

Talking about intersectionality. Interview with Kimberlé W. Crenshaw*

by Barbara Giovanna Bello** and Letizia Mancini***

Professor Crenshaw, you first came up with 'intersectionality' in the Eighties to address the specific experience of discrimination faced by Black women and the lack of protection provided by anti-discrimination law to it (Crenshaw 1989). Can you tell us how you came up with this successful metaphor?

Necessity is the mother of invention, as it goes. Intersectionality came about as a tool to unlock many of the misconceptions and erasures surrounding the social justice demands of Black women before the law. The Article in which intersectionality first appeared was initially a talk presented at a conference on feminist jurisprudence at the University of Chicago in 1988. As a student activist at Harvard Law School, I had been engaged for some time in critical discourses about the law. Having observed the sidelining of women of color not only within legal doctrine, but also within anti-racist and feminist projects, I was primed to take up these questions when I joined the profession as a young law professor. As for the metaphor itself, I can only say that as a visual thinker, I'd looked for a framework to capture both the discrimination that prompted law suits by Black women as well as the ways that courts framed their claims. Black women had no distinctive claim that the law seemed willing to respect, even when they were differently situated from Black men and white women. At the same time, Black women were seen by some courts as so distinct that they could not represent "all African Americans" or "all women" even when they sought to do so. Black men and white women could of course represent Black women in race and gender discrimi-

* Professor of Law at Columbia & UCLA/Founder of CISPS at Columbia Law/Co-Founder & Executive Director of the African American Policy Forum.

** Department of Law "Cesare Beccaria", University of Milan.

*** Department of Law "Cesare Beccaria", University of Milan.

Sociologia del diritto n. 2, 2016

nation cases, respectively. I was keen to find some way of framing the contradictory and compounded nature of this dilemma. Intersectionality became the name for that prism.

The 1989 article entitled *Demarginalizing the Intersection of Race and Sex in Anti-discrimination Law: A Black Feminist Critique* [henceforward *Demarginalizing*, editors' note] featured traffic intersections – among other metaphors – as a way of conceptualizing the interactive dimensions of racism and sexism in the context of employment that some courts rendered legally inconsequential. These interactive dimensions created material conditions that were typically overlooked by judges and advocates alike. Plaintiffs like Emma DeGraffenreid has challenged employment regimes that stratified the workforce in terms of race and gender, but only by combining two causes of action could the plaintiffs prevail. Their arguments were repudiated based on the questionable assertion that Congress had not intended for Black women to combine race and gender claims. The particular risks of being subject to both dynamics were marginalized by courts. These dynamics were also apparent within dominant conceptions of antiracism and feminism. The circumstances that drove the lawsuits discussed in *Demarginalizing*, courts' repudiation of Black women's claims altogether, constituted the condition that intersectionality sought to disrupt.

Beyond the specific doctrinal problems that I hoped to address with intersectionality were the institutional and social dimensions of race and gender discourses that shaped that the temporal context. I have written elsewhere that intersectionality was a lived reality before it became a word, but that lived reality refers not only to the dynamics of race and gender that prompted these Black women to seek legal redress. More broadly, the institutional context that gave rise to the metaphor shaped my intellectual repertoire during a sharply discordant period in the political and legal culture in the United States.

The metaphor served not only to frame the vulnerability of Black women to discrimination and erasure, but also mapped the ways that Black women were marginalized within several discursive projects. Each of these discourses – antiracism, feminism, and critical legal perspectives on law – generated distinctive ways of capturing social disempowerment. Each was in some way lacking in terms of their engagement with Black women as legal subjects, yet at the same time, when articulated together, they helped to sustain a prisms that could address the particular questions that *Demarginalizing* addressed.

My intellectual foundation was in Africana Studies – a field of Black Studies that foregrounded the structural dimensions of racial power. This emphasis was in tension with the singular focus on individual-level preju-

dice that was emerging as the dominant framework in American anti-discrimination law. While the Africana Studies paradigm critiqued and questioned the narrowed focus of anti-discrimination law, it was, in turn, underdeveloped in terms of its articulation of gender. I had turned to Black feminism as a way of deepening the race analysis, particularly as it pertained to the ways that women had been situated within the historical and contemporary struggles in the United States. My journey in the law exposed me to other critical lenses including Critical Legal Studies (CLS) and Feminist Legal Theory (FLT). In CLS I was exposed to the ways that law structured conditions of social hierarchy, even as it was positioned by mainstream practitioners and theorists as a corrective intervention. From FLT, I became deeply conversant with the engendering of law and its role as a site for the reproduction of patriarchy.

