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The Marginalization of Sexual Violence Against Black Women

by Kimberle' Williams Crenshaw

The following is the edited text of a speech presented by Kimberle' Williams Crenshaw at the NCASA '93 Conference in Chicago, Illinois. Kimberle' Crenshaw is a professor of law at the University of California-Los Angeles Law School. Her writing has appeared in numerous law journals, including *Harvard Law Journal* and *Stanford Law Review*. She is a leading legal theorist on the topics of law, race and gender.

I have been studying—and, in some quarters, defending—the anti-violence movement as one of the most successful mobilizations of identity politics to date. Over the last two decades, this movement has transformed the way society understands the almost routine forms of violence that shape women's lives. You in the anti-violence movement have recognized that the demands of millions of women speak more powerfully than the inaudible pleas of a few isolated voices. The women in this room and those in the movement against domestic violence have contested traditional views of rape and domestic violence—views that characterized rape as errant sexual aggression and domestic violence as a private family matter. You reframed them as broad social domination that oppresses women.

The success of this movement in challenging the terms of debate is apparent in recent events: governors in several states have commuted sentences of women accused of killing their batterers, and Congress may pass the Violence Against Women Act, which, among other things, would make civil rights violations of rape and battering. Our influence has been felt even within traditional male preserves such as psychology. Not only are Freudian notions that reduce women's experience to fantasy being challenged, but feminist psychologists studying women have attempted to quantify our responses to violence through such theories as rape trauma syndrome and battered women's syndrome.

This movement politicized what it means to be a woman in this society, and our identity as women grounded our efforts.

It is important that I acknowledge these victories, giving full recognition to this movement for its role in pushing forward advances for women politically, socially and culturally. But I want to address some of the failures of identity politics, particularly as they manifest themselves in anti-violence work.

Because women are similarly vulnerable to rape, battering and other forms of gender violence, many feminists see race as largely irrelevant in the overall effort to politicize violence

against women. This traditional emphasis on commonality between women, however, obscures the ways in which gender subordination interacts with race and other forms of domination. Strategies that fail to acknowledge and accommodate such differences may be ineffective in addressing the needs of women of color who are victims of violence.

Feminists are not alone in their inability to incorporate an intersectional analysis into their work. Anti-racist discourse has likewise organized itself around a concept of race that does not acknowledge, let alone incorporate, the intersecting effects of race, class, or sexual orientation. The consequences of maintaining mutually exclusive political discourses are devastating—not only for women of color whose needs frequently remain unmet by both movements, but for those movements themselves. Gender and race politics are connected in many complex ways, yet feminism and anti-racism tend to characterize these controversies in diametrically opposing ways. Both end up reinforcing the subordinating dimensions of the other.

I adopt a Black feminist stance in my work, cognizant of the tensions that such a position entails. While feminism purports to speak for women of color through its invocation of the term "woman," the feminist perspective often excludes women of color because it is based upon the experiences and interests of a certain subset of women. When white feminists attempt to include other women, they often add our experiences to an otherwise unaltered framework.

One of my objectives as a Black feminist theorist is to re-examine events in a social context. I look for events that call up a striking image that gives us, as a nation or culture, a common reference point. We can use these texts to our political

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advantage. The kind of social text that most interests me captures the reality of domination: a picture, story, or events used to articulate the experiences of those who are silenced and invisible.

One such social text comes from the civil rights movement: the picture of Bull Connor using dogs and water hoses against protesting school children in Birmingham. That one picture captured an experience that millions of people had tried to organize against for decades. Although not all people agreed

NATIONAL COALITION AGAINST SEXUAL ASSAULT

The National Coalition Against Sexual Assault (NCASA) is a membership organization for people interested in the issue of sexual violence: survivors, sexual assault crisis center workers, activists, researchers, and others. NCASA holds an annual conference that provides education and training about sexual assault to survivors, counselors, advocates, and other interested individuals. NCASA provides facts and statements about sexual violence to the public and the press. NCASA is dedicated to the empowerment of sexual assault survivors through provision of services, training, and information.

