



*The Alchemy
of Race and Rights*

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The Brass Ring and the Deep Blue Sea

(some parables about learning to think like a lawyer)

Since subject position is everything in my analysis of the law, you deserve to know that it's a bad morning. I am very depressed. It always takes a while to sort out what's wrong, but it usually starts with some kind of perfectly irrational thought such as: I *hate* being a lawyer. This particular morning I'm sitting up in bed reading about redhibitory vices. A redhibitory vice is a defect in merchandise which, if existing at the time of purchase, gives rise to a claim allowing the buyer to return the thing and to get back part or all of the purchase price. The case I'm reading is an 1835 decision from Louisiana, involving the redhibitory vice of craziness:

The plaintiff alleged that he purchased of the defendant a slave named Kate, for which he paid \$500, and in two or three days after it was discovered the slave was crazy, and run away, and that the vices were known to the defendant . . .

It was contended [by the seller] that Kate was not crazy but only stupid, and stupidity is not madness; but on the contrary, an apparent defect, against which the defendant did not warrant . . .

The code has declared, that a sale may be avoided on account of any vice or defect, which renders the thing either absolutely useless, or its use so inconvenient and imperfect, that it must be supposed the buyer would not have purchased with a knowledge of the vice. We are satisfied that the slave in question was wholly, and perhaps worse than, useless.¹

As I said, this is the sort of morning when I hate being a lawyer, a teacher, and just about everything else in my life. It's all I can do to feed the cats. I let my hair stream wildly and the eyes roll back in my head.

So you should know that this is one of those mornings when I refuse to compose myself properly; you should know you are dealing with someone who is writing this in an old terry bathrobe with a little fringe of blue and white tassles dangling from the hem, trying to decide if she is stupid or crazy.

Whenever I'm in a mood like this, it helps to get it out on paper, so I sit down to write even when I'm afraid I may produce a death-poem. Sometimes I can just write fast from the heart until I'm healed. Sometimes I look at my computer keyboard and I am paralyzed, inadequate—all those letters of the alphabet, full of random signification. I feel like a monkey. Those mornings, and this is one, I need a little extra push to get me started, and if I turn on the television, almost any story will do. I switch channels through a sea of news programs with the coopting, carnivorous eagerness of catharsis.

Conditions are bad, very bad, all over the world. The newscasters tell me that everyone is afraid of black men these days, even black women. Black people are being jailed in huge numbers, and the infant-mortality rate is staggering. Courts have authorized the custody removal of children at birth from mothers who are drug-addicted. Drugs bring pleasure to the biological catastrophe of having been born in the fearsome, loathesome packaging of an "other" body. Editorials talk about the efficiency of apartheid. Bigger better prisons. Spy satellites. Personnel carriers in Harlem. Door-to-door searches. State-sanctioned castration. Some neutral market thing devouring the resources of the earth at a terminally reckless rate. The Ku Klux Klan and the Aryan Brotherhood are the major unions among prison guards. Eastern Europe wants more freedom in the form of telephone-answering machines and video cassettes. AIDS spreads and spreads and spreads, among

black and brown communities in particular. Subsistence farmers and indigenous people are dying all over the world, their ways and knowledge devoured and lost forever. According to the most authoritative scientists, the greenhouse effect is supposed to raise the temperature of the earth by two or three degrees over the next millennium. The winter of 1989 was five, ten, sometimes fifteen degrees above normal, all over the earth. It is the spring of 1990, and we are all worried about the summer to come.

I don't know how to find something to write about in the panic of this deadly world. There is more in the news than even my depression can consume.

Then I see it. A concise, modular, yet totally engaging item on the "MacNeil/Lehrer News Hour": Harvard Law School cannot find one black woman on the entire planet who is good enough to teach there, because we're all too stupid. (Well, that's not precisely what was said. It was more like they couldn't find anyone smart enough. To be fair, what Associate Dean Louis Kaplow actually said was that Harvard would have to "lower its standards," which of course Harvard simply cannot do.²)

So now you know: it is this news item, as I sit propped up in bed with my laptop computer balanced on my knees, clad in my robe with the torn fringe of terry bluebells, that finally pushes me over the edge and into the deep rabbit hole of this book.

When I dust myself off, I am sitting with my sister at my parents' kitchen table. Grown now, she and I are at home for Christmas. We chat, catching up on each other's lives. My sister tells me how her house is haunted by rabbits. I tell her how I'm trying to write a book on law and liberation.

"The previous owner had hundreds of them," she says. "You can hear them dancing in the dining room after midnight."

"It will be a book about the jurisprudence of rights," I respond. "I will attempt to apply so-called critical thought to legal studies. I believe that critical theory has valuable insights to con-

tribute to debates about the ethics of law and the meaning of rights; yet many of those insights have been buried in relatively arcane vocabulary and abstraction. My book will concern itself with the interplay of commerce and constitutional protections and will be organized around discussion of three basic jurisprudential forces: autonomy, community, and order. My chapters will address such issues as surrogate motherhood and ownership; neighborhood and homelessness; racially motivated violence and disownedness. I will try to write, moreover, in a way that bridges the traditional gap between theory and praxis. It is not my goal merely to simplify; I hope that the result will be a text that is multilayered—that encompasses the straightforwardness of real life *and* reveals complexity of meaning.”

“But what’s the book *about*?” my sister asks, thumping her leg against the chair impatiently.

“Howard Beach, polar bears, and food stamps,” I snap back. “I am interested in the way in which legal language flattens and confines in absolutes the complexity of meaning inherent in any given problem; I am trying to challenge the usual limits of commercial discourse by using an intentionally double-voiced and relational, rather than a traditionally legal black-letter, vocabulary. For example, I am a commercial lawyer as well as a teacher of contract and property law. I am also black and female, a status that one of my former employers described as being ‘at oxymoronic odds’ with that of commercial lawyer. While I certainly took issue with that particular characterization, it is true that my attempts to write in my own voice have placed me in the center of a snarl of social tensions and crossed boundaries. On the one hand, my writing has been staked out as the exclusive interdisciplinary property of constitutional law, contract, African-American history, feminist jurisprudence, political science, and rhetoric. At the same time, my work has been described as a ‘sophisticated frontal assault’ on *laissez-faire*’s most sacred sanctums, as ‘new-age performance art,’ and as ‘anecdotal individualism.’ In other words, to speak as black,

female, *and* commercial lawyer has rendered me simultaneously universal, trendy, and marginal. I think, moreover, that there is a paradigm at work, in the persistent perceptions of me as inherent contradiction: a paradigm of larger social perceptions that divide public from private, black from white, dispossessed from legitimate. This realization, while extremely personal, inevitably informs my writing on a professional level.”

