

BLACK WOMEN'S VOICES IN THE WOMEN'S MOVEMENT FOR EQUAL RIGHTS: PAULI MURRAY AND PATRICIA WILLIAMS

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We live in an era in which women and people of color compose and literally define both this society's underclass and its most underserved population.

—Patricia Williams

After women got the vote in 1920, the next big goal for feminists was the passage of the Equal Rights Amendment, which marks the transition of first-wave feminism into second-wave feminism:

The amendment stated that the “equality of rights under the law shall not be denied or abridged by the United States or any State on the basis of sex,” which meant that it would preclude sex discrimination on the part of the government, its agencies and officials, or any institutions closely tied to the government. (Woloch 528)

First submitted to Congress by the National Women's Party in 1923, the Equal Rights Amendment was passed by Congress in 1972 but has never gained the status of law, because the required number of states needed to pass the amendment has never been reached. The women's movement failed to pass the ERA partly due to very persuasive anti-ERA speaker Phyllis Schlafly, who used strategies in her arguments to make the ERA appear to deconstruct American values. She focused on Americans' fear of women being drafted and gay marriage becoming legalized. Despite vocal opponents and dissidents like Schlafly, the women's movement continued to support the ERA, an amendment designed to constitutionally recognize women's equality. However, a significant group's voice was missing from this work: women of color, and, more specifically as pertaining to my research project's focus, black women's voices. In my research, I have discovered two themes that prominently contributed to African American women's lack of voice and participation in the women's movement's work to pass the ERA: multifaceted oppression and legal discourse neutrality. These two themes' impact on black women's lack of voice can be strongly noted in the works of Pauli Murray and Patricia Williams, two African American legal rights feminists who worked in support of the ERA. Examining these themes through the works of Murray and Williams allows for an understanding of how multifaceted oppression and legal discourse neutrality have continued to affect African American women throughout time. Murray's work for the ERA during the 1970s addresses the same themes that Williams's work examines in the 1990s, despite the time span between their rhetorics and activist agendas. Additionally, the effect these women's work had upon black women's voice and exigency, or accessibility and agency, in getting their voices heard socially in legal discourse broke ground for future black feminists and better presents law as a source for social change.

Dual Forces Inhibit Black Women's Participation in ERA: Multifaceted Oppression and Legal Discourse Neutrality

Black women had two ideological and structural forces that inhibited them from participating in the women's movement's work toward obtaining the ERA: multifaceted oppression and legal discourse. My critique of multifaceted oppression and legal discourse has its basis in critical race theory (CRT), a school of thought that emerged in the 1970s' post-civil rights era that places emphasis on the nature of socially constructed race, as originated in the foundational work of Derrick Bell, Kimberle Crenshaw Williams, Richard Delgado, and others. These authors were concerned with the social status of blacks in relation to whites, where whites promote advances for blacks only when they promote their own interest. Additionally, Crenshaw Williams's work with critical race feminism identified the issue of intersectionality, a lens to examine legal theory's specific impact on black women. These ideas and works pertain to my research on black women's involvement with the ERA because they function as a lens to understand black women's seeming erasure within legal discourse. Black women existed, and continue to exist, as one of the most oppressed groups in America due to their multifaceted oppression, what Crenshaw Williams defines as intersectionality: racism, classism, and sexism simultaneously work together to inhibit black women from participating in the women's movement and larger society. Although black and white women shared the connection of sexism, racism and classism made it difficult for black women to focus solely on sexism and difficult for them to relate to the women's movement, which was primarily composed of white women who had a different understanding of their own oppression. Additionally, white women of the 1920s maintained a stake in black women's social positioning as lower-class workers in service positions, creating a further dynamic wherein black women could not relate to white women because of their classism. Many black women typically belonged to the lower classes and had worked mainly in service industry jobs. As such, the ERA seemed like an issue they could not relate to because it pertained to white women in higher classes who were trying to attain professional jobs by breaking through the glass ceiling, the invisible line in the professional world that inhibited white women's growth in professional status. Due to the fact that many black women viewed race as their greatest oppression, the lack of attention to racial oppression in the women's movement further contributed to their disengagement with this movement and ideology. This idea is reflected in historian Nancy Woloch's *Women and the American Experience*: "For most black women, race remained a greater source of oppression than sex [. . .]. As civil rights activist [. . .] Pauli Murray explained, black women were 'made to feel disloyal to racial interest if they insisted on women's rights'" (524). Race was an oppression that black women could not ignore because black women needed to address the intersectionality of all of their oppressions simultaneously; thus, the women's movement's focus on sexism was not sufficient for black women's participation. Deborah Rhode contributes to the idea that black women needed to address their oppressions simultaneously in her work *Speaking of Sex: The Denial of Gender Inequality*, when she says, "We cannot realize equal opportunity for all women without addressing other barriers apart from gender, including those based on race, class, ethnicity, age, disability and sexual orientation" (225). The multiple oppressions black women experienced placed them in a unique subject positioning. Their unique social circumstances meant that they could not single out one oppression but needed to address them collectively. This task was difficult to accomplish through the women's movement because it asked African American women to ignore the oppressions of class and race, which fundamentally shaped their subject positioning, to focus on the oppression of sex. This leads me to the second force that inhibited black women from par-

