

Michigan Journal of Race and Law

Volume 2

1997

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Recommended Citation

Lisa C. Ikemoto, *In Sisterhood*, 2 MICH. J. RACE & L. 513 (1997).
Available at: <https://repository.law.umich.edu/mjrl/vol2/iss2/7>

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IN SISTERHOOD

MARI MATSUDA, WHERE IS YOUR BODY?
Boston: Beacon Press, 1996. 207 pp.

*Reviewed by Lisa C. Ikemoto**

I am writing this review from Los Angeles, California, during the new years of infamy.¹ In 1994, the majority of California voters in the November elections said “yes” to anti-immigrant Proposition 187² and “yes” to the racist crime bill known as “three strikes.”³ In November, 1996, the majority of California voters again voted “yes,” this time for anti-affirmative action, anti-diversity Proposition 209.⁴ Meanwhile, in the summer of 1996, Congress passed the so-called “welfare reform” bill⁵ and the “Defense of Marriage Act.”⁶ By identifying these events as markers of the new years of infamy, I am not drawing direct comparisons between these times and Executive Order 9066 and the resulting internment of more than 120,000 Japanese

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1. Some refer to the internment of over 120,000 Japanese Americans and Japanese Latin Americans as “the years of infamy.” See, e.g., MICHIE WEGLYN, YEARS OF INFAMY: THE UNTOLD STORY OF AMERICA’S CONCENTRATION CAMPS (1976) (using government documents to prove the spurious nature of the “military necessity” rationale for the internment and to reveal that racism, economic exploitation, and a hostage-reserve plan actually motivated the internment).

2. For the full text of Proposition 187, see *League of United Latin Am. Citizens v. Wilson*, 908 F. Supp. 755 app. at 787–91 (C.D. Cal. 1995). In *League of United Latin American Citizens*, District Court Judge Marianna Pfaelzer held that several provisions of Proposition 187, including those that would exclude undocumented immigrants from public elementary and secondary schools and would deny public and social services to undocumented immigrants, were legally invalid.

3. Diane Young, *Props 186 and 188 Rejected by Voters: ‘Three Strikes’ Amendment Approved*, S. F. CHRON., Nov. 10, 1994, at B4.

4. For excerpts from the text of Proposition 209 and accompanying ballot statements, as well as an analysis of the potential effects of the initiative, see *Coalition for Econ. Equity v. Wilson*, 946 F. Supp. 1480 (N.D. Cal. 1996). In this case, District Court Judge Thelton Henderson granted a preliminary injunction enjoining state officials from implementing Proposition 209. *Id.* On April 8, 1997, a three-judge panel of the Ninth Circuit Court of Appeals lifted the injunction. *Coalition for Econ. Equity v. Wilson*, 1997 WL 160667 (9th Cir., Apr. 8, 1997). The A.C.L.U. is planning to petition for a rehearing en banc. Maura Dolan, *U.S. Panel Upholds Prop. 209 Affirmative Action*, L.A. TIMES, Apr. 9, 1997, at A1.

5. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 1996 U.S.C.A.N. (110 Stat. 2105).

6. Pub. L. No. 104-199, 1996 U.S.C.A.N. (110 Stat. 2419) 2905.

Americans in 1942. I am, however, pointing to historically-based ideologies that link these two periods of time.

The systems of subordination that justified the imprisonment of the west coast Japanese American population and the kidnapping and imprisonment of Japanese Latin Americans has shifted in aim, means, and scope so that those of Japanese descent no longer consistently bear the most obvious brunt of these systems. Now others, some Asian American and some Latino, occupy social-political positions similar to those who were subject to Executive Order 9066. In addition, the shifts in the lines of subordination have resulted in new expressions of nativism as well as the invigoration of long-lived forms of it. The immigration restrictions in Proposition 187 and in the 1996 Personal Responsibility Act (“welfare reform”) disproportionately impact immigrants of color—Latinos and Asian Americans. The anti-affirmative action laws, the three strikes laws, and the “welfare reform” laws narrow the standards for good citizenship that tacitly exemplarize the white middle class, creating expansive standards for bad citizenship that captures people of color, most of whom are poor, for punishment and social experimentation.

At the same time, these laws restate the political rhetoric that the family is a microcosm of the nation. These laws, collectively, disrupt the family lives of tens of thousands of people of color—by preventing unification and reunification, by denying means of providing food, shelter, and care, and by denying the worth and the hope behind the work, care, and education that family members have already provided. The message sent by these disruptions is that these families are not deserving of protection. When this message is read together with the refusal to recognize that committed same-sex relationships deserve legal protections and benefits, the effect is the privileging of the white, middle class, male-centered family, and its counterpart, white, middle class, male-centered nationhood.