“What’s so new,” asks my sister, losing interest rapidly, “about a schizophrenic black lady pouring her heart out about food stamps and polar bears?”

I lean closer to her. “Floating signifiers,” I whisper.

I continue: “Legal writing presumes a methodology that is highly stylized, precedential, and based on deductive reasoning. Most scholarship in law is rather like the ‘old math’: static, stable, formal—rationalism walled against chaos. My writing is an intentional departure from that. I use a model of inductive empiricism, borrowed from—and parodying—systems analysis, in order to enliven thought about complex social problems. I want to look at legal issues within a framework inscribed not just within the four corners of a document—be it contract or the Constitution—but by the disciplines of psychology, sociology, history, criticism, and philosophy. The advantage of this approach is that it highlights factors that would otherwise go unremarked. For example, *stare decisis* (the judicial practice of deciding cases in a manner limited by prior court decisions in factually analogous situations), rather than remaining a silent, unquestioned ‘given,’ may be analyzed as a filter to certain types of systemic input. Another advantage is that this sort of analytic technique can serve to describe a community of context for those social actors whose traditional legal status has been the isolation of oxymoron, of oddity, of outsider. I am trying to create a genre of legal writing to fill the gaps of traditional legal scholarship. I would like to write in a way that reveals the intersubjectivity of legal constructions, that forces the reader both to participate in the construction of meaning and to

be conscious of that process. Thus, in attempting to fill the gaps in the discourse of commercial exchange, I hope that the gaps in my own writing will be self-consciously filled by the reader, as an act of forced mirroring of meaning-invention. To this end, I exploit all sorts of literary devices, including parody, parable, and poetry.”

“... as in polar bears?” my sister asks eagerly, alert now, ears pricked, nose quivering, hair bristling.

“My, what big teeth you have!” I exclaim, just before the darkness closes over me.

It is my deep belief that theoretical legal understanding and social transformation need not be oxymoronic. I want this book to occupy the gaps between those ends that the sensation of oxymoron marks. What I hope will be filled in is connection; connection between my psyche and the readers’, between lived experience and social perception, and between an encompassing historicity and a jurisprudence of generosity.

“Theoretical legal understanding” is characterized, in Anglo-American jurisprudence, by at least three features of thought and rhetoric:

(1) The hypostatization of exclusive categories and definitional polarities, the drawing of bright lines and clear taxonomies that purport to make life simpler in the face of life’s complication: rights/needs, moral/immoral, public/private, white/black.

(2) The existence of transcendent, acontextual, universal legal truths or pure procedures. For example, some conservative theorists might insist that the tort of fraud has always existed and that it is part of a universal system of right and wrong. A friend of mine demanded of a professor who made just such an assertion: “Do you mean to say that when the first white settlers landed on Fiji, they found tortfeasors waiting to be discovered?” Yes, in a manner of speaking, was the professor’s response. This habit of universalizing legal taxonomies is very much like a cartoon I once

saw, in which a group of prehistoric fish swam glumly underwater, carrying baseball bats tucked beneath their fins, waiting to evolve, looking longingly toward dry land, where a baseball was lying in wait on the shore. The more serious side of this essentialized world view is a worrisome tendency to disparage anything that is nontranscendent (temporal, historical), or contextual (socially constructed), or nonuniversal (specific) as “emotional,” “literary,” “personal,” or just Not True.

(3) The existence of objective, “unmediated” voices by which those transcendent, universal truths find their expression. Judges, lawyers, logicians, and practitioners of empirical methodologies are obvious examples, but the supposed existence of such voices is also given power in romanticized notions of “real people” having “real” experiences—not because real people have experienced what they really experienced, but because their experiences are somehow *made* legitimate—either because they are viewed as empirically legitimate (directly corroborated by consensus, by a community of outsiders) or, more frequently, because those experiences are corroborated by hidden or unspoken models of legitimacy. The Noble Savage as well as the Great White Father, the Good-Hearted Masses, the Real American, the Rational Consumer, and the Arm’s-Length Transactor are all versions of this Idealized Other whose gaze provides us either with internalized censure or externalized approval; internalized paralysis or externalized legitimacy; internalized false consciousness or externalized claims of exaggerated authenticity.

The degree to which these three features of legal thought are a force in laws ranging from contracts to crimes, from property to civil liberties, will be a theme throughout the rest of this book. For the moment, however, a smaller example might serve to illustrate the interpretive dynamic of which I am speaking.

A man with whom I used to work once told me that I made too much of my race. “After all,” he said, “I don’t even think of you as black.” Yet sometime later, when another black woman be-

came engaged in an ultimately unsuccessful tenure battle, he confided to me that he wished the school could find more blacks like me. I felt myself slip in and out of shadow, as I became nonblack for purposes of inclusion and black for purposes of exclusion; I felt the boundaries of my very body manipulated, casually inscribed by definitional demarcations that did not refer to me.

The paradox of my being black yet notblack visited me again when, back to back, the same (white) man and then a (black) woman wondered aloud if I "really identified as black." When the white man said this, I was acutely aware that the choice of identifying as black (as opposed to white?) was hardly mine; that as long as I am identified as black by the majority of others, my own identifying as black will almost surely follow as a simple fact of human interdependency. When the black woman told me the very same thing, I took it to heart as a signpost of self-denial; as possible evidence within myself of that brand of social distress and alienation to which blacks and oppressed people are so peculiarly subject; and as a call for unity in a society that too often helps us turn against ourselves.

I heard the same words from each, and it made no difference to me. I heard the same words from each, but differently: one characterized me as more of something I am not, white; the other called for me to be more conscious of something I am, black. I heard the same-different words addressed to me, a perceived white-male-socialized black woman, as a challenge to mutually exclusive categorization, as an overlapping of black and female and right and male and private and wrong and white and public, and so on and so forth.

That life is complicated is a fact of great analytic importance. Law too often seeks to avoid this truth by making up its own breed of narrower, simpler, but hypnotically powerful rhetorical truths. Acknowledging, challenging, playing with these *as* rhetorical gestures is, it seems to me, necessary for any conception of justice. Such acknowledgment complicates the supposed purity of

gender, race, voice, boundary; it allows us to acknowledge the utility of such categorizations for certain purposes and the necessity of their breakdown on other occasions. It complicates definitions in its shift, in its expansion and contraction according to circumstance, in its room for the possibility of creatively mated taxonomies and their wildly unpredictable offspring.

