

## SEVEN

**(NON-) SPEECH ACTS: THE PERFORMATIVE  
POWER OF SILENCE**

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**Abstract**

Judgment of accented speech as “inferior English” or “immigrant speech” reinforces an aural type of racial discrimination, especially in the political context of education and the state. The institutional silencing of “defective” speech substantiates the practice of self-silencing in which the (non-) speech act functions as a phenomenological engagement and as a non-performativity of racial difference.

Intersectional critique emerged in the aftermath of Anita Hill’s spoken testimony exposing the sexual harassment she experienced as a law clerk for Justice Clarence Thomas during his 1991 Supreme Court confirmation hearings. Hill’s personal telling and the subsequent “hearing” by the legislators was a major disruption to the status quo of American politics since the high stakes for race and gender were played out on the civic stage for electing the Justice to the U.S. Supreme Court. As a witness in the public forum, Hill’s *speech act* ultimately revealed the ways in which women of color were subordinated by both feminist and critical-race initiatives (Crenshaw, 1991). And yet, no amount of political debate holds as much promise

for the cause of civil rights as confirming a judge who embodies the raced subject himself, who potentially speaks on behalf of the non-white constituency. Twenty-five years later, however, Justice Thomas's speech act in *not* speaking during his term on the bench has garnered the most attention, posing the question as to why he has been largely silent (Cohen, 2013; Liptak, 2013; McGough, 2014). In order for legal debate to occur, deliberations of the Supreme Court must be conducted through the spoken word; and thus, Thomas's withholding from oral arguments since 2006 is considered a remarkable period of silence. He made news in 2013 when he finally spoke out in court, although his brief remark was inaudible overall: his utterance, "well – he did not," was the fragment recorded in the court transcript (Liptak, 2013; McGough, 2014). Thomas's influence on the legislative process is now historicized by the event of his *non-speech act*, his *not* giving voice to his constituents as the second African-American Justice to be confirmed in the history of the Court. Jacques Derrida (1992, p.13) explains that the role of speech constitutes the "very emergence of justice and law, the founding and justifying moment that institutes law implies a performative force, which is always an interpretative force."

In addressing "Difference that makes no Difference" for this special issue of *Wagadu*, the "(non-)speech act" provides another context for reviewing the non-performativity of intersectionality and diversity, particularly within the political economy of state institutions, civic forums and education. The important outcome of Hill's testimony was the development of intersectionality and Kimberlé Crenshaw's exposure of the absence of advocacy for women of color (Adewunmi, 2014). The (non-)impact of Hill's speech act on both legislative and judicial institutions was highly influential in the 1990s feminist discourse, and twenty-five years later, a return to this longstanding civic context for analyzing speech and power shifts the focus toward Thomas's inexplicable silence on the Supreme Court bench. The (non-)speech act constitutes the

negative properties of the speech act, the opposite of J.L. Austin's emphasis on the contractual "I do, I swear" of performative utterances that are ritually and socially conventional and yet function as legally binding acts within the civic institution (Austin, 1962). Based on the expansion of the meaning of the speech act, defined by utterances, illocutionary force, and the "need to be heard," the aim of this study is to investigate institutional silencing in relation to self-silencing as exemplified by Thomas.

In the broader scope of *silencing acts*, the detrimental effects can be examined by looking at judgments of racial and sexual biases found in educational processes that are ultimately legislated state processes. A clear public case for examining institutional silencing emerges with the recent elimination of the voice given to Mexican-Americans under Arizona's 2010 House Bill 2281. The bill not only prohibits public schools from teaching material focused on a particular ethnic group, but also removes Spanish-speaking teachers with "heavy accents" from their teaching positions in Arizona schools (Jordan, 2010). The legislation of accented speech has brought exposure and attention to a particular instrumentalization of the silencing act. Linguists have conducted studies in the aftermath of Arizona's ruling revealing the racially determined biases and judgments toward "immigrant accents" attributed to primarily Mexican and Asian-American speakers. Accented speech involves a greater range of impacts and associations for defining the (non-)speech act. When viewed in the greater institutional context, the silencing of accented speech is at once a phenomenological *and* a juridical act.

Inspired by Sara Ahmed's definition of "diversity work as a practical phenomenology" (Ahmed, 2012, p.173), this study on the (non-)speech act contributes to research on performance theory and feminist materialism as a development of linguistics and philosophy. Ahmed's reading of phenomenology engages Husserl's reorientation of the "worldly" as a conception of philosophy that moves away from

simply a “reflection on the world” towards a theory that actually transforms existence. She adds to this philosophical equation “the Marxist understanding” in which “the point of intellectual labor” is to change the world and not simply to interpret the world (ibid., p.174). The new approach to feminist materialism recognizes the ways in which performances of language – in relation to race, gender, and sexuality – affect material consequences. For instance, Ahmed visualizes the frustrating efforts that diversity workers endure by describing the “physical and emotional labor of ‘banging your head against a brick wall’” in her reconceptualization of the metaphorical “wall” that constitutes a material “barrier that is solid and tangible in the present, a barrier to change as well as to the mobility of some, a barrier that remains invisible to those who can flow into the spaces created by institutions.” (Ahmed, 2012, p.175) Likewise, the rhetorical use of the “wall” by Donald Trump in his 2016 campaign promise to “build a great, great wall” along the Mexico-U.S. border illustrates Ahmed’s materialist barrier as one that circumscribes the Mexican immigrant through the stereotype of “drugs, crime, and rapists” (what Trump asserts his wall will keep out) (Gabbatt, 2015). According to Diana Coole and Samantha Frost, the paradoxical distinction of “immaterial things” such as “language, consciousness, subjectivity, agency, mind, soul,” expands the new materialist category that also includes “imagination, emotions, values, [and] meaning” (2010, p.2). Today’s feminist materialism has moved on from the 1990s debates instigated by Marxist critics such as Martha Nussbaum and Nancy Fraser (Fraser, 1990; Nussbaum, 1999) who contested the poststructuralist approaches often attributed to Judith Butler’s feminist performance theory (Butler, 1988). As Nussbaum asserts, Butler’s theorizing of speech acts, psychic life and gender performance tells women that “they need not work on changing the law, or feeding the hungry, or assailing power through theory harnessed to material politics” (1999, p.45). But after Gayatri Chakravorty Spivak acknowledged the way in which the “silence” of the subaltern is dominated by “the ruling class ‘in and by words’ [*par la parole*],” the impact of “immaterial things” can no longer be denied (Spivak, 1988, p.68). Spivak had deftly conveyed the idea that when the

