A RING OF VOICES: REFLECTIONS ON *THE ALCHEMY OF RACE AND RIGHTS*

Instead of presenting a traditional book review, the members of the Journal turned to those people Patricia Williams thanks "for their invaluable conversation, inspiration, friendship, and encouragement"[1] for their reflections on The Alchemy of Race and Rights: Diary of a Law Professor.

4:00 a.m. Thoughts on Teaching and Learning Contracts: An Open Letter to Pat Williams

1/10/92

Dear Pat,

A leaflet for Talmudic Studies literature appeared in my mailbox a couple of weeks ago proclaiming, "When the student is ready, the teacher will appear." What does this mean? "The" teacher, "the" student, as two individual beings? The teacher and student in each of us? Perhaps a reminder, an insight that when we are ready to learn, every person, every experience potentially will be our teacher? What is it that we hope for from our students, from ourselves? I think of the Chinese phrase "Qing Chu er Shenyu lan" (literally, Green comes out of but is deeper than Blue), referring to the student surpassing the teacher, the hope of Chinese teachers to see a piece of themselves carried forward in this linear building of the future upon the past. Chinese and Talmudic visions of our limited mortality knocking on my door at 4:00 a.m. Go away, I say, I want to sleep. But instead I turn on the computer and wonder what city you are in and remember what I need to tell you.

Only a few months ago, a number of my first-year law students were again demanding of me, "Why are we reading Pat Williams? What relevance do dogs, small or big, polar bears, or any of this have to the study of law? Couldn't we just focus on the RULES?" Again, the challenge of beginnings, the irony of the attraction of law to those who walk in the doors armed with an overwhelming need for a belief in certainty, answers, and predictability. The perceived chaos closes in almost immediately, as a seemingly solid beach begins to shift in layers of sand.

[1] Patricia J. Williams, The Alchemy of Race and Rights: Diary of a Law Professor, Acknowledgements (1991).

After a previous effort to adopt a law and economics contracts casebook (a casting-against-type experiment with guess who surviving as the more authoritative voice), I have switched to using Knapp and Crystal's casebook (which integrates skills, theory, and doctrinal teaching), a separate anthology of contracts reading by Peter Linzer, and a supplemental packet of cases (*Baby M, Local 1330*) and other readings. I assign excerpts of *The Alchemy of Race and Rights.* And in unapologetically authoritarian rulemaking fashion, I say everything is "required" reading. No hierarchy of relevance to the task of becoming future lawyers, teachers, judges, and scholars.

Unacknowledged questions have a way of seething and of building a wall of resistance to learning on the part of the students or diminishing the integrity of a class. So, early in the semester, I decide to try to respond to the very questions I explicitly and implicitly encourage. To ask about the basis for choices. To scrutinize the implicit value systems of others, of judges, of colleagues, of teachers, and examine and re-examine their choices that are shaped by these systems. Why are there so few challenges or questions about why they are reading Richard Posner's work? Instead they ask why I have assigned them pieces from *The Alchemy of Race and Rights.* What have I been saying in response? That, first, it contains an obvious subject matter echo of the doctrinal and conceptual themes identified in the syllabus. The nature of the market order, parol evidence, contract formation, the making and breaking of promises. The limits of what can be the "object" of market exchange. Secondly, that on a "skills" level, I feel part of my job is to train them to "think like a lawyer" and that part of this requires them to be able to recognize legal categories of analysis and to function within these categories. I said that law is like this constructed house with many rooms. The rooms have fancy labels like "Torts," "Criminal Law," or "Contracts," each room dictating a particular language and etiquette. That to use law effectively they must recognize the doors and walls of these rooms, even as self-proclaimed expert room builders and deconstructionists move walls mysteriously. That I assign your work because you UNDERMINE AND EXPOSE the constructedness, the contingency, and the power dimensions of this whole process. That your teaching and scholarship give one hope that one can be a woman, a black woman, a law teacher, and yet survive the constraints of being an oxymoron and speak eloquently, beautifully, in the language of poetry, of dreams, of law, in any room you choose. That you show us the power of yelling over and through walls. To bear witness to our histories and visions, to the potentiality of alternative futures in each of us. To attempt to see differently yet simultaneously the visions of (an)other, of others.

I have just finished grading the final exams and reading 160 "reflection memos" from my Law and the Market Economy I students. You remember, the class you taught while at CUNY, the class you filled with poetry, passion, and insight. And, of course, contracts. A tough act to follow. I began the semester on the first day of class by handing out three "hypos" drawn from *Hamer v. Sidway, Local 1330,* and *Baby M* and asked, "What Promises Should the Law Enforce?" One student asked how they were supposed to answer when they hadn't started studying contracts yet. I reminded them that the people who walked in the law school door yesterday had pre-law school lives, personal values, and worldviews. That I couldn't believe that they had lost all of that by the second day of law school. That it is important to be in touch with who we are, or sometime down the road we look in the mirror and wonder where that stranger with the briefcase came from. I told the story about Dinesh's little son who, while visiting one day, drew a picture of the law school as a factory building with a variety of people going in one end and coming out the other identical clones. I also suggested that every reason they were about to give about enforceability would return during the semester, dressed up in black authoritative robes, maybe wearing a white wig or parading fancy labels like policy arguments. That all these legal and policy rationales they would begin to see over and over arose from the very same human impulses which determined their responses that first day.

The end-of-the-semester reflective writing assignment asked the students to review their answers from that first day; identify the underlying values and assumptions which shaped their initial answers; characterize the worldview which was reflected; and discuss how and if their perspectives and responses to the same three hypos, now recognizable as "real" cases, had changed.

One student begins his reflection:

> *There I sat, a polar bear in the initial class of Law and the Market Economy . . . yes, like the rest of the polar bears in the auditorium, I was innocent, hungry and more than just fearful of the tremendous awakening which was about to occur.*

Like the majority of the students who had responded on that first day way back in September with a formalistic insistence on and belief in the "right" answer, one student looks in the reflective mirror and muses: *Could I have been Ms. Williston reborn?* Another student comments about the ability of parties to a contract to change their minds: *That the powerless are controlled by words they have uttered in the past, while the powerful may retract their words.* And

peppered throughout the reflections are life invocations of all the pieces of their experience: the Supremes (*Reflections of the . . . way life used to be and estop . . . in the name of love*); their past lives as social workers, probation officers, labor organizers, paralegals, real estate agents, police officers, mothers, fathers, children; and memories and images from films and novels.

And in referring to your writing:

> *Is she inviting us to partake in chaos? Does her position free us to be enslaved by anarchy?*
>
> *Her abstract, poetic, sometimes down-right strange interpretations of Contract Law guided me to her idea that contracts become in essence the decision makers—they absolve accountability.*
>
> *Williams suggests that the* Baby "M" *case reflects the illusion, delusion and self-righteousness in which judges and lawyers talk about results; everything somehow fits into a category, so that human experiences, the reality that people change their minds and emotions is erased. In retrospect, my line of thinking was precisely the mode of legal discourse that Williams criticizes in her writing.*
>
> *Pat Williams is all by herself. She is always addressing the most obvious of which is overlooked by many. That is, how powerful our past and present are to determine our vision, to interpret what is equitable.* (comparing you to Richard Posner and Ian Macneil)
>
> *Voices like hers do serve a purpose to make us think twice about every case we judge, litigate or pursue. . . . I do stop and shudder to think what it would be like if these voices were never heard at all.*

And, yes, there were comments critiquing the constraints of the assignment itself, which presented "categories" of question and experience for guiding their reflection. Awareness of the artificiality of walls, of the shapes of rooms . . . .

I also gave a multiple-choice final examination with several fact patterns: a media tycoon tries to buy a newspaper and in the usual course of incomplete human deals, dies. There are gift issues (he signs a pledge to the hospital) and the usual contract formation and defense issues. His will asks his daughter to arrange for an *in vitro* fertilization of his frozen sperm. Yes, not only create replicas of ourselves, but create those replicas from beyond death. The complication is that the egg is donated by his daughter's lover, then fertilized and implanted in a "surrogate" gestational mother. On top

of this, it is later discovered that the Fertility Center has mixed up the sperm. The option question on the exam was to make up a multiple-choice question with four possible choices based on the facts given and identify the correct choice with a supporting rationale. Many of the questions students submitted began with the description of a hypothetical "bench" followed by questions as to the likely ruling of this bench on possible issues raised by the facts. You and Richard Posner were the two most popular references! Aside from the bizarre combination of individuals (Williston, Unger, Posner, Duncan Kennedy, Andrew McThenia, and you) and the obvious relish with which the students were theoretical-role-playing, something had obviously been sparked in their imaginations as they invoked images of authority and power.

Do you remember a winter's letter sent years ago? . . . I was sitting in my Beijing apartment and wrote to you:

> I am so glad that you are in the world, even though at this moment you are on the other side of the world . . . . I wish for you always a nurturing space for your Practicing of Word magic and the Undoing of the Word-Combination Locks. I wish you were here to share this morning, to have coffee together, to inhale the fragrance of the beautiful water hyacinths which just opened on our window ledge, whispering spring. Instead I think of you far away amidst a city of concrete, putting on the mask of the sorcerer you have depowered and going forth in the luminous golden light you yourself have revealed.

When you are next dodging authority bullets, or next time you are feeling in a depressed slump, padding around in your terry robe, think of these reflective voices and wonder about students who could begin to create visions of judicial benches presided over by a Judge Williams. These students, our teachers, all going forward in the luminous light which owns them, and each one of us.

*Sharon K. Hom**

* Associate Professor of Law, CUNY Law School. New York University School of Law, J.D. Fulbright Professor, People's Republic of China (1986–88). I thank all of my students, especially the Law and the Market Economy (1990–91) class for their patience with my learning, and the Law and the Market Economy (Fall '91) class for sharing their thoughtful and provocative reflections with me. Special thanks to the following students for the use of excerpts from their final reflection papers: Dorothy Kaldi, Paula Notori, Carolyn Rose, Karl J. Ruppert, Alida Shatzer, Garth W. Snide, Virginia Tomicich, Mary Madeline Wilcox, and Sherry Zweback.

