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# RACE, LAW, AND CULTURE: A CALL TO NEW THINKING, LEADERSHIP, AND ACTION

*Wendell L. Griffen\**

It is encouraging that racial equity is receiving the honest attention that this symposium provides. Historically, talk about race and racial equity has involved conversation that the white majority finds palatable, if not comforting. That means that talk about race and racial equity has usually been based more on denial and myth than on truth. I will depart from that tradition in the interest of intellectual honesty.

Most Americans are in denial about racism and its pervasive influence on the legal system, our society, economy, notions of government, and definition of culture. Denial of racism has defined our history, impairs our ability to deal with current situations, and is likely to determine life in the 21st Century unless we make some drastic changes. Michael Eric Dyson described this denial tendency and its effects on racial equity from the black experience in his introduction to William Owens' bold book about the *Amistad* drama as follows:

It is not overstating the case to suggest that, when it comes to race, we are living in the United States of Amnesia. America cannot solve its race problem because it cannot afford to remember what it has been through, or more accurately, what it has made its Black citizens endure: the horrible, cowardly, vicious legacy of racial domination stroked by religious belief and judicial mandate. The willed forgetfulness of our racial past continues to trap us. It makes Whites repeat harmful cycles of guilt, denial, hostility, and indifference. It makes Blacks cling desperately to victimization, White hatred, self-doubting, and self-loathing. It appears easier for most Whites, and for many Blacks, to reenact a pantomime of social civility through comfortable gestures of racial reconciliation than it is to tell each other the

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story of the colossal breach of humane behavior and democratic practice that slavery represented.<sup>1</sup>

The great need for our society regarding racial equity in the 21st Century is new thinking, new leadership, and new action about racism and racial justice. Without new thinking, new leadership, and new action about racism and its results, we will merely perpetuate past mistakes and re-institutionalize centuries of ingrained racism. The question is whether we, as a society, have the character to embrace new thinking, accept new leadership, and rise to new action concerning racism, an issue that has been always with us but about which we are virtually phobic.

### I. NEW THINKING ABOUT RACISM AND RACIAL JUSTICE

No intellectually honest person should deny that we need new thinking about racism and existing racial injustice to move toward racial equity in the coming century. By racism, I mean the belief system by which persons are subordinated, subjugated, and otherwise accorded inferior status and treatment due to race. Racism has infected American thinking concerning history, economics, law, culture, and religion from the time that the first European explorers arrived in what they termed the "New World," found non-white people living a culture that spanned back several centuries, and dared to claim the land for the European rulers who financed their travels rather than respect the presence and superior rights of the people they found on that land. What began as arrogant ignorance and sheer racism by Columbus regarding where he was and to whom that land belonged set the pattern for future dealings between white and non-white people in this country. White explorers took by force or stole millions of acres from the indigenous Native Americans. Africans were kidnaped by the millions and shipped across the Atlantic to provide a free labor force upon which the economy of the colonies was based.

The Revolutionary War began with a declaration that "all men are created equal;" in fact, the war merely gave white landowners political freedom from Great Britain. They used that political freedom to exploit Native American people (from whom they stole the land) and African people (from whom they stole the labor) to enrich themselves. The Constitutional Convention produced a document in 1787 that accommodated that theft of labor capital called slavery, included three-fifths of the enslaved population in the calculus for defining makeup of the House of Representatives, and thereby placed a constitutional stamp of approval on the racism that slavery

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1. Michael Eric Dyson, *Introduction* to WILLIAM A. OWENS, *BLACK MUTINY* (Black Classic Press 1997) (1953).

represented while giving slave-holding states enhanced political representation to boot. The racism virus that Columbus brought to this land had now become institutionalized.

This nation has yet to officially admit—let alone remedy—the glaring reality that treaties with Native Americans were negotiated, broken with either the quiet assent or the open endorsement of the government, and that the thinking behind those actions is largely responsible for inequities facing Native Americans today. Haywood Burns wrote with forceful accuracy about this history in an essay titled *Racism and American Law* that was included in a book titled *Law Against the People: Essays to Demystify Law, Order, and the Courts*. Among other salient observations, Burns wrote:

As early as the seventeenth century, English settlers were setting up reservations for Indians in the environs. As early as the eighteenth century, legislative bodies were offering bounties for Indian scalps. On the question of Indian lands, the U. S. Supreme Court in *Johnson v. M'Intosh*, [8 Wheat 543] (1823) took the position that “discovery gave exclusive title to those who made it”—upholding the land claims of whites who “discovered” certain lands occupied by Indians, and denying the Indians right and power to dispose of the land.

A treaty, once ratified by the Senate, is entered in the U.S. Statutes at Large and becomes part of the law of the land. Some of the greatest instances of official lawlessness chronicled in our nation's past are found in the pattern of treaty making followed by treaty breaking in dealing with Indians. It is the story of one continuous forked tongue. In 1830 Congress passed the Indian Removal Act, which was designed to effect the transfer of the so-called “civilized tribes” from their homeland in the East to lands west of the Mississippi. In exchange for their homeland the Indians were to receive perpetual title to the Western lands. “Perpetuity” lasted only until white Americans decided that the vast territory west of the Mississippi was too valuable to remain in Indian hands and to wrench it from them. It was illegal white encroachments which generated most of the Indian wars of the nineteenth century. Western lands taken away from the Indians and made available to white settlers under federal land grant law formed the basis for many white Americans' growth to economic independence and well-being. Many of today's middle Americans who are the staunchest advocates of law and order and free enterprise are where they are because of a land base that was provided for their forebears through theft of Indian land and the largesse of a big government benefit program.