ticipating in the ERA and the women's movement, as it relates to African American women's subject positioning: conflicts with legal discourse.

This second factor that restricted, and continues to restrict, black women's voices and participation relates to law and legal discourse. Law's language of legal discourse functions as the language of the oppressor, also known as the dominant voice in society, the white male patriarchy. Legal discourse does not recognize the subject positioning of the oppressed, so the oppressed are forced to use a language that does not recognize their oppression in order to gain equality—a difficult task. To show you what I mean, I cite Patricia Williams, who notes in *The Alchemy of Race and Rights* that:

Law and legal writing aspire to be formalized, color-blind, liberal ideals.

Neutrality is the standard for assuring these ideals; yet the adherence to it is often determined by reference to an aesthetic of uniformity, in which difference is simply omitted [. . .]. Race-neutrality in law has become the presumed antidote for race bias in real life. (48)

Thus, legal discourse does not aspire to identify oppression in order to remedy it and its related problems such as job discrimination; rather, color-blindness and neutrality are the ideals for legal discourse. Individuals who are racially oppressed face difficulty, if not impossibility, in getting legal discourse to recognize oppressions it aspires not to acknowledge. Given the combination of black women's multifaceted oppressions and their alienation within legal discourse and its idealized neutrality, black women's voices and participation were not often seen in the women's movement, or, more specifically, in support of the ERA. In researching the ways black women were inhibited from participation in the ERA, I wondered: *How could black women approach their oppressions and go beyond the parameters of legal discourse to get their voices heard? Also, how could they be encouraged to participate in the ERA and work toward voice and affect in law to meet their goals to end their oppressions?* Pauli Murray and Patricia Williams provide two examples of African American women's voices that attained some exigency in the law by means of rhetoric.

Pauli Murray and Patricia Williams: Black Feminist Lawyers

In examining second-wave feminism and the women's movement's work in passing the Equal Rights Amendment by means of studying speeches, critiques, books, essays, and history accounts, I found that the majority of works were composed by white women and thus wondered why. In this research, I explore why black women's voices were rare in the conglomeration of women's voices in support of the ERA. The texts of authors Pauli Murray and Patricia Williams represent two black women whose voices stand out in the realm of legal discourse. Despite the forces inhibiting black women's support of the ERA, feminist, lawyer, priest, and professor Pauli Murray stood as one black woman's voice encouraging and arguing for other black women's support. I performed a rhetorical analysis on Murray's article "The Negro Woman's Stake in the Equal Rights Amendment," published in 1970–71, to gain insight into how one woman structured her argument to appeal to black women's subject positioning. Murray's efforts were atypical in that her work aimed at gaining African American women's support of the ERA at a time when efforts were typically geared toward white, middle-class women. My analysis relates Murray's work to the later work of Patricia Williams, *The Alchemy of Race and Rights*, published in 1991, to display why Murray's work breaks from the structural forces that inhibited black women's voices. Williams is a lawyer, professor, and feminist whose work situates her subject positioning as a black woman into law and legal discourse. The ethos of these women were similar in that they both found voice in their professional status as lawyers. The difference between the

two women is their contextual placement in time; Murray was an activist in the women's movement from the inception of the National Organization for Women in the 1960s, whereas Williams's work was written in the early 1990s and reflects upon issues presented in the women's movement and in contemporary law. Thus, Murray emerges in connection to second-wave feminism and sits at the turning point into third-wave feminism with her involvement as a black woman with the ERA; Williams is connected fully to third-wave feminism. Ultimately, my research provides findings on rhetorical strategies, as seen in Murray's and Williams's works, to give voice to black women who are oppressed and explores the resulting implications on law as a means for fundamental social change and as a means to achieve social justice.

