The neutered mother, the sexual family, and other twentieth century tragedies (Book Review) (Undetermined)

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BOOK REVIEWS


A host of recent studies communicates the greatest frustration of equality-based feminism:1 despite greater parity in the workplace, the reform of divorce laws, and all kinds of social attempts to recast the modern family as nonhierarchical, duties in the home remain solidly gendered. Simply, women still carry the burdens of child-care, elder-care, and housework, while at the same time, most also have jobs outside the home.

Professor Martha Fineman's The Neutered Mother, The Sexual Family, and Other Twentieth Century Tragedies is a response to such frustration. For Fineman, women's double work burden underscores the misplaced focus of equality-based feminism. She argues that, while such theories seek to restructure relationships within the family and to extend the current notion of "family" to include "nontraditional" groupings, they fail to consider the constructed nature of the institution itself. Thus, family eludes critical analysis. Across disciplines, the term is either used as if it had a fixed and universal meaning, or as if it were a transparent term, imposing no meaning save a contextual one. Law and social policy similarly fail to explore the meaning of the term family, presuming it to be similarly natural, neutral, and inevitable.

Fineman's work systematically deconstructs family and its partner in crime, marriage. She explores the unarticulated assumptions informing law and policy: that the "family" will bear certain responsibilities like emotional caregiving and relieving society of economic dependencies and that those tasks are fundamentally gendered. Such unexamined baggage, Fineman believes, fundamentally derails structural efforts to implement progressive reform of marriage and family law. The only way to circumvent such deeply rooted gender patterns, she writes, is to abolish marriage as a legal category: "[R]elationships between adults [should] be nonlegal and, therefore, nonprivileged—unsubsidized by the state. In this way, 'equality' is achieved in regard to all choices of sexual relational affiliations." (p. 5) In place of marriage, the state should prioritize the "Mother-Child Dyad" through its policies and subsidies.

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1 See generally ARLIE HOCHELSCHILD, SECOND SHIFT (1989); Myra Strober, Two Eaner Families, in FEMINISM, CHILDREN AND THE NEW FAMILIES 161, 169 (S. Dornbusch & M. Strober eds., 1988).
Fineman’s vision, however, crumbles under the same realist light she shined on current law: one which illuminates the political meanings embedded in supposedly neutral legal concepts. She claims that a marriage-less system that places no legal responsibility on men for their children and sexual partners, except for paying taxes to support state subsidies, would provide an equal or neutral setting. This claim is, however, patently flawed in the face of her argument about the loaded nature of law. Such a plan would establish a two-tiered system of economic and social rights and responsibilities that would ensure that all women and children lived above the poverty line, but that men monopolized the opportunities to excel in the workplace and achieve economic wealth. The absolution of male responsibility coupled with government incentives for women to become full-time mothers would severely limit women’s career or professional choices. Fineman fails to address these dangerous implications.

Yet The Neutered Mother is valuable reading because of its methodological critique of structuralist reforms that ignore the loaded institution of the family. The book addresses concerns relevant to anyone who seeks to effect social change and wishes to avoid the pitfalls which have subverted past reforms.

I. THE THEORETICAL INQUIRY

The Neutered Mother consists of three theoretical sections, followed by a conclusion which advocates a political solution. Fineman first seeks to expose the shortcomings of the predominant “equality-based” legal feminism. As an example, she believes that the tendency of egalitarian feminists to collapse the legal category of “mother” into that of “parent”—i.e., the “Neutered Mother”—has opened the door to the vilification of single mothers and compromised women’s rights to custody after divorce. Fineman then proposes an alternative framework based on a theory that explicitly recognizes differences between men and women and privileges beneficial female-dominated activities such as childbearing and caregiving.

Fineman rejects equality-based legal theory as inadequate specifically because it does not integrate an understanding of pervasive patriarchal ideology. (p. 23) Fineman believes that mere structural efforts to change societal institutions fail because they ignore the culture that supports and defines the institutions. Hence, Fineman argues, a woman can be in a family that strives for equality, yet “still find herself defined and ultimately controlled by the ideology underlying and supporting the structure.” (p. 23)
Fineman then characterizes herself as a “postegalitarian feminist” who seeks to “establish[] an affirmative feminist theory of difference.” (p. 41) She advocates an understanding that we all live a “gendered life” as demonstrated by “gendered experiences” such as the capacity for reproductive events, aging, rape, sexual harassment, pornography, and other sexualized violence. (p. 48)

Armed with such an understanding, we can see that attempts to make law that is “neutral” fall into a trap that defines equality on men’s terms. Women’s roles as caretakers of children and elderly dependents—both socially beneficial—are punished. “Women are not compensated for bearing these costs, and in the make-believe world of abstract legal equality they are, in fact, penalized.” (p. 26) Thus, according to Fineman, new feminist legal theory must address “a discussion of the family as a foundational patriarchal structure.” (p. 27)

