

# 10

## 'DIFFERENCE' THROUGH INTERSECTIONALITY<sup>1</sup>

*Kimberlé Crenshaw*

One of the very few Black women's studies books is entitled *All the Women Are White; All the Blacks Are Men, But Some of Us Are Brave*.<sup>2</sup> I have chosen this title as a point of departure in my efforts to develop a Black feminist criticism because it sets forth a problematic consequence of the tendency to treat race and gender as mutually exclusive categories of experience and analysis. In this chapter, I want to examine how this tendency is perpetuated by a single-axis framework that is dominant in antidiscrimination law and that is also reflected in feminist theory and antiracist politics.

I will centre Black women in this analysis in order to contrast the multidimensionality of Black women's experience with the single-axis analysis that distorts these experiences. Not only will this juxtaposition reveal how Black women are theoretically erased, it will also illustrate how this framework imports its own theoretical limitations that undermine efforts to broaden feminist and antiracist analyses. With Black women as the starting point, it becomes more apparent how dominant conceptions of discrimination condition us to think about subordination as disadvantage occurring along a single categorical axis. I want to suggest further that this single-axis framework erases Black women in the conceptualisation, identification and remediation of race and sex discrimination by limiting inquiry to the experiences of otherwise-privileged members of the group. In other words, in race discrimination cases, discrimination tends to be viewed in terms of sex- or class-privileged Blacks; in sex discrimination cases, the focus is on race- and class-privileged women.

This focus on the most privileged group members marginalises those who are multiply burdened and obscures claims that cannot be understood as resulting from discrete sources of discrimination. I suggest further that this focus on otherwise-privileged group members creates a distorted analysis of racism and sexism because

the operative conceptions of race and sex become grounded in experiences that actually represent only a subset of a much more complex phenomenon.

After examining the doctrinal manifestations of this single-axis framework, I will discuss how it contributes to the marginalisation of Black women in feminist theory and in antiracist politics. I argue that Black women are sometimes excluded from feminist theory and antiracist policy discourse because both are predicated on a discrete set of experiences that often does not accurately reflect the interaction of race and gender. These problems of exclusion cannot be solved simply by including Black women within an already established analytical structure. Because the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated. Thus, for feminist theory and antiracist policy discourse to embrace the experiences and concerns of Black women, the entire framework that has been used as a basis for translating 'women's experience' or 'the Black experience' into concrete policy demands must be rethought and recast.

As examples of theoretical and political developments that miss the mark with respect to Black women because of their failure to consider intersectionality, I will briefly discuss the feminist critique of rape and separate spheres ideology, and the public policy debates concerning female-headed households within the Black community.

## The antidiscrimination framework

One way to approach the problem of intersectionality is to examine how courts frame and interpret the stories of Black women plaintiffs. While I cannot claim to know the circumstances underlying the cases that I will discuss, I nevertheless believe that the way courts interpret claims made by Black women is itself part of Black women's experience and, consequently, a cursory review of cases involving Black female plaintiffs is quite revealing. To illustrate the difficulties inherent in judicial treatment of intersectionality, I will briefly consider the case *DeGraffenreid v GeneralMotors*.<sup>3</sup>

In *DeGraffenreid*, five Black women brought suit against General Motors, alleging that the employer's seniority system perpetuated the effects of past discrimination against Black women. Evidence adduced at trial revealed that General Motors simply did not hire Black women prior to 1964 and that all of the Black women hired after 1970 lost their jobs in a seniority-based layoff during a subsequent recession. The district court granted summary judgement for the defendant, rejecting the plaintiffs' attempt to bring a suit not on behalf of Blacks or women, but specifically on behalf of Black women. The court stated:

[P]laintiffs have failed to cite any decisions which have stated that Black women are a special class to be protected from discrimination. The Court's own research has failed to disclose such a decision. The plaintiffs are clearly

entitled to a remedy if they have been discriminated against. However, they should not be allowed to combine statutory remedies to create a new 'super-remedy' which would give them relief beyond what the drafters of the relevant statutes intended. Thus, this lawsuit must be examined to see if it states a cause of action for race discrimination, sex discrimination, or alternatively either, but not a combination of both.<sup>4</sup>

Although General Motors did not hire Black women prior to 1964, the court noted that 'General Motors has hired . . . female employees for a number of years prior to the enactment of the Civil Rights Act of 1964'.<sup>5</sup> Because General Motors did hire women – albeit *white* women – during the period that no Black women were hired, there was, in the court's view, no sex discrimination that the seniority system could conceivably have perpetuated.

