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Anita Hill Meets Godzilla: Confessions of a Horror Movie Fan

Wendy Brown-Scott*

first
a woman should
be a woman *first*,
but
if she's *black*,
and a woman
that's special, that's real special.¹

PROLOGUE

The cases and events discussed in this Essay involve African-American women who have confronted oppression in the civil and criminal courts, and other arenas, in both celebrated and unsung victories: victories not only for Black women, but for women and men of all hues who seek social justice. I will use these cases and events to illustrate the relationship between stereotypes and myths, born during the antebellum and Jim Crow era, and contemporary manifestations of sexual harassment and other forms of sex-based

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I dedicate this Essay to the trailblazing women in my family who have suffered the indignities I discuss and forged a path for me: my grandmothers, one a "free" woman, the other the daughter of slaves, who both waged a struggle to keep their families together despite the external forces determined to pull them asunder. To my aunts who paid heed to the elders' cry to get an education and give back to the community which nurtured them. And especially to my Aunt Pat who, long before Rosa Parks, was arrested while traveling alone in Virginia for refusing to give up her seat in a "whites only" railroad car. To my two sisters, dedicated inner-city high school teachers, and their lovely daughters, who each honor our bloodlines by carrying on the tradition of service. And, of course, to my mother, the first "freedom fighter" who I got to watch in action close up! I pay homage to God for blessing me in such abundance.

1. DON L. LEE, *WE WALK THE WAY OF THE NEW WORLD* 39 (1970).

exploitation. I will go on to discuss the means used by women, in the workplace of chattel slavery, to resist racial oppression and sexual exploitation based on myths and stereotypes.

Before embarking on this task, I ask that you come with me as I detour into the first-person past to illustrate the enduring effects of myths.

I. A TALE FROM THE DARK SIDE

When a friend called to tell me about the charge of sexual harassment made against now-Justice Clarence Thomas by Professor Anita Hill, my heart sunk. I felt the kind of heartbreak that comes only to those of us still willing to be called a "race woman," or a "race man," in the old and honorable sense; people who feel that African-Americans should live and work and succeed, not only for individual gain, but also for our collective good. I knew that the rest of the confirmation proceedings would be painful.

Even before the Thomas-Hill hearings began, the nomination itself had taken on the quality of a nightmare. Until then, I had been active in the effort to block Judge Thomas's confirmation. I joined with several national and local groups to prepare press releases and testimony before the Senate Judiciary Committee. In New Orleans, I joined an ad-hoc committee of local lawyers and concerned citizens, appeared with them on local news broadcasts, and gave an interview to the local paper on my reasons for opposing the nomination.² But when

2. The reasons for my opposition were threefold. First, Justice Thomas's limited judicial experience did not qualify him to sit on the United States Supreme Court. Long time jurists such as the Honorable Leon Higginbotham, Nathaniel Jones, or Amalia Kearse better exemplified the qualifications and judicial temperament necessary to fill the vacancy created by Justice Thurgood Marshall's resignation. Second, Thomas's record while serving in high-level positions at the Department of Education Office of Civil Rights, the Equal Employment Opportunity Commission, and as a judge on the D.C. Circuit Court of Appeals raised serious questions about his willingness to adhere to precedent and his commitment to faithfully execute and enforce laws that may be at odds with his personal beliefs. This concern has been realized. *See, e.g.,* *Riggins v. Nevada*, 504 U.S. 127, 145 (1992) (Thomas J., dissenting) (contending that forced use of drugs by mentally-ill defendant to give the appearance of sanity at trial did not deprive him of a fundamentally fair trial); *Hudson v. McMillian*, 503 U.S. 1, 17 (1992) (Thomas, J., dissenting) (arguing against finding of cruel and unusual punishment in prisoner's civil rights action); *Presley v. Etowah County Comm'n*, 502 U.S. 491, 493 (1992) (joining the majority's decision to limit the scope of the 1965 Voting Rights Act). Finally, the perverted use of Thomas's race by liberals, in the name of "affirmative action," and by white supremacists, like David Duke and Senator Strom Thurmond, to bolster Thomas's credibility, insulted the integrity and character of the

the law school's public relations person called to say he had arranged a television interview for me with an evening news reporter to discuss the allegations made by Professor Hill, I refused to take his call. I was speechless and hurt.

I knew that the focus would turn from Clarence Thomas and his record. All eyes would focus on Anita Hill—a Black woman who had the audacity to tell the truth and stand by it. Did she not know that the decision to confirm Thomas had already been made, even before she was contacted by the investigators concerning Thomas? The investigation was merely routine. She may not have even expected her revelations to see the light of day.³

The fact that Hill was a tenured law professor, a graduate of Yale Law School, a Baptist, and a citizen testifying reluctantly in response to a Senate subpoena carried little weight. Hill herself later acknowledged that African-American women are not trusted to tell the truth on matters concerning sexual misconduct.⁴ Clearly a compelled witness, Hill spoke with clarity, poise, and intelligence; but more effort was put into discrediting her than into reflecting on the significance of her allegations to the ability and worthiness of Thomas to serve on the nation's highest tribunal.⁵ And when the dust settled, the “uppity nigger”⁶ who had been lynched by the Senate Judiciary Committee

late-Justice Thurgood Marshall, a champion of the rights of disadvantaged members of our society.

3. See *The Chronology of the Clarence Thomas Confirmation*, in COURT OF APPEAL: THE BLACK COMMUNITY SPEAKS OUT ON THE RACIAL AND SEXUAL POLITICS OF CLARENCE THOMAS VS. ANITA HILL 1, 3-6 (Robert Chrisman & Robert L. Allen eds., 1992) [hereinafter COURT OF APPEAL].

4. Anita F. Hill, *Marriage and Patronage in the Empowerment and Disempowerment of African American Women*, in RACE, GENDER AND POWER IN AMERICA 275 (Anita F. Hill & Emma C. Jordan eds., 1995). In a 1912 case, a judge, on hearing an account of sexual assault on a Black woman by her white employer, stated, “This court will never take the word of a nigger against the word of a white man.” GERTA LERNER, BLACK WOMEN IN WHITE AMERICA 155-56 (1972).

5. For an especially distasteful character assassination of Professor Hill, see David Brock, *The Real Anita Hill*, THE AM. SPECTATOR, Mar. 1992, at 27 (questioning Hill's professional abilities and integrity and referring to her as a “nutty . . . slutty” liar).

