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# Controlling the Crown: Legal Efforts to Professionalize Black Hair

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**Abstract**

Similar to other aspects of life, White cultural norms influence the evaluations and expectations placed on Black women in the workplace. Even though Bo Derek inspired many White women to wear braids after her character in the film *10*, the New York District Court sided with American Airlines when Renee Rogers sued her employer for denying her the right to wear similar braids to work. Nearly 40 years later, laws in California and New York City have finally acknowledged this approach as racial discrimination by making it illegal for any public and private entity from discriminating against Black hair. Building off these competing legal interpretations, this article analyzes the discrimination targeted at Black women's hairstyles, the directions provided by both the New York City Human Rights Law and the Creating a Respectful and Open World for Natural Hair Act, and the relevance that this issue has for Black women across the nation.

**Keywords**

race discrimination, Black women, employer grooming policies, professional hairstyles

In 2016, a graduate student named Rosalia led many to question if Google's search algorithm was racist because many of the images resulting from a search of "unprofessional hairstyles for work" depicted Black women with natural (Black) hairstyles. Conversely, a search of "professional hairstyles for work" yielded images of mostly White women (Alexander, 2016). Conducting these searches in 2019 reveals more examples of Black and White women in both categories. The

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"unprofessional" search still includes items that contend Black natural hair is not acceptable in the workplace (Sini, 2016).

This article analyzes the struggle of Black women to exercise authority of their hair and hairstyling. This analysis begins by first describing previous legal attempts by individual Black women to challenge grooming policies that make their hair unwelcome in the workplace. Next, we examine the legal guidance provided by the New York City Human Rights Law (NYCHRL, 2019) and the Creating a Respectful and Open World for Natural Hair Act (CROWN Act, 2019) in defining and prohibiting Black hair discrimination. Finally, we analyze the hair reflections described by Black women to consider what influence this legal guidance may have on their experiences in the workplace and in life.

## Black Women's Hair

### *Hair and Slavery*

Black hair has been a contested issue since Europeans encountered Africans. On the African continent, Black women embraced their kinky hair by styling and displaying it proudly in various fashions (Banks, 2000; Camp, 2015; White & White, 1995). In addition to the other indignities of slavery, White society also deemed Black women's natural hair as unattractive, unmanageable, and unwelcome (Bellinger, 2007; Byrd & Tharps, 2014; Patton, 2006; White & White, 1995). Slaveowners required Black women to cover their hair or adopt grooming practices that emulated White beauty (Bellinger, 2007; Byrd & Tharps, 2014; Patton, 2006; White & White, 1995). Indeed, having hair and complexions that resembled or, at least, imitated White people led to the assignment of Black women as house slaves instead of more laborious duties in the fields (Byrd & Tharps, 2014; Patton, 2006).

After obtaining their freedom from slavery, Black women turned more of their attention to their hair. Entrepreneurs such as Madame C. J. Walker helped to create the Black hair industry that developed processes, tools, products, and styles that allowed Black women to maximize and display the flexibility of their hair (Ellington, 2015; Patton, 2006; Randle, 2015; Weitz, 2004). Many elements of the emerging Black hair industry focused on helping Black women straighten their hair, which took on its own burdens and values (Patton, 2006; Randle, 2015).

### *White Beauty Norms*

Perceived in both positive and negative ways, straight hair maintains a strong connection to White beauty norms. While many Black women have naturally coarse, kinky hair, straightening their hair allows Black women to adopt hairstyles commonly associated with White women (Bankhead & Johnson, 2014; Craig, 2002; Greene, 2011; Morrison, 2010; Onwuachi-Willig, 2010; Patton, 2006; Randle, 2015; Robinson, 2011; Rosette & Dumas, 2007; Tate, 2007; Thompson, 2009b; Weitz, 2004). In turn, straight hair serves as a path for upward mobility for Black women since it makes them seem more mainstream (Collier, 2012; Morrison, 2010; Patton, 2006;

Thompson, 2009b). As described by Morrison (2010), "Straightening is whitening. Whitening is bettering. Therefore straightening is bettering. It is bettering in that it makes Black women more acceptable in environments dominated by whites" (p. 89). In a society that values Whiteness over Blackness, wearing straight hair allows Black women to align with Whiteness and therefore improve (if only marginally) their social position.

However, wearing straight hair can have negative consequences. The processes used to straighten Black hair often result in damaged follicles, burned skin, and in some cases, hair loss (Byrd & Tharps, 2014; Collier, 2012; Johnson, 2013; Rosette & Dumas, 2007; Stilson, 2009; Thompson, 2009a). Even if women do not experience physical consequences when straightening their hair, attempts to reflect White beauty can negatively affect how Black women view their hair, skin, bodies, and overall self-identity (Capodilupo & Kim, 2014; Craig, 2002; Djanie, 2015; Greene, 2011; Jones & Shorter-Gooden, 2003; Lake, 2003; Morrison, 2010; Onwuachi-Willig, 2010; Randle, 2015; Robinson, 2011; Rosette & Dumas, 2007; Tate, 2007; Thompson, 2009b; Weitz, 2004; White, 2005). Within this context, the choice of some Black women not to wear straight hair comes off as revolutionary since it does not value Whiteness (Bankhead & Johnson, 2014; Banks, 2000; Caldwell, 1991; Craig, 2002; Djanie, 2015; Donahoo, 2019; Morrison, 2010; Opie & Phillips, 2015; Patton, 2006; Thompson, 2009b). While helping Black women conform to White beauty norms, hair straightening can harm Black women both physically and emotionally by reminding them that mainstream society does not appreciate or accept them for who they are.

