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Black Women, Sisterhood, and the Difference/Deviance Divide

Regina Austin

For Mary Joe

I never really understood what Mary Joe was about with her writing; it was never "quite done" yet. I am sure that I was of little help to her in this regard. Struggling to make sense of the reality of black urban life, I was very suspicious of the hints of post-modern feminism that found their way into our conversations. She appreciated the anxiety such talk caused me and spooned the stuff out a name or two at a time.

Among the pieces Mary Joe did finish was a comment on a talk that I gave on October 2, 1989, at the "Deconstruction and the Possibility of Justice" Symposium organized by Drucilla Cornell of Cardozo Law School. We were on a panel entitled "Difference and the Ideal of Community." This time I was the one who could not quite get it all together. I still haven't, but the comment is too good not to be published. I am finally beginning to catch on. A revised version of the paper and Mary Joe's response follow.

In her essay, Mary Joe gently chides me for failing to explore connections between black and white women. I could have the last word, reply to her implicit criticisms, and explain myself, but I really do not want my conversation with Mary Joe to end that way. Any optimism I have about white feminists and any interest I have in their concerns are the product of my relationships with rare white women like Mary Joe.

Mary Joe Frug probably would have been furious with my prayer that her assailant, please God, not be black. (I am sure that I was not the only person who gave some thought to the race of the perpetrator. I will not speculate about what she would have said to the rest of you.) I was motivated in part by an ingrained sense that what one black person does reflects on all of us and by the fear that the way Mary Joe died might make a mockery of the way she had lived. Such foolishness!

Mary Joe Frug was a staunch anti-racist. She was also a troublemaker. Her methods were insidious. She succeeded by defying expectations. Her targets were on the left and the right. Her femme exterior went against the grain of orthodox feminism. She was a good person, a great girlfriend, and a loyal ally, but she also flaunted her beauty and kicked a little ass, wearing, if I remember correctly, slingback medium-high heels. I suspect that her willingness to make a little trouble enabled her to maintain a degree of social and intellectual flexibility in a context that breeds precious brittleness. She empathized with the real bad girls of this
In some ways, she was one of them. I could relate to that. That gave me hope and I grieve because some of that hope is gone.

I. Shades of Difference and Deviance

“Sameness” and “difference” do not nearly encompass all the categories into which deserving black woman might be placed or might place themselves. To be sure, “sameness” and “difference,” vis-a-vis whites of course, have been useful rhetorical devices by which blacks have launched assaults at the border between liberation and oppression and captured new ground. Yet, there is a third, unspecified category beyond and implicit in “difference” of which black women must be especially mindful; that category is “deviance.” Given the number and prevalence of stereotypes that exist concerning black women, we cannot afford to ignore how the dominant, white male-controlled society goes about labeling us deviant. We must hold ourselves open to the possibility that deviance includes attitudes and behaviors we ought to defend.

For blacks in general, negotiating the difference/deviance divide is a tricky business because the distinctions operate with regard to not only foreign relations, but also internal affairs. That is to say, “sameness,” “difference,” and “deviance” are tools or mechanisms for defining the boundaries of the so-called “black community.” (I express my concerns about the vitality of this “community” elsewhere.) Membership in “the community” and positions in its hierarchy are allocated in accord with them.

Because blacks have somewhat disparate interests at stake at home and abroad, our responses to conduct the dominant society labels “deviant” are numerous and complex. Some of those who are considered deviant by whites are excluded from good standing within “the community” because they undermine our claims to greater respect and a larger share of the nation’s bounty. In other instances, “the community” responds in a less harsh and more sympathetic manner to those adjudged deviant by the rest of the society. Attributing deviance to systemic sources like racism and material deprivation, “the community” champions the cause of lawbreakers and thereby champions the cause of us all. Assertions of solidarity and identification with deviants may actually be more beneficial to elites than to the masses of ordinary black folk from among whom the deviants come. Of course, there are norm violators who are admittedly such threats to the security and welfare of other black people that their behavior provokes vociferous condemnation and ostracism. At the same time, an indifferent dominant society may have fewer problems with these norm violators than “the community.”

