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Book Review: The Alchemy of Race and Rights: Diary of a Law Professor. By Patricia Williams

REVIEWED BY SANDRA J. POLIN*

That life is complicated is a fact of great analytic importance. Law too often seeks to avoid this truth by making up its own breed of narrower, simpler, but hypnotically powerful rhetorical truths. Acknowledging, challenging, playing with these as rhetorical gestures is, it seems to me, necessary for any conception of justice. Such acknowledgment complicates the supposed purity of gender, race, voice, boundary; it allows us to acknowledge the utility of such categorizations for certain purposes and the necessity of their breakdown on other occasions. It complicates definitions in its shift, in its expansion and contraction according to circumstance, in its room for the possibility of creatively mated taxonomies and their wildly unpredictable offspring.¹

WE ARE LOOKING FOR A "QUALIFIED BLACK"²

I am about to do something, and I must admit I am somewhat daunted by the challenge. I am going to review Patricia J. Williams' recent book.³ Why am I nervous? Before I obtained the book I had read the NEW YORK TIMES review by Wendy Kaminer, herself a lawyer and author of a book.⁴ Also, after purchasing the book, I turned

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1. PATRICIA WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* 10-11 Harvard University Press (8th ed. 1995), paperback edition.

2. A "qualified black": this sounds like a particular species—e.g. "spotted leopard." Do we ever say we are looking for a "qualified white?"

3. I wrote a first draft of this review in June 1991 and put it aside. I suppose I was waiting for new inspiration to breathe something fresh into the review of this masterpiece. That inspiration came in mid-October. I felt compelled to revise the review on October 15, 1991, after witnessing the Senate's vote to confirm Judge Clarence Thomas for the Supreme Court after an extraordinary weekend of hearings regarding Professor Anita Hill's allegations of sexual harassment. I was struck by the similarity of the issues discussed in Williams' book and the issues raised both when Hill's allegations were made public and during the hearings. I was also struck by the fact that Williams and Hill are both black female law professors who teach contracts and commercial law. I felt it imperative to take a second look at what I had written months before. Williams' book, which was essential reading before, became even more so.

4. *A FEARFUL FREEDOM - WOMEN'S FLIGHT FROM EQUALITY* (1990).

84 NORTH CAROLINA CENTRAL LAW JOURNAL [Vol. 22:83]

to the back cover and read the comments by various legal giants. Catherine A. Mackinnon, law professor at the University of Michigan, is noted for groundbreaking work on feminism and the law, specifically her work against pornography and sexual harassment (and that was *before* her role as commentator during the Hill/Thomas hearings). Derrick Bell, law professor at Harvard and long time civil rights activist, is also a dean of black law professors.⁵ Professor Bell quit Harvard in protest of the law school's failure to hire any black women as law professors for tenure-track positions. He was dismissed July 1, 1992, for refusing to return to school. Currently a visiting professor at New York University, he will appeal the decision.

I then read the excerpts from the nonlegal scholars: Barbara E. Johnson, a respected African-American studies professor at Harvard University, and Houston A. Baker, Jr., a noted professor of English at the University of Pennsylvania and Director of the University's Center of Black Literature and Culture. All of these brilliant scholars praised Williams' book. But, oddly and ironically, there were no black women law professors commenting on the book.

So who was I to be reviewing and possibly criticizing Williams' work? After all, I am not a noted scholar, and on some occasions I even question whether I am a "scholar." Yes, there are certain areas of the law that I find intriguing; there are certain areas in which I have practiced and taught and researched. So I see myself as a "student" of the law, ever seeking to fortify my foundation of knowledge. And yes, I too am a law professor, a teacher of contracts, a black woman, and I too keep a journal of my triumphs and challenges as a female American of color⁶ teaching law. So, I conclude, I too am "qualified" to express my thoughts on Williams' book.

But why am I so overly concerned with being "qualified?"⁷ Why is there a suspicion, a fear that my voice will be discounted because I am black and female? Why am I worried that what I say won't be taken

5. Professor Emeritus James E. Jones of the University of Wisconsin Law School is the other "dean." Jones began teaching at Wisconsin, as a visiting professor, in 1969, the same year that Bell began as a lecturer at Harvard. They were among the first African-American legal educators.

6. I first saw this phrase used by Stanley Crouch in his book of essays, *NOTES OF A HANGING JUDGE: ESSAYS & REVIEWS, 1979-1989* (1990). Having been a long time proponent of "person" or "woman" "of color," I like the phrase "American of color." It "nationalizes" us and links us specifically with the colored people of the world: it highlights both our domestic and global ties.

7. What does "qualify" mean *exactly*? Webster's defines qualify as "to render fit for an occupation or office" or "to furnish with legal power or capacity." It also means "to limit or modify the meaning of a word as through the use of an adjective or adverb." I think this last definition is relevant to Williams' work because to qualify in this sense means to create a new meaning by combining language in an unexpected, new or different way — creating a new tradition.

seriously? Does our society make black women feel unqualified? Do we make ourselves feel unqualified?

There was not a “voice” from a black woman law professor on the back cover of Williams’ book. I was curious as to why not. Was there not some black woman law professor deemed “qualified” to review the book? Was there not a black woman lawyer or law professor who could have reviewed it? And who selected the reviewers? The publisher? Williams?⁸ I began this journey—reading this book—with several questions.