subaltern has no voice or history, all that remains is biographical telling to ascertain subjectivity and agency. As this study on the (non-)speech act aims to show, judgments of speech and its legislation have great and formidable impact on the material lives of raced and immigrant subjects as intersectional subjects.

As such, this paper identifies, examines, and theorizes the (non-)speech act in three different ways. Firstly, the *institutional silencing* legislated by the Arizona House bill provides an educational example for exposing the judgments of accented speech as “defective” speech in the determination of racial difference. The silencing of “immigrant speech” is yet another method for surveilling the territorial borders that exclude the immigrant subject by discriminating against those deemed as un-American under the “illegal immigrant” stereotype. As Butler emphasizes, it is the “binding character of legal language” in the performance of laws delimiting the rights of a discriminated group that has the potential to “redouble that injury in the service of injustice.” (Butler, 1996, p.216) Secondly, an examination of the strategy of *self-silencing* as a form of (non-)performativity of race and gender through the (non-)speech act reveals the impact of certain educational processes. The performance of self-silencing is a method of negotiating the institutional norm, particularly as a response to institutional silencing. In his 2007 autobiography, *My Grandfather's Son*, Justice Thomas reveals the way in which his own rural Southern speech was considered as defective speech by his high school teacher in Catholic school, a determination that affected his ability to speak thereafter in the classroom (and ostensibly on the Supreme Court bench much later) (Thomas, 2007). The biographical and the institutional provides a context for uncovering the silencing act, as confirmed by Thomas's explanation of his experiences growing up in all-white Catholic schools. The strategy of “keeping quiet” constitutes the instrumentalization of the silencing act, which secures the assigned place for people of color in exclusively white institutions. Lastly, the concluding examination of this paper looks to the expressive work of poetry that offers a method of resistance against repressions of

accented voice. In the work of poet Marilyn Chin, immigrant speech is valorized through the recognition and repetition of language, particularly when delivered through the oral tradition. Always biographical in its oral practice, poetry conceptualizes Austin's "doing things with words" in a way that elucidates the a priori condition of phenomenology in the speech act (Austin, 1962). As the vehicle for the poet's subjectivity and agency, Chin's performance functions as a feminist materialist model of empowerment for the female immigrant subject. As Coole and Frost argue, "materiality is always something more than 'mere' matter: an excess, force, vitality, relationality, or difference that renders matter active, self-creative, productive, unpredictable...a materiality that materializes, evincing immanent modes of self-transformation that compel us to think of causation in far more complex terms" (2010, p.9). Here, the practical phenomenology of poetry is contingent on the performance of the speaking poet who ultimately conveys the experiences of the material body, and in Chin's case, the Chinese female subject.

In the dynamic that can only be attested to by people of color, institutional silencing and self-silencing often does not appear to exist outside of personal experience, and the disavowal of difference remains the problem to overcome. Biographical testimony functions as the forum where the silences of the silencing act are broken in terms of providing evidence for the inherent biases of the institutional norm. Derrida's *Otobiographies*, his study on "'academic freedom,' the ear, and autobiography," is therefore useful for my analysis of accented speech and the (non-)speech act. Derrida's phenomenology of the 'ear,' presented in seemingly disparate contexts of academic freedom and autobiography, appears entirely cohesive and relevant through his review of Nietzsche's lecture *On the Future of Our Educational Institutions* (1872) – a work he describes as "a modern critique of the cultural machinery of the State and of the educational system" (Derrida, 1985, p.33). The biographical constitutes the difference between what is being said and the final determination of what is being heard in regards to accented

speech as racialized speech. And as exemplified by Hill so long ago, autobiographical testimony continues to be the most prominent accounting of experiences of sexual or racial discrimination within the civic institution.

### **Institutional Silencing: Phenomenological and Juridical Acts**

In her book *On Being Included*, Ahmed defines an activist process that “does not simply generate knowledge *about* institutions” but does so “in the process of attempting to transform them” (Ahmed, 2012, p.173). Ahmed’s study acknowledges the phenomenological encounters that pertain to the specific experiences of women of color who must navigate within the academic institution. Her goal in understanding “institutions *as* formations” also distinguishes the aims for the first part of this essay, seeking to acknowledge and to comprehend the political function of institutional silencing (ibid., p.173). As shown by the case study of Arizona’s targeting of the “immigrant accent” in association with Thomas’s rural Southern accent impacting his high school experience, the judgment of racialized speech in the academic institution determines a far greater outcome for American society. The Arizona Department of Education’s banning of Spanish-speaking teachers with “heavy accents” in 2010 was enacted under cover of the federal No Child Left Behind Act, and the new requirements for assessing English language fluency provided the reason for firing accented teachers who held positions in the schools (Jordon, 2010; Lavon Hanna and Allen, 2012). The policy is inseparable from the elimination of the voice given to Mexican-American history enacted by Arizona House Bill 2281, forbidding public schools from teaching certain materials focused on a particular ethnic group. The censoring of accented speech instantiates a significantly greater determination than just the surveillance of “correct English” within the academic institution. Rather, it

substantiates the “defectiveness” of certain accents judged as inferior speech.

