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CLAIMING OUR FOREMOTHERS: THE LEGEND OF SALLY HEMINGS AND THE TASKS OF BLACK FEMINIST THEORY

Stephanie L. Phillips *

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* Associate Professor of Law, State University of New York at Buffalo. J.D., Harvard, 1981. I dedicate this work to the memory of Dwight Greene, Trina Grillo, and Eugene P. Krauss. I extend thanks to the many colleagues and friends who have read drafts or otherwise assisted me in this project, with special thanks to the members of the Critical Race Theory Workshop and to Vicki Schultz, Lucinda Finley, Nancy Staudt, Taunya Banks, Guyora Binder, Hakim Cosby, Mary Kenyatta, Sheila Lloyd, Ted Pearson, Isabel Marcus, Judy Scales-Trent, Rob Steinfeld, and Alexis DeVeaux. I am also indebted to my excellent research assistant, Carla McKenzie.

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I. INTRODUCTION

Who was Sally Hemings? She was a slave owned by Thomas Jefferson who, according to legend, bore him several children. Both the historicity of the story and the meanings ascribed to it are hotly contested. Generally speaking, some historians and most African Americans, including those who believe themselves descendants of Hemings and Jefferson, think of Hemings as Jefferson's "slave wife" or long-time paramour. Arrayed against them are other historians who deny—some of them vehemently—that Jefferson had any sexual relationship with Hemings. It is unlikely that either of these contending versions will be vanquished any time soon, because the story is too important for the contestants to simply abandon it and because the factual record will remain incomplete. The story concerns, after all, events from almost two hundred years ago that would, of necessity, be shrouded in secrecy. It would not have been possible for Thomas Jefferson, leading revolutionary intellectual, slave-holding Virginia aristocrat, and two-term president of the United States, to openly acknowledge either his liaison with his slave or his paternity of their children. Sally Hemings was not Jefferson's lawfully wedded wife, nor could she be: the blood of her African grandmother was a taint that made Sally Hemings legally and socially less than a human being.

I have become convinced that the story of Sally Hemings, both factual and mythological, is an important one. I am also intrigued by the fact that the current generation of black feminist scholars has paid little or no attention to Hemings. As a step toward correcting that slight, I invoke the memory of Sally Hemings in the naming of this article and explore the significant challenges her story poses for black feminist theory.

Of the innumerable stories that have been told by African American women about sexual relationships between slave women and white men, only those that illustrate a paradigm of sexual oppression are usually treated as relevant to black feminist theory. This is problematic because other stories, wherein slave women have loving or ambivalent relationships with their masters, have present-day implications for black feminist theory and politics. Specifically, stories about love between master and slave present the question whether racial hierarchy can sometimes be transcended in the context of intimate relationships. Other stories, such as those about slave women who have ambivalent, perverse relationships with their masters, present the question whether black women form corrupt attachments to white men, to the detriment of "the race," in general, and black men, in particular.

My analysis of the various clusters of stories and of black feminist commentary on them leads me to conclude that, while black feminist thought should retain its primary focus on how race, gender, and class shape the experiences of black women, more attention needs to be paid to issues affect-

ing people on the outskirts of black feminist concerns, including women who arguably are not "black" and blacks who are male. Further, embracing the humanist dimension of black feminist thought, I situate our strivings within a universalist quest for the conditions of human flourishing.

As detailed in Part II, I initially reacted with extreme distaste to the idea that Sally Hemings and Thomas Jefferson had a long-term, amorous relationship. I thought that their story, if told at all, should be told as a story of oppression. My feelings about the Hemings story began to shift, however, as I read the work of some of the historians who denied that Hemings and Jefferson had a romantic or sexual attachment.¹ When these historians asserted that Jefferson could not possibly have loved Sally because she was a slave, I recognized their attack as a slur, directed not only against Sally Hemings, but also against all slave women and, possibly, African Americans in general. Thus, I came to a new understanding of the importance of the Sally Hemings story as a bone of contention between racist and anti-racist forces. Part II.A concludes with a brief exploration of this dimension of the Hemings controversy.

Part II.B explains why, instead of delving further into historical or historiographical inquiries, I decided to turn back to my original reactions to the Sally Hemings story. I end Part II by asking these questions: Are there divergent interpretations of the Sally Hemings story within the African American community, particularly among women? Have other African American women besides myself been offended when the story of Sally Hemings is told as a love story, rather than a story of oppression? As opponents of American race and gender hierarchies, have we unduly privileged slave-era stories of sexual oppression to the extent that the issues raised by other important stories are suppressed?

Part III begins by noting that sexual interactions between white men and slave women were very common, despite the fact that such contact was illegal. Blaming slave women for the fact of this illicit sex, white supremacists have created the "Jezebel" stereotype of a black women whose personality and character were entirely dominated by her quest for sexual indulgence. In opposition to the Jezebel stereotype, the anti-racist movement has made a priority of teaching that most sexual intercourse between slave women and white men resulted from rape or other forms of coercion. This story of sexual oppression is not, however, the only one extant within the African American community. There are, in fact, three stories that African Americans tell about slave-era sex between black women and white men. Part III.B sets out the narratives that exemplify these three stories.

I call the three stories "Primeval Stories" because of the foundational role they play with regard to American race and gender issues. The first, the "Hate Story," concerns situations where slave women hate their masters,

1 See, e.g., VIRGINIUS DABNEY, *THE JEFFERSON SCANDALS: A REBUTTAL* (1981).

who take sex by brutality, rape, or other acts of coercion. The key players in this story are an evil white man and a blameless slave woman. On the sidelines, there is a black man who is the preferred mate of the slave woman, but who is powerless to protect her from her master's predations. The "Hate Story" is paradigmatic, because it represents the most prevalent pattern of sexual interactions between slave women and white men, because it is the most relevant to the present-day circumstances of African Americans, and because the other two Primeval Stories cannot be fully understood without examining how they deviate from the Hate Story.

The second set of narratives illustrates the "Love Story," in which the slave and master love each other. The story of Sally Hemings and Thomas Jefferson reappears here as one example. In these narratives, the slave and master share, in addition to a sexual bond, some level of affection and commitment. This is a hierarchical relationship, but the slave woman is not merely an object of domination. Rather, her beauty, sensuality, and intuitive intelligence make her powerful. In addition to the other key character, a virile white man who is capable of love and devotion across lines of caste, there is a subsidiary character in some versions of the Love Story: the child of the union, who looks white, and suffers enormous identity confusion and various catastrophes because she is socially and legally categorized as "black." This is the "tragic mulatta."

Part III concludes with the "Third Primeval Story," wherein the slave woman both loves and hates her master. These relationships are perverse, both psychologically and sexually. The subsidiary character, here, is a black man, who is in sexual competition with the white man for the slave woman's attention. The slave woman makes herself sexually indispensable to both male characters, but then chooses to align herself with the white man. This fact pattern is the origin of the age-old accusation that black women are traitors to the race and forms the basis for the idea that black women suffer less than black men, as victims of white supremacy.

Part IV examines commentary by contemporary black feminists on the Three Primeval Stories that are set out in Part III. In Part IV.A, "Setting the Boundaries of Black Feminism," after reemphasizing, in Part IV.A.1, that the Hate Story is the paradigm, I demonstrate how black feminist discussion of the Love Story contributes to the delineation of what is "black" about black feminism. This sub-section IV.A.2, "Stigmatizing the Love Story," discusses the mistakes black feminists make by going too far in their suspicion of the Love Story, sometimes rejecting women who are of mixed race or who have white spouses as not being authentically black.

Next, sub-section IV.A.3, "Rejecting the Love/Hate Story as a Sexist Fabrication," shows that black feminist attitudes toward the Love/Hate Story help to construct what is "feminist" about black feminism. While black feminists rightly object to the Love/Hate Story by insisting that black women's sexuality has more often been a source of vulnerability than a

source of privilege, by proving the many ways in which black women are worse off than black men, and by warning that the Love/Hate Story is used as a club to justify black male sexism, the critique of the Love/Hate Story is often taken too far. Many black feminists have, at some stage in their thinking, asserted that black women are worse off than black men in the over-all American race/gender hierarchy. There are traces of this analysis in the early work of at least one black feminist who, as a legal academic, has been producing Critical Race Theory, and it is not clear whether Critical Race Theorists have since moved away from formulations that attempt to rank the oppressions of black women and men.

I take the position that Critical Race Theorists should firmly situate ourselves within that strand of black feminist thought that has abandoned the thesis that black women are more oppressed than black men. This is just one step, though an essential one, toward developing the universalist dimension of black feminist thought, discussed in Part IV.B, "Pressing Through the Boundaries: The Humanist Dimension of Black Feminism."

I draw upon the work of black feminist thinkers who insist that, in addition to its primary focus upon how race, gender, and class shape the experiences of black women, black feminism should oppose oppression in all its forms, in solidarity with all those who are victimized. I endorse their conclusion that black feminism must come to see itself as part of a more universalist quest for expanding the conditions of human flourishing.

II. THE LEGEND OF SALLY HEMINGS

A. THE DRAMA UNFOLDS

Act I: In which I discover descendants of Thomas Jefferson in my family.

One day my then-spouse and I were touring the District of Columbia, tending to choose sites to visit and to slant our conversation with particular interest in African American history. Jeffrey said to me, "You know, your cousin David² is a descendant of Thomas Jefferson and his slave wife." My reaction? None. I neither believed nor disbelieved the story. More accurately, I suspended disbelief, affected enough by dominant cultural assumptions to be inclined to reject the story, aware enough of the counter-story as told and lived by African Americans to recognize the likely "truth" of the story, and tilted back toward disbelief by my feeling that claims to white an-

2. I have given my cousin a pseudonym because I do not have permission to drag him or his family into this story. Their privacy, as well as their ambivalence about this tale, constrain me. Without naming names, I feel I should explain that my father's first cousin is the mother of the "David" referred to in the text. David is a descendant of Jefferson on his father's side; thus, Jefferson is no relation to me.

I might never have met David or become interested in this story were it not for the odd coincidence that he and my spouse became friends while serving in the Navy.

cestors, particularly famous ones, are undignified.

Next episode. I was raiding a friend's bookshelves, looking for something good to read. After inspecting the pile of books I had selected, Mary³ said, "I think you've missed one. Have you already read *Sally Hemings*, by Barbara Chase-Riboud?"⁴ "Who's Sally Hemings?" I asked. "What!" exclaimed Mary. "How could you not know that she was the slave wife of Thomas Jefferson?" Suitably chastened, I added *Sally Hemings* to my gleanings and trotted on home.

Later that night, I pulled out Chase-Riboud's book. The painting on the book jacket is of (what I suppose you would call) a woman's chest: the part of her anatomy that begins at the base of the neck and runs to top-of-bosom. Delicate shading indicates where the gentle swell of breasts begins. Hanging over the nascent cleavage, which is oh-so-tastefully rendered, lies an oval locket, suspended from a chain and opened upon its hinge to reveal a portrait. With astonishment verging on alarm, I reared back in my chair and loudly exclaimed, "Why, he looks just like David!" My former disbelief evaporated on the spot, and I "knew" that Thomas Jefferson and Sally Hemings had produced descendants, of whom my cousin was one. My "knowledge" was in the form of an intuitive flash, a subjective state of certainty which I thought beyond challenge.

Act II: In which Barbara Chase-Riboud gives life to the myth.

As I read Chase-Riboud's novel, *Sally Hemings*, I became more and more impressed by its cover which, as I have already mentioned, is adorned by a painting of a woman's chest, whereon reposes a portrait-in-locket of Thomas Jefferson. Seldom, if ever, have I come upon a book jacket with so apt a design.⁵ Barbara Chase-Riboud constructs the story of Thomas Jefferson and Sally Hemings as a great romance, as is clearly implied by the cover painting. For Sally to wear Jefferson's portrait, so near to both her bosom and her heart, means that she loves him. It also means that she possesses him.

With significant distaste, I endured Chase-Riboud's description of Sally Hemings as compellingly beautiful, to all appearances white and possessed of the supreme feminine virtues of submissiveness and devotion, along with a deep sensuality which, no doubt, was a manifestation of her otherwise-latent African blood. Chase-Riboud gives us a woman who is an affront to

3. My friend, Mary Kenyatta, has been a continual source of sanity, information, and comfort in my pursuit of the story of Sally Hemings and in the larger project of figuring out how to understand and change the world, or, at least, small sub-divisions thereof.

4. BARBARA CHASE-RIBOUD, *SALLY HEMINGS* (1979).

5. The jacket painting I am referring to is by Cornelia Gray, and covers the 1979 hardcover edition from Viking Press. The symbolism of the Gray painting is so perfect that a more lurid version of Sally's chest-with-locket appears on the cover of the 1980 Avon paperback.

any feminist notion of what a woman should be. Furthermore, this Sally exemplifies a model of femininity unattainable by most black women, a feminine ideal that has been a painful component of black women's oppression. As for the idea that Sally loved Jefferson and he loved her, is that not obscene?

Among those who cry "obscenity," there is the most fundamental disagreement. For some, the obscenity in the alleged love between Jefferson and Sally is slavery. Not only did the hypocrite Jefferson⁶ hold Sally in bondage, but, perhaps as bad or worse, she accepted her status. She could have remained in France as a free woman, but chose to return to Virginia with Jefferson, as his slave.⁷ To others, the obscenity is Sally. She was technically black as well as a slave. What could Thomas Jefferson, Founding Father, widely-read scion of the Enlightenment, and shining white star, have possibly seen in her?

The two obscenity camps agree that, whatever there was between Thomas Jefferson and Sally Hemings, it was not love. The First Obscenity Group would say that the proper word for any sexual intercourse between these two is "rape." Members of the Second Obscenity Group⁸ reject even the idea of sexual congress with a black woman as a filthy slander upon a man whom they greatly admire.

There is a third group, of course, which includes Chase-Riboud, that sees no obscenity in the idea of love between Jefferson and Sally, but willingly accepts this version of the story as the only one that can square with respect for each of them, as well as respect for their descendants. And what, after all, is so implausible about the story? As told by Chase-Riboud, the key elements of the love between Jefferson and Sally turn out to be not un-

6. Jefferson can be viewed as a hypocrite by virtue of the paradox at the center of his attitude toward slavery, described here by Henry May:

It says a lot about American iconography that until very recently historians almost ignored the fact that Jefferson's way of life depended completely on the labors of about two hundred slaves. His Federalist opponents never forgot this basic fact, nor did Jefferson himself. Hating slavery and hoping, even sometimes planning, for its ultimate extinction, he had none of the cynical toughness of some of his contemporaries nor did he make any effort in the newer nineteenth-century style to persuade himself that the institution was really benign. Tentatively and almost apologetically, he advanced in the *Notes on Virginia* the hypothesis that the negro was different and in some ways inferior—an argument as yet uncommon among Virginian whites. With regard to this problem and this alone he admitted, very occasionally, not only the existence of tragic and unresolved paradoxes but even the possibility of divine judgement

HENRY F. MAY, *THE ENLIGHTENMENT IN AMERICA* 300 (1976) (citation omitted).

7. See FAWN BRODIE, *THOMAS JEFFERSON: AN INTIMATE HISTORY* 234 (1974) (pointing out that Jefferson knew French law would not permit him to hold Sally as a slave); see also CHASE-RIBOUD, *supra* note 4, at 149 (indicating that Sally knew she could not be held as a slave under French law).

8. See, e.g., DABNEY, *supra* note 1.

common: he was attracted to her sensuality, submission, and beauty; she was attracted to his sensuality and power. The hierarchical nature of their relationship was itself erotic. Moreover, Jefferson's dominance as male and master was not completely determinative: Sally's sexuality gave her power.

Chase-Riboud's characters and plot development are so compelling that I began to consider her construction of the Hemings/Jefferson story seriously, despite my aversion to her portrait of Sally and my political discomfort with her decision to treat this as a story of love, rather than oppression.

Act III: In which I run across a footnote denying the existence of my cousin.

This story might have ended for me after I finished reading Barbara Chase-Riboud's deeply troubling, strangely seductive novel. I went on, I thought, to other things. Then, in pursuit of my study of the history of religion in American public life, in which Jefferson figures prominently, I ran across a footnote which informed me that the emerging consensus was that Thomas Jefferson did not have any children with Sally Hemings.⁹ I was dumbfounded. How could these historians have let the real story elude them? Wouldn't genealogical research include interviews with family members? The truth of the Thomas Jefferson/Sally Hemings story is stamped upon the face of my cousin, among others. Perhaps, I thought, I should try to unravel this mystery.

Act IV: In which I endure Virginius Dabney's opinion that Sally Hemings and, by extension, her descendants and me are scum.

Upon the advice of a helpful colleague, I decided to read a book by Virginius Dabney, *The Jefferson Scandals: A Rebuttal*.¹⁰ I approached the slim volume with curiosity and anticipatory outrage: just how was this gentleman going to go about the task of whitewashing the alleged stain upon his hero's character? What perverted and prejudiced method did he deploy that enabled him to deny the plain truth that Sally Hemings bore children to Thomas Jefferson?

Dabney describes the genesis of the "Jefferson Scandals" thus:

The debunking of Jefferson began when a vicious, unscrupulous disappointed office-seeker named James T. Callender disseminated to the nation in 1802 the allegation that Jefferson had the slave Sally Hemings as his concubine.¹¹

While the story of Jefferson and Sally Hemings has been the subject of speculation for nearly two hundred years, Dabney blames its late twentieth-

9. GARRY WILLS, *UNDER GOD: RELIGION AND AMERICAN POLITICS* 32, 389 n.3 (1990).

10. See generally DABNEY, *supra* note 1.

11. *Id.* at 6.

century revival on Fawn Brodie, author of *Thomas Jefferson: An Intimate History*.¹² Brodie's book, a much discussed best-seller, included material on Sally Hemings that became the foundation for Chase-Riboud's later, fictionalized account.¹³

Dabney devotes the longest chapter of his book¹⁴ to a carefully constructed attempt to make Fawn Brodie look ridiculous. He certainly succeeds. Unfortunately, Fawn Brodie had done a sort of psychoanalysis of Jefferson's words,¹⁵ reading meanings into Jefferson's letters that seem strained and far-fetched.¹⁶ Given this material, Dabney rather easily manages to arouse contempt for Brodie and makes her look like an idiot.¹⁷

Dabney also devotes substantial space in his monograph to descriptions of Jefferson and his accomplishments. This material, meant strongly to imply that the liaison between Jefferson and Hemings did not happen, is a tad overblown. For example:

The lack of a Bill of Rights in the United States Constitution when it

12. BRODIE, *supra* note 7.

13. DABNEY, *supra* note 1, at 66.

14. *See id.* at 34-64.

15. Here, Dabney discusses an example of Brodie's psychologizing, which Dabney finds both unconvincing and objectionable:

Upon returning to Monticello in 1794 from service in Washington's cabinet, Jefferson wrote several letters expressing his intense pleasure at once more experiencing the joys of rural life. To a French friend he declared, "I have returned with infinite appetite to the enjoyment of my farm, my family and my books." To John Adams he wrote, "I return to farming with an ardor that I scarcely knew in my youth," and to James Madison, "I find my mind totally absorbed in my rural occupations." Mrs. Brodie, with Sally Hemings on her mind, comes up with the following exegesis: "Infinitely the happier, totally absorbed, ardor, infinite appetite—these are strong words, with the unmistakable flavor of sexuality. They suggest that satisfactions of the body at Monticello were real."

DABNEY, *supra* note 1, at 59-60 (quoting BRODIE, *supra* note 7, at 277). Brodie also draws strong inferences from Jefferson's frequent use of the word "mulatto" to describe the color of the soil, when he toured European countries in 1788. *See* DABNEY, *supra* note 1, at 53 (citing BRODIE, *supra* note 7, at 229-30).

16. Although not more so than psychoanalytical chit-chat always seems to those of us among the uninitiated. In contrast to Dabney and me, for example, other scholars agree with Brodie that clear inferences can be drawn from Jefferson's letters, showing his preoccupation with Sally Hemings bordering on obsession. *See, e.g.,* KATHY Y. RUSSELL ET AL., *THE COLOR COMPLEX: THE POLITICS OF SKIN COLOR AMONG AFRICAN AMERICANS* 19-21 (1992) [hereinafter *THE COLOR COMPLEX*]. Dabney himself quotes the American critic, John Barkham, who praised Brodie's book as "the best-rounded single-volume biography [of Jefferson] I have yet read." DABNEY, *supra* note 1, at 129.

