

A TRIBUTE TO THE WORK OF PATRICIA WILLIAMS

KATHERINE FRANKE*

I want to welcome all of you to Columbia Law School, and to the fourth annual Symposium hosted by the Center for Gender & Sexuality Law. Some of you might have been with us for previous Symposia—last year we came together to honor the work of Justice Ruth Bader Ginsburg, and to acknowledge the fortieth anniversary of her joining the Columbia Law faculty as its first tenured female professor. In prior years, we have honored the work of Judith Butler and Martha Nussbaum.

Our aim with this symposium is to take a full day to reflect on the body of work of a scholar who writes *in*, or at least *near*, law and whose work has had a significant impact on our thinking about sexual and/or gender-based justice.

The task of selecting an honoree is not an easy one—as we aim to take up a corpus of work that is at once deep enough and broad enough to sustain a full day of conversation. To be honest, most legal scholars tend to be more hedgehogs than foxes, burrowing down deep into an area of law over the course of a career rather than bringing their intellectual talents to bear on a range of social problems or diverse disciplinary locations.

One person, without question, stands out as an exception to this tendency in the legal academy, and that is the incredible Patricia Williams.

Her work has challenged a generation of students of race, gender, and law to question the received wisdom of what it means to live in a society committed to race and gender-based equality. She asks us to entertain a level of personal and political discomfort previously unknown to something we might call “legal scholarship.” Her writing stages a confrontation between the word on the page, the woman who penned that word, and you as the reader, using memoir, history, literature, popular culture, media, and, of course, law, to unearth some of the most challenging questions about justice—justice as a legal project, justice as a social project, and the ways in which justice is always at stake when we set out to craft a sense of an integrated self. She has described this as “the complex ritual of mirroring and self-assembly.”¹ In this sense, justice is both a public and a private enterprise

* Isidor and Seville Sulzbacher Professor of Law and Director of the Center for Gender & Sexuality Law, Columbia Law School.

1 PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR* 229 (1991).

in Williams' writing.

Her work makes an argument about the gap—sometimes abyss—that lies between law and justice. But her arguments don't just use the familiar tools of the legal trade—rationality and logic, objectivity and detachment, rules and precedent—rather, her craft relies equally on anguish and self-doubt, indignation and rage, particularity and the personal. She demands that we think hard, very hard, when we encounter her work, while at the same time attending to the feelings that her work unearths. She writes in *The Obliging Shell*, a chapter in *The Alchemy of Race and Rights*:

I remember with great clarity the moment I discovered that I was “colored.” I was three and already knew that I was a “Negro”; my parents had told me to be proud of that. But “colored” was something else; it was the totemic evil I had heard my little white friends talking about for several weeks before I finally realized that I was one of *them*. I still remember the crash of that devastating moment of union, the union of my joyful body and the terrible power of that devouring symbol of negritude. I have spent the rest of my life recovering from the degradation of being divided against myself; I am still trying to overcome the polarity of my own vulnerability.²

Now, this comes in the midst of a chapter about the Supreme Court's affirmative action doctrine, about the racial mischief that can be, and indeed *is* accomplished in the name of equality and racial neutrality. Pat teaches us through personal narrative, the retelling of real life instances of racial violence, and close reading of legal texts how the race-neutral world called forth by the Supreme Court's affirmative action jurisprudence is one in which race becomes a kind of taboo, suppressed in polite company, rendering black people both invisible and available to the probing, curious eye of “neutral” color-blind society. She writes: “The words of race are like windows into the most private vulnerable parts of the self: the world looks in and the world will know, by the awesome, horrific revelation of a name.”³

In *The Alchemy of Race and Rights*, Pat lays bare the way that racial neutrality accomplishes a kind of invisibility or erasure not only of race but of raced peoples. Take for instance a colloquy with a colleague that she recounts:

2 *Id.* at 119–20.

3 *Id.* at 119.

A man with whom I used to work once told me that I made too much of my race. “After all,” he said, “I don’t even think of you as black.” Yet sometime later, when another black woman became engaged in an ultimately unsuccessful tenure battle, he confided in me that he wished the school could find more blacks like me. I felt myself slip in and out of shadow, as I became nonblack for purposes of inclusion and black for purposes of exclusion⁴

To illuminate another way that law simultaneously produces legibility and invisibility she turns to the media coverage of the death in 1987 of Michael Griffith, a young African American man who was chased onto a highway in a white neighborhood Queens, by a group of white young men. He was hit and killed by a car. Pat observes how Griffith, like many victims of racism, was portrayed as somehow deserving the racist violence that killed him; she explains that the projection of criminality onto all blacks not only tells an untruth about black people but renders white criminality invisible.⁵ You could easily substitute Trayvon Martin’s name for Michael Griffith’s and her analysis would be equally powerful and spot-on today.