Beyond these somewhat discreet modes of thought was the institutional and temporal context in the legal culture during the mid-Eighties. Critical Legal Studies, a left legal project that was prominent at that time, was an amalgam of diverse intellectual projects ranging from post-modernism, separatist feminism, and neo-Marxism to Black nationalism and other radical interrogations of social power in relation to law. Critical Legal Studies was a vibrant, contested and productive space. Many of my earlier publications, including *Demarginalizing*, began as interventions in the public debates and private arguments within CLS. My own conceptual apparatus was forged in this discursive space, reflecting both the central ways that these important projects disrupted prevailing ideologies about race, gender and law as well as their limitations. Thus, as a metaphor, intersectionality actually reflected the process and prism from which I interpreted the issues raised in *Demarginalizing*. To put it simply, the metaphor mirrored its condition of possibility. Intersectionality emerged as an interface between prisms that were partially attentive and inattentive to the questions raised by Black female plaintiffs.

Looking closer at the development of intersectionality in the socio-legal scholarship, the focus has been placed sometimes on 'category' and on the process of 'categorization', some others on 'structure' and on the relation between agency and structure. How have these different focuses of intersectionality enriched the socio-legal field and where you identify their main potential?

Intersectionality, as I have understood it, attends to both the ways that categorization has facilitated and rationalized social hierarchy and to the

institutional and societal structures that have come to reify and reproduce social power. Critiques of social power often foreground one or the other of these dimensions, and important insights have emerged from each of them. The burgeoning literature on intersectionality encompasses both anti-categorical approaches and structural approaches, as Leslie McCall has noted. Occasionally, however, these differing *foci* are interpreted to be in tension with each other, leading to the inference that intersectionality signifies one or the other, but not both, or that intersectionality is incoherent if it does not exclusively address one or the other. I've found this tension to be curious, particularly given the genesis of intersectionality as a repudiation of such either/or thinking.

In fact, perhaps sharper tensions are located within these antinomies. For an example, one of the enduring debates in United States equal protection law can be mapped as a conflict between those who interpret racial classification *per se* to be the problem and thus seek to dismantle remedial infrastructures built around such categories, and those who understand the inequitable consequences of classification to be the preferred object of legal reform and thus mobilize categories to restructure institutions and opportunities across the social terrain. Underlying these debates are normative questions about whether racial power is best approached through a commitment to abolishing racial categories *per se*, or attending to the structural conditions that sustain the hierarchy between dominant and subordinate racial categories. Similar debates have unfolded within feminism, specifically over the question about whether patriarchy is best understood as an imposed system of gender categorization, a critique articulated through the language of essentialism and imposed binaries, or whether the problem is best approached as one of male dominance in which resisting the material dimensions of gender inequality demands the strategic deployment of the category 'woman'.

To the extent that these different focal points have commanded specific allegiance, it would be fair to say that my own work has leaned more toward disrupting the consequences that attend to categories rather than to the irrational or essentialist dimensions of categories *per se*, as I illustrated in *Mapping the Margins*. Given these differing focal points within both anti-racism and feminism, it stands to reason that similar tensions would emerge in discursive projects that are situated in the interface between the two. Here too, my sense of these debates is that the more salient tensions are not between those who attend to categorization and those who attend to structures, but instead between those who line up in opposing camps over whether intersectionality is static or dynamic concept. Examples of such debates are sometimes framed around whether intersectionality is beholden

to a static identity category, say Black women, or whether it attends to the different and sometimes contradictory social dynamics that constitute and situate Black women and other subjects in relation to others. The question might be more simply reduced to thinking about intersectionality as signifying merely a subject, or instead, a dynamic.

Within the focus on structure, some critics engage intersectional analysis to highlight the ways that power is reified through institutional and social structures, while others train their focus on the often overlooked engagements that individuals and groups can and do exercise within the matrix of power. Scholars and advocates who engage intersectionality theoretically and politically have sorted themselves in various ways across this spectrum.