In the second theoretical section, Fineman identifies a specific area in which egalitarian feminism’s “successes” have proven ultimately harmful to women. She criticizes the feminist tendency to recast the legal category of “mother” into “parent,” which she believes disadvantages women when they actually act as mothers. “[M]otherhood has been divested of many of its traditional, positive aspects in legal discourse,” (p. 67) she writes. “There are no longer formally different expectations for, or responses to, mothers and fathers in much of family law.” (p. 70) Indeed, Fineman asserts, “[m]ost state statutes now specifically provide that both parents are ‘equal,’ thus forbidding consideration of gender in custody cases.” (p. 83)

This “gender-neutrality,” however, is discordant with reality. Women still, by choice or necessity, bear the greatest emotional and economic burdens of caring for children and the elderly. Fineman asserts that these are the very “positive aspects of Mother” that should be advocated in society. However, “[t]he treatment of mothering in modern American society casts caretaking as inconsequential and unworthy of subsidy (in welfare policy) or ultimate reward (in the context of custody rules at divorce).” (p. 67) What has resulted in law is the granting of rights disassociated from caretaking or nurturing and “a legal system that empowers fathers.” (p. 83) This is an especially great loss, Fineman believes, because until modern feminist advocacy began to influence social policy, twentieth-century women retained a presumptive right to custody in divorce proceedings.

Furthermore, Fineman believes, the feminist abandonment of the category of “mother” has opened the door for the vilification of certain women as “deviant mothers” in the discourses of poverty and divorce. Once mothers’ commitment to child-care is devalued, they can be blamed for not engaging in “worthy” economic activity, and for their own poverty. In discourses about poverty and the single mother, “the label ‘Mother’
is modified by the woman's legal relationship (or lack thereof) to a male . . . a fact that is positioned as significant and even central to the discourses.” (p. 109) Hence single motherhood can be characterized in public discourse as “a sign of degeneration on the same level with crime and other social pathology.” (p. 108)

Legal policy, then, must be restructured to privilege “Mother as being something distinct from, separate, and, perhaps, superior to the generic term ‘parent.’” (p. 83) Judicial consideration in custody proceedings should shift from shared parenting to “typically Motherly” characteristics. (p. 83) In this way can we reject a system that gives “rights and responsibilities to mothers, but . . . rights without responsibilities to fathers.”

In the final theoretical segment, Fineman dissects the construct of the family as a unit “tenaciously organized” around a sexual affiliation between a man and a woman. The pervasive assumption about the inevitability of the “sexual” nuclear family, Fineman believes, results in misplaced policy priorities. Social discourse privileges the adult sexual link and considers it the permanent basis of the family. However, that adult sexual link is, in fact, of little importance in itself to the rest of society. What is important are the dependency relationships—usually intergenerational—that develop between the individuals in that family and others.

While advocates of “egalitarianism” envision the realignment of the roles within such a structure, Fineman questions the wisdom of the paradigm itself. She advocates a shift from social policy that considers dependency relationships as subsidiary products of the sexual union (which may not be that long-lasting) to one that prioritizes intergenerational caring (which should be lifelong) as the principal focus of law and government.

This is particularly important for Fineman, because she believes that the egalitarian enterprise will never succeed within the context of “family” as it is currently understood. Fineman believes that the “sexual family” becomes the “repository for ‘inevitable dependencies’.” (p. 161) By privatizing dependency, the state makes demands that presume two sexually connected adults with role differentiation and division of labor. Such a system is stacked against the single mother. Often, she must bear both the caring and economic burdens of dependency alone; sometimes, she is forced to declare her failure and “go begging to the state.” (p. 165) Yet, Fineman concludes, even in families with two adults, economic inequities, motherly concerns for rearing, and pervasive ideologies of

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gender roles, ensure that the current family-dependent system can only remain gendered.

II. PROPOSALS FOR SOCIAL CHANGE

Having uncovered crippling assumptions about the gendered family inherent in social policy, Fineman proposes the alternative of abolishing marriage as a legal category. (pp. 4–5) Fineman would eliminate all legal family categories except the “core family unit”—a “Mother-Child Dyad.” Fineman does not reject sexual or romantic pairings themselves; individuals would be free to enter into “private” marriage contracts, hold religious celebrations, or live together. However, only the mother-child unit would be protected and subsidized by law. “Marriage is a relationship easily terminated,” she asserts. (p. 3) “Parent-child ties, by contrast, tend to last—they are not as fragile in our contemporary society.” (p. 3)

