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### Anita Hill versus Clarence Thomas: A Theatre of Lies

After months of scrutiny by the U.S. Senate's Judiciary Committee regarding his nomination to the Supreme Court Judge Clarence Thomas, the favoured candidate of President Bush and the Republicans, known for his opposition to certain practices related to affirmative action and to legal abortion, found himself confronted with a last-minute testimony by law professor Anita Hill who accused him of having sexually harassed her ten years ago, when she was working under his supervision at the Equal Employment Opportunity Commission (E.E.O.C.), a federal agency working to promote equal employment for Blacks, women and minorities.

The additional hearings of the Senate's Judiciary Committee devoted to Hill's detailed testimony, to Thomas's shocked denials and to the statements made by witnesses in favour of the one or the other, were aired live on radio and television for several days. They provoked a widespread buzz of comments, contradictory interpretations, motivated stands for the one or the other, long after the hearings ended. The whole country was taken up with trying to find out who was lying and who was telling the truth.

It is this mystery drama of truth and lying and the interplay of the various types of logic underlying the arguments brought before U.S. and foreign public opinion that we would like to examine and interpret.

Our thesis, however, is that one cannot tackle this political and sociological problem in the manner of a detective story requiring us to unveil the truth that is hidden behind contradictory versions. Rather we shall treat this whole case as an analytical apparatus for the conflicts inherent in American culture, namely in some of the radical and progressive programs of the past twenty five years.

We view these conflicts as a Gordian knot of interlocked and antagonistic arguments that have pervaded all the polarisations and tensions of American society for the past twenty years. It is thus not by sheer coincidence that the Hill/Thomas affair brought all these tensions together in the same spot. That is precisely why these conflicts could lead neither to a solution, nor to a collective catharsis, nor to a final verdict on where the truth lay, but only to the preservation of an infinite and insoluble difference of opinion and position.

This paper represents roughly one sixth of a more global inquiry into American, Canadian and other foreign media dealing with the Hill/Thomas affair. We are only presenting a central segment of this inquiry, focussing on the question of *lying*, not only because it is an interesting subject but mostly because it represents the blindspot around which all the types of argumentation provided by the media and other concerned commentators revolve.

#### ◆ The Facts

Let us first recall the facts. On July 1st 1991 President Bush nominated Judge Clarence Thomas to replace Judge Thurgood Marshall on the Supreme Court. Throughout the months of August and September Thomas was grilled by the Senate's Judiciary Committee. The ethical scrutiny of Thomas started early in August by Democratic senators who relentlessly attacked him throughout the whole month of September. In major American cities angry Republicans posted billboards with the picture of Sen. Ted Kennedy bearing the question: "How Many of These Liberal Democrats Could Themselves Pass Ethical Scrutiny?"<sup>1</sup> By that time the abrasive confrontation regarding Thomas's nomination was already well established. Meanwhile, Thomas kept a very low profile. On September 3rd Prof. Anita Hill of the University of Oklahoma Law Center was approached by the F.B.I. on behalf of the Judiciary Committee. After "numerous discussions" she accepted to submit an affidavit regarding her relations with Thomas when they were both working at the E.E.O.C. In this affidavit Hill explicitly and graphically accused Thomas of having sexually harassed her in an ongoing way when she served as his assistant. (Such allegations were all the more shocking since the E.E.O.C. under Thomas's leadership was the first U.S. institution to produce and enforce as early as 1980 a legal definition of sexual harassment as "an unwelcome sexual advance" and "other verbal or physical conduct of a sexual nature" in the workplace.)

Hill reportedly signed this affidavit on condition that it not be made public. In any case the allegations took a month to surface. All these facts that we are mentioning have been widely discussed and questioned by the media. "Why weren't the sexual harassment allegations against Thomas disclosed earlier?"<sup>2</sup> "Who leaked the allegations?"<sup>3</sup> Did Hill expect to be drawn so spectacularly into the controversy? etc. The media's innuendoes and double entendres regarding the leaking generally point to Dem. Sen. Howard Metzenbaum's staff. The actual disclosure of Hill's affidavit was admittedly done by Nina Totenberg of National Public Radio on October 3rd.

From Friday Oct. 11th to Monday Oct. 14th, additional hearings took place before the Judiciary Committee. These hearings were broadcast live by the four major television networks. PBS aired a round-the-clock coverage with no commercials.<sup>4</sup> NBC got the highest daytime rating in several years.<sup>5</sup> At the end of 1991 Associated Press rated the

Confirmation of Clarence Thomas third for the 1991 top news stories, after the Gulf War (1) and the Collapse of the U.S.S.R. (2) but before the AIDS Epidemic (4). Journalists of various political persuasions all agreed on one thing: that these hearings were a travesty of the due process of justice and nothing but a "mud-slinging showdown"<sup>6</sup> -- this did not prevent them from giving this showdown the largest publicity. President Bush emphasized that he backed Thomas in spite of the uproar.<sup>7</sup> In the meantime Judge Thomas limited himself to repeatedly denying "each and every single allegation." On Oct. 15th the Senate confirmed Thomas by 52 votes *for* and 48 *against*. On Oct. 18th, in an open-air ceremony at the White House, Thomas was sworn in before thousands of friends and relatives.

#### ◆ A Rhetorical Analysis

The fascinating thing about this case from the point of view of a rhetorical analysis is that it is one of the few litigation cases in which practically "everybody" contributed an argument.

The situation can be summed up as follows:

- 1) A whole society debates the case for a week, from coast to coast.
- 2) This society accepts the "commonsensical" hypothesis that what is at stake is to find out who is lying and who is telling the truth.

3) In order to do so, "every American" contributed their argument.

Yet, what we get in the end is a *chemical precipitation* made out of no more than a dozen recurrent *topoi* formulated by millions of people picked at random from all walks of life: politicians, senators, lawyers, psychiatrists, truck drivers, bank tellers, housewives, street vendors, etc.

