").

43. Many of these scripts will be familiar from Part I. For example, Greenberg states,

The war against Mexico did not take place in a vacuum. . . . A warrior tradition, forged in battle against Britain and the Indian inhabitants of North America, and honed through chattel slavery, set the stage for America's invasion of Mexico The war . . . was in many ways a predictable development, given the nearly uninterrupted series of wars against Indian peoples fought by the United States government from its earliest days. Widespread racism led many Americans to equate Mexicans with Indians and to conclude that the former were no more deserving of their own land than the latter.

P. xviii; see also pp. 95–96 ("Polk's concept of justice was unquestionably shaped by his experience as a slave master. . . . [He] believed the domination of white over black was part of God's plan."); p. 113 ("Mexicans 'are reptiles in the path of progressive democracy,' the *Illinois State Register* declared, who 'must either crawl or be crushed.'"); p. 115 ("The people of Mexico were clearly racial inferiors, 'but little removed above the negro,' according to the *Democratic Illinois State Register*.").

Japanese laborers, Mexican bracero workers, and Latino and Muslim immigrants today. It is as though the country learns that a rationalization that works for oppressing one group is apt to come in handy for oppressing another. Rhetoric and justifications become part of a cultural repertoire that lies ready at hand when society needs to justify a new action of a questionable nature.⁴⁴ It seems to make little difference whether the oppression is colonial (visited on another nation) or internal (selecting a domestic minority as its target). Targets change, but the motives⁴⁵ and the rhetoric used to justify them do not.⁴⁶

But it is not only rhetoric that recurs. The underlying behavior does, too. Why they do so is a question that Greenberg's book raises but does not address. The answers emerge only by taking a larger view and examining racial and colonial oppression over the ages, as well as by studying the mindset of those perpetrating it. Let us now examine the role of templates in Greenberg's book itself, including in the minds of those who fought in the war. Then we shall examine templates and recurrence in later periods, including in our own time. This will entail looking at the ways in which mechanisms establish and perpetuate themselves and ultimately spread to other settings and races.

A. *Racial Templates in the "Wicked War"*

As Greenberg shows, both slavery and the wars against Indians shaped leading Americans' views of Mexicans and helped justify the invasion of

44. See p. xviii (racism); pp. 95–96 (racism and national honor); p. 107 (political pragmatism); p. 115 (racism); see also *infra* Sections II.C–D (explaining how cultural transmission occurs).

45. The most common motives are acquisition of land, profit, and dominion over subjugated peoples. See *infra* Section II.B (noting that much of the rhetoric for America's "wicked war" appeared earlier in connection with Indian wars and slavery and later when America needed to justify Jim Crow, Puerto Rican annexation, and restrictive immigration measures for Latinos and Muslims).

46. See *infra* Section II.B (noting how certain tropes and justifications recur in connection with practically every form of oppression, such as that the victims are base and stupid; deserve their lot; are not making good use of valuable resources; enjoy serving us; are not good for anything else; the land was ours by right; they are heathen; and we Christians—and hence the land is ours because God designed it for us (and they refuse to convert, being mired in pagan beliefs)). Thus, in connection with the War with Mexico,

None of this [wanton slaughtering] should have been surprising. As youths, most of the volunteers had thrilled to tales of Texas heroism and Alamo martyrs. Even enlightened U.S. soldiers were, by modern standards, racist. They saw Mexico as an immoral nation and Mexicans themselves as an inferior race practicing a suspect religion [Catholicism]. Many who volunteered felt deep enmity for the people of Mexico, and conflated them with Indians and African American slaves.

Pp. 131–32. National leaders of great stature, such as Polk and Hardin, believed that acquiring Mexico was God's will and that it must "pass from its current shiftless residents to hard-working white people better able to husband their resources." Pp. 75–76; see also pp. 57, 151.

Mexico.⁴⁷ We call the process by which this happens a racial template. In such a template, an already well-established set of values, attitudes, tropes, and images shapes the perception of the self and of others.⁴⁸ The basic structure of racial templates in the United States⁴⁹ is a positive orientation toward whites and whiteness and a corresponding negative one toward nonwhites; the templates' basic function is to provide a psychological justification for exploitation, conquest, or other forms of subjugation.⁵⁰ In the case of the War with Mexico, "[w]hite Americans could rest easier if the sufferings of other races could be blamed on racial weakness rather than on the whites' relentless search for wealth and power."⁵¹ Racial templates are almost always operating in national encounters with people understood as outsiders or "others."

To understand how racial templates emerge and spread, let us examine them in connection with the War with Mexico, the period shortly following it, and in our time. Let us also examine the mechanisms by which these templates emerge, as well as the functions they serve for the dominant culture.