Fineman is somewhat vague as to the legal status of men under her proposal. At one point, she asserts that men could indeed act as “mothers,” providing care to children or elderly dependents. Yet she most often characterizes men as transient members of society who bear little actual responsibility. “[F]athers, or nonprimary caretakers who have sexual affiliation to the primary caretaker, are . . . free . . . to develop and maintain significant connections with their sexual partner and her children if she agrees to such affiliation.” (p. 5)

In all, Fineman believes that the best way for the law to take difference into account is by explicitly including it in further discussion of the family. “I have deliberately (even defiantly) chosen not to make my alternative vision gender neutral . . . mothering is a gendered concept and, partly for that reason, is qualitatively different from terms currently (incorrectly) substituted for it.” (p. 234)

III. A CRITIQUE OF FINEMAN’S THESIS

The Neutered Mother is a timely book. It provides an ideological context and a coherent proposal for an idea—the elimination of heterosexual marriage as the single legally sanctioned form of family structure—that has been approached but danced around by progressive activists of many different stripes. Some legal scholars have advocated for policy measures that give equal footing to all family groupings with children, whether or not they include two married adults.3 Others document the critical role that extended kin ties play in child-rearing, and

3 See, e.g., Mary Ann Glendon, The Transformation of Family Law: State, Law
advocate their inclusion in concepts of the family.4 Discussions of legal homosexual marriages consistently consider the abolition of marriage altogether as one potential solution.5

Yet Fineman’s work ultimately falls short because of a number of internal tensions that she fails to resolve, or even acknowledge. Most importantly, Fineman’s vision falls to the same realist argument with which she critiques the existing system. For just as existing family law is invested with specific social values, so is Fineman’s system. True, Fineman believes in the validity of articulated goals of public policy, and she makes one value explicit—the prioritization of the mother-child caregiving relationship. Yet her system implicitly systematizes other values without examining them: that men have no responsibility to people with whom they have intimate relationships, or to the specific children that result; that the state will subsidize women with children at the expense of any other individuals—women, men, old, young—without children.

Fineman patently ignores this inconsistency. When challenged by her Columbia Law School students as to the role of men, she responds, “Don’t men also find their places within the unit as sons, or as a mother’s brother, as uncles to her children? What about grandfathers?” (p. 5) She suggests “a vertical rather than a horizontal tie; a biological rather than a sexual affiliation, an intergenerational organization of intimacy.” (p. 5) Yet how would we get grandfathers? Would these men, upon whom no responsibility was placed to care for their own daughters, suddenly see the light and become intergenerational caretakers to those daughters’ children? It seems unlikely.

Furthermore, Fineman’s proposal would create a two-class system that threatens to limit, rather than expand, the choices of women. Fineman considers eliminating obligations for spousal support as one of the “beneficial implications” of abolishing legal marriage. Yet a woman who signed an unfavorable partnership contract would be stuck with the full emotional burden of raising her children, without any economic benefits from the years of sacrifice required in any relationship. Her suggestion that mutual-aid organizations would provide stock contracts sounds too
much like President George Bush's abdication of responsibility to the "thousand points of light."

Finally, Fineman ignores the radical implications of her scheme. She both rejects the egalitarian feminist emphasis on economic and legal equality, and expressly doubts the efficacy of widespread social restructuring, deeming it "[un]likely anytime within the near future." (p. 162) She instead posits her proposal as a feasible alternative. Ultimately, however, her proposal demands the same restructuring of society that she herself rejected as unworkable. She adopts socialist feminists' critiques of the devaluation of women's work inside the home, yet shies away from their calls for broad economic socialization. Precisely because Fineman is right that the family is an essential but largely invisible building block of the American state—serving as its "repository of dependency"—her proposal for replacing the existing family institutions with a "Mother-Child Dyad" supported by the state would require that the public sector take on the responsibility for all dependents, caregivers, or care receivers. That would require a major, and truly radical, transfer of funds from the private sector to the state, about which Fineman is silent.

—Kenneth A. Bamberger

Race, Gender, and Power in America: The Legacy of the Hill-Thomas Hearings offers a series of explanations as to the social, cultural, and historical reasons why the Senate Judiciary Committee’s reaction to Anita Hill’s accusations of sexual harassment—and its concomitant receptivity to Clarence Thomas—was not only possible, but predictable. The book had its genesis in a Georgetown University Law Center conference convened on the first anniversary of the hearings. As the nation approaches the fifth anniversary of Justice Thomas’s confirmation, twelve distinguished essayists reflect on the sexual harassment hearings and their significance for racial and sexual politics in this country.

Anita Hill and co-editor Emma Coleman Jordan’s collection of essays is unique in at least two ways. First, it includes Hill’s first published account of the hearings and her reflections thereon. In addition, the book offers commentary from several members of Hill’s legal team, including Harvard Law School Professor Charles Ogletree; Susan Deller Ross, director of the Sex Discrimination Clinic at Georgetown Law Center; and Judith Resnik, professor of law at the University of Southern California Law Center. Other essayists include Chief Judge Emeritus A. Leon Higginbotham and Congresswoman Eleanor Holmes Norton.