6. This descriptive comes from the testimony of Thomas in which he characterized himself this way to explain why he believed he was the victim of “a high tech lynching.” *The Nomination of Clarence Thomas to be Associate Justice of the Supreme Court of the United States: Hearings Before the Senate Comm. on the Judiciary*, 102d Cong., 1st Sess. 157 (1991) [hereinafter Hearings] (statement of Judge Clarence Thomas, nominee).

was Hill!⁷

It did not occur to me at first why this turn of events depressed me. Perhaps I was feeling this way because I knew that throughout the history of this country, Black women have been stereotyped as sexually immoral.⁸ I also knew that because of this stereotype, the idea that a Black woman could actually be sexually harassed is a relatively modern legal concept. I knew too that the legal system still contributes to the creation and perpetuation of this image of Black women as sexually available.⁹

Perhaps it was because I was convinced that if a white woman had cried sexual harassment against Thomas—despite the fact that he is married to a white woman—the mood of the nation would have been totally different.¹⁰ Under common law during slavery, the rape of

7. The lynching of Black women was not uncommon. See PAULA GIDDINGS, *WHEN AND WHERE I ENTER: THE IMPACT OF BLACK WOMEN ON RACE AND SEX IN AMERICA* 28 (1984); Emma C. Jordan, *The Power of False Racial Memory and the Metaphor of Lynching*, in RACE, GENDER AND POWER IN AMERICA, *supra* note 4, at 47. The few reported lynchings of Black women involved instances in which they had reported a sexual assault on them by a white man. See Estelle B. Freedman, *The Manipulation of History at the Clarence Thomas Hearings*, 65 S. CAL. L. REV. 1361, 1363 (1992).

8. For a complete discussion of this history from the late nineteenth century, see generally GIDDINGS, *supra* note 7; BELL HOOKS, *AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM* (1981); JACQUELINE JONES, *LABOR OF LOVE, LABOR OF SORROW: BLACK WOMEN, WORK, AND THE FAMILY FROM SLAVERY TO THE PRESENT* (1985).

9. Linda L. Ammons, *Mules, Madonna, Babies, Bathwater, Racial Imagery and Stereotypes: The African American Woman and the Battered Woman's Syndrome*, 1995 WIS. L. REV. 1003 (demonstrating how negative stereotypes prevent the effective use of the battered woman's defense by African-Americans). In 1990, a Black St. John's University student accused six white classmates of sexual assault. When advised to report the incident, the victim responded, "But, nobody will believe me." Curtis Taylor, *St. John's Defense: He Wasn't There*, NEWSDAY, Feb. 4, 1992, at 20. Like Anita Hill, she was painted as a willing participant and her credibility was not respected. As she predicted, a jury of ten whites and two Blacks acquitted three of the men. *Three St. John's Students Acquitted: Verdict Denounced As Racially Bias*, BUFFALO NEWS, JULY 24, 1991, at B8.

10. See Catharine A. MacKinnon, *From Practice to Theory, or What is a White Woman Anyway?*, 4 YALE J.L. & FEMINISM 13, 18-19 (1991). MacKinnon juxtaposes the myth of the "white woman," premised on privilege derived from race, against the reality of sexual oppression faced by white women in a patriarchal society. Black feminists generally believe that both the myth and the reality of the "white woman" operates to protect her against even the suggestion of sexual violation by a Black man, just as the antithetical myth of the Black woman creates a reality of sexual exploitation by white and Black men from which there is no protection. See generally *Open Letters to Catharine MacKinnon*, 4 YALE J.L. & FEMINISM 177 (1991) (providing an alternative conception of womanhood drawn from the subordination experiences of women of color).

a white women by a slave constituted a capital offense.¹¹ “Many offences are, from public policy, necessarily capital, which, when committed by a white person are not.”¹² History bears witness to the fact that even after slavery, a Black man who contemplated, let alone actually raped, a white woman died by lynching. Moreover, rape laws failed to protect even free Black women.¹³ One post-Reconstruction court expressed its opinion of the difference between white and Black female sexuality this way:

What has been said by some of our courts about an unchaste female . . . being a comparatively rare exception is no doubt true . . . of the Caucasian race, but we would blind ourselves to the actual conditions if we adopted this rule where another race *that is largely unmoral* constitutes an appreciable part of the population.¹⁴

Most likely, both the unfair treatment and differentiation of Black women factored into my melancholy. Both ideas predominated in my discussions with my Black female friends and colleagues, and more progressive-minded white women.

I had not decided whether I would watch Hill testify, and Thomas defend, but then it happened. I walked into the law school lobby, and as I approached the student lounge, I saw a crowd of all-white male students gathered around the television watching an all-white male panel of inquisitors quizzing, questioning, accusing, insulting, and trying to humiliate Anita Hill. At that moment, I felt defiled. What right do these men have to act as *my* judge and jury? These were the

11. See Jennifer Wriggins, *Rape, Racism and the Law*, 6 HARV. WOMEN'S L.J. 103, 104-16 (1983).

12. PAUL FINKELMAN, *THE LAW OF FREEDOM AND BONDAGE* 195 (1986) (citing T.R.R. COBB, *AN INQUIRY INTO THE LAW OF NEGRO SLAVERY* (1858)).

13. Adele L. Alexander, “*She’s No Lady, She’s a Nigger*”: *Abuses, Stereotypes, and Reality from the Middle Passage to Capitol (and Anita) Hill*, in *RACE, GENDER AND POWER IN AMERICA*, *supra* note 4, at 9.

14. *Dallas v. State*, 79 So. 690, 691 (Fla. 1918) (emphasis added). Similar reasoning accounts for the emotionalism over the acquittal of O.J. Simpson for the murder of his wife. Professor Ammons illustrates this point by comparing the case of Pamela Hill, an abused Black woman convicted of killing her abuser, with the Simpson-Brown relationship:

The imagery and stereotypes that were raised by the prosecutor’s comparison of Pamela Hill and Nicole Simpson cannot be missed. Nicole Simpson was white, beautiful, rich, portrayed as a good mother, brutalized. Pamela Hill is black, poor, an unwed mother, and considered violent. . . . The prosecutor, in making the statement about Pamela Hill “carrying the banner of Nicole Simpson” wanted to make sure that the jurors had a picture in their minds of a real battered woman.

Ammons, *supra* note 9, at 1006-07.

descendants of the very group of men who had written laws and rendered judicial opinions making it a legal impossibility for me, a Black woman, to be violated; who considered the sexual services of Black women to be part of our job description; and who, based on their own lasciviousness, created the stereotype of Black women as fast and loose.

I had been silenced.

I literally went into semi-seclusion. I refused to watch the rest of the hearings—it was too painful. I knew that the Senate Judiciary Committee—that America—did not want to believe Anita Hill. The Committee had an opportunity for weeks to question Thomas about the allegations. They had not.

