How to Have a Culture War

Kathryn Abrams†


Being a legal scholar is often like living at the last stop on the subway. The trains all get to you, but by the time they do they're late, they've been everywhere else first, and everyone is a little worse for the wear. Thus it should be no surprise that the culture wars, which have been raging for more than a decade at colleges and universities nationwide, are finally pulling into our corner of the academic world. By some lights, the advance troops arrived long ago. Race- and gender-based critiques of legal doc-

† Professor of Law, Cornell Law School. I want to thank participants in faculty colloquia at the Cornell Women's Studies Program, Cornell and Notre Dame Law Schools, The Feminism & Critical Race Theory Workshop at Fordham Law School, and the National Association of Scholars Meeting for comments on the subject of this Review. Particular thanks go to Bev Balos, Jonathan Brand, Nancy Cook, Cynthia Farina, Mary Lou Fellows, Jim Fleming, Katherine Franke, John Garvey, Steve Garvey, Bill Kell, Jon Macey, Linda McClain, Theresa Phelps, Emily Sherwin, and Ben Zipursky for thoughtful suggestions on an earlier draft. In the interest of full disclosure, I should acknowledge that I am an occasional target of Farber and Sherry's critique, usually for my work analyzing feminist and critical race narratives. See Kathryn Abrams, Hearing the Call of Stories, 79 Cal L Rev 971 (1991). It is fair to say, however, that I am not one of the scholars for whom they reserve their most scathing criticism, although I have described and defended the work of some of those scholars. Although I do not accept the term "radical multiculturalist," see note 2, I would describe myself as a feminist legal scholar whose work has been influenced by a range of critiques of merit, objectivity, and legal determinacy. I am also a Jew, an identity that I experience sometimes through religious observance and more often through a sense of cultural affiliation, but which has always been important to me.
trine—some of which entail broader methodological challenges—have been flourishing for a decade. But an organized response to these ideas has been slow to emerge, except at appointments meetings and around faculty coffeepots. Professors Daniel Farber and Suzanna Sherry have sought to ameliorate this problem. Their challenges to the use of narrative and the critique of merit first moved this debate from faculty lounges to the pages of law reviews. Now Beyond All Reason, a book-length development of their ideas, seeks to bring the struggle for the soul of legal academia to a broader audience.

The “culture wars” complaint has become almost a genre in itself, and this book bears many of its familiar hallmarks. There is the battle, as the book jacket predictably tells us, between the “party of reason” and the “party of emotionalism and subjectivity.” There are the stark depictions of the challengers as threatening “civilization as we know it,” not, this time, the academic canon, but Enlightenment epistemology and the concept of merit. Yet Farber and Sherry, astute observers of this struggle in its earlier incarnations, have added a few twists of their own. Some of these relate specifically to the legal context: multiculturalist critics are charged with employing a “mindset” concept of group-based prejudice, which encourages more encompassing regulation of speech and discrimination. Other distinctive features, however, reflect an effort to redefine the harm, focusing not simply on the end of civilization as we know it, but on a series of consequences the multicultural critique threatens to impose on a more particularized target, American Jews. An additional innovation is a hybrid methodological style, which is itself a commentary on what has been won and lost as the culture wars have raged on.

In this Review, I will examine Beyond All Reason, with a particular focus on these distinctive features. I will argue that they are troubling innovations that reflect a misplaced strategy: they up the ante, in order to bring the legal culture wars to a rapid and conclusive resolution. I will argue that it is an error—particularly this far into the controversy—to seek to resolve the debate over legal merit and methodology in this way. The multiculturalist challenge has inevitably altered the landscape in which legal scholars think and work. The question is not how to vanquish it at last but how participants might begin to speak to

---

1 Farber and Sherry are not, of course, responsible for the wording of their publicity. The quote comes from Professor Jeffrey Rosen, who could have reached for a less hackneyed locution.
each other across the chasms of conceptual pluralism that it has helped to create.

I. COMES THE "PARTY OF REASON"

Farber and Sherry describe the features of an ongoing struggle between "Enlightenment scholars"—a school of academics who subscribe to objectivist epistemologies, notions of intrinsic merit, and a belief that legal rules generally determine outcomes—and a group of critics they refer to as "radical multiculturalists." The latter group is a subset of feminist, critical race, and critical legal scholars, who are distinguished from their more moderate colleagues by their commitment to strong forms of social constructivism and by their attendant desire to alter the major premises on which legal thought proceeds.

The multicultural critique, as described by Farber and Sherry, has three main elements: a critique of law, a critique of merit, and a critique of knowledge or truth. Although each critique has its own distinctive consequences and coloration, they share certain features that connect them conceptually, and that

---

2 As this language suggests, Farber and Sherry have learned a rhetorical lesson from past skirmishes in the culture wars: the importance of claiming for themselves the labels our society views as legitimating and of assigning to their opponents the labels that have a subtle (or not so subtle) marginalizing function. See Stanley Fish, There's No Such Thing as Free Speech and It's a Good Thing, Too 102 (Oxford 1994) (arguing that abstract terms like "free speech" are "political prize[s]," the labels "you want your favorites to wear"). To style oneself the defender of the Enlightenment tradition is no small advantage when one is speaking to a mainstream legal, or more general scholarly, audience. Conversely, to describe one's opponents as "radical" is a reliable device for placing them at the margin. See Urvashi Vaid, Virtual Equality 295, 307-45 (Doubleday 1995) (noting that focus groups demonstrate highly negative reactions to term "radical" and advocating that gays and lesbians use it to characterize the Christian Right in anti-gay referendum campaigns).

I do not contend that terms like "Enlightenment" are devoid of substantive content. The Enlightenment was an identifiable historical period that left us a particular substantive and epistemological legacy, albeit one that has many nuances and can be redefined and claimed for a variety of purposes. This term, as well as more indeterminate terms like "radical," also has strong legitimating and delegitimating implications than can be—and are being in this very case—used to advantage in political argument. With respect to Farber and Sherry's status as Enlightenment heirs, I will satisfy myself with arguing that their actual methods depart starkly from the standards of rationally elaborated argument they claim to defend. See Section II.B.3. With respect to their opponents, I will, for purposes of this essay, decline the intentional marginalization conferred by their use of the term "radical." Farber and Sherry claim to ground their distinction between radical multiculturalists and other multiculturalists in a number of other commentators' observations (p 16), and there are settings in which "radical" is valorizing. Nonetheless, it is likely that in a more mainstream appeal like Beyond All Reason, the delegitimating connotations of the term offer an additional advantage. Because of this, and because I believe that feminists and critical race scholars embody a methodological continuum rather than a stark distinction between a radical fringe and a rational core, I use the term "multiculturalists" to refer to the scholars whom Farber and Sherry critique.
cause them to function synergistically in the work of many multi-
cultural scholars. The multiculturalists' claim is that each of
these systems—be it law, meritocracy, or Cartesian epistemol-
ogy—fails to provide the objective basis for making the distinc-
tions that it promises. Determinations within these systems are
instead driven by relations of power: the self-promotion of more
powerful groups at the expense of the less powerful, or the legiti-
mation of the status quo by those whose interests it serves.

Legal principles, for example, often "lack the power to compel
a particular conclusion" (p 36). In some cases, contradictory prin-
ciples permit the case to be resolved in wholly different ways; in
other cases, even a solitary principle that would seem to control
the case does not, in fact, determine the outcome. Far from being
driven by rules, law is instead "a ramshackle ad hoc affair whose
ill-fitting joints are soldered together by suspect rhetorical ges-
tures, leaps of illogic, and special pleading tricked up as general
rules, all in service of a decidedly partisan agenda . . ." (p 37).

The notion of merit is also rejected by multiculturalists, who
quarrel not with a particular version of merit but with the con-
cept itself. Multiculturalists, according to Farber and Sherry,
view merit as a set of criteria formulated according to the charac-
teristics of the powerful, in order to perpetuate their power and
exclude others (pp 31-33). Further, knowledge, like merit, is both
"culturally and ideologically contingent" (p 31) and "socially con-
structed" (p 27). By these terms, multiculturalists suggest that
what one "knows" or understands to be true about the world is
usually a function of one's group-based experience. Moreover, the
relative privilege of the claimants determines whose claims of
knowledge are ultimately credited by courts, universities, and
other dominant institutions. This makes knowledge, in a quote

3 Farber and Sherry acknowledge this synergy in Chapter Six (pp 120-27), but they
note that individual multiculturalists do not necessarily subscribe to each critique (p 121).
4 The next three paragraphs reflect my synopsis of Farber and Sherry's synopsis of
the multiculturalist tenets they then proceed to critique. I want to stress, because I di-
verge from many of Farber and Sherry's characterizations of multiculturalists, see Section
II.B, that the following Section reflects their descriptions, not my own.
5 In this paragraph, I describe the elements of the multicultural critique, as they are
described by Farber and Sherry. The quotes are from Farber and Sherry's book, but these
are, in turn, excerpts from the work of various multicultural scholars. For a critique of
Farber and Sherry's approach to excerpting and interpreting the work of multicultural
scholars, see Section II.B.1.
6 Quoting Derrick Bell, Who's Afraid of Critical Race Theory, 1995 U Ill L Rev 893,
899-900. Bell, in turn, is quoting Fish, There's No Such Thing as Free Speech at 21 (cited
in note 2). Bell argues, however, that this view is shared by most critical race theorists (p
159).
that Farber and Sherry draw from Professor Gary Peller, "a function of the ability of the power to impose their own views" (p 27).  

These critiques are connected to certain substantive and methodological propositions in the work of many multicultural scholars. A prominent, and controversial, example is the use of narrative, or experiential storytelling, in multicultural legal scholarship. This practice draws on two critical epistemological premises: that knowledge is contingent and shaped by group-based experience, and that the Enlightenment norm of rationality should not be uniquely privileged as a mode of knowledge gathering and persuasion. The use of narrative seeks to impart group-based knowledge through the ostensibly direct rendition of experience and to persuade, at least in part, through emotionally evocative imagery, rather than relying primarily on rational argumentation.