17. Dabney does mention in passing that Brodie was a professor of history at the University of California at Los Angeles and that her book received favorable reviews. DABNEY, *supra* note 1, at 20, 124, 126-27, 129. However, he gives much more weight to the negative reviews, including the opinions of "the three internationally recognized authorities on Jefferson's life and career," who found Brodie's book to be "wholly unsound." *Id.* at 2.

was adopted in 1788 was immediately noted by Jefferson, and he wrote at once from France, pressing for such an expansion of the new nation's organic law. All our civil liberties today are based on those amendments to the Constitution. In addition to his incomparable contributions in these areas, Jefferson's prodigious versatility made it possible for him to provide others of far-reaching significance in such fields as architecture, education, science, agriculture, and law. On top of all else, he was an accomplished musician, bibliophile, and philologist. No serious historian claims that Thomas Jefferson was without faults, but this philosopher-statesman is universally acknowledged to have been one of the most brilliant ornaments of the Enlightenment, an age that produced in America a group of men whose political genius astounded the world.¹⁸

In addition to all that, Jefferson was an exemplary family man, devoted to his wife and devastated by her death, whereafter he lavished attention upon their daughters. Was Jefferson celibate from age thirty-nine, when his wife died,¹⁹ until his own death forty-four years later?²⁰ No one knows for sure, but Dabney, at any rate, finds credible evidence of only one romantic entanglement: a brief fling with Maria Cosway. Dabney tells us:

Maria and Jefferson met in Paris in the autumn of 1786, and the forty-three-year-old widower, whose wife had died four years before, was attracted at once to the lovely twenty-seven-year-old woman with the golden hair and violet eyes. She was not only easy to look upon but greatly gifted both as an artist and a musician. . . . Maria played well on the harp and pianoforte, was also a composer, and had a fine singing voice. In addition she was an accomplished linguist. All of which could not fail to appeal to Jefferson, whose interests were quite similar.²¹

Why does Dabney devote several pages to reporting on the Jefferson/Cosway affair,²² topped off by her full-page portrait?²³ It seems that Dabney wants to give us a complete picture of a woman who, in Dabney's opinion, was plausibly Jefferson's love interest. By contrast, we are led to

18. *Id.* at 133.

19. *Id.* at 35.

20. Thomas Jefferson, born in 1743, died in 1826. *Id.* at 28.

21. *Id.* at 41. Judging from one of Maria Cosway's letters, excerpted by Dabney, this "accomplished linguist," was barely literate in English. *Id.* at 41, 55. That, apparently, did not detract from her charm, nor did the fact that, during the time Cosway spent with Jefferson, she was married. This marriage was little obstacle to outside romance, for, as Dabney informs us, "[n]ot much love was lost between the Cosways; Maria had apparently been talked into the marriage by her mother. Her husband is variously described as a fop and coxcomb who had affairs with other women and perhaps men." *Id.* at 40.

22. *Id.* at 40-41, 44-45.

23. *Id.* at 43.

conclude by negative inference that Sally Hemings emphatically was not.

Woven throughout Dabney's thin book are insinuations against Hemings, most notably his repeated references to her "brood" of "illegitimate" children.²⁴ These snide references aside, Dabney's principal strategy with respect to an image of Sally is to insist that no one now living has any proof of what she was like,²⁵ except for the fact that she was "a handsome light-skinned slave."²⁶ Such a strategy serves multiple purposes.

First, Dabney means to emphasize that Brodie and Chase-Riboud lack specific evidence upon which to base their portrayals of Sally Hemings's character and personality.²⁷ Thus, they, who believe that Jefferson and Sally had a long-term, amorous relationship, have had to use their imaginations to construct a Sally that Jefferson could plausibly have loved. Dabney, on the other hand, restrains himself from sketching in the details of the Sally he imagines, the one who, to his mind, could never have attracted, much less held, the attention of Jefferson. By failing to describe the Sally he so despises, Dabney, no doubt, strives to make himself relatively impregnable to charges of racist animus. More importantly, he forces his readers to supply from their own imaginations the degraded Sally that would be unworthy of anything but derision and scorn. Thus, Dabney enlists his readers in the task of constructing Sally as she must have been in order for Dabney's abhorrence to have arisen.²⁸

24. See, e.g., *id.* at 74, 77. According to Dabney, Sally bore five children, one of whom died in infancy. *Id.* at 27-28. While Dabney associates Sally-as-mother only with shame and disgrace, he is capable of admiring fertility in other women. Thus, as part of a passage detailing the nobility and accomplishments of Martha Jefferson Randolph, Jefferson's daughter, Dabney informs us that she "had twelve children, all but one of whom grew to adulthood." *Id.* at 86.

25. See *id.* at 120.

26. *Id.* at 1.

27. *Id.* at 120-21.

28. I was able to identify this part of Dabney's strategy because I had read Pat Williams's description and critique of certain race-related ellipses. Williams had been denied entry by a clerk at a Benetton's store. After she wrote an essay about this infuriating incident, Williams had to wrangle with law review editors who wanted to delete any reference to the fact that Williams is black. Williams explains the significance of her dispute with the editors:

Ultimately I did convince the editors that mention of my race was central to the whole sense of the subsequent text; that my story became one of extreme paranoia without the information that I am black; or that it became one in which the reader had to fill in the gap by assumption, presumption, prejudice, or prejudice. What was most interesting to me in this experience was how the blind application of principles of neutrality, through the device of omission, acted either to make me look crazy or to make the reader participate in old habits of cultural bias.

PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* 48 (1991) (emphasis added).

Dabney, by telling us little more about Hemings than that she was black and a slave, has deployed a common linguistic ruse that Toni Morrison calls an "economy of stereotype," which "allows the writer a quick and easy image without the responsibility of specificity, accuracy, or even narratively useful description." TONI MORRISON, *PLAYING IN THE DARK*:

Confronting Dabney's treatment of Sally was a dreadful experience for me. I felt a boiling rage at Dabney as liar, slanderer, and racist. But my anger was overlaid with an even more powerful humiliation. I experienced all of Dabney's scorn of Sally as scorn of me. Not only did I feel that he was deriding *my* character, I could feel the sting on my cheeks as though I had been slapped by some hated-white-person-with-power, a slavemaster, perhaps. However, despite my overwrought feelings, I did not lose sight of what I viewed to be the bottom-line fact: there are a lot of people alive today who are partially of African descent and who look remarkably like Thomas Jefferson.²⁹ So, Dabney, what do you say to that!

"It was the nephew." Well, I'll be damned. Dabney did not, after all, fail to admit that there are a number of Jefferson-looking African Americans abroad in the world. Rather, he offers the only possible explanation for his version of history: Sally Hemings's children were not fathered by Thomas Jefferson, but by one of Jefferson's nephews, either Samuel or Peter Carr. Thus, African Americans who bear a marked family resemblance to Thomas Jefferson are explained as his lateral, rather than direct, descendants, and Jefferson's virtue and honor are left intact.

While I must concede that Dabney's story line is not wholly implausible, the historical evidence remains inconclusive.³⁰ The "Nephew Story," for example, was far from definitively established in Dabney's book. Dabney himself quotes Jefferson's grandson as saying that Sally's children "resembled Mr. Jefferson so closely that it was plain that they had his blood

WHITENESS AND THE LITERARY IMAGINATION 67 (1992).

29. *Thomas Jefferson's Negro Grandchildren*, EBONY, Nov. 1954, at 78-79, cited in DABNEY, *supra* note 1, at 147.

30. There is disagreement even on the question of how many children Sally Hemings had. According to "A Chart of the Hemings Family Derived from Jefferson's Farm Book," Sally Hemings had four children: Beverly, born 1798; Harriet, born 1801; Madison, born 1805; and Eston, born 1808. MEMOIRS OF A MONTICELLO SLAVE: AS DICTATED TO CHARLES CAMPBELL IN THE 1840'S BY ISAAC, ONE OF THOMAS JEFFERSON'S SLAVES 56-57 (1951). The uncertainties surround the questions whether Sally conceived a child in France in 1789, gave birth to a son named Thomas in Virginia early in 1790, and, if so, what happened to him. Those who deny that Jefferson and Sally had a sexual relationship tend also to deny that Sally was pregnant when she returned to Monticello in 1789 or that there was any such person as "Yellow Tom" born in 1790. See, e.g., DABNEY, *supra* note 1, at 47, 81. Those who affirm that Jefferson and Sally had a sexual relationship tend also to affirm that she was pregnant when she returned from France, and that she gave birth to Thomas in 1790. See, e.g., BRODIE, *supra* note 7, at 292; Madison Hemings, PIKE COUNTY REPUBLICAN, March 13, 1873, quoted in DABNEY, *supra* note 1, at 45. Those who believe in Thomas's birth disagree, however, about what happened to him. Some say that he died as an infant. See Madison Hemings, PIKE COUNTY REPUBLICAN, March 13, 1873, quoted in DABNEY, *supra* note 1, at 45. Some say that he was brought up somewhere other than Monticello, moved to Ohio as an adult, and changed his name to "Thomas Woodson." See CHASE-RIBOUD, *supra* note 4, at 292; JUDITH P. JUSTUS, DOWN FROM THE MOUNTAIN: THE ORAL HISTORY OF THE HEMINGS FAMILY 26, 39 (1990). His absence from the list of property in the "Farm Book" is explained this way: because he was conceived in France, he was never considered a slave. CHASE-RIBOUD, *supra* note 4, at 149; JUSTUS, *supra*, at 29. Whether this explanation is plausible, given Virginia law at the time, I do not know.

in their veins," and that "in one case the resemblance was so close, that at some distance or in the dusk, the slave dressed in the same way, might have been mistaken for Mr. Jefferson."³¹ However, this grandson,³² as well as Jefferson's granddaughter,³³ and, more ambiguously, the former overseer of Monticello,³⁴ were all of the opinion that one of Jefferson's nephews, Samuel or Peter Carr, had fathered Sally Hemings's children.

In flat contradiction to the "Nephew Story," as told by Jefferson's grandchildren and overseer, a detailed, published statement by Madison Hemings states that his parents were Thomas Jefferson and Sally Hemings.³⁵ Dabney, however, attempts to dispose of Madison's statement as a fabrication by some scalawag (on the supposition that Madison was *surely* too ignorant and backward to have produced so articulate an account).³⁶ In the alternative, Dabney hypothesizes that Madison's story is based on lies told to him by his mother, Sally Hemings, who exhibited the oft-observed, deplorable, female trait of seeking vicarious glamour by telling everyone that her bastards were fathered by some great and famous man.³⁷ Such a specu-

31. DABNEY, *supra* note 1, at 76.

32. *Id.* at 76.

33. *Id.* at 78.

34. *Id.* at 80.

35. *Id.* at 45. A detailed analysis of Madison Hemings's statement and of corroborating evidence is presented in a new book. ANNETTE GORDON-READ, THOMAS JEFFERSON AND SALLY HEMINGS: AN AMERICAN CONTROVERSY 7-58 (1997). My colleague, Fred Konefsky, drew Gordon-Read's book to my attention as this article was going to press. Because of time constraints, I cannot provide a full synopsis of Gordon-Read's exhaustive study, but I draw readers' attention to the two strands of evidence that, in my opinion, most strongly support an inference that Jefferson probably was the father of Hemings's children. First of all, during the years when Jefferson served as Secretary of State, Vice-President, and President, Sally Hemings conceived children only during his often-brief visits to Monticello. *Id.* at 195-96, 216. Second, Jefferson emancipated or permitted the "running away" of each of Sally Hemings's four children who lived to the age of twenty-one. *Id.* at 25-34, 38-43, 218-19. I highly recommend Gordon-Read's book to anyone who wants to delve further into the debate regarding the historical evidence.

36. DABNEY, *supra* note 1, at 46.

37. *Id.* at 49. Dabney privileges written over oral evidence, to a remarkable extent. Thus, for him, omissions from the written record, for example, the fact that Thomas Jefferson left no written record of his (illegal, scandalous) love affair with Sally Hemings, apparently are more probative than the oral account Sally Hemings gave to her children about their paternity. Then, of course, there's the credibility issue: for Dabney, Sally's testimony is effectively impeached by her status as black, woman, slave, and mother of bastard children. Finally, there are the related issues of social/political self-interest, experience, and point of view. For people like Dabney, it is literally inconceivable that Jefferson and Sally were intimately linked to each other. The extent to which Dabney and like-minded people will be able to establish their view as authoritative is, as always, a question of power. For a discussion of the relevant meaning of "power," see Angela Harris, *Foreword: The Jurisprudence of Reconstruction*, 82 CAL. L. REV. 741, 772-74 & n.155 (1994) (citing, *inter alia*, MICHEL FOUCAULT, THE HISTORY OF SEXUALITY 92-96 (Robert Hurley trans., 1976)).

For a sensitive and erudite examination of the privileging of the literate over the oral, the problem of self-interest/experience/point of view, and the question of power to establish a particular version of a story as authoritative knowledge, see James Clifford,

lative attack on the credibility of Jefferson's putative son does not, of course, constitute evidence of what actually happened. In fact, Dabney has his own credibility problem: there surely are African Americans, members of the Jefferson family and others, who will never be impressed by the "evidence" turned up by bad-intentioned whitepeople.³⁸

B. WHAT SEQUEL SHALL I WRITE?

Evidentiary and credibility issues aside, mainstream media include so many casual references to Sally Hemings as Jefferson's paramour³⁹ that even an army of professional historians would be inadequate to rout the story.⁴⁰ Thus, there is little doubt that the tale is fated for periodic retelling and reevaluation. As my contribution to evaluating this story, I could pursue one of several strategies. I could, for instance, delve further into the historical evidence in order to come closer to a firm opinion about what "really" happened. As another alternative, I could frame the issue as a dis-

Identity in Mashpee, in THE PREDICAMENT OF CULTURE: TWENTIETH-CENTURY ETHNOGRAPHY, LITERATURE, AND ART 277-346 (1988). "Identity in Mashpee" is Clifford's close examination of legal proceedings concerning an Indian land claim in Mashpee, Massachusetts. Clifford recognizes that the social and legal institutions of the American mainstream have the power to reject the way a group of Indians defines its identity and its rights. *See id.* at 284. However, those institutions do not necessarily have the power to convince the Indians to accept that interpretation. *See id.* at 344. Likewise, in the Hemings contest, certain historians may have the power to enthrone their view as "authoritative," without necessarily having power enough to cause their view to be the only one extant.

38. It is worth noting that not all African Americans who claim some relationship to the Jefferson family assert that they are descendants of Thomas Jefferson and Sally Hemings. For example, contrary to the rumor I had heard, my cousin's family is related to Thomas Jefferson, but not by virtue of descent from Thomas Jefferson and Sally Hemings. *Cf.* text at 107-08. My cousin's great-great-grandmother was Thomas Jefferson's great-great-granddaughter. It was not Thomas Jefferson, however, but his grandson, who had a liaison with a black woman, as part of this ancestral line.

39. Dabney mentions many such references. DABNEY, *supra* note 1, at 2. A more recent media appearance of the Jefferson/Hemings story was the 1995 movie, *Jefferson in Paris*, starring Nick Nolte as Jefferson. JEFFERSON IN PARIS (Buena Vista 1995). Not surprisingly, the story resurfaces every time there is a significant Jefferson-related anniversary. Fawn Brodie's book was written on the eve of the bicentennial of the Declaration of Independence. Conferences and articles triggered by the two hundred and fiftieth anniversary of Thomas Jefferson's birth include references to the Sally Hemings story. *See, e.g.*, Douglas L. Wilson, *Thomas Jefferson and the Character Issue*, THE ATLANTIC, Nov. 1992; David Reed, *Conference Airs Jefferson's 'Dark Side'*, BUFFALO NEWS, Oct. 18, 1992 at A-16 (reporting on a conference held in October 1992 at Charlottesville, Virginia, honoring Jefferson).

40. For another historian who has reached the same conclusion as Dabney, *see* Douglass Adair, *Fame and the Founding Fathers*, in FAME AND THE FOUNDING FATHERS 27-52 (Edmund P. Willis ed., 1966). Of the historians who acknowledge that the evidence is inconclusive, some opine that the alleged liaison is more likely than not. *See, e.g.*, GORDON-READ, *supra* note 35, at xiv-xv, xvii-xviii. Others conclude that the liaison is less likely than not. *See, e.g.*, JOSEPH J. ELLIS, *AMERICAN SPHINX: THE CHARACTER OF THOMAS JEFFERSON* 303-07 (1997). True agnostics among the historians include Henry F. May. *See supra* note 6, at 301.

pute between those who affirm and those who seemingly question the full humanity of Sally Hemmings, her descendants, and African Americans generally. This would be an historiographical⁴¹ inquiry into what is at stake for those who see the story largely in terms of its racial meanings and would include further analysis of Dabney and his book.⁴²

These projects, which emphasize different aspects of the historical debate about Sally Hemings, would be motivated largely by the desire to defend her, her descendants, and other African Americans (including myself) from racist slurs. After encountering Dabney, I am convinced that this is important work. If I chose one or both of these paths, however, I would leave unexplored my initial reactions to the Sally Hemings story, particularly as presented by Barbara Chase-Riboud. When I first encountered the story, I intensely disliked the idea that Sally Hemings and Thomas Jefferson loved each other, and I had strong political objections to an imaginative portrayal of their relationship as a romance, rather than a story of oppression. I do not want to lose sight of the possibility that, from the point of view of African American culture and politics, Sally is somehow inauthentic and largely irrelevant, even though I want to move to her defense when she is attacked by apparent racists.

Having briefly sketched in Part II.A how I came to the realization that it is important to defend Sally Hemings from racially motivated insult, I have nevertheless decided to devote the remainder of the article to exploring the meanings the Sally Hemings story and others like it have for African American women and our allies, imagined as talking with each other, rather than contending with our enemies.

I frame my inquiry into the Sally Hemings story in a way most likely to yield insights important to black culture and politics in general and to black feminist theory in particular. I therefore proceed by raising these questions: Are there divergent interpretations of the Sally Hemings story within the African American community, particularly among women? Have other African American women, besides myself, been offended when the

41. By "historiography," I mean an inquiry exploring the fact that history is always written from a particular point of view, for a particular audience, and for a particular purpose. The story of Jefferson and Sally Hemings is a fascinating example of history as myth-making, with a complex relationship between the objective facts, the gaps in the record, and the subjectivity of the historian.

42. Dabney would be key to such a project because his treatment of the Sally Hemings story seems tinged with racial animus, as revealed in his language and the structure of his argument. I wish to clarify that I do not draw an inference of racial animus from the mere fact of an historian's conclusion that there was no sexual/romantic liaison between Hemings and Jefferson. Douglass Adair, for example, examines much of the same evidence as Dabney and reaches a conclusion similar to his, yet does not convey the impression that he is attempting to vindicate personal interests by advocating a particular version of the Hemings/Jefferson story. See Adair, *supra* note 40. This difference between Dabney and Adair could, of course, be simply a matter of writing style.

story of Sally Hemings is told as a love story, rather than a story of oppression? As opponents of American race and gender hierarchies, have we unduly privileged stories about slave-era sexual oppression so that the issues raised by other important stories are suppressed?

III. PRIMEVAL STORIES ABOUT BLACK WOMEN AND WHITE MEN DURING "SLAVERY TIME"

A. DESCRIPTION OF THE PROJECT

The majority of "black" people in the United States today have both European ancestors and African ancestors.⁴³ An enormous problem, literally almost unspeakable, is that much of the race-mixing resulted from un-sanctioned sex between black, slave women and white men.

From the point of view of whites, slave-era sex between black women and white men was "illicit," to put it mildly. All the slave states eventually enacted laws prohibiting marriages between blacks and whites,⁴⁴ as well as laws specifically forbidding white men to have sex with slave women.⁴⁵ The extremely widespread practice of white slave-owning men having sex with slave women thus flatly contradicted the moral and legal conventions that supposedly prevailed in the white community.⁴⁶ Not surprisingly, white supremacist discourse blames slave women for the fact that these sexual interactions occurred, constructing slave women as amoral, lascivious creatures who tempted white men:

One of the most prevalent images of black women in antebellum America was of a person governed almost entirely by her libido, a Jezebel character. In every way Jezebel was the counterimage of the mid-nineteenth-century ideal of the Victorian lady. She did not lead men and children to God; piety was foreign to her. She saw no advantage in prudery, indeed domesticity paled in importance before matters of the flesh.⁴⁷

This is the dominant narrative about black women's sexuality, past and present.

On the other hand, opponents of racial subordination, including legal

43. Approximately three-fourths of contemporary American "blacks" are reputedly of partly European ancestry. EUGENE D. GENOVESE, *ROLL, JORDAN, ROLL* 414 (1972). It is unclear, however, how much of the black/white race mixing originated during the slave era. *Id.*

44. See, e.g., A. Leon Higginbotham, Jr. and Barbara K. Kopytoff, *Racial Purity and Interracial Sex in the Law of Colonial and Antebellum Virginia*, 77 *GEO. L.J.* 1967, 1967 n.5 (1989) (citing Act XVI, 3 Laws of Va. 86, 86-87 (Hening 1823) (enacted 1691), in which interracial marriage was punished by banishment from Virginia within three months).

45. Higginbotham and Kopytoff, *supra* note 44, at 1968 n.6 (citing Act XII, 2 Laws of Va. 170, 170 (Hening 1823) (enacted 1662), prohibiting interracial sex).

