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RECENT DEVELOPMENTS

MYTH, STEREOTYPE, AND THE RAPE OF BLACK WOMEN

Darci E. Burrell*

I.

*bein alive & bein a woman & bein colored is a metaphysical dilemma*¹

When I first heard that heavyweight champion Mike Tyson had been charged with rape, it was easy to decide that more likely than not he was guilty. It wasn't difficult to believe that a man with a history of violent and sexually offensive behavior could be guilty of such a crime.² At the very least, it was much

* J.D. candidate, UCLA School of Law, 1995; B.A. University of California at San Diego, 1991. I would like to thank my family for providing continuous financial and emotional support. I would also like to thank the thousands of African-American women who cleared a path which sisters like myself, and those to come, could follow.

1. Ntozake Shange, *no more love poems #4*, in *FOR COLORED GIRLS WHO HAVE CONSIDERED SUICIDE/WHEN THE RAINBOW IS ENUF* 5 (1977).

2. The record of Mike's relations with women has always been sordid, dismal and violent At one point, one of D'Amato's trainers . . . pulled a gun on Tyson after the teenage fighter allegedly fondled [his] 12-year-old sister-in-law. And nine months before becoming heavyweight champion in 1986, Tyson turned violent in an Albany shopping mall after a sales clerk he propositioned turned him down. That same evening a furious Tyson was tossed out of a local movie theater after another woman rebuffed his advances In December 1988 Sandra Miller and Lori Davis both sued Tyson for grabbing their breasts and buttocks Later that same year, [Robin] Givens's [sic][Tyson's ex-wife] former publicist Phyllis Polaner sued Tyson for physically and sexually assaulting her In his biography of the boxer, former light-heavyweight champion and ex-Tyson buddy Jose Torres quotes Tyson as saying, "I like to hurt women when I make love to them. I like to hear them scream with pain, to see them bleed." (Tyson has denied the quote.)

easier to believe that Mike Tyson had indeed raped Desiree Washington than it was to believe that she would be willing to subject herself to the difficulties of a rape trial³ in order to attain fame and fortune.

More than a year later, fabled defense attorney Alan Der-showitz is leading the battle to overturn Tyson's conviction. Charges of racism surface now as they did then.⁴ As much as I believe in the guilt of Mike Tyson and in his conviction, such charges are not easily dismissed. And therein lies the rub. For African-American women, the rape conviction of an African-American man is never simply a question of guilt or innocence. We bear the burden of reconciling our desire to see the guilty punished with our fear of racism and injustice.

Rape is a difficult and complex issue in the African-American community. The history of African-Americans has inescapably linked racism and sexual assault for both women and men. The failure of modern feminist theory to account for this fact has the ultimate effect of disenfranchising African-American women from the anti-rape movement. I have lost count of the number of times women of color have expressed to me that the women's movement is "not for them." The insistence of feminist theorists to address the social problems of women as if they are uniformly experienced leaves many women out in the cold.⁵

Joe Treen & Bill Shaw, *Judgment Day: Payback Comes to Sexual Predator Mike Tyson, Who Broke All the Rules — Until a Victim Fought Back*, PEOPLE, Feb. 24, 1992, at 36.

3. See, e.g., SUSAN ESTRICH, REAL RAPE 3 (1987).

[U]nder the best circumstances, prosecuting a rape case has unique costs for the victim. And many jurisdictions have made it harder still, by imposing unique obstacles in rape cases, from the requirement that the victim's testimony be corroborated by other evidence to the requirement that she resist her attacker to the inquiry into her sexual past.

Id. at 3-4.

4. See, e.g., Grover C. Crayton, *Tyson Jury Still Out in the Black Ghetto*, CALL & POST (Cleveland, Ohio), Feb. 20, 1992, at 9b.