does. The same is not true of deviants who act out in impolitic ways what other blacks merely think; they represent a critical challenge to white supremacy. Theirs is a deviance that is different because it is defiant and resistant of the racial status quo; these deviants are likely to be admired by other blacks for just that reason. Finally, the rebellious misconduct of some black deviants is aimed at conventionalism, stratification, authoritarianism, patriarchy, and materialism within "the community." These malcontents may receive less than a favorable reception because many blacks believe that internal dissension only impedes the struggle against the external enemy.

In general, gender makes a difference in the evaluation of deviant behavior. If the assessment is positive when the lawbreaker or norm violator is a male, it is likely to be less so or quite the reverse if the lawbreaker or norm violator is a female. If the assessment is negative when the wrongdoer is a male, it is likely to be more so if the wrongdoer is a female. As is true in other aspects of American social life, black women who break the rules are judged in accordance with the biases of both white supremacy and male domination. Black female offenders accordingly receive harsher treatment at the hands of the law than do female lawbreakers of other races and ethnicities.2

But black women have reason to challenge the appraisals of black female deviants, whether they are based on the standards of the dominant society or those prevailing in the black community. In the name of a "black sisterhood," a "community" within "the community," we might respond to female deviance with understanding, support, or praise based on the distinctive social, material, and political interests of black women. In doing so, however, we risk being labeled deviant ourselves. For this and other reasons, we tend to differentiate ourselves from those whose conduct falls within traditional definitions of deviance when we advance our claims for greater esteem and resources. The implications of this approach for the existence and maintenance of a true dynamic black sisterhood are best illustrated with a concrete case.

II. Ruby Clark v. ABC

Ruby Clark, a black woman, sued the American Broadcasting Company (ABC) for defamation after her photograph appeared on the screen during a 1977 "ABC News Closeup" program on commercialized sex.3 The particular segment that gave rise to her complaints fo-

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2. See generally Vernetta D. Young, Gender Expectations and Their Impact on Black Female Offenders and Victims, 3 Just. Q. 305, 310-18 (1986).
3. Clark v. American Broadcasting Co., 684 F.2d 1208, 1210-11 (6th Cir. 1982), cert. denied, 460 U.S. 1040 (1983). In addition to ruling on the defamatory nature of defendant's portrayal of the plaintiff, the court also concluded that the defendant was not protected by a qualified privilege for reporting in the public interest because the plaintiff was "not the focus of the alleged public interest
cused on the impact of street prostitution on a Detroit neighborhood.\(^4\) Plaintiff was among three women pictured as they walked in public.\(^5\) Just before their appearance, a neighborhood woman was shown saying, "Whether you're 15 or 45, constantly being approached—it's degrading—feels terrible."\(^6\) Another followed with the statement "[y]ou want to ... just kill 'em ... cause it makes you so angry to be placed down to a hooker's level."\(^7\) There followed in sequence three women walking in public.\(^8\) The first was a white female described as being obese\(^9\) and elderly.\(^10\) This woman "wore a hat, and carried a shopping bag in each hand."\(^11\) The second woman was black and "slightly obese, wore large-framed glasses and appeared to be at least forty years old."\(^12\) She was photographed as she left a store with a bag of groceries in her arms and walked down the street.\(^13\) While these women were on the screen, the announcer stated, "According to residents, and Detroit police records, most of the prostitutes' customers or johns were white; the street prostitutes were often black. This integrated middle class neighborhood became a safe meeting place for prostitutes and johns."\(^14\)

Plaintiff was the last of the trio featured.\(^15\) The opinion describes the visual image and the verbal accompaniment as follows:

The plaintiff appeared to be in her early to mid-twenties. She was attractive, slim, and stylishly dressed. She wore large earrings and had long hair which was pulled up above her head. Apparently, Plaintiff was unaware that she was being photographed. As Plaintiff appeared, the narrator made the following remarks: "But for black women whose homes were there, the cruising white customers were an especially humiliating experience."

