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# THE SOCIAL CONSTRUCTION OF A RAPE VICTIM: STORIES OF AFRICAN-AMERICAN MALES ABOUT THE RAPE OF DESIREE WASHINGTON

*Kevin Brown**

## I. INTRODUCTION

Becoming an individual in American society, or any other society, is not done in a vacuum. What passes as our individual consciousness is developed under the guidance of cultural patterns and historically created systems of meanings. We are not free agents bound only by our own understanding of what we perceive as reality. Rather, our consciousness is influenced and conditioned within the context of the systems of ideas and thought that we draw upon in order to process the complex information that we receive.[1] These cultural patterns and systems of meanings precede our interpretation of reality, and we often draw upon them to make sense out of the complex information we receive. While these systems allow us to understand our reality, they also limit our understanding as well.

One of the subthemes of this Conference is how the social construction of African-Americans, within the dominant American system of ideas (culture), influences and guides the interpretation of social phenomena involving Blacks. As an African-American male, however, I am not limited to the dominant system of ideas and thought in order to comprehend social phenomena interpreting issues involving African-Americans. I often draw upon many sets of historically created systems of meaning, including those that are dominant in the African-American community.[2]

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1. PETER BERGER & THOMAS LUCKMANN, THE SOCIAL CONSTRUCTION OF REALITY: A TREATISE IN THE SOCIOLOGY OF KNOWLEDGE 5 (1966).

2. Many have debated the issue of whether there is an African-American culture, and if there is, the precise boundaries of that culture. I do not wish to join that debate in this commentary. My life, however, has convinced me that there is an irreducible set of shared ideas and themes which individual African-Americans can—though not necessarily do—use to interpret a shared reality in this society. At the root of this culture is a conception of society composed of racial and ethnic groups in competition for scarce material and psychological resources.



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A tremendous gap in the understanding of social phenomena exists between African-Americans and Caucasians that is rooted in ideas that spring from our different cultures. Interracial political and philosophical disputes often are centered on clashes in our cultures, because these cultures lead to diverse and often irreconcilable interpretations of the same social phenomena.

Culture is much more than the artifacts or physical objects (such as clothing, food, music, and art) of a given community. Culture includes the patterned system of knowledge and conceptions that a given group has devolved from the past and progressively modifies to give meaning to and cope with the problems of its existence. Culture provides the general design that various groups use to interpret reality. Culture includes the attitudes, beliefs, and values of a given group providing a world view that incorporates both its own place and its relationship to other groups in the universal scheme of things. Culture is not merely a common set of previously catalogued answers to recurring phenomena; culture provides a master pattern from which future individual occurrences directly applicable to specific situations can be interpreted and understood. Individuals in a given community inherit the culture of the community. They learn this shared knowledge through a process of enculturation as they mature.

Cultural clashes between dominant American culture and African-American culture generally are centered in the fundamental premise of the vision of society that the two systems endorse. Although dominant American culture is rooted in a conception of society as a collection of individuals, African-American culture tends to see society as racial and ethnic groups in competition for scarce societal resources. When dominant American culture draws one towards seeking race neutral explanations for social phenomena, African-American culture will be drawn towards, and not away from, race-conscious explanations. In African-American culture, the race of actors in any given drama often will be crucial information in organizing an interpretation of social phenomena. Resolving the racial aspects of these dramas tends to take precedence over all other concerns.

This commentary is an effort to illustrate two points. First, many disputes involving social phenomena are often actually rooted in cultural differences that produce diverse interpretation of that phenomena. Second, just as dominant American culture with its tendency towards race neutral explanations often will overlook the racial aspects of a given situation, African-American culture with its focus on race consciousness and fighting racial subordination will overlook other aspects of the same situation. To illustrate these two points, I will recount some stories that led me to a construction of the "victim" in the rape of Desiree Washington by Mike Tyson. I have limited my stories to those involving discussions or events that centered on African-American males in Indianapolis, Indi-

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ana.[3] To some extent all of the participants in my construction of the victim had access to a similar set of ideas learned through a process of acculturation. These ideas allowed the participants to interpret collectively and reinforce our interpretation of the events that occurred in the early hours of July 19, 1991, during the Indiana Black Expo Summer Celebration[4] at the Canterbury Hotel in Indianapolis.