The Art of the Alchemist: A Conversation with a Law Professor

*Roberta J. Cordano**

Alchemy

Being unfamiliar with the concept of alchemy, I endeavored to find the history and meaning of the word. My findings were consistent with the task that Patricia Williams sought to accomplish in *The Alchemy of Race and Rights*. According to the *Dictionary of the Middle Ages*,[1] and most medieval scholars, alchemy is "the art and science of transforming base metals into noble metals, silver and gold."[2] Another view that became particularly powerful in the sixteenth century "regarded alchemy as a spiritual and mystical experience that transformed the experimenter himself."[3] Alchemists shared a common fundamental belief in the "idea of the unity of all matter, which permitted decomposition and recomposition, a process symbolized by the *ouroboros*—the mythical dragon that swallows its own tail."[4]

In her book, Patricia Williams takes base experiences of life and transforms them into noble ideas and theories. Whether the word- and theory-magic Williams worked in her book transformed her life, I can't say; but it has certainly suggested new perspectives and challenged my thinking. In writing this book, Williams rattled my cages, freed some of the rage within me, and helped me to see possibilities for shaping my experiences within and without the limits of traditional legal discourse.

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[1] Joseph R. Strayer, Dictionary of the Middle Ages (1982).

[2] Id. at 134.

[3] Id.

[4] Id. at 139.

Under the Celestial City and at the Bottom of the Deep Blue Sea

I am a Deaf[5] woman attorney. At present, I am one of perhaps eighteen Deaf attorneys in the United States (and perhaps the world).[6] As I read the parable about "The Brass Ring and the Deep Blue Sea,"[7] I visualized Deaf men, women, and children clamoring for access, justice, and equality. Throughout the book, I found myself able to substitute the word "Deaf" for "Black": oppression, exclusion, disenfranchisement, and non-propertization are experiences we share. Our histories and our origins may not be identical, but our experiences and our need for "rights-commitment"[8] are powerfully alike.

Patricia Williams demands that attention be given to "those vital voices sometimes lost on the unattended side of the unthinkingly-imposed boundaries of any sorts."[9] She masterfully pulls together stories of events occurring around the world and relates them to her own life and experience as an African-American woman. She bares her indignation and puts her foot forward in a march for a voice in our legal system. For Deaf people, our struggle in the legal system lies in combatting the pathological view of our lives and our existence. Definitions of disability center on medical analyses of our "conditions" and/or on our value as potential market actors.[10]

I learned this lesson when I was thirteen years old. My older sister, who is also Deaf, requested a sign-language interpreter for her large-group

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[5] In this article, I will be following a convention proposed by James Woodward (1972) and used by Carol Padden and Tom Humphries in their book, *Deaf in America*. When referring to people who have the audiological condition of not hearing, I will use the lowercase term "deaf," and when referring to the group of deaf people who share a language—American Sign Language (ASL)—I will use the uppercase term "Deaf." See Carol Padden & Tom Humphries, Deaf in America: Voices from a Culture 2 (1988).

[6] "Today there are only about 15 hearing impaired attorneys in the country." 19 Gallaudet Today 7 (Spring 1989). At the time I was enrolled in law school, I was aware of three other Deaf students studying law.

[7] Patricia J. Williams, The Alchemy of Race and Rights: Diary of a Law Professor 3–14 (1991).

[8] Pre-publication manuscript of Patricia J. Williams, The Alchemy of Race and Rights: Diary of a Law Professor 163–65 [hereinafter Pre-publication manuscript].

[9] Id. at 22.

[10] In one meeting, Williams and I discussed the difference in treatment of elderly people with disabilities and children with disabilities. Laws regarding elderly people with disabilities tend to focus on the enjoyment of life. In contrast, laws affecting children with disabilities tend to emphasize methods for measuring them as economic units (e.g., identifying their "functional levels") and methods for accommodating them to and assimilating them into society. In other words, the laws focus on their abilities to become market actors.

classes[11] and later her swimming classes in high school. What ensued was a bitter battle between my sister, my parents, and the school board. Ultimately, the school board determined that they did not need to provide an interpreter for my sister's large-group classes because she was ranked fifth in her class academically. They predicted that she would be able to enter the working world, and perhaps even college, successfully. This fact was proof, in their eyes, that they were "reasonably accommodating" her. The board, however, relented with regard to her swimming class, not only because my sister did not wear a hearing aid during the classes, but also because the gymnasium received federal funding for building additions; therefore, they admitted that they were legally obligated under Section 504 of Title V of the Rehabilitation Act of 1973[12] to provide an interpreter. No regard or discussion was given to the issue of equal access to information in class. Although she was ranked fifth in her class, her ranking did not in any way adequately attest to her experience as a young Deaf woman, specifically her isolation and frustration.

The school board's decision had implications for me as well. It sent me a chilling message that as long as I compensated for my loss and performed well academically, I would have no right to equal access to information in school. Where was the *jus*? I didn't see it then, and I still don't today. To me and all the Deaf folks in town, it was *obvious* that providing an interpreter for my sister's large-group classes was the minimum obligation the school had under the "reasonable accommodation" requirement of the law. My sister and my parents were not asking for an interpreter for *all* of my sister's classes, just for those few large-groups where she missed anywhere from thirty to eighty-five percent of the information. Clearly, with no legal precedent honoring our experience and knowledge, our views were lost on the hearing administrators of the school district and their lawyers. The dialectic of "disability rights" discourse may be that, while it intends to release individuals from oppression, it may have the ultimate effect of trapping, limiting, and boxing the individual within her disability, rather than releasing her from it.[13]

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[11] The "large-group classes" were held once a week for particular subjects at the high school. All sections taking that particular subject would gather in an auditorium for films and lectures.

[12] Rehabilitation Act of 1973, Pub. L. No. 93-112, § 504, 87 Stat. 355, 394 (1973) (codified as amended at 29 U.S.C. § 794 (Supp. V. 1981)).

[13] The Supreme Court decision in Davis v. Southeastern Community College, 424 F. Supp. 1341 (E.D.N.C. 1976), modified, 574 F.2d 1158 (4th Cir. 1978), rev'd, 442 U.S. 397 (1979), is a classic example of this limiting. Because the Court determined that Ms. Davis could not "function" in the operating room (because the doctors and staff wore masks) and in the emergency room, she was found to be a person

Patricia Williams challenges the boundaries of legal discourse and strongly encourages incorporating a multivalent and multicultural approach. Legal discourse today is sorely lacking in discussion and recognition of Deaf people as a culturally and linguistically distinct group. The result is what Williams terms "spirit murder": the "disregard for others whose lives qualitatively depend on our regard."[14] As Williams and I once agreed, the experience of African-Americans and Deaf people may be the inverse of each other. For African-Americans, hate and fear commit spirit murder. Although fear may play a part, paternalism, silence, and omission spirit murder us. In American Sign Language (ASL), one example of how this sentiment is expressed is in our sign for the legally sanctioned concept of mainstreaming. The "technical" sign for mainstreaming in ASL:

> is two hands, fingers fanned out horizontally, meshing together like brooks forming a river. The slang sign is one hand, fingers fanned, pressing down on a single finger from the other hand, a visual pun on a similar sign for the word "oppression."[15]

Too often Deaf voices and Deaf experiences are omitted from the creation and interpretation of laws which directly affect our lives. Part of the reason for this void is the absence of Deaf professionals in the legal field. Until the voice and experience of Deaf people carry weight in the legal field, formal equality will continue to be an empty promise.

Tell Us More About Polar Bears

The feelings and memories that surfaced when I read this book left me wondering: "So, what are we left with, Patricia Williams?" *Destitution?* ("Is there no place to dump this toxic rage?"[16]) Or *hope?* ("Nothing is simple. Each day is a new labor."[17]) I can just imagine you quietly answering, "It depends on the day you ask me."

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who was not "otherwise qualified" to become a licensed nurse. Nowhere in this decision did the Court explore the myriad of ways Davis easily could have been accommodated. Nor did the Court have the insight to see the value her deafness might have in the nursing profession. For example, with training (whether with the surgical clinical or not) she could have been a school nurse for a residential school or a nurse in a nursing home or hospital (particularly one with Deaf residents or patients).

[14] Williams, supra note 7, at 73.

[15] Douglas Clement, Those Who Will Not Hear, Minn. Monthly, Oct. 1989, at 44.

[16] Pre-publication manuscript, supra note 8, at 151.

[17] Williams, supra note 7, at 130.

the storyteller's voice

*Maureen McCafferty**

In Ireland the storyteller, the *seanchái*, is a revered person, the holder and dispenser of truths about the world and ourselves, truths we find nowhere else—not in religion, not in science, not in law. (Priests of these disciplines might dispute this assertion. Being a storyteller, I don't.) The epiphanous power of the story has to do with boundaries, I think. Like myths and fables that break all boundaries of reality (to plunge to one even deeper), the stories our mothers and fathers tell us about our families, about themselves, stories coming from their mothers and fathers, come to us, even when we don't realize it, as our most powerful realities to be heard, told, and continued somehow—that's usually the dilemma of a lifetime: making new boundaries, making them our own. It's a matter of finding our own voices, identities, boundaries, selves. I mention these things because they are what I see in Pat's work, what I hear in her voice: the thoughtful, careful voice of the storyteller who can distill the remarkable from the ordinary. There is tremendous power in Pat's work. For me it is the power of transformation: the shaping of the ordinary into something that lets us see why we are not ordinary, why we do not need to be bound by old lines and definitions, old ways of seeing what it is to be lawyer, teacher, sister, daughter, woman, black woman, person in this world, in our world.