While these differences are sometimes framed as opposing projects, I see intersectionality as attending to the integration between what is structured – the historical and enduring institutions that constitute and naturalize social power – and what is dynamic – the ways that power is continuously reproduced and contested in real time. I think this duality is particularly legible through in the socio-legal terrain, a dimension that is sometimes lost when intersectionality is lifted entirely outside of the legal context in which it was initially situated. Legal discourse is both ideological and material, and intersectionality was fashioned out of a critical practice that sought to expose how the former rationalized the latter. Intersectionality adapts and expands that project to address the ideological ways that anti-discrimination law privileges certain subjects of discrimination over other. While this privileging is ideological and discursively rendered, these understandings produce material consequences for legal subjects who fall outside of these frameworks.

Part of the legacy of intersectionality's initial articulation in a series of cases in which Black women were marginalized in different and contradictory ways was to challenge the belief that some grand theory or final resolution about categorization would be possible or sufficient. The point was to expose the underlying logic that led to the belief that the problem could be reduced to the assertion that Black women were the same and were harmed by being treated differently, or they were different and were treated as though they were the same. My argument was not just that both of these assertions could be true, but that the problem rested in the initial framing of discrimination as being about sameness and difference. When this bedrock of anti-discrimination law is cracked, what emerges is the recognition that neither attending to their sameness nor to the difference of Black women vis-a-vis Black men and white women really gets at the problem of intersectional disempowerment. The issue isn't resolved by simply creating a

new category, but by rethinking the analytic commitments of anti-discrimination law altogether.

This orientation can similarly trouble the analytic frames around which the categorization versus structure debates has been framed. It is neither all about categorization nor is it about structure, but about both. If this assertion seems contradictory, it is because of a conceptual commitment to understanding structures to be distinct from categories, rather than understanding categories as produced by and legible within particular structures. Both my early work and more recent projects have situated intersectionality as a prism to illuminate the relationship between social categories – specifically marginalized identities – and structures. Structures determine and give meaning to identities, and identities are made meaningful within particular structures.

The discrimination that the women in *DeGraffenreid v General Motors* faced was the product of their identity, in relation to a structure that dictated which jobs were female jobs and which were Black jobs. It was not their identity standing alone that produced the discrimination, but in relation to a particular way of structuring the workforce. Most recently, I wrote about this issue again in *From Private Violence to Mass Incarceration: Thinking Intersectionally About Women, Race, and Social Control*. I discussed the work of Priscilla Ocen who analyzed a lawsuit brought by Black women alleging an organized effort on the part of the local police, homeowners and private parties to push them out of a middle class neighborhood in Antioch, California. The plaintiffs argued that their identity as Black women made them vulnerable to distinctive stereotyping as Black women. Although the way that Black women have come to be categorized as undesirable neighbors is constitutive process, the idea that power can be dismantled by the mere refusal to acknowledge categorization fails to grapple with the concrete ways that such categories have been reified within law, markets, and other institutions. Not only is the enduring grasp of structures often ignored by the failure to grapple with the mutually constitutive nature of structures and social categories, but also overlooked are the ways that identities are sustained by the collective will to inhabit and derive satisfaction from them.

Intersectionality has become landmark for many scholars and activists studying oppression experienced by minority women and “minorities within minority” (Eisenberg & Spinner-Halev 2005), both in the United States and beyond. The concept of intersectionality has been travelling between the United States and Europe in the last years. Just to mention a few events in which you were involved and discussed intersectionality in Europe, it’s

worth remembering the meeting in Zagreb in 2000 in the lead of the UN Durban Conference; the Conference “Celebrating intersectionality” in Frankfurt am Main in 2009; the “Critical Race Theory Europe Symposium” in Berlin in 2012. Where do you see the differences between the intersectionality in the United States and in the European socio-legal scenario today? What do you think are the most striking issues concerning intersectionality in these two different contexts?

I’ve written about some of travels and travails of intersectionality in Europe. In a number of contexts including the events mentioned above, some critics voiced concerns that were largely variations on a basic theme – that intersectionality threatened to impose an American preoccupation with race that threatens to compromise a distinctive history of intersectional engagement in Europe. This debate is amplified by an argument that intersectionality was nothing new in Europe given the prominence of feminist projects that had long attended to gender and class, a focus that was found to be lacking in American feminism.

