NAMING THE UNHEARD OF

By Omi

> "The relationship between black and white women through white men deserves to be named, for slavery often made women of different races and classes into co-mothers and co-wives as well as owners and suppliers of labor. The question is whether there should be one name or, reflecting the number of races involved, more than one."[1]

1. INTRODUCTION

Attached to each of our names is a unique and personal history. But in fact, our names may say more about us than we about them. In a sometimes subtle, but ever-present way, names and naming reflect, and often reify relations of dominance and subordination.[2] Thus, it is not surprising that in the earliest stages of the development of the American women's movement, during the middle decades of the 19th Century, names took on a profound importance.

At this time, the matter was high on the agenda of another resistance movement, abolitionism - the radical anti-slavery movement which demanded an immediate end to slavery on the grounds that every man was a self-owner. Slaves, of course, were denied fixed names for they were legally defined as chattel. Hence, abolitionism regarded the slaves' right to name themselves as of primary importance. White women working within the abolitionist movement[3] realized a similar working of dominance by

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1. Nell Irvin Painter, *A Non-Exceptionalist Approach to Race, Class, and Gender in the Slave South, in* HALF SISTERS OF HISTORY: SOUTHERN WOMEN AND THE AMERICAN PAST, (Catherine Clinton, ed., Durham: Duke Univ. Press, 1994).

2. Frank H. Neussel, THE STUDY OF NAMES: A GUIDE TO THE PRINCIPLE AND TOPICS, (Greenwood Press, Westport, 1992) at 3-4 ("Those who give names are usually in positions of power and authority. Consequently, the act of naming implies that the naming group has a measure of control. Regarding people, this authority may imply a master-slave relationship. Citing Bosmajian (1974) who frequently observes that "the power that comes from names and naming is related directly to the power to define others - individuals, races, sexes, ethnic groups. Our identities, who and what we are, how others see us, are greatly affected by the names we are called and the words with which we are labeled." Bosmajian attributes the widespread revulsion for numerical identification of people (prisoners, slaves, etc.) to the fact that this act "is a negation of their humanity and their existence. To be named by someone else means that that person can and will exert control over our existence.) *Also see id.* at 23 ("One traditional symbol of oppression is the imposition of a name on the person or group of people subjugated. The ability to name is a symbolic gesture that grants to the name the power to tyrannize. Thus most liberation movements seek to wrest this important tool of domination from the despots who wield it. One example is the Nazi name decrees of the 1930s which were among the measures by which certain aliens and national 'undesirables' were to be distinguished from 'true Aryans' in order to facilitate the discriminatory treatment to which the former were soon to be subjected.") *Also see* Robert M. Rennick, *The Nazi Name Decrees of the Nineteen Thirties,* 18 NAMES 65 (1970).

3. E.g. Lucrietta Mott, Maria Chapman Weston, the Grimke sisters. It was the first organized radical movement in which women played prominent roles and from which a women's movement sprang. It was largely through their participation in the abolitionist movement that white women were enlightened as to the nature of oppression, and learned to name their wrongs. They also teamed how to run resistance movement, for instance, they learned how to campaign and

white men in the divestiture of their own name on the occasion of marriage, in keeping with Blackstone's well-stated doctrine of "the indivisibility of sovereignty."[4] Here, as with other aspects of their oppression, white women, especially those of the middle-class, frequently invoked the metaphor of slavery as a means to articulate their grievances.'[5] But was the analogy apt?

Even the most cursory comparison of the naming practices and visions of nominal liberation at this time reveals that despite similarities between white women and slaves in that both were subordinated to white men, there were also unmistakable differences between them. And if the influence of the institution of slavery on naming practices was so different from the influence of gender, the question arises: how would a "woman" who was *simultaneously* an "enslaved Negro" relate to naming? Would the coincident subjection to racial and class oppression interact and influence the Black[6] woman's experience of gender and its oppressions? Would her gen-

petition. It was also their first opportunity to speak publicly. *See* Wendy McElroy, *The Roots of Individualist Feminism in the 19th-Century America* in FREEDOM, FEMINISM, AND THE STATE, (2nd ed.), (Holmes & Meier, New York, 1991). *See also* Angela Davis, *infra note* 5, at 33-9; Gerda Lemer, THE GRIMKE SISTERS FROM SOUTH CAROLINA, (Schoken Books, New York, 1971) (The Grimke sisters were among the few who retained an anti-racist stand throughout. They were also most consistent in linking of slavery to the oppression of women.).

4. "By marriage, the husband and wife are one person in law; that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of her husband: under whose wing, protection, and cover, she performs everything." Blackstone's COMMENTARIES ON THE LAWS OF ENGLAND, (1765-1769). Already in 1632 a legal treatise declared that a man and a woman are one person by comparing woman with "a small brook or little river, [which when it] incorporated with Rhodanus, or the Thames, the poor rivulet looseth her name . . . . In some respects the legal status of single and widowed women was better than that of married women, however, they were not considered whole people with unqualified political or property rights. THE LAW'S RESOLUTIONS OF WOMEN'S RIGHTS, (1632).

5. White women in the North - the middle-class housewife as well as the young 'mill' girl - frequently invoked the metaphor of slavery as a means to articulate their respective oppressions. Angela Davis remarks on the fact that working class women at least had more of a claim because of terrible conditions and exploitation even if they were nominally free, yet it was the wealthier women, the bourgeoisie who more commonly invoked the term. According to Davis, it is likely that the early feminists invoked 'slavery' to describe 'marriage' primarily for the "shock value of comparison." Angela Y. Davis, WOMEN, RACE & CLASS, (Random House, New York, 198 1) at 32-3. *Also see* Deborah Gray White, AR'N'T I A WOMAN, (W. W. Norton, New York, 1985). Note, however, this comparison did not spring solely from the abolitionist movement. For instance, the English philosopher John Stewart Milt in his famous essay, "The Subjection of Women," had written, that the wife "is the actual bond servant of her husband, no less so as far as legal obligation goes, than slaves commonly so called."

6. I find it ironic, that with all the criticism Catherine MacKinnon has received for forwarding "essentialist" theories, I have often seen her cited as the source in anti-essentialist feminist articles when writers feel the need to explain their capitalization of the term *Black* and not for the parallel term white. MacKinnon writes: "Black is conventionally . . . regarded as a color rather than a racial or national designation, hence is not usually capitalized. . . [However, it is as much socially created as, and at least in the American context no less specifically meaningful or definitive than, any linguistic, tribal, or religious ethnicity, all of which are conventionally recognized by capitalization. (MacKinnon, 1982, at 516). For a fascinating discussion of this topic see Irving Lewis Allen, *Sly Slurs: Afispronounciation and Decapitalization of Group Names,* 36 NAMES 217 (1988). This article traces the political evolution of the terms *Negro, Black and, African-American and* the controversies over the question of their capitalization. In standard English usage, the proper names of national and religious groups are written with a capital initial. According to Allen, the rule is occasionally taken as an honorific gesture that can be bestowed or denied at the pleasure of the writer or editor. To deny a capital letter to the name of an ethnic group symbolically diminishes the social status of the group in the speech community. Non-capitalization signi-

der affect her experience of slavery? Common sense would dictate that it would since a woman could not possibly entertain a separate existence as a slave on one hand, and as a woman on the other?[7]
Consequently, any analysis of "gender" and "slavery" as separate categories when describing their effects on one who experiences them concurrently must be both inadequate and inaccurate. Indeed, as modern feminist scholarship demonstrates, race and gender combine to create a specific experience that cannot be described by an additive, unilateral structure.[8]

In this paper, I do not purport to reflect a composite picture of the naming experience of African American women during the 19th Century.[9] Rather, I intend to demonstrate how different axes of power, in this case race and gender, as reflected through names and naming, tend to interact with one another in a way that changes their meaning and effect for those who wield that power as well as for its victims. Hence, it is frequently inad-

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fies the historical weakness of a minority group; the struggle for capitalization signifies the rising status of a historically oppressed group. Allen goes on to describe "the most famous case of non-capitalization in American English," namely, that of *Negro.* The first campaign regarding its capitalization took place during the first half of this century, after finally settling on the term in the first place. A few decades after this battle had been won, history repeated itself with a similar controversy about the capitalization of *Black.* But new ideologies confounded the issue. After 1968, the name Negro quickly fell from favor among younger black people, partly because of its associations with slavery and because it was an alien name of Spanish and Portuguese origin foisted upon blacks by whites. The emergence of the black pride movement and the militant and separatist turn of the Civil Rights Movement prompted a change of names accordingly; the new identity was to be *black.* The capitalization, or *not, of black* and this time too of white, became once again a complicated game of ethnic discourse in miniature.
Notwithstanding, the fact that the name *black* was one of the earliest names used by slavers, and that down to 1960 it was often used as an epithet, *black* appeared to be a politically appropriate term, specifically as the word black represented a one-to-one opposition to white. However, no sooner had *black - white* become the agreed upon terms than the controversy, a controversy as of yet undecided, over capitalization began. In Allen's opinion: "Prescription may have a certain logic and historical sense, but usage, for better or worse, will eventually carry the day. Yet popular and prevailing usage, as surely as imposed elite usage, reflects ideology the manipulation of ideas and symbols for practical goals. Whether both names are capitalized or not is a trivial matter, but capitalizing one name and not the other is a political gesture - ideology is typography. But at this level it is not always cogent. Capitalizing only *black* can smack of indulgence when done by white writers and of, well, signifying when done by black writers. . . . .[At least] in the American context the simplicity and symmetry of *black and* white avoids casting the names - symbolically opponents - into emblems." at 221-2. Finally, the writer points out that the controversy might finally be turned aside if the noun and adjective *African-American* takes root. For the purposes of this note I have chosen to take the "political" step and capitalize the term *Black* only. However, when I quote other writers, I adhere to their choice of capitalization.

7. Unfortunately, the very analogy between "women" and "slaves" obscures this fact, consequently the question is most often omitted. *See e.g., Elizabeth* V. Spelman, INESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT, (Beacon Press, Boston, 1988). This analytic dilemma may be linguistically represented in the commonly used term "Blacks and women." Strictly speaking, Black women are included in both categories, and yet, by failing to qualify the two terms ("Blacks and white women" or "Black men and women"), the Black woman is forced to choose to include herself in either only one of the two categories. In so doing, she must be able to view herself as a "raceless" woman or a "sexless" African-American. At this point, given the accepted social categories, the absurdity of the entire framework becomes clear. *Id.* at 125. *See also infra* notes 139-145 and accompanying text. Note: In this paper I use the terms "slave" and "Black," more or less, interchangeably since by this time, slavery was inextricably tied with race.

8. *See* sources cited *infra* notes 167- 169 and accompanying text.

9. I deal mainly with the period spanning the 1840s to 1860s, the time of the Civil War.

equate to examine a single set of power relations divorced from the larger context and from coexistent forms of domination and political influences.

II. WHITE WOMEN'S NAMES:

"There is a great deal in a name. It often signifies much, and may involve a great principle."

Elizabeth Cady Stanton[10]

With the industrialization of the economy during the 1830s, the economic and legal status of American women was eroded drastically. Victorian society responded by curtailing their liberty and independence further, placing severe limitations on the spheres wherein women could be actors. In addition, a list of rigid social requirements was introduced whereby 'woman' became synonymous with "wife," "housewife" and "mother" - devoted, docile, domestic, dependent, asexual, and modest. These social standards proscribed by the "cult of true womanhood" were reflected in women's titles: women were to veil themselves in their husbands' identity.[11]

A. *White Women's First Names*

"Wife and servant are the same
But only differ in the name."

Lady Chudleigh (1703)[12]

Even when examining the more intimate sphere of first names, it soon becomes clear that general cultural and gender constraints determined naming patterns, not individuals.[13] A 19th Century English historian once expressed rather radical views in discussing how society's belief in women's inferiority was revealed in her names. With regard to personal names, he showed how women's names were generally based on male ones, and were inappropriate for women. For example, Louisa derives from Louis, mean-

10. *Quoted in* Una Stannard, MRS. MAN (Germain Books, San Francisco, 1977).

11. Even, women authors would publish under pseudonyms: a woman who let herself be known as the author was seen to invite disrespect. As late as 1899 Susan B. Anthony was accused of really being a man because of her "well-developed desire to see her name in print." Stannard, *supra note* 10, at 20. During the second half of the 19th Century, women began to take on male pseudonyms. (In fact, some men themselves were using pseudonyms and anonyms, but for different reasons. A man might conceal his identity because it gave him greater freedom to write on controversial matters or to shield himself from failure.) For women it also allowed for them to be judged for their merits, not sex and was a way to retain a constant identity despite marriage. Long after actresses were allowed to retain a constant professional name, writers had to sign their husband's names, no matter how famous they were.) *Id.* at 40.

12. Lady Chudleigh, *To the Ladies,* in THE WHOLE DUTY OF A WOMAN: FEMALE WRITERS IN SEVENTEENTH CENTURY ENGLAND, ed. A. Goreau (New York, The Dial Press, 1985), p. 273 quoted in Carol Pateman, THE SEXUAL CONTRACT, at 125 (California, Stanford University, 1988).

13. For instance, tradition greatly limited the naming patterns of whites. The oldest children bore grandparents' names, the next oldest were their parents' namesakes, and younger children were named for their parents' siblings. Occasionally a family would use the mother's family name as a first name for a younger child. Joan Rezner Gundersen, *The Double Bonds of Race and Sex: Black and White Women in a Colonial Virginia Parish, Journal of Southern History* 52 (1986) 35 1, at 359. *Reprinted in* ARTICLES ON AMERICAN SLAVERY, at 129 Paul Finkelman, ed. (Garland, New York, 1989) *(hereinafter Articles).* She writes: "Naming patterns reveal a subtle power in which gender played as important a role as did race." Id. at 358.

ing victor, and Georgianna derives from George and means husbandman.[14] In addition, the pool from which to select female names was reduced greatly to that of men's.[15] Fewer choices, meant less individuality, and reinforced dependent status.[16] Often disrespectful, nicknames and diminutives were chosen, such as Sally, Patsy and Nancy. They appear this way even in formal documents such as wills.[17]

In the slave owning South, we see further manifestations of the subtle power of naming reinforcing power relationships. White women, for instance, shared in unaltered forms several common names with Black women, such as Sarah, Hannah, and Janne.[18] White males, however, did not bear the same names as Black slaves.[19] Thus, slaveholders found it necessary to distinguish between white and Black males, and between white males and all women. But there appears to have been no perceived need to differentiate between white and Black females. Such distinctions in naming practices worked to reinforce the power of white men relative to all.

By the mid-19th Century, however, women's first names almost lost relevance altogether. As standards of female modesty rigidified, it became proper for good women to veil themselves totally in their husbands' names, that is, to call a married woman by her husband's full name. By the 1840s, what had started off as a fashion "in polite society," the "Mrs. John Doe" style was becoming a more widespread custom.[20] White women, active in establishing the first women's movement, strenuously objected to the practice and made a point of using their own first names.[21] At the forefront of

14. Harry Long, IN THE NAMES WE BEAR (I 877) and later in PERSONAL AND FAMILY NAMES (1883).

15. Writing about the community in a colonial West Virginia Parish, Gundersen shows how among the French Huguenot parish, nine women's names account for over 90% of the more than 600 white women associated with the Manakin community before 1776. Gundersen, *supra* note 13, at 358.

16. *Id.* at 359.

17. *Id.* at 358-9. *Compare infra* note 70-75 and accompanying text.

18. For instance, Landon Carter named his slave Sukey, but his own daughter Susannah was known by that name. Similarly, Sarah Wilson of Oklahoma had been named Annie by her mistress, who herself was named Annie - apparently bestowing an honor. Sarah Wilson's' mother renamed her daughter as soon as her mistress died. Eugene Genovese, *infra* note 60, at 447. Ironically, slave women counted more than white wives as the former were included in the count of the tables. Gundersen, *supra note* 13, at 358.

19. A white youth might be called by a nickname such as Tom, which was also a common slave name. On legal documents and in adulthood, however, white men claimed the distinction granted by the formal version of their names. Gundersen, *supra* note 13, at 358. *Compare discussion supra re* slaves' names, notes 59-60.

20. Stannard, *supra note* I 0, at 4- *5,* 158.

21. From the late 1840s to the late 1860s a feminist could be distinguished from a non-feminist by her use of her own not her husband's first name. For example, "Myra Bradwell", while not quite "Myra Rodham Bradwell", neither was she "Mrs. James Bradwell", as convention then dictated or even "Mrs. Judge Bradwell" as she had been called earlier. Myra displayed her name with pride: On the masthead of *Chicago Legal News,* the boldest, broadest type was saved for 'Myra Bradwell, Editor'." Carol Sanger, *Curriculum Vitae (Feminae): Biography and Early American Women LaKyers,* 46 Stanford Law Rev. 1245 (1994). In addition, note: a Quaker custom, widely adopted by abolitionists, was to use one's first name. Amongst the abolitionists, only William Lloyd Garrison was customarily addressed as 'Mr. Garrison.' Dorothy Sterling, AHEAD OF HER TIME: ABBY KELLEY AND THE POLITICS OF ANTI-SLAVERY, at I I (W.W. Norton, New York, 199*1). Also see Stannard, supra* note 1O, at 158. For a modern version, see Paulette M. Caldwell, *A Hair Piece: Perspectives on the Intersection of Race and Gender,* 1991 Duke L.J. 365,

the battle was Elizabeth Cady Stanton. After her marriage in 1840, she demanded that she never be addressed as Mrs. Henry B. Stanton, invoking the slavery analogy for added emphasis:

> "I have very serious objections . . . to being called Henry. There is a great deal in a name. It often signifies much, and may involve a great principle. Ask our colored brethren if there is nothing in a name. Why are the slaves nameless unless they take that of their master? Simply because they have no independent existence. They are mere chattels, with no civil or social rights. *Our colored friends in this* country who have education and family *ties* take to themselves names, even so with women. The custom of calling women Mrs. John This and Mrs. Tom That, and colored men Sambo and Zip Coon, is founded on the principle that white men are lords of all. I cannot acknowledge this principle as just; therefore, I cannot bear the name of another."[22]

Stanton's repudiation of the custom was a conscious revolutionary gesture symbolic of her belief that a wife's individuality and rights must not be sacrificed to her husband, that marriage must be partnership of equals, not a total identification of the wife with the husband's interests implicit in the form "Mrs. Henry Stanton."

Married women's names immediately became an issue at the first Women's Rights Convention at Seneca Falls in 1848. The sixty-eight women who signed the Declaration refused to use the Mrs. John Jones style and signed their own first names.[23] A month later, at the Second Women's Rights Convention in Rochester, New York, the matter of the name was discussed at a public meeting for the first time as part of the discussion on equality in marriage. Elizabeth Cady Stanton first pointed out that the practice is not universal. She then continued,

> "When a slave escapes form a Southern plantation, he at once takes a name as the first step in liberty - the first assertion of individual identity. A woman's dignity is equally involved in a life-long name, to mark her individuality. We cannot overestimate the demoralizing effect on woman herself, to say nothing of society at large, for her to consent thus to merge so wholly in that of another."[24]

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387. ("Like the wearing of Afro or braided hairstyles, a married woman's choice to retain her unmarried surname may [still today] be considered a political act.").

22. Excerpt from a letter to her friend Rebecca Eyster; *quoted in Stannard supra note* 10, at *3-4. Also* in 1860, when Wendell Phillips sent a letter to Susan B. Anthony care of "Mrs. H. B. Stanton", by return mail he received word of "the new gospel of individual sovereignty." "Only think of it — one of the champions of freedom denying to woman, at this late date, her own name . . . . women and Negroes are beginning to repudiate the name of their masters and claiming a right to a lifelong name of their own." Phillips retorted by saying that he had a bad memory for first names (he had known Elizabeth for 20 years) and said he would henceforth remember her by associating her name with queen Elizabeth, "you know, red-headed and so jealous of her looks that she forbade (by proclamation) all but two painters to attempt her likeness —- she will exactly bring you to mind." Thus, implying that it was vanity that lay behind Elizabeth's desire to go by her own name. *Id. Also see* Part I of *The Woman's Bible* (1895) wherein Stanton wrote: "today the woman is Mrs. John Roe, tomorrow Mrs. John Doe, and again Mrs. James Smith according as she changes masters, and she has so little self-respect that she does not see the insult of the custom. *Quoted Id.* at 161.

