

WRITING THROUGH THE FRAME, WITH REVERENCE

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I want to thank the organizers for this luxury and gift of space to share some of my thoughts about writing. But like a number of you who literally just flew in from another conference in DC—the America Society of International Law (ASIL) meeting—once again juggling the material realities and limits of time and human energy, I am aware of how much easier multidisciplinary work, like intersectionality, is in theory than in lived experience. Feeling somewhat exhausted, I had thought that I should stand up so that I would not fall asleep during my own talk, but the previous speakers have been so wonderful and energizing that I think I can safely stay seated to deliver my remarks.

I fully resonate with the general themes for this conference, carried along by verbs of process—celebrating, emerging and nurturing. For me, writing is not a book, an article, or an essay; that is, beyond nouns and the naming of things and products, writing is process, “verb-ing.” Imagine your favorite bird—a robin, an eagle, any spirit creature in flight. The written text is like that—a frozen moment of flight. The bird was flying before it was captured in the frame, and after we click the camera, it continues soaring beyond the artificial enclosure of the photograph. I want to suggest that instead of the individualist view of writing as a predominantly solitary act that privileges the written product, writing is a process, and a community process at that.

The themes for this plenary session focus on the how, what, and why of our scholarship. Although in my own work these aspects of writing tend to be closely related, I will try to unpack them a bit in my talk. I would like to offer some observations about the writing process, focus on writing methodologies and theoretical locations, raise some questions of audience by sharing some student responses to my work, and share a few concrete—I hope—suggestions for developing one’s own writing “toolbox.” However, the question of what “works”

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for each person is a fluid, specific one. Clearly publication and the assumption of expertise that follows is the currency of the academic market. Yet, if the "why" of writing were to become a recognized authoritative voice on an area of expertise within a particular field, then, judged along this vision of scholarship, my work and choices have been eclectic, and not very effective I am afraid. For example, in international human rights I tend to be viewed as a "China" scholar writing on Chinese human rights and women's issues.¹ Within Chinese legal studies, I am mostly theoretically relegated to a feminist "camp" and have been jokingly categorized as being one of "Kitty [MacKinnon]'s litter" despite the obvious differences in my theoretical trajectory and political location. In ethnic studies, area studies, or women's studies, I may be simply viewed, at best, as a good-natured curious interloper.

How did I write myself to this moment? As always, the ordering of what was in fact years of intuitive, even haphazard "choices" and negotiations into a "history," or description, presents a misleading coherence of goal, vision and internal intellectual trajectory. But there is power and empowerment in these provisional reconstructions, making meaning of one's past, writing myself to a place beyond cynicism, and struggling to make ideas and alternative visions serve the creation of more just futures. Many, many years ago, as I was about to embark to China for what turned out to be a two-year stay, Pat Williams recounted a wonderful dream she had of my return. Her dream echoed a poem I had written challenging the Chinese fortune tellers' reading of my life as irrevocably limited by my short earlobes—characteristic of those born in the year of the rabbit and signifying a relatively short life—and a peach blossom nature—the curse of women with restless spirits. In Pat's dream, women in dusty blue, carrying bushels of peach blossoms, surround me; they are touching my earlobes and saying softly, "They're perfect." The dream of a homecoming where my "imperfections" and cosmic, perhaps, limitations no longer irrevocably marked my fate deeply moved me; as it turns out, my years in China were indeed a powerful homecoming.

In the years since then, I have often thought one day I would like to write a law review article that cites dreams, imagining an epistemology beyond rational cognition, challenging and undermining

¹ I name some of these tensions in Sharon K. Hom, "International Law Moves in a Cross-Discipline Register," *Proceedings of the American Society of International Law (ASIL) Annual Meeting* (Apr. 2, 1998).

bluebook rules and the implicit categorization and recognition of what counts as legitimate sources of authority from which we can speak. As Dean Rennard Strickland, drawing upon native wisdom, reminds us, "Dreams have power." So I try to write about what touches me and stretches me intellectually, but what may not neatly fit into dominant categories of legal writing as I raid other disciplines, cross theory/narrative lines, and try to resist the reductionist positioning and labeling by others of my work. And yes, even in my law review articles I have inserted dreams and even ghosts.²