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with the message, the terrain shifted; the South would forever be on the defensive.

The picture of Anita Hill, a lone Black woman sitting across from the Judiciary Committee, had that same effect. Before that moment, if you looked at a picture of the Judiciary Committee, you would only see the Judiciary Committee. You might not notice or find remarkable that they were all white and male. But after that picture, after those hearings, you can never look at that Committee and not see white, powerful men.

Indeed, that image of exclusion was so strong that it created a reaction that ensured that the picture would not be the same again. With women now on the committee, that social text was read, and a new chapter written almost overnight.

Many feminists used critiques of the way that law shapes the inquiry into sexual violence as a way of understanding what happened to Anita Hill. Feminist legal scholars used rape as a framework to capture the way women experience sexual aggression and the way the law shapes the claims of those women who come forward. Feminist legal scholars have criticized the fact that adjudication is animated by myths about women, by assumptions regarding our veracity and our integrity, and by doubts about our grasp upon reality. And in sexual violence cases, the inquiry tends to focus more on the woman's conduct and character than on the conduct and character of the defendant. As a consequence, rape law does more to regulate and establish codes of conduct than to protect the sexual autonomy of women.

The public debate over Anita Hill's allegations illustrates how laws protecting women from sexual aggression actually reproduce power relationships, rather than overcome them. Many of the questions at the hearings examined Hill's credibility. However, credibility isn't judged by a neutral standard. It marks sharply differentiated sets of expectations, depending on gender. So any information that can discredit the woman and show that she's something other than the quintessential virtuous woman is deemed relevant; but only clear evidence of past activities on the part of the male can do the same thing. For example, the conversation that Anita Hill allegedly had with John Dogget was deemed relevant within a narrative presenting her as an undesirable woman who constructed relationships with men who rejected her. The focus on her failure to resign after she was harassed fit into a narrative presenting her as a woman who did not meet the utmost resistance standard. Because she was unwilling to exchange her career for her honor, she was considered unworthy of making a claim of harassment.

There are narratives that could have been told about Clarence Thomas that bore equally on his credibility. His startling shift in philosophy from a moderate to a conservative in the mid-1980's could have been used to cast doubt on his truthfulness, particularly in contexts where he might lose. His use of his sister to illustrate the problems of welfare dependency and entitlement might have been seen as reflecting a condescending, intraracist attitude towards black women. His participation in an administration position paper recommending reduced enforcement for sexual harassment could suggest a dismissive attitude towards that problem. The testimony of Angela Wright and other corroboration witnesses could have shown a pattern of sexual harassment. Evidence of his consumption of pornography could have been used as a source for the elusive Long Dong Silver.

This demonstrates how the interpretive structures we use to reconstruct events of gender subordination are shaped by

gender power. Feminists were able to use the critique of rape and the rape trial to illuminate for the American public what was actually going on in the hearings. The hearings can also mobilize understanding about what happens in sexual aggression cases. We can show how baseless and irrelevant questions diverted attention from events between Thomas and Hill. We could use Senator Simpson's threat to explore Professor Hill's "proclivities" as evidence of how issues are introduced into rape trials to ensure that women will not be vindicated. His threats prove that certain women will not have their cases effectively heard—particularly lesbians and other women whose personal choices render their violation insignificant in the eyes of those who render judgment.

The hearings show how women's autonomy is constrained by expectations of what a "good" woman does and how she responds to sexual aggression. Anita Hill helps us make the case that women who are harassed, battered and raped must negotiate in a world in which there are real costs, sometimes tragic, in any choice they make. Anita Hill did not have the freedom to simply leave or tell, any more than a battered woman has the freedom to simply leave her abuser. Indeed, it's this overall notion of freedom that makes rape victims vulnerable to the second-guessing of society: You chose to be with him, you chose to go out at night, you chose to wear that dress, so you got what you deserved.