This gigantic *rhetorical* endeavour has indeed led us to identify a small number of argumentative patterns in the general dynamic of talking the case out. Our general heuristic assumption can be summed up as follows: the arguments that were provided were not random products, but rather upshots of a culturally specific (i.e. U.S.) rhetorical imagination which operated to create two opposed sides, antagonizing each other in such a way that they "deconstructed" and balanced each other out. The result was a *static tension* between opposite poles with neither toppling the other over.

Despite this balance, the two antagonistic bodies of reasoning were markedly unequal, partly for technical reasons. Hill was made to talk a lot, providing an abundance of data to substantiate her allegations, whereas Thomas restricted himself to systematically denying all the allegations. Technically speaking, a denial without

elaboration does not offer much leeway for argumentation.<sup>8</sup> This is precisely what produced a tie, because the combination of what she said and what he did not say could only lead to a dilemma expressed as "either she is telling the truth, or she is a sociopath".<sup>9</sup>

This dilemma was in fact a bit more complex, for in order to disentangle it one had to resort to a series of assumptions about women and men, and about *black* women and *black* men more specifically. To question Hill's allegations, for instance, one could be led to use the topos of the cold-blooded revenge of a scorned woman, and thus cast her in the frame of a hell-hag, or else one had to question her sanity. In both cases, one had to rely on centuries-old stereotypes about women being shrews or hysterics.

In order to question Thomas's denials, one had to assume that Hill was saying the truth, and that Thomas's behaviour in the early eighties confirmed the most vulgar stereotypes about black men being sex machines. Hence, both sides -- pro Hill and pro Thomas -- could only push their arguments by relying on the tritest stereotypes about women and black men. Both sides were also constantly led to unknowingly use categorical fallacies and to make such sophistical syllogisms as: males are likely to do these kinds of things; black males are more likely to do them, or worse: Thomas is a black male, therefore he did it. The same fallacies informed sophisms about the opposite sex: women are hysterical and delusional, Hill is a woman, hence she invented the whole thing...

These types of arguments were used by anyone familiar with statistics and their effect on public opinion. As soon as one invokes statistics on sexual abuse or rape, one implies more or less directly that every man is capable of sexual offence, and this apparently reinforces the "probability" of Thomas having harassed Hill.

In a society in which more than a third of women have been sexually exploited as children and one in four women will be raped, sexual abuse is the province not of madmen but of Everyman<sup>10</sup>.

Since, however, in matters of sexual harassment it is, as feminists underlined, almost always a case of "her word" against "his," any discussion on who lied and who told the truth was forced to project all the stereotypes linked to men, women and blacks onto the blind spot of "alleged facts."

When we talk about stereotypes we are using a technical term referring to pre-built cognitive schemata. By saying so, we are not uttering noises of disapproval regarding these schemata, for there is no other way that a society can think and reason. A number of these schemata are manipulated by various ideologies in order to build their big narratives and allegorical characters. The characterization of both Thomas and Hill belongs to these *grands récits*. In order to sustain Hill's allegations, one had to construe

her as a calm, rational, asexual person, devoid of any impulses, a traumatized victim, endowed with an impeccable memory, and providing accurate answers to questions.

This perfectly functional and perfectly improbable psychological persona was matched by an equally fictional persona for Thomas: he never told a dirty joke, he never watched an X-rated movie, and he is the only man-of-law in the whole of the U.S. who never discussed the abortion case of *Roe versus Wade* and has no opinion about it.

These unbelievable character types are also allegories. Hill stood as a living rebuttal of the old sexist stance which asked: "What was she wearing and what did she say when she went to see him?". Thomas was made into an allegory of diligence, a man who "pulled himself up by his bootstraps from dirt-poor Pin Point Georgia to Yale Law School and the federal bench".<sup>11</sup> A black Abraham Lincoln, no doubt, who was born in a log cabin and rose to the White House.

All these characterizations are based on the psychological paradigm of "moral character consistency": an honest and hard-working judge cannot tell a dirty joke; a sensitive, reserved woman cannot be given to that kind of fantasy. It is within this framework of character scrutiny that thousands of experts have been trapped into debating something in which they obviously did not believe. Likewise, it is within this paradigm that the major opposing arguments were constructed.

In the final analysis, though, it seems that the argumentative dynamic gave a sizeable advantage to the pro Thomas side. We can assume that there was in the public at large a kind of naïve and barbaric logic -- not openly expressed yet effective -- which may have been the following: the possible evil done to Hill ten years ago *in absentia* cannot counterbalance the evil done to Thomas *in praesentia*. This probably amounted to the following reasoning in people's minds: Hill may be lying but even if she is not, she is now coldly ruining Thomas's career before the whole nation's eyes -- and this is vicious. If the public at large reasoned this way, this would mean that it sided with Thomas for reasons quite different from those of "learned" commentators such as senators, journalists, lawyers, professors, psychologists. These experts could hardly afford the kind of loose logic which consists in saying: "Thomas might have harassed Hill ten years ago but what we are witnessing now is out of proportion." Rather they felt compelled to deal in a very rigorous way with the *petitio principii* of trying to track down the "liar."

It is precisely because society requires its experts to provide accurate answers to the questions put before them that they cannot allow themselves to minimize actions and events that occurred a long time ago in another context concerning people whose motives and relations were probably quite different from what they are at the present. By trade, experts are expected to scrutinize the past as though it were factually loaded and, what is more, axiologically oriented. Thus they were perforce led to accumulate and

scrutinize as many details as possible in their quest for the "truth." There is no doubt that lay people also lengthily debated the issue of who lied and who told the truth, but such an issue was overdetermined by pre-logical considerations over the "balance of evils," i.e. the asymmetry they may have perceived between a situation of abuse that occurred ten years ago which they did not witness, and the abuse unfolding before their very eyes concerning a man whose life may be destroyed forever. The harm done to the one did not seem to them to match that done to the other.