1. Recurrence Operating Within a Single Generation

Some examples of recurrence appear quickly, during the lives of individuals fighting or exposed to a campaign. Greenberg mentions a number of attitudes, justifications, and behavioral patterns established earlier—in Indian wars or African slavery—that reappear in connection with the War with Mexico and the lives of those who fought in it.⁵² In particular, she notes the many figures (Scott, Hardin, Lee, Houston, and Taylor) who fought in anti-Indian campaigns and went on to take part in the War with Mexico, bringing attitudes developed in the earlier campaign to the later one.⁵³ She

47. See, e.g., pp. xviii, 210–11 (noting how the same rhetoric and cruelty of the Indian wars reappeared during the War with Mexico); *supra* note 28; see also p. 57 ("Mexicans are no better than Indians." (quoting Sam Houston) (internal quotation marks omitted)); p. 115 (stating the common view that Mexicans were no better than Negroes).

48. A racial template thus resembles what others term a "racial frame"—a perspective that "gets imbedded in individual minds (brains), as well as in collective memories and histories, and helps people make sense out of everyday situations." JOE R. FEAGIN, *THE WHITE RACIAL FRAME* 10 (2010).

49. Other countries with a colonial past may well exhibit the same orientation. See, e.g., JUAN F. PEREA, RICHARD DELGADO, ANGELA P. HARRIS, JEAN STEFANCIC & STEPHANIE M. WILDMAN, *RACE AND RACES: CASES AND RESOURCES FOR A DIVERSE AMERICA* 265, 268 (2d ed. 2007) [hereinafter *RACE AND RACES*] (discussing Canadian and Australian cases).

50. See *id.* at 290–96, 1035–1105 (discussing stereotypes and cultural framing of minorities' identity and character).

51. REGINALD HORSMAN, *RACE AND MANIFEST DESTINY* 210 (1981).

52. See, e.g., pp. xviii, 57, 115 (noting that prominent figures disparaged Mexicans by comparing them to Indians or Negroes); *supra* notes 46–48.

53. See p. xviii ("A warrior tradition, forged in battle against . . . the Indian inhabitants of North America . . . set the stage for America's invasion of Mexico . . ."); p. 171 (mentioning Scott's role in Indian wars and the Trail of Tears); pp. 52, 180 (mentioning Hardin and his grandfather, who both fought against Indians); p. 155 (mentioning Lee, who fought Indians

notes, as well, that many of the fiercest backers of the war (Polk and Calhoun, for example) were slaveholders whose language and attitudes toward the Mexicans could have been taken out of tracts defending slavery (pp. 19–20, 36–37).

Much more evidence of this type lies close at hand. The times were rife with antiblack imagery; in the literature, myth, and documents of this period and the one immediately preceding it, blacks emerged as unattractive, dull, lazy, and incapable of forming loving familial relationships.⁵⁴ As Jefferson put it,

[T]he difference is fixed in nature . . . And is this difference of no importance? Is it not the foundation of a greater or less share of beauty in the two races? Are not the fine mixtures of red and white, the expressions of every passion by greater or less suffusions of colour in the one, preferable to that eternal monotony, which reigns in the countenances, that immoveable veil of black which covers all the emotions of the other race? . . . [I]n imagination they are dull, tasteless, and anomalous.⁵⁵

Slaveowners even asserted that slavery was good for blacks because they were capable of little better.⁵⁶ Indeed, in the *Dred Scott* case, Chief Justice Taney described blacks as “beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect.”⁵⁷ It is thus unsurprising that by the 1840s, the public was ready to see Mexicans in much the same terms. Greenberg’s intuition, then, is fully borne out in the history of those times.

Developing concurrently with the template associated with slavery, a slightly different one emerged to justify the conquest of Indians and the seizure of their lands. In this template, whites were superior and civilized compared to Indians, who, according to Washington, were warlike and “de-luded,” like “the Wild Beasts of the Forest.”⁵⁸ As president, Jefferson sought to separate Indians from their lands by making them dependent and assimilated, and, if that proved unsuccessful, by using force: “As to their fear, we presume that our strength and their weakness is now so visible that they must see we have only to shut our hand to crush them . . .”⁵⁹ Jefferson had

during much of this period, including the period immediately following the war); p. 57 (mentioning Houston); pp. 98–99 (mentioning Taylor, a former Indian fighter).

54. FEAGIN, *supra* note 48, at 56.

55. THOMAS JEFFERSON, NOTES ON THE STATE OF VIRGINIA, Query 14 (1787), reprinted in RACE AND RACES, *supra* note 49, at 105, 106.

56. FEAGIN, *supra* note 48, at 56, 71–72.

57. *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393, 408 (1857), superseded by constitutional amendment, U.S. CONST. amend. XIV.

58. Letter from George Washington to James Duane (Sept. 7, 1783), in 27 THE WRITINGS OF GEORGE WASHINGTON FROM THE ORIGINAL MANUSCRIPT SOURCES 1745–1799, at 133, 134, 140 (John C. Fitzpatrick ed., 1938), available at <http://archive.org/stream/writingsofgeorge27washington11mode/2up>.