Critics of Hill invoking this free choice myth lambasted her for following Thomas to the EEOC. Thomas' behavior was taken as a given, and only the woman's choice was the variable, the thing that could have been avoided. We can shift inquiry from women's choices to challenge the conditions that render these choices dangerous and costly. It is the behavior and the privilege—indeed, the choices—of men who abuse us that should be challenged and changed. Just as Hill's choice to remain in her job should be a given, so should women's ability to go where they choose be a given, unencumbered and unthreatened by those who interpret our choices as consent to sexual violence.

These are just a few of the ways that we might refer to the hearings to shape understandings of the broader issues relating to sexual aggression and violence. The hearings can be a lesson to our entire society and to women in particular, providing a name, a picture, or a moment to capture what I believe we all feel: The hearings are the symbolic currency to purchase a full understanding.

There is another lesson that feminists must learn, and that lesson was captured at the moment Thomas dramatically characterized the hearings as a high-tech lynching. This moment galvanized the Black community and effectively silenced the Senate, who couldn't muster the moral authority to challenge his sensationalistic characterization of what was happening. It allowed him to pull his troubled nomination out of the political fire.

The American public could have rejected his ploy as a

cynical, last minute maneuver to save his nomination; and one might have assumed that the Black community, having been told that it's important to be judged by the content of your character rather than the color of your skin, would have rejected this person who wanted to use skin color as a shield to any judgment of the content of his character.

But the lynching metaphor was tremendously successful in the Black community. His approval rating rose from 52% to 80% after his initial performance. Many African American leaders also condemned the Mike Tyson rape trial as a lynching. Even though a Black woman was the accuser in both cases, race was deployed only to defend those accused and to vilify the women involved.

Rape still comes in a racialized package—the image that John Q. Public has of rape is the Black male/white female dyad. The quintessential image of racist sexual politics is the notion of the Black male falsely accused of raping white women. With the history of Black men lynched over false accusations of rape, it is not accidental that a Black person's first image when a sexual assault claim is made is that of Emmett Till or the Scottsborough boys. Anita Hill—and, perhaps more tragically, Desiree Washington—had no powerful images playing in their defense. They suffocated in the airless space between the rape trope which imagines a white victim, and the lynching trope which imagines a Black male one.

Statistics and media tell us that rape is read in a way that devalues Black women and wholly erases other women of color. Yet this devaluation and erasure seldom emerges in anti-racist or feminist politics. Studies tell us that Black men accused of raping white women are more likely to be arrested, indicted, tried, convicted and incarcerated. Within anti-racist politics, this is routinely articulated as discrimination against Black men, which it is. But, more to the point, it is discrimination against Black women. A recent study in Dallas revealed that the average sentence given to the rapist of a Black woman was two years, the sentence given to the rapist of a Latina was five years, and the sentence given to the rapist of a white woman was ten years. Interviews with jurors reveal that the low conviction rate of men accused of raping Black women is based on on-going sexual stereotypes about Black women. As recently as 1989, jurors acquitted a defendant of the rape of a 12-year-old African American, stating that "a girl that age from that neighborhood probably wasn't a virgin anyway." Another juror said about Black complainants: "Negroes have a way of coloring their stories. You can't believe everything they say."

This is evidence of racial discrimination against Black women. Yet African American leaders weld racism only on behalf of Black defendants, rather than the women they're accused of raping. In the Washington case, leaders ranging from Hooks to Farrakhan worried that Tyson would be subject to racist treatment in the courts, when there is as much evidence

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could do about it," Ellison said.

Ellison filed a formal sexual harassment complaint on January 30, 1987 with the Equal Employment Opportunity Commission and asked for a transfer to the San Francisco office to escape Gray.

Once the EEOC finished its investigation, it told Ellison that Gray's conduct didn't meet their guidelines and that she hadn't filed her formal complaint within 20 days of the harassment.

Because Ellison felt no one would help her stop the harassment, she filed a lawsuit in September 1987 against Gray and the IRS.