#### ◆ Arguments in favour of Hill

1) The first cluster of arguments are fundamental, but not numerous. They suffer from a tendency to induce argumentators to take polemical shortcuts. They are mostly based on such deductions as: "men are very frequently capable of criminal behaviour against women, hence Thomas being a man, fits this category".

This deduction has its pitfalls. For, if it can be automatically accepted by feminists and some radicals (though not African-American radicals), it may yet appear threatening to the vast majority of men, and possibly to a substantial portion of women, as the polls have shown. The weakness lies in the fact that men who are called upon to endorse such an argument are men who must first experience a fair amount of guilt by association. The other weakness is that it rests on the categorical fallacy of a deduction by generalization.

There are yet instances of a typical argument by guilt, a variant of a well known fallacy known as *argumentum ad verecundiam*, provided by a liberal position of which the following is an illustration:

We can start by getting angry at ourselves for the way we've been controlling and abusing women for ten thousand years or more.<sup>12</sup>

This millenarian responsibility, guilt and remorse would undoubtedly satisfy any crusader against male dominance, but it is still not enough to incriminate a particular individual from the standpoint of a pseudo-anthropological male *mea culpa*.

A variant of this argument on men in general flows from the leftist axiom that all societies are characterized by an *imbalance of power inherent in cross-gender relationships*. Men are dominant, they dominate women, and from there, one can argue that the issue is not one of truth versus lying, but one of oppressors versus victims. Whatever one may say victims are victims, and siding with the oppressor would amount to blaming the victim.

This potentially harms the position of the left, for they appear to be less interested in seeking the truth than conservatives for instance who may not deny that such inequalities do exist, but who would argue that this is no reason to prevent us from seeking the truth. They therefore appear to be more credible, if we assume that the general public is considering this case within a truth-versus-lying hermeneutic.

Another variant leads to another fallacy: the argument by implication. Thomas is notoriously against affirmative action, he is suspected of being against abortion, and therefore against women's issues. The argument by implication would hold that a man whose position is so officially against the central issues concerning women in general is perfectly capable of having played the power game against a woman in particular. This argument certainly possesses its plausibility but it is nonetheless a fallacy for, once more, it is based on no other thing than a generalizing deduction.

2) The second cluster of arguments are more compelling because they deal with Thomas personally. Some of these arguments can be linked to what we shall term the *pattern of amnesia* displayed by Thomas, which sets him in a suspicious position. From the very beginning of the hearings Thomas suddenly *forgot* all kinds of opinions he voiced, statements he made, political stands he adopted, a tactical amnesia which radically distinguishes him from his unlucky predecessor, Judge Bork, President Reagan's 1987 nominee to the Supreme Court, who was asked to enunciate his legal philosophy and who simply "talked too much." As Thomas "forgot" all facts and statements that could cause him to be "Borked," one can assume that he also "forgot" all that Hill was accusing him of.

3) The third set of arguments aim at refuting the arguments of the opponents regarding Thomas's integrity and respectability, through the use of *exempla* instead of deductions. In a deduction, one goes from a rule to a case : the general category explains the particular instance. In an *exemplum*, there is no rule that can be readily used to frame a case, so one goes from an averred case to a contentious one. In the Thomas case, the most recent and devastating *exemplum* was that of the Berendzen affair. Dr Berendzen, the president of American University, was found guilty of making sexually sadistic phone calls to women from his principal's office. Again, while not proving Thomas's guilt, it strongly disproves the common assumption that a respected citizen in public cannot be a pervert in private.

4) The fourth set of arguments are arguments in favour of Hill. They are the *ethos* arguments, arguments built on a transfer of credibility from the appearance of the speaker to this speaker's veracity. By describing Hill's demeanour as full of "dignity," "courage" and "calm," unvengeful, not given to anger or fantasy, one implies that such a person cannot but say the truth.

*One brave woman, Anita Hill, would lead us all toward redemption.*<sup>13</sup>

Such a set of arguments will be easily denounced by opponents as being built on a circular reasoning. They would contend that "calmness, dignity, and courage" are the qualities they claim to be only if one really tells the truth. They do not prove anything in themselves. In other words if Hill is telling the truth, then she is courageous, she can look the senators in the eye, she has nothing to fear and she can withstand any cross-examination. But what if she is lying obnoxiously and yet is capable of doing so calmly, courageously, while looking the senators straight in the eyes? Then Hill would be the diametrical opposite of what the ethos argumentators claim her to be: a mythmaker, a shameless cynic, a hypocrite, or a sociopath. If Hill's accusations had been made in a tone of anger, she would have been dubbed "hysteric." But as they were made in a tone of cool deliberation, she was seen by her opponents as a passionless cynic.

Conversely Thomas did not appear to be out of character. Behaving in a composed and rational way, he was also effective in asserting his vulnerable masculinity in the two or three tactical fits of anger he indulged in : "I'd rather die...", "I would have preferred an assassin's bullet" (akin to the one that killed Martin Luther King?), and the famous "This is high-tech lynching!"

5) A fifth pro Hill argument is based on the absence of motive for lying: "...not even Thomas has suggested a reason for Hill to tell untruth..."<sup>14</sup> But this argument is an *argumentum ad ignorantiam*: if no cause is known it does not necessarily follow that there is no cause. On the other hand this argument invited opponents to conjecture about motivations, and they could indeed produce an abundance of them, by using the same worn-out yet enduring topoi: a) she was a pawn in a political conspiracy; b) this is the revenge of a scorned woman, etc.

There are a number of other technical arguments in favour of Hill. Witnesses affirmed that she had talked in confidence about inappropriate behaviour on the part of Thomas as early as the Fall of 1982. A columnist pinpointed that Hill corrected the F.B.I. transcript of her first affidavit which affirmed that Thomas threatened to ruin *her* career if she revealed anything, by quoting Thomas saying to her that if she told anyone about the harassment, this would ruin *his* career.<sup>15</sup> This last point is no doubt strong for increasing credibility in Hill's good faith, but it does not necessarily increase the veracity of her allegations.