HUNTING THE TRADITIONAL LEGAL SCHOLARSHIP BEAST

Patricia Williams is a professor of law who teaches contracts and commercial law at Columbia University. She previously taught at the University of Wisconsin. Before beginning her book, I was curious to find out if her writing tracked traditional legal scholarship.⁹ How can you spot a traditional legal scholarship beast? To me, it has the following characteristics:

1. It will be very impersonal. It will use the “author” this, the “writer” that; it will never use an “I”.
2. It will use multisyllabic words which you cannot easily digest. You ask, isn’t there an easier way to say this? And, if so, why wasn’t the simpler way used?
3. It will “hatch” a footnote every three words, so you have to read like you drive your car on Friday afternoons on the Dan Ryan Expressway in Chicago in the summer right after work. Start, stop, start, stop. Suddenly you realize you are overheating—and you realize you haven’t gone anywhere.

So, I opened Williams’ book and, with great surprise, read in the forward a parable about the priests who build a “Celestial City” with gates secured by wooden combination locks.¹⁰ I read it twice and immediately decided that this was going to be an adventure. The parable served as a delicious appetizer. I then went on to page one and I saw in the first paragraph Williams’ initial declaration confirming that this will be a unique experience. She states: “Since subject position is everything in my analysis of the law, you deserve to know that it’s a

8. I noted that Williams’ photo was on the cover of the book. For a book discussing gender and race, it is important for the reader to know that the author is a black female. What better way to accomplish this than by placing her photo on the cover. Was it as important for a black woman law professor to review it?

9. I had read a law review article by Williams a couple of years earlier. The writing there was very different from a “traditional” law review article; however, I did not know if the article’s tone was the norm rather than the exception.

10. WILLIAMS, *supra* note 1, at forward.

bad morning. I am very depressed.”¹¹ With that very personal opening, I concluded that following after Williams would be a different journey. To my pleasant surprise, I would not be hunting for the traditional scholarship beast.¹²

EMPOWERED AND POWERLESS BY THE LAW: BLACK WOMEN, STUPID AND/OR CRAZY

In the opening pages of her book, Williams tells us that she is writing in an old terry cloth bathrobe with a little fringe of blue and white tassels dangling from the hem. She tells us that she is depressed. She also tells us that on days like this, she usually starts out thinking thoughts like, “I hate being a lawyer.”¹³ After introducing herself to her audience, Williams introduces another black woman. She tells us of an 1835 Louisiana legal opinion about a sale.¹⁴ The subject of the sale was a black woman slave, Kate. The seller sold Kate for \$500. The case deals with “redhibitory” vices, i.e., defects in merchandise which are in existence at the time of purchase and give the buyer the right to return the item and receive a refund.

The Louisiana lawsuit arose because Kate ran away two or three days after the sale. The buyer wanted his money back, arguing that Kate suffered from a defect—she was crazy. The seller argued that Kate was not crazy, only stupid, and stupidity was not madness. The seller had not warranted or promised that she was not stupid, just that she was not crazy.

The court ruled in favor of the buyer and concluded that the slave was “wholly, and perhaps worse than, useless.”¹⁵ The court based its

11. *Id.* at 11. “I use the word ‘objectify’ in the literal, grammatical sense of subject-verb-object: the removing of oneself from the subject position of power, control and direction over the verb-action.” “We’ blacks, become ‘them.’”

12. In the 19th century, women writers attempted to struggle free of social and literary confinements through redefinitions of self, art and society. For them, maintaining a journal was one way to accomplish this. See SANDRA M. GILBERT and SUSAN GUBAR, *THE MADWOMAN IN THE ATTIC*, 4 (1979). In reading this review of Professor Williams’ book, my research assistant at Thomas M. Cooley Law School, Jim Williams, was reminded of a passage he read in *THE MADWOMAN IN THE ATTIC*, a book about women writers in the 19th century. In his opinion, Williams’ writing seemed to speak to one of the book’s central ideas of writing as a patriarchal “fathering,” the handing down of texts, an exclusionary process for women that places them outside a literary tradition. Likewise, Williams’ journal seems to break free of a traditional, confining legal scholarship by authoring a new female legal history. The connection between writing, “authoring” a text, and “authority” can be seen in the derivation of the two words. “Authority” suggests a constellation of linked meanings; not only “a power to influence action” or “a power to inspire belief” or “a person whose opinion is accepted;” but also, a connection with the “author” - that is, “a person who originates or gives existence to something, a begetter, beginner, father or ancestor, a person also who sets forth written statements.”

13. WILLIAMS, *supra* note 1, at 1.

14. *Id.*; *Icar v. Suars*, 7 La. 517 (1835).

15. *Id.* at 517.

decision on the rationale that the statute declared that a sale could be avoided on account of any vice or defect which rendered the object of the sale either absolutely useless, or its use so inconvenient and imperfect that it must be supposed the buyer would not have purchased with a knowledge of the vice.¹⁶

Williams establishes a kinship with Kate by telling us that on the day she is writing, she is trying to decide if she is stupid or crazy.¹⁷ This is an effective, powerful opening, linking the author and her status as a black woman lawyer and professor with Kate's position, over one hundred and fifty years ago, as a black woman slave. One black female is partially empowered by the law; in some ways, the law defines her status in this society. The other black female is totally powerless because of the law. She too is defined by the law. And because of the law's role as qualifier, they probably share more things than not.¹⁸ The book explores her commonalities with Kate.

