

Nepenthe¹

by Emma C. Jordan†

UNDER THE RUG OF RACIAL AMNESIA

I am a recovering amnesiac. When I worked with other members of the Northeast Corridor Collective to obtain a publishing commitment for this collection of essays, I fully understood that I too would be expected to reflect on my experiences in legal education. As the days rolled by and the publishing deadline loomed, I was finally forced to confront the awful truth. I had no ready list of racial insults or injury. Could it be that I had somehow moved through 18 years of law teaching without a racial scratch? I now recognize that many of my experiences have been simply too painful to recall, and certainly too painful to share beyond a small circle of my friends. I suspect that my choice of coping mechanism is not unique, and probably not peculiar to legal education. Submerging such hostile encounters in the murky waters of pseudo-forgetfulness must be a common reaction to working in a complex racial environment.²

As I set about the task of reconstructing the fabric of my career, I was torn by two opposing emotions. On the one hand, I was pleased that I have made good objective progress.³ On the other hand, I was gripped

¹ A drug supposed by the ancient Greeks to cause forgetfulness of sorrow. *Webster's Ninth New Collegiate Dictionary* 793 (Merriam-Webster, 1984).

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² Denial, repression of painful experiences, and silence are common features of post-racial trauma syndrome, a set of psychological reactions to racial harassment. One who finally broke silence is General Benjamin O. Davis. The first black graduate of West Point in this century, Davis endured extremes of racial harassment during his entire stay at West Point. He was "silenced"—shunned by all other students—a punishment reserved for violators of the honor code. Although he had committed no offense, he had no roommate, was forced to eat alone, and failed to earn a lifesaving certificate because no fellow student was willing to act as his buddy so that he could demonstrate the required skills.

In speaking about these experiences after many years of silence, General Davis said, "[t]here was just too much pain and suffering in my background. I didn't want to have anything to do with it." Judith Weinraub, *The Long, Lonely Flight of Gen. Benjamin Davis*, Wash Post B1 (Feb 4, 1991).

³ I have always been loathe to complain about my professional progress since each day brings fresh surprise, given my working-class beginnings. I am the daughter of a trucker/rubbish hauler and homemaker/beautician, the fifth of six children, and the first in my immediate family to graduate from a four-year college. Indeed, my life as a legal academic still seems wonderful compared to many of the foreordained alternatives.

with a fear at once too powerful to repress and too amorphous to define.⁴ I have had my share of unpleasant encounters with insensitive, yet well-meaning colleagues.⁵ I too have heard the spoken and unspoken challenges of disbelieving students who contested my very presence in the classroom.⁶ I have lived in Berkeley, Davis, and Palo Alto, California, and in Washington, D.C. It would be hard to live in any of these communities, for even a short time, without witnessing many layers of racial drama.

Eventually, the long-buried source of my fear became apparent. If I remained silent,⁷ the too-long repressed anger about the racial tension that permeates my daily life would surely eventually erupt in unpredictable ways, rending me from reality when I least expected it. Yet the process of calling up painful incidents from the past and repeating each incident with photographic accuracy would serve only to revive the original pain. In short, I feared opening a Pandora's box of racial injury, the contents of which would overtake and transport me beyond racial polarities into the zone of the perpetually alienated, angry, and ineffective.⁸

In what follows, I have chosen the path of intermediate resistance. I have simplified and sanitized complex relationships and messy realities to select a few of my most vivid experiences in order to shed the mask of racial neutrality. I have sought to call forth a complex persona constructed by an intricate interaction of race and gender. I have not delved more deeply than my present threshold of pain permits. I am, after all, only a recovering amnesiac.

SELECTED RECOLLECTIONS

Among the most important professional relationships I formed early in my career were those with two white women who were only a few

⁴ I count among my most well-used reprints my copy of Chuck Lawrence's article, Charles R. Lawrence III, *A Dream: On Discovering the Significance of Fear*, 10 *Nova L J* 627 (1986).

⁵ See Regina Austin, *Resistance Tactics for Tokens*, 1986 *Harv Blackletter J* 52.

⁶ See, for example, Anita Allen, *On Being a Role Model*, elsewhere in this volume of the Berkeley Women's Law Journal.

⁷ Derrick Bell best captures the proper resolution to this double bind when he cautions, "[t]hey must learn that silent suffering does not beget reform, and that minorities who complain of unfair treatment are sounding an alarm for all." Richard Delgado and Derrick Bell, *Minority Law Professors' Lives: The Bell-Delgado Survey* 3 (Institute for Legal Studies, Working Paper Series 3, 1988).