#### ◆ Arguments in favour of Thomas

1) The most recurrent argument in favour of *Thomas* is in fact the counterpart of the argument about Hill's ethos. The Judge is characterized as a Bible-reading, respectable man, courteous with women, and rigorously moral in all aspects of his life.



His witnesses who vent their shock at the accusations made against him used arguments *a fortiori* aimed at showing that far from talking about X-rated movies, Thomas was such a puritan that the least mention of sex made him turn away. Dolores Rozzi, his secretary, affirmed that "he never listened to anyone telling a dirty joke."<sup>16</sup>

If these and other statements in favour of Thomas are true, then Thomas was one man to the world, and another to Anita Hill. In his counter-testimony to the Judiciary Committee Thomas himself evaluated sexual harassment -- on which, one recalls, he was supposed to be an expert -- as a trait for which "you would not find generally just one isolated instance." This kind of argument is endorsed by both psychologists and lay people. "As a psychologist I know that sexual misconduct tends to be habitual," declared Michael Wright in *Crossroads*.<sup>17</sup>

Another argument in favour of Thomas's character was to remind that as president of the E.E.O.C., he promoted stronger guide lines and sanctions against sexual harassment long before such guide lines were adopted by the courts. If that was indeed the case, then Thomas's opponents can find even more ammunition to condemn him, for that would make his case even worse. It would make him a more horrid schemer and hypocrite than he might have been.

Still, arguments against Hill are far more numerous than the ones against Thomas. They objectively worked in his favour. They can be lumped in three groups:

- 1) Those that seek clues of fiction-making and inconsistencies in Hill's allegations.
- 2) Those that seek to find reasons or unreasons for Hill's purported "lies."
- 3) Those that are drawn from reports of amicable relations between Hill and Thomas during the ten years following the alleged harassment, hence the ten-year gap between the "facts" and the accusations.

#### *Seeking clues of fiction-making by Hill*

Several Republican senators tried to raise suspicion against Hill's allegations by suggesting that some of her most graphic details were borrowed from a best-seller, *The Exorcist*, or from some recent court cases in Oklahoma. The conservative press went on taking advantage of discrepancies and additional details between the first affidavit and her oral testimony, in order to cast even more doubt on what they referred to as "a tale":

Each time she retells the story the purported offenses become more graphic, with details that we now know could have been pulled from a book or a 1988 court case on sexual harassment ("Long Dong Silver"). But

as the tale grows steadily more horrific, it becomes steadily harder to understand why she took 10 years to report the offenses, why she followed Mr. Thomas to a new job, why she kept up contact over a decade. Harassment surely does take place, but in the real world this is not how its victims act. Especially if they are Yale law graduates, and especially if they are familiar with the procedures of the Equal Employment Opportunity Commission, the very site of the alleged harassment. This is not a credible tale but a preposterous one.<sup>18</sup>

*Finding reasons or unreasons for Hill's purported lies or delusions.*

The reasons or unreasons for Hill's purported lies or delusions are based on three *topoi* related to gender, professional ambition, and race. They all converge to shift the conclusions about her allegations from accusation to psychopathological diagnosis. The arguments related to these *topoi* appear to be somewhat embarrassing to use, since they must perforce refer to categories of discrimination regarding sex and race. It may, for instance, very well be that lying is the revenge of the weak, and that there are numerous examples of women using this weapon but one can hardly say so bluntly, so arguments are presented in the form of warnings or appeals to caution. Some African-American groups siding with Thomas warned against jumping to conclusions regarding sexual accusations by women, reminding of the "Tawana Brawley fiasco" two or three years before (1988 or 1989) in which a black teenage girl falsely accused some white men of raping her.

It should be noted here that the foreign press, whether British, French or Italian, indulged in a sort of psycho-history of the U.S., dwelling on the fact that the whole history of this country is strewn with false accusations and scandals, starting with the Salem witch-hunting trials in the eighteenth century, going through the McCarthy era, and on to the most recent spurious scandals around Capitol Hill, including the false accusation of rape against William Kennedy-Smith.

Although the topos of women seeking revenge by lying is unfashionable, and even more unprintable in the American press, it still works very effectively in a suggestive and surreptitious manner, particularly in movies and soap operas. Consider, for instance, the fascination of soap fans with such scheming characters as Alexis, the rejected ex-wife of a tycoon (played by Joan Collins) in *Dynasty*.

Innuendoes on the possibility that Hill may have concocted this whole case abound, as more and more conjectures and statements add up. As more and more questions are raised, more and more experts consulted and more witnesses heard, arguments against Hill become more patronizing: she might *think* now that she had been abused... A psychiatrist, Dr. Park Dietz, declares that it is "entirely possible" to look

normal and have delusional beliefs of this kind.<sup>19</sup> Pursuing its depiction of Hill as a psychopath, the *Wall Street Journal* paints her as "a poised woman who seemed to believe her story even as the versions grew more incredible."<sup>20</sup>

One of the most self-serving diagnoses of Hill as a fantasy-maker was launched in a long tirade, albeit on the flimsiest evidence, by John Doggett Jr., an attorney, who knew her when they were both students at Yale. Hill was "somewhat unstable"; she was obsessed with men, he declared, and she was deluded about his interest in her. (This prompted Vermont Senator Leahy to ask Doggett if he might not conceivably be under the illusion that he possessed "some kind of natural irresistibility" which might lead him to think that all women were interested in him.)

All these arguments then amount not so much to accusing Hill of framing Thomas as to *diagnosing* her as a confabulating neurotic who might have made up a lie to get her own back.

The *topos* of professional ambition was also drawn on in order to present Hill as a ruthless yet mediocre careerist who kept quiet for ten years so she could glean the most advantage out of her connexion with Thomas.