A second proposition that emerges from multiculturalist premises is the so-called "mindset theory of law" (p 35). Multiculturalists believe, according to Farber and Sherry, that "despite an appearance of rationality, law is actually driven by unconscious mindsets or tacit understandings. Because these understandings are below the level of consciousness, they are initially learned—and can later be changed—through images and stories rather than through rational argument" (p 35). These beliefs help to explain why multiculturalists favor storytelling as a mode of legal persuasion. The consequences of this view, however, extend beyond the realm of scholarship. The conviction that our view of the world is shaped by the preconscious images through which we understand ourselves and others has led multiculturalists to propose change in several areas of discrimination law. The most familiar is the call for regulation of pornography and hate speech. Commentators such as Professor Catharine MacKinnon argue that these words and images are dangerous for two reasons. First, they are capable of socializing women and members of racial and sexual minority groups to views of them as degraded,
objectified, or inferior. Second, they bypass the conscious level unmediated by reason. Therefore, these multiculturalists conclude that pornography and hate speech should be regulated, rather than protected as speech. The so-called “mindset theory” has also been employed by Professor Charles Lawrence to argue for the alteration of the discriminatory intent test of Washington v Davis. Lawrence argues that if a particular act or practice has a “cultural meaning” that invokes notions of inequality, it carries a stigma similar, for example, to hate speech or de jure segregation. Accordingly, discriminatory intent should be presumed.

The multicultural approach and the Enlightenment approach, Farber and Sherry conclude, reflect “two fundamentally contrasting views of how humans react to language”:

According to radical multiculturalists, language is used most powerfully for subconscious or rhetorical effect; scholars in their writing and government in its legislation should recognize and respond to this primarily noncognitive aspect of language. For defenders of the Enlightenment, on the other hand, language is (or should be) primarily a tool for rational argument . . . . [S]cholars who seek to persuade others should rely on rational argument, and the government—which draws its legitimacy from the consent of the governed—should not limit the very tool that allows the populace to reach considered judgments (p 48).

Notwithstanding the gulf created by the divergence in premises—a gulf the authors see as wider even than the participants believe (pp 49-50)—Farber and Sherry argue that we should “not abandon the idea of productive debate between opposing viewpoints” (p 50). At the end of the second chapter, they propose the terms on which that debate might profitably continue. They decline to debate the “truth” of the multiculturalists ideas, because “the two sides espouse different theories of truth and commitments to different forms of persuasion” (p 50). Instead, Farber and Sherry

---


12 According to Farber and Sherry, “attempts at dialogue may often misfire because the disputants share less common ground than they may believe” (pp 49-50).
Culture War

propose to debate whether multiculturalism produces a viable political vision, a kind of consequentialism they describe as “fight[ing] on the radicals own terms” (p 50). They describe the criteria for assessing a viable political vision, noting that they believe these criteria to be shared by both sides, in spite of their many differences:

- A valid conception of equality should condemn racism not only against Blacks and Hispanics but also against Asians and Jews.

- Advocates of equality need to be able to engage in constructive discussions with each other and to contribute to public discourse in society at large.

- ... [S]ociety should aim for the fullest possible understanding of the past ... and should reject any standard for truth that allows suppression of the memory of genuine suffering (p 50).

These apparently uncontroversial criteria are not, however, selected at random. In the succeeding chapters, Farber and Sherry purport to demonstrate that multiculturalism fails each one of them. They argue first that the critique of merit is anti-Semitic (and anti-Asian) because, having abandoned the concept of merit as irredeemably political, multiculturalists can offer no explanation for Jewish (or Asian) financial or academic success that does not draw upon familiar, invidious stereotypes. They argue next that the use of narrative has been responsible for the degradation of legal discourse. Not only has a divisive quest for “authenticity” replaced Enlightenment scholars’ concern with the “typicality” of anecdotal examples, but the normative component of narrative scholarship has also been stymied by stories whose normative import is nonexistent or unclear. Consequently, collegial relations among scholars have disintegrated into feuding over the truth and interpretation of particular stories. Finally, Farber and Sherry argue that multicultural scholars’ lack of concern about the truth of their narratives contributes to an intellectual environment in which no account of the past can persuasively be gainsaid. The result is an environment that provides fertile ground for theories like Holocaust revisionism. Because of these problems, the authors argue that multiculturalism should be abandoned. They take care to note, however, that they are not
rejecting all versions of feminist, critical, or race theory, merely all those that share the three critical premises.13

II. DEFEATING MULTICULTURALISM

For all its invocation of rational exchange, Beyond All Reason does not, in fact, encourage dialogue. It is difficult to find a point of entry into the authors’ discussion or to imagine a response that would elicit their attention, let alone their respect. The book’s argument is constructed not so much to assess or even engage as to defeat. It does so by employing a distinctive methodology that carefully defines both the targets of its attack and the idiosyncratic terms on which they will be evaluated. In this Section, I lay out that method and explain why it fails to persuade, and why it violates Farber and Sherry’s own criteria for rational argument. Then, I reflect on some of the reasons that their challenge may have taken this particular form, a vehement effort to discredit multiculturalism that, oddly, embraces some of the very methods it criticizes. I argue that Farber and Sherry’s performance is a product of the very transformation in methodological and epistemological assumptions that their multicultural opponents have achieved. By challenging, in the name of group-based equality, a range of scholarly premises about how we know, how we value, and how we persuade, multiculturalists have created an environment in which traditional scholars feel sufficiently embattled to engage in stronger and more focused claims about the magnitude of the threat to dominant norms. At the same time, however, multiculturalists have introduced into academia a broader methodological vocabulary into which mainstream scholars have begun to dip almost unawares. In the final Section of this Review, I focus on the question of challenges to narrative to discuss how traditional scholars and multiculturalists might engage each other in the new landscape created by these changes.

A. A Discourse on Method

Farber and Sherry’s argument has several discrete phases. The first is to introduce the three central multiculturalist cri-

13 It is not clear precisely how many of these premises a feminist or race-based account must share in order for it to be classified as “radical multiculturalism.” When the authors discuss the way these premises intersect and function together, they mention that not all multiculturalists subscribe to all of them. Among their targets, Farber and Sherry include Professors Duncan Kennedy and Catharine MacKinnon, whom they describe as subscribing to two of the three, and Professors Richard Delgado, Gary Peller, and Patricia Williams, whom they suggest subscribe to all three (p 121).
tiques. Farber and Sherry document their premises through a series of abbreviated quotations, reflecting the ostensible concurrence of a range of authors, a method which is of considerable significance to their effort. According to the authors, their method of analysis reflects a conscious choice to use the multiculturalists' own language where possible, and employ brief excerpts in the interests of accessibility (p 16). Once Farber and Sherry have presented multicultural scholarship, they proceed, in the second phase of their inquiry, to assess it. Farber and Sherry propose to assess multicultural scholarship in a purely consequentialist manner—according to the world it is likely to create. There are, however, many forms of consequential analysis, and Farber and Sherry employ a rather idiosyncratic variant. In each chapter in which the consequences of multiculturalism are assessed, the nature of the relationship between multicultural scholarship and the claimed consequence varies widely. Some consequences are actual occurrences that have arisen from the publication and discussion of multicultural scholarship. In the chapter on the degradation of legal discourse, for example, the authors describe painful struggles among scholars over “authenticity” in the depiction of group-based experience and over the meaning of particular narratives. Yet other “consequences,” which receive equal emphasis in the authors' account, have a far more speculative or attenuated relationship to multiculturalism. In the most controversial chapter of the book, the authors describe multiculturalism as fueling anti-Semitism because multiculturalists' rejection of merit renders them unable to explain, without recourse to stereotype, the disproportionate financial and academic success of Jews (and Asians). In a similarly speculative chapter, Farber and Sherry describe multiculturalism as threatening the erasure of human pain and suffering. Multiculturalists' "casual" attitude toward truth, in the eyes of the authors, makes it impossible for them to challenge distortive accounts of the past, such as Holocaust revisionism.

"In the first chapter, for example, they state:

[Knowledge, reason and merit . . . involve standards of judgment, which according to the radicals are socially constructed and culturally contingent, and thus suspect. As critical race theorist Alex Johnson writes, “the presumed norm of neutrality actually masks the reality that the Euro-American male’s perspective is the background norm or heuristic governing in the normal evaluative context.” Stanley Fish, a Milton scholar who holds a joint appointment in the law school and English Department at Duke, similarly contends that “like ‘fairness,’ ‘merit,’ and ‘free speech,’ Reason is a political entity,” an “ideologically charged” product of “a decidedly political agenda.” Justice, too, is substantively contentless; one critic of the radicals suggests that they view “talk of ‘injustice’” as a “rhetorically disguised demand for capitulation” (p 25).
Three things should be said about this method. First, it is unconvincing and potentially damaging as a critique of multiculturalism. Second, it is inconsistent with Farber and Sherry’s own Enlightenment-based premises. Third, notwithstanding these difficulties, it may be useful to ask what a critique with these attributes tells us about the progress of the culture wars, in law and elsewhere.