Sheri Madison, a black female resident of the neighborhood plagued by prostitution, appeared on the screen seconds after Plaintiff. She stated: "Almost any woman who was black and on the street was considered to be a prostitute herself. And was treated like a
prostitute."  

Plaintiff, who viewed the program with her husband and young son, was shocked by its portrayal of her. A number of persons—friends, relatives, acquaintances, fellow church members, and prospective employers of plaintiff—thought that the program presented her as being a prostitute and some even concluded that she actually was one.

The district court awarded ABC summary judgment on the ground that plaintiff had not been libeled because “nothing in Plaintiff’s appearance suggested that her activity paralleled that of a street prostitute.” On appeal, this ruling was reversed. A majority of the Sixth Circuit panel concluded that the portrayal of plaintiff was “reasonably capable of two meanings, one defamatory and the other non-defamatory,” The issue was accordingly one for the jury.

Plaintiff was definitely not a prostitute; she was not even a resident of the affected neighborhood. Thus, it clearly would have been libelous for ABC to depict plaintiff as being a prostitute and ABC contended that it did not do so. As the district court emphasized, she was not shown exhibiting the stereotypical indicia of prostitutes, “suggestive clothing, suggestive walking, overt acts of solicitation, and the like.”

Yet, in context, plaintiff’s status was equivocal. The subject was street prostitution and the prostitutes were said to be black. Plaintiff was clearly distinguishable from the two women whose features preceded her own. They were portly matrons, one white, the other black and bespectacled, both carrying bags, while she was young, slim, attractive, and black. The court stated, “[w]hen her appearance is juxta posed with that of the two matrons, it is not clear whether she is a resident of this middle class neighborhood or one of the street prostitutes who plagued this community.” Although the commentary that accompanied her picture suggested that she was one of “the black women who resided in the neighborhood” for whom “the presence of the cruising white customers was a humiliating experience,” the interview footage that followed restored the ambiguity about plaintiff’s status by refer-
ring to the frequency with which black women on the street were considered to be and treated like prostitutes. Thus, it was up to the jury to decide whether ABC presented plaintiff as being "one of those middle class women erroneously considered to be a prostitute or . . . in fact, a prostitute."28

ABC, in essence, permitted its viewers to do to Mrs. Clark the very thing that the women complained of in the program. In reporting what was happening on the streets, ABC invited those watching the broadcast to engage in the johns' speculation—is she or isn't she? ABC bore some of the risk that its viewers were no more discriminating than the men cruising the affected neighborhood in search of prostitutes and might therefore exercise the same sort of erroneous judgment.

The court might have gone further and concluded that it was even defamatory to present Mrs. Clark as the type of black woman who gets mistaken for a prostitute. Such a portrayal of Mrs. Clark would have been neither flattering nor likely to enhance her reputation among her friends and associates. If the segment involving Mrs. Clark was as ambiguous as the court suggests, it is not clear that a jury was capable of definitively assessing its meaning. The jurors, no less than the viewers and the johns who mistakenly proposition black women on the street, would have been privy to the general societal defamation or devaluation of black women's sexuality which affects how our physical appearance and behavior in public are read. That was the real source of the ambiguity on which the case hinged.

Mrs. Clark's libel action challenged not only her own possible wrongful inclusion in the category of prostitutes, but also the general stereotyping that associates black women with street prostitution. Before and since slavery, black women's supposed sexual promiscuity and licentiousness have been relied upon to justify the sexual exploitation of black women by white males intent upon rape, cheap sex, harassment on the job, or torment on the street.29 Since emancipation, combating our sexual denigration and establishing our entitlement to the same respect accorded white "ladies" have been significant components of black women's organized politics.30 Mrs. Clark's law suit was in keeping with this well-developed strand of black women's quest for freedom from white men's sexual domination.