5. Judges and lawyers in the contemporary legal system in the United States . . . treat their own points of reference as natural and necessary. Judges' preoccupation with neutrality, for example, especially notable in constitutional and statutory equality jurisprudence, upholds existing institutional arrangements while shielding them from open competition with alternatives

Feminists have shown how such assertions of neutrality hide from view the use of a male norm for measuring claims of discrimination

What has all this to do with Mike Tyson? The Tyson rape trial in some ways is the epitome of the dilemma faced by African-American women when considering the rapes of African-American women or the charges of rape against African-American men. Although I believe that Mike Tyson was justifiably convicted of the rape of Desiree Washington, the specter of a wild African-American man, a beast, incapable of controlling his animal urges, haunted the trial. Indeed, that very image was invoked by Tyson's defense attorney Vincent Fuller.⁶ How does this racist imagery affect African-American women? Sonja Steptoe says it best:

In effect Fuller was saying to the jury: Tyson is your worst nightmare — a vulgar, socially inept, sex-obsessed black athlete. And any woman who would voluntarily enter a hotel suite with him must have known what she was getting into. In other words, both principals were animals — the black man for the crudity of his sexual demands, the black woman for eagerly acceding to them.⁷

What Sonja Steptoe sees, and what many African-American women see, is the flipside of the image of the sexually savage African-American man: the image of the "chronically promiscuous" African-American woman.⁸

II.

Like many another person who had read of lynching in the South, I had accepted the idea meant to be conveyed — that

. . . . Yet attempts to advance feminist analyses in new contexts come up against unstated assumptions about other traits

. . . .

[F]eminist analyses have often presumed that a white, middle-class, heterosexual, Christian, and able-bodied person is the norm behind "women's" experience This set of assumptions recreates the problem feminists seek to address — the adoption of unstated reference points that hide from view a preferred position and shield it from challenge by other plausible alternatives.

Martha Minow, *Feminist Reason: Getting It and Losing It*, in *FEMINIST LEGAL THEORY: FOUNDATIONS* 339, 339 (D. Kelly Weisberg ed., 1993).

6. See discussion *infra* part II.

7. Sonja Steptoe, *A Damnable Defense*, *SPORTS ILLUSTRATED*, Feb. 24, 1992, at 92.

8. "The fictional image of the Black man as rapist has always strengthened its inseparable companion: the image of the Black woman as chronically promiscuous. For once the notion is accepted that Black men harbor irresistible and animal-like sexual urges, the entire race is invested with bestiality." Angela Y. Davis, *Rape, Racism and the Myth of the Black Rapist*, in *WOMEN, RACE & CLASS* 172, 182 (1983).

*although lynching was irregular and contrary to law and order, unreasoning anger over the terrible crime of rape led to the lynching; that perhaps the brute deserved death anyhow and the mob was justified in taking his life.*⁹

During the trial, Mike Tyson's defense attorney invoked the myth of the sex crazed, savage African-American man again and again. Rather than attempt to show Mike Tyson in the best possible light, Fuller resorted to what one reporter has termed the "Yes, I'm an Animal defense."¹⁰ Fuller attempted to show in excruciating detail that Tyson was a bad guy, that Desiree Washington knew he was a bad guy, and therefore she knew exactly what was expected from her when she went into his room.¹¹ Beauty pageant contestant after beauty pageant contestant marched up to the witness stand to provide, at Fuller's request, "every last unsavory detail of the fighter's . . . groping, fondling and sexually explicit, expletive-riddled remarks to the women"¹²

While the prosecution attempted to show Tyson merely as a crafty deceiver who had tricked Washington into coming to his room,¹³ Fuller invoked the exact stereotypes that African-Americans have been struggling to destroy. "His defense portrayed Black men as oversexed, prone to violent and aggressive behavior, and dumb as a brick wall."¹⁴ Fuller tried to use the fact that Tyson was seen gyrating his hips toward contestants during the pageant in a "primitive mating dance"¹⁵ to demonstrate that Desiree Washington "read his hips, and she knew what those hips were saying."¹⁶ Fuller even attempted to introduce expert testimony regarding the size of Tyson's genitals as an explanation for the abrasions on Washington's vagina.¹⁷

Fuller used Tyson's own testimony on the stand to show that "[Tyson] was even more than a rapist; he was the stereotypical

9. IDA B. WELLS, *CRUSADE FOR JUSTICE* 64 (Alfreda M. Duster ed., The University of Chicago Press 1970) (1928).

10. *The Eye*, WASH. TIMES, Dec. 27, 1992, at C2.