23. Stannard, *supra* note 10, at 153. An examination of the female signees on the Anti-suffragette Papers being circulated at the time provides a stark comparison: *Pamphlets Printed and Distributed by the Anti-Suffrage Association of the Third Judicial District of the State of New York* Fred Rothman, (Littleton, Colorado, 1 990).

24. Stannard, *supra note* 10, at 94-5. The men at the Convention had expressed opposition to nominal equality in marriage as "sacreligious and impractical" and "to avoid constant wrangling".

Nonetheless, as we shall see, the activism regarding a woman's name was short-lived. Certainly, by the 1880s etiquette proscribed the Mrs. John Jones as proper social behavior, for a woman who was married or widowed.

II.B. White Women's Surnames

The inferior status of the woman, however, most clearly was reflected in the rules of surnames.[25] On becoming a wife, a maiden would be dispossessed of her father's family name that until then had been hers. The loss of her former name meant loss not only of her past achievements and former identity, but loss of a great part of her personal and family heritage. Any subsequent marriage would have the same effect (often cutting women off from their children in this way). Despite the fact that here too there was no legal prohibition, this common-law custom was a more entrenched one.[26] Even the few women professionals for whom retention of

Id. "Self-sovereignty" was the essence of Stanton's feminist theory, summarized in "The Solitude of Self', her last major speech in January 1892 before two congressional committees and the annual meeting of the National American Suffrage Association. The "solitude of self', she defined as the "individuality of each human soul," in both divine and democratic terms. Stanton demanded that women be treated as individuals without regard for the "incidental relations of life, such as mother, wife, sister, daughter." In life, women, like men, had only themselves to rely upon. She conceded that few women were equipped for "self-dependence" because they had been overprotected in a patriarchal society. In or to master "self-dependence," women had to be emancipated from In Her Own Right: The Life of Elizabeth Cady Stanton, (Oxford Uni. Press, NY, 1984), introduction p-xviii. According to Elizabeth Griffith, Stanton was apt to think of herself in historic and heroic terms. She expected to be remembered as a 'foremother." She carefully constructed her dual public image as matriarch and revolutionary, equally adroit in the domestic or political front. One of the most important aspects of her self definition was her name. She insisted on being addressed by her full name, Elizabeth Cady Stanton, which she regarded as representing her own self. In all letters, save to her children, she always signed all three names. Stanton had made a conscious decision to combine her family and married names, rather then lose the former altogether. Theodore Weld, well-known abolitionist, had recommended the idea to her and friend of Henry's whom the couple visited shortly after their marriage in 1840. According to Griffith, it did not become an established practice for another year. *Id.* at xx. By 1 847, when she had not yet spoken out on nay other women's issue, Elizabeth Cady Stanton was defending her right to her own name. (In return, she was addressed less formally. Elizabeth Smith Miller, her best friend and cousin, called her "Johnson" to the other's "Julius" in deference to an old minstrel team. Anthony always addressed her as "Mrs. Stanton," the latter addressing her as "Dear Susan". To others, she was "Libby." To her husband, occasionally, "Lizzy Lee." Only her adversaries purposely called her "Mrs. Henry B. Stanton, a reminder of her traditional domestic status. *Id.* at xix - xx. ", me emphasis on independence and individual rights and the extrapolation from her position to the position of other women would become characteristic of Stanton's developing feminist ideology. As well as defining the 'self sovereign,' she was defining herself as Stanton concluded at the end of her life, "I became a very extraordinary woman, the first of the new women. Id. at xx.

25. *Also see* Timothy Walker, Introduction to American Law, (I 830) stating that the law pertaining to marriage were "a disgrace to any civilized nation" and mentioning the "merging of the women's name with their husband's as "an emblem of the fate of all her legal rights." This was noted already in 1883 by Harry Long, who blamed the custom whereby married women loose their own surname and take on their husband's on Christianity: "Obeying spirit of the teachings, the bride signifies dependence upon her husband by renouncing her maiden name and adopting the name of him who adopted her. This helped consolidate family ties, but resulted in loss of designations peculiar to women." Long, *supra* note 14. Long also demonstrates how substantively, women's last names were as inappropriate as some of their first names, e.g. Robertson or Hardman. id.

26. *See e.g.* introductory parts in Priscilla Ruth MacDougall, *The Right of Women to Name their Children,* 3 Law & Inequality 91 (1985) [hereinafter: *Children's Names*]; Priscilla Ruth MacDougall, *Married Women's Common Law Right To their own Surname,* I Women's Pts. L. Rep.2

the first name eventually was conceded, were subject to change of surname if they acquired a new husband.[27]

In the late 19th Century, as more women began to make names for themselves, the matter became more urgent. There was a sudden proliferation of women with triple names, such as Elizabeth Cady Stanton, Harriet Beecher Stowe,[28] Frances Hodgson Burnett, Charlotte Perkins Gilman (later Stetson).[29] However, the practice was not unusual. Families with a prestigious female ancestry would often give their sons, and later their daughters too, the mother's family name as a middle name after marriage. Early feminists and suffragists now appropriated the custom as part of "the new gospel of individual sovereignty."[30] But there is no doubt that the custom worked best on paper, and if women remarried they still lost their previous identities.

Nonetheless, few women were willing to take a stronger stand against this more entrenched custom and retain their childhood family names. One woman became famous for her nominal rebellion was Lucy Stone. In future generations, women who did likewise called themselves "Lucy Stoners."[31] However, Lucy Stone did not receive that kind of adulation in her own lifetime.

As a child, Lucy Stone witnessed her father's brutalization of her mother. By the time she was twenty, she had resolved to "call no man her

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(1972); Beverly S. Seng, *"Like Father, Like Child" The Rights of parents in their Children's Surnames,* 70 Va. L. Rev. 1303 (1984); Yvonne M. Cherena Pacheco, *Latino Surnames: Formal and Informal Forces in the United States Affecting the Retention and Use of the Maternal Surname,* 18 T. Marshall L. Rev. I (I 992). *Also* note: long after abolitionist Abby Kelley married and added the name Foster to her name, people continued to think of her as Abby Kelley and her followers referred to themselves as Abby Kelleyites. Sterling, *supra* note 18, at *II. 41so see* sources cited in note 175.

27. *See infra* note 5 1. Also note: Blackstone, supra note 4, referred only to legal existence.

28. Harriet Beecher Stowe, author of *Uncle Tom's Cabin,* was named in memory of a sister. She felt like a replacement was named in memory of a sister. She felt like a replacement as a child, her own identity being denied. It depressed her. In time, suffering Harriet wrote about the suffering of blacks. Ralph Slovenko, *The Destiny of a Name,* JOURNAL OF PSYCHIATRY AND LAW, 227 (227), at 232.

29. There was one other woman besides Elizabeth Cady Stanton who continued to think passionately on the subject. In 1892, Charlotte Perkins Stetson published an article called *The Woman of John Smith* - the strongest protest against the custom of women changing their surnames in the 19th Century. In it she argued that when you call a woman Mrs. John Smith, what you are saying is she is John Smith's woman, in the same sense that slaves used to be called "Mr. Carter's Caesar." Those who most commonly change their names are fugitives from justice, men who receive inheritances on that condition, nuns when they give up the world, and "women when they marry." It might seem to be an honor when a man chooses her to be his wife, but "there remains the undeniable ignominy in the enforced loss of name." Despite such an unqualified denunciation of "the disgraceful custom" and although the name Stetson became known all over the world, when Charlotte Perkins Gilman married again on June 11, 1900, she changed not only the name she used in social life but her professional name to Charlotte Perkins Gilman. Stannard, *supra note* 1, at 161.

30. A phrase/term attributed to Elizabeth Cady Stanton, *supra* note 19. Stannard, *supra note* 1, at 83.

31. Under the leadership of Ruth Hate and Janet Grant, the Lucy Stone League and the National Woman's Party litigated the right of married woman to use their own surnames with state and federal agencies. See Ruth Hale, *The First Five Years of the Lucy Stone League, (I* 926); Note, *Names - Married Woman - Right to Retain Maiden Names,* 73 U. Pa. Law Review 110 (1924). The right was codified in the first Code of Federal Regulations in 1938. (22 C.F.R. Law number 51,20 (1938). See *MacDougall, Children's Names, supra* note 23, at 95 n.6.

master."[32] After paying her way through college, she became a lecturer on women's rights in 1847. At the 1850 National Women's Rights Convention, she publicly declared her determination to remain single. Nevertheless, in 1855, at the age of 37, she finally agreed to marry Henry B. Blackwell, brother of the first American woman doctor, abolitionist and feminist. The couple made a public declaration of their renunciation of the laws of marriage. This was not unique; Theodore Weld had made such a declaration on his marriage to Angela Grimke, famous abolitionist and feminist. So did John Stewart Mill and Harriet Taylor in 1851. However, even though these women are known today by their former names, they did not retain their former names at the time.[33] But Lucy Stone publicly retained her maiden name throughout her life, with the full support of her husband.[34]

Surprisingly, almost immediately following Lucy Stone's act of genuine commitment to the feminist ideal, vigorous protest concerning the women's name all but disappeared.[35] Moreover, Lucy Stone's act was to earn her virulent social criticism, from feminists and non-feminists alike,

32. Stannard, *supra note* 1, at 93-5.

33. *Also* note: long after abolitionist Abby Kelley married and added the name Foster to her name, people continued to think of her as Abby Kelley and her followers referred to themselves as Abby Kelleyites. Sterling, *supra note* I 8, at 11.

34. But their marriage was far from ideal, *see* Andrea Moore Kerr, LUCY STONE: SPEAKING OUT FOR EQUALITY, (Rutgers University Press, N.J. 1992). Lucy Stone actually consulted a number of lawyers before acting, among them Salmon Chase, who later became a Supreme Court Judge, who informed her that the rule that a wife take her husband's name was merely a custom. *Cf. supra* note 23. Apparently, having initially taking on Blackwell's name, she changed back to 'Stone' a few months after the marriage. Stannard, *supra note* 1, at 96-7.

35. Sister feminists made their point at the 1856 Woman's Rights Convention. Lucy Stone instructed Susan B. Anthony to sign her as 'Lucy Stone' only as secretary, "for a wife should not take her husband's name any more than he should take hers." Nonetheless, it appears opposition was too great and she was listed as 'Lucy Stone Blackwell'. Lucy Stone apparently felt totally betrayed by her closest friends. She wrote, "it seems to me that it has wrought a wrong in me that will take many years to wear out. I had faith in human beings and in human possibilities. . . . I have lost something which has darkened all my heavens." According to Susan B. Anthony, (she and Stanton were the only women who supported her) many women at the 1856 convention felt Lucy Stone's defiance of custom had "injured the cause," i.e. suffrage, and. an attempt was even made to pass a resolution "against a woman not taking her husband's name." Stannard, id., at 98-1 00. Thus, in the end, the woman's right to her own name never was backed by 19th Century women's rights organizations. The topic rarely would be mentioned at women's rights meetings, except in passing as "but an emblem of the fate of all her legal rights." *Id.*, at 154. In fact, Lucy Stone herself began focusing on suffrage and ceased publicly advocating the matter. Id. at 104. (But note how she was not prepared to compromise her own principles regarding the school committee elections). *See infra* note 38. A notable exception to the usual low-key handling of the subject was the National Woman Suffrage Association of 1880 when a resolution was adopted on an issue even more radical than a woman's right to keep her own name after marriage, namely, the matter of children's names: "Resolved: That since a man has everywhere committed to women the custody and ownership of the child born out of wedlock, and has required it to bear its mother's name, he should recognize woman's right as a mother to the custody of the child born in marriage, and permit it to bear her name." According to Stannard, the iconoclastic resolution was probably proposed because in 1880 the Chairman of the Executive Committee was Matila Gage, who was very interested in "The Matriarchate," the time before Christianity when children were given their mother's name and men sometimes took their wife's name. Gage blamed the teachings of the church for the woman's loss of status and she was then writing her *Woman, Church and State* which would be published in the following year in *The History of Woman Suffrage* and was later expanded in to a book. Gage, a radical, frustrated with the conservative women in the suffrage associations, ultimately broke away and formed her own organization. Stannard, *supra note* 10, at 154-5. *Also see infra* notes 176-8.

throughout her life, and after her death.[36] But Stone refused to relent. In 1879, when Massachusetts finally granted women the right to vote for members of the school committee, and the Board of Registrars refused to allow her to vote under any name other than "Mrs. Blackwell," she preferred to relinquish her right to vote.[37] Thus, Lucy Stone, famous for being the first marn'ed woman to continue using her own name in private life, is less known for being the first woman who as a consequence was deprived of her right to vote. Unfortunately, she was not the last.[38]

There were, however, a handful of other women who refused to be divested of their surnames because of marriage. Most of them are better known for other famous deeds.[39] Medical doctor, Mary E. Walker, married Dr. Albert Miller, in a ceremony conducted by Reverend Samuel May, in which the bride wore trousers as she did till her death in 1919. The bride continued to use her maiden name throughout their marriage and after they were separated in 1859.[40] Elizabeth Ney, well-known sculptor, married in 1863 on the condition the marriage never be made public for she refused to take on her husband's name. Even after the couple's immigra-

36. Sometimes creating bureaucratic difficulties, e.g. when checking into hotels, she generally agreed to make an exception and signed: "Lucy Stone, wife of Henry Blackwell", Stannard, *supra note* 10, at 102. One exception was Elizabeth Cady Stanton who continued to express her feelings on the importance of the name, making no attempt to cater for the feelings of conventional women. In the feminist paper she edited for two and a half years she often included pieces on the matter of the name. One piece she entailed "Lucy Stone," in it she declared, "Let all women do like 'Lucy Stone,' honor her own name, and then keep it... There is no more reason in every wife taking a husband's name than in his taking hers." Despite the fact that Stone and Stanton had quarreled bitterly, *(see infra* notes 177-8), Stanton never ceased to admire her for having had the courage to keep her name. In a letter read at the memorial services for Lucy Stone in February 1894, Stanton singled out that act for special praise: "Lucy Stone did a brave thing in keeping her name, and it is strange that so few women follow her example. It seems so pre-eminently proper that every individual should have a life-long name, especially when one has made her own distinguished." But Stanton was almost unique in paying tribute to Lucy Stone in this way. Generally, response was critical. As Wendell P. Garrison stated in an obituary in the October 26, 1893 *Nation* that there was little justification for her having protested the "convenient practice of adopting the husband's name. . .the individuality of an actress or singer has some merchantable value, but, as Mrs. Blackwell, Lucy Stone would have forfeited nothing of her power as a reformer". (Here, I cannot help but interject how much I disagree, for instance, compare Robin West's discussion of young women who marry successful professors *in, The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Theory,* 3 Wisconsin Women's L.J. 81, 109-110 (1987)). On October 22, 1893, *The New York Times* announced "The Death of Lucy Stone Blackwell." Stannard, *supra note* 1O, at 15 5-6.

37. Not even the "wife of. . ." form was accepted. Lucy Stone, however, made no public response and never fought the ruling. The women's movement also made no protest despite the fact that the Board later converted the decision into a general ruling. Stannard, *supra* note 10, at 108- 10. Perhaps it was a fear of critical public opinion that prevented her from doing so. Perhaps she felt too sure of failure in light of Susan B. Anthony's recent failed challenge regarding women's right to vote and 14th Amendment, and the refusal to admit Myra Bradwell to the Illinois Bar, upheld in the Supreme Court in 1872. It is interesting to note that the almost identical act was being played out in Britain. However, when Florence Fenwick Miller threatened to take the matter to court, crown officials backed down, admitting that the rule was merely a common law custom. Stannard, *supra note* 10, at 131.

38. *E.g.* Rago v. Lipsky, 327 III. App. 63, 63 N.E.2d 642 (1945); State v. Green, 114 Ohio App. 497, 177 N.E.2d 616 (196 1); Stuart v. Board of Supervisors of Elections, 266 Md. 440, 295 A.2d 223 (1972). *Also see* MacDougall, *supra* note 26 and *infra* sources cited in note 205.

39. However, most of them were already famous, an exception which courts eventually agreed to make. There is even a known case where a woman kept her mother's name. Stannard, *supra note* 10, at 132.

40. *Id.* at 132.

tion to the U.S. in 1871, she preferred to endure society's suspicions that couple were living in sin, rather than relinquish her own name.[41] Victoria Woodhull, who managed a successful brokerage firm and newspaper with her sister, married at fifteen but retained the name Woodhull when she remarried in 1872 (the year she ran for President of U.S.).[42] Ida Lewis, famous lighthouse keeper, took her husband's name during her short-lived marriage, but after separation resumed her maiden name despite there having been no formal divorce.[43] Reverend Olympia Brown, Universalist minister, retained her maiden name after her marriage in 1873 and continued to use it all her life despite societal disapproval, even after retirement from ministry.[44] Martha Strickland retained her maiden name on her marriage in 1875 because of her belief in "the individuality of women." Later she became the first woman to appear in Michigan Supreme Court and an active legal feminist reformer.[45] Elizabeth Oakes Smith added Oakes, an old family name, to her husband's name in the late 1830s. Later the couple had the name of their sons legally changed to Oaksmith.[46] In addition, a large number of women changed back to their old names after divorce, separation or widowhood, in many cases even if they had children who went by their former name.[47]

Some women who retained their former names made it clear that they did so on the basis of their strong political beliefs. For example, Lillian Hannan married Edwin Walker in Kansas 1886 in a private ceremony in which the couple declared repudiation of all marital duties including, inter alia, the bride's retention of her maiden name.[48] Lillian's father, Moses Harman, (in)famous for his virulent anti-church and state views on marriage, concluded his daughter's marriage by declaring, "I do not 'give away this bride,' as I wish her to be always the owner of her own person."[49] (The young couple later served jail sentences for violating Kansas Marriage Laws - perhaps the first couple to be imprisoned for violating marriage statutes in America.).[50] Lydia Kingsmill Commander married Herbert Newton Casson in 1899 in an unusual ceremony in which each declared a commitment to preserving their own individuality and Casson repudiated

41. *Id.* at 133-4.

42. *Id.* at 135.

43. *Id.* at 136.

44. Rev. Olympia Brown retained her maiden name after her marriage in 1873 and continued to use it all her life despite societal disapproval, even after retirement from ministry (when she became Mrs. 0. Brown). She writes in her autobiography: "It is undoubtedly true that *woman* was a mere chattel and marriage was a family arrangement based upon financial considerations. In this view of the subject we perceive that the name merely indicated the person to whom she belonged, as in slavery times when the Negro changed his name on gaining a new owner, the purpose being to indicate who was his master and to what family he was attached." Stannard, *Id* at 135.

45. *Id.* at 135-36.

46. *Id.* at 136-37.

47. *Id.* at 147 - 49.

48. *Id.* at 138-140. Another marital duty, which they repudiated, was sexual relations.