Hill "should have fought back when Thomas tried to harass her" wrote the *New Yorker*<sup>21</sup>. But, as he "gave her in her subsequent career every professional assistance he could" <sup>22</sup> she seems to have kept herself "hitched to the rising star of her boss."<sup>23</sup>

Some Republicans cast her as an incompetent lawyer whose ambitions exceeded her skills. When Thomas did not give her the job she wanted at E.E.O.C., she became "bitter" and then "vindictive."<sup>24</sup>

As far as the *topos* of race is concerned, it appears in two general instances:

1) One is current within inner-group African-American polemics. It holds that even if the facts are true, Hill's reaction is nonetheless out of the cultural African-American character. For instance, the American-Jamaican sociologist, Orlando Patterson, suggested that Hill's traumatic reaction was "somewhat feigned and thus not true to her cultural sensibilities".<sup>25</sup> Patterson was sharply interpellated by black feminists who accused him of "shunning" Hill.

2) The other instance is almost blotted out from public American discourse but it can be found quite easily in the foreign press which does not share the same cross-racial sexual taboos as the U.S. It is the *topos* of the black woman who is cast aside by a black man for a white woman.

Les femmes noires ont toujours accusé leurs hommes de les déserté en faveur de femmes blanches. La jalousie aidant, Ms Hill a peut-être voulu prendre sa revanche.<sup>26</sup>

This type of suggestion is hard to come by even in the most conservative U.S. press.

Yet the question of the ten-year delay before Hill decided to make her accusations is very widely discussed at all levels of American society, from conservative to working-class, through various African-American and feminist groups. The enigma regarding why Hill kept such an amicable relation with Thomas during all those years, leads to two general answers that serve to blur the issue even more:

1) one suggests, as we have already seen, that she made the whole story up either out of personal revenge and/or at the instigation of the Democrats. A most effective suggestion regarding Hill's delayed motives for accusing the Judge was made by Mrs Virginia Thomas when she said: "She was probably in love with my husband"<sup>27</sup>, -- to be sure one of the tritest comments based on stereotypes about unrequited love and frustration.

2) The other holds her story to be possibly true, but finds fault with her motives at keeping it hidden for ten years: she was "ambitious" and therefore made a "cost / benefit" calculation, and/or she was "spineless" and did not dare to take the case before the public at the time.

For instance psychologist Michael Wright, who was himself long active in the civil rights and labour movements voiced concern about the political consequences of what Hill "represented procedurally, what her procedural posture was in that hearing and what it symbolized for men across the country and for Black men in particular"<sup>28</sup> expressing his adamant opposition to Thomas's politics and confirmation, and acknowledging that Hill was right about the factual things she alleged Thomas said to her and the way he treated her, he yet thinks that there is "room for confabulation over ten years," the inevitable memory gaps being "filled in by what one thinks is a correct memory." What bothers him is Hill's presentation of these facts as having triggered the same emotional response ten years ago as they did now. He is not convinced by Hill's "characterization of the degree of emotional harm or turmoil that she says in 1991 she experienced in 1981." He believes she is "overstating that" and thinks that she *probably* saw Thomas's conduct then as a "tolerable nuisance" not worth ramping and stamping about. "She *probably* made a careerist, cost/benefit analysis about her career opportunities with this particular man and came up on the side of 'Maybe it isn't that bad, I'll stick with him if it doesn't get to much more egregious. I'll see what I can do and perhaps use him to help me advance my career,' which she did splendidly. She did that for the next three years."<sup>29</sup> Wright is willing to grant Hill the benefit of a delayed

reaction, the fact, that is, that she came to realize the extent of the abuse only with time, but his overall criticism of her overstatement of the emotional turmoil it caused her remains unchanged.

His reservations flow mainly from his assessment of the influence that changing historical contexts and subjective interpretations may exert on the presentation of facts. Although he sympathizes with her stand against sexual harassment, he yet hesitates to take her testimony as conclusive evidence for two reasons: 1. One has to do with the norms that guided social and political procedures in 1980 and that have been drastically altered since then. Hostile-atmosphere sexual harassment, argues Wright, "was emerging as a concept in the legal literature but had not been declared illegal -- that is, prosecutable under the civil rights law." He raises this, he says, "because the question becomes what standard of care was expected of men and women in terms of the response to this type of issue at that time. It was not what it is today."<sup>30</sup> 2. The other deals with Thomas's psychological makeup as already stated. Is sexual harassment a personality pattern in his character or is it an isolated episode? The women who worked with Thomas and who were called upon to testify consistently emphasized his impeccable behaviour with them. Wright therefore calls for a rehabilitation of Thomas, claiming that no misconduct of the kind Hill is accusing him of can be seriously retained against him.

Sociologist Orlando Patterson who also presents himself as a "radical feminist," finds Hill's previous "failure to make use of the law ... spineless," contending that he cannot condone "the notion of pursuing one's own career at the expense of one's honor."<sup>31</sup>

The arguments about Hill's good relations with Thomas during that time-lag are so compelling that they have elicited a mass reaction on the part of feminists. Such, they argued, is the general pattern in cases of sexual harassment. But in a very interesting way, this type of justification triggered an adverse reaction on the part of working-class women who, interested neither in pursuing prestigious careers nor in overly preserving their measly jobs, responded by a "Don't give me that bull. I'd tell him to go to hell."<sup>32</sup>

Doubts about Hill's good faith were substantially increased by the *Wall Street Journal's* publication of a list of all the phone calls she made to Thomas between 1984 and 1990. They appeared in its October 10, 1991 edition<sup>33</sup>, so "The American people will be able to make up their own minds about all this." As these phone calls were made by Hill, on her own initiative, they appeared to contradict facts as she presented them as well as the impact she claimed they had on her. Reactions ranged from blunt scoffing -- mainly in the foreign press -- to qualified reservations. *Le Figaro's* opinion is as assertive as can be: "...personne ne m'obligerait à entendre le tiers de la moitié du quart de ce que [A. Hill] déclare avoir entendu."<sup>34</sup>

American opinion on sexual harassment is more aware of the controversial nature of assertions of this kind, so reservations about Hill's allegations are always preceded by preambles: "sexual harassment is beyond the shadow of a doubt an abomination, nevertheless it is everyone's duty to check the veracity of allegations wherever they appear, etc."

