

A DEDICATION

*Anthony Paul Farley**

This symposium of the Columbia Journal of Law & Race, *Critical Race Theory & Marxism*, is dedicated to Keith Aoki, 1955-2011. Keith died an hour after I arrived at his home in Davis, California. One hour and he was gone:

*My lord, what a morning
My lord what a morning
My lord, what a morning
When the stars begin to fall.¹*

Keith fought well on many fronts. There is no one who does anything under the critical banner in the American legal academy who will fail to remember Keith at the barricades. But now, three sentences into the paragraph, the fighting metaphor strikes me as somehow missing Keith. “Fought” is the wrong word. “Barricade” is also misplaced. Keith seemed beyond and above most outrages. Keith had a way of allowing them to pass through his person like water in water.

*You will weep for the rocks and mountains.
You will weep for the rocks and mountains.
You will weep for the rocks and mountains.
When the stars begin to fall.²*

Keith’s passing was a shock. That he kept his terminal cancer a secret from everyone was not. Keith was always one to avoid making himself the center of attention. Despite his self-effacing tendencies, he was most definitely one of Jack Kerouac’s “mad ones . . . who never yawn or say a common thing, but burn, burn, burn like fabulous yellow roman candles exploding like spiders across the stars and in the middle you see the blue centerlight pop

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¹ *My Lord, What a Morning* (traditional).

² *Id.*

and everybody goes ‘Awww!’”³ Keith was the situation created when that blue centerlight gathers everyone in its flash and all of you know that you will be together always.

In those days he was the one I could talk to about the Situationists, the Beats, the Wobblies, the Black Panthers, the New Left and the Old Left, the Diggers of 1649 and the Diggers of 1967, *Ikiru* and *Men Who Tread on the Tiger’s Tale* and critical legal studies and the Communards and everything and anything and all at once. Keith and I talked often about critical legal studies and what it should have become.

Just now I wrote, “In those days . . .” without designating the days. What days? Could it have been ’95? In my first memories of Keith he had a long ponytail. We talked about Brecht. Keith spotted my everyday deployment of the V-Effect and we became friends, at least that is how I remember it from those days when academia seemed to me to be an endless and endlessly exciting Route 66.

My first law review article was written as a letter to Keith. I wrote and wrote and wrote. And I sent everything to Keith. He replied in ways meant to show that he understood what I was writing. And he understood enough about my own way of writing to limit his comments to “Go, man, go!” But already I realize that the conversations that I continue to have with Keith in my head have taken on an Upanishadic quality:

The Spirit of man has two dwellings: this world and the world beyond. There is also a third dwelling-place; the land of sleep and dreams. Resting in this borderland the Spirit of man can behold his dwelling in this world and in the other world afar, and wandering in this borderland he beholds behind him the sorrows of this

³ JACK KEROUAC, ON THE ROAD 5 (1957). Kerouac’s description of the “*mad ones*” brings me to back to Keith, but Keith brings me to the Upanishads:

Even as airy threads come from a spider, or small sparks come from a fire, so from Atman, the Spirit in man, come all the powers of life, all the worlds, all the gods: all beings. To know the Atman is to know the mystery of the Upanishads: the Truth of truth. The powers of life are truth and their truth is Atman, the Spirit.

Brihad-aranyaka Upanishad, in THE UPANISHADS 127, 130 (Juan Mascaro trans., 1965) [hereinafter THE UPANISHADS].

world and in front of him he sees the joys of the beyond.⁴

Critical Race Theory exists in the “third dwelling place.”⁵ The third world “land of sleep and dreams”⁶ is what I think about when I think about Keith.⁷ What Critical Race Theory *sees* is what Easter *promises* and what free communism *is*.⁸

Keith said something like “Go, man, go!” when I called him about participating in this project. But he also told me that he was buried in other work. I think that “buried” was the actual word he used to describe and disguise his difficulty. I am certain that I let Keith know that he was in the project anyway. I do not remember the words I used. Perhaps I said “conscripted.” But now, thinking about it again, I recall a passage from the *Epic of Gilgamesh*. I now recall that Ishtar, goddess of love, spurned by Gilgamesh, demanded the Bull of Heaven from Anu, her father, in order to use as it as an instrument of revenge. I recall Ishtar’s words, from a text that may be part of the prehistory of Easter, because they give form to my thoughts about Keith and the Undiscovered Country:

*If thou openest not the gate to let me enter,
I will break the door, I will wrench the lock,
I will smash the door-posts, I will force the doors.
I will bring up the dead to eat the living.
And the dead will outnumber the living.*⁹

⁴ *The Supreme Teaching, in THE UPANISHADS, supra* note 3, at 133, 134.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ It looks like this:

There a father is a father no more, nor is a mother there a mother; the worlds are no longer worlds, nor the gods are gods any longer. There the *Vedas* disappear; and a thief is not a thief, nor is a slayer a slayer; the outcast is not an outcast, nor the base-born a base-born; the pilgrim is not a pilgrim and the hermit is not a hermit; because the spirit of man has crossed the lands of good and evil, and has passed beyond the sorrows of the heart. There the Spirit sees not, but though seeing not he sees. How could the Spirit not see if he is the All? But there is no duality there, nothing apart for him to see.

Id. at 133, 136.

⁹ M. JASTROW, *Descent of the Goddess Ishtar into the Lower World, in THE CIVILIZATION OF BABYLONIA AND ASSYRIA* (1915), available at <http://www.ancienttexts.org/library/mesopotamian/gilgamesh/tab6.htm>.

We do outnumber them. The dead outnumber the living. The dead of slavery, reborn as free laborers, without capital, foredoomed by an absolute lack of bargaining power to labor anew as slaves, albeit waged slaves, find, as the only content of their so-called freedom, the death that they have already died.

This symposium, *Critical Race Theory & Marxism*, makes two arguments. First, the capitalist cycle is an endless wheel of becoming. Second, leaving is a victory:

*You will hear the shout of victory.
You will hear the shout of victory.
You will hear the shout of victory
When the stars begin to fall.*¹⁰

We have been nought, we shall be all! We unnumbered dead have cause for joy. Our celebration should be a party, a zombie jamboree, to celebrate and bring about the human emancipation that will crack the false eternity of this longest Friday.¹¹ Easter is the promise that the dead are not dead, only sleeping. That promise, as the Rev. Dr. Martin Luther King Jr. preached, is cause for joy. If the dead are only sleeping, then *Critical Race Theory* is the waking up of the world and the *breaking* of the door and the *wrenching* of the lock and the *smashing* of the door-posts and the *forcing* of the doors, and the *bringing up* of the dead.⁸⁷ This symposium is part of *that* project. *Critical Race Theory & Marxism* is for Keith Aoki. He has not left us, far from it. He has joined us, again.

¹⁰ *My Lord, What a Morning* (traditional).

¹¹ *Taittiriya Upanishad*, in *THE UPANISHADS*, *supra* note 3, at 109, 111: “Oh, the wonder of joy! I am the food of life, and I am he who eats the food of life: I am the two in ONE. I am the first-born of the world of truth, born before the gods, born in the centre of immortality. He who gives me is my salvation. I am that food which eats the eater of food. I have gone beyond the universe, and the light of the sun is my light.”