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**WHILE THE WATER IS STIRRING:  
SOJOURNER TRUTH AS PROTO-AGONIST IN THE FIGHT  
FOR (BLACK) WOMEN'S RIGHTS**

**LOLITA BUCKNER INNISS\***

ABSTRACT

*This Essay argues for a greater understanding of Sojourner Truth's little-discussed role as a proto-agonist (a marginalized, long-suffering forerunner as opposed to a protagonist, a highly celebrated central character) in the process that led up to the passage of the Nineteenth Amendment. Though the Nineteenth Amendment failed to deliver on its promise of suffrage for black women immediately after its enactment, black women were stalwarts in the fight for the Amendment and for women's rights more broadly, well before the ratification of the Amendment and for many years after its passage. Women's rights in general, and black women's rights in particular, were created and sustained by the work of antebellum activists like Sojourner Truth, a towering figure who was tied to nineteenth-century movements for abolition and women's suffrage. Sojourner Truth's advocacy on behalf of women was premised upon a womanist approach to speech and action that centered the experiences of black women in the business of equal rights both in terms of race and gender. Sojourner Truth's work as a justice-seeking sage with a goal of advancing the legal, political, and economic rights of women in general and black women in particular is a source of inspiration and a model for making contemporary black women protagonists and co-agonists—co-centric figures—in the work that is still much needed at the centennial of the Nineteenth Amendment.*

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## INTRODUCTION

The passage and ratification of the Nineteenth Amendment of the U.S. Constitution has been hailed, and deservedly so, as one of the crowning legislative and constitutional achievements of the twentieth century.<sup>1</sup> The Nineteenth Amendment is sometimes compared in its impact and import to the Thirteenth, Fourteenth, and Fifteenth Amendments, the trio of constitutional amendments that shortly followed the end of the U.S. Civil War, as all have been described as mechanisms for transforming the United States's constitutional community.<sup>2</sup> The Nineteenth Amendment has even been described as a lens through which to read the Fourteenth Amendment.<sup>3</sup> Some have argued, for instance, that as an original matter the text of the Fourteenth Amendment was meant to forbid class-based legislation and any law that creates a caste system.<sup>4</sup> Hence, the adoption of the Nineteenth Amendment permanently altered the way that courts ought to read the no-caste-discrimination rule of the Fourteenth Amendment.<sup>5</sup> But despite its groundbreaking importance, the Nineteenth Amendment failed in some respects. First, it did not greatly alter the broader civic and social order that left most American women tied to their homes and controlled by patriarchal norms. Next, and perhaps worse yet, the Nineteenth Amendment did not alter the entrenched white supremacist order that kept all black people (including men, despite the promise of the Fifteenth Amendment) from voting.

Though the Nineteenth Amendment failed to deliver on its promise of suffrage for black women immediately after its enactment, black women were stalwarts in the fight for the Amendment and for women's rights well before the ratification of the Amendment and for many years after its passage. This was particularly true during the late antebellum and immediate postbellum period. In the middle and late nineteenth century, the rights of women generally and black women in particular—specifically, their legal, political, and economic rights—

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<sup>1</sup> ELAINE WEISS, *THE WOMAN'S HOUR: THE GREAT FIGHT TO WIN THE VOTE* 1 (2019).

<sup>2</sup> Reva B. Siegel, *The Nineteenth Amendment and the Democratization of the Family*, 129 *YALE L.J. F.* 450, 451 (2020). "Constitutional community" is a space with normative force that comes not from formal articulations of legislative process or constitution making but from moral attitudes and other value-generating activities and beliefs among groups of individuals. BOŠKO TRIPKOVIĆ, *THE METAETHICS OF CONSTITUTIONAL ADJUDICATION* 49 (Martin Loughlin, John P. McCormick & Neil Walker eds., 2018). Membership in the constitutional community has been described as one of the entitlements of citizenship and as an understanding about a person's "capacity to be part of the public sphere and to take part in the public decisions that shape the course of one's life." HELEN IRVING, *GENDER AND THE CONSTITUTION* 90 (2008).

<sup>3</sup> Stephen G. Calabresi & Julia T. Rickert, *Originalism and Sex Discrimination*, 90 *TEX. L. REV.* 1, 11-12 (2011).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

were greatly shaped by the efforts of black women activists. The work of these women was critical to the reshaping of cultural dynamics that ultimately make sustained legal change possible.<sup>6</sup> Social movement activism by black women and others outside of the white mainstream (which largely consisted of white men) helped to create the conditions for change, and such activism is as much a source of law as are statutes and judicial decisions.<sup>7</sup> A few of these women, however, were important precursors to later black women activists. This Essay considers one of the giants among earlier black women activists: Sojourner Truth.<sup>8</sup>

Sojourner Truth was a paradoxical figure. She existed at once as one of the best-known and the least-known public figures of the nineteenth century. Though she spoke about the horrors of Southern slavery, Sojourner Truth knew of it only secondhand, having been born enslaved but in upstate New York. Though Truth's name was widely known both during her life and after, it was a name she chose for herself some forty-five years after her birth. Though she was a towering figure among black women social reformers, she was, comparatively speaking, from a humble background and lacked membership in the small but significant social network of middle class black women who often led such racial and gender "uplift" efforts.<sup>9</sup> Though she was illiterate and was often portrayed

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<sup>6</sup> Lani Guinier & Gerald Torres, *Changing the Wind: Notes Toward a Demosprudence of Law and Social Movements*, 123 YALE L.J. 2740, 2743 (2014).

<sup>7</sup> *Id.*

<sup>8</sup> Sojourner Truth is often recognized as one of the two most famous black women in U.S. history. The other, Harriet Tubman, was some twenty years younger; was enslaved in Maryland, from which she fled; and was largely known for her antislavery efforts and massive slave rescues. Nonetheless, the two women are sometimes confused. NELL IRVIN PAINTER, *SOJOURNER TRUTH: A LIFE, A SYMBOL* 3 (paperback ed. 1997) [hereinafter PAINTER, *TRUTH: A LIFE*]. This kind of historic ambiguation of black people within certain domains is not unusual. See LOLITA BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE: THE TRIALS OF JAMES COLLINS JOHNSON*, at xvii (2019) [hereinafter BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE*] (describing how popular black figures employed at Princeton University were "frequently compared, sometimes confused, and often linked"). This identity confusion persists in many contemporary settings, including the workplace. See, e.g., Courtney L. McCluney & Verónica Caridad Rabelo, *Conditions of Visibility: An Intersectional Examination of Black Women's Belongingness and Distinctiveness at Work*, 113 J. VOCATIONAL BEHAV. 143, 145-46 (2019). The idea of black people's physical indistinctiveness in white settings is also often the premise of satirical writings. See, e.g., JUSTIN SIMIEN, *DEAR WHITE PEOPLE* 57 (2014) ("The problem is, you've often confused Jamal with Steve, the other black guy at work. . . . To be fair, both of these guys do have the same haircut. . . . If Jamal weren't your only black friend, you would've been able to spot the differences immediately.").

<sup>9</sup> ROSALYN TERBORG-PENN, *AFRICAN AMERICAN WOMEN IN THE STRUGGLE FOR THE VOTE, 1850-1920*, at 34-35 (Darlene Clark Hine, John McCluskey, Jr. & David Barry Gaspar eds., 1998). Racial and gender uplift was a key activity of many black women reformers in the antebellum period. See generally CHERYL D. HICKS, *TALK WITH YOU LIKE A WOMAN*:

as an unsophisticated rustic who little understood broader legal, political, and economic frameworks, Truth was, in actuality, a creative and savvy entrepreneur who used the law and her image<sup>10</sup> to advance her activism on multiple fronts and to support herself. Though she spoke frequently and eloquently on behalf of all women, her bold manner, great height, and deep voice caused some to accuse her of being a man.<sup>11</sup> Finally, though she is often lauded as a symbol of the abolition movement, many of Truth's greatest achievements were in advancing the rights of women, especially black women.

Sojourner Truth's advocacy on behalf of women often consisted of public addresses during which she made pointed assaults on racial and gender injustice, oppression, and discrimination. Her addresses did double duty by harnessing the sensationalism and power of two significant naturalizing and essentializing discourses: talk about race and sex.<sup>12</sup> Truth was the very embodiment of the two.<sup>13</sup> She offered resistance to the dominant culture's frequent silencing of

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AFRICAN AMERICAN WOMEN, JUSTICE, AND REFORM IN NEW YORK, 1890-1935 (2010) (describing how antebellum efforts at racial uplift to live better, do better, and be better—efforts that often dominated lives of striving freedman and their children—were sometimes strained and not always successful).

<sup>10</sup> Truth traded not only on her image as an activist for racial and gender rights; she also traded on her physical image via photography. Between 1863 and about 1875, Truth had at least fourteen photographic portraits made of herself. Throughout this time period, she stocked copies of these photographs and the *Narrative of Sojourner Truth* to sell through the mail and wherever she made personal appearances. On many of her images she had printed: "I sell the shadow to support the substance." Nell Irvin Painter, *Representing Truth: Sojourner Truth's Knowing and Becoming Known*, 81 J. AM. HIST. 461, 485 (1994) [hereinafter Painter, *Representing Truth*]. Truth's use of an original phrase allowed her to gain copyright protection for the images at a time when such protections were rarely available for photographic images. DARCY GRIMALDO GRIGSBY, ENDURING TRUTHS: SOJOURNER'S SHADOWS AND SUBSTANCE 63-65 (2015).

<sup>11</sup> Many of the people who doubted Truth's gender were the white women activists who populated her audiences. AARONETTE M. WHITE, AIN'T I A FEMINIST?: AFRICAN AMERICAN MEN SPEAK OUT ON FATHERHOOD, FRIENDSHIP, FORGIVENESS, AND FREEDOM 12 (2008).