Feminists have retaliated strongly at these criticisms of Hill as an ambitious and "spineless" woman. Hill's silence over abuse, some argued, may quite well be due to career opportunism, but why is that shocking? "Ambition" is in fact thematized in the U.S. not as a shortcoming, but as a quality that forces people, male or female, to withstand all kinds of inconveniences. At that level, and given the highly competitive and sexist nature of the American job market, women have to put up with a much wider array of obstacles in order to succeed. They have to endure offensive remarks, sneers and blackmail from their bosses, who are mostly men. Any woman has the right to be as ambitious as any man, and to use all the means at her disposal to pursue career opportunities.

Why did Anita Hill keep silent all these years? Four main exonerating reasons are given by feminists:

1) She was young and an easy target: "at the age of 25, she felt vulnerable and intimidated."<sup>35</sup>

2) She is Black, and that spells double discomfort in this society:

Being a Black woman, you know you have to put up with a lot so you grit your teeth and do it...<sup>36</sup>

3) "Women often don't report rape," much less sexual harassment.<sup>37</sup>

4) She is a typical pawn in the American propensity to "blame the victim."

She said she was made out to be the culprit in the end. (...) Fear of that inevitable ending was what kept Hill from reporting the incident for years (...)

Women are told by their harassers or by others that they won't be believed if they come forward...<sup>38</sup>

Most of these arguments converged to present Hill's case as a paradigmatic one, combining all the essential characteristics of the sexual abuses against women. Judith Resnick (U. of S. California) summed it up in these terms: "You're seeing a paradigm of a sexual harassment case."<sup>39</sup>

Paradigmatic as it may be this case can hardly be said to have disentangled the dilemma produced by hearing "two credible, articulate witnesses present irreconcilable views of what happened nearly a decade ago".<sup>40</sup> In the October 11 edition of the *New York Times* A. Lewis had already predicted that there was "a good chance... that the conflict will end as in a Pirandello play, in frustrating ambiguity."<sup>41</sup>

The dilemma lay in fact in the paradox of searching for the truth by striving to pronounce one of them a liar. And it became increasingly obvious that in pursuing this goal, the public was looking in the wrong place. The question was not whether one of them lied or told the truth, but whether the *incommensurability of viewpoints* displayed by both Thomas and Hill and by their supporters and detractors could ever make it possible to arrive at a definitive verdict on who was lying and who was telling the truth.

A more sophisticated -- and indeed more plausible -- version would be that they were either both lying or both telling the truth. By saying this we do not mean to overemphasize the Pirandellian dictum of granting "to each his own truth," nor are we adopting a position of radical relativism. Rather we would like to draw attention to the fact that the manner in which people perceive, construe and interact with the world cannot be reduced to a simple common denominator. In a case where hard evidence is so difficult to come by, the debate can only either draw on inferences and speculations or else unfold in some kind of discursive void. One would readily agree with Hill that "Unfortunately with sexual harassment very often there are no eyewitnesses,"<sup>42</sup> so one would be left with taking the alleged victim's word for granted. But equally unfortunate is the fact that this can hardly carry any weight in a case such as this where every detail, utterance and clue by both accused and accuser only served to exacerbate the dilemma even more. Anita Hill may have elicited sympathy in having been made the target of merciless scrutiny, compelled as she was to mouth out all the embarrassing and juicy details but "No less poignant, searing and believable ... were Thomas's ... adamant denials."<sup>43</sup> Finally, the hearings were "unable to satisfy the general desire to know what had really taken place between Clarence Thomas and Anita Hill."<sup>44</sup> So the questions were sent, again and again, back to square one: "Who lied? Experts Divided in Thomas Conflict."<sup>45</sup> "Thomas Ordeal a Blemish on All: Many Questions Remain Unanswered after Drama."<sup>46</sup> "...someone was lying and it may be that only the two principals will ever know which one it was."<sup>47</sup> "Impossible de savoir lequel des deux ment."<sup>48</sup> "... only one had been dragged through the mud on the strength of a very convincing lie."<sup>49</sup> "Clarence Thomas and Anita Hill Were Both Known for Truthfulness and Integrity -- Until Now"<sup>50</sup> "...who could ever feel confident that they knew what really happened?"<sup>51</sup>

Could it be that the "search for the truth" was from the start built on a misapprehension, that it stemmed from the false assumption that truth is unambiguous and monovalent, that authenticity is intrinsic to facts, and that this factualness exists by and for itself beyond the subjects' interpretations or representations of it? This idea of

truth as a transcendent entity led the Judiciary Committee and the public to construe the whole case on the assumption that if all the facts could be laid bare before the world then a clear-cut verdict would be reached, much in the fashion of an Agatha Christie plot where offenders who befool their audiences by framing the evidence are most surely unmasked by ingenious Hercule Poirots and Miss Marples, whereupon they are led away unto their well-deserved punishment.

There is no doubt that the insistence on who lied and who told the truth stemmed from the need to incriminate one of them for the two purposes of: a) stating the legal solution to the case, and b) declaring one of the two the "moral victor" who would also be the political victor.

What we got instead was something not only out of Pirandello, but also of Dostoevsky and Kafka, Stendhal, and Henry James. One of Thomas's own tactical declarations was: "This is not American; this is Kafkaesque..." presumably likening himself to Joseph K., the main character in Franz Kafka's *The Trial*, who was dragged into an incomprehensible lawsuit which finally destroyed him. "Kafkaesque" is, of course, a blanket word which points to a mode made famous by Kafka's *The Metamorphosis* where a man, Gregor Samsa, wakes up one morning to find himself transformed into a monstrous bug, and he ends up being disposed of as garbage by his family. "Kafkaesque" stands for the aberrant and the grotesque, for trials incomprehensibly rambling off-course, for people finding their persona disfigured, and then being shunned by their own kith and kin. With great economy of words coupled with great suggestiveness Thomas was thus able to make a two-pronged statement about American character as an identifiable ideal of fairness and justice on one hand, and on the other hand a course of events twisting it out of proportion. But unlike Kafka's characters who cannot comprehend what is happening to them, whose only destiny is to be just that -- Kafkaesque, -- Thomas can reflect on the situation, sort out sense from nonsense and send them back to back. Thomas, the hounded victim, is also the Judge, someone able to outjudge his judges by turning things around and pointing that the opposite of "Kafkaesque" is "American." Vulnerable as he may seem and declare himself to be, he intends to become neither Joseph K. nor Gregor Samsa. His detractors may have degenerated into Kafkaism, he will continue to bear the banner of American fairness.