28. Id. at 1214. The dissent concluded that "Mrs. Clark's appearance can only be reasonably capable of the interpretation that she was a member of that group of middle class black women in the neighborhood who were subject to being accosted by 'johns' looking for prostitutes among the women in the neighborhood." Id. at 1225 (Brown, J., dissenting). Since viewers could not also have reasonably gathered that plaintiff was "a common street prostitute," she accordingly had no cause of action.


Despite the breadth of her claim, Mrs. Clark was still required to distinguish herself from and participate in the broader societal put down of other black women. She succeeded in proving that the program possibly portrayed her as a prostitute by emphasizing the stark contrast between herself and the two other women, "the bag ladies" as it were, with whom she appeared. She accomplished this at the cost of perpetuating notions about the sexual undesirability of females who are no longer young, no longervelte, and no longer (if they ever were) carefree. For a black woman to be required to join in this sort of disparagement of other black women is a very serious matter.

Black women who labor hard at jobs that require physical strength and endurance have long been viewed as being less than feminine. Some of the stereotypes of black women reinforce the idea that such workers lack physical beauty and sexual allure. The image of Mammy, "Aunt Jemima," Beulah, and even the emasculating matriarch is that of an overweight, round female, devoid of the curves that are indicative of the more seductive examples of her sex. Outfitted in an unflattering dress, apron, and scarf (a "headrag"), she is always ready for work and never ready for bed. These images are not without material consequence. As Mae King argues, they facilitated the "most outrageous exploitation of black females as a cheap labor source. By 'de-feminizing' them, America could subject them to the most harsh and unsafe working conditions without violating the white ethics [regarding the treatment of delicate womanhood]. . . ."31

The impact of the attack on the femininity and sexuality of low-status black female workers is quite broad. Black women who try to distance themselves from the black drone role via simplistic negation and antithetical behavior do not thereby free themselves from the hold of a racist patriarchy; they merely give themselves over to it. In any event, such an approach is a futile one for many poor and working-class black females because their diets, jobs, limited expendable income, and restricted leisure time interfere with their ability to satisfy white, bourgeois, heterosexual norms of sexual attractiveness. Of course, many black women dismiss and defy the dominant standards by adopting distinctively black styles of dress and adornment. They pay for their resistance, however. Finally, black women of any class who choose to look and act like they survive without a man experience a reproach that is not unrelated to the negative assessment of the beauty and sexuality of black women of low economic status. Racist heterosexism and fear of black lesbianism, within and without the black community, denigrate the sexuality and sensuality of black females who eschew the primping of the pampered and privileged and/or thrive as sexual beings within

31. Mae C. King, The Politics of Sexual Stereotypes, BLACK SCHOLAR, Summer 1982, at 2, 6. See also nooks, supra note 29, at 71 (exploitation of slave women promoted by mythologizing them as "masculinized sub-human creatures").
the orbit of a social order controlled by women. All of these modes of vilification seek to control more than black women’s sexual expression; in addressing how and for whose benefit we ought to work, they affect exploitation of our labor power.32

The other black females from whom the plaintiff had to distinguish herself were black prostitutes. The opinion in Clark suggests that black prostitutes represented a direct threat to the social standing, dignity, and well-being of upstanding black women. “Prostitutes are considered immoral and socially undesirable.”33 Their presence in the Detroit neighborhood was shown to produce “devastating social problems,” including an increase in robberies, assaults, and drug trafficking.34 The fact that some black women were actually prostitutes increased the chances that those who were not would be subjected to street harassment.