11. See, Tom Knott, *Did Tyson's Lawyer Land a Sucker Punch?*, WASH. TIMES, Feb. 15, 1992, at B2; Steptoe, *supra* note 7, at 92; Treen & Shaw, *supra* note 2, at 39.

12. Steptoe, *supra* note 7.

13. *Id.*

14. Kevin Brown, *The Social Construction of a Rape Victim: Stories of African-American Males About the Rape of Desiree Washington*, 1992 U. ILL. L. REV. 997, 1006.

15. Knott, *supra* note 11.

16. *Id.*

17. Steptoe, *supra* note 7.

savage black man run amok”¹⁸ Tyson testified that when Washington suggested that they go out to dinner or a movie, he replied, “I don’t want to do that. I don’t have that in mind. I just want to be with you I want to f--- you.”¹⁹ He also stated that he suggested that Washington wear loose clothes that night because he initially intended to have sex in the limousine.²⁰

Fuller’s defense tactics appealed to what has long been a damaging stereotype about African-American men: The myth of the “Black rapist.”²¹ The myth of the Black rapist appeared at the turn of the century.²² It is based on two notions about African-American males. First, that African-American men possess an exaggerated sexuality and are plagued by “irresistible, and animal-like urges.”²³ Second, that African-American men were of “such limited virtue and intelligence that the crime of rape meant nothing to them.”²⁴ These stereotypes were used to justify the lynching of at least 3300 African-American men between 1882 and 1946.²⁵

18. *Id.*

19. Treen & Shaw, *supra* note 2, at 40.

20. *Id.*

21. I use “African-American” rather than “Black” in this paper because I want to respect the efforts of members of the African-American community to name themselves. Throughout history people of color and other oppressed groups have been named by the dominant culture. As a result, these communities have been struggling to find a name for themselves which fits *their* definition of who they are. My community has presently chosen the name African-American in an attempt to honor our African heritage while at the same time claiming the land which our ancestors worked and developed. The myth of the Black rapist, however, is a term of art in the scholarship of African-Americans, and I employ that terminology.

22. Amii L. Barnard, *The Application of Critical Race Feminism to the Anti-Lynching Movement: Black Women’s Fight Against Race and Gender Ideology, 1892–1920*, 3 UCLA WOMEN’S L.J. 301, 309 (1993).

23. Davis, *supra* note 8, at 182.

24. Barnard, *supra* note 22, at 309.

25. Jennifer Wriggins, *Rape, Racism, and the Law*, 6 HARV. WOMEN’S L.J. 103, 107 (1983). An NAACP study found the number of officially recognized lynchings between 1882 and 1927 to be 4951. Seventy percent of those lynched were African-American. *Id.* The number of rapes that actually occurred was much smaller than the number of lynchings suggests. The majority of lynchings did not involve the charge of rape, although rape was used as the general justification for the act. The Southern Commission on the Study of Lynching found that between 1889 and 1929 only one-sixth of lynching victims were actually accused of rape: 37.7% were charged with murder, 5.8% with felonious assault, 7.1% of theft, 1.8% of insulting a white person, and 24.2% were accused of miscellaneous charges — the majority of which were trivial. Only 16.7% of lynching victims were accused of rape and 6.7% of attempted rape. *Lynchings and What They Mean*, GENERAL FINDINGS OF THE SOUTHERN COMMISSION ON THE STUDY OF LYNCHING 19 (1931).

Although I believe deeply in the guilt of Mike Tyson, I cannot dismiss the racist tactics used by Vincent Fuller in an attempt to acquit him. Although I am sure that any jury could have found Tyson guilty of rape without the "benefit" of such a defense, I cannot help but wonder if the stereotypes Fuller summoned had some effect on the jury when they made their decision. Although I am glad that Mike Tyson is in jail, I cannot ignore the implications that the myth of the Black rapist has for all African-Americans.

III.