So what does this have to do with the book? From the title onward, scholar-activist Mari J. Matsuda calls upon us to think critically about identity and the role of history and ideology in the formation of identity. “Where is your body?,” as a critical activist’s question, asks each of us to think about where we stand relative to the axes of subordination, and where we should be in order to push forward social justice. The events mentioned above flow determinately from prior events and the ideologies in which they arose—events and ideologies addressed in this book. They are linked to domestic violence, to racist hate speech, to sexual harassment, to the murder of Vincent Chin, to English-only laws, to the extremely high casualty rate among Japanese Americans who fought in World War II, and to the burning of Chinatowns. In this collection of essays, the links among these events and practices, made by the interlocking

systems of subordination, become clear. In the process, Professor Matsuda illustrates that doing theory can be concrete and that doing critical theory can be constructive.

These essays were written and spoken during the last decade. The earliest dates back to the moments in 1987 when critical race theory was first emerging as such in legal scholarship.⁷ The themes and issues addressed reflect both the points of controversy in which race, gender, class, and sexual orientation have converged in the last ten years and the development of race and gender-conscious critical theory during the same period. The essays are arranged in three sections that express three overlapping themes: identity and politics, language and power, and the use of a standpoint position that is explicitly left and political and that speaks of being a person of color, a woman, an Asian American, a Sansei feminist of Okinawan and Japanese descent. Professor Matsuda wrote these essays as speeches, and hence, in her speaking voice. Her passion and her points come through, making the theory accessible and alive.

The passion with which Professor Matsuda speaks and her standpoint as a Sansei feminist make her words and insights valuable and original, even years after they were first spoken and heard. I have the poster for the first Women of Color and the Law conference at Yale in April, 1988. It was my first year out of law school, my first year in teaching, and my first time at a law conference. I remember seeing and hearing law professors Patricia Williams, Judy Scales-Trent, and Elaine Jones of the NAACP Legal Defense and Education Fund. I remember Mari Matsuda, a Sansei woman who spoke fiercely about two white women, the Grimke sisters, and how they embraced their Black nephew in 1868, about the use of quail calls on the underground railroad, about the links between abolition and feminism, and about how we sisters of color could use multiple consciousness, and not deny our own experience.⁸ The possibilities I and other women learned about at this conference, at the 1989 University Conference⁹ commemorating the 35th anniversary of *Brown v. Board of Education*,¹⁰ and on other occasions, were in part raised by seeing a sister, a sister of color, a Sansei sister, and reading ourselves in her. More significantly, the space Mari Matsuda has helped open arises from her voice as a Sansei woman who has claimed race and

7. MARI J. MATSUDA, *We the People: Jurisprudence in Color*, in *WHERE IS YOUR BODY?* 21, 21-27 (1996).

8. For the text of Matsuda's speech, see Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 *WOMEN'S RTS. L. REP.* 7 (1989).

9. Professor Matsuda presented, *Where Is Your Body?: Protest and Social Transformation*, at this conference. See MATSUDA, *Where Is Your Body?: Protest and Transformation*, in *WHERE IS YOUR BODY?* *supra* note 7, at 73, 73, 80 n.1.

10. 347 U.S. 483 (1954).

gender in a way that is not Black, not White, but affirmative and filled with conviction.

The first set of essays, grouped under “Politics and Identity,” includes two essays that document the beginnings of critical race theory. *We the People: Jurisprudence in Color*¹¹ marks the political conflict that arose within the AALS Minority Groups Section. The other, *Critical Race Theory*,¹² followed the call for a critical theory of race and law issued, in part, out of frustration with the failure of critical legal studies scholars to acknowledge the significance of racism in law. For those of us who began doing critical race theory after it was recognized as such, reading these essays and seeing in them the tensions from which they arose is illuminating and humbling. For second generation critical race theorists, it is easy to underestimate the conviction required to make the initial break with the mainstream of scholars of color and with the “mainstream” of critical legal scholars. It is also easy to lose sight of the provocative nature of the basic premises of critical race theory—that race plays a central role in American law and society, that race and racism are social constructs with political purpose and effect, that justice must be anti-racist and conceived by hearing the voices from the bottom.¹³ In these essays, Professor Matsuda speaks boldly and with conviction. She acknowledges the naysayer’s point that these premises are not original to critical race theory, and she goes on to affirm the use of a progressive identity politics to replace the vulgar nationalism implicit in both liberal and conservative racial discourse.¹⁴