The important problem raised by Arizona’s (non-) speech act is in legislating and confirming “defective” speech as a deliberation of the raced body as a whole, wherein accented speech is an extension of the “disfigurements” of skin. Rey Chow provides the illustrative example of the discrimination of the “brown and yellow offshore call-center agents” whose speech is inextricable from skin color: “is not the voice *de facto* an (objectified, artefactual) exterior and surface, not unlike the skin, on which is now inscribed an explicit demand, left over from an unequal historical relation?” (2014, p. 9) Chow goes on to question the rejection of the corporeality of these phone-representatives who “must adapt their bodies – the shapes of their mouths, their lips, their teeth, and their tongues as well as their vocal cords – to the manner of self-expression deemed acceptable by North American and other English-speaking customers, are not their skin tones also disfigurements, the defective corrections of what is already deemed defective?” (*ibid.*) The impact of this kind of judgment, also enacted by Arizona legislation, is especially detrimental to school-age students, particularly since it is administered by the state educational system. The institutionalizing of the non-accented norm is meant to reinforce the greater mandate for English-only rather than bilingual instruction in Arizona public schools.

This type of institutional discrimination is an insidious problem and its impact is hard to address. The measuring of the enforced silences of Mexican Americans, like the confirmation of absences, is not an action that can be verified when evaluating the educational system. Ahmed’s metaphor for the institutional “brick wall” can elucidate the problem more clearly through the new materialist approach for making visible and physical the process of interpellation. Ahmed illustrates the instrumentality of the brick wall by acknowledging the material force of the otherwise invisible object of the social norm that



people of color come up against: “(you are brown, stop!)”; but “to those who do not come against it, the wall does not appear – the institution is lived and experienced as ‘yes’ as being open, committed and diverse” (Ahmed, 2012, p.174). The invisible forms of oppression (deceptively untraceable) are rendered more tangible through the visualization of the wall, one that realizes the materiality of the (non-)speech act – the unspoken, “you are brown, stop,” constitutes the object and aim of the embodied exchange of racism.

The overt legislation in Arizona exposes the silencing wall as one of many metaphorical and physical walls that police the borders of immigrant life. As verified in the aftermath of Arizona’s enforcement of fluency standards, the legislated prohibition of accent is yet another form of political silencing that has little to do with education proper. Studies by linguists and social theorists have now shown that Arizona’s initiative has no basis in measurable learning since there is no proven evidence that foreign accents can deter fluency in a particular language. More disturbing is the fact that the criteria itself for evaluating teachers for accent cannot be supported since there are no formal federal or state policies, no exact standards for evaluating teacher accent in relation to English fluency. As shown in the conclusive research by Patricia Lavon Hanna and Ann Allen (2012, p.718), the “ADE [Arizona Department of Education] has offered no clear explanation about why it interprets fluency as accent”; rather, the teachers had already proven their qualifications by passing the state’s rigorous exams for educational licensing, completing preparatory programs, and achieving their degrees from accredited universities. The intelligibility of accented speech can only be judged subjectively but when considered in association with House Bill 2281, prohibiting the teaching of ethnic studies, Arizona’s institutional silencing appears solely as racially determined. The act of silencing through the surveillance of Mexican-American speech appears to be used primarily as an instrument for maintaining political power.

Arizona's regulation of Mexican-American voice, speech, language, and history can therefore be construed as a concerted effort in the anti-immigration goal of policing state borders. In this way, the destinational structure of hearing erects a wall that might be as effective and more of a barrier than the 1.2 billion dollar, 700-mile double-layered fencing along the U.S.-Mexico border approved by Congress in 2006 (Weisman, 2006). In addition, the "virtual wall" of surveillance cameras, constructed and installed along the entire length of the Arizona border, was authorized as part of Homeland Security's Secure Fence Act. When President Obama declared the completion of the Secure Fence project in 2011, he forewarned that "Republicans would demand a 'higher fence' or a 'moat' with alligators in it" (*The Dallas Morning News*, 2011). Trump's 2016 campaign promise, promoting a "great, great wall" along the Mexican border, confirms Obama's prognosis of the Republican obsession. The act of silencing in Arizona schools is yet another method of wall-building, working to block the immigrant subject by legislating speech and mandating knowledge that conforms to dominant (white) social norms. Under the guise of assimilation, the objective is to subjugate students through this functionary mode, much in the way that Ahmed's metaphorical brick wall infers that being heard is dependent on the "person" of the institution (educational system/state entity/social body), who comprehends, translates, and ultimately does the judging – "you are brown, stop!" The only testament to this exchange is the speaker who faces the wall of silence, which is actually a wall of conformity ensuring that no voice, no speech, no language, no history can be heard from the "undesirable" foreigner who does not belong in the United States.

This may seem to be an incredulous assertion but recent studies have shown that speakers with Latino and Asian accents are judged as less American than those with no accents or regional Boston or Southern accents. According to linguists John Dovidio and Agata Gluszek, discrimination toward

specifically Latino and Asian speakers is distinguished by negative stereotypes associated with immigrant citizenship, ethnic nationalisms, and civic patriotism. Based on their research, biases against accented speech have *more* impact than raced appearances since “listeners discriminate against speakers with non-native accents in employment, housing, and the courts” (Dovidio/Gluszek, 2010, p.73). The linguists conclude that while “there is clear evidence of negative attitudes (prejudice) and stereotypes toward Latinos, documentation of discriminatory behavior is rare,” largely because participants of empirical studies “are often concerned about revealing their true underlying prejudice” (ibid., p.61). This kind of disavowal is yet another type of practice in the phenomenology of silencing that keeps the stereotype in place.