Settling Up

After Ellison went to court, conditions at work worsened. Then Gray continued showing up in San Francisco. Co-workers became involved when Gray's attorneys subpoenaed them.

"We had to take a lot of time away from work because Gray's attorney decided to take a deposition from everyone in the office," Ellison said. "People in the office began to act like I was doing this to them personally." Ellison said her supervisors denied her tasks and promotions.

In December 1990, she left the IRS and began working for the U.S. Forest Service while her case continued in appeals court.

During the court process, attorneys and judges referred to Ellison as hypersensitive and a nut. Most of the opposition came from male judges, who applied their views to Gray's conduct.

"They didn't consider the victim's point of view," Ellison's attorney, Terrance A. Beard, said. "Kerry Ellison even had to submit to a psychological evaluation."

In addition to setting the "reasonable woman" standard, the appeals ruling by Judge Robert Beezer set a precedent for future sexual harassment cases by requiring employers to immediately stop the harassment, even if that meant removing the harasser from the workplace to prevent liability.

Judge Beezer said the victim should not be punished for the harasser's actions. In Ellison's case, she was the one who suffered by being forced to transfer offices, and finally, leave her job.

The "reasonable woman" standard came at a time when the EEOC reported a 25% increase in sexual harassment cases filed in July 1991. By the end of the year, the EEOC reported a 21% increase from 5,557 cases in 1990 to 6,675 in 1991, the largest single increase ever.

The "reasonable woman" standard helped pave the way for other successfully filed cases of sexual harassment. It may have played a role in the recent Supreme Court decision that greatly reduced the degree of psychological damage a victim must prove to win a sexual harassment case. By recognizing that women experience a sexually threatening experience much dif-

ferently than a man, the courts have begun to accept that women are not to blame and men must be held responsible for their actions. ■

Bobbie A. Whitehead is a freelance writer and poet whose articles appeared in the Guardian, The Virginia-Pilot, and elsewhere.

"The Marginalization..."

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that Washington, as a Black woman, would be subject to inaction.

Why is it that this racism remains virtually unidentified? One reason is the male centering of anti-racism and the white centering of feminism. Racism has been seen as a conflict between white men and men of color over property, land, power, and, in this case, women. It is racist to penalize one group of men for the forced sexual access of another group's women. It is racist because you can take mine, but I can't take yours. Yet in intraracial rape where no conflict between men of different races is involved, there is no occasion for racial conflict. The fact that Black women in particular, and women of color in general, are less likely to see their rapist convicted is largely viewed within anti-racism as a non-issue.

Likewise, feminism has been characterized as relationships among whites. The way that intersections of race and gender produce a stratification of women is frequently unchallenged among women.

As long as rape is interpreted through racial eyes, victims who are raped by black men are seen as more important than victims who are raped or abused by white men. Since the vast majority of violent crimes against women are intraracial, this means that white women, too, are injured by society's investment in breeding race into rape. As long as this image dominates, everyday occurrences of violence against women will simply be ignored. Indeed, in the Charles Stewart case, had Stewart not fingered a black man, few of us would have heard about the horrible act of violence suffered by Carol Stewart. Charles Stewart does not represent in most Americans' minds the most savage of crimes: a man who killed his own wife and child. He represents, instead, a hoax. Rather than being angered by the revelation that it was not a black stranger that killed this mother and her fetus, many Americans were relieved. Myths still form much of what most Americans believe about rape and other forms of violence. This is one of the reasons why acquaintance rape is not taken seriously. It does not involve the people most Americans believe about rape and other forms of violence. This is one of the reasons why acquaintance rape is not taken seriously. It does not involve the people who

most people have been trained to fear the most.

Not only black women and black men, but the majority of women will be discriminated against in the distribution of resources in the criminal justice system. Prosecutors are political and will make choices based on what crimes are easiest to prosecute. ~~If certain victims are considered truer victims because they've been abused by those who fit the stereotype of the threat, then the rest of us—all of us—will be marginalized.~~

It is crucial that the anti-violence movement address race. An effective mobilization against violence—one that does not reproduce racial cleavages and that fully incorporates the needs and experiences of women across the board—cannot be silent on the question of racism, but must directly acknowledge and grapple with it. There must be an explicit attempt to acknowledge the intersections of race, gender and other factors, and take these intersections into full account when formulating anti-violence policies.

