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THE MARCUS GARVEY CASE: A LAW AND POWER THEORY ANALYSIS OF POLITICAL SUPPRESSION OF HUMAN DIGNITY

Steven H. Hobbs and Frank H. Fitch, III***

INTRODUCTION

“Power concedes nothing without a struggle.
It never did, and it never will.”

— Frederick Douglass¹

Human dignity is the natural desire of all men and women. When oppression and exploitation, poverty and despair combine to deny this natural desire, individuals come forward to demand it on behalf of themselves and the masses. Marcus Garvey saw the descendants of Africa subjected to oppression and injustice, and committed his life to working for human dignity on behalf of black people in Africa and in the diaspora. Since no organization of sufficient size, scope and authority existed to demand and protect that human dignity, Garvey founded the Universal Negro Improvement Association (UNIA), recognizing that “[t]he only protection against injustice in man is power.”² Through his work, and that of the UNIA, Garvey attempted to achieve economic, political and social justice for those poor and oppressed persons who did not share in the bounty of society.

Any attempt to empower those who are oppressed must confront the source of the oppression. If the empowerment process threatens the foundations of the existing power structure, those in power will act to restrict or even crush the movement. In his book *Power: A Radical View*,³ Steven Lukes studies the means by which the powerless

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¹ 2 THE LIFE AND WRITINGS OF FREDERICK DOUGLASS 437 (P.S. Foner ed.).

² PHILOSOPHY AND OPINIONS OF MARCUS GARVEY 19 (W. Loren ed. 1969) [hereinafter PHILOSOPHY AND OPINIONS]

³ S. LUKES, POWER: A RADICAL VIEW (1974).

are kept "in their place" by those who hold power. This work provides a useful tool for analyzing the political persecution of Garvey and UNIA. It also illustrates how a high-profile economic and political movement, designed to radically change the social order, is subject to failure if that movement threatens the established power structure. Garvey's trial and conviction for mail fraud by soliciting stock for the UNIA demonstrated how those who hold power can use the law to prevent the empowerment of the poor and dispossessed.

This paper examines several of the problems Marcus Garvey encountered in his quest for human dignity. An historical overview will be followed by a description of Lukes' models of power and an application of his analysis to Garvey's conviction and the UNIA movement in general. Finally, this paper will consider what lessons can be learned from Garvey's experience which could assist those who struggle for universal human dignity through the assertion of their own power.

I. MARCUS GARVEY AND THE UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION: HISTORICAL OVERVIEW

A. *Garvey's Education and Development as a Leader*

Marcus Moziah Garvey was born in St. Ann's Bay, Jamaica on August 17, 1887, the youngest son of eleven children.⁴ Although neither of Garvey's parents had much formal education, his father was known for his large private library, and the younger Garvey inherited his father's love for books and learning.⁵ He was extremely well-read and developed into an impressive orator and communicator. Garvey was also trained as a printer, a skill which proved useful in later disseminating his ideas and plans through publications.

As an adult, Garvey travelled extensively throughout Central and South America, becoming more aware of, and disturbed by, the mistreatment of negro workers and the apparent apathy on the part of those workers.⁶ In 1912, Garvey travelled to London where he became

⁴ E. CRONON, *BLACK MOSES* 5 (1949).

⁵ L. LEVINE, *MARCUS GARVEY AND THE POLITICS OF REVITALIZATION*, in *BLACK LEADERS OF THE TWENTIETH CENTURY* 105-06 (Franklin & Meier eds. 1982).

⁶ E. CRONON, *supra* note 4, at 15.

associated with the magazine *The Africa Times and Orient Review*,⁷ and learned about African cultures and the conditions in which negroes lived throughout the world. He also spent many hours reading and studying in London's libraries. Booker T. Washington's autobiography, *Up From Slavery*, profoundly impressed him:⁸

I read *Up From Slavery* by Booker T. Washington, and then my doom — if I may so call it — of being a race leader dawned upon me . . . I asked: 'Where is the Black man's Government? Where is his King and his Kingdom? Where is his President, his country, and his ambassador, his army, his navy, his men of big affairs?' I could not find them, and then I declared, 'I will help to make them.'⁹

Having developed a cogent philosophy of self-help, Washington provided a role model for Garvey.

While in London, Garvey also met students from Africa and the West Indies with whom he exchanged ideas, "[hearing] from the lips of his countrymen and other colored people about the sufferings of the darker races, and of their desire to unite for mutual understanding and protection."¹⁰ Within this circle of acquaintances, Garvey was exposed to ideas concerning race conservation, the preservation of group identity, anti-colonialism, and African unity. He soon concluded that exploitation and suffering were the common lot of black people, no matter where they lived, and that other races scorned Africans as inferior. In response, Garvey began to urge ardently that all African peoples rise up with pride in their race and heritage:

For God's sake, you men and women who have been keeping yourselves away from the people of your own African race, cease the ignorance; unite your hands with the people of Africa, and let us reach out to the highest idealism that there is in living, thereby demonstrating to others, not of our race, that we are ambitious, virtuous, noble, and proud . . .¹¹

Racial dignity thus became Garvey's fundamental tenet.

⁷ *Id.*

⁸ *Id.* at 15-16. See B.T. WASHINGTON, *UP FROM SLAVERY* (1901), (providing a vivid description of Washington's education, development and the impetus behind Tuskegee Institute); see also L. HARLAN, *BOOKER T. WASHINGTON: THE MAKING OF A BLACK LEADER, 1896-1901* (1901).

⁹ *Id.*

¹⁰ L. LEVINE, *supra* note 5, at 109.

¹¹ I R. HILL, *THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS 57* (quoting M. GARVEY, *A TALK WITH AFRO-WEST INDIANS: THE NEGRO RACE AND ITS PROBLEMS* (1914)).

B. *The Founding of the UNIA*

In 1914, Marcus Garvey returned to Jamaica and established the Universal Negro Improvement and Conservation Association and African Communities League (UNIA), with the primary purpose of "rehabilitating" the black race.¹² Garvey felt that UNIA's destiny was to gather together all peoples of African heritage and promote their collective political, economic and social advancement, as well as their human dignity, by achieving the following goals:

[T]o promote the spirit of race pride; to administer to and assist the needy; to strengthen the imperialism of independent African States; to establish Commissionaries or Agencies in the principle countries of the world for the protection of all Negroes, irrespective of nationality; to promote a conscientious Christian worship among the native tribes of Africa; to establish Universities, Colleges and Secondary Schools for the further education and culture of boys and girls of the race; to conduct a world-wide commercial and industrial intercourse.¹³

Garvey realized that these high-minded purposes would entail a struggle between the strong and the weak. The preamble of the UNIA constitution recognized this power dynamic:

Let justice be done to all mankind realizing that if the strong oppress the weak, confusion and discontent will ever mark the path of man, but with love, faith and charity toward all, the reign of peace and plenty will be heralded into the world and generations of men shall be called blessed.¹⁴

Unfortunately, enduring peace and plenty eluded Garvey and his UNIA followers.