I think, though, that one of the most important results of reconceptualizing from "objective truth" to rhetorical event will be a more nuanced sense of legal and social responsibility. This will be so because much of what is spoken in so-called objective, unmediated voices is in fact mired in hidden subjectivities and unexamined claims that make property of others beyond the self, all the while denying such connections. I remember A., a colleague, once stating that he didn't like a book he had just read because he had another friend who was a literary critic and he *imagined* that this critical friend would say a host of negative things about the book. A. disclaimed his own subjectivity, displacing it onto a larger-than-life literary critic; he created an authority who was imaginary but whose rhetorical objectivity was as smooth and convincing as the slice of a knife. In psychobabble, this is known as "not taking responsibility." In racial contexts, it is related to the familiar offensiveness of people who will say, "Our maid is black and *she* says that blacks want . . ."; such statements both universalize the lone black voice and disguise, enhance, and "objectify" the authority of the individual white speaker. As a legal tool, however, it is an extremely common device by which not just subject positioning is obscured, but by which agency and responsibility are hopelessly befuddled.

The propagated mask of the imagined literary critic, the language club of hyperauthenticity, the myth of a purely objective perspective, the godlike image of generalized, legitimating others—these are too often reified in law as "impersonal" rules and "neutral" principles, presumed to be inanimate, unemotional, unbiased, unmanipulated, and higher than ourselves. Laws like

masks, frozen against the vicissitudes of life; rights as solid as rocks; principles like baseballs waiting on dry land for us to crawl up out of the mud and claim them.

This semester I have been teaching a course entitled Women and Notions of Property. I have been focusing on the semantic power and property of individualistic gendered perspectives, gender in this instance having less to do with the biology of male and female than with the semiotics of power relations, of dominance and submission, of assertion and deference, of big and little; as well as on gender issues specifically based in biology, such as reproductive rights and the complicated ability of women in particular to live freely in the territory of their own bodies. An example of the stories we discuss is the following, used to illustrate the rhetoric of power relations whose examination, I tell my students, is at the heart of the course.

Walking down Fifth Avenue in New York not long ago, I came up behind a couple and their young son. The child, about four or five years old, had evidently been complaining about big dogs. The mother was saying, "But why are you afraid of big dogs?" "Because they're big," he responded with eminent good sense. "But what's the difference between a big dog and a little dog?" the father persisted. "They're *big*," said the child. "But there's really no difference," said the mother, pointing to a large slathering wolfhound with narrow eyes and the calculated amble of a gangster, and then to a beribboned Pekinese the size of a roller skate, who was flouncing along just ahead of us all, in that little fox-trotty step that keep Pekinese from ever being taken seriously. "See?" said the father. "If you look really closely you'll see there's no difference at all. They're all just dogs."

And I thought: Talk about your iron-clad canon. Talk about a static, unyielding, totally uncompromising point of reference. These people must be lawyers. Where else do people learn so well the idiocies of High Objectivity? How else do people learn to

capitulate so uncritically to a norm that refuses to allow for difference? How else do grown-ups sink so deeply into the authoritarianism of their own world view that they can universalize their relative bigness so completely that they obliterate the subject positioning of their child's relative smallness? (To say nothing of the position of the slathering wolfhound, from whose own narrow perspective I dare say the little boy must have looked exactly like a lamb chop.)

I used this story in my class because I think it illustrates a paradigm of thought by which children are taught not to see what they see; by which blacks are reassured that there is no real inequality in the world, just their own bad dreams; and by which women are taught not to experience what they experience, in deference to men's ways of knowing. The story also illustrates the possibility of a collective perspective or social positioning that would give rise to a claim for the legal interests of groups. In a historical moment when individual rights have become the basis for any remedy, too often group interests are defeated by, for example, finding the one four-year-old who has wrestled whole packs of wolfhounds fearlessly to the ground; using that individual experience to attack the validity of there ever being any generalizable four-year-old fear of wolfhounds; and then recasting the general group experience as a fragmented series of specific, isolated events rather than a pervasive social phenomenon ("You have every right to think that that wolfhound has the ability to bite off your head, but that's just your point of view").

My students, most of whom signed up expecting to experience that crisp, refreshing, clear-headed sensation that "thinking like a lawyer" purportedly endows, are confused by this and all the stories I tell them in my class on Women and Notions of Property. They are confused enough by the idea of property alone, overwhelmed by the thought of dogs and women as academic subjects, and paralyzed by the idea that property might have a gender and that gender might be a matter of words.

But I haven't been able to straighten things out for them because I'm confused too. I have arrived at a point where everything I have ever learned is running around and around in my head; and little bits of law and pieces of everyday life fly out of my mouth in weird combinations. Who can blame the students for being confused? On the other hand, everyday life is a confusing bit of business. And so my students plot my disintegration, in the shadowy shelter of ivy-covered archways and in the margins of their notebooks



On Being the Object of Property

(a gift of intelligent rage)

As I have told you, what I know of my mother's side of the family begins with my great-great-grandmother Sophie. I know that she was purchased when she was eleven by a white lawyer named Austin Miller and was immediately impregnated by him. She gave birth to my great-grandmother Mary, who was taken away from her to be raised as a house servant. I know nothing more of Sophie (she was, after all, a black single mother—in today's terms—suffering the anonymity of yet another statistical teenage pregnancy). While I don't remember what I was told about Austin Miller before I decided to go to law school, I do remember that just before my first day of class my mother said, in a voice full of secretive reassurance, "The Millers were lawyers, so you have it in your blood."

When my mother told me that I had nothing to fear in law school, that law was "in my blood," she meant it in a complex sense. First and foremost, she meant it defiantly; no one should make me feel inferior because someone else's father was a judge. She wanted me to reclaim that part of my heritage from which I had been disinherited, and she wanted me to use it as a source of strength and self-confidence. At the same time, she was asking me to claim a part of myself that was the dispossessor of another part

of myself; she was asking me to deny that disenfranchised little-black-girl who felt powerless and vulnerable.