To make out a claim, Mrs. Clark had to ignore any clichés that pertain to black prostitutes and middle-class women alike (for instance, the extent to which black women yearn for white sexual partners) and accept the misconceptions that apply to black prostitutes (for instance, their role in spreading disease)35 while disputing their application to upstanding black women like herself. It would have been beyond the scope of Mrs. Clark’s cause of action to prove that the low social standing accorded black streetwalkers is the product of ignoring the realities of the milieu in which they operate. Few of the legitimate jobs available to poor and poorly educated black women offer them the money, excitement, and independence some report finding in hustling.36 Because black women’s beauty and sexuality are undervalued, they wind up pounding the pavement, rather than working in more comfortable surroundings.37 The men who live off their earnings are at least as depraved and sinful as the hookers, but the former experience less severe rebuke.38

32. See Paulette M. Caldwell, A Hair Piece: Perspectives on the Intersection of Race and Gender, 1991 DUKE L.J. 365, 390-95 (discussing the connection between aesthetic judgments about black women’s beauty and our economic exploitation).
34. Id.
36. See ELEANOR MILLER, STREET WOMAN, 139-40 (1986); TERRY M. WILLIAMS & WILLIAM KORNBLUM, GROWING UP POOR 68-69 (1985).
37. See PAUL J. GOLDSTEIN, PROSTITUTION AND DRUGS 54 (1979); MARTHA ROSENAUM, WOMEN ON HEROIN 78 (1981).
Mrs. Clark's right to recover was dependent upon her articulating her complaints within the confines of mainstream sexual morality, however racist, sexist, homophbic, or bourgeois it might be. The two groups of black women from whom the plaintiff had to distinguish herself, the matrons and the prostitutes, represent the Scylla and Charybdis of the narrow strait in which bourgeois black women are supposed to channel their sexuality. On one side are the "de-sexed," "de-heterosexual," and androgynous females who are lumped in with the self-declared lesbians; on the other side are the wild, wicked women who are written off as whores. If Mrs. Clark veered too far in either direction, she risked censure, a decline in her reputation, and increased exploitation. If she succeeded in keeping to the straight and narrow, she got rewarded with a recovery.

While law and convention work to drive wedges between black women who express their sexuality in different ways, their actual impact could be quite the reverse. A common oppression and a common quest for liberation provide some basis for solidarity among black females. All of the black females shown in the program shared white society's devaluation of black women's sexuality although it affected them differently. It compelled the black prostitutes to stroll the streets in search of customers, subjected those who were not prostitutes to unwelcome public overtures, and rendered the portly matron (and her white counterpart) a neuter object, respectable but out of the game. They all have an interest in opposing the full range of negative categorizations of black women's sexuality. They all would have gained from an attack on the attempts of white men (including the cruising Johns and ABC) to restrict black women's sexual expression and to label it in ways dictated by the white men's purposes. Naturally, defamation law does not allow such broad claims.

(status of pimping enhanced by the limited economic opportunities available to black males); Williams & Kornblum, supra note 36, at 69 (under the double standard, the pimps are considered "smooth, slick, and smart" and the prostitutes, "stupid and dirty"); Benjamin Carmichael, Urban Street Crime—Hustling, in BLACK PERSPECTIVES ON CRIME AND THE CRIMINAL JUSTICE SYSTEM 23, 25 (Robert L. Woodson ed., 1977) (pimping rated high in terms of financial rewards, association with masculine attractiveness, and insulation from arrest and violence).

39. For more in-depth analysis of the relationship between the various sexual stereotypes of black women, see Patricia Morton, DISFIGURED IMAGES: THE HISTORICAL ASSAULT ON AFRO-AMERICAN WOMEN 1-15 (1991); Hortense J. Spillers, Interstices: A Small Drama of Words, in PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY 73 (Carole S. Vance ed., 1984); Young, supra note 2; King, supra note 31.