I. WRITING AS COMMUNITY

Like that movement through the frame of a bird in flight, the trajectory of coming to a scholarly voice is not linear or only linear. Writing is not a single solitary endeavor, a linear progression from an untenured, vulnerable position of articulation to a tenured, authoritative power position. Rather, we are always multiply situated vis-à-vis each other within multiple hierarchies, exercising multiple agencies. At the same time, we do not enter the communities of legal discourse as fully-formed intellectuals, theorists, and writers. If we are true to the call of our work, then I think our voices are always emerging, always in need of nurturing. Although there are moments, long moments stretching into months, sometimes years, when one sits alone in front of the computer screen, or at a typewriter, or facing blank sheets of paper, writing is not only that individual struggle. It is also simultaneously part of a continuum, creating a web of voice(s).

When I refer to writing in community, I am thinking about the importance of networks, building circles of critical readers for one's work, becoming critical readers for the work of others, acknowledging our intellectual debts, and asking questions about who we write for. Networks are important as they nurture the intellectual, emotional, and spiritual ties through critical conferences like this one, critical race workshops or the LatCrit workshops. These academic gatherings are opportunities and challenges for creating progressive bodies of work as well as encouraging crossing lines of perceived difference. From these crossings, we build the base of reviewers—formal as well

² See generally, e.g., Sharon K. Hom, *Female Infanticide in China: The Human Rights Specter and Thoughts Towards (An)other Vision*, 32 COLUM. HUM. RTS. L. REV. 249 (1992); Sharon K. Hom, *Lexicon Dreams and Chinese Rock and Roll: Thoughts on Culture, Language, and Translation as Strategies of Resistance and Reconstruction*, 53 U. MIAMI L. REV. 1501 (1999); Sharon K. Hom & Robin Paul Malloy, *China's Market Economy: A Semiosis of Cross Boundary Discourse Between Law and Economics and Feminist Jurisprudence*, 45 SYRACUSE L. REV. 815 (1994).

as an ongoing reading community of critical readers, sounding boards for work. In addition to people we meet at law conferences or in other legal settings, it is also helpful to reach out to scholars and writers outside of law, as well as to activists that you have learned from, respectfully disagree with, or who have inspired you. For example, after struggling through the dense, brilliant work of Rey Chow, a literary theorist who writes on Chinese film and literature, I wrote to her expressing my appreciation for the ways her work provoked my own thinking. Although I cannot imagine why I thought she might even be interested in my law review articles on human rights and Chinese law reforms, I sent them anyway. I was pleasantly surprised to receive a handwritten note graciously thanking me for my letter and reprints and even commenting on them. This was a simple lesson in grace and intellectual generosity towards strangers and across boundaries. I am implicitly saying that it is important to acknowledge our intellectual debts both on the receiving end and to recognize the ways this engenders an ongoing intellectual network of critical support—like Sumi Cho's and Dennis Greene's public naming today of the many colleagues who welcomed, challenged, and critically supported them when they first entered the academy. And they, like many others in this room, now extend that kind of support to the more recent newcomers; it is a gift that keeps on circulating.

Finally, there are questions of audience—who do we write to/for? As theorists, scholars, teachers and activists addressing multiple communities, our audience includes other law teachers, decision-makers, and, though not always in the foreground, our students. Writing for other law teachers presents questions of legitimacy, career survival, professional recognition, and building of intellectual community. When we focus on the audience question, and with it questions about accountability and constituency, it becomes clear that ideas do not necessarily have to be relegated to abstract ivory tower debates. In fact, empirical evidence suggests that critical scholarship can shift the dominant discourse, contribute to the development of new norms, and reshape the material allocation of resources. Impact litigation briefs, law review articles and advocacy lobbying, as well as cogent, compelling analysis and reconceptualization, can have an effect on decision-makers such as policymakers, legislators and judges and engender discursive and material transformation. For example, in the 1960s, welfare entitlements were conceptualized as property rights that then required due process protections. Domestic U.S. civil rights are again being reconceptualized as human rights, with the attendant strategic move to draw upon international human rights discourse

and practice. Over the past decade in the international arena, we have seen development, which was once a code word for economic development, become challenged by the demands and visions of sustainable and human development.³ Through the work of legal scholars, women's rights activists, and international and domestic non-governmental organizations (NGOs), the pervasive violence against women throughout the world is now recognized in international documents as a human rights violation.⁴

