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It is Better to Speak*

Angela D. Gilmore†

I.

In September 1990 I attended a lecture given by a noted feminist scholar. Her topic was women's bodies as portrayed by the fashion industry. I cannot remember the lecturer's name; in fact, it is not even relevant to this discussion. What I do remember is that while I understood the lecturer's analysis of the fashion industry and how it depicted women's bodies, her lecture did not resonate personally for me. I had not had any of the experiences that the lecturer's "universal woman" had had with the fashion industry. I did not have the same reaction to pictures of thin, young, carefree models featured in fashion magazines as did the "universal woman." I began to wonder if there was something wrong with me since I could not personalize or relate to the experiences of this "universal woman," but could only conceptualize them as an onlooker, an outsider. An audience member's question clarified my confusion: "What woman are you talking about?" The questioner wanted to know if women of color, lesbians, overweight women, or poor women were included within the concept of the lecturer's "universal woman." When the lecturer admitted that she was talking about straight, white, middle-class women, I realized that it was no wonder that I, a Black lesbian from a working-class background, could not connect with the experiences of the lecturer's "universal woman."¹

When I was a student in law school, I experienced this same sense of

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* The title comes from the poem, "A Litany for Survival," by Audre Lorde. The poem reads in part: "and when we speak we are afraid/our words will not be heard/nor welcomed/but when we are silent/we are still afraid./So it is better to speak/remembering/we were never meant to survive." Audre Lorde, A Litany for Survival, in Lorde, The Black Unicorn 31-32 (WW Norton, 1978).
† Faculty Fellow and Visiting Assistant Professor of Law, University of Iowa College of Law; B.A. Houghton College 1985; J.D. cum laude University of Pittsburgh School of Law 1988. I would like to thank Anita Allen, Rusty Barceló, Patricia Cain, Martha Chamallas, Mary Dudziak, Joe Knight, Jean Love, Amy Reynolds, Greg Williams and Adrien Wing for reading earlier drafts of this essay.
¹ Professor Angela Harris has labelled the lecturer's type of approach and perspective gender essentialism: "the notion that a unitary, 'essential' women's experience can be isolated and described independently of race, class, sexual orientation and other realities of experience." Angela Harris, Race and Essentialism in Feminist Legal Theory, 42 Stan L Rev 581, 585 (1990).
dissonance, of being an outsider, of not connecting. On one level, I was able to comprehend and learn the material that was presented in the 89 hours of class that I was required to take in order to graduate. On another level, a much deeper and personal level that I am only beginning to acknowledge and understand, I never truly felt that I totally belonged, that I was completely accepted in law school. While I may have done well academically, overall my law school experience was not positive. Looking back, I realize that I viewed law school as a means to some vague and unclear end. I tolerated the journey, in anticipation of the destination.

In class after class, a professor, almost always white, and almost always male, would spin hypothetical after hypothetical in which all of the actors with any power at all would almost universally be identified as male. When students questioned this practice, the professor's justification would be that "he" or "man" was used in the generic sense, meaning, he said, that the gendered terms "he" and "man" encompassed all individuals. I did not believe this explanation since the same professors would identify secretaries and victims and other less powerful individuals in the hypotheticals as females.

I often felt this same sense of dissonance and discomfort in law school when issues surrounding race were being considered. In my constitutional law course, Black students dreaded discussion of cases like Bakke\(^2\) and Weber\(^3\). We were wary of having to defend race-conscious remedies or affirmative action plans; wary that our classmates would think that Blacks are unqualified on the merits and are only accepted into graduate school or only obtain jobs because of race-conscious plans; wary that our classmates would think that we were sitting in class with them or working in law firms beside them as a result of race-conscious plans. As a result, the participants in the discussions surrounding these issues were often exclusively white.

I can recall only three classes in my entire law school career where issues specifically related to lesbians or gay men were discussed. In constitutional law we discussed Bowers v Hardwick\(^4\), the case in which the Supreme Court held that consenting adults do not have a privacy right to engage in same-sex sexual activity. In family law I learned that two individuals of the same sex cannot marry because the traditional definition of marriage is a union of two people of opposite sexes.\(^5\) In employment law I learned that employers may knowingly and willingly discriminate against lesbians and gay men without fear of liability under Title VII of

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\(^4\) 478 US 186 (1986).