Pauli Murray: Atypical Voice

Murray's 1970–71 *Harvard Civil Liberties Law Review* article "The Negro Woman's Stake in the Equal Rights Amendment" specifically targets the goal of extending the significance of the ERA to black women in order to overcome their lack of voice and to open a door into law to achieve political agency and to overcome their oppressions of sex, race, and class. Murray's central argument was based on her understanding that:

Only constitutional protection against sex-based inequality can alleviate the black woman's depressed condition [. . .]. Because it is virtually impossible to separate the effects of racism and sexism, the elimination of sexual discrimination is crucial to recovery from the total racial experience. (257–58)

She combines her time's issues of oppression with past issues black women had experienced to encourage them to support the ERA and become involved with law. Murray's article appeals to black women's concerns and addresses problems they held with the women's movement. In her appeal to African American women to support the ERA, Murray uses two main rhetorical strategies: rights rhetoric, or the use of language to persuade for equality, and identification, or naming black women's multiple oppressions.

In her article Murray frequently uses words like "victimize" and "degraded status" in reference to African American women's subject positioning, and she identifies black women as having "no rights." The utilization of these words displays Murray's first strategy: rights rhetoric. According to Williams, rights rhetoric joins "need" and "right," suggesting that rights rhetoric is based on addressing humans' basic needs and arguing that those needs are not being met by the basic human rights allotted to people legally and constitutionally (149). Murray uses rights rhetoric in her discussion of black women's social positioning at that time to assert that black women were being denied basic human rights. She says, "Despite the achievement and the fortitude black women have displayed in the face of unmitigated oppression, they remain the lowest and most vulnerable social and economic group in the United States" (254). In this statement Murray draws attention to class oppression. She goes on to make the point that black women do not have the same protections as white women when she says: "Negro women enjoy neither the advantages of the idealizations of womanhood and motherhood which are part of the American mythology, nor the protections extended to women which opponents of the Equal Rights Amendment are so zealous to preserve" (254). Essentially, Murray recognizes that black women's estrangement from the women's movement is due to their difficulty in relating to the singular oppression of sex, and thus she perceives the need for black women to distance themselves from their unique subject positioning, wherein they have experienced many oppressions, in order to relate to the women's movement goals.

In recognizing black women's issues with the women's movement, Murray draws attention to black women's lack of constitutional rights, as evidenced by their basic needs not being met. Black women's access to education, medical aid, and basic resources was well below the standards for white American women, and as these basic needs were not being met, black women were also being denied a basic human right: equality. Thus Murray encourages black women to invest in the ERA. Williams indirectly reflects upon Murray's rights rhetoric strategy when she says: "Although rights may not be ends in themselves, rights rhetoric has been and continues to be an effective form of discourse for blacks. The vocabulary of rights speaks to an establishment that values the guise of stability, and from whom social change for the better must come" (149).

Williams suggests that rights rhetoric allows the oppressed to effect social change because it speaks to an aspect of legal discourse that desires constancy. Legal discourse works with social change to the degree that it desires to maintain stability in society. Williams illustrates traits of rights rhetoric when she says that she "learned to undo images of power with images of powerlessness" and also "learned that the best way to give voice to those whose voice had been suppressed was to argue that they had no voice" (155–56). Rights rhetoric seeks to give voice to the oppressed through laws. Murray, as an early practitioner of the rights rhetoric later developed more fully by Williams, demonstrates this rhetorical strategy by drawing on images of black women's powerlessness and providing examples of how black women have not had a voice in society or law and legal discourse. By using rights rhetoric, Murray finds a way to surpass legal discourse's desire to remain neutral and color-blind because it provides a way to target the same oppressions by addressing them through a different approach. Rather than asking legal discourse to recognize black women's plight with oppressions of race, class, and sex, rights rhetoric argues that black women are being denied basic rights, which essentially allows them to address issues of their oppressions indirectly.

The second strategy Murray uses, in conjunction with rights rhetoric, to more effectively assert the point that black women are being denied equality and rights, is the naming of black women's oppressions. Murray addresses each of the oppressions that contribute to why black women could not participate in the ERA and the women's movement. Murray says that black women "have been doubly victimized by the twin immoralities of racial and sexual bias" (253). In this statement Murray addresses black women's unique subject positioning by naming two prominent oppressions that "victimize" them: race and sex. She further discusses how black women have been historically oppressed racially and sexually by presenting the ways African American women have been degraded by slavery. For example, she mentions how it was common for a slave woman to be "likened to a 'brood mare,'" used for breeding purposes as if she were an animal (253). Murray also states, "The dual victimization of Negro women creates special problems of educational disadvantage, lack of employment opportunities, low income, poverty, and general powerlessness" (256).