49. Stannard, *supra* note IO, at t 3 8-40; Wendy McElroy, *supra* note 3, at 16-2 1.

50. McElroy, *supra* note 3, at 16-21.

his rights over his wife.[51] Casson later said in a statement to the local newspaper:

> The rule that the woman change her name [we regard] as another mark of the servitude of the wife to the husband; the very identity of the woman is lost and the name and title marks her degraded condition matrimonially, in that anyone can tell at once whether or not the woman is married and whose property she is. We agreed that the equality of the sexes demanded that the woman retain her own name as an absolutely indispensable possession. With all this thoroughly understood between us, we agreed to unite our lives.[52]

Another famous activist to take the stand, at least initially, was the well-known suffragist Carrie Chapman Catt.[53] Chapman was the name Carrie had taken from her first husband. But when she married George Catt in 1890, the couple included in a prenuptial contract that Carrie would continue to be known by the name by which she was known as a suffragist leader. She continued using Chapman through 1993, the year of Lucy Stone's death (perhaps in honor of Lucy) but thereafter she made the transition to Catt.[54] In the long run, however, any protest against taking a husband's name was a feeble counter current against a tidal wave of conformity.[55]

II.C. White Women's Titles

> An intrinsic part of Victorian womanhood was marriage. And thus it was only natural that the woman's familial status should receive some exter-

51. Said Casson: "I wish to marry a free-hearted woman, not a slave." Both Commander and Casson went on to become important social reformers, and Commander an ardent female and militant feminist kept her maiden name throughout 16 year of marriage till their divorce. Stannard, *supra note* IO, at 140- 1.

52. 14 May 1899, *St. Louis Dispatch quoted id.*

53. In his note in the January 12th, 1901 *Woman's Journal* Henry Blackwell wrote of three women who initially had decided to retain their own names and had finally given up because of the difficulties: Maria Persons, for some years secretary of the *Women's Journal* who ordained her name in Boston but double barreled it to the more conservative form when they moved to Philadelphia. Catherine Waugh, an Illinois lawyer, who later changed her name to that of her lawyer husband forming McCullogh and McCullogh law firm. The third woman was the well known suffragette Carrie Chapman Catt *(see infra* note 149). Stannard, *supra* note 10, at 145.

54. In a 1905 obituary, George Catt explained that the practical inconveniences arising from their bearing different names proved so great after that short trial they abandoned the arrangement by mutual consent. From then on, the now Carrie Chapman Catt championed one cause: suffrage. Indeed, some years later when a young feminist gave a speech on a woman's right to keep her own name, Mrs. Catt sent one of her deputies to rebuke her, telling her that she had set back the cause of suffrage. And she saw to it that in her official biography by Mary Gray Peck no mention would be made of her retaining her former name during the early years of her marriage to Catt. Stannard, *supra note* IO, at 146-7. *Compare infra* note 177.

55. Nonetheless, by the end of the Civil War, the nominal status of white women appeared to have improved. At the beginning of the 19th Century women, without exception, had been completely in bondage to husbands' names. By the end of the 19th Century theater performers had earned the right to keep a constant stage name despite marriage. Authors had a much harder time. Long after actresses were allowed to retain a constant professional name, writers had to sign their husband's names, no matter how famous they were. Nonetheless, by the late 19th Century, authors too and other professionals were allowed to retain a constant name for professional reasons, while in social life taking on their husbands' names. Even then, many women continued to write under pseudonyms. Thus, apparently, it was acceptable for a woman to have a pretty face or perform as a sex symbol, but for a woman to have a head was unthinkable!!! See *Stannard, supra note* 10, at 39-40. *But see infra* "backlash" notes 204-5.

nal indication in her title. Graduation from the honorific *Miss* to a *Mrs.* would show she had fulfilled her womanly role.[56]

Mistress, from which Mrs. derived, had originally been a title of courtesy and high rank. By the mid-17th Century the title had been abbreviated to Mrs. and was also used by females of the middle-class, and later by all classes, regardless of marital status or age. The title "Miss" began to be used in the 17th century; initially it was merely an insult: a Miss was a woman of loose morals, married or unmarried. By the 1660s, all female children began to be called Miss, which girls relinquished when they had "grown up" (at about 13 years old). Past a certain age, all women were "Mrs.". Starting about the third decade of the 18th century, Miss began to mean a woman, no matter how old, who was unmarried. Finally, Mrs. came to mean "wife of' (it was only then that the 'Mrs. John Doe' style began).

Feminists were aware that there was no parallel development in male sphere of titles. Men were not required to use any particular designation of their marital status.[57] In protest, Lydia Kingsmill Commander, for example, continued to call herself Miss after marriage.[58] But most women, including the handful that retained their maiden names, *did* change their title to Mrs. after marriage. Nonetheless, even this decision was probably not easy because, having not adopted their husbands' surnames, they were still suspected of living in sin.

III. SLAVES:

Although it might appear insignificant in light of the many acute problems that slaves faced, the importance of names was recognized by both slaves and slave owners. Control over the power of naming was an important indicator of the power relationship that existed between owner and slave. Slave owners often used names in an attempt to demoralize and humiliate slaves, or to dehumanize them by preventing them from fortifying family ties. And while they did not succeed in their ultimate aim, it is clear that norms regulating the family arrangements, including naming practices, set slaves apart from their masters.[59]

56. *See generally Stannard,* id., at 6-7.

57. Lucy Stone felt that just as boys advanced from Master to Mr. so should girls advance from Miss to Mrs. after coming of age. But, as Stannard points out, Lucy Stone, who married at age 37, only became a Mrs. thereafter. *See also* Kenneth L. Karst *"A Discrimination So Trivial': A Note On Law And The Symbolism of Women's Dependency "* 35 Ohio State L.J. 546 (1974), (using slavery and the impact of the *Dred Scott* decision, *inter alia,* to back up his argument regarding violation of human dignity).

58. Stannard, *supra note* 10, at 142.

59. Gutman: "Everyday choices made by slave men and women - such as remaining with the same spouse for many years, naming or not naming the father of a child, taking as a wife a woman who had children by unnamed fathers, giving a newborn child the name of a father, an aunt or an uncle, or a grandparent, and dissolving an incompatible marriage - contradicted in behavior, not in rhetoric, the powerful ideology that viewed the slave as a perpetual 'child' or a repressed 'savage made it clear to their children that the slaves were not 'non-men' and 'non-women."' Herbert Gutman *quoted in* Angela Davis, *supra note* 5, at *14-5; Also see* Litwak, BEEN IN THE STORM SO LONG, at 229. *Also see Neussel, supra* note 2, showing how this dynamic has been noted in many analogous situations of oppression.

III.A. SLAVES' FIRST NAMES:

"Slaves being men, are to be identified by their proper names"

Supreme Court of Louisiana, 1827[60]

"My name is John Brown. . . . When in slavery I was called Fed. Why I was so named, I cannot tell. I never knew myself to have any other name, nor always but that; for it is common for slaves to answer to any name as it suits the humor of the master. . . ."[61]

Most slaves had only a given or first name. It is not always clear who named slaves, but at least in a large number of cases, it was slave owners, none of whom cared to know anything about the slaves' former names.[62] To the traders, slaves were a kind of merchandise and, since they did not require names, they were not usually accorded them until they were bought.[63] Once in their new homeland the slaves did not find their owners or overseers very eager to twist their tongues around strange-sounding names.[64] Consequently, most Africans were unable to keep their original names when they were brought to America. Indeed, according to Hook, "[no other group of newcomers to American shores ever so completely lost their native names as did the Africans.]"[65]

Although generally appellations based on the American model were chosen arbitrarily, in some cases the names conferred upon slaves were not totally divorced from their African heritage. Even in the 19th century when the use of African names was receding, they still appeared in Anglicized versions. Names such as Betty and Jude, for example, were Western names that closely resembled African ones. Eugene Genovese regards this

60. *Quoted in* Eugene D. Genovese, ROLL, JORDAN, ROLL, at 444, n.2 (Pantheon Books, New York, 1974).

61. E. Franklin Frazier, "The Negro Slave Family" *Journal of Negro History 15* (1930) 198, p.229, *(Reprinted in* ARTICLES, *supra note* 13, at 42).

62. *See generally Litwak, supra* note 59, at 247-25 1; Genovese, *supra* note 60, at 443-450. A few slave names have been attributed to the combined efforts of both the owner and the slave community. P. Robert Paustian, *The Evolution of personal Naming Practices among American Blacks,* NAMES 177, at 183. "To the plantation owners what their servants called each other was of little consequence. But, slaves who were to be used as domestic servants were immediately named by their owners." *Citing* Smith, TREASURY OF NAMELORE at 145-6 (New York, 1967); N.N. Puckett, *Names of American Negro Slaves, in* STUDIES IN THE SCIENCE OF SOCIETY, at 473-80 ed. G.P. Murdock (New Haven, Yale Univ. Press, 1937). On the larger plantations, for instance in the Deep South, often isolated pockets of slaves would be able to name themselves.

63. J. D. Hook, FAMILY NAMES HOW OUR SURNAMES CAME TO AMERICA, at 287 (MacMillan, New York, 1982).

64. *See, for example, Hook, id.* at 289; Alex Shoumatoff, THE MOUNTAIN OF NAMES: A HISTORY OF THE HUMAN FAMILY, at 221-4 (Kodansha, New York, 1995), (discussing Alex Haley's ROOTS). *Also see Pateman, supra* note 12, at 12 1, (noting that women domestic servants were also given another name by their master when their own name was 'unsuitable'; 'Mary' was very popular).

65. *Hook, supra* note 63, at 287-9. ("Many Americans of Italian, German, Scandinavian, Chinese, or Japanese descent, among others, still reveal their heritage by their names, but very few blacks do. And when an Italian or a German has changed his or her name, the action has ordinarily been voluntary. But the black slave had no option . . . [The] black slaves were usually people who in Africa had been so unfortunate as to be captured by other blacks and sold to white slave traders. They came from many tribes, with many languages, and therefore often could not converse with one another . . . [O]n a single plantation there could be a babble of tongues. Had all black slaves spoken a common language (other then the English they learned little by little), many more African names would have survived."). *Also see Paustian, supra* note 62, at 182.

a dynamic as representing "a compromise of the cultures."[66] But it might also be seen as the slow but persistent process of stripping a people of its culture, a local form of Western imperialism.[67] Whatever the case, most of the names that the whites bestowed on "their blacks" were usually much the same as white given names, but they were often differentiated in their form.[68] As with white women, slave names were often nicknames or diminutives of white names, for example, Will for William and Betty for Elizabeth. (One might wonder if the underlying intention of the white male slaveholding class was to emasculate Black men by conferring upon them names in the "feminine" form?)[69] Although a white youth might be called by a nickname such as Tom, on legal documents and in adulthood, however, white men claimed the distinction granted by the formal version of their names.[70] In some cases, masters took the opportunity to indulge in humorous whims - borrowing heavily from inappropriate classical and biblical sources - mainly at the expense of the slave's dignity.[71]

Notwithstanding the pervasive nominal discrimination, there is evidence that even within the narrow realm of first names, slaves resisted. Wherever they could, particularly on the larger plantations, slave parents named their own children. Deprived of maintaining regular family life, slaves would often use the personal name to reflect kinship or heritage.[72] Enslavement had radically altered their lives and the kinship structures they had known. Nonetheless, they had not surrendered attachments to and identification with immediate and even "distant" kin. Naming practices linked generations of blood kin, children were named for fathers,

66. Genovese, *supra* note 60, at 447. Thus, according to Genovese, often names reflected a certain continuity. According to Genovese, the shift from the more African to the more Anglicized name lies "less in the African ORIGIN or in the 'Americanization' than in the extent to which the slaves were trying to live their own lives in their own way." Genovese, id., at 448-450 and 358.

67. *See* Litwak, *supra note* 5 9, at 248, and Yvonne Cherena Pacheco, *supra* note 2 6; Neussel, *supra* note 2, at 3.

68. *Hook, supra* note 63, at 289-90 (Some of the most popular were John, Henry, George, Sam, Jack, Tom, Charlie, Peter, Joe, Mary, Marcia, Nancy, Lucy, Sarah, Harriet, Hannah, Eliza, Martha, and Jane.).

69. This idea was suggested to me by Professor Crenshaw. We wondered if the proposition might be applied in the opposite way regarding white women, namely, an attempt to enfeeble women by conferring upon them a 'raced' name?

70. Gundersen, *supra* note 13, at 359. *Also see supra* note 17 and accompanying text.

71. Litwak, *supra* note 59, at 248; Genovese, *supra* note 60, at 447. For a time it was fashionable among plantation owners to give their slaves names from classical antiquity, e.g. Caesar, Pompeii. . . *Also see* Hook, *supra* note 63, at 290-9 1 ("Caesar, a name frequently bestowed by slaveholders, survived (and is still found occasionally among both blacks and whites . . .) Biblical designations were just as popular among slaves as they were among slave-owners."); Paustian, *supra* note 62, at 183. According to Eugene Genovese, most slaveholders did not intentionally give their slaves insulting or ridiculous names. Genovese, *supra* note 60, at 447-8. According to Genovese, if so many first names stuck, it was probably in part because of their plausibility or that slave parents had been consulted.

72. Initially, according to Hook, African names were not hereditary. "Thus the son of Kanko would not be Kanko or the equivalent of Kanko-son, but might be called almost anything else." Hook, *supra* note 63, at 288.

However, it appears that this was an adoption of the general American practice, emphasized in my opinion by the fact that they were deprived of normal family life, something they had in Africa and perhaps the name then as a sign of parental heritage was less important.

grandparents, Aunts and Uncles[73] or in the name of some distant African ancestry.[74]

Even when deprived of naming themselves, however, slaves fought back. Among themselves, for instance, slaves rarely if ever used diminutives. A slave Sukey, was in fact Sukey, not Susannah, and a John would not become Johnnie. By avoiding diminutives, it appears that the slaves tried to resist succumbing to the white designations "boy" and "girl," for they did not so refer to themselves.[75] Another form of name resistance may be seen in conferral of "secret real names." When dealing with their owners and overseers, slaves would almost always use their English names. However, appellations conferred on blacks by outsiders were considered simply as temporary nicknames, or even less. Among their peers slaves were known by their more intimate names, real names, perhaps of African origin, which were not given to them by their owners. This practice in itself echoed the custom in which Africans would keep their birth-names secret from all but their most intimate associates, with the idea in mind that, if someone possessed your real name, that person had power over you.[76]

After the War many former slaves felt that since they were changing their condition in life, they should also change their names, not considering themselves completely free until they had done so.[77] As former slaves em-

73. A study of a South Carolina plantation in the first half of the 19th Century revealed that kin ties were not restricted to immediate family. Within particular families, children in significant numbers carried the given names of either a parent, a grandparent or another blood-relative. Frazier, *supra* note 61, at 238-243. According to Gundersen, in this way they were following white naming practices. e.g. sometimes naming after children who had died. *supra* note 13, at 358-9.

74. It was generally among the more isolated pockets of slaves in the larger plantations that African names survived. It was thought that the retention of African names during the 18th and 19th centuries was due to the prestige associated with things African, and, therefore, African names continued wherever the slave owners allowed them. Free blacks, since they chose their own names, had African name more commonly than did slaves. In fact, numerous traces of the attitudes and trends of African personal naming were apparent in America. Paustian, *supra* note 62, at 185.

75. *Id.*

76. *Id.* at 182-5 (Hence, onomastic field workers experienced considerable difficulty eliciting names other than American ones, which, consequently, were among the only names ever recorded, although African names were used among family and friends at home. This inclination to hide the real name from all outsiders, including other Negroes, obscures the early history of black naming in America. *Also see* Karen Stein, *Note "I Didn't Even Know His Name" Names and Naming in Toni Morrison's* NAMES *226 (1980). Also regarding the power of names in African cultures see the opening quote* of Nelson Mandela in his autobiography: "Apart from life, a strong constitution and an abiding connection to the Thembu royal house, the only thing my father bestowed upon me at birth was a name, Rolihlahla. In Xhosa, Rolihlahla literally means 'pulling the branch of a tree', but its colloquial meaning more accurately would be 'troublemaker'. I do not believe that names are destiny or that my father somehow divined my future, but in later years, friends and relatives would ascribe to my birth name the many storms I have both caused and weathered. My more familiar English or Christian name was not given to me until my first day of school. . . LONG WALK TO FREEDOM: THE AUTOBIOGRAPHY OF NELSON MANDELA, (Abacus, 1994, GB). *Compare the words of his ex-wife, Winnie Mandela:* "My father always had the greatest admiration for the German people and their industrial achievements. That's why he insisted on that terrible name 'Winifred,' which became 'Winnie' . . . It is a constant reminder of our oppression! My African name 'Nomzamo' means in Xhosa 'trial' — those that in their life will go through many trials. . ." Winnie Mandela, PART OF MY SOUL WENT WITH HIM, (South Africa).

77. Paustian, *supra* note 62, at 183-4, *citing* Henderson H. Donald, THE NEGRO FREEDMAN, at 149 (Schuma: New York, 1952).

barking upon the arduous task of asserting the boundaries of freedom, they sought recognition of some "difference" between bondage and freedom, no matter how insignificant or restrained it may have appeared to others. Selecting a new name symbolized a new beginning, a repudiation of the bonds of slavery, and confirmation of self-ownership. In addition, the need to take a new name might also have been due to a survival of the African tradition of adopting new names in recognition of important happenings that affect the whole community.[78]

In this way, many slave names fell completely out of favor. This was true even of names like Ginny, Becky, Mima, and Sukey, the phonetic sounds of which imply African derivation, for these names had come to symbolize slavery, and were often employed by whites as a form of mockery.[79] But their repudiation of these Anglicized slave names did not mean a repudiation of their African roots. A great number of new given names were based, whether consciously or not, on naming themes from Africa. Some 3% of Black males in the South retained, or perhaps readopted, African forenames after obtaining their freedom.[80] Even when names had no apparent connection with Africa, freshly emancipated people continued the African tradition of giving imaginative and distinctive given names, a practice that has remained popular among Black Americans down to the present time.[81] For example, just as the Yoruba and other West Africans would derive names from legendary heroes, American blacks who wanted status and a sense of history in their names frequently chose the names of famous and important people, for example, Washington, Napoleon, Jefferson.[82] Even female names were patterned after the names of famous men, such as Willie Jennings Bryant and Georgie Washington.[83] The choice of popular cinema stars as models for names continued this practice much later.[84] Sometimes, "empty" middle initials were used to lend prestige to a name.[85] In addition, forenames were often more formal than the nicknames widely used by owners and overseers.[86]

78. Paustian, *supra* note 62, at 177, 183-5. Names are extremely important to the West African and are given at various stages in life.

79. *See infra* note 203.

80. Hook, *supra* note 63, at 293; According to Paustian, "[m]any black names of possible African extraction have had their etymologies blurred by approximate but incorrect transcripts done by well-meaning clerks and parsons, comparable to the earlier corruption in the spelling of European names. Some American names bear a definite phonetic similarity to African names, [including Islamic names. . . . However], on the whole, especially after World War I as blacks moved more to cities etc, the desire was to be assimilated and only later, corresponding to a growing awareness of the Afro-American cultural heritage, did African names return to fashion, and with Arabic names adopted but ascribed to Islam. Paustian, *supra* note 62, at 185.

81. *See generally* Hook, *supra* note 63, Paustian, *supra* note 62, Neussel, *supra* note 2.