## Hair Economics

The climate surrounding Black hair also affects Black women economically. On the one hand, straightening and many other efforts to style Black hair can be very expensive for customers, which has built a highly lucrative industry. At what may have been the height of their usage, Black American women spent $206 million relaxers (chemical straightening) alone (Mintel Press Team, 2013). Mintel estimated that Black hair care products had a value of $2.7 billion in 2015 in the United States excluding accessories, weaves, wigs, and other forms of hair (Mintel Press Team, 2015). Within the United States, hair weaves, wigs, and extensions are a $5 billion industry annually across all races (Wood & Schwab, 2017). Worldwide, the Black hair industry as a whole has a value of approximately $9 billion each year, which includes hair, accessories, and all types of products (Sapong, 2017). In a market often driven by women, Black Americans spend more than 9 times as much on their hair as individuals of other races (Harmon, 2018). While their motives may vary, Black women clearly allocate much of their financial resources to straightening, styling, and maintaining their hair.

Additionally, hair is also an economic issue for Black women as they pursue and maintain employment. Stemming from slavery, wearing straight hair helps Black women gain access to employment (Bellinger, 2007; Byrd & Tharps, 2014; Jones &

Shorter-Gooden, 2003; Onwuachi-Willig, 2010; Randle, 2015; Rosette & Dumas, 2007; Thompson, 2009b; Weitz, 2004). As Morrison (2010) contends, straight hair connects Black women with Whiteness and "Being associated with whiteness 'vouches' for the person of color" (p. 93). Indeed, the value placed on straight hair leads employers and even Black Americans to promote the idea that Afrocentric hairstyles are unprofessional (Byrd & Tharps, 2014; Jones & Shorter-Gooden, 2003; Opie & Phillips, 2015; Weitz, 2004). As a result, the decision to wear braids, twists, and other textured hairstyles, instead of straightening their hair, has led to problems in the workplace or even loss of employment for some Black women (Caldwell, 1991; Collier, 2012; Craig, 2002; Weitz, 2004).

## Black Feminist Thought

We use Black feminist thought (BFT) to examine policies and appearance norms that affect the hiring and work experience of Black women as related to their hair presentation. Collins (2009) devised BFT to explain the discrimination experienced by Black women. Compared to both White women and Black men, Collins (2009) argues that Black women encounter double discrimination based on both race and sex. While it does not address the limitations that they encounter because of sex discrimination, White women are members of the dominant race. Although race limits their access of social dominance and its advantages, Black men are members of the dominant sex. Black women do not possess any connection to dominance, thus making them perpetual outsiders to social structures and spaces designed to best accommodate White men (Collins, 2009; Donahoo, 2019; Moore, 2008; Patton, 2016).

In examining hair policies affecting Black women, we apply three of the six tenets of BFT. First, Collins (2009) argues that discrimination has individual consequences that arise in the everyday lives of Black women. Policies that apply White beauty norms to Black hair require individual Black women to change their appearance to meet employment and social expectations. Second, BFT recognizes that the oppression directed at Black women leads to some similarities in spite of intergroup differences (Collins, 2009). Not all Black women have the same types of employment, hair, or appearance expectations. However, Black women receive common messages about how they should wear their hair especially in the workplace. Third, Collins (2009) maintains that exposing the oppression targeted at Black women helps to make it visible, while also providing opportunities to overturn its foundations and effects. Examining appearance policies illustrates that these rules affect Black women differently from other employees, thus placing a special burden on them due to their race and sex.

## Methods and Procedures

We apply BFT to this analysis of hair policies and Black women by examining three categories of data. First, we review court cases and hair policies implemented before

either the New York City Commission on Human Rights (2019) or the state of California produced new guidelines on the subject. This evidence helps to illustrate the limited success individual Black women have achieved as they challenged racially discriminatory hair policies. Next, we provide an overview and analysis of guidelines issued by the NYCHRL and the CROWN Act (2019), and these legal efforts to expose and end the oppression targeted because of their hair. Finally, we analyze the hair experiences described by Black women, which substantiate the importance of and need for the prohibitions established by the CROWN Act and the NYCHRL on a nationwide scale. The data obtained from Black women come from other research conducted by one of the coauthors with human subjects approval and the consent of each participant. Names used to describe these participants are pseudonyms and descriptions provide limited personal information to maintain their confidentiality.

## Court Cases on Black Hair

Several women have gone to court for issues related to their employment and their hair. These women range from Jackey Wright who used hair texture to escape slavery to Chastity Jones who lost a telephone position after refusing to cut her dreadlocks.