Among accents within the United States, Bostonian and Southern accents are no more comprehensible in different regions than Spanish accents in Arizona. Justice Thomas offers insight into his own educational experiences in high school, having to endure judgments of his “defective” rural accent from Pinpoint, Georgia. Recounted in his autobiography, Thomas was one of two African-American students admitted into the all-white seminary, Saint John Vianney, in Savannah, Georgia where he matriculated at sixteen years of age (Thomas, 2007, p.34). His recollection of perhaps his biggest influence, Father William Coleman, was most revealing: “Father Coleman told me matter-of-factly that I didn’t speak standard English and that I would have to learn how to talk properly if I didn’t want to be thought ‘inferior.’” (ibid., p. 34). As shown by his experience, Thomas’s rural Southern accent was judged according to class distinctions for “educated English.” But as asserted by linguists Tracy Derwing and Murray Munro, accent has more often than expected been “used as a cover-up for racism and other kinds of discrimination” (2009, p. 476). This form of discriminating by accent reveals how stereotypes are established through racially defined speech.

Dovidio and Gluszek (2010, p.73) point out that not all foreign voices are judged according to the “immigrant dialect” that signifies the status of the undesirable alien. The French accent for instance is never heard negatively as “alien” but always as romantic since accents are of course dependent on the listening ear. The singularity of the individual doing the hearing distinguishes the subjectivity of hearing, but overall, the discrimination of a singular speaking voice requires a broader social convention – a greater listening audience who determines “inferior” speech as in the political fate of Spanish accents in Arizona. Perhaps this is the reason why Derrida focuses on the “ear” of the other in his reading of Nietzsche, which, as Peggy Kamuf (2008, p. 182) noted in her analysis of *Otobiographies*, the philosopher went to “some lengths to avoid saying ‘ears’” conjecturing that “singularity points us in a different direction, toward a different difference.” In other words, hearing by an *individual* will always be different from the social hearing of the *communal* ear.

In questioning the “hearing” of Nietzsche’s *On the Future of Our Educational Institutions* - his warnings to his students about the apparatus of education and the state - Derrida suggests that what was spoken by Nietzsche was not the issue at all but the “destinational structure” of hearing that allows for “double interpretation and the so-called perversion of the text.” (Derrida, 1985, pp.32-33) The philosopher was specifically addressing the fact that “the only teaching institution that ever succeeded in taking as its model the teaching of Nietzsche on teaching will have been a Nazi one.” (ibid., p.24) Elsewhere, Derrida’s *biographèmes* recounted his own “de-citizenships, ex-inclusions, blacklistings, doors slammed in your face” during his school-age years in Algeria under the Vichy disenfranchisement of the Jewish population (Cixous, 2004, p.5). Autobiography alone can confirm the discriminations that Derrida attributes to the misconstrual of Nietzsche’s teachings, apparently by ordinary people in Germany. And whether or not the hearer hears a “defective”

Jewish accent would have been an engagement of the destination structure since the functioning “ear of the other” determines the outcome of judgments of racial difference (Derrida, 1985, p.21). To hear the Fascist message in Nietzsche’s *On the Future of our Educational Institutions* becomes a warning that befits Arizona’s (non-)speech acts against immigration. As Derrida argues, “today’s teaching establishment perpetrates a crime against life understood as the living feminine: disfiguration disfigures the maternal tongue.” (Derrida, 1985, p. 21) The example of Arizona’s foreclosure of the living speech act perpetuates what Derrida characterizes as the “dead paternal language of the law,” since his conception of “living speech” was connected to the treatment of the *mother-tongue* (in Derrida’s use of the gendered vernacular), “as if it were a dead language and as if one had no obligation to the present or the future of this language.” (Derrida, 1985, p. 21) The “ear of the other,” according to Derrida, enables the performance of the “living ear” conceivable from the premise that “everything comes down to the ear you are able to hear me.” (Derrida, 1985, p.4)

The axiom of “freedom of speech,” however, marks the difference in the political economy of education in the United States. Inextricable from the tenets of American democracy, the censoring of speech – most visibly in the censorship of literature and art – would test the limits of freedom. Of course, the exception or contradiction can be found in the regulation of what can be spoken and taught in the classroom, which is usually viewed as an acceptable form of censorship under the rationale of the “moral” obligation to children under a certain age. Whilst the Supreme Court ruled favorably in 1985 on “the principle that individual instructors are at liberty to teach that which they deem to be appropriate in the exercise of their professional judgment,” individual courts nevertheless consistently uphold the decisions of school boards and state administration policies in judicial cases involving banned materials (Sharp, 2012, p.4). Here precisely is what Derrida addresses as the use of “morality” in education through the

concept of “degeneration,” one that is perhaps easier to recognize in the Nazi denunciation of “degenerate art.” The Fascist example is a clear misreading of Nietzsche’s conception of the “degenerate,” one in which Derrida had noted Nietzsche’s frequent use of the word to characterize “notably university culture once it has become state-controlled and journalistic. This concept of degeneration has – *already*, you could say – the structure that it ‘will’ have in later analyses, for example in *The Genealogy of Morals*” (Derrida, 1985, p.27). The way in which “degenerate art” (the Nazi term *Entartete Kunst*) had come to mean exactly the opposite of Nietzsche’s morality reveals the ruse of freedom under the discernment and regulation of the State. It is the logic of censorship bound to the concept of academic freedom that constituted the premise of Derrida’s forewarning in *Otobiographies*. Fundamentally, he was questioning the function of the academic institution in the legislation of censorship under the political ruse of degeneracy.