## II. THE "VICTIMIZATION" OF MIKE TYSON: STORIES FROM THE HOME FRONT

As one might expect, from the time Tyson was accused of raping Desiree Washington until he was finally sentenced, the "accusation" was a hot topic of conversation. I had a number of discussions about the accusation with other African-American males living in Indianapolis. When the accusation first was made, I asked a lot of my friends what they thought. None of us seriously entertained the possibility that Mike Tyson actually might be convicted of rape; any doubt was resolved in favor of Mike Tyson. I do not remember a single male speaking up for Desiree Washington.

A typical discussion occurred at the barber shop in which I get my hair cut. Anyone familiar with the African-American male community knows that to really take the pulse of the community about a particular issue, you must discuss it at a barber shop. The barber shop is more than

3. This piece does not report any discussion that I had with African-American women in Indianapolis. I did, however, discuss this issue with a number of Black women. Candor requires me to report that Desiree Washington did not have much support among African-American women, either. My personal experience was recently confirmed by a public opinion poll conducted by Indiana University Public Opinion Laboratory. According to the poll, which questioned 800 Blacks and 407 Whites, 68% of the African-American women and 66% of the African-American men questioned the fairness of Mike Tyson's conviction. Andrea Neal, *Poll Finds Tyson Trial Is Racial Dividing Line,* INDIANAPOLIS STAR, Feb. 21, 1993, at A-12. It seems appropriate for me to discuss the rape of Desiree Washington by Mike Tyson because I grew up in Indianapolis and still consider it my hometown. From 1985 to 1988, I served as corporate attorney for the organization, Indiana Black Expo, Inc., that invited Tyson to Indianapolis. Many of the leaders in the African-American community who rallied to the support of Tyson during this ordeal were personal friends and acquaintances of mine with whom I had worked on numerous community projects since returning to Indianapolis after graduating from law school in 1982. Because my current law school is only 60 miles from Indianapolis and many of my relatives and friends live there, I often visit Indianapolis.

4. Under normal circumstances, the rape of Desiree Washington by Mike Tyson would have been big news in Indianapolis's African-American community. The circumstances surrounding it, however, guaranteed that it would be a principal topic of conversation for some time. The rape occurred during the Summer Celebration of Indiana Black Expo. In order to understand the high profile of the rape in Indianapolis's African-American community, it is necessary for me to provide some background about the Summer Celebration. There is no bigger event in the life of the African-American community in Indianapolis than the annual Summer Celebration. It is primarily a five-day cultural festival that takes place in the heart of Indianapolis during the month of July. Organizers of the Summer Celebration estimated that over 600,000 people (the overwhelming majority of which were Black) attended the events last year. The Summer Celebration includes a number of cultural events such as boxing matches, talent shows, screen plays, beauty contests, music concerts, auto shows, exposition booths, a July 4th picnic, seminars on current national and international issues affecting African-Americans, parties and receptions. The list of speakers and dignitaries who attend annually reads like a who's who in Black America.

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a place to get your hair cut—it is also a cultural institution. The barber shop is a place where we (males) hang out and receive part of our initiation into the finer points of being a male.

I put the issue of Mike Tyson on the floor by asking a question for general discussion to anyone who was willing to take it up. "What do you think about the claim by Desiree Washington that she was raped by Tyson?" Desiree had no supporters here. Among the comments that were fairly typical were: "Well, she got in his limousine didn't she?" "His limousine showed up at her hotel room at 2:00 in the morning." "What do you expect, if you go out with a man at 2:00 in the morning." "No doubt the reason that she is doing this is because, like he said, she was probably mad because he didn't walk her to the limousine." From these comments an initial image of Desiree took shape. I thought to myself, it's obvious, she must have consented. Not only that, I thought this woman must be crazy. Imagine doing all of this because someone would not walk her to the limousine. As for Mike, he was being victimized by a vindictive and unstable woman.

Another discussion that I had prior to the trial was with a friend of mine who was closely involved in organizing the boxing matches that took place during the Summer Celebration. Here was an opportunity for me to get an inside scoop on what had occurred. I asked my friend if he thought Mike had raped Desiree Washington. He responded, "[yeah] he did it, but we have got some things on her too, she wasn't completely innocent." The confident tone of his voice and what he said implied that Desiree might have brought this on herself.

This kind of inside information was precisely what I had hoped to find when I called him. The real inside story that would give me the complete picture so that I could understand precisely what had happened. So I asked, "Oh really? Well what did she do?"