### *Jackey Wright*

Black women have repeatedly sought legal remedies through and related to their hair. Jackey Wright used her long, straight, and black hair as evidence to help secure freedom from slavery for her two children and herself. Held as a slave by Houlder Hudgins, Wright sued for her freedom on the basis that she was an American Indian. Evidence of her American Indian heritage included witnesses that testified that her mother Hannah and grandmother Butterwood Nan were American Indian; Virginia laws, which declared American Indians to be free persons beginning in 1705; and her complexion and hair. Both the lower court and the Supreme Court of Virginia ruled that Wright and her children were American Indians and, therefore, free (Hudgins v. Wright, 1806). While her hair did not make her White, the social and biological assumptions attached to hair allowed Wright to escape both slavery and the other life hazards associated with Blackness (Collier, 2012).

### *Beverly Jenkins*

Over 150 years later, hair was also a focal element in Beverly Jenkins' attempt to confront discrimination. Employed by Blue Cross Insurance for almost 3 years, Jenkins felt that her job situation changed when she started wearing an Afro to work. According to Jenkins,

> I [had] no problem until May 1970 when I got my natural hairstyle. Later when I came up for promotion it was denied because my supervisor, Al Frymier, said I could never

> represent Blue Cross with my Afro. He also accused me of being the leader of the girls on the floor. (Jenkins v. Blue Cross Mut. Hospital Ins., Inc., 1976, p. 167)

The comments from her supervisor suggest discomfort with a Black employee overtly presenting herself as a Black person. Moreover, the suggestion that Jenkins is a leader of the other girls shows that this is a concern involving about race and sex. By wearing an Afro, Jenkins asserted her racial identity, while the comment about her commiserating with other female employees suggests fear that others may also seek to take control of their identities in the workplace as a result of Jenkins' decision to change her hair. Ruling on the case, the seventh circuit determined that there was enough evidence to indicate that Jenkins encountered both race and sex discrimination and remanded the case for further consideration based on the facts (*Jenkins v. Blue Cross Mut. Hospital Ins., Inc.,* 1976). Even so, the court did not offer any directions about discrimination against Black hair, thus discarding the opportunity to offer legal clarification on this issue (Banks, 2002; *Jenkins v. Blue Cross Mut. Hospital Ins., Inc.*, 1976).

## *Renee Rogers*

By far, the most documented litigation related to Black hair in the workplace is *Rogers v. American Airlines, Inc.* (1981). Similar to Jenkins, Renee Rogers worked at American Airlines for several (11) years before she changed her hairstyle. After 1 year in airport operations, which placed Rogers in routine and direct contact with customers and the general public, she began to wear her hair in cornrows. The grooming and appearance policies at American Airlines prohibited employees from wearing braided hairstyles, which led Rogers to lose her job for noncompliance. The court rejected Rogers' argument that these policies were discriminatory because they applied to all employees equally. As such, the court dismissed Rogers' contention that the policies were discriminatory in their effect since Black women most commonly wore braided hair. Indeed, the court referenced Bo Derek's famous donning of cornrows in a movie as evidence that this was not a style uniquely associated with Black hair (*Rogers v. American Airlines, Inc.*, 1981). In doing so, the court both denied the rights of Black female employees to wear hairstyles that represented their culture and dismissed the cultural appropriation promoted in the film *10* (Adams & Edwards, 1979; Caldwell, 1991; Carbado, 2013).

## *Redish McPherson*

Echoing Renee Rogers, Redish McPherson also lost her job due to her decision to wear braided hair. The workplace guidelines in *McPherson v. Shoney's Colonial* (1996) required employees to limit the length of their hair. However, the employer did not direct McPherson to cut her hair. Instead, the employer objected to the braids as a style, not because of their length. During the trial, the employer indicated directing McPherson put her hair up, not cut it (*McPherson v. Shoney's Colonial*, 1996). As a

result, the court held that the restaurant did not discriminate against McPherson. Notably, the court never addressed the issue that McPherson alluded to, in presenting her case, the requirement that she stop wearing braids. As the two sides disagree on this element of the facts, the court evaded an opportunity to revisit Rogers by addressing the McPherson's recollection of events. After all, McPherson wore braids to the workplace for some time and it was only just before she left on her scheduled maternity leave that her employer stated any official objection to her hairstyle (*McPherson v. Shoney's Colonial*, 1996). Moreover, the grooming policy did not restrict braids in workplace, thus suggesting, at least from McPherson's perspective, that her employer may have challenged more than just the length of her hair.

