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The *Columbia Journal of Gender and Law (CJGL)* is an interdisciplinary journal designed to address the interplay between gender and sexuality law, and its effects at the personal, community, national, and international levels. The articles we publish reflect an expansive view of gender and sexuality law—embracing issues related to feminism and gender and sexuality studies that cut across all races, ethnicities, classes, sexual orientations, gender identities, and cultures. *CJGL* also publishes articles that merge and blend disciplines—revealing the connections between law and philosophy, psychology, history, religion, political science, literature, and sociology.

CJGL operates by consensus and welcomes all law students at Columbia Law School to apply, regardless of status as a first-year law student, JSD student, or LLM student. All editors and staff members are involved in *CJGL*'s decision-making process with respect to selection and editing of articles. Members work in teams and follow articles from acceptance to publication.

In fostering dialogue, debate, and awareness about gender-related issues, our goal is to advance feminist scholarship and gender and sexuality studies at Columbia Law School. We strive to break through traditional legal and academic confines, and serve as both a community and an outlet for interested students, faculty members, and practitioners.

CJGL publishes issues in both the fall and spring semesters. The size of our issues depends upon the number of articles our members vote to accept. We traditionally publish two issues per volume.

The editors and staff members of *CJGL* are grateful for your support. We look forward to your continued readership and welcome your contributions and responses.



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A TRIBUTE TO THE WORK OF PATRICIA WILLIAMS

KATHERINE FRANKE*

I want to welcome all of you to Columbia Law School, and to the fourth annual Symposium hosted by the Center for Gender & Sexuality Law. Some of you might have been with us for previous Symposia—last year we came together to honor the work of Justice Ruth Bader Ginsburg, and to acknowledge the fortieth anniversary of her joining the Columbia Law faculty as its first tenured female professor. In prior years, we have honored the work of Judith Butler and Martha Nussbaum.

Our aim with this symposium is to take a full day to reflect on the body of work of a scholar who writes *in*, or at least *near*, law and whose work has had a significant impact on our thinking about sexual and/or gender-based justice.

The task of selecting an honoree is not an easy one—as we aim to take up a corpus of work that is at once deep enough and broad enough to sustain a full day of conversation. To be honest, most legal scholars tend to be more hedgehogs than foxes, burrowing down deep into an area of law over the course of a career rather than bringing their intellectual talents to bear on a range of social problems or diverse disciplinary locations.

One person, without question, stands out as an exception to this tendency in the legal academy, and that is the incredible Patricia Williams.

Her work has challenged a generation of students of race, gender, and law to question the received wisdom of what it means to live in a society committed to race and gender-based equality. She asks us to entertain a level of personal and political discomfort previously unknown to something we might call “legal scholarship.” Her writing stages a confrontation between the word on the page, the woman who penned that word, and you as the reader, using memoir, history, literature, popular culture, media, and, of course, law, to unearth some of the most challenging questions about justice—justice as a legal project, justice as a social project, and the ways in which justice is always at stake when we set out to craft a sense of an integrated self. She has described this as “the complex ritual of mirroring and self-assembly.”¹ In this sense, justice is both a public and a private enterprise

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1 PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* 229 (1991).



in Williams' writing.

Her work makes an argument about the gap—sometimes abyss—that lies between law and justice. But her arguments don't just use the familiar tools of the legal trade—rationality and logic, objectivity and detachment, rules and precedent—rather, her craft relies equally on anguish and self-doubt, indignation and rage, particularity and the personal. She demands that we think hard, very hard, when we encounter her work, while at the same time attending to the feelings that her work unearths. She writes in *The Obliging Shell*, a chapter in *The Alchemy of Race and Rights*:

I remember with great clarity the moment I discovered that I was “colored.” I was three and already knew that I was a “Negro”; my parents had told me to be proud of that. But “colored” was something else; it was the totemic evil I had heard my little white friends talking about for several weeks before I finally realized that I was one of *them*. I still remember the crash of that devastating moment of union, the union of my joyful body and the terrible power of that devouring symbol of negritude. I have spent the rest of my life recovering from the degradation of being divided against myself; I am still trying to overcome the polarity of my own vulnerability.²

Now, this comes in the midst of a chapter about the Supreme Court's affirmative action doctrine, about the racial mischief that can be, and indeed *is* accomplished in the name of equality and racial neutrality. Pat teaches us through personal narrative, the retelling of real life instances of racial violence, and close reading of legal texts how the race-neutral world called forth by the Supreme Court's affirmative action jurisprudence is one in which race becomes a kind of taboo, suppressed in polite company, rendering black people both invisible and available to the probing, curious eye of “neutral” color-blind society. She writes: “The words of race are like windows into the most private vulnerable parts of the self: the world looks in and the world will know, by the awesome, horrific revelation of a name.”³

In *The Alchemy of Race and Rights*, Pat lays bare the way that racial neutrality accomplishes a kind of invisibility or erasure not only of race but of raced peoples. Take for instance a colloquy with a colleague that she recounts:

2 *Id.* at 119–20.

3 *Id.* at 119.

A man with whom I used to work once told me that I made too much of my race. “After all,” he said, “I don’t even think of you as black.” Yet sometime later, when another black woman became engaged in an ultimately unsuccessful tenure battle, he confided in me that he wished the school could find more blacks like me. I felt myself slip in and out of shadow, as I became nonblack for purposes of inclusion and black for purposes of exclusion⁴

To illuminate another way that law simultaneously produces legibility and invisibility she turns to the media coverage of the death in 1987 of Michael Griffith, a young African American man who was chased onto a highway in a white neighborhood Queens, by a group of white young men. He was hit and killed by a car. Pat observes how Griffith, like many victims of racism, was portrayed as somehow deserving the racist violence that killed him; she explains that the projection of criminality onto all blacks not only tells an untruth about black people but renders white criminality invisible.⁵ You could easily substitute Trayvon Martin’s name for Michael Griffith’s and her analysis would be equally powerful and spot-on today.

The power of law to render certain “unfortunate” aspects of U.S. history invisible, along with the people who are the embodiment of that misfortune, have remained a core theme of so much of Pat’s work.

But in addition to unpacking the legal technologies of *invisibility*, Pat’s writing has also taken up the power and productivity of *silence*. She teaches us not only how silence works, but she models how to talk and write about silences.

Some of her most compelling examples of the power of law and legal texts to silence come from her experiences in legal education. You hear over and over that our main project here in a law school is to teach our students how to “think like a lawyer.” In so many respects, this means unlearning the ways of thinking that got you here. It also means acquiring a kind of mental and emotional discipline that keeps you from voicing certain kinds of arguments, and worse—that keeps you from valuing those arguments when they rise from your gut. Let me give you an example from a student who recently wrote me with reflections on the first year of law school:

4 *Id.* at 9–10.

5 *Id.* at 61.

I have definitely read opinions and felt strong objections on moral grounds, but also felt afraid to voice them in class because it seems as if bringing up these arguments will make professors and classmates cringe or think less of my logical/reasoning abilities. One time I went to office hours to discuss what I perceived as an unjust outcome in a case, and was told that if I wanted to just think of morals in black and white I could have started a family and not come to law school. I hope this class will help me get better at separating my emotions and personal beliefs from a good set of legal arguments, but also find ways to retain and reconcile them so I do not get churned out of law school a fundamentally different person than the one I came into law school hoping to be.⁶

Like Pat, I hear from students what legal training does to them and it makes me crazy. Crazy to take care of them, crazy to validate and nurture their moral and ethical compasses before it's too late, and crazy to be part of an institution that values detachment, neutrality, and moral agnosticism. It takes a toll on our students and it takes a toll on us, the outsiders in a professorate who have something altogether different in mind when we imagine what it means to "think like a lawyer." The power my student just described silences her, but it threatens to silence all of us who work in a terrain marked as legal.

The last thread I want to pull out of Pat's work is the masterful way in which she has helped us understand the relationship of the law of property to a notion of self-possession. Today we celebrate the twenty-fifth anniversary of the publication of one of Pat's most influential essays: *On Being the Object of Property*.⁷

Every year I teach this essay to my first-year students and it never disappoints to blow their minds. It confronts them with the challenge of thinking about property law not only from the perspective of the owner, not only from the perspective of the law, but also from the perspective of the thing—or person—to be owned—be it a fox, a slave, one's story, one's history, one's dignity, or a piece of ourselves—our genetic material. What if we could imagine assuming the vantage point of all those things at once? Who would we be, what would we care about, what would it mean to be self-possessed, and what would it mean to "think like a lawyer" about these complex, contradictory notions?

6 Email from (name withheld), student, to author (Jan. 27, 2013) (on file with author).

7 PATRICIA J. WILLIAMS, *On Being the Object of Property*, in *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR*, *supra* note 1, at 216–36.

In recent years, Pat has posed these hard questions in the context of the commodification of the human genome. She challenges us once again to think and feel hard: what is me and what is mine? What does it mean to be me, and what does it mean to be mine? And most importantly, what should the law do?

Perhaps we could come up with a richer set of questions to focus our attention today, but I don't think so.

So we gather today to honor a body of work. Thankfully not to eulogize that work, nor to recognize its author with a gold watch at the close of the day. Rather we gather to honor an evolving body of work whose full riches will be revealed in new writing to come.

This symposium is structured around three amazing panels with speakers who not only pay tribute to the marvels of Pat Williams' work, but who show us how those marvels have taken their own work in other stunning directions. The panels are arranged around three general themes. The first panel addresses Race, Gender and the Law. The second, the Ethics of the Body. And the third, Law as an Interdisciplinary Enterprise. The symposium ends with a keynote from Pat herself—taking up and reflecting on the ideas first launched twenty-five years ago in *On Being the Object of Property*.

RETURNS

GINA DENT*

Patricia Williams was my teacher. In the five stages of preparing for this day, I heard many of the phrases from *The Alchemy of Race and Rights* echo through my mind.¹ I felt *just like* that monkey Williams describes staring at the keyboard, as she puts it, “all those letters of the alphabet, full of random signification.”² And, of course, there was no shortage of news items vying for my attention on radio and TV. George Zimmerman’s brother, Robert, was interviewed by Michel Martin on NPR’s *Tell Me More*, explaining why growing up with his Afro-Peruvian mother in Virginia meant that race could not be a factor in his brother’s shooting of Trayvon Martin in Florida one year ago, their growing-up marked, as it was, by a difference of culture (of foods and how they spoke at home, he mentioned), while also ensuring, he suggested, his family’s color-blindness.³ The President of Emory University wrote confidently about the Three-Fifths Compromise as an historical example that might be useful in fending off the contemporary threat of sequester, avoiding the fiscal cliff, and getting the President and Congress (the only relevant social actors) to work together.⁴ In his response to criticism about his letter, he went on to apologize for the “hurt caused by not communicating more clearly [his] own beliefs.”⁵ And the State of Mississippi’s attempt to get rid of the sole abortion clinic remaining in the state through House Bill 1390, ostensibly making Mississippi an “abortion-free” state, as Governor Phil Bryant called it,⁶ could only recall Williams’ prescient words: “[T]he right to privacy might be a function of wealth.”⁷

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1 PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* (1991).

2 *Id.* at 4.

3 *Tell Me More* (National Public Radio broadcast Feb. 26, 2013).

4 James Wagner, *From the President: As American as . . . Compromise*, EMORY MAGAZINE, Winter 2013, at 42, available at http://www.emory.edu/EMORY_MAGAZINE/issues/2013/winter/register/president.html.

5 James Wagner, *Update from the Editor, February 24, 2013*, EMORY MAGAZINE, Winter 2013, available at http://www.emory.edu/EMORY_MAGAZINE/issues/2013/winter/register/president.html.

6 Laura Bassett, *Mississippi Abortion Bill May Force State’s Only Clinic To Close*, HUFFINGTON POST (Apr. 5, 2012), http://www.huffingtonpost.com/2012/04/05/mississippi-abortion-bill_n_1404705.html.

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



Rejecting this low-hanging fruit, I tried to avoid the mistake of so many of my students, who embrace with great enthusiasm the form of Patricia Williams' brilliance, but ignore some of what I always took to be the most important invitations in her work. I reminded myself first of one of them—Williams' preference for induction as a critical method, which I found to be such a relief while in graduate school—and decided to start from where I was. For the past several weeks, I have been conducting an experiment with my graduate students. I am teaching a course in black feminisms (oh, yes, that's the experiment). I was surprised and grateful that any of them signed up for this adventure, given that the subject is treated as anachronistic in the world where I spend much of my time. I myself have become accustomed to living at a kind of temporal disjuncture in my United States-based academic life. My students are simply not exposed to this material because it is assumed by others, on their behalf, that what they would learn there they should already know, have moved through and beyond. They are confounded not by the newness of the materials they are confronting, but by the ways that the recursivity of these works redraws their larger relationship to knowledge. They begin, as it were, to see "her shape and his hand."⁸

One of their assignments was to read *The Alchemy of Race and Rights*. More than twenty years since its publication, I found that the students were immediately undone. And, suddenly, they were filled with *stories*. Inspired by the deterritorialization in Williams' writing—its breaking up of the conventions of owned objects and mapped terrain—they ceased their flag-wielding activities, no longer looking for new areas to conquer, name, and claim.