Garvey was designated as President and Travelling Commissioner of the UNIA, with his headquarters in Kingston, Jamaica. Faced with black indifference and mulatto opposition, he sought expansion of his support base and turned to the United States. Garvey wrote Booker T. Washington at Tuskegee about his plan to engage in a speaking tour of the South and asked his assistance;¹⁵ however, before Garvey could complete his plans, Washington died.¹⁶

¹² E. CRONON, *supra* note 4, at 16-17.

¹³ *Id.* at 17.

¹⁴ PHILLOSOPHY AND OPINION, *supra* note 2, at 37-38.

¹⁵ E. CRONON, *supra* note 4, at 18-19.

¹⁶ Washington died on November 14, 1915.

Disappointed, but convinced that he could gather support in his endeavors from negroes in the United States, Garvey arrived in Harlem in March 1916. In New York he found an audience thirsty for his message of racial pride and uplift.¹⁷ As an accomplished, persuasive and charismatic speaker committed to his beliefs, Garvey quickly won the hearts and minds of his listeners. The weekly UNIA meetings combined the excitement of political rallies, the fervor of religious tent-meetings, the inspiration of a sales seminar, and centered on Garvey's addresses.¹⁸ In the following excerpt, a UNIA member described how he came to join the organization:

I squeezed in, until I could get a good look at him; then suddenly he turned in my direction, and in a voice like thunder from Heaven he says, "Men and women, what are you here for? to live unto yourself, until your body manures the earth, or to live God's Purpose to the fullest?" He continued to complete his thought in that compelling, yet pleading voice for nearly an hour. I stood there like one in a trance, every sentence ringing in my ears, and finding an echo in my heart. When I walked out of that Church, I was a different man — I knew my sacred obligations to my Creator, and my responsibilities to my fellow men, and so help me I am still on the Garvey train.¹⁹

Garvey also understood the power of the press in disseminating ideas. His vehicle for reaching the masses outside of Harlem was the weekly newspaper, *Negro World*, established in New York in January 1918,²⁰ which carried his racially uplifting message throughout the world.

The "Liberty Halls" were meeting places for the local chapters of the UNIA and served as community centers, sponsoring dances, concerts and classes, and posting notices about jobs and housing. Soup kitchens fed the hungry, and temporary dormitories housed the homeless.²¹ With the goal of establishing factories throughout the West and in Africa, Garvey founded the Negro Factories Corporation which operated three grocery stores, two restaurants, a printing plant, a steam

¹⁷ I HILL, *supra* note 11, at xxxix (describing Garvey's arrival in Harlem, where he was introduced to the "New Negro," a term used to describe the cultural, social and economic awakening of the black race, also known as the Harlem Renaissance). See A. LOCKE, *THE NEW NEGRO* (1925).

¹⁸ E. CRONON, *supra* note 4, at 62-64.

¹⁹ L. LEVINE, *supra* note 5, at 122.

²⁰ E. CRONON, *supra* note 4, at 45-49.

²¹ L. LEVINE, *supra* note 5, at 126.

laundry, a men's and women's manufacturing department (which made the uniforms for members), several buildings, trucks and associated equipment, and the *Negro World*.²² Garvey and the UNIA employed more than 1,000 people in these various operations, "[g]irls who could only be washer women in your homes, we made clerks and stenographers You will see from the start we tried to dignify our race."²³

The ultimate goal of the UNIA was the redemption of Africa from European control.²⁴ Garvey's vision was that of a free and independent Africa governed by the best and the brightest blacks from all over the world who would determine the destiny of people of color. On the African continent, the UNIA would build a national state, capable of protecting the human rights and dignity of people of African descent and providing a refuge for them.²⁵ Garvey concluded:

I have come to the conclusion that the Negro race can only save itself when there is a free and independent Africa, because, I repeat, it is not philosophy that rules the world, it is power —human power, human force — I mean strength, that rules the world, and the race and the nation that has that is the race and the nation that is supreme. . . . give power to black Africa, and we become masters of the destinies of man. And that is what we want, and that is what we must get if we are going to survive.²⁶

Power would enable black men and women to redeem themselves and their continent, and achieving this power was the first step in the process of redemption.

But power, Garvey recognized, required economic support. Such economic and financial development was also primary in Garvey's vision for the UNIA:

[T]he UNIA was brought into being for the purpose of helping to develop the financial condition of our people and placing us in a position to control the industries we want. If every division of the UNIA all over the world with a thousand members in each division would carry out this system, do you know what would happen? In the space of two years the parent body would be able to control between a billion and two billion dollars We could force legislation, we could do anything If you develop a strong financial power you will control the politics of the country, you will control legislation,

²² *Id.* at 126-27.

²³ *Id.* at 127.

²⁴ 4 R. HILL, *supra* note 11, at 40.

²⁵ *Id.* at 666.

²⁶ *Id.* at 27 (quoting speech by Garvey (Sept. 4, 1921)).

and if you can control legislation you will control government and you will get all that you want.²⁷

Toward the end of achieving economic support for his vision Garvey established the Black Star Line in June 1919 to operate a worldwide network of steamships.²⁸ Emulating the successful white-owned steamship companies, Garvey's plans for the Black Star Line included providing passage for blacks to the reclaimed homelands in Africa, providing a financial base for support of the UNIA movement, and earning respect for black enterprises through a successful showing of the UNIA flag.²⁹

Garvey offered shares of stock in the new company at \$5.00 per share and within a year the line had raised \$610,000 and owned three ships.³⁰ Despite this success, the Line seemed doomed almost from its beginning:

Even if the business practices of the Black Star Line's officers had been above reproach . . . the corporation still would have had great difficulty keeping its flag above water. Its unwise purchase of dubious ships at exorbitant prices were a handicap from which even a more soundly managed company would have been hard put to survive.³¹

With the Black Star Line, Garvey's own star rose and fell. Rather than providing a financial base for the UNIA, the Black Star Line succeeded in draining the UNIA's assets, dragging the organization's other operations under with it. Garvey was forced to sell off property and equipment. Beset by problems, both internal and external, Garvey attempted to keep his fledgling steamship line afloat through the sale of more stock. This sale of stock, or more precisely Garvey's stock solicitation through the mail, led to his arrest, conviction and eventual deportation for mail fraud.

C. *Circumstances Surrounding Garvey's Trial and Conviction*

Garvey was indicted on thirteen counts of mail fraud in February 1922. However, the indictment and subsequent trial are not isolated

²⁷ 4 R. HILL, *supra* note 11, at 1053-54 (quoting speech by Garvey, in New York City (Sept. 1, 1922)).

²⁸ L. LEVINE, *supra* note 5, at 127.

²⁹ 2 R. HILL, *supra* note 11, at 603.

³⁰ L. LEVINE, *supra* note 5, at 127.

³¹ E. CRONON, *supra* note 4, at 81.

events; they must be viewed in the historical context of Garvey's struggle with the existing power structure. There are several aspects of the trial, and the circumstances leading up to it, that illuminate a discussion of the power phenomenon: 1) the atmosphere of hostility surrounding Garvey before and during the trial; 2) the extensive government surveillance Garvey was under — surveillance that shaped the outcome of the trial; and 3) whether or not Garvey received an unbiased, fair trial.