B. Method and Message

1. Presenting multicultural works and their consequences.

The first element of Farber and Sherry’s method, the use of multiple, abbreviated quotations, does not always do justice to their goals. Moreover, their method imposes certain burdens on the reader that Farber and Sherry fail to mention. The brevity of the quotations (individual authors rarely get more than a phrase at a time) means that readers are deprived of the opportunity to witness the unfolding of an argument, or to observe the context that would highlight the argument’s applications or qualifications more clearly. These problems are exacerbated by the fact that many of the direct quotations include hotly contested terms such as “political” or “socially constructed,” which may have different meanings in the work of different authors. “Social construction” means something different to Catharine MacKinnon, a structuralist with a strong normative agenda, than to Stanley Fish, a poststructuralist who disclaims any normative agenda. The statement “the concept of merit is political” seeks to incite a different response when it is uttered by Stanley Fish (readers should recognize the rhetoricity of all standards and use this insight to their advantage) than when it is uttered by Richard Delgado or Derrick Bell (readers should replace the current standards, which are illegitimately grounded in the norms of the racially privileged, with more equitable or inclusive standards). When readers see these statements juxtaposed, without a nuanced development of the larger arguments, they may assume that authors are in fact saying the same things, an assumption that is encouraged, rather than challenged, by Farber and Sherry’s broad-brush approach to a range of highly differentiated works.15

---

15 In this Section, I argue, by reference to a series of examples, that Farber and Sherry mischaracterize, often by simplifying or homogenizing, the scholars they critique. Because I am unable, in a Review of this length, to address all of the scholars they critique, and because I believe a more in-depth examination is an appropriate answer to their broad survey approach, I focus on the work of four or five of their targets. A reasonable response to
A good example of these problems comes from Farber and Sherry's discussion of the critique of merit. Farber and Sherry cite a number of multiculturalist authors for the propositions that "merit standards are created by the powerful to perpetuate their own power," and such standards accordingly reflect and reward the characteristics possessed by privileged white men (pp 31-33). One voice sampled is that of Stanley Fish, whose statement "there is no such thing as intrinsic merit" passes into this chorus virtually unremarked (p 31). Yet Fish's critique of merit is different from that of many with whom he shares the page. Fish regards the current system of academic "merit" as embodying the racial and other biases of those who hold power within it. This is not a pathology of this particular system, however. According to Fish, any regime of merit is inevitably partial, reflecting the influence of those whose norms, characteristics, and preferences give decisive shape to their particular community. This partiality, moreover, cannot be transcended through an effort to reconstitute merit. "Any effort to redress the effects of discrimination," Fish argues, "will only reinstitute discrimination as its unsought-for but inevitable by-product".16

The demand that discrimination be eliminated entirely is finally the demand that we live outside (or above or to the side of) the varied and conflicting perspectives that give to each of us a world saturated with goods, goals, aspirations and obligations. It is the demand that we no longer be human beings—beings defined by partiality—but become as gods, beings who know no particular time or place. This is the dream not only of philosophy but of theology . . ., but until we are the beneficiaries of a revelation or of a god who descends to begin his reign on earth, it must remain just that, a dream, and we will continue to be confined within the traditions and histories that generate our differing senses of what is true and good and worth dying for . . . No one's story is the whole story, and in the various lights shed by our various stories, this choice is to ask, aren't there still multicultural scholars as to whom their characterizations are more appropriate? It is possible that there are. However, I have not selected my examples at random. I have chosen to explore at greater length the work of scholars who espouse a fairly extreme version of one of the critiques (for example, Stanley Fish and Richard Delgado on the critique of merit), or who have been a frequent target of Enlightenment scholars' claims (for example, Patricia Williams). My point is to suggest that if these scholars are not espousing the views that Farber and Sherry ascribe to them, there are probably not many who are. Farber and Sherry's presentation of their opponents' scholarly works suggests a lack of precision or care that should worry readers, and other proponents of full academic exchange.

16 Fish, There's No Such Thing as Free Speech at 74 (cited in note 2).
different truths will seem self-evident and different courses of action will seem obviously called for. 17

As the concluding phrase suggests, Fish does not propose that we simply throw up our hands over the problem of merit, or employ an arbitrary device, such as a lottery. 18 He proposes instead that we continue to argue the merits of different approaches to merit, understanding that no system will be a predictable victor, commended by some universal meta-criterion of selection. Instead, the outcome of these contests will be variably, contingently, and locally determined. As he states:

And where does [the inevitably partiality of systems of merit] leave us? Just where we have always been, debating various agendas, each of which pursues goals that exclude or de-emphasize the goals of its rivals and none of which can legitimately claim to be more fair or more objective or more neutral than any other. Now, realizing that no agenda can make good on that claim . . . shifts our attention away from the realm of abstract moral calculation and into the realm of particularized history, where questions are asked in a context and not in a vacuum. 19

When Farber and Sherry surround Fish with a group of scholars who argue that we can, at least in theory, transcend discrimination, and when they cut his subtle and distinctive theory to an uninflected phrase, few readers will discern the position Fish actually took.

These problems, which range from failures of nuance to larger mischaracterizations, are relevant not simply to the descriptions of multiculturalism that Farber and Sherry provide. Elements of these characterizations form the major premises for Farber and Sherry’s arguments about the dangerous and even anti-Semitic consequences of multiculturalism. When the actual content of the critics’ arguments turns out to be different than Farber and Sherry suggest, the relationship to the claimed consequences is further attenuated or severed as well.

As we saw above, Stanley Fish does not reject all notions of merit, he simply views it as a localized concept that cannot avoid partiality. Moreover, he does not abandon all hope of making qualitative comparisons among works or candidates; he simply

17 Id.
18 These are solutions that Farber and Sherry ascribe to multiculturalists who have offered critiques of merit (p 32).
19 Fish, There’s No Such Thing as Free Speech at 75 (cited in note 2).
argues that the bases for such comparison cannot be grounded in any meta-principle that is equally persuasive to all communities or groups. The mischaracterization of Fish is not unique, however. Richard Delgado, a multiculturalist with views entirely distinct from those of Fish, does not embrace the view that Farber and Sherry ascribe to him either. Delgado’s critique is, as the authors suggest, distinctively focused on the dominant academic measures of merit. He is concerned not with the partiality of merit writ large, but with the partiality of merit as it tends to be understood in the American legal academy. Yet both his specific critiques of academic merit and his normative prescriptions are different than those attributed to him. His argument about the distortions of the “meritocracy” is not a reflexive rant about the self-perpetuation of the powerful. It is a careful discussion of the ways in which “meritocratic” criteria—from the SAT and LSAT to the valuation of conversational skills—tend to reward those who already enjoy privilege in certain ways. Delgado’s argument is not only more precise than Farber and Sherry suggest, it is also more difficult to distinguish from the kind of argument Farber and Sherry claim to endorse—namely, that current standards may rely on flawed indicators (p 53). In addition, Delgado, like Fish, does not become cynical or nihilistic when confronting the task of reformulating or improving standards. His most recent article on the subject, Rodrigo’s Tenth Chronicle: Merit and Affirmative Action, ends with a proposal for a conference at which those disadvantaged by race and class would form an alliance to bring their distinctive characteristics and life experiences to the “reconstruction of merit.” This suggestion is not, of course, a complete proposal, but it diverges from Farber and Sherry’s claim that multiculturalists “condemn the current standards of evaluation but offer no substitute” (p 32), and from their claim that Delgado himself proposes “a standard that guarantees racial and gender proportionality” (p 32). If Fish and Delgado do not con-

---

20 See, for example, Richard Delgado, Rodrigo’s Tenth Chronicle: Merit and Affirmative Action, 83 Georgetown L J 1711, 1719, 1741 (1995). Interestingly, in part of this argument, Delgado cites a similar argument by Stanley Fish. Id at 1741 n 98, citing Fish, There’s No Such Thing as Free Speech at 63 (cited in note 2).

21 A distinction in degree between these two kinds of arguments might, however, become a distinction in kind, because Delgado finds fault not just with one or two indicators used by the current “meritocracy” but with a large range (for example, the SAT, LSAT, and IQ tests). Delgado, 83 Georgetown L J at 1741-45.

22 Id at 1746-48.

23 Although Farber and Sherry cite a 1984 publication for this proposition, Delgado’s recent work addressing the question of merit and affirmation action shows no trace of it. See id at 1741-45.
tend, as Farber and Sherry suggest, that no performance can legitimately be regarded as better than any other and that the best answer is to disclaim measures of merit entirely, then there are a range of explanations available to them to explain Jewish or Asian success without reference to stereotypes.24

To take another example, the connection of multiculturalism to phenomena like Holocaust revisionism ostensibly arises because multiculturalists display a casual attitude toward truth in narratives. Here, too, the major premise is supported better by Farber and Sherry’s excerpts than it is by the actual works of the authors cited. The most striking example is Patricia Williams’s frequently discussed commentary on Tawana Brawley.25 In a passage quoted by Farber and Sherry that concludes a description of the condition in which Brawley was found and the conflicting allegations that followed from it, Williams states:

This much is certainly worth the conviction that Tawana Brawley has been the victim of some unspeakable crime. No matter how she got there. No matter who did it to her—and even if she did it to herself. Her condition was clearly the expression of some crime against her, some tremendous violence, some great violation that challenges comprehension. And it is this much that I grieve about (p 46).26

“In other words,” Farber and Sherry state, “whether it was true or false, Tawana Brawley’s story tells us something about the condition of black women” (p 96). So far, so good, but they continue:

Is Williams right? Does it matter whether Tawana Brawley was telling the truth about the white men or whether “she did it to herself”? In this chapter, we contend that it matters very much. And it matters most of all to those who are truly victimized. Leave aside the unfairness to the men Brawley accused. The radical multiculturalists seem unable or un-

24 Farber and Sherry even offer a few of these, prior to arguing that they are unavailable to multiculturalists because multiculturalists reject all notions of merit (pp 60-61). Of those they mention the notion that Jews and Asians have embraced dominant notions of merit as an adaptive, rather than oppressive, move, and the notion that Jewish and Asian communities have, independently, developed norms with considerable congruence to dominant American society strike me as most plausible.

25 Tawana Brawley was an African-American teenager who was reported missing for several days. When she was found, with her clothing torn, smeared with excrement and marked with a racial epithet, she stated that she had been abducted and abused by a group of white men.

26 Williams, Alchemy at 169-70 (cited in note 8). Farber and Sherry discuss this quote at p 96.
willing to differentiate between Brawley's fantasized rape and another woman's real one. Indifference to the distinction between fact and fiction minimizes real suffering by implying that it is no worse than imagined or self-inflicted suffering (p 96).