82. Paustian, *supra* note 62, at 184.

83. *Id.*

84. *Id.*

85. *Id.*

86. Paustian, *id.* at 183-4; Hook, *supra* note 63, at 294 (Just as surnames only really became a necessity during World War I, when large numbers of blacks began moving to the northern industrial areas, it was really only then, as blacks became more a part of the mainstream of American society, that black people's first names began to conform to general American naming practices. Many more black names, even in remote sections of the country, were patterned after the names of whites. Familiar given-names like Tom, Sam, and Joe, which had once been used as formal

Finally, it appears that many name changes were motivated by the desire to retain some link with the past. For instance, William Wells Brown described one episode during his years in slavery as "the most cruel (act)" upon him as a slave - the order that to drop his name his mother had given him. His master had wished to placate his nephew also called William, who had recently come to live on the plantation. William received several whippings for telling people his name was William. "Though young," he reported, "I was old enough to place a high appreciation upon my name." From the moment of his escape he assumed his real name in place of the name he had been forced to go by (Sanford), "not because there was anything peculiar in the name; but because it had been forced upon me." Later when free, he took the surname not of his white father but of the Quaker abolitionist who had helped him to escape. But to his benefactor's name Wells Brown, he prefixed William - the name given to him by his mother. "I was not only hunting for my liberty," said William Wells Brown, "but also hunting for my name."[87] In fact, it appears that in most cases in which ex-slaves preferred to retain their given names, the primary motivating factor was the intention of retaining some link with the past.[88] This had been their sole identity during bondage and was often the only remaining link to the parents from whom they had been apart.[89]

III.B. Slaves' Surnames - "Entitles":

> For it is through our names that we first place ourselves in the world. Our names, being the gift of others, must be made our own. . . . They must become our masks and our shields and the containers of all those values and traditions which we learn and/or imagine as being the meaning of our familial past. And when we are reminded so constantly that we bear, as Negroes, names originally possessed by those who owned our enslaved grandparents, we are apt . . . to be more than ordinarily concerned with the veiled and mysterious events, the fusion of blood, the furtive couplings, the business transactions, the violations of faith and loyalty, the assaults; yes, and the unrecognized and unrecognizable loves through which our names were handed down unto us.[90]

Use of a surname was a privilege that was due only to a white master.[91] There was no need to share the honor with a slave, who was de-

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appellations, were replaced by more dignified, full given-names, viz. Thomas, Samuel, and Joseph . . . There was a definite tendency toward disuse of non-English names by American blacks.).

87. Genovese, *supra* note 60, at 445; Litwak, *supra* note 59, at 247. Quote cited by Patricia Williams, The Rooster's Egg, *infra* note 195, at 212.

88. Herbert G. Gutman, *Slave Culture and Slave Family and Kin Network: The Importance of Time,* 2 South Atlantic Urban Studies 73, 82-3 (1978) *(Reprinted in ARTICLES, supra note* IO, at 151 *(Also note* Most slaves in Louisiana were bestowed with either French or Spanish names, which these people tended to retain somewhat conservatively, even in post-bellum America.).

89. Litwak, *supra* note 59, at 249, Genovese, *supra* note 60, at 447-8.

90. Litwak, *supra* note 59, at 247 n. 54 *quoting* Walter Emerson.

91. The surname or 'sirname' was originally the name used by knights, nobility and gentry and not for the peasant in the countryside. Only later its use was expanded to the population at large. *See* William Dodgson Bauman, The Story of Surnames, (I 93 1) (introductory chapter), *Also see generally* Shoumatoff, *supra* note 64, and Genovese, *supra* note 60, at 444-5 (bringing the example of feudal Japan). *But note:* Hook, *supra note* 63, at 286 (In fact, neither in Africa nor in the U.S. until the Civil War did Africans ordinarily have surnames, but some of their one-word African names were shared by several tribes, often with variations in meaning.); Paustian, *supra* note 62, at 180 (A complete given -name and patronymic surname were formed on the European

nied legal recognition as a person in the first place. If the necessity of further identification arose, slaves would be known by the names of their current masters - the most convenient way of identifying the plantation to which they belonged.[92] A slave belonging, for instance, to Mitchell, might be identified as Mitchell's Tom.[93] Occasionally, slaves might be identified according to their parentage. However, almost invariably the owner's or parent's given name was prefixed as a possessive, such as Henry's Tom, as opposed to Tom Henry.[94] Sometimes an epithet such as Big, Little, and Old, was added to the single simple given-name to distinguish one Mary or Tom from another.[95] Masters might permit certain favorites or slaves wielding authority over other slaves to have their own surnames.[96] More often, with or without their master's consent or knowledge, the slaves took surnames "entitles" for themselves.[97] For a slave to be caught using his own name was considered a crime deserving of severe punishment.[98]

After the War, former slaves attained formal surnames for the first time. Although an official surname was a prerequisite for any government services, generally no external incentives were required.[99] For most slaves, taking a surname was a necessary step to demonstrate their newly-won

model. Surnames have been, by and large, a strictly European development, and have passed only recently into the naming practices of other nations. The introduction of surnames seems to be entirely dependent on the complexity, both governmental and commercial, of the society in question.).

92. Genovese, *supra* note 60, at 444-5. These secondary names were conferred for purely practical reasons, i.e. to be better able to differentiate among several people with the same names as well as to ease bookkeeping problems, Hook, *supra* note 63, at 289.

93. Hook, *supra* note 63, at 295.

94. Hook, *supra* note 63, at 289. (An analogous situation had existed in mediaeval Europe when stewards of manor houses assigned names to their lords' vassals in order to improve record maintenance.) Paustian, *supra* note 62, at 182, fn. 17. *But see* Paustian's remark that in a study on the naming practices among rural whites of Virginia, it was found that often a given-name was the only name. Id. at 189, fn 33. Patronymics were used when narrower descriptions became essential: a father's name would be combined with his son's, e.g. Minine's Lillie, the same pattern found in plantation names throughout he Western Hemisphere (Paustian suggests that there might even have been an influence of black naming on white naming more than was previously recognized, particularly in the American South.).

95. Paustian, *supra* note 62, at 182.

96. Litwak, *supra* note 59, at 248.

97. Id. Immediately after they were freed these names came to light. Occasionally, however, these surnames would surface beyond the confines of the slaves quarters, much to the surprise of the white family. The strongest evidence of the appropriation of surnames by the slaves of their pressure to compel slaveholders to grant them the 'privilege' comes from the Mississippi Valley and South Carolina and Georgia coast - the regions with the biggest plantations and the greatest degree of stability. In other places too, according to Genovese there was a growth in the use of surnames that may have paralleled the growth in community stability. Genovese, *supra* note 60, at 445-6 *quoting* Duncan Clinch Heyward that slaves along Rice Coast all used surnames among themselves, scarcely chose the name of his owner but often the name of another slaveholding family he knew.

98. Litwak, *supra* note 59, at 248; Genovese, *supra* note 60, at 446.

99. Whether to enlist in the Union Army, live in contraband camps, apply for relief at the Freedman's Bureau office, or, later vote in an election, taking a surname became an act of personal liberation for slaves. Litwak, *supra* note 59, at 248. In fact, in the strange newly-acquired status, some freed slaves considered the possibility that a new name might be a useful device to retain their freedom and avoid re-enslavement. Alice Williams recalled, " When us black folks got set free, us'n change our names, so even the white folks get together and change their minds and don't let us be free any more, then they have a hard time finding us." *Id.,* at 249 fn 58.

freedom.[100] For former slaves, taking a surname was considered a vital step toward achieving the self-respect, the personal dignity, and the independence which slavery had compromised. Some manumitted slaves openly began using surnames they had assumed as slaves. Most adopted surnames for the first time or slightly altered their names to symbolize their right to do so. Following the Emancipation Proclamation (1863) some four million ex-slaves adopted surnames.[101]

A glance at the various ways in which manumitted slaves sought to reflect their newly-gained status in their names immediately after the War, sheds some light on the nature of their earlier deprivation.[102] In adopting surnames as manifestations of their new freedom, the ex-slaves defied any easy categorization. Most slaves, however, did repudiate any connection to their masters "de rebel masters title." As one young man explained: "Him's nothing to me now. I don't belong to he no longer, an' I don't see no use in being called for him."[103] In fact, generally freed slaves preferred almost any other name to that of the former owner. Some, as with their new forenames, took names that would symbolize their new status or attitude: Freedman, Freedland, Justice, Lincoln, Grant.[104] Others, like earlier Europeans, took the name of a skill of which they were proud, e.g. Taylor, Mason, Carpenter, Wheeler.[105] Still others sought the name of a big and respected planter in the hope of enlisting sympathy in times of trouble, or to fool rougher elements among the whites into thinking they had a protector.[106] (As for the patriarchal ego and self image of the planter class, one might have assumed that they would be flattered in those cases where their

100. Despite the immediate gratification experienced by the slaves with the victory of the War, the death of slavery for the individual slave proved to be an agonizingly slow process. Even from a purely objective point of view this was understandable. Many slaves assumed they were free when the Yankees entered their vicinity and to a large degree they were right. Once the troops moved on, despite assurances of Union officers that status and conditions of labor of the slaves tended in many regions to revert to what they had been before the war. At this time, the public use of a surname by a slave became particularly precarious. The racial tensions, which had grown during the short lived Yankee invasion, persisted long after the troops had moved on. Slave holders and local whites vigilantly scrutinized the remaining blacks for any actions, words or changes in their behavior that suggested Yankee influence. Sometimes with tragic consequences for those who insisted on asserting their freedom. Litwak, id. at 175-6 *and 247-8; also Genovese, supra* note 60, at 445. *For a parallel development in* L.R.N. Ashley and M. J.F. Hanifin, *Ancient Roman times, see Onomasticon of Roman Anthroponyms: Explication and Application,* NAMES 297.

101. Hook, *supra* note 63, at 295 (Surnames only really became a necessity during World War 1, when large numbers of blacks began moving to the northern industrial areas.).

102. *See generally* Litwak, *supra* note 59, at 249-250; Genovese, *supra* note 60, at 444-450; *also see* Gundersen, *supra note* 13, at 358-9.

103. Litwak, *supra* note 59, at 250; Hook, *supra* note 63, at 295 (The practice of taking 01' Massa's name as one's own did exist, but perhaps not to the extant that is generally believed. since masters were by no means universally loved.).

104. Genovese, *supra* note 60, at 447. *See supra* note 78-81 and accompanying text.

105. *Id.*

106. Litwak, *supra* note 59, at 250 ("a heap of people say they was going to name their selves over. They named their selves big names . . . Abraham an'. . .Lincun. . .any big name "Ceptin" their masters name. It was the fashion," said Lee Guiden.); Genovese, *supra* note 60, at 447, (Tom Roseboro, an ex-slave, took the name because it had been his fathers', it was prettier than his own name, and because the Roseboros were "big buckra in dat time.").

surnames were assumed. However, the notion left some whites in dismay, their family pride insulted.)[107]

Understandably, in choosing their new names, numerous freed people tended to make the choice out of a search for historical identity - a few continued the tradition of honoring African ancestral roots[108] - and familial continuity. Deprivation of surnames meant that slaves were dispossessed of the accepted way of recognizing and reflecting family ties and ancestral ties generally. This was particularly egregious in circumstances in which children periodically were ripped from their mothers and often never even knew the identity of their fathers.[109] Ironically, for many former slaves, it was a former master's name that represented the only remnant of family connections.[110] The idea behind taking such a name was not to honor the previous master, but rather to sustain some identification with his family of origin "the one his daddy and mammy (or grandparents) had" - though they were never reunited after their forced separation.[111] Many ex- slaves went to great lengths to find out the names of white who had owned their grandparents or parents. Thus, freedom often took the name of an earlier owner, perhaps the first owner he could remember, even a name that had a cruel white as its origin, if it was best way to recapture their history.[112] Ultimately, then, no matter how harsh a bondage they had endured, few freed slaves revealed any desire to obliterate their entire past or family heritage, and those whose given names or surnames reflected kinship ties, tended to guard them with passion.

In the final analysis, however, notwithstanding their creativity in choosing surnames, most freed Blacks tended to be very conservative and to adopt a name a name held by many whites. It was customary for Americans to bear such unremarkable names as Jones, Smith or Harris, so the freed Blacks, wanting to conform and to be assimilated to the greatest degree possible, frequently chose the names most conventional in what to them was their new home.[113] And many of the freed slaves followed suit. It

107. Litwak, *supra* note 59, at 251 (Wrote one former slavemistress: "I used to be proud of my name. I have ceased to be so. I fear it will no longer [be] spotless, as the two meanest Negroes on the place have appropriated it.").

108. E.g. Texas slave Martin Jackson who decided to take the name Jackson because "one of my grandfathers in Africa was called Jeaceo, and so I decided to be Jackson". Id. at 250.

109. Frazier, *supra* note 6 1, at 228; and *see* register example in Ann Patton Malone, *Searching for the Family and Household Structure of Rural Louisiana Slaves, 1810-1864,* 28 Louisiana History 357, 358 *(1987)[reprinted in* ARTICLES, *supra* note 13, at 311*]* (Slaves identified with members of family, generally as child of the mother.).

110. Not all chose names for family connections (in the first place, it was not always possible - Genovese, *supra* note 60, at 447.) Lee Guiden, s father did so because "fine folks raise us an he goiner hold to our own names" Litwak, *supra* note 59, at 250.n.59.

111. Litwak, *supra* note 59, at 250- 1, (it appears that in most cases current slaveowners' names were not taken on (rather former owners) perhaps in order to more clearly throw off the badge of servitude); Paustian, *supra note* 62, at 183.

112. Genovese, *supra* note 60, at 446 (Susan Hamilton's father took his master's name although he had considered him 'very mean.' The important thing was to establish a real history, preferably well back in time but in any event in a family experience.).

113. Hook, *supra* note 63, at 294; Paustian, *supra* note 62, at 183-4 (Most new Negro surnames were grounded in general American naming models imported from England. Those blacks, who had been living for some time as free men in the northern parts of North America, had adopted general American surnames copied from the people around them. . . . Surnames only really became a necessity during World War 1, when large numbers of blacks began moving to the north-

would appear, then, that what was most important for the freed slaves in adopting a surname for the first time lay not in the content of the name but rather in the novelty of the possession of a family name, presupposed for every other American citizen.

III.C. Slaves' Titles

The systematic designation of slave men as "boys" and women as "girls" by the master was a primary way to connote lack of respect. Slaves were known only by their first names; the names of masters and mistresses were always preceded by a *Miss or Mrs. (Missus) or Master.* While often the first name followed, it was always coupled with the honorific, irrespective of age. Thus, whereas a young white girl would be "Miss," the family's slave, many years her senior, remained "the girl." Slaves were profoundly aware of these subtle conferrals of respect. For example, when slaves wanted to put a mistress in perspective, they called her by her first name behind her back.[114] In addition, among the slaves themselves, due respect for age and status was reflected in titles such as "Aunt" or "Uncle" or "granny."[115] Thus, both before and following the War, slaves were appreciative of the need for some recognition of human dignity, some appellation of respect.[116]

IV. Interim Analysis:

For a period spanning a few decades in the mid-19th Century, personal names were high on the agenda of the two most active liberation movements of the time: the abolitionist movement and the women's movement. To both groups, the name was far from trivial. To slaves, attaining the ability to name themselves would represent the possession of self-respect, personal dignity, independence and most of all self-ownership. White women found slavery to be a suitably shocking analogy for their name-loss upon marriage and their subjection to the increasingly rigid constraints of Victorian womanhood generally. However, while both groups were subject to the power of white males, as reflected in their names, the particular manifestation of their namelessness was in some ways, as we have seen, diametrically opposite. So too, while both groups sought liberation through names, the specific form that the envisioned liberation took on was by no means the same, especially with regard to the aspects of naming which were more intrinsically related to caste and status, namely, the honorific and surname.[117] While white women sought freedom from the substan-

ern industrial areas. More and more, Negro names began to conform to general American naming practices, as blacks became more a part of the mainstream of American society.)

114. Genovese, *supra* note 60, at 445.

115. The titles amongst the slaves also reflect the bonds that existed among slaves, particularly among the women. Deborah White, *Arn't I a Woman, supra note* 5, at 130-132; Frazier, *supra* note 6 1, at 213-4, quoting from Fredrick Douglass. *Also see infra* notes 141.

116. *Also see Karst, supra* note 57 (regarding the 'Miss/Mrs.' title and the right to human dignity).

117. Oppression through first names was, as we have seen, experienced by both groups. However, this was a more subtle form of discrimination, and was never really formally regulated by the state, (at least in the US). Ultimately, it was in primarily in the realm of first names that Black Nationalism was to find expression. See infra note 205.

tively sexist double standards which required of them to emphasize their marital status through the honorific *Miss or Mrs.,* slaves sought to be afforded, in the first place, an appellation of due respect. While white women sought to prevent the overshadowing of their maiden surnames on marriage, slaves sought to attain, in the first place, the right to an official surname. Thus, sexism and slavery, despite some corresponding characteristics, were not identical forms of oppression. And in light of their differences, the question arises: what was the experience of those who were both slaves and women? What form would their naming experience take? And what name would embody their dream of liberation?

On the one hand, the information regarding slaves as a whole provides only a partial picture. While most historians describing the period tend to rely on the gender-neutral "slave," the term invariably connotes "male" thus obscuring the particular experience of slave women.[118]

On the other hand, combining this material with an examination of sexism at this time would be in vain, for any analysis of sexism must take note of important differences between the contexts in which Black women and white women were experiencing it.[119] In other words, the construction of "slaves" and "women" as mutually exclusive categories of experience and analysis, without accurately reflecting the interaction of the two, makes it impossible to conceptualize the complexity of an individual (slavewoman) who experienced slavery (or racism) and sexism simultaneously.[120]

In the following part, I will attempt to derive a picture from the dearth of material that exists regarding the particular naming experience of Black women, both during and immediately following slavery.[121] The examination of the particular experience of slavewomen will reveal how they, by virtue of the discrimination directed against them as Black women, would relate to nominal sexist oppression in ways different from their white sisters. Thereafter, I will apply an "intersectional"[122] analysis to explain how these opposing views of sexism and liberty came to be. Ultimately, we shall

118. "Consequently, questions regarding the particular experiences of Black women have largely gone unanswered — and unasked . . . Even within the context of current feminist scholarship, slave women as a group remain for the most part neglected, perhaps because they existed outside the mainstream of the industrial revolution and (together with their menfolk) had few opportunities to put into practice their own ideas about appropriate work for women and men." - Jacqueline Jones, writing about the American rural South between 1830 and 1860 in *"My Mother Was Much of a Woman': Black Women, Work, and the Family Under Slavery,"* 8 Feminist Studies 235-69,236 *(1982)[Reprinted in ARTICLES, supra* note 13, at 195]. *See generally* Howard McGary and Bill E. Lawson, BETWEEN SLAVERY AND FREEDOM: PHILOSOPHY AND AMERICAN SLAVERY, (Indiana University Press, 1992) ("Slavery is terrible for men; but it is far more terrible for women."), at 7; Angela Davis, *supra note* 5; Bell Hooks, *infra* note 123; White, *supra note* 5; Gundersen, *supra* note 13, ("to ignore that difference world be to misunderstand the nature of slavery"), at 352.

119. *E.*g., when different forms of oppression, in our case racism and sexism, intersect, their combined effect cannot be accurately described as the sum of sexism and racism - a simply additive analysis. *See infra note* 5 *and supra* notes 169-7 land accompanying text.

120. *See supra* note 4 *and infra* notes 167-9 and accompanying text.

121. *Hook, supra* note 63, at 290 ("Common black female slave names from the same period also show scanty survival.")

122. *See infra note 5 and supra* notes 167-9 and accompanying text.

see that despite their claims to do so, neither feminist nor anti-racist discourses truly considered the needs of Black women.

V. SLAVEWOMEN'S NAMES AND THE SLAVEWOMAN'S VISION OF LIBERATION:

> "Who thinks any worse of a Negro or mulatto woman for being a thing we can't name?"
>
> bell hooks[123]

As mentioned earlier, it is not always clear who named slaves. However, it is known that while to the plantation owners what their slaves called each other was of little consequence, slaves who were to be used as domestic servants were immediately named by their owners.[124] It follows that slavewomen were those more often named by masters and mistresses. Notwithstanding this information, while control over the power of naming was an important indicator of the power relationship that existed between owner and slave, even if they were named by their own kin this did not guarantee freedom from discrimination because none of the parties involved were functioning in a gender-free zone. Black and white women were subject to many of the same gender and cultural restraints in naming.[125]

V.A SLAVEWOMEN'S FIRST NAMES

> "We hardly know our names. We was cussed for so many bitches and sons of bitches and bloody bitches. We never heard our names scarcely at all."
>
> Sallie Crane, a former Arkansas slave[126]

As mentioned previously, slaves had only a first name. These names were often in the diminutive, as opposed to those of white adult males. However, here, as among whites, disrespectful, diminutive names were chosen more often for Black women than for their male counterparts.[127] Similarly, as with white women, Black women too had a naming experience that offered them fewer choices, accorded them less individuality, and reinforced dependent status. Like white women, black women drew their names from a much smaller pool than did the men.[128] Men tended to bear more individualistic names, including names with more recognizable African roots such as Ebo, Manoc, and Morocco. Female names, even if they had African roots, were more Anglicized, tending to mask their African

123. bell hooks, AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM, (South End Press, Boston 1981) hereinafter, AIN'T I A WOMAN, at 54.