1. *Hostility Surrounding Garvey and the UNIA*

Garvey's indictment coincided with a vigorous "Garvey Must Go!" campaign. Spearheaded by several prominent negro leaders who vehemently opposed Garvey's programs, the attacks centered on the allegations that Garvey was a charlatan bent on milking the "poor ignorant masses of black people."³² Garvey's own mismanagement of the Black Star Line, and his overly optimistic declarations of how close the race was to achieving the repatriation of Africa, fed the "Garvey Must Go!" hysteria.

Garvey also became the black media's target for character assassination.³³ W.E.B. DuBois wrote an article critically evaluating the Black Star Line's finances, questioning the existence of worthless ships, and calling to task the habit of selling passenger tickets on nonexistent ships scheduled to sail to Liberia. DuBois accused Garvey of robbing his investors, dishonesty, a lack of knowledge and experience, and of "using the mails in furtherance of a scheme to defraud and conspiring to do so."³⁴

³² 4 R. HILL, *supra* note 11, at 933 (citing N.Y. Times, Aug. 21, 1922).

Rallying to the cry of 'Marcus Garvey Must Go,' nearly 2,000 Negroes . . . meeting yesterday afternoon . . . listened to speakers denounce Garvey as an ally of the Ku Klux Klan, a 'robber of ignorant Negroes' and a 'demagogic charlatan.' Robert Bagnall, organizer of the National Association for the Advancement of Colored People . . . opposed Garvey's 'Back to Africa' movement as impractical, visionary, and ridiculous.

A. Philip Randolph announced that the meeting was the third in a series of four designed to create opinion among negroes against Garvey. He said that similar meetings would be held all over the United States 'in a crusade to drive Garvey from communities where Negroes reside.'

Id.

³³ 5 R. HILL, *supra* note 11, at 378. See also 4 HILL, *supra* note 11, at 933 n.1. The March 1923 issue of the *Messenger* included an article entitled "The Madness of Marcus Garvey" which described Garvey as a "paranoic" with delusions of grandeur, "gifted at self advertisement, without shame in self-laudation, promising ever, but never fulfilling, without regard for veracity . . . a sheer opportunist and a demagogic charlatan." *Id.*

³⁴ 4 R. HILL, *supra* note 11, at 162. See also 5 R. HILL, *supra* note 11, at 33-40.

In a *New York News* editorial, Garvey was accused of playing on the prejudice and imagination of blacks and having “seduced” from them “hundreds of thousands of dollars and squandered it upon self-glorification and visionary projects.” The editorial referred to Garvey as a “despotic dreamer” and a “menace to his people and this country” who was “not only bankrupting his race but . . . fast leading it to untimely bloodshed and suicide. . . .”³⁵ Additionally, in the white media Garvey was portrayed as a racial agitator stirring up hatred against whites.³⁶

Still another major line of attack focused on Garvey’s plan to send black people back to Africa, which was portrayed as a foolish effort to get back to the “jungle.” A.P. Randolph ridiculed Garvey’s scheme of conquering Africa for negroes, declaring that the Garveyites had “neither the brains nor the capital to run a steamship line, much less build an empire.”³⁷

There were also forces at work to destroy the Black Star Line. Corrupt UNIA officials received kickbacks from the shipowners who sold Garvey overpriced, ill-repaired vessels. When the ships were put out to sea, Black Star Line crew members sabotaged the vessels, the cargo and the ship’s sailing itinerary: “[A]ll the troubles we have had on our ships, has [sic] been caused because men were paid to make this trouble by certain organizations calling themselves Negro Advancement Associations . . . They paid men to dismantle our machinery and otherwise damage it, so as to bring about the downfall of the movement.”³⁸ Additionally, several state corporation commissions concerned themselves with Garvey’s compliance with state securities laws. Garvey entered a guilty plea to the charge of violating the Illinois Blue Sky Laws and was fined \$100. Garvey was also investigated by the Virginia State Corporation Commission.³⁹

2. *Government Surveillance of Garvey*

The United States government conducted an extensive and detailed investigation of Garvey’s activities. One FBI agent’s report stated

³⁵ 5 R. HILL, *supra* note 11, at 378.

³⁶ 4 R. HILL, *supra* note 11, at 481-83.

³⁷ *Id.* at 856.

³⁸ 4 R. HILL, *supra* note 11, at 526-27 (statements made in an open letter from Garvey to William Pickens, published in the *Negro World*, Feb. 25, 1922).

³⁹ 2 R. HILL, *supra* note 11, at 58-59; *see also* 3 R. HILL, *supra* note 11, at 103.

that Garvey was "without doubt one of the worst inciters in the United States today among the negroes, who, I believe, would do almost anything for him. If there should be any race trouble in New York at any time there is no doubt that Garvey is sowing the seeds now for it."⁴⁰

The scope and reach of the surveillance network was staggering. Garvey's activities were initially brought to the government's attention by the American Protective League, a citizen vigilante group set up to hunt for communists.⁴¹ The United States Military Intelligence Division began charting Garvey's activities and scrutinizing the content of his speeches to ascertain what type of threat he might pose to the government.⁴² This effort, coordinated with the British Military Intelligence Division and the United States Diplomatic Service, with the aid of the U.S. Postal Censorship Committee (which provided a means by which Garvey's international mail could be scrutinized), provided an international intelligence gathering mechanism which could monitor Garvey and the UNIA's activities throughout the world.⁴³

J. Edgar Hoover originally began his observations of Garvey because he was considered an "undesirable alien."⁴⁴ In 1919 all aliens were under suspicion as communist infiltrators or sympathizers. Garvey's speeches were also scrutinized to determine whether he was in violation of the sedition acts.⁴⁵ After Garvey was determined not to be a communist, the surveillance effort was classified as an effort to gather information on "Negro Agitation" or "Negro Radicalism," for which the government set up a special investigation section.⁴⁶ Various government agencies regularly investigated black individuals and organizations who spoke out against racial discrimination and injustice.⁴⁷

The U.S. government assumed that Garvey's business program was a fraud. Government surveillance reports, discussing the investigation of the Black Star Line, described Garvey as a "get-rich-quick

⁴⁰ 2 R. HILL, *supra* note 11, at 145.

⁴¹ 1 R. HILL, *supra* note 11, at 244.

⁴² *Id.* at 293-97.

⁴³ *Id.* at 313.

⁴⁴ T. MARTIN, RACE FIRST 193 (1976).

⁴⁵ 1 R. HILL, *supra* note 11, at 285-88.

⁴⁶ *Id.* at 300-01. See also *Federal Surveillance of Afro-Americans (1917-1925): The First World War, the Red Scare, and the Garvey Movement* (microfilm collection, Univ. Publications of Am., Inc.) (T. Kornweibel ed. 1985).

⁴⁷ 1 R. HILL, *supra* note 11, at 458-59.

artist."⁴⁸ Blacks who opposed Garvey painted him as a con artist, and statements to this effect were made to government agents and black publications.⁴⁹ A significant portion of the intelligence on Garvey was gathered by blacks who were either agents, informants or UNIA infiltrators:⁵⁰

These men were instructed to circulate among the various communities where unrest was being reported among the Negro population. They were to remain long enough in each community to determine for themselves what the real trouble was and then by conversations and formal talks in Negro churches and other meeting places to persuade the Negroes in the community that the actions being suggested to them by persons who had previously circulated among them would lead to very serious consequences if not abandoned.⁵¹

Garvey and his followers were aware that blacks were spying on their organization and made some attempts to identify those persons:

You know in time of war we usually shoot spies, and it would be a good thing if by some reason the Negroes could get rid of the spies — of his writing and telling everything to the white man . . . If there is a Negro in this house who has been here for that purpose, if he attempts to report the speech you would do yourself credit to simply report the same to us.⁵²

Therefore, forces from within as well as without undermined the UNIA and hastened its decline. Every aspect of Garvey's business operations was under strict scrutiny. Through UNIA informants the government secured the minute details of the Black Star Line's financial affairs.⁵³ Agents of government intelligence knew in advance when Garvey or UNIA representatives would be embarking on a Black Star Line promotional tour, and agents faithfully recorded every success and failure.⁵⁴

When Garvey attempted to buy more ships, a broker conspiring with a top UNIA officer, embezzled thousands of dollars in deposit

⁴⁸ 3 R. HILL, *supra* note 11, at 143-46.

⁴⁹ 4 R. HILL, *supra* note 11, at 1, 439-40, 636-37.

⁵⁰ 1 R. HILL, *supra* note 11, at 327.

⁵¹ *Id.*

⁵² *Id.* at 334 (quoting speech by Mrs. Marie Marshall, a UNIA member).

⁵³ 2 R. HILL, *supra* note 11, at 684-86 (citing BUREAU OF INVESTIGATION, SUMMARY OF THE MINUTES OF BLACK STAR LINE BOARD OF DIRECTOR'S MEETINGS, 14 NOV. 1919 - 26 JULY 1920).

⁵⁴ *Id.* at xxxii.

money.⁵⁵ As a result of this theft, J. Edgar Hoover advised the U. S. Shipping Board, from whom Garvey had attempted to purchase the ships, not to sell anything to Garvey and forced the Shipping Board to renege on a contract for sale.⁵⁶ These acts greatly undermined the financial integrity of the Black Star Line. Moreover, these acts of sabotage undermined the confidence UNIA members placed in Garvey's vision of a redeemed race. However, "[a]n overwhelming majority of the fiercely devoted U.N.I.A. membership still believed implicitly in its martyred leader and accepted unquestioningly his bitter account of the dishonesty and treachery that caused the downfall of the Black Star Line."

3. *The Mail Fraud Trial*

Garvey's conviction must be examined in terms of the substantive elements of mail fraud. In order to secure a conviction for mail fraud, the prosecution had to prove that the defendant (1) had the intent to defraud, (2) had devised a scheme or device to defraud, and (3) made use of the mails in furtherance of his scheme to defraud.⁵⁷ Paradoxically, although the government proved its case, Garvey was not guilty.

The trial court, the United States Attorney, the jury, the circuit court of appeals and the general public assumed from the start, without proof, that Garvey's plans were fraudulent. An examination of the circuit court's opinion makes clear that the only issue they felt called upon to decide on appeal was whether or not Garvey made use of the mails:⁵⁸

The substance of [sic] indictment is that, while there center around Garvey other associations or corporations having for their object the uplift and advancement of the negro race, the entire scheme of uplift was used to persuade negroes for the most part to buy shares of stock in the Black Star Line at \$5 per share, when the defendants well knew, notwithstanding florid representations to the contrary, that said shares were not and in all human probability never could be worth \$5 each or any other sum of money. . . .⁵⁹

We need not delay to examine in detail the fraud scheme exhibited by practically uncontradicted evidence. Stripped of its appeal to the ambitions,

⁵⁵ 4 R. HILL, *supra* note 11, at 616.

⁵⁶ *Id.* at 28-29.

⁵⁷ 18 U.S.C. § 338 (1909), *as amended by* 18 U.S.C. § 1341.

⁵⁸ *Garvey v. United States*, 4 F.2d 974 (2d Cir. 1925).

⁵⁹ *Id.*

emotions, or race consciousness of men of color, it was a simple and familiar device of which the object (as of so many others) was to ascertain how 'it could best unload upon the public its capital stock at the largest possible price.'⁶⁰

An unbiased, fair evaluation of Garvey's plans was therefore not a task the court wished to undertake.

The facts, taken as given, established a legal conclusion that the Garvey vision must have been one of fraud. The court conclusively stated that "[a]t this bar there is no attempt to justify the selling scheme practiced and proven; it was wholly without morality or legality."⁶¹ But there is some question as to what was immoral or illegal about Garvey's plan. The "system" viewed Garvey's plans for racial redemption and African redemption as nothing short of ludicrous. Underlying the court's conclusion is the presumption that no one in his or her right mind could ever possibly hope that the European colonists would walk out of Africa and turn their territories over to blacks who were arguably inferior and certainly not capable of self-rule.

The derisive language of the court supports this point of view: "The voluminous testimony shows at length great efforts on the part of Garvey to constitute himself a 'leader of the colored race of the world,' and he called himself at times the 'provisional president of Africa' . . ."⁶² In another part of the opinion the court concluded "[i]t may be true that Garvey fancied himself a Moses, if not a Messiah; that he deemed himself a man with a message to deliver, and believed that he needed ships for the deliverance of his people . . ."⁶³

The court looked at Garvey as Garvey saw himself, but recast its vision in light of its own prejudicial assumptions. The court considered it blasphemous for Garvey to claim the right to lead black people back to Africa: a plan that contemplated that masses of negroes would leave this great land of liberty was heresy, and one who proclaimed such a plan either had to be crazy or intent upon committing a fraud. The court settled on the latter.

Garvey's "scheme" should be examined in isolation, apart from government assumptions and prejudices. For the stock to be truly

⁶⁰ *Id.* at 975 (citations omitted).

⁶¹ *Id.*

⁶² *Id.* at 974.

⁶³ *Id.* at 975.

worthless, the plans for self-determination and the repatriation of Afro-Americans must be bogus and constitute a reflection of the intent to defraud. The court assumed that, "the entire scheme of [racial] uplift was used to persuade negroes . . . to buy shares of stock in the Black Star Line" ⁶⁴ Again, the assumption is based on the court's conception that going back to Africa was a ridiculous idea. How, the court pondered, could this black man create a corporation "having for its purpose the acquisition and management of steamships, which vessels were ultimately intended to transport to Africa many colored men and much material, there to build up a greater country for the Negro race[?]." ⁶⁵

For the court, Garvey's enterprise was a sham corporation, funded by the sale of worthless stock. The court did not buy Garvey's argument that "[n]o one can fail to be strongly impressed by the fact that the persons who contributed were more intent on the ultimate uplifting and salvation that was promised to the negro race of America than to the paltry profits that might be realized from the stock investment." ⁶⁶ The court found no merit in an "appeal to the ambitions, emotions, or race consciousness of men of color" ⁶⁷

The focus throughout the trial and on appeal was the Black Star Line circulars and letters sent out, under Garvey's orders, through the mails. The Black Star Line was a fraudulent mechanism, in the court's opinion, and designed to induce unsuspecting and gullible patrons to part with hard earned money. The court reasoned any correspondence from the Black Star Line was in furtherance of this fraudulent scheme. Consequently, Garvey's conviction was based on an empty envelope bearing "the legend 'Black Star Line, New York City'" addressed to Benny Dancy. ⁶⁸ Dancy had received numerous letters from the Black Star Line and the UNIA advising him to invest more money in the Black Star Line. Dancy had purchased fifty shares. ⁶⁹ The court concluded that "[i]t is a reasonable inference that men regularly sending out circulars in envelopes do not send out empty envelopes; also, that one who received an empty envelope would remember the empti-

⁶⁴ *Id.* at 974.

⁶⁵ *Id.*

⁶⁶ *Id.* at 975.

⁶⁷ *Id.*

⁶⁸ *Id.* at 976.

⁶⁹ *Id.*

ness”⁷⁰ Therefore, the jury could reasonably conclude that the envelope contained material about the fraudulent steamship line. This count alone convicted Garvey.

Garvey was portrayed as a predator, fomenting racial prejudice and preying upon the ignorant masses of black people. The task of the judicial system was to see that justice was pursued on behalf of those exploited by this “tiger.”⁷¹ In *Benny Dancy*, the court found the perfect example of a man who needed protection. Dancy, a Pennsylvania station porter, was in Judge Hough’s words “evidently both emotional and ignorant.”⁷² Dancy had given the empty envelope to government agents who visited his home, though he could not remember what originally was sent in the envelope or even if he had read the material.⁷³

Garvey proceeded pro se at the trial. Although he was not entirely proficient in his self-advocacy, he demonstrated a significant level of skill in defending himself. The U.S. government viewed him as dangerous and acknowledged his ability to affect an audience. The government may have viewed him as a fraud, but he was a man who possessed the intellect and ability sufficient to accomplish a sophisticated program of empowerment. As evidenced by the money and time the government expended on its surveillance of Garvey, the United States government took him seriously.

For Garvey, Afro-Americans had yet to participate in a societal system which afforded justice. “The real trouble is that the justice and humanity which poets sing about and preachers wax eloquent over does not exist as a reality. The classes, races and nations who are down, desire a chance to rise, and the classes, races and nations who are on top are endeavoring to keep them down.”⁷⁴ Garvey had acted on the presumption that his plan for race redemption was honest, well-intended and forthright, and that the solution was self-evident. Blacks could obtain justice only when they were emancipated from a legal, social and economic system which denied them human dignity. As

⁷⁰ *Id.*

⁷¹ In his closing remarks to the jury, the prosecutor implied that Garvey was a dangerous animal and asked, “Gentlemen, will you let the tiger loose?” 2 *PHILOSOPHY AND OPINION*, *supra* note 2, at 147.

⁷² *Garvey*, 4 F.2d at 976.

⁷³ *Id.*

⁷⁴ 3 R. HILL, *supra* note 11, at 67-69.

Garvey asserted throughout his trial, his program of human dignity for the black race was self-explanatory.

Garvey did admit his managerial and planning mistakes and took full responsibility for them.⁷⁵ False representations about the Black Star Line had also been made; yet many of these were born of over-enthusiastic puffery and salesmanship and were made with the best of intentions.⁷⁶ Furthermore, the public remained in ignorance while duplicitous saboteurs and government officials often scuttled UNIA plans at their inception.⁷⁷ As a result, promises set forth in circulars went unfulfilled. Though Garvey may have been subject to charges of false advertising, he was consistent in every speech he made regarding the basic goals of the Black Star Line:

The Universal Negro Improvement Association is determined to lift the American Negro, the African Negro, the West Indian, South and Central American and Canadian Negro to a higher plane of economic independence . . . let us all unite and make 'The Black Star Line' a huge success, thereby demonstrating the ability of the Negro in this age of reconstruction to in some way take care of himself.⁷⁸

Consequently, errors in execution do not demonstrate an intent to commit fraud.

Quite simply, the wrong issue was addressed at the trial and on appeal. Garvey and the UNIA used the mails extensively to promote the Black Star Line, but the Black Star Line was not part of a scheme or artifice to defraud. Garvey expressed this point effectively in his closing argument to the jury:

[T]he Universal Negro Improvement Association is endeavoring to assist you in solving the Negro problem by helping the Negro to become enterprising, independent politically, and by having a country of his own. If you follow me down the ages you will see within a hundred years you are going to have a terrible race problem in America, when you will have increased and the country will become over-populated. It will be a fight for existence between two opposite races, the weak will have to go down in defeat before the strong. Do you know when you want bread and the other fellow wants it, when there is only one loaf — what is going to happen? Enmity and pressure is going

⁷⁵ E. CRONON, *supra* note 4, at 101-02.

⁷⁶ 3 R. HILL, *supra* note 11, at 440-43.

⁷⁷ L. LEVINE, *supra* note 5, at 127.

⁷⁸ 1 R. HILL, *supra* note 11, at 413-14.

to spring up and a fight will ensue. That is why the Universal Negro Improvement Association has started this proposition to redeem Africa and build up a country of our own, so as not to molest you in the country your fathers founded hundreds of years ago.⁷⁹

The system of justice chose not to believe the real reasons and intent behind Garvey's plan, though those purposes were the motivating force of his life. The court determined that Garvey's intentions were immoral and illegal. The "ambitions, emotions (and) race consciousness of men of color" were stripped from the Black Star Line and the UNIA "to leave it bare as a crime."⁸⁰

Garvey was convicted of mail fraud, sentenced to a term of five years in prison and, after President Coolidge commuted his sentence, was deported in 1927. This conviction, imprisonment and deportation were enough to discredit Garvey and to sink the UNIA. Garvey's mail fraud conviction, as well as some of his other problems, reflect the exercise of power in quieting a potential rebellion.

II. POWER IN THREE DIMENSIONS: A THEORY DEFINED

Thus far the concept of power has been discussed in general terms. In his book *Power: A Radical View*, Steven Lukes offers a more precise definition: "A exercises power over B when A affects B in a manner contrary to B's interests."⁸¹ Essential to this definition is that A must affect B "in a non-trivial or significant manner."⁸² The interests of B are identified by desires, preferences or political position. These interests can only be discernible if "[t]he identification of these is not up to A, but to B, exercising choice under conditions of relative autonomy and, in particular, independently of A's power—e.g., through democratic participation."⁸³

At the time Garvey came to the United States, white Americans were successfully exercising power over black Americans, e.g. through Jim Crow laws. To determine how this power was exercised, a discussion of the three dimensions of power, as identified by Lukes, is useful.

⁷⁹ PHILOSOPHY AND OPINION, *supra* note 2, at 213-14.

⁸⁰ *Id.* at 178.

⁸¹ S. LUKES, *supra* note 3, at 27.

⁸² *Id.* at 26.

⁸³ *Id.* at 33.

The one-dimensional view of power suggests that there is a "pluralist" concept of power.⁸⁴ In looking at political decision-making, on issues where there is a concrete or observable conflict, one will eventually discover who has the power to vote for his or her side.⁸⁵ For example, if *A* can influence what *B* does, *A* has the ability to control the dialogue on given issues and set the political agenda. For those who hold a pluralist, one-dimensional view of power,

[c]onflict . . . is assumed to be crucial in providing an experimental test of power attributions: without it the exercise of power will, it seems to be thought, fail to show up. What is the conflict between? The answer is: between preferences, that are assumed to be consciously made, exhibited in actions, and thus to be discovered by observing people's behavior. Furthermore, the pluralists assume that *interests* are to be understood as policy preferences — so that a conflict of interests is equivalent to a conflict of preferences. They are opposed to any suggestion that interests might be unarticulated or unobservable, and above all, to the idea that people might actually be mistaken about, or unaware of, their own interests.⁸⁶

This view can be criticized because all members of society are not eligible to participate in the political process. The above-stated does not take into account those groups or individuals who have been disenfranchised. Policy preferences are shown only through political participation,⁸⁷ and the success or failure of individuals or groups in pressing specific preferences determines the amount of power a group or individual has.

The second dimension of power considers how those in power control the decision-making agenda. This view goes beyond the pluralist view, which only considers power in terms of who wins in an observable conflict over a given issue. Power may be exercised over another who has differing interests by not allowing decisions to be made on issues or by not allowing issues to come to the foreground for public debate and discussion:

Power is also exercised when *A* devotes his energies to creating or reinforcing social and political values and institutional practices that limit the scope of the political process to public consideration of only those issues which are

⁸⁴ *Id.* at 11.

⁸⁵ *Id.* at 11-15.

⁸⁶ *Id.* at 14.

⁸⁷ *Id.* at 15.

comparatively innocuous to A. To the extent that A succeeds in doing this, B is prevented, for all practical purposes, from bringing to the fore any issues that might in their resolution be seriously detrimental to A's set of preferences.⁸⁸

Lukes points out that "[a]ll forms of political organizations have a bias in favor of the exploitation of some kinds of conflict and the suppression of others."⁸⁹ This notion has been classified as the mobilization of bias: "[A] set of predominant values, beliefs, rituals, and institutional procedures ['rules of the game'] that operate systematically and consistently to the benefit of certain persons and groups at the expense of others. Those who benefit are placed in a preferred position to defend and promote their vested interests."⁹⁰

Those in power are in a position to control the "rules of the game" and to decide who is going to play. Essential to this dimension is observable conflict over "key issues" between those in power and those excluded from the political agenda, key issues being defined as those that involve "a genuine challenge to the resources of power or authority of those who currently dominate the process by which policy outputs in the system are determined."⁹¹

Thus, to analyze two-dimensional power, both decision-making and nondecision-making must be examined:

[N]ondecision-making is 'a means by which demands for change in the existing allocation of benefits and privileges in the community can be suffocated before they are even voiced; or kept covert; or killed before they gain access to the relevant decision-making arena; or, failing all these things, maimed or destroyed in the decision-implementing stage of the policy process.'⁹²

Accordingly, power holders can advantageously promote their interests using the "rules of the game" for decision-making or nondecision-making.

Observable conflict is the basis of the first two dimensions of power — the conscious choice of individual decision-makers exercising power. However, the third-dimensional view of power recognizes that

⁸⁸ *Id.* at 16.

⁸⁹ *Id.*

⁹⁰ *Id.* at 17.

⁹¹ *Id.* at 19.

⁹² *Id.* at 18-19.

conflict is not a prerequisite to all exercises of power. This viewpoint focuses on group or institutional power relationships. Power exercised through manipulation and acquiescence to authority shows little divergence of interests between those in power and those without.

Institutions in a government system may shape the contours of conflicts in ways which are not consciously chosen. The nature of the system makes this so. "[T]hrough the control of information, through the mass media and through the process of socialization,"⁹³ power may be exercised in a way that keeps *B* in his place by controlling what *B* perceives as a conflict. Issues come to the fore at the convenience of many diverse groups and institutions exercising power, often in ways not consciously chosen by individuals in power positions.

Another aspect of the third dimension of power is consideration of the role *B* may play in his or her own oppression. As noted earlier, proponents of the first two dimensions of power suggest that if there are no observable grievances or conflicts, power is dormant and is not being exercised. However, power exercised within the context of groups or institutions can affect the conduct of *B*, without appearing to act positively on *B*. Lukes offers the following horrifying pronouncement of how power relationships work:

[It is] the supreme and most insidious exercise of power to prevent people, to whatever degree, from having grievances by shaping their perceptions, cognitions and preferences in such a way that they accept their role in the existing order of things, either because they can see or imagine no alternative to it, or because they see it as natural and unchangeable, or because they value it as divinely ordained and beneficial[.] To assume that the absence of grievance equals genuine consensus is simply to rule out the possibility of false or manipulated consensus by definitional fiat.⁹⁴

The institution of slavery might be viewed from this perspective. Although there were numerous slave rebellions, many slaves came to identify with and promote the interests of oppressive masters. Similarly, the social, religious and legal institutions of the slave society tolerated and condoned the violence perpetrated on bonded humans because the economy depended on slave labor. In the twentieth century those in power tolerated and condoned lynching as an exercise of power over negroes who "got out of their place."

⁹³ *Id.* at 23.

⁹⁴ *Id.* at 24.

Garvey understood this concept of power, although not in the same terms Lukes uses in his analysis. Garvey believed that “[t]he only protection against INJUSTICE in man is POWER— Physical, financial and scientific.”⁹⁵ Physical power, i.e., armed fighting, might have to be utilized against the oppressor.⁹⁶ Blacks, Garvey urged, must be willing to die for their freedom, just as they evidenced a willingness to die for the white race in World War I.⁹⁷ If blacks could create their own goods and services they would no longer be economically dependent on the powerful. Scientific power would disclose the truth about the universe and those scientific claims of white racial superiority could be refuted and no longer could be utilized to enslave the minds of the black people.⁹⁸ Garvey further reasoned that “[t]he battles of the future, whether they be physical or mental, will be fought on scientific lines, and the race that is able to produce the highest scientific development, is the race that will ultimately rule.”⁹⁹ Garvey’s concept of power, as applied to the struggle for the human dignity of African descendants, presented a frontal attack on the white power structure.

III. POWER AND THE CASE OF MARCUS GARVEY

A. *Power in the First Dimension: The Battle for Policy Preference*

The pluralist, or one-dimensional, theory of power requires that a point of view engender a well-organized effort to gain popular support in the democratic process. Certainly there was concern for negro advancement and improvement on the national political agenda, but Garvey’s vision and plans were not considered an acceptable articulation of this concern. Although Garvey attempted to initiate a discussion on this “policy preference” — racial uplift and African redemption — he never obtained enough “votes,” or support, for his preference. In essence, Garvey failed at this level because he was a poor politician. This was partly due to poor organization, which contributed to an inability to effectively engage in the political process.

⁹⁵ PHILOSOPHY AND OPINION, *supra* note 2, at 19.

⁹⁶ 2 R. HILL, *supra* note 11, at 203 n.4.

⁹⁷ *Id.*

⁹⁸ See generally S. GOULD, THE Mismeasure of Man (1981).

⁹⁹ PHILOSOPHY AND OPINION, *supra* note 2, at 13.

Garvey recognized that disorganization was detrimental to political participation: "The greatest weapon against the Negro is disorganization."¹⁰⁰

Many viewed Garvey's failures as his own fault. His organization admittedly was poorly managed. Individual members of the UNIA more often promoted their own self-interests above the interests of the black race. Several of Garvey's lieutenants stole from the UNIA and Black Star Line coffers. Such stealing, along with questionable expenditures for worthless ships, led to serious financial difficulties. This poor organizational and financial management impaired Garvey's integrity in the minds of both his followers and his potential followers. Additionally, Garvey's own pomposity, as evidenced by the UNIA's ostentatious parades and ceremonies, and by the titles of nobility and rank bestowed upon UNIA officers, further damaged his credibility. All these factors damaged Garvey's efforts to gain popular support.

An additional inquiry into the one-dimensional view of power involves an examination of the Garvey movement and the exercise of power within the black community. Historically there has been a struggle for leadership within the black community. Using the pluralist concept of power, the leadership role has been bestowed on black individuals who could exercise power within the community. In other words, a successful leader persuades the most people to line up behind a given ideology — or "policy preference" — when an issue is brought to the public agenda. Once the leader obtains his or her position of power within the black community, there is a struggle to maintain it.

In "one dimension" power terms, Garvey had insufficient power to overcome the strident opposition he faced within the black community. Quite simply, there were too many factions vying for positions of power. The conservative faction, inheritors of the Booker T. Washington tradition, advocated limited activism and accommodation [or "constructive engagement"] to the social structure. The more moderate faction, under the principal leadership of W.E.B. Dubois, pushed for social and political integration between the two races. The radical faction, under such leaders as Chandler Owen and Cyril Briggs, advocated complete reorganization of society along socialist or communist lines.¹⁰¹ Within the black community, these factions exercised

¹⁰⁰ *Id.* at 10.

¹⁰¹ This is a general breakdown of the political and philosophical points of view in the black community at the turn of the century. For further discussion of this ideological struggle,

sufficient power to veto any alternative programs inconsistent with their policy preferences. In this sense, Garvey's failure can be attributed to the efforts of other blacks.

B. Power in the Second Dimension: Suppression by Changing the Rules

The second dimension of power, as presented by Lukes, considers how those in power control the decision-making agenda. By manipulating the "rules of the game," those in power denied Garvey access to influence the political agenda. Garvey wanted to place his proposals before the people of the U.S. and the rest of the world. Through attacks on Garvey's personal integrity, however, the persons in power succeeded in deflecting public attention from those proposals.

Certainly, the mail fraud conviction exemplifies this dimension of power. The mail fraud statute has been said to be infinitely malleable for resourceful prosecutors: "[I]ts language is susceptible of so many interpretations, the courts have been able to construe the statute expansively, using it as a procrustean bed to fit virtually any conduct by defendants accused of a wide variety of deception."¹⁰² A quote from J. Edgar Hoover in an October 11, 1919 surveillance report evinced the purposeful use of criminal statutes as a way of neutralizing a potential issue or issue-maker:

Garvey is a West-Indian negro and in addition to his activities in endeavoring to establish the Black Star Line Steamship Corporation he has also been particularly active among the radical elements in New York City in agitating the negro movement. Unfortunately, however, he has not as yet violated any federal law whereby he could be proceeded against on the grounds of being an undesirable alien, from the point of view of deportation. It occurs to me, however, from the attached clipping that there might be some proceeding against him for fraud in connection with his Black Star Line propaganda and for this reason I am transmitting the communication to you for your appropriate attention.¹⁰³

see MARCUS GARVEY AND THE VISION OF AFRICA (J.H. Clark & A.J. Garvey eds. 1974); R.H. BRISBANE, THE BLACK VANGUARD: ORIGINS OF THE NEGRO SOCIAL REVOLUTION—1900-1960 (1970); NEGRO SOCIAL AND POLITICAL THOUGHT — 1850-1920 (H. Brotz ed. 1966).

¹⁰² MORANO, *The Mail Fraud Statute: A Procrustean Bed*, 14 J. MARSHALL L. REV. 45 (1980).

¹⁰³ 2 R. HILL, *supra* note 11, at 72.

The mail fraud indictment and Garvey's subsequent conviction serve as an example of governmental power operating in the second dimension; not only in the efforts to secure evidence of such a crime, but also in the attitude of Hoover, the prosecuting attorney, and other governmental officials.

Garvey was initially the only individual indicted for a crime allegedly committed by a corporate entity. To give the appearance of fairness, the original indictment was dropped and Garvey was reindicted along with three other officers of the Black Star Line. Even though the other officers were key participants in the shipping enterprise, only Garvey was convicted.¹⁰⁴

Furthermore, an examination of Garvey's efforts to gain a territorial foothold in Africa is significant. After World War I ended, the Allies gathered in Paris in 1919 for a peace conference. On their agenda was the issue of what to do with the German colonies in Africa. At a UNIA convention, Garvey proposed that the land be given to the Africans and the UNIA elected three delegates to the Paris Peace Conference. This effort to send a delegation was investigated by the Federal Bureau of Investigation and resulted in the State Department refusing passports to A.P. Randolph and Ida B. Wells-Barnett, two of the delegates.¹⁰⁵ Thus, two powerful black leaders with international credibility were denied access to the international political conference, and could not influence the formation of the peace plans. Sadly, the issue of ending African colonization never became an issue subject to the decision-making process. Again, those in power had controlled the decision-making agenda.

C. Power in the Third Dimension - Institutional Mobilization of Bias Against Liberation Movements

While the first two dimensions of power focus on observable behavior or conflict, the exercise of power has a third dimension which focuses on group or institutional power relationships: "Decisions are choices consciously and intentionally made by individuals between alternatives, whereas the bias of the system can be mobilized, recreated and reinforced in ways that are neither consciously chosen nor the intended result of particular individuals' choices."¹⁰⁶

¹⁰⁴ PHILOSOPHY AND OPINION, *supra* note 2, at 145-46.

¹⁰⁵ I R. HILL, *supra* note 11, at 329.

¹⁰⁶ S. LUKES, *supra* note 3, at 21.

Three recognized aspects of this radical view present themselves in Garvey's case: 1) Institutional aspects of power that are exercised beyond the control of individuals holding positions of power; 2) The nature of power, which shapes wants and desires; and 3) The fact that power, in its most invidious form of exercise over an oppressed people, forces the oppressed to identify and promote the oppressor's interests in countervailance of their own interests.

1. Institutional Aspects of Power

The three-dimensional view of power recognizes that conflict is not a prerequisite to all exercises of power. Power exercised through manipulation and acquiescence to authority shows little divergence of interests between those in power and those without. The form of the organization or institution dictates how players and participants (or pawns) of the power "game" respond. As form follows function, institutions are designed to perpetuate social arrangements. The form of the institution or organization may also be shaped by the collective forces of all power relationships.

These dynamics were at work in Garvey's trial, and on his appeal before the circuit court. The judges, guardians of justice, assumed that Garvey's scheme was fraudulent because no one in his or her right mind could realistically conceive a plan to redeem Africa. The thought of negroes running their own government was considered ludicrous. The court saw as its responsibility the protection of the ignorant from being duped by such a ridiculous proposition. But the court considered the wrong issues. Neither a discussion of the moral claim intimated in Garvey's vision, nor the rightness or correctness of his programs, were the legal issues before the court.