Thus, ideas as worldviews can narrow or widen our realities, close or open the doors to the possibilities, as in critical scholarship. When we imagine our students as within our communities of readers, we are modeling—a vision of the potential of ideas to have an impact on transforming the world. Yet, despite our assumed positions of power and authority vis-à-vis students, engaging directly with students as critical reader can be unsettling and risky.⁵

II. METHODOLOGY THROUGH SOME READERS' EYES

I was recently invited to guest lecture at a feminist jurisprudence seminar at another law school and was surprised to find myself being introduced and positioned in the syllabus as a postmodern theorist. Aside from the questions this suggested about self-positioning and categorizations of one's work by others, I would describe my own work as being interdisciplinary, drawing upon area studies, women's studies, and ethnic studies, emerging from/to narrative located internationally and domestically in human rights dis-

³ In 1990, the United Nations Development Programme (UNDP) introduced and now publishes an annual human development report ranking all countries according to their "level of development" indexed in a Human Development Index (HDI). See generally United Nations Development Program, *Human Development Report* (1990). The HDI has four components: productivity, equity, sustainability, and empowerment of people. See generally *id.*

⁴ See generally CHARLOTTE BUNCH & NIAMH REILLY, DEMANDING ACCOUNTABILITY: THE GLOBAL CAMPAIGN AND VIENNA TRIBUNAL FOR WOMEN'S HUMAN RIGHTS (1994); WITHOUT RESERVATION: THE BEIJING TRIBUNAL ON ACCOUNTABILITY FOR WOMEN'S HUMAN RIGHTS (Niamh Reilly ed., 1996).

⁵ The following section tracks the remarks I delivered. However, in the process of now fixing those remarks onto paper, isolated from that auditorium of law professors of color in Chicago and the energy of responsive peers and colleagues, I discovered layers of personal emotional and intellectual ambivalence and tensions as I re-read the student excerpts I had shared in the presentation. I am grateful for this opportunity to further engage some of these issues of audience, including authority of the speaking/writing voice, and to explore what creating a diverse legal discourse and community would demand from each of us.

course, and theoretically borrowing from and raiding feminist theories, postmodern strategies, cultural studies, and critical theory.⁶ I had the interesting, and somewhat bizarre, experience of discovering that the students had been assigned to write short papers on the excerpts of my work they had been assigned, the introduction, and my memoir from an edited volume I had just completed.⁷ All of the issues that have surfaced during this conference—the tensions between the personal and the professional, security and insecurity engendered by experiencing ourselves as intellectually “passing,” questions of identities, including naming, being named and labeled, and the relationship between theoretical work, teaching, and “practical” lawyering—also surfaced in the student papers.

I must admit that it was a bit disconcerting to see myself referenced as “Hom asserts that. . . .” However, reading the student papers brought home powerfully to me the complexity and difficulty of trying to reach different audiences through the kind of work I do. After all, we write for others, diverse others. Yet when suddenly confronted with my student readers, despite my “status” as a tenured law professor writing for more than sixteen years, I found the experience unsettling, depressing, and a bit scary. I was also struck by the racialized and cultural fault lines reflected in the various student readings of my work.

One Chinese woman wrote:

I found this paper fascinating on the issues that it raised about identity, being Chinese and the roles and responsibilities of a Chinese feminist jurist.