Continuing to read, I quickly notice that Williams' writing is friendly and hospitable. I do not have to armor myself against meaningless multisyllabic words. I am not attacked by footnotes. In fact, there are only two notes in the first chapter, which is surprisingly short—twelve pages, and those are placed at the back of the book. How unusual but pleasant! I also realize, however, that a habit is hard to break. Periodically, I resume the hunt for the traditional legal scholarship beast. I look for footnotes when Williams states that black people are being jailed in huge numbers. I think, "who said that?" "What exactly are the numbers?" I wonder, "where is her authority?"¹⁹ Where did she get her information?" "Am I wishing for more footnotes?" I catch myself discontinuing the hunt and read on.

Williams acknowledges in the beginning of her book that what "finally pushes [her] over the edge" is a news item on the MacNeil/Lehrer News Hour in which Harvard Law School Associate Dean Louis Kaplow said Harvard could not find one black woman law professor to whom to offer a tenure track position without lowering standards.²⁰ Williams brilliantly weaves these current events and patches

16. *Id.* at 518.

17. WILLIAMS, *supra* note 1, at 4. Recall that various members of the Senate Judiciary Committee attempted to conjure up the notion that Anita Hill was fantasizing as a spurned woman (crazy), or operating as a puppet for feminists or liberal groups opposed to Thomas (stupid).

18. Their commonalities are especially evident in light of the manner in which the Hill/Thomas hearings were conducted. The hearings illustrated that the challenge for black women, regardless of professional or educational attainment, is to be heard, to be taken seriously, and to speak in our own voice.

19. See *supra* note 12 concerning the definition of "author."

20. WILLIAMS, *supra* note 1, at 5, citing *MacNeil/Lehrer News Hour* (PBS television broadcast May 10, 1990).

of her experiences into an analytical fabric that creates a quilt on which she presents issues of gender, race, class and justice.

Williams states that her book's purpose is to discuss the jurisprudence of rights. She aims to apply critical thought to legal studies and to avoid the pitfalls of traditional critical legal theory articles by sidestepping arcane vocabulary and abstraction. She notes that many of the insights of critical legal theory²¹ have been buried in this pit of sludge—multisyllabic words and impersonalism, legalese, and scholarly "outsider" technoterminology.²²

Williams hopes to bridge these chasms. To maneuver around what she describes as the tar bear of critical legal writing, she states that she will try to write "in a way that bridges the traditional gap between theory and practice. It is not my goal merely to simplify; I hope that the result will be a text that is multilayered—that encompasses the straightforwardness of real life *and* reveals complexity of meaning."²³

Williams succeeds in her goal. Her approach is captivating, refreshing - a needed and welcomed change in legal writing. In fact, I began to see Williams as a modern day Kate who has escaped from a form of slavery. A form of legal scholarship slavery²⁴ of indecipherable, often-times meaningless expressions,²⁵ represented by the confines, restraints and shackles of traditional scholarship. It is a slavery that dictates not only your writing style but your teaching style, how you present yourself and what you teach. But where does Williams attempt to lead us? She leads us to a land of academic freedom: where law professors can begin to feel free to write and express themselves in a way in which they feel comfortable and familiar. It does not surprise me that Williams was ridiculed when she wrote and taught in a nontraditional style, much as Kate was ridiculed by the judge and the parties in that early commercial law case.²⁶

21. Critical legal theory seeks "to illuminate the assumptions, biases, values, and norms embedded in law's workings in order to heighten awareness of the political and moral choices made by lawyers and the legal system." It works "to make conscious the tacit theories that the legal system embodies and expresses." Phyllis Goldfarb, *Beyond Cut Flowers: Developing a Clinical Perspective on Critical Legal Theory*, 43 HASTINGS L.J. 717, 722 (1992).

22. WILLIAMS, *supra* note 1, at 6.

23. *Id.* at 5-6.

24. Am I doing an injustice by using "slavery" to describe this situation? Am I neutralizing the word as Clarence Thomas did in using "high tech lynching" to describe his experience during his hearings? Are the analogies in both cases workable, valid, or merely emotionally charged metaphors?

25. Well, maybe not meaningless to the authors but the scholarship had little or no meaning to me. Besides, who gets to define meaning?

26. WILLIAMS, *supra* note 1, at 28. Williams discusses how her students complained to the dean because she told "stories" in class. They felt they were not learning real law. She also discusses the dean's response: that Williams' style was inappropriate in the law school classroom.

Is Williams perceived as crazy or stupid or both? I, for one, am thankful Williams has attempted to escape from this maze and seems to have successfully reached freedom.²⁷ She empowers the rest of us in our attempt to flee. But as an escaped slave, even though Williams may be free, does she bear the remnants of slavery? Some of the psychic scars? Don't we all? Can Williams free herself totally of all arcane vocabulary and abstraction? Can I stop looking for footnotes and authority? Are we ever fully freed?