Self-isolation also created a ready excuse for not discussing the hearings with my majority white-male colleagues and students (who, in hindsight, would probably have felt awkward, too. After all, David Duke was a serious candidate for governor in Louisiana. Thank God the Simpson trial was not also going on! Who knows what I might have said?). Even among other African-Americans, who knew little about Thomas's career and beliefs, I avoided joining in conversations about "Who do you believe—him or her?" When forced, taunted, cajoled, or persuaded to comment, I focused on the fact that Thomas's record as a jurist and his record as the EEOC Commissioner were enough to disqualify him,¹⁵ without dragging Anita Hill through the mud.

It especially pained me to hear other Black women "dog her out," suggesting that she had waited too long to be believed. Black men, with few exceptions, had no trouble identifying with Thomas's (Black) maleness. Some of the Black men I knew (the same ones who later accused Desiree Washington of intentionally trying to ruin Mike Tyson's boxing career for money¹⁶) chastised Ms. Hill for "trying to bring a brother down." My response to these men was, "He's not a brother," and to the women, "How many times have you and I remained silent when men—Black and white—have said or done things with sexual connotations that made us feel uncomfortable?"

15. See *supra* note 2.

16. See Charles R. Lawrence, *The Message of the Verdict: A Three-Act Morality Play Starring Clarence Thomas, Willie Smith and Mike Tyson*, in RACE, GENDER AND POWER IN AMERICA, *supra* note 4, at 105 (identifying the role of race, sex, and class-based stereotypes in the outcome of each case).

But these glib remarks and probing questions did little to change their views.

This was a time in my life when the race-conscious, male-oriented conditioning to which I had been constantly subjected worked so effectively that I had to look into my conscious—or perhaps subconscious—mind to find those feelings which were uniquely the feelings of a Black woman. Regina Austin put my dilemma this way:

When was the last time someone asked you to *choose* between being a *woman* and being a *minority person* or asked you to assess the hardships and the struggles of your life in terms of your being a woman on top of being black . . . or black on top of being a woman, as if being a woman or being black were like icing on a cake?¹⁷

In fact, I realized, it happens quite often. Up to this point in my life, the choice had always been clear. This time it was not. Kimberle Crenshaw summed up the difficulty in making this choice, explaining that, “our experiences of racism are shaped by our gender, and our experiences of sexism are often shaped by our race.”¹⁸ I now understood clearly the frustration expressed by Sojourner Truth in her cry, “And a’n’t I a woman?”¹⁹

There seemed to be no outlet for my anguish. And then a miracle! A letter from an ad-hoc group called African American Women in Defense of Ourselves (AAWIDOO)²⁰ came to my attention. I read it and thought, “Perfect!” After reading the AAWIDOO letter, I called several friends and relatives to solicit their signatures. Finally, I knew that I was not alone in my feelings of vulnerability.

The opening and closing paragraphs²¹ set forth the concern for the assault on the well being of African-American communities, which

17. Regina Austin, *Sapphire Bound!*, 1989 *Wis. L. REV.* 539, 540 (emphasis added).

18. Kimberle Crenshaw, *Race, Gender, and Sexual Harassment*, 65 *S. CAL. L. REV.* 1467, 1468 (1992).

19. Frances D. Gage, *Sojourner Truth: Reminiscences by Frances D. Gage*, in *HISTORY OF WOMAN SUFFRAGE* 115, 115-17 (Elizabeth C. Stanton et al. eds., 2d ed. 1889) (internal quote omitted).

20. *Letter of African American Women in Defense of Ourselves*, *N.Y. TIMES*, Nov. 17, 1991, at A19 [hereinafter *AAWIDOO Letter*].

21. The AAWIDOO Letter stated the following:

[W]e are deeply troubled by the recent nomination, confirmation and seating of Clarence Thomas as an Associate Justice of the U.S. Supreme Court. We know that the presence of Clarence Thomas on the Court will be continually used to divert attention from the historic struggles for social justice through suggestions that the presence of a Black man on the Supreme Court constitutes an assurance

has motivated Black women freedom fighters throughout the decades. It also made clear that Justice Thomas, despite disclaimers by his supporters that his race was irrelevant, is not an acceptable replacement to carry on the legacy of Justice Thurgood Marshall.²² Finally, the missive chastises Thomas's use of "lynching" as an analogy to his experience before the Senate Judiciary Committee.²³

AAWIDOO went on to address the duality of race and gender discrimination faced by Professor Hill.²⁴ The signatories declared:

[W]e cannot tolerate this type of dismissal of any one Black woman's experience or this attack upon our collective character without protest, outrage and resistance.

....

... We pledge ourselves to continue to speak out in defense of the African American community and against those who are hostile to

that the rights of African Americans will be protected. Clarence Thomas' public record is ample evidence that this will not be true. Further, the consolidation of a conservative majority on the Supreme Court seriously endangers the rights of all women, poor and working class people and the elderly. The seating of Clarence Thomas is an affront not only to African American women and men, but to all people concerned with social justice.

....

As women of African descent, we express our vehement opposition to the policies represented by the placement of Clarence Thomas on the Supreme Court. The Bush administration, having obstructed the passage of civil rights legislation, impeded the extension of unemployment compensation, cut student aid and dismantled social welfare programs, has continually demonstrated that it is not operating in our best interest. Nor is this appointee.

Id.

22. The AAWIDOO Letter also stated:

We speak here because we recognize that the media are now portraying the Black community as prepared to tolerate both the dismantling of affirmative action and the evil of sexual harassment in order to have any Black man on the Supreme Court. We want to make clear that the media have ignored or distorted many African American voices. We will not be silenced.

Id.

23. "We further understand that Clarence Thomas outrageously manipulated the legacy of lynching in order to shelter himself from Anita Hill's allegations. To deflect attention away from the reality of sexual abuse in African American women's lives, he trivialized and misrepresented this painful part of African American people's history." *Id.*

24. "Many have erroneously portrayed the allegations against Clarence Thomas as an issue of either gender or race. As women of African descent, we understand sexual harassment as both." *Id.*

social justice no matter what color they are. No one will speak for us but ourselves.²⁵

Not only did this epistle express eloquently the deepest feelings experienced by me and other women of color as a result of the Thomas-Hill hearings,²⁶ it also paid tribute to those women who preceded and followed in the tradition of Sojourner Truth. For while the law made it such that Black men and women inherited their status as slaves from their mothers, we also inherited from our mothers' dignity, the call to righteous resistance,²⁷ and the practical endurance ingrained in our culture.²⁸

One year later, in 1992, as I sat down to sort out my own feelings, I realized that while I will forever admire Professor Hill for her courage and fortitude, my first thoughts about this event were flashbacks to the traumatic history of sexual exploitation experienced by Black women and the fact that, because of that history, I was personally affected by her ordeal. "The malicious defamation of Prof. Hill insulted all women of African American descent and sent a dangerous message to any woman who might contemplate a sexual harassment complaint."²⁹ In my mind, Anita Hill became a surrogate for and the personification of Black women. Many of us could personally identify with how she must have felt when cast into the public spotlight on such a sensitive and volatile topic.