## *Patricia Pitts*

Whereas McPherson could not prove that her employer objected to her because she wore braids, Patricia Pitts could. Pitts began working in guest services (cashier, information, etc.) at Wild Adventures, Inc., in Valdosta, GA, in 2000. The company promoted Pitts to team leader in March 2001. While it is unclear how long or often Pitts wore cornrows to work, her supervisor (White female) objected to them in March 2001. Although there was no formal grooming policy in place at the time, the supervisor disliked the cornrows and directed Pitts to have "her hair done in a 'pretty style'" (*Pitts v. Wild Adventures, Inc.*, 2008, p. *3). In an attempt to comply, Pitts moved from cornrows to wearing two-strand twists, but her supervisor still disapproved because this style resembled dreadlocks. Pitts refused to change her hair again. The employer later issued a memo on November 6, 2002, which prohibited wearing "dreadlocks, cornrows, beads, and shells" that are not "covered by a hat/visor" (*Pitts v. Wild Adventures, Inc.*, 2008, p. *3). Pitts declared her objection to this policy to both the human resources and the owner of the company but did not receive a response from either. Not long after, Pitts became the subject of multiple write-ups for disciplinary violations, did not obtain a promotion, and on September 5, 2003, lost her job due to the disciplinary issues, for failing to cooperate with her manager, and accusations that she allowed visitors to enter the business without paying. Moreover, the employer alleged "that sometime between May 2001 and June 2003 Plaintiff gave a wallet from lost and found containing $500 to a friend and falsely claimed that he properly identified the wallet" (*Pitts v. Wild Adventures, Inc.*, 2008, p. *5). While they could not prove it, the employer came to view Pitts as dishonest, which also factored into the decision to terminate her (*Pitts v. Wild Adventures, Inc.*, 2008).

As with the other cases, the court ruled in favor of the employer arguing that hairstyles are mutable (something people can alter) and, therefore, did not show evidence of racial discrimination. The court also found that Pitts did not suffer retaliation after challenging the grooming policy (*Pitts v. Wild Adventures, Inc.*, 2008). Yet, as with Jenkins, Pitts' relationship with her employer changed after she embraced an ethnic hairstyle. Without mentioning her hair, the employer and its agents looked for and repeatedly found that Pitts failed to do parts of her job. Without definitive proof that the event actually took place, the employer began to regard Pitts as a thief

because of accusations surrounding the unclaimed wallet and letting visitors in without making them pay. Just as Jenkins' supervisor associated her Afro with activism in the workplace, Pitts's employer presumed that her dreadlocks made her a criminal. While neither court recognized these women's experiences as discrimination, it is clear that Jenkins, Pitts, and even Rogers received better treatment at work when their hair drew little attention from their employers.

### *Velma Jefferson*

Receiving attention at work for her hair also caused problems for Velma Jefferson. Jefferson began working as a security guard for Securitas Security Services in 2004. In 2007, Jefferson went to the main office to pick up check while wearing a black wig with bright red streaks. During her visit, Donna Brieske in human resources declared, "So you're the one with red hair. You can't wear your hair like that its too light" (*Jefferson v. Securitas Sec. Servs.*, 2009, p. *2). At that time, the company handbook indicated that hair "must be neat and combed in a natural style that is appropriate in the work environment. Unconventional or extreme colors of hair and/or hairstyles are not acceptable" (*Jefferson v. Securitas Sec. Servs.*, 2009, p. *2). Recognizing that another Black woman, Christine Davis, worked for the company with dyed blonde hair and did not receive any discipline, Jefferson argued that she was receiving unfair treatment. However, the court interpreted the lack of discipline against Davis as evidence that Securitas did not racially discriminate against Jefferson (*Jefferson v. Securitas Sec. Servs.*, 2009). Similar to the other women, Jefferson's hair did not affect her work until her employer decided that it did.

### *Chastity Jones*

In the most recent litigation involving a Black woman, Black hair, and work, Chastity Jones lost her job before she ever started working. In response to an advertisement, Jones applied to be a phone customer service representative for Catastrophe Management Solutions (CMS). The job did not involve any face-to-face contact with customers. During the interview process, Jones shows up wearing a suit and dreadlocks, completed the process, and received an offer for a position. It was only after Jones sought clarification about a scheduling issue that Jeannie Wilson, Human Resources Manager for CMS, told Jones that she would have to cut her short dreadlocks. Wilson stated that a Black male hired by CMS received the same directive. The grooming policy at CMS indicated that the "hairstyle should reflect a business/professional image. No excessive hairstyles or unusual colors are acceptable" (*Equal Employment Opportunity Commission v. Catastrophe Management Solutions*, 2014, p. 1159). Supporting Jones, the Equal Employment Opportunity Commission maintained that bias against dreadlocks and other natural hairstyles stem from the erroneous perception that Black employees are troublemakers when they wear their natural hair. Even so, the 11th Circuit ruled in favor of CMS finding that company policy could legally limit employee hairstyles as long as the company did

not discriminate against different types of hair (*Equal Employment Opportunity Commission v. Catastrophe Management Solutions*, 2014). As Greene (2017) explains, the 11th Circuit's decision establishes a difference between racial hairstyles such as the Afro, which require little effort on the part of wearers to achieve (immutable) and cultural hairstyles such as dreadlocks, which result from deliberate manipulation of the hair (mutable). In this context, guidelines that prohibit Beverly Jenkins from wearing her Afro to work are illegal, but those that restrict Patricia Pitts and Chastity Jones from wearing their hair in locks are not.