In four of these essays, Professor Matsuda speaks from a perspective that is expressly feminist and race-conscious. The ways in which she acknowledges the connections between racism and patriarchy on the one hand, and feminist jurisprudence and critical race theory on the other, form a list of useful methodologies. The book’s first essay, *When the First Quail Calls*,¹⁵ argues that the multiple consciousness of women, and particularly of women of color, be used as a critical tool. In each of the essays, Professor Matsuda uses historical examples to illustrate the ideological roots of current racist, patriarchal, and heterosexist practices. She persistently grounds the discussions by identifying how these ideologies currently cause material harms. She reminds us to always ask the other questions—

11. MATSUDA, *supra* note 7, at 21–27.

12. MATSUDA, *Critical Race Theory*, in *WHERE IS YOUR BODY?*, *supra* note 7, at 47, 47–59.

13. *See id.*; MATSUDA, *supra* note 7, at 21–27.

14. *See* MATSUDA, *On Identity Politics*, in *WHERE IS YOUR BODY?*, *supra* note 7, at 13, 17–19.

15. MATSUDA, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, in *WHERE IS YOUR BODY?*, *supra* note 7, at 4, 4–12.

if the issue or practice apparently results from racism, then how do patriarchy and homophobia operate there. Throughout the years, Professor Matsuda has remained a pragmatist, often using seemingly contradictory claims to simultaneously critique and push for change. And she has consistently argued that we must understand subordination from within coalition.

The second set of essays explores the connections between language discrimination, hate speech regulation, and sexual harassment. The first key insight Professor Matsuda offers is shown in the way she frames the issue in *Who Owns Speech?* English-only laws claim ownership and control on nativist grounds.¹⁶ Opposition to the regulation of hate speech and sexual harassment asserts academic freedom as the justifiable reason, but claims control and dominion on racist and patriarchal grounds.¹⁷ The essays, *Who Owns Speech?*¹⁸ and *Assaultive Speech and Academic Freedom*,¹⁹ expose the contradiction that arises when the claim of freedom justifies using speech itself as a means of control.

There is a thread that runs from this point about contradiction to the essay, *Feminism and Property*, in Part I.²⁰ The connection has to do with who has control and dominion in each case. And it has to do with how the public and private spaces are deployed with respect to property and speech sites. The home is private property, and therefore protected space. But protected for whom? The result in many cases, as Professor Matsuda shows, is that for women abused in their own homes, the fact of equal ownership rights is a legal shell only, and "not the ultimate sign of liberty and personhood the law imagines."²¹ In *Who Owns Speech?*, Professor Matsuda points out "that we do not protect speech that hurts property or reputation interests, but somehow when speech targets women, Jews, or gays, or people of color for assault, this is seen as 'political' and therefore protected."²² So if it is speech at issue, then the fact that a person or group has been made visible and therefore public by marginalization also makes them political and fair game. In the speech context, the law apparently protects public political space. But as in the property context, it is the private that receives real protection. Identities privileged by whiteness and masculinity

16. See MATSUDA, *Who Owns Speech?: Violence and Linguistic Space*, in *WHERE IS YOUR BODY?*, *supra* note 7, at 83, 86–91.

17. See MATSUDA, *Assaultive Speech and the First Amendment*, in *WHERE IS YOUR BODY?*, *supra* note 7, at 103, 104–06.

18. MATSUDA, *supra* note 16, at 83–101.

19. MATSUDA, *supra* note 17, at 103–17.

20. MATSUDA, *Feminism and Property*, in *WHERE IS YOUR BODY?*, *supra* note 7, at 29, 29–36.

21. *Id.* at 35.

22. MATSUDA, *supra* note 16, at 95.

remain noncontroversial, invisible,²³ undiscussed, and therefore cloaked in privacy.²⁴ In both cases, the target of assault becomes a site. The battered woman is claimed as private property. The marginal group becomes a public space. The conflation of site and person arises directly from the refusal to acknowledge Professor Matsuda's point, that control, and not freedom, is at issue in these cases. The connections among the themes in this book become clear and interactive as one progresses through it.