I myself was transported back to 1991, when I first read this book and soon after came to meet Pat when she arrived at Columbia. I have tried very hard to recall that first meeting. But it just seems that she was already everywhere, and perhaps it is the case that having read her words and anticipated, as encouraged by Kendall Thomas, her arrival, it was as if there really was no first meeting off the page. Somehow I remember always being around her office, and it seemed that everything happened there—we brainstormed about a conference we, graduate students in the English & Comparative Literature program, were planning (at which she was kind enough to speak); she brought her son Peter on his first day at home and we watched his long arms and legs extend already over the edges of the carriage with awe; we discussed everything that we were reading; we watched her plan for class; she allowed us to witness her thinking. There, I encountered the same openness and vulnerability that had overwhelmed me when reading *Alchemy*, so the bleeding of life into the page is perhaps not so surprising.

8 *Id.* at 19.

I began to see just how moving inductively as a means of revealing thinking *and* feeling in one's work was also honoring a cultural tradition. As Pat put it when describing the historical process of inspiring rights frameworks, "[t]he making of something out of nothing took immense alchemical fire."⁹

To say that blacks never fully believed in rights is true. Yet it is also true that blacks believed in them so much and so hard that we gave them life where there was none before; we held onto them, put the hope of them in our wombs, mothered them and not the notion of them. And this was not the dry process of reification, from which life is drained and reality fades as the cement of conceptual determinism hardens round—but its opposite. This was the resurrection of life from ashes four hundred years old.¹⁰

But how to breathe that life? I also recall that Pat taught me to stay close to the things that I loved. Sometimes this was more literal than one would think. On more than one occasion she mentioned reading a contracts textbook because she woke up in the middle of the night and it was next to her. She also once began an extensive conversation with me about a paper I had written and given her to read at her leisure. And when I inquired as to why it was so vividly in her mind, I learned that it was next to one of those textbooks. What made Pat a great teacher, and what makes her work so powerful for me, is that she immerses herself into all of the law's particularities with great love.

For the last ten years, I have taught an undergraduate course on Women and the Law, inspired by so many of the things that Pat taught me. My students also love the law—or so I accuse them. It is a different kind of love. Despite the fact that these students all have causes—we are in Santa Cruz, after all—and are often activists, they nonetheless believe in the end, like most of us, that bringing their causes to the attention of the courts and legislative bodies will eventually guarantee them the rights that they seek. The Violence Against Women Act gets reauthorized; gay marriage becomes legal. They are entirely passive in relationship to law; they are willing to succumb to its every flirtation. As they neglect the aspect of inspiring rights, to attend to the hypostatization of legal categories, to find culture and history in the law, becomes the project of the course. At first, these blows are crushing. The very prospect of all that hard work to make the relationship is too much. It is through the beauty and grace of reading Williams as she painstakingly exposes their quandaries in revealing her own that they begin to see how a new relationship might

9 *Id.* at 163.

10 *Id.*

be made, one that factors in the force of the state but also reveals an adjacent temporality, an adjunct relation to received histories, a nascent historicity that presses into the future without guarantees.

Much of the work is in getting the students to see how one significant site in which “women” as a category is produced is the law, and one way of accomplishing this is by producing a comparative and sometimes transnational frame that also considers other legal cultures. What I am reminded as I teach this course is that in cultural studies scholarship more broadly, law is often the domain without a culture. It is wielded as facticity, words, as Williams put it, equaling words, flattened into ground even when all else is deemed worthy of play.¹¹ I am reminded of a scene in Williams’ property course twenty years ago when I read these words in *Alchemy*:

[C]ontract is no longer a three-party transliterative code, in which law mediates between profit and relationship, and in which property therefore remains linked to notions of shared humanity. Instead, consumerism is locked into a two-party, bipolar code that is little more mediative than a mirror. Money reflects law and law reflects money, unattached to notions of humanity. The neat jurisprudence of interpretive transposition renders the whole into a system of equations in which money = money, words = words (or law = law). The worst sort of mindless materialism arises. The worst sort of punitive literalism puts down roots.¹²

To counter this description, Williams explained to students how contract in the U.S. has not always been understood without reference to community as mediator, how an exchange might have been challenged in a context where it might, in fact, imply more than two, and that the implication of this third, mediating term might introduce multiple categories of humanity, as well as other forms of life. Contract has a history. Law has a culture. *Alchemy* is possible.

My friend Leti Volpp, who was at Columbia Law School at the time, relayed another story to me recently of that time. Pat also taught a required course on Perspectives on Legal Thought and one day had assigned Kendall Thomas’s article *Shower/Closet*.¹³ As Leti tells it, she herself went to the bathroom, and having returned to find the room most severely

11 See *id.* at 41.

12 *Id.*

13 Kendall Thomas, *Shower/Closet*, 20 ASSEMBLAGE 80 (1993).

changed, she then noticed that her neighbor had scribbled on the side of her notebook that one of the male students, in attempting to justify straight male fear of showering with gay men, had asked if Pat would like to take a shower with him. Somehow, evidently without missing a beat, Pat had segued into a lecture on hate speech so powerful that many of the women-of-color left the room in tears—of relief, recognition, and horror simultaneously, having never before heard such a public acknowledgment of what had been their private pain. This was inspiring discourse.

I asked Pat to join my orals and dissertation committees, and together we learned these rituals. (She asked me, “What is an orals committee?” And I said, “I don’t really know, I haven’t done it yet.”) Returning to that experience after the span of twenty years, I find that I asked the same questions then that I ask still. Inasmuch as Williams had committed to memory many passages from those commercial law textbooks she so loves, I have a few passages committed to my own memory. They come from the canon of African American studies and literature, and since I am not in that familiar venue, I will read them. One of them comes from W.E.B. Du Bois, whose notion of double consciousness undergirds Pat’s own writing in *Alchemy*. But I want to read you the passage from which we derive that theory of double consciousness to mark the unevenness there, an unevenness that Pat helps us think through. Du Bois wrote in 1903:

[T]he Negro is a sort of seventh son, born with a veil, and gifted with second-sight in this American world,—a world which yields him no true self-consciousness, but only lets him see himself through the revelation of the other world. It is a peculiar sensation, this double-consciousness, this sense of always looking at one’s self through the eyes of others, of measuring one’s soul by the tape of a world that looks on in amused contempt and pity. One ever feels his twoness,—an American, a Negro¹⁴

As I mentioned, this gives us the framework that many of us have come to use as double consciousness, but it was also importantly uneven. Du Bois was careful to describe that this double consciousness was not borne equally by all black subjects. While there was the more salient class distinction invoked by the phrase “the talented tenth,” he also mentions a gender divide, a difference between how boys and girls live inside of this world.¹⁵ This is one of the unevennesses that Pat’s work has helped us to think through over these many years. But *Alchemy* suggests more—that the relations of and between gender, race, and

14 W.E.B. DU BOIS, *THE SOULS OF BLACK FOLK* 12 (Arc Manor 2008) (1903).

15 *Id.* at 74.

class are not best thought of as independent strands to be objectively laid out before us in endless classificatory detail.

The other passage that I remember, and have been thinking about since that time, is one from Anna Julia Cooper, whose work *A Voice from the South* was published in 1892.¹⁶ As she wrote:

The most talked about of all the forces in this diversified civilization, they seemed the great American fact, the one objective reality, on which scholars sharpened their wits, at which orators and statesmen fired their eloquence, and from which, after so long a time, authors, with varied success and truthfulness have begun at last to draw subjects and models.¹⁷

Cooper refers there to the quintessential American object of the period, the fact of African Americans, of the Negro. But in this recursive gesture, in this return along the same route, they are also a *force* of facticity. They are objectified and never written in relationship *to*, but beginning again and moving along these same contours (*her shape, his hand*),¹⁸ their movement finds its form. These two passages, when set alongside Patricia Williams' work, are enlivened because of the many ways in which she allows us to remember that inspiring framework. Her returns allow us to think again about this form of facticity, perhaps best characterized in our most customary relationships to jurisprudence, to seek instead the cultural legacies that are hard to find when we limit ourselves to a colorblind discourse of race, to look for shapes and to write into negative space. I think of this often when I am teaching these questions, since everything that I seem to work on has to do with this problem of the dialectics of race and culture and the ways in which we continue to read past those complexities in contemporary life, knowing from when we start where we will end. What if we move inductively and cease to begin with race as the problem at hand? What if we move instead from the subordinated but nonetheless living cultural space of black life? What if we see *her shape*?

The ways that teachers enable us are often hard to recognize, so much of what they give arrives in us in ways that are also disembodied. Sometimes, when I meet particular resistance in my students, I move my own body into certain shapes. I find myself crossing my arms and nodding, which gives me a feeling of restraint and poise that almost nothing

16 ANNA JULIA COOPER, *A VOICE FROM THE SOUTH* (Oxford Univ. Press 1988) (1892).

17 *Id.* at 179.

18 WILLIAMS, *supra* note 1, at 19.

else will achieve. I can feel how much this bodily posture composes me. And I know that this shape is one of those gifts. Thank you.

PATRICIA WILLIAMS AND *THE NATION*

PAULA J. GIDDINGS*

A public place to speak, and speak again? I think I'd like that after all. The chance to speak about this or that, deadline after wonderful deadline. What will do the trick, I wonder?—some complexity, some history, some law and some politics, some sense and sensibility. Who knows?

—Patricia Williams, upon accepting the invitation to write the *Diary of a Mad Law Professor* column for *The Nation*.¹

Obviously, Patricia Williams brings to The Nation her extraordinary depth of knowledge—about law, history, race, gender, science and culture. But what has really distinguished Pat's columns is her concern for the HOW of politics. Whether writing about the criminal justice system or mass media or electoral politics, she brilliantly illuminates the unseen cognitive associations that structure the very way we think about a problem. And through the precision of her writing, Pat forces us to challenge them, or to break from them. She is a true public intellectual of the highest order.

—Katrina vanden Heuvel, Editor and Publisher of *The Nation*.²

Patricia J. Williams has been widely admired in legal and academic circles for her role as a critical race theorist; less examined, and what I would like to talk about today, is her work as a journalist and commentator. Few are more skilled in making the tenets of a theory legible to broader audiences—or more deeply felt—than Pat.

I first came to fully appreciate this aspect of Pat's work when I served as an editor for the anthology: *Burning All Illusions*.³ Subtitled *Writings from The Nation on Race*, my task was to select articles and essays that exemplified *The Nation* magazine's writings on

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1 Patricia J. Williams, *Postcard from Heathrow: Diary of a Mad Law Professor*, *THE NATION*, May 5, 1997, at 8.

2 Email from Katrina vanden Heuvel, Editor and Publisher, *The Nation*, to author (February 25, 2013) (on file with author).

3 *BURNING ALL ILLUSIONS: WRITINGS FROM THE NATION ON RACE* (Paula J. Giddings ed., 2002).

the subject between 1866 and 2002. Two of those selections were written by Williams, and reflecting back on them for this conference gave me a new appreciation as to how interdisciplinary her work is, as well as how supple. Her essays seamlessly reflect both traditional and innovative modalities of expression that can speak to readers outside of the academy as effectively as to scholars within it.

The Nation was founded in 1865 by anti-slavery men (including co-founder Frederick Law Olmstead) who sought to sustain the abolitionist spirit after the Civil War. Indeed, the publication has a storied history in this regard: it was later purchased by Oswald Garrison Villard, grandson of William Lloyd Garrison and a founder of the NAACP.

The magazine's political aspirations were one organizing principle; another was that, from its earliest incarnations, it brought on editors with a decidedly literary bent. Henry Wadsworth Longfellow, James Russell Lowell, and Anatole France were among them, and the result was a magazine that not only published traditional political and journalistic commentary, but also essays on race and life by keen observers with an artist's sensibility. Sherwood Anderson, Langston Hughes, James Baldwin, Claude McKay, and Faith Adams, among others, wrote first-person anecdotes about their encounters with racial subjects. After reading hundreds of pieces, published from the 1860s onward, I realized that generations of *Nation* editors and writers understood something important: that ultimately, race retains its power through how it is imagined and rendered through the art of narrative and representation.

Both the substance and style of Williams, whose stylistic influences include Italo Calvino, Jeremy Bentham, Jean Jacques Rousseau, and James Baldwin, fit squarely into *The Nation*'s political/literary tradition. At the same time, her columns enrich that tradition—which historically did not include many women, much less women-of-color—with her gendered critical race perspective.

One of Williams' writings I chose for *Burning All Illusions* is a case in point. Entitled *Among Moses's Bridge-Builders*,⁴ the column was written on the occasion of the fortieth anniversary of the *Brown v. Board of Education*⁵ decision.

4 Patricia J. Williams, *Among Moses's Bridge-Builders*, in *BURNING ALL ILLUSIONS: WRITINGS FROM THE NATION ON RACE*, *supra* note 3, at 174 [hereinafter Williams, *Bridge-Builders*].

5 *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

The essay begins with her response when *The Nation* asked her to write the piece. “I felt as though I were being called to the grandest project of my career,” Williams wrote.⁶ “This is the case, after all, that shaped my life’s possibilities, the case that, like a stone monument, stands for just about all the racial struggles with which this country still grapples.”⁷

I remember being so struck by the first sentence that I picked the pages up from my desk, piled high with 150 years’ worth of essays, and took them to the room where my most comfortable chair was located and continued to read. The writer, in Baldwin-like terms, had put her core values, her sense of self, before the reader in a very personal way. By using the first person, Williams also utilizes a central tenet of critical race theory (CRT): the autobiographical intervention that brings to the fore the relationship between legal discourse and its subject, form and content.⁸ Williams goes on to tell us that *The Nation* editors also suggested that a conversation with the Brown family might be the focal point of the essay.