### *Summary*

Individual Black women have tried and repeatedly failed to gain judicial support for the right to style their hair naturally in the workplace. As the only one of these women to win her lawsuit, Jackey Wright did so by using the straightness of her hair as proof that she and her children were not Black and, therefore, had the right to control their own labor as free persons. Conversely, Beverly Jenkins, Renee Rogers, Redish McPherson, Patricia Pitts, Velma Jefferson, and Chastity Jones all lost their jobs when they attempted to "wear" their Blackness on their heads. With the exception of Pitts, most of the employers made little effort to show that the job performance of these women changed when they altered their hairstyles, thus making it clear that their hair was the primary reason that these women were no longer welcome at work. Although the grooming policies that restrict the display of Black hairstyles in the workplace are structurally race-neutral, the judicial outcomes obtained by these women suggest that the application of these policies overwhelmingly targets and affects Black women.

## Hair Antidiscrimination Law

Issued in February 2019, the New York Commission on Human Rights' Law Enforcement Guidance on Race Discrimination on the Basis of Hair accepts and sustains many of the arguments that the courts rejected when presented by Black women. Signed into law by Governor Gavin Newsom on July 3, 2019, California Senate Bill 188 (2019) or the CROWN Act (2019) offers similar commentary and legal protection for Black natural hair in that state.[1] Specifically, these laws acknowledge that White beauty standards generate bias and discrimination against Black hair, recognize that cultural discrimination can equate to racial discrimination, and maintain that hairstyling is a personal decision and a civil right.

### *White Beauty Norms and Bias Against Black Hair*

Similar to lawsuits challenging grooming policies, both the NYCHRL (2019) and the CROWN Act (2019) acknowledge White beauty norms as the source of bias against Black hair and ethnic hairstyles. Explaining this connection, the NYCHRL (2019) declares that,

> Bans or restrictions on natural hair or hairstyles associated with Black people are often rooted in white standards of appearance and perpetuate racist stereotypes that Black hairstyles are unprofessional. Such policies exacerbate anti-Black bias in employment, at school, while playing sports, and in other areas of daily living. (p. 1)

In doing so, the NYCHRL (2019) both confronts and challenges the idea that Black people have to emulate White hair and hairstyles in order to be acceptable in public space.

The NYCHRL (2019) references multiple consequences associated with the perpetuation of White beauty norms and expectations when styling Black hair. Among these, the NYCHRL (2019) recognizes that "Black people with tightly coiled or tightly curled hair textures face significant socioeconomic pressure to straighten or relax their hair to conform to white and European standards of beauty, which can cause emotional distress, including dignitary and stigmatic harms" (p. 6). Similarly, the CROWN Act (2019) states that "The history of our nation is riddled with laws and societal norms that equated 'blackness,' and the associated physical traits, for example, dark skin, kinky and curly hair to a badge inferiority, sometimes subject to separate and unequal treatment" (p. 1). Beyond the social and emotional consequences, the NYCHRL (2019) also points to the physical damage that adopting and maintaining White emulating styles can cause to Black people especially Black women, which include thinning hair, breakage, alopecia, and burned scalps (McMichael, 2007; Randle, 2015; Thompson, 2009a; Wise, Palmer, Reich, Cozier, & Rosenberg, 2012). Researchers have also linked the chemicals used to straighten and style Black hair to increased rates of breast cancer (Stiel, Adkins-Jackson, Clark, Mitchell, & Montgomery, 2016) and fibroids, which can affect fertility and increase the need for high-risk surgical interventions including hysterectomies (Wise et al., 2012). Whether physically or emotionally, efforts to adhere to White beauty norms are causing legitimate harm to Black women.

Moreover, both the NYCHRL (2019) and the CROWN Act (2019) directly rebuff the notion that Black hair and hairstyles are inherently unprofessional. "There is a widespread and fundamentally racist belief that Black hairstyles are not suited for formal settings and may be unhygienic, messy, disruptive, or unkempt" (NYCHRL, 2019, p. 4). Likewise, California legislation argues that, "Professionalism was, and still is, closely linked to European features and mannerisms, which entails that those who do not naturally fall into Eurocentric norms must alter their appearances, sometimes drastically and permanently, in order to be deemed professional" (pp. 1–2). Without differentiating between hairstyles, these hair discrimination laws label the very notion that Black hair is unprofessional as a racist concept. In doing so, the law goes further than the courts by asserting that any policy or assumption that requires or motivates Black people to adopt hairstyles that emulate White beauty norms and avoid hairstyles that commonly associated with Blackness are inherently racist.

## Cultural Discrimination–Racial Discrimination

In addition to challenging White beauty norms and asserting the idea that Black hairstyles can be professional, the NYCHRL (2019) also settles the controversy between mutable and immutable hairstyles. Set forth by the 11th Circuit, the most recent judicial verdict related to Black hair in the workplace maintains that discrimination against immutable styles (Afros, unprocessed or unaltered hair) is illegal. However, it remains lawful for employers to limit the display of mutable styles (locs, hair color, braids, etc.) in the workplace (*Equal Employment Opportunity Commission v. Catastrophe Management Solutions*, 2014).

Starting where the 11th Circuit left off, the NYCHRL (2019) designates discrimination against both mutable and immutable Black hairstyles as illegal.