There are many things that are disturbing about this paragraph. To begin with, the authors imply that if Brawley was not telling the truth about the abduction and attack, she could not in any sense be understood as a victim, but only as a possibly deluded perpetrator (demonstrated by phrases such as "Brawley's fantasized rape" and her "imagined or self-inflicted suffering"). But even more disturbing for my present purposes is that the passage misses Williams's point. If Williams is, in fact, suggesting that we may learn something crucial from Brawley's story, whether it was true or not, she is not suggesting that we learn the same thing from Brawley's story whether it is true or not. This passage seems to me to suggest\(^7\) that if the story is not true, we learn something not about the damage that particular perpetrators did to Tawana Brawley, but about the damage that this society does to those who are Black and female and poor; damage that might make Tawana Brawley want to tell this story or even inflict this harm upon herself. Moreover, Williams is not suggesting that this case, whatever it may have to teach us, should have the same legal consequences whether Brawley's story is true or not.\(^8\) Brawley's story may offer valuable social insights even if it is not true, and it is to these insights, which have been largely ignored in the strife over the story's truth and legal sufficiency, that Williams directs her attention in the quoted passage. Farber and Sherry's insistence that Williams must be talking about the story's legal consequences—and that she believes that these consequences should be the same whether the story is true or not—is a distortion of Williams's discussion.

\(^7\) I am reluctant to identify a determinate meaning in a quote that is more elliptical, and perhaps more ambiguous, than most in Williams's work. This elliptic manner appears partly intentional because one of the points of the longer passage is that Brawley's case has become a maelstrom of conflicting appropriations, with a growing silence at the center where Tawana Brawley's own story should be.

\(^8\) Farber and Sherry implicitly ascribe this view to Williams when they quote Anne Coughlin as saying: "In what kind of a legal system would it make no difference whether a woman who claimed that she had been raped was telling the truth." (p 96). Williams, in as much as she refers to the legal proceedings in the case, focuses on the fact that the outcome was a foregone conclusion once the mainstream media and (white) political leaders began offering their constructions of the case and on the fact that Tawana Brawley's personal story has probably not been heard. Williams, *Alchemy* at 169-70 (cited in note 8).
One might also consider Farber and Sherry's discussion of my own work on a similar point. Farber and Sherry quote me as saying that I "would not be particularly disturbed" if a narrative purporting to be nonfiction turned out not to "track the life experiences of [its] narrator in all particulars" or to be a composite (p 98). The actual quote was part of a context-based discussion of the circumstances under which I would and would not find this discovery to be disturbing. This discussion seeks to answer the question: "If the reader suspects that the author did not have (precisely) the experience she reports, how should that affect the credibility of the narrative . . . [and] the way the reader views the larger account of which the narrative is a part?"

In my view, the effect of the reader's doubts on the credibility of a narrative should depend upon the kind of narrative being offered. In the "first-person agony narrative," it seems particularly important that the pain described was experienced, in some similar form, by the author. In this type of narrative, it is not just the authority ostensibly conferred by experience, but the hardships endured or risks taken in exposing a controversial experience that enlist the reader's support. If the reader suspected that the author only pretended to endure this hardship or take this risk, it might generate in the reader a feeling of betrayal, as well as casting a shadow over any prescriptive arguments that arose from the author's account . . . .

In narratives that relate [the "expert" insights of an "insider," rather than drawing on the suffering of the narrator], the need for a perceived correspondence between the author's narrative and the author's life is somewhat less clear. On the one hand, if readers are to take the narrator as an "expert," we obviously want to know that her account bears some relationship to something she has experienced . . . . But, on the other hand, as I explained above, I believe [such narratives] not only because they come from self-described victims . . . , but because their particularity, internal consis-

29 I will hereafter refrain from attempts to "set the record straight" in relation to my own work. But as Farber and Sherry characterize my approach to the truth of stories as preparing the ground for practices such as Holocaust revisionism, this example is too much to let pass.

tency and tone render them coherent, illuminating and compelling.\(^{31}\)

It is at this point that I make the statement quoted by Farber and Sherry: "Were I to learn that these stories did not track the life experiences of their narrators in all particulars or that they were composites, I would not be particularly disturbed."\(^{32}\) However, immediately following this statement, I continue:

An "insider" narrative that turned out to be a complete fabrication, however, would be a greater problem. Feminist scholars such as Angela Harris have argued for the embrace of an "ethics of representation" that would require narrative scholars to make clear who is speaking in their stories, and on what basis the speaker claims authority. Surely a fabricated "insider" story would violate this ethic, and cast doubt on a range of legitimate renditions of women’s experience. But beyond this case, the waters become murkier. Creating any narrative involves a process of mediation, of muting and amplification, of selection among details. What sorts of modifications "insider" narrators should be required to disclose to their readers is a difficult question about which feminist scholars continue to differ.\(^{33}\)

Thus, examination of the fuller positions articulated by the authors, including myself, whom Farber and Sherry cite does not support the contention that multiculturalists are indifferent to the truth of experiential narratives. Patricia Williams argues that even untrue statements may turn out to have social value, a "radical" view tracing its lineage to John Stuart Mill.\(^{34}\) I argue that narrative is always a mediated rendition of experience, and that the precise relationship required for credibility between the author’s account and the author’s life should vary depending on the nature of the narrative and the purposes for which it is offered. Furthermore, I endorse an "ethics of representation," as proposed by Angela Harris, that requires the disclosure of that relationship in cases of salient departure. Thus, neither of the

\(^{31}\) Id.

\(^{32}\) Id (emphasis added).

\(^{33}\) Id at 1025-26 (particular illustrations have been excised).

\(^{34}\) Perhaps because Patricia Williams and John Stuart Mill espouse different epistemological premises, they would extract the social value from statements that are not true by different processes. Mill advocates that these statements be placed in contest with "true" statements, which would prevail through a kind of adversary process. See John Stuart Mill, *On Liberty* 15-37 (Crofts Classics 1947). Williams would seem to advocate that such views be studied for the excluded and/or misappropriated perspectives they provide.
authors challenged display the casual attitudes toward truth that Farber and Sherry see as foreclosing attacks on theories such as Holocaust revisionism. In short, the claims linking multiculturalism with anti-Semitic norms or consequences, which were attenuated at best, are further undermined by the failure of Farber and Sherry's major premises.

2. Pervasive claims of anti-Semitism.

These explicit arguments, however, are not the only ways in which Farber and Sherry seek to connect multiculturalism with anti-Semitism. They also seek to bring home the ostensibly anti-Semitic implications of multiculturalism by less direct means. In this respect, their arguments assessing the consequences of multiculturalism descend from the unpersuasive to the deeply disturbing.

The authors wage a campaign of guilt-by-association against Derrick Bell, the originator of the critical race narrative and one of the founders of critical race theory. Bell is criticized for authoring a fictional chronicle in which Jewish protagonists demonstrate mixed motives in seeking to prevent Blacks from being removed by a group of aliens. He is charged with displaying solicitude toward that veritable lightning rod for Black-Jewish tensions, Louis Farrakhan (p 44). With the exception of a brief section in the introduction (p 4), however, Farber and Sherry do not actually mount an argument that Bell holds views that are anti-Semitic. Nor do they argue that Bell—and by inference other multiculturalists—should be regarded as holding views that are anti-Semitic because Bell has written a particular chronicle or displayed solicitude toward Farrakhan. (I would add that I would find either argument unpersuasive, given Bell's actual writings.)

---


36 As for Bell's alleged solicitude toward Farrakhan, I am unwilling to perpetuate what I regard as a flawed policy among some Jews of calling on virtually every African-American leader of prominence to disclaim Farrakhan in the face of his anti-Semitic remarks. Farrakhan and some other Nation of Islam leaders, such as Khalid Abdul Muhammed, have made anti-Semitic statements that I reject, and that I believe others, of any racial group, who care about group-based equality should reject. These attitudes, in my mind, make Farrakhan a less fit leader than others who reject anti-Semitism in all its manifestations, and a problematic public representative of the Black community. But I do not believe such attitudes require that Blacks deny the benefits Farrakhan has provided to that community. Black leaders are required to disclaim Farrakhan's anti-Semitism, but no similar requirement is imposed on other groups, many of whom have comparable figures in their own midst. Christians are never called upon to disclaim the anti-Semitism of Pat Buchanan; nor are Jews, for that matter, required to disclaim the racism of Meir Kahane. In this context, the demand that Black leaders disclaim Farrakhan suggests, at the
very least, that some Jews are more willing to look for anti-Semitism at the margins of society than within power structures where it can do far more to harm them.

Moreover, Derrick Bell’s discussion of Farrakhan (which occurs, ironically, in the context of a discussion of the pressure on Black leaders to disclaim those who make statements deemed “outrageous” by those in power) is complicated. Bell’s description of Farrakhan as offering a form of forthright resistance to the white power structure and a form of empowerment to young Blacks that few other leaders have been able to match is in some respects similar that of Cornel West, who is often viewed as a champion of Black-Jewish relations. Compare Bell, *Faces* at 118-25 (cited in note 35), with Cornel West, *Black-Jewish Dialogue: Beyond Rootless Universalism and Ethnic Chauvinism*, 4:3 Tikkun 95, 96 (1989) (“The state of siege now raging in Black America, the sense of frustration and hopelessness, pushes people to look toward a leader who speaks in bold and defiant terms. The Black elected officials tend not to speak to these deep needs. Farrakhan tries to fill the vacuum . . .”). And while Bell’s discussion contains passages that praise Farrakhan frankly (“Minister Farrakhan, calm, cool, and very much on top of the questions, handles these self-appointed guardians with ease. I love it!”), Bell, *Faces* at 118 (cited in note 35), he constructs a dialogue that permits the problem of anti-Semitic statements and Black responses to them to be discussed at length, from a number of perspectives, some of which attempt to illustrate how the Jewish anguish over Farrakhan looks to at least some Blacks. This seems to me instructive, particularly if one is willing to acknowledge that this ferment may look different from the perspective of Blacks than from the perspectives of Jews. However, it is not a matter of saying (as Farber and Sherry’s worry about relativism might suggest) that Blacks will inevitably view the controversy one way and Jews another. Some of Bell’s conclusions seem plausible, even to me, approaching the controversy as (one kind of) Jew. In one section, for example, Bell states:

Were I a Jew, I would be damned concerned about the latent—and often active—anti-Semitism in this country. But to leap with a vengeance on inflammatory comments by blacks is a misguided effort to vent justified fears on black targets of opportunity who are the society’s least powerful influences and—I might add—the most likely to be made the scapegoats for deeply rooted anti-Semitism that they didn’t create and that will not be cured by their destruction.