46. See GENOVESE, *supra* note 43, at 424-27.

47. DEBORAH WHITE, *AR'N'T I A WOMAN?* 28-29 (1985).

scholars who are Critical Race Theorists, place heavy emphasis upon stories that illustrate slave women's sexual oppression.⁴⁸ The archetype grounding these stories is the slave woman who was coerced, by the threat or use of physical force, into sex with white men.⁴⁹ This emphasis upon sexual coercion represents an ideological stance against the Jezebel stereotype, but it is more. Historical research and the accounts in slave narratives support the conclusion that coercion did, in fact, characterize most sexual interactions between slave women and white men.⁵⁰ Despite this evidence, however, "the meaning of the history of black women as victims of rape has not yet penetrated the American mind."⁵¹

Unless and until Americans collectively learn about, acknowledge, and accept responsibility for the horrors of chattel slavery, the anti-racist movement will not relent in its efforts to teach about slave-era oppression and its present-day ramifications. The anti-racist agenda does not, however, attend to all issues that are of concern to the African American community. For example, both the color caste system within the African American community and certain problems afflicting relationships between black women and

48. For instance, Dorothy Roberts, in her 1991 article on so-called "crack mothers," is very sensitive to the problems of essentialism and of construing all people of color or women as victims. Dorothy Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy*, 104 HARV. L. REV. 1419, 1424-25, 1424 n.15 (1991). Nevertheless, in this article, all the stories she tells about the slavery era, when the foundation was laid for present-day denigration of black motherhood, are victim stories. *Id.* at 1437-40. This makes sense; Roberts does not purport to present a full description of slave-era relations, but, rather, is telling the story of oppression. One of her principal objectives is to refute white supremacist discourse.

49. Often, sex between a white man and a slave woman is categorically defined as rape. For example, the activist/intellectual Angela Davis, writing in 1981, sternly criticized the notion that a slave woman could meaningfully consent to sex with a white man:

[T]here could hardly be a basis for "delight, affection and love" as long as white men, by virtue of their economic position, had unlimited access to Black women's bodies. It was as oppressors—or, in the case of non-slaveowners, as agents of domination—that white men approached Black women's bodies.

ANGELA DAVIS, *WOMEN, RACE & CLASS* 25-26 (1981). Furthermore, "it would be a mistake to regard the institutionalized pattern of rape during slavery as an expression of white men's sexual urges, otherwise stifled by the specter of white womanhood's chastity. That would be far too simplistic an explanation. Rape was a weapon of domination, a weapon of repression, whose covert goal was to extinguish slave women's will to resist, and in the process to demoralize their men." *Id.* at 23-24.

50. See, e.g., JOHN D'EMILIO AND ESTELLE B. FREEDMAN, *INTIMATE MATTERS: A HISTORY OF SEXUALITY IN AMERICA* 100-02 (1989); MELTON A. MCLAURIN, *CELLA: A SLAVE* 21 (1991).

51. Nell I. Painter, *Hill, Thomas, and the Use of Racial Stereotype*, in *RACE-ING JUSTICE, EN-GENDERING POWER: ESSAYS ON ANITA HILL, CLARENCE THOMAS, AND THE CONSTRUCTION OF SOCIAL REALITY* 211-12 (Toni Morrison ed., 1992) [hereinafter *RACE-ING JUSTICE, EN-GENDERING POWER*]. As both subject and object of this situation, "black women have not been able to use our history of abuse as a corrective to stereotypes of rampant sexuality." *Id.* at 212.

black men seem to be genealogically linked to slave-era stories *other than* the stories of oppression.

Because the experiences of enslaved persons were multi-faceted, including, for instance, experiences as rebels, family members, workers, and sexual beings, and were also, in certain ways, gender-specific, I would not presume to undertake a comprehensive analysis of American slavery. Intrigued by the legend of Sally Hemings, I will direct my attention to the stories about sex between slave women and white men that are told by the current generation of African American women and our allies. I will demonstrate that, while the story of sexual oppression predominates, it has not swept the field. Rather, among the current generation of African American women and our allies, there are *three* archetypal stories about sex between slave women and white men. My goals in examining these stories are two-fold. First, I intend to assess more fully how and why slave-era stories of sexual oppression are privileged. Second, by analyzing the other stories that are told, I mean to demonstrate the negative consequences for the African American community of ignoring or suppressing slave era stories that do not illustrate the paradigm of sexual oppression.

The stories I recount are all treated as species of narrative, whether nominally history, literature, or autobiography.⁵² It has been oft-noted by black feminists that all of these should be treated as valuable resources for the study of the culture and consciousness of African American women. As Patricia Hill Collins observes, "[t]he suppression of Black women's efforts for self-definition in traditional sites of knowledge production has led African-American women to use alternative sites such as music, literature, daily conversations, and everyday behavior as important locations for articulating the core themes of a Black feminist consciousness."⁵³ Furthermore, theoretical discussion of fiction written by African American women has developed into an important strand of black feminist discourse.

The stories I have chosen concern slave women who were sexually involved with white men, with particular emphasis upon the stories that have been told by black women. Another parameter for the analysis is that the

52. The stories that are actual, historical narratives are recounted in the past tense, while fictional or fictionalized narratives are recounted in the present tense.

53. PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* 202 (1991). With respect to black women's literature as a resource for studying black women's culture and politics, see BARBARA CHRISTIAN, *BLACK FEMINIST CRITICISM: PERSPECTIVES ON BLACK WOMEN WRITERS* (1985) [hereinafter CHRISTIAN, *BLACK FEMINIST CRITICISM*]; BARBARA CHRISTIAN, *BLACK WOMEN NOVELISTS: THE DEVELOPMENT OF A TRADITION, 1892-1976* (1980). Black women's fiction and poetry have been the subject of analysis for many other purposes, of course, including evaluations of black women's writing as literature. See, e.g., *BLACK WOMEN WRITERS 1950-1980: A CRITICAL EVALUATION* (Mari Evans ed., 1984); *READING BLACK, READING FEMINIST* (Henry Louis Gates, Jr., ed., 1990); *BLACK LITERATURE AND LITERARY THEORY* (Henry Louis Gates, Jr., ed., 1984).

stories I examine were all told or re-told during the period beginning in approximately 1973 and running up to the present. This periodization is necessary because I want to examine the social and political meanings of the stories for the current generation of African American women. This, I believe, is the proper foundation for working out a black feminist praxis. While African American women, for at least the past 150 years, have used slavery as a frame for discussing our experiences of sexuality and our choices and constraints in forming relationships,⁵⁴ each generation of black women tends to include distinctive features in the stories it tells or to give distinctive interpretations of old stories that are re-told, such distinctiveness being correlated with the social and political situation in which each generation finds itself.⁵⁵ The practices of telling and interpreting stories therefore have political significance, because "any political consciousness of an oppressed group is shaped and molded by the group's cultural resources and resiliency as perceived by individuals in it. So the extent to which the resources and resiliency are romanticized, rejected, or accepted will deeply influence the kind of political consciousness that individuals possess."⁵⁶

Collins and others have suggested various approaches to the task of sifting through black women's narratives in order to articulate a black feminist world view.⁵⁷ Influenced by their work, by the attention that has

54. See, e.g., ESSENCE, July 1993. This issue is entitled "Black Women Explore Sexuality: Down with 'Sex Lies' & Stereotypes! Up With New Ways to Claim Your Own Special Erotic Power." *Id.* Included are at least two references to the slave experience as relevant background for current dilemmas: "[T]here is no denying that the sexual exploitation of Black women during and after slavery informed our sexuality;" and "Ever since the first slave ship unloaded its human cargo on these shores, African American families have been in a state of flux. Slavery separated husband from wife, father from son and grandparent from grandchild in the cruelest, most inhumane way imaginable—so much so that, more than a century after it was abolished, we're still reeling in its wake and trying to overcome racism's present-day strains on our families." *Id.* at 49, 96.

55. Patricia Hill Collins calls attention to black feminist theorizing that involves reinterpretation of old stories. COLLINS, *supra* note 53, at 14.

The period from 1973 to the present is also of particular interest to Critical Race Theorists. Although the Civil Rights Era could be said to have ended in 1968, with the assassinations of Martin Luther King and Robert Kennedy, and the election of Richard Nixon, it probably was not apparent until the early seventies how decisively the nation-at-large had turned its back on collective responsibility for ameliorating poverty, racism, and injustice. Thus, Critical Race Theory, defined, in part, by a realization of the inadequacy of the Civil Rights agenda to address the needs of people of color, is particularly interested in the historical period beginning in the early 1970s.

56. CORNEL WEST, PROPHECY DELIVERANCE! 71 (1982) (citing ANTONIO GRAMSCI, SELECTIONS FROM THE PRISON NOTEBOOKS (Quintin Hoare & Geoffrey Nowell Smith trans. and eds., 1971)).

57. Collins, in particular, has presented a comprehensive inquiry into the epistemological foundations of black feminist thought. COLLINS, *supra* note 53, at 201-20. She proposes a definition of black feminist thought as:

theories or specialized thought produced by African-American women intellectuals designed to express a Black women's standpoint. The dimensions of this standpoint include the presence of characteristic core themes, the diver-

been drawn to narrative analysis by legal scholars,⁵⁸ and by certain strands of literary theory more generally,⁵⁹ I have derived a method for analyzing stories told by African American women and our allies about sexual relationships between slave women and white men. My method has the following elements:

1. I first group stories according to their typical elements of story line and characterization.
2. I explain why a certain group of stories is privileged, that is treated as paradigmatic.
3. I analyze the meanings of the other groups of stories, both on their own terms, and in relationship to the paradigmatic story from which they deviate.

By this exercise, I hope, first, to make a methodological contribution to the literature about the analysis of narratives and, second, to lay bare the problems for Critical Race Theory and black feminist theory that are papered over when the paradigmatic story is treated as the only story.

I have imposed a categorical scheme upon the stories told by African American women and our allies, about sex between slave women and white men, treating each tale as exemplifying one of Three Primeval Stories. In

sity of Black women's experiences in encountering these core themes, the varying expressions of Black women's Afrocentric feminist consciousness regarding the core themes and their experiences with them, and the interdependence of Black women's experiences, consciousness, and actions.

Id. at 32. Collins deploys her method to identify and explore seven core themes of black feminist thought. *See id.* at 43-198.

58. A number of legal scholars, drawing upon cultural studies literature, have shown how decision-makers, advocates, and others often justify a particular substantive position by presenting a narrative that is easily recognizable, by virtue of key actors, plot, and meaning, as a version of a generic story. *See, e.g.,* Martha Fineman, *Dominant Discourse, Professional Language, and Legal Change in Child Custody Decisionmaking*, 101 HARV. L. REV. 727, 753-58 (1988); Vicki Schultz, *Telling Stories about Women and Work: Judicial Interpretations of Sex Segregation in the Workplace in Title VII Cases Raising the Lack of Interest Argument*, 103 HARV. L. REV. 1749, 1799-1815 (1990); Peggy Cooper Davis, *The Proverbial Woman*, 48 THE RECORD OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK 7 (1993). In particular, my work has elements in common with the work of Peggy Cooper Davis regarding how cultural values and assumptions are encapsulated in "proverbial stories," which "reverberate with shared meaning within a relatively homogenous human group." *Id.* at 10. Davis draws upon works by linguists and cognitive psychologists suggesting that "the process of thinking about categories of people in stereotyped and culturally familiar ways is inevitable and highly useful." *Id.* at 23.

Among legal scholars who have emphasized that narratives reflect and create cultural norms, including ethical principles, are Milner Ball, *Stories of Origin and Constitutional Possibilities*, 87 MICH. L. REV. 2280 (1989); Robert M. Cover, *Foreword: Nomos and Narrative*, 97 HARV. L. REV. 4 (1983); Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2414 (1989); Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim's Story*, 87 MICH. L. REV. 2320 (1989).

59. *See generally* JACQUES DERRIDA, *OF GRAMMATOLOGY* (1976); FREDRIC JAMESON, *THE POLITICAL UNCONSCIOUS: NARRATIVE AS A SOCIALLY SYMBOLIC ACT* (1981).

the First Primeval Story, the slave hates the master; the master takes sex by brutality/rape/coercion. In the Second Primeval Story, the slave and master love each other. In the Third Primeval Story, the slave both loves and hates the master. I call these stories "primeval" because the role they play in the history of race and gender in the United States is analogous to the role played by the stories of Abraham, Isaac, and Ishmael, or, more precisely, of Abraham, Sarah, and Hagar, in the Judeo-Christian-Islamic mythical founding. Furthermore, as with the biblical stories, the strictly factual dimensions of the Primeval Stories are less important than the meanings that the stories have for those who created them and those who inherited them.

B. THE STORIES

1. *FIRST PRIMEVAL STORY: SLAVE HATES MASTER; MASTER TAKES SEX BY BRUTALITY/RAPE/COERCION*

One of the cruel paradoxes of chattel slavery was that those who suffered most were least likely to tell their stories. So it is with the slave women who hated their masters and who were subjected to brutality, rape, and sexual coercion. Only those of them who were relatively privileged, by skin color, literacy, or Free Negro relatives, were likely to leave accounts in their own words of sexual oppression.⁶⁰ As for the rest, almost all their voices have been lost. Granted, plenty of people talked *about* these women.⁶¹ When abolitionists inveighed against the evils of slavery, much attention was drawn to the victimization of slave women, who were unable to protect their honor and virtue, and were forced to sexually submit to white men.⁶² And, sometimes, someone speaks *for* these women.

60. See, e.g., the story of Harriet Jacobs, told below. Before I actually began to read slave women's stories, the image in my mind of the slave woman who was sexually brutalized by her master was that of a dark-skinned woman, likely a field hand, who was treated by her master as an object and a sexual animal, as well as a beast of burden. I have found, however, that the most fully-told, surviving stories about sexual brutalization are stories by and about light-skinned women of mixed race.

Even relatively privileged and literate slave women, like Harriet Jacobs, could not speak for themselves without white sponsorship and white attestations of credibility. Accordingly, in the Appendix to *Incidents in the Life of a Slave Girl*, Amy Post, a member of the Society of Friends in New York, assures readers that Jacobs, referred to by her pseudonym "Brent," was "naturally virtuous and refined" and had written the story herself. HARRIET JACOBS, *INCIDENTS IN THE LIFE OF A SLAVE GIRL* 304, 305 (Valerie Smith ed., 1988). Likewise, Henry Louis Gates's foreword to *Incidents in the Life of a Slave Girl* recounts how, in 1772, eighteen of Boston's most notable citizens examined a young slave, Phillis Wheatley, and then prepared an attestation that she had written her poems. *Id.* at vii-ix.

61. McLaurin, *supra* note 50, at 133 n.20 (citing Clinton, *Caught in the Web of the Big House: Women and Slavery*, in *THE WEB OF SOUTHERN RELATIONS: WOMEN, FAMILY AND EDUCATION 19-34* (Walter J. Fraser, Jr. et al. eds., 1985)).

62. "Sexual abuse of female slaves was a prominent theme in abolitionist propaganda . . ." McLaurin, *supra* note 50, at 98 (citations omitted).

a. Celia (First Version)

A recent, widely-read story of a slave woman's sexual oppression is Melton A. McLaurin's *Celia: A Slave*.⁶³ McLaurin, the author, speaks for Celia, the slave. He gives a complex and sensitive account of the circumstances surrounding Celia's killing of her master and of Celia's trial for her master's murder. There is an eerie peculiarity about the book because McLaurin, despite valiant efforts, cannot fully compensate for the fact that Celia was unable to leave a record of her own thoughts, feelings, and motivations.

This, in rough outline, is Celia's story. After he had been widowed for about a year, Robert Newsom, a white, Missouri farmer, set out to buy a slave to use for sex.⁶⁴ He bought Celia, then fourteen years old,⁶⁵ whom he initiated by raping her during the journey back to the Newsom farm.⁶⁶ Eventually, motivated in part by loyalty to her slave lover, George, Celia decided to resist Newsom's sexual abuse. One night, when Newsom came to her cabin, Celia told him that she would not permit him to have sex with her.⁶⁷ Newsom responded by physical aggression,⁶⁸ which Celia warded off by twice hitting him in the head with a large stick.⁶⁹ Newsom then lay dead at her feet. Celia, fearful of the repercussions sure to arise from the discovery of her master's body in her cabin, burned Newsom's body:

Through the night she tended the fire as it consumed the mortal remains of her former master. When the flames had disposed of the body, she picked the remaining bones from the ashes, crushing the smaller ones against the hearth stones with a rock and throwing the crushed particles back into the fireplace. The larger bones, those she could not crush, she placed "under the hearth, and under the floor between a sleeper and the fire-place." When the ashes cooled, she worked in the dark to remove some of the ashes, which she carried out into the yard just before day-break. Then she went to bed.⁷⁰

When Newsom's family noticed he was missing, a search ensued. One of the search party learned that Newsom had been seen approaching Celia's cabin the previous night.⁷¹ Celia was confronted, and she eventually admit-

63. *Id.* at 61.

64. *Id.* at 18.

65. *Id.* at 20.

66. *Id.*

67. *Id.* at 29-30.

68. *Id.* at 30.

69. *Id.*

70. *Id.* at 31 (footnote omitted).

71. *Id.* at 35-36.

ted that she had killed Newsom and described how she had disposed of the body.⁷² Celia was then arrested and charged with Newsom's murder.⁷³

Because Celia was legally incompetent as a witness against a white man, she could not testify at her own trial as to why she had killed her master. Given Celia's enforced silence, McLaurin is relegated to drawing inferences from records left by the various white men who prosecuted, defended, and judged her.⁷⁴

Celia's lawyer did his best to defend her, but was severely handicapped by the evidentiary rules. He attempted to establish the history of Celia's sexual oppression by cross-examination of reluctant prosecution witnesses, one of whom claimed he could not recollect whether Celia had said that Newsom raped her on the very day he purchased her.⁷⁵ Celia's lawyer did, however, wrest clearer testimony during cross-examination of another prosecution witness:

Under Jameson's questioning, Powell admitted that Celia said Newsom habitually forced her to have sexual intercourse and that she had asked other members of the family to make him stop the practice. He also testified that Celia said she had not intended to kill Newsom, only to hurt him in order to make him stop his sexual demands. Jameson also obtained from Powell an admission that Celia maintained that even as she struck Newsom she acted from desperation, with no intent to kill.⁷⁶

Because slaves had a sometimes-recognized right to use deadly force to protect their lives,⁷⁷ the testimony of a defense witness was crucial: the witness recounted that, according to Celia, she had hit Newsom because "he threw up his hands toward her to catch her."⁷⁸ The defense planned to use this testimony and reasonable inferences to argue that Celia struck Newsom because she feared for her life.⁷⁹ This strategy collapsed when the judge ruled that the testimony had to be stricken from the record because a slave

72. *Id.* at 39-40.

73. *Id.* at 41-43.

74. When these records prove inadequate to yield a full picture, the blanks are filled in by hypothesis: McLaurin's account goes so far as to speculate about how Celia must have felt when, at age fourteen, she was first raped by her master. To this end, McLaurin draws upon interviews with late twentieth-century rape victims as one basis for inferring Celia's mental and emotional state. *Id.* at 21-22 & n.10. While I applaud McLaurin's motivations, I find his citations absurdly anachronistic, an example of one problem I have noted: Celia and women like her were unable to leave any significant record of what they thought and felt.

75. *Id.* at 81-82.

76. *Id.* at 84.

77. *Id.* at 86.

78. *Id.* at 86.

79. *Id.*

could not testify in any way against a white man, even a dead white man.⁸⁰ Celia's lawyer was therefore left with nothing more than the argument that the Missouri rape law should be interpreted to protect slave women, and that Celia had the legal right to use force to repel her master's advances.⁸¹ This legal analysis, not surprisingly, was rejected by the judge: there was no such thing as "rape" of a slave woman in the law of any of the slave states.⁸²

On Friday afternoon, December 21, 1855, Celia was executed by hanging.⁸³

b. Mary Peters; Tempe Pitts

In *Bullwhip Days*, republished in 1988, appear some of the surviving stories of rape and brutality as told by former slaves themselves.⁸⁴ In the 1930s,⁸⁵ Mary Peters, an old woman and a former slave, gave this horrifying account:

My mother's mistress had three boys—one twenty-one, one nineteen, and one seventeen. One day, Old Mistress had gone away to spend the day. Mother always worked in the house; she didn't work on the farm, in Missouri. While she was alone, the boys came in and threw her down on the floor and tied her down so she couldn't struggle, and one after the other used her as long as they wanted, for the whole afternoon. Mother was sick when her mistress came home. When Old Mistress wanted to know what was the matter with her, she told her what the boys had done. She whipped them, and that's the way I came to be here.⁸⁶

What was it like for Mary carrying this nightmare image of the scene in which she was conceived? What did Mary feel? Helpless pity for her mother? Raging hatred for the three white boys/men who were, collectively, her "father"? Does that image and the emotions it evokes seem a life-warping, almost impossible burden? It is surely understandable that many slave

80. *Id.* at 86, 89-90.

