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The Fine Print

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Law prof adds his voice to ongoing conversation on race

By Hope Lewis

Stanford Law School Professor Richard Thompson Ford's "The Race Card" seeks nothing less than to demarcate the line between legitimate charges of racism and those that are ill-defined or false.

"When are complaints of prejudice valid and appropriate and when are they ... exaggerated, paranoid, or simply dishonest? I'll try to take an unsentimental look at such claims, defending those that deserve sympathy, scrutinizing those that deserve suspicion, and ridiculing those that deserve contempt," he writes.

An impossibly ambitious task to be sure, but Ford's wide-ranging, often maddening effort makes timely and important contributions to continuing debates on race in the United States.

The central controversy at issue in "The Race Card" appears in its subtitle: "How Bluffing About Race Makes Race Relations Worse." Bristling at the notion that this book would be just another simplistic plea for racial minorities to stop being so "sensitive" about racial discrimination in the post-civil rights era, and growing used to the current atmosphere of superficial political/racial

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mudslinging, I was prepared for the worst.

Instead, the book undertakes a more complex and challenging project: It criticizes current racial politics in the hope of enhancing pragmatic approaches to substantive, positive change for those most burdened by racial discrimination.

The suspicion that charges of racial exclusion, discrimination or abuse more often than not constitute cynical "bluffs" is common on the conservative talk-show circuit as well as in more discreet private conversations at the water cooler or behind closed doors.

On the other hand, many African-Americans and other racial, ethnic and religious minorities experience what social theorists call "micro-aggressions" — frequent, unwarranted challenges to their dignity or competence that are attributable to racial bias.

"The Race Card" pulls no punches in trying to deconstruct the spectacles that have helped define popular culture on race. Among them are the Rev. Al Sharpton's accusations that Tawana Brawley, a teenager from Wappinger Falls, N.Y., had been kidnapped, raped and beaten by a group of white men claimed to include local police officers and a state prosecutor (a grand jury and a civil decision later concluded that the charges were false); the brutal police beating and abuse of Abner Louima in a New York City nightclub;

Professor Anita Hill's allegations of sexual harassment against then-U.S. Supreme Court nominee Clarence Thomas; Oprah Winfrey's exclusion from a Paris boutique; and the ubiquitous "prominent African-American man unable to get a cab" syndrome. The author also examines compelling and perhaps better documented legal decisions involving less famous incidents.

'Disagreement and confusion'

Ford explores five aspects of contemporary racial politics that he finds particularly troubling:

- racism without racists (in which he argues that structural racial inequality is too often attributed to individual racial bias);
- the wild card: racism by analogy (the arguable proliferation of rights-based claims by non-minority groups);
- calling a spade a spade: defining discrimination (the legal complexities of defining race and sex discrimination and the scope of affirmative action under recent Supreme Court decisions);
- the clash of ends: contested goals (lamenting academic politics and housing strategies that arguably abandon integrationist goals); and
- post-racism: why the race card is a crisis of success (the O.J. Simpson trial as exemplar of racial confusion and resentment in the post-civil rights era).

According to Ford, the term "racism" now has no clear and agreed-upon meaning. "As a result," he writes, "it is available to describe an increasingly wide range of disparate policies, attitudes, decisions, and social phenomena. This leads to disagreement and confusion."

If "racism" is defined narrowly so as to conjure only images of slavery and the legally sanctioned overt racial violence with which previous generations had to contend, then applying the term to other harmful words and actions can feel inappropriate.

But even early civil rights activists knew that "racism" was also hiding amid standard schools, overcrowded emergency rooms and the slow destruction of young minds and

bodies in prisons. It was structural and yet also rested on individual complicity and inertia.

Some activists and lawyers also believed that publicizing the facts of racial incidents involving prominent black diplomats, entertainers or professionals, in conjunction with other strategies, could galvanize political will, shame policymakers into more systemic change and shine an international spotlight on U.S. racial hypocrisy.

"The Race Card" makes a persuasive plea for pragmatic strategies to substantively improve the lives of those affected by abuses rather than rely on vague or empty racial posturing. Still, why not also spotlight bigotry if it poses one of many barriers to substantive goals?

No serious charge — whether it be racism, intolerance, murder, rape, child abuse, sexual harassment, theft or corruption — should be made without corroboration, context and serious investigation.

Unlike Ford, I believe that we spend too much time worrying that false claims will undermine good race relations. Dismissing the broader realities of racism because of a few bad claims would signal that "good" race relations were not built on a solid foundation of true cross-cultural understanding.

If racial minorities and non-minorities from diverse perspectives are engaging in respectful and robust dialogue on a regular basis, then false charges would not so easily undermine just claims.

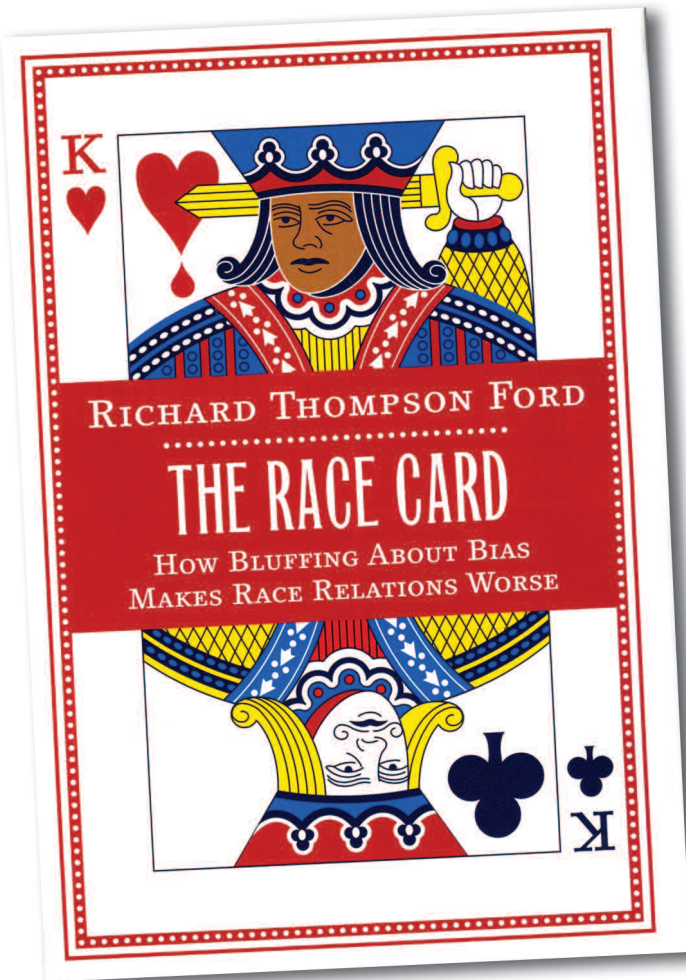
It is silence, indifference and unexamined fear that will lead to the worst possible outcome — not which cards are dealt. **MLW**

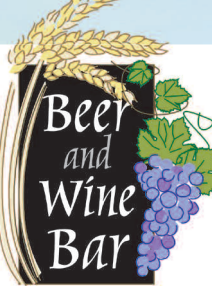
"The Race Card: How Bluffing About Race Makes Race Relations Worse"

By Richard Thompson Ford

Farrar, Strauss and Giroux, 2008

388 pages; \$26





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