> The New York City Human Rights Law ("NYCHRL") protects the rights of New Yorkers to maintain natural hair or hairstyles that are closely associated with their racial, ethnic, or cultural identities. For Black people, this includes the right to maintain natural hair, treated or untreated hairstyles such as locs, cornrows, twists, braids, Bantu knots, fades, Afros, and/or the right to keep hair in an uncut or untrimmed state. (p. 1)

Within this context, the NYCHRL (2019) challenges the 11th Circuit's definition of mutable hairstyles declaring that,

> Hair may naturally form into locs, known as freeform locs, which are grown without manipulation. Hair may also be manipulated into locs, known as "cultivated locs," a cultural hairstyle predominantly worn by people of African descent. Whether hair naturally forms or is manipulated into locs, this and other protective or cultural hairstyles often have great personal significance for the wearer. (p. 4)

Unlike the 11th Circuit, the NYCHRL (2019) does not see a clear line between mutable and immutable hairstyles or a definitive line between Black race and Black culture.

Addressing this concern, the CROWN Act (2019) proclaims that "the courts do not understand that afros are not the only natural presentation of Black hair. Black hair can also be naturally presented in braids, twists, and locks" (p. 2). Overtly confronting the connection between hair and race, the CROWN Act (2019) further contends that "hair has historically been one of many determining factors of a person's race, and whether they were a second class citizen, hair today remains a proxy for race. Therefore, hair discrimination targeting hairstyles associated with race is racial discrimination" (p. 2). While the 11th Circuit and other courts deny the relationship between hair and race, the CROWN Act recognizes that the two can and often do work together to promote the belief that Black people and Black hair are inferior.

Both the NYCHRL (2019) and the CROWN Act (2019) recognize that race and culture overlap in Black hair, which makes it impossible to discriminate against one without discriminating against the other. While hairstyles may be mutable, Blackness

is not. As a result, laws and policies that restrict Black hair, in effect, limit all manifestations of Blackness.

## *Hairstyling as a Civil Right*

The NYCHRL (2019) recognize Black hair and hairstyling as an area where the government and employers have no authority to dictate or control, thus equating it to a civil right.

> Black hairstyles are protected racial characteristics under the NYCHRL because they are an inherent part of Black identity. There is a strong, commonly known racial association between Black people and hair styled into twists, braids, cornrows, Afros, Bantu knots, fades, and/or locs, and employers are assumed to know of this association. (NYCHRL, 2019, pp. 6–7)

As with religion, ethnicity, and race, the NYCHRL (2019) acknowledges Black hair as a personal right that does not require external approval and is beyond regulation.

Conversely, the NYCHRL (2019) challenges the common standard presented in grooming policies, which require employees to wear "neat and orderly" hair (p. 7). Accordingly, the Commission proclaims that,

> a grooming policy to maintain a "neat and orderly" appearance that prohibits locs or cornrows is discriminatory against Black people because it presumes that these hairstyles, which are commonly associated with Black people, are inherently messy or disorderly. This type of policy is also rooted in racially discriminatory stereotypes about Black people, and racial stereotyping is unlawful discrimination under the NYCHRL. (NYCHRL, 2019, p. 7)

In a similar fashion, the CROWN Act (2019) declares that,

> in accordance with the constitutional values of fairness, equity, and opportunity for all, the Legislature recognizes that continuing to enforce a Eurocentric image of professionalism through purportedly race-neutral grooming policies that disparately impact Black individuals and exclude them from some workplaces is in direct opposition to equity and opportunity for all. (p. 2)

Whereas the courts continue to view these grooming policies as race-neutral, the Commission and the CROWN Act (2019) do not. Although the language of these grooming policies applies to employees of all races, the application and outcomes do not. The assumption that Black hair is inherently messy means that Black women must make their hair look like White women to comply with these policies.

Reiterating its challenge to employer grooming policies, the NYCHRL (2019) provides examples of policy violations. These examples are:

- A grooming policy prohibiting twists, locs, braids, cornrows, Afros, Bantu knots, or fades, which are commonly associated with Black people.
- A grooming policy requiring employees to alter the state of their hair to conform to the company's appearance standards, including having to straighten or relax hair (i.e., use chemicals or heat).
- A grooming policy banning hair that extends a certain number of inches from the scalp, thereby limiting Afros (NYCHRL, 2019, pp. 7–8).

Whereas the broadly defined neat and orderly standard makes it very difficult for Black women to determine if their hair is acceptable until they have a problem at work, the NYCHRL (2019) clears up this confusion. Rather than leave this issue to subjective enforcement, the language and directives provided by the NYCHRL (2019) outlines specific protections for Black hair that helps to make them acceptable in the workplace.

Along with the NYCHRL (2019), the U.S. Department of Defense (DOD), the largest employer in the world (Chang, 2015), also contends that Black hair can be neat and orderly. Inspired by complaints from Black women, the DOD changed its regulation to allow Black hairstyles such as locs, braids, and twists (CROWN Act, 2019; Mele, 2017; NYCHRL, 2019). Moreover, the U.S. Navy provides visual images of acceptable hairstyles that feature Black women wearing different styles of braids, buns, and natural hair (Chief of Naval Personnel Public Affairs, n.d.). Each of the women pictured have neat and orderly hairstyles that they could easily wear in almost any professional environment. Having reversed it policy against Black hairstyles, the DOD not only supports the rights of military personnel to wear these styles, now champions them as professional in both its standards and imagery.