And what of Clarence Thomas and the African-American men who stood with him? Cornel West makes the following observation in his dialogue with noted Black feminist, bell hooks:

The very notion that Black people are human beings is a new notion in Western Civilization and is still not widely accepted in practice. And

25. *Id.*

26. Two essays in particular let me know that I was not alone in my feelings of isolation and dismay. See June Jordan, *Can I Get A Witness?*, in COURT OF APPEAL, *supra* note 3, at 120; Julianne Malveaux, *No Peace in a Sisterly Space*, in COURT OF APPEAL, *supra* note 3, at 143. In her essay, *Can I Get a Witness?*, June Jordan expressed her disappointment in Black men who failed on the whole to stand with Ms. Hill, even if they did not support Justice Thomas. Julianne Malveaux shared her feelings of disappointment with Black women whose attacks on Ms. Hill she too felt personally.

27. See, e.g., *Mapp v. Ohio*, 367 U.S. 643 (1961) (forcible entry by police into a Black woman's home led to development of the exclusionary rule to prevent the admission of illegally seized evidence in criminal proceedings); *Hamer v. Campbell*, 358 F.2d 215 (5th Cir. 1966) (voting rights case brought by Black political activist Fannie Lou Hamer).

28. Austin, *supra* note 17, at 541.

29. AAWIDOO Letter, *supra* note 20.

one of the consequences of this pernicious idea is that it is very difficult for Black men and women to remain attuned to each other's humanity, so when bell talks about Black women's agency and some of the problems Black men have when asked to acknowledge Black women's humanity, it must be remembered that this refusal to acknowledge one another's humanity is a reflection of the way we are seen and treated in the larger society.³⁰

Thomas failed to acknowledge the humanity of Black women on two counts. First, he denigrated his own sister for being on welfare in order to edify himself.³¹ Second, he stripped Hill of her humanity by his acts of harassment. In his statement to the Senate Judiciary Committee, Thomas described his relationship with Hill after their move from the Department of Education to the EEOC as "more distant."³² (Surprise!) He claimed that Hill had difficulty adjusting to the change in her role.³³ This subtle attempt to characterize Ms. Hill as the sulking Black "wench,"³⁴ while painting himself as the victim, employed sexual stereotypes in a perverse way. He then played upon the negative stereotypes of Black male sexuality (with his lynching analogy³⁵) to convert himself into the victim. Thomas relied on the familiar stereotypes of "welfare queen" to distort the image of his sister and "Jezebel" to destroy the credibility of Hill for the sake of his career.

Orlando Patterson's defense of Thomas further reflects Black-male expectations that Black women should accept unacceptable treatment when meted out by Black men because our racial-connectedness requires subordination of our womanhood.³⁶ In other

30. BELL HOOKS & CORNEL WEST, *BREAKING BREAD: INSURGENT BLACK INTELLECTUAL LIFE* 12 (1991).

31. See Nell I. Painter, *Hill, Thomas and the Use of Racial Stereotypes*, in *RACE-ING, JUSTICE, EN-GENDERING POWER*, 200, 201-03 (Toni Morrison ed., 1992); Barbara Ransby, *The Gang Rape of Anita Hill and the Assault upon All Women of African Descent*, in *COURT OF APPEAL*, *supra* note 3, at 169, 170, 173.

32. *Statement of Judge Clarence Thomas to the Senate Judiciary Committee, October 11, 1991*, in *COURT OF APPEAL*, *supra* note 3, at 8-9.

33. *Id.* at 9.

34. See *infra* note 93.

35. Hearings, *supra* note 6, at 201-04.

36. Orlando Patterson, *Race, Gender, and Liberal Fallacies*, in *COURT OF APPEAL*, *supra* note 3, at 160, 160-64 (defending Clarence Thomas and discussing the benefits brought about by the hearings); cf. Jenny Rivera, *Domestic Violence Against Latinas by Latino Males: An Analysis of Race, National Origin, and Gender Differentials*, 14 B.C.

words, Hill broke what Charles Lawrence describes as the “unwritten code of silence,”³⁷ which keeps reporting of Black male on Black female violence and the intra-community oppression of Black women suppressed. Therefore, argues Patterson, because Hill brought the incidents out of its Southern black working-class “subcultural context”³⁸ and aired them in the “overheated cultural arena of mainstream, neo-Puritan America,”³⁹ Thomas could freely deny that they ever happened for the utilitarian purpose of ensuring his confirmation.⁴⁰ I could not recall a betrayal of Black women by Black men of such magnitude in my lifetime, or in the historical records of which I was familiar. For me, this betrayal represented the worst expression of the racist myth of the unchaste Black woman internalized by Black men.

And why Godzilla?⁴¹ Well, a monster is something that can kill you; something to fight against for your life. Monsters evoke a sense of powerlessness. Anita Hill calls sexual harassment a “beast.”⁴² June Jordan painted the Senate Judiciary Committee as a collection of “snakes and hyenas and dinosaurs and power-mad dogs,”⁴³ in whose presence Anita Hill stood virtually alone.

My Godzilla is the combined nightmare of racism and sexism, inextricably linked to create Sapphire, Aunt Jemina, and other mythological characterizations of Black womanhood, and hurl them at me with the power of a State that plays race and gender cards at will. The testimony solicited by Thomas on his behalf (especially that of his Black ally John Doggett) and the colloquy between the Senators and witnesses transformed Anita Hill—a Black woman at the pinnacle of

THIRD WORLD L.J. 231 (1994) (tracing the difficulties faced by Latinas in combating intraracial violence).

37. Charles R. Lawrence, *Cringing at Myths of Black Sexuality*, 65 S. CAL. L. REV. 1357, 1358 (1992). Belated thanks to Professor Lawrence for putting truth before gender.

38. Patterson, *supra* note 36, at 161.

39. *Id.* at 162.

40. *Id.*

41. For those too young to remember or who never watched the Saturday matinee, Godzilla is a mythical monster created by Japanese filmmakers to express their society's reaction to the nuclear nightmare perpetuated by the United States government.

42. Anita F. Hill, *Sexual Harassment: The Nature of the Beast*, 65 S. CAL. L. REV. 1445 (1992).

43. Jordan, *supra* note 26, at 124.

success—into a lying, scorned woman prone to engage in sexual fantasy.⁴⁴

But, for a moment, in spite of Godzilla, I was happy and at last vindicated, in knowing that my sisters also knew that when you meet Godzilla, you have no choice but to fight.

II. MYTHS AND STEREOTYPES IN THE LIGHT

Myths and stereotypes operate to perpetuate wrong ideas, based on which people consequently reach wrong conclusions, or make wrong decisions. The trampling of Anita Hill's credibility for the sake of Clarence Thomas's confirmation exemplifies such wrong decisions.