124. Paustian, *supra* note 62, *citing Smith, supra* note 62, at 145-6 and Newbell N. Pucket, *Names of American Negro slaves, in* STUDIES IN THE SCIENCE OF SOCIETY, at 473-80, ed. George P. Murdock, (New Haven, Yale Univ. Press, 1937).

125. Gundersen, *supra* note 13, at 358 (writing about the community in a colonial West Virginia Parish during the 18th Century), *also see id.* at n. 22 *citing* Herbert G. Gutman, *The Black Family,* 187, (finding that women's naming patterns were different from men's).

126. Litwak, *supra* note 59, at 247.

127. Gundersen, *supra* note 13, at 358-9 *also see supra* notes 16, 70 and accompanying text.

128. *Id.* ("While both black and white women drew their names from a much smaller pool than did men, the pool of black names had a diversity to begin with only eventually matched by white families who added new names through intermarriage").

roots. According to one historian: "It is possible that the lack of recognizable African roots reflected the insistence by owners that black women fit the cultural norms for women while accepting the idea that black men might be 'outlandish'."[129] Names reminiscent of wild and savage lifestyles were apparently more congruous with the image of the Black man as sexually virulent.[130] Perhaps it was simply too frightening for white slaveholders to bring "Africans" into the intimacy of their homes or to nurse their children.[131]

On the other hand, it is clear that Black women understood the power of naming, even if they did not entirely wield it.[132] As daughters and mothers, they knew the importance of reflecting kinship through names. However, as among whites, it appears that children were more often named after their fathers or some other male relative.[133] But in a world where families periodically were split apart, even this was not always possible. A fellow student recalls that in his local Brooklyn neighborhood there resided a good number of women who were named "Iona." His grandfather explained the phenomenon: during the period of slavery, children would be torn, literally from their mothers and sold to another state or town. Slave overseers and masters generally would place the children in

129. *Id. Compare Paustian, supra* note 62 *regarding naming practices after slavery particularly in old South'* (There appear to be more women's names than men's in categories of desired and religious characteristics, at 186). The more religious of the romantic and unusual given-names, common among Africans and also black Americans, were feminine ones, *id.* at 187-8. Some American names were patently reminiscent of West African totems or clan names, despite their being thought of as nicknames, e.g. Frog, Bear, Catfish, . . .all of which are masculine names. One of the only feminine appellations even remotely resembling a totem was Bee Attress, a clear folk-etymology derived from Beatrice. Indeed, though clan names appear to be almost exclusively masculine, women did have names relating to fauna and flora, *id.* at 187. Some American Negro names appear to have been taken from labels or packages, as Yoruba and Ibo nicknames were sometimes derived from inanimate and familiar objects. Most representatives of this type of appellation are feminine, some apparently being taken from objects around the kitchen or house, e.g. Oleomargarine, Sylvana, Mazola, Listerine, Florida Orange, Kotex, and Superior Calculator. Product or brand names are very commonly found; at 188.

130. An idea mentioned to me by Professor Crenshaw when I discussed this paper with her.

131. As mentioned earlier, it was primarily those slaves who worked in the domestic sphere, who were named by their owners. *See supra* note 62 and *infra* note 199.

132. For a modern version, *see* Regina Austin, *Sapphire Bound,* Wisconsin Law Rev. 539, 578 (1989); *Also see* Frederick M. Burelbach, *Naming and a Black Woman's Aesthetic,* 41 NAMES 248 (1993) ("Naming, as is well known, *is power, and so it would seem particularly interesting to observe the names that black women writers,* doubly unempowered in a white, patriarchal society, give to their fictional characters. It might be expected that such writers would choose character names that reflect a desire for or seizure of power, names that would resonate African and/or matrilinear ancestry or that would incorporate paranomastic or etymological sigilia of power, such as the wish-fulfillment name Bigger Thomas in Richard Wright's *A Native Son.* Alternatively, one might expect the silent protest of namelessness such as Ralph Ellison's narrator-protagonist in *Invisible Man,* who, not revealing his given name, tells us to call him Jack-the-Bear (9 cf. James Baldwin's *Nobody Knows My Name).* In novels and stories by Toni Morrison, *(See also Note: "I Didn't Even Know His Name ": Names and Naming in* Toni Morrison's SULA IN 28 NAMES 226 (1980).)Toni Cade Bambara, and Gloria Naylor, the expectation of finding 'meaningful' names is fulfilled, but in the cases of Zora Neale Hurston and Alice Walker, character names are as ordinary, realistic and 'opaque' as the names of real people." The writer explains this as part of an effort, consciously or unconsciously, to shield their characters from the invasion and colonization in the form of interpretation.

133. Herbert G. Gutman, *supra* note 87, at 84 (stating that slave sons tended to carry their fathers' names); *Also* Jacqueline Jones, *supra* note 118, at 252-3 ([T]he most common naming practice was to name a boy after a male relative").

the hands of another adult, usually another slave, to preserve this commodity. But the mothers, in defiance of these slave laws that attempted to deconstruct the families, would place a name on the child saying, "I own her." Thus, many of these women named "Iona," at this time had, in fact, been raised in kinship homes throughout the south by other families, and they were given this "code name" Iona ("I own her") in an attempt to, in some way, reflect their original kinship.[134]

V.B SLAVEWOMEN'S FAMILY NAMES

"When you call me Mama
Do you see my Woman?"

Carol Stewart (Britain)

What about the slavewoman's "family name"? We have seen that slave status meant deprivation of a family name or surname. However, despite these barriers set up to the creation of family units, and despite early historical intimations of a society rife with promiscuity and social disorder, it is today considered beyond question that the vast majority of slaves maintained nuclear families among themselves wherever possible.[135] By what name were these family units and their individual members were referred? We have already seen that for both men and women slaves, the "family name" was always in the possessive ensuring that the slave being named remained a thing to be owned. However, we might inquire into the exact form of this possessive. Would, for example, a Black woman be referred to by her husband's name, that is, "Scipio's Jane" or "John's Sue," a practice of which bell hooks mentions as evidence of slavewomen's inferior status?[136] Or would the opposite be the case, as Kenneth Stampp claims in support of the existence of a matriarchal society?[137] Historical research gives no definitive answer as to which form was predominant. However, one salient characteristic of slave society might enlighten us in this matter. Whereas in white master-class culture both name and status were carried via the paternal line, slave status passed through the maternal line. (How else could one facilitate the replenishment of the slave population and assure unlimited sexual access to slavewomen's bodies?[138]) For this reason,

134. Roger L. Green, *Legal and Community Services Advocates Working Together To Preserve Families, Columbia University School of Law, December 1-2, 1994,* 3 J.L. & Policy 487, (1995), 488-9. *Also* see *Daughters of the Dust. Also see* Dorothy Roberts, *The Genetic Tie,* 62 U. Chi. L. Rev. 209 (1995) (arguing that the value of the 'genetic tie' is determined, not by biology, but rather it systematically varies in a way that promotes racial and patriarchal norms).

135. *See infra* note 154 and accompanying text.

136. bell hooks, AIN'T I A WOMAN, *supra* note 123, at 43-5, (arguing this appellation is an indication that whites accorded the black male slave a higher status than the female slave). *Also see infra* note 199.

137. Kenneth Stampp, *The Peculiar Institution: Slavery in the Antebellum South* (1956), cited in Angela Davis, *supra note* 5, at 16, ("The husband was at most his wife's assistant, her companion and her sex partner. He was often thought of as her possession (Mary's Tom), as was the cabin in which they lived.").

138. Angela Davis, *supra note* 5, at 12. ("Many have emphasized the matriarchal structure of the Black family: birth records often list mother only, the adoption of the principle partus sequitur ventrum - the child's condition follows the mother, etc. Moynihan et al thus assumed this resulted in the matriarchal arrangement and the resultant destruction of the Black family, a thesis already proposed by Frazier in the 1930s.); *Also see supra* note 154.

whatever the accepted practice of referral among "spouses," it appears that *children were generally referred to by their mother's names.*[139] Indeed, both during slavery and for a while after the War, names were transmitted recurrently through the female line and maternal descriptions were commonly employed in forming surnames.[140] However, it is worth noting that although this practice enhanced the position of the mother, this was not to be confused with motherhood as whites knew it. Indeed, a Black woman in New Orleans remembered being chided after saying to her mistress, "My mother sent me." She explained, "we weren't allowed to call our mammies 'mother.' It made it come too near the way of the white folks."[141]

V.C. Slavewomen's Vision of Liberation

> "The 'bonds of womanhood' surrounded her life as much as the bonds of slavery, beginning with the very choice of a name."[142]

What then did slavewomen want of freedom? The examination of the naming patterns of Black slaves reveals a subtle power in which gender played as important a role as did race. It follows that like their experience of oppression, so too Black women's expectations of liberation and actual choices in the postwar period would take shape within two overlapping caste systems — one based on race (and class), the other on gender. While I claim not to describe the wishes of every manumitted Black woman, historical evidence exists to back up the following hypothesis.

First, it appears that the basic relation of recently manumitted slavewomen to names was much the same as with male slaves. That is, a new name, particularly a surname, was seen as a symbol and manifestation of freedom. Consider the following anecdote regarding one former Alabama slave's first use of a surname, which a Yankee soldier had persuaded her to assume.

> When the soldier had asked her name she had replied, 'Jest Liza, I ain't got no other names.' After ascertaining that her master's name was John Mixon, the Yankee told her, 'Next time anybody call you nigger you tell 'em dat you is a Negro and your name is Miss Liza Mixon.' Several days later, after the Yankees had withdrawn from the area, Liza was approached by her master while tending livestock: 'What you doin', nigger?' Replied Liza, 'I ain't no nigger, I'se a Negro and I'm Miss Liza Mixon.' Sensitive to any signs of Post-Yankee insolence, the master chased her with a whip, and Liza ran for cover. On reaching her grandmother, the master explained what had happened, and in return, 'Grandma Gracie took my dress and lift it over my head and pins my hands inside, and Lawsie, how she whipped me and dassat holler loud either.' The ex-slavegirl suggested that she had derived considerable self-pride from this

139. Ann Patton Malone, *supra* note 109, at 358 n.2 (Although father-headed households also were found.).

140. Paustian, *supra* note 62, at 189-190 (For instance, Walton son of Lindsey became Lindsey Walton. Moreover, in this way, seemingly feminine names often belonged to men, while Negro women occasionally had masculine names, being named after their father or a male ancestor or carried the feminized version of the names of famous men, e.g. Richardine.).

141. Litwak, *supra* note 59, at 238. *Compare supra note* I *1* 5 discussion regarding slaves' appellations of respect toward each other.

142. Gundersen, *supra* note 13, at 372.

initial assertion of freedom. 'I jest said dat to the wrong person,' she concluded.[143]

However, it is telling to note that recalling the incident years later, the ex-slavegirl called herself "Eliza Evans," that is, she bore a name different from the one she had initially adopted.

Most likely, the name Evans is that of her father or husband. Whatever the case, it is clear that after the War, thousands of "married" couples hastened to secure their marital *vows.*[144] *And* in terms of their names, it appears that the predominant wish was for a "family name" just like the rest of society:

> Eliza Francis Andrew, the daughter of a prominent Georgian, expressed some amusement over the names taken by the family's former slaves. On her wedding day, the family servant, Charity, announced that her husband, Hamp, a field hand, would now be known as Mr. Sam Ampey Tatom,[145] and that from now on she too had two names, like her 'white folks' from now on she would be addressed as 'Mrs. Tatom.' In spite of their comic side, Eliza Andrews was saddened at the thought that 'there will soon be no more old mammies and daddies, no more old uncles and aunties. Instead of 'maum Judy' and 'uncle Jacob,' we shall have our own 'Mrs. Ampey Tatoms,' and our 'Mr. Lewis Williamses. . . .' But even she understood, there was more to it; 'I suppose they wish to throw off the bag of servitude. Then, too, they have their notions of family pride.[146]

VI. ANALYSIS:

What made Charity so proud to become Mrs. Tatum? Why would slavewomen, on being given the opportunity to escape the bonds of slavery, volunteer to adopt a naming custom that would seem to represent women's subordination to men? How are we to understand this apparently voluntary submission to the rigid rules of patriarchy; rules from which white feminist contemporaries were attempting so vehemently (initially, at least) to extricate themselves? The answer we cannot know for sure, but we can attempt to construct it. In the remainder of this paper, I will propose two dynamics that were likely to have been playing out in the lives of Black women owing to their unique position at the intersection of (at least) two forms of oppression: slavery and sexism. Both of these have been named in

143. Litwak, *supra* note 59, at 176 n. 20. *Also see* Toni Morrison's SONG OF SOLOMON where a character named Macon Dead is named by a drunken Union Army officer who asked a newly freed slave whether his parents were alive, and then wrote DEAD in the space for surnames, and MACON, his birthplace, in the space for first names. 'White people name Negroes like race horses," says Macon Dead's grandson. *From* R. L. Zweigenhaft, *Unusual First Names* 31 NAMES 258, 268-9 (1983).

144. Litwak, *supra.* note 59, at 229-230, 240. *See infra* note 135 and accompanying text, (with the encouragement of black preachers and northern white missionaries, and freedom bureau officers.).

145. Litwak, *id.* at 251, (While struggling to restrain her laughter, Eliza Andrews asked her how they had come by the name of Tatom. Replied Charity: "his grandfather used to belong to Mr. Tatom, so he took his name for his entitles.").

146. *Id.* (But note how Eliza Andrews continues, "All these changes are very sad to me, in spite of their comic side. There will be no more old mammies and daddies, no more old uncles and aunties. Instead of 'maum Judy' and 'uncle Jacob,' we shall have our 'Mrs. Ampey Tatoms,' and our 'Mr. Lewis Williamses.' The sweet ties that bound our old family servants to us will be broken and replaced with envy and ill-will."). *Id.*

the works of well-known modern-day Black feminist scholars.[147] Both of these find credence in existing shreds of historical evidence from the era.

According to the first, Black women willfully imposed on themselves the constraints of Victorian society in an attempt to regain that sense of womanhood that had been stripped of them during slavery. By the second proposal, Black women did not take on the norms of white Western patriarchy by choice, but rather, by virtue of their unique location at the intersection of multiple forms of oppressions. They had no choice. Black women's subordinate position within each of the groups of which they were part - women and slaves left them little opportunity to define the contours of their lives and create an identity of their own. Once again, although I draw on history for my information, my aim is not to present a composite picture of slavewomen's lives, but rather to emphasize the existence of dynamics such as these whenever various axes of power intersect. I begin with the first proposition.

VI.A. Black Women as Women

> "Ah was born back due in slavery, so it wasn't for me to fulfill my dreams of whut a woman oughta be and to do."
>
> Zora Neale Hurston[148]

As we have seen above, for all the differences between slavewomen and other American women, their lives were paradoxically similar in one regard, relative to white men, all women were powerless and exploited. Slavery did not grant its female victims immunity to the gender norms ruling the larger society. It follows then, that white women were constrained by the stringent demands of Victorian culture did not mean that black women were oblivious of these requirements. On the contrary, slavewomen were acutely aware of the definition of "true womanhood." They were also aware that its contours were fashioned in ways diametrically opposed to their own lives.

Where white women were loyal wives, slavewomen could be mated or separated from their partners according to the whim of their present master.[149] Where white women were glorified as *mothers,* Black women

147. Living as we did — on the edge — we developed a particular way of seeing reality. We looked from the outside in and from the inside out. We focused our attention on the center as well as on the margin. We had understood both." bell hooks, Feminist Theory: From Margin to Center, at ix (South End Press, Boston, 1984) *hereinafter*, Margin to Center. *Also see infra* notes 167-9 and accompanying text.

148. Zora Neale Hurston, Their Eyes Were Watching God, (1938).

149. In strictly legal terms, there were no valid marriages amongst the slaves in the slave states of America before their general emancipation near the close of the civil war, (nor after did any of the states take cognizance of marriage amongst slaves, until provision was made by statute). Nonetheless, some kind of 'marriage' did exist even among slaves. It is now believed (despite earlier efforts to prove the contrary) that the standard two-parent, nuclear family, was the typical form of slave cohabitation (regardless of the location, size, or economy of a plantation). *See generally Litwak, supra* note 59, at 239-243; Genovese, *supra* note 60, at 450-5; *Women and the Family in Slave Society, [in* Articles *supra* note 13, *note especially pieces by* Gutman, at *151 and* Frazier, at 42. Usually, it appears, slaves secured permission to marry. (DuBois regarded the absence of legal marriage and legal family "as purely a matter of individual judgment or caprice on the part of the master," Frazier, *supra* note 6 1, at 19 8). Masters' regard for family integrity apparently varied according to the area and era. For instance, there was greater regard for family integrity of the slave family in Maryland, Virginia and North Carolina, where slavery was disinte-

were classified as *breeders* and their infant children could be sold away from them like calves from cows.[150] (Black women could only be *mammies* to white women's children.[151]) Where white women were portrayed as morally pure and asexual, Black women were trapped in images of the lascivious Jezebel, the counter-image of the mid-19th Century ideal of the Victorian lady.[152] Moreover, these images were constructed in order to facilitate actual sexual abuse and periodic rape by the slave master.[153] Where

grating, then, for example, on the larger plantations in the lower South. While some slave holders recognized and encouraged family ties as a stabilizing influence, many considered them emotionally incapable of sustaining the necessary affection, or resented any attempts to copy the social norms of their superiors. See *Litwak,* id. at 238. The white owner often gave his sanction to marriages among the slaves, but he determined the duration of such marriages, and their forcible breakup occurred of regularly. ("One night a couple married an' de next day momin' de boss sell de wife"), *See e.g.* Litwak, id. at 240, *and* Frazier, id., at 221, 224-234, (it was primarily a matter of economic expedience, i.e. division of property as a result of changes in economic status and deaths all affected the stability of the slave family. Legal marriages would have impeded the process of splitting up families when economic expedience so demanded.) There were also cases of forced marriage; ("With the instructions to the slaves as to the amount of tobacco they were expected to cultivate according to a slave, 'was the order for us to 'get married" according to slavery), or in other words, to enrich his plantation by a family of young slaves. However, these attempts were generally unsuccessful. *See e.g.* bell hooks, AIN'T I A WOMAN, *supra* note 123, at 42-3 *and Frazier, id.,* (In some cases, the mistress was the instigator behind forced marriages among slaves in an attempt to control the master's sex relations with female slaves) id., at 42-3. What is clear then, that while slaves did adhere to strict norms regulating their family arrangements in an attempt to humanize the dehumanizing conditions of their lives, these norms differed from the those governing the white family life around them. *See e.g.* Litwak, id., at 229, Angela Davis, *supra note 5, at 14-5 quoting* Gutman: "Deprived of any legal standing, stripped of any means to protect itself, faced always with the specter of forced breakup, the black family under slavery needed to demonstrate remarkable resiliency to with stand the debilitating and debasing experience of white ownership" and it did.