Murray indirectly acknowledges the oppression of class that arises from the main oppressions she names of race and sex. "Legal and social proscriptions based upon race and sex have often been identical, and have generally implied the inherent inferiority of the proscribed group. Both classes have been defined by, and subordinated to, the same power group—white males" (257). Her assertion that white males function as the oppressing power group for blacks and women relates to my research findings that the dominant discourse and ideologies in society and law are patriarchy based. The act of naming these oppressions, their intersectionality, and calling attention to the problem with law and legal discourse allow Murray to strategically recognize reasons why black women faced difficulty in participating in the ERA and the women's movement. This recognition allows her the means to con-

vince black women that they could overcome oppressions through their involvement with the ERA, because it would act as a gateway through which they could become politically involved so that they could address issues of poverty and race in addition to gaining equality as women. If black women could get their voices heard politically and legally, then they could manipulate decision-making powers and structures that could work toward ending their oppressions and gaining their rights.

Murray uses the rhetorical strategies of rights rhetoric and the identification of black women's multiple oppressions to explain how the ERA would improve black women's condition. "Specifically, the adoption of the Equal Rights Amendment would have certain advantages for black women not realizable by other means. First, the affirmation of equal rights without regard to sex would permit them to enjoy a constitutional status not accorded to them under the Civil War amendments" (258). Essentially what Murray argues is that participation in the ERA gives black women political agency as women, so the same amendment that white women desire also serves a purpose for African American women. She further develops this point when she states: "This prohibition has special significance for Negro women because of the massive involvement of the federal government in programs dealing with housing, health, welfare, education, job training, employment opportunity, and almost every other aspect in their lives" (259). In this statement Murray appeals to black women's concerns with work, family, and poverty.

In conclusion, Murray attempted to gain black women's participation in the ERA by appealing to their lack of rights and drawing attention to their multiple oppressions in order to persuade them to consider the ERA as a constitutional protection and political exigency to attack their powerlessness. She focused her attention on gaining equality through the law, as she saw it as the best available means to achieve equality for black women, and her work paved a path for future black women activists like Williams. Although the ERA has yet to be passed, examining Murray's rhetorical strategies to gain voice for black women can provide insight into other groups' efforts to gain voice today—whether that be other racial groups or those facing different types of oppression such as those relating to sexual orientation, class, age, or disability.

Patricia Williams: Multiple Consciousness and a Contemporary Voice

Williams expands upon Murray's rhetorical strategies and offers a way to understand how rhetoric functions within legal discourse to work toward justice and equal rights. How does rhetoric have a role in achieving justice? In establishing voice? Williams's *The Alchemy of Race and Rights* illustrates a potential solution. She seeks to fundamentally change discourse by addressing the issues of a color-blind and neutral legal discourse in order to transform it. She addresses problems with legal discourse by placing her subject positioning as a black lawyer, professor, and feminist in juxtaposition to legal discourse to display a sense of otherness and lack of agency. This juxtaposition is accomplished through her personal ethos and use of real-life, firsthand stories that relate her current subject positioning to that of her black slave ancestors. This strategy relates specifically to critical race theory in its use of voice scholarship, wherein Williams strategically writes in a storytelling and narrative style to establish a foundation for knowledge and to argue for rights. For example, Williams tells a story about the difficulty she experienced renting an apartment compared to the ease of her white male colleague in the same endeavor. Because of her subject positioning as a black female, Williams says, "no matter what degree of professional I am, people will greet and dismiss my black femaleness as unreliable, untrustworthy, hostile, angry, powerless, irrational, and probably destitute" (147). She had to find an apartment through friends and supply references and a credit check, whereas her white male friend

experienced the opposite “problem”: he had to be less formal to make others comfortable with his high social positioning as a professional lawyer. Williams relates her personal experience to that of her ancestors when she says, “I am still evolving from being treated as three-fifths of a human, a subpart of the white estate,” referring to the slavery era, when blacks counted as only three-fifths of a human for population census purposes (147).

Her situation displays the binaries that exist between black and white, female and male, and rights and needs. Establishing the binaries that exist in our society and language allows her to express the need to examine rather than remove these binaries. Williams writes, “we have to use the words in order to acknowledge the undeniable psychological and cultural power of racial constructions upon our lives; we have to be able to call out against the things that trouble us, whether racism or other forms of suffering” (83–84). Williams argues there is a need to recognize the binaries in order to understand the oppressions associated with them. Further, her difficulty in renting an apartment comments on the “freedom” that African Americans have supposedly achieved, since she cannot easily find housing because of her race and sex even though she is supposedly an equal citizen. Her experience and the fact that she grew up in a neighborhood where “landlords would not sign leases with their poor black tenants, and demanded that rent be paid in cash” contribute to the point that although a law may be passed to give people rights, that law may not be enforced (147).