After refusing to consider the plaintiffs' sex discrimination claim, the court dismissed the race discrimination complaint and recommended its consolidation with another case alleging race discrimination against the same employer.<sup>6</sup> The plaintiffs responded that such consolidation would defeat the purpose of their suit since theirs was not purely a race claim, but an action brought specifically on behalf of Black women alleging race *and* sex discrimination. The court, however, reasoned:

The legislative history surrounding Title VII does not indicate that the goal of the statute was to create a new classification of 'black women' who would have greater standing than, for example, a black male. The prospect of the creation of new classes of protected minorities, governed only by the mathematical principles of permutation and combination, clearly raises the prospect of opening the hackneyed Pandora's box.<sup>7</sup>

Thus, the court apparently concluded that Congress either did not contemplate that Black women could be discriminated against as 'black women' or did not intend to protect them when such discrimination occurred. The court's refusal in *DeGraffenreid* to acknowledge that Black women encounter combined race and sex discrimination implies that the boundaries of sex and race discrimination doctrine are defined respectively by white women's and Black men's experiences. Under this view, Black women are protected only to the extent that their experiences coincide with those of either of the two groups.<sup>8</sup> Where their experiences are distinct, Black women can expect little protection as long as approaches, such as that in *DeGraffenreid*, which completely obscure problems of intersectionality prevail.

Judicial decisions which premise intersectional relief on a showing that Black women are specifically recognised as a class are analogous to a doctor's decision at the scene of an accident to treat an accident victim only if the injury is recognised by medical insurance.

Similarly, providing legal relief only when Black women show that their claims are based on race or on sex is analogous to calling an ambulance for the victim only after the driver responsible for the injuries is identified. But it is not always

easy to reconstruct an accident: Sometimes the skid marks and the injuries simply indicate that they occurred simultaneously, frustrating efforts to determine which driver caused the harm. In these cases the tendency seems to be that no driver is held responsible, no treatment is administered, and the involved parties simply get back in their cars and zoom away.

To bring this back to a non-metaphorical level, I am suggesting that Black women can experience discrimination in ways that are both similar to and different from those experienced by white women and Black men. Black women sometimes experience discrimination in ways similar to white women's experiences; sometimes they share very similar experiences with Black men. Yet often they experience double-discrimination – the combined effects of practices which discriminate on the basis of race, and on the basis of sex. And sometimes, they experience discrimination as Black women-not the sum of race and sex discrimination, but as Black women.

Black women's experiences are much broader than the general categories that discrimination discourse provides. Yet the continued insistence that Black women's demands and needs be filtered through categorical analyses that completely obscure their experiences guarantees that their needs will seldom be addressed.

*DeGraffenreidis* is a doctrinal manifestation of a common political and theoretical approach to discrimination which operates to marginalise Black women. Unable to grasp the importance of Black women's intersectional experiences, not only courts, but feminist and civil rights thinkers as well have treated Black women in ways that deny both the unique compoundedness of their situation and the centrality of their experiences to the larger classes of women and Blacks. Black women are regarded either as too much like women or Blacks and the compounded nature of their experience is absorbed into the collective experiences of either group or as too different, in which case Black women's blackness or femaleness sometimes has placed their needs and perspectives at the margin of the feminist and Black liberationist agendas.