One of the more striking examples of the perversion of the legal process in dealing with Indian land is the ruse used against the California Indians. The Indians gave up more than half the state of California in exchange for perpetual ownership of 7,500,000 acres. Because of pressure

from white politicians, the Senate never ratified the treaties under which the Indians gave up their land in exchange for the 7,500,000 acres. The Indian Bureau, which had negotiated the treaties in 1851 with 119 California tribes, never told the Indians about the failure to ratify. The treaties stayed in the files of the Senate until 1905 when the 7,500,000 acres the Indians thought were theirs were sold to white settlers and land speculators.<sup>2</sup>

We have yet to admit the racism that resulted in Chinese exclusion laws in the West and acknowledge the fact that similar treatment was not applied to immigrants from Europe. Somehow our obsession with power and notion of manifest destiny made us oblivious to the blatant racism practiced against the Mexican people of Texas, New Mexico, Colorado, and Arizona during the last century that resulted in the loss of millions of acres of land that had been owned for generations. We forcibly removed American citizens of Japanese ancestry from their homes, communities, work, and businesses during World War II and interned them like prisoners of war solely because of their ancestry. The United States Supreme Court sanctioned that blatant act of institutional racism in *Korematsu v. United States*,<sup>3</sup> just as it had sanctioned the institutional racism of slavery in *Dred Scott v. Sanford*,<sup>4</sup> and racial segregation in *Plessy v. Ferguson*.<sup>5</sup> Had the same reasoning been applied to American citizens of Italian and German ancestry, Joe DiMaggio and Dwight D. Eisenhower would have been interned. There was never a serious discussion about a threat to national security posed by having a person of German ancestry commanding Allied forces against the Third Reich, let alone being elected president within a decade of that war.

Unless and until we admit that racism produced these and countless other stubborn, stupid, and sick results we will not create a different society in the 21st Century. American law, history, economics, religion, social life, and culture have been so permeated by racism and racist thought for such a long time that nothing short of new thinking about that racism and its effects on our national life bodes real chance for producing racial equity in the new century.

Until American thinking about racism and racial justice is defined from the perspective of the historical victims of racism and racial injustice rather than from the perspective of the historical beneficiaries, we are doomed to

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2. Haywood Burns, *Racism and American Law, in Law Against the People: Essays to Demystify law, Order and the Courts* 38, 39-41 (Robert Lefcourt ed., 1971). The Treaty with the Si-Yan-Te, etc. of 1851 involved the California land fraud referred to in the final paragraph of the quotation.

3. 323 U.S. 214 (1944).

4. 60 U.S. (19 How.) 393 (1857).

5. 163 U.S. 537 (1896).

continue the sorry legacy of racism. We must shift our thinking about racism and racial justice from focusing on the benefits and comforts that have been enjoyed and may be reduced by racism's historical white beneficiaries to focusing on the costs, burdens, and consequences that have been suffered and will be endured by racism's historical non-white victims. We should admit that the new thinking is not likely to come from the same mindset that has produced so much of what we deem legitimate about American law and culture.

The prevailing thought in American law and culture regarding racism and racial injustice follows the ages-old presumption of white superiority over non-white people and what one social ethicist termed a belief in "the rightness of whiteness."<sup>6</sup> Thus, the very mindset that produced the theft of Native American land, enslavement of Africans, discrimination against people of Asian ancestry, and belittling of the Hispanic culture (including the Spanish language) has driven and continues to dominate American thinking about religion, government, law, economics, education, and societal life in general.

## II. NEW LEADERSHIP

Any contemplation about racism and racial justice must also admit that new leadership must emerge in the 21st Century. Otherwise, we will continue following the leadership that produced past and current racial injustices.

The new leadership about racism and racial justice must come from people with a world view defined by the experiences of the historical victims rather than a world view defined by the experiences of the historical beneficiaries of racism. Whatever their racial ancestry may be—and white people can and must become new thinkers about racism and racial justice—the new leadership must not approach questions of racism and racial justice with the time-worn views that helped establish, institutionalize, and perpetrate the legal system, social mores, political realities, and cultural patterns we face today. There are several reasons why they must not do so.

First, conventional leadership regarding race relations and racial justice has generally catered to the anxieties and aspirations of white Americans who have been more interested in asserting their presumed superiority and preserving their advantages than in achieving justice. This explains the dissonance between American rhetoric about individual liberty, social justice, and universal equality and America's record of race-based genocide, slavery, and discrimination. Thus, we witness the sad irony of a U.S. Supreme Court whose current justices profess inability to find "qualified" non-white law

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6. See ROBERT W. TERRY, *FOR WHITES ONLY* 44-61 (1970, 1975).

clerks when most of the Justices have experienced minimal contact with non-white people in general and non-white lawyers in particular. A more recent instance of that sad irony is seen by the February 22, 1999, decision by U.S. District Judge Royce Lamberth that held Secretary of Interior Bruce Babbitt, Treasury Secretary Robert Rubin, and Assistant Interior Secretary Kevin Gorer in civil contempt for deliberately delaying to produce documents related to funds in trust accounts for Native American lands managed by the federal government for more than a century. One wonders why no Native Americans have led the Department of Interior and whether conventional white attitudes toward Native Americans contributed to the practices that triggered the lawsuit and Judge Lamberth's order.

Yet another example of the need for new leadership is seen by the refusal of white political officials to even utter an official apology for genocide perpetrated against Native Americans, enslavement of Africans, and discrimination practiced against Hispanic and Asian people. It is a profound statement about the insidious effect of racism on personal and national character that people who would not hesitate to apologize for coughing and sneezing around others deem apologizing for government-sanctioned racism and discrimination unnecessary, unbecoming, or otherwise inappropriate.

Second, the intellectual leadership that has defined American views on racism and racial justice is quickly running out of time. Unless conventional thinking about racism and racial justice changes—given its dominance and influence on social, political, legal, and cultural life—we face the frightening prospect that the American ideal of justice and social cohesiveness will dissolve in the face of centuries of pent-up rage from non-white people regarding white racism. Non-white people who will become the numerical majority in the United States during the first half of the 21st Century will not forget the institutional racism that produced California's Proposition 187 that permitted state government to withhold governmental services from illegal immigrants. They will not forget Proposition 207 that outlawed affirmative action measures for the historical victims of institutional racism. They will not forget that white racism has historically been at the root of efforts to prevent bilingual education from being successful. They will not forget that white hostility toward non-white people fueled a national immigration policy deemed hostile to non-white people, their hopes for freedom, equal opportunity, and justice. The images of Rodney King being beaten by police officers and the memories about the officers being found not guilty of criminal charges by an all-white Simi Valley, California jury will not soon be forgotten by young black Americans still seething about the dragging death of James Byrd in Jasper, Texas, the alleged brutalization of a Haitian immigrant by New York police officers last year, and the horrendous shooting of an unarmed

black immigrant in New York by police only weeks ago. Unless and until new thinkers appear to replace the traditional thinkers whose values and actions have perpetuated institutional racism rather than dismantle and eradicate it, the nation will likely face an era of racial conflict in the coming century unlike anything we have ever known as generations of non-whites appear who have little or no faith in the espoused American notions of freedom and justice for all.

