



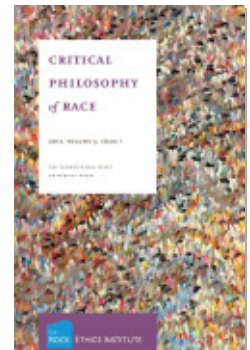
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“Intersecting Contracts”

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**BLACK FEMINIST
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CHARLES MILLS'S
"INTERSECTING
CONTRACTS"**

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Abstract

This critical commentary is presented in two parts. The first section, "Intersecting Contracts: Conceptual Interventions and Aims," provides an overview of Mills's analysis of the racia-sexual contract and the divergent positions of white men (full contractors and persons), white women (subcontractors with real, though inferior power), nonwhite men (subcontractors, though not on equal standing with white women because "race trumps gender"), and nonwhite women (nonpersons and noncontractors at the bottom of the structure and dominated by all three of the aforementioned groups). The second section, "Privilege and Patriarchy: Does 'Race Generally Trump Gender'?", shows how Mills offers an uneven representation of critiques presented by women of color theorists. For example, he focuses on the critiques of white women (and white feminism), emphasizing the asymmetry between white women and nonwhite men as well as the tensions between white women and nonwhite women. This article also problematizes Mills's claim that "race generally trumps gender" and argues for a more nuanced analysis of nonwhite men's participation in patriarchy and privilege.

Keywords: Black feminism, racia-sexual contract, Mills, Gines

Introduction

As we approach the ten-year anniversary of the publication of *Contract and Domination* (2007) coauthored by Charles Mills and Carole Pateman, I am writing a critical commentary of Mills's chapter "Intersecting Contracts" focusing especially on Mills's account of the "racia-sexual contract" (RSC). Mills notes (and I agree) that it is not enough to theorize a racial contract or a sexual contract in isolation from one another, but we also have to consider the implications of a RSC for white men, white women, nonwhite men, and nonwhite women. This critical commentary is presented in two parts. In the first section, "Intersecting Contracts: Conceptual Interventions and Aims," I provide an overview of Mills's analysis of the RSC and the divergent positions of *white men* (full contractors and persons), *white women* (subcontractors with real, though inferior power), *nonwhite men* (subcontractors, though not on equal standing with white women because "race trumps gender"), and *nonwhite women* (nonpersons and noncontractors at the bottom of the structure and dominated by all three of the aforementioned groups). In the second section, "Privilege and Patriarchy: Does 'Race Generally Trump Gender'?" I show how Mills offers an uneven representation of critiques presented by women of color theorists. For example, he focuses on the critiques of white women (and white feminism), emphasizing the asymmetry between white women and nonwhite men as well as the tensions between white women and nonwhite women. I problematize Mills's claim that "race generally trumps gender" and argue for a more nuanced analysis of nonwhite men's participation in patriarchy and privilege.

Intersecting Contracts: Conceptual Interventions and Aims

In "Intersecting Contracts" Mills asserts, "There is, in fact, an almost complete disconnection between two huge bodies of literature, the writings on race/class/gender intersectionality in feminism, sociology, history, legal theory and so forth on the one hand, and the writings on social justice in philosophy on the other" (166). He reiterates in a footnote that

there is next to no literature in contract theory to take up issues raised by intersectionality, explaining, “What I am trying to do is translate the insights of the intersectionality literature into a contract discourse” (174n5). The racial contract and the sexual contract have been perceived as parallel non-intersecting universes and he is providing a conceptual intervention. More specifically, Mills seeks to offer a theoretical space in philosophy (especially contract theory as well as Rawlsian ethical and political philosophy) not only for women of color interested in the field, but also for other ethicists seeking to make their prescriptions truly general (167). He reiterates these objectives later in the chapter as an attempt to create “a conceptual space in social and political philosophy to address nonwhite women’s distinctive concerns, thereby helping to make it somewhat more welcoming terrain than it currently is” (168).