Myths and stereotypes haunt African-Americans. In my predominantly white, all-girl high school, a white classmate was shocked to learn that I disliked watermelon. I disliked it for the very reason that she assumed I ate it. This was my own feeble attempt to dispel a stereotype—a seemingly innocuous idea about food preferences that conjured up other less benign thoughts about an entire group of people. Since then, I have matured and come to embrace my cultural heritage as I slowly unraveled the truth from myths.

Stereotypes operate to keep women and racial minorities from advancing. Research by the U.S. Department of Labor on barriers to job advancement has revealed that employers continue to factor stereotypes into employment decisions.⁴⁵ The study reveals that employers perceive both African-American men and women as "lazy, educationally deficient, aggressive, militant, and hostile."⁴⁶ African-American women, in particular, were perceived as "incompetent . . . sly and untrustworthy."⁴⁷ The perceptions of the corporate executives polled for this survey vary little from those expressed by pseudo-scientist Edward Long in 1744 in support of slavery. Long characterized Blacks as "brutish, ignorant, idle, crafty, treacherous, thievish, mistrustful and superstitious."⁴⁸

44. Hearings, *supra* note 6, at 87, 97.

45. For a recent comprehensive study of racial and gender barriers in the workplace, see GLASS CEILING COMM'N, DEP'T OF LABOR, GOOD FOR BUSINESS: MAKING FULL USE OF THE NATION'S HUMAN CAPITAL (1995).

46. *Id.* at 71.

47. *Id.*; cf. Leslie R. Wolfe, *Invisible and Undervalued? Exploring Workplace Diversity Issues in the Voices of Women of Color*, *CIV. RTS. J.*, Fall 1995, at 48 (explaining how stereotypes preclude full discussion of issues affecting working women of color).

48. Ammons, *supra* note 9, at 1032-33 n.124.

What also remains vivid in the American psyche are the stereotypes centered around the sexuality of Black women and men, perpetuated primarily after slavery, as a means of enforcing social separation.⁴⁹ The film *Birth of A Nation* exemplifies the contrast in imagery between antebellum and post-Reconstruction Black men and women. The film depicts slaves as content, expressing their happiness in song, dance, and faithful service to master.⁵⁰ In contrast, the lascivious “black buck” emerged after the Civil War, “oversexed and savage, violent and frenzied as they lust for white flesh.”⁵¹ Similarly, the socially constructed image of the lascivious Black woman justified the continued sexual oppression and exploitation of Black women after slavery.⁵² Both stereotypes were born from the intersection of racism and patriarchal views toward the sanctity of white womanhood⁵³ and greed.

49. See Ernest Allen, Jr., *Race and Gender Stereotyping in the Thomas Confirmation Hearings*, in COURT OF APPEAL, *supra* note 3, at 25, 26 (“This early myth [of African-Americans as sexually abnormal] . . . developed in the nineteenth-century antebellum South, and . . . crystallized in the post-Reconstruction era . . .”); see also Freedman, *supra* note 7, at 1362 (discussing how fears of Black-male sexual desire for white women were manipulated after slavery to justify systemic racial subordination and the enforcement of racial hierarchy through lynching).

50. See DONALD BOGLE, TOMS, COONS, MULATTOES, MAMMIES, AND BUCKS: AN INTERPRETIVE HISTORY OF BLACKS IN AMERICAN FILMS 13 (3d ed. 1994).

51. *Id.*; cf. Richard Delgado & Jean Stefanic, *Images of the Outsider in American Law and Culture: Can Free Expression Remedy Social Ills?*, 77 CORNELL L. REV. 1258, 1261-64 (1992) (tracing the emergence of the bifurcated images of “good slave” versus the “out of control ambitious black”).

52. For a well-documented discussion of the sexual exploitation experienced by Black women during slavery, see Darlene Hine & Kate Wittenstein, *Female Slave Resistance: The Economics of Sex*, in THE BLACK WOMAN CROSS-CULTURALLY 289, 289-90 (Filomina C. Steady ed., 1981) (describing “the white master’s consciously constructed view of black female sexuality”); see also Angela Davis, *The Black Woman’s Role in the Community of Slaves*, in THE BLACK SCHOLAR 11-12 (1971) (analyzing the rape of Black women as terrorist means of controlling for insurrection).

53. Prior to the Civil War, barriers to interracial relations were enacted in the form of antimiscegenation laws. Children inherited their status as slaves from their mother. Thus, these laws were largely directed toward discouraging white women from intimacy with Black men to prevent the development of mixed-race children whose maternal line was white. Although primarily motivated by pecuniary concern, the sanctity of white womanhood became the object of protection. Black women, on the other hand, remained vulnerable to sexual assault by both Black and white men because assault was economically beneficial. See generally Kenneth J. Lay, *Sexual Racism: A Legacy of Slavery*, 18 NAT’L BLACK L.J. 165 (1993) (discussing the history, nature, and development of antimiscegenation statutes).

As a consequence of this mythology, Black women have spent an inordinate amount of time rebuking the image of availability and establishing themselves as virtuous women. After the Civil War, whites from the North and South ridiculed Black women, who chose to work in their own homes, and not in plantation fields, as lazy. On the other hand, white women who remained at home were the paradigm of the domestic ideal.⁵⁴

Black women also sought advanced education as a means of escaping sexual harassment.⁵⁵ However, "[T]here has been an attitude of suspicion surrounding [Black women students] . . . that included fear of pregnancy and unchastity as perhaps the principle concern."⁵⁶ As a result, curfews and other limitations on mobility were imposed on Black college campuses well into the 1970s.⁵⁷ Many African-American families employed a rigid system of discipline at home. As Adele Logan Alexander explains, "Many black women today will recall how their mothers . . . because young African American females were so widely perceived as both vulnerable and sexually available, often acted on the assumption that the only way to protect their daughters' virtue was to repress even healthy expressions of independence and sexuality."⁵⁸

Unfortunately, the enactment of the post-Civil War constitutional amendments, the ensuing Civil Rights Acts of the 1860s and 1960s, and the later amendments to prohibit sexual harassment—even if adequately enforced—could not match the power of the myths that developed around the sexuality of former slaves. Moreover, these distortions have such power that even African-American men and women participate in perpetuating them. In particular, the misogynist lyrics performed by Black male rap artists, and the depiction of these lyrics by Black women in music videos,⁵⁹ confirm the vitality of the

54. See ERIC FONER, *RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION, 1863-1877*, at 85 (1988).

55. GIDDINGS, *supra* note 7, at 101.

56. JEANNE L. NOBLE, *THE NEGRO WOMAN'S COLLEGE EDUCATION* 130 (1956).

57. See Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 CHI. LEGAL F. 139, 158 n.48.

58. Alexander, *supra* note 13, at 13.

59. TRICIA ROSE, *BLACK NOISE: RAP MUSIC AND BLACK CULTURE* 168-69 (1994) (questioning whether the complicity of Black women in the objectification of their bodies is sexual freedom or self-inflicted exploitation).