A conversation—as opposed to an interview for example—not only opens up discursive possibilities for a broad array of readers, it is a perfect framing device to further the CRT project of making “visible the missing racial subjectivities that structure legal discourse,” as one critic put it.⁹ As we will see with the further reading of the essay, listening to and better understanding the realities of the Browns and others makes for a revisionist interpretation of the Civil Rights Movement. It also reveals the CRT prerogatives that constitutionalism both enables and limits the possibilities for articulating claims and producing meanings;¹⁰ that, relatedly, liberal legal models only offer partial liberation to formerly disadvantaged groups; and finally, the legacy “of *Brown* is as much tied up with this sense of national imagination as with the pure fact of its legal victory.”¹¹

Early in the essay, Williams introduces us to Cheryl Brown Henderson, the youngest daughter of the family, whose name is affixed to the court decision. Their conversation begins with a caveat. “Don’t make icons of us,” she tells Williams, who has left a number

6 Williams, *Bridge-Builders*, *supra* note 4, at 174.

7 *Id.*

8 Richard Schur, *Critical Race Theory and the Limits of Auto/Biography: Reading Patricia Williams’s The Alchemy of Race and Rights Through/Against Postcolonial Theory*, 25 *BIOGRAPHY* 455, 455 (2002).

9 *Id.*

10 *Id.* at 460.

11 Williams, *Bridge-Builders*, *supra* note 4, at 181.

of self-described “gushy” messages for her.¹²

Refusing to let her famous name be held on a pedestal, Henderson insists that neither the historic court decision nor the movement itself should be understood through “a few lionized personalities.”¹³ The statement reflects a central concern of Williams: the impact of the media—another institution that structures discourse. “The Hollywood obsession with individual charismatic personalities diminishes the true heroism of the multiplicity of lives and sacrifices that make for genuine social change,” she writes.¹⁴

Instead of letting the media structure the reality of the movement through individuals or highly publicized moments, Henderson’s words tell us that it is, instead, a “historical stream of events”¹⁵: public school cases had been brought as early as 1849 on the national stage, and in Kansas, such cases had been brought since 1881. Williams goes on to share the conversation with the Browns about how the family came to Kansas in 1923 because of the Santa Fe railroad, which had its headquarters in Topeka, and the family’s subsequent activity with the NAACP there. They became involved in the organization not because of any great event but because of “all of the ordinary daily grinding little events that made life hard in the aggregate.”¹⁶ As Cheryl’s Savannah-born father, Oliver Brown, notes: A black person had “to be careful of white people; you got out of the way, or you’d get hurt, immediately,” he said. “If you saw a white person coming, you got off of the sidewalk.”¹⁷

Indeed it was such micro-aggressions, so common and so collectively experienced, that make this story become “‘our’ story,” as Williams tells us through an unnamed veteran of the Civil Rights Movement:

The civil rights movement was all about ordinary people who weren’t necessarily on the road to Damascus. It was these ordinary people who deserve credit for many of the movement’s successes. They are the bridge-builders working hard to keep Moses’ back covered—just people, just working and thinking about how it could be different, dreaming big, yet

12 *Id.* at 174.

13 *Id.* at 175.

14 *Id.* at 180.

15 *Id.* at 175.

16 *Id.* at 176.

17 Williams, *Bridge-Builders*, *supra* note 4, at 176.

surprised most by the smallest increments, the little things that stun with the realization of the profundity of what has not yet been thought about.¹⁸

Logically, those thoughts, rising to the surface with the *Brown* decision, should have facilitated fruitful conversations about race across racial lines. Yet, ironically, the fact that the conversations could be “more and more straightforward,” also meant that “the pain of it all, the discomfort, has been accompanied by the shutting down, the mishearing, the turning away from the euphoria of *Brown*.”¹⁹

I don’t “think that anybody anticipated the country’s response,” observed another member of the Brown family, Mrs. Leola Brown Montgomery.²⁰ “The attorneys, the parents, we didn’t really understand the insidious nature of discrimination and to what lengths people would go to not share educational resources, including leaving neighborhoods en masse.”²¹ Williams then quotes a Duke University Professor who names three things that many thought would come to pass, which didn’t:

(1) that good liberals would stand by their commitment to black equality through hard times; (2) that blacks and whites could come to some kind of agreement about what was fair and just . . . (3) that if you just had enough faith, that if you just wished racism away hard enough, it would disappear.²²

The legal decision was only partially liberatory. Law in and of itself is not a prescription for social justice. Nevertheless, *Brown* creates a myriad of new possibilities, new meanings of freedom. “Perhaps the legacy of *Brown*,” notes Williams,

is as much tied up with this sense of national imagination as with the pure fact of legal victory; it sparkled in our heads, it fired our vision of what was possible. Legally it set in motion battles over inclusion, participation and relocation of resources that are very far from resolved. But in a larger sense it committed us to a conversation about race in which all of us must

18 *Id.* at 176, 181.

19 *Id.* at 181.

20 *Id.* at 179.

21 *Id.*

22 Williams, *Bridge-Builders*, *supra* note 4, at 179.

join—particularly in view of a new rising Global Right.²³

The words, written nearly 20 years ago, are no less prescient today.

23 *Id.* at 181–182.

SHE'S HAVING AN EPISODE: ON PATRICIA WILLIAMS AND THE WRITING OF DAMAGED LIFE

LAUREN BERLANT*

I. Anecdotal¹

I heard a story once about two friends who were trading tales about the ways that white, male supremacy extends itself formally and informally into sexual reproduction: through structure and stricture; statements and gestures; anecdotes and atmospheres; law and families, and not just white families. The conversation produced so much pain and awkwardness that the friends “grew embarrassed, somehow”; and so, spontaneously, as though it would save the day, they resorted to the language of political theory, of “laissez-faire economics and governmental interventionism,” to get at the situation. But theorizing for life’s sake didn’t work out too well—that time, the abstractions made “a clear line, a railroad upon which all other ideas and events were tied down and sacrificed.”²

A little later I heard a similar story about a godmother and goddaughter who exchanged tales that might also have referred to legacies of sexualized racial violence—that is, *might* have, if the godmother had not insisted on euphemizing how that violence was embodied in her life and why their family, a family harmed by it, would still so identify with and indeed long for access to the white supremacist world. In this case too, the conversation moved away from “the truth” to allegory-spinning, from veracity to “voracity”—for displacement, not escape; but this time the interlocutors moved not toward a professional register. Abjuring the rhetoric of law and the idiom of history, the women spun out fictions of animals with appetites, talking polar bears until their “plates were full of emptiness and [the goddaughter] became large in the space which described [the godmother’s] emptiness and [the goddaughter] gave in to the emptiness of words.”³

Even now, years later, this second anecdote about the godmother and goddaughter seems more tender and positive than the first one between the collegial theorists, because

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1 All anecdotes are taken from Patricia J. Williams, *On Being the Object of Property*, 14 *SIGNS* 5, 5–24 (1988).

2 *Id.* at 13.

3 *Id.* at 16–17.

the generosity and intimacy of the fairytale is still less harsh than the brutal technicality of a professional jargon whose searing criticality scores its users as well as its objects. Yet both responses to pervasive sexualized racial violence involve intimacy, exchange, optimism, criticality, aversion, disappointment, aggression, and distance—all of it. Each response-style expresses a desperation that seeks at once contact, displacement, transmission, and defense against the prodigious weight of violence *and* possibility. Each sacrifices the potential for mutually facing an overwhelming scene (the *same* one, yet varied) to the abstraction of a speech register that insists on the solidity of representation despite all the evidence that the speakers have failed to achieve even an adequate description of outrageous social relations. So this material, derived from the ordinary of subordination, not only extends the violence it restages, and not only exemplifies what so often goes wrong when we recount power's story with a reparative intention, but, even more disconcertingly, discovers the reproduction of structural violence in intimate conversation, the kind in which people conscript each other to desire a common idiom so as not to feel alone and defeated by life. Here, the preservation of fidelity, the drive to stay in sync with another, beats out the pursuit to extend justice. Each aim takes its own kind of courage.

In an episodic aesthetic, we focus attention on converting a disturbance into a case, a singularity into an exemplum, or an incident into an event, in the hope that this remodeling will transform what there is to see, to engage, and, when it is relevant, what there is to fight in the world.⁴ But, paradoxically, each episode demonstrates an insufficiency of the case as well, as it requires proximity to other scenes and cases for the force of its change to be assessed. This analytic attention to the process of generalization is the only way to change what an object is, how it is to be encountered, contextualized, figured, narrated, and shifted within its own resonating field. Patricia Williams' *On Being the Object of Property* is shaped by this transformational wish and will, both within sections organized by incident and in its overall style of nested, accretive exemplification. The essay's opening, for example, stages Williams' mother relating something about their shared slave past that she wants her daughter now to own with pride, seeking to convert the negativity of history to prophetic victory;⁵ and the daughter, in retelling, converts her hurt and bafflement at her mother's judgment and desire into an anecdote with different exemplary force, this time encapsulating how it comes to be that the corrosive work of the world can turn into a

4 On the process and impact of making exemplary cases, see Lauren Berlant, *On the Case*, 33 *CRITICAL INQUIRY* 663 (2007).

5 The mother reminds Williams, on the cusp of law school, that her great-great-grandmother was owned by a lawyer, Austen Miller, who reproduced with the eleven year old girl and begat generations of black mothers down to Williams' own, suggesting non-ironically that the law is her inheritance, her right, because it is *in her blood*. Williams, *supra* note 1, at 5–6.

constricting double-bind when delivered in the context of love.

But such constraints grow not only from the intimate zones of inheritance, where staying tethered to familiar others maintains the most durable world we know. Williams' essay also absorbs many kinds of incidents among strangers, neighbors, and institutions—from the random assault of a gaze on the street to a major occasion in relation to law. So, for instance, Williams relates an episode of reality TV that focuses on a case of shamed public sexualization around AIDS. This episode might just be one more ding on the nerves to some people, but here it resonates with other scenes of suffering within the family and among friends, colleagues, and the body politic in a way that makes one ask general questions and questions about generality: about whose lives are made obscenities and whose are valued; which suffering is an effect of the law's sovereign power and which is an effect of habits, norms, open secrets, ideologies, patterns of "accident," and interest; which resistances are valued and which not; and, at the heart of it, what the point is of propping any general case on a singular story, given how diffuse, banal, particular, and seemingly discretionary so much systemic violence is, especially insofar as it is regularly transmitted through passive-aggressive instruments like zoning laws, pedagogy, tone of voice, sidewalk manners, fairy tales, or *stare decisis*.⁶ Thus in this work, it is not only a dominating power that segments life into false antinomies, material and epistemic hierarchies, or holding patterns that become calcified into facts, laws, norms, and negating types of personhood. It is not only the privileged who make up stories that dilute or dreamify the hegemonic agreement, at once distorting and protecting them. The reproduction of power and the work of violence are collective, serving many interests, at once explicit, insinuated, and formal.

On Being the Object of Property also shows how, moving through ordinary life, we often notice only belatedly that we have already begun to collect and organize the diverse scenes that disorganize our affects without knowing how we are holding them, or anything else, like ourselves, together. The gathering together of incidents that become events slowly, only as they resonate with other happenings, is the beginning of altering objects. Noting how institutionally-sedimented force affects the sensorium makes it possible to see objects in a different way—as sites or collections of effects—and therefore to change their meaning, structure, and impact.⁷

6 *Id.* at 18–20. In addition, Williams writes about *stare decisis* in PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* 7, 140 (1991).

7 Seeing objects as clusters of incident in proximity that create a context for the *historical* subject's being in the world is what Michel Foucault meant to teach through the concept of "genealogy." See MICHEL FOUCAULT, *Nietzsche, Genealogy, History*, in LANGUAGE, COUNTER-MEMORY, PRACTICE: SELECTED ESSAYS BY MICHEL FOUCAULT 147–48 (Donald F. Bouchard ed., 1977). Bruno Latour advocates a general procedure of revealing

Here, racialized sexual violence and sexualized racial violence are a kind of Mobius strip, a knot, and a weapon whose faux ontology the essay is trying to destroy. But Williams' way of tapping into the episode's capacity to make a situation into a transformative case, her ambition to convert negating encounters into "resources" and "provisions" for better living, collects the knots without connecting the dots into what appears to be a line.⁸ In Williams' essay, and regularly in her work, the disturbance of the encounter with concepts, things, affects, emotions, judgments, norms, laws, classrooms, conferences, shops, and other people generates destabilizing episodes that suspend the effects of relentless negation so that we can look at them and reshape not only what concepts we can derive from them but how we, bodily, sensually, can *occupy* them: see the final Polar Bear anecdote, during which she dons the "cool fragments of white-fur invisibility" previously associated with white supremacy.⁹

But her style of anecdote nested in segments nested in sections demonstrates many other things. It enters into evidence the fact that the same kinds of thing repeatedly happen and that life on the bottom is an extended case of repetitive stress disorder; it suggests that a genuine counter-justice can be sensed affectively, and in minor folds of relationality that have not achieved event status, the way we usually think it; it demonstrates that for social change worthy of its inconvenience to occur we must bring all of the ways we know something to a problem even if, and especially when, and since inevitably, all of those ways are incommensurate, overwhelming, and tedious.

From the medical and legal spaces of reproduction to the ritual zones of the funeral, and all that's in the middle—in hospitals and courtrooms, on street corners and bedrooms, or anywhere the impossible and unbearable exist near the intimacies of attachment and the incoherent rigidities of institutions, where tender contact and tendered contract point to the hovering presence of life and death—something happens in the encounter as she writes it that keeps things open, often painfully open and unresolved, still and always resonating, somehow, and therefore always potentially the beginning of a thought worth drawing out. This must be why, crossing the gutters between episodes, the essay is also a tribute to conversation, that unleashing thing we do which, happening everywhere and anywhere, has no memorial to it except for whatever trace we make to mark its demonstration of jagged

the dynamics of proximity in the construction of the object in his work on *associology*. See Bruno Latour, *How to Write 'The Prince' for Machines as well as for Machinations*, in *TECH. AND SOC. CHANGE* 20–43 (Brian Elliott ed., 1988).