150. Angela Davis, *supra note* 5, at 7 (citing that one after the importation of Africans was halted, a South Carolina Court ruled that female slaves had no legal claims whatever on their children. Consequently, children could now be sold away from their mothers at any age because 'the young slaves. . . stand on the same footing as other animals.) id., at n. 13. Moreover, 'motherhood', as such, was discouraged: *see supra* text accompanying note 14 1. This of course, does not mean slavewomen were not 'mothers' wherever possible. On the contrary, according to Deborah White, the mother-child relationship had even more significance under slavery. This relationship, which she traces back to African heritage, was manifested in the lack of condemnation (generally) of women who bore children out of legal marriage. *See generally* White, *supra note 5. Also White, Female Slaves: Sex Roles and status in the Antebellum South,8* J. of Family History 248 (1983) [hereinafter: *Sex Roles] [Reprinted in ARTICLES, supra* note 13, at 3 881. Children sold from their parents were generally raised by other black women. (Occasionally, however, in the absence of their parents, slave children became the pets of their white mistresses). See *Litwak, supra* note 59, at 23 5-7 *and* Dorothy Roberts, *Racism and Patriarchy in the Meaning of Motherhood,* The American University Journal of Gender & The Law, 1-3 8 (1993) *and supra* note 108(regarding effect of slavery on value Black community places on the 'genetic tie.') . In the aftermath of emancipation, not only wives and husbands sought each other. Freed slaves also made what one federal officer described as "super human" efforts find their children who had been taken away from them. *See e.g.* Litwak , *id.,* at 233.

151. *Mammy* was the epitome of the maternal, asexual, deeply religious, premier house-servant, completely dedicated to the white family. Discussed *inter alia,* by White, *supra* note 5, and Roberts, *supra 134. Compare infra* note 198 and accompanying text.

152. Deborah White, AR'N'T I A WOMAN, *supra* note 5, at 28-9, (The Frazier-Moynihan matriarchy thesis would later would give birth to an additional mythological character: the Sapphire). *Also see* Dorothy Roberts, *supra* note 134, 150 and 153. *Compare infra* note 205.

153. *See generally,* Litwak, *supra* note 59, at 238; Angela Davis, *supra note* 5, at 23-4; bell hooks, AINT I A WOMAN, *supra* note 123, at 42-3. Hooks writes of rape as a weapon of racial domination considering the mass sexual exploitation of enslave black women as "a direct consequence of the anti-woman sexual politics of colonial patriarchal America." According to hooks, that sexism was not limited solely to white men. The slaveowner's encouragement of mating

white women's families were characterized by harsh differentiation between the role of the father as head of the household and the mother's place in the home, dependent on and submissive to men, the underlying reality of equal status as chattel and the basic economic arrangements of slavery prevented the development of a parallel hierarchy of sexual roles.[154] Where white women were seen to inhabitant a sphere totally sev-

between black women and men *(see supra* note 149), sometimes upon the instigation of the mistress, led to the creation of a black slave sub-culture, wherein a similar sexual politics emerged. *For an analysis of the continuing effects of sexual abuse during slavery see Note: Rape, Racism, and the Law,* 6 HARV. WOMEN'S L.J. 103 (1983) *(Also note* sometimes mistresses would vent their jealousy against slavewomen in extremely cruel ways; *see e.g.* Jacqueline Jones, *supra* note 11 8, at 208-9). Even a stable relationship between slaves would not necessarily prevent the advances of a lustful master, or his sons. *And see* Dorothy Roberts, *supra* note 134 and *150 and* Dorothy Roberts, *Punishing Drug Addicts Who Have Babies: Women of Color, Equality and the right of Privacy,* 104 HARV. L. REV. 1419 (1991), *hereinafter, Punishing Drug addict.*

154. There have been debates on the nature of the slave family: matriarchal patriarchal, egalitarian:

MATRIARCHAL: Many have emphasized the matriarchal structure of Black family — birth records often list mother only, the adoption of the principle partus sequitur ventrum - the child's condition follows the mother, etc. According to E. Franklin Frazier (1930s) and later confirmed by Moynihan (1965 Moynihan Report) "the Negro woman as wife and mother was the mistress of her cabin, and save for interference of master or overseer, her wishes in regard to mating and family matters were paramount." According to this thesis, not only was there no perception of the Black women as playing crucial roles in Black families without dominating men and male-female sexual activities. Rather, the "matriarch" was always portrayed as pathological and guilty for the downfall of blacks. (hooks argues that the assertion of the slavewoman's superiority within the household and the male's resultant compromised masculinity, as a later attempt by scholars to blame the damaging effects of racist oppression on black people. *See, Ain't I a Woman, supra* note 99, at 45-6.) During the 1970s, the slavery debate would reemerge with renewed vigor (Eugene Genovese *Roll, Jordan, Roll.- The World the Slaves Made;* John Blassingame's *The Slave Community;* Fogel and Engen Tian's *Time on the Cross.* In response Stanley Elkin's expanded edition of *Slavery.* Among these works was no work expressly devoted to slave women besides attention to promiscuity vs. marriage debate. Herbert Gutman's work succeeded in dethroning the Black Matriarchy thesis proposed by Moynihan, et al. However, these theses were reinforced by historians examining statistics who found a predominance of two-parent-headed households, thus 'proving' that black families were not generally matriarchal and therefore not unstable or otherwise pathological. In other words, the alternative theories also fail to capture the multidimensional lives of the Black women within the slave community. *See e.g.,* Angela Davis, *supra* note 5, at 3, 12; Deborah White, *supra* note 5 (claiming centrality and importance of mother-child relationship in slavery); Suzanne Lebsock, *Free Black Women and the Question of Matriarchy: Petersburg, Virginia, 1784-1820,* 8 Feminist Studies 271, 273 (1982) *reprinted in* ARTICLES,, *supra* note 13, at 2771.

PATRIARCHAL: As explained above, partly in an attempt to rebut the Black Matriarchy thesis, new historical data was reexamined and it came to light that on most plantations and farms, the two-parent household predominated, and the black husband and father exerted in his own way the dominant influence in the household. If he could not always provide for his family as he wished, he tried to supplement their diets by hunting, fishing or theft. In their own cabins, slaves maintained a traditional division of labor between the sexes. Gutman, *supra* note 87, and *Black Family, also quoted,* for example, by Jaqueline Jones, *supra note* I 1 8, at 2523, *and Litwak, supra* note 59, at 238. bell hooks takes a more negative view of patriarchy. Writing of the political agenda behind the mass sexual exploitation of enslaved black women, hooks argues that the slaveowner's encouragement of mating between black women and men led to the creation of a black slave subculture, wherein a similar sexual politics emerged. *See, Ain't I a Woman, supra* note 123, at 42-3. Only in work was there relative equality. But even here, there were never female overseers. Thus, enslaved blacks accepted white patriarchal definitions of sex-roles: man as provider and woman idealized as passive and submissive, whose only reason for being was to love, honor, obey, and occasionally amuse her husband, to bring up his children and his household . . . . While enslaved men were in no position to be completely accepted as patriarchal authority figures with the right to rule over women enslaved black females, they did generally conform to existing sex-role patterns that granted men higher status than women. Id., at 44.

ered from the realm of productive work,[155] Black women were not too female to be put to work in the fields, in coal mines and iron foundries or to be lumberjacks, dig ditches and build railroads,[156] nor the harsh physical punishments reserved for the men.[157]

Some, no doubt, were broken and destroyed; yet the majority of bondwoman survived and, in the process, acquired qualities considered taboo by the 19th Century ideology of womanhood. Judged by the evolving philosophy of femininity, masters' demands that they be as "masculine" in the performance of their work as their men, and in their receipt of punishment, meant that Black women effectively were stripped of their gender.[158] According to the Victorian definitions of social identity, Black women were practically "anomalies."[159] And Black women, for their part, were acutely aware of their dubious status - "the 'cult of true womanhood' that emerged

EGALITARIAN: E.g. Deborah White, *Sex Roles, supra note* 150, and *Ar'n't I a Woman, supra note* 5, (arguing that however active a husband-father was, the 'bonded' female made significant 'economic' contributions to the slave family.); Angela Davis, id., at 12-18 (remarking on the efforts to overturn the myth of the black matriarch, suggests that too much emphasis has been placed on what the men could not do within the slave family as opposed to what women could do and did. "With a reversion *of male roles came a revision of* female roles, and they were transformed from dominant to passive and submissive players. More than 'feminize' they tended to de-emphasizing her role . . . . if Black women were hardly 'women' except in the accepted sense, the slave system also discouraged male supremacy in Black men." Because husbands and wives, fathers and daughters equally were subjected to the slavemaster's absolute authority, the promotion of male supremacy among the slaves might have prompted a dangerous rupture in the chain of command. Moreover, since Black women as workers could not be treated as the 'weaker sex' or the 'housewife,' Black men could not be candidates for the 'figure of 'family head' and certainly not for 'family provider,' however, by participating in household duties, they thus transformed the negative equality that emanated from the equal oppression they suffered into a positive quality: sexual equality.) *Also see* Jacqueline Jones, id., at 258, ("Without private property, slave men lacked the means to achieve economic superiority over their wives, one of the major sources of inequality in the ('free') sexual order. But if female and male slaves shared duties related to household maintenance and community survival, they were nonetheless reduced to a state of powerlessness that rendered virtually meaningless the concept of equality as it applies to marital relations.").

155. *See supra* discussion regarding the evolution of the 'cult of true womanhood' (text accompanying notes 10-11 *supra*) i.e., general shaping of a more rigorous notion of female inferiority and more rigid assertion that the "woman's place is in the home," was a by-product of 1830s industrialization, which robbed women of the experience of performing productive labor.

156. *See generally* Jacqueline Jones, *supra note* II *8; Also see generally* Deborah White, *Sex Roles, supra note* 150 *and* AR'N'T I A WOMAN, *supra note* 5; Angela Davis, *supra note* 5, at 19 (also noting female slaves' acts of bravery and rebellion, "[they] resisted oppression with passion equal to men"), id., at 23; *(also see:* Betty Wood, *Some Aspects of Female Resistance to Chattel Slavery in Low Country Georgia, 1763-1815,* 30 The historical Journal 603 (1987) *[Reprinted in* ARTICLES, *supra* note 13, at 423 *1]. Also* Catherine Clinton, *Caught in the Web of the Big House: Women and Slavery, [reprinted in* ARTICLES, *supra* note 13, at 9].

157. *See* Dorothy Roberts, *Punishing Drug Addicts, supra note* 15 3 (arguing that prosecution of drug-addicted mothers today is a violation of equal protection, based on historical devaluation of Black women as mothers (during slavery)).

158. It is here that a central irony of the history of slave women lies - in his treatment of his female slaves, the master made "a noble admission of female equality." (Words of an 'abolitionist sympathizer' *quoted in* Jacqueline Jones, *supra* note 118, at 239.) However, this begrudging acknowledgment of gender equality was made only to facilitate a more all-encompassing oppression of female slaves. It was part of an effort to wrench as much labor as possible from Black women without injuring their capacity to bear children.

159. Angela Davis, *supra note* 5, at 5.

during the 19th Century had an intense demoralizing impact on enslaved black females."[160]

The result was that what for white women symbolized independence and liberation (for instance, work on an equal basis with men, no strict division of labor, no false chivalry, enhanced importance of the maternal line, etc.), for Black women symbolized its antipode. Similarly, the institution of marriage and the family, often considered by (white, middle-class) feminists to be a source (or at least a vehicle) of women's subservience, played a key role in the struggle of the slaves, and later of the freed people, to resist racial and gender oppression.

Thus, under slavery, attempts to maintain the integrity of family life amounted to a political act of protest.[161] Under slavery, images of women as morally superior, physically delicate, passive and submissive to their men were seen to liberate black women from racist stereotypes of rabid Black female sexuality and physical strength.[162]

It is not surprising, then, that a large number of Black women responded to the dream of freedom in a manner consistent with preferences that had been thwarted during slavery. They wanted to be married;[163] to remain at home with their children;[164] they wanted to be housewives;[165]

160. bell hooks, AIN'T I A WOMAN, *supra* note 123, at 47-8. ("They were not proud of their ability to labor alongside men in the fields." ; *Also see Gundersen, supra* note 13, at 372 ("The life of a black woman was thus constantly subjected to the cross-pressures of belonging to a woman's subculture without full membership.").

161. By paying full attention to the duties of motherhood, Black women were able to deprive whites of their power over them as field laborers and domestic servants. Under slavery, adherence to a strict division of labor within their own households and communities wherever possible, amounted to a defiance of their owners' tendencies to ignore gender differences in making work assignments. Jacqueline Jones, *id.,* at 237; *Also* Shirley I. Yee, BLACK WOMEN ABOLITIONISTS: A STUDY IN ACTIVISM, 1828-1860, (University of Tennessee Press, Knoxville, 1992), at 164.

162. According to bell hooks, acceptance of mate superiority was particularly emphasized in the religious teachings preached to slaves. *See,* AIN'T I A WOMAN, *supra* note 123, at 44.

163. *See e.g. Litwak, supra* note 59,at 229-230. (After the War, tens of thousands of slaves who had been tom from their loved ones, gathered all their resources to relocate them, forcefully belying the commonly held theories about an immoral, "licentious" people who placed little value on marital and family ties. For countless numbers of freed slaves, however, the attempt to find relatives, which continued until well into the 1870's and 1880's, were doomed to fail.) *Also see supra note* 150.

164. "In their speculation about the sources of this 'evil of female loaferism,' whites offered a number of theories, from the pernicious influence of northern schoolteachers to the inherent laziness of the black race. Actually, black women and men responded to freedom in a manner consistent with preferences that had been thwarted during slavery.", Jacqueline Jones, *supra note* 1 18, at 259.

165. *Id. also see* Angela Davis, *supra note 5,* at II *-2, 17.("[P]recisely through performing the drudgery which has* long been a central expression of the socially conditioned inferiority of women, the Black woman in chains could help to lay the foundation of some degree of autonomy, both for herself and her men." Thus, for a slavewoman, being a wife and mother would not necessarily be seen to anchor slave women in the position of inferiority that it did for white women. Domestic labor was the only labor not claimed by the oppressor, the only labor meaningful for the slave community as a whole.)

For a more recent version see Spelman, supra note 7: ". . . the family may be the locus of oppression for white middle-class women, but to claim that it is the locus of oppression for all women is to ignore the fact that for Blacks in America the family has been a source of resistance against white oppression." id., at 132; "The work of mate/mother/nurturer has a different meaning depending on whether it is contrasted to work that has high social value and ensures economic independence or to labor that is forced, degrading and unpaid. All of these factors are left out of the simple additive analysis"; id. at 123; ". . .a theory of sexism that describes men's and women's

they wanted to be "Mrs. Ampey Tatoms," and "Mrs. Lewis Williamses." Thus, the very name that for many white emancipated women symbolized constriction, degradation oppression, for many Black women symbolized liberty, dignity and autonomy.[166] What we see then is that locality at the point where various axes of power converge means that different things will be seen as liberating to different people. Oppression has no one single form or effect, simply because there is no one single, or "essential" form or definition of "woman."[167] Rather, various forms of oppression intersect, interact, reform and transform each other. This phenomenon has been identified by modern feminist scholars, and anti-essentialist theories such as "multiple-consciousness"[168] and "intersectionalities"[169] have been devel-

roles can itself can itself reflect the racist society in which it develops, insofar as it is based on an erasure of the realities of white racism." ; *id.,* at 121.

166. *Note:* It is important here to note that not all Black women fits this description; *See e.g. Litwak, supra note* 59, at 246; ("Not all black women willingly assented to the 'cult of true womanhood'" definition of their roles, - few of them had the means to become 'ladies' of leisure, and some did not look upon white women as the most desirable models to imitate."); *Also see generally* Suzanne Lebsock, *supra note* 154, (Ex-slaves decided if they wanted to make their marriages legal, and though many did, not all did, they were at least more likely than their white counterparts to refrain from legal marriage, thus more likely to retain legal control over whatever property they did acquire, and hence, retain their own names, *id.,* at 274, 285) *and* Judith K. Schafer, *'Open and Notorious Concubinage': The Emancipation of slave Mistresses by Will and the Supreme Court in Antebellum Louisiana, "* 28 Louisiana History 165 (1987) *and infra* note 210.

167. Essentialism: The early essentialists, beginning with Wittgenstein, attacked the belief that words have core, or central meanings. With respect to the debate within feminism: "Essentialism is the notion that there is a single woman's , or Black person's, or any other group's, experience that can be described independently from other aspects of the person — that there is an 'essence' to that experience. An essentialist outlook assumes that the experience of being a member of the group under discussion is a stable one, one with a clear meaning, a meaning constant through time, space, and different historical, social , political, and personal contexts." Trina Grillo, *Anti-Essentialism and Intersectionality: Tools to Dismantle the Master's House,* 10 BERKELEY WOMEN'S LAW JOURNAL 16 (1995), at 19.

168. E.g. Angela P. Harris, *"Race and Essentialism in Feminist Legal Theory,* 42 Stan. L. Rev. 581(1990); Mari Matsuda, *"'When the First Quail Calls' Multiple Consciousness as Jurisprudential Method,"* 11 WOMEN'S RIGHTS L. REP. I (I 989) (Matsuda proposes we consider women of color as a paradigm group for utilization of multiple consciousness as a jurisprudential method); Patricia J. Williams, THE ALCHEMY OF RACE AND RIGHTS, (Harvard University Press, Cambridge, 199 1); Leslie Espinoza, *Multi-Identity: Community and Culture,* 2 VA. J. SOC. POL'Y & L. 23; Trina Grillo, *id.;* bell hooks, FROM MARGIN TO CENTER, *supra* note 147. *Compare:* Catherine MacKinnon, *From Practice to Theory, or What is a White Woman Anyway.,* 4 YALE J.L.& Feminism 13 (199 1); Christine A. Little, *Does It Still Make Sense To Talk About 'Women'?,* 1 UCLA WOMEN'S L. J. *15;* Martha Fineman; *Challenging the Law, Establishing Differences: The Future of Feminist Legal Scholarship, 42* U. FLA. L. REV. 25, 36 (1990).

169. *E.g.,*. Kimberle Crenshaw, Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Anti-discrimination Doctrine, Feminist Theory, and Antiracist Politics, 1989 Uni. Chicago. Legal Forum 139, [hereinafter: Demarginalizing]; ("Intersectionality" is a jurisprudential method that was devoted as an attempt to empower Black American women whose specific needs were not being adequately addressed by either courts or feminist and civil rights groups. Professor Crenshaw identifies the problem in the basic framework within which existing anti-discrimination law and identity politics function. For example, under the present conception of discrimination law, discrimination proceeds from the identification of a specific class or category shared by all members of this class. According to this view, a discriminator treats all members who fall into this category , for instance, within a "race" or a "sex", similarly. Categories generally cannot be combined because this would dilute a claim on either count and evade recognition. Thus, a showing of lack of discrimination against Black men will usually dispose of the claim to racism, while evidence of no sexism regarding white women, will leave the claim of discrimination against "some" people who experience discrimination based on a combination of these grounds, unrecognizable in law. Thus, the unique location of Black women at the intersection of these two categories, is ignored. Professor Crenshaw applies this analysis in a number of

oped to grapple with the perplexity. Ultimately then, the white middle-class model of womanhood would have limited potential as a vehicle for social change and the advancement of women's rights. The experience of one cannot stand as a prototype for all.[170]

VI.B. Black Women: Doubly Marginalized

> No other group has so had their identity socialized out of existence, as have black women. We are rarely recognized as a group separate and distinct from black men, or as a present part of the larger group 'women' in this culture. When black people are talked about, sexism militates against the acknowledgement of the interests of black women; when women are talked about, racism militates against recognition of black female interests. When black people are talked about the focus tends to be on black *men;* and when women are talked about the focus tends to be on *white* women. . . . The racial and sexual specificity is conveniently left unacknowledged or even deliberately suppressed.[171]

According to the second hypothesis proposed here, Black women did not take on voluntarily the bonds of white, Western patriarchy; rather, by virtue of their multiple oppressions, they had little say in the matter. The intersection of various forms of oppression influence not only their nature and effect, it also determines the extent of their authority and power. Every individual's location at a particular point of multiple intersections means that in some contexts, she is privileged and others subordinated, and these contexts interact.[172] In other words, privilege and disadvantage are relative. Thus, a white middle-class woman would be disadvantaged as a woman even as her race and class confer privilege.[173] Conversely, a Black male will be disadvantaged by his race but advantaged by his sex. Relative to white men, both Black men and white women are subordinated. However, relative to Black women, both have authority. And because privilege itself confers the power to name wrongs and assign priorities, the agenda for reform inadvertently will be based on the experiences of those who

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different contexts, including rape, sexual -harassment and domestic violence. Also see also Kimberle Crenshaw, Whose Story Is It Anyway? Feminist and Antiracist Appropriations of Anita Hill, in, "Race-ing Justice, En-gendering Power: Essays on Clarence Thomas, and the Construction of social Reality", 416 [hereinafter: Race-ing]; Panel Presentation on Cultural battery, 25 U. TOL. L. Rev. 891 (1995). Also see Spelman, supra note 5, at 125 and generally; Wildman, *infra* note 144; Richard Delgado, Rodrigo's Sixth Chronicle: Intersections, Essences, and the Dilemma of social Reform, 68 N.Y.U. L. REV. 639 (1993); Regina Austin, Sapphire Bound, supra note 106; Dorothy Roberts, supra note 108; Paulette Caldwell, supra note 18; Judy Scales-Trent, Commonalities: On Being Black and White, Different and the Same, 2 Yale J.L.& Feminism 305 (1990) (arguing that impermeable boundaries are drawn both within and between the categories of race and gender).