## *Black Hair as Professional and Welcome*

In direct contrast to the experiences of many Black women at work and in the analyzed lawsuits, the CROWN Act (2019) and the NYCHRL (2019) view Black hair as professional. Acknowledging the discrimination that accompanies grooming policies and expectations that Black women emulate White beauty standards, both of these laws prohibit employers from interfering with Black hair. Although the NYCHRL (2019) does permit limitations on hair related to health and safety concerns, the Commission maintains the legality and professionalism of Black hair by requiring employers seek the least invasive approaches such as having employees cover their hair when working with food. Employers cannot use working conditions as an excuse to make Black people cut or change their hair. As such, grooming policies that prohibit or limit Black hair are discriminatory on the basis of race since they infringe on the rights of Black employees to be who they are.

## Protecting All Styles

As it stands, the NYCHRL (2019) is only binding and effective in New York City. On the other hand, the CROWN Act (2019) applies to the entire state of California, and there are similar acts under consideration for the states of New Jersey and New York. Even so, the lawsuits filed by Beverly Jenkins, Chastity Jones, and the other women illustrate a clear need for this type of protection across the United States. Obtained through semistructured interviews with 22 Black women about their hair, the data presented further exemplify hair discrimination as a common experience of Black women that will require national legal support similar to that provided by the NYCHRL (2019) and the CROWN Act (2019) to correct. Referenced by pseudonyms, all of the women in this sample were graduate students and/or higher education professionals at traditionally White institutions at the time of their interviews and had an average age of 33.43 years. Each woman earned a bachelor's degree and 12 of them were pursuing an additional degree while working either part (two) or full time (10). From the data provided by these women, we present selections from the data. Notably, stories shared by all of the research participants exhibit the need to protect Black women from racial discrimination targeted at their hair.

### *Acquiescence Required*

Highlighted in multiple lawsuits and hair laws, many Black women experience pressure to conform to White beauty norms. Indeed, White beauty norms place constant pressure of Black women to make their hair conform. A master's student (age 25 years) Faraja describes the struggles that Black women endure in styling their hair to meet White beauty norms.

> As a Black woman, I've been conditioned to think that my hair is supposed to be like White peoples and it's just- it's not. So, we do all these things to make our hair more like theirs. Whether it's getting weave or you're chemically straightening your hair, we're changing our hair texture to fit their criteria; to fit their social norm. . . . I think that's just how we've been conditioned to think that's what makes us beautiful. That's what's pretty, that's what's acceptable.

As Faraja reminds us, society values to White women over Black women. Changing their hair to mimic White women gives Black women partial and, ultimately, temporary access to feminine beauty.

In addition to the general pressure to acquiesce to White beauty norms, these norms affect the way that Black women seek employment and establish their careers. Of these women, Faraja, Noni (28 years, full-time professional and part-time master's student), and Subria (28 years, full-time professional and part-time doctoral student) all indicated that they feel the need to wear weaves, wigs, or some other straight hairstyle when interviewing and looking for new employment. Although she has worn her hair natural (no chemicals and no straightening) since 2008, Jina (30 years, full-

time professional and full-time doctoral student) describes the pressure to wear White hairstyles when searching for work.

> With my father it was a child of the 60s, 70s migrant from the south, family when passing—so like again, if he were alive and I could have a conversation with him, he wouldn't think of it or even process it the same way, but I understand that passing was really important and I'm sure for him, he would want me for survival around employment, survival around social environment, you needed to look a particular way.

Viewed from the perspective of her father, Jina contends that wearing White hairstyles was once a necessary element of the employment process. As described by the CROWN Act (2019) and the NYCHRL (2019), this perception places extra obligations on Black women making it harder for them to obtain and keep employment.

Whether looking for work or laboring to keep it, White beauty norms consistently generate conversations and debate about Black hair. As Razina (28 years, full-time professional) who wears wigs and changes styles often recalls that,

> Every time I meet people, every time I [have] changed to a new job. . . . literally people comment on my hair.

When starting a new job, Uniqua (33 years, full-time professional and part-time doctoral student) also encountered pressure to change her natural hair. Although Uniqua resisted, one of her Black female coworkers straightened her hair even after both committed to wearing natural hair for their professional headshots. The fact that these conversations occur shows the strong influence that White beauty norms have on Black hair in the workplace. Without protections provided by laws similar to the CROWN Act and the NYCHRL (2019), Black women will continue to face internal and external pressure to wear hairstyles that reinforce the value of White beauty norms in the workplace.

## *Hair Discrimination as Racial Discrimination*

The continuing influence of White beauty norms serves as the foundation for making hair discrimination possible in the workplace. As long as White beauty is the best, then Black women can only be beautiful if they wear White hairstyles, thus making Black hairstyles unattractive and unacceptable. As Uniqua points out,

> they still judging you and so just trying to crush some of those stereotypes that come with the different ways that we wear our hair . . . Everybody's not black power just cause, you know, they got an Afro.