Part of the power of Pat's writing, of course, is that it ignores all boundaries, goes walking over them, down new roads, turns and angles seeming familiar and unfamiliar to us at the same time. I am a fiction writer, not a lawyer, but working at CUNY Law School I've read (and typed) my share of legal scholarship. It is very formal stuff, winding purposefully, deliberately, through abstraction upon abstraction, leaving the uninitiated reader gasping for air, or for anything resembling air. It is often writing that removes, or at least seems to remove, more of the world than it lets in, more people than it takes in. It takes the messy, disordered, chaotic, disturbing realities of people's lives and reduces them to fact patterns to be

* Doctor of Arts in Creative Writing from Syracuse University; stories recently published in *American Writing, Blue Ryder,* and upcoming in *Rhino* and *Arizona Mandala.* Maureen McCafferty was Pat Williams' secretary for several years at CUNY Law School.

coolly sifted through for relevant details, the rest discarded. It's not life as most of us know it. It's not meant to be. But what is it meant to be? I have the feeling that this question is one that's been discarded along the way to wherever we are. What drew me to Pat Williams' work, what made me see the connections between the law and how we live or try to live every day in this society, was that her words and sensibilities were the ones usually excluded from most legal categories of things and people to recognize. Rather than collapsing the world, Pat's words express connections, draw in and expand the realities around us. Nothing is excluded, not the image of herself, or anyone else, sitting before the television "in an old terry bathrobe with a little fringe of blue and white tassels dangling from the hem"[1] mesmerized by the insanity of the world she watches go by on that television as she searches for her way out of the insanity to sanity. Pat says that she is "constantly reconfiguring herself in the world."[2] That's the heart of each story: that there is a way out, out of the mess, the destruction, the hopelessness, the insanity on its global scale. The way out starts with seeing yourself, picturing yourself, who you are, where you came from, how you got to wherever you are at the moment: at home with a headache, too sick and depressed to do a thing, but doing it.

In her chapter "Crimes Without Passion," Pat writes: "Writing for me is an act of sacrifice, not denial.... I deliberately sacrifice myself in my writing. I leave no part of myself out, for that is how much I want readers to connect with me.... What is 'impersonal' writing but denial of self?"[3] Everything in Pat's writing tells us that for too long there has been too much denial, exclusion, disconnection, all done in the name of impersonal, neutral, objective standards. But those on the outside of the supposed objectivity have always known there's been nothing neutral about it: there's always been something insidious and corrupt about that smug *objective* look that takes itself past non-white, non-male faces, something corrupt in its denial of our voices. Pat Williams walks over the neutrality to make the reader see her, hear her—as uncomfortable as it may make readers who would rather retreat into the impersonal safety of abstraction. There's no way out of the uncomfortable truths Pat pictures but to walk through them. If you stop midway through and try to turn back it's already too late: the picture of the stockbroker sitting across from Pat in the dining car of the Amtrak train on its way from New York to California saying, in a casual talk about uprootedness and homelessness, that, although he never gives

[1] Patricia J. Williams, The Alchemy of Race and Rights: Diary of a Law Professor 4 (1991).

[2] Id. at 256.

[3] Id. at 92.

anything to the homeless people he sees on the streets of New York, he always stops to chat with them so that he will not resent their presence, so that he will not forget their humanity—that picture is already in us, gnawing away at the forgetting and the forgotten, at where we are standing in that picture. It's the invisible made visible—the pictures and the consequences.

When I was very young, my grandfather, our family *seanchái*, told me stories of the *daoine sidhe*, the ancient Celtic gods who love music and dance and whose only power is transformation. I think this power was the only one my grandfather wanted and admired too. The *sidhe*, of course, could turn you into a chicken if they wanted to (for the sheer laugh of it), or into a bird (that was the usual story) for the freedom that bestowed. It was a wondrous thing, the transformation, the freedom, the power of those stories, and the belief I had while listening to them. It's not easy to say now what that belief was: perhaps that there was more in this world than what I could see, that my grandfather had a sort of magic, that the story and the teller were powerful beings in a way that made my world deeper and wider as I listened and was able to see beyond my Queens neighborhood to whole neighborhoods of realities that I came from but that I never would have known without the telling. It is magic, the voice of the storyteller—an alchemy, as Pat Williams says, that transforms the common into something wondrous. Such magic should be celebrated as intrinsically human. Pat does that.

Working Through Other People's Lives: Patricia Williams' *Alchemy of Race and Rights*

*G. Patterson**

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I can't think that many people have lives interesting enough to warrant writing about, much less reading.[1]

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One of the things that I admire most about Patricia Williams' work is its ferment, the disequilibrium she sees, describes, and plunges into—to find a way to a new resolution. She teaches us that the Law is not what it was and is not what it should be. Much thought, discussion, and self-examination have gone into her book, into her articulation of the phenomena of race and sex, into delineating the necessity for a new Law and the difficulty of achieving it. Pat Williams continually disturbs my ideas of law and justice. I am grateful that her exploration of formal, legal values does not devolve into hermeticism.

Pat Williams' writing is sprinkled with personal anecdote, family biography, and cultural history. Her thoughts, her history, her everyday experiences figure so prominently in her writings that a frequent reader might easily believe that s/he knows Pat, and great-great-grandmother Sophie, and great-great-grandfather Austin Miller, and godmother Marjorie. This is a world so densely populated by the living and the dead and the imagined that it evades the monumental solipsism, the self-protectiveness and self-declarativeness of much confessionalism and of half-thought-out identity politics. *The Alchemy of Race and Rights* is a clever arrangement of different voices. The range of sources, the crush of opinions, and the near-infinite redefinition that occupy this gathering of voices are an admission and an endorsement of social complexity.

It is not surprising that much of Pat Williams' work concerns the past, the reconstruction of her family history, the empathetic expansion of

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[1] Comment of a 74-year-old man, after having endured 36 hours of taped interviews for his biography.

personal identity. The repeated efforts in her writings to reconnect delicate, private lives and the wider, public life reflect a re-membering of self and society. Her broad self-presentation becomes an assertion of invitation, of inclusiveness, encoded into the normally exclusive attentions of formal analysis.

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In the spring of 1988, Patricia Williams visited Stanford Law School to present the paper which *Signs* later published as "On Being the Object of Property."[2] The crowd she drew, in the late afternoon, in the middle of the week, filled the lecture hall. Afterward, as I came to the head of a long line of listeners who wanted to thank her for speaking, I heard the young man in front of me say, in greeting, "I really enjoyed your talk. But what did it mean?"

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I was Pat's research assistant during the year that she taught at Stanford Law School. That was also the year she finished her book, *The Alchemy of Race and Rights*. Rather, it was the last year of drafting, and the first year of editing and rewriting. Everything Pat did during that year seemed connected to The Book. Everything was a candidate for inclusion in The Book. I see in The Book the larval shadows of her earlier drafts, of law school politics, of our morning tea-time conversations.

The Book has a fixed presence in my life and memory. Everything I did was haunted by The Unborn Book. I see My Last Year in Northern California marked clearly in The Book. I find in It traces of my own private activities during that year. I may have mentioned these private activities to Pat. Certainly, I mentioned most things to her. We became friends during that year. We shared work and parts of our "private" lives.

For a time, I worried that I would be analyzed and reconfigured in Pat's writing. I objected to nearly every one of her comments on my work, knowledge, character, out of fear of an unflattering depiction in a future article. What had I done that might suggest that, like S., I too saw sex and gender as grammatical mountings? What did it mean that Pat had crayoned her motorcar on our matching, color-your-own children's calendars red while I had crayoned the car green? What would it mean to the hundreds who would read of it that my face dropped and I sighed sorrowfully upon seeing the vibrant difference in our views of the world?

[2] Patricia J. Williams, On Being the Object of Property, 14 Signs 5 (Autumn, 1988).

I keep a journal. For years my entries have been irregular but frequent. There are fewer entries from September 1988 through August 1989 than for any other year. I did chronicle some of the anxieties about my imminent dissection in print. For the other aspects of that year, I rely on memory and, to an embarrassing extent, on The Book. Though many things have burned off in the telling, *The Alchemy of Race and Rights* stands as a diary of my life in the orbit of a law professor.

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The Book can also serve as part of a patchwork diary of the lives of several dozen other people—Pat's friends, her acquaintances, her colleagues, her relatives. The Book is studded with stories from other people's lives. Other people's lives can easily become decorative when one takes no part in them. But these lives are not decoration to her. These are not convenient, real-life hypotheticals and pedagogic illustrations. These are not truly other lives. They are lives she has entered, to varying depths.

Nor are the guests of Phil Donahue and Oprah Winfrey simply characters in the fictionalized narrative of a law professor. Theirs are true and complete lives, only parts of which have been discussed on television. Very little, if any, of their lives have been incorporated into our public life. It is this partiality that concerned Pat. The stories in the papers and magazines that promised everything ("The untold story!") but told only a little were the ones I was asked to find. Those were the ones she wanted to rework. "Search for synecdoche," she might have said, except for her worry that I wouldn't know what "synecdoche" meant or, perhaps, that I would ask which literary theorist's idea of synecdoche should guide me.

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> Recently, when asked how it felt to be in her own country after thirty years of exile, Miriam Makeba said, "I think I'll be even happier when I can come back to sing before my people, where I'll not have to explain my songs because they will understand."[3]

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I recall few rough points in my work for Pat. One I do remember concerned the editing comments I had made on a piece which became part of

[3] Singer Back in South Africa, N.Y. Times, June 11, 1990, at 6.

"Arm's-Length Intimacies."[4] We were sitting in an old coffeehouse in Palo Alto; I was drinking herbal tea, and Pat was drinking *latte*. She was explaining to me the weirdness of seeing blonde, brunette, and red-haired models—white and black—prancing on a runway to Brazilian music. She was telling me how odd it felt to watch an invitation dance to consumption performed to lyrical screams of poverty and oppression. I had made some comments on the draft about rhythm as universal language, an ur-Esperanto, and I suggested that Pat's discomfort with the fashion show was a post-modern discomfort with the amalgamation of styles previously segregated under Modernity. What she described as imperialistic and colonizing, I kept defending as post-modern collage, a *Loving v. Virginia* marriage of art, commerce, and hemispheres. It was, I said, a praiseworthy event of visual-musical-cultural sampling. Finally feeling that I had understood her point and that she kept missing mine, I said, "Maybe it's different for me because I know Portuguese." Pat said, "*I* understand Portuguese, and *that's* why it seems so wrong to me."

During the time that Pat and I worked together on her book, Allan Bloom's book, *The Closing of the American Mind*,[5] and E.D. Hirsch's book, *Cultural Literacy*,[6] were attracting lots of attention; Stanford University was debating its Western Culture requirement; the Graywolf Annual V "Multicultural Literacy"[7] was released; I was studying in Stanford's English Department and translating the Negritude poems of Jacques Roumain. Everywhere I went, "sampling" and "quoting" were flags of one's allegiance in the war on the canon. Thanks to David Byrne and Sting, Brazilian music had passed out of hip and into popularity. In this context, the story of the fashion show seemed one more tardy celebration of style. It was hardly remarkable. It was, to me, uninteresting and relatively unimportant; however, if one were going to treat it seriously one had to admit that it reflected inclusivity more than exclusivity in popular culture. Attack the fashion show? You might as well surrender the world to Bloom and Hirsch.