<sup>12</sup> Naturalizing discourses are intentional representations of particular social identities as if they were a result of biology or nature, rather than history or culture which made them appear permanent and unalterable. A naturalizing discourse works by "producing nature as a sort of guarantee of its truth." Stuart Hall, *The Rediscovery of 'Ideology': Return of the Repressed in Media Studies*, in CULTURE, SOCIETY AND THE MEDIA 56, 75 (Michael Gurevitch et al. eds., 1982). Essentializing discourses are those that rely upon the understanding that discrete groups or categories are defined by a set of unchanging attributes or properties. Racial and gender essentialism are often at the heart of social advancement programs. Lolita Buckner Inniss, *Toward a Sui Generis View of Black Rights in Canada? Overcoming the Difference-Denial Model of Countering Anti-Black Racism*, 9 BERKELEY J. AFR.-AM. L. & POL'Y 32, 63 (2007) [hereinafter Buckner Inniss, *Sui Generis View*].

<sup>13</sup> See JOHN JERVIS, SENSATIONAL SUBJECTS: THE DRAMATIZATION OF EXPERIENCE IN THE MODERN WORLD 48 (2015) (arguing that power of sensation comes both from presentational

black female voices and its denial of black agency and subjectivity. Her speeches were masterpieces of rhetorical skill and were laced with “telling logic, rough humor, or effective sarcasm,” as one observer wrote.<sup>14</sup> Truth used all of these tools to rail against the widespread failure to address black women’s interests. Truth brooked no compromise that would disenfranchise black women in favor of black men. In a field of other black women activists, Truth stood out as perhaps the most outspoken when it came to the rights of black women.<sup>15</sup>

Commenting on the absence of public expressions in support of black women’s rights in 1867 at the First Annual Meeting of the American Equal Rights Association, Truth reminded her audience that sexist oppression was as much of a danger to black women as racist oppression.<sup>16</sup> Voicing her concerns in rousing language she stated:

I come from another field—the country of the slave. They have got their liberty—so much good luck to have slavery partly destroyed; not entirely. I want it root and branch destroyed. Then we will all be free indeed. I feel that if I have to answer for the deeds done in my body just as much as a man, I have a right to have as much as a man. There is a great stir about colored men getting their rights, but not a word about the colored women; and if colored men get their rights, and not colored women theirs, you see the colored men will be masters over the women, and it will be just as bad as it was before. . . . I am glad to see that men are getting their rights, but I want women to get theirs, and while the water is stirring I will step into the pool.<sup>17</sup>

In this address, Sojourner Truth invokes the then much-repeated quote about root and branch, a reference to the dying cry of an enslaved New Jersey man as he burned at the stake.<sup>18</sup> As she noted, slavery had indeed been eradicated by

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and rhetorical aspects, and thus bodies that present themselves as raced and gendered doubly shape discourses that touch upon these topics).

<sup>14</sup> SOJOURNER TRUTH AS TOLD TO OLIVE GILBERT, NARRATIVE OF SOJOURNER TRUTH 242 (1875) [hereinafter NARRATIVE OF SOJOURNER TRUTH].

<sup>15</sup> BELL HOOKS, AIN’T I A WOMAN: BLACK WOMEN AND FEMINISM 304 (Routledge 2d ed. 2015) (1981).

<sup>16</sup> *Id.* at 4.

<sup>17</sup> Sojourner Truth, Address, in PROCEEDINGS OF THE FIRST ANNIVERSARY OF THE AMERICAN EQUAL RIGHTS ASSOCIATION, HELD AT THE CHURCH OF THE PURITANS, NEW YORK, MAY 9 AND 10, at 20, 20, 63 (1867) [hereinafter Address of Sojourner Truth]. For more discussion of the 1868 conference, see ELLEN CAROL DUBOIS, FEMINISM AND SUFFRAGE: THE EMERGENCE OF AN INDEPENDENT WOMEN’S MOVEMENT IN AMERICA, 1848-1869, at 68-70 (2d ed. 1999).

<sup>18</sup> See GRAHAM RUSSELL GAO HODGES, ROOT AND BRANCH: AFRICAN AMERICANS IN NEW YORK AND EAST JERSEY, 1613-1863 title page (2005). Hodges cites the December 25, 1752 *New York Gazette and Weekly Post-Boy*, which published the report on an enslaved man burned at the stake in Raritan, New Jersey. The expression was seen throughout the U.S. slavery debate and was used on both sides of the Atlantic, as seen in the 1830 speech of Lord

1867. But the rights of women, and especially black women, had not been part of this hard-won freedom. Truth draws upon a biblical verse in asserting that black women are entitled, like men, to the things done in their own bodies. However, rather than seeking a heavenly recompense at judgment day, Truth exhorted that black women deserved the same earthly rewards as men.<sup>19</sup> Recently emancipated black people were part of an imagined community that, despite freedom, existed apart from white society.<sup>20</sup> But black women, as Truth observed, were outside of even this separate black imaginary.<sup>21</sup> They dwelt doubly within the margins and were little thought of, constrained first by their race and also by their gender.

This Essay considers how Sojourner Truth's search for black women's, and for all women's, rights was founded on her role in the women's suffrage movement as a proto-agonist—a marginalized, long-suffering forerunner—as opposed to a protagonist—a highly celebrated central character. This Essay begins with an examination of Truth's origins. It then goes on to discuss how Truth obtained her freedom and how she became the historic figure we now know as Sojourner Truth. The Essay then discusses Truth's womanist vision and goes on to explore interactions between black women and white women in the suffrage movement. Finally, the Essay concludes by suggesting how Truth's life is a model for bringing the background to the foreground and making proto-agonists into protagonists and co-agonists in the search for women's rights. Truth's life shows us how to advance contemporary black women's—and all women's—"step into the pool" of stirring water: greater inclusion in contemporary and future legal, political, and economic programs.

#### I. TRUTH'S ORIGIN STORY: THE PROTO-AGONIST OF AN "UNPRETENDING NARRATIVE"

The following is the unpretending narrative of the life of a remarkable and meritorious woman—a life which has been checkered by strange vicissitudes, severe hardships, and singular adventures. Born a slave, and

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Henry Brougham, a British statesman who opposed West Indian slavery. ERIC WILLIAMS, *CAPITALISM AND SLAVERY* 159 (2014).

<sup>19</sup> Here Sojourner Truth draws upon a reference from the Apostle Paul's letter to the Corinthians found at 2 *Corinthians* 5:10 (King James): "For we must all appear before the judgment seat of Christ; that every one may receive the things done in his body, according to that he hath done, whether it be good or bad."

<sup>20</sup> An imagined community is a collaborative association of people who think of or imagine themselves, or whom others think of, as a group sharing ideas, experiences, and a purpose. The group is both inherently limited and sovereign. BENEDICT ANDERSON, *IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGIN AND SPREAD OF NATIONALISM* 6-7 (rev. ed. 2006).

<sup>21</sup> The black imaginary was a notion of an Africanist imagined state, that, along with ideals of triumph, integrity, empire-building, and freedom-seeking, was often explicitly masculinist. See, e.g., MICHELLE ANN STEPHENS, *BLACK EMPIRE: THE MASCULINE GLOBAL IMAGINARY OF CARIBBEAN INTELLECTUALS IN THE UNITED STATES, 1914-1962*, at 38-39 (2005).



held in that brutal condition until the entire abolition of slavery in the State of New York in 1827, she has known what it is to drink to the dregs the bitterest cup of human degradation.<sup>22</sup>

So begins the story of Sojourner Truth in an 1850 account first transcribed and published by Olive Gilbert, a white amanuensis who became acquainted with Truth during their mutual friendship with a circle of white northerners who promoted black rights.<sup>23</sup> As Professor Nell Irvin Painter observed in her own biography of Truth, legends require an origin myth, and indeed, Gilbert's words set the stage for an almost mythopoetic account of Truth's beginnings.<sup>24</sup> The shaping of such origin myths is especially difficult in the cases of Truth and other formerly enslaved people who left behind no writings of their own to memorialize their thoughts. Indeed, one of the greatest limitations of such stories is the difficulty of bringing to life someone who was not forgotten by history but who may have been insufficiently or inaccurately remarked during—and even after—their times.<sup>25</sup> This is the conundrum at the heart of all slave narratives.<sup>26</sup> Truth's story is no exception.

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<sup>22</sup> NARRATIVE OF SOJOURNER TRUTH, *supra* note 14, at v.

<sup>23</sup> MARGARET WASHINGTON, *SOJOURNER TRUTH'S AMERICA 181-85* (1st paperback ed. 2011).

<sup>24</sup> PAINTER, *TRUTH: A LIFE*, *supra* note 8, at 11.

<sup>25</sup> BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE*, *supra* note 8, at 2 (noting that details of lives of formerly enslaved must often be gleaned from information left by enslavers and other white people (i.e., those who often shared scant direct information about enslaved people) and from information drawn from broader social and legal contexts). One scholar asserts, however, that while white accounts of black lives in the context of slave narratives could be “problematic,” Gilbert's activist credentials may have meant that her account should not be quickly dismissed as inaccurate. WASHINGTON, *supra* note 23, at 181.

<sup>26</sup> Truth's speeches and her book were all forms of slave narrative. What counts as a slave narrative has been the focus of much debate over the years. Generally stated, narratives of slavery recount the personal experiences of antebellum people of African ancestry who had escaped in North America, and describe either their trials in slavery, their flight from slavery, their hardships after obtaining freedom, or all three. Some accounts focus on slavery outside of its most typical venue—the American South—and are centered on Caribbean or Latin American slavery, or even northern slavery (like Truth's work). BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE*, *supra* note 8, at 4. For the most part, the genre is centered on black people once enslaved in the southern United States who escaped slavery and made their way to free territory, typically in the northern United States or Canada. Such narratives often contained introductions by white people, frequently famous or highly esteemed, who attested to the capacity of the formerly enslaved person for intelligence or veracity. This type of “confirmatory testimonial framing of many slave narratives was often deemed necessary because of concerns about the truth of such narratives and, especially in earlier times, about the intellectual capacity of the enslaved or formerly enslaved people who related these narratives.” *Id.* Narratives by formerly enslaved peoples are often altered by these overlaid narrative frameworks.