8 Williams, *supra* note 1, at 18.

9 *Id.* at 24.

attachments, uneven attention, and the will to make connections and potentials. In contrast, Williams writes, we pretend there is something like an equality of obligation, a consensual real, and a membrane made from adequate representation.¹⁰ In contrast, in the built places of everyday life, extremely awkward scenes of conversation and counterpoint extend relationality and thought into strange spaces, beyond what can be intended, interrupting people's confidence and control, and sometimes in mutuality freeing them from stuckness in the usual contradictions with which, for horrible efficiency's sake, we all move through the world a bit mechanically.

II. Dissociative

About a work as intense and theatrical as this one, it might be odd to claim that *On Being the Object of Property* struggles with exemplarity by dedramatizing narrative into episode, epic into moment, and structure into gestures that convey intensities of need for the world to be a certain way. But this diminishing process—the episode as cooling chamber—is key to the work's aesthetic, political, and ethical ambition to give subordinated bodies in the present a shot at not having the past reproduced in the contemporary nervous system.¹¹ The interruption by aesthetic virtuality, by counter-form, is key to her strategy—not method—here. (It is not a method insofar as it is inimitable, not-prescriptive, and creative.) But the essay is not only affirmative about the process of aggressively remediating the world. For the labor of imagining a way to build a better good life out of the space of converged negativities and tender attachments is terribly costly, affectively. “As if a slaved or owned psyche could ever be reconciled with mental health,”¹² Williams writes with dry, ironic flatness, noting additionally that cohabiting with her knowledges induces “a schizophrenia of biblical dimension . . . with all the baggage that that connotes.”¹³

On Being the Object of Property foregrounds strategies of flourishing without reconciling the splintering imprint of that negativity. The essay is varied, for example, in the way it describes the experience of affective and political non-sovereignty in the face of what feels intractable in the law and other vehicles of social continuity that breed racism, misogyny, and class antagonism: sometimes non-sovereignty floods the body into thrilled excitement

10 *Id.* at 13–16.

11 Michael Taussig describes the nervous system as a scene of reactivity and calcification, of threat and interest, of conscious and unconscious attention that shapes the ongoing state of emergency in the world that passes through humans. See MICHAEL TAUSSIG, *THE NERVOUS SYSTEM* (1991).

12 Williams, *supra* note 1, at 9.

13 *Id.* at 11.

and hypervigilance; sometimes it shatters its solidarity, and it also makes her being go numb. Likewise, in some episodes, as when she's teaching or rhetoricizing, assuming the mien of cutting performative authority is exciting and reparative, but sometimes, often at the same time, it is self-lacerating and self-alienating, as when Williams writes of herself in the third person, which might be a relief, a demonstration of loss, or both. Additionally, in a few segments, legal fictions re-enslave the subject, while in others they extend genuinely preservative and extensive rights way beyond the zones typically reserved for the "deserving."¹⁴ For every episode in which Williams trusts and elaborates spontaneous, intuitive, visceral knowledge, there are episodes where the self-respect for gut feeling by judges, law students, and herself represents the performance of their gross and damaging entitlement, their *déformation professionnelle*.

So this is not work that elevates affect over cognition, a feeling justice over a rational one, or fairy tales over legal fictions. (I believe this would be a standard misreading of Williams' work.) What does it do, then, with all that material? Positively, one might say that it is greedy to use all knowledge and all idioms as resources, even though at any moment the very clarity of any one kind of knowing and experimenting with interrupting a situation may bruise one's capacity to let in another kind of knowing and practice. That is another reason why the episode's exemplarity matters in this work: to mark an impasse, to make a cavity out of which could grow a possible capacity, outcome, and concept, and to make a person or a people available for the next (potentially transformative, if maddening) encounter. Any episode is a potential hub, organizing offerings for potential lines of flight, social relations, affective structures, and skills at paying attention.

Thus, when Williams says "schizophrenia" to relate the maddening effects of ordinary life in a multiply supremacist world, and in her persona as "mad law professor," she is not speaking clinically, closing down affective disruptions into the discipline of the symptom. Instead, she is tendering a challenge to read both the force of the form of a thing and to loosen up its internal structure. Such attention demands the paradox of an analytic poetic that is also a philosophy, a political theory, and the only way to make way for a non-supremacist realism, a realism that grasps this moment in its harshness and insists on a realism-to-come. Asserting that material rhetorically for a world that does not exist yet—this is the point of a politicized aesthetic. To aestheticize does not only involve, then, the protective distancing of a self-confirming pleasure through the defense mechanism of form, but a remediation of the over-close world into the displaying form's intricate, live dynamics. Such an acknowledgement of form as pattern of convergence would be central

14 *Id.* at 22–23.

to any analytics that take the encounter with overdetermination seriously.¹⁵

Another way to capture this strategic style's insistence on taking things in without looking for a homogenizing point is to think about how *On Being the Object of Property* mobilizes a dissociative poetic.¹⁶ Dissociation is at least five kinds of thing: an ordinary mode of affective delay in the wake of something's impact; a state of awareness, like that of disbelief, that registers a gap between being affected and whatever comes next; an unconscious process of managing destabilizing intensities by separating them out, so that one does not feel the conflict, say, among one's need, vulnerability, receptivity, and aggression; a condition of dispersed, multiple, and tangled responses, often presenting as muted but just as often appearing in intensified scenes like mania or teaching; and, I will argue, a predictable effect of becoming a subject within the negating pressure of the politicized world, as though a circuit breaker within the overwhelmed sensorium is constantly snapping and repairing.¹⁷

A dissociative poetic involves all of these things, and more, including providing a phenomenological theatre of social negation that veers among feeling states from the numb

15 It's always worth reencountering the concept of overdetermination as most fully introduced in Freud's *The Interpretation of Dreams*:

It thus seems plausible to suppose that in the dream-work a psychical force is operating which on the one hand strips the elements which have a high psychical value of their intensity, and on the other hand, by means of over-determination, creates from elements of low psychical value new values, which afterwards find their way into the dream-content. If that is so, *a transference and displacement of psychical intensities* occurs in the process of dream-formation

SIGMUND FREUD, *The Interpretation Of Dreams*, in THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD 307–08 (James Strachey ed., 1953). This psychoanalytic process of re- and de-intensifying affect does more than just induce estrangement from a norm or object that has come to pass as a fact or a truth. Overdetermination as an analytic scene means to induce attention to the ways a vehicle of meaning is also a defense against encountering the many pressures that bring it into existence in one seemingly solid effect. This comprehension of the dream/symbol/object was then adapted significantly into political theory by way of Louis Althusser's revision of structural determination and the reality of the appearance in *Contradiction and Overdetermination*, in LOUIS ALTHUSSER, *Contradiction and Overdetermination*, in FOR MARX 87, 87–126 (Ben Brewster trans., 1969).

16 What follows elaborates material from my forthcoming book, *On The Inconvenience Of Other People*.

17 The dissociation bibliography is vast. As an introduction, see DISSOCIATION AND THE DISSOCIATIVE DISORDERS DSM-V AND BEYOND (Paul F. Dell & John A. O'Neil eds., 2009) and JOHN STEINER, PSYCHIC RETREATS: PATHOLOGICAL ORGANIZATIONS IN PSYCHOTIC, NEUROTIC AND BORDERLINE PATIENTS (1993).

to the acute.¹⁸ It is not a mimetic representation of biopolitics as the mad world sketched on the walls of the cave inside, but an affective style of holding and processing and making room to move amid that which appears to be stuck in a structure. But to call dissociation a mere counter-structure of discontinuity or alienation would be to under-assess the coherence of its profoundly social and historical character and to miss its utility in staying bound to life. *On Being the Object of Property* locates the possibility of being otherwise to the normative world in the dissociated states that allow for incommensurable knowledges and attachments. In following out those episodes it proposes how one might better show up even for the relations that one also finds unbearable *because* one must bear them.

Williams is not singularly “mad” in this style of engagement. For one thing, she argues, the law’s own relation to obligation may not be “illusory” but is “delusional” in its distribution of legitimacy only to *some* commands for reciprocal obligation while ignoring others, as though wearing “horseblindens to focus attention simultaneously toward and away from.”¹⁹ And then there are the countless incidents in everyday life, where proximity produces toxic exchanges under the guise of rationality (contract, teaching) that make fairy tale resolutions to fundamental antagonisms. The madness of the law, as Derrida put it, is also the madness of genre and of sexual difference, in that all of these structures claim to smooth out the transduction of what can never be homogenized.²⁰ This *is* high drama, but it is also the ordinary teeming with all the forgettable private moments that nonetheless never completely fade.

For their brilliant and meticulous attention to detailing the diverse sensorial consequences of the world’s negative impact, *On Being the Object of Property* and *The Alchemy of Race and Rights* ought to occupy key positions in the annals of the phenomenology of what Adorno calls “damaged life,” whose theorists are not exactly a tradition, and whose effects are not exactly an inheritance that one can simply claim.²¹ This library-to-come is constituted by those whose resistant theoretical engagement with the reproduction of structure would be linked to an existential and political crisis of self-habitation from which

18 In the longer discussion of dissociative poetics, works by Stephen Burt, Tony Hoagland, and George Simmel have a more explicit impact than they have here, although they inform my analysis generally. See Tony Hoagland, *Fear of Narrative and the Skittery Poem of Our Moment*, POETRY MAG., Mar. 21, 2006, at 508; Stephen Burt, *The New Thing*, THE BOSTON REV. May/June 2009, at 41; Georg Simmel, *The Metropolis And Mental Life* (1903), reprinted in GEORG SIMMEL ON INDIVIDUALITY AND SOCIAL FORMS 339 (Donald N. Levine ed., 1971).

19 Williams, *supra* note 1, at 10.

20 Jacques Derrida, *The Law of Genre*, 7 CRITICAL INQUIRY 55 (Avital Ronell trans., 1980).

21 THEODOR W. ADORNO, MINIMA MORALIA 67–68 (E.F.N. Jephcott trans., NLB 1974) (1951).

the subordinated subject receives little vacation. Its exemplary theorists, Adorno, Du Bois, and Fanon, for example, are distinguished by their insistence on expressing racialized structural subordination by way of its disturbing sensual, psychic, and physical effects.²² Race, capital, and family interact with the law and nationality to produce a scenic tableau of bodily existence as an ordinary crisis that constitutes the very place from which the theorist launches his generalizations.

Many political commitments and contexts of anticolonial, antiracist struggle link Williams to her brethren as well—not so much a common interest in feminist politics, though. For that we would turn to the tradition from Audre Lorde to Sara Ahmed.²³ Three shared patterns interest me here: their common urge to demonstrate that violence has a transgenerational, translocal, and affective impact that expresses itself in the historically subordinated subject through a sensorium dissociated in the ways I’ve described—overwhelmed, chaotic, dispersed, and organized into heuristic modes of defense; and, paradoxically, their interest in the radically restorative impact a dissociated style can have on the nervous system, insofar as dissociation signifies not only the piercing effects of many forces but multiple kinds of creative defense against resignation to the bad world.

Third, for these thinkers, the intimate non-sovereignty of the conversation genre, with its gentle, fierce, and solidaristic modes of interruption and extension, frequently appears as a transformative, witnessing vehicle, for ill and good.²⁴ Conversation is both an ordinary way that power extends its mimetic ambitions for subjects taking shape in it—wanting the dominated subject not to be surprising, wanting the privileged subject to be able to idealize

22 See, e.g., W.E.B. DU BOIS, *THE SOULS OF BLACK FOLK* (1903); FRANTZ FANON, *BLACK SKIN, WHITE MASKS* (Charles Lam Markmann trans., Pluto Press 1986) (1952) [hereinafter FANON, *BLACK SKIN, WHITE MASKS*].

23 Feminism and Queer Theory’s contribution to the political theory of damaged life has barely been assessed in relation to the twentieth and twenty-first century genealogy that addresses embodied political subjectivity which, when it isn’t universalizing, theorizes generality almost entirely from the perspectives of racialized men. That sentence and this essay points to a lot of unfinished—unstarted—business. In addition to *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR*, *supra* note 6, significant events in this other archive include: AUDRE LORDE, *SISTER OUTSIDER* (1984); GLORIA ANZALDUA, *THE GLORIA ANZALDUA READER* (2009); LUCE IRIGARAY, *SPECULUM OF THE OTHER WOMAN* (1985); SARA AHMED, *QUEER PHENOMENOLOGY* (2006); CATHERINE MALABOU, *CHANGING DIFFERENCE* (2011); BONNIE HONIG, *ANTIGONE, INTERRUPTED* (2013). For further background, please see the works of Angela Davis, Gayatri C. Spivak, and Eve K. Sedgwick.

24 In the present essay I focus on Fanon, but Du Bois’s work both discusses and performs conversation as a revelatory and pedagogical tool in the life of U.S. racism and Adorno’s work contains an extensive polemic about the blockages to genuine conversation in modernity after Hegel. But it also explains the experiment of its own aphoristic writing as an effect of being only one half of a conversation (with Max Horkheimer) barred by crises in the historical present. ADORNO, *supra* note 21, at 5, 13–16, 41–42, 70, 137, 183.

the version of himself that he encounters. But in a conversation anything can happen too: it's always a scene of non-sovereign relation, and therefore one in which supremacy's process can be anarchically, experimentally, or accidentally exploded.

