

1991

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Beverly I. Moran

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Recommended Citation

Beverly I. Moran, *Quantum Leap: A Black Woman Uses Legal Education to Obtain Her Honorary White Pass*, 6 *Berkeley Women's Law Journal*. 118 (1991)

Available at: <https://scholarship.law.vanderbilt.edu/faculty-publications/729>

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Quantum Leap:

A Black Woman Uses Legal Education to Obtain Her Honorary White Pass

Beverly I. Moran†

This symposium is dedicated to the reflections of black women law professors on their lives.¹ The dedication alone raises an issue—what unique thing do the handful of people who fall into this category have to offer that others do not? What possible purpose is served by devoting these pages to our reflections?

As those who turn to these pages know, the question has sparked much controversy and a wide range of answers. Some would say that there is nothing unique in the black female voice, whether law professor or not. Others argue that the condition of being black, female and a teacher of law will create varied perspectives rather than a single monolith. Of course, there is always the “role model” view of any minority who has “made it” in America. In that view, the “disadvantaged” need the hope provided by seeing “one of their own” end up outside the gutter and the “advantaged” need some proof that their arrogance is (at least slightly) unfounded. Perhaps what we read in these pages is simply a celebration of American diversity. Each reader will answer the question for him- or herself.

The answer I give in this piece is that, as a black female law professor, my life has bridged an important gap in our society; and that, perhaps, the lessons I have learned will help a bit in relieving some of the tensions felt in law schools and in American society as a whole. My life has bridged the gap between the HAVES and the HAVE NOTS. As Americans, we don't like to acknowledge this gap from a personal vantage point; but, I am just old enough to remember the phrase “the personal is the political” and to take that battle cry to heart. So welcome to the story of how I obtained my honorary white pass.

† Professor of Law, University of Cincinnati College of Law.

¹ I use the lower case “b” in the word “black” because I am referring to a race of people, rather than an ethnic group consisting solely of Black Americans. Perhaps I am assuming too much, but I believe that all blacks in America—whether from Africa, Asia, Europe, North or South America—experience the same prejudice that I describe in this piece.

I was born into the world a **HAVE NOT**: black, female, poor, and sick. Given this initial luck, is it any wonder that I also managed to have been born of an immigrant (for whom English was decidedly a second language), and to have been raised as a member of both a hated religious and political minority? As with everyone else, I was also born a child. Needless to say, I spent much of my life in a smoldering rage.

The rage I lived with must be acknowledged in order for this story to progress. It is the rage of being locked out of a store . . . of never getting a cab . . . of the F.B.I. showing up at my grandmother's wake intent on interrogating my father . . . of hearing a senator announce that "these people" don't know how good they have it, given that there are more refrigerators in Negro homes in Alabama than in all of Africa combined . . . of being directed to community colleges by my high school advisor and learning from the dean of freshmen that I really never should have been admitted. In short, it is the rage of always being assumed stupid, incompetent, ugly, or, at best, a problem that people much better than I would have to solve.

One component of the rage that was my constant companion for so many years was the sincere and deeply held conviction that the people who did these things to me knew exactly what they were doing and how their actions affected me. After all, there was no doubt that those who oppressed me benefitted financially and psychologically from their deeds. Why should I believe that acts that provided such benefits were done thoughtlessly? How could such a sophisticated structure of limitations on my person result without conscious effort? Then came the moment that I was anointed a law professor.

Having risen to a position achieved by no more than a handful of those in my sociological state, I was suddenly confronted with something I had never experienced during the first thirty years of my life. I was confronted with respect. How can I convey to you the shocked fog I lived in those first few months? White students of the type who had been repulsed by me in law school (their own status threatened by the presence of blacks in their classes) now curried my favor. Secretaries who had once made me wait at the photocopying machine for hours now let me know I was too important to make a single copy myself. Restaurateurs wanted my business so badly that they shouted "Professor" as I came through the door (the better for the patrons to hear). Partners in law firms who made more in a year than my parents had made in their entire lifetimes sought me out at cocktail parties. Without warning I had received my honorary white pass.