Throughout the chapter Mills is clear that he is borrowing from and building on the insights of women of color theorists and activists. He explains, “In proposing the RSC as a superior modeling of the world, I am trying to build on the insights of women of color in the past few decades, attempting to break down this whitewashing and masculinating of reality, facing the truths obfuscated and ignored in the idealized orthodox contract” (199).¹ Rather than assuming or pretending that he is not indebted to the groundwork laid by women of color scholars and activists, Mills readily acknowledges that women of color have long engaged questions about intersecting identities and interlocking systems of oppression. He notes that nonwhite women have been the intellectual pioneers of this intersectional perspective and he values this perspective in part because of their epistemic insights. For Mills, nonwhite women face “the greatest epistemic barriers to their credibility” and have the greatest cognitive clarity. Being in this epistemic position means that they “generally will be more likely to be conscious of both aspects of the racia-sexual contract since they are subordinated by both” (191, 197).

Mills recognizes that the concept of racial patriarchy has been established and engaged by many feminists of color (largely outside of academic philosophy) for some time and he explicitly names racial patriarchy as part of the system or basic structure that he is addressing. He is clear that “once racial patriarchy has been established (and this is a particular historical development, not a transhistorical formation), the interlocking nature of the systems means that one cannot speak of ‘contracts’ [racial and sexual] in isolation, since they rewrite each other” (172).

Mills explains, “If the sexual contract establishes patriarchy, and the racial contract establishes white supremacy, the racia-sexual contract establishes the white supremacist patriarchal polity” (173). The racial contract and the sexual contract separately give partial insights, but each side extinguishes the other—“For each insight had its blind side a complementary darkness about the full dimensions of the contract as it affected those at the bottom . . .” (198).

It is in this context that Mills presents the RSC as a conceptual intervention. Expanding the limited scope of separate racial and sexual contracts, the RSC provides “a more accurate picture, both morally and juridically, of the functioning of racial patriarchy and its distinctively variegated subject positions” (199). According to Mills, the RSC explicitly recognizes how race and gender position people differently, in complex asymmetrical relations, instead of pretending that they are featureless atomic individuals in egalitarian contractual relations with one another (176). Rather than narrowing social justice to the concerns of white men, the RSC makes status hierarchy explicit in its very apparatus, thereby preempting the theoretical evasion of these issues (176). Put another way, the RSC confronts race and gender evasive liberalism by acknowledging the difference that race and gender make rather than pretending that they make no difference (177). Furthermore, the RSC overcomes dichotomization by noting how race and gender are intertwined (raced gender and gendered race) and by formally recognizing the more complex reality of women of color (178). Mills also asserts that the RSC registers interlocking oppressions and the multiplicity of identity, recognizing that nonwhite women have a distinct location (193).²

Having given a short overview of what Mills sees the RSC contributing to egalitarian liberalism (beyond what separate race and sexual contracts offer), I will now take up his analysis of the contractual status positions of those situated within the RSC. For Mills, combining the race contract and sexual contract does *not* produce symmetry between race and gender, but rather reveals a pattern of internal asymmetries (172). He provides interesting figures and charts designed to show this asymmetry in which *white men* are full contractors and persons; *white women* are subcontractors with real, though inferior power; *nonwhite men* are subcontractors, though not on equal standing with white women; and *nonwhite women* are nonpersons and noncontractors at the bottom of the structure and dominated by all three of the aforementioned groups.

When going into more detail about how each of these groups function in relationship to one another, Mills is especially interested in the asymmetry between white women (who can dominate both nonwhite women and nonwhite men) and nonwhite men (who are participants in the sexual dimension of the RSC). He asserts, “Thus if white women and nonwhite men are both—in the terminology I have suggested—subpersons, they are not subpersons of the same type and moral/civic standing, since the racial-sexual connection with the full personhood of the white male underwrites white women’s status in a virtual way that has no equivalent for nonwhite men” (185). Mills highlights the ways that white women have contested the sexual contract while maintaining the racial contract (184). But when examining the position of nonwhite men in the RSC, Mills stops short of describing nonwhite men as dominating nonwhite women (175). Rather, he emphasizes white women’s privilege (over nonwhite men and nonwhite women) and reiterates his point that nonwhite men and white women are not in an equivalent position (185). In this way he *underscores* the interplay of oppression and privilege for white women (183), while *understating* the interplay of oppression and privilege for nonwhite men.

Privilege and Patriarchy: Does “Race Generally Trump Gender”?

Contrasting white women with nonwhite women, Mills again underscores the racial privilege of white women before pointing to nonwhite women’s ability to identify the problem as white people (white men and white women), rather than men in general. He draws from eighteenth- and nineteenth-century women of color feminism for critiques of concepts that have been central to white feminism—e.g., conceptions of the family, separation of public and private spheres, and patriarchy as the overarching theoretical concept (181). He spends considerable time laying out the tensions between white women and nonwhite women related to issues of racial privilege and conceptions of patriarchy, explaining that the problem is not men as such, but men of a particular race. The “men” causing female subordination for white women are white men insofar as “nonwhite males are originally in no position to play the kind of public patriarchal role . . . attributed simply to ‘males’ in much of white feminist theory” (186).

According to Mills, gender subordination predates racial subordination, but he insists, “once racial subordination has been established, it

generally trumps gender” (172). He reiterates the claim that “race generally trumps gender” at least three other times:

As I claimed at the start, then, *race generally trumped gender*. (184)

Because *race generally trumps gender* in racial patriarchy, white women are originally positioned as superior, not merely to nonwhite women but also to nonwhite men, though admittedly in a later more liberal period of the formulation, this might change. (185)

Understandably, then, nonwhite men have generally been seen by nonwhite women more as fellow oppressed than oppressors. The prime movers and shakers of the social order are not men as such but men of a particular race. And since *race has generally trumped gender*, as illustrated above, the dominant political tendency within nonwhite communities of all kinds has been the affirmation of racial solidarity over against the white oppressor (both male and female).” (187)

It is the white problem (i.e., the white man and white woman problem) that explains this dominant political tendency. Mills explains, “The overarching racial domination by whites invests the nonwhite male-female relationship with a dimension of joint transgender solidarity against oppression that will necessarily be absent in the gender relations of the privileged race” (187).

Let us return to the question of patriarchy and the nonwhite male-female relationship as I think it requires more nuance. Mills takes the position that nonwhite men have not had a public patriarchal role, citing the various ways in which scholars like Paula Giddings, Hazel Carby, Kate Millet, Elisabeth Spelman, and Pauline Schloesser have explained that Black men have not held the same patriarchal power as white men.³ He has in mind Paul Giddings’s claims that in the context of slavery, Black women have authority in domestic domain, but Black men have no authority in traditional male spheres of influence (186); Hazel Carby’s claim that Black men have not held the same patriarchal positions of power as white males (186); and Pauline Schloesser’s claim that slavery disrupted patriarchal power of husbands over wives, which suggests the primacy of the racial contract over the sexual contract (187). But there are other questions to consider. For example, what impact do these conditions under slavery

have on relations between Black men and women in that context (not to mention contemporary nonwhite male-female relationships)?

Mills's point of emphasis is on Black men's access (or lack of access) to the patriarchal power of white men. He also considers the patriarchal rule of white women. But even if one grants that nonwhite men have not had a public patriarchal role—especially with regard to *white* women—this leaves unaddressed nonwhite men's patriarchal relationship to *nonwhite* women. He observes that "Usually the nonwhite family will be a refuge from the oppression of white supremacy, *even if patriarchal relations obtain there*" (188, my emphasis). Here Mills acknowledges that there are (potentially) patriarchal relations within the nonwhite family. But he downplays these patriarchal relations in comparison to the patriarchy of white men and white women when states, "It is a mistake, then, to see the family as the main source, transracially, of gender oppression, since for nonwhite women it may also be the place where opposition to the 'patriarchal' rule of the global White Father and Mother is nurtured" (188). What are the implications of the observation that nonwhite women are expected to find refuge from white supremacy in a nonwhite family in which patriarchal relations obtain? At what cost have nonwhite women at times prioritized race over gender?

There is something missing from the account of the RSC offered up to this point. I appreciate Mills's attention to white men's and white women's patriarchy and racial privilege, but what about nonwhite male patriarchy and privilege? Mills speaks to the appeal of being a subcontractor over a noncontractor. He states, "For both intermediate groups, white women and nonwhite men, the racia-sexual contract offers the option, which will be both ideologically dominant and politically most appealing, of a partitioned struggle against one aspect of the contract that meanwhile maintains the other. Subcontracting will always seem more attractive than fighting for the tearing up of the contract altogether" (188). Mills also acknowledges nonwhite male privilege. He explains, "The racialization of all gender relations—not merely interracial gender relations—means that nonwhite men will benefit from, and be cognitively influenced by, the status positioning of nonwhite at the bottom of the diamond" (188). To this he adds, "So if most white feminists sought gender equality within white racial superiority, most nonwhite male anti-racists sought the restoration of traditional male privilege unqualified by race" (188).

So Mills has not overlooked Michelle Wallace's dismay upon realizing that many of the speeches she heard commencing with "the black man" did not in fact include her as a Black woman. Mills is not ignoring the fact that nonwhite men have sought to clear a space for themselves at the top of the RSC, or that the goal for nonwhite men "is the replacement of the racial patriarchy by transracial patriarchy, of the white-imposed racia-sexual contract by the raceless sexual contract" (189). It is at this point that Mills explicitly names a problem that arises when "race generally trumps gender", namely,

The trumping of gender by race in the structure of privilege can then be exploited by nonwhite men to demand of women of color a transgender solidarity against white racist oppression that denies nonwhite men's subcontractual role in the racia-sexual contract, and represents any alliance with white feminists as a kind of treachery (189–90).

Citing Elaine Brown, Barbara Smith, Jill Nelson, and Gloria Anzaldúa, Mills reinforces this point and adds that

nonwhite men who resist the struggles for equality of nonwhite women are in effect subcontractually complicit with the role of white racism in confining them to the bottom of the social structure. . . . In the racia-sexual contract, *nonwhite men get to be white supremacists too*, at least with respect to nonwhite women (190–91).

Yes, but to this I would add, *nonwhite men can be patriarchal, too*. The issue is not only being complicit with the role of white racism in oppressing nonwhite women, it is also the aforementioned issue of patriarchal relations between nonwhite men and women. This speaks to the limits of white feminism and male antiracism.

Conclusion

At the outset of "Intersecting Contracts" Mills acknowledges that feminists of color have been and continue to insist "that neither white feminism nor nonwhite male antiracism can speak adequately for them" (Mills, 165). He adds that "if the original challenge to a bogus universalism was "What do you mean *we*, white man?" the more recent variants have become "What

do you mean *we*, white woman?” and, more recently still, “What do you mean *we*, black man?” (Mills, 165). In the spirit of these kinds of questions, in examining his analysis of intersecting contracts and his formulation of the RSC, I would ask Mills, “What do you mean, *race trumps gender*?” Throughout the chapter Mills engages and cites prominent women of color theorists in thinking about how he formulates the RSC. I am struck by the fact that Mills can cite all of these women of color, their critiques of white women, their critiques of nonwhite men, and their articulations of intersectional oppressions and identities, and yet he can still insist that race generally trumps gender.

Toward the end of “Intersecting Contracts” Mills explicitly articulates a problem that arises when “race generally trumps gender”, namely: it places demand on nonwhite women by nonwhite men to prioritize racial oppression and deny inter-racial and intra-racial gender oppression. By insisting “race generally trumps gender” (even when patriarchal relations obtain) Mills bypasses one of the central insights of feminists of color and intersectionality—the necessity to push beyond a singular, additive, comparative, or competing analysis of intersecting identities and interlocking systems of oppression that assume race trumps gender (and/or that gender trumps race). It seems that in addition to white feminism and nonwhite male antiracism, a racia-sexual contract that insists that race generally trumps gender also cannot speak adequately for feminists of color.

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NOTES

1. Actually, I would say he is building on insights from women of color in the last 185 or so years—going back at least to Maria W. Stewart. See also Valerie C. Cooper, *Word, Like Fire: Maria W. Stewart, The Bible and the Rights of African Americans* (Charlottesville: University of Virginia Press, 2011). See also Kathryn T. Gines,

“Race Women, Race Men and Early Expressions of Proto-Intersectionality, 1830s–1930s,” in *Why Race and Gender Still Matter: An Intersectional Approach*, ed. Namita Goswami, Maeve M. O’Donovan, and Lisa Yount (Brookfield, VT: Pickering and Chatto Publishers, 2014), 13–25. and “Black Feminism and Intersectional Analyses: A Defense of Intersectionality” in *Philosophy Today* 55, SPEP Supplement (2011): 275–84.

2. I cannot fully endorse this claim. While the RSC does register race and sex and it does recognize the distinct location of nonwhite women, it does not register the other multiplicities named by Deborah King, Kimberle Crenshaw, and the statement of the Combahee River Collective (all cited by Mills).
3. It is also worth noting bell hooks’s claim in *Ain’t I a Woman: Black Women and Feminism* (Boston: South End Press, 1981) that even if Black men were stripped of their patriarchal status, they were not stripped of their masculinity and they were still able to rise to the position of slave driver or overseer (hooks, 21).

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