81. *Id.* at 89-90.

82. *Id.* at 96. Moreover, McLaurin observes that inclusion of slave women in the legal category of women who could be "raped" would have undermined the ideology and economics of slavery. *Id.* at 91, 101. For a discussion of the historical and present-day ramifications of the doctrine that "rape" meant non-consensual sex with a white woman, see Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 157-59 (1989).

83. MCLAURIN, *supra* note 50, at 114.

84. BULLWHIP DAYS: THE SLAVES REMEMBER (James Mellon ed., 1988).

85. Between 1934 and 1941, "the Federal Writers' Project, an adjunct of the Works Progress Administration, dispatched a number of interviewers—men and women, whites and blacks—to seek out and question the former slaves." *Id.* at xii. *Bullwhip Days* is a compendium of excerpts from these narratives.

86. *Id.* at 297.

women chose silence, protecting their children's innocence as best they could and sowing confusion that was a relative blessing, compared with the truth. Hear Tempe Pitts:

I ain't sayin' nothin' 'bout my white folkses, but sometimes I does wonder why I's red-headed, when my pappy an' mammy wuz black as tar. Maybe I is part white, but I ain't sayin' nothin' 'bout my white folkses, as I done tole yo.'⁸⁷

I suspect many of us are like Tempe Pitts: our skin or hair indicates white ancestry, but we neither know nor want to know the gory details. It was therefore both courageous and unusual for Pauli Murray to fully examine her own background.

c. Harriet (Slave-of-the-Smiths)

Pauli Murray's account of her family history⁸⁸ includes a complicated story involving a slave woman, the white brothers who fathered the slave's children, and the children's subsequent relationships with their white relatives.⁸⁹ Murray was an African American woman, a lawyer, civil rights activist, and ordained Episcopal priest. Given her status as a *black* professional, it is unnerving for the reader to come across this passage in the Introduction to *Proud Shoes*: "[M]y grandmother's people, the Smiths of Chapel Hill, North Carolina, were a white slave-owning family of local prominence." Murray continues:

Theirs was a story of deep sexual and emotional involvement with slaves, across the racial and social barriers. Whether it sprang from lust or devotion or sense of kinship or moral obligation, this involvement led the Smiths to act in contradictory ways and to be ambivalent about an institution that they were unwilling to renounce.⁹⁰

Pauli Murray's great-grandmother was a slave, Harriet, who was purchased by the eminent Smith family to act as lady's maid to the young Miss Mary Ruffin Smith. As was apparently the custom, Harriet was chosen because she was light-skinned, refined, and good-looking.⁹¹ In fact, Harriet was "one of the most beautiful girls in the county, white or black. She was small and shapely, had richly colored skin like the warm inner bark of a white birch, delicate features, flashing dark eyes and luxuriant wavy black

87. *Id.* at 297. The extent to which slave women's silence about who had fathered their children was chosen, rather than coerced, is unclear. Harriet Jacobs wrote that "it was a crime for a slave to tell who was the father of her child." JACOBS, *supra* note 60, at 24.

88. PAULI MURRAY, *PROUD SHOES: THE STORY OF AN AMERICAN FAMILY* (1978).

89. *See id.* at 35-54.

90. *Id.* at x.

91. *Id.* at 38.

hair which fell below her knees."⁹² Eventually, both of Mary Ruffin Smith's brothers, Sidney and Frank, became sexually obsessed with Harriet.⁹³ They broke up Harriet's marriage, forbidding her free-born, mulatto husband, upon pain of death, from entering the Smith property.⁹⁴ Then Sidney took Harriet by force:

Harriet had nailed up the door as usual and put barricades against it. Later that night, after everyone had gone to bed, the other slaves heard Marse Sid break open Harriet's door. Ear-splitting shrieks tore the night, although he stuffed rags in the door and window cracks to muffle Harriet's cries....

That was only the beginning. After that first night, Harriet went into fits of hysterical screaming whenever Sidney came near her. The more she reviled him the better he seemed to like it. He raped her again and again in the weeks that followed. Night after night he would force open her cabin door and nail it up again on the inside so that she could not get out. Then he would beat her into submission. She would cry out sharply, moan like a wounded animal and beg for mercy. The other slaves, hearing her cries, trembled in their beds and prayed silently for her deliverance.⁹⁵

After Sidney had several times repeated his routine of breaking into Harriet's cabin and raping her, he was accosted by his brother, Frank. A terrible fight between the brothers ensued, leaving Sidney in a pool of his own blood, with a gaping hole in his head.⁹⁶ Although Sidney more or less recovered, he did not dare another sexual approach to Harriet. Neither, however, would he leave the premises. Poor Harriet, now carrying Sidney's child, was therefore confronted, on a daily basis, with the leering presence of her tormentor. What could she do? Her only protection from the hated Sidney was his brother, Frank. Harriet therefore became concubine to Frank, in a relationship that Murray describes as purely physical,⁹⁷ bearing him three children. The defining dynamic in the life of this beautiful and relatively privileged house slave was her "choice" between unwanted sex accompanied by physical brutality and unwanted sex without physical brutality.⁹⁸ There was no space for her that could meaningfully be described as agency. Even from the point of view of her descendants, the contours of her life were set

92. *Id.*

93. *See id.* at 40-41.

94. *Id.* at 39, 41-42.

95. *Id.* at 43.

96. *Id.*

97. *Id.* at 47.

98. Actually, there is some ambiguity about Harriet's feelings for Frank. While she initially accepted him only because she needed protection from Sidney, she is later described as becoming "devoted" to him. *See id.* at 46-47.

entirely by the sexual demands of her masters.⁹⁹

Not all slave women who attracted unwanted sexual attention from their masters suffered death or defeat. Currently, one of the most widely known and oft-repeated stories is the account of the life of another slave woman named Harriet. Writing under the pseudonym Linda Brent, Harriet Jacobs published her autobiography, *Incidents in the Life of a Slave Girl*.¹⁰⁰ Harriet, the slave of the Smiths, and Harriet Jacobs, who were both of mixed race,¹⁰¹ had many similar experiences. Their stories differ radically, however, in that Harriet Jacobs successfully resisted victimization, ultimately making her life a triumph.

d. Harriet Jacobs

Harriet Jacobs was owned by Dr. Flint, a vulgar and oppressive man.¹⁰² Jacobs was a maid who, except for a brief, punitive stint on a plantation, served the doctor and his family at their house in town. The doctor lusted after Jacobs, but did not rape her: "[A]s a married man, and a professional man, he deemed it necessary to save appearances in some degree."¹⁰³ Rather, he continually made lascivious and vaguely threatening suggestions that Jacobs should sexually submit to him and prevented her from marrying the young, freeborn black man she would have chosen.¹⁰⁴ Jacobs was disgusted by the doctor's behavior but never wavered in her determination to protect her virtue.¹⁰⁵ By various stratagems, Jacobs usually avoided being

99. See *id.* at 48. This narrative is an illustration of Toni Morrison's observation that a recurring assumption in American literature is "that slave women are not mothers; they are 'naturally dead,' with no obligations to their offspring or their own parents." MORRISON, *supra* note 28, at 21.

100. JACOBS, *supra* note 60. This was first published in 1861.

101. Both of Jacobs's parents were mulattos. JACOBS, *supra* note 60, at 11. Harriet-of-the-Smiths was a quadroon; her one-quarter non-white blood was either Indian or black. MURRAY, *supra* note 88, at 38, 51.

102. "[M]y master, whose restless, craving, vicious nature roved about day and night, seeking whom to devour, had just left me, with stinging, scorching words; words that scathed ear and brain like fire. O, how I despised him." JACOBS, *supra* note 60, at 29.

103. *Id.* at 52-53.

104. *Id.* at 58-66.

105. On the theme of protecting sexual virtue, the Oxford University Press edition of *Incidents in the Life of a Slave Girl*, which is part of the Schomburg Library of Nineteenth-Century Black Women Writers, includes an enormously helpful introduction by Valerie Smith. See JACOBS, *supra* note 60.

Smith points out that Jacobs chose to tell her story in the form of a sentimental novel, partly because the sentimental novel was a form familiar and appealing to the white women readers who were Jacobs's principal audience:

The form allowed her to identify with both her readers and the protagonists of sentimental fiction. It also provided her with the means by which to cast her story of virtue under siege. Like her readers, she aspired to chastity and piety as consummate feminine virtues and hoped that marriage and family would be her earthly reward.

Id. at xxxi. On the other hand, the sentimental novel was an inadequate, and somewhat bizarre, form in which to cast Jacobs' story. The genre constrained Jacobs by dictating that

alone with the doctor for any significant amount of time.¹⁰⁶

The doctor increased the pressure. When, finally, he made known his intent to acquire an isolated cottage and to install Jacobs there,¹⁰⁷ she made the only defensive maneuver that seemed available to her: she took another white man, Mr. Sands, as her lover. This choice could be viewed purely negatively, as compelled by the situation in which the doctor had placed Jacobs. It seems, however, that Jacobs' choice was, to some extent, positive and empowering. Not only did her relationship with Sands constitute revenge upon her furious, sexually-rejected master,¹⁰⁸ but also "[i]t seem[ed] less degrading to give one's self, than to submit to compulsion. There is something akin to freedom in having a lover who has no control over you, except that which he gains by kindness and attachment."¹⁰⁹

With Sands as her lover, benefactor, and protector, Jacobs escaped the doctor's sexual plot for several years, although not without stress: the doctor refused to sell her to her lover,¹¹⁰ continued his lewd, suggestive behavior, and sent her to a plantation, where he hoped that harsh conditions would make her willing to submit to him.¹¹¹ Under great pressure from the doctor, including threats to her children,¹¹² Jacobs finally fled.¹¹³

Concealed in her home town by trusted friends, black and white,¹¹⁴ Jacobs was overjoyed when her first goal had been accomplished: frustrated in his initial attempts to find Jacobs, the doctor had sold Jacobs's children, who ended up being owned by their father, Sands.¹¹⁵ Yet Jacobs could not have simply resurfaced, because she retained her determination to avoid the doc-

euphemism and innuendo be used to communicate sexual matters. More seriously, the experience of a slave woman was enormously different from that of the typical protagonist of a sentimental novel, thus requiring Jacobs to radically edit her experience in order to avail herself of the genre. See generally *id.* at xxxi-xxxiii. See also CHRISTIAN, BLACK FEMINIST CRITICISM, *supra* note 53, at 168-69 (discussing the peculiar constraints of the romance novel form).

Likewise, the conventions of the slave narrative, usually male, afforded little means by which Jacobs could tell her tale of sexual oppression. The Smith Introduction to *Incidents in the Life of a Slave Girl* points out this crucial difference between the experience of male and female slaves: the male slave had likely been stripped of all meaningful familial responsibility by the conditions of slavery and, therefore, had primarily himself to think about when plotting an escape to freedom. JACOBS, *supra* note 60, at xxviii.

106. *Id.* at 51.

107. *Id.* at 82.

108. *Id.* at 85-87.

109. *Id.* at 85.

110. See *id.* at 92-93.

111. *Id.* at 129-32.

112. *Id.* at 127-28.

113. The precipitating event that led to Jacobs's flight was the doctor's announced plan to send Jacobs's two children to a plantation to be "broke in." *Id.* at 144. Jacobs knew that this plan would likely be abandoned if she were not present to take care of the children. *Id.* at 147.

114. *Id.* at 147, 151-52, 158.

115. *Id.* at 160-61.

tor's sexual imposition. Further, she had a larger goal: to establish a home on free soil, as a free woman, for her free children.¹¹⁶ Accordingly, Jacobs decided to continue in hiding until an opportunity to escape to the North presented itself.

There was a very small dormer under the roof of a shed owned by Jacobs's grandmother, a free woman of color. It was in this tiny, dark, not-weatherproofed space that Jacobs hid herself.¹¹⁷ She figured that the doctor would continue his search for her, but would wear out his patience and his resources in a relatively short time, after which Jacobs would manage to leave for the North with her children.

But Jacobs remained in the crawl space in her grandmother's shed for seven years. Only a tremendous act of will, continually renewed, enabled Jacobs to live for so long under such conditions. The crawl space was not big enough for Jacobs to move very much; she could not, for instance, stand up. Her legs cramped and eventually atrophied from lack of exercise. The roof leaked. Jacobs had little protection from either the winter cold or the blistering summer heat.¹¹⁸ Her mental agony was constant and extreme: longing for her children¹¹⁹ and feeling anxiety over being discovered and delivered to her fate as a sexual object for the doctor. However, she persevered and eventually triumphed: she never did fall into the doctor's clutches and managed to build a healthy, wholesome life for herself and her children in rural New York.¹²⁰

e. Summary: Themes of the Hate Story

The principal players in the First Primeval Story are evil, immensely powerful, white men, and blameless slave women who suffered sexual oppression. The women are sometimes valiant, sometimes pitiful. On the sidelines are black male characters, suitors, lovers, or husbands of the black women. These men are powerless to protect the women they love from sexual oppression, and are unable even to stay in the vicinity should white men decide to drive them away. This is not merely a story among other stories. It is the paradigm, fundamental in three senses.

First, any sexual interaction between a slave master and a slave woman should be presumed to have followed the archetypal script of the "Hate Story." African American scholarship and narratives, both oral and written, identify the Hate Story as most typical.¹²¹

116. *Id.* at 213.

117. *See id.* at 173 (describing the garret).

118. *Id.* at 175, 177.

119. *Id.* at 173-75.

120. *See id.* at 237-303 (narrating Jacobs's escape and subsequent events).

121. According to Angela Davis, "[v]irtually all the slave narratives of the nineteenth century contain accounts of slave women's sexual victimization at the hands of masters and overseers." DAVIS, *supra* note 49, at 25.

Second, to the extent that there are gaps in the historical record rendering such scholarship and narratives inconclusive, opponents of present-day American racial hierarchy will resolve the ambiguity in favor of assuming that the Hate Story predominated.¹²²

Finally, there is a third sense in which the Hate Story is fundamental. While any sex between a slave master and a slave woman should be presumed to be a Hate Story, the presumption is rebuttable: some relationships do not fit within the Hate paradigm. I have denominated the stories that deviate from the Hate Story as the "Love Story" and the "Love/Hate Story." As I will later demonstrate, neither the Love Story nor the Love/Hate Story can be fully understood except by comparison with the Hate Story. It is their deviations from the Hate Story that give the Love Story and the Love/Hate Story their valences.¹²³

2. SECOND PRIMEVAL STORY: SLAVE AND MASTER LOVE EACH OTHER

There are both fictional and biographical accounts of this fact pattern, wherein a slave woman and her master were coupled in a long-term, committed relationship.¹²⁴ Apparently, the fact that a man and a woman occupied the legal relationship of master and slave did not absolutely preclude the possibility that they loved each other. Sometimes the domination of the master was incomplete, allowing space for both partners to love and room

122. To the extent that stories about slavery are relied upon to illuminate some aspect of present-day oppression of African Americans, it is the slave-era stories of oppression that are generally most relevant. See John Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World*, 65 S. CAL. L. REV. 2129, 2206-10 (1992) (providing a full exploration of the meanings of the word "oppression" and of its applicability in describing the situation of contemporary African Americans). Structural unemployment, ghastly conditions in which many urban African Americans live, and gaps in income and wealth between American blacks and whites are some indicators that racial oppression is a present-day reality.

123. In a very general way, this structuralist analysis was suggested to me by chapters one and two of JAMESON, *supra* note 59. My method is, in some respects, similar to Derrida's idea of "trace," wherein the analysis of a concept that is part of a hierarchical opposition includes attention to the traces that have been left upon it by the other term of the opposition; in other words, it is important to notice the influence of what is absent. See DERRIDA, *supra* note 59, at 46-47. For an explanation of the concept of "trace," see J. M. Balkin, *Deconstructive Practice and Legal Theory*, 96 YALE L. J. 743, 751-53 (1987).

124. In addition to the stories told in the text, there are many others, for instance: Some Whites lived openly with their Black female mistresses. One southerner, a man named William Adams, stipulated in his will that his Black concubine, Nancy, be set free upon his death and awarded a portion of his property. He even left money for the children he had fathered by her. RUSSELL, *supra* note 16, at 19. See also TERRY ALFORD, *PRINCE AMONG SLAVES* (1977). Here, to the great consternation of his relatives, a white man from a slaveholding family, Thomas Foster, Jr., fell in love with a slave woman, on whose account he abandoned his white wife and children. *Id.* at 94-99.

for the slave to exercise agency.¹²⁵

While slave women exercised agency in a number of roles, Chase-Riboud's *Sally Hemings* inquires into a slave woman's agency, that is, her self-expression and power, achieved on the terrain of sexuality.¹²⁶ Thus, Chase-Riboud constructs Sally as extraordinarily beautiful and sensual, because the story of Sally as person, rather than object, seems to require it. What follows is my synopsis of Chase-Riboud's rendering of the Hemings/Jefferson romance.

a. Sally Hemings

Sally Hemings is fourteen in 1787, when she leaves Virginia for France, traveling as companion and servant to Polly, Thomas Jefferson's younger daughter. Jefferson has summoned Polly to join him and his elder daughter in Paris at the magnificent house he occupies as ambassador of the fledgling United States.

Despite her youth, Sally is already conscious of herself as a beautiful, desirable woman. She settles into the routine of her Paris life, where she has a tutor and a piano teacher, and where she accompanies the two Jefferson daughters on jaunts around the glorious city. Increasingly attracted to the powerful, virile Jefferson, Sally waits impatiently for the inevitable shift in his awareness of her.

It happens. Jefferson summons Sally to his room one night and she complies, with eagerness and nervous anticipation. All uncertainty evaporates as she and Jefferson make love: she feels, with this passionate encounter, that she has found the reason why she was born. Sally and Jefferson fall fervently in love, and the environs of Paris become a dazzling wonderland, when seen through their eyes. This is how Sally sees Marly, the favorite palace of the Sun King, Louis XIV:

As the great mechanical wheels raised the water of the river, a pale arc of color hung above it and faded into the colors surrounding us—the silver white of the fountains, the multicolored flowerbeds, the cream-and-blue shadow of the stone façades, the pearl-gray of the gravel underfoot—pastel colors; pink and lemon, delicate greens

125. For discussion by legal scholars of the problem of eroticism within hierarchical relationships, see DUNCAN KENNEDY, *SEXY DRESSING, ETC.* 126-213 (1993); Kathryn Abrams, *Sex Wars Redux: Agency and Coercion in Feminist Legal Theory*, 95 COLUM. L. REV. 304 (1995); Robin L. West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 WIS. WOMEN'S L. J. 81 (1987).

126. Angela Davis and Sherley Anne Williams have sought to broaden our notions of slave women's agency beyond the sexual realm, to include, for instance, women's leadership of and participation in slave uprisings. See Sherley Anne Williams, *DESSA ROSE* (1986); Davis, *supra* note 49, at 19-23. I know that, by choosing this topic, I risk reinforcing the tendency to define African American women primarily in sexual terms. It seems to me a risk worth taking: the sex stories are important, and have an influence that will continue to blind-side us until the stories are fully told and dealt with.

and blues, so unlike the harsh, hard colors of Virginia.

That day convinced me that there was no Virginia. No slavehood. There was no destiny, it seemed, that did not include this place, this hour, this Marly.

I looked at the tall figure standing beside me. . . . Like some glorious eagle overlooking Marly. I studied the familiar profile. My fifteen-year-old heart burst with pride. I could pale that face with longing. I could part that beautiful mouth with desire. I could fill those eyes with agony or joy.¹²⁷

That gorgeous place is a fit setting for Sally's realization of the bond she shares with her lover and of her power over him. Of course, the long arm of Virginia and its law of slavery reaches across the ocean to disrupt the idyll. The crisis comes with Sally's pregnancy, which forces her to examine the implications for herself and her child if she maintains the bond with Jefferson and returns to Virginia with him as his slave. Still in Paris, she leaves Jefferson's house and goes to stay with a gentlewoman who had previously rendered services to the Jefferson family. Sally's emotional turmoil is resolved when she learns that Jefferson has been devastated by her leaving and has, in fact, suffered blinding migraine headaches for the entire week that she has been gone. Given this evidence of how much Jefferson cares for, wants, and needs her, Sally makes her choice: she pledges fidelity to him, including promises that she will not leave him and that she will not avail herself of French law to change her status to that of a free woman. Jefferson, in return, promises that Sally will be mistress of Monticello, even though not legally his wife. Jefferson also promises Sally that he will emancipate their children.