The consequences of structural intersectionality are manifest in the work of sexual assault counselors and shelters that serve predominantly minority and poor clientele. Often the violence these women experience is just the tip of the iceberg. Many women are burdened by lack of job skills, poverty, language barriers. Their attempts to gain independence from their batterers are compounded by racially discriminatory employment and housing practices, as well as the disproportionately high unemployment rate. Rape crisis coordinators similarly report that a significant amount of the resources allocated to them must be spent handling problems other than sexual assault. As one counselor reported, "A woman may come in or call in for various reasons. She has no place to go, she has no job, she has no support, she has no money, she has no food, she's been beaten, and after you finish meeting all those needs, or try to meet all those needs, she may say—'by the way, during all this, I was raped.' So that makes our community different than other communities. A person wants her basic needs met first. It's a lot easier to discuss things when you are full."

Although centers may successfully meet the crucial needs of rape survivors, much of this work can only be reported as referral. When funders impose spending expectations based upon different populations, the crisis centers are put in crisis. Some funding sources prioritize court accompaniment or other activities related to law enforcement without recognizing that women of color are less likely to have their cases prosecuted. Directors of such centers report that they are in constant conflict with funding sources over the ratio of dollars and hours to women served. Thus, the conflict that all centers have with funders is frequently exacerbated by the inability of funders to acknowledge how the confluence of gender with other factors creates different priorities in different communities.

Another problem is that the culture and community may expect women of color to maintain silence about sexual assault. Interviews with crisis counselors from Black, Asian and Latino communities report that anti-racism and the need to protect com-

munity integrity has frequently been used as a justification for suppressing the violence suffered by women of color. Women of color, afraid of being chastised or ostracized, often observe these expectations protecting family honor and community interests. Family honor and community integrity oblige women not to scream, rather than men not to abuse. Unfortunately, the connections between gender violence and other problems our communities face are not addressed. For instance, a report in the Congressional record indicates that in one study 63% of young men between the ages of eleven and twenty incarcerated for homicide killed their mother's batterer. Given the crisis created by high rates of incarceration in some of our communities, how can the link between gender violence and other social problems not be explored?

This movement inadvertently participates in exclusionary politics because some of us fail to comprehend the anti-violence movement as an anti-oppression movement.

There are ways we can reach across the boundaries to develop strategies to address race. It's important to do more than to say all women experience violence—we must be able to articulate in class and race terms the ways different women experience violence.

1) Be sensitive to the ways that anti-violence work inadvertently tramples on the sensibilities of dispossessed communities. For example, many feminists rejoiced when Mike Tyson was convicted. There were several op-ed pieces that embraced the conviction of Mike Tyson as a vindication for what happened to Patricia Bowman. This uncritical embrace of something painful for one community reinforces the tendency to see rape as a white woman's issue. Although this reaction may be surprising given the race of Washington, the historical baggage and on-going discrimination in the criminal justice system is a dilemma that all of us have to acknowledge.

2) Let's learn to speak to the race issue, rather than simply denying it and substituting gender. In response to concerns about Tyson being the target of discrimination, let's complicate the picture by talking about discrimination against Black women. And let's try to find out more about what happens to other women of color and gay and bisexual women. It's rarely the case that either a race or a gender analysis is the correct analysis. If an intersectional framework suggests anything, it's that the picture is invariably more complicated.

3) Let's be sensitive to the race-based distribution of criminal justice resources. How much do we know about the cases being pursued? What is the unfounded rate and what are the race and class dimensions of this rate? These rates vary dramatically from one jurisdiction to another: in Oakland, almost a quarter of all reported cases were unfounded by the police department. The department defended this high rate by pointing out that the vast majority of these cases involved sex workers and drug addicts. Berkeley had a low unfounded rate and suc-

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their pantyhose that quickly, in the dark.