Williams' writing style incorporates many disciplines: she looks at legal issues using psychology, sociology, literary history, criticism and philosophy as her surgical tools to dissect those issues. This makes sense, since nothing happens in a vacuum. But, this is not how traditional legal scholarship is written.

Williams also deals with law and legal scholarship and how the structure of both makes outsiders feel illegitimate. She talks about the "Idealized Other": the impersonal, objective, "unmediated" voices, "whose gaze provides us either with internalized censure or externalized approval; internalized paralysis or externalized legitimacy; internalized false consciousness or an externalized claim of exaggerated authenticity."²⁸

Williams assists us in empowering ourselves by showing us that all of our experiences are relevant. Williams helps us to see that our voices count. She touches upon this issue throughout her book and specifically in her first section, "Excluding Voices," composed of three chapters. Later on, Williams hits home when she states that "relinquishing the power of individual ethical judgment to a collective ideal risks psychic violence, an obliteration of the self through domination by an all-powerful other."²⁹

Perhaps the question we should ask is why Williams was questioned by the dean. Why was she asked to qualify her teaching style? Because of the student complaints? Was she not qualifying herself, "modifying or giving meaning to" her lecturers by providing her own style to them?

To question someone's "style" is to directly call into question that person. It implies that a person is somehow too different or outside the range of some norm to be considered "qualified." See *supra*, notes 2 and 7, concerning the definition of "qualify."

One has to wonder whether people can really appreciate and value the personal stories told by black women, even black women lawyers and professors, given the Hill/Thomas hearings and its aftermath.

27. The idea of "role prejudice," being taught to assume certain roles in society, is a kind of confinement. Those who assume unexpected, or somehow different roles, are faced with the dilemma of having to fashion roles for themselves. In doing this, they are repeatedly *expected* to defend/compare themselves against "traditional" (whose tradition?) methodologies and qualify themselves according to these terms. A sense of "otherness" (stupid/crazy) is the logical end result.

28. WILLIAMS, *supra* note 1, at 9.

29. *Id.* at 63. The themes of gender, race and voice and how they interrelate are important. This issue was raised again and again during the Hill/Thomas hearings when Professor Hill insisted on speaking with her own "voice," both at her press conference and during the hearing.

Williams questions herself, her life. This line of examination is practically unheard of in "traditional" legal scholarship where authors must sound impersonal, authoritarian and self-righteous. She talks poignantly about her family history, establishing kinship with another black woman of the past, her great-great grandmother, a slave and her great-great grandfather, yet another slave. She tells us about the slave owner, a lawyer, who raped her great-great grandmother when she was an adolescent of twelve or thirteen years old.

I try to imagine what it would have been like to have a discontented white man buy me, after a fight with his mother about prolonged bachelorhood. I wonder what it would have been like to have a thirty-five-year-old man own the secrets of my puberty, which he bought to prove himself sexually as well as to increase his livestock of slaves. I imagine trying to please, with the yearning of adolescence, a man who truly did not know I was human, whose entire belief system resolutely defined me as animal, chattel, talking cow. I wonder what it would have been like to have his child, pale-faced but also animal, before I turned thirteen. I try to envision being casually threatened with sale from time to time, teeth and buttocks bared to interested visitors.³⁰

I see her shape and his hand in the vast networking of our society, and in the evils and oversights that plague our lives and laws. The control he had over her body. The force he was in her life, in the shape of my life today. The power he exercised in the choice to breed her or not. The choice to breed slaves in his image, to choose her mate and be that mate. In his attempt to own what no man can own, the habit of his power and the absence of her choice. I look for her shape and his hand.³¹

How many law professors and lawyers actually empathize with another, placing themselves in the other's place? Most lawyers usually congratulate themselves on remaining distant. Again, Williams frees herself from the shackles of traditional legal scholarship.

THE WHITE-MALE SOCIALIZED BLACK WOMAN: BLACK WOMAN COMMERCIAL LAW PROFESSOR AS OXYMORON

Williams discusses how her personal history, her ancestry as a daughter of a black female slave and a white male lawyer, influences her life now as a black female lawyer and law professor and as a "perceived white-male-socialized black woman."³² One of the most insightful parts in the book, to me, is Williams' explanation of how people (black and white, students and colleagues, lawyers and non-lawyers) look at black professional women as contradictions. Yet as

30. *Id.* at 18.

31. *Id.* at 19.

32. *Id.* at 10.

black professional women, we may have to live contradictory lives. She explains how individuals see her, a black woman commercial law professor as an oxymoron. She also tells of the contradictions of her student evaluations, the contradictory observations of a black woman judge who seemed to have it all and then have nothing; someone who had it together and then unravelling as she had a nervous breakdown.³³

Williams describes her law school experience, something I could painfully identify with as well.

My abiding recollection of being a student at Harvard Law School is the sense of being invisible. I spent three years wandering in a murk of unreality. I observed large, mostly male bodies assert themselves against one another like football players caught in the gauzy mist of intellectual slow motion. I stood my ground amid them, watching them deflect from me, unconsciously, politely, as if I were a pillar in a crowded corridor. Law school was for me like being on another planet, full of alienated creatures with whom I could make little connection. The school created a dense atmosphere that muted my voice to inaudibility. All I could do to communicate my existence was to posit carefully worked messages into hermetically sealed, vacuum-packed blue books, place them on the waves of that foreign sea, and pray that they would be plucked up by some curious seeker and understood.