The essays confront several explosive issues surrounding the hearings and motivating the participants’ actions. Jordan addresses Thomas’s metaphor of lynching and its applicability—or lack thereof—to his own social and cultural context. (p. 37) George Washington University Professor Adele Logan Alexander explains how historical stereotypes of African American women slaves affected the Senate Judiciary Committee’s willingness to believe allegations of sexual harassment from an African American woman. (p. 3) In a radical departure from the other essays’ perspectives, Harvard University sociologist Orlando Patterson attacks the idea that African American women can claim greater victimization than African American men. (p. 56) In addition to these descriptive discussions of racial and sexual relations, Dr. Robert Allen’s essay prescribes community education as a weapon against sexual harassment. (p. 129)

Contributor Anna Deavere Smith analyzes the effect of the hearings on popular culture. (p. 248) Smith, a performance artist and Stanford University professor, also discusses the ways in which the hearings influenced her own creative work. In a play segment titled The Best and the Brightest, Smith incorporates personal interviews with hearing par-
participants to explore their reactions to the process. One view she adapts is that of John Carr, a Wall Street attorney, who testified on Hill's behalf.

I'm very big on thoughts
like, "let's not air our dirty laundry
let's look out for the group
over the individual"
I'm real keen on those concepts
but let's not be
moral and intellectual midgets
let's not
for broad
stroke principles . . .
not confront real issues . . . (p. 262)

Carr's critique of the African American community's reaction to the hearings becomes a metaphor for the book: while the reader certainly can be keen on its more general concepts, which attempt to explain why the hearing followed its particular course, the book fails to explore several important subtexts of Hill's sexual harassment story. These issues include feminists' appropriation and exploitation of Anita Hill's private battle and the reasons for the relative (in)significance of sexual harassment on the African American community's social and political agenda. To the extent that the book fails to address—much less resolve—these issues, the scope and subtlety of the analysis fall short of what one would expect from such renowned contributors.

Although Hill steadfastly maintains that she was not a "pawn" of the feminist movement, (p. 284) closer examination of the hearings belies this contention. Hill displayed a deep desire for privacy, at least with respect to her allegation of sexual harassment. By her own admission, Hill never would have come forward.1 Perhaps the ultimate testament to Hill's resistance to publicity is the fact that she did not volunteer, but instead was subpoenaed, to appear before the Senate Judiciary Committee. (p. 272) Hill's behavior clearly supports one friend's observation that Hill "did not want to be the Rosa Parks of sexual harassment." (p. 147) Hill's friend Shirley Wiegand reports that Hill "doesn't align herself with political factions [and] [s]he still doesn't call herself a feminist." (p. 148)

If it is true, as both Hill and Wiegand insist, that Hill distanced herself as much as possible from feminists, (p. 148) then it can only be said that the feminist movement appropriated her cause; she was their pawn.

Without the intervention of members of the women’s movement, the hearings never would have occurred. Judith Resnik’s essay explains that the work of women’s interest groups brought about the hearings. On Monday, October 7, 1991, the press reported Hill’s accusations of sexual harassment against Thomas. Resnik writes that, “on that Monday, many people felt a need to ‘do something’—and across the country, ‘we’ did.” (p. 178) Within ten hours of the newspaper announcement of Hill’s accusation, 120 women law professors had signed a letter to the Senate Judiciary Committee. (p. 178) By the next morning, 170 law professors had added their names to the letter, which urged the Senators to delay further action on Thomas’s confirmation until Hill’s claims were heard. (p. 178)

On Capitol Hill itself, “lobbyists for women’s-rights groups were roaming the Senate: if they learned that a certain senator was not being sufficiently bombarded [with telephone calls] they hustled messages out to their people in his state to get busy.” The strategy was a success; telephone callers overwhelmed the Senate telephone system. Senator Daniel Moynihan received 3000 calls, and some offices had so many calls that they lost their phone service completely.

And thus, in the twenty-four hours between public announcement of Hill’s allegations and the Senate Judiciary Committee’s vote, the mounting roar of women in the feminist movement brought Thomas’s confirmation hearings to a screeching halt. Resnik’s reference to the delay as “evidence of women’s newfound powers” (p. 178) neglects to recall the interests of a very unwilling subject. Such self-interested behavior prompted one observer to cite the initial publication of Hill’s story and the events that followed as “a splendid example of . . . ‘the selfless and devoted way in which we sacrifice other people.’” (p. 148) (quoting John le Carré)

Charles Ogletree’s essay explains that it became the role of Hill’s legal team to protect her interests, even if such a decision prevented Hill from becoming the martyr that certain interest groups wanted her to be. (p. 166) The legal team’s commitment to “client-centered advocacy,” which

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2 Id. at 239.
3 Id. at 262.
4 See id.
5 The ABA Model Code of Professional Responsibility defines the concept of client-centered representation as follows:

The professional judgement of a lawyer should be exercised, within the bounds of the law, solely for the benefit of his client and free of compromising influences and loyalties. Neither his personal interests, the interests of other clients, nor the desires of third persons should be permitted to dilute his loyalty to his client.