As Sally leaves Paris with Jefferson, en route to Monticello, the central paradox that will shape the rest of her life has become apparent: it is her soft beauty and submissiveness that give her immense erotic power in her relationship with Jefferson. This paradox anchors the entire story and runs throughout it.¹²⁸

Sally's appearance and deportment are refined, lady-like.¹²⁹ While testimonials to her beauty are given in each phase of Sally's life, several of these observers react with distaste to how she deploys her particular sort of submissive femininity. For example, when Abigail Adams first meets the

127. CHASE-RIBOUD, *supra* note 4, at 120.

128. Having decided to use *Sally Hemings* to exemplify the Love Story, I have deliberately omitted discussion of many subtleties and complexities of Chase-Riboud's plot, including Sally's progressive understanding of the evil of slavery, her self-identification with the slaves, and the fact that her love for Jefferson was tinged with resentment.

129. *See, e.g., id.* at 4, 13, 112.

fourteen-year-old Sally, she is shocked by her discovery that there are "white" slaves and stunned by how much this particular slave looks like the slave's half-sister, Jefferson's deceased wife.¹³⁰ Feeling an instinctive aversion to Sally, Adams muses:

This girl was both a provocation and a victim. . . . In her still unformed personality there resided the innate arrogance of the totally possessed . . . an elusive disinterestedness that was both an insult and an invitation.¹³¹

Aaron Burr, when he meets Sally years later, has a similar reaction. He thinks Sally more lovely than any other woman, with the sole exception of Burr's own daughter, yet he is repulsed by her: "[T]here was a cloying self-satisfaction about her that I detested."¹³² Likewise, poor Martha Jefferson Randolph, elder daughter of Thomas, tall and plain, has these thoughts about the resemblance between Sally and Sally's half-sister, Martha's mother: she had "the same dreamy look, the same steely submission that masked the same taste for luxury and powerful men."¹³³

Does Sally's submissive beauty give her power? Absolutely. Jefferson finds her the "image of womanly perfection."¹³⁴ To look upon Sally was to confront "the awful power a woman could wield over a man."¹³⁵

b. Easter

Another long-term love relationship between a slave and her master is presented in *Alex Haley's Queen: The Story of an American Family*.¹³⁶

130. *Id.* at 78-79. There is no dispute among historians regarding the fact that Sally Hemings and Martha Wayles Skelton Jefferson were half-sisters. Even Virginius Dabney, vehement denier that Jefferson and Hemings were lovers, concedes that Hemings was half-sister to Jefferson's wife. DABNEY, *supra* note 1, at 26-27. Martha Jefferson's father, John Wayles, was also Sally Hemings's father. Sally's mother, Betty, was a mulatta slave owned by John Wayles. *Id.*

It is worth noting that Sally's connection to the Wayles family has been used as evidence against her alleged liaison with Jefferson. Thomas Sommerfield, the author of *Thomas Jefferson: An Intimate Life*, a play produced in 1993, is another detractor from the proposition that Sally Hemings was Thomas Jefferson's slave wife. Michael A. Schuman, *Travel*, BUFFALO NEWS, Feb. 28, 1993, at H3. The principal thrust of his play is to explain that the obvious family resemblance between Sally Hemings's descendants and Thomas Jefferson's descendants is attributable to the fact that Sally Hemings and Martha Wayles Skelton Jefferson were half-sisters, and not to any relationship between Jefferson and Hemings. Telephone Interview with Thomas Sommerfield, Playwright (Mar. 4, 1993). As Harriet Jacobs wrote in her autobiographical account of slavery, "What tangled skeins are the genealogies of slavery!" JACOBS, *supra* note 60, at 121.

131. CHASE-RIBOUD, *supra* note 4, at 80-81.

132. *Id.* at 174.

133. *Id.* at 320.

134. *Id.* at 123.

135. *Id.* at 184.

136. ALEX HALEY AND DAVID STEVENS, *ALEX HALEY'S QUEEN: THE STORY OF AN AMERICAN FAMILY* (1993). This story was the subject of a television miniseries that first

Haley's book is the tale of his father's family, based upon family stories and research and substantially fleshed out by imagined incidents, conversations, thoughts, and emotions.¹³⁷ One story that is told at considerable length, complete with erotic details, is the story of the love between Haley's great-grandparents: a slave woman named Easter and her master, James Jackson, Jr., called "Jass."

Easter and Jass are about the same age and, born on the same plantation, had grown up together. As children and young adolescents they had been playmates and friends. Easter is also Jass's servant, of course. They share an easy, close, relaxed relationship until Jass becomes disturbed by his growing sexual desire for Easter. Easter, meanwhile, is aware of Jass's sexual arousal and accepts it as natural.

Despite lascivious stories from his schoolmates about the glories of sex with black women, Jass, both high-minded and confused, abstains. The breakthrough in Jass's relationship with Easter comes when Jass's father suddenly dies, leaving Jass, still a teenager, as master of a large number of slaves, several estates, and a considerable fortune. Stunned, grieving, and vaguely exhilarated, Jass stumbles to Easter's cabin, where she folds him in a comforting embrace, following which, of course, they go to bed. Jass's love affair with Easter is the most intimate, important, and permanent in his life. Jass marries Lizzie, of whom he is fond, but her primary function is to produce white heirs. His passion is reserved for Easter.¹³⁸

aired on February 14, 16, and 18, 1993.

137. As fleshed out, the book's themes, characters, and tone bear a striking and unfortunate resemblance to Margaret Mitchell's *Gone With the Wind* (1936). Because *Queen* glorifies the antebellum South, contemporary black feminist theorists are more than justified in ignoring it. Cf., *infra* Part IV.A.2.

138. Despite the fact that we are meant to accept the account of Jass and Easter as a story of true love, it nevertheless seems to me that Easter represents a white supremacist archetype. Not only is she devoted to Jass, but she is apparently comfortable with her condition of servitude. "Easter hated talk of slavery and abolition. Most of the time she was able to convince herself of the lie that she wasn't really a slave . . ." HALEY AND STEVENS, *supra* note 136, at 186. She is thus a "Mammy" figure who offers sex as part of her caretaking function.

From another angle, evidence of the white supremacist script can be seen in the fact that the Lizzie and Easter characters define each other: Lizzie, the Southern Belle, is white, sexually repressed, and rational/responsible. Easter is black, sexually open, and emotional/irresponsible. Furthermore, a comparison between Lizzie and Easter reveals that the rational/responsible trait and the emotional/irresponsible trait are in a zero sum relationship: in each personality, rationality is inversely related to emotional life, to the detriment of both women.

Thus, the construction of the Lizzie and Easter characters seems to fit the general racist paradigm, wherein "images of white women's sexuality were intertwined with the controlling image of the sexually denigrated Black woman: 'In the United States, the fear and fascination of female sexuality was projected onto black women; the passionless lady arose in symbiosis with the primitively sexual slave.'" COLLINS, *supra* note 53, at 170 (quoting Jacqueline Dowd Hall, *The Mind that Burns in Each Body: Women, Rape, and Racial Violence*, in *POWERS OF DESIRE: THE POLITICS OF SEXUALITY* 333 (Ann Snitow et al. eds., 1983) [hereinafter *POWERS OF DESIRE*]). For a piercing description of how racist ide-

To complete the picture: Easter, like some other slave women in loving or affectionate relationships with their masters, bears an apparently white child¹³⁹ who then goes on to become a "tragic mulatta."¹⁴⁰ What is tragic about Queen, progeny of the love between Easter and Easter's master, is that she should have been considered white.¹⁴¹ She looks white. She is entangled emotionally with white people. After much psychological conflict about her identity, a spurious marriage proposal from a white man during a period when she tries to pass for white,¹⁴² and rape,¹⁴³ Queen resolves the problem of her racial identity by finding true love with a black man and settling down in the black community.¹⁴⁴

c. Iola Leroy

One of the best-known "tragic mulattas" is Iola Leroy, heroine of Frances E.W. Harper's novel, first published in 1892.¹⁴⁵ Iola's parents, Eugene and Marie, are participants in a Love Story.

Eugene Leroy is a white and wealthy heir to an estate that includes a plantation and many slaves.¹⁴⁶ After nearly ruining himself with riotous living, Eugene is nursed back to health by his quadroon slave, Marie.¹⁴⁷ Moved by her beauty, spirituality, and intelligence, Eugene falls in love with Marie. He manumits her, sends her North to be educated, and marries

ology arranges "oppositional categories," where "each ... image of Blacks correlates with a counter-image of whites," see Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1373 (1988).

139. Reputedly, at least two of Sally Hemings's children "passed" into the white world as adults. JUSTUS, *supra* note 30, at 89, 138-39.

140. Regarding this archetype, Russell, Wilson, and Hall explain:

In nineteenth-century literature, color was crucial to the characterizations of Blacks, especially women. When portrayed as the love interest of either a Black or a White man, the Black heroine was typically light skinned, beautiful, and passive. In stories that were full of coincidence and ironic twists of fate, these heroines nearly always met a tragic end. In fact, the conflicts and downfalls associated with light-skinned Black females were so common in such novels that this stock character became known as the 'tragic mulatta.'

RUSSELL, *supra* note 16, at 136.

141. While Queen, as "tragic mulatta," wants to be considered white, other versions of the "tragedy" feature blacks-who-appear-white but who, unlike Queen, comfortably self-identify as black. For them, the "tragedy" is that they have been denied security and various advantages because of the arbitrariness of racist ideology, which deprives blacks of rights. See, e.g., CHARLES CHESNUTT, *THE MARROW OF TRADITION* (1969) (originally published 1901); FRANCES E.W. HARPER, *IOLA LEROY, OR SHADOWS UPLIFTED* (1969).

142. HALEY AND STEVENS, *supra* note 136, at 517-25.

143. *Id.*

144. *Id.* at 639-40. Even after entering into this solid marriage, the stress of dealing with past and present racial issues causes Queen to spend time in an insane asylum. *Id.* at 656-59.

145. HARPER, *supra* note 141.

146. *Id.* at 61.

147. *Id.* at 68.

her.¹⁴⁸

Despite the fact that they are ostracized by planter society in the Mississippi county where they live, Eugene, Marie, and their three children enjoy a happy, orderly life.¹⁴⁹ Wanting his children to grow up without the burden of knowing they belong to a despised caste, Eugene decides that they should not be told of the African part of their heritage.¹⁵⁰ While Marie disagrees with Eugene, she acquiesces.¹⁵¹ The subterfuge works because Marie and her children all appear to be white, and the children are sent North to be educated before they become old enough to notice the family's social isolation.

Eugene intends to move his family to Europe, where they could live without the affliction of racial prejudice and where, in fact, numerous persons of color had ascended to positions of power and influence.¹⁵² Unfortunately, Eugene is stricken by yellow fever and unexpectedly dies before he has implemented his plan to transplant his family.¹⁵³

Eugene's closest white relative is his evil cousin, Alfred Lorraine. Determined to get his hands on Eugene's fortune, Alfred executes a nefarious scheme to disinherit Eugene's wife and children. Alfred procures from a sympathetic judge a ruling, declaring that Marie's manumission was invalid and her marriage a nullity and, furthermore, remanding Marie and her children to slavery.¹⁵⁴ Literally shocked to death by this change in her life circumstances, Gracie, the youngest Leroy child, develops a brain fever and dies.¹⁵⁵ Unable to locate the Leroy son,¹⁵⁶ the cruel Alfred Lorraine contents himself with selling Marie and her daughter, Iola, into slavery.

Iola does not acquiesce to her new station in life. Rather, she becomes known for her implacable, and extremely verbal, resistance to her masters.¹⁵⁷ As a slave, Iola suffers indignities, largely unspecified by the narrative,¹⁵⁸ but is rescued by an officer of the Union army, who, relying upon Lincoln's decree of emancipation, orders her release after she has been in the condition of servitude for a brief time.¹⁵⁹

Iola, working as a nurse to injured Union soldiers, attracts the attention of a young, idealistic physician, Dr. Gresham.¹⁶⁰ Gresham mistakes the

148. *Id.* at 64-72.

149. *Id.* at 76.

150. *Id.* at 82-85.

151. *Id.* at 82, 105.

152. *Id.* at 82, 84.

153. *Id.* at 92-93.

154. *Id.* at 96, 124.

155. *Id.* at 96, 108.

156. *Id.* at 106-07.

157. *See id.* at 38, 41.

158. *See generally id.* at 115.

159. *Id.* at 37-42.

160. *Id.* at 56-58.

beautiful Iola for a white woman, as indeed he might: she has long hair, blue eyes, and white skin,¹⁶¹ as well as a lovely figure.¹⁶² Furthermore, her sensitivity, compassion, and skill as a nurse are impressive.¹⁶³ Iola declines Dr. Gresham's marriage proposal on the ground that her part-African blood is a barrier between them.¹⁶⁴ Gresham insists that that is no problem and pleads with Iola to marry him, but she adamantly refuses: it would violate her self-respect to pretend to be white.¹⁶⁵

Iola grows into an independent-minded, feminist woman, who is determined both to acquire a means to support herself and to work to uplift the Negro race.¹⁶⁶ Eventually, she meets a black physician, Dr. Latimer, who shares Iola's commitment to racial uplift.¹⁶⁷ Like Iola, Dr. Latimer is well-educated and appears to be white.¹⁶⁸ Also like her, Dr. Latimer refuses to avail himself of white skin privilege: he declines his wealthy, white grandmother's offer to make him her heir, which is contingent upon his willingness to pass as white.¹⁶⁹ Iola and Dr. Latimer marry and go South, where she, as a teacher, and he, as a physician, can work in and for a Negro community that desperately needs their help.¹⁷⁰

d. Summary: Themes of the Love Story

One of the principal characters in the Love Story is a white man who is powerful by virtue of his legal status as slaveowner, his economic resources, and his compelling sexuality. The other principal character is a black woman whose vulnerability as slave is largely overcome by her power grounded in beauty and sexuality. In addition to their mutual sexual attraction,¹⁷¹ the white man and black woman share fondness and commitment.¹⁷²

161. *Id.* at 38.

162. *Id.* at 214.

163. *See id.* at 56-57.

164. *Id.* at 109, 113-14.

165. *Id.* at 114, 117, 230-31.

166. *Id.* at 205, 210, 234-35.

167. *Id.* at 266.

168. *Id.* at 239.

169. *Id.* at 238-39.

170. *Id.* at 274-76, 278-80.

171. Earlier generations of black writers deemphasized the sexual dimension of master/slave Love Stories, as in Harper's 1892 portrait of the relationship between Eugene and Marie Leroy. *See supra* Part III.B.2.c. These writers were constrained by Victorian social and literary conventions. Furthermore, one tactic typical of the post-Civil War black middle class was to fight the stereotype of the lascivious black woman by presenting black women as chaste and spiritual. *See* PAULA GIDDINGS, *WHEN AND WHERE I ENTER* 95-117 (1984). By contrast, contemporary writers place a great deal of emphasis upon the sexual bond in master/slave Love Stories, partly because conventions have changed enough to allow for sexual explicitness, and partly because it seems difficult for the present generation to imagine any other reason, beyond sex, why a master and slave woman would maintain an intimate relationship. For example, I have found only one recent reference to the Love Story between Eugene and Marie Leroy, and that writer's only interest was in pointing out what she saw as Marie's false consciousness, exhibited in Marie's stupid decision to marry

There is a subsidiary character who often appears in the Love Story, the child of the two principal characters. Such a child may be a "tragic mulatta," defined, here, as a child of black and white parents who looks white, but is subjected to the horrible injustices that accompany the social/legal category of blackness.

A comparison of the Love Story with the paradigmatic Hate Story and an examination of the deviations from the Hate script that are peculiar to the Love Story raise two questions. First, against the background of the brutal institution of slavery, in which, typically, a slave woman who has had sex with her master has been the victim of rape or other coercion, is it possible to believe that particular slave masters and slave women became coupled in meaningful, non-perverse relationships? Second, why are the mixed-blood offspring of a Love Story considered "tragic," in a sense that the children born of slave women who were raped by white men are not? As I note in Part IV.A.2, black feminists either ignore these questions or stigmatize them as having little relevance to black feminist thought.

3. *THIRD PRIMEVAL STORY: SLAVE LOVES AND HATES MASTER*

In contrast to the slave women in the Hate Story and the Love Story, whose feelings for the white men with whom they're involved are dominated by one emotion, either hate or love, there is a third category of slave women whose feelings are more ambivalent and ambiguous. Because these women both love and hate their masters, a tangled morass ensues, yielding relationships that are perverse, both psychologically and sexually. These are the dynamics which are masterfully, stunningly uncovered in Gayl Jones's novel, *Corregidora*.¹⁷³

a. Ursa

Corregidora opens with a major catastrophe, in which Ursa, the main character, is attacked by her drunken husband, who throws her down a flight of stairs. As the result of her fall, Ursa miscarries and is forced to have a hysterectomy. The loss of her childbearing capacity is a disaster, for Ursa has been given a mission in life, handed down to her by her mother, and by her mother's mother before her: to bear a girl child and to tell that child a

a white man. HAZEL V. CARBY, *RECONSTRUCTING WOMANHOOD: THE EMERGENCE OF THE AFRO-AMERICAN WOMAN NOVELIST 75-76* (1987).

172. While *Sally Hemings* and *Queen* share these themes, *Queen*, written by a black man with his white co-author, should probably be rejected as not reflective of black women's point of view, for the reasons stated in this article. See discussion *supra* notes 137-38. Black feminist theorists have the burden of explanation, however, if *Sally Hemings*, written by a black woman, is not treated as reflecting an aspect of black women's cultural understandings. See discussion of black feminist rejection of the Love Story *infra* Part IV.A.2.

173. GAYL JONES, *CORREGIDORA* (1975).

particular story. That tale is of degradation and sexual oppression visited upon Ursa's great-grandmother and grandmother on a Brazilian slave plantation by that plantation's master, Corregidora.¹⁷⁴ Having lost all hope of bearing a daughter to inherit the story of Corregidora's evil, Ursa must now figure out how to live without that story as an anchor.¹⁷⁵ Indeed, it takes many years and extraordinary struggle for her to learn what Corregidora had signified for the women in her family.

There are serious difficulties in every relationship Ursa has, including difficulties arising from her color, her gender, and her prejudices. Thus, a brown-skinned woman holds Ursa at a distance because Ursa's skin is light;¹⁷⁶ men treat her as sexual prey and resent her economic independence from them;¹⁷⁷ and Ursa rejects the one woman who is a true friend because that woman is a lesbian.¹⁷⁸ Among these problems, however, it is her relationship to men that is presented as the central dilemma of the novel.

It is the black men in Ursa's and her mother's life who are made the agents of the women's growing understanding of their corrupt attachment to Corregidora. Ursa's mother was briefly married to a black man, who was subjected to continual bombardment by lurid, highly sexualized accounts of Corregidora's evil.¹⁷⁹ A captive audience to this story, which pervaded the tiny house where he lived with his wife, her mother, and her grandmother, the black man/husband felt enraged, humiliated, emasculated. He was the

174. At the beginning of the novel, this is how Ursa thinks of Corregidora and conceives of her mission:

Corregidora. Old man Corregidora, the Portuguese slave breeder and whoremonger. . . . He fucked his own whores and fathered his own breed. They did the fucking and had to bring him the money they made. My grandmama was his daughter, but he was fucking her too. . . .

My great-grandmama told my grandmama the part she lived through that my grandmama didn't live through and my grandmama told my mama what they both lived through and my mama told me what they all lived through and we were suppose [sic] to pass it down like that from generation to generation so we'd never forget.

JONES, *supra* note 173, at 8-9.

175. Regarding the derivation of Ursa's last name, "Corregidora," which the women in her family adopted from the supposedly despised slave-master, Melvin Dixon has provided this explanation:

Corregidore, in Portuguese means "judicial magistrate." By changing the gender designation, Jones makes Ursa Corregidora a female judge charged by the women in her family to "correct" (from the Portuguese verb *corrigir*) the historical invisibility they have suffered, "to give evidence" of their abuse, and "to make generations" as a defense against their further annihilation.

Melvin Dixon, *Singing a Deep Song: Language as Evidence in the Novels of Gayl Jones*, in *BLACK WOMEN WRITERS 1950-1980*, *supra* note 53, at 239.

176. JONES, *supra* note 173, at 69.

177. See, e.g., *id.* at 3.

178. *Id.* at 47-48, 62-65.

179. *Id.* at 101, 118.

first person with the insight and the nerve to pose this question to the women: how much of what you feel for Corregidora is hate, and how much of it is love?¹⁸⁰ In the same vein, the black men who become Ursa's successive husbands both imply that her inability to intimately bond with them is caused by her fixation on Corregidora.¹⁸¹ Yet the plot is quite complex. These men, who are the sources of insights about Ursa's relationship to Corregidora, are not neutral, objective by-standers; instead, they are demanding, abusive men who tend to define the essence of womanhood as a kind of lusty submission.

