

Faking It

Author : Daria Roithmayr

Date : September 18, 2013

Nancy Leong, [Racial Capitalism](#), 126 *Harv. L. Rev.* 2151 (2013).

Stacy Hawkins, [Selling Diversity Short](#), 40 *Rutgers L. Rec.* 68 (2012).

I've been the first Latina hired in a number of institutions, and on most occasions, those institutions have proudly and visibly trumpeted my hiring, in institutional media and outside as well. I'm well aware that my identity (if not my name) plus my hiring has accorded value to the institution. I'm also aware that in at least one institution, my hiring was an instance of what race scholar Nancy Leong calls "thin diversity," but what I call fake diversity: signaling a commitment to racial diversity that didn't really exist. Was I harmed (or was the public harmed) by this fake signal? Perhaps. But I like to think that I earned compensation, in the form of a job, and that the public benefited, because I might have helped to transform the institution in a real way despite the fake signal at the outset. All in all, I think a fair trade.

I was very excited to read Nancy Leong's article, *Racial Capitalism*, and then to read Stacy Hawkins' reply to Leong, *Selling Diversity Short*. These two scholars are welcome additions to the conversation about affirmative action, fresh voices in what can sometimes be a conversation that has become a bit tired and played out. Thanks to the wonders of electronic publishing, I might actually have read the critique before reading the actual article. Hawkins' critique came out online in 2012 and Leong's article in 2013. But in whatever order I read them, the back and forth among these scholars was terrific.

Leong's article, which is quite hefty, sets out what is in fact a fairly simple argument: racial capitalism, in which whites trade on a connection to nonwhites to falsely signal a commitment to racial diversity, is harmful. Leong argues that nonwhites' identity gains value as part of this false signal of a commitment to diversity, deployed by whites to create a reputation for racial tolerance. Leong identifies three harms to nonwhites from such exploitation: first, using nonwhites as a signal reinforces the commodification of racial identity and degrades that identity by reducing it to commodity status. Second, using nonwhites as a signal fosters racial resentment, because nonwhites will feel used and exploited. Third, false signals hinder the opportunity for more meaningful reform.

Leong is at her best when she traces the use of racial identity historically, and when she theorizes this use of identity in the creation of a fake signal as a form of Marxian capital. Less persuasive are her arguments that racial capitalism makes race a form of social capital, for reasons I will explore in just a bit. But her theoretical approach to the subject is smart and sophisticated. Doubtless someone pushed her to come up with a "remedy" to racial capitalism, and I think she could easily have skipped that section altogether without losing too much (despite her best efforts, the vague prescriptions feel a bit forced). But this is a minor quibble.

Stacy Hawkins takes Leong to task for overvaluing diversity's negative attributes and for undervaluing its positive attributes. More specifically, Hawkins argues that Leong focuses overmuch on the fake form (in Leong's words, thin version) of diversity rather than on the thick version, a critique I found well placed. Leong never says, for example, how many institutions are faking it, and how many not, though it is certainly plausible to suggest that many are faking it.

Second, and relatedly, Hawkins accuses Leong of exaggerating the costs associated with the harms of the fake signal, and then of minimizing the benefits that come along with the real (thick) version of diversity, a critique that I also find partly persuasive. For example, Leong does not consider the possibility that even those people of color who are pressured to conform to white institutional norms might nevertheless resist and push for a real commitment to racial liberation.

Whoever might have gotten the best of this exchange, and it is hard to say, I am thrilled to see this point-counterpoint play out so well and so smartly (and so electronically quickly). I heartily recommend reading both in the same sitting.

My primary intervention in this exchange (other than to self-absorbedly insert my own experience into the mix as a would-be victim) is to suggest that both scholars would have benefited from focusing more firmly on fakeness—on the falsity of the signal that the white person or institution wants to send.

Leong starts out with this focus explicitly, but loses that focus as she goes along. So for example, when she speaks about the economic value of a white connection to a person of color (a term so much more affirming than Leong's term of nonwhite) as a signal, she fails to probe with more particularity the difference between the value of a true signal and a fake one. Both have value, to be sure, but the value of each kind of signal comes from different sources; the true signal can properly be characterized as social capital, but the fake one less so.

The value of the true signal might be properly characterized as social capital, because the true signal trades on the meaning of the authentic connection between the institution and people of color in the institution's networks. The fake signal isn't really social capital. The fake signal might just as well be satisfied by pictures not of Diallo Shabazz, but of a model who could be paid for both posing and for temporarily enrolling for appearance's sake at the University of Wisconsin. The value of the real connection to a student of color to the university as opposed to a fake student model comes not from the resources transferred through the connection or the real information provided by the signal (as befits social capital), but from making it less likely that the fakeness of the signal could be discovered. Leong might have benefited here from a vast literature in law and economics on the subject of signaling.

Leong also loses sight of the distinction between fake and real signals when she discusses the harms associated with commodified racial identity. Indeed, I was never sure whether she might find the same harms she identifies to exist if the signal were a true one. Wouldn't using people of color as a true signal still reinforce the commodification of racial identity and trigger resentment? She doesn't really take up the question. And even when hired by an institution that really was committed to diversity and reform, I have always been aware of being "used" to send the signal of that commitment, not that I have minded at the end of the day.

But Hawkins also seems (perhaps for the reasons I just identified) not to fully appreciate that Leong has tried to limit her claims to fake signals, and not real ones. Hawkins thinks that Leong's target is diversity both thick and thin (in my terms, signals both true and fake). Hawkins' major complaint is that Leong emphasizes the disadvantages of the fake/thin while underrepresenting the advantages of the true/thick. But Leong explicitly puts the value of real signals or thick diversity per se to one side, though as I've said, her critique might well be read to apply to real signals as well as fake.

Still, this exchange was wonderful to read and I very much enjoyed doing so. The two pieces have much to recommend them: a productive disagreement, and a set of positions by both scholars well theorized and grounded in historical perspective, among other things. I'd love to see these two hash it out on the stage on a panel somewhere, with the folks to whom they cite to fill out the panel as commentators!

Cite as: Daria Roithmayr, *Faking It*, JOTWELL (September 18, 2013) (reviewing Nancy Leong, *Racial Capitalism*, 126 *Harv. L. Rev.* 2151 (2013). Stacy Hawkins, *Selling Diversity Short*, 40 *Rutgers L. Rec.* 68 (2012)), <http://juris.jotwell.com/faking-it/>.