(p. 147 (citing MODEL CODE OF PROFESSIONAL RESPONSIBILITY EC 5-1 (1981))).
Ogletree advocates for all public interest lawyers, meant that Hill’s legal team always chose the best option for the client, not the cause. As a result, Hill’s advisors did not pressure her to testify one final time before the Committee vote. (p. 164) Although additional testimony from Hill might have swayed enough Senators to defeat Thomas’s nomination, “her interests, her autonomy, and her well-being took and had to take precedence over the political consequences of her actions.” (p. 164)

Feminists’ exertion of their political muscle to delay the hearings not only reveals Hill’s (ab)use by political factions, but also illustrates the potentially selfish motives underlying the feminist agenda. Read in light of the African American women’s contributions to Race, Gender, and Power in America, more than a touch of irony flows from Resnik’s complaint that the Senate’s lack of interest in Hill’s information was “a vivid reminder that not long ago, disinterest in women’s rights was the norm.” (p. 179) According to the African American women authors, lack of interest in black women’s issues has historically been the norm—even among white feminists. (p. 3)

White feminist reaction to Thomas throughout the confirmation process suggests that the historical “mockery of interracial sisterhood” continues today. If forces could mobilize so quickly to allegations of sexual harassment, then why not to the certainty of misogyny that Thomas displayed when publicly ridiculing his “welfare queen” sister?6 In retrospect, Princeton University Professor Christine Stansell remarks that “[f]rom a feminist point of view, Thomas’s rendition of the life of his sister . . . constitutes a minor scandal.”7 Stansell notes that, at the time, Thomas’s racism and misogyny went largely unremarked by feminists.8 The “we” who so strongly felt the need to intervene in the confirmation process for sexual harassment in the workplace were nowhere to be found when Thomas vilified poor African American women as leeches on the public trust, thereby “capitaliz[ing] upon existing beliefs about the poor, about Blacks, and about women.” (p. 187) (quoting Kimberlé Crenshaw) “We” certainly did not intervene in the confirmation process for Hill’s sake, but for their own.

In addition to skirting the argument that Hill was a pawn of mainstream feminists, Race, Gender, and Power in America also provides an

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6 Contrary to what the “welfare queen” label would suggest, Thomas’s sister worked two minimum-wage jobs. She ceased paid employment in order to care for her and Thomas’s aunt, who had suffered a stroke. (pp. 186–87) To his credit, Thomas apologized to his sister and family when the story broke. See Phelps & Winternitz, supra note 1 at 145.


8 Id. at 262–63.
incomplete account of why the African American community ultimately supported Thomas. On October 11, 1991, Thomas opened his remarks by analogizing his treatment to a “high-tech lynching,” which instantly unified African Americans. “In the black community,” writes Jordan, “the lynching metaphor succeeded in signaling a call for racial solidarity by reviving the single most painful collective racial memory other than slavery itself: the memory of vigilante violence against innocent black men.” (p. 42) Essayist Charles Lawrence reiterates this point by explaining that the “visual image of the lone black man facing a white male panel of inquisitors (the mob) caused African Americans to reach out instinctively in a protective embrace.” (p. 112)

Those who believed Thomas’s lynching metaphor, and subsequently absolved him of any responsibility for the alleged acts of sexual harassment, essentially reassigned racial identity to Anita Hill. If Chief Judge Emeritus A. Leon Higginbotham’s essay is correct in its assertion that there “has never been a recorded instance of a black man being lynched for abusing a black woman,” (p. 32) then Thomas’s “high-tech lynching” speech was only persuasive to the extent that the Senators could see Hill as a white woman, not an African American one. Thus, Alexander’s argument that the Senators could not see Hill as one of their own “mothers, sisters, wives, or daughters—honest, virtuous ‘ladies’ worthy of both protection and respect” (p. 18) seems incorrect; their ability to see Hill in precisely those roles is the only way that the lynching metaphor could be apt. Jordan’s assertion that Thomas’s lynching speech subliminally served to remind the Senators that “Anita Hill was no white woman on whose word a black man should be punished,” (p. 38) suffers from similar analytic difficulties. Of course, this is only a quasi-racial construct because had Hill actually been white, and not simply placed in the white woman’s position, the historical understanding of sexual relations between African American men and white women suggests that Thomas would not have survived the confirmation process. (p. 15)

Both Jordan and economist Julianne Malveaux, who wrote the introduction to the book, characterize the African American community’s reaction to Thomas’s lynching speech as an attempt to “push[ ] sexual harassment under the rug” (p. xiv)—an overly simplistic characterization. The African American community’s position may not be that sexual harassment and other feminist issues are wholly unimportant; it could simply be the case that other problems take precedence on the African American community’s social and political agenda. African Americans may be too busy contending with poor educational opportunities and crippling rates of poverty and joblessness to prioritize sexual harassment.