Fanon's *The Fact of Blackness* comes closest to providing a formally aesthetic precedent for Williams' style of thinking.²⁵ But her work goes further than Fanon's in its disidentification with philosophically normative frames. To begin with, there are so many resonances between them: take, for example, "the cold game of equality-staring" that *On Being the Object of Property* proposes as an ordinary event of racial shaming, aversion, aggression, and testing that rarely makes it to the status of event while maintaining a thudding impact in the consciousness of "black (or brown or red)" people.²⁶ Foregrounding also the drama of composure and discomposure that haunts the sensorium of the dominated subject every day of her life, she shows how the thing that looks like shyness or defeat might also or instead be a refusal of the dominator's demand to provide or control the conditions of recognition ("she didn't like white people seeing inside her"²⁷). A dissociating performance might be a symptom, a statement, or an appearance not yet drawn to a meaning; having curiosity about it is here an ethics and a politics.

Lewis Gordon, the philosopher and historian of black existential thought, argues that the scene of Black equality-staring is at the phenomenological core of epistemological colonialism in the world of Fanonian existentialism as well.²⁸ For Fanon, being a racialized object of symbolic property demonstrates that in Anglo-supremacist culture there is no black ontology, no freedom not to be an effect of a cause, and therefore no phenomenological confidence either:

And then the occasion arose when I had to meet the white man's eyes. An unfamiliar weight burdened me. The real world challenged my claims. In the white world the man of color encounters difficulties in the development of his bodily schema. Consciousness of the body is

25 FRANTZ FANON, *The Fact of Blackness*, in BLACK SKIN, WHITE MASKS, *supra* note at 22, at 82–108 [hereinafter FANON, *The Fact of Blackness*].

26 Williams, *supra* note 1, at 8, 12.

27 *Id.* at 11.

28 Lewis R. Gordon, *African-American Philosophy, Race, and the Geography of Reason*, in NOT ONLY THE MASTER'S TOOLS: AFRICAN AMERICAN STUDIES IN THEORY AND PRACTICE 3–50 (Lewis R. Gordon & Jane Anna Gordon eds., 2006); Lewis R. Gordon, *Existential Dynamics of Theorizing Black Invisibility*, in EXISTENCE IN BLACK: AN ANTHOLOGY OF BLACK EXISTENTIAL PHILOSOPHY 69 (Lewis R. Gordon ed., 1997).

solely a negating activity. It is a third-person consciousness. The body is surrounded by an atmosphere of certain uncertainty . . .²⁹

Repeatedly in the essay, his social flesh opened to history, Fanon feels forced into a “historico-racial schema” or “racial epidermal schema” that makes him “explode” or dissociate, to become what he calls a “triple person” in the “third-person” whose febrile coordinates “dislocate” his consciousness and distribute his responsibility to others across stereotype, history, and the judgment of the present.³⁰ Everywhere he goes he is a potential event of exemplification, a figuration of a blackness lived simultaneously as a saturation and a splintering: everywhere he is vulnerable to becoming exemplified as the object of property by being the subject of commentary. Supremacist commentary is funny that way: turning its subject at once into boulders and dust.

If the encounter is one place where subordinating structures are inculcated as subjectivity, the one-sided or overheard conversation is the medium through which this is most harshly experienced: in *The Fact of Blackness*, Fanon cites exchange after exchange in which he is ranked, evaluated, exceptionalized, made exemplary, made cartoon, and made pitilessly real.

“Understand, my dear boy, color prejudice is something I find utterly foreign. . . . But of course, come in, sir, there is no color prejudice among us. . . . Quite, the Negro is a man like ourselves. . . . It is not because he is black that he is less intelligent than we are. . . . I had a Senegalese buddy in the army who was really clever. . . .”

Where am I to be classified? Or, if you prefer, tucked away?

“A Martinican, a native of ‘our’ old colonies.”

Where shall I hide?

“Look at the nigger! . . . Mama, a Negro! . . . Hell, he’s getting mad. . . . Take no notice, sir, he does not know that you are as civilized as we . . .”³¹

29 FANON, *The Fact of Blackness*, *supra* note 25, at 83.

30 *Id.* at 84.

31 *Id.* at 85.

Occasionally, in response, he jousts: “Kiss the handsome Negro’s ass, madame!” But, usually, being the object of commentary (a form of property as knowledge, not capital) sends him into the deep silences—“Where shall I hide?”³² he asks, amidst the noise of his becoming overmeaningful and therefore inhuman to others. It is as though the essay itself is the withheld material of riposte that would otherwise have sanctioned the appearance of discursive equality suggested by banter, the verbal shot-reverse-shot. But racialization in real-time relations is no screwball comedy. “I took myself far off from my own presence, far indeed, and made myself an object,” he writes.³³ To be an object is to be relieved of the contingencies of living. Shattered by being particularized and burdened by what Williams calls “the fragmenting and fragmented”³⁴ supremacist view, his only capacity to imagine “a unified social vision”³⁵ is to move to the universal, which amounts to being “a man, nothing but a man.”³⁶

About *The Fact of Blackness*, Ghassan Hage has written that Fanon is stuck in the dominant logic of Enlightenment racialization by rebelling against both particularity and universality.³⁷ If the particular over-embeds the subject in the materials of a toxic history, fixing him in a prison of generalization, the universal idealizes the man without qualities, who deserves justice and recognition only insofar as history becomes neutralized, trivialized. In this modernist view of the universal, the body is an anchor in the bad sense, a scene of reduction. But in Hage’s view, freedom should not be thought to be located in the absence of categorization—taxonomies are inevitable. Fanon’s inability to release himself from the dialectic of universality and particularity is movement without freedom, an entirely negative agency.

Fanon’s essay closes, you may remember, with such a rapid oscillation:

I feel in myself a soul as immense as the world, truly a soul as deep as the deepest of rivers, my chest has the power to expand without limit. I am a master and I am advised to adopt the humility of the cripple. Yesterday,

32 *Id.*

33 *Id.*

34 Williams, *supra* note 1, at 10.

35 *Id.*

36 FANON, *The Fact of Blackness*, *supra* note 25, at 85.

37 Ghassan Hage, *The Affective Politics of Racial Mis-Interpellation*, 27 *THEORY, CULTURE & SOC’Y* 112, 112–29 (2010).

awakening to the world, I saw the sky turn upon itself utterly and wholly. I wanted to rise, but the disemboweled silence fell back upon me, its wings paralyzed. Without responsibility, straddling Nothingness and Infinity, I began to weep.³⁸

It would take hours or a lifetime to unpack everything that's going on here. Centuries and also the present of white colonial supremacy make Fanon's body incapable of controlling its abreaction: his weeping is sadness, melodrama, the exhaustion of an organism's strength and defense, a giving out, and also something less defeated, an expansive pronouncement on this affective fact of blackness, which makes a sensorium that can only see the world's natural flourishing turning back on itself, failed, the Hegelian Owl of history now silent and paralyzed. This multiplication and intercalation of strengths and weaknesses, victories and losses, events and incidents, is what happens to a being trapped in the dialectic of objectification who thinks that his only choices involve selecting what kind of object to be.

But if one sees objects not as objective, but as conversion and convergence points of anachronistic, irreducibly different, and always multiplying forces of projection and production, one does not need to induce the drama of antinomy that makes distinctions into mortal enemies. Everything in quotation marks in *The Fact of Blackness* is in a conversation that, sticking to him, imprisons him in an action without agency. In *On Being the Object of Property*, a similar phenomenological problem of affective dissociation has quite a different outcome.

There are moments in my life when I feel as though a part of me is missing. There are days when I feel so invisible that I can't remember what day of the week it is, when I feel so manipulated that I can't remember my own name, when I feel so lost and angry that I can't speak a civil word to the people who love me best. Those are the times when I catch sight of my reflection in store windows and am surprised to see a whole person looking back. Those are the times when my skin becomes gummy as clay and my nose slides around on my face and my eyes drip down to my chin. I have to close my eyes at such times and remember myself, draw an internal picture that is smooth and whole; when all else fails, I reach for a mirror and stare myself down until the features reassemble themselves like lost sheep.³⁹

38 FANON, *The Fact of Blackness*, *supra* note 25, at 108.

39 Williams, *supra* note 1, at 17.

From one perspective, what's brilliant about this writing is that its parataxis, its style of cataloguing bodily events, does not add up to one representation that would exemplify her body as a kind of symptom, fetish, or thing. Nor does time progress, accrete, or develop: episodes cluster "at that time," the time of the incident, the encounter, the opening into the retellings as actions that induce the shape of a potential event. It does not matter *when* she discovers, exactly, again and again, that she is dissociated, that her sensorium and her body are moving in proximity but not in sync or identity. Her knowledge of the overwhelmed state is constant yet uneven, punctuated yet random, and indeed it's the inconstancy of the relation of the mood to the body, the belated sensorium to the overpresent image, consciousness to movement, that is demonstrated in this and every episode. Surprised to be whole when she feels a mess; shocked that she has failed to sustain a coherent "bodily schema" despite constantly enduring disruptive episodes; discovering that there is no such thing as a fixed composure but only a variety of slidings—this is what happens when her fantasy of an infinite, imperturbable way of being flees the scene.

When she loses the very infrastructure with which she moves through the world as an entitled being, she is surprised when she cannot show up for the people she loves or for life or for her own bodily ego. To be dissociated persistently is always both to be knowing and surprised, always to discover belatedly the ways in which the parts of oneself are loosely conversant. Fanon is always surprised as well, at the particular structure of his hell: but there are only two walls in his hell, and bruising. In contrast, Williams does not shuttle *between* the whole and the fragmented, the universal and the particular: she is not seeking refuge in a genre for the encounter, but, in witnessing what happens, always interrupts the very continuity of adhesion that a supremacist world markets as the real. Interrupting the idiom of the encounter by putting it next to another situation, she tracks the resonance that shifts the ground underneath what's stuck or structural. In the final line of this paragraph she mobilizes the gaze of privilege to organize herself emotionally. The torture of white equality-gazing saturated the page only a few sections prior; now, here, figuring her features as lost sheep herded into a relation by what is structurally that same gaze is not melodrama or even violence. She's converted it into a resource for better-than-survival.

III. Pedagogical

For Fanon, practicing an extreme phenomenology is a compulsion and a commitment. On one side, he identifies the "affective ankylosis" of white subjectivity, exemplifying the visceral calcification of racism in the privileged by way of a skeletal illness, ankylosis, in which the body's joints are stiff and unmovable. On the other side, he sees everywhere an African "erethism," a state in which the Black nervous system is poisoned and experiences

unbearable sensitivity.⁴⁰ So one might say that if Fanon is trying to forge an alternative universal in *The Fact of Blackness*, it is embodied in a racialized sensorium that pervades all individuals, not just the dominated, and is characterized by its reduction to a single quality. He describes this state of unrelieved overstimulation by racialization as like being fixed in solution, “in the sense in which a chemical solution is fixed by dye.”⁴¹

Fanon tends to see any inherited knowledge as an obstacle to thriving, insofar as the racialized subject receives himself violently and chaotically capturing “catchphrases strewn over the surface of things.”⁴² This view resonates with what Williams calls the inheritance of a disinheritance constitutive of African American kinship in its proximity to sexuality and American dreamings.⁴³ She shares, on occasion, his desire to escape, to become invisible, a non-event. But Williams’ scavenging epistemology has a different idea of a solution: not as that which fixes a thing, but as that which disperses or dissolves an object. Hers is a pedagogical strategy for making new forms of life from within life and sees convention not as a tombstone or wall but a resource for taking the kind of thing one is said to be and the kinds of things one knows all too well and converting them into pieces that can be thrown together into new rituals of encounter and exchange, ritual being the strange practice she and her people invent to slow down response time, and to diminish and convert desperation into new structures emerging from experience. She tells a story, for example, about being a neighbor in a bartering community who has nothing with which to barter: but it turns out that showing up for the social counts, transforming uselessness into an intangible good and “goods” into “provisions.”⁴⁴

Peter Fonagy and others argue that the historically subordinated subject inherits many kinds of negativity.⁴⁵ History lingers in the present in registers that cannot be remembered, as they are tethered to past situations and events, and other people’s blockages. Disturbances telescoped decades and half centuries ago reappear in bodily habits, styles of

40 FANON, *The Fact of Blackness*, *supra* note 25, at 92; erethism is discussed in the previous chapter of FANON, *BLACK SKIN, WHITE MASKS*, *supra* note 22, at 42.

41 *Id.* at 82.

42 *Id.* at 87.

43 Williams, *supra* note 1, at 6–7.

44 *Id.* at 18.

45 See Peter Fonagy, *The Transgenerational Transmission of Holocaust Trauma*, 1 ATTACHMENT & HUM. DEV. 92 (1999); see also HAYDÉE FAIMBERG, *THE TELESCOPING OF GENERATIONS: LISTENING TO THE NARCISSISTIC LINKS BETWEEN GENERATIONS* (2005).

affective disattunement, passed down through the atmospheres of a natal pedagogy, bodily exchanges, and affective swaps; and the subject appears not as a being in the present but as an anachronism. The history of living with negativity produces so many adaptations and failures that Fonagy, working with the children and grandchildren of Holocaust victims, sees repeatedly the embodied descendent of a traumatic situation expressing an affective out-of-jointness that appears both as a nightmare and an enigma. We are all anachronisms, all structurally dissociated subjects of history; the subject of historical subordination has less capacity to disavow that, though, and feels the past as an ongoing force in the visceral present in a way that confuses the direction of action, the confidence about where call and response is addressed, and the capacity to throw things off for good, in case they'd be useful tools or weapons, and because more loss might be unbearable.