Perhaps there were others who felt what I felt. Perhaps we were all aliens, all silenced by dense atmosphere. Thinking that made me feel, ironically, less isolated. It was not merely that I was black and female, but a circumstance external to myself that I, and the collective, could not help internalizing³⁴

Her experience as a law professor was also one with which I was familiar:

When I became a law professor, I found myself on yet another planet: a planet with a sun as strong as a spotlight and an atmosphere so thin that my slightest murmur would travel for miles, skimming from ear to ear to ear, merrily distorting and refracting as it went. Again I comforted myself that my sense of alienation and now-heightened visibility were not inherent to my blackness and my femaleness, but an uncomfortable atmospheric condition afflicting everyone. But at the gyroscopic heart of me, there was and is a deep realization that I have never left the planet earth. I know that my feelings of exagger-

33. I became uncomfortable. The telling of someone else's painful, personal story seemed, in some way, an invasion of privacy. I wonder if there are limitations on how much we should tell of another person's story. I feel somewhat protective of the black woman judge. It may also be that I realize how we, as black women professionals, are always ourselves vulnerable to the stresses inherent in such a status. Some may feel it is necessary to tell her story to help others. Yet, to my knowledge, this woman never publicly told her own story as Anita Hill did.

34. *Id.* at 55.

92 NORTH CAROLINA CENTRAL LAW JOURNAL [Vol. 22:83]

ated visibility and invisibility are the product of my not being part of the larger cultural picture. I know too that the larger cultural picture is an illusion, albeit a powerful one, concocted from a perceptual consensus to which I am not a party; and that while these perceptions operate as dictators of truth, they are after all merely perceptions.³⁵

Williams also examines the use of racist and sexist stereotypes and gratuitous violence on law exams. Many of us, who have been law students, have witnessed the use of these stereotypes, yet it has rarely been discussed in the open.³⁶ Williams gets straight to the point in discussing the danger of this practice by law professors:

These problems draw for their justification upon one of the law's best-loved inculcations: the preference for the impersonal above the personal, the "objective" above the "subjective." Most of these problems require blacks, women who have been raped, gays and lesbians, to not just re-experience their oppression, but to write *against* their personal knowledge. They actually require the assumption of an "impersonal" (but racist/sexist/homophobic) mentality in order to do well in the grading process. Consider, for example, the exam in which a white woman premeditatedly lures a thirteen-year-old black would-be thief to her balcony and then kills him, her actions motivated by racial hatred. In one interrogatory, students are asked to "make the best argument you can that [the white woman] ought to be exculpated entirely, ignoring arguments (say that she might be diplomatically immune or insane) grounded in general incapacity to be convicted." This requires students either to indulge the imaginative flower of their most insidious rationalizations for racial hatred; or it requires them to suppress any sense of social conscience. It requires them to devalue their own and others' humanity for the sake of a grade. (This is also how, over time, perfectly rational and humanitarian insights and concerns are devalued, as a matter of habit rather than wisdom, as "merely experiential" and "irrelevant to the law." Law professors can thus set up irresponsibly authoritarian constructs that give permission to, and legitimize, some really warped world views. The result will be students who are cultured to hate; yet who still think of themselves as very very good people; who will be deeply offended, and *personally* hurt, if anyone tries to tell them otherwise. I think this sort of teaching, rampant throughout the educational system, is why racism and

35. *Id.* at 55-56.

36. I have been accused by other professors of being overly sensitive on this point as I try to make sure that the names of characters in my exams are general and not indicative of a race or ethnic group and that my exams are free of stereotypes. Even where stereotypes aren't there, however, the students, in their answers provide them. I have been particularly sensitive after I heard a story about a white Criminal Law professor who gave the two criminals on her criminal law exam the same first names of the *only* two black males in her class. After being confronted by upset black students, the professor said it was a coincidence.

sexism remain so routine, so habitually dismissed, as to be largely invisible.)³⁷

As Williams talks about her interactions with her colleagues and her student evaluations, I, again, can truly relate.

It is the end of a long academic year. I sit in my office reviewing my students' evaluations of me. They are awful, and I am devastated. The substantive ones say that what I teach is "not law." The nonsubstantive valuations are about either my personality or my physical features. I am deified, reified, and vilified in all sorts of cross-directions. I am condescending, earthy, approachable, and arrogant. Things are out of control in my classroom, and I am too much the taskmaster. I am a PNCNG (Person of No Color and No Gender) as well as too absorbed with ethnicity and social victimhood. My braids are described as being swept up over my "great bald dome of a skull," and my clothes, I am relieved to hear, are "neat." I am obscure, challenging, lacking in intellectual rigor, and brilliant. I think in a disorganized fashion and insist that everyone thinks as I do. I appear tired all the time and talk as if I'm on speed, particularly when reading from texts. My writing on the blackboard is too small.³⁸