A careful reading of Jordan’s essay explains why understanding the African American community’s reaction to Thomas as a reflection of
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Communal priorities might be more accurate than the explanation that she and Malveaux offer. Jordan identifies the "single most painful collective racial memory other than slavery itself" (p. 42) as the castration, emasculation, lynching, and otherwise brutal vigilante violence against African American men. It should not escape the reader's attention that Jordan did not identify the single most painful collective racial memory of the African American community as the wanton rape of innocent slave women and girls by slave owners, their sons, or any other designee whom the slave owners permitted to visit sexual atrocities on their slave women chattel. "Rape as both right and rite of the white male dominating group was the cultural norm," writes African American feminist scholar bell hooks.9 By identifying African American collective consciousness as such, Jordan implicitly argues that "black males have borne the brunt of racist oppression and that nothing that women endure could possibly equal male pain."10 If Jordan is correct about where the locus of pain is most strong, then it should come as no surprise that sex-based issues receive lower priority on the African American community's political agenda. This reality prompted two commentators to decry the hearings as being "ultimaterly irrelevant... to the... majority of black people."11

Essayist Orlando Patterson addresses this argument by contending that relations between men and women should be at the top of the African American community's list of priorities. In his view, poor relations between African American men and women are largely responsible for the ills blighting urban communities. In particular, Patterson blames African American urban mothers for the significant rates of suicide and gang violence experienced by young African American males. (pp. 65–75) He perceives participation in these devastating sociological trends as African American boys' Freudian attempts to distance themselves from their "internalized mothers"—symbolic representations of the real mothers who abused and otherwise neglected the boys during their formative years. (p. 74) The defect in Patterson's analysis lies in his inattention to the macro-level forces underlying the deviant behavior of urban youth. By laying urban violence and other social ills at the feet of the urban African American mother, Patterson implicitly excuses mainstream Amer-

9 Bell hooks, Reflections on Race and Sex, in Yearning: Race, Gender, and Cultural Politics 57, 57 (1990).
10 Bell hooks, Representations: feminism and black masculinity, in Yearning: Race, Gender, and Cultural Politics supra note 9 at 65, 74–75.
ica's role (through abysmal educational and employment opportunities, for example) in creating urban black holes of death and destruction.

Despite the analytic difficulties with his argument, Patterson deserves credit for offering the book's only significant discussion of intra-racial sexual politics. Although the hearings afforded a unique opportunity to explore allegations of sexism on both interracial and intra-racial levels, Race, Gender, and Power in America's contributors virtually ignore sexism and sexual interaction within the African American community. The essays concentrate on Hill and Thomas only in relation to the white male Senators—never in relation to each other. The near exclusive focus on white male patriarchy erroneously and unfortunately suggests that the intra-racial element of the analysis is unworthy of intellectual inquiry. As a result, the essayists hypocritically indulge in the same "closing of ranks" mentality (i.e., unwillingness to criticize "one of our own") that they so harshly disparage among members of the African American community. (see, e.g., pp. 16, 47–48, 271, 274)

The authors' inattention to commonalities between African American and white women represents another significant omission from the analyses presented in Race, Gender, and Power in America. Several of the book's contributors argue that the legacy of slavery tacitly afforded the Senators license to attack Hill's virtue since, historically, African American women were not understood to have any virtue to defend. (pp. 32 & 40) State statutes in the American antebellum period defined the crime of rape only in terms of white women, thereby making the rape of an African American woman noncriminal. (pp. 31–32) As the book's contributors suggest, this historical background may have motivated the Senate Judiciary Committee's aggressive interrogation of Hill. (pp. 7 & 38)

While racism may have facilitated the attack on Hill's chastity, suffering attack on the basis of one's "virtue" and "honor," or the perceived lack thereof, is certainly not unique to African American women who accuse men of sexual misconduct. Denigrating an alleged victim's sincerity on the grounds that she failed to "defend her honor" is an experience common to women of all races. Women were at one time statutorily required to demonstrate physical evidence of resistance in order to bring charges of rape. The resistance requirement can be understood as male lawmakers' insistence that a woman fight indignities to her honor. Even today, resistance is a relevant, though no longer dispositive, factor in rape cases.