In somewhat the same vein, my mother was asking me not to look to her as a role model. She was devaluing the part of herself that was not-Harvard and refocusing my vision to the part of herself that was hard-edged, proficient, and western. She hid the lonely, black, defiled-female part of herself and pushed me forward as the projection of a competent self, a cool rather than despairing self, a masculine rather than a feminine self.

I took this secret of my blood into the Harvard milieu with both the pride and the shame with which my mother had passed it along to me. I found myself in the situation described by Marguerite Duras in her novel *The Lover*: "We're united in a fundamental shame at having to live. It's here we are at the heart of our common fate, the fact that [we] are our mother's children, the children of a candid creature murdered by society. We're on the side of society which has reduced her to despair. Because of what's been done to our mother, so amiable, so trusting, we hate life, we hate ourselves."¹

Reclaiming that from which one has been disinherited is a good thing. Self-possession in the full sense of that expression is the companion to self-knowledge. Yet claiming for myself a heritage the weft of whose genesis is my own disinheritance is a profoundly troubling paradox.

A friend of mine practices law in rural Florida. His office is in Belle Glade, an extremely depressed area where the sugar industry reigns supreme, where blacks live pretty much as they did in slavery times, in dormitories called slave ships. They are penniless, illiterate, and have both a high birth rate and a high death rate.

My friend told me about a client of his, a fifteen-year-old young woman pregnant with her third child, who came seeking advice because her mother had advised a hysterectomy—not even a tubal ligation—as a means of birth control. The young woman's

mother, in turn, had been advised of the propriety of such a course for herself by a white doctor, some years before. Listening to this, I was reminded of a case I had when I was working for the Western Center on Law and Poverty almost a decade ago. Ten black and Hispanic women were sterilized by the University of Southern California—Los Angeles County General Medical Center, allegedly without proper consent and in most instances even without their knowledge.² Most of them found out what had been done to them upon inquiry, after a much publicized news story in which an intern charged that the chief of obstetrics at the hospital pursued a policy of recommending caesarian delivery and simultaneous sterilization for any pregnant woman with three or more children and who was on welfare. In the course of researching the appeal in that case, I remember learning that one quarter of all Navajo women of childbearing age—literally all those of childbearing age ever admitted to a hospital—have been sterilized. (This was the testimony of one of the witnesses. It is hard to find official confirmation for sterilization statistics involving Native American women. Official statistics kept by the U.S. Public Health Service, through the Centers for Disease Control in Atlanta, come from data gathered by the National Hospital Discharge Survey, which cover neither federal hospitals nor penitentiaries. Services to Native American women living on reservations are provided almost exclusively by federal hospitals. In addition, the Public Health Service breaks down its information into only three categories: White, Black, and Other. Nevertheless, in 1988, the Women of All Red Nations Collective of Minneapolis, Minnesota, distributed a fact sheet entitled “Sterilization Studies of Native American Women,” which claimed that as many as 50 percent of all Native American women of childbearing age have been sterilized. According to “Surgical Sterilization Surveillance: Tubal Sterilization and Hysterectomy in Women Aged 15–44, 1979–1980,” issued by the Centers for Disease Control in 1983, “In 1980, the tubal sterilization rate for black women . . . was 45 per-

cent greater than that for white women. The sterilization rate for all women in the United States is about 17 percent, as compared to about 27 percent in Brazil.”³ Furthermore, a study released in 1984 by the Division of Reproductive Health of the Center for Health Promotion—one of the Centers for Disease Control—found that, as of 1982, 48.8 percent of Puerto Rican women between the ages of fifteen and forty-four had been sterilized.)

As I reflected on all this, I realized that one of the things passed on from slavery, which continues in the oppression of people of color, is a belief structure rooted in a concept of black (or brown or red) antiwill, the antithetical embodiment of pure will. We live in a society where the closest equivalent of nobility is the display of unremittingly controlled willfulness. To be perceived as unremittingly without will is to be imbued with an almost lethal trait.

Many scholars have explained this phenomenon in terms of total and infantilizing interdependency of dominant and oppressed.⁴ Although such analysis is not objectionable in a general sense, the description of master-slave relations as “total” is, to me, quite troubling. That choice of words reflects and accepts—at a very subtle level, perhaps—a historical rationalization that whites had to, could, and did do everything for these simple subhumans. It is a choice of vocabulary that fails to acknowledge blacks as having needs beyond those that even the most “humane” or “sentimental” white slavemaster could provide.

In trying to describe the provisional aspect of slave law, I would choose words that revealed its structure as rooted in a concept of, again, black antiwill. I would characterize the treatment of blacks by whites in their law as defining blacks as those who had no will. That treatment is not total interdependency, but a relation in which partializing judgments, employing partializing standards of humanity, impose generalized inadequacy on a race: if “pure will” or total control equals the perfect white person, then impure will and total lack of control equals the perfect black per-

son. Therefore, to define slave law as comprehending a total view of personality implicitly accepts that the provision of food, shelter, and clothing (again assuming the very best of circumstances) is the whole requirement of humanity. It assumes also either that psychic care was provided by slaveowners (as if an owned psyche could ever be reconciled with mental health) or that psyche is not a significant part of a whole human.

Market theory always takes attention away from the full range of human potential in its pursuit of a divinely willed, rationally inspired, invisibly handed economic actor. Master-slave relations, however, took attention away from the full range of black human potential in a somewhat different way: it pursued a vision of blacks as simple-minded, strong-bodied economic "actants."⁵ Thus, while blacks had an indisputable generative force in the marketplace, their presence could not be called activity; they had no active role in the market. To say that "market relations disregard the peculiarities of individuals, whereas slave relations rest on the mutual recognition of the humanity of master and slave" (no matter how dialectical or abstracted a definition of humanity one adopts) is to posit an inaccurate equation: if "disregard for the peculiarities of individuals" and "mutual recognition of humanity" are polarized by a *whereas*, then somehow regard for peculiarities of individuals must equal recognition of humanity.⁶ In the context of slavery, this equation mistakes whites' overzealous and oppressive absorption with projected specific peculiarities of blacks for actual wholistic regard for the individual. It overlooks the fact that most definitions of humanity require something beyond mere biological sustenance, some healthy measure of autonomy beyond anything that slavery could conceive. And it overlooks the fact that both slave and bourgeois systems regarded certain attributes as important and disregarded certain others, and that such regard and disregard can occur in the same glance, like the wearing of horse blinders to focus attention simultaneously toward and away from. The experiential blinders of market actor and slaver go in

different directions, yet the partializing ideologies of each makes the act of not-seeing an unsocializing, if unconscious, component of seeing. Restoring a unified social vision will, I think, require broader and more scattered resolutions than the simple symmetry of ideological bipolarity.