Third, the ethnocentric world view responsible for institutional racism in this country will make it increasingly difficult for our nation to function in a global environment much less deferential toward notions of white superiority than in the past. White racism may have succeeded in turning popular sentiment against bilingual education for the time being, but bilingual education will be essential if the United States is to be effective in its dealings with Mexico and the nations of Central and South America where English is not the mother tongue. Racism has always produced flawed economics. That defect will become increasingly obvious as we deal with a much less Anglo-American and European dominated global economy.

The new leadership must move our institutions and processes away from practices and relationships that developed and flourished because of institutional racism. Instead, new leadership must pursue policies, practices, and relationships defined by genuine racial pluralism. White male notions about being either institutionally or inherently entitled to define how problems are understood and approached must be one of the first things challenged and changed. Regarding racism and racial justice, for instance, we will benefit from discarding the perhaps well-intentioned yet unfortunate notion held by the first Supreme Court Justice Harlan in his oft-referenced dissenting opinion in *Plessy v. Ferguson* that our policies and institutional actions should be "color-blind." While making for engaging rhetoric, the idea that a "color-blind" society will be stronger defies historical and biological realities. Anything blind is, by definition, impaired and, therefore, less capable of functioning properly, let alone repairing itself concerning issues driven by sight and color. It is interesting, therefore, that the idea of a "color-blind" society is somehow viewed as a virtue when it comes to racial justice, an issue where color awareness is essential if institutional racism and its injustice is to be corrected.

In 1987 Justice Bruce Wright of the New York Supreme Court wrote *Black Robes, White Justice*.<sup>7</sup> In the introduction to his book, Justice Wright questioned the commonly-held presumption that white judges are competent

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7. See BRUCE WRIGHT, *BLACK ROBES, WHITE JUSTICE* (1994).



to dispense justice, particularly in criminal cases, given their ignorance and alienation from the experience of non-white people.

Those of us called upon to sit in judgment of both laws and lawbreakers are not always qualified for such an onerous task. Most of the judges of America are male, white, middle-class, aloof and conservative. Brought before them is a parade of dark-skinned defendants, all alien to the concept the judges have of the way life ought to be.

In New York City, most judges have completed four years of college and three of law school. Presumably, such scholars are intellectuals of one kind or another. But more often than not, they are acquainted with no more than theories. Seldom do they have any personal familiarity with the reality and cruel adjectives which modify and diminish the lives of the poor. Such judges gaze upon the captives of the police across a vast expanse of social distance . . . .

My persistent concern has long been the white judges who, in their large numbers, are called upon daily to preside over the trials of black defendants accused of crime. Are they really qualified for such sociological tasks, only incidentally mixed with law? If so, what are the peculiar circumstances that define their competence? Is it the survival in them of some plantation concept of social divisions in life? What do they study in college or law school that might tend to qualify them to preside over the doom or liberty of strangers to their kinds of neighborhoods, of aliens to their way of life, of foreigners and outsiders to their clubs, their churches, their folkways? What magic abolishes color in their eyes and gives them instant objectivity and a license to analyze human foibles entirely divorced from the historical truth of racism. How, indeed, does one annul one's heritage and that of one's forefathers in this land or the land from which the family came?

Do white judges ever bring to bear a sober reflection on why there are so many black defendants in criminal cases? Do white judges ever wonder about why there are so few black lawyers appearing before them? Do they ever inquire about the history of bar associations that used to exclude Jews and blacks? Do they ever ponder aloud or in silence that there are so few black judges? Whenever I have raised the subject of bar association discrimination against blacks, my white colleagues profess never to have noticed any such thing.

For those in the inner city, as our dark enclaves are so euphemistically called, the judges are the assembly-line feeders of the prison system. Those in the system—whether prisoners, jailors or judges—who dare to speak of rehabilitation are regarded as wild-eyed speculators about the human spirit. They are accused of having more concern for the criminal than for the victims of crime. This abandonment of concepts of rehabilitation leads to society's preoccupation only with custody. This results in

warehousing of offenders. The mean neighborhoods from which they come are neighborhoods transferred to the prisons. Little wonder that one black survivor of the inmate rebellion at Attica could weep an unanswered, perhaps unanswerable question to the world. "How the hell we gonna be rehabilitated," he said, "when we ain't never been *habilitated* in the first place?"<sup>8</sup>

Justice Wright's incisive observations apply across our culture. What reason do we have to expect new and non-racist thinking and action from a leadership pool conditioned to view existing racial injustice and the advantages held by white people because of racism as how society is and how it ought to be? How can a political and economic system and societal culture dominated by people who either cannot or will not see the effects of institutional racism in the society and in their own success change without the emergence of a new leadership ethos and new leaders who intuitively and openly question the presumed "rightness of whiteness" that characterizes leadership in American government, business, law, education, and religion? And when will the American public realize that its tacit, yet intentional, preference for current leadership works to postpone, if not prevent, new leadership from developing and ascending to dominance?

One would have hoped that President Clinton's Race Initiative would have included a serious discussion of this issue. After all, the Initiative was launched out of a professed desire to create honest and intelligent conversations about racism, racial injustice, and the prospects for changing our regrettable tendency to perpetuate the inequities of our history. That the leadership question was not even addressed, either by President Clinton or in the several forums held across the nation, is more than a little disappointing. However, that omission proves that current leaders who perceive themselves and are perceived by others as progressive-minded are unwilling to even contemplate the urgent need for new leadership, let alone nurture it.