Quite apart from any racist motivations they may have had, the Senators could have interpreted Hill's decade-long silence and the fact that

\[\text{Model Penal Code, } \S\ 213.1 \text { at cmt. 304–07 (1980)}\].

\[\text{See generally Sanford H. Kadish & Stephen J. Schulhofer, Criminal Law and Its Processes 382–90 (5th ed. 1989).}\]
she "didn't display the emotions of outraged virtue" (pp. 16–17) as complicity with whatever acts may have occurred. Analyzing the situation from this perspective, as some of the Senators and many in the African American community did, (p. 112 n.34) (citing Julianne Malveaux's experience with a group of African American women) leads to the conclusion that Hill could not have been sexually harassed since sexual harassment is legally defined as the imposition of unwanted sexual advances.\(^\text{14}\)

Anita Hill's essay on marriage and patronage illustrates a second commonality among women; namely, the difficulties attending sexual harassment charges made by single women. As a single, African American woman without a political patron in the Senate chambers, Hill professes to have felt impaired in her ability to present her story. (p. 273) Hill argues that her detachment from the social institutions of marriage and patronage made her position incomprehensible to the Senators.

According to the reality of the [Senate Judiciary] Committee, every Washington outsider worthy of interest has a patron to confer legitimacy . . . . "[W]omen are married or have been, or plan to be, or suffer from not being" . . . . sexual harassment is a rare phenomenon . . . . women, particularly African-American women, cannot be trusted to tell the truth in matters concerning sexual misconduct. (pp. 274–75)

Hill interprets the Senators' aggressive treatment of her as an attempt to reconcile their conflicting versions of reality. She maintains that the Senators sought to "deconstruct" and subsequently "reconstruct" her persona, hence her "transformation from respected academician to malicious psychotic." (p. 273) As Hill's experience demonstrates, single women may pay a significant cultural and social price for rejecting [the social institutions of marriage and patronage] as the basis of one's identity. (p. 276)

A more troubling aspect of Hill's essay is her reconstruction of herself as an accidental activist who first challenged and then was attacked by Washington's political culture. (p. 280) The difficulty with her analysis is that it leaves the reader unable to decide whether she was a victim or an attacker of the system. Hill's understanding of her relationship to certain interest groups reflects the same vacillation. Though she acknowledges that "public pressure" made it possible for her to speak (p. 280), Hill demonstrates no awareness of the fact that the "public" to whom

\(^{14}\) See 29 C.F.R. § 1604.11(a) (1980).
she owes credit was composed of precisely those feminist groups to whose interests she denies being subservient. Thus, the reader is left wondering whether Hill is simply politically naïve, and therefore a victim of others’ interests, or whether she willingly subjected herself to others’ political agenda in order to tell her story.

The second half of Hill’s essay protests the nexus that many draw between the institution of marriage and one’s values and credibility. (p. 283) While that nexus may be experienced by all single women, Patterson’s analysis of power distribution in marital relationships implies an area of distinct difference between African American and white women. Patterson analyzes the findings of one study on the distribution of power in African American marital relationships. The study reports that, “[s]eventy-one percent of middle-class Black men believed that husbands should have the final say in all matters, and 42 percent held the highly reactionary view that the idea of ‘women in authority’ is ‘against human nature.’” (p. 79) Despite the apparent sexism among middle-class African American men, the study’s authors reported that African American couples tend to be “highly egalitarian in their interactions”—a result that was true for both lower- and middle-classes. (p. 79) Thus, in some African American families then, there appears to be a “sharp contradiction between male dominance ideology and the egalitarian power relations Black husbands are actually obliged to live by.” (p. 79) “Unlike White men,” Patterson concludes, “Black men have been prevented from actualizing their male dominance ideology by their determinedly emancipated spouses.” (p. 80)

If it is true that sexual harassment is learned behavior, as author Robert Allen contends, (p. 130) so resistance to male dominance ideology must be learned, as well. If single women do not have a space in which they can learn to confront male dominance ideology, then the lost opportunity could negatively impact their ability to confront these issues in public environments like the workplace. The challenge for African American and white women alike, then, is to address sexism proactively, in all its forms, by creating spaces in which women can learn to identify and resist attempts to assert dominance over them. Much as bell hooks defines “homeplace” as “a site of resistance [to] white racist aggression,”15 so too can homeplace be the private space where women can learn to extricate themselves from the smothering wraps of sexism.

Numerous benefits attend the development of teaching, nurturing, and healing places by and for women of all generations:

15 BELL HOOKS, Homeplace: a site of resistance, in YEARNING: RACE, GENDER, AND CULTURAL POLITICS, supra note 9 at 47.
hooks's solution for African American women—that “homeplace” be the site of resistance—rings true for all women. Beginning the seeds of change and resistance to domination begins at “home,” however that place may be defined. The study that Patterson cites is provocative in its suggestion that marriage can be a space to learn resistance to male dominance. Since many women either choose not to find such space, or have difficulty creating it, in a marital context, women's independent creation of such spaces for themselves seems preferable to reliance upon social institutions.