Naively, I thought students only talked about *my* clothing. On the second day of my Contracts I class, I asked the class: Would a promise be enforceable if I promised someone a million dollars to be paid in the year 2000? A student responded, "But Professor Polin, you wouldn't have a million dollars in the year 2000." Curious, I asked "why not?" He replied, "Because you spend all your money on clothing." I was shocked—these were first year students and it was only the second day of class!³⁹

Williams continues her discussion concerning evaluations:

My head hurts. In nine years of teaching I have never felt less like a law professor. Who wants to be the worst so-called law professor who ever lived anyway? I marvel, in a moment of genuine bitterness, that anonymous student evaluations speculating on dimensions of my anatomy are nevertheless counted into the statistical measurement of my teaching proficiency. I am expected to woo students even as I try to fend them off; I am supposed to control them even as I am supposed to manipulate them into loving me. Still I am aware of the paradox of my power over these students. I am aware of my role, my place in an institution that is larger than myself, whose power I wield even as I am

37. WILLIAMS, *supra* note 1, at 87.

38. *Id.* at 95.

39. For an enlightening article on student evaluations, see Richard L. Abel, *Evaluating Evaluations: How Should Law Schools Judge Teaching*, 40 J. OF LEGAL EDUC. 407 (1990). See also BERKELEY WOMEN'S L. J., Vol 6, Part 1, 1990-91 (collection of essays written by members of the Northeast Corridor Collection of Black Women Law Professors about their experiences in law teaching and practice).

powerless, whose shield of responsibility shelters me even as I am disrespected.

I am always aware of my first years in teaching when students would come in upset that I had yelled at them on paper by virtue of red-ink exclamatory comments in their margins. These days I correct my exams in pencil, faintly, softly. Red pen was too much of a shout to students if I had anything other to say than "Great!" I never say "Wrong" in the margins, but always ask questions: "Are you sure that's the section you mean?" "Have you compared this conclusion with that in the preceding paragraph?" Any occasional imperative begins with "Try to distinguish this thought from . . ." I circle spelling errors rather than correct them.

I am always aware of the ex-pro-football player/student whom I had told in class to read the cases more carefully; he came to my office to tell me that I had humiliated him in front of everyone and he was going to "get you, lady." At that, I ordered him out of my office, whereupon he walked down to the associate dean's office and burst into tears, great heaving, football-player sobs, the tears dripping off the tip of his nose, as it was described to me later. Now I admit that of all the possible ways in which I thought he might try to get me, this was the one for which I was least prepared; but it could not have been more effective in terms of coalescing both the student body and the administration against me. I became the drill sergeant. A militant black woman who took out her rage on her students. Someone who could make a big man like him cry and cry hard.

And it is true that I did make him cry. I thought long about how a situation in which I thought I was being plucky and self-protective had turned into a nightmare. How did my self-assertion become so powerful as to frighten, frustrate, or humiliate this man? Part of the answer is that he indeed felt humiliated; it is hard to be criticized in a large classroom, although I had perceived mine to be gentle criticism. Part of it lies in the power I wield as teacher over all my students; each of us seeks unconditional approval even from the teachers we may hate. But I'm not sure this explains sufficiently the intensity of my student's reaction or, even if I conclude that he was simply sensitive, the intensity of the sympathy that rushed in this largely male institution away from me and unto him.

Two students come to visit me in the wake of the evaluations, my scores having been published in the student newspaper. They think the response has to do with race and gender, and with the perceived preposterousness of the authority that I, as the first black woman ever to have taught at this particular institution, symbolically and imagistically bring to bear in and out of the classroom. Breaking out of this, they say, is something we all suffer as pawns in a hierarchy, but it is particularly aggravated in the confusing, oxymoronic hierarchic symbology of me as black female law professor.

That, I tell them in a grateful swell of unscholarly emotionalism, feels like truth to me.⁴⁰

And, it feels like the truth to me as well.⁴¹

CULTURAL ADDICTION AND SPIRIT MURDER⁴²

One of the most enlightening topics Williams covers is her diagnosis of and analysis of "cultural addiction" and "spirit murder:" two modern day ills. Discussing money and how it influences and controls our society, Williams explains what troubles her: In our modern world, "[m]oney reflects law and law reflects money, unattached to notions of humanity."⁴³

Williams goes on to analyze the tension between the political and marketplace dynamic, the dangers of "cultural addiction":

Ours is not the first generation to fall prey to false needs; but ours is the first generation of admakers to realize the complete fulfillment of the consumerist vision through the fine-tuning of sheer hucksterism. Surfaces, fantasies, appearances, and vague associations are the order of the day. So completely have substance, reality, and utility been subverted that products are purified into mere wisps of labels, floating signifiers of their former selves. "Coke" can as easily add life plastered on clothing as poured in a cup. Calculating a remedy for this new-age consumptive pandering is problematic. If people like—and buy—the enigmatic emptiness used to push products, then describing a harm becomes elusive. But is it elusive precisely because the imagery and vocabulary of advertising have shifted the focus from need to disguise. With this shift has come—either manipulated or galloping flatly behind—a greater public appetite for illusion and disguise. And in the wake of that has come an enormous shift of national industry, national resources, and national consciousness.⁴⁴

This is a message we need to hear because too many of our black youth spend hundreds of dollars on designer hairstyles, handbags, athletic shoes and clothing and then shoot and kill each other over them. This is consumerism gone rampant, often leading to death. Consumer

40. WILLIAMS, *supra* note 1, at 95-97.

41. In reviewing this paper, several friends and students told me that they had difficulty distinguishing between the descriptions of my experience as a law student and professor and Williams' experiences. It may be because our experiences are so similar.