59. Letter from President Jefferson to William Henry Harrison (Feb. 27, 1803), reprinted in RACE AND RACES, *supra* note 49, at 189, 190.

a more generous view of Indians than of his black slaves, writing that he believed Indians “to be in body and mind equal to the white man.”⁶⁰ This, of course, did not mean that whites would respect Indians as equals. In *Johnson v. McIntosh*, Chief Justice Marshall’s justification of European dominion over Indians reads like a statement of this racial template:

On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all; and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendancy.

. . . .

. . . [T]he tribes of Indians inhabiting this country were fierce savages, whose occupation was war, and whose subsistence was drawn chiefly from the forest. To leave them in possession of their country, was to leave the country a wilderness⁶¹

According to Marshall, the “superior genius” of white Europeans justified depriving Indians—allegedly primitive, warlike savages, inferior in character and religion—of control over their lands, an attitude, Greenberg shows, that was easy to transfer to other supposedly inferior people, like the Mexicans.

Racial templates are highly adaptable. Neither static nor independent, they readily insinuate themselves in new conditions and encounters. The doctrines of white superiority and nonwhite inferiority thus combined to justify the novel invasion and conquest of Mexico. The new template combined white racial superiority with the racial inferiority ascribed to blacks and the inability to make effective, civilized use of the land ascribed to Indians. American whites deemed themselves Anglo-Saxons, the purest and finest of the white race. Mexicans, on the other hand, were understood to be a “mixed, inferior race with considerable Indian and some black blood.”⁶² Such a mongrelized people were plainly incapable of making good use of their lands. As with the Indian conquests, it was the “Manifest Destiny” of superior Anglo-Saxons to make the best use of the lands: “To take [them] from inferior barbarians was no crime; it was simply following God’s injunctions to make the land fruitful.”⁶³

The importance of racial templates becomes clearer by contrasting the fate of Mexico with the peaceful, negotiated settlement of the contested Oregon territory. In the former, white assumptions about Mexican racial inferiority fueled hostility, conquest, and war. Conversely, in the latter, recognition of white racial parity engendered respect and peace. Around the same time as the invasion of Mexico, Congress debated forcibly annexing

60. Letter from Thomas Jefferson to the Marquis De Chastellux (June 7, 1785), *reprinted in* RACE AND RACES, *supra* note 49, at 191, 191.

61. 21 U.S. (8 Wheat.) 543, 572–73, 590 (1823).

62. HORSMAN, *supra* note 51, at 210.

63. *Id.* at 211.

Oregon through war.⁶⁴ In contrast to the racist contempt and war visited upon Mexicans, “[t]he English were respected as fellow Anglo-Saxons who were not to be swept out of Oregon as an inferior breed The sense of Anglo-Saxon racial community, combined with a respect for British power and ability, helped mute the most strident demands for war.”⁶⁵ Racial templates, then, held the key to pursuing war or peace.

2. Recurrence Arriving a Little Later

Greenberg also notes a number of instances in which patterns established during one period—the War with Mexico, for instance—recur a generation or more later through some form of cultural transmission. For example, she notes that for the United States, the war was not only the first against a neighboring republic, but it was also “the first started with a presidential lie” (p. 268). Lying and manipulation by national leaders became a practice—expansionist fever accompanied by official propaganda soon brought war against Spain for more land in Cuba and Puerto Rico, with Hawaii and Central America (via the Monroe Doctrine) following soon after.⁶⁶ Each of these incursions proceeded on dubious premises, such as that it was America’s manifest destiny to extend its rule to those far-flung areas.⁶⁷

We learned lessons from the war, including that might makes right, especially when the first war is fought against a weaker nation whose citizens are of a darker complexion than one’s own. Why was it so easy to persuade the American public to support wars in the years immediately following the War with Mexico? Perhaps because it was there that Lee, Grant, and Davis all first experienced military command⁶⁸ and learned the strategies and tactics that would later dominate the American Civil War. The War with Mexico, then, turns out to have been a testing ground, like Guernica and the Spanish Civil War, where the German army and air force experimented with techniques of modern warfare, including carpet bombing, that would later prove useful in World War II.⁶⁹ “Polk’s war also catapulted the officers Zachary Taylor and Franklin Pierce into presidencies for which they were woefully ill equipped” (p. 269). The American public often favors leaders with military experience. It should surprise no one when such individuals, once in office, display a propensity for war.

64. *Id.* at 220–23; see also *supra* note 25 and accompanying text (discussing the All Mexico Movement).