Two other areas of leadership that must change involve the so-called white "moderate" or "liberal" and the white religious community. Dr. Martin Luther King's April 16, 1963, *Letter from a Birmingham Jail* was written in a rare response (for King) to an open letter that eight prominent so-called "liberal" white Alabama clergymen had issued which called on King to cease his policy of non-violent civil rights demonstrations in Birmingham. King addressed the problem with these words:

I must make two honest confessions to you, my Christian and Jewish brothers. First, I must confess that over the last few years I have been

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8. WRIGHT, *supra* note 7, at 12-13.

greatly disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro's great stumbling block in the stride toward freedom is not the White Citizen's Councilor or the Ku Klux Klanner, but the white moderate who is more devoted to "order" than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says, "I agree with you in the goal you seek, but I can't agree with your methods of direct action;" who paternalistically feels that he can set the timetable for another man's freedom; who lives by the myth of time and who constantly advised the Negro to wait until a "more convenient season." Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.<sup>9</sup>

Let me rush on to mention my other disappointment. I have been so greatly disappointed with the white church and its leadership . . . I had the strange feeling when I was suddenly catapulted into the leadership of the bus protest in Montgomery several years ago that we would have the support of the white church. I felt that the white ministers, priests, and rabbis of the South would be some of our strongest allies. Instead, some have been outright opponents, refusing to understand the freedom movement and misrepresenting its leaders; all too many others have been more cautious than courageous and have remained silent behind the anesthetizing security of the stained-glass windows.

In spite of my shattered dreams of the past, I came to Birmingham with the hope that the white religious leadership of this community would see the justice of our cause, and with deep moral concern, serve as the channel through which our just grievances would get to the power structure. I had hoped that each of you would understand. But again I have been disappointed. I have heard numerous religious leaders of the South call upon their worshippers to comply with a desegregation decision because it is the *law*, but I have longed to hear white ministers say, "Follow this decree because integration is morally *right* and the Negro is your brother." In the midst of blatant injustices inflicted upon the Negro, I have watched white churches stand on the sideline and merely mouth pious irrelevancies and sanctimonious trivialities. In the midst of a mighty struggle to rid our nation of racial and economic injustice, I have heard so many ministers say, "Those are social issues with which the gospel has no real concern," and I have watched so many churches commit themselves to a completely otherworldly religion which made a strange distinction between body and soul, the sacred and the secular.

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9. Martin Luther King, Jr., *Letter from Birmingham City Jail*, in *A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS OF MARTIN LUTHER KING, JR.* 289, 295 (James Melvin Washington ed., 1986).

I have traveled the length and breadth of Alabama, Mississippi and all the other southern states. On sweltering summer days and crisp autumn mornings I have looked at her beautiful churches with their lofty spires pointing heavenward. I have beheld the impressive outlay of their massive religious education buildings. Over and over again I have found myself asking: "What kind of people worship here? Who is their God? . . ." <sup>10</sup>

King's frustration and disappointment can be echoed with even greater force today, almost thirty-six years after his Birmingham experience. One watches in vain for an opinion editorial by a white moderate or religious leader that asserts the moral justice of affirmative action measures. White moderates and religious leaders were conspicuously invisible and suspiciously silent when President Clinton withdrew the nomination of Lani Guinier in 1993 to be Assistant Attorney General for Civil Rights in the Department of Justice in the face of deliberate distortions of her record and writings regarding affirmative action. We have seen few instances of concern, let alone moral outrage, expressed by white moderates and white religious leaders against the kind of police misconduct that Rodney King suffered and that is inflicted on non-white people many times more often than it is directed at the more numerous white majority. White religious leaders have been similarly absent from leadership in support of bilingual education, correcting the long and sad mistreatment of Native Americans, and other forms of racial injustice. The so-called evangelical Christian movement that prides itself as being the cornerstone for the Republican Party's core constituency has consistently aligned itself in favor of Propositions 187 and 209 in California and against affirmative action measures around the country. In short, white moderates and religious leaders have more often than not been pre-occupied with maintaining white advantage and privilege than in dealing with racism and racial injustice from the perspective of its historical victims. In view of that reality, it is not surprising that the consciousness and consciences of many white people are insensitive to racial injustice and the pervasiveness of racism in American life.

In contrast to King's disappointment, the Christian theologian Reinhold Niebuhr addressed the need for new thinking and action with refreshing clarity in an essay published in 1968 after the Kerner Commission (National Advisory Commission on Civil Disorders) issued its report on the underlying causes for the urban riots of 1967. Niebuhr's essay was titled *The Negro Minority and Its Fate in a Self-Righteous Nation*.<sup>11</sup> Contrast his perspective

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10. King, *supra* note 9, at 298-99.

11. See Reinhold Niebuhr, *The Negro Minority and Its Fate in a Self-Righteous Nation*, in *A REINHOLD NEIBUHR READER: SELECTED ESSAYS, ARTICLES, AND BOOK REVIEWS* 118 (Charles C. Brown ed., 1992).

to the reaction that King received from the Birmingham clergy, as shown by the following excerpt from Niebuhr's essay.

The report of the National Advisory Commission on Civil Disorders clarifies many aspects of the tragedy of the relationship of the Negro minority to a complacent white culture. The Report neither condones the crime of these disorders nor accepts them as part of a genuine "Negro Revolution." Nor does it make the mistake of regarding these riots as the response of the Negro minority to the creative reforms of the national government for the correction of ancient wrongs. It merely records the historical facts which reveal that the riots were the response of poor Negroes, for whom the reforms came too late. Integrated schools and the right of suffrage might radically alter the place of the Negro minority in our American community, but the young unemployed and unemployable Negro was bound to express his alienation from our democracy by violence.

It is not, of course, the responsibility, or is it within the competence, of this political committee [the Kerner Commission] to inquire about the reasons for the tardiness of this self-righteous nation in meeting so obvious a responsibility toward a minority which labors under two disadvantages: the dreadful burden of its slave past and its obvious divergence in physiognomy from the dominant white majority. It is, therefore, important for all of us who are interested in establishing a common humanity and equal civil rights for the Negro minority to view our national tardiness in historical perspective. Then, we might realize that the sheer helplessness of the black minority is due to a complacent self-satisfaction about our American democracy.

This complacency is neither new nor recent, for it has attended our national history. Thus, when our nation was born our Declaration of Independence not only gave us our ideals but seemed also to guarantee their realization. Then, the Civil War, retrospectively, gave us the assurance that we had guaranteed justice when the slaves were emancipated. Finally, with the industrial expansion after the last world war when so many problems on the social and economic level were solved, the Negro problem remained unsolved.

We must examine the illusions of these periods in turn. In the first period, that of the childhood of our nation, we assumed that we were a "peculiar nation." Abraham Lincoln in his famous Gettysburg address, expressed the ideal of our national purpose in terms of the Declaration of Independence. He said, "... our fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal. Now we are engaged in a great civil war, testing whether this nation, or any nation, so conceived and so dedicated can long endure." It may be significant that Lincoln, though opposed to slavery, did

not emphasize the contradiction between the ideal of equality and the frightful inequality between the slave owner and the slaves.