### **The Instrumentality of Self-Silencing as a (Non-)Speech Act**

The flipside of institutional censorship is self-silencing, which could be defined as the response to experiencing censorship as an educational process. The potential outcome of the Arizona legislation prohibiting Spanish accents and Mexican studies is the self-silencing of students who must navigate within an Arizona community that disapproves of the tones of their “mother-tongue” as much as it censures the colonialist history of the conquest of Mexico. Derrida’s analysis of the ruse of academic freedom was a warning against this very kind of instrumentalization of education, but his focus was also on the type of student that was produced by such a system. As the example, Justice Thomas is one who experienced the silencing of his rural Southern accent at school and is today known best for being silent on the Supreme Court bench. While Thomas provides a compelling explanation for why he kept quiet in the high school classroom, the lesser-

known part of his biography is the extreme hardship he had to overcome as an African American. Growing up in the abject poverty of Georgia, his Catholic education was the foundation of his success in gaining entry to Yale Law School and then achieving confirmation as a Justice in the Supreme Court. Thomas's autobiographical subject presented in his own voice in *My Grandfather's Son* contends with his role as a Supreme Court Justice serving the Republican-party balance of political power as the second African American in history to have sat on the bench. Under the objective of perpetuating the institutional norm, it would seem that the instrumentality of self-silencing is more powerful than institutional silencing because it ensures that people of color maintain the existing hierarchy in exclusively white institutions. The way in which self-silencing works is through tacit forms of silencing overall.

The crux of Derrida's argument in *Otobiographies* could be understood by his acknowledgment of the historical impact of self-silencing as part of the educational process in maneuvering within the academic institution. Self-silencing only appears to be a quiet, passive and unassuming act since it functions to fulfill the specific character of the "functionary of the state," a role defined by Derrida as the figure "in the service of force, its docile instrument, servile and thus [thought to be] exterior to the dominant power." (ibid.) A docile, servile instrument offers up power implicitly to the ruling majority, and Derrida provided the example of the unquestioning members of the Gymnasium who would enable the most heinous crimes under "the ruse of the State, 'the most perfect ethical organism' (this is Nietzsche quoting Hegel)" and this ruse of academic freedom actually "conceals and disguises itself in the form of *laisser-faire*." (ibid., p.33) Derrida implicates the policy of non-interference as providing cover for highly political objectives in which the significance of the role of unquestioning functionaries cannot be overstated. Imposed as a priori condition of the institutional norm, the silencing act

is an invisible act that is all the more powerful for its elusive recognizability.

The person of color serving as a state functionary fulfills a particular role since self-silencing is an act of agreement with the institutional norm. The embodied act of “keeping quiet and keeping your head down” (advice I have received on many occasions) secures this “rightful role” for people of color and actually protects their place in exclusive workplaces such as the sanctioned halls of the judiciary as the archetype for the upper echelons of academic institutions. Because he had for so long refrained from speaking on the bench, Justice Thomas appears to be the very model of this role since withholding from oral arguments since 2006. As a model for “difference that makes no difference,” nothing exemplifies “no difference” more than the failure by one who represents difference to speak up from his highest position on the Supreme Court bench – a position made more significant since it was bequeathed by Thurgood Marshall, the first black Supreme Court justice. I have argued elsewhere that Thomas provides a model of *self-dismissal* that ensures the success of non-whites working in dominant white institutions because his strategy “enables a powerful outcome: the Supreme Court Justice title for a black male affects the balance of the conservative vote.” (Chin Davidson, 2016) And thus, it is conceivable that through self-silencing Thomas fulfills his position in the highest judicial realm, the sovereign space that Hill was prohibited from entering after she was publicly dismissed for her personal testimony presented at the 1991 hearings.

But self-silencing is a coping mechanism, and Chow’s analysis in her book *Not Like a Native Speaker: on Language as a Postcolonial Experience* traces the impact of the (non-)speech act on another prominent figure, President Barack Obama. Chow provides the example of the unforgettable experience that Obama included in his autobiography, recounting his visceral and painful reaction as a nine-year-old to a photograph of a black man undergoing chemical treatment



to lighten his black skin: “As in a dream, *I had no voice* for my newfound fear.” (Chow, 2014, p.7) Chow suggests that the young Obama was dumbstruck at the sight of the man’s skin that “will forever bear the unattained *tones* of whiteness (the promise of happiness, as Obama points out), that preferred color, language, and voice with which it tries, in vain, at once to speak and hide itself.” (ibid, p.8) The ability to overcome the impact of this “double disfigurement” – to rise above speechlessness and speak as the President of the United States – is to overcome *self-devaluation* based on skin “tones.” As defined by Chow, the conflation of visual and audio significations of race proves the “irreducibility of language as a phenomenological actor,” especially from experiences of childhood (ibid.).