65. HORSMAN, *supra* note 51, at 220.

66. See p. 269.

67. See, e.g., RACE AND RACES, *supra* note 49, at 356–57.

68. See pp. 131, 158, 202.

69. See IAN PATTERSON, GUERNICA AND TOTAL WAR 30–31 (2007).

3. Recurrence in Our Time

The many atrocities that the poorly trained U.S. troops inflicted on Mexican villagers and bystanders, including women and children,⁷⁰ may well have set the stage for later instances.⁷¹ Prior to the War with Mexico, fewer such military abuses seem to have occurred; certainly the Revolutionary War with Great Britain, which featured whites fighting whites, contained fewer of them.⁷² Only a few years later, jailors in the South imposed inhumane conditions on Union soldiers in Andersonville Prison, perhaps inspired by tales of similar treatment during the War with Mexico.⁷³ And we are not the first to point out that states (such as some in the Deep South) that practice capital punishment enthusiastically and frequently are those that in former times practiced slavery.⁷⁴ Indeed, the map of the one practice could almost be superimposed on the other, with very little change. Might it be that a culture that perpetrates cruelty against fellow humans in one era finds it easier to do so, even if in another form, in the next?

4. How Recapitulation Occurs

The mechanisms by which both forms of relatively prompt recapitulation⁷⁵ occur are straightforward. Oppression—pushing against other people—is often self-reinforcing. If one pushes against other people, they are apt to give way, at least at first. Others will notice that the one who pushed has gained a temporary advantage and cheer him on—everyone loves a winner. They will catch the spirit and want to join in. This was particularly true with the War with Mexico, which brought immediate and tangible gains, including California and its rich lands, with the discovery of gold occurring only days after the treaty became final. And, material gain aside, for some, at

70. E.g., pp. 194–95, 205; *supra* notes 28, 31 and accompanying text.

71. In particular, these acts of violence may have presaged the well-known atrocities in Vietnam, Grenada, and Iraq. See, e.g., Henry Kamm, *Vietnamese Say G.I.'s Slew 567 in Town*, N.Y. TIMES, Nov. 17, 1969, at A1, available at <http://www.nytimes.com/learning/general/onthisday/big/0316.html>; Richard Bernstein, *U.S. Vetoes U.N. Resolution 'Deploring' Grenada Invasion*, N.Y. TIMES, Oct. 29, 1983, at A1, available at <http://www.nytimes.com/1983/10/29/world/us-vetoes-un-resolution-deploring-grenada-invasion.html>; Scott Shane, *U.S. Practiced Torture After 9/11, Nonpartisan Review Concludes*, N.Y. TIMES, April 16, 2013, at A1, available at <http://www.nytimes.com/2013/04/16/world/us-practiced-torture-after-9-11-nonpartisan-review-concludes.html>; see also *infra* Section II.B.

72. In particular, the Revolutionary War seemed to lack the many wanton displays of casual cruelty accompanied by thinly disguised racial contempt. See *supra* Part I.

73. On the horrors of Andersonville Prison, where the Confederacy held Union prisoners, see, for example, Kennedy Hickman, *American Civil War: Andersonville Prison*, ABOUT.COM, <http://militaryhistory.about.com/od/civilwar/p/andersonville.htm> (last visited Nov. 17, 2013).

74. See *States of Punishment: Mapping the Death Penalty in America*, ECONOMIST (Apr. 20, 2012, 1:35 PM), <http://www.economist.com/blogs/graphicdetail/2012/04/daily-chart-10>.

75. See *supra* Sections II.A.1–2 (discussing recapitulation occurring during the same generation or a little later). Transmission across generations follows a slightly different course. See *infra* Section II.C.

least, power tripping simply feels good—it satisfies an emotional need to feel strong and in control. Hence, a soldier who goes off to war in one campaign, especially if it proves successful and brings acclaim, gratitude, celebrity, and medals, may look for opportunities to do it again. The reader will recall that this happened with several of the politicians and generals in Greenberg's book.⁷⁶

A slightly different force was undoubtedly at work in the slaveholding states. An individual who owns one slave will find his life and work easier and more comfortable than those of a different individual, such as a hardy New England farmer who does his own work. One slave becomes two, then three; slavery becomes a regional institution and a centerpiece of the economy, culture, and way of life.

Both practices introduce costs, of course, including insecurity. A conquered or subjugated people will not like it. The human spirit rebels against injustice and oppression. Uneasy lies the head that wears the crown. Slave-owners in the South did not rest easy at night. They knew their slaves hated them and would (and did) take revenge when they could.⁷⁷ By the same token, a conquered people—Mexicans, Puerto Ricans, Bosnians—are not apt to forget and will seek opportunities to make the victors pay for their ill-gotten (as they see them) gains.

B. *Racial Templates Through History*

As we illustrated above, racial templates and their corresponding rhetoric and behavior recur and adapt to changing circumstances. Although Greenberg is writing about a single episode—the War with Mexico—and its immediate aftermath, her dominant message holds true when one expands one's view to include all of U.S. racial history: patterns established during one period (the War with Mexico) recur a generation or more later through some form of cultural transmission. The expansionist rhetoric that justified the invasion of Mexico (pp. 212–13) helped justify later aggressive expansion on a multitude of fronts.