While it could be argued that this failure represents an absence of political will to include Black women, I believe that it reflects an uncritical and disturbing acceptance of dominant ways of thinking about discrimination. Consider first the definition of discrimination that seems to be operative in antidiscrimination law: Discrimination which is wrongful proceeds from the identification of a specific class or category; either a discriminator intentionally identifies this category, or a process is adopted which somehow disadvantages all members of this category. According to the dominant view, a discriminator treats all people within a race or sex category similarly. Any significant experiential or statistical variation within this group suggests either that the group is not being discriminated against or that conflicting interests exist which defeat any attempts to bring a common claim.<sup>9</sup> Consequently, one generally cannot combine these categories. Race and sex, moreover, become significant only when they operate to explicitly *disadvantage* the victims; because the *privileging* of whiteness or maleness is implicit, it is generally not perceived at all.

Underlying this conception of discrimination is a view that the wrong which antidiscrimination law addresses is the use of race or gender factors to interfere with decisions that would otherwise be fair or neutral. This process-based definition is not grounded in a bottom-up commitment to improve the substantive conditions for those who are victimised by the interplay of numerous factors. Instead, the dominant message of antidiscrimination law is that it will regulate only the limited extent to which race or sex interferes with the process of determining outcomes. This narrow objective is facilitated by the top-down strategy of using a singular 'but for' analysis to ascertain the effects of race or sex. Because the scope of antidiscrimination law is so limited, sex and race discrimination have come to be defined in terms of the experiences of those who are privileged *but for* their racial or sexual characteristics. Put differently, the paradigm of sex discrimination tends to be based on the experiences of white women; the model of race discrimination tends to be based on the experiences of the most privileged Blacks. Notions of what constitutes race and sex discrimination are, as a result, narrowly tailored to embrace only a small set of circumstances, none of which include discrimination against Black women.

To the extent that this general description is accurate, the following analogy can be useful in describing how Black women are marginalised in the interface between antidiscrimination law and race and gender hierarchies: Imagine a basement which contains all people who are disadvantaged on the basis of race, sex, class, sexual preference, age and/or physical ability. These people are stacked – feet standing on shoulders – with those on the bottom being disadvantaged by the full array of factors, up to the very top, where the heads of all those disadvantaged by a singular factor brush up against the ceiling. Their ceiling is actually the floor above which only those who are *not* disadvantaged in any way reside.

In efforts to correct some aspects of domination, those above the ceiling admit from the basement only those who can say that 'but for' the ceiling, they too would be in the upper room. A hatch is developed through which those placed immediately below can crawl. Yet this hatch is generally available only to those who – due to the singularity of their burden and their otherwise privileged position relative to those below – are in the position to crawl through. Those who are multiply burdened are generally left below unless they can somehow pull themselves into the groups that are permitted to squeeze through the hatch.

As this analogy translates for Black women, the problem is that they can receive protection only to the extent that their experiences are recognisably similar to those whose experiences tend to be reflected in antidiscrimination doctrine. If Black women cannot conclusively say that 'but for' their race or 'but for' their gender they would be treated differently, they are not invited to climb through the hatch but told to wait in the unprotected margin until they can be absorbed into the broader, protected categories of race and sex.

Despite the narrow scope of this dominant conception of discrimination and its tendency to marginalise those whose experiences cannot be described within its tightly drawn parameters, this approach has been regarded as the appropriate framework for addressing a range of problems. In much of feminist theory and, to some

extent, in antiracist politics, this framework is reflected in the belief that sexism or racism can be meaningfully discussed without paying attention to the lives of those other than the race-, gender- or class-privileged. As a result, both feminist theory and antiracist politics have been organised, in part, around the equation of racism with what happens to the Black middle-class or to Black men, and the equation of sexism with what happens to white women.

Looking at historical and contemporary issues in both the feminist and the civil rights communities, one can find ample evidence of how both communities' acceptance of the dominant framework of discrimination has hindered the development of an adequate theory and praxis to address problems of intersectionality. This adoption of a single-issue framework for discrimination not only marginalises Black women within the very movements that claim them as part of their constituency but it also makes the elusive goal of ending racism and patriarchy even more difficult to attain.

