

6-1-1995

## Orenthal James Simpson and Gender, Race and Class: In that Order

Crystal Weston

Follow this and additional works at: <https://repository.uchastings.edu/hwj>

---

### Recommended Citation

Crystal Weston, *Orenthal James Simpson and Gender, Race and Class: In that Order*, 6 *Hastings Women's L.J.* 223 (1995).  
Available at: <https://repository.uchastings.edu/hwj/vol6/iss2/6>

This Essay is brought to you for free and open access by the Law Journals at UC Hastings Scholarship Repository. It has been accepted for inclusion in *Hastings Women's Law Journal* by an authorized editor of UC Hastings Scholarship Repository. For more information, please contact [wangangela@uchastings.edu](mailto:wangangela@uchastings.edu).

---

# Orenthal James Simpson and Gender, Class, and Race: In That Order

*Crystal H. Weston\**

## Introduction

The O.J. Simpson trial is fascinating. I watch it every chance I get. I watch it because it's entertaining; court is theater. I watch it because it's educational; court is a procedural and evidentiary lesson. Also, I watch it because I want to see how onlookers, as well as the legal system, treat a wealthy, handsome, African male woman-beater who is on trial for murder.

The trial—or should I say the O.J. Simpson Show—is multiply appealing. After digesting the entertainment, however, we are left with an unpleasant aftertaste. We are forced to contend with the sociological, economic, and political issues that have created a climate in which Nicole Brown Simpson could be repeatedly beaten by one of the most famous and well-liked persons in the world and then murdered.

These issues are most commonly assessed in light of considerations of gender, class, and race. Gender is the social construction of what is “feminine” and “masculine,” *i.e.*, what the culture defines as female and male. As with gender, race is also socially constructed. Like gender, race is a convenient categorization based on physical and biological differences between groups of people. Similarly, class is socially constructed; it hails from the distribution of wealth based on a constructed economic system. Class is used in this essay to refer to wealth-based societal positioning and related phenomena.

---

\* The author is the 1994-95 Thurgood Marshall Civil Rights Fellow at the Lawyers Committee for Civil Rights of the San Francisco Bay Area. She received a B.A. in 1990 from The City College of New York (City University of New York) and a J.D. in 1994 from the Northeastern School of Law. The author would like to thank third-year Hastings student Robin Haaland, who invited her to write down and submit her thoughts on the O.J. Simpson trial to Hastings Women's Law Journal. The author dedicates this essay to all women and gay men who survive misogynist violence.

The media, trial pundits, and the general observing public have identified race as the major issue in the O.J. Simpson trial. Many observers have focused on the question of whether racist America will give O.J. Simpson, a Black man, a fair trial for the murder of two White people. More accurately, the focus of observers should be on whether misogynist America will punish a man for murdering his former wife. This essay will examine why gender should lead the analysis of the O.J. Simpson trial, why class is the major co-star, and why race should be considered only a supporting actor.

### I. Gender and Misogynist Violence

Gender should be the controlling factor in the analysis of the Simpson case, because, regardless of who actually carved the life out of Nicole, she was a casualty of misogynist violence. Seventeen of her 35 years were spent with a man who pummeled, belittled, and mistreated her to the point where she became vulnerable to the sort of violent and abrupt demise that she experienced. Due to the battering and related violence that Nicole experienced prior to her death, and because of the brutal way in which she was murdered, race must be removed from its most-favored-issue status and misogyny and patriarchy must be placed at the helm of the analysis, where they rightfully belong.

Nicole's death took place in the context of what is commonly called "domestic violence." The term "domestic violence" originally served as a way to indicate the locale of the violence, *i.e.*, in the home or related to the home. Historically, however, the term has been used to privatize a form of violence that is perpetrated—overwhelmingly by men—against women, thus placing it outside the reach of the law.

I shun the use of the term "domestic violence," because it is an oxymoron, a misnomer, and is dangerously euphemistic. It is an oxymoron because the word "domestic" suggests sanctity, peace, and safety. It suggests a happy chorus singing in your ear, "be it eever so huuumble, there's nooo place like hooome." Conversely, *Webster's Dictionary* defines "violence" as an "exertion of physical force so as to injure or abuse." "Violence" refers to a *lack* of safety or sanctity. The words "domestic" and "violence" are incongruous.

The term "domestic violence" is also problematic because it easily lends itself to other, more euphemistic terms that trivialize the "violence" portion of the phenomenon. For example, I have heard physically and emotionally abusive relationships referred to as relationships suffering from "domestic discord."<sup>1</sup> I have heard the term "a domestic incident" used

---

1. For instance, Johnnie Cochran used the phrase "domestic discord" throughout the course of the trial so as to avoid the use of the word "violence" in relationship to O.J.

to refer to a particular beating. These expressions remove "violence" from the phenomenon entirely.