Professor Bell has not only written about this problem, he has practiced what he preached. See Derrick Bell, *The Price and Pain of Racial Perspective*, *Stan L Sch J* 5 (May 9, 1986). In the Stanford Law School student newspaper, Professor Bell recounts the treatment he received as a visitor at Stanford. In response to first-year student complaints about his teaching, a few faculty members organized a series of "enrichment lectures" designed to supplement his course. He was invited, but not told the true purpose of the series, although students knew the real objective. The entire enterprise was abandoned only when black students disclosed the true origin of the lectures.

⁸ For a full exploration of the psychological ramifications of repressed black rage, see the classic treatment of the issue in William H. Grier and Price Cobbs, *Black Rage* (Basic, 1968).

years ahead of me in their legal careers. We went to lunch, we shared dinners, we celebrated each other's birthdays, we hung out at a collection of slightly seedy bars and restaurants in the small college town where we taught. We swapped stories of our interactions with our male colleagues. Together, we rode the roller coaster of empathic exhilaration and depression over our respective romantic lives. I skied their favorite slopes, they ate my gumbo. I was a trusted confidante. We debated the issues of the day. We laughed, we made fun of our tenured elders, we plotted and planned to assert our authority against the status quo. We had high aspirations. An early achievement was the liberation of the second-floor faculty men's bathroom. With the arrival of two of us, there were now two women on the second floor. We decided that the roundabout detour required to reach the first floor faculty women's bathroom was inconvenient and a relic of the pre-existing predominantly male culture. We boldly placed a handwritten sign announcing "faculty" over "men," and after spreading the word of our intentions, began using the room. Our male colleagues took this all in stride. We soon found that a lock had been placed on the inside of the door leading to the corridor to permit individual use, at the option of the user. With the completion of this apparently minor reallocation of resources, the arrival of a critical mass of women had been confirmed.

Within two years, a white man joined our ranks and became a friend and untenured compatriot. We joked with him, we lambasted him, and he lambasted us, for real and imagined failings of our respective genders. We traded tidbits of inside faculty information. He, too, joined our circle of mutual support and affection. When I moved from a rented duplex to my first home, he volunteered to help me and my soon-to-be husband. He arrived with his son, then a toddler, in tow, a bad back, and a Northeasterner's delight in seeing the innocent suffer. Years later, after I had my first child, he reminded me that on the occasion of the move, I had told his son to "sit," spoken with the authority of a dog owner, with my finger pointing to the spot to which he was to be assigned.

When my letter from the chancellor of the campus arrived announcing my tenure, we all drank champagne in my living room. They were happy for me, they had held my hand when I was disgusted and ready to throw in the towel. They had been friends extraordinaire. I felt like the winner of a cross-country marathon: exhausted, but content. We knew each other, we cared about each other, and in the way of valuable workplace friendships, we took pride in each other's achievements. These feelings of mutual affection were genuine and deep.

Still, I remained the only member of a racial minority on that faculty for most of my 12 years there. Although I belonged to a corps of increasingly influential young professors, I was unable to galvanize support for hiring anyone from a well-worn list of talented minority candi-

dates. I found it virtually impossible to convince even some members of our small coterie that I was a credible advocate for racial diversity. When the topic turned to minority candidates, I often heard embarrassing comparisons to my own newly vaunted achievements.

Despite the closeness of this cluster of relationships, I was alone. How could I confide the sheer terror that had filled my untenured heart when a black alumna of the school told me that when she was a student there, white male students had thrown a banana in the aisle and made ape-like gestures after a black faculty member, no longer with the school, walked into the lecture hall? I was unable to share the dilemma I faced when a student who refused to answer my questions in class later came to my office to tell me that she thought that I was picking on her and that I was the embodiment of black revenge for youthful misdeeds she had committed against blacks in the South.

Nor could I tell these friends of the other hurts I faced because of my race. A white male colleague told a friend of mine outside of the law school that I was a good dancer when he had never seen me dance. The son of a colleague called my nine-year-old son a nigger while we were guests in his home for dinner. The colleague and his wife were deeply embarrassed and apologetic and at a loss to explain their son's behavior. My son hit their son in retaliation; I was not at a loss to explain *my* son's behavior. An administrator told a person checking my references that I was "too aggressive." A former colleague informed me, years after the event, that another colleague had volunteered to call a school interested in having me in residence as a visiting professor to offer his opinion that I was not entitled to be at a school of that caliber.