40. A group libel claim would have challenged the disparagement of black women's sexuality, but the community of aggrieved persons, all black women, is not discrete enough (nor hopefully discreet enough) to satisfy the existing "of and concerning" test for determining whether any particular party can sue for a defamatory statement directed at a group. See RESTATEMENT (SECOND) OF TORTS § 564A (1977); Khalid Abdullah Tariq Al Mansour Faissal Fahd Al Talal v. Fanning, 306 F. Supp. 186 (N.D. Cal. 1980) (no action for alleged defamation of an
III. Defying the Divisiveness of Deviance

Contrariness is not a suitable basis for a vibrant and affirmative community. Black women must do more to build and sustain a sisterhood than unite against a common enemy and combat him on his own terms. Distinctions still have to be drawn. The difference/deviance divide cannot be avoided. Prostitutes present an especially hard case. If black women united to dispute the unwarranted denigration of black streetwalkers, it might be assumed that we also mean to suggest that black females should be more attractive prospects for commercial intercourse than they presently are. Moreover, it remains true that black prostitutes bring traffic and confusion in their wake and their presence is more than morally problematic for the black folks who live in their environs.41 There comes a point at which blacks will or must adjudge the activities of these women to be “deviant” and condemn them as being on the wrong side of the difference/deviance divide.

To affix the label and forget it or to write off the women so tagged as being beyond redemption would not be sisterly. Black women who consider themselves virtuous cannot be part of an effective community with black sex workers if the former have no respect for the sex workers beyond that dictated by maternalism42 and assume that the sex workers can teach them nothing. Finding something positive in the practices and concerns of women in street life may not be easy, but it should not be impossible. For example, prostitutes might teach straight women a thing or two about identifying and dealing with pimps.43 We will not know the extent to which vice has its virtues until we come to know street women better. No external source of morals and values can supply the norms and values by which black women interact with each other. We certainly cannot expect the law to provide us with a cause of action that redresses the harm Mrs. Clark suffered in a way that ac-

41. The problems explored in the ABC program at issue in Clark have been experienced by the black residents of other communities inundated with black prostitutes and cruising johns. See, e.g., Sarah Lyall, Stung by Prostitution, Town Shames Customers, N.Y. TIMES, July 18, 1991, at B1; MILLER, supra note 36, at 22-23.

42. Maternalism is a form of female authoritarianism. Though it is grounded in “nurturing, loving, and attending to affective needs,” it is no less oppressive of subordinates and social inferiors than paternalism. See generally JUDITH ROLLINS, BETWEEN WOMEN: FEMALE DOMESTICS AND THEIR EMPLOYERS 178-203 (1985).

43. MILLER, supra note 36, at 164-66.
knowledges how problematic the behavior of the prostitutes can be, yet does not put them down, and even concedes (without romanticization) the appeal of some of the values that are meaningful to them . . . until we can take such a position ourselves.

A genuine sisterhood would be a modern moral community, one in which political positions and ethical stances are constructed by the sisters as a matter of “common sense, ordinary emotions, and everyday life.” It may be time to recognize that the only true communities of black females are voluntary associations of women who are bound by shared economic, political, and social constraints and find strength, economic support, and moral guidance through affective, face-to-face engagement with each other. Such an admission would interfere with our nostalgic longing for a not too distant past when success nationally obviated the need to come together locally, as well as highlight our reluctance to analyze the contemporary material landscape and the full extent of the class cleavages that separate black women. The enormous comfort that comes from being able to think, talk, and act in terms of their being a “black community” or a “black sisterhood” would be threatened if we called core assumptions into question. Dare we?

The social and economic liberation of black female deviants and nondeviants alike would proceed faster if we acknowledged that sometimes it is indeed difficult to tell “us” from “them.” We must work to turn the boundary between difference and deviance into free space, a time and place in which racial, sexual, and economic emancipation can be imagined, experimented with, and even enjoyed. In collectively working the line between street and straight, straddling it, and pushing it, we can increase and intensify those moments in which we control our own sexuality and economic destiny. Only we can deliver ourselves into freedom, and dancing on the difference/deviance divide may be one way to do that.

44. ALAN WOLFE, WHOSE KEEPER?: SOCIAL SCIENCE AND MORAL OBLIGATION 211 (1989). See generally id. at 212-236.
45. The metaphor comes from a Nadine Gordimer short story. NADINE GORDIMER, A LION ON THE FREEWAY, or A SOLDIER’S EMBRACE 23, 27 (1980).