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WHAT IS CRITICAL RACE FEMINISM?

*Leila Hilal**

Critical race feminism, a proposed offshoot of critical race theory,¹ debuts in Adrien K. Wing's volume *Critical Race Feminism: A Reader*. In Wing's words, the volume "focuses on [women of color,] who face multiple discrimination on the basis of race, gender and class, revealing how all these factors interact within a system of white male patriarchy and racist oppression." Indeed, the volume offers critical details of how race, gender, and sometimes class, relate in a variety of contexts. In contextualizing the experience of women of color, critical race feminism evinces that race and gender interact in a multiplicative fashion to influence both the identity of and discrimination against women of color. Because the connection between race and gender has traditionally been ignored or subordinated under the law and in American society, critical race feminism is an invaluable elaboration of the meaning of the intersection of race and gender.²

Critical race feminism serves another instructional purpose by way of its coverage of socio-economic and political issues facing communities of color, matters under explored in critical race theory. The chapter on "Mothering or Not," for instance, discusses societies' devaluing of poor women of color in

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¹ Critical race theory is an American scholarly movement composed mostly of law professors of color, who employ both postmodern and modern tenets in discussing the treatment, or lack thereof, of race in the American legal system and society. Critical race theory borrows from the older critical legal studies movement and directs much of its critique at the liberal civil rights tradition. See CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al. eds., 1995).

² The intersection of race and gender is an issue long explored by women of color law professors. For foundational articles on this topic see Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, U. CHI. LEGAL F. 139 (1989); Angela Harris, *Race and Essentialism*, 42 STAN. L. REV. 581 (1990); Mari Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMEN'S RTS. L. REP. 7 (1989); Judy Scales-Trent, *Black Women and the Constitution*, HARV. C.R.-C.L. L. REV. (1989); Patricia J. Williams, *Spirit-Murdering the Messenger*, 42 U. MIAMI L. REV. 127 (1987). With the exception of Crenshaw's and Matsuda's articles, shortened reprints of these writings are included in the volume.

order to justify coercive policies and laws that exploit the class, gender, and political powerlessness of such women. These writings, among others in the volume, chart important territory in the field of critical race theory.

Moreover, critical race feminist critiques concern the limitations and consequences of modern rights, namely "equality" and "nondiscrimination," and thus, provide a useful forum for questioning the impartial, objective, and formalistic nature of the rule of law and antidiscrimination doctrine. International women's human rights activists and scholars in particular will benefit from engaging critical race feminism. The international rights of women are modeled on the norm of nondiscrimination and manifest similar dilemmas highlighted by critical race feminists. As their writings reveal, conventional nondiscrimination ideology forces women into narrow, rigid categories in order to realize rights that neither embrace the totality of their experience nor the discrimination they face. This leads to bifurcated identities and injuries, lower or irrelevant legal protections, and fragmented political movements. Critical race feminist scholarship effectively illustrates these conditions and negative outcomes.

Critical race feminism is an informative legal discussion on race and gender that advances a critique of liberal paradigms pertinent at both the national and international levels, but its import stops here. Contrary to its implied claim of a distinctive theoretical contribution, critical race feminism is less a step towards a "minority feminist jurisprudence" and more a testament of race and gender under the law. As presented in Wing's volume, critical race feminism is not concentrated or distinct enough to be the basis of a jurisprudence for women of color.

The volume was edited with the purpose of including a wide range of scholars, resulting in a diffuse presentation of critical race feminism. Despite its black heritage³ and stated intent of countering the assumption that one group's experience reflects that of all groups, the volume speaks for the broad category of women of color. While the sweeping scope of the volume supports coalition building, creating an oppositional legal doctrine may require a more precise critique; that is, coalitions may be necessary to gain political power, but developing a "minority feminist jurisprudence" may be better facilitated by a confined analysis of black women and the law. In turn, such analysis, however modified, could be applied to the wider pool of women of color.

³ Wing places the 1991 *Berkeley Women's Law Journal* symposium on Black Women Law Professors: Building a Community at the Intersection of Race and Gender as an impetus for the volume.

Further jeopardizing the formulation of a race and gender-specific jurisprudence, the volume includes an overwhelming number of writings, 45 in all. The inclusive stance of the volume compromises the more provocative and jurisprudentially significant articles, which were pared down to make room for the many other included works. The result is a volume of narrowly edited articles and essays that offer more thoughts and experiences in the area of race and gender and less substantive approaches to their intersection.