\(^5\) See, for example, Baker v Nelson, 291 Minn 310, 191 NW2d 185 (1971) (Minnesota marriage statute does not authorize marriage between two persons of the same sex).
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the Civil Rights Act of 1964. Thus, the only things that I learned in law school that had to do with a sexual orientation other than heterosexuality were that, as a result of my sexuality, I could be denied the right to marry, my sexual activity could be criminalized and employers could discriminate against me with impunity.

This semester, Professor Jean Love is teaching a class at the University of Iowa College of Law entitled "Anti-Discrimination Law: The Intersections of Race, Sex and Sexual Orientation." The reading materials for a section of the class dealing with lesbian and gay issues included readings by Audre Lorde and bell hooks, Black female authors who write positively about lesbians and gay men. I think that if, along with reading cases about legalized discrimination against lesbians and gay men, I had also read articles that challenged homophobia, I would not have felt as invisible or legally insignificant.

By listing these experiences separately I do not mean to imply that I felt three different types of dissonance, that when I was confronted with racism only my "Black self" was affected, that my "female self" and my "lesbian self" felt safe. As a person who is Black and female and lesbian all of the time and all at the same time, I cannot always compartmentalize and distinguish either the oppression or the injury. When asked to do so I am reminded of what Audre Lorde has written: "As a Black lesbian feminist comfortable with the many different ingredients of my identity, and a woman committed to racial and sexual freedom from oppression, I find I am constantly being encouraged to pluck out some one aspect of myself and present this as the meaningful whole, eclipsing or denying the other parts of self." Too many times, I've been confronted with racism at meetings of lesbians, and heterosexism at meetings of Blacks. I think that the concept that one person could face both racism and heterosexism simultaneously escaped these individuals. I was, however, profoundly aware of the intersection of the oppressions. As a result, in law school I felt alone, different. I did not publicly identify myself as a lesbian when I was in law school. In fact, I worked very hard to establish an image that was heterosexual, but very progressive on issues of sexual-

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6 See, for example, DeSantis v Pacific Tel. & Tel. Co., 608 F2d 327 (9th Cir 1979).
7 I don't think that my law school experience was unusual. Conversations with friends who have studied and taught elsewhere lead me to believe that the curricula in most law schools do not adequately address and incorporate issues dealing with alternative sexualities.
8 Audre Lorde is a Black, lesbian, feminist writer and the author of many books including Zami: A New Spelling of My Name (Crossing Press, 1982), her biomythography.
9 bell hooks is the author of Talking Back: thinking feminist, thinking black (South End Press, 1989). Chapter 17 of her book is entitled "homophobia in black communities."
11 Heterosexism can be defined as the system of beliefs that recognizes heterosexual roles and behaviors as the only acceptable ones. Heterosexism causes homophobia. Conversation with Papusa Molina, workshop leader, Women Against Racism Committee, Iowa City, Iowa (Mar 14, 1991).
ity. I now realize that the silencing I experienced in the classroom and my silence about my sexuality were intimately connected. At Black Law Students Association meetings I was sure that I was the only lesbian present, although then, and now, I have no idea if that was true. At the two events of the gay rights organization that I attended under the guise of being intellectually interested in the subject matter, I knew that I was the only Black. I did not personally know any other Black lesbians, in law school or elsewhere.

The discomfort and dissonance did not disappear upon my graduation from law school. I practiced law with a 140-lawyer firm in Baltimore, Maryland for approximately two years. During that time, the firm never had a Black partner, never had more than twelve female partners, and never had more than four Black associates. There weren’t any identifiable gays or lesbians at the firm either. In fact, I was told by one of the female partners at the firm, when questioning her about the firm’s attitude toward gay and lesbian associates, that it would be in my best interest to keep my personal life private. I was thus subject to a condition of employment that my heterosexual colleagues were not.

II.