Our founding fathers when confronted with the constitutional task of creating a new nation out of the 13 independent colonies, some slaveholding and some not, did not spend too much time in debating the slave issue. They were more concerned with the evils of "monarchy" than those of slavery. They were not Machiavellian, but they were not above beguiling the slave states into the union by giving them a bonus representation in the federal congress equal to three-fifths of the number of their voteless slaves. Thereby, they laid the foundation of the political power of the slave states. In its time that power threatened to impose slavery upon the territories or give them freedom to establish it. It was this which brought on the Southern secession defiance of the union, and not the Northern challenge to the slave institution. We may be grateful for the abolition movement, retrospectively, but it did not have the power to challenge slavery.

Lincoln, neither a racist nor an abolitionist, was quite honest when he wrote to Horace Greeley: "My primary purpose is to save the union." Lincoln may be described as a free soil, democratic nationalist. The Emancipation Proclamation was subordinate to the chief purpose of defeating the rebellion. According to the historian Richard Hofstadter, the Proclamation has "all the eloquence of a bill of lading." The plight of the Negro was not directly involved.

But the chief defect of an idealistic conception of emancipation was that the free slaves were given no livelihood in land ownership nor opportunity to exercise a craft. The same government which passed the Homestead Act and settled white farmers on the frontier with free land gave no land to the poor ex-slaves. They were reduced to the status of debt-ridden sharecroppers on their former plantations. "By the 20th Century," the Report notes, "the Negro was at the bottom of American society."

Nor were Negroes admitted to the craft unions, a deprivation which became an even more grievous source of poverty in the industrial era which we will consider presently. After the ratification of the Fifteenth Amendment, which did endow them with a vote, Congress enacted several laws to guarantee the "equal protection of the law." But they were defrauded of this precious democratic political power which the white industrial workers used to such good advantage in curing modern industry of its early injustices. For they were defrauded of the right to vote by various devices, such as the poll tax, economic intimidation, and unconstitutional tests which required them to recite the provisions of the Constitution. In the South, the Negro was practically disenfranchised. In Louisiana, the number of Negroes registered in 1896 was 130,344. In 1900, after the State rewrote the suffrage provisions of its constitution,

only 5,320 Negroes were able to be on the registration books. It was only in the Civil Rights Act of 1965 that provision was made for federal surveillance of voter registration, which eliminated the essential impotence of our Negro minority.

The climax of the contradiction in our national life which secured an affluent economy for the white man and increasing misery for the Negro minority occurred in our own period, in our industrial and technological era. In this era, we secured laborers for our burgeoning industry from all the poor of European origin and became famed as a "Melting Pot" of all nationalities; and . . . the industrial workers used their votes to force a reluctant middle class-culture to grant the workers the right "to organize and bargain collectively." Thus, an equilibrium of power in the industrial sphere increased the income of the workers . . . . But . . . modern industry had as one of its products the mechanization of cotton farming, and this robbed the Negro agricultural laborer of the only employment for which his minimal skills were adequate. Facing starvation in the former slave states, he drifted to our large northern cities and was kept alive by a welfare system, which the National Commission now examines and finds inadequate. Among its deficiencies, it must be recorded that all welfare systems give first priority to abandoned or deserted mothers and their children. It becomes necessary, therefore, for the father, if still part of the family, to pretend desertion and absent himself before the visit of the inquiring social worker. He is thus robbed of his dignity before his children; and his pretended desertion increases the number of fatherless families, which makes for a matriarchal structure of the ghetto family, thus contributing to the delinquency of young Negro males. The National Advisory Commission finds in the ghetto crime which erupted in the riots of 1967 a high incidence among young males from 16 to 25 years of age.

The high rate of unemployment among Negroes is due in great part to their lack of skill in a highly technical industry. But a study of modern construction unions and firms, undertaken by *Fortune* magazine, indicates that it may be due, in part, to color prejudice of either unions or firms. This may be inferred by the fact that if Negroes were hired in proportion to their percentage of the population, Negroes would have 37,000 more jobs as carpenters, 45,000 more as construction workers, 97,000 more as mechanics, and 82,000 more as metal craftsmen. All these crafts require apprenticeship but no technical education. One must assume, therefore, that color prejudice among white workers and in firms accounts as much for the high rate of Negro unemployment as does the defective education of Negro youths. This is a case where one cause of Negro poverty has persisted since post-Civil War days but also has become more and more grievous in our own period of industrial unionism.

[O]nly the help of the whole national community can save the nation from the tragedy of a widening gap and contradiction between a free and

affluent white nation and the increasing misery of its Negro minority. A tardy nation finally turned its attention to the task of redemption of that racial injustice. It is certainly significant that the "Negro revolution" of today dates from the Supreme Court decision of 1954 and the Civil Rights Acts of 1964 and 1965. This suggests that revolutions are generated, not by pure desperation, but by a combination of hope and frustration. The Negro revolution, significantly, began on the one hand in Martin Luther King's boycott of the Montgomery busses; and, on the other hand, with the official action of the nation's courts and government . . . . It has been one of the weaknesses in the revolution that its only economic weapon has been the boycott. . . . It may be highly symbolic that the new Civil Rights Act, which included an open-housing provision, was secured only after the aura of martyrdom was attached to open housing by Dr. King's assassination in Memphis.

The revolution was thus a simultaneous birth of Negro discontent and of a new awareness in the nation of the flaws of injustice in a free society which had always prided itself on its democratic virtues. The Negro riots of 1966 and 1967 were not a part of that revolution; but they were an indication that the nation's new attitude had come too late to save the young unemployed Negroes who had no hope that new laws and court decisions could cure their hopeless frustration.