### **Feminism and Black women: 'Ain't we women?'**

Oddly, despite the relative inability of feminist politics and theory to address Black women substantively, feminist theory and tradition borrow considerably from Black women's history. For example, 'Ain't I a Woman?' has come to represent a standard refrain in feminist discourse.<sup>10</sup> Yet the lesson of this powerful oratory is not fully appreciated because the context of the delivery is seldom examined. I would like to tell part of the story because it establishes some themes that have characterised feminist treatment of race and illustrates the importance of including Black women's experiences as a rich source for the critique of patriarchy.

In 1851, Sojourner Truth declared 'Ain't I a Woman?' and challenged the sexist imagery used by male critics, to justify the disenfranchisement of women.<sup>11</sup> The scene was a Women's Rights Conference in Akron, Ohio; white male hecklers, invoking stereotypical images of 'womanhood', argued that women were too frail and delicate to take on the responsibilities of political activity. When Sojourner Truth rose to speak, many white women urged that she be silenced, fearing that she would divert attention from women's suffrage to emancipation. Truth, once permitted to speak, recounted the horrors of slavery, and its particular impact on Black women:

Look at my arm! I have ploughed and planted and gathered into barns, and no man could head me – and ain't I a woman? I could work as much and eat as much as a man – when I could get it – and bear the lash as well! And ain't I a woman? I have born thirteen children, and seen most of 'em sold into slavery, and when I cried out with my mother's grief, none but Jesus heard me – and ain't I a woman?<sup>12</sup>

By using her own life to reveal the contradiction between the ideological myths of womanhood and the reality of Black women's experience, Truth's oratory

provided a powerful rebuttal to the claim that women were categorically weaker than men. Yet Truth's personal challenge to the coherence of the cult of true womanhood was useful only to the extent that white women were willing to reject the racist attempts to rationalise the contradiction – that because Black women were something less than real women, their experiences had no bearing on true womanhood. Thus, this nineteenth-century Black feminist challenged not only patriarchy, but she also challenged white feminists wishing to embrace Black women's history to relinquish their vestedness in whiteness.

Contemporary white feminists inherit not the legacy of Truth's challenge to patriarchy but, instead, Truth's challenge to their forbearers. Even today, the difficulty that white women have traditionally experienced in sacrificing racial privilege to strengthen feminism renders them susceptible to Truth's critical question. When feminist theory and politics that claim to reflect *women's* experience and *women's* aspirations do not include or speak to Black women, Black women must ask: 'Ain't *We* Women?' If this is so, how can the claims that 'women are', 'women believe' and 'women need' be made when such claims are inapplicable or unresponsive to the needs, interests and experiences of Black women?

The value of feminist theory to Black women is diminished because it evolves from a white racial context that is seldom acknowledged. Not only are women of colour in fact overlooked, but their exclusion is reinforced when *white* women speak for and as *women*. The authoritative universal voice—usually white male subjectivity masquerading as non-racial, non-gendered objectivity<sup>13</sup>—is merely transferred to those who, but for gender, share many of the same cultural, economic and social characteristics. When feminist theory attempts to describe women's experiences through analysing patriarchy, sexuality, or separate spheres ideology, it often overlooks the role of race. Feminists thus ignore how their own race functions to mitigate some aspects of sexism and, moreover, how it often privileges them over and contributes to the domination of other women. Consequently, feminist theory remains *white*, and its potential to broaden and deepen its analysis by addressing non-privileged women remains unrealised.