Another female student of color wrote:

Sharon Hom's articles carefully illustrate the complex relationships between gender, race, history, ethnicity, work, love, and many other "layers" of what I see as feminism. . . . I think this is what the femi-

⁶ Following my talk, one of my co-editors of our contracts text gently pointed out that in my whole talk I had not referenced nor presented the contracts aspect of my writing. Because the conference was following the recent release of my book *Chinese Women Traversing Diaspora: Memoirs, Essays and Poetry*, I had that book most in the foreground. But upon reflection, despite the relationship between critical teaching and scholarship, I realized I had viewed our contracts project as belonging to “teaching.” But her point is well taken, and, as an interdisciplinary intervention in a first year course, the text is also a scholarship project of which I am proud. See generally AMY KASTELY, DEBORAH WAIRE POST & SHARON K. HOM, *CONTRACTING LAW* (1996).

⁷ CHINESE WOMEN TRAVERSING DIASPORA: ESSAYS, MEMOIRS, AND POETRY (Sharon K. Hom ed., 1999).

nist analytical task should be, and what it is moving toward anyway, but most writers aren't able to portray or understand their "multiple positionings" as easily or as fluidly as she does. . . . Finally, I think it is the very personal nature of the author's writing that makes the depth of her analyses stand out. The many levels of multiple positions and "excavations" that she writes about might not be so clear and revealing in the hands of someone who is not willing to write so intimately, and which I really enjoyed reading.

Now this is the kind of thoughtful and nuanced blurb I would want on my next book jacket! Nevertheless, it was difficult and frustrating to grapple with other responses, especially a response where the student honestly states she just does not get it and further views memoir as "an abuse of narrative":

The sad truth is, in short: I really did not understand the points that Sharon Hom was trying to make. . . . I also felt frustrated that because of the massive use of the narrative style, no issue was actually profoundly discussed. . . . I find that the opposite way that has been used in Hom's articles is an abuse of the narrative style, transforming the articles into a nice biography, but not into an article I feel I could base a deep and personal reflection on.

Another student comments upon how much she appreciated the intersection of critical race theory and feminist legal theory, and the surfacing of the experience of the marginalized. Yet even as she offered an insightful comment about the call to acknowledge silence in my work, she also appeared to make a curious assumption about the purpose or intent of personal narrative, or memoir writing:

The article referred to the acknowledgment of this silence. Although that is a good idea, asking a society that barely listens to the voices that are speaking to take the time to listen to the silences is asking a lot and possibly too much. It does not offer much hope. As much as I enjoyed this article, I was left with a sense of hopelessness. As the reader, I felt outside of her experience, not because I could not understand it, but rather because I could not do anything to better it. I found the piece to be very passive, which bothered me, but if it was meant just as a forum to relay her experience, then it was very effective.

I have been labeled many things in my life, but "passive" is not one of them. I also wondered why any reader would imagine that memoir writing was an invitation to "better" the life of the writer. And I won-

dered about the possibility of understanding another reality without the imperial impulse to colonize it.

Lurking in a missionary urge may also be a fear of difference or of the chaos that might result from recognizing difference. Although seeing the value of my theoretical uses of diaspora, another student wrote:

Sharon Hom's article sits at the cusp of current decomposition, the contemporary destruction of our inherited approaches. . . . As a feminist method, the diaspora seems to be strikingly ideal. . . . It give as much speaker-time and copy-space to the underrepresented as it does official overlords, and status authoritarians. But I worry and I wonder. . . . I worry about the cacophony, the quagmire of individual voices that results from treating each as independent and unique.

Ironically, despite the primacy of narrative(s) in legal discourse, substantive law, and law practice, students have difficulty addressing the partiality and situated-ness of the pervasive narratives of power in law. One student wrote about the impact of legal education on her ability, or inability, to read the kind of "personal" narratives in my book:

Hom's introduction contains references to an impressive array of pieces in this volume of essays, indicating her interest in tying law to other disciplines and practices. Her investment in autobiographical narrative is readily apparent in this introductory piece. Before law school, I would have read this introduction with greater patience and awe. After two years of tedious law school casebook reading, I'm almost unsure as to how to read pieces like Hom's. . . . Before law school, I read with glee essays on diasporic voices, marginality, shifting and multiple identities, and so forth. Now I'm impatient with this type of writing because of what has been ingrained into me by a so-called practical legal education. Now when I read, usually cases and usually for work or classes, I think to myself: is there a useful legal argument here? how can we distinguish this set of facts? what's the logic in this set of decisions? Clearly this type of reading doesn't apply to Hom's articles. But it brings up an important question for me: if I am not interested in theory for theory . . . what uses does theory have?