So it is important to undo whatever words obscure the fact that slave law was at least as fragmenting and fragmented as the bourgeois world view—and in a way that has persisted to this day, cutting across all ideological boundaries. As "pure will" signifies the whole bourgeois personality in the latter, so wisdom, control, and aesthetic beauty signify the whole white personality in the former. The slavemaster and the burgermeister are not so very different, when expressed in those terms. The reconciling difference is that in slave law the emphasis is really on the inverse rationale: that irrationality, lack of control, and ugliness signify the whole slave personality. Total interdependence is at best a polite way of rationalizing such personality splintering; it creates a bizarre sort of yin-yang from the dross of an oppressive schizophrenia of biblical dimensions. I would just call it schizophrenic—that sounds right to me. Truly total relationships (as opposed to totalitarianism) call up images of whole people dependent on whole people, an interdependence that is both providing and laissez-faire at the same time. Neither the historical inheritance of slave law nor so-called bourgeois law meets that definition.

None of this, perhaps, is particularly new. Nevertheless, as precedent to anything I do as a lawyer, the greatest challenge is to allow the full truth of partializing social constructions to be felt for their overwhelming reality—reality that otherwise I might rationally try to avoid facing. In my search for roots I must assume, not just as history but as an ongoing psychological force, that irrationality, lack of control, and ugliness signify not just the whole slave personality, not just the whole black personality, but me.

Reflecting on my roots makes me think again and again of the young woman in Belle Glade, Florida. She told the story of her impending sterilization, according to my friend, while keeping her eyes on the floor at all times. My friend, who is white, asked why she wouldn't look up, speak with him eye to eye. The young woman answered that she didn't like white people seeing inside her.

My friend's story made me think of my own childhood and adolescence. My parents were always telling me to look up at the world; to look straight at people, particularly white people; not to let them stare me down; to hold my ground; to insist on the right to my presence no matter what. They told me that in this culture you have to look people in the eye because that's how you tell them you're their equal. My friend's story also reminded me how very difficult I had found that looking back to be. What was hardest was not just that white people saw me, as my friend's client put it, but that they looked through me, as if I were transparent.

By itself, seeing into me would be to see my substance, my anger, my vulnerability and my raging despair—and that alone is hard enough to show. But to uncover it and have it devalued by ignorance, to hold it up bravely in the organ of my eyes and to have it greeted by an impassive stare that passes right through all that which is me, an impassive stare that moves on and attaches itself to my left earlobe or to the dust caught in the rusty vertical geysers of my wiry hair or to the breadth of my freckled brown nose—this is deeply humiliating. It rewounds, relives the early childhood anguish of uncensored seeing, the fullness of vision that is the permanent turning-away point for most blacks.

The cold game of equality staring makes me feel like a thin sheet of glass: white people see all the worlds beyond me but not me. They come trotting at me with force and speed; they do not see me. I could force my presence, the real me contained in those eyes, upon them, but I would be smashed in the process. If I deflect, if I move out of the way, they will never know I existed.

Marguerite Duras places her heroine in relation to her family: "Every day we try to kill one another, to kill. Not only do we not talk to one another, we don't even look at one another. When you're being looked at you can't look. To look is to feel curious, to be interested, to lower yourself."⁷ To look is also to make myself vulnerable; yet not to look is to neutralize the part of myself that is vulnerable. I look in order to see, and so I must look. Without that directness of vision, I am afraid I shall will my own blindness, disinherit my own creativity, and sterilize my own perspective of its embattled, passionate insight.

One Saturday afternoon not long ago, I sat among a litter of family photographs telling a South African friend about Marjorie, my godmother and my mother's cousin. She was given away by her light-skinned mother when she was only six. She was given to my grandmother and my great-aunts to be raised among her darker-skinned cousins, for Marjorie was very dark indeed. Her mother left the family to "pass," to marry a white man—Uncle Frederick, we called him with trepidation yet without his ever knowing of our existence—an heir to a meatpacking fortune. When Uncle Frederick died thirty years later and the fortune was lost, Marjorie's mother rejoined the race, as the royalty of resentful fascination—Lady Bountiful, my sister called her—to regale us with tales of gracious upper-class living.

My friend said that my story reminded him of a case in which a swarthy, crisp-haired child was born, in Durban, to white parents. The Afrikaaner government quickly intervened, removed the child from its birth home and placed it to be raised in a "more suitable," browner family.

When my friend and I had shared these stories, we grew embarrassed somehow, and our conversation trickled away into a discussion of laissez-faire economics and governmental interventionism. Our words became a clear line, a railroad upon which all other ideas and events were tied down and sacrificed.

As a teacher of commercial transactions, one of the things that has always impressed me most about the law of contract is a certain deadening power it exercises by reducing parties to the passive. It constrains the lively involvement of its signatories by positioning enforcement in such a way that parties find themselves in a passive relationship to a document: it is the contract that governs, that "does" everything, that absorbs all responsibility and deflects all other recourse.

Contract law reduces life to fairy tale. The four corners of the agreement become parent. Performance is the equivalent of passive obedience to the parent. Passivity is valued as good contract-socialized behavior; activity is caged in retrospective hypotheses about states of mind at the magic moment of contracting. Individuals are judged by the contract unfolding rather than by the actors acting autonomously. Nonperformance is disobedience; disobedience is active; activity becomes evil in contrast to the childlike passivity of contract conformity.

One of the most powerful examples of all this is the case of Mary Beth Whitehead, mother of Sara, so-called Baby M. Whitehead became a vividly original actor after the creation of her surrogate contract with William Stern; unfortunately for her, there can be no greater civil sin. It was in this upsidedown context, in the picaresque unboundedness of breach, that her energetic grief became hysteria and her passionate creativity was funneled, whorled, and reconstructed as highly impermissible. Mary Beth Whitehead thus emerged as the evil stepsister who deserved nothing.

Some time ago Charles Reich, author of *The Greening of America*, and a professor at the University of San Francisco Law School, visited a class of mine. He discussed with my students a proposal for a new form of bargain by which emotional "items"—such as praise, flattery, acting happy or sad—might be contracted for explicitly. One student, not alone in her sentiment, said, "Oh, but then you'll just feel obligated." Only the week before, however

(when we were discussing the contract that posited that Whitehead "will not form or attempt to form a parent-child relationship with any child or children"), this same student had insisted that Whitehead must give up her child, because she had said she would: "She was obligated!" I was confounded by the degree to which what the student took to be self-evident, inalienable gut reactions could be governed by illusions of passive conventionality and form.