The power of law to render certain “unfortunate” aspects of U.S. history invisible, along with the people who are the embodiment of that misfortune, have remained a core theme of so much of Pat’s work.

But in addition to unpacking the legal technologies of *invisibility*, Pat’s writing has also taken up the power and productivity of *silence*. She teaches us not only how silence works, but she models how to talk and write about silences.

Some of her most compelling examples of the power of law and legal texts to silence come from her experiences in legal education. You hear over and over that our main project here in a law school is to teach our students how to “think like a lawyer.” In so many respects, this means unlearning the ways of thinking that got you here. It also means acquiring a kind of mental and emotional discipline that keeps you from voicing certain kinds of arguments, and worse—that keeps you from valuing those arguments when they rise from your gut. Let me give you an example from a student who recently wrote me with reflections on the first year of law school:

4 *Id.* at 9–10.

5 *Id.* at 61.

I have definitely read opinions and felt strong objections on moral grounds, but also felt afraid to voice them in class because it seems as if bringing up these arguments will make professors and classmates cringe or think less of my logical/reasoning abilities. One time I went to office hours to discuss what I perceived as an unjust outcome in a case, and was told that if I wanted to just think of morals in black and white I could have started a family and not come to law school. I hope this class will help me get better at separating my emotions and personal beliefs from a good set of legal arguments, but also find ways to retain and reconcile them so I do not get churned out of law school a fundamentally different person than the one I came into law school hoping to be.⁶

Like Pat, I hear from students what legal training does to them and it makes me crazy. Crazy to take care of them, crazy to validate and nurture their moral and ethical compasses before it's too late, and crazy to be part of an institution that values detachment, neutrality, and moral agnosticism. It takes a toll on our students and it takes a toll on us, the outsiders in a professorate who have something altogether different in mind when we imagine what it means to "think like a lawyer." The power my student just described silences her, but it threatens to silence all of us who work in a terrain marked as legal.

The last thread I want to pull out of Pat's work is the masterful way in which she has helped us understand the relationship of the law of property to a notion of self-possession. Today we celebrate the twenty-fifth anniversary of the publication of one of Pat's most influential essays: *On Being the Object of Property*.⁷

Every year I teach this essay to my first-year students and it never disappoints to blow their minds. It confronts them with the challenge of thinking about property law not only from the perspective of the owner, not only from the perspective of the law, but also from the perspective of the thing—or person—to be owned—be it a fox, a slave, one's story, one's history, one's dignity, or a piece of ourselves—our genetic material. What if we could imagine assuming the vantage point of all those things at once? Who would we be, what would we care about, what would it mean to be self-possessed, and what would it mean to "think like a lawyer" about these complex, contradictory notions?

6 Email from (name withheld), student, to author (Jan. 27, 2013) (on file with author).

7 PATRICIA J. WILLIAMS, *On Being the Object of Property*, in *THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR*, *supra* note 1, at 216–36.

In recent years, Pat has posed these hard questions in the context of the commodification of the human genome. She challenges us once again to think and feel hard: what is me and what is mine? What does it mean to be me, and what does it mean to be mine? And most importantly, what should the law do?

Perhaps we could come up with a richer set of questions to focus our attention today, but I don't think so.

So we gather today to honor a body of work. Thankfully not to eulogize that work, nor to recognize its author with a gold watch at the close of the day. Rather we gather to honor an evolving body of work whose full riches will be revealed in new writing to come.

This symposium is structured around three amazing panels with speakers who not only pay tribute to the marvels of Pat Williams' work, but who show us how those marvels have taken their own work in other stunning directions. The panels are arranged around three general themes. The first panel addresses Race, Gender and the Law. The second, the Ethics of the Body. And the third, Law as an Interdisciplinary Enterprise. The symposium ends with a keynote from Pat herself—taking up and reflecting on the ideas first launched twenty-five years ago in *On Being the Object of Property*.