The climax of the book comes on its next-to-last page when, after years of tortuous learning from many experiences, Ursa makes this breakthrough in her understanding: the story of sexual oppression that she had been taught is not all of the truth. The great-grandmother had been tied to Corregidora by bonds of love and hate, and had significant power, sexual in origin, in the relationship:

It had to be sexual, I was thinking, it had to be something sexual that Great Gram did to Corregidora. I knew it had to be sexual: "What is it a woman can do to a man that make him hate her so bad he wont [sic] to kill her one minute and keep thinking about her and can't get her out of his mind the next?" In a split second I knew what it was, in a split second of hate and love I knew what it was¹⁸²

Ursa's flash of insight comes as she is kneeling before her ex-husband, Mutt, about to perform fellatio. She can visualize her great-grandmother in the identical posture with Corregidora. What Ursa and the great-grandmother did was to give intense pleasure and also to bite, hard enough to hurt, hard enough to convincingly threaten to desex the man: "A moment of pleasure and excruciating pain at the same time, a moment of broken skin but not sexlessness, a moment just before sexlessness, a moment that stops just before sexlessness, a moment that stops before it breaks the skin: 'I could kill you.'"¹⁸³ Thus, Ursa realizes that her great-grandmother was no passive victim vis-à-vis Corregidora, but was in a position to give as good as she got. The insight is curiously liberating for Ursa, giving her at last the ability to see and face the truth. On intimate terrain, each person has power and must assume responsibility for its exercise. She reinterprets her great-grandmother's relationship with Corregidora and her own relationship with Mutt, now seeing both relationships as characterized by mutual coercion and mutual vulnerability. She is released from the quandary of her existence and

180. *Id.* at 131.

181. *Id.* at 13, 61.

182. *Id.* at 184.

183. *Id.*

her foremothers' past, but only to this extent: relationships with others besides Corregidora become real to her for the first time.¹⁸⁴

The structure of the story raises the question whether, shed of the weight of Corregidora, Ursa will now be able to reconcile with her ex-husband, Mutt, an extremely problematic black man: his violence had caused Ursa to lose her child-bearing capacity, and he was deeply threatened by her refusal to give up her singing and rely upon him financially. In fact, all the principal, black, male characters, in their coldness, rage, and brutality,¹⁸⁵ are relieved of full responsibility for their behavior. Rather, we are led to the conclusion that the men's defects are partly understandable, given the difficulties of making their way in the truncated corridors left open to them by white supremacy and, more importantly, given the history between black women and white men.

This is not a story composed of stock characters. Each person is complex and unusual. It is nevertheless clear what archetypal story is being told. The classic script concerns an ambivalent black woman whose subconscious attachment to white men leads her to an invidious relationship with black men: not outright rejection, but a superficial connection shot through with disrespect, aloofness, and judgment.¹⁸⁶ The book very powerfully demonstrates the origin of this trope: "ain't nobody so free as a black woman and a white man." This notion, that the black woman allies herself with the white man against black men, has a long history¹⁸⁷ and, unfortu-

184. Jones means to suggest tenderness as the alternative to brutality:

Although the main focus of *Corregidora* and *Eva's Man* is on the blues relationships or relationships involving brutality, there seems to be a growing understanding—working itself out especially in *Corregidora*—of what is required to be genuinely tender. Perhaps brutality enables one to recognize what tenderness is.

BLACK WOMEN WRITERS AT WORK 98 (Claudia Tate ed., 1986). Jones has referred to the sexual dynamics in *Corregidora* as "neurotic sensuality." *Id.* at 97.

185. The black men in *Corregidora* are not pure villains; the same black men who sometimes inflict great pain upon the women are, at other times, loving, hard-working, and sensitive.

186. This is also a black-woman-as-whore story: the great-grandmother and grandmother were prostitutes; after an altercation with her ex-husband, Ursa's mother has torn and dragged clothing, described as making her look like a whore; and Ursa's ex-husband accuses her of being like a whore in relationship to the men who listen to her sing. JONES, *supra* note 173, at 9, 121, 154. This is a typical element of the Love/Hate script, in that "Black women who have willingly chosen white male friends and lovers ... are accused of being like prostitutes, demeaning themselves by willingly using white men for their own financial or social gain." COLLINS, *supra* note 53, at 191.

187. According to Nell Painter:

The black-woman-as-traitor-to-the-race is at least as old as *David Walker's Appeal* of 1829, and the figure has served as a convenient explanation for racial conflict since that time... . [I]t should be remembered that in the tale of the subversion of the interests of the race, the black female traitor—as mother to whites or lover of whites—connives with the white man against the black man. Such themes reappear in *Black Skin, White Masks*, by

nately, is alive and well today.¹⁸⁸

b. Celia (Second Version)

One of the purportedly factual accounts of a black woman's ambivalent attachment to a white man and concomitant difficulties in her relationship with a black man is the story of *Celia: A Slave*, recounted above in another context.¹⁸⁹ For present purposes, I will emphasize a different dimension of the narrative in considering the relationships between Celia and her master, Newsom, and between Celia and her slave lover, George. As part of the Hate Story, the emphasis was upon the facts that Celia was procured by Newsom for sexual purposes, that she was first raped by him at age fourteen, that she killed him, and that she was tried and executed for his "murder."¹⁹⁰

Consider, however, these different elements: Celia had been sexually engaged with Newsom for five years and had borne him two children;¹⁹¹ her slave lover, George, demanded that she "quit" Newsom;¹⁹² Celia then killed Newsom, whereupon George cast suspicion on her¹⁹³ and then ran away.¹⁹⁴ A somewhat different story, yes? In this alternative psycho-drama, George saw Celia's connection to Newsom as *chosen* by her, else George would not have so phrased his demand that Celia "quit" Newsom. Despite the fact that

Frantz Fanon; in *Black Rage*, by William Grier and Price Cobbs; and in *Madheart*, by LeRoi Jones, in which the figure of "the black woman," as "Mammy" or as "Jezebel," is subject to loyalties to whites that conflict with her allegiance to the black man. Unable to extricate herself from whites, the black-woman-as-traitor misconstrues her racial interests and betrays black men's aspirations to freedom.

Painter, *supra* note 51, at 204. See also GIDDINGS, *supra* note 171, at 61-62 (providing additional historical references to accusations by black men that black women corruptly and willingly had sex with white men).

188. For example, Dr. Alvin Poussaint, preeminent African American psychiatrist, had this to say about Anita Hill's testimony that Clarence Thomas, now Associate Justice of the Supreme Court, had sexually harassed her: "There's a high level of anger among black men, be they low-income or professional, that black women will betray them; that black women are given preference over them; that white men like to put black women in between them to use them." Lena Williams, *Blacks View Dispute as Very Embarrassing and Deeply Divisive*, HOUSTON CHRONICLE, Oct. 15, 1991, at A19.

In Nell Painter's view, Thomas deliberately cast Anita Hill in the role of "black-woman-as-traitor-to-the-race." Painter, *supra* note 51, at 204. Nellie McKay and Margaret Burnham have made the same observation. Nellie McKay, *Remembering Anita Hill and Clarence Thomas: What Really Happened When One Black Woman Spoke Out*, in RACE-ING JUSTICE, EN-GENDERING POWER, *supra* note 51, at 284; Margaret Burnham, *The Supreme Court Appointment Process and the Politics of Race and Sex*, in *id.* at 312. This "betrayal" accusation is sexual in origin and is an example of the current, unfortunate vitality of the "ain't nobody so free" trope.

189. See *supra* Part III.B.1.a.

190. See *id.*

191. McLAURIN, *supra* note 50, at 24.

192. *Id.* at 25.

193. *Id.* at 35-36.

194. *Id.* at 46.

Celia followed this suggestion in the most forcible way possible, *i.e.*, by killing Newsom, George betrayed and then abandoned Celia. Why would George do such things? Lingering jealousy and resentment that Celia had formerly consented to sex with Newsom and the cowardly desire to save his own skin. Told this way, Celia's story presents the elements of the "ain't nobody so free" trope: consensual sex between a white man and a black woman; a resentful and jealous black man who, rightfully suspicious of the black woman's true allegiance, lashes out to hurt her.

c. Summary: Themes of the Love/Hate Story

The Love/Hate Story deviates from the paradigmatic Hate Story script in several key respects. Here, the white man, instead of being all-powerful, is subject, to a certain extent, to the sexual power of the black woman. Rather than trying to keep herself from the slave master's clutches, the slave woman in the Love/Hate Story feels and indulges sexual desire for him, while sexually rejecting the black man. The main feature that distinguishes the black characters in the Love/Hate Story from the black men and women in the Hate Story and the Love Story is that here the black characters are morally blameworthy and perverse.

For each character in the Love/Hate Story, sexuality is an arena of combat. Each deploys his or her sexuality in an attempt to vanquish, however conditionally or temporarily, an adversary who is both desired and despised. The white man, while overweeningly powerful in other spheres, is a relatively equal contestant, *vis-à-vis* the black woman. The white man's goals are to awaken sexual desire in the slave woman and to sexually dominate her. For him, this project has the desirable fringe benefit of humiliating and emasculating the black man.

The black woman, functioning as both sexual agent and object of desire, seeks to make herself indispensable to both the white man and the black man. Having accomplished that, she makes known her preference for the white man. Finally, there is the black man, who certainly is the worst off of the trio. Sexually obsessed with the black woman and frustrated by her refusal to fully engage with him, the black man begins to hate her and to look for ways to hurt her.

Looked at from a perspective internal to the African American community, the Love/Hate Story is the most problematic of the stories concerning sex between white men and slave women. The Love/Hate Story posits that relationships between black men and women are infected with distrust, disrespect, and betrayal. Therefore, people interested in healing the rifts in the African American community usually respond to the difficulties posed by the Love/Hate Story by attempting to suppress its problematic aspects and to make every story fit the Hate Story mold, wherein an evil, powerful white man oppresses both a blameless black woman and a blameless black

man.¹⁹⁵ Furthermore, as discussed in Part IV.A.3, contemporary black feminists generally reject the Love/Hate Story as a sexist fabrication.

IV. ISSUES POSED FOR BLACK FEMINIST THEORY

At the end of Part II, after a brief exegesis of the Sally Hemings controversy, I raised these questions: Are there divergent interpretations of the Sally Hemings story within the African American community, particularly among women? Have other African American women, besides me, been offended when the story of Sally Hemings is told as a love story, rather than a story of oppression? As opponents of American race and gender hierarchies, have we unduly privileged slave-era stories of sexual oppression, to the extent that the issues raised by other important stories are suppressed?

I answered the first question in Part III, where I treat the Sally Hemings story as typifying the plot of one of the Three Primeval Stories told by African American women and our allies about sexual relationships between slave women and white men. After presenting narratives that exemplify each of the Three Primeval Stories, I summarized by describing the characters and scripts that make each of the three distinctive. Furthermore, I explained why and in what sense the story of sexual oppression, which I call the "Hate Story," is paradigmatic.

Now, I will set out what the current generation of black feminists has to say about the meanings of the Three Primeval Stories, assessed in terms of their implications for present-day politics. In addition, I will answer the remaining question posed at the end of Part II: As opponents of American race and gender hierarchies, have we unduly privileged slave-era stories of sexual oppression to the extent that the issues raised by other important stories are suppressed?

In Part IV.A, "Setting the Boundaries of Black Feminism," I demonstrate how the paradigmatic story of sexual oppression (Part IV.A.1) is used to define the scope of black feminism by, *inter alia*, "Stigmatizing the Love Story" (Part IV.A.2) and "Rejecting the Love/Hate Story as a Sexist Fabrication" (Part IV.A.3). Part IV.B, "Pressing Through the Boundaries: The Humanist Dimension of Black Feminism," concerns the need for black feminism to develop principles for dealing with people and issues that are outside our core areas of concern. My "Conclusion" summarizes the article

195. The Love/Hate Story is also suppressed because of the superficial similarity between the black woman in the story and Jezebel, the white supremacist stereotype. Important distinctions can be made, however. The white supremacist stereotype presents slave women as lustful animals, dominated by sexual desire. See COLLINS, *supra* note 53, at 170-73 (discussing the construction of black women as animals, both in early nineteenth-century stereotypes and in contemporary pornography). In contrast, the slave woman in the Love/Hate Story, as told by African Americans, is not an animal, but a person. Furthermore, the slave woman in the Love/Hate Story is not reducible to her sexuality. Rather, she uses sex to attain her goals.

and points toward future work that must be done.

A. SETTING THE BOUNDARIES OF BLACK FEMINISM

1. *The Central Importance of the Hate Story*

As I explained in Part III, the story of sexual oppression, the "Hate Story," is paradigmatic for several reasons: it represents the most prevalent pattern of sexual interactions between slave women and white men; it is the most relevant to the present-day social and political situations of African Americans; and it is essential to a full understanding of the stories which have divergent fact patterns. Contemporary black feminists and our allies are therefore justified in giving priority to the Hate Story.

The main themes sounded in the telling and analysis of the Hate Story seem to be these: black women have been and continue to be oppressed by whites; oppression should be resisted; resistance is sometimes effective. Because Harriet Jacobs's story exemplifies each of these points so well,¹⁹⁶ it is not surprising that it receives a great deal of attention from black feminist intellectuals and activists. Thus, for instance, Valerie Smith's Introduction to the Oxford edition of *Incidents in the Life of a Slave Girl* emphasizes Jacobs's determination to exert control over her fate, even in the most difficult circumstances:

One might be tempted to characterize [Harriet Jacobs] as a victim of her circumstances. But she repeatedly demonstrates her ability to transform the conditions of her oppression into the preconditions of her liberation and that of her loved ones. Her garret, ostensibly a place of confinement, renders her spiritually independent of her master and makes possible her eventual escape to freedom. It is thus hardly surprising that [Jacobs] finds her imprisonment, however uncomfortable, an improvement over her "lot as a slave." As her statement implies, she dates her emancipation from the time she enters her hiding place, even though she does not cross into the free states until seven years later. Given the constraints that frame her life, even the act of choosing her own mode of confinement constitutes an exercise of will, an indirect assault against her master's domination.¹⁹⁷

Thus, "Jacobs inscribes a subversive plot of empowerment beneath the more orthodox plot of vulnerability."¹⁹⁸ Indeed, it was the theme of resistance that was given priority of place, the very first time I heard the Jacobs story.

196. See discussion of Harriet Jacobs's story *supra* Part III.B.1.d.

197. JACOBS, *supra* note 60, at xxxiii-xxxiv (footnotes omitted).

198. *Id.* at xxxiv (citation omitted).

My initial encounter with the tale of Harriet Jacobs was at the annual banquet for the Nile Valley Shule, an Afrocentric school for young children, in Buffalo, New York. The key-note speaker was Sonia Sanchez, poet, writer, and committed activist. Sanchez's rendition of the Jacobs story was stunning. A brilliant performer, Sanchez had just completed a parody of the vulgar, over-sexualized, apolitical self-presentation by many black women who are current, popular entertainers. In contrast, Sanchez held up the heroic example of Harriet Jacobs, stressing that Jacobs chose to suffer in hiding for *seven years*, rather than submit sexually to her lascivious master. This, then, was the point: Jacobs should be emulated because she resisted and successfully avoided sex with a white man.¹⁹⁹

More generally, Sanchez's message was that black women's sexual expression has social and political implications. This is, to a certain extent, a truism; for members of a besieged racial minority, it seems that everything we do or don't do has ramifications for whether American racial hierarchy will be undone. On the other hand, exaggerated concern about the social and political meanings of our sexuality has had a repressive effect that has been harmful to black women and has retarded the development of black feminist thought.

There are numerous examples of African American political movements that have promoted an extremely restrictive norm: black women should have sex only within the context of monogamous relationships with black men.²⁰⁰ Deviations from the script—in particular, sexual attachments to women²⁰¹ or to white men²⁰²—are then denigrated as “betrayals of the race.” Unfortunately, because other concerns always seem more pressing, black feminist theorists have done relatively little to critique the sexually repressive aspects of such ideas.²⁰³ Some theorists have, however, acknowledged that more attention should be paid to black women's sexual agency, as a component of black feminist thought.

Patricia Hill Collins is in the forefront of black feminist discussion of sexuality. She invokes Audre Lorde's analysis of the erotic as a source of

199. Sanchez did not mention that one of Jacobs's stratagems for resisting the white Dr., Flint whom she abhorred, was to accept another white man, Mr. Sands, as lover.

200. This was the stance taken by the black women's club movement in the late nineteenth and early twentieth centuries and has been a prominent feature of black nationalist theory and politics since the 1960s. See generally GIDDINGS, *supra* note 171, at 99, 108, 317-18.

201. June Jordan, for instance, has observed that those black intellectuals who create constructs about “correct and incorrect Black experience” generally treat lesbianism as taboo. COLLINS, *supra* note 53, at 195 (quoting JUNE JORDAN, CIVIL WARS 140 (1981)).

202. See COLLINS, *supra* note 53, at 191.

203. Many black women who are creative writers have presented and explored black women's sexuality. See, e.g., TONI MORRISON, SULA (1973); AUDRE LORDE, ZAMI: A NEW SPELLING OF MY NAME (1982); ALICE WALKER, THE TEMPLE OF MY FAMILIAR (1989).

power for black women,²⁰⁴ emphasizing that "Lorde's words . . . signal the potential for Black women's empowerment by showing sexuality and the erotic to be a domain of exploration, pleasure, and human agency."²⁰⁵ However, after her brief and important discussion of why black feminists should pay more attention to questions of sexual agency, Collins devotes the bulk of her chapter to examination of how constructions of black women's sexuality shore up systems of domination.²⁰⁶ Thus, here again, analysis of oppressive appropriation of black women's sexuality is given such priority that little space can be spared for inquiries into black women's sexual agency.

In sum, on the most general level, overemphasis on stories of sexual oppression has led black feminist theorists to neglect the issue of black women's sexual agency.²⁰⁷ This pattern, along with a judgmental tendency to evaluate whether black women's sexual relationships advance or retard progress toward political goals, form the background against which discussions of sexual relationships between slave women and white men take place. The following sub-sections further explore how black feminists draw sexually repressive inferences from stories about the slave era. In addition, the analysis highlights other theoretical problems that arise when the Hate Story, representing white male oppression of black women, is treated not simply as the dominant story, but as the only legitimate story.

2. *Stigmatizing the Love Story*

The Hate Story and other stories of oppression play a gate-keeping function in defining the parameters of black feminist thought. In particular, stories of oppression are deployed against the Love Story in order to help delineate what is "black" about black feminism. Black feminist discussions of the two arguably "black" characters in the Love Story, the slave woman involved in a love affair with her master and their white-appearing child, inevitably reflect the discussants' values and experiences. Furthermore, black feminists sometimes write and talk to each other about the slave-era Love

204. COLLINS, *supra* note 53, at 165-66 (discussing AUDRE LORDE, *SISTER OUTSIDER* 53 (1984)).

205. *Id.* at 166.

206. Collins discusses how the interlocking systems of class, gender, and racial domination are reinforced by the construction of black women's sexuality in the contexts of pornography, prostitution, rape, and sexual violence. COLLINS, *supra* note 53, at 167-79.

207. This problem goes beyond black feminism and afflicts feminism, generally. In fact, one of the principal features of the "Dominance Feminism" that has prevailed in legal feminist discourse is its implicit denial that women exercise at least some degree of sexual agency. While this article is framed as a discussion of black feminist theory, it should also be seen as a contribution to the critique of "Dominance Feminism" that has been launched by Angela Harris and Kathryn Abrams, among others. See Abrams, *supra* note 125; Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 *STAN. L. REV.* 581 (1990). For an extended critique of the "anti-sex" strand of American feminist thought, see Ann Snitow *et al.*, *Introduction*, in *POWERS OF DESIRE*, *supra* note 138, at 9-50.

Story for the purpose of making political judgments about those who arguably live a version of the Love Story today, that is, black women who have white partners or spouses, and black women of more-than-average European ancestry.

At least one black feminist scholar has categorically denied that the Love Story existed, emphasizing the element of coercion in all master/slave relationships.²⁰⁸ From this perspective, Chase-Riboud's *Sally Hemings* and other presentations of master/slave Love Stories are both wrong-headed and absurd. Other black feminist scholars, who concede that there was an element of affection in some master/slave relationships, presume that the slave mistress was no more than the "pet" of her owner.²⁰⁹ Still others, like Paula Giddings, might note historical references that exemplify the Love Story in passing, but do not spend time analyzing them.²¹⁰ Not coincidentally, black feminist theorists seem to have little interest in exploring the race-transcending aspects of present-day relationships between black women and white men, probably for the reason given by Patricia Hill Collins:

The relationships among Black women and white men have long been constrained by the legacy of Black women's sexual abuse by white men and the unresolved tensions this creates. Traditionally, freedom for Black women has meant freedom *from* white men, not the freedom to choose white men as lovers and friends. Black women who have willingly chosen white male friends and lovers have been severely chastised in African-American communities for selling out the "race," or they are accused of being like prostitutes, demeaning themselves by willingly using white men for their own financial or social gain.²¹¹

As to the subsidiary character in the slave-era Love Story, the "tragic mulatta," black feminist discussion concerns the criteria for accepting such mixed-race persons as "black." First of all, the paradigmatic Hate Story is crucial to the analysis. While a lot of race-mixing occurred as a result of rape or sexual coercion of slave women, yielding many light-skinned blacks, these are not typically called "tragic mulattas"; that designation is usually reserved for the white-appearing offspring of a master-slave Love Story. Why? Because the progeny of rape are viewed as indisputably black, no matter what they look like, while the progeny of a Love Story may be both

208. See DAVIS, *supra* note 49, at 25-26.

209. See COLLINS, *supra* note 53, at 174-75.

210. See GIDDINGS, *supra* note 171, at 73.

211. COLLINS, *supra* note 53, at 191. Collins does not endorse this widely-held set of attitudes. Rather, she recognizes that blacks and whites sometimes form meaningful, loving relationships. *Id.* at 192. However, "given the legacy of the sexual politics of Black womanhood, for large numbers of African-Americans, fully human relationships with whites remain out of reach." *Id.*

black and white. Recent black feminist references to *Iola Leroy* exhibit the two present-day takes on the "tragic mulatta" figure.