It was that incident, moreover, that gave me insight into how Judge Harvey Sorkow, of the New Jersey Superior Court, could conclude that the contract that purported to terminate Whitehead's parental rights was "not illusory."⁸ (As background, I should say that, within the framework of contract law itself, the agreement between Whitehead and Stern seemed clearly illusory. "An illusory promise is an expression cloaked in promissory terms, but which, upon closer examination, reveals that the promisor has committed himself not at all."⁹ On the one hand, Judge Sorkow's opinion said that Whitehead was seeking to avoid her obligations: in other words, giving up her child became an actual obligation. On the other hand, according to the logic of the judge, this was a service contract, not really a sale of a child; therefore delivering the child to the Sterns was an obligation for which there was no consideration, for which Stern was not paying her.)

Judge Sorkow's finding the contract "not illusory" is suggestive not only of the doctrine by that name but of illusion in general, and delusion, and the righteousness with which social constructions are conceived and delivered up into the realm of the real as "right," while all else is devoured from memory as "wrong." From this perspective, the rhetorical tricks by which Sara Whitehead became Melissa Stern seem very like the heavy-worded legalities by which my great-great-grandmother was pacified and parted from her child. In both situations, the real mother had no say; her powerlessness was imposed by state law that made her and her child helpless in relation to the father. My great-great-

grandmother's powerlessness came about as the result of a contract to which she was not a party; Mary Beth Whitehead's powerlessness came about as a result of a contract she signed at a discrete point of time—yet which, over time, enslaved her. The contract-reality in both instances was no less than magic: it was illusion transformed into not-illusion. Furthermore, it masterfully disguised the brutality of enforced arrangements in which these women's autonomy, their flesh and their blood, was locked away in word vaults, without room to reconsider—ever.

In the months since Judge Sorkow's opinion, I have reflected upon the similarities of fortune between my own social positioning and that of Sara Melissa Stern Whitehead. I have come to realize that an important part of the complex magic that Sorkow wrote into his opinion was a supposition that it is natural for people to want children "like" themselves. What this reasoning raised for me was an issue of what exactly constituted this likeness? (What would have happened, for example, if Mary Beth Whitehead had turned out to have been the "passed" descendant of my "failed" godmother Marjorie's mother? What if the child she bore had turned out to be recessively and visibly black? Would the sperm of Stern have been so powerful as to make this child "his" with the exclusivity that Judge Sorkow originally assigned?) What constitutes, moreover, the collective understanding of "unlikeness"?

These questions turn, perhaps, on not-so-subtle images of which mothers should be bearing which children. Is there not something unseemly, in our society, about the spectacle of a white woman mothering a black child? A white woman giving totally to a black child; a black child totally and demandingly dependent for everything, sustenance itself, from a white woman. The image of a white woman suckling a black child; the image of a black child sucking for its life from the bosom of a white woman. The utter interdependence of such an image; the merging it implies; the giving up of boundary; the encompassing of other within self; the

unbounded generosity and interconnectedness of such an image. Such a picture says there is no difference; it places the hope of continuous generation, of immortality of the white self, in a little black face.

When Sorkow declared that it was only to be expected that parents would want to breed children "like" themselves, he simultaneously created a legal right to the same. With the creation of such a "right," he encased the children conforming to likeliness in protective custody, far from whole ranges of taboo. Taboo about touch and smell and intimacy and boundary. Taboo about ardor, possession, license, equivocation, equanimity, indifference, intolerance, rancor, dispossession, innocence, exile, and candor. Taboo about death. Taboos that amount to death. Death and sacredness, the valuing of body, of self, of other, of remains. The handling lovingly in life, as in life; the question of the intimacy versus the dispassion of death.

In effect, these taboos describe boundaries of valuation. Whether something is inside or outside the marketplace of rights has always been a way of valuing it. Where a valued object is located outside the market, it is generally understood to be too "priceless" to be accommodated by ordinary exchange relationships; if the prize is located within the marketplace, then all objects outside become "valueless." Traditionally, the *Mona Lisa* and human life have been the sorts of subjects removed from the fungibility of commodification, as priceless. Thus when black people were bought and sold as slaves, they were placed beyond the bounds of humanity. And thus, in the twistedness of our brave new world, where blacks have been thrust out of the market and it is white children who are bought and sold, black babies have become worthless currency to adoption agents—"surplus" in the salvage heaps of Harlem hospitals.

Familiar though his name may be to us, the storyteller in his living immediacy is by no means a present force. He has already become something remote from us and something that is getting even more

distant . . . Less and less frequently do we encounter people with the ability to tell a tale properly . . . It is as if something that seemed inalienable to us, the securest among our possessions, were taken from us: the ability to exchange experiences.¹⁰

My mother's cousin Marjorie was a storyteller. From time to time I would press her to tell me the details of her youth, and she would tell me instead about a child who wandered into a world of polar bears, who was prayed over by polar bears, and was in the end eaten. The child's life was not in vain because the polar bears had been made holy by its suffering. The child had been a test, a message from god for polar bears. In the polar-bear universe, she would tell me, the primary object of creation was polar bears, and the rest of the living world was fashioned to serve polar bears. The clouds took their shape from polar bears, trees were designed to give shelter and shade to polar bears, and humans were ideally designed to provide polar bears with meat.

The truth, the truth, I would laughingly insist was we sat in her apartment eating canned fruit and heavy roasts, mashed potatoes, pickles and vanilla pudding, cocoa, Sprite or tea. What about roots and all that, I coaxed. But the voracity of her amnesia would disclaim and disclaim—and she would go on telling me about the polar bears until our plates were full of emptiness and I became large in the space that described her emptiness and I gave in to the emptiness of words.

There are moments in my life when I feel as though a part of me is missing. There are days when I feel so invisible that I can't remember what day of the week it is, when I feel so manipulated that I can't remember my own name, when I feel so lost and angry that I can't speak a civil word to the people who love me best. Those are the times when I catch sight of my reflection in store windows and am surprised to see a whole person looking back. Those are the times when my skin becomes gummy as clay and my nose slides around on my face and my eyes drip down to my chin. I have to close my eyes at such times and remember myself,

draw an internal picture that is smooth and whole; when all else fails, I reach for a mirror and stare myself down until the features reassemble themselves, like lost sheep.