I had made no comment until then, since I was twisted by guilt and had been trying to pretend I'd dreamed it all. But I told her the truth. When I stood up, got up from the bed, semen ran down my leg. After I told Andrea this, the party was never mentioned again, in any context.

I am told now that I was raped, and I suppose I was, because I couldn't offer informed consent. I don't consider the man crawling into bed with me to be the rapist. That was not the assault. The assault was the society that led me to believe that there was nothing to me except two hundred pounds of ugliness, which was past redemption, past quality, and past hope. The rape was what happened to my mind, my self-esteem, my brilliance. I was beaten and stuffed in a bag by a world of images of smiling, stuffed, stupid women, all of whom were no smarter than my belly button lint, and all of whom were better than me.

By the time I fucked a stranger at a party at the age of sixteen, I had been so completely fucked that I had no chance. I had bought the lie so badly that I wanted a perfect china doll of a man, and would take him under any circumstances, even to the point where I didn't know his name but had felt him naked.

I will not stand here now and call myself a victim. Even if I know that for one word from me that man might have left me alone, I will not relinquish any power to this incident. I will not give it any control. I took off my pantyhose and I put them back on again. I am not powerless.

I imagine that there are people today who remember that they went to a party once and some slut slept with a stranger. The man who made a joke of me probably remembers it, too. To them I say: remember whatever you please. What you think of me is irrelevant. I will not be made into something different, ever again. ■

Teacher

At age twelve, I see you standing next to me in the school locker room, giggling nervously, voice soft in the dark. "Don't tell anyone." Feel your hand move down my body, start stroking. Intake of breath, then warm shame on my stomach, running down my thighs, wondering if this is right, knowing you will be teaching me algebra in twenty minutes.

Scott C. Holstad

cessfully prosecuted the rape of a Black crack-dependent woman.

4) We need to push for the equivalent of a Racial Justice Act. A proposal was introduced in Congress to provide defendants who had been given the death penalty the ability to show that the penalty was distributed in a racially biased way. Where there were statistics to show that the penalty was distributed in a racially biased way, that sentence would be commuted to a life sentence. If we are to politicize and to create a Violence Against Women Act, we should try to make sure that the prosecutions will not be pursued in a racially biased way.

5) When a highly publicized rape occurs, talk about the millions of intraracial rapes that occur virtually without comment. Show how women are harmed by reserving outrage for a particular kind of violent act, rather than for all the violent acts that occur on a day-to-day basis.

6) Strengthen feminist approaches to anti-rape work by revealing how failing to identify with rape survivors does little to protect them. Take race-based critiques of feminism seriously, rather than defensively. Evaluate your work. Ask yourselves, "What is it about the whiteness, classness, straightness of this organization that keeps us from being effective?" Evaluate this, not with guilt or trepidation, but with an understanding that, as Beth Richie put it, the costs of doing nothing are greater than the costs of doing something.

7) Remember that the images we use to represent the movement are frequently as important, if not more so, than the actual content of the programs. While it is important to go beyond mere tokenism, in literature, press conferences and other public events women of color must be represented.

8) The violence suffered by women comes from several different sources. Violence stems from poverty. Our efforts to politicize violence should not stop at the violence caused by what is understood to be gender. If the concerns of this movement are so limited, it may reinforce the belief that the movement is driven, yet again, by middle class interests.

9) Many women have multiple forms of vulnerability which should not be compounded by forcing them to divide themselves between two, three, or four different movements.

For example, a woman subject to race, gender and heterosexist violence should not be forced to forever divide her energies between the anti-racist, feminist and lesbian anti-violence movements.

10) Expanding and rethinking politics is not simply good for "them"—whoever you define "them" to be—but is good for us and essential to the future of the anti-violence movement.

I hope and have every confidence that the anti-violence movement will continue to provide leadership to the entire women's movement. ■