The fashion show sampling—which I took for multicultural defiance—struck Pat as bombast. As she experienced it (and explained it patiently to me), the fashion house/retailer was not engaging, or quarreling, with the segregation of cultural and artistic life. Rather, the show was a demon-

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[4] Patricia J. Williams, The Alchemy of Race and Rights: Diary of a Law Professor 202 (1991).

[5] Allan Bloom, The Closing of the American Mind (1987).

[6] E.D. Hirsch, Cultural Literacy: What Every American Needs to Know (1987).

[7] Graywolf Press, Graywolf Annual V: Multicultural Literacy (1988).

stration of the power to own another culture. It was an expression of dominance like that Edward Said saw in the nineteenth- and early twentieth-century European treatment of the Islamic Mideast. The songs were selected, not for their lyrics, nor for their commentary on the political and economic situation in Brazil, nor for their "authentic" expression of part of Brazilian culture. They were selected for their "exoticism," their rhythmic otherness, or, perhaps, for their artistic styling.

Authentic cultural expression cannot be enslaved. Attitudes of ownership make for inert quotations. Such a mixing is, at best, a mannerist anthology. It reflects the aestheticization and neutralization of the moral, political, and spiritual qualities of the music.

"Art as neutralizing?" I sputtered.

"Yes! Art as a neutralizing, decorative backdrop. Go and find me stuff on Paul Simon and the Graceland tour."

"Oh, and articles about Sting's Brazilian music?"

"Yes."

"And the French response to Gauguin's early Tahitian paintings?"

"Yes."

"And Picasso's and Matisse's and Derain's use of African masks? The transmogrification of magic items to sculpture?"

"Yeah."

"Appropriation without comprehension? I think I'm getting it."

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The handwritten letter on cream-colored bond paper said how happy she was to be here and how much she looked forward to getting to know us. It also said that she was looking for a research assistant, preferably one with a strong background in post-structuralist literary criticism, and asked that anyone interested in applying please stop by her office as soon as possible.

Not bothering to look at a map of the third floor, I turned right at the top of the stairs and walked the perimeter of the building before reaching the office door just to the left of the stairwell I had climbed. The door was open, so I knocked on the door frame and awaited permission to enter the room. She might have been smoking. She was probably typing on the computer and talking on the telephone. She was nearly always doing one, but could do them simultaneously, with apparent ease. She finished up quickly, invited me in, and offered me a seat on the long, leather/leatherette sofa that was opposite her desk.

"I saw your note about a research assistant," I said. "I'm familiar with post-structuralist criticism, but I have a much stronger background and interest in structuralism."

"Oh, that's fine," she said. "When can you start?"

"Don't you want to see my resume or CV or something?"

"No, that's fine. The job's yours. If you want to give me one, though, I'll look at it. Why don't we meet tomorrow morning at 10:30? I have some things I'd like you to start on right away."

She wasn't in her office the next day at 10:30. Instead, I found a pale blue sheet of notebook paper taped to the door. I read the apology (a faculty conference, a Berkeley lecture, or a friend's crisis—some good reason) and then took it down, staring at the twelve tasks written in her spidery hand. Twelve things to do. All of them mentioned Tawana Brawley and rape.

Jurywoman

*Barbara Allen Babcock**

Patricia Williams generally tells us where she was, and often tells what she was doing—she was in bed reading, at a kitchen table talking, on a train rushing, in the library preparing, on Fifth Avenue or East Wheelock Street, at a convention hotel or at Benetton's. To these ordinary moments and places, she fixes thoughts and visions that transform the locations, sometimes beyond recognition.

Even transformed, though, the places always start, and usually remain, as background. The exception is a story where the significance of the location itself immediately heightens the action. Patricia Williams is arguing a case to a jury, representing consumers against a sausage maker.[1]

Here is what I see: a slender, brown woman, her voice low and intense, her hands gracefully carving the air. The courtroom is old, stone and wood; the spaces (unlike, for instance, that cramped modern facility this fall at Palm Beach) express the majesty of the law. The jury box is wood panelled, and in it is a real jury of twelve, not some mutant creation of eight or even six.[2] Twelve people, men and women, of color and white; there are maintenance men and housewives (oh certainly, for this case, she wanted housewives). Probably there are no doctors, no corporate executives, and surely no literary theorists or constitutional lawyers.

Yet Patricia Williams explains both literary theory and constitutional law to the jury. She tells them that there is

> this thing called a sausage-making machine. You put pork and spices in at the top and crank it up, and . . . what comes out on the other end is a sausage. . . .

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* Ernest McFarland Professor of Law, Stanford Law School. In 1972 Professor Babcock was the first woman appointed to the tenure track at Stanford Law School. For almost a decade before coming to Stanford, Professor Babcock was a criminal defense lawyer, conducting jury trials in Washington, D.C. (for six years a Public Defender). From 1977 to 1979, on leave from Stanford, she was Assistant Attorney General for the Civil Division in the Carter administration.

[1] Patricia J. Williams, The Alchemy of Race and Rights: Diary of a Law Professor 107–10 (1991).

[2] See Williams v. Florida, 399 U.S. 78 (1970) (holding juries of fewer than 12 permissible under the Sixth Amendment).

> One day, we throw in a few small rodents of questionable pedigree and a teddy bear and a chicken. We crank the machine up and wait to see what comes out the other end.[3]

Her opponent has insisted that if "pig meat and a lot of impurities" came out, it was in fact "sausage." To this assertion, she responds:

> This suit is an attempt to devour the meaning of justice in much the same way that this machine has devoured the last shred of common-sense meaning from sausage itself. But the ultimate interpretive choice is yours: will you allow the machine such great transformative power that everything which goes into it is robbed of its inherency, so that nonconformity ceases to exist? Or will you choose . . . to allow the product to be so powerful that "sausage" becomes all-encompassing, so engorged with alternative meaning as to fill a purposeful machine with ambiguity and undecidability? Or will you wave that so-called sausage, sawdust and tiny claws spilling from both ends, in the face of that machine and shout: this is not Justice![4]

Is this real? Did anyone ever speak in such elevated terms to any jury? And could it be, as she also writes, that "the sausage maker's lawyer" objected because there was "too much critical theory in the courtroom"[5]? How about that "smattering of applause" that she says came from "the gallery"[6]? This is New York City where there are no courtroom galleries segregating blacks who silently rise as Atticus Finch passes below.

But I don't want to get into the literality of metaphors or even (for the lawyers who are the main questioners) the license that allows a storyteller what might otherwise be a trespass on truth.[7] Rather, my subject here, stirred by *Alchemy*'s jury story and seen from the perspective of my own

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[3] Williams, supra note 1, at 107.

[4] Id. at 108.

[5] Id.

[6] Id. at 109.

[7] My colleague, Janet Halley, engages these questions in their deepest sense in Truth/Value, 4 Yale J.L. & Feminism 191 (1991). Reviewing *Alchemy*, she writes that "Williams insists not on her fidelity to empirical fact but on her role as the maker of the text before us, indeed as the fabricator of the very self whose authority she places at stake." Id. at 205. Halley adds that there is a "special challenge" to white readers whose dilemma is whether we can "probe" Williams' authority without devaluing her humanity; whether we can assent to her authority without arrogating to ourselves the role of authorizers who are necessary to her acceptance. Id.

work on women's legal history,[8] rests on an indisputable fact. In the last quarter of the twentieth century Patricia Williams, African-American, great-great-granddaughter of a black slave, argued to a jury.

There is more: she argued on her own terms, in her distinct and individual style, to a group from which people of her sex and race were not excluded. Only a moment ago historically this scene was inconceivable. When women first wanted to be lawyers their antagonists insisted that the innovation would destroy the jury system: "Impressionable male jurors . . . [would] return a verdict . . . without leaving the box" and "the law and the facts would be simply ignored."[9]

Not only would women lawyers supposedly cause juries to acquit the guilty and reward the undeserving, but at the same time the natural purity and goodness of the women would be undermined by "all the nastiness of the world which finds its way into courts of justice, all the unclean issues . . . sodomy, incest, rape, seduction, fornication, adultery, . . . libel and slander of sex, impotence, divorce" and many more among "the nameless catalogue of indecencies."[10] The list did not include, however, the excesses of sausage making.

Humorously, or so they surely thought, opponents pointed out that the only antidote to women lawyers' ill influence on fact-finding would be, most unthinkable of all, to place women on juries. "[U]pon such a panel [the lady lawyer's] seductive and persuasive arts would be wasted."[11] Women lawyers themselves did not agree. In states where women's suffrage did not, as so many assumed it would, automatically carry with it the opportunity for jury service, women lawyers led the battle for statutory change. Women urged that among the indicia of full citizenship, jury service is second only to voting.[12]

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[8] I am writing a biography of Clara Shortridge Foltz, the first woman lawyer on the Pacific Coast, who joined the Bar in 1878. See Barbara A. Babcock, Reconstructing the Person: The Case of Clara Shortridge Foltz, in Revealing Lives 131 (Susan Bell & Marilyn Yalom eds., 1990); Barbara A. Babcock, Clara Shortridge Foltz: "First Woman," 30 Ariz. L. Rev. 673 (1988) [hereinafter "First Woman"]; Barbara A. Babcock, Clara Shortridge Foltz: Constitution-Maker, 66 Ind. L. Rev. 849 (1991).

[9] Sacramento Union, Jan. 11, 1878, at 2 (cited in "First Woman," supra note 8 at 689 n.80) (relating a typical argument raised when Clara Foltz sought admission to the California Bar).

[10] Matter of Goodell, 39 Wis. 232, 245–46 (1875) (denying Lavinia Goodell admission to the Bar).

[11] Sacramento Union, Feb. 26, 1878, at 1 (cited in "First Woman," supra note 8, at 689.