*We have analyzed the moral situation in our nation which was created because we awakened too late in the modern period to the contrast between the tragic misery of our Negro minority and the pretensions of our national ideology, which had regarded our open society of progressively solving all problems of racial justice through the moral idealism guaranteed at our birth by the Declaration of Independence, and allegedly also through the rebirth of our Civil War and emancipation. We have done this in order to give an adequate view of our contemporary "moral crisis," for it is the business of the church to remind the national community of its responsibilities, and to remind it of its sins of omission and commission . . . .*<sup>12</sup>

Niebuhr's essay then posed several suggested areas of needed action, including reform of the welfare system, the need for "witnesses of transcendence over racial lines," referring to integrating congregations (although not for "pietistic irrelevance" but for engaging in "the struggle for justice"), and integrated denominational and inter-denominational meetings. Niebuhr also proposed that the problem of what he termed "an economic impotent Negro minority" would be corrected by

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12. Niebuhr, *supra* note 11, at 119-122 (emphasis added).



a system of scholarships for college students whose parents fall below the minimal poverty line and who show promise of intellectual leadership in the arts, in science, and in public life. These scholarships would be a solution to the problem of deprivation of our intellectual and technical resources which is revealed by the fact that parental poverty permits only 8% of our disadvantaged high school graduates to enter college.<sup>13</sup>

Finally, Niebuhr concluded his essay by addressing the suggestions contained in the Kerner Commission's report and the alternative to taking the report seriously.

The report of the Commission is full of suggested programs to alleviate the injustices this complacent nation has enforced upon its Negro minority. The Commission's priorities deserve to be the order of business for the returning Congress and the newly elected government. The alternatives to taking the Commission seriously is continued rioting. The rioting and ambushes of 1968 are even more ominous than those of 1967. The Commission has shown the way to correct the most grievous injustices, if the nation can muster the moral will realistically to meet the crisis.

All these old and new provisions could be negated because of expense. It is the high priority of an affluent society to lift the poor Negro minority from the vicious circle of technical ignorance, even illiteracy, sickness, and crime. It is certainly a higher priority than our military involvement in the civil war of an obscure nation. This futile war [Vietnam] is costing us billions, while the problem of a helpless Negro minority, costing us half as much, has not been met. After almost two centuries of broken promises and pledges our debt to our Negro minority is immense and obvious, and its burden lies heavy upon our consciences.<sup>14</sup>

It is a sad commentary on white religious leadership that Niebuhr's voice was not joined by religious leaders in mainstream denominations and congregations across the United States. Rather, white religious leadership has been virtually invisible concerning racism and racial injustice since Niebuhr's essay was published in October 1968. Concerning America's sordid tradition of racism and racial injustice, that leadership has rarely been found aligned with the plight of the historical non-white victims; instead, it has more often than not been either tacitly or openly supportive of the institutional racism that benefitted white people. At present, that leadership appears primarily interested in exercising political clout to advance an agenda that opposes affirmative action remedies, supports draconian criminal justice and welfare

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13. Niebuhr, *supra* note 11, at 123.

14. Niebuhr, *supra* note 11, at 123-24.

reform measures, and pursues a flagrantly racist immigration policy. And while the Southern Baptist Convention and some other evangelical Christian groups have professed to apologize for the sin of slavery in recent years, the leadership of those groups at every level has shown little inclination to aggressively work to support affirmative action remedies, oppose so-called anti-crime measures that have disproportionately adverse impacts on non-whites, join with non-white people to combat environmental racism, or do much of anything else beyond pious grandstanding, as if their self-serving testimonials of goodwill will correct centuries of racism and racial injustice. Moreover, the issues currently accorded the most reflective attention in mainstream white religious groups involve such matters as personal spirituality, worship style, and "family values." Thus, America's religious leadership appears to have made little real progress about combating racism and racial injustice from where it was when Dr. King wrote his poignant indictment in the *Letter from a Birmingham Jail* thirty-six years ago. Even more sadly, there is little evidence to suggest a real prospect for change as the 21st Century approaches.

### III. NEW LEADERSHIP MUST PRODUCE NEW ACTION

Finally, new thinking and new leadership must produce new action against racism and for racial justice defined from the perspective of the historical victims of racism and its injustice rather than from the perspective of the historical beneficiaries. Although many so-called conservative commentators—some of whom are not white, it must be admitted—speak about racial equity issues as if American society is a meritocracy, history clearly proves them wrong. White people enjoy superior access to education, employment, capital, political influence and power, and virtually everything else because policies and practices have historically been developed and employed to favor them at the expense of non-white people.

After 250 years of slavery, the enslaved Africans of the South were freed to earn wages for their work, but were shut out of the trades and crafts that they had practiced for the economic benefit of white society before emancipation. Thus, white tradespeople, craftsmen, and artisans enjoyed preferential treatment—often governmentally sanctioned preferential treatment—that gave them economic benefits for their families, superior education for their children, and stronger institutions for their lives. The Morrill Land Grant College Act of 1862<sup>15</sup> created public institutions of higher education that, in most instances, denied admission to non-whites regardless of their academic

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15. Act of July 2, 1862, ch. 129, 12 Stat. 503.

ability or potential. The Homestead Act of 1862<sup>16</sup> encouraged white settlers to take and settle for little or no money western lands that belonged to Native Americans, while displacing the Native Americans and using black soldiers to ensure that the white settlers were protected. This pattern of governmental *affirmative action* in favor of the historical beneficiaries of institutional racism and racial injustice must be reversed if the 21st Century is to witness racial equity. Doing so will inconvenience the historical beneficiaries of white racism, but will create new opportunities for the non-white historical victims. That inconvenience and creation of new opportunity is essential if the historical victims of white racism and racial injustice are to achieve social equality. It is senseless to expect racial equity to occur otherwise.

Dr. Martin Luther King, Jr. addressed the need for action with optimism in an essay that was published posthumously and titled *A Testament of Hope*. His words are hauntingly profound:

Why is the issue of equality still so far from solution in America, a nation that professes itself to be democratic, inventive, hospitable to new ideas, rich, productive and awesomely powerful? The problem is so tenacious because, despite its virtues and attributes, America is deeply racist and its democracy is flawed both economically and socially. All too many Americans believe justice will unfold painlessly or that its absence for black people will be tolerated tranquilly.

*Justice for black people will not flow into society merely from court decisions nor from fountains of political oratory. Nor will a few token changes quell all the tempestuous yearnings of millions of disadvantaged black people. White America must recognize that justice for black people cannot be achieved without radical changes in the structure for our society. The comfortable, the entrenched, the privileged cannot continue to tremble at the prospect of change in the status quo.*

Stephen Vincent Benet had a message for both white and black Americans in the title of a story, *Freedom is a Hard Bought Thing*. When millions of people have been cheated for centuries, restitution is a costly process. Inferior education, poor housing, unemployment, inadequate health care—each is a bitter component of the oppression that has been our heritage. Each will require billions of dollars to correct. *Justice so long deferred has accumulated interest and its cost for this society will be substantial in financial as well as human terms. This fact has not been fully grasped, because most of the gains of the past decade were obtained at bargain prices. The desegregation of public facilities cost nothing; neither did the election and appointment of a few black public officials.*<sup>17</sup>

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16. Act of May 20, 1862, ch. 75, 12 Stat. 392.