170. The exclusion of others is intensified when white women speak for and as "women" - universal, authoritative voice. *See supra* sources cited in notes 167-9.

171. bell hooks, Ain't I a Woman, *supra* note 123, at 7.

172. The intersectional analysis is predicated on the understanding that in every set of categories there is not only subordination, but also its counterpart privilege. See *Crenshaw, Demarginalizing, supra* note 169, at 64-66. This analysis of the coexistence of subordination and privilege is expanded upon by Stephanie M. Wildman and Adrienne D. Davis; *Language and Silence: Making Systems of Privilege Visible ",* 3 5 Santa Clara L. Rev. 881 (1995) ("Every individual exists at the center of multiple intersections. In some contexts we are privileged and in some subordinated, and these contexts interact . . . . No individual really fits into any one category; rather everyone resides at the intersection of many categories.").

173. Trina Grillo, *supra* note 167 and *see also infra* notes 179.

enjoy it.[174] The system is self-perpetrating for the more the powerful in the group, by virtue of their initial position of strength, are able to further amalgamate their power. The system fails to redress the needs of the more marginalized, who then remain marginalized, and lack the power to pose a meaningful challenge to the framework of discourse. Thus, despite the fact that both male slaves and white women were subordinated groups themselves, Black women would be given little opportunity to define the contours of their own identity.

A. *Black Women Marginalized Within the Women's Movement:*

> When the women's movement was at its peak and white women were rejecting the role of breeder, burden bearer, and sex object, black women were celebrated for their unique devotion to the task of mothering; for their 'innate' ability to bear tremendous burdens; and for their ever-increasing availability as sex object. We appeared to have been unanimously elected to take up where white women were leaving off . . . We had been asked to stand up and be congratulated for being 'good little women' and then to sit down and shut up. No one bothered to discuss the way in which sexism operates both independently of and simultaneously with racism to oppress us.[175]
>
> Kimberle Crenshaw

After the Civil War it appeared that feminism had undergone a fundamental change. In contrast to earlier years, post-war feminism seemed narrow and pragmatic, almost evolving into a single issue movement - the issue of women's suffrage.[176] Votes for women became the overriding strategy on

174. In most cases this process is masked by the use of language itself, *see* Wildman and Davis, *supra* note 172, (arguing that language contributes to the invisibility and regeneration of privilege). "The Latina is injured because society has imposed an involuntary name change upon her. Because the scholarship of name issues does not address her issues of involuntary name change, the Latina who discovers its omission receives a second injury. The failure of name scholars to recognize the issue of the Latina family name as valid tends to further exclude Latinas from the visibility and identify that recognition of their full names would give." Yvonne M. Cherena Pacheco, *supra* note 26 at 1, text following footnote 114.

175. bell hooks, Ain't I a Woman, *supra* note 123, at 6-7.

176. The pioneer women who gathered at Seneca Falls in 1848 argued that franchise was a natural, inalienable and human right. In these years the women's rights movement was closely linked with the abolitionist movement. During the Civil War, both women's rights activists and abolitionists threw themselves behind the war effort. Once the War was over, however, it was clear that it had enfranchised neither Blacks nor women. Nonetheless, male abolitionists, former supporters of the women's movement, almost universally rejected women I s claim to suffrage, insisting it was "the Negro's hour." Feeling betrayed, Stanton and Anthony broke with the Republican Party and with many abolitionist friends, teemed up with the prominent racist George Francis Train and began canvassing for women's rights. Their activities led finally to a split in mainstream feminism. The National Women's Suffrage Association, was an aggressive all-woman organization under the leadership of Elizabeth Cady Stanton and Susan B. Anthony. The more moderate division, headed by Lucy Stone and Henry Blackwell, and Julia Ward Howe conceded it was 'the Negro's hour', and accepted deferred action on the women's right to the ballot. ("Among the feminists, perhaps no one was more torn in her loyalties than was Lucy Stone. She wrote ". . . woman has an ocean of wrong too deep for any plummet [yet] the Negro too has an ocean of wrong that cannot be fathomed." Lucy Stone concluded that she could not oppose the constitutional amendment but hoped it would be broadened to include women: "I will be thankful in my soul if *any* body can get out of this terrible pit." FEMINISM: THE ESSENTIAL HISTORICAL WRITINGS, Miriam Schneir, ed.,(Vintage Books, New York, 1972), at 129 [hereinafter: HISTORICAL WRITINGS].) The schism on goals and methods would persist until 1889, when the two factions would be merged into the National American Woman Suffrage Association, putting aside

which other reforms were said to rely. As suffrage increased in popularity and attracted ideologically diverse women, feminism grew increasingly more "respectable" in attitudes and goals, and leaders increasingly began to compromise on other issues.[177] Eugenics and theories of social purity were espoused openly in the hope of furthering white women's suffrage.[178] Black women soon understood that their needs would be voiced only when it was politically expedient to do so.[179]

differences of opinion regarding marital morality, in search of suffrage. A feminist ideology, which would have produced much greater change in society than woman suffrage produced, was not forthcoming. After the merger of the two suffrage organizations which was completed in 1890, the second generation of suffragists began to take over as Lucy Stone and Susan B. Anthony gradually stepped aside. After the unification, equalitarian arguments were no longer emphasized. *See generally,* Wendy McElroy, *supra* note 3, at 3-20; Shirley J. Yee, *supra* note 161, (University of Tennessee Press, Knoxville, 1992).

177. During the final three decades of the Century, the appeal of humanitarian, equalitarian arguments were eroded by the naturalistic view that sanctioned inequality. By the time Carrie Chapman Catt emerged as leader of the movement, the arguments shifted to the unique insights of women and the supposed purifying effect of their participation. The suffragists thus attempted to transform the Victorian cult of true womanhood to their advantage. Liberal principles of natural rights and critiques of family structure were set aside. Feminist also became increasingly willing to enforce morality through law. (According to Wendy McElroy "While the abolitionist feminists , who were largely Quaker, believed that the individual must be free to find salvation, later feminists wished to take the choice out of moral issues, tendency to look to the state for purity rather than toward the individual. Their goal was not purity but freedom. id, at I I - 1 2). These circumstances make it clearer why Lucy Stone ultimately was so severely denounced for keeping her maiden name. Suffragists felt it would be imprudent at the present time to demand that right since the public constantly was accusing them of wanting to destroy family life, and a woman who was living with a man under separate names seemed to be no different from those free lovers who flouted family life entirely (e.g. Lillian Harman), the radical female belief with which Lucy Stone herself was not aligned. *See generally* Wendy McElroy, *supra* note 3, at 3-20. The suffragists continued to regard Lucy Stone and the few like her as extremists who made themselves and the cause "pay dear . . . for the minor point of a name." Stannard, *supra note* 10, at 100 *quoting* Rev. Antoinette Brown Blackwell (wife of Henry's brother). Ultimately, of course, suffrage would prove not to be the panacea all had been hoping for. In terms of the name, it was in fact one of the last rights women were to attain. *See infra* note 205.

178. After the War, Stanton and Anthony turned their backs on the Negro in the name of the vote, *(But see* Wendy McElroy noting that, despite their protests, Stone and Blackwell were not beyond reproach in regard to racism either; id, at 10- 11). Nonetheless, it was really only in the last decade of the Century, when social Darwinian concepts which made racist views of humanity intellectual acceptable, that racism became an important theme in furthering the feminist cause. According to this viewpoint, native born, white women should not be the political inferiors of Black men, Oriental men or Indian men. Since white women generally were better educated and often owned property, they should be permitted to vote if Black men were. The emotional arguments too took on this tone: the appeal used by some politicians that 'my wife' or 'my mother' is surely as good as a Black man was provocative. Beverly Beeton, WOMEN VOTE IN THE WEST: THE WOMAN SUFFRAGE MOVEMENT, 1869-1896, (Garland, New York, 1986), at 140-5. *See also infra* note 179.

179. Note how Black women were used by feminists: before the split in the women's movement, when there was still hope of popular support for women's suffrage, Black women as 'women' were used to further white women's suffrage (Stanton turned to Wendell Phillips saying "do you believe the African race is composed entirely of males?" Wendy McElroy, *supra* note 3, at 10). Later on in the Century, similar emotional arguments were made using Black women as a reason to refuse all 'Blacks' the right to vote. That is, emotional condemnation against enfranchising women was voiced in that it would not only be white women who voted, but Black women, Chinese women and Indian women who could not be kept from the polls if women were granted suffrage. Many politicians made it quite clear that that they were opposed to allowing what we would call today "minority men," political privileges, but they were even more determined to keep similar rights from being extended to minority women whom they felt free to describe in the most *loathsome terms. Beeton, id, at* 140.

However, even in its earliest days, when the women's movement was integrally connected with the battle against slavery, and slave women were not left unmentioned,[180] their peculiar needs would not be addressed. White feminist-abolitionists were quick to proclaim a sisterhood between themselves and Black women, likening their own oppression to that of a slave and using the Black woman as an example of the double binds of racism and sexism. But the very analogy served to conceal the discrepancies in power between Black women and white women.[181] In the words of Angela Davis: "Whatever white women saw in slavery that reminded them of marriage, the analogy ignores the fact that their identification of the two institutions also implied that slavery was really no worse than marriage."[182] Modern-day feminist scholarship explains: in its effort to set up an oppositional discourse with (some) white men, white/western feminism needed to create a unitary category of women.[183] Since white, middle-class women were at the helm of the movement, this category of women inevitably would be modeled on their own experiences and needs. Alternative forms or effects of sexism, as experienced by women of other races or classes, would be ruled out or ignored or simply not seen. This phenomenon has been aptly termed by Adrienne Rich: "white solipsism." Namely, a tendency "to think, imagine, and speak as if whiteness described the world;"[184] "a tunnel-vision which simply does not see nonwhite experience or existence as precious or significant, unless in spasmodic, impotent guilt-reflexes, which have little or no long-term, continuing momentum or political usefulness;"[185] a natural inability or reluctance to see privilege.[186] Any voice that

180. *E.g.*, Grimke: "There is another classification of women in this country, to whom I cannot refer, without feelings of deepest shame and sorrow. I allude to our female slaves. . . . . (in HISTORICAL WRITINGS, *supra note* 176, at 46). *Also note* at the First National Women's Rights Convention in Worcester, Massachusetts, in 1850, the million and a half Black women of the South still in slavery were not forgotten by the convention of delegates. A resolution was adopted referring to "the most grossly wronged and foully outraged of all women" and resolving that "in every effort for an improvement in our civilization, we will bear in our hearts the memory of the trampled womanhood of the plantation, and omit no effort to raise it to a share in the rights we claim for ourselves." But note, only a year later, at the woman's convention in Akron, Ohio, as Sojourner Truth prepared to give her famous "Ain't I a woman" speech, Frances Gage, who presided over the meeting, reported on significant opposition amongst sister feminists, lest "every newspaper in the land will have our cause mixed with abolition." id. , at 93-4.

181. Peggy McIntosh defines white privilege as "an invisible package of unearned assets which [she] can count on cashing in each day, but about which [she] was 'meant' to remain oblivious. White privilege is like an invisible weightless knapsack of special provisions, assurance, tools, maps, guides, code books, passports, visas, clothes, compass, emergency gear, and blank checks." Peggy McIntosh, *Unpacking the Invisible Knapsack: White Privilege, Creation Spiritually,* Feb. 1992, at 33 *and see generally* Wildman and Davis, *supra* note 172. It is especially serious to overlook this factor when discussing slavery in light of the blatant difference in power between a slave woman and her white mistress.

182. Angela Davis, *supra note* 5, at 34.

183. Norma Alarcon, *The Theoretical Subject(s) of "This Bridge Called My Back" and Anglo-American Feminism, in* Doing Theory, at 358-9 (she employs the term "counter-identifying".).

184. Adrienne Rich, *Disloyal to Civilization: Feminism, Racism, Gynephohia, in her* ON LIES SECRETS, AND SILENCE, at 299 (Norton, New York, 1979). Speirnan, *supra note* 5, at II *6; Also see* Martha Mahoney, Segregation, Whiteness, and Transformation, 143 U. PA. L. REV. 1659 (1995).

185. Adrienne Rich, *id.* , at 306. *Also see* Martha Minow, *Justice Engendered,* 101 HARV. L. REV. 10, at 62. (Thus, we find ourselves forced to function in a "world of symbolic constructions that have simultaneously used men as the norm and denigrated any departure from the norm . . . . yet by urging the corrective of women's perspective, or even a feminist standpoint, feminists have jeopardized our own challenge to simplification, essentialism, and stereotyping . . . . Claims to

attempted to question this outlook would be silenced. In the words of Jane Flax: "The suppression of these voices seems to be a necessary condition for the (apparent) authority, coherence, and universality of our own."[187] Thus, when feminism develops strategies based solely on the experiences of those women who are more privileged and hence more powerful within the group, not only will it be of limited utility for those whose lives are shaped by a different set of obstacles; it also betrays feminism's promise - to listen to the experiences of real women, to work from the "bottom up."[188] It "[repeats] in a new context new versions of the old assumptions [it] set out to challenge."[189] Ultimately then, whether by dint of social theory or inadvertent human behavior, Black women would not find a haven in the women's movement.

BLACK WOMEN MARGINALIZED WITHIN THE BLACK NATIONALIST MOVEMENT:

> "When identification by race or gender is posed as an either/or proposition, and when it is experienced in that manner, Black people, both men and women, have traditionally chosen racial solidarity."[190]

The embracing of feminist goals by Black women would be further impeded on account of their race. We have observed how the adoption of the values of white society, in part symbolized by male dominance and female subordination, came to be seen by Black slave-women as the symbol of their redemption. But, in truth, "the cult of true womanhood" was regarded as the key to the preservation and advancement of the Black community as a whole.[191] By supporting sexual roles modeled after free society, the slave community believed it could prove false the assumptions of many whites that Black males, as well as females, were incapable of creating stable family and community structures. Thus, images of women

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speak from women's point of view, or to use women as a reference point, threaten to obscure this multiplicity and install a particular view to stand for the views of all").

186. Wildman and Davis, *supra* note 172 (Arguing that we use language to mask the operation of privilege. For instance, we use terms like racism and sexism to describe discriminatory treatment. But this kind of language serves to individualize the behavior, ignoring the larger system within which the person is situated. To really talk about these issues, privilege must be made visible. Seeing privilege means articulating a new vocabulary and structure for anti-subordination theory. Only by visualizing, this privilege and incorporating it into discourse can people of good faith combat discrimination.) Professor Crenshaw coins the term "perspectivelessness" (an analytic stance that law has no specific cultural, political, or classification characteristics). Kimberle Williams Crenshaw, "Foreword: Toward a Race-Conscious Pedagogy in Legal Education," 1National Black Law Journal 1 (1979).

187. Jane Flax, *Postmodernism and Gender Relations in Feminist Theory,* Signs 12:4, 633 (1987).

188. *See supra* sources cited at notes 168-9.

189. Martha Minow, *supra* note 185, at 60-61 ("Theorists and reformers assert that members of many groups have been wrongly labeled as different, that their perspectives have been ignored, and that the status quo can and should be changed. Yet they often repeat in new contexts new versions of the old assumptions they set out to challenge.").

190. *Crenshaw, Race-ing Justice supra* note 169, at 415 (discussing why interracial rape and other abusive practices have not been fully addressed within the African-American community: "An additional factor is the natural tendency of communities to recoil from exposing any internal conflict that might reflect negatively on itself.").

191. *See also*, Litwak, *supra* note 59, at 244-5, (claiming that black men actively sought to 'rule their wives.') *and* Shirley Yee, *supra* note 161, at 4 ("[M]any black men saw their wish to 'rule their wives' as 'an inestimable privilege' of freedom.").

as morally superior, physically delicate, passive and submissive to their men were seen to liberate not only Black women from racist stereotypes of rabid Black female sexuality and physical strength. It was believed it could undermine the images of the Black animal-like, sexually voracious savage that had been constructed as a male counterpart to the Black female Jezebel. Thus, for Black men, freedom meant, to a large extent, the destruction of gender roles that had existed under slavery, to be replaced by the creation of their own forms of masculine authority. A new image, it was believed, would help end the violence against all Black Americans and lead eventually to political, social and economic equality.[192]

The perception of the needs of the entire Black community in this way would make it more difficult for black women to voice their own concerns. It would prevent Black feminist consciousness from patterning the evolution of white feminism, which had, as we have seen, developed through the creation of a consciousness that was distinct from and in opposition to that of white men. Professor Kimberle Crenshaw explains:

> Black women, like Black men, live in a community that has been defined and subordinated by color and culture. Although patriarchy clearly operates within the black community, presenting yet another source of domination to which Black women are vulnerable, the racial context in which Black women find themselves makes the creation of a political consciousness that is oppositional to Black men difficult.[193]

Under these circumstances, it is feasible that a Black woman would not choose to retain her own name after marriage, thereby reject patriarchal naming norms, lest she be perceived as an aide to white racism, a traitor to her people, a "race-trader." Black women are called upon to bear the burden of saving the race.[194]

VII. WHAT HAPPENED?

> A friend tells the story of her young niece, who is growing up in New York City. The little girl and a friend were walking into their apartment building when they saw an old man who lived on the street. 'Hi, Sam,' said my friend's niece, for she and her parents saw him every day and had grown to know him. The other girl ran at once to her parents and said, very distressed, 'You can't call a homeless a name! Mommy, she called a *homeless a name.' It* is telling, this story, the blanket anonym of 'a homeless' revealing the extent to which a whole generation of children are be-

192. *Id.; see also* Jaqueline Jones, *supra* note 118, at 26 *1. Also see infra* note 197 for a discussion of how this dynamic played itself out among Black abolitionist movements in the North.