Professor Matsuda's second key insight begins with the point that the speech/conduct distinction in First Amendment doctrine is a false one. Her central point is that some speech, such as hate speech, causes material harm, and that regulating such speech is necessary to effect the principles of anti-subordination and tolerance.²⁵ I was taught to respond to racial slurs with the chant, "sticks and stones . . ." I perceived my inability to internalize the lesson of that chant as my own failure. Thus, the speech/conduct distinction in First Amendment doctrine shifts the burden to the targets of violent speech. Civil libertarians who would teach their children not to use racial slurs, to remember the Holocaust, and to abhor the Ku Klux Klan, would still defend the legal right of others to engage in these speech acts. In straddling the speech/conduct line, these civil libertarians undermine their own lessons. More importantly, they shift the blame for the failure of speech to its targets. When Professor Matsuda, other critical race scholars, and radical feminists argued for restrictions on violent speech, many of us recognized the rightness of their claims in the relief we felt from that imposed sense of failure.

The third set of essays focus on Asian American identity. These essays, written as speeches for Asian American audiences, elaborate upon the principles of progressive identity politics in the context of "Asian American" identity. The title piece, *We Will Not Be Used*, was given at a 1990 fundraising dinner for one of the leading Asian American civil rights organizations, the Asian Law Caucus.²⁶ The Asian Law Caucus is celebrating its 25th anniversary this year, 1997. And now we can see that Professor Matsuda's admonishment to Asian Americans, to resist the draw of being the "racial

23. See STEPHANIE WILDMAN, *PRIVILEGE REVEALED* (1996).

24. I believe this is closely related to the fact that "race" usually refers to non-white, even though "white" is a racial designation. In addition, I am reminded of artist-scholar Keith Aoki's point that while models for caricaturing non-White identities are all too common, it is difficult to think of ways to caricature whiteness. Conversation with Professor Keith Aoki.

25. MATSUDA, *supra* note 16, at 97-98.

26. See MATSUDA, *We Will Not Be Used: Are Asian Americans the Racial Bourgeoisie?*, in *WHERE IS YOUR BODY?*, *supra* note 7, at 149, 149.

bourgeoisie," the model minority, and the racial wedge,²⁷ anticipated the crisis of identity expressed in recent debates about affirmative action and immigration restrictions. In these debates, Asian Americans have split over how to occupy what Professor Matsuda calls the "racial middle."²⁸ Some of us have, as she feared, assumed the role of the honorary White, thus reinforcing white supremacy. Others are trying to resist the draw by doing, as suggested, coalition work.²⁹

Professor Matsuda's sketch of the evolution of "Asian American" as political construct demonstrates how a critical understanding of identity makes the necessity of coalition obvious.³⁰ She points to the fact that "Asian American" is a political construction and juxtaposes that to the fact that many of the gains for Asian Americans were made by looking beyond Asian America to those linked to us by race, labor concerns, educational needs, and other social factors. In these essays, the breadth of Professor Matsuda's vision of social justice becomes more clear. Because of the ways that we are linked to other marginalized groups, Asian Americans cannot only oppose English-only laws and immigration restrictions, and solely focus on issues that speak of our own experiences; Asian Americans must also oppose racism and other forms of subordination that sometimes impact more directly on our partners in coalition.³¹ Professor Matsuda argues for a conscious use of identity based on these positions.³² In doing so, she defines the anti-subordination principle that runs through these essays in affirmative terms.

The lessons from these essays would serve us well in the new years of infamy. The multi-front attack in the name of family, citizenship, and nationhood is coordinated by lines of subordination that extend beyond particular identity groups. We as people of color, as Asian Americans, as Sansei women, as gay men and lesbians, as immigrants and U.S.-born, need to identify the specific ways in which these laws operate against us and each other. We can only do this effectively through coalition. Addressing one issue, affirmative action for example, is manageable. But addressing it without acknowledging the other fronts is incomplete, just as speaking to issues that only directly implicate us is incomplete and limits the potential scope of social justice. We will, hopefully, take history and

27. *Id.* at 151-55.

28. *Id.* at 150.

29. *Id.*

30. See MATSUDA, *Why Are We Here? Thoughts on Asian-American Identity and Honoring Asian-Americans in Congress*, in *WHERE IS YOUR BODY?*, *supra* note 7, at 171, 173.

31. *Id.* at 177-78.

32. *Id.*

ideology into account as we work toward self-identity and voice our countering narratives; we will use the critical tools necessary to think and act as individuals and community members engaged in developing anti-subordination theory and practice. We will, in other words, join hands with Professor Matsuda, in the name of sisterhood, inclusive community and liberation.