"Domestic violence" is a dangerous misnomer because this form of violence is inflicted everywhere and anywhere, including outside of the home. We know that the home is only *one* of the many locales in which it occurs; so-called domestic violence can include abuse that extends far beyond a one-on-one confrontation in one's abode with the curtains pulled. This violence includes acts of public disrespect, verbal and emotional abuse, the breaking of promises, the trivializing of abusive behavior, the violation of trust, harassment, stalking, the social and emotional isolation of the victim, and the assertion of economic control over the victim. This trial has revealed that Nicole was physically attacked in the presence of relatives and non-relatives and was audibly belittled in public.

I submit that we cease to refer to partner abuse or abuse that stems from an intimate relationship as "domestic violence" and recognize it instead as a lethal form of misogynist violence. In order to analyze and combat this kind of abuse, it must be conceptualized in the context of the misogynist violence that women experience every day in many forms: the male gaze, sexually suggestive comments, unsolicited touches from absolute strangers, and outright physical and verbal threats.

If trends continue, women are looking into a future that is as bleak as their past. The statistics are startling: a woman is physically abused every nine seconds;<sup>2</sup> almost four million women are beaten by their male partners every year;<sup>3</sup> misogynist violence that stems from an intimate relationship is the leading cause of injury to women between the ages of 15 and 44, injuring more women than car accidents, muggings, and rapes combined;<sup>4</sup> each month 50,000 women seek restraining or protective orders;<sup>5</sup> and women who leave their batterers are at a 75% greater risk of being killed by their batterers than those who stay.<sup>6</sup> These statistics make it very easy and natural for me to believe that O.J. Simpson murdered Nicole.

Gender is the lens through which the O.J. Simpson trial should be viewed because of the beatings that O.J. inflicted on Nicole throughout their relationship and because of the tyrannical control he attempted to assert over her life after their divorce. Of additional importance is the fact

---

Simpson. See, e.g., Margery Eagan, *Key Defense Witness Fends Off Criticism*, BOSTON HERALD, Feb. 4, 1995, News sec. at 6.

2. NEW YORK: THE COMMONWEALTH FUND, *FIRST COMPREHENSIVE NATIONAL HEALTH SURVEY OF AMERICAN WOMEN* (1993).

3. *Id.*

4. BATTERED WOMEN FIGHTING BACK!, INC., *DOMESTIC VIOLENCE: THE FACTS 4* (1994).

5. *Ms.*, September/October 1994, at 46.

6. BATTERED WOMEN FIGHTING BACK!, INC., *supra* note 4.

that the law allowed O.J. to enjoy male-based privileges regarding his relationship to Nicole for years before the murders.

Consider, for example, O.J.'s sentence for the 1989 New Year's Day beating he inflicted on Nicole. He eventually pleaded no contest to a charge of misdemeanor spousal battery but was not even required to appear at his own sentencing. O.J. was sentenced to two years probation, was required to undergo mandatory psychological counseling, was required to perform 120 hours of community service, was forced to make a five hundred dollar donation to a battered women's organization, and was further fined two hundred dollars.<sup>7</sup>

To the disbelief of most people, O.J.'s sentence for the 1989 beating is *typical* for male batterers. He received the common (yet special) treatment that all male batterers receive as a benefit of being a man in a male-dominated criminal justice system that does not deem the beating of women by men to be especially serious. This male privilege allowed O.J. to be treated leniently in a case where, had Nicole been anyone other than a family member and a woman, he would have likely been jailed for battery. Instead, O.J. beat Nicole in 1989 with virtual impunity.

Nicole Brown Simpson's death should remind us that misogynist violence is pervasive and is long overdue for its day in both the legal courtroom and in the court of public opinion. Most survivors and victims of abuse will never have their batterer's trial broadcast on CNN, but even if they did, as in the case of Nicole Brown Simpson, the public would still be told by the male-dominated legal system, media, and popular culture that gender should take a back seat to race. As a consequence, battered women will continue to suffer in fear, shame, and silence. Feminists and progressive men must teach their regressive counterparts that women are not property and that we are equal to men in all respects.

## II. Privileges of Class: Wealth, Fame, and Beauty

The money factor is the current upon which O.J.'s Black maleness rides. He may be Black, a least-favored-status in this nation, but he is also rich, famous and male, *three* most-favored-statuses from which he benefits greatly. Typically, Black men are afforded worse treatment by the criminal justice system, and other social systems, than any other group. For example, Black men are convicted of drug offenses at a much higher rate than is proportionate to the number of Black men arrested for such

---

7. Bill Brubaker, *Violence in Football Extends Off Field*, WASHINGTON POST, Nov. 13, 1994, at A1.

crimes.<sup>8</sup> O.J., despite being a Black male, was insulated from this unfair treatment by his class privilege.