There have been contemporary concerns that the words and deeds of Sojourner Truth have been, like many historic black figures, misrepresented and/or appropriated by ostensibly sympathetic white amanuenses.<sup>27</sup> This sometimes occurred because of sentimental identifications in white abolitionist literature that revised or corrupted black experiences in order to serve white interests.<sup>28</sup> In such cases, the putative hero of these accounts, the enslaved person, sometimes took a back seat while white writers who related such stories guided, shaped, altered, and amended them. In this way, some white tellers of black slave narratives became more fabulists than amanuenses. This impulse to fabrication only further blurred the line between fact and fiction in slave narratives.<sup>29</sup>

Some white authors ignored the pretense of nonfiction altogether and crafted fictional tales of slavery's hardships. Indeed, no one less than Harriet Beecher Stowe—the writer of one of the most well-known fictional accounts of a persecuted slave, *Uncle Tom's Cabin*, and a frequent reporter and interpreter of Sojourner Truth's remarks—premised her fictional Uncle Tom on a character who was himself a fictional creation from a “pseudo-slave narrative” by another white writer.<sup>30</sup> The multilayered structure of published accounts of Truth's

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<sup>27</sup> SAIDIYA V. HARTMAN, SCENES OF SUBJECTION: TERROR, SLAVERY, AND SELF-MAKING IN NINETEENTH-CENTURY AMERICA 18-20 (1997).

<sup>28</sup> *Id.*

<sup>29</sup> Slave narratives were sometimes intentionally inaccurate in some respects in order to obscure potentially incriminating details about the lives of the enslaved or their collaborators in escapes. At other times such tales were embellished in order to enhance the drama and narrative arc. But “truth” in such matters is a contested term since “many accounts of formerly enslaved persons have been deemed authentic and worthy of historical regard, even where some details may be subject to challenge.” BUCKNER INNISS, THE PRINCETON FUGITIVE SLAVE, *supra* note 8, at 5 (citing Robin W. Winks, *The Making of a Fugitive Slave Narrative: Josiah Henson and Uncle Tom—A Case Study*, in THE SLAVE'S NARRATIVE 112 (Charles T. Davis & Henry Louis Gates, Jr. eds., 1985)).

<sup>30</sup> HARRIET BEECHER STOWE, UNCLE TOM'S CABIN (1852). Stowe based her character on one created by Richard Hildreth. *See* 1 RICHARD HILDRETH, THE SLAVE: OR MEMOIRS OF ARCHY MOORE (1836). In his book, Hildreth was a journalist and historian who penned his fictional “memoir” from the perspective of a slave. Hildreth arranged several striking incidents involving slavery into a coherent narrative that, at its publication, did not acknowledge any other author but the fictional narrator. Stowe is said to have relied upon Hildreth's account in framing Uncle Tom. Evan Brandstader, *Uncle Tom and Archy Moore: The Antislavery Novel as Ideological Symbol*, 26 AM. Q. 160, 160-61 (1974). Hildreth was hardly alone in penning a pseudo-slave narrative. It was a relatively burgeoning genre in the early- and mid-1800s. *See, e.g.*, MARTHA GRIFFITH BROWNE, AUTOBIOGRAPHY OF A FEMALE SLAVE (1857); JABEZ DELANO HAMMOND, LIFE AND OPINIONS OF JULIUS MELBOURN (1847); PETER NEILSON, LIFE AND ADVENTURES OF ZAMBA, AN AFRICAN NEGRO KING (1847); EMILY CATHARINE PIERSON, JAMIE PARKER, THE FUGITIVE (1851); *see also* LARA LANGER COHEN, THE FABRICATION OF AMERICAN LITERATURE: FRAUDULENCE AND ANTEBELLUM PRINT CULTURE 108 (Roger Chartier et al. eds., 2012).

words and her lived experiences reminds us that many historic black women are rarely acknowledged as the protagonists—highly regarded main characters—of racial and gender rights battles and instead are more often proto-agonists—marginalized, long-suffering forerunners.<sup>31</sup>

Though Olive Gilbert's account of Sojourner Truth's life was likely faithful in many respects, points of confusion about Truth's life arose from the ways in which she was understood by readers of her narrative and by her listeners.<sup>32</sup> The fact that Gilbert was not Truth's only white amanuensis raises even more confusion. In 1875, Truth issued an updated version of her biography and asked Frances Titus, an abolitionist friend, to publish excerpts from her scrapbooks as a source for "raw materials."<sup>33</sup> Titus inserted autographs from famous persons and added Harriet Beecher Stowe's 1863 article "The Libyan Sibyl" into Truth's

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<sup>31</sup> I use "proto-agonist" in opposition to the word protagonist, the latter of which in most contemporary senses relates to an actor at the center of action in an account. A proto-agonist is an actor, often a social or political outsider, who bears the risks of early contestation. See Panu Minkkinen, *Agonism, Democracy, and Law*, in *THE OXFORD HANDBOOK OF LAW AND HUMANITIES* 427, 431-32 (Simon Stern, Maksymilian Del Mar & Bernadette Meyler eds., 2019) (describing German constitutional theorist Carl Schmitt as a proto-agonist because of his early role as a shaper of critical framework for analyzing modern democracy). Agonism is a legal and political theory that asserts that contestations are key mechanisms for shaping and maintaining institutional procedures and principles. K. Roberts Skerrett, *Homosexuals, Heretics, and the Practice of Freedom: Commentary on Love the Sin: Sexual Regulation and the Limits of Religious Tolerance by Janet R. Jakobsen and Ann Pellegrini*, 6 *STUD. GENDER & SEXUALITY* 387, 394-95 (2005) (book review). One of the distinguishing characteristics of agonism in law is the numerous interest conflicts that are managed. In agonist thought, the existence of these contestations is understood as a prerequisite of democracy. See generally *LAW AND AGONISTIC POLITICS* (Andrew Schaap ed., Routledge 2016); MARK WENMAN, *AGONISTIC DEMOCRACY: CONSTITUENT POWER IN THE ERA OF GLOBALIZATION* (2013); ED WINGENBACH, *INSTITUTIONALIZING AGONISTIC DEMOCRACY: POST-FOUNDATIONALISM AND POLITICAL LIBERALISM* (2016). Agonism has come to represent a conflict-focused account of pluralism. Mark D. Walters, *Toward the Unity of Constitutional Value—or, How to Capture a Pluralistic Hedgehog*, 63 *MCGILL L.J.* 419, 421 (2017).

<sup>32</sup> A significant source of this confusion may grow from the fact that Gilbert wrote about Truth in the third person instead of first person in the published account. This pronoun choice may simply signal the distinction between autobiography and biography. Much has been said about the presence or absence of the pronoun "I" in writings. See Lolita K. Buckner Inniss, *Bicentennial Man – The New Millennium Assimilationism and the Foreigner Among Us*, 54 *RUTGERS L. REV.* 1101, 1124 (2002) [hereinafter Buckner Inniss, *Bicentennial Man*] (citing, *inter alia*, EMILE BENVENISTE, *PROBLEMS IN GENERAL LINGUISTICS* 195 (Mary Elizabeth Meek trans., 1971)). See generally ROMAN JAKOBSON, *Two Aspects of Language and Two Types of Aphasic Disturbances*, in *FUNDAMENTALS OF LANGUAGE* 67, 67-96 (Roman Jakobson & Morris Halle eds., 2d rev. ed. 1971).

<sup>33</sup> NAOMI GREYSER, *ON SYMPATHETIC GROUNDS: RACE, GENDER, AND AFFECTIVE GEOGRAPHIES IN NINETEENTH-CENTURY NORTH AMERICA* 66-67 (2018).

narrative.<sup>34</sup> Titus republished the narrative in 1884 shortly after Truth's death in 1883, and included a memorial chapter, obituary materials, and the two previous versions of the narrative.<sup>35</sup>

Some published representations of Sojourner Truth are, by necessity, "deeply compromised" because of her illiteracy and corresponding reliance on orality.<sup>36</sup> For instance, some writers attributed a Southern black dialect to Truth. Truth likely spoke with an accent, but it was likely one related to her early years as a Dutch speaker in upstate New York.<sup>37</sup> Perhaps one of the best known speeches attributed to Truth, the 1851 "Ain't I a Woman" speech, which highlighted both gender and racial discrimination, may have been misquoted or largely fabricated by white abolitionist and suffragist Frances Dana Barker Gage.<sup>38</sup> Even communications about Truth's origins were sometimes misunderstood. Truth asserted that she came "from another field—the country of the slave."<sup>39</sup> Some understood this to mean Africa;<sup>40</sup> abolitionist and author Harriet Beecher Stowe attributed remarks to Truth indicating that she and her parents had come to the United States from Africa.<sup>41</sup> Truth, however, later wrote that Harriet Beecher

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<sup>34</sup> *Id.* at 67.

<sup>35</sup> *Id.*

<sup>36</sup> CHRISTINA ACCOMANDO, "THE REGULATIONS OF ROBBERS": LEGAL FICTIONS OF SLAVERY AND RESISTANCE 69 (2001).

<sup>37</sup> SUZANNE PULLON FITCH & ROSEANN M. MANDZIUK, SOJOURNER TRUTH AS ORATOR 39 (1997).

<sup>38</sup> *Id.* at 18; *see also* PAINTER, TRUTH: A LIFE, *supra* note 8, at 334. Painter asserts that Gage amended Truth's speech in a publication twelve years after it was initially given. Painter, *Representing Truth*, *supra* note 10, at 479. Gage, Painter asserts, was a little known writer who recognized and appropriated Truth's magnetism for use in purportedly true accounts of Truth and in a fictional series she created. Painter, *Representing Truth*, *supra* note 10, at 477-79. The speech was first reported in full, reflecting what were apparently Truth's words, in 1851 in the *Anti-Slavery Bugle* newspaper. PAINTER, TRUTH: A LIFE, *supra* note 8, at 124. The news article, while capturing some of the rhetoric of Gage's version of the "Ain't I a Woman Speech" makes no mention of the famous phrase. *Sojourner Truth*, ANTI-SLAVERY BUGLE (New Lisbon, Ohio), June 21, 1851, at 160. Gage also apparently fabricated more than the famous refrain; she also incorporated a story of Truth being assailed by angry white women in the audience who wished to bar her from speaking and of Gage coming to Truth's rescue. These claims are inconsistent with more historical accounts and are evidence of Gage inserting herself in Truth's story in ways that perpetuate white women's leadership in the creation of interracial feminist connections. GREYSER, *supra* note 33, at 70-71. The "Ain't I a Woman" (or "Ar'n't I a Woman" as rendered in some accounts) speech was first included in Truth's published narrative in 1875, twenty-four years after it was allegedly given by Truth in 1851. *Id.* Titus, who crafted the 1875 narrative, moved the speech to the beginning of the edition, causing the speech to appear as a contemporaneous account of Truth's 1851 appearance rather than a written account created many years later. *Id.*

<sup>39</sup> Address of Sojourner Truth, *supra* note 17, at 20.