*In these streets out there, any little white boy from Long Island or Westchester sees me and leans out of his car and yells — "Hey there, hot chocolate! Say there, Jezebel! Hey you — 'Hundred Dollar Misunderstanding'! YOU! Bet you know where there's a good time tonight . . ."*²⁶

The flip side of the myth of the Black rapist is the stereotype of the promiscuous African-American woman. This stereotype has always played a significant role in the African-American woman's relationship to rape. The myth that African-American women were sexually immoral justified the institutional sexual abuse of female slaves and the complete lack of possible penalty for raping African-American women.²⁷ The same sexual abuse followed African-American women as they moved from the field into the home as domestic workers.²⁸ The belief that African-American women are less virtuous and therefore deserve sexual abuse persists, continuing to excuse the sexual violation of these women.

26. LORRAINE HANSBERRY, *TO BE YOUNG, GIFTED AND BLACK* 77 (1970).

27. See Barnard, *supra* note 22, at 312-13; A. Leon Higginbotham, Jr. & Anne F. Jacobs, *The "Law Only as an Enemy": The Legitimization of Racial Powerlessness Through the Colonial and Antebellum Criminal Laws of Virginia*, 70 N.C. L. REV. 969, 1055-57 (1992); Barbara Omolade, *Hearts of Darkness*, in *POWERS OF DESIRE* 350, 350-52 (Ann Snitow et al. eds., 1983); Pamela J. Smith, *We Are Not Sisters: African-American Women and the Freedom to Associate and Disassociate*, 66 TUL. L. REV. 1467, 1482-83 (1992); Wriggins, *supra* note 25, at 106.

28. A 1985 study by Elizabeth Clark-Lewis of domestic workers found that mothers, aunts, and community othermothers often warned young African-American women about the threat of rape in white men's houses. As one domestic worker remembers, "nobody was sent out before you was told to be careful of the [w]hite man or his sons." Elizabeth Clark-Lewis, "This Work Had a' End": The Transition from Live-In to Day Work (1985) (Working Paper No. 2, in *Southern Women: The Intersection of Race, Class and Gender* 15) (On file with the Center for Research on Women, Memphis State University).

The image of the sexually voracious African-American woman has also affected whether or not African-American women will be believed when they come forward with charges of sexual abuse.²⁹ As Professor Kimberle Crenshaw points out, women who engage freely in sexual activity are not expected to be truthful and "because African-American women [are] not expected to be chaste, similarly, they [are] unlikely to tell the truth."³⁰ In the past, judges warned jurors that the general presumption of chastity given to white women was not to be applied to African-American women.³¹ A more recent study also indicated that an African-American woman's veracity in rape cases is questionable.³² As one juror put it, "Negroes have a way of not telling the truth. They've a knack for coloring the story. So you know you can't believe everything they say."³³

This myth also leads to the belief that the sexual violation of African-American women is less serious than that of other wo-

29. Although during the trial Desiree Washington was primarily portrayed as a young, unworldly victim, *see, e.g.*, Treen & Shaw, *supra* note 2, two documentaries surfaced in which Washington was accused of being less than virtuous and therefore supposedly less believable as a rape victim. In *The Rise and Fall of Mike Tyson*, a prison guard claimed that he met Washington in a strip joint when she was sixteen, and that she wrote her own number and address in his phone book. In *Fallen Champ: The Untold Story of Mike Tyson*, Olympic gold medal boxer Mark Breland said, "I'd see her in clubs and stuff . . . I know a guy who went with her and a couple of [basketball players] who knew her. All of a sudden she's a church girl . . . She's not innocent." Ed Fishbein, *Tyson's Accuser is Accused*, SACRAMENTO BEE, Dec. 17, 1992, at A2.

30. Kimberle Crenshaw, *Gender, Race, and the Politics of Supreme Court Appointments: The Import of the Anita Hill/Clarence Thomas Hearings: Race, Gender, and Sexual Harassment*, 65 S. CAL. L. REV. 1467, 1470 (1992). "Will you not more readily infer assent in the practiced Messalina, in loose attire, than in the reserved and virtuous Lucretia?" *People v. Abbot*, 19 Wend. 192, 195 (N.Y. 1838), *quoted in* ESTRICH, *supra* note 3, at 47.