Two years ago, my godmother Marjorie suffered a massive stroke. As she lay dying, I would come to the hospital to give her her meals. My feeding the one who had so often fed me became a complex ritual of mirroring and self-assembly. The physical act of holding the spoon to her lips was not only a rite of nurture and sacrifice, it was the return of a gift. It was a quiet bowing to the passage of time and the doubling back of all things. The quiet woman who listened to my woes about work and school required now that I bend my head down close to her and listen for mouthed word fragments, sentence crumbs. I bent down to give meaning to her silence, her wandering search for words.

She would eat what I brought to the hospital with relish; she would reject what she didn't want with a turn of her head. I brought fruit and yogurt, ice cream, and vegetable juice. Slowly, over time, she stopped swallowing. The mashed potatoes would sit in her mouth like cotton, the pudding would slip to her chin in slow streams. When she lost not only her speech but the power to ingest, they put a tube into her nose and down to her stomach, and I lost even that medium by which to communicate. No longer was there the odd but reassuring communion over taste. No longer was there some echo of comfort in being able to nurture one who nurtured me.

This increment of decay was like a little newborn death. With the tube, she stared up at me with imploring eyes, and I tried to guess what she would like. I read to her aimlessly and in desperation. We entertained each other with the strange embarrassed flickering of our eyes. I told her stories to fill the emptiness, the loneliness, of the white-walled hospital room.

I told her stories about who I had become, about how I had grown up to know all about exchange systems and theories of contract and monetary fictions. I spun tales about blue-sky laws

and promissory estoppel, the wispy-feathered complexity of undue influence and dark-hearted theories of unconscionability. I told her about market norms and gift economy and the thin razor's edge of the bartering ethic. Once upon a time, I rambled, some neighbors included me in their circle of barter. They were in the habit of exchanging eggs and driving lessons, hand-knit sweaters and computer programming, plumbing and calligraphy. I accepted the generosity of their inclusion with gratitude. At first I felt that, as a lawyer, I was worthless, that I had no barterable skills and nothing to contribute. What I came to realize, however, was that my value to the group was not calculated by the physical items I brought to it. These people included me because they wanted me to be part of their circle; they valued my participation apart from the material things I could offer. So I gave of myself to them, and they gave me fruit cakes and dandelion wine and smoked salmon and, in their giving, their goods became provisions. Cradled in this community whose currency was a relational ethic, my stock in myself soared. My value depended on the glorious intangibility, the eloquent invisibility, of my just being part of the collective—and in direct response I grew spacious and happy and gentle.

My gentle godmother. The fragility of life; the cold mortuary shelf.

The hospital in which my godmother died is now filled to capacity with AIDS patients. One in sixty-one babies born there, as in New York City generally, is infected with AIDS antibodies. Almost all are black or Hispanic. In the Bronx the rate is one in forty-three. In Central Africa experts estimate that, of children receiving transfusions for malaria-related anemia, "about 1000 may have been infected with the AIDS virus in each of the last five years." In Congo, 5 percent of the entire population is infected. The *New York Times* reports that "the profile of Congo's popula-

tion seems to guarantee the continued spread of AIDS." In the Congolese city of Pointe Noir, "the annual budget of the sole public health hospital is estimated at about \$200,000—roughly the amount of money spent in the United States to care for four AIDS patients."¹¹

The week in which my godmother died is littered with bad memories. In my journal I made note of the following:

Good Friday: Phil Donahue has a special program on AIDS. The segues are:

(a) from Martha, who weeps at the prospect of not watching her children grow up,

(b) to Jim, who is not conscious enough to speak just now, who coughs convulsively, who recognizes no one in his family any more,

(c) to Hugh who, at 85 pounds, thinks he has five years but whose doctor says he has weeks,

(d) to an advertisement for denture polish ("If you love your Polident Green, then gimmeeya SMILE!"),

(e) and then to one for a plastic surgery salon on Park Avenue ("The only thing that's expensive is our address"),

(f) and then to one for what's coming up on the five o'clock news (Linda Lovelace, of *Deep Throat* fame, "still recovering from a double mastectomy and complications from silicone injections" is being admitted to a New York hospital for a liver transplant),

(g) and finally, to one for the miracle properties of all-purpose house cleaner ("Mr. Cleecan/is the man/behind the shine/is it wet or is it dry?" I note that Mr. Clean, with his gleaming bald head, puffy musculature, and fever-bright eyes, looks as if he is undergoing radiation therapy). Now back to our show—

(h) "We are back now with Martha" (who is crying harder than before, sobbing uncontrollably, each jerking inhalation a deep un-earthly groan). Phil says, "Oh honey, I hope we didn't make it worse for you."

Easter Saturday: Over lunch, I watch another funeral. My office windows overlook a graveyard as crowded and still as a rush-hour freeway. As I savor pizza and milk, I notice that one of the mourners is

wearing an outfit featured in the window of Bloomingdale's (59th Street store) only since last weekend. This thread of recognition jolts me, and I am drawn to her in sorrow; the details of my own shopping history flash before my eyes as I reflect upon the sober spree that brought her to the rim of this earthly chasm, her slim suede heels sinking into the soft silt of the graveside.

Resurrection Sunday: John D., the bookkeeper where I used to work, died, hit on the head by a stray but forcefully propelled hockey puck. I cry copiously at his memorial service, only to discover, later in the afternoon when I see a black-rimmed photograph, that I am mourning the wrong person. I cried because the man I thought had died is John D. the office messenger, a bitter unfriendly man who treats me with disdain; once I bought an old electric typewriter from him that never worked. Though he promised nothing, I have harbored deep dislike since then; death by hockey puck is only one of the fates I had imagined for him. I washed clean my guilt with buckets of tears at the news of what I thought was his demise.

The man who did die was small, shy, anonymously sweet-featured, and innocent. In some odd way I am relieved; no seriously obligatory mourning to be done here. A quiet impassivity settles over me and I forget my grief.