[12] See, e.g., Florence Allen, Tried and Approved—The Woman Juror, 70 Literary Dig. 46 (Sept. 1921) (Allen was an Ohio judge when she wrote this, among

Today, in every state women have the right to be called to jury service. The new hot issue is whether those women who respond may then be struck because of their gender. This issue has already been decided for minorities, particularly for blacks, just as the right to serve on juries at all was first established for minority men and much later for women. Equal protection of the laws requires that a prosecutor or a civil litigant's lawyer must give a reason other than race for dismissing Hispanic or African-American men from the jury panel.[13]

The ban against unexplained racially based strikes arose because in hundreds of courtrooms over many years prosecutors struck all the members of the defendant's own race from the jury. The repetition of this scene became more than our system could bear. But once the Supreme Court required prosecutors to explain their challenges of racial minorities, the question became where the doctrine would stop. So far, the Court has held that the defendant may object to the striking of minorities generally, and not just those like himself[14] and that civil litigants as well as criminal defendants may call for an explanation of the plaintiff's attorney's strikes.[15] This term the question is whether criminal defendants must also account for their peremptories.[16]

In the near future, the Court must also decide whether female potential jurors as a class are entitled to the same equal protection as racial minorities. This next case will probably arise from a trial in which a lawyer offers gender as his non-racial reason for a strike—most of the cases dealing with the issue thus far have involved peremptories exercised against minority women.[17] Take, for example, Patricia Williams' case and transpose its jury selection to the present. The sausage maker's lawyer uses one of his peremptory challenges to remove a black woman from the jury. When Williams objects, he tells the judge: "I did not strike her because she is African-American, but because she is a woman.

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many other articles. Later she was the first woman appointed to a federal circuit court); Women as Jurors, 7 Va. L. Reg. (n.s.) 634 (1921) (Annette Abbot Adams, first woman Assistant Attorney of the United States; Florence Allen; and others); Burnita S. Matthews, The Woman Juror, 15 Women Law. J. 15 (April 1927) (Matthews was later the first woman federal district judge in Washington, D.C.); Grace H. Harte, Women Jurors and the American Scene, 25 Women Law. J. 9 (Jan. 1939) (calling on women lawyers to fight for jury duty for women).

[13] Batson v. Kentucky, 476 U.S. 79 (1986); Hernandez v. New York, 111 S. Ct. 1859 (1991).

[14] Powers v. Ohio, 111 S. Ct. 1364 (1991).

[15] Edmonson v. Lessville Concrete Co., 111 S. Ct. 2077 (1991).

[16] McCollum v. Georgia, No. 91-372 (Sup. Ct. argued Feb. 26, 1992).

[17] See, e.g., U.S. v. Hamilton, 850 F.2d 1038 (4th Cir. 1988); U.S. v. Nichols, 937 F.2d 1257 (5th Cir. 1991); U.S. v. De Gross, 913 F.2d 1417 (9th Cir. 1990) (rehearing en banc held and opinion pending).

My client and I believe women are irrational on the subject of food purity, and we know women stick together."

Who loses—and what exactly do they lose—if the strike of the potential juror stands? What do the two African-American women, the potential juror and Patricia Williams, lose? Is this loss different from the loss to women as a class of citizens? Are there losses to the jury itself in its deliberations, to the litigants in the acceptability of the decision, to the justice system and society itself in ways beyond measure?

When the Supreme Court reaches such questions they will probably hold that the explanation for striking a minority woman must be truly neutral, not based on either gender or racial stereotypes. Whether the Court will also find that unexplained dismissals of white women violate equal protection and what it all means for the future of the peremptory challenge are the questions of our present.[18] Questions notable because:

until women were lawyers
until women could vote
until women served on juries with minority men
until a black woman could speak to a jury about sausage-justice,
there were no such questions.

[18] Long before *Batson*, whose result I applaud, I wrote about how peremptories allow lawyers to avoid open trafficking in stereotypes. Barbara A. Babcock, Voir Dire: Preserving its "Wonderful Power," 27 Stan. L. Rev. 545 (1975). Obviously, requiring extended explanations for challenges would destroy this function for the peremptory. I am also concerned that administering a system of rationalized challenges may become so burdensome that the ancient practice of peremptories will be abolished altogether. This abolition may be a major loss to criminal defendants at a time when a jury trial is becoming the first and last bastion against an unjust conviction.

Perspective Scholarship and Its Audience: Who Is This Story For?

*Michael Peirce**

Over the past decade we have witnessed the rise and establishment of a particular style of legal writing known as perspective scholarship. Although this approach to scholarship assumes many different forms, it is generally characterized by the use of personal experiential accounts and insights to critically explore legal and socio-political issues. Perspective scholarship often includes explicit moments of narrative, though it may be informed simply by an acknowledged underlying narrative not directly incorporated into the work.

This type of writing has been effectively used by disempowered peoples to challenge traditional norms that underlie oppressive laws and legal institutions within our legal system. An important assumption of this scholarship is that the experience of disempowerment in its particular manifestations—race discrimination, sexual harassment and rape, homophobia and gay and lesbian bashing, etc.—provides special insight into the ubiquitous problem of disempowerment and the appropriate legal responses to that problem. As Mari Matsuda explains:

> [T]hose who have experienced discrimination speak with a special voice to which we should listen. Looking to the bottom—adopting the perspective of those who have seen and felt the falsity of the liberal promise—can assist critical scholars in the task of fathoming the phenomenology of law and defining the elements of justice. . . .
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> The method of looking to the bottom can lead to concepts of law radically different from those generated at the top.[1]

The Alchemy of Race and Rights stands out as a distinguished example of perspective scholarship. Williams marshals literary theory, anecdotal

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[1] Mari J. Matsuda, Looking to the Bottom: Critical Legal Studies and Reparations, 22 Harv. C.R.-C.L. L. Rev. 323, 324, 326 (1987).

storytelling, legal analysis, and deeply personal reflection to challenge our perception of the dominant norms within the law and our society. She exposes the racism lurking behind assumptions which inform some of our most important legal rights, yet she somehow resuscitates the embattled notion of rights in the process. *The Alchemy of Race and Rights* is a critical project steeped in everyday life and other-worldly reflections that has a powerful effect on the way we approach the law.

I have known Pat Williams for about three years, and having read *The Alchemy of Race and Rights* during its creation and again after its publication, I decided to write a review to introduce it to a Canadian audience.[2] Shortly after sending off my review, a terrible thought came rushing into my mind, dashing any feeling of accomplishment. I suddenly realized that my entire review assumed the perspective of a white male. In one sense, I could not have written from any other perspective since I am a white man; however, I mean something more than that. I did not consider the way my own personal experience as a white man might animate my examination and assessment of *The Alchemy of Race and Rights*. Instead, I universalized my life experience by unquestioningly assuming that (sympathetic) readers of the book would read it just as I did. That is the ***white male*** perspective: the universalization of one's life experience as a member of the dominant and dominating culture.

As an author writing a review, I discovered that I had written from a single viewpoint as though it were the only one. Having read and thought about so many of the articles addressing the role of perspective in scholarship, I should have known better.[3] It is far too easy for members of the dominant culture to understand these articles as a call for greater diversity of perspectives in the legal literature while failing to recognize them as a challenge to the possibility of perspectiveless scholarship.

As a reviewer reading *The Alchemy of Race and Rights*, I had imposed the ***white male*** perspective by assuming a certain experience on the part of other readers. This assumption is all too common among members of the dominant culture. Realizing the inappropriateness of my presumption about Pat's audience, I began to think about who might actually make up that audience and what significance this makeup might have. I moved from my concern about the perspective of an author to the issue of the relevance of the reader. This issue treads on relatively unexplored territory in law, and I can only hint at the implications of such an inquiry in these few pages.

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[2] Michael Peirce, A Review of *The Alchemy of Race and Rights*, 5 Can. J. Women & L. (forthcoming 1992).

[3] See, e.g., Symposium, 87 Mich. L. Rev. 2073 (1989).

As I wondered about whether Pat had a particular audience in mind when she wrote the book, I began to reflect back on our conversations during its writing and editing. Although Pat was extremely busy teaching her courses and speaking to faculty and students around the country while writing it, we often managed to discuss her manuscript over lunch. I remember that we talked about how to rearrange and rewrite the first chapter or two in order to make the book more accessible to a nonlegal audience or an audience perhaps unfamiliar with her unique writing style. Pat's concerns went beyond just trying to ensure the coherence of her book; she clearly had some conception of who might read her work and how they would understand it. I could see that she was plainly conscious of her audience.

Along with technical details about how to arrange or express certain concepts, we also discussed the substantive content of many chapters. Pat appeared to be genuinely interested in my thoughts about different ideas in her book. She talked to me and asked my opinions in a way that indicated that she had someone like me in mind as a potential member of her audience. I do not mean to suggest that *The Alchemy of Race and Rights* was written for white men, but I do think that Pat intended to communicate with the whites and men that she recognized would be among her readership. She was also undoubtedly hoping to communicate with people having a variety of other life experiences. As a result, she wrote her book with an understanding that her audience would consist of a multiplicity of perspectives. Having recognized this fact at the outset, she wrote in a way that seems to communicate directly with each reader. *The Alchemy of Race and Rights* is like a painting in which the eyes appear to each person to be looking right at them wherever they are standing in the room.

What we see in the work of Patricia Williams is true of other perspective scholarship. People using this approach must be aware of their audience in a way that those writers producing traditional legal scholarship are not. Conventional law articles are written from the ***white male*** perspective, which conceives of itself as the only, and therefore universal, viewpoint.[4] By definition these articles are unreflectively written for a ***white male*** audience. In contrast, perspective scholars, by recognizing a multiplicity of experiences and views, commit themselves to accounting for the diversity of perspectives among their readers. This commitment is an inescapable

[4] There are, of course, factors beyond the self-universalizing impetus of the ***white male*** perspective which help to explain the constant use of this perspective throughout conventional legal scholarship. One is the inertia stemming from the fact that legal scholarship was traditionally written only for white men because only white men were admitted to the academy. It is also likely that some legal academics desire to communicate only with white men.

extra responsibility faced by scholars engaged in perspective writing; it also makes their work much richer as they carefully weave more layers into the fabric of their writing to be able to speak to the diverse members of their audience.