Id at 121. While some of Bell’s discussion may be jarring to some Jewish sensibilities (including my own), to suggest that this discussion is anti-Semitic seems incorrect and inflammatory.

I reach similar conclusions about Bell’s chronicle of “The Space Traders.” It is true, as Farber and Sherry state, that Bell describes a plot of resistance (to the removal of all Blacks by the Space Traders) by Jews calling themselves the “Anne Frank Committee.” Though the Committee publicly describes its motives as reflecting “the fateful parallel between the plight of blacks in this country and the situation of the Jews in Nazi Germany,” Bell notes that “[a] concern of many Jews not contained in their official condemnations of the Trade offer, was that, in the absence of blacks, Jews could become the scapegoats for a system . . . reliant on an identifiable group on whose heads less-well-off whites can discharge their hate and frustrations for societal disabilities . . . .” Id at 186. This is not a flattering picture of Jews (who may well have enjoyed, as I did, the first part of the passage, which depicted Jews as taking an atypically strong position against the proposed removal of Black citizens), but it is also not the end of the matter. Jews are described as victims, as well as allies with mixed motives, in the succeeding passage. Here Bell relates a plan engineered by the Attorney General, to prevent a small group of Jews from “besmirchen[ing] the good names of all patriotic . . . Jews” by blacklisting members of the Anne Frank Committee. Id at 187. Bell states:

Retaliation was quick. Within hours, men and women listed as belonging to the committee lost their jobs; their contracts were canceled; their mortgages foreclosed; and harassment of them, including physical violence, escalated into a nationwide resurgence of anti-Semitic feeling . . . . The Jews who opposed the Trade were intimidated into silence and inaction. The leaders of [the group] were themselves forced
Such associations are simply dropped into paragraphs that are not facially concerned with anti-Semitism.

Nor are Bell's alleged affiliations the only indirect means the authors use to suggest a connection between multiculturalism and anti-Semitism. Although Farber and Sherry survey a range of social and cultural damages that are alleged to flow from multicultural scholarship, one theme predominates: virtually every harm that is predicted or hypothesized is illustrated by reference to a development or controversy that has victimized Jews. Thus, the tendency toward authoritarianism by those who employ narrative methodology is illustrated by the Dreyfus affair (pp 102-03); the consequence of relativism in the characterization of "truth" in narrative is illustrated by difficulty of challenging Holocaust revisionism (pp 109-10); the tendency of narrative to degrade scholarly discourse is illustrated by an academic battle between two Jews over a Patricia Williams narrative dealing with anti-Semitism (pp 90-94); even Chapter Four, which identifies as a specific drawback of multiculturalism the fostering of arguments that the authors take to be anti-Semitic, ends with a reference to another, implicit connection, a chilling story about the failure to recognize merit in a concentration camp (p 71). The cumulative effect of these connections is to suggest that wherever multiculturalism shows its face, norms or controversies evincing anti-Semitism are not far behind.

Id. Both the McCarthy-esque strategy, and its consequences, are grotesque, leaving little doubt about the vulnerable status of the Jews. While they are not, of course, the wholly devalued group who become the object of the Space Traders' exchange, Jews live on a precarious edge, which serves at least to contextualize their earlier, somewhat unappealing concern about their own status. Moreover, Jews are not the only ones who display mixed motives in opposing the Trade (business leaders make a hypocritical protest aimed at saving a portion of their market and their work force), nor are they the only ones who engage in a struggle over the scarce territory at the societal margin (the quote about the motives of the Anne Frank Committee makes clear that other marginal groups engaged in scapegoating). One can question why Jews, via this subplot, were held up for particular criticism at all; and one can ask whether this treatment demonstrates the kind of inappropriate focus on those close to the social margins that Bell himself criticized in the case of the Jewish attacks on Farrakhan. But, in the end, this may be a question that distinguishes (some) Jewish perspective(s) from those of an African-American author. This is a chronicle about betrayal of Black Americans by the dominant power structure which systematically devalued them, by the legal system whose equality-based precedents were not strong enough to help them, by a variety of groups whose motives were too mixed or whose positions made them too vulnerable to be of much use. While the picture of Jews it presents is not pretty, Jews do not fare conspicuously less well than any other group in this nightmarish account. It does not, to my mind, provide a basis for charging Bell with anti-Semitism.

37 This story ends, rather gratuitously, with the conclusion: "In hell, it seems, all reality is socially constructed, and merit does not exist" (p 71).
Finally, Farber and Sherry make the claim, which operates to ratify the preceding implications, that multiculturalism threatens Jews by challenging the protection conferred upon them by Enlightenment values. The authors cite a series of historical figures, from French counter-revolutionaries to German Romantics to Christian crusaders, who have both challenged Enlightenment premises and displayed variously virulent forms of anti-Semitism. Farber and Sherry then suggest that this connection is not accidental, because Jews have both perpetuated and received protection from Enlightenment values:

Jews have been especially committed to Enlightenment beliefs, and thus have been instrumental in secularizing and universalizing American culture. . . . It is a reciprocal relationship; the Enlightenment focus on intellect and away from pedigree, on achievement rather than biography, on universal rather than local standards of merit, helped to open doors that had previously been closed to Jews (p 71).

Although Farber and Sherry return in the succeeding passage to the particular damage done by the critique of merit, their broader suggestion is that challenges to Enlightenment values threaten to undermine the protection that Jews have received from these values.

I have immediate sympathy with Farber and Sherry’s concern about the scourge of anti-Semitism. The atrocities they cite occurred within many of our lifetimes, and snuffed out the lives of millions as an expression of pure racial hatred. These atrocities should be abhorred and remembered, and their repetition prevented. I also have no difficulty with Farber and Sherry’s more generalized concern for the well-being of the Jewish people. It is inconsistent, as I will argue, with their emphasis on Enlightenment values, but it is a predictable outgrowth of a group-based conception of self with which I, as both a multiculturalist and a Jew, feel perfectly comfortable. (I received my own introduction to identity politics watching my parents decipher the import of any political development by asking, “But what does it mean for the Jews?”). But the claim that Jews are threatened by the multiculturalists’ targeting of Enlightenment norms exceeds this kind of quotidian, group-based concern. Jews have no doubt supported and been supported by the norms of the Enlightenment, though Jews have also been prominent critics of Enlightenment values, particularly as they have been reflected in liberalism and its legal
manifestations. However, to claim a relationship to the Enlightenment of sufficient reciprocity or exclusivity that she who at-

38 One of the additional problems with Farber and Sherry's characterization of American Jews is its essentialism. As with any group-based identity, there are multiple ways of characterizing what it means to be a Jew in this society; each entails its own account of recent Black-Jewish tensions. Farber and Sherry's image highlights two salient facts about Jews: their academic and financial success in American society and their vulnerability to continuing anti-Semitism. The emphasis on Jewish success in Farber and Sherry's imagery tends to confer upon Jews a pro-system posture or attitude—it envisions Jews as arrayed, for example, against the critique of merit as challenging their system, the system under which they have enjoyed success. This pro-system posture is interrupted only by the subtle vigilance with which Jews regard the operation of that system, watching for the reemergence of anti-Semitism. But even here, Farber and Sherry's critique of the multiculturalists seems to suggest, Jews are more likely to find that threat materializing from outside the system, or from those exiled to its margins, than from the political or institutional mainstream.

There are, however, many other ways of characterizing Jewish identity in American society, some may be drawn from the work of other Jews and all of which highlight the partiality or incompleteness of Farber and Sherry's characterization. One, which places a more ambivalent gloss on Farber and Sherry's image of Jews as successful, and successfully assimilated, outsiders, is Gary Peller's account of Jews as having accepted a "cultural compromise": "in exchange for cultural abnegation in public, we would be permitted our Jewish identity in our private lives." Gary Peller, The Discourse of Constitutional Degradation, 81 Georgetown L J 313, 340 (1992). As part of this compromise, Jews assert the neutrality of the public sphere, though "we know as an existential matter that schools, workplaces and other public settings are not really culturally neutral, but more particularly Protestant, middle class, and white. Our cultural compromise requires that we suppress that perception of public space." Id. This compromise may explain, according to Peller, why some Jews have responded with anxiety to race-consciousness on the part of Blacks or critical race scholars. These outsiders have not accepted (nor have they probably been offered) a cultural compromise: their group-consciousness specifically invokes the non-neutrality of the public—or legal—sphere, making Jews more aware of their own constraint. Those who may not recognize the compromise, or wish to preserve it, respond critically to these attacks on the neutrality of the public sphere. Those who experience strongly the non-neutrality of the public sphere and value the ability and resolve to proclaim it, may look critically at the terms of the compromise.

Also to be found in the work of Jewish scholars is a third image of Jews. This image portrays Jews as more persistent outsiders, frequently allied with others in the cause of social transformation, whose status has only recently been called into question by a sizeable and vocal group of (successful) Jews who have become invested in dominant political arrangements. As Rabbi Chaim Seidler-Feller explains, longtime veterans of radical and progressive struggle, and important participants in the civil rights coalition, Jews began to be divided in recent years, as some became Reagan Republicans and others seemed to take the lead in opposing affirmative action. Rabbi Chaim Seidler-Feller, Blacks and Jews: Troubled Times on the College Campuses, 4:3 Tikkun 92, 94 (1989) (quoting Jonathon Kaufman as saying, "the Rainbow Coalition is the only progressive movement in recent American history that was created and sustained with no meaningful Jewish involvement"). This recent shift, exacerbated by the Israeli conflict with the Palestinians and arms sales to South Africa, has led some Blacks to see Jews as antagonists. These Blacks have criticized Jews for their complicity in a political system that marginalizes people of color, or have manifested greater tolerance for the anti-Semitic pronouncements of some spokesmen such as Louis Farrakhan. This, in turn, has led Jews to be concerned about anti-Semitism among Blacks, and to call on prominent Black leaders to disclaim anti-Semitic statements. A vicious cycle has been established. Id at 92-94.