17. Martin Luther King, Jr., *A Testament of Hope*, in *A Testament of Hope: The Essential Writings of Martin Luther King, Jr.* 313, 314-15 (James Melvin Washington ed., 1986)

King's assessment is even more compelling as the 21st Century beckons. However, it is less certain whether his optimism can be maintained given the refusal by many white Americans to recognize that the radical change needed in our societal structure will not be cheap, comfortable, or convenient for those addicted to the benefits of historical racism and the advantages gained and enjoyed by racial injustice.

In *Black Robes, White Justice*, Justice Wright reflected on the remarkable disconnect that many white Americans have about the need for change as it applies to their own conduct in the following comment about the absence of black lawyers in the law firms of white people who profess to be liberated from racism.

The National Lawyers Guild was founded by lawyers who were dissatisfied with the exclusionary establishment. They regarded the American Bar Association as a symbol of toryism. The guild has fought for racial equality throughout the years. Its most successful members, however, have shown little or no interest in having blacks join their firms. At a meeting of the guild to honor one of their founders, Hope Stevens, the black guest speaker publicly mentioned the problem. He reminded the gathering of liberals and left-of-center lawyers and their guests that their proud liberalism and heroic fealty to the civil rights movement had not gone so far as to welcome black lawyers to their law firms. His remarks were received with the stunned silence and embarrassment of a donor of alms who sees the beneficiary of his generosity curse the giver and his gift. It was as though a profane clamor had trespassed in a temple. The brief and hesitant applause that followed was a mere Pavlovian response of an audience programmed to clap at the end of any speech.

No one stood up to challenge Stevens. The membership had no desire for public self-examination or for those dedicatory pledges that spring with guilt. The audience was plainly embarrassed. It was a tribute to the candor of their inbred dedication to the American way of life that none made any false promises to do better. The largely Jewish audience seemed more content to believe that most of them were minorities and that retarding circumstance had not stopped their own progress and that, therefore, blacks should not whine or whimper but do exactly as they had done. Such an angry reaction ignored the fact that Jews, no matter what else Christian Americans may think of them, have protective coloration, the most blessed of American physical characteristics. It was simply that the audience was humiliated for a moment by the harshness of the truth to which its members had contributed. It was almost as though Stevens had

undraped an indecent statute in the presence of prudes who did not realize that they were the sculptors.

Whites, even liberal whites, are weaned on racism. They live and breathe the superiority of options, choices, and opportunities that are available to those who wear the white skin.

When most white students study sociology, it is little more than an academic subject to be passed. The black victims of that social science may be deplored briefly, but they are not to be associated with, understood, or invited to join clubs and fraternities. When they graduate into professional schools and careers, whites carry these exclusions into their professions.<sup>18</sup>

The separate observations of Dr. King and Justice Wright are readily verified across our society. During the Little Rock Central crisis of 1957 the Women's Emergency Committee to Save Our Schools, a group of women married to some of the most prominent lawyers, doctors, and business leaders in Little Rock, secretly worked to resist the demagoguery and senseless bigotry that Governor Orval Faubus practiced to prevent nine black children from attending high school with white children in obedience to the second *Brown v. Board of Education*<sup>19</sup> decision. Over the years since 1957, the existence of the Women's Emergency Committee became known, but its membership remained more or less secret until 1998 when the members were publicly introduced and honored in ceremonies that featured an appearance by First Lady Hillary Rodham Clinton in Little Rock. One reads the membership list and gains new admiration for the WEC members, especially if one recalls that Little Rock's social echelon has been small, if not intimate. Yet it is ironic that the doctors, lawyers, and other captains of commerce who were married to these women, who knew about and supported their efforts, and who took pride in being associated (if only because of marital status) with their progressive-minded stance, managed over the course of four decades to keep black doctors, lawyers, and entrepreneur-minded people out of their medical practices, law firms, and businesses. That irony brings to mind the remark made more than two hundred years ago by Horace Walpole, the fourth Earl of Orford, that "This world is a comedy to those that think, a tragedy to those that feel."

Sadly, we seem much too eager to celebrate what we deem progress in race relations without facing the disconnect between the professed liberality of many white Americans and their failure to put that liberality into action in the spheres where they exercise the most influence, their own business and

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18. WRIGHT, *supra* note 7, at 52-53.

19. 349 U.S. 294 (1955).

professional dealings. Emerging non-white professionals receive a rude awakening to that reality when, after studying with white colleagues for years to attain professional status, they find themselves facing a professional color barrier every bit as real and effective as anything witnessed during the Jim Crow era in this country and the period of apartheid in South Africa. Somehow, the conscience and consciousness of white Americans has not been awakened and raised to the extent that they can do any more than claim that America has come a long way but still has progress to make. Non-whites might find that statement sincere if we could see that its proponents are making change happen in their own spheres of influence. The painful truth is that we find scarce evidence to that effect. The presidents of bar associations, medical societies, and other professional groups who profess dedication to racial diversity and promoting equal opportunity may do so in their public declarations, but those declarations ring hollow when made by people whose law firms, medical practices, and businesses include few non-white professionals, if any. Refusal to do what one can do says more about what one wants to do than does high-sounding rhetoric about how far we have come and the need for progress that even the speaker refuses to make in his own office.

Across this nation, white Americans are making little effort to infuse non-whites into their businesses. They apparently do not realize that their refusal makes them hypocrites in the minds of many non-whites who understand all too well that for white lawyers, doctors, and entrepreneurs to recruit, hire, mentor, retain, and promote non-whites would break the exclusive franchise that white people hand their children in controlling law, government, business, and the rest of American life. Excluding non-whites guarantees continued dominance by whites no matter how incompetent they may be. Thus it is ironic that as more non-white students are applying for and graduating from law, medical, accounting, and engineering schools across the country, the people responsible for setting admission standards to the professional schools and the leaders of professional licensing boards have begun speaking with heightened intensity about the need to raise admission standards to avoid what they claim is an oversupply of people in their professions. The standards deemed adequate to admit a formerly all-white elite are now said to be inadequate, when non-whites meet them in growing numbers.