I’ve been far more of an observer than participant in these debates, and in that capacity, I’ve been intrigued by certain dimensions of it that strike me as much more familiar than distinct in the debates in the United States. Some feminists such as Gail Lewis have argued that the effort to recover intersectionality from its racial preoccupations is itself a racial project that reflects a reluctance to grapple with Europe’s ongoing encounter with the Other at home. I am also struck by the ways that the “already intersectional” claims remain associated with projects that are agnostic toward the significance of race in Europe.

At the same time, I would say that there is a significant investment in intersectionality in Europe as a social theory with both predictive as well as explanatory power. This engagement with the framework surpasses what is seen by many feminists to be a narrowly framed project in the hands of legal scholars and advocates. This aspiration to higher heights for intersectionality strikes me as somewhat more salient in a European context than in the United States. While grooming intersectionality into a grand social theory is not an aspiration to which I am partial, the effort by some to do so does reflect an investment in the framework that is more robust than those who engage the term only to signal awareness rather than a substantive engagement with the ideas.

In one of your last essays Toward a field of intersectionality studies: Theory, Applications and Praxis (with Cho and McCall 2013), you mention

three main areas of engagement of intersectionality, i.e. “applications of an intersectional framework or investigation of intersectional dynamics”, “discursive debates about the scope and content of intersectionality as theoretical and methodological paradigm” and “political interventions employing an intersectional lens”. It seems that the social sciences have applied intersectionality much wider than the legal scholars and practitioners. Do you agree with this observation? Despite the wider consideration paid to intersectionality/multiple discrimination in the European soft law and policy (for instance with regard to vulnerable youth, Roma, Muslim and disabled women, and LGBT with ethnic background), the impression is that hard law and the case-law are still facing major challenges in incorporating intersectionality. How can intersectionality contribute to law and case-law in a way that they can disrupt and delegitimize power structures and implement substantive equality? Can you mention some examples of how this has been implemented, if any? All in all, why should the law and policy go intersectional?

While I agree that it seems accurate to say that intersectionality’s uptake in the social sciences has been more widely engaged than in law, this has not as yet been empirically measured. To do so would invite us to define a measurement of engagement that could work across various fields, which would in turn, provide a distinction between moments when insurgent ideas are being fully incorporated or merely coopted by their incorporation into mainstream institutional discourses. I’d think we would also want to define what counts as intersectional engagement, aside from whether intersectionality is named as such or not. By this I mean to complicate somewhat the idea that the mass uptake of the term ‘intersectionality’ necessarily tracks a more substantive embodiment within a field and in the reverse, that the absence of the term necessarily indicates the opposite.

That said, while I do believe that law has been relatively well insulated against intersectional intervention, I would hasten to add that much of intersectionality’s initial critique was directed toward the overall structure and ideological infrastructure of anti-discrimination law. In particular, law’s investment in a limited conception of what constitutes discrimination and how it is substantiated leaves in place an overall structure of the workplace and various markets that permit only modest reforms. Intersectionality throws light on the way that arguments about unfair exclusion become captured by logics rooted in the sameness/different paradigms. This insulates legal doctrine from much of the discourse around social power that has dislodged traditional practices around marginalized subjects. Law – es-

pecially case law – is a conservationist project by and large, and intersectionality upends many of its central investments.

It bears noting as well that in the same way that feminism was transformed into a viable legal project by the integration of women into the academy, the challenging condition for scholars of color in Europe is clearly a factor in mapping the substantive development of intersectionality. Legal scholarship and legal rule making are produced under concrete material conditions that shape the opportunities for certain concepts to gain traction. It would be an understatement to say that the degree of intersectional integration in law reflects the social capital and institutional access of subjects who are engaged and invested in such projects.

Some scholars maintain that through its institutionalization, intersectionality might lose the transformative strength of its origins (e.g. enshrined in the Black feminists' movements). For instance, Sirma Bilge notes that: "power relations within the contemporary feminist debate on intersectionality work to 'depoliticizing intersectionality'" (Bilge 2013: 405); "the neo-liberal cultural politics and its rationalities and techniques for governing difference" is "the backdrop against which intersectionality's depoliticizing needs to be read" (Bilge 2014: 176). What do you think about this concern? How can the risk of depoliticization of intersectionality be prevented/tackled? How can we prevent that the Black feminists' struggles and their contribution to intersectionality 'sink into oblivion'?