<sup>40</sup> PAINTER, TRUTH: A LIFE, *supra* note 8, at 163.

<sup>41</sup> *Id.*

Stowe had apparently misunderstood her and that only her grandmother and her husband's mother had come directly from Africa.<sup>42</sup> The accurate facts of her origins, wrote Truth, were contained in her own book.<sup>43</sup> Others assumed that Truth meant that she had come from the American South, since that was where most slavery took place in the immediate antebellum period. But while Truth was born enslaved, her servitude occurred in New York state.<sup>44</sup> This is a reminder that U.S. slavery was itself born in the North, just as was the rest of the country, and slavery persisted in New York and other northern states for longer than is typically acknowledged.<sup>45</sup>

So what was the truth about Sojourner Truth? Several accounts confirm that Truth was born in the late 1790s in the village of Hurley, in the town of Rosendale, Ulster County, New York, to parents James and Elizabeth.<sup>46</sup> Like many enslaved people, she did not know her precise birthday. Slaveholders sometimes recorded the birthdates of their enslaved people for business purposes but just as often they did not or did so only in the loosest terms.<sup>47</sup> Truth was the youngest of twelve children and was named Isabella. Truth's birth surname is often reported as Baumfree, or Bomefree; this was because her father, James, a tall, straight man, was sometimes alternately called "Bome-free" (tree in Dutch).<sup>48</sup> At other times, Truth's birth name was reported as Hardenbergh, the surname of Johannis (sometimes spelled Johannes) Hardenbergh (spelled Ardinburgh in Truth's own narrative), who enslaved her and her parents at her

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> See CARLETON MABEE WITH SUSAN MABEE NEWHOUSE, *SOJOURNER TRUTH: SLAVE, PROPHET, LEGEND*, at xi (1993).

<sup>45</sup> EDGAR J. MCMANUS, *A HISTORY OF NEGRO SLAVERY IN NEW YORK*, at xi (1st paperback ed. 2001). McManus notes that New York's system of slavery was present at New York's Dutch colonial origins as New Netherlands and persisted until the late eighteenth century. *Id.*

<sup>46</sup> PAINTER, *TRUTH: A LIFE*, *supra* note 8, at 11. Other sources report her birthplace as Swartekill, New York, a subsection of the town of Hurley. See MABEE, *supra* note 44, at 1. Still other accounts refer to Truth's birth in Esopus, New York. BLACK POLITICAL THOUGHT: FROM DAVID WALKER TO THE PRESENT 342 (Sherrow O. Pinder ed., 2020). Much of the confusion appears to lie in the interlayered and differently named neighborhoods, hamlets, and towns in Ulster County and the changes in those names that occurred over the course of the nineteenth and twentieth centuries. *Id.*

<sup>47</sup> FREDERICK DOUGLASS, *NARRATIVE OF THE LIFE OF FREDERICK DOUGLASS, AN AMERICAN SLAVE* 1 (1849). Douglass remarked,

"I do not remember to have ever met a slave who could tell his birthday. . . . A want of information concerning my own was a source of unhappiness to me even during childhood. The white children could tell their ages. I could not tell why I ought to be deprived of the same privilege."

*Id.*

<sup>48</sup> *NARRATIVE OF SOJOURNER TRUTH*, *supra* note 14, at 15.

birth.<sup>49</sup> As was true for many enslaved people, no surname was officially assigned to Truth.<sup>50</sup> Johannis Hardenbergh was a politically involved farmer who had been an officer in the Revolutionary War and who was one of the largest slaveholders in his region.<sup>51</sup> After the death of Hardenburgh in 1799, his son and heir Charles reduced Truth and her parents to a life of misery. A few years after that, upon the death of Charles Hardenburgh, the situation grew even worse: Truth was sold away from her family to the English-speaking Neely family, where she was the only enslaved person and where she frequently suffered abuse as a Dutch speaker in a place where only English was spoken.<sup>52</sup> Truth was sold next to a tavern keeper and finally arrived at the farm of John Dumont in the town of New Paltz, New York.<sup>53</sup>

Although many people, even some scholars, tend to think of slavery as largely a Southern phenomenon, slavery not only existed but thrived and persisted, often among loose networks of individuals in many Northern states, until well into the nineteenth century.<sup>54</sup> This was no less true in the early national period, even in areas like the Hudson Valley of New York state where Truth was born. Although enslaved workers were only sporadically present in seventeenth-century colonial New York state, by midcentury, postcolonial New York had one of the largest

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<sup>49</sup> *Id.* at 13.

<sup>50</sup> This was a matter of social practice and, in some places, of law. *See* State v. Penland, 61 N.C. (Phil.) 228, 229 (1867) (“In the case of slaves, they are described by their Christian name only, for most usually they have no surname, and the fact of being a slave added to the Christian name is considered a sufficient description.”).

<sup>51</sup> PAINTER, TRUTH: A LIFE, *supra* note 8, at 11. Hardenbergh served as a member of a local Committee of Safety and Observation, a body of men who served as the de facto government in some areas during the Revolutionary War. E.M. Rutenber, *The County of Ulster*, in 1 THE HISTORY OF ULSTER COUNTY, NEW YORK 17, 142 (Alphonso T. Clearwater ed., 1907).

<sup>52</sup> PAINTER, TRUTH: A LIFE, *supra* note 8, at 13-14.

<sup>53</sup> *Id.* at 14.

<sup>54</sup> BUCKNER INNISS, THE PRINCETON FUGITIVE SLAVE, *supra* note 8, at 7. In the eighteenth and nineteenth centuries, American members of the upper classes, in both the North and the South, consisted of relatively few European-descended families who were often only a few degrees of biological and/or social separation from one another. *Id.* at 8. This connectedness was often made manifest via the faculty and students at northern colleges and universities, the oldest of which had been founded in colonial times. One such link may be even seen in the case of Sojourner Truth. Recent scholarship has shown that the first president of Rutgers University in New Jersey, Jacob Rutsen Hardenbergh, Jr., was the brother of Sojourner Truth’s enslaver. Beatrice Adams & Miya Carey, “*I Hereby Bequeath . . .*”: *Excavating the Enslaved from the Wills of the Early Leaders of Queen’s College*, in 1 SCARLET AND BLACK: SLAVERY AND DISPOSSESSION IN RUTGERS HISTORY 82, 85 (Marisa J. Fuentes & Deborah Gray White eds., 2016). In this work, the authors seem to confuse Johannis Hardenbergh, Jr. (1729-1799) with his father, Johannis Hardenbergh (1706-1786), a founding trustee of Queen’s (later Rutgers) College. Not only did the two Johannises share a name and live in Hurley, near Kingston, New York, both also had a son named Charles and served as a colonel in the Revolutionary War.

number of enslaved people in the country.<sup>55</sup> From 1721 to 1790, the New York enslaved population tripled and was especially heavy in Hudson County where Truth was born.<sup>56</sup> The political ideology of the American Revolution, with its emphasis on ending colonial “enslavement” by Great Britain, and the broad ethos of freedom, made black slavery anathema in some parts of northern society.<sup>57</sup> The American Revolution did not, however, herald the immediate end of slavery in New York state.<sup>58</sup> In areas like the Hudson Valley where Truth was born and enslaved, slavery remained an important driver of the economy.<sup>59</sup> Black people in rural areas or smaller towns often existed in conditions that, while similar to southern enslavement, were also vastly different because of the way that the lives of the enslaved were intertwined with those of white enslavers and white neighbors.

This mingling between white people and the enslaved black people who lived among them sometimes led to better treatment for the enslaved in parts of New York. Indeed, there was often a pervasive sense that northern slavery was relatively benign, though no form of enslavement can be truly described in these terms.<sup>60</sup> But slavery, even in its allegedly mild form and dressed up in congenial raiment, often involved psychological trauma that was deepened by forced separation from family and the stripping away of identity.<sup>61</sup> White proximity, rather than signaling a more beneficent enslavement, often exacerbated the sufferings of the enslaved, for that very proximity often engendered a love-hate relationship in enslaved people. Truth’s life in slavery is an example of this.

Like many enslaved people, Truth was caught in the vice grip of an ambivalent relationship with her enslaver. During Truth’s sixteen years of enslavement with the Dumonts, she worked hard to please them. In her early years she thought of John Dumont as a friend, a relative, and even as a deity, and she maintained contact with him even after obtaining her freedom.<sup>62</sup> But at

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<sup>55</sup> LESLIE M. HARRIS, *IN THE SHADOW OF SLAVERY: AFRICAN AMERICANS IN NEW YORK CITY, 1626-1863*, at 48 (Kathleen Conzen, Timothy Gilfoyle & James Grossman eds., 2003).

<sup>56</sup> MICHAEL E. GROTH, *SLAVERY AND FREEDOM IN THE MID-HUDSON VALLEY* 5 (Thomas S. Wermuth ed., 2017).

<sup>57</sup> *See id.* at 21-42.

<sup>58</sup> *See id.*

<sup>59</sup> HARRIS, *supra* note 55, at 48; *see also* GROTH, *supra* note 56, at 5.

<sup>60</sup> BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE*, *supra* note 8, at 21; *see also* SHANE WHITE, *SOMEWHAT MORE INDEPENDENT: THE END OF SLAVERY IN NEW YORK CITY, 1770-1810*, at 80 (1991) (arguing that notion of benign Northern slavery was a myth developed to deflect antislavery criticism and delay antislavery legislation).

<sup>61</sup> BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE*, *supra* note 8, at 21.