Similarly, Subria explains that "Our work environments are sculpted by white culture, so anything outside of that is seen as 'other.' That includes natural hair." As long as Black people occupy the role of "other," work environments will discriminate against

Black hairstyles because they are not what White people wear or expect especially in professional settings.

As illustrated in the lawsuits and affirmed both hair laws, the discrimination directed at Black hair leads to constant judgment and interference. For Yeva (31 years, full-time professional), wearing natural hair generated numerous questions from her coworkers such as,

> How long does it take . . . are you, is it done? Are you gonna do more to it? . . . what do you have to do to get your hair like that? . . . do you wash your hair?

Likewise, Kiburi's (22 years, master's student) supervisor at a retail store also questioned her hair remarking,

> Your hair's really wide. Are you gonna do something with that?

Even more intrusive than the questions directed at Yeva, Murua (38 years, full-time professional) received offers of assistance from her coworker who was also a Black woman. Recalling their interactions, Murua stated that her coworker,

> generally wanted to know why I didn't straighten it and she always [said] 'I'm a let you borrow my new hair straightener.

The questions about Black hairstyles in the workplace remind Black women that their hair is not welcome in White-dominated spaces. Protections like those provided in the NYCHRL (2019) and the CROWN Act (2019) are necessary to spare Black women from microaggressions and acts of discrimination experienced by these women.

## *Freedom of Identity*

Grooming policies and challenges to Black hair communicate that Black women are not welcome in these spaces. As others question their hair, this leads some Black women to believe that how they present themselves affect perceptions about their professional performance. For example, Kiburi complained about the expectation that she and other Black women must straighten their hair for the workplace, while the Kardashians,

> can have stuff like cornrows and whatever and can have and can do bantu knots or whatever and it be deemed as, hey, this is a new fashion trend or these box braids are the coolest thing out or whatever.

Essentially, White women receive praise and compliments for wearing Black hairstyles even as Black women encounter hostility for these same looks.

Likewise, Afiya (28 years, doctoral student) also rejected the idea that Black women should have to change their hairstyles based on the insistence of others.

> So what does my hair have to do with me coming to school, me learning, me being focused, and still making good grades. If I'm not acting out of control, my grades are not suffering, then why should my hair be a certain way just to make you feel comfortable?

Recognizing hair as the property of the individual wearing it, these Black women assert that they and all other women should not have to display styles dictated by others.

Even so, hair is more than just the property of the wearer. Hair is a physical feature and part of the human body. As Tendai (43 years, full-time professional and part-time doctoral student) asserted regarding the reactions that she received to shaving off her hair.

> This tells me that there is a problem with how Black women are viewed in terms of this; almost like our bodies belong to others and others feel open to critiquing you and describing what they like and don't like and what we should and shouldn't do and all those kinda stuff . . . this is my body, my choice, I get to decide what I do with my hair, and what I don't do with my hair.

Waseme (30 years, full-time professional) echoed a similar view of bodies and ownership. Describing the physical interactions related to her hair, Waseme stressed that,

> We talk about Title IX sometimes. That is definitely like a "Hey, that is an unwanted touch right there." You wouldn't touch, hopefully, someone's butt or something like that without asking them. Like you know, this is a part of my body. Just don't come up touching me.

Like Waseme, several other participants (Afiya, Faraja, Jina, Kiburi, and Subria) describe incidents, where other people felt comfortable touching Black hair and the associated with preventing this activity. The commonality of this experience illustrates the struggle that Black women have with asserting ownership of their bodies and their hair (Donahoo, 2019). Laws, such as the NYCHRL (2019) and the CROWN Act (2019), can assist Black women in their efforts to own their bodies and their hair by establishing the formal restrictions that they need to protect themselves from intrusions on their identities from others.

## Conclusions

Black women's bodies belong to the Black women that inhabit them. As such, Black women should not have to change their hair to meet White beauty standards, tolerate intrusion from employers or others who try to control their hair, or change their identities to be more acceptable in White-dominated spaces. While the courts continue to parse the difference between racial and cultural hairstyles, the CROWN Act (2019), the NYCHRL (2019), and the experiences of Black women show that there is little difference between the two. Policies and expectations that dictate styling guidelines for Black hair for any reasons outside of health and safety interfere with the rights of

Black women because they do not treat them the same as other employees and citizens. Although written in a race-neutral fashion, these policies place a special burden on Black women who must invest significant time, effort, and financial resources into adopting hairstyles that comply with these policies.

The CROWN Act (2019) and the NYCHRL (2019) make a positive effort at eliminating racial discrimination targeted at Black hair and hairstyles. These laws illustrate that perpetuating White beauty norms leads employers to regard Black hair as unprofessional, unkempt, and unwelcome. This is now illegal in both California and New York City. Black women in the United States deserve for this type of discrimination to be illegal everywhere.

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1. New York became the second state to ban hair discrimination on July 12, 2019. At time of submission, New Jersey and Tennessee were considering similar legislation. See Governor's Press Office (2019), Mojica (2019), and Wellington (2019).

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