My thinking about this matter of cooptation versus substantive engagement has been consistently reaffirmed in observing the various ways that insurgent ideas have travelled over the years. In *Race, Reform and Retrenchment: Transformation and Legitimization in Anti-discrimination Law*, I wrote about how civil rights advocacy representing a rock and a hard place for African Americans. There I argued that power concedes to insurgent demands only to the extent that agitation, critique and other conditions open up contradictions that can only be closed by transforming the *status quo* to incorporate these demands. The very move to close these gaps shifts the situation enough to suppress ongoing agitation and critique, but often not enough to fundamentally transform the institution.

The trajectory of intersectionality is not entirely distinct from the trajectory of feminism or ethnic studies. As these projects became institutionalized, the critical groundwork that initially identified knowledge production as a key site of gender and race oppression became gradually less salient than they were in their initial articulation. It would not stand to reason to

think that intersectionality would stand apart from this dynamic. Rather, to the extent that academic institutions are spaces in which social power is situated and amplified, the very dynamics that intersectionality attends to in law would also play out within these walls.

The power relations to which Bilge refers are predictably resonate both within feminist formations in academic institutions and within women's spaces outside of the academic. Unlike other critics who seem to suggest that the depoliticization of intersectionality is a vulnerability packed into its essential DNA, the coopting of ideas from the margins is a power dynamic which intersectionality can provide a prism for analysis and critique, Bilge argues that the ongoing interrogation of those power relations should be a central project under intersectionality and I read her work as doing precisely that.

Should you take stock and draw some conclusions on the future of intersectionality, which directions can intersectionality take and for which purposes?

I've been asked this question in various ways before and it is one that is hard to answer. Part of the difficulty is that I do not think that it is productive for me to attempt to articulate a kind of future history of intersectionality. To engage in that effort would be to venture predictions about precisely how and in what contexts power will unfold and then speculate about how actors interface with these dynamics and with each other. That is a complex and for me, less compelling way to think about how ideas unfold. My own view is that the query about where intersectionality should go next is best answered with the simple response: wherever the theory can be helpful. That might sound like a copout, particularly to those who think in terms of grand theory. But it is helpful to remember that intersectionality grew out of a specific set of disputes about power and marginalization. It has since been mobilized to address a range of specific problems. Taking a position *a priori* about whether intersectionality should go is tantamount to asking, in the abstract, "how many intersectionality categories are there". I don't think counting up intersectionality categories is helpful. Nor do I think it helpful to map the future of intersectionality. This brings me to what I have always said I would not do but feel the need to do here – offer a minimalist articulation of intersectionality. Were I to reduce intersectionality to a soundbite, I would say that the theory seeks to unmask and contest how power works across multiple domains of the social world. I have no particular aspiration for intersectional to go "here" or "there". My aspi-

ration is for people to continue to build and improve upon the theory in ways that help to contest power and dismantle social hierarchies.

References

- Bilge, Sirma, 2013. Intersectionality Undone. Saving Intersectionality from Feminist Intersectionality Studies. *Du Bois Review*, 10, 2: 405-424. DOI:10.1017/S1742058X13000283.
- , 2014. *Whitening Intersectionality: Evanescence of Race in Current Intersectionality Scholarship*. In Wulf D. Hund & Alana Lentin (eds.), *Racism and Sociology*. Münster: LIT Verlag.
- Crenshaw, Kimberlé, 1989. Demarginalising the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracial Politics. *University of Chicago Legal Forum*, 1: 139-167.
- , 1991. Mapping the Margins: Intersectionality, Identity Politics and Violence against Women of Color. *Stanford Law Review*, 43, 6: 1241-1299. DOI:10.2307/1229039.
- , 2011. Twenty Years of Critical Race Theory: Looking Back to Move Forward. *Connecticut Law Review*, 43, 5: 1253-1354.
- , Sumi Cho, & Leslie McCall, 2013. Toward a Field of Intersectionality Studies: Theory, Applications and Praxis. *Signs Journal of Women in Culture and Society*, 38, 4:785-810. DOI: 10.1086/669608.
- From Private Violence to Mass Incarceration: Thinking Intersectionally about Women, Race and Social Control. *UCLA Law Review*, 59: 1418 -1472.
- Eisenberg, Avigail, & Jeff Spinner-Halev, 2005. *Minorities within Minorities. Equality, Rights and Diversity*. Cambridge: Cambridge University Press.