<sup>62</sup> Painter notes: “Sojourner Truth, recalling herself as a slave, realized that she had been incapable of separating John Dumont’s interest from her own, even when serving him meant depriving her own children and setting herself against her fellow slaves.” PAINTER, *TRUTH: A LIFE*, *supra* note 8, at 17. Painter goes on to describe Truth as having a “[s]lave mentality” in this early part of her life. *Id.* The characteristics of a slave mentality are “a lack of self-

the same time that Truth revered John Dumont, she suffered psychological, sexual, and other physical forms of abuse in his household.<sup>63</sup> Truth sought and eventually obtained her freedom from the Dumonts, her last enslavers, but in many respects she was never free from them; this entanglement likely shaped Truth's work to broaden race and gender rights.

## II. OBTAINING FREEDOM AND BECOMING SOJOURNER TRUTH

Sojourner Truth's journey to freedom began when she walked away from her enslavement by John and Susan Dumont, taking along her infant daughter Sophia.<sup>64</sup> Truth and her enslaver John Dumont had reached an agreement that he would free her on July 4, 1826, one year before New York state law would mandate that the enslaved people born before 1799, like Truth, be unconditionally freed.<sup>65</sup> When the time came to fulfill the agreement, Dumont alleged that Truth failed to uphold her end of the bargain, pointing to a hand injury that she sustained that caused her to lose "the ability to work with maximum efficiency."<sup>66</sup> Vexed because she had performed more than enough to meet the agreement despite the injury, Truth decided to remain with Dumont only long enough to complete supplemental work that would leave no doubt of her meeting her end of the bargain.<sup>67</sup> With her tasks completed, she traveled to the home of Isaac and Maria Van Wagenen in New Paltz, New York, who gave Truth and her infant shelter.<sup>68</sup> In order to quiet Dumont's objections, Isaac Van Wagenen purchased Truth's services for the remainder of the year until the state's emancipation act took effect, which Dumont accepted for twenty dollars.<sup>69</sup> Truth, like many enslaved people, was thus a "fugitive" in that she fled enslavement. This flight from oppression served as a metaphoric touchstone for some of her public addresses. But as Truth also liked to point out, she had not run from slavery; she walked away from slavery, settled a short distance away from the home of her enslavers, and ultimately had her freedom purchased.<sup>70</sup>

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confidence, personal autonomy, and independent thought, a sense of one's own insignificance in comparison to the importance of others, a desire to please the powerful at any cost, and, finally, a ferocious anger that is often turned inward but can surge into frightening outbursts." *Id.*

<sup>63</sup> *Id.* at 14.

<sup>64</sup> *See id.* at 23-25.

<sup>65</sup> *Id.* at 21.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 22-23.

<sup>68</sup> *Id.* at 25.

<sup>69</sup> *Id.*

<sup>70</sup> Purchasing the freedom of enslaved people, though a frequent occurrence in antebellum U.S. slavery, was rife with contradictions. On the one hand, it helped to quickly conclude what might otherwise have been protracted and contentious fights with aggrieved enslavers. *See* BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE*, *supra* note 8, at xii. However, such



Truth did not come to wide notice as an activist until some dozen years after she gained her freedom. From 1827 until 1843, she worked as a domestic and carried on what appeared at first glance to be an unremarkable life.<sup>71</sup> But during this seemingly quiescent period, Truth carried out some of her most startling and memorable assaults on race and gender norms in both the legal and social spheres. In one instance, shortly after obtaining freedom, Truth sued a white man from New York City who had purchased her son Peter and then, in contravention of then-existing state law, sold the child south to Alabama.<sup>72</sup> In relating the matter, Truth described asking for help and being directed to seek a grand jury in order to obtain a writ for the child's return.<sup>73</sup> Believing (as the account claimed) that "grand jury" was a person, Truth sought everywhere for "him" until being instructed on the true nature of the grand jury and on how to deploy the legal process.<sup>74</sup> This was not Truth's only interaction with the law; in 1835, she brought a successful libel suit against Benjamin Folger for claiming that she had poisoned one of her employers.<sup>75</sup> The former Isabella named herself Sojourner in 1843 when she experienced a religious conversion.<sup>76</sup>

There have been numerous accounts of Truth's conversion and renaming. Other feminist figures chose their own names, such as white feminist Lucy Stone.<sup>77</sup> Sojourner Truth, in renaming herself, was no different than the many thousands of emancipated black people who discarded the names given to them during enslavement in order to leave behind a history of violence, oppression, anonymity, and, especially, lack of agency.<sup>78</sup> But Truth, in renaming herself, not only threw off a history of oppression but also replaced a patriarchal and

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purchases also raised moral issues because purchasing enslaved people, even at discounted prices, validated and potentially helped to perpetuate the institution of slavery. *Id.*

<sup>71</sup> See Painter, *Representing Truth*, *supra* note 10, at 487.

<sup>72</sup> NARRATIVE OF SOJOURNER TRUTH, *supra* note 14, at 44, 46-49.

<sup>73</sup> *Id.* at 47.

<sup>74</sup> *Id.* at 47-54.

<sup>75</sup> *Id.* at 70-71; see also Painter, *Representing Truth*, *supra* note 10, at 463.

<sup>76</sup> Painter, *Representing Truth*, *supra* note 10, at 462-63.

<sup>77</sup> Lucy Stone refused to give up her birth name and take her husband's name when she married. ACCOMANDO, *supra* note 36, at 98. However, this is not, strictly speaking, a "renaming" so much as it is a refusal to rename herself with her husband's name.

<sup>78</sup> Such renaming was often the final stage of objectification for enslaved African captives. SIMON GIKANDI, *SLAVERY AND THE CULTURE OF TASTE* 186 (2011) ("[I]mposed naming, renaming, and unaming signaled the radical disorientation of the slave in moral space . . ."). Scholars have observed, for example, that slaveholders and traders often gave recently arrived African captives "Christian" names to signal acculturation or docility. HARRIS, *supra* note 55, at 19. Sometimes enslavers renamed newly acquired captives who already held "Christian names" in order to assert power and authority over the enslaved. RICHARD A. BAILEY, *RACE AND REDEMPTION IN PURITAN NEW ENGLAND* 95 (2011).

hierarchical naming system with names that described her goals and her attributes.<sup>79</sup> With her new name, she began her public activist journey in earnest.

### III. ENTERING THE POOL: SOJOURNER TRUTH'S WOMANIST VISION OF RIGHTS

Sojourner Truth's reference to the "pool" was very likely biblical, as was much of her rhetoric.<sup>80</sup> As was true of many black women activists, the acts and words in Truth's adult life were guided by an intense religiosity and a studied desire to improve the lot of black people.<sup>81</sup> Truth's religiosity was, however, paired with a practical ethos that looked to the broad social context of black people's—and especially black women's—lives, despite the masculinist and white supremacist nature of much nineteenth-century Christian rhetoric.<sup>82</sup> Moreover, she was at all times cognizant of the conditions she lived in.<sup>83</sup> Unlike most of the black women who were also monumental figures in advancing black

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<sup>79</sup> BAILEY, *supra* note 78, at 95.

<sup>80</sup> See Address of Sojourner Truth, *supra* note 17, at 63.

<sup>81</sup> JOYCE A. HANSON, MARY MCLEOD BETHUNE & BLACK WOMEN'S POLITICAL ACTIVISM 1 (2003) (noting that many black women in the late nineteenth and early twentieth centuries were "deeply grounded in religion and family, and intensely committed to racial advancement"); see also BETTYE COLLIER-THOMAS, JESUS, JOBS, AND JUSTICE: AFRICAN AMERICAN WOMEN AND RELIGION 11 (2010).

<sup>82</sup> As one scholar notes, Sojourner Truth and other black women who viewed religion as a cornerstone of their social activism were able to disregard the ways in which Christianity was used to justify slavery and patriarchy by employing "discursive intervention" and even creation mythology to argue for how things ought to be. Truth, for example, sometimes asked in her talks: "Where did your Christ come from? From God and a woman. Man had nothing to do with him." CHANTA M. HAYWOOD, PROPHECYING DAUGHTERS: BLACK WOMEN PREACHERS AND THE WORD, 1823-1913, at 20-21 (rev. ed. 2003).

<sup>83</sup> Though Sojourner Truth was, from her youth, fervidly religious, she had an imperfect understanding of the general principles of mainstream Christianity. PAINTER, TRUTH: A LIFE, *supra* note 8, at 24-25. Her early beliefs were syncretic and represented a mixture of West African animist beliefs, Calvinist Dutch Reformed religious practices, and Arminian Methodism. *Id.* Later, even as she moved towards a more mainstream Christianity, she continued to found her religious and activist messages of communal uplift upon her own personal experiences. This approach to Christianity, where religious conversion was as much a communal as an individual experience, was not unlike that taken by other formerly enslaved people who embraced religion as part of their means of defying racist and sexist conventions. See YOLANDA PIERCE, HELL WITHOUT FIRES: SLAVERY, CHRISTIANITY, AND THE ANTEBELLUM SPIRITUAL NARRATIVE 4 (Steven W. Angell & Anthony B. Pinns eds., 2005) (arguing that religious conversion for formerly enslaved black people was qualitatively different than conversions experienced by others because, though often intensely self-focused, such conversions also represented "the desire to work within and transform one's community"). As one scholar observed, when asked if the Bible was the basis of her preaching, Truth said that she could not read and that her only text was when and how she found Jesus in the course of her own and her family's struggles. COLLIER-THOMAS, *supra* note 81, at 11.

rights and women's rights during this period, Truth had come from a humble background of enslavement and was part of a family with recent African antecedents. Truth's humble origins were sometimes remarked upon by her fellow black activists; Frederick Douglass once described her as a "strange compound of wit and wisdom, of wild enthusiasm"<sup>84</sup> and as "a genuine specimen of the uncultured negro."<sup>85</sup> In contrast, most of Truth's black women contemporary activists, including figures like Maria Stewart<sup>86</sup> and Mary Ann Shadd Cary,<sup>87</sup> had come from closely connected networks of free black or enslaved mulatto elite backgrounds and had early access to property and education.<sup>88</sup> Some of these reformers promoted "respectability politics"—the

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<sup>84</sup> GRAHAM RUSSELL GAO HODGES, DAVID RUGGLES: A RADICAL BLACK ABOLITIONIST AND THE UNDERGROUND RAILROAD IN NEW YORK CITY 183 (2010) (quoting Frederick Douglass, *What I Found at the Northampton Association*, in THE HISTORY OF FLORENCE, MASSACHUSETTS 128, 131 (Charles A. Sheffield ed., 1895)).