very myths which continue to have dire consequences for Black women.⁶⁰

III. BLACK WOMEN AT WORK AGAINST GODZILLA

Anita Hill's experience before the Senate Judiciary Committee serves as a contemporary example of the persistent attitude of society, as expressed through law, towards Black women. For years, courts applied the evidentiary presumption that white men could not rape or otherwise sexually assault Black women.⁶¹ As one legal commentator observed, "The occurrence of such an offence is almost unheard of; and the known lasciviousness of the negro, renders the possibility of its occurrence very remote."⁶² This devaluation of womanhood made it possible for the law to punish "the violation of the person of a female slave" as only a civil "trespass" upon the owner's property for which he could recover damages.⁶³ Moreover, there were no legal protections against the rape of Black women by Black men. In 1859, the Supreme Court of Mississippi held that no statute "embraces either the attempted or actual commission of a rape by a slave on a female slave," even under the age of ten.⁶⁴

Although on the surface, the workplace for both Anita Hill and myself bears little resemblance to the first context in which Black women worked in this country—chattel slavery—the same myths of Black sexuality lurk beneath the surface.⁶⁵

60. In 1995, it came to light in New Orleans that close to twenty Black women (many labeled by the media as "prostitutes") had been murdered over the course of three years, allegedly by a Black serial killer who remains at large. See James Varney, *Forgotten Faces*, TIMES PICAYUNE, Aug. 27, 1995, at A1. In 1989, a young Black woman was brutally raped and murdered in upper Manhattan. The media virtually ignored the case, opting to focus on the equally egregious rape of a white female jogger by Black and Latino men whom the press painted as animals. Ransby, *supra* note 31, at 172.

61. See Crenshaw, *supra* note 57, at 139; Wriggins, *supra* note 11, at 117-23.

62. FINKELMAN, *supra* note 12, at 194 (citing COBB, *supra* note 12).

63. *Id.* at 194-95; see also HARRIET A. JACOBS, INCIDENTS IN THE LIFE OF A SLAVE GIRL WRITTEN BY HERSELF 265 (Jean F. Yellin ed., 1987).

64. FINKLEMAN, *supra* note 12, at 260-61 (citing *George (A Slave) v. State*, 37 Miss. 316 (1859)).

65. Black women are disproportionately the plaintiffs in sexual harassment cases. In a study of women autoworkers, researchers found that "[B]lack women not only receive more harassment than whites, they are also harassed more severely." James E. Gruber & Lars Bjorn, *Blue-Collar Blues: The Sexual Harassment of Women Autoworkers*, 9 WORK & OCCUPATION 271, 284-85 (1982); see also Crenshaw, *supra* note 18, at 1469-70.

A. *The First "Workplace": Slavery*

Today, "environment," "conditions of employment," and "job security" describe the factors that go into making the workplace productive and safe. Slaves, of course, had no need to be concerned about job security—their employment was secured from the womb to the grave. The nature of the environment and the conditions of the slaves' workplace are not within the scope of this Essay, but are well-documented in numerous historical collections.⁶⁶

Before the term "sexual harassment" entered the legal marketplace of ideas, African women brought to America carried the burden of sexual intimidation and degradation for nearly four centuries. "Black woman slaves as breeders" marks the origin of "sexual harassment" against Black women in the workplace.⁶⁷ Acts of sexual harassment, manifested both in the workplace of chattel slavery and towards post-slavery domestic workers, took the form of rape, the exchange of sexual favors for preferred work roles, and mistreatment by the master's wife.⁶⁸

African slaves were frequently denied the right to marry by law and limited in their ability to structure their families in accordance with their own cultural norm centered around the extended family.⁶⁹ Instead, Black women found themselves available to the master for sexual exploitation, or in a forced marriage arranged to maximize the number of child slaves.⁷⁰

66. See, e.g., JOHN H. FRANKLIN, *FROM SLAVERY TO FREEDOM: A HISTORY OF AMERICAN NEGROES* (1987); HERBERT G. GUTMAN, *THE BLACK FAMILY IN SLAVERY AND FREEDOM, 1750-1925* (1976); MARK V. TUSHNET, *THE AMERICAN LAW OF SLAVERY 1810-1860: CONSIDERATIONS OF HUMANITY AND INTEREST* (1981).

67. Hine & Wittenstein, *supra* note 52, at 296.

68. MELTON A. MCLAURIN, CELIA, *A SLAVE* 117 (1991) ("[W]hite women chose to accept slavery and . . . the abuse of black women it produced."); JACOBS, *supra* note 63, at 27-28, 31-36 (describing the feelings of her master's wife towards her as "jealousy and rage"). For an exhaustive analysis of historical and contemporary tensions between Black and white feminists, see ELIZABETH FOX-GENOVESE, *WITHIN THE PLANTATION HOUSEHOLD: BLACK AND WHITE WOMEN OF THE OLD SOUTH* (1988); Pamela J. Smith, Comment, *We Are Not Sisters: African-American Women and the Freedom to Associate and Disassociate*, 66 TUL. L. REV. 1467 (1992).

69. In Texas, slave marriage could only be legitimated if the couple "had lived together as man and wife until the death of one of the parties." *Pouncy v. Gardner*, 626 S.W.2d 337, 341 (Tex. Ct. App. 1981) (succession); see also Joyce A. Ladner, *Racism and Tradition: Black Womanhood in Historical Perspective*, in *THE BLACK WOMAN CROSS-CULTURALLY*, *supra* note 52, at 269, 276 (discussing legal restrictions on slave rights).

70. Davis, *supra* note 52, at 3.

In a rare study done on work patterns among female slaves, Carole Shammas notes: "One of the most distinctive features of the New World plantation system was the way it utilized the female labor force. On plantations a much higher percentage of women regularly engaged in field work than was usually the case in early modern Western society."⁷¹ During the eighteenth-century colonial period, Black women eventually moved into more traditional women's work (*i.e.*, domestic chores connected with personal service for the plantation owner's family and the production of farm and other goods for the family or the market).⁷² Although still found predominantly in the fields, Black women assumed more household and domestic chores in the nineteenth century.⁷³ Female slaves, usually adolescents,⁷⁴ who worked "in house" had the most direct contact with the white-male overseers or plantation owners.

A poignant story of the experience of these young women appears in *The Life of a Slave Girl*.⁷⁵ Under the pseudonym Linda Brent, Harriet Jacobs recounts the beginning of the harassment she experienced as a slave living in the master's household in North Carolina.