A recent casebook recounts many such parallels in society's treatment of different minority groups of color, including ethnic whites, as well as in the rhetoric and justifications society deployed to justify what it was doing.⁷⁸ These parallels include Jim Crow practices aimed at blacks and Latinos;⁷⁹

76. For example, it occurred with Polk and the two Hardins. See pp. 77, 172–73 (describing Polk's war mongering); pp. 86–89 (describing John J. Hardin's return to war); p. 52 (discussing the elder Hardin's military fame). We posit that the generalization applies to many other zealous backers of military expansion. See, e.g., *infra* note 95 and accompanying text.

77. HOWARD ZINN, *A PEOPLE'S HISTORY OF THE UNITED STATES: 1492–PRESENT* 31–35 (1995), reprinted in *RACE AND RACES*, *supra* note 49, at 97, 100–01.

78. *RACE AND RACES*, *supra* note 49 (discussing the legal and social constructions of various minority groups, including ethnic whites).

79. *Id.* at 329–36 (recounting Mexican Americans' struggle against racist laws and practices in the Southwest and comparing it with the struggles of black Americans).

school segregation in the South (with black children) and Southwest (Mexican American children);⁸⁰ lynching of both of these groups;⁸¹ and dispossession of land (Indians, Latinos, Hawaiians, Puerto Ricans, and Japanese farmers in two notable periods).⁸²

These parallels show how subjugation of one group often resembles that of another, both in physical form and in the justifications society invokes to legitimize it. When, for example, white westerners were unable to compete with hardworking Chinese, they enacted a series of state and federal measures that ultimately excluded Chinese laborers from the country.⁸³ The terms used to describe the Chinese (immoral, given to vice, devious) would later be deployed against the Japanese and Mexicans.⁸⁴ When corporate agricultural interests coveted Hawaii, they engineered a two-stage coup and later annexed the island entirely, justifying their actions in language eerily reminiscent of that of Manifest Destiny and Indian removal.⁸⁵ When school authorities in the Southwest needed an excuse for segregating Latino schoolchildren, they fabricated reasons (inability to learn, lack of hygiene) that would have been immediately recognizable to Southern school boards during the Jim Crow era.⁸⁶ Nativists and those intolerant of other languages targeted different groups (the Chinese in one era, the Japanese in another, Latinos today) at different times but using many of the same terms.⁸⁷ Today, a liberal administration deports a record number of unauthorized immigrants on a scale and in a manner resembling nothing so much as the slave trade but in reverse.⁸⁸ Even the justifications for the two large-scale dislocations are similar—preservation of national culture and way of life.⁸⁹

80. Compare *id.* at 166–68, 759–65 (the South), with *id.* at 329–36 (the Southwest).

81. Compare *id.* at 155–59 (discussing the lynching of blacks), with *LATINOS AND THE LAW*, *supra* note 3, at 207–08 (discussing the lynching of Latinos), and Richard Delgado, *The Law of the Noose: A History of Latino Lynching*, 44 HARV. C.R.-C.L. L. REV. 297 (2009) (same).

82. See *RACE AND RACES*, *supra* note 49, at 180–218, 265–82 (discussing dispossession of Indians); *id.* at 303–22 (discussing dispossession of Latinos); *id.* at 247–62 (Hawaiians); *id.* at 356–69 (Puerto Ricans); *id.* at 427–62 (Japanese farmers and citizens); see also Michael A. Olivas, *The Chronicles, My Grandfather's Stories, and Immigration Law: The Slave Traders Chronicle as Racial History*, 34 ST. LOUIS U. L.J. 425 (1990) (drawing parallels among treatment of different kinds of immigrants, including blacks, Latino braceros, and Chinese).

83. *RACE AND RACES*, *supra* note 49, at 411–19.

84. See *id.* at 332, 342, 399–404, 1041–43.

85. See *id.* at 246–62.

86. See *id.* at 329–36.

87. Juan F. Perea, *Demography and Distrust: An Essay on American Languages, Cultural Pluralism, and Official English*, 77 MINN. L. REV. 269, 328 (1992); see also Joe R. Feagin, *Old Poison in New Bottles: The Deep Roots of Modern Nativism*, in *IMMIGRANTS OUT!* (Juan F. Perea ed., 1997) (noting how today's anti-immigrant measures echo earlier versions dating back to the eighteenth century).

88. See Joshua Davis, *We Are Undocumented America: Fighting for Immigration Reform in 2013*, NATION (Jan. 24, 2013), <http://www.thenation.com/article/172211/we-are-undocumented-america-fighting-immigration-reform-2013>.

89. Compare PETER BRIMELOW, *ALIEN NATION* (1995) (positing that Latino immigration is weakening American culture), with 102 CONG. REC. 4459–61 (1956) (statement of Sen.