The solution to this burden of the extra responsibility of audience awareness faced by perspective scholars is not an easing of that burden, but rather an equal distribution of it among all legal scholars. Conventional legal scholars must begin to recognize their own situated perspectives and those of their audience. This necessity is true in everyday life as well as in academic writing. The burden of constant audience awareness is something that women, people of color, gay men, and lesbians face throughout their lives. In contrast, those people assuming the ***white male*** perspective, oblivious to their audience, frequently make racially derogatory, homophobic, and sexist comments. Sexual harassment is an archetypal example of this problem. Although often committed intentionally, sexual harassment is also frequently the result of men speaking to women in sexual or sexually explicit ways as though women shared the same sexual perspective as men. But they don't. Women's life experiences are different from men's, so that sexual comments and touching are experienced as harassment and not ego gratification.[5]

As with scholarly audience awareness, we should distribute the need for everyday audience awareness equally. This distribution does not mean, though, that men should respond to the issue of sexual harassment by censoring their speech only when they are with women. Instead, they should always speak with honesty and respect. It is a rather simple formula: to speak to everyone in the same way is to be honest; to speak in a way that is appropriate for all to hear is to show respect for others' dignity. To speak without both honesty and respect is simply wrong.

Members of the dominant culture constantly assume the objectivity of their experience and impose that assumption in ways that damage those people whose lives are forged from different perspectives. In *The Alchemy of Race and Rights*, Patricia Williams exposes some of the damage inflicted by the assumption of perspectivelessness and shows us the importance of

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[5] It is important to recognize that sexual harassment is not just an issue which is constructed differently by people with differing perspectives. Rather (men's) lack of awareness and understanding of other perspectives *is* the legal issue in sexual harassment. Such harassment specifically results from the failure of men to recognize the implications of the diversity of perspectives among their audience—those people who hear, feel, and suffer their sexual remarks and advances. The fact that women and men have different perspectives does not cause sexual harassment; it is men's ignorance of this diversity of perspectives that results in such harassment.

and potential for trying to understand and respect a multiplicity of perspectives. She does so while maintaining an understanding and respect for her diverse audience. As a result, both through her words and through her actions, Patricia Williams shows us how to manage this same skill in rethinking our laws and in living our lives.

Select Journal Entries on Entry Fee for Inclusion

*Dinesh Khosla**

The Alchemy of Race and Rights brought back wonderful memories of my association with Patricia Williams. I first met Pat in the summer of 1984 when she came to the City University of New York Law School, CUNY, to be part of a new and bold experiment in legal education, an experiment that was barely a year old. I was not at CUNY when Pat arrived there. The untimely death of my father had taken me back home to India. Upon my return, I was anxious to talk with my new colleague, with whom I was slated to teach a course on Law in a Market Economy. Within a few minutes of our first meeting we were talking about the complex issues of our identities and the forces that had shaped our beings. Discussing who we were, who we are, and what might we become was not the usual conversation that precedes the planning of a course for law school. But that is what we found ourselves doing. Not surprisingly, the course, as it finally developed, was shaped in very profound ways by that and other conversations that we had on related issues of market and non-market economies, individual worth, tension between culturally defined identity and individual accomplishment-oriented identity, fairness and unconscionability as perceived in divergent cultural milieus, etc.[1]

I was never uncomfortable telling Pat my experiences in and around law schools—none of which, she would often say, destroyed or distorted the essence of my being. I have never been sure of that myself. Private expressions and sharing of the experiences of my life with Pat made it comfortable for me to share them with the larger community. What follows are a few experiences relating to our conversations about becoming a law teacher in the United States.[2]

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* Visiting Teacher of Law at Touro Law School, on leave from CUNY Law School, New York.

[1] See, e.g., Dinesh Khosla & Patricia Williams, Economies of Mind: A Collaborative Reflection, 10 Nova L. Rev. 621 (1986).

[2] This piece is a modified version of my speech three years ago on the day when law students throughout the country demanded that law school administrations diversify the faculty.

October 1976: New Haven

Ten thousand miles away from home, in the midst of an alien culture, sitting in the oak panelled office of one of the Deans at the Law School, I am having a very pleasant conversation about my experiences in New Haven. The conversation turns to the social ecology that surrounds our lives. I express my disbelief about the poverty-stricken lives that surround the ivy-laced gothic structures of Yale. Before I finish my statement, I find that we are talking about poverty in India, and I hear a statement about the Law School's commitment (generosity?) to provide scholarships and education to the students from the third world. I feel a compulsion to thank my provider, provider of my scholarship. I want to tell him about the Indian conception of *Vishva Kutumb*, one world and world as one family. I want to talk about our responsibility to improve social ecology and human conditions. The Dean continues to talk about the large number of third world scholars Yale has trained. After a while, I begin to feel as if I am the blessed recipient of charity. Must I thank again? Had I spread my hands asking for alms? I am hurt and confused. Hierarchies prevent each one of us from listening to the other. I pause. I want to tell him the story of Elihu Yale, former Governor of South India, who received rare books and artifacts from the Indian citizens he ruled. (Indians believed that they were obligated to give those items as "gifts.") The Governor in turn gifted those valuables to the Collegiate School, which netted over 562 British pounds selling those items. In gratitude, the trustees renamed the Collegiate School and called it Yale College. My inability to tell him the story makes me angry with myself. I am shaking. I do not have eye contact with the provider of my scholarship. I want to terminate the facade of conversation. I want to tell him that Yale owes us not only these scholarships but much more. The scholarships don't even equal the accumulated simple interest on the money that came from India. I want to tell him, let us rename Yale and call it the University of South India in New Haven. I want to ask him how is this academic heaven "new" or different from the others I have known? I want to tell him that the price you extract from me when you include me in your fold and open the gates of the school for me is too heavy—you push me to react in ways that are in total conflict with who I am. I want to think of all of us as part of one family, one world but you push me to think in terms of us and them—those from the first world and those others from the third world. The meeting ends. Both of us have other important things to do.

May 1980: Four Years Later

I now have earned a masters and a doctorate degree from Yale Law School. Less than a dozen people earn a doctorate in law every year

throughout the country, I am told. As the recipient of the highest degree in law, I have been asked to lead the graduation procession. I do. I am honored and confused. The pockets of my jacket are bulging with rejection letters from law schools all over the country. Most tell me that despite my wonderful background (two LL.M.s, a doctorate in law, an M.Phil. in sociology, teaching experience, and a soon-to-be-published book on human rights) I do not fit their needs. That I am overqualified. Should I lead the graduation procession and celebrate my overqualification? During the course of the wonderful congratulatory speeches of the graduation speakers, I want to get up and scream:

> Don't you, the bastions of capitalistic-oriented preaching and teaching of law, understand that in hiring me as a law teacher you will get someone more qualified for the same or perhaps less money than you would have to pay to someone less qualified? ... If you hire me, you will be true to the capitalistic values of getting more for less.... At least, for God's sake, be true to yourselves.

Of course, I smile with every congratulation that comes my way. Upon reflection, I now understand why you don't hire me. In the green you might have saved in hiring me, you saw the color brown—the color of my skin.

February 1981: Somewhere in the Midwest

I have the possibility of getting a job offer. I want it badly. Unemployment is painful. It is doubly painful with a Yale diploma, I think. Over the sunny-side-up eggs and biscuits breakfast, the Dean tells me that the school is committed to hiring minorities and that I will be their first one, if things work out. Sunny side is no longer visible to me. It is dark, despite the fact that the icy white of the eggs that has covered the entire landscape is all that I can see. I can't accept being a token. You can't put me in a slot. What about my over-qualifications? What about me as a human being who loves to teach? What about me as a scholar who has even published a book and several articles in a language that is not his own? I imagine emphatically saying NO, NO, NO. I know a "no" doesn't get you anywhere in a society which expects one to conform. As expected, I did not get the offer. You, the gatekeepers of the institutions that profess fairness and equal opportunity, wanted me to reduce my mother-nature-given humanness to a category of your creation ("minorities") before you would admit me to the somewhat exclusive club known as "Professors of Law." Shame on you for asking me to soak my colorless soul in the color brown, the color of my skin.

October 1981: Fort Lauderdale, Florida

Finally, I have a job as a law teacher. The faculty hiring season is upon us. The faculty is meeting to discuss the needs of the school. International Trade is mentioned as one. I suggest the name of a visiting Iranian Professor at Princeton, an author of two books. I am interrupted by a senior colleague. "We don't want more foreigners . . . ." "You have a point," I want to say. "There are too many of us foreigners here at this school . . . actually all of us . . . let's leave the school to the Seminole Indians of Southern Florida." Why did I not say what was on my mind?

November 1983: Queens, New York

Five months after the founding of the City University of New York Law School—the school that was expected to revolutionize legal education, dismantle hierarchies, and introduce self-reflection on the process of becoming a lawyer as a key component of legal education—I have received a request to redo a form for my personnel file. Didn't I fill it out in June, I ask? "Yes, you did," I am told, "but it was not done properly." "What was wrong with it? Did I misstate something?" I ask. "Yes, the column on Race," comes the reply. I don't want to spend too much more time on the telephone. If I can't see the face of the person with whom I am conversing, I get uncomfortable. I promise to send the form after filling it in properly. I do. Ten days later, I get it back. Am I so stupid that I can't even fill out a damn form? Don't I know my race? I ask these questions to myself. I am told by one of the deans that the computer does not recognize the "new" category by which I described myself. How ironic! All I had said in response to the question on race of applicant was—Human race. How was that category new? And who gives a damn whether or not the computer recognizes that description or not? The Associate Dean wants to know how he should count me for the purpose of filling out some forms on affirmative action. I am tired. I tell him to do what he wishes to do. My father had always taught me to recognize but look beyond culturally defined categories to universalistic values and categories. Why do you, you the bureaucrats, want me to redefine myself to fit your little forms and organizational charts? Who the hell do you think you are anyway?