The question of the uses of theory is one that is raised on all ends of the ideological spectrum. Yet, as I wrote in my memoir piece that this student was responding to, I suggested, referring to the interplay between my human rights scholarship and my human rights

activist and legal training work, that I have never felt comfortable with a paradigm that locates the activist in opposition to the scholar. I have always viewed the disciplining reality checks of activism and the discursive power of theory as mutually necessary and implicated.⁸

About my use of excavation as metaphor for theoretical method, a student asked: “*Is this an excavation using feminist method?*” She then focuses on my use of performance and efforts to negotiate legitimacy challenges:

Her work’s multi-disciplinary approach also reflects feminist theory—the throwing off of narrow boundaries to embrace dance, theater, law, history, narrative, and anthropology in one essay. The assessment that “[t]he stage is a place to be honest; it is not a place to exercise power or oppress people” struck me as the antithesis of law school. Law school, in contrast, is a haven for the powerful where the learning is how to manipulate power—and others. Hom’s switch from the “stage” of theater to the theater of the classroom simply transferred her acute powers of observation, and observation of self. The “Alice in Wonderland” effect she describes aptly captures the shifting sands of legitimacy felt by someone both a member and a stranger. . . . Those shifting sands—and the desire to conform with the dictates of membership—silenced even Hom.

Finally, echoing the tensions and challenges that progressive theorists face, another student thoughtfully raised a critique and several questions:

I had trouble connecting some of Hom’s memories to the practices of law, however . . . I agree that the practice of law and discussions of legal theory involve several modes of performance, and that these performances have to do with the power we feel and the power conferred upon us by our profession. But how does that acknowledgment lead us to becoming better lawyers? My question arises because I want to know how I can integrate lofty postmodern ideas, which though interesting are not the most accessible, into my practice as a public interest lawyer in the future. Is there something more here that I should learn other than a respect for my clients’ personal and legal narratives? Are there lessons here for thinking about how to empower clients and their communities?

⁸ See *id.* at 141.

Indeed, these are good questions, hard questions. As academics, we need to recognize the tremendously privileged position we occupy. This is true even for someone like me, situated in an under-funded public interest law school, precariously at the mercy of a state budget line item. Nevertheless, our class, economic position, and the relative materiality and comfort of the life of academic conferences, institutional support, academic nine-month calendars marked by winter and spring breaks and holidays, is a privilege and a luxury. Drawing attention to our class privileges as professors, as intellectuals, reminds us that the purpose of our scholarship, our critical theory, must be more than the enrichment of our own intellectual capital and careers.⁹

III. DEVELOPING ONE'S OWN WRITING TOOLBOX

I want to conclude by sharing some writing, and reading, practices that I have developed over the years. In trying to build a body of work in the often disembodied universe of legal scholarship, I approach writing as an ongoing and tactile process. Even in these increasingly cyborg times, as computer mediated virtual realities move past real time and space, I carefully choose my writing tools—my gel-point pens, the color of the inks, writing pads,¹⁰ journal books, and, of course, my computers. A number of folks have mentioned that paradigmatic moment of sitting frozen in front of a computer screen. However, I often viscerally experience myself as wrestling with that computer, with that piece that evades me across the lit screen. But when wrestling with the computer, I am drawing upon all the re-

⁹ I suggest a micro-political ethics that I name "trafficking justice" in my essay, "Cross-Discipline Trafficking: What's Justice Got to Do with It?" in *ORIENTATIONS: MAPPING STUDIES IN THE ASIAN DIASPORA* (Kandice Chuh & Karen Shimakawa eds., forthcoming 2000). At the level of micro-political struggle, I suggest that each individual can negotiate and create the community conditions, the institutions, the relationships, that are fair, non-violent, respectful, and that honor each person's place in the multiple communities each of us belong to. At the institutional level, within our educational institutions, in the marketplace, and the workplaces inside and outside the home, each one can work to make these institutions that breathe justice. I note that I recognize these suggestions encode a valorization of substantive norms and value choices, such as peace, economic justice, and respect for the natural and human world. But one lesson that I think international human rights debates and practice underscore is that avoidance of the hard tasks of making value choices in the name of inclusiveness or cultural relativism runs the risk of masking a moral bankruptcy.