During the first years of my service in Dr. Flint's family, I was accustomed to share some indulgences with the children of my mistress. . . . But I now entered on my fifteenth year—a sad epoch in the life of a slave girl.

My master began to whisper foul words in my ear. Young as I was, I could not remain ignorant of their import. I tried to treat them with indifference or contempt. The master's age [thirty-five years her senior], my extreme youth, and the fear that his conduct would be reported to my grandmother, made him bear this treatment for many months. . . . He peopled my young mind with unclean images, such as only a vile monster [Godzilla] could think of. I turned from him with disgust and hatred. But he was my master. I was compelled to live under the same roof with him. . . . He told me I was his property; that I

71. Carole Shammas, *Black Women's Work and the Evolution of Plantation Society in Virginia*, 26 LAB. HIST. 5 (1985).

72. *Id.* at 10-11, 25.

73. *Cf. id.* at 26 ("The sentiments often expressed by plantation mistresses in the 19th century, that they were slaves to their slaves or had more slaves than they knew how to keep occupied, was seldom or never voiced during the colonial period.").

74. *Id.* at 15-16. Plantation owners, for economic reasons, used "the too young, the too old, and the unspecialized worker" for domestic and household work. *Id.* at 25.

75. JACOBS, *supra* note 63.

must be subject to his will in all things. My soul revolted against the mean tyranny. But where could I turn for protection? No matter whether the slave girl be as black as ebony or as fair as her mistress . . . there is no shadow of law to protect her from insult, from violence, or even from death; all these are inflicted by fiends who bear the shape of men.⁷⁶

No less tragic is the treatment after slavery of domestic house workers. After the Civil War, most Black women—at least in the northern-most states of the former Confederacy—worked in personal service.⁷⁷ Julianne Malveaux reports an antidote shared during the Thomas confirmation hearings by a Black woman in her sixties. The woman described how she was raped at the age of fifteen by “the man of the house.” On her last day, the man stuffed a hundred dollars in her shirt. She used the money for college, telling Malveaux, “I guess you can say he bought my silence.”⁷⁸ Today, in all areas of the country, Black women and other women of color remain disproportionately represented in domestic and household work.⁷⁹

Black female slaves were left defenseless against the unique indignities imposed upon them as women and breeders. *State v. Hoover*⁸⁰ illustrates the extent to which the life of a Black woman was devalued, except for the purpose of bearing more slaves. The case described the treatment over several months of an unnamed slave by her master which resulted in her death.

76. *Id.* at 27; see also MCLAURIN, *supra* note 68. McLaurin tells the compelling story of Celia who was executed for the murder of her master. Celia, purchased at age 14 to serve as a concubine, killed her master to end five years of unwanted sexual involvement. McLaurin notes that virtually every nineteenth-century female narrative gives an account of some form of sexual assault. *Id.* at 21. 98.

77. *Id.* at 27-28.

78. Malveaux, *supra* note 26, at 145; see also GIDDINGS, *supra* note 7, at 204 (“Many [domestic workers] received less than the wage they were promised [and were] asked to sell not only domestic service but sexual services as well.”).

79. See Suzanne Goldberg, *In Pursuit of Workplace Rights: Household Workers and a Conflict of Law*, 3 YALE J.L. & FEMINISM 63, 69-72 (1990). In 1960, fewer than one-third of the white female population worked or sought work. By 1980, more than half participated in the work force. The labor force participation of young Black women between the ages of 16 and 24 represents the only sector in which white female labor force participation exceeds that of Black females. See Julianne Malveaux, *Shifts in the Occupational and Employment Status of Black Women: Current Trends and Future Implications*, in BLACK WOMEN WORKING. DEBUNKING THE MYTHS: AN INTERDISCIPLINARY APPROACH, at 133, 146 (1983).

80. 20 N.C. (4 Dev. & Bat.) 365 (1839).

[W]ithout any consideration for the sex, health, or strength of the deceased, through a period of four months, including the latter stages of pregnancy, delivery, and recent recovery therefrom, by a series of cruelties and privations in their nature unusual, and in degree excessive beyond the capacity of a stout frame to sustain, the prisoner employed himself from day to day in practising grievous tortures upon an enfeebled female, which finally wore out the energies of nature and destroyed life. He beat her with clubs, iron chains, and other deadly weapons time after time; burnt her; inflicted stripes [whipping] . . . which literally excoriated [tear or wear of the skin] her whole body; forced her out to work in inclement seasons, without being duly clad; provided for her insufficient food; exacted labor beyond her strength, and wantonly beat her because she would not comply with his [requests].⁸¹

Why visit such unspeakable indignities on this particular woman? What were the “other” indignities too disgusting to describe? Whose child was she carrying? And why did she deny his requests, knowing what the consequences would be? All of these questions raise the possibility that this woman may have lost her life because of her resistance to her master’s sexual advances.⁸²

In the next section we will see how other women fought back, even in chains.

B. *Getting Out*

Many female slaves chose sexual abstinence,⁸³ abortion,⁸⁴ or even infanticide⁸⁵ as a form of resistance to sexual and economic exploitation. In addition to controlling their reproductive process, Black women availed themselves of other methods of resisting their oppression: insurrection, death, escape, court order, purchase, or a divine edict of emancipation by “massa” such as a will. The female slave, through her sexual resistance and resort to other methods of securing freedom, challenged the dual assumptions of patriarchy and

81. FINKELMAN, *supra* note 12, at 229.

82. Jacqueline Jones tells of a similar incident involving a woman who was hung up in the barn and beaten with a horse whip for fending off advances from an overseer. JONES, *supra* note 8, at 20.

83. See Hine & Wittenstein, *supra* note 52, at 291.

84. See GIDDINGS, *supra* note 7, at 45-46; GUTMAN, *supra* note 66, at 80-82.

85. See Hine & Wittenstein, *supra* note 52, at 294. For a literary depiction of the effects of making this psychologically devastating choice, see TONI MORRISON, *BELoved* (1987).

racial supremacy upon which the slave order was constructed and maintained.

1. Insurrection and Death

*In re Marja*⁸⁶ is probably the earliest reported case involving a Black woman. As the seventeenth century drew to a close, Massachusetts colonists responded to reported slave insurrections in the South by interpreting criminal conduct of Black servants as insurrectionist plots. In 1681, a colonial court convicted Marja of arson. She was burned at the stake, a sentence traditionally reserved for women thought to be possessed by demons.⁸⁷

2. Escape and Court Orders

The contradiction between the principles of liberty and equality and the practice of slavery heightened during the Revolutionary War period. Paula Giddings suggests that this tension led to the success in 1781 of two women—Jenny Slaw and Elizabeth Freeman—who won their freedom on the ground that the Massachusetts Bill of Rights applied to them as “persons.”⁸⁸ However, this judicial mindset was short-lived as the practice of slavery became fully entrenched as a social norm.