In his autobiography, Thomas describes an experience similar to Obama’s conflation of the tones of the skin and the voice, revealing the endurance of the phenomenological impact of the double disfigurement. Having attended Catholic high schools during the majority of his youth, Thomas discusses the insults he received from his fellow students prior to Saint John Vianney at St. Pius X, the only African-American Catholic high school in Savannah Georgia in the 1960s: “Most of the insults aimed at me had to do with the darkness of my skin, the flatness of my nose, the kinkiness of my hair, and the way I talked. (My speech was still full of the Geechee dialect I had grown up hearing in Pinpoint [Georgia] and from Daddy and Aunt Tina.) It was only adolescent hazing, but it still hurt.” (Thomas, 2007, p.30) Taunted with the nickname “ABC-America’s Blackest Child” at a time when calling a dark-skinned Negro ‘black’ was highly offensive, the racial slurs that came from his African-American classmates were the most injurious. But Thomas attributes his self-consciousness in speaking out loud in the classroom to his later experiences and Father Coleman’s criticism at Saint John Vianney who told the sixteen-year-old that his inability to speak “standard English” would mark him as “inferior.” Father Coleman had offered to

help him improve his speech but Thomas felt his “blunt words hit me like a slap in the face.” (ibid., p.34) The impact was much greater since Thomas credits his overall motivation to Coleman’s hurtful judgments of inferior speech and his silencing act: “I vowed that day that no one would ever again say such things to me.” (ibid.) The violence of “blunt words” obviously left their marks on Thomas’s conception of the self, which not unlike Obama, biographically conveys the intellectual development of the first African-Americans in the highest leadership positions in the United States.

Thomas explains the difference, however, in his own management of race as an embodied subject who is distinct and separate from the speaking subject. The transformation came much later when he reviewed Coleman’s criticism as a judgment of solely his inferior speech: “I thought he was saying that I was inferior because I was black”; however, “years later, I found out that he’d said similar things to white students whose accents were about as thick as mine – but his candor hurt me, and it also made me self-conscious about talking out loud in class.” (ibid.) The important aspect of his autobiographical telling is the impact of the injury of his teacher’s criticism and the acceptance of self-silencing as a compromise. His method of dealing with Coleman’s judgment was through a disavowal of “race,” divorced now from the pure “defectiveness” of his speech since the Father had also criticized white students as well. Thomas was able to rise out of his impoverished circumstances in rural Georgia by receiving a privileged education from Catholic schools. What the sixteen-year-old “heard” was a racial interpellation that would change his life forever, and yet his acquiescence to Coleman’s silencing act would remain in the forefront of his role as the adult Supreme Court Justice. The formative event would establish Thomas’s agreement with the institutional norm (an institution of theological and academic tradition), influencing a self-silencing that maintains a particular “difference that makes no difference.” As the figure of authority, Coleman represents the

Catholic school, which functions principally here as the system of education and the State.

As described by Chow, “even as one transcribes and expresses oneself through skin, as one must, it also wounds and humiliates one.” (2014, p.6) Her analysis of the phenomenological condition of “aphasia or speech loss” attributes self-silencing to a “compulsory ‘self’ recognition” of race as disfigurement. At the mercy of the interpellation, as revealed by Fanon, this figuration is established by one’s *reaction* to the ‘dirty nigger’ ‘I’m frightened’ speech act (ibid., p.6-7). The effects are interminable and inexplicable and to recount or narrate the past cannot quite illustrate the enduring sense-perceptions of violence felt in the present, although Thomas’s description in his autobiography was quite effective. Self-silencing is a compromise and its counterpart is self-dismissal which requires the impossible confirmation of an “absence” much in the way that Spivak’s “Can the Subaltern Speak” was a project of “*measuring* silences.” (Spivak, 1994, p.66) This concept was also important to my other essay “Performative Testimony and the Practice of Dismissal” focusing on “dismissal” and “self-dismissal” in relation to the exclusion of raced subjects in the category of “woman” in Women’s Studies (Chin Davidson, 2016). Only the autobiographical can account for the non-hirings, the refusals of tenure, and the day-to-day dismissals of women of color in their experiences as teachers in the university. The “dismissed” woman of color can be viewed in clear contrast to those who we have seen follow the model of docility and self-imposed silence in order to maintain their positions in the academic institution.

### Poetic Speech Acts of Resistance

The limitations of the temporal “time” of autobiography which, as intimated by Derrida, is to think of “the writing of life by the living” or essentially the experience of the “time of life’s *reçit*” which is always in the rear view without much effective self-agency for the present (Derrida, 1985, p.11). In discussing the experience of self-silencing with a close South Asian colleague, I was reminded of the profound effect of my own “immigrant dialect” when we were reminiscing about learning to speak English. Impossible to acknowledge is the response to the immigrant voice that cannot be heard except by those who experience the wall of silencing, and we hear it loud and clear: “*you don’t belong here.*” As children of parents who emigrated to the United States when we were both very young, we shared similar experiences in our role as the family mouthpiece, speaking on behalf of parents whose lack of English proficiency and thick Asian accents kept them in an incomprehensible space. My own self-silencing began with the terror I felt at nine-years-old, translating for my mother at the grocery counter, a fear that ended at fifteen when it was replaced by the anger I felt toward the grocery clerks who stared in hateful disdain when my grandmother spoke too loudly at the same grocery counter. To this day, I know this disdain without someone so much as uttering a word to me, and it took a long time to recognize the self-hatred that comes with the shame of the immigrant accent, because, of course, our nine-year-old translations were just as incomprehensible to the ear of the other.

The expressive work of poetry can better elucidate through words the affective sense of “life by the living”; in particular, the poetry of Marilyn Chin who captures poignantly the dynamic of the immigrant accent. In her anthemic poem *How I Got That Name: an Essay on Assimilation*, Chin uses the auto-biographical form to establish the poetic power of the