My point is not to say which image Jews or others should subscribe to, although I my-
tacks the Enlightenment, in effect, attacks me, seems solipsistic and bizarre. Moreover, the relentless drumbeat of anti-Semitic consequences—explicit, implicit, carefully argued, subliminal—reflects more than a generalized concern with the well-being of Jews. It reflects a suggestion that multiculturalism threatens the equality or well-being of Jews.

This latter claim is disturbing for several reasons. First, the authors’ claims of anti-Semitic consequences are among the most attenuated in the book. The problem is not, as Richard Posner argued in an earlier review, that the claim of anti-Semitism is grounded on an effect-based interpretation of discrimination that is more characteristic of the multiculturalists than of Enlightenment scholars. The problem is that the claim of anti-Semitism is not founded on any concrete effects at all. Sometimes Farber and Sherry argue that multiculturalists make logical or analytic moves (for example, the rejection of Enlightenment norms) that are analogous to moves that have been made in some anti-Semitic arguments. More often, they argue that multiculturalism contributes to the kind of intellectual environment in which certain unattractive kinds of arguments, including some anti-Semitic arguments, become more plausible. Even these speculative claims are weakened, as I argue above, by the fact that their central premises are flawed.

Second, beyond the ungrounded character of the allegations, the manner in which they are made seems likely to inflame an already-volatile set of group relations. The last decade has been an extremely precarious time in Black-Jewish relations, given the erosion of the civil rights coalition over some Jews’ rejection of affirmative action, the use of anti-Semitic discourse by Farrakhan and some other members of the Nation of Islam, the debates over Jesse Jackson’s response to Farrakhan, the Crown Heights inci-

---

self find the second and third images above more compelling than the first. My point is to make clear that in promulgating one image of Jews as the image—and commending one posture for Jews in response to multiculturalism as the appropriate posture—Farber and Sherry not only engage in a partially disguised form of identity politics, but they suffer from a problem that has plagued some forms of identity politics, the problem of essentializing those groups that are the sources of one’s identity.

This solipsism seems to me to be reflected in other portions of the argument as well. The requirement that those who challenge the concept of merit (or in the case of some critics, particular conceptions of merit) be required to explain Jewish success in academic and/or financial contexts seems a peculiarly arbitrary and self-referential demand. Why those who propose to change a particular social arrangement should be required to explain—with or without recourse to stereotypes—the prominent position of any one group within that arrangement is a question Farber and Sherry never answer.

dent, and more. These tensions have affected Jewish relations with other communities of color, in part because many members of these communities experience an affinity with the Palestinians in their struggles with the state of Israel. These tensions are real, and they can be ameliorated, if at all, only through careful, nuanced dialogue about the claims of mistreatment and the bases of disagreement. Broad, speculative arguments such as those made by Farber and Sherry will undoubtedly focus more attention on the debate over multiculturalism, and may perhaps help to consolidate opposition to it. But they will do so at the cost of exacerbating a painful set of divisions, and framing the culture wars as one more site of antagonism between Jews and communities of color. This kind of argument is one that those concerned about the degradation of discourse would do well to reconsider.

3. Beyond Enlightenment rationalism?

As the previous analysis suggests, many arguments offered by Farber and Sherry are also inconsistent with their own premises. In its aspiration, and in the most apparent details of its form, Beyond All Reason is a prototype of Enlightenment argumentation. The authors carefully lay out the premises of the challenged approach and then trace its consequences. They employ a consistently measured tone, portraying reasonableness, tinged with resignation and even regret about the intergroup tensions that may be exacerbated by the expression of these truths. Yet several features of their method display marked contrast with the Enlightenment values they espouse. First, the articula-

41 These developments have been discussed in books such as Paul Berman, ed, Blacks and Jews: Alliances and Arguments (Delacorte 1995); Murray Friedman, What Went Wrong? The Creation and Collapse of the Black-Jewish Alliance (Free Press 1995); Michael Lerner and Cornel West, Jews and Blacks: Let the Healing Begin (Putnam 1995).

42 They note:

Our argument against radical multiculturalism is unavoidably harsh, because we view its flaws as serious, profound and dangerous. We do not, however, bring this argument forward without misgivings. The people whose views we criticize are, after all, earnestly seeking to remedy some of the worst injustices of our society. Given our liberal Jewish backgrounds, we feel a particular sense of discomfort in attacking the work of progressive minority scholars, or of seeming to reopen old wounds between the Jewish and black communities. Moreover we have a strong distaste for the growing incivility of academic disputes. And despite our insistence that we are targeting certain ideas, rather than attacking the individuals who happen to hold those ideas, we can hardly expect the individuals themselves to feel unscathed by our accusations.

All this we regret. Several friends, over the past few years, have urged these arguments as reasons for avoiding the topic. In the end, however, we feel that the issues are too serious for us to remain silent (pp 13-14).
tion of the multiculturalist perspective through the scholarly equivalent of "sound bites" deprives readers of the deliberate unfolding of ideas that is a hallmark of "rational" argument. Second, the authors occasionally retreat into guilt by association. To make a fully developed argument that a particular scholar embraces premises that are anti-Semitic is a different enterprise than associating him with anti-Semitism by suggesting his similarities to, or ostensible support of, anti-Semitic figures. The former reflects rational argument; the latter does not.

More centrally, however, Farber and Sherry employ methodological tools that are more typical of the methods they critique than of the norms of the Enlightenment. Their determination to assess multiculturalism according to its consequences seems more typical of the pragmatism they acknowledge in the concluding chapter (pp 142-43) than of Enlightenment norms; an Enlightenment approach would more likely seek to assess the merits (or "truth") of the contending position. Of their many claims against multiculturalism, I take most seriously the argument that multiculturalism has produced a degradation of legal discourse. Interestingly, Farber and Sherry support this claim largely with narrative accounts of discursive havoc wreaked by multicultural scholarship. They describe a failed conference sponsored by the feminist journal, *Signs*, to illustrate the struggles over the "authenticity" of group-based experiences that arise from the use of narrative (pp 82-83). They argue that civil disagreement about experiential narratives is impossible by recounting the painful, internecine battle between Mark Tushnet and Gary Peller over a narrative of Patricia Williams (pp 90-94). In the midst of this second account—a jarring tale of a profound rift between two former allies and colleagues—I found myself marveling, "They really know how to tell a story!" I then realized the irony of this point. Farber and Sherry's narrative is not an aside. In its ostensibly typical particulars and its use of emotional pain as a part of persuasion, the story is an important element of their argument.

I thank Jim Fleming for this insight. Farber and Sherry may, in fact, acknowledge this departure when they argue that forsaking truth for consequences is "fighting on the radicals' own terms" (p 50).

However, while Farber and Sherry do not debate the comparative merits of the Enlightenment and the multicultural approaches to truth, they seem, in some sections of the book, to have declared victory without even having waged the war. As I argue in Section III, there are several places where the authors' critique of narrative scholarship seems to stem from the assumption that we live in a scholarly world characterized solely by Enlightenment norms, rather than by plural norms that flow from methodological contention. I thank Nancy Cook for pointing this out to me.
Similarly, the authors' concern with the impact of multiculturalism on Jews seems inconsistent with the Enlightenment premise of epistemological individualism. Although they describe this concern emanating, first, from a rejection of all race-based antagonisms (p 50), and second, from a historical confluence of Enlightenment and Jewish interests (pp 69-71), their ongoing, particularized concern with the well-being of Jews seems more plausibly explained as a manifestation of group-consciousness—a sense that the self is constituted, at least in part, through affiliations with others that shape the ways that one understands the world.

Neither group-consciousness nor narrative epistemology strikes me as particularly problematic. But these tactics should be problematic for defenders of the Enlightenment, such as Farber and Sherry. Why the authors might have embraced these elements and lapsed, in the ways that I have indicated, from Enlightenment rationalism, is an interesting question to which I shall now turn.

C. Endstage Culture Wars

Farber and Sherry find themselves at an important juncture in the culture wars, particularly those struggles that have taken place in the legal academy. Not only have feminism and critical race theory been flourishing for more than a decade, but the methodological innovations they have employed have begun to creep, often imperceptibly, from the margin toward the center. The authorial I has become commonplace, as perspectivity has taken its place alongside universality and objectivist epistemologies. Experiential narrative has become so widespread, as a vehicle for scholarly persuasion, that it has ceased to be the exclusive province of critical scholars and has increasingly been employed by those within the mainstream. Professors cite the life experiences that have helped to produce theoretical reconceptualiza-

---

44 I would describe epistemological individualism as the notion that people discern things about the world as individuals rather than as members of groups. See generally, Susan Williams, Feminist Legal Epistemology, 8 Berkeley Women's L J 63, 64-66 (1993), discussing Cartesian epistemology and drawing on the account of Allison Jagger and Susan Bordo, Gender/Body/Knowledge: Feminist Reconstructions of Being and Knowing (Rutgers 1989).

45 However, a greater concern with the typicality of one's narrative is required when one argues, as Farber and Sherry do, for the abandonment of a particular form of scholarship. See Abrams, 79 Cal L Rev at 1029-30 (cited in note 33) (arguing that the importance of demonstrating some typicality in stories depends on the normative purposes for which they are being offered).
tions;\textsuperscript{46} conservative students explain how they have been silenced by progressive classmates and faculty professors;\textsuperscript{47} critics of feminism and critical race theory use narrative to illuminate their bases for rejecting these movements.\textsuperscript{48} Some portion of this wider use may be strategic: experiential narratives have been revealed to be an effective, or at least attention-getting,\textsuperscript{49} mode of persuasion, and scholars of many stripes want to avail themselves of these benefits. But the repeated uses of such scholarly innovations—and the arguments for their merits that have accompanied them—have also had a subtle, normalizing effect. The idea that the “truth” of a given situation may depend on one’s group-based perspective, and the idea that one may validly persuade by rendering an experience in all its particulars and emotional immediacy, enjoy more support, more toleration, and more widespread familiarity in the legal academy than they did a decade ago. When they are not allied with critical messages, these methodological innovations are sometimes not even regarded as radical.\textsuperscript{50} These developments make it possible for Farber and Sherry to illustrate the negative consequences of narrative through stories, or depict their concerns for Jews as a group, while mounting a defense of epistemological individualism.