¹⁰ I especially love the Levenger catalogue, appropriately labeled "tools for serious readers," and in which one can order personalized Post-it pads, a wonderful assortment of writing pens, writing pads, briefcases, reading and writing desks, mini-tables, as well as bookshelf furniture. You can find them on the Internet at <<http://www.levenger.com>>.

sources that I have been nourishing all along as part of an ongoing "writing" process.

Journals and journal-keeping are major resources for staying in touch with one's own creativity, curiosity, intellectual urgings, and questions of personal accountability. I have kept journals regularly since the fourth grade, and, but for the accident of my mother throwing all my journals away when I left home after high school, I would still have them. As it is, I only have a shelf of ragged journals back to 1973. Looking back through them is always sobering and keeps me in touch with why I write.¹¹ I keep several kinds of journals: dream journals, reading journals, and an ideas/writing notebook. In my dream journals, I track my night travels for future mining of symbols, insights, and spirit messages. In my reading journals, I handwrite excerpts from law and non-law books, articles, novels, or poetry, reinscribing a canon of one's own. In my ideas notebook, I jot down images, titles, fragments of phrases that come to me, ideas for pieces, questions, and beginning outlines of pieces I want to eventually write. There is no better place to start searching for a "topic" or writing "hooks" than the fertile ground of your own dreams, reading,¹² and questions.

¹¹ As Joan Didion writes:

It all comes back. Perhaps it is difficult to see the value in having one's self back in that kind of mood, but I do see it; I think we are well advised to keep on nodding terms with the pepole [sic] we used to be, whether we find them attractive company or not. Otherwise they turn up unannounced and surprise us, come hammering on the mind's door at 4 a.m. of a bad night and demand to know who deserted them, who betrayed them, who is going to make amends.

Joan Didion, *On Keeping a Notebook*, in *SLOUCHING TOWARDS BETHLEHEM* 131, 141 (Noonday Press 1994).

¹² I find reading well helps move me into an internal space for writing well. Over the years, I have accumulated a highly personalized home library of fiction, poetry, film, music, China studies, law, and social sciences that I love browsing in and returning to over and over for ideas, writing resources, and inspiration. Some excellent direct mail booksellers that regularly offer discounts between 60%–90% are Daedalus Books and Edward R. Hamilton. The Edward R. Hamilton catalogue requires patience and a love for browsing the thousands of titles in each issue, but you can even find university presses at amazing prices (many under \$7.95). The shipment charge is only \$3.00 for all the books you order, which really beats the university presses per book charge plus taxes. The address is Edward R. Hamilton, Bookseller, Falls Village, CT 006031–5000. The Daedalus catalogue is clearly and beautifully written by devoted book lovers, and reading their thoughtful, humorous, or insightful book descriptions is sometimes almost as much fun as reading the books themselves. The shipping charge is only \$4.95 per shipment. The Daedalus website address is < <http://www.daedalusbooks.com> >.

Building upon the rich contributions of the previous speakers, I also offer this small cross-cultural offering, a selection from a daily meditations volume based upon the Book of Tao. Tao is often translated as "The Way," but really, it is not *the* way, but many ways—English is sometimes such an impoverished language. This is the meditation for the 250th day of the year:

A painter poises above blank paper. It is not the painting to come that is as important as that single moment when all things still lie in a state of potential. Will something ugly or beautiful be created? The stately determination to make something worthy of the materials and the moment is reverence.¹³

So in addition to writing with the careful craft that Kevin Hopkins outlined so clearly, the humor and twenty-first century vision of cultural transformation that Dennis Greene exploded out into the space, and the clarity, integrity of political stance and commitment that Lisa Crooms' work advocates, as we sit down to write, may we write with reverence.

¹³ DENG MING-DAO, 365 TAO: DAILY MEDITATIONS (1992).