In fact, Wing may have intentionally sacrificed legal theory for the sake of producing a "reader" of practical use. The volume is organized thematically, with a concluding "Questions and Suggested Readings" section at the end of each chapter. The kinds of questions raised in these sections make the volume an effective tool for raising issues within diverse settings -- classes, community centers, and activist circles. The wide applicability of the volume makes it especially relevant as a general forum for questioning abstract paradigms and discussing how liberal models and societies fail to accommodate the particulars of individuals and groups. On the other hand, foregoing substance and definition has undermined the jurisprudential insight of critical race feminism.

A more fundamental jurisprudential limitation of critical race feminism belongs more generally to critical race theory. Critical race theory holds standard rights discourse as a source of empowerment, as well as oppression. Under this dualistic, and somewhat disharmonious approach to rights, most critical race theory scholarship is devoted to deconstructing ostensibly race-neutral law towards a reconstruction that accounts for race dynamics. Much of the reconstruction race crits engage in utilizes the same materials embodied in that which is being deconstructed, albeit with due consideration to details, experience, and more progressive notions of racial justice. Critical race theory, then, emphasizes racializing current rights discourse, rather than creating an alternative vision. For the most part, critical race feminism reproduces this shortcoming.

A few exceptions contained in Wing's volume demonstrate what more is needed from critical race feminism. Regina Austin's reprinted article, *Black Women, Sisterhood, and the Difference/Deviance Divide*, analyzes the case of Ruby Clark, a black woman who brought suit against ABC for a TV news broadcast that likened her to a prostitute in a Detroit neighborhood. In order to argue her claim of libel, Clark had to promote mainstream (white) notions of acceptable behavior and stereotypes of black woman and black women prostitutes. Through her counter analysis of the case, Austin argues that, "[n]o external sources of morals and values can supply the norms and values by which black women interact with each other." Austin provocatively suggests that black

women should question dominant assumptions and possibly reformulate their own norms that respond to the collective or communal concerns of black women.

Dorothy Roberts similarly pushes for a re-imagining of the law. In *Punishing Drug Addicts Who Have Babies: Women of Color, Equality and the Right of Privacy*, Roberts calls for a reconceptualization of the constitutional right to privacy so that it accounts for the historical subordination of black mothers. Likewise, Patricia Williams' ground breaking writing on "spirit-injury," featured in the volume calls for a legal response to the unnamed, often sub-conscious, social structures of racism. In *Spirit-Murdering the Messenger: The Discourse of Fingerpointing as the Law's Response to Racism*, Williams describes the shooting-death of Eleanor Bumpurs, a "270-pound, arthritic, sixty-seven-year-old woman." Bumpurs was shot by New York City police officers, who were trying to evict the elderly woman for being \$98.85 behind in her rent. Williams criticizes the law's insulation of the New York City Police Commissioner's claim that, though the police were white and Eleanor was black, there was "no evidence of racism." Under the relevant law, the police have the discretion to shoot, and because Eleanor was resisting eviction, invocation of that power was deemed race-neutral. In making a case for legal protection against the subtly, but potentially more devastating racist injuries of "spirit-murdering," Williams argues for a more comprehensive conceptualization of discrimination.

These featured writings go further towards creating a jurisprudence that serves the interests of women of color. Unfortunately, the volume does not give adequate space to such writings. To be sure, establishing a rights discourse that addresses the complex realities and serves the needs of women of color, and other minority groups, faces an inherent impediment in legal discourse. In other words, the liberation of marginalized peoples can be aided only so far by law and legal scholarship.

Notwithstanding its jurisprudential weaknesses, the volume contains powerful writings that may encourage further evaluation of the interplay of race, gender, and class in legal environments, and will surely encourage frank discussions in the classroom and community circles. Moreover, critical race feminism can shed light on the restrictive nature of international human rights law, particularly in the area of women's human rights. Besides its directly relevant chapter addressing international human rights situations ("Beyond our Borders: Global Issues"), critical race feminism analyses may help prove the need for a multicultural evolution of the human rights discourse and begin to steer women's human rights away from the pitfalls of antidiscrimination doctrine and an abstract rule of law.