<sup>85</sup> *Id.*

<sup>86</sup> VALERIE C. COOPER, WORD, LIKE FIRE: MARIA STEWART, THE BIBLE, AND THE RIGHTS OF AFRICAN AMERICANS 1-2 (Deborah E. McDowell ed., 2011). Stewart gained prominence for being the first known American woman to speak in public and leave texts of her addresses and for being one of the first women to speak before an audience of men and women. *See id.* Cooper notes that mixed-gender audiences were known as "promiscuous" audiences. *Id.* By the middle of the nineteenth century, few women besides Stewart had dared to make such public presentations, given that doing so opened speakers to accusations of immorality and impropriety. ELIZABETH URBAN ALEXANDER, NOTORIOUS WOMAN: THE CELEBRATED CASE OF MYRA CLARK GAINES 159 (2001).

<sup>87</sup> WE ARE YOUR SISTERS: BLACK WOMEN IN THE NINETEENTH CENTURY 164-65 (Dorothy Sterling ed., 1984) (describing Cary's "privileged beginnings" and early education); James Oliver Horton, *Freedom's Yoke: Gender Conventions Among Antebellum Free Blacks*, 12 FEMINIST STUD. 51, 68-73 (1986).

<sup>88</sup> COLLIER-THOMAS, *supra* note 81, at 22. Rosalyn Terborg-Penn notes that as the 1860s came to a close, there were two generations of black women who had taken active roles in the women's suffrage and abolition movement. TERBORG-PENN, *supra* note 9, at 34. Many of the women were related to each other and to well-known or prosperous black men who themselves had roles in the abolition movement, among them: Mary Ann Shadd Cary and Amelia Shadd (sisters); Margaretta Forten, Sarah Forten, and Harriet Forten Purvis (sisters and daughters of the wealthy merchant and abolitionist James Forten; Harriet married prominent antislavery activist Robert Purvis, who was a member of the renowned); Charlotte Vandine Forten (wife of James Forten and mother of the Forten sisters); Charlotte Forten Grimké (granddaughter of James and Charlotte Vandine Forten and wife of prominent black rights activist Francis James Grimké, who was a member of the esteemed Grimké family of activists); Frances Ellen Watkins Harper (niece of Reverend William Watkins, who ran a school in Baltimore for black youth); Nancy Gardner Prince (wife of Nero Prince, who was a founder of the Prince Hall Freemasons); and Sarah Parker Remond (sister of abolitionist Charles Lenox Remond). *Id.* at 16-17, 34-35, 62; *see also* FRANCES ELLEN WATKINS HARPER, A BRIGHTER COMING DAY: A FRANCES ELLEN WATKINS HARPER READER 6-7 (Frances Smith Foster ed., 1990); DARLENE CLARK HINE & KATHLEEN THOMPSON, A SHINING THREAD OF HOPE: THE HISTORY OF BLACK WOMEN IN AMERICA, at v (2009); 1 THE HARRIET JACOBS

ideology that encouraged adherence to white middle class norms and eschewed “low class” behaviors.<sup>89</sup> Many of these women were prototypes for W.E.B. Du Bois’s “Talented Tenth.”<sup>90</sup>

So, while Truth’s religious beliefs and focus on racial and gender uplift made her of a piece with other black women racial rights and women’s rights reformers of the immediate antebellum and postbellum period, the particular adversity of Truth’s own life moved her away from a focus on social obedience or uncritical patience in the face of discrimination. Instead, Truth drew strength from the conditions in which she and others like her lived, and she merged these

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FAMILY PAPERS 253-54, 254 n.5 (Jean Fagan Yellin et al. eds., 2008); Jane Rhodes, *At the Boundaries of Abolitionism, Feminism, and Black Nationalism: The Activism of Mary Ann Shadd Cary*, in *WOMEN’S RIGHTS AND TRANSATLANTIC ANTISLAVERY IN THE ERA OF EMANCIPATION* 346, 360-62 (Kathryn Kish Sklar & James Brewer Stewart eds., 2007). Truth stood out for her lack of familial connection to prominent people. Painter notes that Truth was a self-made woman and that her little-known family ancestry defies heroic expectations because “[b]iographies normally set the stage for the appearance of the protagonist by examining ancestors for portents of greatness.” PAINTER, *TRUTH: A LIFE*, *supra* note 8, at 5.

<sup>89</sup> See generally EVELYN BROOKS HIGGINBOTHAM, *RIGHTEOUS DISCONTENT: THE WOMEN’S MOVEMENT IN THE BLACK BAPTIST CHURCH, 1880-1920*, at 185-230 (rev. ed. 1994).

<sup>90</sup> The Talented Tenth was a prescription for lifting black people from their downtrodden status to one of esteem and respect. W.E.B. Du Bois popularized and broadly developed the term in his 1903 article titled “The Talented Tenth.” W.E.B. DU BOIS, *The Talented Tenth*, in *A W.E.B. DU BOIS READER* 31, 31 (Andrew G. Paschal ed., 1971); see also Kevin Brown & Jeannine Bell, *Demise of the Talented Tenth: Affirmative Action and the Increasing Underrepresentation of Ascendant Blacks at Selective Higher Educational Institutions*, 69 *OHIO ST. L.J.* 1229, 1232 (2008) (“The Talented Tenth are the well-educated, distinguished men and women crusaders dedicated to alleviating the burdens of blackness and the color line. According to Du Bois, members of the Talented Tenth are obligated to sacrifice their personal interests in an effort to provide leadership to improve the social, economic, and political conditions of the black community.”). Du Bois was not, however, the first to employ the term “Talented Tenth.” Reverend Henry Lyman Morehouse (a white northerner for whom Morehouse College was named) published an article “The Talented Tenth” around 1896. H.L. Morehouse, *The Talented Tenth*, *INDEPENDENT*, Apr. 23, 1896, at 1; see also Victoria L. Brown-Douglas, *Is It Time to Redefine the Negro Lawyer?*, 25 *J. C.R. & ECON. DEV.* 55, 66 (2010).

The term has also come to be used summarily and pejoratively to stand for exclusionary social and cultural norms among middle- and upper-class black people. The Talented Tenth and their families held privileged positions in an enslaving antebellum America and formed an insular black elite. They inhabited an interstitial space between white people and the larger body of black people in postbellum America. GENEVA COBB MOORE, *MATERNAL METAPHORS OF POWER IN AFRICAN AMERICAN WOMEN’S LITERATURE* 58 (2017) (describing activist Charlotte Forten Grimke and noting that she was “neither white, nor a sexualized female slave, nor a poor black free Negro; she was a black aristocrat, triply marginalized”). Like poor and working-class black people, these better-resourced black people also suffered the indignities of the racial caste system. But their suffering was often buffered by comforts that came from advanced education and higher incomes.

experiences with the religious texts that formed the basis of many of her addresses.<sup>91</sup> Truth, for instance, compared the effort to obtain white women's and black men's suffrage to the angelic stirring of the healing waters of the pool of Bethesda in Jerusalem.<sup>92</sup> Entry into this biblical pool made the infirm whole, and the metaphoric stirring pool had the corresponding power to make the politically excluded into whole citizens. But Sojourner Truth's stirring pool was not only a biblical reference; it was also a political and social metaphor.

Some accounts in the nineteenth and early-twentieth centuries framed civic participation not only as a pool but as a "muddy pool."<sup>93</sup> There was an explicitly gendered approach to this muddy pool. Men, especially leaders and businessmen, were often exhorted to enter the muddy pool and, once in, to restore its purity as a matter of duty.<sup>94</sup> In contrast, it was often asserted that the insalubrious nature and general opacity of the political muddy pool would

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<sup>91</sup> Painter, *Representing Truth*, *supra* note 10, at 463. Truth's self-naming was her own way of querying issues of knowledge, representation, and communication. *Id.*

<sup>92</sup> ERLINE STETSON & LINDA DAVID, *GLORYING IN TRIBULATION: THE LIFEWORK OF SOJOURNER TRUTH* 178 (1994). Truth draws on a passage from the Gospel of John: "For an angel went down at a certain season into the pool, and troubled the water: whosoever then first after the troubling of the water stepped in was made whole of whatsoever disease he had." *John* 5:4 (King James).

<sup>93</sup> See 2 J. MURRAY BECK, *JOSEPH HOWE: THE BRITON BECOMES CANADIAN, 1848-1873*, at 61 (1st paperback ed. 1984); see also 8 JOHN G. WOOLLEY, *CIVIC SERMONS* 136 (1911) (addressing church's role in politics of prohibition and concerns that in its effort to shape national character and citizenship, the church, described as a female entity, risks "contaminat[ing] herself" in "the muddy pool of politics").

<sup>94</sup> For instance, an opinion article in a 1916 commercial journal asserted:

When a business man declines to step into what he designates the "muddy pool of politics," he forgets that wherever it is "muddy" it is chargeable to his neglect. But it is not always a "muddy pool." We have had ten thousand pools as clear as the crystal spring, else we should have had no republic to-day. And the dirty pools are what they are, or were what they were, because business men, who usually are leading citizens—at least possessed of influence to make for leadership—deplored conditions but never were aroused to the call of duty which demanded correction at their hands.