Some contemporary black feminists reject Iola Leroy as an inauthentic portrayal of a black woman, because of her appearance and privileged class background²¹² or because she speaks very formal English.²¹³ Others treat her as part of African American women's cultural history, because she turned her back on white skin privilege and dedicated her life to work on behalf of the black community. Thus, in Hazel Carby's opinion, "Iola's dismissal of the assistance of white patriarchal power was symptomatic of [her creator's] wider plea that the black community look toward itself for its future, not toward assistance and support from or alliance with the forces represented by the various white characters in the novel."²¹⁴ The black feminist commentary on *Iola Leroy* is less about the historical authenticity of the character than it is about the present-day cultural and political meanings of her story. Like Iola, contemporary, light-skinned women of partial African descent are sometimes embraced to the extent that they self-identify as black and are committed to a struggle against societal racism; otherwise they are denigrated as inauthentic characters.

Thus, it appears that issues specific to persons of questionable racial identification, very likely including black women with white partners, as well as mulattas, are of only marginal interest to black feminism. Up to a point, this makes sense, because the theoretical and political agendas of black feminism require affirmation that the racial designation "black" have an articulable set of meanings and refer to a relatively determinate group of people. Furthermore, a politics is impossible without some prioritizing of issues to be addressed. However, ethical and analytical problems arise when race is treated as a surrogate for other issues, including questions of skin color and class.

In defining the racial boundaries of black feminism, a burden is placed upon black women who have white partners and upon light-skinned black women, particularly those who look nearly white, to prove their loyalty to the African American community. This problem will be relatively intractable so long as race hierarchy exists; the suspicion that a black woman with a white spouse or who looks white is a foreigner to the anti-racist movement may not be unfounded. If this suspicion is treated as irrebuttable, however, serious ethical problems result. For example, Judy Scales-Trent has spent

212. Deborah E. McDowell, *The Changing Same: Generational Connections and Black Women Novelists*, in *READING BLACK, READING FEMINIST*, *supra* note 53, at 91, 95-96; CHRISTIAN, *BLACK FEMINIST CRITICISM*, *supra* note 53, at 167, 175.

213. McDowell, *supra* note 212, at 96-97.

214. CARBY, *supra* note 171, at 93. Similarly, Patricia Hill Collins embraces Iola because, "[b]y rejecting an opportunity to marry a prestigious physician and dissociate herself from the Black community, nearly white Iola, the main character, chooses instead to serve the African-American community." COLLINS, *supra* note 53, at 130.

many years, as lawyer and law professor, dedicated to combatting race and gender discrimination.²¹⁵ Yet, according to the tales recounted in her book, *Notes of a White Black Woman*,²¹⁶ Scales-Trent continues to experience painful rejections and misunderstandings because she looks white. Her book is a striking reminder of the negative implications of rigid, exclusionary notions of "blackness." For that reason, and because race is a social construct with shifting meanings, the appropriate stance is for us to learn to live with ambiguity about the racial boundaries of black feminism.

An additional problem with the pattern of questioning the racial authenticity of black women with light skin or white partners is an analytical confusion between matters of race and matters of class. Admittedly, these are closely linked, and black women who have white partners or who look white are likely to be of higher socio-economic class than other black women.²¹⁷ However, to conflate race and class, as when upper-middle-class black women with light skin or white partners are dismissed as "not really black," is a significant error. This mistake diverts us from important discussions about class differences within the African American community and the implications of these class differences for the task of dismantling racial hierarchy. Furthermore, the implicit assumption that light-skinned black women or black women who have white spouses have not suffered from racism is at odds with the usual reality. Therefore, to the extent that our discourse retains remnants of the analytically sloppy equation of "black" with "lower-class," it seems that black feminism should pay more attention to class analysis and reject competitive notions of race authenticity.²¹⁸

In sum, black feminist discussion of slave-era Love Stories both reflects and helps to construct attitudes toward contemporary women of ambiguous racial identity.²¹⁹ Some line-drawing is necessary if black feminism is to

215. Judy Scales-Trent is the author of many articles concerning race and sex discrimination. See, e.g. Judy Scales-Trent, *Black Women and the Constitution: Finding Our Place, Asserting Our Rights*, 24 HARV. C.R.-C.L. L. REV. 9 (1989).

216. JUDY SCALES-TRENT, *NOTES OF A WHITE BLACK WOMAN* (1995).

217. *Id.* at 70.

218. See Calmore, *supra* note 122. Calmore is critical of "competitive authenticities" within the race." *Id.* at 2168 n.130 (citing Joe Wood, *Niggers, Negroes, Blacks, Niggaz, and Africans*, VILLAGE VOICE, Sept. 17, 1991, at 38). There is, however, a notion of authenticity that Calmore does endorse. He observes that, without "a sense of authenticity, ... our work will probably fail to connect significantly with our community's agenda of social action." *Id.* at 2168. Calmore explains: "I am using the term 'authenticity' to designate aspirations that, oversimplistically, amount to being yourself as you venture into new contexts, roles, and relationships. Although authenticity is complicated when the personal is also the political, I deem authenticity to be primarily a matter of personal, self-regarding characterization." *Id.* at 2168 n.130 (citing MARSHALL BERMAN, *THE POLITICS OF AUTHENTICITY* xv (1970)).

219. The problems posed for black feminist theory by persons of unclear racial identification, in this case, black women with white partners and black women who look white, will be further developed in a separate article. In addition to a fuller discussion of the issues alluded to in the text of the present work, the follow-up article will address the sub-

retain its characteristic commitment to social change. If, however, "black" is given rigid and exclusionary meanings, both ethical and analytical problems arise.

3. *Rejecting the Love/Hate Story as a Sexist Fabrication*

While the Hate Story paradigm is used to critique the Love Story in order to contribute to the construction of what is "black" about black feminism, the Hate Story is deployed against the Love/Hate Story in order to construct what is "feminist" about black feminism. The Love/Hate Story presents black women in collusion with white men, to the detriment of black men. Black men, according to the script, justifiably respond to the women's betrayal with resentment, often escalating into rage and brutality.

While both the black men and black women who participate in the Love/Hate drama are blameworthy, it is the women who are generally seen as most at fault. It is entirely unsurprising, therefore, to find that black feminists and Critical Race Theorists who direct their attention to the Love/Hate Story are primarily interested in demonstrating the extent to which the Love/Hate Story has no basis in fact.

While the charge that black women collude with white men (colloquially, "ain't nobody so free as a black woman and a white man") is sexual in origin, in its present-day manifestation it has been generalized to the proposition that black men suffer more than black women as victims of white supremacy. The prime response of black feminists, including Critical Race Theorists, has been, rightly, to deploy the Hate Story paradigm in order to demonstrate that black women's sexuality has made us peculiarly vulnerable to white racist oppression, rather than being a source of privilege.²²⁰ Black feminists have also directed a great deal of attention to demonstrating that, in the aggregate, black women are economically more disadvantaged than black men.²²¹ Another prong of the response by black feminists to the Love/Hate Story has been to demonstrate that the false assumptions about black women's motivations and conditions that underlie the "ain't nobody so free" trope are used to excuse black male violence,²²² privilege black male experience, and validate black male sexism.²²³

jective aspect of race (*i.e.*, the extent to which racial identity is a question of choice) and the problem of colorism (*i.e.*, discrimination on the basis of skin color) within the African American community. On colorism, see Taunya Banks, *Colorism: A Darker Shade of Pale*, unpublished manuscript on file with author.

220. See, e.g., BELL HOOKS, *YEARNING: RACE, GENDER, AND CULTURAL POLITICS* 57-60 (1990).

221. See, e.g., GIDDINGS, *supra* note 172, at 344-45; Scales-Trent, *supra* note 215, at 29. Barbara Smith says that one of the effects of black feminist inquiry into the situation of black women was "to deflate some of the cherished myths about Black Womanhood, for example, ... that we are more economically privileged than Black men." *HOME GIRLS: A BLACK FEMINIST ANTHOLOGY* xxxii (Barbara Smith ed., 1983).

222. See COLLINS, *supra* note 53, at 186-89.

223. See Painter, *supra* note 51; McKay, *supra* note 188; Burnham, *supra* note 188. See

I agree that black feminists should continue to give priority to exposing how the Love/Hate Story is often used to deny the oppression of black women. However, the critique of the Love/Hate Story can be taken too far, yielding statements by some black feminists that seem to imply that black males consistently benefit from gender privilege, not only in relationships with black females, but also in the comparative advantages of black males and females in American society at large. Correcting this distortion, which is discernible in the work of some contemporary black feminists, seems a necessary precondition for furthering feminist ideas among black women, who live with and observe black men on a daily basis. If black feminism seems to deny or misapprehend the realities of black male oppression, then it is unsurprising that black women are reluctant to describe themselves as "feminist."²²⁴

While some black feminists have done important work on the question of the gendered oppression of black males,²²⁵ there is no unanimity on the question whether black feminists should abandon the formulation that black women are more oppressed than black men or on the question whether it is beyond the scope of black feminism to pay particular attention to the forms of racist oppression that are specifically directed against black men. This lack of consensus has caused theoretical and practical difficulties for black feminists, particularly in relation to the broad anti-racist movement. In order to illustrate these tensions, I will examine Orlando Patterson's 1994 "Blacklash" article²²⁶ and the black feminist responses to Patterson that were included in a 1995 symposium.²²⁷

Let me give a brief synopsis of Patterson's essay: there is a crisis in relations between African American men and African American women, as evidenced by, among other things, a declining marriage rate.²²⁸ The principal factor contributing to the African American gender crisis is that African Americans are racially subordinated and live in a hostile social, political, and economic environment. There are also, however, problems that are internally generated or perpetuated within the African American community.

also MICHELE WALLACE, *BLACK MACHO AND THE MYTH OF THE SUPERWOMAN* 17-19 (1979). Furthermore, black feminists have frequently pointed out that the "ain't nobody so free" trope deflects attention from the social institutions and ideologies that are the principal sources of African American oppression, and that asking women to disempower themselves in order to bolster male ego is a formula that helps no one. See COLLINS, *supra* note 53, at 184, and sources cited therein.

224. For a partial analysis of black women's worry that embracing feminism would be tantamount to betrayal of black men, see HOOKS, *supra* note 220, at 59-60.

225. See, e.g., BELL HOOKS, *BLACK LOOKS: RACE AND REPRESENTATION* 87-113 (1992).

226. Orlando Patterson, *Blacklash: The Crisis of Gender Relations Among African Americans*, 62 *TRANSITION: AN INTERNATIONAL REVIEW* 4-26 (1994).

227. *The Crisis of African American Gender Relations: A Symposium on the Crisis of Gender Relations among African Americans*, 66 *TRANSITION: AN INTERNATIONAL REVIEW* 91-175 (1995).

228. Patterson, *supra* note 226, at 19.

With respect to the lower classes, Patterson traces the violent, misogynistic, and irresponsible behavior of many young African American males to the fact that they have been reared in single-parent households headed by women who are prone to brutal, abusive disciplinary methods.²²⁹ Furthermore, Patterson ventures into Freudian theory: because lower-class, black, male children have neither a father nor an effective father-substitute present to model a healthy form of masculinity, they lapse into violence and predatory sexuality as the only means available for overcoming attachment to their mothers.²³⁰ Moving on to examine the gender crisis in middle-class black America, Patterson points to a profound ideological misfit between African American women and men:

[R]esearchers have found serious mismatches and contradictions in the attitudes of middle-class black men and women. While middle-class black women have, with one notable exception, the most advanced set of gender attitudes in the nation, black men tend to remain highly traditionalist, believing in male dominance ideology in familial relations.²³¹

Having laid out his analysis of the gender crisis among lower-class and middle-class African Americans, Patterson accuses black feminists of having obscured these issues. Specifically, he blames black feminists for having distorted the inquiry into the actual state of African American gender relations by adopting the divisive and inaccurate formulation that African American women are more oppressed than African American men.²³²

As to the comparative situations of African American women and men, Patterson is himself both unclear and self-contradictory.²³³ Given the impossibility of making coherent sense of his various propositions, it is not in

229. *See id.* at 13-14.

230. *Id.* at 16-17.

231. *Id.* at 20. The exception to black women's otherwise advanced gender attitudes is "their unusually high valorization of mothering," which Patterson views as an "oddly traditionalist element in the otherwise radical structure of black middle-class women's beliefs on gender." *Id.*

While Patterson does not clearly state what should be done to correct the clash of gender ideologies, the adjectives he uses to describe middle-class women's stance, e.g., "liberated" and "autonomous," are complimentary. *Id.* at 25. By contrast, his characterization of middle-class males' gender ideology is pejorative; he refers to them as "the most sexist and self-excusing of men." *Id.* I therefore infer that Patterson thinks black middle-class males should change their thinking.

232. *Id.* at 7-8.

233. Having lambasted black feminists for saying that black women are worse off than black men, he concedes that "it is not a myth that African-American women have been more burdened than African-American men," suggests that careful analysis yields the conclusion that it is impossible to determine whether black women or black men are worse off, admonishes that the attempt to rank oppressions is, at any rate, wrong-headed and divisive, and, despite all the above, opines that black men are in fact worse off than black women. *Id.* at 8-10.

the least surprising that two prominent black feminist theorists had starkly different responses to Patterson's article.

First, there is bell hooks, who responds to Patterson's essay with indignation.²³⁴ Viewing Patterson's essay as "anti-feminist propaganda in black-face,"²³⁵ she points out that "[s]exist and misogynist thinking has always blamed mothers for the psychological dilemmas males face."²³⁶ In response to Patterson's assertion that "contemporary African American feminist thought has badly obscured our understanding of gender relations,"²³⁷ hooks objects to his "willingness to lump all black women who advocate feminist thinking together, even though our perspectives are not the same."²³⁸

hooks's anger at the fact that Patterson makes sweeping generalizations about "feminism" seems largely justified. Indeed, Patterson appears totally unaware that the "double burden" formulation that he finds problematic has been the subject of analysis, discussion, and critique by black feminists for at least fifteen years. Patterson writes:

It has become almost a truism in discussions of black gender relations that African-American women are uniquely oppressed with a double burden. In today's usage, added to the burden of racism is the *double jeopardy* of mainstream gender discrimination. Following the Thomas hearings, in which an African-American woman was pitted against an African-American man, ... many commentators and analysts emphasized yet a third burden experienced by African-American women: that of gender prejudice and exploitation by African-American men. . . .²³⁹

Patterson thinks that "the double burden argument, while not strictly incorrect, obscures more than it illuminates;"²⁴⁰ he wants black feminists to abandon any formulation that implies that black women are more op-

234. bell hooks, *Feminist Transformation*, 66 *TRANSITION: AN INTERNATIONAL REVIEW* 93-98 (1995).

235. *Id.* at 94.

236. *Id.* at 96.

237. *Id.* at 98 (quoting Patterson, *supra* note 226, at 7).

238. hooks, *supra* note 234, at 98. This is hook's description of the strand of black feminism to which she adheres and of which Patterson is apparently ignorant:

Truthfully, revolutionary visionary feminist thinking by black females and males is one of the few places we can turn for an account of black gender relations that does not seek to pit black women and men against one another in an endless, meaningless debate about who has suffered more. This work courageously acknowledges that white supremacist capitalist patriarchy assaults the psyches of black males and females alike. It is only by constructively articulating the nature of that assault and developing redemptive strategies for resistance and transformation that we can resolve the crisis of black gender relations.

Id.

239. Patterson, *supra* note 226, at 8.

240. *Id.*

pressed than black men. hooks's angry retort is, in effect: many of us abandoned that formulation long ago, which you, Patterson, would know if you took feminism seriously.²⁴¹ The bottom line is that hooks is angry at Patterson for failing to realize that black feminists have been grappling for years with the issues that have just come to Patterson's attention.

In another symposium response to Patterson's "Blacklash" essay, prominent black feminist Michele Wallace recognizes, like hooks, that Patterson is raising issues that have engaged black feminists for some time.²⁴² Unlike hooks, however, Wallace decides not to be angry at Patterson, but rather welcomes him into the black feminist discussion. Wallace begins her article by writing that Patterson's "'Blacklash' is a wonderful and important piece."²⁴³ Like hooks, but much more gently, Wallace chides Patterson for inaccurate overgeneralization of black feminist thought. She takes issue with a passage written by Patterson, where he objects to

the tendency of black feminists, who dominate the discourse, to confine, and confound, the problems of gender—which concerns both males and females in their relations with each other—with those of women's issues, or, when relational problems are considered, to privilege the standpoint of women, on the assumption that they are always the victims of the interaction. Black men have as much at stake. . . .²⁴⁴

Wallace responds that she "no longer see[s] black feminism as the discourse of victimization."²⁴⁵ Rather, says Wallace,

241. The evolution of hooks's thinking regarding the relative positioning of African American women and men is clear in her published work. For instance, in hooks's first book, *Ain't I a Woman: Black Women and Feminism*, written when she was a nineteen-year-old college student, there are many passages that reflect hooks's broad, humanist commitment to end domination in all its forms. BELL HOOKS, *AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM* 194 (1981). However, there are also passages stating that black women are more oppressed than black men. See, e.g., *id.* at 52-53 ("As far back as slavery, white people established a social hierarchy based on race and sex that ranked white men first, white women second, though sometimes equal to black men, who are ranked third, and black women last."). This strand of hooks's thinking, positioning black men as better off than black women in the over-all social hierarchy, did not, however, even in 1981, represent the views of all black feminists. Barbara Smith, for one, launched a scathing critique of *Ain't I a Woman* for, among other things, minimizing African American male oppression. Barbara Smith, *Black Feminism Divorced from Black Feminist Organizing*, 14 *THE BLACK SCHOLAR* 38 (1983).

Furthermore, several years before Patterson wrote his "Blacklash" article, hooks had, herself, drawn attention to the changes in her thinking regarding the comparative situations of black women and men, pointing to the contrast between *Ain't I a Woman* and her later work. See BELL HOOKS & CORNEL WEST, *BREAKING BREAD* 106 (1991).

242. Michele Wallace, *Neither Fish nor Fowl*, 66 *TRANSITION: AN INTERNATIONAL REVIEW* 98 (1995).

243. *Id.* at 98.

244. *Id.* at 99 (quoting Patterson, *supra* note 226, at 7).

245. Wallace, *supra* note 242, at 99.

In contemporary feminist discourse in the circles I frequent, . . . discussions of female gender and its construction rarely fail to take into account that constructions of female gender need to be thought in conjunction with constructions of masculinity.²⁴⁶

Pointing to the lack of unanimity among black feminists on basic issues, Wallace opines that "black feminism today is . . . an odd and frail creature, not quite fish or fowl," wherein "[m]any black women who practice a brand of feminism can't even agree upon calling themselves feminists."²⁴⁷ While Wallace does not agree with everything that Patterson wrote in his article, she is inclined to be generous, given the disarray of black feminist thought. Her bottom line with regard to Patterson is this: "The point is that he is proceeding in the right direction and that we need to be thinking along these lines."²⁴⁸

For purposes of my inquiry, the important points in the hooks and Wallace articles are that neither one of them defends the formulation that black women are more oppressed than black men and both implicitly concede that their early work reflected ideas on the relative position of black women and men to which they no longer adhere. Have the legal academics who write black feminist theory followed a similar trajectory and abandoned the formulation that black women are more oppressed than black men? To answer this question, I will venture a (friendly) examination of the work of Kimberlé Crenshaw on the intersection of race and gender.²⁴⁹

Crenshaw's article, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,"²⁵⁰ starts with the fundamental black feminist premise that black women's experiences are an amalgamation of gender, race, and class. The problem Crenshaw examines is that "the multidimensionality of black women's experience"²⁵¹ is distorted by "the tendency to treat race and gender as mutually exclusive categories of experience and analysis."²⁵² This distortion "is perpetuated by a single-axis framework that is dominant in antidiscrimination law and that is also reflected in feminist theory and an-

246. *Id.*

247. *Id.*

248. *Id.* at 101.