Escape, therefore, became the more realistic means of gaining freedom. Several women ran away and were never recaptured. Others were recaptured, but sought court orders on the ground that they had lived in a state of freedom and should be allowed to continue doing so. In the 1827 English case called *Slave Grace*,⁸⁹ a Black woman by the name of Grace Jones, held in bondage on the island of Antigua, argued that because she had entered England, where slavery had been abolished, she could not be returned to slavery. The English court rejected her argument just as did American courts,⁹⁰ culminating in the

86. 1 Mass. Bay Ct. of Assts. 198 (1681); see also A. LEON HIGGINBOTHAM, JR., IN THE MATTER OF COLOR: RACE AND THE AMERICAN LEGAL PROCESS, THE COLONIAL PERIOD 75 (1978) (discussing the case of *In re Marja*).

87. Paula Giddings documents other instances of insurrection involving Black women. GIDDINGS, *supra* note 7, at 40.

88. *Id.*

89. 166 Eng. Rep. 179 (Adm. 1827).

90. See, e.g., *Commonwealth v. Chambrè*, 4 U.S. (4 Dall.) 143, 143-44 (1794) (two female slaves who ran away to free states unsuccessful in winning emancipation).

1856 *Dred Scott* decision.⁹¹

In *Wilson v. Belinda*,⁹² the court released a Black woman from bondage on a technicality—the slave register identified all of the slaves purchased by gender except her. The reference commonly used to describe female slaves was “wench.” Webster defines “Wench” as a “female servant” or “a loose and immoral woman.”⁹³ This label accurately depicts the way in which slave masters viewed female slaves and the way the law treated Black women even after slavery. The *Wilson* court found this omission sufficient enough to raise an identification problem and granted Belinda’s request for freedom.⁹⁴

3. Purchase

In a 1792 case, *Guardian of Sally [a Negro] v. Beaty*,⁹⁵ a South Carolina court upheld a jury verdict granting a Black woman freedom who had been purchased and freed by another Black woman who remained in slavery. As the judge saw it, “[I]f the wench chose to appropriate the savings of her extra labour in the purchase of this girl, in order afterwards to set her free, would a jury of this country say no? [I] trust not.”⁹⁶ The reason for this selfless act is not clear; perhaps the slave woman was purchasing the freedom of a relative or close friend. Her actions insured that one less woman would be forced to face the indignities of the slave’s workplace.

4. Divine Edict

In *William Mitchell v. Nancy Wells*,⁹⁷ Ms. Wells returned to Mississippi from Ohio to claim her freedom and inheritance from the white man who fathered her and then took her to the free state of Ohio and treated her as a free woman. Because the Mississippi courts refused to give effect to the emancipation of a slave under the laws of another state, Ms. Wells was denied both her inheritance and her freedom.⁹⁸

91. *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

92. 3 Serg. & Rawle 396 (1817).

93. WEBSTER’S NEW WORLD DICTIONARY 1517 (3d ed. 1988).

94. 3 Serg. & Rawle, at 400-01.

95. 1 S.C.L. (1 Bay) 260 (Super. Ct. 1792); see HIGGINBOTHAM, *supra* note 86, at 206 (discussing the case of *Guardian of Sally v. Beaty*).

96. HIGGINBOTHAM, *supra* note 86, at 207.

97. 37 Miss. 235 (1859).

98. *Id.* at 249.

C. *Continuing to Fight Back*

As if by way of historical vindication, the most significant legal victory for all women on the issue of sexual harassment was a 1986 United States Supreme Court decision in which a Black woman was permitted to proceed against her white male supervisor on a claim of sexual harassment. In *Meritor Savings Bank, FSB v. Vinson*,⁹⁹ the Supreme Court unanimously ruled that sexual harassment in the workplace that causes a hostile or offensive job environment is actionable under Title VII of the Civil Rights Act of 1964, even if it does not result in the loss of job or promotions. Ms. Vinson had been intimately involved with her supervisor during the four-year period of her employment. On several occasions, he had forcibly raped her.¹⁰⁰ When she ended the relationship, harassment began. Her supervisor continued to make sexual advancements which Ms. Vinson rejected. Because of her rejection, her working conditions became intolerable. Fortunately, unlike the woman who lost her life in the *Hoover* case,¹⁰¹ Ms. Vinson had access to the courts and was vindicated in her effort to secure an environment conducive to productive work.

IV. CONCLUSION

“Duality” and “intersectionality” only begin to describe the complex, multidimensional web of oppression that makes it impossible for Black women to separate out their experiences as racial- or gender-based phenomena. The incidents described in this Essay illustrate the original paradigmatic intersection of race and gender and the complex duality of discrimination experienced by women of color.¹⁰² Being of African descent doomed Black women to forced labor.¹⁰³ This grossly inhuman misuse of childbearing capacity

99. 477 U.S. 57 (1986). Ironically, the Court, in examining “the record as a whole,” *id.* at 69, neglected to mention the race of either party.

100. *Id.* at 60.

101. See *supra* notes 80-81 and accompanying text.

102. For a comprehensive examination of the problems engendered by this intersection in the workplace today, see Crenshaw, *supra* note 57. Professors Regina Austin, Paulette Caldwell, Kimberle Crenshaw, Angela Harris, Dorothy Roberts, Judy Scales-Trent, and Patricia Williams have also done seminal and ground-breaking scholarship on the concept of intersectionality.

103. Reproduction as a form of labor stands in contradiction to the modern constitutional dilemma of protecting individual freedom and equality of opportunity, while at the same time acknowledging the sex-based physical differences between men and

was made possible through the system of racial subordination created to maintain slavery coupled with the patriarchal nature of the social structure in place.

In my Constitutional Law class, I ask my students to ponder the question of whether Black women and Black men are the same; or whether white women and Black women are the same. The current body of case law is based on these two premises and fueled by notions of colorblindness, racial neutrality, and gender neutrality, which are entrenched in current legal and political discourse on gender and race discrimination. As we have seen, however, Black women have and do live a different experience in this country which deserves recognition and rectification in the areas of employment discrimination, sexual harassment, and reproductive freedom.

In each of the settings examined, we find Black women striving to hold on to their humanity, their womanhood, their femininity, their self-respect, and their right of self-definition. The women I have uncovered in my studies are unique and special individuals, worthy of respect and acknowledgment for their contribution to the attainment of human dignity. I draw my strength from the same Creator who blessed me with this opportunity to find them and tell their stories.

women: the ability of women to bear children. In her seminal essay, *Rethinking Sex and the Constitution*, Professor Sylvia A. Law suggests that "a concept of equality that denies biological difference has particularly adverse effects upon women." 132 U. PA. L. REV. 955, 955 (1984).