An example of how some feminist theories are narrowly constructed around white women's experiences is found in the separate sphere's literature. The critique of how separate spheres ideology shapes and limits women's roles in the home and in public life is a central theme in feminist legal thought. Feminists have attempted to expose and dismantle separate spheres ideology by identifying and criticising the stereotypes that traditionally have justified the disparate societal roles assigned to men and women. Yet this attempt to debunk ideological justifications for *women's* subordination offers little insight into the domination of *Black* women. Because the experiential base upon which many feminist insights are grounded is white, theoretical statements drawn from them are overgeneralised at best, and often wrong. Statements such as 'men and women are taught to see men as independent, capable, powerful; men and women are taught to see women as dependent, limited in abilities, and passive',<sup>14</sup> are common within this literature. But this 'observation' overlooks the anomalies created by crosscurrents of racism and sexism. Black men

and women live in a society that creates sex-based norms and expectations which racism operates simultaneously to deny; Black men are not viewed as powerful, nor are Black women seen as passive. An effort to develop an ideological explanation of gender domination in the Black community should proceed from an understanding of how crosscutting forces establish gender norms and how the conditions of Black subordination wholly frustrate access to these norms. Given this understanding, perhaps we can begin to see why Black women have been dogged by the stereotype of the pathological matriarch or why there have been those in the Black liberation movement who aspire to create institutions and to build traditions that are intentionally patriarchal.<sup>15</sup>

Because ideological and descriptive definitions of patriarchy are usually premised upon white female experiences, feminists and others informed by feminist literature may make the mistake of assuming that since the role of Black women in the family and in other Black institutions does not always resemble the familiar manifestations of patriarchy in the white community, Black women are somehow exempt from patriarchal norms. For example, Black women have traditionally worked outside the home in numbers far exceeding the labour participation rate of white women.<sup>16</sup> An analysis of patriarchy that highlights the history of white women's exclusion from the workplace might permit the inference that Black women have not been burdened by this particular gender-based expectation. Yet the very fact that Black women must work conflicts with norms that women should not, often creating personal, emotional and relationship problems in Black women's lives. Thus, Black women are burdened not only because they often have to take on responsibilities that are not traditionally feminine but, moreover, their assumption of these roles is sometimes interpreted within the Black community as either Black women's failure to live up to such norms or as another manifestation of racism's scourge upon the Black community. This is one of the many aspects of intersectionality that cannot be understood through an analysis of patriarchy rooted in white experience.

Another example of how theory emanating from a white context obscures the multidimensionality of Black women's lives is found in feminist discourse on rape. A central political issue on the feminist agenda has been the pervasive problem of rape. Part of the intellectual and political effort to mobilise around this issue has involved the development of a historical critique of the role that law has played in establishing the bounds of normative sexuality and in regulating female sexual behaviour.<sup>17</sup> Early carnal knowledge statutes and rape laws are understood within this discourse to illustrate that the objective of rape statutes traditionally has not been to protect women from coercive intimacy but to protect and maintain a property-like interest in female chastity.<sup>18</sup> Although feminists quite rightly criticise these objectives, to characterise rape law as reflecting male control over female sexuality is for Black women an oversimplified account and an ultimately inadequate account.

Rape statutes generally do not reflect *male* control over *female* sexuality, but *white* male regulation of *white* female sexuality. Historically, there has been absolutely no institutional effort to regulate Black female chastity. Courts in some states had



gone so far as to instruct juries that, unlike white women, Black women were not presumed to be chaste. Also, while it was true that the attempt to regulate the sexuality of white women placed unchaste women outside the law's protection, racism restored a fallen white woman's chastity where the alleged assailant was a Black man.<sup>19</sup> No such restoration was available to Black women.

The singular focus on rape as a manifestation of male power over female sexuality tends to eclipse the use of rape as a weapon of racial terror. When Black women were raped by white males, they were being raped not as women generally, but as Black women specifically: Their femaleness made them sexually vulnerable to racist domination, while their Blackness effectively denied them any protection.<sup>20</sup> This white male power was reinforced by a judicial system in which the successful conviction of a white man for raping a Black woman was virtually unthinkable.<sup>21</sup>