\footnotesize
\begin{itemize}
  \item \textsuperscript{46}See, for example, Elizabeth Bartholet, \textit{Family Bonds: Adoption and the Politics of Parenting} xiii-xv (Houghton Mifflin 1992).
  \item \textsuperscript{47}In \textit{The Morning After: Sex, Fear and Feminism on Campus} (Little, Brown 1993), Katie Roiphe alleges that she was stigmatized and criticized by feminist students at Princeton after her views on date rape and “Take Back the Night” marches became known, making it more difficult for her to speak out. See Roiphe, \textit{The Morning After} at 127-28.
  \item \textsuperscript{48}On my own campus, when faculty have proposed student orientation sessions highlighting issues of race and gender, conservative students have argued that they have been silenced or subjected to “mind control.”
  \item \textsuperscript{49}An interesting work within this genre is Jim Chen, \textit{Unloving}, 80 Iowa L Rev 145 (1994). Chen uses narrative to evoke what he sees as the constraints that the tenets of critical race theory have imposed on people of color in their professional and private life choices. Chen appears to believe that the particularity and emotional resonance that characterize narrative make it an effective means of persuasion; he also seeks to use narrative because he believes it has been treated as an exclusive property by critical scholars. “Anyone who challenges this ownership,” he argues, “is treated as a trespasser.” Jim Chen, Panel on Narrative, National Association of Scholars (Jan 8, 1998).
  \item \textsuperscript{50}Martha Minow makes a similar argument about claims of victimization (which are reflected in many experiential narratives, critical and otherwise), arguing that they make an effective claim for attention in an “attention-taxed world.” See Martha Minow, \textit{Surviving Victim Talk}, 40 UCLA L Rev 1411, 1414 (1993).
  \item \textsuperscript{51}See, for example, Bartholet, \textit{Family Bonds} at 1-23. To take an example that is political rather than scholarly, former President Ronald Reagan used stories to illustrate the need for particular kinds of policy commitments. While some critics complained about his “anecdotage” (an argument I take to reflect a concern about the typicality of his examples), few, if any, argued that he was undertaking a methodological innovation or threatening the intellectual underpinnings of the Enlightenment.
\end{itemize}
Paradoxically, however, this very process of normalization may call for a stronger—or at least different—response by defenders of Enlightenment values. "The end of civilization as we know it" can seem a rather diffuse kind of threat, particularly when the minions of multiculturalism have done their worst, and civilization, as we know it, does not appear to have ended. It may make sense to highlight a more focused set of dangers, which will illustrate the costs more concretely or bring an identifiable set of allies to the barricades. One cannot know whether Farber and Sherry actually felt such a pull, but it is no surprise that a new, and fiercer, theory of the harm has emerged at this particular moment.

It seems to me, however, that precisely the opposite response is called for. An eleventh-hour effort to secure a decisive victory makes no provision for an increasingly likely scenario: that the competing forces will be obliged to live alongside each other in the more plural world that will emerge from a deadlock or truce. The question that should now be asked is how mainstream scholars might approach multiculturalism when the goal is not to banish it, but to reflect on its promise and drawbacks, and to participate, where possible, in refining and improving the genre. In the following Section, I will pose a form of that question by revisiting the most plausible claim made by Farber and Sherry—that narrative scholarship has resulted in the degradation of scholarly discourse.

III. HOW TO TALK TO A MULTICULTURALIST

At the end of their discussion of the critique of merit, Farber and Sherry stop to marvel at the parade of horribles multiculturalism has ostensibly produced:

Does anyone actually believe that graduate training is irrelevant to being a scientific researcher, or that C law students on average would teach advanced courses as well as A students, or that a residency at a great teaching hospital adds nothing to a physician's ability to practice medicine? We suspect that radical multiculturalists are perfectly capa-

---

81 In their conclusion, Farber and Sherry refer to the possibility of dialogue, but they do not seek to converse with the "radical multiculturalists." They wish to engage with those whom they refer to as constituting the "reconstructive" strand of feminism and race theory. A handful of such scholars are named by way of example, including Lani Guinier, Martha Minow, and Robert Gordon, although their precise relationship to the central tenets of "radical multiculturalism" remains murky. Presumably, the "radicals" are to be banished from this ongoing dialogue (pp 140-41).
ble of giving sensible answers to such questions, and of realizing that their theory of merit is a bit extreme. Their failure to do so is a clue that something may have gone badly wrong with the way this and other issues have been discussed within the community of radical scholars (pp 72-73).

Farber and Sherry’s diagnosis is that discourse has been degraded by multicultural methodology to the point where it is difficult for “radicals” to assess the merits of their own arguments. Their argument has its ironies, for Farber and Sherry’s misconstructions of the critique contribute substantially to the supposed excesses they deride. Nevertheless, their argument about degradation bears consideration because it is so frequently repeated in connection with the use of narrative, and because it is the sole element of their analysis that seeks to link multiculturalism with problems that have actually emerged in its wake.

The authors present a series of arguments about the distortion of discourse within multiculturalism. They claim that the resort to experiential narrative yields scholarship whose normative content is either nonexistent or frustratingly indeterminate (pp 84-86). They argue that a focus on “authenticity” has replaced the objectivist concern with the typicality of stories, and has produced rancorous feuding over comparative injury and whose claims best reflect group-based experience (pp 78-84). Perhaps most important, they argue that it has become nearly impossible to discuss the content and implications of narrative because narrative scholars respond defensively, typically claiming that critics have replicated the insensitivity to which their stories bear witness. Farber and Sherry note:

It’s easy enough to blame this rhetorical explosion on insensitivity and aggressive over-reading on one side, or excessive personal sensitivity on the other. But the reality is that personal storytelling raises an inevitable risk of such confrontations. . . . Neither in the academy or in society at large can we always count on having friendly readers whose understanding will coincide with our own. When dealing with such personal matters, unfavorable interpretations at odds with the author’s own perspective cannot be received as anything other than personal attacks, and only the saintly could refrain from responding with an outcry of pain and anger (p 90).

Farber and Sherry conclude that the problem lies, if not in the storytellers, then in the storytelling form. But, before concluding that the answer is the abandonment of an entire genre of scholar-
ship, one should look carefully at the kinds of challenges that have, and have not, been offered. This inquiry may help us facilitate the communication across methodological differences that should be our task in the final phase of the culture wars.

The vast majority of challenges to narratives concern the truth of the experiential stories offered. Challenges have occasionally criticized the typicality of narratives, but many more have addressed whether the story happened in the way that the author related, whether salient details have been omitted, and what the reader is to do in the face of a story that cannot be verified according to the usual objectivist criteria. Patricia Williams has been the most visible target of such challenges. From her editors' worries about her Benetton story, to Farber and Sherry's misgivings about her treatment of Tawana Brawley (p 96), to Mark Tushnet's challenge to her confessed complicity in an incident of anti-Semitism, Williams has served as a lightning rod for this category of anxieties. But similar queries in less public venues have been raised about other storytellers. In some respects, this is not surprising. These stories are likely to be unfamiliar because they (intentionally) present perspectives at odds with the experiences of politically or numerically dominant readers. They are also accounts that generally cannot be verified according to objectivist criteria. However, the persistent questions about the truth of experiential narratives take on a different cast when they are compared with the questions that are not asked, but are instead answered by the critics themselves.

A good example concerns normativity. Critics have rarely questioned narrative scholars, in a curious or open-minded way, about what their narratives mean, and, more important, what normative import the scholars hope to derive from their stories. Like Farber and Sherry, most critics read narratives according to their own methodological lights and conclude that the stories lack normative import, or that the normative value is too indeterminate to be productively employed. Yet, as I have argued elsewhere, challenging traditional conceptions of legal normativity has been an important project among narrative scholars. Many

---

52 See David Hyman, Lies, Damn Lies, and Narrative (forthcoming Ind L J) (demonstrating the atypicality of most prominent stories about failures to serve uninsured patients in emergency rooms).

53 These challenges are recounted in Williams, Alchemy at 44-51 (cited in note 8). (The Benetton story describes Williams's experience of being denied access to a Benetton store on account of her race.)


55 Kathryn Abrams, The Narrative and the Normative, in Susan Heinzelman and Zip-
narrative scholars seek to do something other than to propose the next three-part doctrinal test. For example, some may want to suggest that targeting the judiciary's presuppositions is an essential prerequisite to any revisionary test they would offer; others seek a rupture with current doctrinal verities large enough to prompt a systematic rethinking of those verities, without necessarily suggesting where that thinking should end. But many critics of narrative assume they can assess any piece of work on the basis of their own methodological assumptions and conclude that there is no normative undertaking to be found. In this world of emerging normative pluralism, it would be much more productive for critics simply to ask what the narrator is attempting to accomplish. I have argued from the first that narrative scholars should take some responsibility for the accessibility of their messages, and that an "ethics of representation" should be developed to prevent the misleading of readers. I would add to this the suggestion that narrative scholars be more explicit about their normative innovations. Yet these efforts cannot be a one-way street: a genuine question from critics, rather than a curt dismissal, would encourage this practice and facilitate discussion on the varieties of legal normativity and how they might be achieved through scholarship.

A similar point might be made with respect to challenges to truth. We should be concerned with the truth of narratives, but we should also question the way that many critics have gone about evaluating this truth. Critics have repeatedly emphasized the claim that narratives are not true, or are not verifiable, rather than responding to the fact that narrative scholars have endeavored to challenge objectivist conceptions of truth. Critics may acknowledge, as Farber and Sherry do, that there are different conceptions of truth, but they nonetheless claim that it is ir-

porah Wiseman, eds, Representing Women: Law, Literature and Feminism 44 (Duke 1994) (arguing that feminist legal scholarship has "challenged the methodological norms of legal scholarship" by the use of narrative).


57 See Abrams, The Narrative and the Normative at 50-52 (cited in note 55) (describing normative function of "paradigm-shifting" narratives).