In the November/December 1990 issue of *Ms.* magazine Barbara Smith relates a conversation that she had with a Black woman graduate student as the student was driving her to the airport following a panel discussion at Yale University. The student asked “how she might survive as an out [of the closet] black lesbian artist in the decades that lay before her.” Smith’s response inspired me to write this reflection piece: “You don’t have many role models, do you?” she replied. In the article Smith explains, “Just saying the words made me furious because it struck me how the black women writers, academics, and politicos who protect their closets never think about people like [the student] or about how their silences contribute to the silencing of others.”

Last month I found my high school yearbooks. It was the custom in my school to have classmates sign each other’s yearbook. As I was reading through the yearbooks I was struck by a common theme found in almost all of the inscriptions. My high school classmates knew me to be an outgoing, talkative, confident individual. Two of my favorite inscriptions appeared next to one another. One read: “To Angela, a girl who always knows the right things to say.” The second, obviously written by

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12 Barbara Smith is a Black, lesbian writer and activist. She is the editor of *Home Girls: A Black Feminist Anthology* (Kitchen Table: Women of Color Press, 1983), and is co-founder of *Kitchen Table: Women of Color Press.*
13 Barbara Smith, *The NEA is the Least of It*, 1 Ms. 65, 67 (Nov/Dec 1990).
14 Id.
15 Id.
someone who knew me better, read: "To Angela, who may not always know the right things to say, but says something nonetheless." Somewhere along the way I stopped talking. I think that it happened in college. I left Chester, Pennsylvania, a city that is at least eighty percent African-American, and travelled nearly 400 miles to Houghton College in Houghton, New York. The school had approximately 1200 students, less than five percent of whom were African-American, and was situated in a rural western New York community, in which, as far as I could tell, no African-Americans resided. My method of coping with the situation was to take many of my aspects of self—my laughter, my speech, my poetry—place them in a box, secure the lid and store the box away.\footnote{Professor Charles Lawrence, at the 1991 annual meeting of the Association of American Law Schools, told of a similar experience his sister had upon matriculating at Swarthmore College. Statement to the Society of American Law Teachers Robert Cover Memorial Study Group (Jan 3, 1991).} Unfortunately, I forgot where I stored the box, and did not discover it until recently. It was not until after I completed college and law school and had practiced law for a while that I located my box of self. After I discovered a lesbian support group and an alliance of Black women attorneys, I was able to remove my box from its shelf, pry open the lid, put myself back together and experience the joy of being all that I am. Having recently found my own voice, I don't want to contribute to the silencing of others.

Audre Lorde writes beautifully about the effects of silencing on the silenced in her essay, "The Transformation of Silence Into Language and Action."\footnote{Lorde, The Transformation of Silence Into Language and Action, in Lorde, Sister Outsider at 40 (cited in note 10).} She tells a story about a conversation she had with her daughter in which her daughter captured the essence of the spirit-murdering\footnote{Professor Patricia Williams, in her article Spirit-Murdering the Messenger: The Discourse of Fingerprinting as the Law's Response to Racism, describes spirit-murdering as "disregard for others whose lives qualitatively depend on our regard . . . . [I]t's product is a system of formalized distortions of thought. It produces social structures centered around fear and hate; it provides a tumorous outlet for feelings elsewhere unexpressed." 42 U Miami L Rev 127, 151-52 (1987).} impact of silencing. In response to Lorde's concerns over delivering a paper on the topic of transforming silence into action and language, her daughter said: "Tell them about how you're never really a whole person if you remain silent because there's always that one little piece inside you that wants to be spoken out, and if you keep ignoring it, it gets madder and madder and hotter and hotter, and if you don't speak it out one day it will just up and punch you in the mouth from the inside."\footnote{Lorde, The Transformation of Silence Into Language and Action, in Lorde, Sister Outsider at 42 (cited in note 10).} There are still times when I am silent, most often because I am afraid, sometimes justifiably, sometimes not. Afraid, as Audre Lorde has written, of contempt, censure, judgment, recognition, challenge, annihi-
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lation, visibility.\(^20\) Yet usually I do not achieve anything as a result of my silence. Silence does not cause the fear to disappear. Silence does not make me feel more secure. Silence does not dispel ignorance.

III.