In sum, sexist expectations of chastity and racist assumptions of sexual promiscuity combined to create a distinct set of issues confronting Black women. These issues have seldom been explored in feminist literature nor are they prominent in antiracist politics. The lynching of Black males, the institutional practice that was legitimised by the regulation of white women's sexuality, has historically and contemporaneously occupied the Black agenda on sexuality and violence. Consequently, Black women are caught between a Black community that, perhaps understandably, views with suspicion attempts to litigate questions of sexual violence, and a feminist community that reinforces those suspicions by focusing on white female sexuality. The suspicion is compounded by the historical fact that the protection of white female sexuality was often the pretext for terrorising the Black community. Even today some fear that antirape agendas may undermine antiracist objectives. This is the paradigmatic political and theoretical dilemma created by the intersection of race and gender: Black women are caught between ideological and political currents that combine first to create and then to bury Black women's experiences.

### **Expanding feminist theory and antiracist politics by embracing the intersection**

If any real efforts are to be made to free Black people of the constraints and conditions that characterise racial subordination, then theories and strategies purporting to reflect the Black community's needs must include an analysis of sexism and patriarchy. Similarly, feminism must include an analysis of race if it hopes to express the aspirations of non-white women. Neither Black liberationist politics nor feminist theory can ignore the intersectional experiences of those whom the movements claim as their respective constituents. In order to include Black women, both movements must distance themselves from earlier approaches in which experiences are relevant only when they are related to certain clearly identifiable causes (for example, the oppression of Blacks is significant when based on race, of women when based on gender). The praxis of both should be centred on the life chances and life situations of people who should be cared about without regard to the source of their difficulties.

I have stated earlier that the failure to embrace the complexities of compoundness is not simply a matter of political will, but is also due to the influence of a way of thinking about discrimination which structures politics so that struggles are categorised as singular issues. Moreover, this structure imports a descriptive and normative view of society that reinforces the status quo.

It is somewhat ironic that those concerned with alleviating the ills of racism and sexism should adopt such a top-down approach to discrimination. If their efforts instead began with addressing the needs and problems of those who are most disadvantaged and with restructuring and remaking the world where necessary, then others who are singularly disadvantaged would also benefit. In addition, it seems that placing those who currently are marginalised in the centre is the most effective way to resist efforts to compartmentalise experiences and undermine potential collective action.

It is not necessary to believe that a political consensus to focus on the lives of the most disadvantaged will happen tomorrow in order to recentre discrimination discourse at the intersection. It is enough, for now, that such an effort would encourage us to look beneath the prevailing conceptions of discrimination and to challenge the complacency that accompanies belief in the effectiveness of this framework. By so doing, we may develop language which is critical of the dominant view and which provides some basis for unifying activity. The goal of this activity should be to facilitate the inclusion of marginalised groups for whom it can be said: 'When they enter, we all enter'.

## Notes

- 1 This chapter (here abridged) originally appeared as 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics', *University of Chicago Legal Forum*, Vol. 1989 No. I, Article 8, pp. 140–67. Reprinted with permission from the *University of Chicago Legal Forum* and the University of Chicago Law School.
- 2 Gloria T. Hull et al. (eds.), *All the Women Are White, All the Blacks Are Men, but Some of Us Are Brave*, Old Westbury, New York: The Feminist Press, 1982.
- 3 413 F Supp 142 (E D Mo 1976).
- 4 *DeGraffenreid*, 413 F Supp at 143.
- 5 *Ibid.*, p. 144.
- 6 *Ibid.*, p. 145. In *Mosley v General Motors*, 497 F Supp 583 (E D Mo 1980), plaintiffs, alleging broad-based racial discrimination at General Motors' St. Louis facility, prevailed in a portion of their Title VII claim. The seniority system challenged in *DeGraffenreid*, however, was not considered in *Mosley*.
- 7 *Ibid.*, p. 145.
- 8 I do not mean to imply that all courts that have grappled with this problem have adopted the *DeGraffenreid* approach. Indeed, other courts have concluded that Black women are protected by Title VII. See, for example, *Jefferies v Harris Community Action Ass'n.*, 615 F 2d 1025 (5th Cir.1980). I do mean to suggest that the very fact that the Black women's claims are seen as aberrant suggests that sex discrimination doctrine is centered in the experiences of white women. Even those courts that have held that Black women are protected seem to accept that Black women's claims raise issues that the 'standard' sex discrimination claims do not. See Elaine W. Shoben, 'Compound Discrimination: The

Interaction of Race and Sex in Employment Discrimination', Vol. 55 no. *NYU L Rev* 793, 1980, pp. 803–4 (criticising the *Jefferies* use of a sex-plus analysis to create a subclass of Black women).