Law, too, plays a role in reinforcing racial templates. In the aftermath of *Brown v. Board of Education*, Southern politicians sought to bolster white supremacy over blacks by resisting desegregation through the use of defunct legal doctrines. Southern sheriffs, mayors, and governors pursued “interposition” as a strategy to counter federal efforts to enforce desegregation during the early years of the civil rights movement. Taking a leaf from civil war-era tactics, governors such as George Wallace reasoned that their states were the final authorities regarding how the races would live together.⁹⁰ More recently, cities like Hazleton, Pennsylvania, and states such as Arizona and Alabama, have attempted to insert themselves into immigration regulation, an area long dominated by Congress.⁹¹ Many more such parallels will reward the close reader of a comparative racial history text, including the recent spate of anti-immigrant legislation in the South, legislation so pervasive that it recalls a typical Southern state’s black codes from a century earlier, which forbade blacks from gathering, organizing, learning to read, owning a weapon, making a contract, or marrying.⁹²

We cannot ignore a final template, namely the uncanny resemblance between the rhetoric and circumstances used to justify military force against Mexico and those surrounding the recent war in Iraq. As Greenberg puts it, the invasion of Mexico was based on a “dubious excuse”—Polk had “provoked a war and then lied to Congress about it” (pp. xviii, 269). Embracing the ideology of Manifest Destiny, many Americans believed that the War with Mexico would bring free institutions to Mexicans. It was, indeed, a war of liberation, one that would be good for Mexicans.⁹³ “The inhabitants of Mexico were expected to welcome the Saxons with open arms. A New York poet in May 1846 conjured up an image of Mexicans joyously shouting[,]

Walter F. George) (introducing “Declaration of Constitutional Principles” into the Congressional record and defending segregation as inherent in the Southern way of life). This way of life, of course, originated in times of slavery. See RACE AND RACES, *supra* note 49, at 96–158. For more on the modern dislocations mentioned above, see Michelle Alexander, *The New Jim Crow*, 9 OHIO ST. J. CRIM. L. 7 (2011), comparing the country’s high incarceration rate of black males to Jim Crow and the system of convict leasing, and Daniel A. Arellano, Law and Policy Note, *Keep Dreaming: Deferred Action and the Limits of Executive Power*, 54 ARIZ. L. REV. 1139 (2012), doubting an Arizona governor’s power to take harsh action against “Dream Act” children of undocumented immigrant parents.

90. See LLOYD ROHLER, *GEORGE WALLACE: CONSERVATIVE POPULIST* 18–19 (2004) (discussing the governor’s use of interposition in an attempt to nullify federally mandated integration in his state); MARK V. TUSHNET, *MAKING CIVIL RIGHTS LAW* 240–41 (1994).

91. See *Arizona v. United States*, 132 S. Ct. 2492 (2012) (discussing federal preemption of immigration policy).

92. See *id.* at 2503–05 (discussing an Arizona statute that made it a misdemeanor for an undocumented alien to seek employment in the state); see also Karla Mari McKanders, *Immigration Enforcement and the Fugitive Slave Acts: Exploring Their Similarities*, 61 CATH. U. L. REV. 921 (2012); Ida Danielle Mashburn-Myrick, Note, *Giving “The Help” the Silent Treatment: How Alabama’s New Immigration Law Punishes Domestic Workers, Ignores Certain Employers, and Shortchanges Us All*, 64 ALA. L. REV. 447 (2012) (discussing a similar statute in that state).

93. HORSMAN, *supra* note 51, at 232.

The Saxons are coming, our freedom is nigh.”⁹⁴ Obviously, Mexicans felt nothing of the sort, then or now.

The parallels with recent wars, especially the Iraq War, are many and harrowing, including that country’s alleged possession of weapons of mass destruction, as well as the need to spread freedom.⁹⁵ As Vice President Cheney put it, “Now, I think things have gotten so bad inside Iraq, from the standpoint of the Iraqi people, my belief is we will, in fact, be greeted as liberators.”⁹⁶ Senator McCain made similar statements.⁹⁷ These overly optimistic predictions have long since faded given the reality of a long war with more than 100,000 deaths and a cost of over two trillion dollars.⁹⁸ As we have seen, early scripts can take on a life of their own. Indeed, if the United States goes to war in Syria, Latin America, or any other area, the motivation, rhetoric, and consequences of the excursion are apt to be immediately familiar to the close reader of history.

Regarding the invasion of Mexico, Greenberg asks the key question: “Why had it been so easy to manipulate the American public to support a war as contrary to American principles as this one?” (p. 269). We might ask much the same question about the Iraq War. The answer may lie in the nation’s cultural script for war making: what had been invoked as the nation’s mission under Manifest Destiny may be restated today in the more ostensibly race-neutral, but equally potent, language of American exceptionalism and the need to spread freedom and democracy throughout the world, even where they may not be wanted.

C. *The Transmission of Racial Templates Across Generations*

Why so many parallels in the treatment of nonwhites across generations? One can eliminate mere chance: too many parallels litter the historical account; they are too striking; and they come excused and justified in similar terms. And since they transcend generations, they must somehow embed themselves in culture. How does this happen?