249. Besides Crenshaw, Critical Race Theorists who have published articles examining black feminist issues include Regina Austin, *Black Women, Sisterhood, and the Difference/Deviance Divide*, 26 NEW ENG. L. REV. 877 (1992); Harris, *supra* note 207; Dorothy E. Roberts, *The Value of Black Mothers' Work*, 26 CONN. L. REV. 871 (1994). Feminist articles written by these authors and other legal academics of color appear in the new reader edited by Adrien Katherine Wing. CRITICAL RACE FEMINISM (Adrien Katherine Wing ed., 1997).

250. Crenshaw, *supra* note 82.

251. *Id.* at 139.

252. *Id.*

tiracist politics."²⁵³ Doctrinally and politically, black women are treated as black *or* female, but rarely as both.

The body of the article examines and critiques the problem as it arises in antidiscrimination doctrine, where, for example, black women are not permitted to claim discrimination as a distinct class, but must demonstrate that all blacks or all women are discriminated against.²⁵⁴ Crenshaw also gives examples demonstrating that feminists tend to privilege the experiences of middle-class, white women²⁵⁵ and that antiracist movements tend to privilege male experience.²⁵⁶ Yet what about the oppression of black males? That is beyond the scope of Crenshaw's article. While she does refer to black males as privileged by gender,²⁵⁷ she also notes that analysis of the situation of non-white males is "[o]ne of the central theoretical dilemmas of feminism."²⁵⁸ She explains that one result of the fact that American feminism tends to universalize the white female experience

is that experiences that are described as a manifestation of male control over females can be instead a manifestation of dominant group control over all subordinates. The significance is that other nondominant men may not share in, participate in or connect with the behavior, beliefs or actions at issue, and may be victimized themselves by 'male' power. In other contexts, however, 'male authority' might include nonwhite men, particularly in private sphere contexts. Efforts to think more clearly about when Black women are dominated as *women* and when they are dominated as *Black women* are directly related to the question of when power is *male* and when it is *white male*.²⁵⁹

While Crenshaw's initial article on the intersectionality of race and gender oppression merely flags the lack of feminist theoretical clarity on the situations of nonwhite men, her next article, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color,"²⁶⁰ re-

253. *Id.*

254. *Id.* at 148.

255. *Id.* at 152-60.

256. *Id.* at 162-63.

257. *See, e.g., id.* at 140 (suggesting that the framework which requires assertion of race or sex discrimination "erases Black women in the conceptualization, 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.").

258. *Id.* at 157 n.46.

259. *Id.* (emphasis in original).

260. Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color*, in *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* 357-83 (Kimberlé Crenshaw et al. eds., 1995). Crenshaw's article, as it appears in *Critical Race Theory* is an excerpted version of the article of the same

flects more of her commitment to grappling with the complexities of the positioning of men of color. Here, in the course of an examination of the problem of violence against women of color, she uses concrete examples to reemphasize her theoretical point: the situation and needs of women of color who are victims of violence are neglected by both the anti-racist movement, which privileges male experience, and by the feminist movement, which privileges white female experience.²⁶¹

In the course of her discussion of the fact that women of color so often refuse to take formal, legal action against men who batter them, Crenshaw exhibits great sensitivity to one of the issues posed by the “ain’t nobody so free” trope. While correctly giving priority to the most important issue—that measures to protect women of color from violence are inadequate—she apparently recognizes the dilemma women of color face when trying to decide whether to betray their men to the “white man” by seeking legal protection from their batterers.²⁶² Crenshaw thus recognizes the precarious position of black men in the race/gender hierarchy.

However, here, as in her first article, Crenshaw continues to use the concept of the intersectionality of race and gender oppression only in reference to the situation of *women* of color. This is confusing because there are several possible explanations for the omission of black men. The most likely reason for Crenshaw’s exclusive focus upon the intersectional oppression of black women is to help correct the imbalance of the anti-racist movement’s over-emphasis upon the intersectional oppression of black men. I wish that Crenshaw had been a bit clearer on this matter, because, as she notes in her first article, this is an important, but unresolved, issue within black feminist theory.²⁶³

It is possible, for instance, that Crenshaw thinks the notion of intersectionality of race and gender oppression does not apply to males. It is extremely unlikely that Crenshaw takes this position, given the immense amount of public discussion about the gendered oppression of African

title that was originally published in 43 STAN. L. REV. 1241 (1991).

261. Crenshaw, *supra* note 260, at 357-58.

262. *Id.* at 362. Crenshaw does not explicitly tie her analysis of the psycho-social dynamics to the cultural assumptions that originated in the slave era, yet her understanding of this strand of African American culture is obvious. Crenshaw’s treatment of the dilemma facing women of color who are tied to violent men can also be seen as part of what Patricia Hill Collins calls the “Love and Trouble” tradition, which I see as closely related to what I refer to as the “ain’t nobody so free” trope. See COLLINS, *supra* note 53, at 183-85. Recognizing that African American women face a dilemma when deciding to invoke the power of the criminal justice system certainly does not imply that women should never use the police and courts to protect themselves. Indeed, it is very likely that the prevalence of violence against women of color is due, in part, to the women’s exaggerated sense of racial or ethnic loyalty. Thus, “[f]ar too many African-American women live with the untenable position of putting up with abusive Black men in defense of an elusive Black unity.” *Id.* at 179.

263. See Crenshaw, *supra* note 82, at 157 n.46.

American males, including the recent symposium in the Capital University Law Review.²⁶⁴ Some of the indicators most frequently cited are the statistics on the percentage of young black men currently under the supervision of the criminal justice system,²⁶⁵ as well as the discrepancies between the penalties for use and distribution of crack cocaine, a disproportionately black male activity, and the penalties for use and distribution of powder cocaine, a disproportionately white male activity.²⁶⁶ These are examples of one prong of gendered oppression of black males: bad things done or opportunities denied to them because they are both black and male.

There is, however, another prong which concerns the problematic constructions of black masculinity itself. The stereotype of black males as "roving penises" has prevailed from the time of Reconstruction²⁶⁷ to the present. This notion of black male sexuality has been used to justify everything from lynching to the denial of job opportunities. Also, restricted access to that aspect of conventional, American masculinity that is tied up with meaningful or decent-paying work has led some African American males to overcompensate in other aspects of the male role, *i.e.*, sexuality and violence.²⁶⁸

As a final possibility, it may be that Crenshaw never refers to the intersectionality of the race and gender oppression affecting black men because she is writing as a black feminist, and the gendered oppression of black men is not particularly a black feminist concern. This would, it seems to me, be perfectly legitimate line-drawing. If a scholar/activist is primarily interested in addressing the needs and interests of black women, such a person should not be required to contextualize every statement by reference to all other oppressed groups that may also have related issues that need to be addressed, including black men, non-black women of color, white women, etc. It would seem appropriate for black feminists to make a priority of exploring the

264. See *A Symposium on the Impact of the Judicial System on the Status of African American Males*, 23 CAP. U. L. REV. 1-277 (1994).

265. Floyd D. Weatherspoon writes:

The numbers of African-Americans under the jurisdiction of the criminal justice system is almost too startling to state. The U.S. Justice Department reported in 1990 that more than 1.5 million African-Americans were then either in jail or prison, on probation, or on parole. Other reports which focus specifically on urban cities find that black males fare even worse. For example, in Baltimore, Maryland, 56% of black males between 18 and 35 are under the supervision of the criminal justice system.

Floyd D. Weatherspoon, *The Devastating Impact of the Justice System on the Status of African-American Males: An Overview Perspective*, 23 CAP. U. L. REV. 23, 35-36 (1994) (footnotes omitted).

266. See *id.* at 41-42.

267. See GIDDINGS, *supra* note 171, at 26-31 (describing how the stereotype of the black man as hyper-sexual emerged as part of the effort to subjugate post-Emancipation blacks socially, politically, and economically).

268. bell hooks is one of the black feminists who has drawn particular attention to this aspect of black male oppression. See HOOKS, *supra* note 225, at 87-113.

various conditions in which African American women live and advocating the interests of African American women. Beyond these priorities, however, the substance of black feminism becomes unclear. Crenshaw, for example, notes that black feminists should enter into coalitions with other groups,²⁶⁹ but her position on the full scope of black feminism remains unspecified and impossible to ascertain. This is another area in which theoretical consensus has not been attained. In fact, there is such enormous contention surrounding the definition of "black feminism" that some thinkers have abandoned the phrase.

B. PRESSING THROUGH THE BOUNDARIES: THE HUMANIST DIMENSION OF BLACK FEMINISM

Alice Walker coined the word "womanist" as, among other things, a synonym for the phrase "black feminist" and a contrast to feminism-in-general. This is Walker's definition, quoted in full because it has been so influential:

Womanist 1. From *womanish*. (Opp. of "girlish," i.e., frivolous, irresponsible, not serious.) A black feminist or feminist of color. From the black folk expression of mothers to female children, "You acting womanish," i.e., like a woman. Usually referring to outrageous, audacious, courageous or *willful* behavior. Wanting to know more and in greater depth than is considered "good" for one. Interested in grown-up doings. Acting grown up. Being grown up. Interchangeable with another black folk expression: "You trying to be grown." Responsible. In charge. *Serious*.

2. *Also*: A woman who loves other women, sexually and/or non-sexually. Appreciates and prefers women's culture, women's emotional flexibility (values tears as natural counter-balance of laughter), and women's strength. Sometimes loves individual men, sexually and/or nonsexually. Committed to survival and wholeness of entire people, male *and* female. Not a separatist, except periodically, for health. Traditionally universalist, as in: "Mama, why are we brown, pink, and yellow, and our cousins are white, beige, and black?" Ans.: "Well, you know the colored race is just like a flower garden, with every color flower represented." Traditionally capable, as in: "Mama, I'm walking to Canada and I'm taking you and a bunch of other slaves with me." Reply: "It wouldn't be the first time."

3. Loves music. Loves dance. Loves the moon. *Loves* the Spirit.

269. Crenshaw, *supra* note 260, at 377.

Loves love and food and roundness. Loves struggle. *Loves* the Folk. Loves herself. *Regardless.*

4. Womanist is to feminist as purple to lavender.²⁷⁰

Walker obviously is very woman-oriented. At the same time, two of her phrases seem to press through the boundaries of a black feminism that is defined solely by reference to the interests of black women. According to Walker, a "womanist" is "[c]ommitted to survival and wholeness of entire people, male *and* female" and is "[t]raditionally universalist."²⁷¹ The refusal to limit their scope to the interests of women and the emphasis upon universalism have been prominent emphases in the work of other black feminists, beginning in the late nineteenth century,²⁷² and continuing today.

Patricia Hill Collins is one of the contemporary black feminists who has drawn particular attention to the need for black feminism to be situated within broader humanist discourses and movements. In Collins's view, while black women experience many different forms of oppression which black feminism must address, black feminism has no special competence regarding *all* forms of oppression:

Despite African-American women's potential power to reveal new insights about the matrix of domination, a black women's standpoint is only one angle of vision. Thus Black feminist thought represents a partial perspective. The overarching matrix of domination houses multiple groups, each with varying experiences with penalty and privilege that produce corresponding partial perspectives, situated knowledges, and, for clearly identifiable subordinate groups, subjugated knowledges. No one group has a clear angle of vision. No one group possesses the theory or methodology that allows it to discover the absolute "truth" or, worse yet, proclaim its theories and

270. ALICE WALKER, *IN SEARCH OF OUR MOTHERS' GARDENS* xi-xii (1983). Black feminists who have adopted Walker's "womanist" concept include Sherley Anne Williams. See Sherley Anne Williams, *Some Implications of Womanist Theory*, in *READING BLACK, READING FEMINIST*, *supra* note 53, at 68. It is important, however, to note that black women who, like Walker, (1) are feminists, (2) see race, gender, and class as interlocking systems of domination, and (3) reject the proposition that her gender is necessarily the most significant determinant in a black woman's life, do not all embrace Walker's "womanist" terminology. bell hooks, for one, describes herself as "feminist" or "a person who supports feminist movement" in part because "[b]lack women must continue to insist on our right to participate in shaping feminist theory and practice that addresses our racial concerns as well as our feminist issues." BELL HOOKS, *TALKING BACK* 182 (1989). hooks declines to use the "womanist" terminology because she is bothered by the tendency of some black women to use the word "womanist" in opposition to the term "feminist." *Id.* at 181-82.

271. WALKER, *supra* note 270, at xi.

272. See, e.g., COLLINS, *supra* note 53, at 37 (discussing a speech made by Anna Julia Cooper in 1893).

methodologies as the universal norm evaluating other groups' experiences.²⁷³

Therefore, black feminism should be considered a sub-division of humanism, for "Black women's struggles are part of a wider struggle for human dignity and empowerment."²⁷⁴

I agree with the Collins formulation and I agree with her that this interpretation is in accord with what Walker means by "womanist."²⁷⁵ Furthermore, I find that Collins and Walker provide the orientation that is necessary to approach some of the problems I have identified, concerning issues posed by interracial Love Stories, the condition of between-ness that afflicts many persons of mixed-race heritage, and the problems of black men. While our core agenda may not encompass these particular forms of oppression, they are not outside the purview of the humanist commitments of black feminist thought.

This expansive description of black feminism, as committed to furthering the interests of black women, attentive to the race, class, and gender valences of black women's experiences, and part of a universalist quest for the principles and conditions of human flourishing, has many and far-reaching implications. It means, among other things, that black feminists are concerned about issues that do not directly affect black women, and that black feminists will not always insist that the interests of black women be given priority, when those interests conflict with other important projects. We should not attempt to evade these complexities. The humanist stance is necessary in order for us to avoid parochialism.²⁷⁶

273. *Id.* at 234-35.

274. *Id.* at 37. *See also id.* at 37-39 (discussing the humanist vision of black feminism).

275. *See id.* at 37-38.

276. The humanist discourse that, in the present day, seems actually or potentially to be a universal touchstone is the international human rights discourse, especially as embodied in the International Covenant on Civil and Political Rights, 999 U.N.T.S. 171 (1966), and the International Covenant on Economic, Social, and Cultural Rights, 993 U.N.T.S. 3 (1966). These covenants are not unproblematic. For instance, there is an African critique of these documents and current international human rights discourse for embodying a distinctively Western notion of individualism, to the disrespect of more communal traditions. *See, e.g.*, HUMAN RIGHTS IN AFRICA: CROSS-CULTURAL PERSPECTIVES (Abdullahi Ahmed An-Na'im et al. eds., 1990); Josiah A. M. Cobbah, *African Values and the Human Rights Debate: An African Perspective*, 9 HUM. RTS. Q. 309 (1987); Timothy Fernyhough, *Human Rights and Pre-Colonial Africa*, in HUMAN RIGHTS AND GOVERNANCE IN AFRICA 39-73 (Ronald Cohen et al. eds., 1993); Chris Mojekwu, *International Human Rights: An African Perspective*, in INTERNATIONAL HUMAN RIGHTS: CONTEMPORARY ISSUES 85-95 (Jack L. Nelson and Vera M. Greene eds., 1980); Makau Mutua, *The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties*, 35 VA. J. INT'L LAW 339 (1995); Dunstan M. Wai, *Human Rights in Sub-Saharan Africa*, in HUMAN RIGHTS: CULTURAL AND IDEOLOGICAL PERSPECTIVES 115-44 (Adamantia Pollis and Peter Schwab eds., 1979). Furthermore, there are some countries, including the United States, that refuse to endorse the aspirations included in the International Covenant on Economic, Social, and Cultural Rights, including the right of every individual to meaningful work and health care. De-

The theoretical problems confronting legal scholars who write from a black feminist perspective are largely manifestations of the fundamental dilemma that characterizes Critical Race Theory as a whole. In Angela Harris's formulation of the dilemma, Critical Race Theory attempts to situate itself at the juncture of modernism and postmodernism, in that we affirm modernist commitments to justice²⁷⁷ at the same time that our postmodern²⁷⁸ understandings destabilize the concepts needed to articulate our aspirations. Thus, we advocate reforms meant to aid persons identified by race and gender, despite the fact that we know those categories to be fluid and indeterminate.

The modernist/postmodernist paradoxes specific to the black feminist strand of Critical Race Theory require, among other things, that we affirm our commitment to dismantling the structures that oppress black women at the same time that we grapple with the fact that black women can be oppressors, as well as victims.²⁷⁹ We must manage to articulate a "black woman's

spite these and many other problems, it seems to me that international human rights discourse has the most credibility and the broadest endorsement of the currently extant humanist discourses.

Collins seems to confirm my opinion that black feminists should pay attention to international human rights discourse. She notes, in fact, that black feminism's humanist vision is "reflected in the growing prominence of international issues and global concerns in the works of contemporary African-American women intellectuals." COLLINS, *supra* note 53, at 39 (citations omitted). Furthermore, a number of scholars have recently begun discussion of the links between Critical Race Theory and international human rights discourse.

277. By "modernism," Angela Harris means:

what one commentator has called the project of "political modernism:" the struggle of individuals "to be moved by human suffering so as to remove its causes, to give meaning to the principles of equality, liberty, and justice, and to increase those social forms that enable human beings to develop those capacities needed to overcome ideologies and material forms that legitimate and are embedded in relations of domination."

Harris, *supra* note 37, at 751 n.55 (quoting Henry A. Giroux, *Modernism, Postmodernism, and Feminism: Rethinking the Boundaries of Educational Discourse*, in POSTMODERNISM, FEMINISM, AND CULTURAL POLITICS: REDRAWING EDUCATIONAL BOUNDARIES 1, 11 (Henry A. Giroux ed., 1991)). Harris clarifies that "[p]olitical modernism is to be distinguished from social and aesthetic modernism." *Id.* at 751 n.55 (citing Giroux at 7-11).

278. The relevant notion of postmodernism:

suggest[s] that what has been presented in our social-political and our intellectual traditions as knowledge, truth, objectivity, and reason are actually merely the effects of a particular form of social power, the victory of a particular way of representing the world that then presents itself as beyond mere interpretation, as truth itself.

Id. at 748, (quoting Gary Peller, *Reason and the Mob: The Politics of Representation*, TIKKUN, July-Aug. 1987, at 30).

279. See generally COLLINS, *supra* note 53, at 229-30; Harris, *supra* note 37, at 768. Challenges to overly simplistic designations of "oppressor" and "oppressed" are under way within Critical Race Theory, in the recent critique launched by Latinos and Latinas of excessive focus upon the black/white paradigm in discussions of race and ethnicity, and in the challenges posed by gays and lesbians to our implicit heterosexism.

standpoint," at the same time that we refuse to give "black"²⁸⁰ or "woman"²⁸¹ definite or exclusionary meanings. It would be inconsistent with our stance at the juncture of modernism and postmodernism for us to expect complete resolution of our theoretical dilemmas. However, provisional solutions are possible, and they will be worked out by the communities and coalitions we build while engaged in political work of various kinds.

V. CONCLUSION

This article, named for Sally Hemings, tells her story, as well as many others, which are concerned with the sexual interactions between slave women and white men. My first goal was to demonstrate for an audience of legal academics the role that narrative analysis plays in black feminist methodology. My analysis of the narratives yielded Three Primeval Stories, all of which concern sex between slave women and their masters, but each of which is distinctive in its plot and meaning. Furthermore, a sampling of black feminist commentary revealed the stigmas attached to the two Primeval Stories that deviate from the paradigmatic story of black women's sexual oppression. The opprobrium directed against certain story lines and characters is cause for concern, because the black feminist commentary, which ostensibly relates to slave-era stories, is simultaneously, and more importantly, a discussion of contemporary politics.

From analysis of the narratives and the commentary on them, I was able to identify certain theoretical problems that need attention, including investigating black women's sexual agency and correcting certain problems in black feminist attitudes toward women who arguably are not black and blacks who are male. In response to these issues, I suggest a theoretical agenda directed toward development of the humanist dimension of black feminist thought, emphasizing a specific suggestion that black feminists, including Critical Race Theorists, abandon the formulation that black women are more oppressed than black men. As we develop more complex descriptions of the differential oppressions of black women and men, our stance toward many matters of social policy and legal doctrine will also evolve. And that is only the beginning. Without losing focus on our core concerns, black feminism must participate on the personal, organizational, community, national, and international levels in those discourses and political practices that aim for progressive expansion of the conditions of human flourishing.

280. On how Critical Race Theory deals with the complexities of the concept of "race," see Harris, *supra* note 37, at 770-71, and sources cited therein. See also Calmore, *supra* note 122, at 2160.

281. Critical Race Theorists, like black feminists generally, have long rejected a unitary conception of "woman." See, e.g., Harris, *supra* note 207. It seems to me, however, that a great deal more vigilance needs to be exercised on this front. For one thing, discussions of the "race, class and gender" components of black women's identities are heterosexist by virtue of omitting sexuality from the composite. The point will be fully examined in a future article.