This condition of exemplary negativity obtains whether the space of disturbance is a traumatic event or crisis ordinariness, through the structural practices of a nation, a racial, sexual, or discourse formation, a family, beloveds, a set of laws, a medium, or the atmospheres of norms. (Often, of course, it's a mix of these.) Williams senses this too and contrives here an aim to build the aesthetic, affective, institutional, and political infrastructure able to bear what seems unfathomable in them, but not by resolving the embodied data into a literal-minded plane of consistency or empty hegemony. This is why we began with anecdote, episode, and conversation: the sociality of the world, its hiccups and inconstancies, are maddening and make room to move. Just as no heroes can change the world alone, so too none of the episodes her essay wields suffices in itself to generate a concept of how to live. Indeed, in every instance the becoming-theory or abstraction of a singular relation portends a bad moment in a bad day, insofar as the theoretical plane cannot repair what it has also contributed to producing. Her work thus accrues what we might call a *suspensive* genre, in which a disturbing encounter leads not to resolution in an object or inversion as escape, but querying and multiplying approaches to a problem of multiple lines of descent and fields of encounter in the present from which new scenes can be formed confidently without that confidence leading to a fetish.

This is another way to talk about what conversation, collaboration, and engagement can do, to hold up the world as unfinished project. A great example of the power in this conceptualizing style resides in the essay's final paragraph, to which I have already referred, where she encounters the white male students on the never big enough Dartmouth sidewalk:

I put distance between them and me, gave myself over to polar bear musings. I allowed myself to be watched over by bear spirits. Clean white

wind and strong bear smells. The shadowed amnesia; the absence of being; the presence of polar bears. White wilderness of icy meat-eaters heavy with remembrance; leaden with undoing; shaggy with the effort of hunting for silence; frozen in a web of intention and intuition. A lunacy of polar bears. A history of polar bears. A pride of polar bears. A consistency of polar bears. In those meandering pastel polar bear moments, I found cool fragments of white-fur invisibility. Solid, black-gummed, intent, observant. Hungry and patient, impassive and exquisitely timed. The brilliant bursts of exclusive territoriality. A complexity of messages implied in our being.⁴⁶

Like a dream, this paragraph displaces and condenses all of the things the essay has proposed about polar bear facticity, as an idiom of history, rights, beauty, maternity, and the knots of aggression and care. This cluster reminds us how Patricia Williams forces the archive of damaged life to include genealogies of woman-of-color feminism and queer theory by valorizing writing as a craft pedagogy that counters the aseptic aspirations of professionalism and the disciplines. From within those converging projects she mixes up the theoretical voice with the observational as they are already in contact and because nothing will change if some kinds of knowledge are protected from disturbance by the impact of the world.

Such is an ethics of interruption, seriality, saying all the propositions and demands in all of the registers in which they reach toward and fail their object, and intimate storytelling. The writing resolves nothing but threatens our own reductive desires, desires for efficiency and property in knowledge, our aversion to acknowledging too much of what we know: it disturbs the promise of the sign to solve the problem of living, which is a strategy of ankylotic thinking, after all, with its aim to keep the encounter and the conversation from ever really moving.

46 Williams, *supra* note 1, at 24.

THE EMBODIED SELF

ROBERT POLLACK*

I first met Pat Williams about twenty years ago. The Ford Foundation had given me a grant to set up a faculty seminar on human identity. I had proposed to test the novel idea that senior faculty at a place like ours might benefit from a serious discussion of the differences among us, but only provided that those differences were allowed to be discussed freely and openly.

Toward that end I had proposed to bring together colleagues who would leave me and other white, or male, or Jewish, or science-trained, or straight participants in the minority, so that the conversation might not be constrained by the most common presumptions about whom an “ordinary” professor is likely to be.

To keep us all from simply staring at each other I proposed that the seminar would meet each time to discuss a piece of fiction close to the heart of any one of us. I do not recall the book Pat picked, nor the one I picked, but I feel with absolutely no loss of intensity now as I reflect on it, the astonishment I felt to be argued with, taken seriously, gently mocked, and deeply understood by her.

Pat changed my way of seeing myself, her, and everyone else since then.

So now I wish to address a question raised by my experience then, in the reflective context of this celebration of Pat’s professorship, my fifty-first anniversary of life with my wife, the artist, Amy Pollack, and my two decades since that seminar as a teacher and scientist versed in molecular biology, neurobiology, and evolution, as well as the notions of my own religion.

The question is this: have we a “self” that is in any way separable from the body?

I will begin with the answer from science: the “mind-body” issue is over. Of all those mental states that the human organism experiences through a lifetime, the ones furthest from current molecular analysis are those that we experience as our imagining of what is going on in another person’s mind.

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From such imaginings emerges our unique ability to imagine things that cannot be in nature, but that live in our minds with full reality. And from this class of mental states—the class that will one day be reduced to gene-expression circuitry but for now we may call free will and imagination—comes that great misconception of philosophy, the mind-body separation.

There is no mind outside of the body; there is only the body with its embodied mind. That has been a conclusion from the work of students of evolution, neurobiology, and gene regulation for some time now.

To say that science knows something like this from its ability to cast questions as disprovable hypotheses, and then show that such an idea is resistant to disproof, would be the next step for me if this were a science paper.

But this essay is in honor of Pat and of her capacity to articulate inner experience, so I would like to shift the ground, and instead tell a story about myself.

Here is my case-study report:

On October 5, 2012, my mind was elsewhere as I slipped on a stair and, in falling, broke my right ankle in two places.

On October 10, 2012, I was home, after visits to three hospitals in two states, and two operations to my ankle.

In November 2012, after four weeks in a solid plaster cast, I was given a removable boot and could see my grotesquely swollen, stitched up foot for the first time since the accident.

At the end of 2012, I was liberated from my wheelchair and my boot, and began again to walk about, first with a walker, then a cane, then, with apparent ease, but great anxiety, on my own. In those eight weeks I was wholly dependent on my wife, Amy, and the friends who came to visit us and help her.

In those eight weeks, who was I? By phone and email, I was the same guy, cancelling appointments by the dozen to be sure, but still there for an email or a call. I missed out on the election, and though I watched Sandy's ability to take out New Jersey's electricity from my wheelchair in our lit and warm apartment, I was aware that to be in a wheelchair

on the sixth floor of an apartment house at a time when large parts of Manhattan had lost electricity and there were no buses and no subways, was to find myself wrapped in many layers of isolation.

That's the external timeline of who I was. But internally, it was not that way. I was never "me with a bum ankle," or "me in a wheelchair," or "me but not walking for now"—I was always just "me." This was quite a shock to me when I realized it. It was the shock of the embodied self: whatever is the body, is the self.

I was quite unable to read Oliver Sacks' *A Leg to Stand On*¹ because he described himself as autonomous and separated from his injured foot in a way I could not understand. I was in fact unable even to find words or images that allowed me to apply the notion of walking to myself when I was not able to walk. To my wife and others this sounded like despair—as if I were saying, "I will never walk," when in fact I was trying to say, "What do you mean, walk? What is 'walk'?"

Equally shocking and unexpected, this sense of myself as entire without any notion of walking lingered only for about a week after I began to hobble about on a boot with a walker, and stopped within days of walking without a walker or a boot. "Wheelchair, what wheelchair?" We put it in storage in our basement, along with the walker. And so it is for me today.

I was and remain myself: I walk, though not with the same carefree inattentiveness I had that evening of October 4, 2012. I am now in constant conversation with my healing ankle, trying to understand its needs and limitations, as I press it to get back on its feet, so to speak.

I have not experienced any separation of my mind from my body: I was always just me, and remain so. Yet to the outside, and even to myself on reflection, my body has changed remarkably in just the past few months. I make sense of these experiences by imagining that my embodied mind is embedded in a series of bodily states, and that I have the capacity to go from one "still photo" sense of my self to the next.

I think of this as an experience as deceptive and subtle as the sense of movement one gets when attending a movie. The movie is made of still photos, but they reach the neural circuitry of the eye and brain so fast, one upon the next, that their images are merged into a sense of fluid change.

1 OLIVER SACKS, *A LEG TO STAND ON* (1984).

To describe is not to explain. How can identity be so intimately physical that it suffers no subjective change even during a period of such helplessness? The answer from science comes back: “So, what else did you expect?” The embodied mind is not an exception to the way evolution has constructed all living, mortal things since life began four billion years ago, but an example: our minds are an expression of human gene regulation, albeit a novel one in nature insofar as it has awareness of itself.

As a function emerging from pathways of changing gene expression in the brain, the mind is the function of a tissue of the body no different in kind from the functions of other tissues that emerge as a result of differential gene expression under the control of circuits of regulatory DNA.

Other examples that come to mind are the rebalancing of sugar levels in the blood by the liver, the incubating of a culture of microbes for digestion of food by the large intestine, and, of course, the ambulating by a leg with a fully functioning ankle. In their molecular substantiation, our minds are more complex but no different in kind from the environment-sensitive regulation of genes in a bacterium that allow it to live on whatever nutrients happen to be at its surface.

In the particular case of the three billion letters that make up the text of human DNA—the kind each of us here carry, with differences among us not much greater than one in a thousand letters on average—more than ninety-eight percent of each version of the human genomic text is given over to the creation of differing circuits of gene regulation within different cells. Each may activate or deactivate the production of a particular protein in response to outside events; only two percent of the genome or less is given over to encoding the proteins themselves.

Moreover, these proteins—the bricks of which our bodies are built—are all but identical in us and in chimps. The great divide between chimps and us lies in a small number of changes in our DNA that were drawn from the pool of mutation by natural selection in only the last seven million years.

These novelties in our genomes are changes in regulatory DNA sequences that had remained the same for hundreds of millions of years, since the time of the last ancestor of chimps and chickens. As a result of this novelty in human DNA and human gene regulation, our brains develop so slowly that their cells continue to undergo a few cycles of division even after we are born.

We understand the construction of any tissue of the body from descendants of a fertilized egg as an expression of cycles of gene regulation. The arc of a lifetime of self-awareness is also an expression of such cycles of gene expression, with the twist that the inputs of embryonic development are signals from other cells, while the inputs of the mind's development are from other minds as well.

In this way and in early months of human life, a mind emerges from the gene-regulation circuitry of a human brain. As that circuitry wires itself up in response to signals from the outside, it responds to the sounds, smells, and feelings of other humans, in particular the one who holds us and looks in our eyes in the earliest days of our life.

With time, that circuitry of gene regulation acquires the capacity to refer a new experience of the body to the past through memory, to the present through language and social interaction, and to the future through imagination.

The central role of social interaction is why identical twins do not have identical trajectories through life, nor identical memories, experiences, and imaginations: their brains, like all human brains, wire up and constantly rewire differently in response to different social interactions.

Here is how my distant scientific ancestor, the Nobelist Rita Levi-Montalcini, put the point in her autobiography, to explain why she knew she was smarter at ninety than she had been at twenty:

It is imperfection—not perfection—that is the end result of the program written into that formidably complex engine that is the human brain, and of the influences exerted upon us by the environment and whoever takes care of us during the long years of our physical, psychological and intellectual development.²

And so, finally, I conclude from the data we have so far that the mind is embodied, and that because it is the product of shared experience with other people's minds, each of us carries in our embodied minds—in memory—a portion of the self of all those people with whom we have interacted.

² Benedict Carey, *Dr. Rita Levi-Montalcini, Nobel Winner, Dies at 103*, N.Y. TIMES, Dec. 31, 2012, <http://www.nytimes.com/2012/12/31/science/dr-rita-levi-montalcini-a-revolutionary-in-the-study-of-the-brain-dies-at-103.html>.

There we have the beginning of an embodied ethics. This notion comes to us with great force when we contemplate the life and work of Patricia Williams. Here are the first ramifications of the idea of an “Embodied Ethic,” each an example of a lesson taught and learned in conversations with Pat:

- There can be no reification of an ideal “Self” without the reification of an ideal, perfect body. And once we allow our imaginations free rein in that biologically impossible direction, racism and eugenics will meet us at the next stop for sure.
- What we call “disabilities” are not reductions in the completeness of a Self. As I wheeled myself to my window and watched people walking in the park I did not think of myself as like them, but nor did I think of myself as less than them.
- Aging and mortality are aspects of the Self that we use our imaginations to defend against, but when we do, we are really arguing with ourselves, not changing the biology. We may hold onto one of the frames of our movie, but we cannot slow the projector. The Self changes as the body changes, and so alas, the Self for the most part dies when the body dies.
- For the most part, but not entirely: all those aspects of one’s Self that reside in the memories of those who live on are as much parts of one’s Self as are the memories of others that are lost on one’s death.
- Finally, therefore, there can be no Professor who does not profess, and to profess means to allow one’s mind to be shared with other minds in a reciprocal fashion. When I think of how Pat Williams teaches, and of how I teach, I am appalled to imagine our shared profession taken over by a web-variant that would put our disembodied images in front of any number of people we will never meet, and tell them they are getting an education from watching and listening to our images, though in fact all human contact between us and them will have been lost.

Coda

In 1999, I established the Center for the Study of Science and Religion at Columbia, with Pat as an advisor. Soon after, she and I established a University Seminar on the subject of Slavery and Memory. This Seminar still meets, and this paper was first presented in draft form at a meeting of the Seminar in late 2012. Thanks, Pat.