The clamor to raise standards is merely another ploy to preserve white privilege and avoid taking the affirmative action required to eradicate racism and remedy racial injustice. We do not have too many lawyers graduating from law school, too many doctors graduating from medical school, or too many other professional graduates. Rather, the historical beneficiaries of

white racism and racial injustice are responding to the threat posed to their exclusive franchise by growing numbers of the non-white historical victims.

But there would be no threat if so-called progressive whites would practice what they preach. Non-white professionals and entrepreneurs who are purposely and fairly *included* into professional firms and businesses bring their assets to those enterprises and make them more profitable, as Justice Cruz Reynoso shared in his remarks. It is the purposeful and unfair *exclusion* of non-whites by white Americans who hold the power to take the actions needed for change that compels non-whites to become competitors rather than colleagues. Until white Americans abandon the zero sum game perspective that defines non-white gains as inevitably harmful for whites based on the racist concept of white privilege and the "rightness of whiteness," American culture will remain racist and unjust. To the extent that this imposes on white Americans a greater and heavier burden for effecting and accepting the actions necessary to create racial justice and eradicate racism, one must remember the words of Jesus: "From everyone to whom much has been given, much will be required; and from the one to whom much has been entrusted, even more will be demanded."<sup>20</sup>

#### IV. CHARACTER IS THE ISSUE

Frederick Douglass, the black abolitionist of the last century, once said, "There is no Negro problem. The problem is whether the American people have loyalty enough, honor enough, patriotism enough to live up to their own Constitution." History shows that America has not demonstrated those attributes. We show little encouraging evidence of developing them as the new century approaches.

As a member of the last generation of historical victims of racism and racial injustice with firsthand experience and knowledge of racial segregation and the invidious ways that white racism operates, I make that statement with sadness. As much as I applaud the social changes that have occurred in my lifetime and this century, I am not fooled by how little relative change has occurred in so many areas. Forty-two years after the Little Rock Central incident, the leading media outlets of this state remain dominated by a virtually all-white male oligarchy. Forty-two years later, only two of the major law firms in Arkansas have admitted non-whites to their partnerships, and only one firm currently has a non-white partner.<sup>21</sup> There are few, if any,

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20. *Luke* 12:48 (New Revised Standard Version).

21. My investigation revealed that the first inter-racial law partnership in Arkansas was the firm of Walker and Chachkin, a Little Rock firm organized in 1968 by John Walker and Norman Chachkin with support and encouragement from the NAACP Legal Defense Fund. The

non-white partners now in the major privately-owned medical clinics, accounting, engineering, architectural, and business firms of this state. Black judges were elected to our trial courts only as part of a race discrimination lawsuit settlement; none have been elected to our appellate courts. This is not merely true for Arkansas; it is true throughout the nation. Sadly, too many people act as if it should and must be how our culture operates.

In our haste to celebrate a supposed racial conciliation in September 1997 on the fortieth anniversary of the Little Rock Central crisis, Arkansas and the nation succumbed to one of the oldest lies of American racism, that of confusing time for distance. You will recall from grade school that the formula for calculating distance is  $D=RT$  (distance equals rate of speed multiplied by time traveled). Only the insanity of racism can explain our gullibility for the plainly wrong-headed view that traveling haltingly ("all deliberate speed") or even backwards multiplied by mere time equals progress in racial justice.

Dr. King's vision for a society and world where people of diverse languages, cultures, religions, races, and incomes would live and work

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firm disbanded in 1978, but not before including Burl C. Rotenberry, Philip Kaplan, John T. Lavey, Perlesta E. Hollingsworth, and Richard Mays in the partnership.

In June 1979, I joined Wright, Lindsey & Jennings of Little Rock as the first black associate hired by a formerly all-white firm; I became a partner in January 1984. Anna Hirai Gibson became an associate at Wright, Lindsey & Jennings in 1984, entered the partnership in 1990, but has since withdrawn from the firm.

In May 1985, Jerry L. Malone joined Friday, Eldredge & Clark of Little Rock as an associate; he was elevated to that firm's partnership in January 1991 (Malone is currently General Counsel to the U.S. Secretary of Transportation). In 1986, Eddie H. Walker, Jr., a black lawyer, joined Will Morris to form an inter-racial law partnership in Fort Smith, Arkansas. That firm now exists as Walker, Shock, Harp & Hill PLLC. In January 1995, Troy A. Price was elevated from associate to partner at Wright, Lindsey & Jennings. Eugene Hunt, a black attorney practicing in Pine Bluff, employed a white associate named Lisa Kelly in September 1985. On April 1, 1990 Hunt made Kelly his law partner, and the firm name was changed to Hunt & Kelly. Kelly handled labor and civil rights matters, including work on *Hunt v. Arkansas*, No. PB-C-89-406 (E.D. Ark. 1992), a federal civil rights lawsuit that she prepared along with Arkie Byrd, a black lawyer from Little Rock, that alleged race discrimination in the Arkansas judicial system and featured Eugene Hunt as the plaintiff and Governor Bill Clinton as lead defendant. That lawsuit and its settlement produced the current number of black elected trial judges in Arkansas. Kelly withdrew from the partnership in December 1994 when she joined the faculty of West Virginia University School of Law. She remains a tenured professor there as of this writing. I have found no evidence regarding inter-racial law firms elsewhere in Arkansas.

The Arkansas experience appears typical for the legal profession throughout the nation insofar as private law practice is concerned. According to an article in the February 1999 issue of the ABA Journal, blacks account for only one percent of 40,000 law firm partners listed in the 1997-98 National Directory of Legal Employers. Overall, non-whites—blacks, Asian/Pacific Islanders, Hispanics and Native Americans—comprise 2.95 percent of partners nationwide. See Wendell LaGrand, *Getting There, Staying There*, A.B.A. J. Feb. 1999, at 54.



together toward commonly held purposes was a dream that Gene Roddenberry brought to our television screens when he introduced "Star Trek." Star Trek challenged us to imagine a workplace where women shared the responsibilities of command and leadership. Star Trek dared us to contemplate a crew of people on a five-year mission to explore the universe. This crew was not all-white or all-male. It was not all-American or all-Russian. It was not even all-human. No, