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HOMECOMING: THE RITUAL OF WRITING HISTORY

*Deborah Waire Post**

When the *BlackLetter* editors announced this anniversary issue, in a fit of nostalgia I called and asked if I could submit a small essay. I wanted to revisit a topic that was the subject of an editorial I wrote sixteen years ago.¹

I sent this year's editors on a journey through time, searching for relics of the past in the dusty recesses of Langdell Hall. They found these artifacts in a room reserved for "special collections." They sent me copies from the years 1975, 1978 and 1979. It was strange, reading through those old copies of the *BlackLetter*, reading the words of friends I have not seen in years. I was surprised as well. I discovered an interview with Chris Edley, now a professor at Harvard Law School, about his experience on the *Harvard Law Review*. I was surprised to read that Charles Lawrence, someone whom I consider one of the foremost scholars in critical race theory, visited Harvard the year after I graduated.

I was also disappointed. What the students did not find in this trip into the past was the editorial I wrote for a column I called "Coping." As I remember it (and my memory is a little hazy after all these years), the piece was an exploration of the relationship between the Black men and women at Harvard. Characterizing it in this way is a little misleading, I think, if it suggests depth or complexity. I think I am being fair if I describe it as controversial, if by that we mean that people had opinions, positive and negative, about it. At the time, I did not realize how close I came to violating "the last taboo."² Nor did I realize how important, complicated or enduring the conflict between Black men and women would be.³

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1. *BlackLetter Journal* is celebrating its 10th anniversary. I guess we could say that I wrote for the first incarnation of the *BlackLetter*, which was created by the Harvard Black Law Students Association (BLSA) almost 20 years ago. At that time, the *BlackLetter* was written by and distributed among the students of color at the law school. Back before the day of personal computers and desktop publishing, we used to write our own columns and type them. The banner of the paper was created with the use of magic markers and a stencil and, since our end product was photocopied, some (but not all) of the many mistakes we made could be corrected through the liberal application of correction fluid—*White-out*.
2. The disclosure of sexual, as well as gender, conflicts has been described as "the last taboo." Paula Gidding, *The Last Taboo in RACE-ING JUSTICE, EN-GENDERING POWER: ESSAYS ON ANITA HILL, CLARENCE THOMAS AND THE CONSTRUCTION OF SOCIAL REALITY* 441 (Toni Morrison, ed., 1992).
3. See generally the discussion of race and gender issues in AUDRE LORDE, *SISTER/*

I asked to write for this anniversary issue because I have come to believe in the importance of history and the usefulness of ritual in providing order and a sense of community.⁴ We order time through the use of cyclical or momentous events in human existence. If we chose to, we can mark these anniversaries with ceremonies and ritual. Festivals and annual celebrations mark the change of seasons or the beginning and end of another cycle in our lives. When you have lived through enough of these cyclical celebrations, the celebration itself begins to take on a slightly different meaning; it begins to have weight and substance, and to provide the architecture in our lives.⁵

The rituals we celebrate announce the progress we have made in our lives (or not); they remind us of the inexorable process of aging. Who among us has not asked herself the question that comes along uninvited with a letter asking for a class gift: "Has it really been eighteen years since I started law school?" Anniversaries and reunions are designed to do more than remind us of the impermanence of our own existence. They connect the past, the present and the future. They allow us to celebrate the connections we have with other people: people who have been part of our past and the people who will build on what we have done in the past in making a new future.

There are people who define themselves in terms of the institutions in which they have participated. We all know someone, a friend or classmate, a chance acquaintance, who believes admission to Harvard Law School or election to the *Harvard Law Review* was the most important achievement in his or her life. For some, everything that happens afterwards is anti-climactic. There are others, and I count myself among them, who rejoice in the survival of an institution, the *BlackLetter*, which I think I helped define, at least in its early stages. The *BlackLetter* seemed so fragile then, so vulnerable to the weaknesses inherent in many student-run organizations: the lack of continuity from year to year and the absence of institutional memory.

The *BlackLetter*, it turns out, was not as fragile as I (we) thought. I think we underestimated the need within the community for a public space, a place where we could recognize our own and express our shared concerns. Nor did we realize that this modest publication was one of the the means by which we were writing our own history.⁶

OUTSIDER (1984); "Representations, Feminism and Black Masculinity" in BELL HOOKS, *YEARNING: RACE, GENDER, AND CULTURAL POLITICS* (1990); *RACE-ING JUSTICE, EN-GENDERING POWER: ESSAYS ON ANITA HILL, CLARENCE THOMAS AND THE CONSTRUCTION OF SOCIAL REALITY* (Toni Morrison, ed., 1992).

4. See generally TOM F. DRIVER, *THE MAGIC OF RITUAL, OUR NEED FOR LIBERATING RITES THAT TRANSFORM OUR LIVES AND OUR COMMUNITIES* (1991).

5. Driver uses a lovely metaphor when he calls ritual a pathway and a shelter. When we ritualize (the verb) we make a pathway through uncharted territory; when a "particular act of ritualizing becomes more and more familiar, as it is repeated so often that it seems to circle round upon itself, it comes to seem less like a pathway and more like a shelter. . . . Some ritualizations have become, in the course of time, such elaborate shelters that they are like architecture, and indeed often have impressive buildings dedicated to their performance." *Id.* at 16.

6. In addition to student-edited journals like the *BlackLetter*, there is at least one faculty-edited journal devoted to similar issues, where the contributors might well be engaged in the ritual of writing history. "Reconstruction offers a forum for

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In 1975, Harvard was a school where there were few women or Blacks on the faculty. There were 500 students in the entering class, about 40 or 50 students of color and 11 or so Black women. I remember most of the Black women: Diane Pierce, Fern Fisher, Caprice Collins, Nancy Kilson, Lydia Kennard, Deborah Lathen, Marsha Mosely, Gwen Simmons and Rosalyn Plummer. I remember that some of us organized a Sunday brunch at my apartment in Central Square sometime during the first few weeks we were at Harvard. From time to time over the next three years, we would get together to talk and to renew ourselves in the company of other women. The Black men formed the "Black Plague" that year, and I suppose they were proud of their football team (they would balk, I am certain, if I used the term "comfort" to describe the pleasure they experienced in each other's company).

Over the years, some of my Black male students and my Black male colleagues have accused me of over-emphasizing the instances of gender bias I have experienced, diminishing the significance of racism. I am not sure how one can be accused of overemphasizing a feeling, a phenomenon that at its essence is peculiarly personal and subjective.

I put my feelings into words. I describe what I have seen and what I have experienced because I know that the cumulative description of similar subjective experiences ultimately produces a different understanding of what is "real" and what is "truth" and even what is "subjective."⁷

What I experienced at Harvard was surreal. I used to sit in the library in a big overstuffed blue chair and read until the building closed at midnight. When I got tired of reading, I would lie with my head back and stare up at the ceiling with its gold lettering that ran around the room. Sometimes I tried to use the Latin I learned in high school to translate the words, but I couldn't. Sometimes I would look up at that ceiling and know that this was a dream. When I was growing up in Auburn, New York, Harvard was part of another universe, a school

discussing the wide variety of issues that confront our world. It is particularly concerned with presenting commentary on African-American politics, society, and culture." This general purpose is stated on the masthead of volumes 1-2 of *Reconstruction*, edited by Harvard Law Professor Randall Kennedy.

7. If the distinction between the objective and the subjective in our society is the difference between the individual and the collective sense of the world, then it follows that the reasonableness of a belief or a feeling or an interpretation of an event will depend on the community's recognition that the belief or the meaning assigned is not idiosyncratic but is, in fact, widely shared. Questions about the depth or breadth of the shared perception have particular significance when we consider anti-discrimination provisions in our law. If the wider community has acknowledged the possibility of harm and the desire for the application of anti-discrimination principles, it seems appropriate to use the perception of the affected community rather than the perception of the those who would discriminate in determining the reasonableness of a perception. See generally Deborah Brenneman, *From a Woman's Point of View: The Use of the Reasonable Woman Standard in Sexual Harassment Cases*, 60 U. CINN. L. REV. 1281 (1992) (discussing *Ellison v. Brady*, 924 F2d. 872 (1991)).

attended by fictional characters named Quentin, Spoade and Shreve.⁸ A real, flesh and blood, Black woman couldn't be at Harvard, so it had to be a dream.

I felt neither unhappiness nor loneliness at Harvard. I had many friends among majority students. There was no sense of intimacy in those friendships, at least not the kind of intimacy that leads you to take risks and let yourself be vulnerable. In law school, you had to have faith that a person cared about you if you were going to say or do things that made you feel like an idiot.

I was aware that my familiarity with the environment and the language of this new world was more limited than that of some of my classmates. I knew it the moment I heard one of my classmates in a the legal writing course begin a discussion of our assignment with, "In the instant case." Where the hell did he get that from? But, I did not confuse lack of familiarity with lack of ability. I knew my own worth even though I was aware that others did not. Not one white student in a section of 125 invited me to be a member of her study group. Apparently, none of them thought I had anything valuable to contribute to the peer learning that went on in those groups. I say this with no bitterness because I was not injured by the exclusion.

For the first time since I left home, I had a "safe place," a home, with study group partners who were my real friends. My study group was composed of four Black men, Kenneth Frazier, Keith Williamson, Reginald Thomas, and Charles Ogletree, and two Black women, Marsha Mosely and Fern Fisher. I put my faith in them then, and they have my trust and affection even today. I have named the Black women of the class of 1978 who were my friends, and I have named the members of my study group because I realize now that we are, after all, writing history here.⁹

* * *

When I was at Harvard, the Black students socialized with one another at some table in the Hark after classes and when they took breaks from studying with one another. I remember we laughed a lot and we were a little loud from time to time. We argued in a way some people might feel was combative and certainly there were some among us whose language made even the worldly blush or take offense. We talked about the law and we talked about issues of immediate concern, like the relationship between Black men and Black women. We did not

8. WILLIAM FALKNER, *THE SOUND AND THE FURY* (1954).

9. Have you ever noticed that when you talk to your grandmother or the older members of your community, there is always this long genealogy or recitation of the names and the relationships of people who appear in the stories they tell? For an oral history that illustrates this practice see THEODORE ROSENGARTEN, *ALL GOD'S DANGERS: THE LIFE OF NATE SHAW* (1974). When I was young, I was impatient with the whole process. It seemed almost biblical to me—like the section of *Matthew* where there is a list of begets. (I thought it was *Genesis* but Kenny Frazier tells me otherwise). I just tuned it all out, ignored the names and prodded the teller to "get to the point." I must be getting old. Now that I have assumed the role of storyteller, I feel that the story is not being told properly if the names are omitted. As it is, I've left far too many out for the sake of brevity.

see, how could we realize, that our discussions were only part of a lengthier and larger discussion about law, politics, economics and culture. Fifteen years later we have a chance to recall the past in our attempt to understand the present and the future.

I can't find the *BlackLetter* with my column, but I believe I wrote it in response to more than one discussion about dating.¹⁰ I don't know why some of the men thought it was necessary to discuss the techniques and the methods that they employed to meet and date undergraduate women from Lesley College or Wellesley unless their comments were meant to provoke a response from the Black women at the table. I can still see one of my classmates describing the effect the announcement of his status as a law student had on the undergraduates. According to him, undergraduate women were awed by law school men. This comment, which was partly in jest I'm sure, I accepted as an honest expression of a dating preference. If he meant what he said, this man preferred a woman who would be intimidated by his status. I found this remark disquieting. Why would a law school student seek a relationship of inequality? Why this need for a relationship of domination and subordination?

Sometimes the conversation took another form. The men and the women discussed the personal characteristics they looked for in a life-long companion. Some of the men admitted a preference for intellectual strength in their female friends and domesticity in their mates. Was this meant as flattery?

We also talked about affirmative action when I was at Harvard. I remember one woman who announced emphatically that she was not an affirmative action admit. After she left the table, we all broke up. Fifteen years later the debate rages, and some of us admit willingly that we benefited from affirmative action. You have to ask what the debate is all about. We are not all Stephen Carter,¹¹ but most of us have shown that whatever the standards might have been for admission to college or admission to law school, those standards were not an adequate measure of what we would do with that degree or with the knowledge we acquired in those institutions. A whole generation of Black students have gone on to prove themselves professionally. That ought to be evidence of the value of affirmative action. Still, the debate swirls around the dual issues of qualification and merit while Judge Posner worries that white students will despise their Black classmates.¹²

I remember a class project I did with a young white male for a class in family law taught by Professor Frank Sander. My teammate and I divided up responsibility for the paper, and we met to discuss our respective work product and put the two pieces together. I was shocked

10. The problems that confront young men and women who must learn to work together as professionals while they deal with the issues of human sexuality and the process of finding or selecting a partner in life can provide rich material for the serious journalist or the satirist. See, e.g., discussion of the humor of Elizabeth Moreno, who wrote for the *Harvard Law Record*, in John Sedgwick, *Beirut on the Charles GQ*, Feb. 1993, at 153.

11. STEPHEN L. CARTER, *REFLECTIONS OF AN AFFIRMATIVE ACTION BABY* (1991).

12. See Richard Posner, Comment, *Duncan Kennedy on Affirmative Action*, 1990 DUKE L.J. 1157, 1158.

by his illiteracy. My surprise and my horror must have been written on my face for this young man immediately found some pretext to announce that he got 800 on the LSAT. I tracked down Professor Sander and violated the rules (if there were any) on anonymity because I was afraid he would assume that the person who could not write was the Black woman. The problem was not affirmative action; the problem then and now is the idea that capability and intelligence can be measured by some score on a test. Why did we agree to let ourselves and our worth be measured by a number?

* * *

I applied to law school because I felt powerless. The year I applied, my employer, Macmillan Publishing Company, fired the entire research staff and packed up the research library and shipped it from New York to Chicago. The research staff had been infiltrated by union organizers. About the same time, a woman's group came out from underground, and the women began to make some demands for equal pay and opportunities for promotion within the company. Macmillan fired the president of the women's group. The company was being investigated by the state attorney general's office, but as far as I could tell from the events I witnessed, this publishing company qua conglomerate was unrepentant and incorrigible.

I went to law school because I did not want to be powerless in the face of discrimination and prejudice. I wanted to remedy the injustices I saw and experienced. Sitting at the Hark, laughing and eating with other Black students, I discovered that some of my classmates wanted the privileges that are associated with a Harvard degree. They didn't want to change the world, they just wanted their little piece of the action.

I once worked for a very famous woman, Margaret Mead. I learned many things from Dr. Mead. I learned that I didn't want to be famous. It was, from everything I observed, a condition that deprived you of the ability to relate to other people as human beings, and it deprived you of the primary connections to others, a relationship with family and friends. I learned about the disdain (born of envy, I thought) that academics have for "popularizers." Margaret Mead was a popularizer. And finally, I learned that it is the "popularizer" who has the greatest effect on the world.¹³

13. When I worked for Dr. Mead as her teaching assistant at Columbia University, I learned that she was not tenured at that institution. People are always surprised by that fact, but anyone who knows anything about the status of women at Columbia at that time should not be surprised. Today, a woman, Elaine Combs Shillings, is the chair of the anthropology department.

This discomfort anthropologists experience when someone writes an ethnography that gains popular attention (the feeling that somehow what has been written debases the profession and its principle product, scholarship) was discussed in terms of the dividing line between fact and fiction. See, e.g., the discussion of one man's crusade to unmask Carlos Castenada, the author of several books about a sorcerer's apprentice and the Yaqui way of knowing in Ray Walters, *Paperback Talk*, N.Y. TIMES, Jan. 11, 1981 (reviewing RICHARD DE MILLE, *CASTENDA'S JOURNEY AND*

I admired the ability Dr. Mead had to roam far and wide over a number of different disciplines, to find sources or ideas that she thought might have application in a different setting. I think she saw connections that were invisible to others until she spoke them out loud. She was an advertisement for an eclectic sensibility or intellect, and she was an anathema to those who thought anthropology suffered from the absence of theory.

As a law professor, I am certain that we do not understand our own intellectual tradition, that we continue to define scholarship too narrowly. Because I have no real commitment to any one conception or definition of the intellectual enterprise in which I am engaged or the ultimate product I wish to produce, I find I am able to detach myself from the concerns that drive some of my colleagues. If you don't want to be famous, inside or outside the academy, it is easier to see the value of work that is difficult to evaluate using the traditional measures of success, the measures that sometimes are confused with measures of quality or merit.

In the fifteen years since my graduation, I have discovered that a law degree is not a magic wand. You cannot wave it and recite the appropriate words and change the world. Sometimes a law degree gets between you and the people you wish to engage in discussion; sometimes the language of the law obscures meaning and impedes understanding. What my legal training gave me, what Harvard gave me, what the *BlackLetter* gave me, was an appreciation for the power of a human voice. It gave me the power to speak even if there are those who chose not to listen.¹⁴

I try only to find a place to make my own contribution, a place where I can speak and perhaps be heard by someone who is interested in what I have to say. Fifteen years after my graduation from Harvard, I wanted to come home to the *BlackLetter Journal* to engage the members of my community in a discussion we began so many years ago. I am revisiting issues that bothered me as a student, that bother me now as a law professor. I readily admit I have trouble keeping it all straight, these issues of love and aesthetics, respect and merit. Sometimes they all seem like synonyms for one another.

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THE DON JUAN PAPERS (1981))(exposing the "hoax" perpetrated by Carlos Castaneda); or concerns about the manner of presentation (the absence of technical jargon?) in Robert A. Paul, *The Puffer Fish*, N.Y. TIMES, Aug. 21, 1988 (reviewing what the critic viewed as a superfluous book, WADE DAVIS, *PASSAGES OF DARKNESS: THE ETHNOBIOLOGY OF THE HAITIAN ZOMBIE* (1988), because it duplicated what had already appeared in his more popular success, *THE SERPENT AND THE RAINBOW* (1985)); or attacks on the field methods of the anthropologist, George E. Marcus, *One Man's Mead*, N.Y. TIMES, Mar. 27, 1983 (reviewing DEREK FREEMAN, *MARGARET MEAD AND SAMOA: THE MAKING AND UNMAKING OF AN ANTHROPOLOGICAL MYTH* (1983)).

14. *The Transformation of Silence into Language and Action* in AUDRE LORDE, *SISTER/OUTSIDER* 40 (1984).

Long before the term “intersectionality” was coined,¹⁵ I knew that as one of eleven Black women at Harvard I was in a different place from the white women or Black men. An intersection is as good way as any to describe that place. The Hill-Thomas hearings raised the nation’s consciousness on the matter of sexual harassment, and they precipitated a crisis for many who live at the intersection of race and gender. Was this an issue of loyalty to our race or loyalty to our gender?

Kenny Frazier is the classmate with whom I am most likely to discuss issues of race or gender. Kenny is one of my biggest fans, or he is just a considerate and supportive friend. It doesn’t matter which; the effect (on me) is the same in any case. I send him copies of everything I write and he calls and tells me what he thinks of my arguments. He has asked me why it is that Black women cut Black men so much slack. “Hell,” he complained one time, “whatever happened to three strikes and you’re out?” Lady Day used to sing, “Ain’t nobody’s business but my own,” and I know a lot of women who have echoed that sentiment over the years.

Only now the rules seem to be changing. Anita Hill has told the world in so many words, “Clarence Thomas is a dog.” Many people condemn her for it. I believed her then and I believe her now. I believed her from the moment she said that she used to write speeches for him.¹⁶ Something clicked in my mind, and I knew that she spoke the truth.¹⁷ He was putting her in her place. This wasn’t about love or jealousy; it was about power and relationships of domination and subordination.¹⁸

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15. The seminal article on intersectionality is by another Harvard Law School graduate, Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Anti-discrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. L. FORUM 139. At the Critical Network Conference at Northeastern and Harvard in April 1992, I attended a panel called, “Boss Threads,” at which there was a discussion of employer grooming codes. Paulette Caldwell discussed her paper *A Hair Piece: Perspectives on the Intersection of Race and Gender*, 1991 DUKE L.J. 365, and talked about the intersection of race and gender. I think it was Regina Austin who asked the question, “Do people really live in intersections?” I think they do. I know I am in an intersection when I look at the *Harvard Law Bulletin* and see two things simultaneously: I see the absence of women and the absence of people of color.
 16. In the morning session of the hearings on October 11, 1991, Anita Hill read a statement that described her work for Thomas while he was Assistant Secretary of Education for Civil Rights and while he was Chairman of the EEOC. Two of her major projects included an article that she said was published under his name and a speech she wrote for him. See *Hearing of the Senate Judiciary Committee Subject: Thomas Supreme Court Nomination*, Federal News Service, Oct. 11, 1991, available in LEXIS, Nexis Library, Fednew File [hereinafter the *Thomas Hearing*].
 17. From time to time, in the company of friends, I struggle with the idea of truth—the difference between fact and fiction, fidelity to truth of a situation or truth in the attention to detail. One of my colleagues recently described me as one who “hates moral skepticism and pragmatic notions of truth, secretly believing in the Good and the True.” Louise Harmon, *Law, Art and the Killing Jar*, 78 IOWA L. REV. (forthcoming 1993). I would say that this statement is one that I believe to be true—even though it is not an accurate description or even an accurate summary of the way I feel about truth. I believe in honesty and abhor manipulation and denial, but I also believe that the truth is often not what people think it is—something that can be proven by reference to some external, neutral, objective standard.
 18. This is, in fact, the point that Anita Hill made when she discussed the reasons why

Anita Hill and Clarence Thomas reminded me (and millions of others) that we are haunted still by the violence that has been inflicted on Black men and women. We are haunted by the memory of slavery and rape and lynchings.¹⁹ When Clarence Thomas invoked the imagery of racism in a metaphor that referred to lynchings, the TV camera returned repeatedly to the picture of his white wife, chin trembling, tears in her eyes. It occurred to me that Clarence Thomas thought, and maybe the cameraperson thought, that this was a battle between Thomas and the white men on the judiciary committee over Thomas' possession of a white woman. We are forced to consider whether Anita Hill could ever be one of our cultural heroines. She is no Ida B. Wells, waging a lifelong campaign against the lynching of Black men. But then, Ida B. Wells was also combating the myth that lynching was the punishment reserved for the crime of raping white women. Ida B. Wells knew that Black women also were the victims of lynch mobs.²⁰

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Dorothy Haight was a speaker at the local Martin Luther King, Jr. celebration this February. She spoke of her first meeting with Martin Luther King, Jr. He was a young man of about fifteen, and she was a grown woman. She told us how even though she was invisible to the white reporters and the white political leaders, she was always treated as an equal by the Black men with whom she worked, including Martin Luther King, Jr.

That was the way I thought it was supposed to be. That was the assumption I carried with me from my childhood, an assumption I associate with the game of pinochle. In pinochle you play with a partner,

Thomas might have persisted in his behavior even when she told him it was unwelcome. "It was almost as though he wanted me at a disadvantage—to put me at a disadvantage so that I would have to concede to whatever his wishes were," and later, "I think that he wanted me to feel vulnerable, then he could extract from me whatever he wanted, sexual and otherwise—that I would be—under his control." *Thomas Hearing, supra* note 16, at 28. She also stated that at the last dinner they had, the one that involved a discrepancy as to whether she said he would ruin her career or that she could ruin his career, she mentioned that he was not pleased with her work on an article and a speech. *See also* the following analysis of the relationship between race and gender in the Hill-Thomas hearings:

Some harassers like easy victims; others like to exert power over women who are much too close to being equals. If, as I believe, Judge Thomas lied, Professor Hill would be ideal as the second type of victim. An equal in education, an ambitious woman, she was a challenge but not an insane risk that a similarly situated white would still be to a Black man, let alone a politically ambitious Black man, who chose to harass, but reliance on "male prerogatives" led him to harass in the first place. Without that prerogative, there would have been no issue to examine.

Harvey Rochman, *Gender, Race, and the Politics of Supreme Court Appointments: The Import of the Anita Hill/Clarence Thomas Hearings*, 65 S. CAL. L. REV. 1279 (1992).

19. *Reflections on Race and Sex*, in BELL HOOKS, *YEARNING RACE, GENDER, AND CULTURAL POLITICS* (1990).
20. Ida B. Wells-Barnett, *On Lynching*, *THE INDEPENDENT*, May 16, 1901 in *DOCUMENTARY HISTORY OF THE NEGRO PEOPLE IN THE UNITED STATES*, Vol. 2 (Herbert Aptheker, ed., 1951).

and you have to help your partner out. My aunts and uncles, my mother and father, were partners in life and partners at the pinochle table. I learned a lot about the relationship between Black men and Black women watching them play pinochle.

This past October, I made one of my rare trips home to visit my aunts and uncles. I had four aunts who lived nearby when I was growing up. Today, two of my aunts and both of their husbands are still alive. A lifetime of friendship binds them to one another and my uncles acknowledge the special kinship that comes from having married one of the "Post girls." I also have three sisters. During this last visit, my Uncle Paul told me how excited he was that the Post girls were all coming home. When he looked into my eyes, I couldn't tell whether he was seeing one of the daughters of Clarence Post or if he knew me for who I really am, the daughter of Clarence's son, DuBois. I was sitting with my aunts, singing the songs my father taught me, and he patted my hand. "You did good," he said.

My uncles are old men now but I remember when they were young and like my father; they had a real appreciation for beautiful women. I must have been quite young when my father frankly admitted to me that the only thing that would stop him from looking at and appreciating a beautiful woman would be death. I had to be young because he died when I was thirteen. I remember his remark and I remember the pinochle games where humor and sexuality were part of the celebration of life. I remember it as something warm and witty.²¹ It had nothing in common with the remarks Clarence Thomas allegedly made about Long Dong Silver or pubic hairs on Coke cans.

The summer before last my son, Chris, and I had a big fight about beauty. He was attending a summer camp, a moderately expensive camp in a very upscale community in Los Angeles. There were few Blacks in this community, but the summer camp had one very nice young Black woman as a counselor. Unfortunately, my son and his fictive cousin, Tim, both became infatuated with the college student who taught a film class. The object of their affection was twenty-one years old and blond.

I pressed for some acknowledgment that the Black counselor was

21. Orlando Patterson has suggested that Anita Hill understood the behavior of Clarence Thomas to be offensive and coarse, familiar to them both because of their common origin and within that subcultural context, subject to only a "minor sanction." The same behavior, he argues was perceived in the "neo-Puritan" white culture as an obscenity, "an absolute offense against God and the moral order." Orlando Patterson, *Race, Gender and Liberal Fallacies*, Op-ed, N.Y. TIMES, Oct. 20, 1991. This article was reprinted in *Reconstruction* and roundly criticized in an article in the same issue. See Rhonda Datcher, *Orlando Patterson's Race and Gender Fallacies*, 1 RECONSTRUCTION 66 (1992). Orlando Patterson's suggests that we need "a civilized culture of intimate social intercourse between men and women that recognizes and sustains the frailties of male and female passions." *Id.* The suggestion that this "culture" can be borrowed from the Black community or that sexual harassment would be acceptable in the Black community is ludicrous because it assumes that Black people do not distinguish between different kinds of intimacy and the contexts in which such intimate behavior is appropriate. In other words, my folks did not engage in the same kind of sexual playfulness at work that they showed at the pinochle table, and they certainly did not engage in that kind of behavior with co-workers who were not their wives or lovers.

pretty. Chris exploded in indignation. "Is race the only thing you can think about? I don't want to hear about it. I don't think she's attractive, that's all." Mine was an equally emotional response, a tearful tirade that skirted the real issue, the emotionally charged nature of my crusade to change his aesthetic sensibilities. This was a race issue, maybe it was a political issue, but it was also an argument about beauty.

Sometimes I think this struggle is just what his paternal grandmother, Agnes,²² would describe as a matter of being disrespected in your own home. The problem of intermarriage is not disloyalty to the race or the immediate threat of assimilation as it is with some other groups. It is not a question of demographics, too many Black women and too few Black men.²³ It is a question of the relationship between equality and aesthetics.²⁴

I look at my son and I see someone beautiful. I see beauty in the color of his skin and the texture of his hair, in the quiriness of his smile and the intelligence in his eyes. And yet when my son looks for beauty, he sees it in straight blond hair in the silliness of a Valley Girl. I ask myself, what does my son see when he looks at his mother? Will he be one of those men "who turns away from himself in his sister or who, through a fear borrowed from white men, reads her strength not as a resource but as a challenge?"²⁵

I could lie and say that none of this matters—that the idea of beauty is a concept that is tied to the domination of women by a patriarchal society. What happens if I acknowledge that women were the objects of exchange before and after slavery? That our worth is still measured in some places by gold or cattle. The fact that we no longer wish to have a price tag put on our physical attributes, the size of our breasts or the color of our hair or the likelihood that we will produce male heirs, does not mean that we wish to be valueless.

I struggle each day to find a way to explain what I mean to the men in my life. I want them to think I am beautiful. I am reasserting my aesthetic claim. I want them to acknowledge the value of my intellect. I want them to acknowledge my worth.

* * *

It is a good thing that Kenny likes to debate these issues. He is the one I call when I am most upset. In our last discussion he tried to explain to me why most people do not understand intersectional analysis. Deborah, he told me patiently, people can understand the idea of

22. Agnes also appears briefly in my article, Deborah Post, *Reflections on Identity, Diversity and Morality*, 6 *BERKELEY WOMEN'S L.J.* 136 (1991).

23. See the chronicles describing a plague that affected unmarried Black women, *The Race Charged Relationship of Black Men and Black Women, the Chronicle of the Twenty-Seventh Year Syndrome*, in DERRICK BELL, *AND WE ARE NOT SAVED* 198 (1987).

24. As long as braids violate "grooming" codes, this is a suggestion that they are unclean as well as unattractive. See Caldwell, *supra* note 15. As long as men use a conception of beauty unattainable for many (especially in middle age), to make women feel inferior or inadequate, aesthetic sensibilities can be used as an instrument of oppression.

25. The phrase is borrowed from Audre Lorde, *Scratching the Surface: Some Notes on Barriers to Women and Loving in SISTER/OUTSIDER* 45 (1984).

double discrimination, that someone who is both Black and a woman might have more trouble than either a Black man or a white woman. But if the law school hires Black men, there is evidence that there is no racial discrimination and if they hire white women, it appears that there is no gender discrimination. So are you saying that Black women are not hired because they are not Black men and they are not white women? What kind of discrimination is that? Of course, he tells me, he understands what I mean.

He also tried to explain the thinking of the administration at Harvard with respect to the hiring of a Black woman law professor. They are right when they say they cannot find anyone qualified, he tells me. If they adhere to the traditional criteria, it may make it more difficult to find a qualified Black woman. Traditional criteria are objective standards by which applicants are judged on their merits. The standard is applied neutrally. It has screened out white men as well as Black women. Several Black men and some white women have met that standard.

I remark that there seems to be some sort of rough correlation between membership on the *Harvard Law Review* (or the *Yale Law Journal* in some limited instances) and the qualification of a candidate. It doesn't seem to matter as much what the person did after law school (unless, of course, the candidate did not clerk for an Appellate or Supreme Court Justice). What have these criteria to do with one's ability to write or teach? Should we assume that everyone who is an intellectual makes law review; that all good writers write on to law review; that people plan their careers at age fifteen? That may be the case for Bill Clinton, but it is not true of many Blacks or women.²⁶ Maybe traditional criteria should be broadened, the term "qualified" redefined.²⁷

It is important to question the assumptions that are embedded in the standards, the measures we employ to judge someone's worth. Making the decision on the merits seems to have more to do with validating certain choices than it does with judging the abilities of the persons who are being considered for a position or for tenure. There are choices that are valued and considered "right," and there are those that are not valued, those that disadvantage people who wish to make partner in a law firm or teach at an ivy league school.

I remember discussing the idea of writing on to law review and dismissing it because I thought law review editors did not have a life. And yet I was willing to make the same sacrifices in another context, missing classes to work forty or fifty hours a week representing clients assigned to me at the legal aid clinic where I worked.

The different interests, concerns and values of the people who make one choice over another has nothing to do with the intellectual capability of those individuals. It has more to do with the life experiences of those

26. MARY CATHERINE BATESON, *COMPOSING A LIFE* (1989).

27. The argument that there are too few women who are "qualified" for a job sometimes means that merit has been redefined; that what it means to be qualified is measured by "traditional" criteria that have never been applied in the past or that were honored in the breach more often than not. See Monroe Freedman, *Stacking Up Reno: Against Tradition*, *LEGAL TIMES*, Mar. 8, 1993 (discussing how the "traditional qualifications" for the job of attorney general are applied differently by the media to a woman, Janet Reno, than for past attorney generals, who were all male).

individuals. There were consequences to such choices, of course, among them a difference in the resources that were available to those who participated in law review or clinics. In the former case, there were "institutional" safety nets, outlines that were prepared and distributed to law review editors who did not attend classes.

Kenny and I digressed to the general subject of the relationship between success, reward and merit. Kenny had a hard time with the women in his firm. He doesn't see why he should provide an indirect subsidy for men who are doctors and lawyers. That is what he thinks would happen if the women receive as much compensation as he does after he puts in twice as many hours. As he explains it, he and his wife discussed it and decided to make the kind of sacrifice that would be necessary for him to be successful as a trial lawyer in a major firm. She gave up her job and the plans that she had to attend graduate school. If the husbands of these women are not willing to make a similar sacrifice, if these women have to split their attention between their jobs and their homes, isn't it unfair to ask him to take less than he deserves and give them more than they have earned?

I hear so many things in this statement. There are class issues, race issues and gender issues. Most law firms measure the contribution of partners in terms of the number of hours that are billed or the accounts collected. The rewards are pre-determined in some respects in the method of assigning cases and clients to young attorneys. My friend thinks this is fair and makes adjustments in his life to meet the demands of this system of assessment. The women could do the same. They could talk it over with their husbands, and the husbands would agree that long hours and prolonged absence from the home are worth this sacrifice. Why should this hardworking Black man who has agreed to the terms set for joining the economic mainstream subsidize white middle-class women who wish to have both a home and family and a successful career?

I have my own issues. I have Zoe Baird. When I heard about the furor over Zoe Baird, it brought to my mind an image of the Upper West Side of Manhattan. One bright spring day, the kind of day that is still rare enough in the early part of March to make you feel joyful, I was wandering up and down between Broadway and Riverside Drive, staring at the city people (I have become thoroughly suburban myself) and popping in and out of stores. I gradually became aware of the number of Black women pushing strollers with little white babies. I tried to make eye contact with these women, to smile at them and say hello. They looked at the ground or they looked straight ahead. I thought they looked resentful and sullen, tired or bored, anything but enthusiastic about this outing with someone else's baby. I suppose there are many who will say that it is unfair to characterize their demeanor in this way, and I acknowledge that this is a valid criticism. I may have been carried away by my imagination and the feeling I had that this was part of the imagery of slavery, the picture we carry in our mind's eye of the Black women who have raised white children,²⁸ of a Black woman who,

28. The Weird Book Group (which refers to the books, not to the group) meets during the summer at Touro Law School, and each person takes a turn choosing a book

even after the end of slavery during Jim Crow, delivered their charges to McDonald's and bought their lunches, settled them in their chairs and then left to go around the back of the building where she could buy her own lunch.²⁹

I confess that I resent the white woman who doesn't work and who has full-time, live-in help. I am ambivalent about the white woman who has a career as a lawyer and has full-time help. Part of my ambivalence stems from the fact that my mother used to clean people's homes on weekends. Part of it has to do with my acknowledgment as a young lawyer that I needed help, that I had limited choices and that I did not want to spend the precious little time I had away from work scrubbing floors or washing clothes. I wanted to spend the time with my son at the zoo or in the park. There was another choice, of course. I could let things get progressively dirtier.³⁰

My mother cleaned the homes of wealthy women on the weekends. She would come home and tell us that she didn't really work that hard. She sat and had coffee with the woman who hired her, and they gossiped about this or that. My mother was ashamed to do day work, and I am still ashamed to hire someone to clean my dirty house.

I think Kenny understands class, but he has trouble understanding gender, although I give him credit for at least trying to understand. He is committed to the standard measures of worth in our society, or at least he thinks there is no injustice in distributing an economic resource (money) by a standard that measures production in terms of money.

I wonder why women who wash clothes are worth less than women who write law review articles; women who write are paid less than men who do the same; men who work 1700 hours per year are worth more than women who work 1200 and have two children;³¹ and Black men

that we all read and discuss. Last summer I chose *Lucy*, a book by Jamaica Kincaid. JAMAICA KINCAID, *LUCY* (1991). The person in the story is a young West Indian woman who works for an affluent white family. The story did not communicate the affection the young woman might have felt for the children, or at least there was precious little of that sentiment that I could find. But each person in the group reacted to the anger this young woman had toward the man and the woman with whom she lived in a different way. Most found it disturbing. I read *Lucy* thinking about the women with the baby carriages on the Upper West Side.

29. This story was related to me by a colleague on the faculty at the University of Houston, William Schneider, not in defense of the system, but as an example of the shame that he and other Southerners felt about the indignities they saw inflicted on the women who had responsibility for their care.
30. For a recent discussion of the change in attitude toward cleaning in a contemporary household, see Molly O'Neill, *Drop the Mop, Bless the Mess: The Decline of Housekeeping*, N.Y. TIMES, Apr. 11, 1993, at A1.
31. The idea that billable hours are the measure of ones worth played out a slightly different way with a woman I once knew who made partner at one of the largest firms in Houston. Like many of the first women at law firms, she waited and had her children after she made partner. After her second child, she asked if she could cut back her hours to a mere 40-50 per week. The firm told her that if she did, she would have to resign her partnership. With some bitterness, she once remarked to me that the firm understood the benefit of the kind of public service that men did when they took a leave of absence from the firm to run for political office or to serve in some appointed position. They did not see the value to the firm of her work as a mother. How do we define what is beneficial to us all or to the company or firm or to the community in which we live?

who make law review while students at Harvard Law School are more qualified to teach there than Black women who are "qualified" enough to receive tenure at other law schools.

* * *

One of the things you learn with the passage of time is that nothing happens as quickly as you might think. The African National Congress was formed in 1912, and in 1949, the year I was born, the African National Congress began the Defiance Campaign to end the political repression in South Africa.³² This year, several years after the legalization of the anti-apartheid organizations, twenty-six political parties are participating in meetings that should lead to democratic elections and to a transitional government. Eventually, there will be Black majority rule in South Africa.³³

I went to law school in 1975 so that I could change the world. Those who experience poverty or discrimination or both, emerge from that experience with a sense of urgency. Some use that sense of urgency to place as much distance as they can between themselves and that which has scarred them for life. For others the urgency is experienced as a feeling that the source of the pain must be eliminated and the change must occur immediately. Most of us want a revolution but not a war; we want a change so dramatic that it startles the world and makes people sit up and take notice. We push and prod and confront those who have power.³⁴ We demand change, we lobby, we engage in civil disobedience, and sometimes we riot.³⁵

I have come to believe that change is never cataclysmic; it is incremental. We are drops of water attacking a mountain of rock, the bedrock of racial prejudice and gender bias that is the foundation of this society. If they are constant and continual, drops of water can wear a hole in a rock. When you destroy the foundation of a building that you do not like, you have to ask yourself whether you plan to build a replacement. If you do, what will you use for a foundation?

So I come back to the metaphor of ritual as a pathway and a shelter. It appeals to me for much the same reason the idea of a "safe place" appealed to me when I first heard Charles Lawrence mention it in a discussion of his pedagogy. I love the imagery of bell hooks' description of a Homeplace, a site of resistance.

32. NELSON MANDELA, *THE STRUGGLE IS MY LIFE* (1986) (speeches and writings brought together with historical documents and accounts of Mandela in prison by fellow prisoners).

33. See *Countdown to Democracy*, AFRICA NEWS, Apr. 5, 1993.

34. Martin Luther King, Jr. explained the relationship between "tension" and liberation in his letter from a Birmingham jail. He distinguished between violent tension and constructive nonviolent tension. He acknowledged that tension was essential for liberation for lifting people up to the "majestic heights of understanding and brotherhood." In the same paragraph, he admits that the purpose of direct action is to "create a situation so crisis-packed that it will inevitably open the door to negotiation." A TESTAMENT TO HOPE: THE ESSENTIAL WRITING AND SPEECHES OF MARTIN LUTHER KING, JR. 289, 292 (James Melvin, ed., 1986).

35. See Deborah Waire Post, *Race, Riots and the Rule of Law*, 70 DENV. U. L. REV. 237 (1993).

Historically, African American people believed that the construction of a homeplace, however fragile and tenuous (the slave hut, the wooden shack), had a radical political dimension . . . it was about the construction of a safe place where Black people could affirm one another and by so doing heal many of the wounds inflicted by racist domination.³⁶

If a homeplace, a safe place, is place where we can speak our minds, fight out our battles, nurture our souls, then the *BlackLetter* is a safe place. It is a safe place to talk about the partnership between Black men and Black women, about the relationship between racism and sexism, between ideals that limit us and those that expand the possibilities of our lives; about conceptions of beauty and merit and quality that dismiss or devalue the contributions that are made by Black women. If ritual is a pathway and a shelter, the architecture of our lives, then perhaps this homeplace, the *BlackLetter*, should have an anniversary issue every year.

36. hooks, *supra* note 3, at 42.