A few months after my godmother died, my Great-Aunt Jag passed away in Cambridge, at ninety-six the youngest and the last of all her siblings, all of whom died at ninety-seven. She collapsed on her way home from the polling place, having gotten in her vote for "yet another Kennedy." Her wake was much like the last family gathering at which I had seen her, two Thanksgivings ago. She was a little hard of hearing then and stayed on the outer edge of the conversation, brightly, loudly, and randomly asserting enjoyment of her meal. At the wake, cousins, nephews, daughters-in-law, first wives, second husbands, great-grand nieces gathered round her casket and got acquainted all over again. It was pouring rain outside. The funeral home was dry and warm, faintly spicily clean-smelling; the walls were solid, dark, respectable wood; the floors were cool stone tile. On the door of a room marked "No

Admittance" was a sign that reminded workers therein of the reverence with which each body was held by its family and prayed employees handle the remains with similar love and care. Aunt Jag wore yellow chiffon; everyone agreed that laying her out with her glasses on was a nice touch.

Afterwards, we all went to Legal Seafoods, her favorite restaurant, and ate many of her favorite foods.

I have never been able to determine my horoscope with any degree of accuracy. Born at Boston's now-defunct Lying-In Hospital, I am a Virgo, despite a quite poetic soul. Knowledge of the hour of my birth, however, would determine not just my sun sign but my moons and all the more intimate specificities of my destiny. Once upon a time, I sent for my birth certificate, which was retrieved from the oblivion of Massachusetts microfiche. Said document revealed that an infant named Patricia Joyce, born of parents named Williams, was delivered into the world "colored." Since no one thought to put down the hour of my birth, I suppose I will never know my true fate. In the meantime, I read what text there is of me.

My name, Patricia, means patrician. Patricians are noble, lofty, elite, exclusively educated, and well-mannered despite themselves. I was on the cusp of being Pamela, but my parents knew that such a me would require lawns, estates, and hunting dogs.

I am also a Williams. Of William, whoever he was: an anonymous white man who owned my father's people and from whom some escaped. That rupture is marked by the dark-mooned mystery of utter silence.

Williams is the second most common surname in the United States; Patricia is *the* most common prename among women born in 1951, the year of my birth.

In the law, rights are islands of empowerment. To be unrighted is to be disempowered, and the line between rights and no-rights is most often the line between dominators and oppres-

sed. Rights contain images of power, and manipulating those images, either visually or linguistically, is central in the making and maintenance of rights. In principle, therefore, the more dizzyingly diverse the images that are propagated, the more empowered we will be as a society.

In reality, it was a lovely polar-bear afternoon. The gentle force of the earth. A wide wilderness of islands. A conspiracy of polar bears lost in timeless forgetting. A gentleness of polar bears, a fruitfulness of polar bears, a silent black-eyed interest of polar bears, a bristled expectancy of polar bears. With the wisdom of innocence, a child threw stones at the polar bears. Hungry in nests, they rose, inquisitive, dark-souled, patient with foreboding, fearful in tremendous awakening. The instinctual ferocity of the hunter reflected upon the hunted. Then, proud teeth and warrior claws took innocence for wilderness and raging insubstantiality for tender rabbit breath.

In the newspapers the next day, it was reported that two polar bears in the Brooklyn Zoo mauled to death an eleven-year-old boy who had entered their cage to swim in the moat. The police were called, and the bears were killed.¹²

In the public debate that ensued, many levels of meaning emerged. The rhetoric firmly established that the bears were innocent, naturally territorial, unfairly imprisoned, and guilty. The dead child (born into the urban jungle of a black welfare mother and a Hispanic alcoholic father who had died literally in the gutter only six weeks before) was held to a similarly stern standard. The police were captured, in a widely disseminated photograph,¹³ shooting helplessly, desperately, into the cage, through three levels of bars, at a pietà of bears; since this image, conveying much pathos, came nevertheless not in time to save the child, it was generally felt that the bears had died in vain.

In the egalitarianism of exile, pluralists rose up as of one body, with a call to buy more bears, control juvenile delinquency, eliminate all zoos, and confine future police.

In the plenary session of the national meeting of the Law and Society Association, the keynote speaker unpacked the whole incident as a veritable laboratory of emergent rights discourse. Just seeing that these complex levels of meaning exist, she exulted, should advance the discourse significantly.¹⁴

At the funeral of the child, the presiding priest pronounced the death of Juan Perez not in vain, since he was saved from growing into "a lifetime of crime." Juan's Hispanic-welfare-black-widow-of-an-alcoholic mother decided then and there to sue.

How I ended up at Dartmouth College for the summer is too long a story to tell. But there I was, sharing the town of Hanover, New Hampshire, with about two hundred prepubescent males enrolled in Dartmouth's summer basketball camp, an all-white, very expensive, affirmative-action program for the street-deprived.

One fragrant evening I was walking down East Wheelock Street when I encountered about a hundred of these adolescents, fresh from the courts, wet, lanky, big-footed, with fuzzy yellow crewcuts, loping toward Thayer Hall and food. In platoons of twenty-five or so, they descended, jostling me, smacking me, and pushing me from the sidewalk into the gutter. In a thoughtless instant I snatched off my brown silk headrag, my flag of African femininity and propriety, my sign of meek and supplicatory place and presentation. I released the armored rage of my short nappy hair (the scalp gleaming bare between the angry wire spikes) and hissed: "Don't I exist for you? See me! And deflect, godammit!" (The quaint professionalism of my formal English never allowed the rage in my head to rise so high as to overflow the edges of my text.)

They gave me wide berth. They clearly had no idea, however, that I was talking to them or about them. They skirted me sheepishly, suddenly polite, because they did know, when a crazed black person comes crashing into one's field of vision, that it is impolite to laugh. I stood tall and spoke loudly into their ranks: "I have

my rights!" The Dartmouth Summer Basketball Camp raised its collective eyebrows and exhaled, with a certain tested nobility of exhaustion and solidarity.

I pursued my way, manumitted back into silence. I put distance between them and me, gave myself over to polar-bear musings. I allowed myself to be watched over by bear spirits. Clean white wind and strong bear smells. The shadowed amnesia; the absence of being; the presence of polar bears. White wilderness of icy meateaters heavy with remembrance; leaden with undoing; shaggy with the effort of hunting for silence; frozen in a web of intention and intuition. A lunacy of polar bears. A history of polar bears. A pride of polar bears. A consistency of polar bears. In those meandering pastel polar-bear moments, I found cool fragments of white-fur invisibility. Solid, black-gummed, intent, observant. Hungry and patient, impassive and exquisitely timed. The brilliant bursts of exclusive territoriality. A complexity of messages implied in our being.