*Senator Harding of Ohio on Business Men and Politics*, Opinion, COMM. & FIN. CHRON., Mar. 18, 1916, at 1024 (quoting Senator Warden G. Harding, Address at the Pittsburg Chamber of Commerce (Mar. 18, 1916)).

contaminate women who sought to enter.<sup>95</sup> “Women” was, of course, understood to mean white women.<sup>96</sup>

In her 1867 speech in which she invoked the muddy pool, Truth, speaking just two years after the Civil War had ended, well understood that the United States had many rifts to heal. Nonetheless, she noted that the water must be kept stirring in order to reach racial and gender equity. Like other women’s rights activists, Truth pushed back against those who would bar women in general, and black women in particular, from the pool, whether the pool were of the pernicious muddy variety or the angelic healing variety. Reflecting on her own life of confronting racial and gender barriers, she stated:

I am above eighty years old; it is about time for me to be going. I have been forty years a slave and forty years free, and would be here forty years more to have equal rights for all. I suppose I am kept here because something remains for me to do; I suppose I am yet to help to break the chain. I have done a great deal of work; as much as a man, but did not get so much pay. I used to work in the field and bind grain, keeping up with the cradler; but men doing no more, got twice as much pay; so with the German women. They work in the field and do as much work, but do not get the pay. We do as much, we eat as much, we want as much. I suppose I am about the only colored woman that goes about to speak for the rights of the colored women. I want to keep the thing stirring, now that the ice is cracked.<sup>97</sup>

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<sup>95</sup> Clarina I. Howard Nichols, *Reminiscences by Clarina I. Howard Nichols*, in 1 HISTORY OF WOMAN SUFFRAGE: 1848-1861, at 171, 191 (Elizabeth Cady Stanton, Susan B. Anthony & Matilda Joslyn Gage eds., 1887). Nichols tells the story of Governor Samuel Medary of Kansas who chided Nichols prior to her address to the 1859 Kansas constitutional convention, “But, Mrs. Nichols, you would not have women go down into the muddy pool of politics?” She replied,

Even so Governor, I admit that you know best how muddy that pool is, but you remember the Bethesda of old; how the angel had to go in and trouble the waters before the sick could be healed. So I would have the angels trouble this muddy pool that it may be well with the people; for you know, Governor Medary, that this people is very sick.

*Id.*

Though Nichols was unsuccessful in obtaining general franchise for women, she did secure to Kansas women the right to vote in school district elections, to own property, and to have rights equal to fathers where children were concerned. SARAH SMARSH, IT HAPPENED IN KANSAS: REMARKABLE EVENTS THAT SHAPED HISTORY 37 (2010). Elizabeth Cady Stanton also spoke of the muddy pool at the first annual meeting of the American Equal Rights Association, where she put forward a resolution “[t]hat to speak of the ballot as an ‘article of merchandise,’ and of the science of government as the ‘muddy pool of politics,’ is most demoralizing to a nation based on universal suffrage.” 2 HISTORY OF WOMAN SUFFRAGE, *supra*, at 185.

<sup>96</sup> Buckner Inniss, *Sui Generis View*, *supra* note 12, at 72.

<sup>97</sup> 2 HISTORY OF WOMAN SUFFRAGE, *supra* note 95, at 193-94.

Here, Truth advanced the literary conceit of the water by describing the ice as having cracked, thus allowing her to advance her message of racial and gender uplift and ultimate equality. Truth describes the physical work that she and other women performed—work that was the same as men’s but without the same compensation—and linked that work to women’s consumption of food and desires that matched men’s. In making these allusions, Truth did what many nineteenth-century accounts often eschewed: she invoked the sensory and emotional components of the raced and gendered body as a way of claiming social, economic, legal, and broader civic rights.<sup>98</sup>

Truth’s activist vision incorporating religious belief into her lived experiences as a freedom-seeking black woman may be described as womanist.<sup>99</sup> Alice Walker is often credited with coining the term womanist.<sup>100</sup> Womanist thought is an expression of black feminism that is both race and gender conscious.<sup>101</sup> Though womanist thought grows out of the black female experience, it does not exclude black men or women of other races.<sup>102</sup> Womanism is a community-oriented means of advocating for wholeness that, while centering black women, is also committed to wholeness and survival of entire peoples.<sup>103</sup> Some have

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<sup>98</sup> Truth’s speeches centering her own and other women’s physical experiences and desires presaged the so-called “corporeal turn” in academic literature that occurred generations later. See, e.g., ALEXANDRA HOWSON, *EMBODYING GENDER* 44-72 (2005); CHRIS SHILLING, *THE BODY AND SOCIAL THEORY* 242-44 (3d ed. 2012).

<sup>99</sup> Clenora Hudson-Weems, *Cultural and Agenda Conflicts in Academia: Critical Issues for Africana Women’s Studies*, in *THE WOMANIST READER* 37, 37-41 (Layli Phillips ed., 2006) [hereinafter Hudson-Weems, *Cultural and Agenda Conflicts in Academia*].

<sup>100</sup> Walker described womanist as, among other things, “[a] black feminist or feminist of color” whose behavior is usually described as “outrageous, audacious, courageous or *willful*” and who seeks “to know more and in greater depth than is considered ‘good’ for one.” ALICE WALKER, *IN SEARCH OF OUR MOTHERS’ GARDENS: WOMANIST PROSE*, at xi (1983). Walker adds that womanists are “[c]ommitted to survival and wholeness of entire people, male and female. Not a separatist, except periodically, for health.” *Id.*

<sup>101</sup> Womanism seeks, according to Layli Phillips, to “restor[e] the balance between people and the environment/nature, and reconcil[e] human life with the spiritual dimension.” *THE WOMANIST READER*, *supra* note 99, at xx.

Womanism has a significant spiritual and/or religious core. See, e.g., Stacey M. Floyd-Thomas, *Introduction: Writing for Our Lives: Womanism as an Epistemological Revolution* to *DEEPER SHADES OF PURPLE: WOMANISM IN RELIGION AND SOCIETY* 1, 6 (Stacey M. Floyd-Thomas ed., 2006) (defining womanism as “‘homegrown’ discourse” concerned with realities of women of African descent). Other works on the spiritual or religious content of womanist thought include JACQUELYN GRANT, *WHITE WOMEN’S CHRIST AND BLACK WOMEN’S JESUS: FEMINIST CHRISTOLOGY AND WOMANIST RESPONSE* (Susan Thistlethwaite ed., 1989); RENITA J. WEEMS, *JUST A SISTER AWAY: A WOMANIST VISION OF WOMEN’S RELATIONSHIPS IN THE BIBLE* (1988); DELORES S. WILLIAMS, *SISTERS IN THE WILDERNESS: THE CHALLENGE OF WOMANIST GOD-TALK* (1993).

<sup>102</sup> See Floyd-Thomas, *supra* note 101, at 6-7.

<sup>103</sup> *Id.*

even contemplated the idea of a “white womanist” praxis, one that allows white and other non-black women to practice an inclusive feminism that eliminates the sometimes condescending, exclusive aspects of white feminism that marginalize black women or treat them with pity or contempt.<sup>104</sup> Despite the ways that womanism has sometimes been used in opposition to feminism, it seems clear that its earliest proponents did not mean it to supplant feminist thinking or to diminish feminist commitment.<sup>105</sup>

Womanism, however, is best described as a multiple-authored enterprise that is much older than its popular presentation by Alice Walker. Professor Chikwenye Okonjo Ogunyemi asserts that she created womanism independently of Alice Walker.<sup>106</sup> Professor Clenora Hudson-Weems frames an Africana womanism that is explicitly dichotomous to feminism and is grounded in Afrocentric practices.<sup>107</sup> This perspective is especially worthy of address given the fact that “it was because of color that Sojourner was initially hissed and jeered at for having the gall to address the conflict between men and women and the rights of the latter. Before Sojourner could hope to address gender problems, she had to first overcome discrimination from her White audience.”<sup>108</sup>

Much has been written about the ways in which race has played a role in the American women’s movement in the two centuries since white women began to organize for political, legal, economic, and social rights.<sup>109</sup> Some of those scholars have queried black women’s rights as a strand of the larger women’s rights movement both past and present.<sup>110</sup> In these accounts, race and gender

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<sup>104</sup> Helen (Charles), *The Language of Womanism: Re-Thinking Difference*, in *BLACK BRITISH FEMINISM: A READER* 278, 282 (Heidi Safia Mirza ed., 1997).

<sup>105</sup> BELL HOOKS, *TALKING BACK: THINKING FEMINIST, THINKING BLACK* 181-82 (1989).

<sup>106</sup> Chikwenye Okonjo Ogunyemi, *Womanism: The Dynamics of the Contemporary Black Female Novel in English*, 11 *SIGNS* 63, 72 (1985). Ogunyemi’s womanism is more familial and more centered on the distinctiveness of African struggles in the global community. See *id.*

<sup>107</sup> Clenora Hudson-Weems, *Africana Womanism: The Flip Side of a Coin*, 25 *W.J. BLACK STUD.* 137, 138-39, 143-44 (2001).

<sup>108</sup> See Hudson-Weems, *Cultural and Agenda Conflicts in Academia*, *supra* note 99, at 41.

<sup>109</sup> Some recent works in this stream include: Shelley Cavalieri, *On Amplification: Extralegal Acts of Feminist Resistance in the #MeToo Era*, 2019 *WIS. L. REV.* 1489; Serena Mayeri, *After Suffrage: The Unfinished Business of Feminist Legal Advocacy*, 129 *YALE L.J. F.* 512 (2020); and Siegel, *supra* note 2.

<sup>110</sup> See, e.g., Elsa Barkley Brown, “What Has Happened Here”: *The Politics of Difference in Women’s History and Feminist Politics*, in “WE SPECIALIZE IN THE WHOLLY IMPOSSIBLE”: *A READER IN BLACK WOMEN’S HISTORY* 39, 42-43, 48 (Darlene Clark Hine, Wilma King & Linda Reed eds., 1995) (suggesting asymmetrical and nonlinear analysis of women’s history and acknowledging varied experiences of women and black people); Bernie D. Jones, *Southern Free Women of Color in the Antebellum North: Race, Class, and a “New Women’s Legal History*,” 41 *AKRON L. REV.* 763, 769-70 (2008) (citing “WE SPECIALIZE IN THE WHOLLY IMPOSSIBLE”: *A READER IN BLACK WOMEN’S HISTORY*, *supra*, at 3-24) (recognizing



concerns are often framed as parallel, overlapping, and sometimes even co-constituted processes.<sup>111</sup> One important example of this is seen in white women's role in the antislavery movement that led to the first organized movement for women's rights.<sup>112</sup> But despite what came to be the significant association of white women's rights with antislavery activism, not all white women who supported greater rights for women embraced black freedom and equality.<sup>113</sup>

For example, some have noted that, well before the time of the Nineteenth Amendment, during the period immediately before its passage, and well afterward, black women's rights were sometimes subsumed within, or excised altogether from, programs of women's rights.<sup>114</sup> There were even thoughts in the period just before the Nineteenth Amendment's ratification that white women and black women could unite around core issues such as motherhood and become, as it were, "sisters underneath their skins."<sup>115</sup> This embrace of

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value of understanding intersection between race and gender in critical theories); *see also*, e.g., Cynthia Grant Bowman, Dorothy Roberts & Leonard S. Rubinowitz, *Race and Gender in the Law Review*, 100 NW. U. L. REV. 27, 27 (2006) (observing emerging intersection of race and gender issues in *Northwestern Law Review* scholarship, when its content originally "reflect[ed] a territory inhabited only by white males and their legal problems").