As an untenured faculty member, I joined others in filing an amicus brief in the *Bakke*⁹ case to object to the university's failure to plead its own prior discrimination. I also joined a spirited white male colleague, who was a high school classmate, and an Hispanic alumnus in seeking to intervene in a reverse discrimination law suit that had been filed against the law school.¹⁰ In the middle of an office visit to discuss our opposition to the university's position in the reverse discrimination cases, a member of a policy-making body of the university abruptly asked me whether I had tenure.

The contradictions in her daily life abound. She is ashamed that she wants the approval of her white friends. They say she's smart. She smiles, secure

⁹ *Regents of the U of California v Bakke*, 438 US 265 (1978).

¹⁰ *DeRonde v Regents of the U of California*, 100 Cal App 3d 900 (1980) (ordered depublished); *DeRonde v Regents of the U of California*, 100 Cal App 3d 912 (1980) (ordered depublished). For a discussion of student diversity, see Emma Coleman Jones (Jordan), *Litigation Without Representation: The Need for Intervention to Affirm Affirmative Action*, 14 Harv CL-CR L Rev (1979), and Emma Coleman Jones (Jordan), *The Problems and Prospects of Participation in Affirmative Action Litigation: A Role for Intervenors*, 13 UC Davis L Rev 221 (1980). For a treatment of faculty diversity, see Emma Coleman Jordan and Charles Lawrence III, *The Law School Clone-O-Matic*, Legal Times 21 (Aug 6, 1990).

*in the momentary illusion of relief from the prevailing racial recipe. An ordinary smile is like the shuffle that her grandfather must have done to survive. There is betrayal beneath that thin veneer of accomplishment. How might she please them? Exhaustive footnotes do the trick? Or will the well-chosen but obscure literary reference tossed in casually count for more? How many points can she earn for self-betrayal, self-loathing, and "famili-cide"? "I AM an INTELLECTUAL" is her mantra during the sleepless nights made long by centuries of disrespect. Each morning she awakens, endorsing the honor code of interracial relations: selective honesty or selective lies. Emboldened by that choice, surely she knows that there is no difference.*¹¹

Each day I arose to spread my wings, laden with a heavy load of racial debris, to face students whose eyes and inattentive pens found ways to make difficult the task of teaching and engaging them. Each year, I forgot, and went on, until forgetfulness overtook my better judgment. I chose to overlook a lot. I reasoned that these were well-intentioned people who need only see me strive for excellence to abandon pre-existing racial stereotypes.¹²

I too, have absorbed my share of racial "microaggressions."¹³ However, I have tried, where possible, to maintain an optimistic outlook. I now know, and will never forget, that racial progress comes slowly, and with great effort, even among the *best* of friends.

¹¹ My disembodied voice speaking softly, in a dream, to no one in particular.

Lorene Cary has captured well the experience of self-betrayal and complicity of talented black people striving for acceptance in a predominantly white environment:

[A] black boy came to me nearly weeping because a group of white friends had told a racist joke in his presence. He hated himself, he said, because he hadn't known how to react. "It was like I couldn't move. I couldn't *do* anything," he said.

I too had known that terrible paralysis, and when the boy left, I wept with remembering. I could no longer forget, . . . I remembered the self-loathing, made worse by a poised bravado, as close as my own skin, that I wore over it. I remembered duty and obligation—to my family, to the memory of dead relatives, to my people.

Lorene Cary, *Black Ice* 4-5 (Knopf, 1991).

¹² See Charles R. Lawrence III, *The Id, The Ego, and Equal Protection: Reckoning With Unconscious Racism*, 39 Stan L Rev 317, 339-44 (1987) (exploring unconscious racism in everyday life).

¹³ "Microaggressions" are defined as "subtle, stunning, often automatic and nonverbal exchanges which are 'put downs' of blacks by offenders." Peggy C. Davis, *Law As Microaggression*, 98 Yale L J 1559, 1565 (1989). Peggy Davis has cogently argued that the daily insults and injury that are a part of everyday life for black and white people alike form the basis for racial antagonism when blacks are regularly singled out on account of race for condescension and erroneous presumptions about our status, intelligence, and education levels. Davis explores a superficially neutral incident in which a black woman seeking to determine the proper direction to take, asks a white woman on an elevator for confirmation of the direction. The black woman is treated with such evident disdain by the white woman on the elevator that the racial component of that transaction is apparent. Id. See also, Stewart Macaulay, *Symposium: Popular Legal Culture: An Introduction*, 98 Yale L J 1545, 1549 (1989).