193. Crenshaw, *Demarginalizing, supra* note 169, at 70.

194. Faced with this "choice," it becomes evident that, although putting aside her feminist beliefs, is experienced as "a self-imposed gesture of racial solidarity, the maintenance of silence also has coercive dimensions." Crenshaw, *Race-ing, supra* note 169, at 420. *Also note:* The racism of white feminists and the sexism of Black male leaders manifested themselves in the political context of the post Civil War debate between issues of equal political rights for men and suffrage for women. The debate over the 14th and 15th Amendments largely forced activists to choose between racial and sexual equality. Political expediency led most Black women to accept the 15th Amendment, being well aware of the dilemma in which public debate had placed them. However, a number of Black feminist-abolitionists supported the National Suffrage Association, despite its racist arguments. Women such as Sojourner Truth, Tubman and Harper, were perhaps willing to endure racism for the sake of a common goal. Perhaps to keep the issue of racism alive in these two movements. Shirley Yee, *supra* note 161, at 140-9, *and see infra Epilogue. Also see* discussion regarding Black matriarchy thesis in slavery, *supra note* 154.

> ing taught not to see those who live all around them. The very simplest of social exchanges struck this little girl as something like a blasphemous epithet against the safe borders of what exists, of what *can* be known and named."
>
> Patricia J. Williams[195]

During the years of Black Reconstruction, 1867-77, Black women struggled to change negative images of Black womanhood perpetrated by whites. Trying to dispel the myth that all Black women were sexually loose, they emulated the conduct and mannerisms of white women. However, the myths, as it became clearer, were not simply class-based, but race-based.[196] And it was race that determined your class or personhood in the South.[197]

Moreover, the forces that shaped racist and patriarchal capitalism would make it almost impossible for Black women to assume roles other than those held in slavery. Under these conditions, the post-bellum Black nuclear family never duplicated exactly the white middle-class model with

195. Patricia J. Williams, THE ROOSTER'S EGG, at 71 (Harvard Univ. Press, Cambridge, 1995).

196. *For instance,* Black, middle-class women in the North would feel equally affected. *See generally*, Shirley Yee, *supra* note 161. *See also*, Jaqueline Jones, *supra* note 118, at 236; WHITE, AR'N'T I A WOMAN, *supra* note 123, 5, at 27; bell hooks, FROM MARGIN TO CENTER, *supra* note 147, at 59; *and* AIN'T I A WOMAN, *supra* note 123, at 70 (arguing that Black women continued to be perceived by white America as individuals who desired promiscuous relationships.).

197. And, it soon became clear, in the North. The Black abolitionist movement provides a further opportunity to examine the effects of class, race and gender on the lives of Black women. Since the 18th Century, Black men and women had been working to build a community growing increasingly hostile to non-Whites. *See generally*, Shirley Yee, *supra* note 161. A handful of northern free Blacks who had achieved economic success despite racial barriers, sustained lifestyles that largely similar to wealthy and middle-class white families, (fathers as patriarchs and bread-winners, sons as primary heirs, wives and daughters as ladies of leisure). Women of these families came close to meeting white ideals of womanhood (Angela Davis talks of a 'Mrs. John Jones' who was "wife of the wealthiest colored man from Chicago at that time;" *supra* note 5, at 132), and spared the demands of working-class women many devoted their time to community work, including abolitionist e.g. the Fortens and the Shadds. From the beginning, women's participation was an important feature of the abolitionist movement. Initially, male activists accepted women into the campaign, however, women were expected to participate within the confines of the "woman's sphere," i.e. in support of males. *Id.* ., at 3-4. Yee writes that Black women's participation in the movement, however, held a dual significance. Like middle-class white women of the ante-bellum society, free Black women felt bound by contemporary ideals of 'respectable' 'true womanhood.' However, for them these gender conventions underscored an irony inherent in Black abolitionist goals. On the one hand, images of women as morally superior, physically delicate, passive and submissive to their men were seen to liberate Black women from racist stereotypes of rabid Black female sexuality and physical strength. On the other hand, the adoption of the cult of 'true womanhood' in the free Black community served to impose white standards of gender inequality. Moreover, notions of 'ladylike' behavior reflected illusions about female respectability that were narrowly applied only to native-born, white, middle-class women. Thus wile both white and Black women participating in reform movements shared similar experiences of being relegated to the role of female supporters of male activism and bearing the societal consequences of their behavior, within the Black community. For Black women, participation hot only overstepped boundaries of 'respectable' womanhood, it also defied expectations of humility and deference to whites. *Id.,* at 8. The issue was particularly sensitive because women's rights seemed to contradict a central goal of Black activism – adopting separate sex roles. *Id.,* at 138-39. (The proposals to allow women to share an equal voice with men as voting members in state and national anti-slavery societies finally split up the Massachusetts Anti-Slavery Society in 1839 and a year later the American and Foreign Anti-Slavery Society AAS. *Id.,* at 136. Similarly, within the feminist movement, Black women soon understood that their needs would be voiced only when it was politically expedient to do so. *See supra* note 194. Black women, seeking a broader agenda, eventually set up their own abolitionist societies. Yee, *id.,* at 147.

its increasingly rigid distinction between masculine and feminine spheres of activity characteristic of commercial - industrial capitalism.[198]

A Georgia domestic worker's story recorded by a New York journalist in 1912 talked of conditions "just as bad as, if not worse than, it was during slavery. . ." She was always called by her first name - never Mrs. . . .- and was not infrequently referred to as their "nigger," in other words, their slave.[199] And the phenomenon would continue.[200] According to bell hooks, "the denial of the title 'Miss' or 'Mrs.' to any black woman was an integral part of the intentional devaluation of black womanhood after slavery ended, aimed at undermining black female self-confidence and self-respect."[201] Thus, the dream of acceptance into the 'cult of true womanhood' remained unrealized - Black women would not earn the dignity due to them.

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198. See Litwak, *supra* note 59, at 246 ("[W]hatever black men might have preferred, most black women could not afford to withdraw from outside labor after emancipation. . . . .); bell hooks, Ain't I A Woman, *supra note* 123, at 80 ("[T]he matriarch image . . . proved to have little to do with the realities of Black women's lives."); Suzanne Lebsock, *supra* note 154, at 272 ("Rarely had so much power been attributed to so vulnerable a group.") Angela Davis, *supra note* 5, at 90-91 (Concentrating on the larger impact of racial oppression and on the status of women and on the distribution of power between the sexes, we see that black women were for the most part victims of wretched poverty and persistent discrimination . . . . Most Black women workers who did not toil in the field were compelled to be domestic servants. "Domestic service" was basically a euphemism for slavery. The occupational equation of Black women with domestic service was not a simple vestige of slavery destined to disappear with the passage of time. For almost a century they would be unable to escape domestic work in any significant numbers.); *In this regard* note the creation of yet another expedient 'image' of Black women, namely; "Mammy," *see supra note* 15 *1. See* White, AR'N'T I A WOMAN, note 5, at 46-58. Mammy became a national symbol of perfect domesticity at the very time that millions of Black women were leaving the cotton fields of the South in search of employment in the northern urban areas. Surely there is some connection between the idea of Mammy, the service and domestic jobs readily offered to Black women, and their near exclusion from other kinds of work. Angela Davis, *id.*

199. Angela Davis, *supra note* 5, at 9 *1. Also see* Mary H. Washington BLACK-EYED SUSANS, at xix-xx, introduction (Mary H. Washington ed., 1975) ("[Black women] are reacting to the privileged status of white women in this country; they are reacting to all the years that black women have done slave work and day work in the homes of white women while neglecting their own; to all those white women who called them by their first names no matter how old they were, while they continued to address their employer as Mrs. So-and-So. . . . .)

200. *In: Hamilton v. Alabama,* 376 U.S. 624, 650 (1964), a Black woman refused to answer questions put by a state-court judge who addressed her as 'Mary,' saying she would answer if he would call her 'Miss Hamilton' The judge cited her for contempt, and imposed a five-day jail sentence and a $50 fine. The U.S. Supreme Court reversed the without opinion, citing Johnson v. Virginia, 373 U.S. 61 (1963) (state-compelled courtroom segregation held unconstitutional). The *Hamilton* case stands primarily for a principle of racial equality , but it also recognizes that the dignity of citizenship may be bound up in a personal title, *cited by* Kenneth L. Karst, *supra* note 57, at 553, fn 30.

201. bell hooks, Ain't I A Woman, *supra* note 123, at 59. (Others means were: the laws against intermarriage "After manumission inter-racial marriages were too much of a threat to white supremacy; whites decreed that no Black woman could ever be a 'lady';" different legal sanctions in rape cases; sexual exploitation of black women continued long after slavery ended and was institutionalized by other oppressive practices. "Devaluation of Black womanhood after slavery had ended was a conscious, deliberate effort on the part of whites to sabotage mounting Black female self-confidence and self-respect". Id. at 70. Also images like Aunt Jemimas, Sapphires, Amazons. . . . . *See infra* note 203.) In fn 9 Robin Lakoff mentions another common euphemism for woman, namely *girl*— A term used often when referring to grown women, much more so, and much more negatively than *boys* for men. Robin Lakoff, *Language and Woman's Place, 2* LANGUAGE IN SOCIETY 45, at 61.

But herein lies the central irony, for the continued subordination of Black women would not reflect merely the failure to address the needs particular to victims of the combined oppressions of racism and sexism. It also most likely would imply that neither of the two forms of oppression had been dealt with in and of themselves. That is, the ongoing subordination of Black women would mean the ongoing subordination of both Black males and white women as well.[202] And so it was: like Black women, Black men too were subject to increasing racism. The refusal to address them with a title of respect was reflected in the very name of the brutal "Jim Crow" laws, a generic nickname borrowed from a minstrel show with the aim of mocking Black people.[203] Similarly, the fact that Black women were refused membership to the "cult of true womanhood" meant that white women themselves were not free of its constraints. Moreover, their quest for an "individual sovereignty" would prove to be one of the most illusive. Over the next hundred years, a married woman who desired to retain her maiden name, or to refuse to divulge their marital status through the Miss/ Mrs. appellation, would face increasing legal barriers.[204] Finally, with the growth of liberal activism in the 60s, both groups would embark upon broad-scale activism in an effort to finally win for themselves a name.[205]

202. According to Genovese: "Years after the war, white Southerners sighed with relief when Booker T. Washington received a doctorate. They had too much respect for him to call him 'Booker' and could not call any black man 'Mr.'; but 'Dr. Washington' presented no problem." *supra* note 60, at 445. *Also see* Robin Lakoff, *id.* "A title is devised and used for a purpose: to give a clue to participants in social interaction how the other person is to be regarded , how he is to be addressed. In avowedly class-conscious society, social ranking is a significant determining factor: once you know that your addressee is to be addressed as 'lord,' or 'mister,' or 'churl', you where he stands with respect to you: the title establishes his identity in terms of his relationship with the larger social group. For this reason, the recent suggestion that both *Mr. and Mrs. Miss* be abolished in favor of *person* is unlikely to be successful: *Person* tells you only what you already know, and does not aid in establishing ranking or relationship between two people. Even in a supposedly classless society, the use of *Mr.* (as opposed to simple last name or first name) connotes a great deal about the relationship of the two participants in the discourse with the respect to each other." Both groups sought to redress their deprivation of a first name of their choice; a first name that would reflect their worth and remain with them forever. Ultimately, it was in this sphere that they were most successful.

203. This important piece of information was supplied to me by Professor Patricia Williams. The popular culture of the mass media, beginning with minstrelsy, is a larger and still vital source of ethnic epithets, especially in Black and white relations. Minstrel songs popularized a few names for blacks. H.L. Mencken relates these. 'Jim Crow' comes from 'Crow,' an earlier term for blacks, introduced by Thomas D. Rice's 1828 song and dance, 'Jim Crow,' which contained the line 'My name's Jim Crow.' See H.L. Mencken, THE AMERICAN LANGUAGE, 4th ed., and two supplements, abridged, with annotations and new material by Raven 1. McDavid, Jr. (New York: Alfred A. Knopf, 1963) p. 386. *Also see* Irving L. Allen, *Names and Ethnic Epithets,* NAMES 309, at 313314 explaining that *Aunt Jemima* was popularized in 1876 by the minstrel song 'Old Aunt Jemima,' and later it was surely influenced by the brand name of the pancake mix. . . . *Sapphire* for a black woman was inspired by the namesake character on the 'Amos and Andy' radio and television programs.

204. Stannard, *supra* note 10, at 123-131 (Stannard suggests that, in fact, Lucy Stones' act might have precipitated somber of that reaction), *Also see MacDougall, supra* note 26 *and* sources cited in *infra* note 205.

205. *See e.g.,* Julia Lamber, *A Married Woman's Surname: Is Custom* Law?, WASH. U. L. Q. 774 (I 973); Rosalyn Goodman Daum, *The Right of Married Women to Assert Their Own Surnames,* 8 J. of Law Reform 64 (1974); Joan S. Kohout, *The Right of Women to Use Their Maiden Names,* 38 Albany L. Rev. 105 (I 973); Margaret Eve Spencer, *A Woman's Right to her Name,* 21 UCLA L. REV. 665 (1973); *also* Karst, *supra* note 57. "The Centre for a Woman's Own Name" was established, organizations were set-up country-wide, booklets published, litigation, etc. Simi-

Ultimately, then, the names of Black women would expose a major flaw in both antiracist and feminist discourse, namely:

> "Focusing on domination and disadvantage in one area without addressing other coexistent aspects of subordination is likely to be inadequate not only for the individual who experiences multiple forms of oppression, but will prevent the dismantling the systematic oppression as a whole makes the illusive goal of ending racism and patriarchy more difficult to attain."[206]

Both Black men as "Blacks," and white women as "women," claimed to speak in the name of Black women. But in the end, Black women's names would tell more than either Black men or white women had bothered to say about them.[207]

EPILOGUE:

There was, however, one woman at the time who stands for her ability to "tell . . . what time of night it is."[208] She was clear in her understanding of the contradictions in the goals of black activism and the persuasiveness of patriarchal models of freedom. As an ex-slave, she brought a perspective different from white women; she understood the precariousness of the position of Black women after emancipation. In the strife-torn atmosphere of the immediate post-Civil War when the 14th Amendment had just been

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larly, corresponding to a growing awareness of the Afro-American cultural heritage, African names return to fashion, and with Arabic names adopted by those ascribing to Islam. *See Hook, supra* note 63, at 298. A privately printed pamphlet, copyrighted in 1972 by the Pan African Students Organization, was called *What Is Your African Name?* The authors of the pamphlet urge, "Claim your Africanity and ancestry by taking two names. Do the same with you entire family." There is no hint as to whether one of the names should be a surname and thus hereditary. For a strict return to earlier African customs it should not. For preservation of a family's heritage and a nation's records, it should. *Also see* Julia Stewart, AFRICAN NAMES, (Carol Publishing, New York, 1993) at xii advocating that people retain Western surnames to avoid complications and so as not to forgo the names borne by ancestors over the past few generations. Hook writes that "[a] small but often conspicuous group of blacks have indeed changed their names to African ones, although few of them have been able to discover what names their ancestors were known by before they arrived in America. One successful example is that Alex Haley, who recounts his search in *Roots.* Haley did much to arouse interest in roots both among blacks and whites, he did not however take on an African name." *See* Hook, *id.* at 299-300. *Also see* Neussal: "As a reaction to centuries of racism, we see in the black power movement of the 1960s a trend toward individual renaming in order to signify a new found freedom. Selected examples of this phenomenon include *Malcolm X* (Malcolm Little, 1925-1965); *Kareem Abdul Jabbar* (Ferdinand Lew(is) Alcindor Jr., 1947); *Muhammad Ali* (Cassius M. Clay, 1942-); *Kwame Ture* (Stokely Carmichael, 1941 *Imani, Amiri Baraka* (LeRoi Jones, 1934- *) cited in Neussel, supra* 2, at 23. One of the women who adopted an African name was Paulette Williams who changed her name to Ntozake Shange, author and actress in the long-running Broadway play *For Colored Girls Who Have Considered Suicide - When the Rainbow is Enuf* "But despite the marginal popularity of African name borrowing in the U.S., the personal naming practices of the vast majority of American Negroes still appear to be merging with the general American patterns." Paustian, *supra* note 62, at 190-191 *(For the modern embodiment of the problem regarding women, see* sources cited in note 26 *supra.).*

206. Crenshaw, *Demarginalizing, supra* note 169, at 65.

207. Frederick M. Buretbach, *supra* note 132. Regarding Alice Walker, the only systematic use of names is a total absence of patronyms in THE COLOR PURPLE. According to Burelbach: "Since black patronyms commonly derived from the white owners of slaves, this absence could be a declaration of freedom from both white society and the patriarchy."

208. Sojourner Truth: "I am sittin' among you to watch; and every once and awhile I will come out and tell you what time of night it is." 1853, Woman's Rights Convention ("Mob Convention"), New York. in HISTORICAL WRITINGS, *supra* note 176, at 98.

proposed (adopted 1866) which gave Negroes the vote but omitted any reference to women, and in its second section, and actually introduced the word "male" into the Constitution for the first time, she stood alone for the all but ignored Black woman.

> My friends, I am rejoiced that you are glad, but I don't know how you feel when I get through. I come from another field - the country of the slave. They have got their liberty — so much good luck to have slavery partly destroyed; not entirely. I want it root and branch destroyed. Then we will all be free indeed . . . . There is a great stir about colored men getting their rights, but not a word about the colored women; and if colored men get their rights, and not colored women theirs, you see colored men will be masters over the women, and it will be just as bad as it was before. So I am keeping the thing going while things are stirring; because if we wait it is still, it will take a great while to get it going again. . . .[209]

Here were the words of one of the few women who were able to recognize the mutual concerns of both racism and the important implications of their struggle in the struggle for sexual equality.[210] Her name she had given to herself, having discarded her slave name.[211] Her name was Sojourner Truth. Her name says it all.[212]

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209. She continued: "I am above eighty years old; it is about time for me to be going. I have been forty years a slave and forty years free, and would be here forty years more to have equal rights for all. I suppose I am kept here because something remains for me to do; I suppose I am here to break the chain . . . . I suppose I am the only colored woman that goes about to speak for the rights of the colored women. I want to keep things stirring now that the ice is cracked . . . . You men . . . have been having our rights so long, that you think, like a slave-holder, that you own us. I know that it is hard for one who has held the reins for so long to give up; it cuts like a knife. It will feel better after it closes up again. I have been in Washington about three years, seeing about these colored people. Now colored men have the right to vote. There ought to be equal rights now more than ever, since colored people have got their freedom . . . . [and] now I will do a little singing. I have not heard any singing since I came here." HISTORICAL WRITINGS, *supra* note 176, at 129-131.

210. Sojourner Truth was one of the only Black women to attend the white women's rights meetings before the civil war. It was at the 1851 women's rights convention in Akron, Ohio, that she gave her famous "Ain't I a Woman" speech, despite opposition from the audience. Pointing out the hypocrisy of 'chivalry' in that it prevented black women from enjoying the respect and deferential treatment shown to white women. At later conventions Truth pointed out the evils of men's economic control of women, thus Black women shared white middle and working-class burden of dual economic and domestic burdens. *See generally* Shirley Yee, *supra* note 161, at 142-3. Even under these difficult circumstances there were a few other exceptions. For example, despite their alienation from white women's female organizations, a number of Black women continued to fight for female equality either as independent spokeswomen or as participants in the Black convention movements, while maintaining their commitment to abolition. *Id.* at 140-41. One of these women was Mary Ann Shadd Cary who showed a willingness to engage in 'unfeminine' activities for the sake of abolition; traveling unaccompanied by her husband, giving lectures, published a newspaper, thus defying contemporary norms regarding female passivity and black docility. *id., at* 150. Another example is Harriet Tubman, 'the Moses of her people', perhaps the only American woman to lead troops into battle.

211. Her slave name was Isabella. She subsequently adopted the name of the Quaker family who had saved her, but later took the name of Sojourner Truth, apparently after becoming religiously inspired. "Sojourner" for the path she had chosen; "Truth" for her mission.

212. In 1972, a couple from Washington DC, upon the birth of a child, adopted Sojourner as a family surname, a name chosen to honor Sojourner Truth. Stannard, *supra* note 10, at 336.