The authorities treated O.J. very gently and respectfully after the bodies of Ronald Goldman and Nicole Brown Simpson were found. It is because he is a rich and famous man that O.J. was given the option to turn himself in instead of having the police collect him at his home as they would any other suspect. It was this option that allowed him to escape and lead the police on the famed Ford Bronco slow-speed freeway "chase," or, more accurately, a stately escort through southern California.

Once he was caught, or cooed into surrendering, O.J.'s wealth and fame ensured that he was not charged with resisting arrest. Most importantly, his wealth allowed him to purchase the best legal defense that money could buy: the "Dream Team." Certainly, O.J.'s wealth and celebrity status have brought him significantly more favorable treatment than that afforded most people.

O.J. is also privileged because he is an athlete whose physical prowess and charm have made him famous. O.J. is often referred to in the press as a "hero," and Americans seem to assume that a certain athleticism and material success lend themselves to upstanding moral character. They are willing to give O.J. the benefit of the doubt not just because the law requires us to presume his innocence until proven guilty, but because Americans do not want to believe that this athletic, crossover marketing device known as O.J. Simpson could possibly take the life of someone he had been pounding on for over a decade and a half.

O.J. also benefits from his handsome face. It is common knowledge both that physically attractive defendants receive more lenient sentences than unattractive defendants, and that a defendant must be despised by the public for a death penalty sentence to come to the fore. The prosecution is not pursuing the death penalty for O.J., even though that sentence is available for a charge of double murder. Not only is the American public star-struck, but O.J.'s celebrity status and attractiveness seem to have affected the Los Angeles prosecutors' choices as well.

O.J. has repeatedly benefited from the fact that he is a wealthy, famous, and handsome man. The effect of the fact that he is a member of a despised racial minority group has been negligible. There is no denying that O.J. has successfully surpassed his "niggerdom."

O.J. grew from a life of poverty and disadvantage to become rich and famous. He is living proof of America's mythological dream. American society is not yet willing to incarcerate its rags-to-riches symbols of American mythology, even symbols accused of killing two White people.

---

8. Louis Freedberg, *New Jump in Rate of Incarceration for Black Males*, SAN FRANCISCO CHRONICLE, Oct. 5, 1995, at A1.

### III. Race and Nationalism

While I have been writing this essay, White supremacy has legitimately become an increasingly important player in O.J. Simpson's trial. Racism permeates every aspect of American life and this trial is no different. The pervasiveness of racism, however, does not give us license to ignore or deny the equally life-steering roles of gender and class. As usual, though, America's obsession with race, particularly with Black and White relations, has allowed far too much of the analysis of the O.J. Simpson trial to be race-based, even *before* the discovery of the tapes in which now-retired Los Angeles Police Department Detective Mark Fuhrman refers to Black people as "niggers" more than sixty times.

I agree that White folk, as a class, have not proven themselves worthy of the trust of African people. This case alone has revealed institutional racism in the form of Fuhrman. The entire Los Angeles Police Department ("LAPD") is implicated by Fuhrman's hatefulness because, as an institution, it has created a climate where Fuhrman could repeatedly plant evidence, beat suspects, and harass citizens without consequence to his career. Indeed, it is easy to believe both that if Fuhrman did not plant evidence, then he probably exaggerated it, and that if the LAPD did not conspire to frame Simpson, then they at least polluted the evidence, making it more difficult for outsiders to discover the truth.

Nevertheless, I've grown weary of hearing the charges that O.J. Simpson is being targeted because he's Black, and that his alleged persecution is yet another in the line of recent racist attacks on famous Black males, such as Mike Tyson, Michael Jackson, Clarence Thomas, and Ben Chavis. It is no surprise to hear such defenses of O.J. from Black men. They obviously feel the need to protect fellow men, who are Black like themselves, regardless of what they do or are accused of doing. In the context of an almost 500 year struggle for racial freedom, justice, and equality in America, it is no surprise to hear Black women also blindly defend Black men accused of heinous misogynist violence. Despite this context, this defense is no less painful to my ears. In blindly defending these Black men and demanding justice for race-based abuses only, and not for gender-based abuses, we are participating in the belittling of our own worth and safety.

Nonanalytical, allegiance based arguments are commonly known as nationalist arguments. Nationalists refuse to entertain even the *possibility* that the above-named brothers may have indeed committed the evil of which they are accused, because the "nation" must appear unified, and we must "protect" each other no matter how costly. Besides, the argument goes, White people cannot be trusted.