Thinking about my experiences as a law student and lawyer and about breaking through my silence has led me to think about my role as a law professor. I don’t think that my status as a Black lesbian law professor limits me to being an effective role model only for Black or lesbian or Black and lesbian law students. My limited experience in the legal academy has shown me that students respond to and respect professors who genuinely care about them as people and as students of the law. I do think that the experiences that I’ve had as a Black lesbian and the multiple consciousness\(^21\) that I’ve developed make me an especially effective role model for Black women and for lesbians, two groups of women who have been without very many role models in law teaching for a long time.\(^22\) One of the things that I hope I am able to do, as a professor of the law who is committed to ensuring that students do not feel invisible or legally insignificant in my classroom, is reduce the level of dissonance that students who may not be white, or may not be male, or may not be straight often feel in the classroom.

I wrote this essay not long after I entered law teaching and not long after I discovered the legal scholarship of women of color such as Regina Austin,\(^23\) Kimberle Crenshaw,\(^24\) Angela Harris,\(^25\) Mari Matsuda,\(^26\) Judy Scales-Trent\(^27\) and Patricia Williams,\(^28\) and of lesbians such as Patricia

\(^{20}\) See note 1.
\(^{21}\) See note 21.
\(^{22}\) Professor Austin is the author of *Sapphire Bound!*, 1989 Wis L Rev 539. Every time I read this article I am inspired by her declaration that “I simply refuse to be doubly or triply bound in the negative sense of the term by a racist, sexist, and class-stratified society without its hearing from me.” Id at 549. I would add heterosexism to her list of oppressions operating in society.

\(^{23}\) Professor Crenshaw is the author of *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Policies*, 1989 U Chi Legal F 139. I met Professor Crenshaw at the Critical Race Theory conference in Madison, Wisconsin in November 1990. She is one of the first people who encouraged me to consider writing about the intersection of race, gender and sexuality.

\(^{24}\) Professor Scales-Trent is the author of *Commonalities: On Being Black and White, Different and the Same*, 2 Yale J L & Feminism 305 (1990). Professor Scales-Trent, a Black woman
Cain and Rhonda Rivera. The writings of these women allowed me to see in a very tangible way that women of color and lesbians not only belong in law schools and on law school faculties, but that we also need to be vocal about the ways in which the law and law schools silence us and students. Reading the works of these women has helped me realize that a Black lesbian can and should contribute to law teaching and legal scholarship. Their scholarship has empowered me and helped me to break through my silence. The transformation of silence into language and action is an act of self-revelation, and is therefore dangerous, however, the alternative, remaining silent, is more dangerous, and eventually on some level, deadly.

Even as I was writing this essay I wondered if the risks of having it published in a national law journal would outweigh any possible benefits the article might reap. Would I lose friends, the respect of students and colleagues, employment opportunities? Did I want this much of my self in print? I found myself unable to discuss the contents of this essay with colleagues because it is so personal. Recognizing the irony of the situation in light of the theme of my essay, I realized that if I did not submit this essay for publication I would once again be placing bits of my self in a box, on a shelf, perhaps never to be rediscovered.

who appears white, writes about the intersection of race and color as well as about the intersection of gender and sexuality. She writes that just as she becomes more clear about who she is by “coming out” to people as a Black woman, her lesbian sisters “come out” as lesbians so that they can be honest with themselves and with other people. Id at 321-22. I feel that when I am silent about my sexuality, in situations where speaking out is called for (for instance, I am ashamed to number the conversations in which I’ve been a participant where anti-lesbian jokes and statements were made and I did not protest), I internalize and perpetuate the fallacy that silence is a suitable response.

See note 18.

Professor Cain is the author of Feminist Jurisprudence: Grounding the Theories, 4 Berk Women’s L J 191 (1989-90).


ACT UP, the AIDS Coalition To Unleash Power, has shown the world in a powerful way through the slogan “Silence = Death” that the failure to transform silence into language and action, in this case to transform silence into research for a cure for AIDS, quite literally leads to death. The slogan is frequently printed in white, underneath a pink triangle on a black background. The pink triangle is the symbol used in Nazi concentration camps to identify gays. The emblem declares that “in the time of AIDS the death camps are not forgotten.” Christopher Knight, Art Review, Los Angeles Times F1, col 2 (Jul 18, 1990).