31. For example, the Florida Supreme Court in 1918 explained:

What has been said by some of our courts about an unchaste female being a comparatively rare exception is no doubt true where the population is composed largely of the Caucasian race, but we would blind ourselves to actual conditions if we adopted this rule where another race that is largely immoral constitutes an appreciable part of the population.

Dallas v. State, 79 So. 690 (Fla. 1918), *quoted in* Wriggins, *supra* note 25, at 121. This belief that African-American women were less chaste also led common law courts to apply the resistance requirement in a different way to African-American women than it did to white women, especially when the accused rapist was an African-American. *See, e.g.*, ESTRICH, *supra* note 3, at 37-38.

32. GARY D. LAFREE, *RACE AND CRIMINAL JUSTICE: THE SOCIAL CONSTRUCTION OF SEXUAL ASSAULT* 220 (1989).

33. *Id.*

men. I have already noted that during slavery, the rape of African-American female slaves was not a crime.³⁴ Even after slavery, while many men (mostly African-American) were executed for the rape of white women, the rapes of African-American women went unpunished.³⁵ The rape of an African-American woman is still treated as a lighter offense than the rape of a white woman. Studies have shown that if the victim is an African-American woman, chances of conviction are greatly reduced regardless of the race of the assailant.³⁶ Studies also show that the average sentence given to the assailants of African-American women is significantly lighter than the average sentence given to the assailants of white women.³⁷ One glaring indication of the lack of value placed on African-American women and other women of color is the fact that the rapes of these women often receive very little attention. For example, during the week of the Central Park Jogger attack in New York City, another woman was raped, and although her attack was just as horrifying, it received no public attention.³⁸

Why is the rape of the Central Park Jogger so much more compelling than the intraracial rape of a poor black woman (also fairly dramatic because her attackers forced her to jump from a twenty-one story building, and she survived only because she caught a television cable) that occurred that same year?³⁹

IV.

As white women ignore their built-in privilege of whiteness and define [woman] in terms of their own experience alone, then

34. See *supra* text accompanying notes 27-28.

35. Wiggins, *supra* note 25, at 107-13.

36. LAFREE, *supra* note 32, at 114-47.

37. HUBERT S. FIELD & LEIGH B. BIENEN, JURORS AND RAPE 154, 163 (1980).

38. See Crenshaw, *supra* note 30, at 1470-71.

39. Sheri L. Johnson, *Racial Imagery in Criminal Cases*, 67 TUL. L. REV. 1739, 1745 n.16 (1993); see Kirk A. Johnson, *Objective News and Other Myths: The Poisoning of Young Black Minds*, 60 J. NEGRO EDUC. 328, 328 (1991); see also Ellis Cole, *Rape in the News: Mainly About Whites*, N.Y. TIMES, May 7, 1989, at E27; Sam Roberts, *When Crimes Become Symbols*, N.Y. TIMES, May 7, 1989, at E1, E28 (recounting details of an African-American woman who was found dead and probably raped ten days after the Central Park incident). For another instance in which the rape of an African-American woman was ignored by the media, see Mike Barnicle, *Victims We Find Easy to Ignore*, BOSTON GLOBE, Feb. 11, 1992, Metro/Region ed., at 17 ("The victim was forced to eat dirt, lick chewing gum off the pavement, bark like a dog and perform oral sex on the guys before a few of them had intercourse with her. Every time she refused or simply could not continue, they took turns kicking her in the head.").

women of Color become "other," the outsider whose experience and tradition is too "alien" to comprehend.⁴⁰

Although feminist legal theorists have been successful in assuring that the "male" point of view is not the only point of view used to analyze the law, they have often failed to recognize that the differences in women's experiences may have different effects on their relationship to the law.⁴¹ "In critiques of the 'male' point of view and in celebrations of the 'female,' feminists run the risk of treating particular experiences as universal and ignoring differences of racial, class, religious, ethnic, national, and other situated experiences."⁴² The failure to at least acknowledge the effect of these differences erases whole groups of women from feminist discourse.