University Seminar on Human Diversity, 1996–1997



Standing (l–r): Kendall Thomas, Judith Shapiro, Arthur Samuelson, Carole Vance, Darcy Kelley, Robert Ferguson, Lynn Paltrow, Angela Diaz, Robert Pollack, Robert O’Meally

Seated (l–r): Priscilla Wald, Mary Gordon, Patricia Williams, Wendy Chavkin, Joan Bertine, William Sage, The Honorable Henry H. Kennedy, Jr.

BLACK ALICE

EDUARDO CADAVA*

Dearest Pat:

I have wanted to write to you for a long time now, to tell you what your work has given me, and what it continues to give me, to tell you of the strength I receive because of your existence and friendship, to tell you that I thank you for everything that you are.

Like the alchemist who believes that value can be created out of heterogeneous elements, you repeatedly have given us stories of race and gender relations drawn from your own experiences, from history, critical theory, philosophy, newspapers, legal cases, television and radio, and fairy tales. Pointing to the violence of racism, to the histories sealed within legal cases, or to the injury that so often touches our everyday life, the effects and importance of your writerly, alchemical experiments are immeasurable, and our gathering here is a testament to this.

I promise to write a longer letter to you soon, but today I want to tell you about the three figures to which I have returned as I have thought of writing this letter to you and as I have been rereading your books these last days. I want to write to you about silence, water, and animals. In this way, I want to say something about what your work tells us about the essential interdisciplinarity of the law, something that, in your hands, prevents the law from ever being identical to itself, perhaps even tells us that what makes the law the law is that it can never be simply itself. Using an “intentionally double-voiced and relational, rather than a traditionally legal black-letter, vocabulary,” you say that your writing is “staked out as the exclusive interdisciplinary property of constitutional law, contract, African-American history, feminist jurisprudence, political science, and rhetoric,” something that already opens the law to its presumed others.¹

But first, silence. You will remember that we first met in the 1988–1989 academic year, during the months when your essay, *On Being the Object of Property*,² had just

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1 PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* 6 (1991).

2 Patricia J. Williams, *On Being the Object of Property*, 14 *SIGNS* 5, 5–24 (1988).



appeared. We were both inaugural fellows at the University of California Humanities Research Institute at UC Irvine. We had been invited to participate in a collaborative, interdisciplinary research project entitled “Interpretation and the Law,” which included, among other participants, Jacques Derrida, Stanley Fish, Drucilla Cornell, Martha Minow, Joseph Raz, and Thomas Heller. Each session was devoted to a presentation by one of the fellows, and what I remember most about these sessions was the complicity that you and I shared, a complicity that was confirmed at the end of each day when we would spend time together commiserating and rehearsing this or that moment from the day’s session, often in the mode of complaint. If I hadn’t yet fallen in love with you—and I’m certain I already had—I did on the day it was your turn to present your work. Although you and I always talked after the sessions, you had not spoken a word during the sessions themselves. You began to speak this day, though, and I still remember the effect your voice had on everyone in the room, as you began to tell us the story of your having discovered the bill of sale that had sold your great-great-grandmother into slavery, along with goods and animals. We were, as everyone who hears your voice so often is, utterly mesmerized, not only by the story you were telling, but by the pace and breath of your telling, by the richness of your story’s implications and consequences. At a certain point, as we continued to be led by your voice through your story, you stopped, and what we all experienced was the quiet, the silence that was our response. After an almost awkward amount of time, Stanley Fish, never one to remain silent for too long, addressed you directly, and somewhat loudly—or so I remember it, given the quiet with which we had been left—said: “Well, Pat, I find it very interesting that the very first time you break your silence in this seminar, everyone is reduced to silence.” After a pause, after another moment of silence, you replied, with a question that was also a response: “Who said I broke my silence?” If I hadn’t yet fallen in love with you—and, as I said, I’m certain I already had—I did from that moment onward, and not only because you seemed to have done the impossible—you had silenced Stanley again—but because you had signaled the strength of your voice in a declaration that sacrificed this same voice: a voice that, in all of its silences, nevertheless continued to speak.

What I understood by your remarkable question was that, from the moment you had begun speaking, you had made a promise, and that this promise had overtaken “you”—the “you” that was speaking at that moment—in order to say something at the very limit of what could be said: that it is necessary to be silent, and to be silent especially about what one cannot speak. I thought then about what it meant to be silent, even in speaking, how, in speaking, you still could refrain from saying this or that, in this or that manner, how, in speaking, you still can move away from more recognizable modes of discourse. There is still speaking: the question “who said I broke my silence?” already implies the possibility

of speaking, of breaking a silence, if only because the question arises and is articulated in relation to a statement, to an earlier act of speaking. But, what I also understood in that moment is that, like Kafka's sirens, you had a more fatal weapon than the song of your voice, and that was your silence, a silence that gives your writing its paradoxical rigor, a silence that is at once the space into which you write (what calls for your writing, what calls for your thinking) and which you cannot keep in your writing. Cannot, because silence, as your writing makes clear, cannot be kept, because writing, like speaking, can break the silence that always surrounds it. Still, your question enacted a mode of silence that, in this instance, enabled you to resist reducing the experience of your great-great-grandmother to a single statement or sentiment, to resist the danger of imagining or believing that you had a clear sense of her life, and, more generally, to resist betraying the dead and the several silences that, still today, envelop them. Weaving together accounts of the many silences that work to efface or erase the violence of racism, the muffled sounds of strangled voices, the silences of complicity, you repeatedly have sought to conjure these forgotten and unrecorded struggles, to remain faithful to this history of silence, to write, within this zone of silence, in order to awaken the desire to respond, even in the face of not knowing how. You do so when you recall the "Sounds of Silence" conference you attended, and which was devoted to issues of race, gender, and oppression; when you evoke the muteness of Tawana Brawley or the speechlessness of Judge Maxine Thomas; when you find yourself in Dartmouth "manumitted back into silence"³; when you cite Joy Kogawa stating that, "[there] is a silence that cannot speak, a silence that will not speak,"⁴ that to attend to a voice is to embrace its absence.

Without our registering it entirely, you had asked us to imagine, with you, how it is that the dead speak, how it is that the dispossessed can tell their stories, how it is that the past survives in the present and informs the future, silently, but without pacifying or silencing a single torment, or a single torture, what memory can be when it seeks to remember the trauma of captivity and loss, what makes someone choose death over living, in what way death leaves behind a trace that gives meaning to the memory, the violence, the wounds, the protests, the cries of anger or suffering, the several death sentences on which a nation—America, for example—has been founded. The very moment slavery exists, the very moment populations are removed and exterminated, wealth and rights are distributed unequally, acts of discrimination are committed in the name of democracy and freedom, a great-great-grandmother is sold into slavery, America finds itself in mourning, and what it mourns is America itself. This is why, if we wish to speak in the name of freedom, in

3 *Id.* at 236.

4 JOY KOGAWA, *OBASAN* proem (Anchor 1993).

the name of justice, you have shown us that we must speak of the past we inherit and for which we remain answerable; we must speak of ghosts, of generations of ghosts—of those who are not presently living, whether they are already dead or not yet born. We must speak of the victims of political, nationalist, racist, colonialist, and capitalist violence, or of any of the other forms of oppression and extermination that we still today have not overcome.

You are one of America's greatest mourners, Pat, which is to say one of its most significant and aggressive defenders. In asking us to remember the dead, to engage an inheritance that, even today, belongs to what we still call our future, you demonstrate that there can be no thought of the future, no experience of hope, which is not at the same time an engagement with the question: "How shall we conduct our life?" We can only begin to answer this question, you tell us, by learning to read historically, by learning to mourn, by exposing ourselves to the vicissitudes of a history in which we are inscribed and to which we remain urgently and dangerously responsible because it is we who are at stake. Nearly always silenced, this fact is rarely in our view, but you have enabled us to glimpse it more than once.

In your words,

The traumatically-induced determination not to speak hobbles our ability to grasp or heal those most painful bits of our history. The impenetrability of that past creates a portal for ghosts, if ghosts are a way of representing what we do not know. Thus we are shaped not only by the hard science of what happens in the world but also by the fairy tales and the half-truths, the willed ignorance and the escapism, the parables and the myths with which our desperate forebears cushioned us as we fell into the world.⁵

If you have used fables, parables, allegories, and all sorts of figures to tell your stories, to engage the law, it is because you wish to suggest that it is the fables and parables that make the law what it is (you say somewhere that "contract law" even "reduces life to fairy tale").⁶ But who decides what makes the law the law? Who decides whether or not your writings belong to what we understand under the name of the law? Being the old deconstructionist that I am (someone recently told me that there are no longer any *young*

5 PATRICIA J. WILLIAMS, *OPEN HOUSE: OF FAMILY, FRIENDS, FOOD, PIANO LESSONS, AND THE SEARCH FOR A ROOM OF MY OWN* 13 (2005).

6 WILLIAMS, *supra* note 1, at 224.

deconstructionists), you might expect me to offer an aporetic conclusion: one that would suggest that, when it comes to the law, we are not speaking of a particular field, that there is no such thing as a “legal” essay or a specifically “legal” domain. Perhaps the “law” even has something to do with the activity of naming and identifying, something that would account for why Melville’s “Bartleby” is so unsettling to the story’s lawyer-narrator.⁷ His incapacity to understand Bartleby—Bartleby is the only character in the story whose name is not edible (as Turkey, Nippers, and Ginger Nuts are)—signals the law’s incapacity to view Bartleby through a legal lens. Bartleby’s eventual refusal to copy the law, to reproduce its forms, is the measure of his challenge to it. His “I would prefer not to” is a speaking that remains silent since it asserts without declaring, since it remains outside the lawyer’s system of legal reasoning.⁸ Like Bartleby, your own writing has remained indigestible to the law and this is its wonderful virtue.

Now, I want to turn to water, to seas and oceans, to tears and all kinds of dissolution, to all the different ways in which water, like a kind of secret, circulates and punctuates your writings, from the Deep Blue Sea in the fable with which *The Alchemy of Race and Rights* opens, in which drowning mortals grasp for chains they think are lifelines meant for them, to the moat in which a child is mauled to death by polar bears at the Brooklyn Zoo, from the “sensate sea” beneath the “speaking dreams” that cannot be made to speak in Joy Kagawa’s poem “White Sound,”⁹ a poem you cite as you tell the brutal and unspeakable story of Tawana Brawley,¹⁰ to the “voices lost in the chasm” that, speaking from “the slow eloquent fact of the chasm,” “speak and speak and speak, like flowing water.”¹¹

Water moves through your work like a kind of red thread, weaving together the relations between water and dissolution, water and earth, reflections and repetitions of all kinds, memory and forgetfulness, presence and absence, movement and stillness, life and death, and day and night. As we know from Paul Gilroy, Toni Morrison, and Eduoard Glissant, if modernity is linked to the globalization of relation, then this relational modernity is linked to what is Atlantic, terraqueous, and submarine. You suggest that the sea is never simply the sea, but an archive, a tomb, a memorial, a process of remembrance and forgetting. As Fred D’Aguiar puts it in his 1997 book, *Feeding the Ghosts*, the sea “refuses to grant the

7 HERMAN MELVILLE, *BARTLEBY, THE SCRIVENER: A STORY OF WALL STREET* (Dover 1990) (1853).

8 *Id.* at 10.

9 KOGAWA, *supra* note 4, at proem.

10 WILLIAMS, *supra* note 1, at 175.

11 *Id.* at 201.

body the quiet of a grave in the ground. Instead it rolls that body across its terrain, sends that body down into its depths.”¹² When these drowning bodies appear at the opening of your first book, the link between law and subjection, between law and death, is evoked. In the worlds you create, the globe, the continents, stones, plants, fish, the air, all things inanimate and animate, and perhaps especially the ice that we imagine in the poles where your precious polar bears live—when they’re not beside you, populating your dreams or attending your classes—are all animated by water. While water in your work is a figure for the mobility, instability, and even dissolution of perception itself, for the disintegration of the categories on which the law relies, it is perhaps more accurate to say that it is the enemy of everything that resists transformation. If water is a force of dissolution and transformation, survival and destruction, life and death, its initiation of a new “beginning” also includes the gesture of leaving something or someone behind. Within your world, it would seem, water points to the process of disappearance that you repeatedly stage in your work, as images repeatedly appear only to disappear, and as you assert yourself only in order to withdraw again. This is perhaps most legible in the movement of your writing, which is why you say that writing for you is “an act of sacrifice,” and that you “deliberately sacrifice” yourself in your writing,¹³ perhaps because your eyes are inundated with water—with the memories of all the bodies of water that remain haunted by the traces of slavery and death, and with all the tears that fell to mark their horrors, and that still fall to mark the after effects of their legacies.

Finally, your animals, the strange bestiary that inhabits your works, one that includes, among so many others, rabbits, whales, foxes, monkeys, cows, squirrels, peacocks, elephants, pigs, chickens, and your beloved polar bears. Throughout the trajectory of your work, animal figures multiply, increasingly become insistent and visible, but nevertheless constitute something more or less than a bestiary. But these figures can never be reduced to being either an animal or a non-animal. However tempting it might be to turn them into an anthropomorphic fable about man, about the animality of man, they resist returning to a story about men, and for men. You evoke the long tradition of legal and philosophical writing that, from Aristotle to Descartes and beyond, has claimed that man is a rational animal, able to reason, and to use language. Within this tradition, the animal is unable to respond to questions: deprived of language, it lacks the power to question or respond. But, in your works, the animal that is presumably without reason or language proves itself capable of both, and human creatures—especially politicians, radio hosts, and lawyers—often are the ones without these capacities. In each instance, the animality represented by

12 FRED D’AGUIAR, *FEEDING THE GHOSTS* 4 (1997).

13 WILLIAMS, *supra* note 1, at 92.

this or that creature cannot be simply opposed to humanity and, for this reason, the forces of reason and unreason cannot be attached solely with one or the other. If this artistic bestiary exists everywhere in your work, it is because you delineate a world in which the categories that would support the distinction between animals and non-animals, between humans and nonhumans, between reason and unreason, are blurred from the very beginning.