2. The Nature of Power

A second observation of the three-dimensional view of power reveals that institutions in a government may shape the contours of conflicts in ways which are not consciously chosen. "[T]hrough the control of information, through the mass media and through the process of socialization,"¹⁰⁷ power can be exercised in a way that keeps people in their "place" by controlling what they perceive as conflict. Issues come to the fore at the convenience of many diverse groups and in-

¹⁰⁷ *Id.* at 23.

stitutions exercising power; often in ways not consciously chosen by individuals in power positions.¹⁰⁸

Power shapes wants and desires, and controls thoughts and motivations. Power socializes individuals through the selective control and presentation of information. This socialization process dictated the behavior of key government officials in Garvey's case.

J. Edgar Hoover epitomized the mentality of the government agents who zealously pursued Garvey. Hoover had a notion of what constituted an undesirable or "un-American" person. To him, all "radicals" were bad. His actions consciously and unconsciously shaded the attitudes and activities of other government agents. Hoover's fear of communism, and the "Red Scare" that gripped the nation during and after World War I, created a national feeling that radicalism in any form was unacceptable. Radicals should and would be denied access to public forums and to the political process.¹⁰⁹

Negro radicals were suspect no matter what political philosophy they advocated. Those who spoke out on human rights for Afro-Americans were subject to federal surveillance; many reports were filed with the government under the subject heading "Negro Agitation." The government closely monitored the activities of these negro radicals to make sure they did not "stir up" the negro race.¹¹⁰

Garvey's conduct, radical as it seemed, violated no law. Yet, his advocacy of black race redemption ran counter to the status quo and was, therefore, termed radical. Government agents, obsessed with the national ethos that radical equalled dangerous, saw Garvey as a monumental threat. If Garvey was dangerous, then he had to be neutralized or eliminated.

3. *Identification by the Oppressed with the Oppressor*

The final aspect of the third dimension of power considers the role the oppressed play in their own oppression. Proponents of the first two dimensions of power suggest that if there are no observable grievances or conflicts, power is dormant and is not being exercised. However, power exercised in the context of groups or institutions can achieve the same results, affecting the conduct of the oppressed, with-

¹⁰⁸ *Id.*

¹⁰⁹ See THE CULTURE OF THE TWENTIES AT 108 (L. Baritz ed. 1970); MURRAY, RED SCARE: A STUDY IN NATIONAL HYSTERIA, 1919-1920 (1955).

¹¹⁰ I R. HILL, *supra* note 11, at 245.

out appearing to act positively on them.¹¹¹ Many blacks staunchly opposed Garvey, often viciously, for his ideas — ideas that appeared to be in the best interests of blacks. This lack of identification with the issues and methods propounded by Garvey were a result of power operating in the third dimension.

Many people disliked Garvey because he was a popular leader who could move the masses to action like no other black leader of that era. His opponents narrowly construed his movement, labeling him an ideologue, and sought to discredit him. Certainly Garvey's personality was strong, and he did tend to alienate people. He was arrogant and pompous,¹¹² and often displayed a quick temper. He did not easily compromise with those individuals, friend or foe, who respectfully disagreed with him on subissues or minor points. A charismatic man with a forceful personality, he was labelled by his opponents as a demagogue. The "better class" of negroes found his behavior and style unacceptable, and perceived that their elite positions within the system were threatened by Garvey's "antics."

Garvey's radical advocacy of racial pride and rejection of more moderate movements toward integration removed him from the category of "safe" blacks in the eyes of many whites and blacks. Garvey's call for race unity, social and economic independence, and strength was in opposition to accepted behavior. As a way of neutralizing ideas that ran counter to the mainstream philosophy of most black leaders, his opponents resorted to attacks on the man himself.

Yet these same ideas, isolated from Garvey's personality, could have been useful in addressing the economic, political and social dilemmas faced by the black population. Those black leaders who opposed Garvey's ideas did so against their long-term real interests. Those who advocated slow, gradual change in race relations advocated the interests of those in power. This exercise of power, in the third-dimensional view, is the most pernicious aspect of power.

CONCLUSION

To understand the threat Garvey posed to those in power, one must look at what was at stake in his quest to empower Afro- Amer-

¹¹¹ S. LUKES, *supra* note 3, at 23.

¹¹² 4 R. HILL, *supra* note 11, at 239-45. Garvey not only gave himself the titles "Provisional President of Africa" and "President General of the UNIA," he described himself in posters advertising meetings of the UNIA as "The Greatest Negro Orator of the Twentieth Century." *Id.*

icans. Garvey posed two problems: a threat to the internal social structure of the United States and a threat to the world order. Racism had been institutionalized as a vital part of the American law, economy, religious practices and social relationships. Racism was, and still is, *the* critical instrument of power used to maintain the status quo.

Racism even shaped the political rhetoric of the black community. Booker T. Washington, the "Spokesman of the Race," argued that the negro should obtain mechanical and industrial skills and that whites should continue to expect loyal service from the humble, hardworking negro:

[W]e shall stand by you with a devotion that no foreigner can approach, ready to lay down our lives, if need be, in defence of yours, interlacing our industrial, commercial, civil, and religious life with yours in a way that shall make the interests of both races one. *In all things that are purely social we can be as separate as the fingers, yet one as the hand in all things essential to mutual progress.*¹¹³

Washington pleaded for limited economic power and advocated no change in the social relationships between the races.

Internationally, the struggle for power between the black and white races appeared to be in the final stages at the turn of the twentieth century. Africa had been subdued; its historic great nations no longer in existence and its population dispersed or destroyed by the slave trade, shattering the social structure of the continent.

Against this historical backdrop, Marcus Garvey proposed a radical alternative. He claimed Africa for all Africans as a divine right and believed that the programs of the UNIA would radically alter the shape of international politics. Economic strength through the development of black-owned and operated businesses would provide financial power to the black community. With financial power, political strength could be purchased which would in turn, improve the social status of blacks. Malcolm X, noting Garvey's influence in the United States and internationally, stated:

Every time you see another nation on the African continent become independent, you know that Marcus Garvey is alive. It was Marcus Garvey's philosophy of Pan Africanism that initiated the entire freedom movement, which brought about the independence of African nations. . . . All the free-

¹¹³ B. WASHINGTON, UP FROM SLAVERY 228 (1901) (emphasis added).

dom movements that are taking place right here in America today were initiated by the work and teachings of Marcus Garvey.¹¹⁴

Certainly Garvey's race pride ideology would lift the cloak of inferiority from black minds, freeing them to determine the value of their own social status.

This possibility was too threatening — Garvey and his UNIA had to be eliminated. Yet time vindicated much of Garvey's vision. Today Afro-Americans are proud of their heritage, due in large part to Garvey's original "Black Is Beautiful" campaign. Economic development through self-help continues to offer the promise of racial emancipation from poverty. Africa today, even with its problems, has for the most part shaken off the chains of colonialism.

¹¹⁴ Malcolm X, *Daily Gleaner*, Jamaica, West Indies, July 12, 1964.