This has certainly been the case for African-American women. As Angela Harris notes,

In feminist legal theory . . . the move away from univocal toward multivocal theories of women's experience and feminism has been slower than in other areas And in feminist legal theory, as in the dominant culture, it is mostly white, straight, and socioeconomically privileged people who claim to speak for all of us.⁴³

One example of this myopic vision is the way feminist legal theorists have dealt with rape. Most legal theorists have approached the issue of rape without recognizing that the different experiences of African-American women have different implications. They have forced African-American women to separate their gender from their race in order to find a place in feminist legal theory.

For example, in the first chapter of *Real Rape*,⁴⁴ Susan Estrich states: "The history of rape in the United States is clearly a history of both racism and sexism. It is impossible to write about rape without addressing racism, and I do. *But my primary focus is on how the law has understood and punished women as women.*"⁴⁵ Although Estrich does acknowledge the way in which the common law courts applied the resistance requirement differ-

40. Audre Lorde, *Age, Race, Class and Sex: Women Redefining Difference*, in *SISTER OUTSIDER: ESSAYS AND SPEECHES* 114, 117 (1984).

41. See Marlee Kline, *Race, Racism, and Feminist Legal Theory*, 12 *HARV. WOMEN'S L.J.* 115 (1989); Minow, *supra* note 5.

42. Minow, *supra* note 5, at 339.

43. Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 *STAN. L. REV.* 581, 587-88 (1990).

44. ESTRICH, *supra* note 3.

45. *Id.* at 6 (emphasis added).

ently to African-American women,⁴⁶ she begins her book with the premise that women are an insular group, demonstrating the popular belief that racism and sexism may be separated for African-American women.⁴⁷ As an African-American woman who experiences the effects of intertwined racism and sexism on a daily basis, I cannot make the separation between racism and sexism so easily. The painful history of African-American women and rape⁴⁸ makes it unwise from an analytic standpoint to do so.

Catharine MacKinnon takes the same stance in her working definition of "women." MacKinnon purports to address male dominance from the collective viewpoint of all women.⁴⁹ "She seems to believe that by focusing on women's gender commonality, she effectively incorporates into her analysis the diversity of women's experience of oppression."⁵⁰ Her goal is "to include all women in the term 'women' in some way without violating the particularity of any woman's experience."⁵¹ Yet, unless MacKinnon addresses the very different ways in which the law, particularly rape law, impacts women of color, her analysis will remain incomplete.

In spite of her claim, women's differences do not seem to have impacted her analysis. When MacKinnon does contemplate the intersection of race and gender, she refers readers to other theorists who have dealt with the issue rather than incorporate it into her own discussion.⁵² MacKinnon insists that sexuality is central to the oppression of women,⁵³ and she does not allow the

46. *Id.* at 37-38.

47. Even if Estrich is making this distinction just for her book, this approach removes African-American women and other women of color from her analysis of rape law. For example, although she deals with how the resistance requirement was applied differently to African-American women in *common law* courts, African-American women disappear from her analysis after this point. She does not address how the *modern law* may or may not be applied to African-American women in different ways. The stereotypes that affected the law's treatment of African-American rape victims at common law are still in existence. *See supra* Part III. It is likely that these stereotypes have just as much force in the courtroom now as they did then.

48. *See supra* part III.

49. *See* Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*, 8 *SIGNS* 635, 639 n.8 (1983).

50. Kline, *supra* note 41, at 137.

51. Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: An Agenda for Theory*, 7 *SIGNS* 515, 520 n.7 (1982).

52. *See* Kline, *supra* note 41, at 137-38 n.98.

53. *See* MacKinnon, *supra* note 49.

particular experiences of women of color to challenge her theory. For instance, MacKinnon's analysis implies that the rape of an African-American woman is like the rape of a white woman but to a greater degree.⁵⁴ "Racism in the United States, by singling out Black men for allegations of rape of white women, has helped obscure the fact that it is men who rape women, disproportionately women of color."⁵⁵ While MacKinnon concedes that women of color may be *numerically* impacted more by rape than white women, she fails to acknowledge that rape impacts women of color *differently* from how it impacts white women. She effectively shoves race to the side while establishing that the oppression of women is based fundamentally on their gender, assuming in other words that women of color are "women plus."⁵⁶