42. The current pathology exhibited in some rap music where the purpose is to disrespect women and, specifically, black women, is spirit murder. Putting aside the First Amendment which gives rap artists the power to write the songs, it is a moral and ethical crime and that is reason enough not to do it. But it is justified to them because there is a market demand for it. There was a market demand for slaves, too. The racism, misogyny and self-hate in rap music and other music are hooked into cultural addiction.

43. WILLIAMS, *supra* note 1, at 41.

44. *Id.* at 39.

addiction, as described by Williams is: "[a] sinfully expensive and indulgent drug."⁴⁵

Williams asks probing questions: When black youths kill other black youths for these goods, often face-to-face or at point-blank range, what horrible mutation of the arms-length transaction is this? What type of contract have we entered into with our race? Our neighborhood? Our society? Ourselves?

In Williams' discussion of the death of Eleanor Bumpurs, the sixty-seven-year-old black woman who was killed by a police officer when he was evicting her from her New York City apartment, she focuses on the concept of physical and actual murder and "spirit murder."

What I found more difficult to focus on was the "why," the animus that inspired such fear and impatient contempt in a police officer that the presence of six other well-armed men could not allay his need to kill a sick old lady fighting off hallucinations with a knife. It seemed to me a fear embellished by something beyond Mrs. Bumpurs herself; something about her that filled the void between her physical, limited presence and the "immediate threat and endangerment to life" in the beholding eyes of the officer. Why was the sight of a knife-wielding woman so fearful to a shotgun-wielding policeman that he had to blow her to pieces as the only recourse, the only way to preserve his physical integrity?⁴⁶

Likewise, the treatment of Anita Hill by members of the Senate Judiciary Committee and segments of society was a form of spirit murder. They tried to assassinate her character.

The concepts of spirit murder, physical murder and cultural addiction all converge, however, in the murder of our young black children by other black children.

The syndicated columnist Bob Greene wrote about a seventeen-year-old black boy who raped and killed a thirteen-year-old black girl for her jacket after his fifteen-year-old girlfriend demanded that he do so.

"The guy killed her for her jacket," said Detective Jerome Doroba of the Area 1 violent crimes unit. "The guy was with his girlfriend in the Laundromat. The girlfriend looked over at Shanika and told her boyfriend she liked the jacket. So the boyfriend killed Shanika and gave the jacket to his girlfriend."

Doroba said that Gamble raped Shanika Diggs in the filthy garage, then stabbed her to death and removed the Starter jacket. He then presented the jacket to his girlfriend.

45. *Id.* at 42.

46. *Id.* at 144. Williams asks: What offensive spirit of the officer's past experience raised her presence to the level of physical menace beyond what it in fact was; what spirit of prejudice, of prejudice, provided him such a powerful hallucinogen? *Id.*

"The jacket is the piece of evidence that led us to Gamble," Doroba said. "When we went to the girlfriend's apartment - she's fifteen years old - she gave us the jacket. There are what appears to be bloodstains on the inside lining. I guess the girlfriend was wearing the jacket around the neighborhood with Shanika's blood still on it."⁴⁷

What have we come to when a young black girl orders the assassination of an even younger black girl for a Starter jacket and then wears the jacket with the victim's bloodstains in the jacket lining. She is literally wearing the blood of her victim. We have gone beyond "spirit murder" to actual murder. But "spirit murder" is the first step, a prerequisite for our children, many of whom graduate to the upper level course of actual murder.

AN UNAPOLOGETIC, AFFIRMATIVE, ACTIVE STANCE ON
AFFIRMATIVE ACTION;⁴⁸ REFRAIN: WE ARE LOOKING
FOR A QUALIFIED BLACK

Williams also superbly shows us the connection between the style of legal writing and the larger context of legal, political and economic governance, including the Reagan/Bush Administration's stance on affirmative action:

Law and legal writing aspire to formalized, color-blind, liberal ideas. Neutrality is the standard for assuring these ideals; yet the adherence to it is often determined by reference to an aesthetic of uniformity, in which difference is simply omitted. For example, when segregation was eradicated from the American lexicon, its omission led many to actually believe that racism therefore no longer existed. Race-neutrality in law has become the presumed antidote for race bias in real life. With the entrenchment of the notion of race-neutrality came attacks on the concept of affirmative action and the rise of reverse discrimination suits. Blacks, for so many generations deprived of jobs based on the color of our skin, are now told that we ought to find it demeaning to be hired, based on the color of our skin. Such is the silliness of simplistic either-or inversions as remedies to complex problems.⁴⁹

Williams tells us a story about a question she was asked in a continuing legal education course on equal employment opportunity. In doing so, she allows us to think in a new way about affirmative action and who is "qualified."