November 1987: The Mosaic City of Diversity—New York

I am invited by a middle-ranked law school to interview with them. I am excited. I have been at Ivy League and no league schools. I have been

at CUNY, the separate league school. Maybe I will make it to the middle league school—finally part of Main Street, U.S.A. I walk into the interview room. No one except the only woman, an Afro-American, stands up to greet and welcome me. I hear several voices speaking about how impressed they are with my credentials, my books, my having survived the tenure battle at CUNY. I am very comfortable. After a while I am asked what an ideal course on human rights would look like. The people of Palestine seeking self-determination, the homeless of New York, the hungry of India and Bangladesh, the humiliations of those who dare to be different, the abused children and women, the Native Americans, the discarded elderly, the unattended sick, the silence of untenured professors at the law schools, the experiences of terrorized students in many law school classrooms—the deprivations of all kinds and how to eradicate them is what I would want to teach. There is silence and discomfort in the room. My instinct tells me that I have blown a chance to move up to a more "prestigious" law school. The interview ends. Two of my friends, both with a Critical Legal Studies orientation, call me to tell me how sorry they are that I won't be teaching at their law school. I am still waiting to hear from the faculty hiring committee. I know I would have been offered the job, had I maintained silence and not expressed my concern for all those forgotten people seeking respect and dignity whom I had mentioned. The price you (the committee) asked me to pay for moving up in the hierarchy of law schools was silence. How ironic, because you never stop talking; you never stop professing that freedom of thought and expression is the most cherished value you hold. Shame on you, the preachers. But thank you too. I think you prevented me from becoming a part of that hierarchy that I so violently want to reject.

1983–91: Eight Years at My Second Home—CUNY Law School

Eight years of joy and frustration; accomplishments and failures; beginning to know ourselves, individually and as a collective, yet never pushing beyond certain boundaries. I want to celebrate the apparent visible diversity, but I cannot. I am not sure if I have, if we have, dismantled our biases. We used to work on recognizing them, questioning them through processes of self and collective reflections. Why did we stop doing that? Was it no longer safe to do so? Had we turned up enough of the soil of our souls to make us afraid of ourselves? Or was it, plain and simple, ineffective in changing us? I am saddened by the fact that we, as an institution, are less diverse compared to the beginning years, and I am deeply troubled that it has happened while I have been here. Why did I not do enough to prevent the slide?

Why do we not welcome and tolerate the diversity of opinions and views in manners similar to the earlier days of our existence as an institution? Why have we started to impose silence on our colleagues and students? What happened to the idea of all of us being part of a family, sharing the pains and celebrating the joys? I can't explain all these disturbing trends by dumping them on the very nature of academic bureaucracies and institutional realities. I am part of that process. I often ask myself whether there has been a massive invasion of my soul by the very forces against which my soul wanted to, and at times did, revolt. Has that invasion chiseled away or distorted the very essence of my being? Where is the conception of the *new* we Patricia Williams is hoping for in the *Alchemy*?

Mambrú se fue a la Guerra (The Personal Is Political, or Vice Versa?)

*Celina Romany**

I am not exactly a fan of induced psychological associations. I have a visceral antagonism towards the association game, perhaps because it is about surrendering control to someone who hopes to dissect my psyche and come up with an "objective" interpretation of me. In order to play the game, I need to feel safe. Patricia's work is about those safe harbors. She holds up a familiar and comforting mirror that encourages me to walk the path of associations.

Take, for instance, my recent work. I have been obsessing about foundations from within an academic world that is increasingly destroying them. In my quest to *genealogize* feminist and race theory from a critical perspective, personal experience becomes a key tool in the unraveling of the liberal self.

Patricia talks about multi-faceted invisibility. *The self who attends a sold-out performance of the social contract saga comes to mind. The shallow pond for a floating feminist theory that persists in compartmentalized subordination. Only by showing the centrality of experience in which political and cultural history is deeply connected to the constitution of a subject born into a context of personal and social delegitimation can a feminist theory of subjectivity adequately elaborate an alternative vision to the liberal self.*

Patricia weaves critical strands of race theory with feminist legal theory to launch her attack on liberal notions of fairness and rights. *The critiques of critiques are in order. Critical race theorists' critique of critical legal studies' critique of rights comes to mind. A critique of rights that stems, not from what a critical legal scholar would describe as an alienating experience originating from the fear of connection, nor from what a feminist legal scholar would characterize as a gender experience of connection that spells solidarity and responsibility to others in lieu of atomized individualism. The intersection of race and gender pointing to a different legal consciousness.*

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Patricia talks about the pirouettes of connection and separation. *I think of rights tracing boundaries of mutual respect-in-separation, which (giving a recess to "disruptive" false consciousness) can transform a position of "objective" non-identity. I think of a self that is provided a strong sense of identity(ies) by a social system that recognizes and nurtures the respect for differences and offers the material conditions for their full realization. Cultural distance comes to mind. That distance which eludes premature engagements with others and which brings about assimilation and/or co-optation. The cultural separation which a culturally situated self needs in order to breathe the transformative potential of intersubjectivity.*

Patricia talks about individuality and collectivity. *I keep thinking of distance and separation outside of the solipsistic orbit. The orbit that springs from the recognition of one's cultural collectivity and cultural self-sovereignty, resembling what Iris Young describes as a "being-together of strangers," as relations "in the sense of an understanding of groups and cultures that are different, with exchanging and overlapping interactions that do not issue in community, yet which prevent them from being outside of one another."*[1]

Patricia talks about her personal experience as a law teacher. *Associations travel full speed when we approach life in legal academia. Resistance movements against footnote status in legal discourse and practice, in the most ornamented discourse of power. Tactics and strategies deployed against Master scripts, truths, methodologies, pedagogies, tenure standards . . . .*

Judge Maxine Thomas, Patricia narrates, was found by her clerk "curled into fetal position, crying in her chambers . . . , singing her small songs, magic words, soothsayings of comfort and the inky juice of cuttlefish . . . , the songs of meadow saffron and of arbor vitae, of eel serum and marking nut, snowberry, rue-bitterwort, and yew."[2] *In a car that slides from aesthetically-deprived Queens into aesthetically-rich Manhattan, I find myself singing* ***Mambrú se fue a la Guerra,*** *that children's tune which connects my current fragmented self to the whole-stronger childhood self born and raised in a Puerto Rican neighborhood where we were pretty much the same and North-Americans were the others in our occupied country.* ***Mambrú se fue a la guerra, que dolor, que dolor que pena, Mambrú se fue a la guerra, no se cuando vendra, do, re mi, do re fa, no sé cuando vendra . . . Mambrú se fue a la guerra,*** *facing that colleague or student who skates through that slippery slope of praise/condescension that translates her amazement at a Puerto Rican law professor (yes, Pat, our life as oxymorons) who is teaching Jurisprudence instead of cleaning the windows or baby-sitting her child, who most likely will have a solid foun-*

[1] Iris M. Young, The Ideal of Community and the Politics of Difference, 12 Soc. Theory & Prac. 1, 21–22 (1986).

[2] Patricia J. Williams, The Alchemy of Race and Rights: Diary of a Law Professor 197 (1991).

*dation in Spanish by the age of three. **Que dolor que pena, Mambrú se fue a la guerra,** to find a dean advising her to complete her J.S.D., since having taught for twelve years and having tenure in Puerto Rico are not good enough credentials for tenure-in-USA. An academic-life version of **tenure** in the colonized worlds.*

Patricia's accounts of substance and form in legal academia: exams, students' reactions to unorthodox teaching. *A gypsy, in Romany, reads my palm and describes my repeated characterizations of legal standards as "**la migra**"[3] guarding the borders of creativity, compassion, empathy, and visionary thought; my attempts at creating a room with a great view of narratives about intersections that challenge the suspect character of suspect classifications which fail to acknowledge the high correlations between race, gender, and poverty; or the right of employers to dismiss at will based on master-servant scripts hidden behind the veil of contract freedom; or the canonization of property in employment discrimination, which elevates management prerogatives to the rank of natural law and which, in the labor relations scenario, grants workers the right to strike subject to permanent replacement, a euphemistic description of dismissal; the narratives underlying the principles and doctrines of immigration laws and political asylum, which cause latino workers (farm workers in particular) to experience postmodern forms of slavery in the workplace and which sanction double standards to measure political repression in Latin American vis á vis Europe; or the myopic blindness that inheres in reverse discrimination claims; that reasonable man standard in self-defense cases which does not grasp the experience of battered women living a hellish existence; definitions of human rights which stay at the civil/political arena and don't venture into the deep waters of social and economic development, including the "private" world of women subject to violence; or basic customary norms of international law, which don't find a meaningful place in our constitutional framework—to mention a few examples.*

Patricia's great-great-grandmother Sophie. *Close encounters with sameness and differences at the margins, the similar and different experiences of plantations/**haciendas** inhabited by chattels, a legacy of the **Conquistadores** being commemorated in the Quincentennial of the "Discovery" of America.*

Associations at the border of the intellect and the psyche just happen. One afternoon, surrounded by Marjorie's presence in Patricia's apartment, we spoke about Pedro Albizu Campos. Albizu Campos, the most respected voice of Puerto Rican consciousness, found in Pat's relatives a shelter of love and support for the particularly cruel isolation that he breathed while an "oxymoron" (a brilliant, Puerto Rican, poor, and mulatto student) in the Harvard of 1914. A powerful association in the chain of associations that has made me apprehend Patricia's work in that unique space where the personal is truly political, or vice versa?

[3] "La migra" is the name latinos have for immigration officials at the borders.

On Identity: The Golden Years
On Communication: From Voice Mail to Footnotes[1]

*Bill (not William) Ong Hing**

Her daughter was turning two that Saturday, and Susan was looking forward to sharing the moment with the people with whom she worked at Golden Gate University Law School. So she invited a few other faculty secretaries, and perhaps eight to ten faculty members for whom she did work from time to time. I'm not sure exactly how most of the law school folks responded to the invitation—it's likely that some were uncomfortable at the prospect of going to such an event. After all, Susan, a Filipina immigrant, lived in the San Francisco Mission District in a small apartment with her husband, their daughter, and her husband's parents. Susan had also made it clear that the event was to be mostly a family celebration for her two-year-old. Susan's life was very different from the lives of the other secretaries, and certainly different from the lives of faculty members. Most of the people with whom she worked regarded her as socially awkward, and many thought her Tagalog-accented English was hard to understand.