In many ways therefore Thomas fitted an ideal character role: unshielded yet strong, crushed yet forbearing, a man sputtered with allegations yet responding with poignant words that go straight to the heart.

Likewise Anita Hill is, Thomas notwithstanding, no Kafka prop herself. Composed but never cold, responding with serenity, answering embarrassing questions with settled poise, keeping an equanimity of temper in the face of the Republican



senators' hostility, Hill was openly congratulated by Committee chairman Senator Joseph Biden who told her he admired her for her courage.

The fascinating thing about the way both Thomas and Hill came across before the public is that at no time did either of them act according to predictable stereotypes. Neither fitted the black nor the gender stereotypes. Despite this fact their confrontation was constantly debated on stereotypic assumptions, as though American society did not know how to cope with this totally novel situation.

People now talk of an "Anita Hill factor." The Hill "factor" focuses on a precedent: that of a professional black woman challenging a highly successful black man before a mobilized national communications network, laying bare the workings of top governmental hiring mechanisms. The Hill "factor" harks back to the manipulation of a weights-and-pressures lever in politics. Lobbying has an immemorial history in the U.S., with its arm twisting of the powers behind the throne, but never before had it exploded with such McLuhanesque panache.

Thomas's "high-tech lynching" would produce no effect without the "high-tech voyeurism" of a society that has elevated sensationalism to an object of dutiful revelation by no-less dutiful high-tech puritans out "to tell the truth, the whole truth and nothing but the truth, so help me God!"<sup>52</sup>

We have come a long way from the atonement of "I Confess" and we are somewhere between "Go Naked in the World," "Fatal Attraction," "Basic Instinct," "Thelma and Louise," and "Sex, Lies and Videotapes." Add to this Spike Lee and the picture is complete. In a context where practically everyone has come out of the closet, the bare truth, like the bare self and the bare soul, is everyone's prerogative. One of the wittiest accounts of the whole affair was produced in *Film Comment* by film critic D. Thomson who analyzed the "characters" and events as if they featured in a blockbuster. What with Thomas's "line" about high-tech lynching, "worthy of Paul Biegler in *Anatomy of a Murder*...." "For half an hour he [Thomas] was Paul Robeson. His act bristled; he seemed dangerous, conspiring with fate. He was an angry, self-pitying man (a movie archetype -- essential De Niro)..."<sup>53</sup> "When are we going to face it? This country is a show, and some of our wounds are makeup."<sup>54</sup>

This world of soap operas in which "No Fan Need Feel Cheated" as the *New York Times* proclaimed,<sup>55</sup> is also the world of stark fact ecology, of *glasnost*, and of see-through psychology. Tell it warts and all. A world in which one of the slogans may very well be: "Confession is my Platform." Consider Eldridge Cleaver, ex-Black Panther, for instance, the self-confessed sexual harasser and rapist, who insisted that "it was white racists that had forced him to become a rapist."<sup>56</sup>

Hill and Thomas, of course, have nothing to do with the defiant cynicism of a Cleaver. Rather, the public confession which dragged them under the spotlight is a hybrid of politics and group therapy. Yet it is a therapy that has learned to master the art of showbiz politics, and to compose itself before the camera.

For the son and daughter of the civil rights movement, this is no dishevelled rally, no "revolution for the hell of it." This is a class action in which the main characters know the distinction between form and content, between *what* you say and *how* you say it, between taboos and the institutionally permissible ways of breaking them, between rules and the rules for breaking the rules, between the decorum of legal rituals, and the terse depiction of trash. As Jill Smolowe writes in *Time*: "Words like "penis" and "breasts" and "pubic hair" would enter the public record repeatedly in so somber and untitillating a fashion that no one in the hearing room would blanch, let alone smirk or giggle."<sup>57</sup>

And *The Columbia Journalism Review* recalls:

Of course, even those who voiced disgust kept watching. They could not do without the details. The story could not be told adequately without them. In fact, some T.V. journalists issued warnings to parents that simultaneously served as advertisements for the juicy material to come. Dan Rather, at the start of the Saturday October 12 hearings, said earnestly: "Now we want to *strongly* caution parents ... there may once again be *extremely graphic testimony* that you may not want your children to watch. You may want to think about that."<sup>58</sup>

But what kind of moral reservations, one may ask, can the public have at watching its own elected Grand Inquisitors meet National Enquirers, dig out juicy material in the High Church of the nation?

The clue is probably tied to the question as to why did Anita Hill wait so long to reveal facts that occurred ten years before. It could be considered not only in relation to a political strategy aimed at destabilizing an archconservative judge and protégé of President Bush, but also in connection with such sociological considerations as to what standards were expected and accepted in the early eighties that are now quite different, as Michael Wright indicated.