58 See Abrams, 79 Cal L Rev at at 1025-26, 1046-51 (cited in note 30) (endorsing Angela Harris's call for an "ethics of representation" and advocating elaboration of the normative message of narratives). Some of the central questions such an 'ethics' would take up are discussed at text accompanying note 31, quoting id at 1026.
responsible to employ anything other than the dominant conception without providing fair warning.\(^59\)

Sometimes, however, the decision not to identify the conception of truth that is operating is part of the methodological challenge; the narrative is intended, by its ambiguity, to challenge readers to see that there are more conceptions of truth than they are accustomed to thinking.

Setting aside the category of narratives in which authors use ambiguity to communicate their challenge to method, one might ask: what kind of scholarly universe is it in which narrative scholars deviate from objectivist conceptions of truth only at their peril, or with a sufficient "warning to the reader"? It is a universe in which objectivist conceptions of truth remain a singularly dominant norm. Yet, as I have argued above, we occupy a scholarly universe in which various forms of perspectivity have gained increasingly broad acceptance. In this world, it would be a proper demonstration of collegial respect to ask narrative scholars what vision of truth is operating in their narratives. Dialogue about conceptions of truth and how and where they operate might then be possible. Such dialogue could help generate a broader, more pluralist set of expectations that could govern the reading of legal scholarship; Farber and Sherry's approach only reasserts the narrow preexisting set.

The use of emphasis and ellipsis raises similar concerns. Few would suggest that narrative scholars offer pure, unmediated experience. Indeed, some narrative scholars specifically call attention to the fact that they have mediated, or even struggled to mediate, a multivalent experience.\(^60\) An "ethics of representation,"\(^61\)

---

\(^59\) The authors state:

When we are talking about perceptions or the recounting of a particular event, we can distinguish among three different statements:

1. "If you had been watching, this is what you would have seen."

2. "The situation might not have looked that way to you, but this is how it felt to me."

3. "The situation didn't feel this way to me at the time, but this is how it seems to me now."

The first statement represents the conventional view of a true or accurate account. . . . There is nothing wrong with any of these statements . . . . The problem is that the radical multiculturalists seemingly want to use all three statements interchangeably, with no warning to the reader . . . . We think readers are entitled to know which type of statement is being made, and the radicals' casual attitude toward truth eliminates the distinction (pp 96-97).

\(^60\) See Kathryn Abrams, Unity, Narrative and Law, 13 Stud in Law, Pol & Soc 3, 23 (1993) (describing as one category of "complex narratives" those whose authors make manifest the process of narrative mediation).
which considers how equivocal or multivalent experience should be rendered and what kinds of doubts and choices should be shared with readers, is essential in shaping this emerging new genre of scholarship, and is underway among feminists and critical race theorists. Yet this process has received little support or contribution from those who question the narrative form. Instead, they offer harsh or derisive criticism centered around the apparently irresistible temptation to mislead the reader for professional or political gain. Beyond All Reason's stock story of victimization is a typical contribution in this vein. Farber and Sherry articulate what they take to be a typical narrative of race, class, and gender victimization, which they describe as a "personal story about one of the authors" (p 112): It begins "I grew up in a single-parent family in New York City public housing. My mother was an alcoholic and a compulsive gambler . . ." (p 112). They then elaborate on this narrative in a way that makes clear that while "every act in the story is technically true . . . the story as a whole, as well as many of its details, presents an extremely misleading portrait . . ." (p 113):

I grew up in a single-parent family in New York City public housing. My parents were divorced when I was nine. Until then, I lived in a "traditional" family, with a father who worked and a mother who stayed at home and took care of the children. Even afterward, my father sent regular child-support payments and kept in touch with us. The "public housing" was Mitchell-Lama middle income housing which, although it was not a five-bedroom house in the suburbs, was not what most people think of as "the projects."

My mother was an alcoholic and a compulsive gambler . . . . Her alcoholism was confined to drinking several cocktails every evening. It never interfered with her job or her general ability to function. She never left us alone in order to buy or drink alcohol, and was never so drunk that she could not respond to an emergency. Her gambling began as innocuous weekly poker games—in which $10 was a big win or loss—and did not become a problem until long after I had left home. I never felt its effects, and indeed gave her legal advice when casinos began pressing her to repay her debts . . . (p 113).  

---

61 As I note in the long quote above, see text accompanying note 30, the term "ethics of representation" is taken from Angela Harris. See Angela Harris, Notes on an Ethics of Representation (Apr 1, 1991) (on file with U Chi L Rev).
62 In the quote above, as in the original, the material that is italicized represents the
This elaborated version continues for four pages, in every case substantially undermining the claim made in the original story. The authors' ostensible point is that multiculturalists cannot tell us "why we should prefer the deconstructed version of the story to the misleading one" (p 116). But the larger suggestion of Farber and Sherry's narrative is that it is seductively easy to render a compelling narrative of victimization that happens to omit crucial details, and that this is a temptation to which narrative scholars might be expected to fall victim. This suggestion is troubling, for while it advert in fact to a universal human weakness, it seems to target, in particular, the veracity of a particular group of scholars. Rendered in the broad and cynical way that Farber and Sherry have offered it, it is, moreover, deeply insulting. They suggest that they have seen through what narrative scholars are up to, or that they understand the risks of the form far better than its practitioners do themselves. What is needed, I would argue, is dialogue, about the difficulties of this form and how they might be addressed. A challenge with this tone and content short-circuits, rather than contributes to, that dialogue.

Given these examples of opportunities missed and opportunities taken, it should not be difficult to see why narrative scholars have responded with pain and anger to many challenges to the form. It is also not difficult to see why narrative scholars have seen in some of these critiques the reproduction of the racial (or gender-based) attitudes their narratives expose. The modes of criticizing narrative that I have illuminated above often reflect similarities with patterns or tropes through which dominant groups have historically discredited or marginalized racial minorities and women. For example, the suggestion that narratives have little normative content, that they are instead underanalyzed renditions of experience, is consonant with the construction of women and minorities as primitives, capable of pouring forth raw experience but incapable of theorizing it. The (inconsistent) suggestion that narratives are manufactured or fantasized recalls the traditional questioning of women's claims of sex-

---

"elaboration" on the authors' stock story.

This is, at any rate, a feeble claim because any lawyer or five-year-old, whatever her epistemological premises, can tell you that there are statements that, while not factually incorrect, are completely misleading when considered in light of their fuller context. Endorsing so flawed a conception of "truth," moreover, is not the narrative scholars' point. In fact, Stanley Fish makes the point that removal of narratives from their context is not the strategy of multiculturalists, but is instead one of the key strategies of their opponents. See Fish, There's No Such Thing as Free Speech at 60-61 (cited in note 2).

Professor Anna Marie Smith has made this point, drawing on the work of Barbara Johnson and Edward Said.
ual injury, or the typical response of those whose assumptions are socially dominant to anything that is inconsistent with their assumptions. The suggestion that critics understand what women and minority scholars are doing better than the scholars themselves resonates with stereotypes about the competence of women and minorities to perform their work and to operate in the public world.

I do not contend that critics of narrative act on the basis of these assumptions. The problem is not their intent but the result: when critics forsake obvious opportunities for dialogue, responding instead with rejection that mistakes innovations for feelings and recalls race- and gender-based slights, it is not surprising that narrative scholars receive such criticism with less than open arms. The mutual suspicions that surround narrative are complicated and run deep. It will take time for even curious, good-faith engagement by critics to produce exchange. But no dialogue is possible if critics assume, rather than ask.

Critics might also reflect on how to reformulate some of the questions they do ask, so that they speak across the variable assumptions of an increasingly plural methodological environment. For example, instead of asking “Is [a narrative] true?” or suggesting that it has been inappropriately mediated, critics might ask narrative scholars what they believe to be the critical factors that produced the event or the response on which they focus. If appropriately framed, this might produce a discussion that would also yield information on the typicality or incidence of the phenomenon described—a question whose importance may vary, depending on the normative purposes for which the narrative is intended.65

Critics might also reconsider the ways that they have tended to respond to claims that their criticisms reflect the very attitudes multiculturalists have sought to expose. Critics have viewed such responses as accusations of racism, or, in Farber and Sherry's words, as “conversation-stopping moves” (p 74). There is no doubt that such charges are potentially embarrassing, and may serve to reallocate the power in a dialogue. Yet Farber and Sherry's negative appraisal also bespeaks a singular, rather than a plural, conceptual universe. Withdrawal in response to this kind of criticism is based on a belief that racism (or sexism) necessarily involves the malevolent intentionalism required by the

---

65 See Abrams, 79 Cal L Rev at 1021-27 (cited in note 30) (explaining why narratives offered for some normative purposes need to be typical and others need not).
Supreme Court in *Washington v Davis.* In contrast, multiculturalism has sought to evoke racism and sexism as varied, socially constructed phenomena that are far more difficult to avoid than intentional discrimination. Multiculturalists have argued that we all operate within a range of institutions, practices, and linguistic structures that reinforce race and gender hierarchies. The demand that we resist them, under this vision, is no less stringent, but the task is more difficult, because these attitudes are so various and subtle and can be assimilated in many different ways. Particularly, if it is levelly communicated, the message that one may have failed—at least temporarily—at one part of this difficult task should be received not with anger and indignation but with regret and resolve. "Every day," as Patricia Williams says of her own struggles with victimization and victimizing, "is a new labor."

These sensitive and difficult issues await us as we enter the late stages of the culture wars. Surveying such issues should help us to see why Farber and Sherry's flawed and inflammatory critique moves us in precisely the wrong direction. Though the hour is late, and the arrival long awaited, this is one train we should not get on.

---

66 426 US 229, 239-42 (1976) (holding that evidence of racially disproportionate impact is insufficient to prove the discriminatory purpose necessary to show an equal protection violation).

Daniel Farber has suggested, in private correspondence with me, that my understanding of anti-Semitism, see note 36, comes closer to this intentionalist mode than to the subtler and more inclusive way I understand racism. I am not convinced that this is true: while the statements that I criticize (such as those of Farrakhan) display this intentional character, those I find unproblematic (such as those of Derrick Bell) do not, in my view, demonstrate even group-selective insensitivity. However, it would be neither surprising, nor, I think, inappropriate if one defined particular "isms," or practices of marginalization, differently, depending on their virulence, history, and the social position of their targets in a particular society.