speaking subject through proclaiming her name out loud: “I am Marilyn Mei Ling Chin/ Oh, how I love the resoluteness/ of that first person singular/ followed by that stalwart indicative.”(Chin, 1994, p.16) The poem goes on to acknowledge her mother’s failure to speak her English name with the immigrant accent: “My mother couldn’t pronounce the ‘r’ / She dubbed me ‘Numba one female offshoot’/ for brevity: henceforth, she will live and die; in sublime ignorance.” (ibid.) In my personal reading of this poem, Chin is articulating the powerful sense of self-alienation that the immigrant accent can instill in girlhood. The poetic use of the word ‘ignorance’ can be read as the difference between the child’s vulnerability to being viewed as “ignorant” and the child’s wish that her mother could bypass her humiliation – a “sublime ignorance” suggests the mother is unaware of her “inferior” speech. In Chin’s poetic acknowledgement, accented speech becomes a powerful form of expression since it communicates beyond or as a supplement to actual words. In a controversial passage of *Ofotobiographies*, Derrida explains that there is a “law that creates obligations with regard to language, and particularly with regard to the language in which the law is stated: the mother tongue. This is the living language (as opposed to Latin, a dead, paternal language, the language of another law where a secondary repression has set in – the law of death).” (Derrida, 1985, p.21) Seemingly essentialist in this gendering of language, Derrida invokes the “ear attuned to the name of the dead man and the living feminine”; however, the point of the passage is his focus on the patronymic “name of my death, of my dead life” in reference to the institution of archaic legacies contained within language itself (ibid.). In contrast, he attributes to the feminine the “living ear” that hears the spoken word, not the written text.

The reader of Chin’s poem can grasp the lyricism of her testimony through the written word; however, the engagement of the actual political critique becomes particularly effective when the poet delivers her testimonial “first person, stalwart indicative” from the commanding position of the speaking

subject. In his book titled *Foreign Accents*, literary critic Steven Yao acknowledges Chin's expression as "lyric testimony" since the poet "persistently and unapologetically [pursues] a 'political' agenda" shared amongst Asian-American writers who confront subjects of "dominant racism, immigration, minority or 'ethnic' identity, and gender oppression." (Yao, 2010, p.187) Chin is well known for her oral delivery since she is a poet in great demand for her poetry readings. As an artistic experience, the spoken word is regarded as phenomenologically separate from textual production, since audio comprehension is a temporal activity in the present that is remarkably different from the cognition of the written message. The phenomenological domain of the oral in relation to the literal has long been associated with oral poetry. Words themselves are represented visually only through writing, otherwise they are spoken as sound.

The special relationship between spoken sound and the objects they represent is found in the transcendent meaning that occurs from the engagement between speaker and listener. Oral poetry is "intellectualized mnemonically," suggests Walter Ong, since it conveys meaning through the specific power of its "event" for the greater community (Ong, 2002, p.31). Ong's seminal study of oral cultures reveals how the "the writing of life by the living" was originally conducted only through the spoken word which is exemplified most clearly by the poetic speech of the Homeric tradition. In Chin's model of *political* engagement descending from this cultural tradition, the orality of poetry provides yet another way to understand the phenomenology of the speech act as *a form of resistance*. Chin's overt scheme of political enunciation espouses and extends the ritual authority of the longstanding oral tradition. But when presented by the embodied Chinese woman poet herself, the power of the speech act and the delivery of the first-person naming – "I am Marilyn Mei Ling Chin" – incites a rupture to the patronymic textual tradition of naming considered by Derrida as the "name of the dead."

A poetic performative can function in this way to illustrate Ahmed's explanation that "a performative acquires force only through citation and repetition; A non-performative speaks to a gap between the past and future tense. The speech act is a commitment that points to the future it brings about...but the past that accumulates overrides this futurity, as what the institution is committed to, by sheer force of habit."(Ahmed, 2012, pp.126-27) The assertions of a brown woman speaking subject on the public stage is still something of an event. However, the repetition of the (*non-*)speech act, the passive and quiet non-performative, has become the force of habit that tends to overrule the power of the singular performative act. Any radical change is incumbent on leadership to give voice and to propose action on a greater social scale within the given institution. But as explained by Ahmed, the "barrier to change" is only felt by the discriminated, and because it "remains invisible to those who can flow into the spaces created by institutions," it is a material condition for only a particular contingency (ibid., p.175). The endeavor to make visible this barrier that is invisible to those in power is the most important objective for disrupting the silencing act in the institution. As people of color attain high-ranking positions, their acknowledgment of the "immaterial things" such as their own self-silencing acts can determine the material future for the greater whole. As Ahmed forewarns, the (*non-*)speech act of "getting people to the table by not speaking of the wall (by not speaking about what does get across) does not mean the wall disappears." (ibid.) But should it ever occur that people actually speak about the wall of silence or its implied issues, the outcome will always be contingent on the habits of the listening ear of the other.

### References

- Adekunmi, B. (2014, April). Kimberlé Crenshaw on intersectionality: "I wanted to come up with everyday

metaphor that anyone could use.” *New Statesman*.  
<http://www.newstatesman.com/lifestyle/2014/04/kimber-l-crenshaw-intersectionality-i-wanted-come-everyday-metaphor-anyone-could>

- Ahmed, S. (2000). *Strange encounters: Embodied others in postcoloniality*. London: Routledge.
- Ahmed, S. (2012). *On being included: Racism and diversity in institutional life*. Durham: Duke University Press.
- Ahmed, S. (2014). *Willful subjects*. Durham: Duke University Press.
- Ahmed, S., & Fortier, A.M. (2003). Re-imagining communities. *International Journal of Cultural Studies*, 6(3), 251-259.
- Austin, J.L. (1962). *How to do things with words*. Oxford: Clarendon Press.
- Barad, K. (2003). Posthumanist performativity: Toward an understanding of how matter comes to matter. *Signs: Journal of Women in Culture and Society*, 28(3), 801-831.
- Butler, J. (1988). Performative acts and gender constitution: An essay in phenomenology and feminist theory. *Theatre Journal*. 40(4), 519-531.
- Butler, J. (1996). Burning acts: Injurious speech. *University of Chicago Law School Roundtable*, 3 (1), 199-221.
- Chow, R. (2014). *Not like a native speaker: On language as a postcolonial experience*. NY: Columbia University Press.
- Chin Davidson, J. and Reddy, D. S. (2016). Performative testimony and the practice of dismissal. In P.A. Matthew (Ed.), *Written/unwritten: Diversity and the hidden Truths of tenure* (pp. 127-147). Chapel Hill: University of North Carolina Press.