I assumed that he was about to divulge the damning piece of evidence. You know, the piece of evidence that Perry Mason always hit the murderer with when they were on the stand in the final ten minutes of an otherwise dull episode. As he gave his response, his voice suggested quiet confidence that this piece of information would be the deciding bit of evidence. "She violated curfew."

Hmmm, I thought, that is serious business. She broke a pageant rule that was there for her protection. No doubt those rules were in part attempts to protect the contestants from this kind of situation. If only she had followed the rules, this would not have happened.

Prior to the trial, it was clear that all those I had discussed the rape with were resolving all doubt in favor of Mike Tyson. At least that view is consistent with the law; a person (man?) (white man?) accused of rape, especially date rape, is presumed innocent until proven guilty beyond a reasonable doubt.

No one I talked to believed that Tyson would or should be con-

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victed. Therefore the verdict by the Indianapolis jury had a profound effect on image of the "victim" in the rape. After Mike was convicted he did not appear to lose any support. Shortly after the verdict, I went back to the same barber shop and once again raised the issue. This time I sought to find out what people thought the appropriate punishment should be.[5] I asked my barber, an older man whose judgment I have come to respect through our many conversations over the past ten years, for his opinion.

"Do you think Mike should go to jail?"

"If he did it, and I'm not saying he did," my barber responded, "but if he did, I think that, well, maybe you ought to be lenient here. Perhaps he needs counseling, if he did it. And in fact, you know, there was a White guy this past summer who was also convicted of a rape and he received a suspended sentence."

This was the beginning of the redefinition of Mike as the victim. Before the conviction Mike was being victimized by an unbalanced and jealous woman. Now he was also being victimized by the "White" criminal justice system.

*If he did it!* Even though Mike Tyson had been convicted by a jury that had heard all of the legally admissible evidence and therefore was certainly more knowledgeable about the case than my barber, he (and now I) was not willing to accept that verdict as a pronouncement of what had actually occurred. Those unfamiliar with African-American culture may ask, how could my barber now say, "If he did it." According to the Indianapolis poll, 67% of the African-Americans polled believed that Tyson was unfairly convicted and another 11% believed that although he was guilty, his sentence was unfair. Only 7% of the African-Americans polled believed that Tyson got what he deserved. The remaining 15% expressed no opinion on the issue. In contrast, 40% of the Whites polled believed that Tyson got what he deserved. Only 28% believed he was unfairly convicted, while an additional 10% believed that though guilty his sentence was unfair. The remaining 22% expressed no opinion.[6]

My barber's response tapped into two dominant beliefs in African-American culture. First, Blacks, and particularly Black males, cannot expect fair treatment by America's White criminal justice system. The same poll also indicated that 37% of the Whites and 70% of the Blacks believed that the judicial system treats Blacks and Whites differently.[7] In Tyson's prosecution ten of the twelve jurors who voted for conviction were White and both the judge and prosecutor were White.[8] When African-Americans talk about racism in the criminal justice system, this is part of what we mean—prosecution, judgment, and convictions of Afri-

5. Tyson was convicted of one count of rape and two counts of criminal deviate conduct. Each count carried a maximum sentence of 20 years for a total maximum sentence of 60 years.

6. Neal. *supra* note 3.

7. *Id.*

8. Tyson's attorney was also White. But that is part of another story.

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can-Americans by Whites. Comparing the sentencing of Mike Tyson to that of some White person convicted of the same crime also was based upon this same notion. It becomes even easier to view Tyson's prosecution in a racial context when it is juxtaposed against the acquittal of William Kennedy Smith for date rape.

Viewing Tyson as a victim of the White criminal justice system completely changes the interpretation and understanding of the prosecution, conviction, and punishment of Tyson. Supporting Mike Tyson is now tantamount to fighting the racial subordination of African-Americans. Mike Tyson's conviction is not his individual conviction. Rather, it is symbolic of the American judicial system's harsh treatment of African-Americans, particularly males. To support Tyson, then, is to fight against racial domination of African-Americans.

The second belief that my barber tapped into was that the fight against racial subordination generally will trump the fight against the sexual subordination of African-American women in the Black community. Although it is true that a Sister had been raped by a Brother, Tyson was now a victim of racism in the criminal justice system. Despite the fact that Brothers certainly want to support Sisters, concerns about the Sisters must wait until after we have dealt with the Man (resolved the racial issue). Let us not forget, we have been trying to resolve the racial issue for over 370 years.

After my barber responded, another Brother in the barber shop joined in and brought up the fact that Desiree had appeared on television the night before and told her side of the story. During this program she made it clear she had not received any compensation for her appearance. One of the other barbers in the shop pointed out that although it may be true that Desiree did not get any money before the program aired, she very well could have received payment right after the program was shown. Another patron, seizing on this possibility, responded, "You know that show was on at 7:00 or 8:00, that doesn't tell you what she got paid by 9:00 or 10:00." Another Brother said, "Even if she didn't get paid for this particular appearance she is going to get money from the tabloids. She is going to sue, she is going to get plenty of money. This woman is going to be set for the rest of her life. God damn! Some people are lucky."

Now, the motives for Desiree not towing the traditional line—racism trumps sexism—were out in the open. Desiree was out for herself. This wily eighteen-year-old college freshman from Coventry, Rhode Island, was too sophisticated and worldly for Mike Tyson. She was doing all of this for the money. Desiree had just hit the lottery and was going to cash in big, set for life. And the terrible thing about it was that this Sister, in conjunction with the White criminal justice system, had brought down another Brother in order to advance her own greedy self-interest.

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The next day after the barber shop incident, I picked up the daily Indianapolis newspaper. On the front page was a story about a Black male friend of mine, who is an Indianapolis attorney. According to the story, this attorney had overheard the only African-American male on the Tyson jury say that the verdict was fixed. My friend said he felt compelled to report this information to the prosecutor's office because he was an officer of the court and this was a serious violation that must be brought to the attention of the requisite authorities.

I had seen this juror at a televised press conference right after the verdict responding to a question by a news reporter who asked him if he thought the verdict was fair. His videotaped response was, "It was a tough decision to make, but I think it is the right one. We listened to all the evidence and we made our decision on the evidence." Nevertheless, I thought to myself, even with a Brother on the jury, Mike Tyson still did not receive justice. The one Brother on the jury must have been forced to play along with the game plan. As I read that story, I felt further indignation about the treatment of Mike Tyson at the hands of *their* criminal justice system.

Shortly after the story broke about the repudiation of the jury verdict by the African-American male juror, I was discussing the Tyson situation with another Black attorney. Reliable sources had informed him that the jury in the Tyson case was initially deadlocked at six to six. Evidently one of the White jurors, a former Marine, had pressured the other jurors into changing their minds and voting for conviction. At first, I responded that juries often are deadlocked initially, which explains why it takes juries so long to reach a verdict. His response: "Don't be naive, Mike was set up. His verdict was fixed." So, Mike was being railroaded by the criminal justice system. I thought, *wow*! what a raw deal Mike had received. That jury should have come back deadlocked. Once again a Black man cannot get a fair trial in the criminal justice system, even when a Brother is on the jury.

The next day, I happened to be flipping channels on the television and turned to a station delivering the Indianapolis news. I tuned in just in time to see a number of African-American ministers and community leaders pleading for leniency and mercy for Mike Tyson. One of the ministers pointed out that the *Bible* said " 'blessed are the merciful' and we are simply asking for mercy for Mike Tyson." Just like that, the sentencing of Mike Tyson had become a religious issue. I thought, well, if God is on Mike's side, then he must be innocent.

One of the Black reporters at the news conference responded to this statement by asking the minister, "Doesn't the *Bible* also command that thou shalt not engage in fornication?" A split of religious authority had occurred, but this split was quickly resolved. The minister who had quoted the *Bible* retorted to this impudent question by reminding the reporter that it was they who had gotten African-Americans hired at the

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local television stations. "It was from us pressuring the stations you work at that got you your job." So now the issue of leniency for Mike Tyson had become an issue of loyalty to the African-American community.

As I prepared my remarks for this Conference, I started to think about the mental images that were in my mind. I sensed my outrage about how Mike Tyson had been victimized. He had been victimized by a criminal justice system. He had been victimized by a woman who had consented to have sex with him. He was then victimized by her again when she decided to take him down to advance her own greedy self-interest. He was victimized by a lawyer who failed to provide him with an adequate defense. He had been victimized by a jury that had been pressured into returning a guilty verdict against him. He was victimized, victimized, victimized.

## III. THE "DE-VICTIMIZATION" OF MIKE TYSON

In a few moments of quiet reflection about the Tyson-Washington incident, a number of things began to occur to me that were obvious in so many ways. Only two people actually know what happened that night in that hotel room. With the passage of time and the need to envision the incident in the way that supported their articulated versions, even Mike and Desiree now may have difficulty recalling exactly what happened. The others and I were engaging in a collective process of constructing a story of what happened, from bits and pieces of information and preexisting thought patterns. Like authors of books, makers of films, or writers of poetry, we were putting meaning into an otherwise meaningless situation. And once this was done, we acted as if our story was what actually happened.

Why was the view of Tyson as the victim so easy to formulate and to accept? The answer stared me in the face. Most of my construction of Tyson as the victim proceeded from one of the most fundamental beliefs in the African-American community. Justice is White. The postconviction redefinition of Tyson as a victim occurred because of the fundamental belief that a Black man could not expect justice within the American criminal justice system. Never mind the fact that Tyson could afford the best lawyer money can buy. Never mind the fact that there were (only) two African-Americans on the jury.

If Tyson had been convicted by an all-Black jury, with an African-American prosecutor and judge, this would have significantly altered my perception of the incident. The ability to construct an image of Tyson as a victim of racism in the criminal justice system (defined in the African-American culture as the prosecution, judgment, and conviction of a Black by Whites) almost would have disappeared completely. With racism substantially eliminated as a concern, I could have focused quickly on other aspects of this situation. My concern about racism and oppres-

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sion, however, had controlled my interpretation of the rape of Desiree Washington.

I began to think more and more about how my desire to struggle against racism when I saw it was blocking me from understanding other aspects of this situation. For starters, I had not been able to see Desiree Washington as the victim, and yet this is precisely what the jury saw when they convicted Tyson. As I began to think about the possibility of Desiree Washington as the victim, a number of issues about her came quickly to mind. Before, I was willing to believe that an eighteen-year-old college freshman could be so sophisticated that she could hatch a plan to take down the former heavyweight champion of the world. This required me to believe that she could easily outsmart a man who not only was seven years her senior and had been heavyweight champion of the world, but who also had experienced a rough divorce.

Desiree often talked about how terrified she was that night. "Terrified" cannot possibly describe what she must have felt. I tried to imagine being an eighteen-year-old, 108-pound woman in a hotel room with a person who could arguably be considered the best fighter of all time. I had seen Mike Tyson fight heavyweights such as Michael Spinks, Trevor Berbick, and Razor Ruddick. "Terrified" is the word I would use to describe how they appeared entering the ring as they faced Mike Tyson. These men were heavyweight boxers, some even heavyweight champions at the time. They also had the safety and comfort of knowing if things got out of hand, they could lay down on the canvass and take the ten count. At least for them, there was a referee who could stop the fight.

Then there were all of those who suggested that something was wrong, because Desiree Washington might profit from being raped by Mike Tyson. I thought of how many times I have heard people express sympathy for the men Tyson beat in the ring—men who were receiving millions of dollars for about two minutes worth of work. Fights that people personally paid thirty dollars or more to see. Unlike Desiree, however, these boxers had volunteered to give up their bodies to be abused by Mike Tyson.

Victimization, however, was not confined to Desiree. The implications for African-American women were victimizing as well: "Don't talk about date rape, because we won't believe you, you must have consented." "Don't cooperate with the Man in taking down a Brother, even if you think he is wrong, especially one who is a celebrity." "Your concern about your bodies and how males inflict pain on you has to be subordinated until the racial problem is resolved." Of course, I realized that African-Americans will never resolve the racial problem.

Then, finally, I realized that there was one last group of victims who were being obscured by the notion of Tyson as the victim: African-American males, including those who had rallied to support, explain, and justify Mike Tyson's actions. In an effort to exonerate himself, Tyson's

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explanation and defense of his conduct drew on every negative stereotype about African-American males that exists. His defense portrayed Black men as oversexed, prone to violent and aggressive behavior, and dumb as a brick wall. Tyson literally had been responsible for producing millions of dollars of negative publicity, reinforcing the very social construction of African-American men in dominant culture of which I had so often complained. As I was envisioning myself as fighting racism by supporting Tyson, I also was embracing and approving of the image of Black males against which I struggle so hard.

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