When Saturday came, only three law school folks showed—Pat, Al, and me, all faculty members. Al was a Jewish man in his sixties—a noted labor lawyer who had turned to full-time teaching later in life than the rest of us. Although Al and his wife seemed a little uncomfortable, they were nice and appeared genuinely happy to be there. I was fine, too, I suppose. After all, good food—of which there was an abundance—generally brings out the best in me. Then Pat, fresh from her morning jazz dance class, eased in to join us. Yes, Pat, the articulate, deep, prim and proper intellectual, slid right in with a Debbie Allen-like flow,[2] fitting in, making folks feel

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[1] Dear Pat: It seems that in the past year or so we've been playing phone tag—communicating principally by leaving and listening to messages on our respective answering machines and voice mail. I've decided to use footnotes this time, especially since convention has it that communicating a separate story through footnotes in law reviews is standard. Besides, I'm in my element these days when it comes to footnotes and endnotes; they've consumed much of my life recently, after Stanford Press ordered me to convert about 2,000 footnotes from law review format to that of the *Chicago Manual of Style.*

[2] I'm sorry I wasn't the first to tell you soon after you started taking your dance classes that you reminded me of Debbie Allen. I do recall how flattered you were when students mentioned it to you. I agreed.

comfortable, talking with Susan's cousins, aunts, and uncles, making like home.

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Sea Ranch was absolutely gorgeous. A bit windy, but we were surrounded by clear, blue skies, mountains, and the ocean. The setting was perfect for an end-of-the-semester grading fest for the faculty "liberals." It was a chance to be together for a few days—to go through the agony of grading exams together, to cook and eat together, to sing together, to joke together, to hot tub together. I think there were seven or eight of us there that spring. By then, Pat had accepted a "visitorship" at CUNY for the following academic year, although we all knew that she'd be leaving the "Gate" permanently. We also all knew that those of us who were untenured—Pat, Dru, and I—would soon be getting our one-year notices of termination due to the school's budget crisis.[3]

Driving up to Sea Ranch, I didn't think I was in the mood for gaiety, but I surprised myself soon after arriving. My change in attitude had everything to do with Pat being there. She was joking, in good spirits, at ease. By then, we were the only people of color on the faculty,[4] but the folks we were with were good. The time was productive, and we had a lot of laughs—quite enjoyable after all. After a couple of days, I returned to San Francisco, leaving the others to continue. A few days later, when I ran into Pat back at school, I wanted to be filled in on the day or so that I had missed. As she told me how it had been fine but that after I had left it had been much less fun for her, I realized that she had relied upon me perhaps as much as I upon her for the ability to be open, ourselves, and free.[5]

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For some reason, these two events stand out in my mind when I think of Pat Williams and the time we shared together on the same faculty.

[3] I suppose you could say that those of us who got notice that summer eventually landed on our feet. You of course not only landed on your feet, but then bounced to several higher levels. Getting laid off together is a strong bond that will likely hold you, Dru, and me together forever.

[4] The faculty's failure to promote Rosella the year before was deflating for me as well as for you. It was my first real bitter taste of faculty hypocrisy. Another was the letter found in the xerox machine, signed by most of the tenured faculty, urging the dean to let all the untenured faculty go in order to ease budget problems, although they had assured us that they supported us.

[5] As the only two people of color on the faculty at the time, I was really touched by your words after Sea Ranch. You should realize that during my "notice" year, when you were at CUNY, I was pretty miserable.

Perhaps it's because when I read Pat Williams—when her sense of identity, her sense of self, her sense of being an African American woman are so clear—I realize that even back at Golden Gate, during what might mockingly be labelled the "Golden Years," she began to influence my own sense of self and identity. Back then, Pat occasionally mentioned her personal journal and the "hefty" entries that she regularly took the time to make. "Far out!" I thought, little knowing that these journal entries would soon form the basis for many of her articles and for *The Alchemy of Race and Rights*.[6] And what writings they've been! When I first read her published work, I recognized a journal-like style—a style that captured my imagination and my attention, refusing to allow me to put the work down, much as one reacts to a captivating novel.[7]

Such a sense of identity is important for scholars of color. For many of us, the identification of "scholar of color" is something that has been foisted upon us. Some people may resist this type of pigeonholing. But, at least for now, the labeling continues, and it might be wiser to follow a *Tai Chi* principle of resistance—first going with the flow, then turning the energy back in full circle and in full force. I think Pat Williams has done just that.

I generally think of myself as Asian American rather than Chinese American.[8] But that may have something to do with the fact that I was born in the United States; most of my friends of Asian ancestry (Japanese, Chinese, Korean, and Filipino) are also American-born or have lived here most of their lives; I communicate with these friends in English; and, while we may not always look at things the same way, we share many common life experiences. I also work in a university environment where "Asian American" is a common label and the vast majority of my Asian American co-workers and students are American-born Japanese and Chinese Americans. I have been a member of many political and social

[6] I recall that during your last year at Golden Gate you and I were two of the first faculty members to begin using computer word processors. So somewhere along the line you converted your journal entries to pixels. I confess that I had a little chuckle about your discussion in *Alchemy* as I pictured you in your bed with your laptop computer writing about Harvard's ridiculous announcement that they were unable to find a qualified African American woman for the faculty. I chuckled because I am sure that even before the days of laptops, you stretched your keyboard to your bed in order to blast away.

[7] As you were blasting away on your first-generation personal computer, I wonder if you realized you were developing a spellbinding style that many friends and students have told me reminds them of Toni Morrison's.

[8] My thoughts on my own identity and especially that of the patchwork of Asian Americans is played out much more thoroughly in my forthcoming book, Bill Hing, Making and Remaking Asian America (1992).

groups with members of varied Asian backgrounds that are labeled or regarded as "Asian American" this or that. I do regard myself as Chinese American when specific cultural signals are invoked, such as when I am with relatives (most of whom are Chinese American), when I am in Chinatown, or when I am in a Chinese restaurant. However, I don't recall ever being able to regard myself simply as an American. My racial features inevitably evoke certain reactions, looks, body language, and treatment from the people with whom I interact, so that I am constantly reminded that I am Asian American or Chinese American rather than simply "American."

But my personal example cannot serve as a standard. As an American-born Asian American (who grew up in Arizona, no less), today I am in the clear minority of Asian Americans, most of whom are foreign born and not of Chinese ancestry. Informal surveys which I and my colleagues have conducted on how Asian Americans self-identify reveal a range of responses. Many Asian Americans, even some born in the United States, do not regard themselves as Asian Americans, but rather as Chinese Americans, Japanese Americans, or Vietnamese Americans. Others insist that because they act American and think of themselves as American they are treated as such by others. Still others respond that their identity depends on the time of day. In a work environment with no other Asian Americans, some regard themselves as simply Americans, others are reminded that they are Asian American, while all might regard themselves as Filipino or Chinese American if, for example, they volunteer after work at a community center.

My conversations with Pat, her writings, and the example she sets remind me that at times one form of my identity—one which I can take pride in—is simply that of a person of color.[9] This realization takes into account my need to engage in identity switching from situation to situation depending on environmental stimuli, that my identity as an Asian American is not an identity for all times and all purposes. I often personally respond to situations simply as a person of color because of how I am treated and in large part because of analagous experiences that I have had with other non-Asian American people of color. When Pat writes about slavery and refers to her great-great-grandmother Sophie and her great-grandmother Mary, I think of my mother Helen Annie being held by

[9] It's interesting that back in the Golden Years we didn't talk that much about being people of color. While it consumes much of the conversation in our private circles today, back then, while you were probably already writing on the topic, it was simply a time of experience for me. Recently, I've listened and learned a great deal from new friends—friends like Regina Austin and Alex Johnson—whose views have been valuable to my growth.

immigration officials on Angel Island.[10] When Pat reveals her inability to penetrate the portals of Benetton in New York because of the color of her skin, it reminds me of standing in line for popcorn at a movie theater at Lake Tahoe and being harassed with racial epithets by some of the locals. When she reveals her compulsion to be formal in establishing an enduring relationship with her apartment building owner, I'm reminded of my own naiveté in agreeing to my first full-time teaching salary on a handshake, only to learn years later that I'd been burned royally; or reminded of one next-door neighbor with whom I have chosen to communicate in writing ever since my other neighbors informed me that this person generally refers to my family as "those Asians." As academics of color, Pat and I also share countless other comparable experiences largely because we are of color.

Of course, I would be foolish to make a claim that a totally unified identity among people of color exists. But these common experiences might allow such an identity to be properly viewed as a means of achieving political integration—a process of developing an identity or platform allowing the group(s) to operate within the political system while maintaining separate ethnic or racial identities for non-political purposes. In this sense, it becomes a civic identity which transcends any single situation. Yet inflexibly advocating a unified identity among people of color is dangerous and should give great pause to those people of color (many, I'm sure) who believe in cultural pluralism. Claiming or advocating a uniform people-of-color identity smacks of the same cauldron-like approach of the Anglo-conformity melting pot models of Americanization that we have resisted. The formation of a people-of-color political and social identity must be accompanied by the same type of respect for separate cultural heritages and democratic development that we have so long sought from

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[10] Many of my mother's experiences have influenced me. Her detention on Angel Island (particularly outrageous since she was actually born in Scranton, Pennsylvania, but I guess in the 1920s it was hard for immigration inspectors to think that any Chinese person could be born in the United States), her single-handed running of a small grocery store, her extension of credit to striking copper miners which led to her near bankruptcy, her fluency in Spanish, have all helped to shape my views.

My father had great qualities as well. While he toiled at getting my mother released from Angel Island (Chinese referred to it only as the "Island" because it was no place for angels), he slipped the following poem to her:

> Each moment with you is like the first day of Spring,
> Each moment without you evokes the agony of the coldest
> Winter.
> So I am diligent in my work,
> Inspired by visions of an eternal Springtime with you.

the mainstream. Just as most people of color have come to realize that developing and identifying an alternative, pluralistic structure independent from the mainstream may be a natural (and possibly necessary) response to the barriers that exclude us from the mainstream structures and institutions, the retention of ethnic or racial culture, heritage, and values is also natural and possibly necessary. As varied interests must be respected and understood, so must we find the time to caucus independent of the larger coalition.

Pat's writings and manner have proven inspirational to a multitude of students for whom we care a great deal. And if you are willing to accept me as an example, you can see that she has inspired and moved her colleagues as well. By keeping me conscious of myself—my surroundings, my identity, my thoughts, my values, my color—Pat has helped me form a foundation from which I can speak much more openly, honestly, and freely.[11]

[11] I'm told by the editors of the *Journal* that my draft is due on February 14—Valentine's Day. What a perfect opportunity for me to express my thanks for your inspiration, and to let you know that you will always have a place in my heart. Love, Bill.