The criteria of group solidarity, of political priorities over cultural ones, of historical compromises and gender interactions seem to have shifted, giving way to a climate of widespread political divisions pitting class against class, sex against sex, colour against colour. Linda Burnham, editor of *Crossroads* -- which presents itself as a "Journal of Contemporary Political Analysis and Left Dialogue" -- queried whether the wounds that were cut open by the Hill/Thomas controversies over "the raw and painful issues of

class, color and gender differences" could ever again make it possible for people to "come together in a united way in opposition to racism in light of these differences." Could this be a symptom of "what it means to be eleven years into the Reagan/Bush revolution" with its reactionary ethos which permeated institutions and public opinion? What "strategies for justice, racial justice and women's rights are we faced with these days given in particular the current complexion of the Supreme Court," she asked. The connexion most often made is the one between the "Reagan/Bush revolution" and the number of "backlashes" it has produced. The anti-social welfare backlash, the anti-affirmative action backlash and the anti-feminist backlash.<sup>59</sup>

What has been called the "complex response" of the black community is in fact linked to the destabilizing effects of these backlashes which have left the various rights movements unable to come to grips with them in any unified way. What strikes most is the *malaise* with which spokespeople of various communities take sides, confront ex political partners, voice reservations they might not have had ten years ago, question convictions they previously adhered to, agonize over the choices which they are called upon to make between issues of race and issues of gender, between being Black and being a woman, between being a most successful conservative black man and a less successful black woman. Not to mention the overdetermining and indeed contradictory interplay of a long-standing racial oppression in America and the cunning of history which can stealthily coopt race in the interests of class and sex oppression. How are members of the various rights groups supposed to react to such a blurring of the issues? What will they opt for: Black or conservative, Black *over* conservative, woman over Black, black woman over black man, Democrat over Black?

The symbols of emancipation militancy are flung in such disarray that a unity of response is impossible. The scattering of ideals, the disconnection between black, women and class issues posit them as internally contradictory. They exacerbate dilemmas and force representatives of minority groups into contrived justifications for their options. In the context where a man's political orientation cannot be considered beyond his racial affiliation, which does one opt for? Should Clarence Thomas be retained for his blackness, regardless of his purported sexism and blatant archconservatism? In the name of what does colour come *before* sex and class? In view of what does it obliterate the other two issues which indeed share as long a history of militancy as its own?

Whichever way one may tackle it, this whole case certainly points to both a crisis of, and an assault on the "politically correct." The "politically correct" is a perversion of what remains of the political conscience of the 20th century. That is probably why such conservative polemicists as Dinesh D'Souza can so elegantly capitalize on its demise.<sup>60</sup> The great emancipating ideologies having floundered so badly, the sons and daughters of the Revolution find themselves orphaned. What they are left with is sibling rivalries, family feuds, brothers and sisters squabbling with each other, small powers exploding

here and there. As they explode, they are led to forcibly collide with, and *make the most of* the big powers which they have unwittingly transformed into their surrogate parents.

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## Notes

1. See *Time*, Sept.16: 36.
2. *Columbia Journalism Review*, Jan. 1992: 29.
3. *Halifax Chronicle*, Oct. 14, 1991: A. 8
4. Announced in *NYT*, Oct. 10.
5. According to *NYT*, Oct. 17.
6. Title in *Vancouver Sun*, Oct, 11, A1.
7. *New York Times*, Oct. 10: 1.
8. *Commentary* Jan. '92: 28 also rightly suggest that onlookers applied to the hearings what the senators obviously disregarded and shunned. i.e. the good democratic principle of "presumption of innocence" -- which worked in favour of Thomas.
9. *N.Y.T.* Oct.12, 1.
10. Peter Breggin, *Tikkun*, Jan. 1992, 20. [A psychiatrist]
11. *Times*, Sept.16, 1991:34
12. Dr Breggin, *Tikkun*, Jan. 1992: 22.
13. Breggin, *Tikkun*, Jan. 92, 21. A Jewish activist using concept coming from the Parable of the Good Samaritan (Luke)!
14. *Time*, Oct. 21, 32.
15. Argument elaborated by Dr Breggin in *Tikkun*, Jan 1992, 23.
16. Hearings.
17. Dec. 1991, 6.
18. *Wall Street J.*, Oct. 14, 91: A12.
19. Report. *N.Y.T.*, Oct. 14, 1991.
20. Editorial, Oct. 15, 1991: A22.
21. Oct. 28; 30.

22. Ibid.
23. *Commentary*, Jan. 92; 31.
24. *N. Republic*, Jan.6, 17.
25. *Tikkun*, Jan. 92, 26.
26. Françoise Burgess, *Le Monde*, 18.10. 1991: 2.
27. "How we Survived," *People Weekly*, Nov. 11.
28. *Crossroads*, Dec 1991: 6.
29. Ibid. p. 6.
30. Ibid.
31. *Tikkun*, Jan.1992: 25.
32. See for instance *NYT*, Oct. 18: A12. "In the blue-collar corners of this city women ... have little sympathy with Professor Hill."
33. P. A14.
34. *Le Figaro*, 22.10:2.
35. *NYT*, Oct.7: A14.
36. *Z*, Feb. 92, 21.
37. *Crossroads*, Dec. 91; 5.
38. Dispatch, AP Feb.1, 92.
39. *Time*, Oct. 21, 1991: 19.
40. Jill Smolowe, *Time*, Oct. 21, p. 16.
41. Oct 11, A31.
42. *NYT*, Oct. 8: A20.
43. *Time*, Oct. 21: 17.
44. *Mew Yorker*, Oct. 28: 29.
45. *Vancouver Sun*, Oct. 16: A15.

46. *Vancouver Sun*, Oct. 16: B2.

47. *New Yorker*, Oct. 28: 29.

48. *L'Express*, Oct. 25: 18.

49. *Time*, Oct, 21: 20.

50. *Time*(Canada), Oct. 21: 21.

51. Nancy Gibbs, *Time*, Oct. 21: 15.

52. See for instance Suzanne Garment's recent book *Scandal. The Crisis of Mistrust in American Politics*. New York: Basic Books, 1991.

53. Jan. Feb.1992: 12.

54. Page 7.

55. Title, Oct. 12.

56. Quoted in *Z*, Feb. 92, 20.

57. *Time*, Oct. 21, pp. 16-17.

58. *CJR*, Jan. 1992: 27.

59. See *Crossroads*, Dec. 91 : 2.

60. See his *Illiberal Education*.