With the recent exposure of Fuhrman as a racist liar, White supremacy has, for the first time, become a legitimate focus of the Simpson trial. Consequently, Black nationalist arguments are gaining more and more credence. But the truth is that nationalists do not need Fuhrman-esque characters in order to believe that a Black suspect should go free; the accused's Blackness and the system's Whiteness, within the context of racist America, are enough.

I must admit that I somewhat identify with this sentiment. There is a part of me that feels that the White community could spare one White woman as payback for all the bodies, minds, and souls that Black folk continue to lose to racism every day in this hateful society. This part of me feels that O.J. should not go to prison, even if he is guilty. Given the long history of White supremacy in this country and the fact that Black males are disproportionately incarcerated, an understandably vengeful sentiment periodically emerges in everyday African people like me. Despite this feeling, I usually return to my sense of fairness. I return to my desire to see women's lives valued as much as those of men, a desire afforded little room for expression within a nationalist politic.

Nationalism seeks to put the race or "nation" above individual preservation and sound reasoning. White people have perfected this into what is modernly known as White supremacy, or racism. The thought of O.J.'s guilt is not entertained by most Africans because he is a fellow member of the Black "nation." Nationalist arguments are narrow and unproductive for Black folk and anyone else who employs them. They do not exalt the Black nation, but exalt a very small group within that nation, mainly heterosexually-perceived middle-class males. In other words, nationalism, as it now exists in Black communities, exalts a Black version of the patriarchal capitalist structure under which the rest of America presently lives.

Nationalist dispositions are especially harmful to Black women. They create a space in which Black men can be abusive and controlling of Black women and children without their authority ever being questioned; this is pure patriarchy. Consider the fact that, save for Michael Jackson, each of the above-mentioned African men was accused of a violent physical or psychological assault of a woman in the form of either sexual harassment or rape. Consider even further that all three of these famous cases involved *Black* women. Would assaults by Black men in a world run by Black men somehow be less painful? The readers of this essay who are survivors of incest, rape, or partner abuse know the answer.

Patriarchy and misogyny continue to exist in all segments of American society, as evidenced by the fact that misogynist violence is found in all races, occupations, income levels, and ages. A nationalist disposition that does not question the underlying patriarchal assumption of the Black male

members of our "nation" is particularly destructive for African women, but also undermines the *entire* Black nation. Consequently, this trial is not only about seeking justice for one White woman but is also about ensuring justice for Black folk who are not male, not heterosexually-perceived and not middle class, *i.e.*, for most of us.

Black women, specifically, must begin to *first* assess our lives through a gender analysis, and *then* to assess it through a race analysis. We need not worry that the race analysis will be neglected or forgotten. Popular culture, both Black and White, will continue to insist that race dominate all public discourse on difference at the expense of delegitimizing all other, equally important, identity-based social ills. With a gender analysis in the lead, race will dominate only where it should legitimately do so, and not just because America is entertained by it.

We Black women must seriously examine our desire to live as whole human beings. We will not survive if we continue to place one element of our essence, namely race, far above our desire to fight for our dignity as women, especially within the African community. If both elements do not thrive, neither will we.

### Conclusion

Though class and race are important in this saga, I want to stress that it was a misogynist and indifferent culture that allowed O.J. to batter Nicole for half of her life. It allowed O.J. to remain popular, unscathed, and continually employed by two multinational corporations despite the initially well-publicized 1989 beating of Nicole and other reported incidents of his misogynist violence. It permitted employers, family, friends, and neighbors to continually disregard opportunities to intervene. This culture condones the male denial of a woman's right to physical, spiritual, and economic safety. It is not only O.J. who is on trial, but the values of this sick nation.

### The Verdict<sup>9</sup>

On October 3rd, 1995, Orenthal James Simpson received a verdict of not guilty. As previously stated, I believe that O.J. is guilty and should be punished accordingly. The prosecution was required, however, to prove that O.J. committed the murders "beyond a reasonable doubt." The defense did an excellent job of raising doubt by calling into question Fuhrman and the evidence he came in contact with, the police and medical examiner procedures, and the time period that was allegedly available for O.J. to commit the murders. In short, the prosecution did not prove its

---

9. This final section was drafted after the verdict was handed down.

case beyond a reasonable doubt, and O.J. obtained his "not guilty" verdict fairly, *i.e.*, pursuant to the rules. Whether or not justice has been served, however, is questionable, even doubtful.

Race legitimately belonged in an analysis of the trial because of Fuhrman, but race was allowed to dominate the trial analysis *before* the appearance of Fuhrman because this culture does not take misogynist violence seriously. Our society uses race as a smoke-screen to derail legitimate analysis based on gender and class. This smoke-screen made it easy for a contempt for White supremacy to aid misogyny in acquitting O.J. Simpson of the murders of his ex-wife and her friend.