When we encounter one of the many polar bears that populate your writings, for example, we are confronted with a figure that, circulating throughout your first book especially, signals companionship, sorrow, hunting, survival, premonition, fear, wildness, witnessing, death, the relation between the visible and the invisible worlds, the human and the nonhuman, a force of aggression and violence, an avatar of the human, even a lawyer in shaman form, and silence. In each instance, the polar bear is never simply a polar bear, but rather a figure that carries all of the connotations and associations that throughout your work have gathered and accumulated within it. Your bears form an archive of everything they have signified, both inside and outside of your pages (what we might call your “skin”). It is because the traces encrypted within these many bears include references to the past, the present, and the future, and in such a way that none of these can be isolated from the other, that these bears are never “present” as such. They are not reducible to what you say at any given moment, to what could be presented to us as a theme, or recognizable as this animal. Instead they are a form of remembrance, a mode of gathering, but one that can never be comprehended or gathered in its entirety, since, with every stroke of your pen or keyboard, they are divided and fissured across the multiply-heterogeneous traits that they support—traits that, interrupting them, also interrupt any possibility that we might be able to identify them in a determinate fashion. Your bears tell us, in other words—if they can tell us anything at all—“I am not a bear,” or rather: “I am a bear who is not a bear.” In this way, the bear tells us what is true of all of your figures: like the law, none of them are ever only themselves.

What your wonderful, wildly literary, and inventive stories about silence, water, and animals have enabled us to imagine, dear Pat, is a world that is both open and closed not only to many laws but also to what cannot be assimilated to any familiar concept of law, to another law, and to something other than law. What you help us call for is a democracy that would begin with a reconceptualization of the relation between law and its presumed others—all the fields from which we cannot separate it, which intervene in it and which cannot be said to be simply fields: ethics, politics, economics, psychology, sociology, philosophy, literature, etc. It would call for new experiences of communities, frontiers, and identities, without models, and perhaps even without laws as we generally have understood them, laws of tomorrow that would match a democracy that is still yet to come and yet to be

imagined. You gesture toward this democracy by asking us to invent laws anew—to invent a discipline that would be open to the future because it would be open to its own alterity. Such laws would ask us, in the words of Jean-Luc Nancy,

to measure up to what nothing in the world can measure, no established law, no inevitable process, no prediction, no calculable horizon—absolute justice, limitless quality, perfect dignity—and it is necessary to invent and create the world itself, immediately, here and now, at every moment . . . which is the same as saying that it is necessary at one and the same time to affirm and denounce the world as it is . . . to *make* the world into the place, never still, always perpetually reopened, of its own contradiction, which is what prevents us from ever knowing in advance *what is* to be done, but imposes on us the task of never making anything that is not a world.¹⁴

But what would it mean to make a world (I remember that, when you were adopting Peter, you wrote to his birth-mother that you would offer him “a taste of the world,” that you would make a world for him)? We can never know what will happen, but we work together to create a world that would be open to its own uncertainties. We must invent a world, instead of being determined by one, or dreaming of another. Invention is always without model or guarantee, but, as Nancy goes on to say, “where certainties come apart, there too gathers the strength that no certainty can match.”¹⁵ This is something that the Black Alice in Wonderland that you are confirms for us—the Black Alice that jumps into the “deep rabbit hole” of her book and finds there a whole host of wild characters whose stories help her look at law, liberation, and the jurisprudence of rights anew—the Black Alice who, through her writing, and like the white Alice, exclaims “I am real!”, even though her voice is perhaps more fragile, more uncertain, and more mad than that of the Alice we know, the Black Alice who undergoes a series of transformations and, fusing what the law views as a brand of nonsense with potentially melancholic subject matter, learns to see, through the looking glass, what she is not supposed to see. She teaches us how to re-read an entire lexicon of the law: autonomy, freedom, choice, testimony, contract, rights, jurisprudence, property, authority, equality, community, decision, self, person, human, and justice.

This Black Alice, having gone down the rabbit hole of her book, has thankfully emerged to remind us that, from their very beginnings, human rights always have been a

14 Jean-Luc Nancy, *What is to be Done?*, in PHILIPPE LACOUÉ-LABARTHE & JEAN-LUC NANCY, *RETREATING THE POLITICAL* 158 (Simon Sparks ed., 1997).

15 *Id.* at 152.

way to think about what it means to be human, and what it means to have the right both to live and to be human. If the challenge of human rights seems to be infinite, however, it is because we have yet to enact a politics that can ensure justice and dignity throughout the world. What is clear, however—and this is one of the many lessons that your remarkable work conveys to us—is that the world is not a place where humanity or rights are shared, and this despite their respective claims to universality. Instead, it is a place of inequality and injustice, a place of loss and death, a place where every day there are more people who are displaced and dispossessed, who starve, who are mutilated and raped, who are exiled and marginalized, and who live without the full exercise of political and civic rights. It is a place where, because of the inequality and injustice often written into the very formulations and definitions of humanity and rights, the task of defining and realizing human rights is infinite, and therefore permanently urgent and necessary, and perhaps best secured by Black Alices, Black, female Bartlebys, your precious polar bears, and all the other figures and animals that have come to your rescue, and, because of you, to ours.

Thank you, dear Pat.

With my enduring love,

Eduardo

New York, February 27–28, 2013

REFLECTION

PATRICIA J. WILLIAMS*

This symposium has been unquestionably the greatest honor of my life. I am deeply grateful to all who planned it, particularly Katherine Franke and Suzanne Goldberg; to each of the remarkable speakers; and to the ever-supportive institutional community of Columbia University. Anything I say beyond that much risks sounding like a bad speech at the Oscars, without benefit of a recuperatively fetching gown. But I am appreciative beyond words for the work invested in shepherding this event into being. It feels as though a truckload of fairy dust had been dumped on me, and suddenly, suddenly . . . little academic wings have sprouted from my shoulders!

I am grateful too because this occasion was an opportunity to pause and reflect upon the trajectory of struggle that this body of writing grows out of—well beyond even what collected on these pages. I apprehend it as a coming-together of so many of the people with whom I have been in conversation my entire career. And nothing I have ever written could have been written without that colloquy—without the reading groups that met in rotating living rooms, the writing support retreats, the fights about the meaning of “critical legal studies,” the feminist legal theory workshops, the huddles in committee meetings, the glass ceilings broken, the culture wars waged, the vulnerabilities consoled, the life stories offered, the political assaults wreaked upon friends like Lani Guinier and Anita Hill—to say nothing of the personal toll all of us felt as they endured the brunt of those assaults on our behalf. I am grateful for the sustenance of remarkable mentors like the late Derrick Bell and Barbara Johnson, for their spirits abide; for time spent in deep interdisciplinary thought, time like Robert Pollack’s faculty seminars or the three summers I passed at Anna Deavere Smith’s Institute for Arts and Civic Dialogue. And I am lucky indeed to have had practical assistance from mentors like Sacvan Bercovitch who sent the essay that is the subject of this symposium off for publication at a time when publication of it was as far from my intention as the moon.

Let me turn to the story of how *On Being the Object of Property*¹ launched the personal trajectory that brings us to this point. When I wrote this essay for which I have become so

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1 Patricia J. Williams, *On Being the Object of Property*, 14 SIGNS 5 (1988).



notorious, I'd been a trial lawyer for five years, and a law professor for another seven after that. I was lonely and miserable in my chosen profession. How lonely? How miserable? Not quite as dismal as the generation before, like Ruth Bader Ginsburg or Pat Schroeder, but it says something about the intransigence of those times and law schools as bastions of tradition that there very were few women and virtually no women-of-color in legal academia. When I began teaching in 1980, as best as I have been able to determine, I was one of six of women-of-color [in legal academia] in the entire United States: four African Americans, one Latina, and one Asian American. Things were to change rapidly in the next decade, but they hadn't at that point.

Given all this, in 1987 I decided to chuck it all, go back to school, and get a Ph.D. in English. I was going to wipe the slate clean, start over, try something that wasn't so seemingly insurmountably an exclusive gentleman's preserve. Testing those waters, I signed up for a summer course at the School of Criticism and Theory, then situated at Dartmouth College. And I loved it. I loved literary criticism and theory and all its peculiar philosophical rigors. There was one class in particular, taught by Sacvan Bercovitch, on the form of political rhetoric we know as the American Jeremiad, and I found the experience a revelation, absolutely eye-opening.

Now the American Jeremiad is not what most people find particularly engaging, I grant you. But there's the added background factor that I grew up in Boston, literally atop the bones of the Puritans and their dour inheritance. I grew up in Boston, where in high school we had to read John Winthrop and Samuel Danforth and John Cotton.

If there's anything that can make adolescence more miserable than it is as a constitutional matter, it's growing up in a world where, just beyond one's window, the rest of the world was popping with joyous color, with Peter Max posters and rainbow coalitions and music thrumming open-heartedly to the strains of Miles Davis and the Rolling Stones and Nina Simone; and there were cultural fireworks going off everywhere, like Haight-Ashbury and the Freedom Riders and women's lib and all those apocryphal bras being tossed onto all those apocryphal crackling bonfires.

And there I was, an earnest, nerdy grind whose only popular recognition in tenth grade was being elected "most ladylike"—for that is the kind of reward one gets for being perpetually locked away in one's room slogging through *Errand Into The Wilderness*.²

It is no wonder I grew into a bitter, cheerless adult.

2 PERRY MILLER, *ERRAND INTO THE WILDERNESS I* (1956).

Anyway, that's how I came to be in Professor Bercovitch's class, bitter and cheerless and, like Miranda in *The Tempest*, bracing myself both for as well as against this brave new world that had such literary people in't.¹

Here we must stop and recalibrate. For despite that dreary weight of expectation coming in the door of that classroom, I stayed because I was electrified. To visit those puritan texts anew, through adult eyes, was jolting. As a lawyer, I had never remarked on the Jeremiads' indelible shaping of legal argumentation. As an ethicist, I had never remarked upon the Jeremiads' biologized location of the soul. As an activist, I had never remarked on the Jeremiads' indelible shaping of the form of those most powerful speeches during the Civil Rights Movement—even the straightforward, knock-you-over-the-head bits like King's "I Have a Dream" speech. It must seem obvious in retrospect perhaps.

Almost all my work since has been a kind of critique growing out of that summer; a critique of synthetic, totalizing interpretations of what Professor Bercovitch has called "the meaning of America."² I began to appreciate the suppleness of rhetorical form and to play against the very notion of a singular American vocality, most especially as that insight extended to legal discourse.

With the transformative lens of that summer, I began to toy with legal fictions and the conception of legal subjects, legal persons, non-persons, and things. I began to interrogate what gets animated and what doesn't; I began to worry about the line between human and subhuman in an era when the limits of incarceration, torture, human trafficking, medical experimentation, and the right to due process often turn on newly minted meanings of words like corporate personhood, enemy combatant, market force, IQ, underclass, genocide, genes, gender, torture, race, hunger, home, and alienability.

But ultimately there's a more idiosyncratic dimension to my gratitude for that transformative course of study as well. Halfway through the summer of 1987, Professor Bercovitch gave us a homework assignment. For the life of me I can't remember the topic of that assignment; but, whatever it was, I was so inspired by it that I sat down and wrote the essay that literally did change the course of my career. My essay had nothing to do with Puritanism or Jeremiads per se, so I think the assignment must have been more open-ended, something about persuasion or form or constructing a polemic in some broader

1 WILLIAM SHAKESPEARE, *THE TEMPEST* act 5, sc. 1, lines 183–184 (Grace Tiffany ed., Wadsworth 2012) (1610) ("Miranda: O brave new world / That has such people in't.").

2 SACVAN BERCOVITCH, *THE PURITAN ORIGINS OF THE AMERICAN SELF* ix (1975).

sense. I entitled that piece *On Being the Object of Property*¹ and it was a lamentation about chattel slavery and personhood. I wrote it quickly, in a single evening—it just came pouring out, a detailed answer sparked by a question that now I cannot remember.

It was an immensely satisfying project, and to this day I'm really proud of it. Sometimes it feels as though it has done the yeoman's work in my career, not I. It is as though I accidentally gave birth to a champion poodle and have spent years meekly trotting around after it, while it strikes pose after noble pose. I still believe it's far and away the best thing I've ever written, but I've never quite been able to equal it, never again found the place where I was when I wrote it, even though I perpetually share the same stage with it.

To make a long story short, Professor Bercovitch liked the piece too. He shot it over to Harvard Press, whose editor, the legendary Lindsay Waters, asked me to render it into a book. That book became *The Alchemy of Race and Rights*,² a publication that opened all kinds of other doors for me. So, weirdly enough, the essay I wrote as an escape hatch from the legal profession ended up drawing me back into it, as I became both hailed and assailed for being genre-busting, and quirky.

I've been wandering around academia ever since, always in search of that original inspiration. I have the answer, I keep telling myself. I just cannot quite remember the question.

1 Williams, *supra* note 1.

2 PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* (1991).