At first, I was forever conscious of the irony of my situation. Each time I got special treatment I secretly laughed, knowing that it would all disappear the moment I lost my privileged position. Sometimes, I would deliberately hide my new-found status to test my theory and, of course,

things immediately went back to "normal." That is, I got treated as badly as I always had before. Now, however, the rage dissipated because I knew that a simple word, the handing over of a business card, or some other action, would restore me to my glory. I was the fairy tale prince spending the evening as a pauper but always able to return once again to the palace. But, as in all fairy tales, years passed.

In time, I no longer questioned the privileges I received. Instead, I took them as my due, as a right conferred on me by heaven in acknowledgement of my natural superiority. Finally, I stopped noticing my privilege at all except in the (rare) case when someone failed to acknowledge it. Then, I would experience a sort of undifferentiated anger which never acknowledged that the thing I expected was not something that was mine by right. My pass became so much a part of my existence that I forgot the days I lived before it came into my life.

Why write about all this now? After all, with luck, I will never have to look back to those harsher days. In some sense I have received my own personal emancipation. What point is there in looking back? I hope that this story provides some small insight for both HAVES and HAVE NOTS into the caste system we are all trapped in and which I (for one) would like to break.

My honorary white pass showed me something about the gap between HAVES and HAVE NOTS. Unlike the typical HAVES of this world, I know why HAVE NOTS believe that their status is maintained through conscious and well-thought-out malice. Unlike most HAVE NOTS, I see that (sometimes) superior status is so much a part of each HAVE'S existence that HAVES cannot understand the HAVE NOTS' rage. I know how hard it is to question why I receive better treatment than a student or a janitor because I am a professor. I know, with each passing year, how difficult it is even to formulate the question, much less think it through. I also know that I have to question that better treatment if the caste system is to end. Every HAVE in every walk of life must acknowledge his or her privilege and know that it is based on sand before things will ever change. The self-satisfaction that comes from high caste status is a drug that is hard to kick, but I hope each HAVE will know the reward.

I also know that HAVE NOTS must understand that much of our oppression is the result of unconscious forces. We need to know this for a number of reasons. First, it is simply too debilitating to carry so much rage. It is no accident that blacks, women, Native Americans, and other oppressed groups suffer earlier deaths from stress-related diseases.

Next, we cannot fight an unconscious problem by insisting that it is conscious. This is not to say that most racism or sexism is unconscious. Clearly, a large portion of our oppression comes from conscious attempts to support the caste system. On the other hand, I am now convinced

that at least a portion of the caste system is maintained by well-meaning people who believe that they are better and more deserving than the HAVE NOTS, without ever acknowledging these emotions or considering where they come from. We must develop strategies for opening up the experience of oppression to those most protected from it. Without these strategies, we will always tilt at windmills and grow frustrated and enraged.

Finally, we must understand how much we as HAVE NOTS bow to unconscious beliefs in our unworthiness even when we have a bit of the status so long denied us. Because this is a reflection piece, I hope the reader will indulge me as I tell one more story to illustrate this point.

I was recently asked to give a series of presentations of works in progress to a number of law faculties. I had two pieces ready for presentation and I wanted to know which I should use. The one that I initially favored was tentatively entitled "What if Blacks Wrote the Internal Revenue Code?" I liked this piece because I thought it asked some hard questions about the way that legislation is written to fit a model of life as much like the draftsmen's as possible. I also thought that the piece was creative and thought-provoking. The second piece was on restrictions on the ability to deduct a loss for tax purposes. I also liked this piece but I thought it was too specialized for the audiences who would hear it. After all, does a contracts person or a torts person really care about the restrictions on loss deductions? There are days when I don't actually care about this issue myself. Every black person I asked for advice on this issue told me the same thing. I should avoid the piece on race and stick to the loss deduction piece lest I appear frivolous. I admire the people who told me this because their honesty and insight saved me from embarrassment. However, I hope that one day, perhaps even in my lifetime, the HAVE NOTS of this world will not have to spend our time anticipating the objections that HAVES may raise to our perspectives on the world. Maybe then, no one will need an honorary white pass, even one that only works some of the time.