We posit that the materials of racial templates—attitudes, tropes, images, and language—are transmitted across generations through the processes of collective memory: through the transmission of myth, stories, symbols, and cultural monuments of various kinds. Patriotic songs teach that “the Halls of Montezuma” represent a high point of American culture

94. *Id.* at 233 (internal quotation marks omitted).

95. Address to the Nation on Iraq, 39 WEEKLY COMP. PRES. DOC. 342 (Mar. 19, 2003), available at <http://www.gpo.gov/fdsys/pkg/WCPD-2003-03-24/pdf/WCPD-2003-03-24-Pg342-4.pdf>.

96. Faiz Shakir, *Cheney Five Years Ago: ‘We Will, in Fact, Be Greeted as Liberators’*, THINK-PROGRESS (Mar. 14, 2008, 1:58 PM), <http://thinkprogress.org/politics/2008/03/14/20346/cheney-mccain-liberators> (internal quotation marks omitted).

97. *Id.*

98. See Daniel Trotta, *Iraq War Costs U.S. More Than \$2 Trillion: Study*, REUTERS (Mar. 14, 2013, 12:53 PM), <http://www.reuters.com/article/2013/03/14/us-iraq-war-anniversary-idUSBRE92D0PG20130314>.

when a reasonable observer might easily consider that they represent a low.⁹⁹ A Confederate flag flying over a state capital may fill some Southern chests with pride, even though that symbol also summons images of the violence against and exploitation of blacks during and after slavery. If aggressive military action and exploitation of other human beings bring advantages that then receive praise and celebration in myth, song, monuments, and place names,¹⁰⁰ the lessons of history are apt to teach that force works, that our culture deserves to be on top, and that the role of nonwhite people is to serve us and do our bidding. Military honor is generally respected and celebrated. Even if, in retrospect, a war looks to have proceeded on a shaky footing (like the one in Iraq), our boys at least fought valiantly and deserve credit and honor for that.

D. *Transmission Through Forgetting*

Collective forgetting is just as important to the transmission and preservation of cultural knowledge as collective memory.¹⁰¹ Greenberg gives us an example in her epilogue about Ellen Hardin, the adoring daughter of John Hardin, who was killed at the Battle of Buena Vista (Epilogue). In midlife, she began publishing historical articles on the Revolutionary War and the War with Mexico, in which her ancestors, the two John Hardins, fought and died (pp. 274–75). Eventually, she and some colleagues formed a new organization, the Daughters of the American Revolution, to keep alive the memory of the heroes of those wars under the motto *amor patriae* (love of the fatherland) (pp. 275–76). Many Americans signed up for membership in this group, believing it was the honorable thing to do and a source of pride (p. 278).

As Greenberg notes, Ellen Hardin may have “found meaning in the past” (pp. 274–75). Yet the story that she told about her ancestors conveniently omitted the John Hardin who owned slaves and killed Indian women

99. Greenberg probably would. See Smedley D. Butler, *War Is a Racket* (1935), reprinted in *WAR IS A RACKET* 21 (Feral House 2010) (in which a retired Marine Corps general inveighs against needless wars waged to satisfy the needs of the weapons industry); Juan F. Perea, *A Brief History of Race and the U.S.–Mexican Border: Tracing the Trajectories of Conquest*, 51 UCLA L. REV. 283 (2003) (comparing exploitation of the undocumented today to slavery and sharecropping of former times; language orthodoxy and English Only rules to black poll taxes; and measures against teaching ethnic history to laws forbidding teaching blacks to read). “The Halls of Montezuma” is a prominent passage in the “Marines’ Hymn,” the official hymn of the U.S. Marine Corps.

100. Consider the many forts, cities, bridges, and roads named after Southern generals or Indian fighters, including Fort Bragg; the cities of Stockton and Fremont; Polk, Taylor, and Kearny Streets, as well as Sloat Boulevard, in San Francisco; the college of Washington & Lee; and Stevens Pass in Washington State. On collective memory as a source of racial practice, see Susan K. Serrano, *Collective Memory and the Persistence of Injustice: From Hawai’i’s Plantations to Congress—Puerto Ricans’ Claims to Membership in the Polity*, 20 S. CAL. REV. L. & SOC. JUST. 353, 365–405 (2011).

101. FEAGIN, *supra* note 48, at 17 (“Collective forgetting is as important as collective remembering, especially in regard to the prevailing narratives of this country’s developmental history.”).

and children while they slept (p. 277). It did not mention that her ancestors' wars were ones of oppression, not freedom (p. 278). And naturally her account neglected to mention that Mexicans refer to the war in quite different terms: they call it "the Mutilation."¹⁰² Her fledgling organization came along in time to give comfort to America's soldiers fighting against Spain in 1898 in a second war of colonial expansion. By 1906, shortly after that war concluded with U.S. control over the Philippines, Cuba, Puerto Rico, and the Dominican Republic (with Hawaii soon to come), the organization had grown to 50,000 dues-paying members (p. 278). By 2012, 165,000 had signed up, perhaps moved by the founder's story about "sacrifice, inheritance, and American history," narratives that must ring with more than a little irony for the Mexicans, Puerto Ricans, Filipinos, and Hawaiians who lost territory, patrimony, and lives (pp. 278–79).