The failure of mainstream feminists to recognize the importance of race and how it affects the sexual abuse of African-American women is seen in other contexts besides rape. Although this paper deals primarily with rape, the sexual harassment of African-American women in the workplace may be justified with some of the same stereotypes.⁵⁷ Just as feminists have ignored for the most part the intersection of race and rape, they have also disregarded the impact of race on sexual harassment. During the Anita Hill/Clarence Thomas Hearings, Thomas received support from other politicians as well as from the public. Although there was much outrage among women's groups about the dismissal of Hill's claims because she was a *woman*, no one considered that Hill's charges were ignored because she was an *African-American woman*:

[N]o one speculated that Professor Hill's claim was not thoroughly investigated because she is an African-American woman. No one speculated that this African-American woman was treated flippantly because the Senate is ninety-eight percent white. No one considered that African-American women's complaints about sexist behavior are taken even less seriously than white women's.⁵⁸

The myth of the sexually promiscuous African-American woman may very well have affected the way in which Hill's charges were

54. *Id.* at 646.

55. *Id.*

56. Harris, *supra* note 43, at 597.

57. See Crenshaw, *supra* note 30; Estelle B. Freedman, *The Import of the Anita Hill/Clarence Thomas Hearings: The Manipulation of History at the Clarence Thomas Hearings*, 65 S. CAL. L. REV. 1361 (1992).

58. Smith, *supra* note 27, at 1468.

received, although very few legal theorists seemed particularly concerned with this issue.

Very few feminist legal theorists have attempted to address the Mike Tyson trial and its implications for feminist legal theory. Gloria Allred, a Los Angeles attorney and women's rights activist, however, wrote an Op-Ed piece for the *L.A. Times*⁵⁹ which demonstrates some of the same failures of feminist legal theory. For example, she characterizes Vincent Fuller's defense of Tyson as follows: "Tyson's attorney seemed to argue that if his accuser went to Tyson's hotel room and sat on the corner of his bed early in the morning, she should have known what to expect . . ." ⁶⁰ As discussed above,⁶¹ Fuller's tactics involved a bit more than that. He argued that since it was so clear that Tyson was a sex crazed animal, Desiree Washington knew what to expect when she went to his room. In attempting to transform Fuller's defense into an embodiment of one of the sexist myths she refers to in her title, Allred completely ignores the racist stereotypes Fuller invoked. The myth of the savage, oversexed Black rapist was an integral part of Fuller's defense. As I have already indicated,⁶² these stereotypes have negative effects on African-American women as well as African-American men. It is important that feminist legal theorists recognize these differences.

V.

*Unfortunately, many segments of our society ignore racism; they tire of hearing claims of racist treatment . . . Although African-American women are also tired of hearing about racism, they do not have the luxury of ignoring or dismissing it.*⁶³

*[F]or those of you who are tired of hearing about racism, imagine how much more tired we are of constantly experiencing it, second by literal second, how much more exhausted we are to see it constantly in your eyes.*⁶⁴

As tired as the world may be of constant cries of racism, those cries will not fade away if they are ignored or given cursory attention. Similarly, the intersection of race and gender and the

59. Gloria Allred, *Sexist Myths Take a Beating*, L.A. TIMES, Feb. 12, 1992, at B7.

60. *Id.*

61. See discussion *supra* part II.

62. See discussion *supra* part III.

63. Smith, *supra* note 27, at 1478.

64. Barbara Smith, *Racism and Women's Studies*, in ALL THE WOMEN ARE WHITE, ALL THE BLACKS ARE MEN, BUT SOME OF US ARE BRAVE 48, 48 (Gloria T. Hull et al. eds., 1982).

problems it creates will not disappear if feminist legal theory continues to ignore it. We must allow the differences in women's lives to challenge our assumptions about the world and about the law, for only then can feminist legal theorists truly address the concerns of the group they claim to serve.

As long as the stereotypes about the promiscuity of the African-American race are present they will continue to affect not only the conviction of African-American men, both guilty and innocent, but also the sexual violation of African-American women and the response to that violation. It is almost certain that other women of color suffer from stereotypes which similarly affect their sexual victimization. Therefore it is imperative that feminist legal theory make room for these differences in order to fulfill the promise that the women's movement holds for all women.