- 9 See, for example, *Moore*, 708 F.2d, p. 479.
- 10 See Phyllis Palmer, 'The Racial Feminization of Poverty: Women of Color as Portents of the Future for All Women', *Women's Studies Quarterly*, Vol. 11, Fall 1983, pp. 3–4 (posing the question of why 'white women in the women's movement had not created more effective and continuous alliances with Black women' when 'simultaneously . . . Black women [have] become heroines for the women's movement, a position symbolized by the consistent use of Sojourner Truth and her famous words, 'Ain't I a Woman?').
- 11 See Paula Giddings, *When and Where I Enter: The Impact of Black Women on Race and Sex in America*, 1st ed., New York: William Morrow and Co, Inc, 1984, p. 54.
- 12 Eleanor Flexner, *Century of Struggle: The Women's Rights Movement in the United States*, Cambridge, MA: Belknap Press of Harvard University Press, 1975, p. 91. See also bell hooks, *Ain't I a Woman*, Boston: South End Press, 1981, pp. 159–60.
- 13 'Objectivity is itself an example of the reification of white male thought'. Hull et al. (eds.), *But Some of Us Are Brave*, p. XXV (cited in note 2).
- 14 Richard A. Wasserstrom, Racism, Sexism and Preferential Treatment: An Approach to the Topics, *UCLA L Rev*, Vol. 24(1977), pp. 581, 588. I chose this phrase not because it is typical of most feminist statements of separate spheres; indeed, most discussions are not as simplistic as the bold statement presented here. See, for example, Taub and Schneider, *Perspectives on Women's Subordination and the Role of Law*, pp. 117–39 (cited in note 36).
- 15 See hooks, *Ain't I a Woman*, pp. 94–99 (cited in note 34) (discussing the elevation of sexist imagery in the Black liberation movement during the 1960s).
- 16 See generally Jacqueline Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family from Slavery to the Present*, New York: Basic Books, 1985; Angela Davis, *Women, Race and Class*, New York: Random House, 1981.
- 17 See generally Susan Brownmiller, *Against Our Will*, New York: Simon and Schuster, 1975; Susan Estrich, *Real Rape*, Cambridge, MA: Harvard University Press, 1987.
- 18 See Brownmiller, *Against Our Will*, p. 17; see generally Estrich, *Real Rape*.
- 19 Because of the way the legal system viewed chastity, Black women could not be victims of forcible rape. One commentator has noted that '[a]ccording to governing stereotypes [sic], chastity could not be possessed by Black women. Thus, Black women's rape charges were automatically discounted, and the issue of chastity was contested only in cases where the rape complainant was a white woman'. Note, 6 *Harv Women's L J*, p. 126 (cited in note 48). Black women's claims of rape were not taken seriously regardless of the offender's race. A judge in 1912 said: 'This court will never take the word of a nigger against the word of a white man [concerning rape]'. *Ibid.*, p. 120. On the other hand, lynching was considered an effective remedy for a Black man's rape of a white woman. Since rape of a white woman by a Black man was 'a crime more horrible than death', the only way to assuage society's rage and to make the woman whole again was to brutally murder the Black man. *Ibid.*, p. 125.
- 20 Gerda Lerner, *Black Women in White America: A Documentary History*, New York: Random House, 1973, p. 173.
- 21 See generally, Note, 6 *Harv Women's L J*, p. 103 (cited in note 47).