While most of the essays underscore the problems with the hearings, contributors Susan Deller Ross and Congresswoman Eleanor Holmes Norton emphasize the hearings' residual benefits. Ross considers Hill's impact on sexual harassment law and argues that, because of the hearings, women have a broader scope of legal remedies for sexual harassment. (p. 228) Prior to the Hill-Thomas hearings, Ross explains, a victim of sexual harassment had "incomplete legal remedies." (p. 228) When a male employer fired or demoted a subordinate for rejecting sexual advances, the victim could recover lost wages and a court order against future harassment. If the woman had neither lost her job nor any pay, then only a court order was available to her. (p. 228) After the hearings, however, Congress enacted new statutory remedies for harassment, including the right to sue for up to $300,000, per complaint, in damages. (p. 229) Ross believes that without Hill's appearance before the Senate Judiciary Committee, women would not currently have this remedy.

In addition to affording more complete legal protections, Congresswoman Eleanor Holmes Norton's essay on "Anita Hill and the Year of the Woman" (pp. 242-47) argues that the increased diversity in Congress was the direct result of Hill's efforts. Carol Mosely-Braun, the United States' first African American woman Senator, "ran only because she was pressed by women indignant at the treatment of Anita Hill." (p. 245) Other Senate hopefuls garnered significant political mileage out of the hearings. Dianne Feinstein and Barbara Boxer "were both using pro-Hill [and] anti-Thomas sentiment to the maximum"—Feinstein through fundraising letters about the hearings and Boxer by campaigning on the statement that one woman on the Senate Judiciary Committee would have changed the hearing process.17

16 Id. at 48-49.
17 See Phelps & Winternitz, supra note 1 at 426-27.
Ultimately, women candidates experienced striking success in the 1992 elections, held just one year after the hearings.

In 1992 eleven women won their Senate primaries and six were elected, tripling the number of women in the Senate in a single year. One hundred eight women won their House primaries, while only seventy had prevailed in 1990. The first Puerto Rican woman came to the House, along with six other women of color, almost tripling their representation. The number of women in Congress went up dramatically, from twenty-nine to forty-eight. (p. 245)

Norton attributes these successes to Anita Hill’s catalyzing force on Capitol Hill. (p. 245)

To the extent that the newcomers to Congress are sensitive to women’s issues, these numbers certainly represent a triumph, and their importance should not be minimized. But it is difficult to rejoice without recalling the pain, degradation, and utter humiliation of both Hill and Thomas that made this success possible. Jack Danforth, Thomas’s Senate sponsor and close friend, summarized his disdain for the process by saying, “we’re [not] doing the country any good by subjecting people to mortification.” It is painfully ironic that a collection of essays that so heavily emphasizes the impact of slavery on Hill and Thomas’s treatment would fail to note that, yet again, social progress is borne on the backs of African Americans.

Race, Gender, and Power’s attempt to generalize the Hill-Thomas situation reveals one of its internal inconsistencies. Several authors go to great lengths to distinguish the African American woman’s contemporary position with demonstrations of deep historical traditions and misconceptions about her. In their attempt to clarify the African American woman’s unique historical role, these essayists undermine the other authors’ desire to generalize Hill’s treatment to all African American women. This inconsistency has potentially injurious consequences: to the extent that the essays lift the hearings, and Hill’s role in them, to a level of significance for all women, they trample the delicate social position of the African American woman who ultimately may be sui generis—in a category all her own.

Irrespective of politics, race, or sex, participants in and observers of the hearings agree on the disgraceful way in which the hearings were handled. As professor Trellie Jeffers observed, “Personally, I felt that black women were raped on national television, and black men were

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18 See Phelps & Winternitz, supra note 1 at 240.
doused with gasoline and burned in front of one million viewers. There had to have been a better way to have settled nothing at all.”

Whatever its shortcomings, *Race, Gender, and Power in America* at least attempts to respond to the problems attending the Senate Judiciary Committee’s inquiry into Hill’s sexual harassment charges. Essayists Ogletree and Resnik offer suggestions for improving the procedural protections afforded in investigations of this nature and in the adjudicatory system as a whole. Alexander, Jordan, Hill, Higginbotham, and Lawrence attempt to improve future processes by raising the consciousness of hearing participants, and the millions of Americans who watched them, as to the potentially injurious outcomes when issues of race and sex collide. Looking toward the future, Allen discusses what can and should be done, on an individual level, to mitigate the incidence of sexual harassment in our communities. May none of their efforts be in vain.

—Adrienne K. Wheatley

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19 See Trellie L. Jeffers, *We Have Heard: We Have Seen: Do We Believe?*, in *Court of Appeal*, supra note 11 at 116, 119.