As Greenberg puts it,

Ellen ignored the many similarities between the two John Hardins, two men who never missed an opportunity to fight, who were among the first to raise troops to face the enemy, who both were colonels in the U.S. Army and generals in their state militia, who both were killed in the name of Manifest Destiny while accompanied by unacknowledged and unfree African American servants. Both men were dead before the age of thirty-nine. Ellen may never have considered the extent to which the Revolution, the Indian wars that killed the original John Hardin, and the war with Mexico that killed her father were linked. Nor did she publicly recognize the manner in which slavery and Indian killing became part of the structure that was passed down through the generations. She believed that "American manhood" would be born from Colonial struggles. . . .

[Yet] [h]er organization was successful beyond anyone's expectations. (Pp. 277–78).

What do celebratory writers like Ellen Hardin neglect? One lesson is that people push back. Their template is different from ours. Memory, in other words, works both ways: one nation's triumph is another's sore point. The immediate fruits of war may include rapture and glory, mixed with death and destruction—and, in the long run, an expensive military establishment necessary to maintain a nation's place in a world that has learned to distrust it and awaits an opportunity to push the borders back.

E. *Reverse Templates*

We should add that templates can operate on the antiwar, pro-freedom side. Lincoln, for example, internalized a different message from that conveyed by the drums of war—a humane, anticolonial one, beginning when he heard Clay's hours-long speech in front of a large, skeptical crowd vigorously challenging the premises, morality, and likely cost in treasure and

102. E.g., Tim Weiner, *Of Gringos and Old Grudges: This Land Is Their Land*, N.Y. TIMES, Jan. 9, 2004, at A4, available at <http://www.nytimes.com/2004/01/09/international/americas/09MEXI.html> (internal quotation marks omitted).

blood of the War with Mexico (pp. 235–36). When Clay patiently showed that the war was far from the idealistic venture its proponents described, that it was much less divinely ordained, Lincoln's course was clear. He became not only a leader in the campaign to end the war, but he also resolved to oppose slavery itself, one of the war's foundations (p. 238). By learning to recognize and name oppression of one kind, he became better at identifying other instances of it and assumed the role of a national leader in the struggle for a better world.¹⁰³

It seems likely that this is true for many others as well. Individuals and groups (like the Quakers) who take stands against one form of tyranny recognize new forms of it more quickly than those seeing it for the first time. And they become better opponents of it, as Clay was of foreign aggression. When then–Vice President Johnson delivered a key 1963 speech against racism and in favor of a major civil rights statute, he hearkened back to Lincoln's Gettysburg Address, using the occasion and location to remind the country of its unfinished civil rights agenda.¹⁰⁴

Finally, by an odd twist, racism can work against foreign aggression and imperialist expansion, serving as a brake on territorial appetite. As Greenberg notes, several of Polk's allies did not want to take all of Mexico for fear that this would leave us with large numbers of brown-skinned compatriots, for whom they felt nothing but contempt (p. 263). The new citizens would want to vote. Some of them might romance our women; others would want to run for office. Some members of Polk's party resisted annexing the Dominican Republic a few decades later (in the 1870s) for precisely these reasons (p. 263). And the careful reader of Greenberg's book will note how not a few of them asserted this as a cautionary reason for not demanding too much of Mexico in the settlement of Guadalupe Hidalgo—just the thinly populated, but very beautiful and rich, northern part, and not central or southern Mexico, with its large cities like Monterrey or Mexico City.

CONCLUSION

Full of drama and detail, the story Greenberg tells of the War with Mexico is both richly political and human. One learns how five figures—including a president seized by territorial ambition; a grizzled idealist who sacrificed his chances in opposing him; a young congressman from Illinois who would go on to national greatness; and a courageous young negotiator who forfeited his own career when he drafted a moderate treaty in defiance of his president's orders—interacted to bring the war to a close. In this way,

103. Later, when he was in Congress, Lincoln spoke of how "God of Heaven has forgotten to defend the weak and innocent, and permitted the strong band of murderers and demons from hell to kill men, women, and children, and lay waste and pillage the land of the just." P. 251 (internal quotation marks omitted) (suggesting that Lincoln was referring to the War with Mexico).

104. David M. Shribman, *L.B.J.'s Gettysburg Address*, N.Y. TIMES, May 26, 2013, at SR8, available at <http://www.nytimes.com/2013/05/26/sunday-review/at-gettysburg-johnson-marked-memorial-day-and-the-future.html>.

Greenberg's book not only tells a good story. It resurrects a mostly forgotten war and its mostly forgotten racist, expansionist antecedents, compelling us to consider their relationship. It allows us to see how cultural scripts inscribe themselves in our minds and induce us to repeat patterns that can lead to senseless wars, calamities like slavery, and much thoughtless bloodshed.