- Chin, M. (1994). *The Phoenix gone: The terrace empty*. Minneapolis: Milkweed.
- Cixous, H. (2004). *Portrait of Jacques Derrida as a young Jewish saint*. New York: Columbia University Press.
- Cohen, A. (2013, January). Speak, Clarence, speak! *Atlantic*. <http://www.theatlantic.com/national/archive/2013/01/speak-clarence-speak/267169/>
- Coole, D. & Frost, S. (Eds.) (2010). *New materialisms: Ontology, agency, and politics*. Durham: Duke University Press, pp. 1-41.
- Crenshaw, K. (1991, July). Mapping the margins: intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43(6), pp. 1241-99.
- Derrida, J. (1985). *Otobiographies: The teaching of Nietzsche and the politics of the proper name*. (P. Kamuf, Trans.). NY: Schocken Books.
- Derrida, J. (1992). Force of law: The 'mystical foundation of authority. In D. Cornell, M. Rosenfeld, D.G. Carlson (Eds.), *Deconstruction and the possibility of justice*. NY and London: Routledge, pp.3-67.
- Derwing, T. & Munro, M. (2009, Oct.). Putting accent in its place: Rethinking obstacles to communication. *Language Teaching*, 42 (4), pp.476-490.
- Dovidio, J.F. & Gluszek, A. (2010). Understanding bias toward Latinos: Discrimination, dimensions of difference, and experience of exclusion. *Journal of Social Issues*, 66 (1), pp.59-78.
- Fraser, N. (1990). The uses and abuses of French discourse theories for feminist politics. *boundary 2*, 17(2), pp.82-101.

- Gabbatt, A. (2015, Jun 16). Donald Trump's tirade on Mexico's "drugs and rapists" outrages US Latinos. *The Guardian*. <https://www.theguardian.com/us-news/2015/jun/16/donald-trump-mexico-presidential-speech-latino-hispanic>. Accessed 11 December 2016.
- Hennessy, R. & Ingraham, C. (1997). *Materialist feminism: A reader in class, difference, and women's Lives*. NY and London: Routledge.
- Jordan, M. (2010, April 30). Arizona grades teachers on fluency. *Wall Street Journal*. <http://www.wsj.com/articles/SB10001424052748703572504575213883276427528>
- Kamuf, P. (2008, Spring). The Ear, Who? *Discourse*, 30(1/2), pp. 177-90.
- Landry, D. & MacLean, G. (1993). *Materialist feminisms*. Cambridge: Blackwell.
- Lavon Hanna, P. & Allen, A. (2012). Educator assessment: Accent as a measure of fluency in Arizona. *Educational Policy*, 27(4), pp. 711-738.
- Liptak, A. (2013, Jan. 14). Justice Clarence Thomas breaks his silence. *The New York Times*. <http://www.nytimes.com/2013/01/15/us/clarence-thomas-breaks-silence-in-supreme-court.html>
- McGough, M. (2014, Feb. 21). Justice Clarence Thomas' silence is "disgraceful"? Not really. *Los Angeles Times*. <http://www.latimes.com/opinion/opinion-la/la-ol-clarence-thomas-supreme-court-silence-20140221-story.html>
- Nussbaum, M.C. (1999, Feb.22). The professor of parody. *The New Republic*, pp. 37-45.
- Ong, W. (2002). *Orality and literacy*. NY: Routledge.

- Sharp, R. (2012). Point: academic freedom: should k-12 teachers have greater control of the content of the curricula they teach? In C. J. Russo (Ed.) *School Law* (pp. 4-11). Thousand Oaks: Sage Publications.
- Spivak, G.C. (1994). Can the Subaltern Speak? In P. Williams & L. Chrisman (Eds.) *Colonial discourse/Post-Colonial Theory: A Reader* (pp. 66-111). NY: Columbia University Press.
- The Dallas Morning News*. (2011, May 21). Fact Check: Republicans Who Deem Border Fence Inadequate Should Put Part of Blame on Hutchison, <http://www.dallasnews.com/news/local-politics/2011/05/21/fact-check-republicans-who-deem-border-fence-inadequate-should-put-part-of-blame-on-hutchison>
- Thomas, C. (2007). *My grandfather's son*. NY: Harper Collins.
- Toobin, J. (2013, Jan. 14). Clarence Thomas speaks, finally. *The New Yorker*. <http://www.newyorker.com/news/news-desk/clarence-thomas-speaks-finally>
- Weisman, J. (2006, Sept. 30). With senate vote, congress passes border fence bill. *The Washington Post*. [https://www.washingtonpost.com/archive/politics/2006/09/30/with-senate-vote-congress-passes-border-fence-bill-span-classbankheadbarrier-trumps-immigration-overhaulspan/5f52efd4-05d5-4c1b-98a6-edc776a1bbc6/?utm\\_term=.8b55d72c6847](https://www.washingtonpost.com/archive/politics/2006/09/30/with-senate-vote-congress-passes-border-fence-bill-span-classbankheadbarrier-trumps-immigration-overhaulspan/5f52efd4-05d5-4c1b-98a6-edc776a1bbc6/?utm_term=.8b55d72c6847)
- Yao, Stephen. (2010). *Foreign Accents: Chinese American verse from exclusion to postethnicity*. Cambridge: Oxford University Press.
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