<sup>111</sup> Lolita Buckner Inniss, *Review of Reasoning from Race: Feminism, Law, and the Civil Rights Revolution*, TEXAS L. REV. DICTA 1, 1 (2011) (book review) [hereinafter Buckner Inniss, *Review of Reasoning from Race*].

<sup>112</sup> 1 HISTORY OF WOMAN SUFFRAGE, *supra* note 95, at 39. The authors describe how some women saw the antislavery movement as naturally aligned with the women's rights movement, noting that some clergy preached that the degradation of women and enslaved persons was biblically ordained. *See id.*; *see also* LORI D. GINZBERG, UNTIDY ORIGINS: A STORY OF WOMAN'S RIGHTS IN ANTEBELLUM NEW YORK 15 (2005).

<sup>113</sup> LISA TETRAULT, THE MYTH OF SENECA FALLS: MEMORY AND THE WOMEN'S SUFFRAGE MOVEMENT, 1848-1898, at 19-20 (2014) (discussing formation of American Equal Rights Association disputes over priority between white women's and black men's rights). White suffragist Elizabeth Cady Stanton felt that white women's rights should take priority over the rights of black people (understood as black men), and that black men, if given rights over white women, would be, because of their "degraded" and "oppressed" status, "despotic" when it came to white women. *See id.* at 20; *see also* MARTHA S. JONES, ALL BOUND UP TOGETHER: THE WOMAN QUESTION IN AFRICAN AMERICAN PUBLIC CULTURE, 1830-1900, at 85, 141-47 (2007) (discussing fracture of the "fragile alliance" between white women women's rights activists and black abolitionists).

<sup>114</sup> *See*, e.g., Siegel, *supra* note 2, at 471-72 ("Supremely neglectful of respectability during the long fight [over suffrage], Alice Paul saw to it that the victory celebration should be supremely respectable. All doubtful subjects, like birth control and the rights of Negro women, were hushed up, ruled out, or postponed until the affair at the Capitol was over." (quoting Crystal Eastman, *Alice Paul's Convention*, LIBERATOR, Apr. 1921, at 9)).

<sup>115</sup> *See* Lolita Kay Buckner Inniss, "Sisters Underneath Their Skins": Theorizing Maternal Performativity in Legal Discourses of White Women's Race-Involved Child Custody Disputes in the United States, 1991-2004, at xii (March 2011) (unpublished Ph.D. dissertation,

sisterhood among white feminists in the years leading up to the Nineteenth Amendment was not new; it was first seen in Britain and later in the United States, and it was intended to assert sisterhood between free white women and enslaved black women.<sup>116</sup> In the postbellum period, hopes of family feeling between white and black women grew from the emergence of the U.S. political sphere as an affective space of attachment and identification for all women, a space where there was a defined women's culture of assumed commonality premised on sentimentality and complaint.<sup>117</sup> The earliest mass-cultural "intimate public" in the United States, a "women's culture," was distinguished by a view that all women inevitably have something in common and are in need of public articulations that feel intimate and revelatory.<sup>118</sup> But the existence of a broadly connected "women's culture" was perhaps more assumed than actual when it came to uniting to promote women's rights across racial divides. As one scholar notes, some white women favored women's rights but also supported slavery and black subordination.<sup>119</sup> This was especially true in the years after the Civil War.<sup>120</sup> Some ostensibly progressive white women adopted an explicit

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York University) (on file with the Library and Archives Canada, Published Heritage Division) (citing ANGELINA WELD GRIMKÉ, "Rachel": *The Play of the Month*, in *SELECTED WORKS OF ANGELINA WELD GRIMKÉ* 413, 414 (Carolivia Heron ed., 1991)). Grimké, a white abolitionist and women's rights activist, wrote,

The majority of women, everywhere, although they are beginning to awaken, form one of the most conservative elements of society . . . For this reason and for sex reasons the white women of this country are about the worst enemies with which the colored race has to contend. My belief was, then, that if a vulnerable point in their armor could be found, if their hearts could be active or passive enemies, they might become, at least, less inimical and possibly friendly.

Did they have a vulnerable point and, if so, what was it? I believed it to be motherhood . . . If anything can make all women sisters underneath their skins it is motherhood.

GRIMKÉ, *supra*, at 414.

<sup>116</sup> Clare Midgley, *British Abolition and Feminism in Transatlantic Perspective*, in *WOMEN'S RIGHTS AND TRANSATLANTIC ANTISLAVERY IN THE ERA OF EMANCIPATION*, *supra* note 88, at 121, 134.

<sup>117</sup> LAUREN BERLANT, *THE FEMALE COMPLAINT: THE UNFINISHED BUSINESS OF SENTIMENTALITY IN AMERICAN CULTURE*, at vii-ix (2008).

<sup>118</sup> *Id.* An intimate public sphere is an expectation that the consumers of particular content already share a common worldview and emotional knowledge derived from broadly common historical experiences. *Id.* at viii. It provides an experience of belonging and brings strangers together with an offering of "consolation, confirmation, discipline, and discussion" about how to live in a particular identity category. *See id.*

<sup>119</sup> Nancy A. Hewitt, *On Their Own Terms: A Historiographical Essay*, in *THE ABOLITIONIST SISTERHOOD: WOMEN'S POLITICAL CULTURE IN ANTEBELLUM AMERICA* 23, 27 (Jean Fagan Yellin & John C. Van Horne eds., 1994).

<sup>120</sup> *See* TERBORG-PENN, *supra* note 9, at 7-12 (discussing the nature of race relations in the suffrage movement before and after Civil War).

racial ideology to advance the cause of women's rights, often decrying patriarchy as inimical to their own status as "civilized" members of society all while condoning and even defending patriarchy as a tool for managing "primitives" like black people and other members of nonwhite racial groups.<sup>121</sup> Even among white women who supported general black rights, there was rarely any explicit articulation of the need for black women's rights. Sojourner Truth first made manifest and then helped to fill this gap.

PAST AS PROLOGUE: MOVING FROM PROTO-AGONISM TO PROTAGANISM AND  
CO-AGONISM

The connection between white women's rights and black rights has been sustained over the decades. Indeed, the black Civil Rights movement often served as paradigm for women's rights as raced and gendered concerns have frequently worked as co-constituted processes.<sup>122</sup> Within both of those movements, black women have been just as frequently proto-agonists as protagonists, as the work of figures like Pauli Murray and Dorothy Height demonstrates.<sup>123</sup> The most current iteration of this connectedness between black movements and general women's movements is seen in the intersections between the Black Lives Matter and the #MeToo movements.<sup>124</sup> But just as the connection has persisted, so too has black women's marginality in the wider women's movement persisted over the decades.

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<sup>121</sup> LOUISE MICHELE NEWMAN, *WHITE WOMEN'S RIGHTS: THE RACIAL ORIGINS OF FEMINISM IN THE UNITED STATES* 6-7 (1999).

<sup>122</sup> Buckner Inniss, *Review of Reasoning from Race*, *supra* note 111, at 1.

<sup>123</sup> Anna Pauline "Pauli" Murray was a black woman lawyer, activist, and scholar whose interest in women's rights was informed by her experiences with both racism and sexism. Though her work was crucial to both race and gender rights programs, she was often relegated to the margins of both social programs and has been little studied until recently. The recent republication of Murray's posthumous 1987 memoir has reawakened interest in her work. *See generally* PAULI MURRAY, *SONG IN A WEARY THROAT: MEMOIR OF AN AMERICAN PILGRIMAGE* (2018). Dorothy Height was another twentieth-century black woman activist who was instrumental in helping to forge bonds between black and white women and between people of differing religious beliefs. She championed causes both large and small and was a counselor to Presidents as well as an advocate for the rights of poor children. For forty years, she was the president of the National Council of Negro Women. Though some people are aware of Height's work for the cause of racial and gender progress, for much of her early life she was relegated to the margins by the male leaders of black civil rights groups and the female leaders of white feminist groups. *See generally* DOROTHY HEIGHT, *OPEN WIDE THE FREEDOM GATES: A MEMOIR* (2009); *see also* Lolita Buckner Inniss, *The Examined Life at Age 8 or 98: Dorothy Height Rest in Peace*, *AIN'T I A FEMINIST LEGAL SCHOLAR TOO?* (Apr. 21, 2010, 9:31 AM), <http://innissfls.blogspot.com/2010/04/examined-life-at-age-8-or-98-dorothy.html> [<https://perma.cc/M6YY-NAS7>].

<sup>124</sup> For a discussion of the intersection of the two movements, see Linda S. Greene et al., *Talking About Black Lives Matter and #MeToo*, 34 *WIS. J.L. GENDER & SOC'Y* 109 (2019).

The life of Sojourner Truth is a reminder that black women have often supported norms of “universal womanhood” that ignored and even, at times, disparaged black women’s rights. But black women like Sojourner Truth nonetheless persisted, and their efforts are a model for contemporary women’s rights movements that seek full inclusion in the muddy pool of civic life. As Truth biographer Nell Painter wrote:

Americans who buy Sojourner Truth’s image invest in the idea of strong women, black or not. As in the nineteenth century, Americans consume Sojourner Truth as the embodiment of a construct necessary for their own cultural formations, even though its meaning has changed radically since Harriet Beecher Stowe first polished its contours.<sup>125</sup>

It is time for black women to move from proto-agonist to being protagonists and *co-agonists*—co-central figures—in the struggle for women’s rights.

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<sup>125</sup> PAINTER, TRUTH: A LIFE, *supra* note 8, at 286.