Her contextualization of the scenario pulls in issues from the past to the present, where Williams relates the oppressions of her ancestors to the oppressions she faces, and allows her text to function as a lens through which to examine the works, rhetorical strategies, and subject positioning of others. She situates her contextual circumstance within historical realities of slavery, and this rhetorical strategy allows her to function as a theorist because of the way she analyzes the past in conjunction with the present context. Additionally, her stories allow the reader to see her multiple consciousness, in that she can write both as a professional lawyer and as an oppressed black woman. While making her experiences legitimate by writing about them and relating them to contemporary law, Williams approaches the problems with legal discourse from both professional and personal angles.

Williams’s innovative use of the application of history joined to the personal authority she establishes by relating her experiences creates a new and successful way to approach legal discourse and to bring issues of oppression to light. Williams’s subject positioning displays her multiple consciousness, allowing her to bring her multifaceted oppression to attention while she also uses the familiar legal discourse, as when she discusses her difficulty in renting an apartment both on a personal level and from a legal perspective. Perhaps her ability to combine the discourse of law with that of an oppressed and rights perspective in a single work acts as a step toward changing legal discourse’s lack of recognition of race. Williams’s strategy fundamentally challenges the limits of the discourses, and thus the structure in which they have basis. Literature’s examination of law, displayed in Williams’s book, may provide a means to explore different discourses and to fundamentally change discourse by introducing a new understanding of the way language functions as the carrier of the ideological beliefs of a society. Introducing diverse viewpoints through literature to law may eventually provide for the socially constructed concepts of race, class, and sex to be addressed in our judicial system and create a less narrow concept of justice. Maybe then we can gain a better understanding of the oppressions that are based only on socially constructed ideas, and fundamentally change our society’s ideology and understanding of race, sex, and class to attain justice for the oppressed.

Implications for Law and Social Justice

Williams regards justice as a “continual balancing of competing visions, plural viewpoints, shifting histories, interests, and allegories” (121). Within this understanding of justice as a subjective rhetorical concept, how can those who face injustice work within a discourse to remedy their injustice or oppressions? Through jurisprudence? Social contracts? To answer this question, I considered Williams’s understanding of justice in relation to the definition of justice as “the administration of law; especially: the establishment or determination of rights according to the rules of law or equity” (*Merriam-Webster On-line*). If justice is attainable only through law, and law is based in a discourse that aspires to be neutral, a problem arises in achieving justice through a law that maintains a subjective understanding of what is fair and what rights are applicable at what time. Even when laws are established, for example, the Civil Rights Act of 1965, difficulty occurs in the legitimacy of the law: whether the law functions in form or in fact. Establishing a law is one thing, enforcing it and having it attain its desired goal of equality is another. After the Civil Rights Act was passed, desegregation and antidiscrimination were not achieved immediately, and the question of whether fulfillment of the act has ever been fully accomplished persists, demonstrating law in form but not in fact. Rhode comments on the fulfillment of laws after passage:

America has adopted an increasing array of legal decisions, public policies, and employer initiatives that seek to ensure equal opportunity. But this progress carries a double edge. Once we pass a law or institute a policy, we often believe that we’ve done our bit for women and move onto other issues. The result is that we settle for equality in form rather than equality in fact.
(16)

I translate Rhode’s “equality in form” versus “equality in fact” into law in form versus law in fact: a difference exists between simply passing a law and passing a law that then moves into action and accomplishes its desired goal for all groups. Working with the law is a pertinent factor in changing the way our society functions, as the law acts as the conscience of society and is considered a legitimate means of change. However, there comes a point at which, in order to fundamentally examine our social structure, one must move beyond the law to examine the use of language, which directly reflects social ideologies.

My research has led me to conclude that the language used in our society has significant effects on the ability of people to communicate, a task particularly difficult for those in positions of oppression. In order for our justice system to work more effectively at attaining justice for all, as a society we must consider the functions of legal discourse and the impact this discourse has on the ability of individuals facing oppression to have agency in resolving oppression issues—whether these be hate crimes, difficulty surpassing the glass ceiling, lack of basic resources for survival, or the inability to access education or medical care. When approaching problems with oppressions and inequality, it can be difficult to look beyond the legal processes and discourse to the underlying social structure that lies at the roots of the problems. Looking at the rhetoric used in the arguments made by those seeking social justice—like Murray and Williams—contributes to understanding how solutions can be created that go beyond the law’s limits to address the underlying social structure and challenge social norms.

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