47. Bob Greene, *The Price of Shanika's Life*, CHI. TRIB., Dec. 18, 1991, at 1.

48. Williams appears to not question herself as to whether she is a beneficiary of affirmative action and, if so, whether she is tainted because of it. This is unlike some other law professors and lawyers who seem to be unsure of their status as recipients of affirmative action. Steven Carter, a law professor at Yale, raises this issue in his book entitled *REFLECTIONS OF AN AFFIRMATIVE ACTION BABY*. So does Justice Clarence Thomas.

49. WILLIAMS, *supra* note 1, at 48.

Question One: X and Y apply for the same job with firm Z. X and Y are equally qualified. Which one should get the job.

Right Answer: Whichever one you like better.

As usual I have missed the point and am busy complicating things. In my notebook I write:

Wrong Answer: What a clear, graspable comparison this is; it is like choosing between smooth pebbles. X, the simple crossing of two lines, the intersection of sticks; Y, the cleaned bones of a flesh-and-blood referent. There is something seductive about this stone-cool algebra of rich life stories. There is something soothing about its static neutrality, its emotionless purity. It is a choice luxuriantly free of consequence.

At any rate, much of this answer probably depends on what is meant by "equal qualifications." Rarely are two people absolutely equally qualified (they both went to Harvard, they graduated in the same class, they tied for number one, they took all the same classes, etc.) so the judgment of equality is usually pretty subjective to begin with (a degree from Yale is as good as one from Harvard, a degree in philosophy is as useful as a degree in political science, an editor of the school paper is as good as the class president) and usually overlooks or fills in a lot of information that may in fact distinguish the candidates significantly (is it the same to be number one in a small class as in a huge class; is the grading done by some absolute standard, or on a strictly enforced bell curve; did X succeed by taking only standardized tests in large lecture courses; does Y owe his success to the individualized attention received in small seminars where he could write papers on subjects no one else knew or cared about). All such differentiations are matters of subject preference, since all such "equality" is nothing more than assumption, the subjective willingness not to look past a certain point, or to accept the judgments of others (the admissions director of Harvard, the accuracy of the LSAT computer-grader).

But let's assume that we do find two candidates who are as alike as can be. They are identical twins. They've had exactly the same training from the same teachers in a field that emphasizes mastery of technique or skill in a way that can be more easily calibrated than, say, writing a novel. Let's say it's a hypothetical school of ultraclassical ballet - the rules are clear, the vocabulary is rigid, artistry is judged in probably far too great a measure by mastery of specific placements and technical renderings of kinetic combinations. . . . I could probably hire either one, but I am left with the nagging wonder as to my own hypothetical about whether I want either one of these goody-two-shoed automatons. I wonder, indeed, if the fact that the "standard" road is good may obscure the fact that it is not the only good road. I begin to wonder, in other words, not about my two candidates, but about the tortoise-shell nature of a community of employees that has managed to successfully suppress or ignore the distinguishing variega-

tion of being human. (Even if we were talking about an assembly line, where the standard were some monotonous minimal rather than a rarefied maximum, my concern holds that certain human characteristics are being dishonored as irrelevant - such as creativity, humor, and amiability.)

I wonder if this simple but complete suppression of the sterling quirks and idiosyncrasies of what it is that makes a person an individual is not related to the experience of oppression. I wonder if the failure to be held accountable for the degree to which such so-called neutral choices are decided on highly subjective, articulate, but mostly unarticulated factors (the twin on the left has a higher voice and I like high voices) is not related to the perpetuation of bias.⁵⁰

SELF-QUALIFICATION

Williams' book is essential reading in order to enrich our vocabulary, especially in light of the Hill/Thomas hearings. This work expands and deepens one's understanding of a number of important issues: affirmative action, racism, sexism, black female professionals.

I suggest that anyone seriously interested in furthering their understanding of these issues and approaching these issues from another direction read this book. Williams is one of a number of scholars who is breaking new ground or redefining old ground⁵¹ regarding race, class and gender.

The reader is nourished when he or she partakes of this book. Williams empowers you to continue your professional and personal journey, whatever that may involve. It is not just for lawyers or law professors or blacks or women. Williams confirms what we all knew deep down, all along: It is okay and, more importantly, right and sound for us to *qualify ourselves*. We set the standards, we establish the criteria and we measure and decide whether we have satisfied ourselves. This is what self-determination is all about.

Williams discusses the rejection she received when trying to publish her articles. In doing so, she explores the rejection we all face in attempting to break external and, in some instances, self-imposed, limitations. Williams escapes these limitations and through her book discusses the safe haven we all can find within ourselves. She provides a way there for all of us. She is a modern day Harriet Tubman.

50. *Id.* at 98-100.

51. See PAULA GIDDINGS, WHEN AND WHERE I ENTER, THE IMPACT OF BLACK WOMEN ON RACE AND SEX IN AMERICA (1984); Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex and The Intersection of Race and Gender in Rape Law*, WOMEN AND THE LAW (1992); BELL HOOKS, YEARNING, RACE, GENDER & CULTURAL POLITICS (1990); CRUSADE FOR JUSTICE, THE AUTOBIOGRAPHY OF IDA B. WILLS (Alfreda M. Duster, ed., 1970); PATRICIA HILL COLLINS, BLACK FEMINIST THOUGHT (1990). This list serves merely as an "appetizer" to the subject.

100 *NORTH CAROLINA CENTRAL LAW JOURNAL* [Vol. 22:83

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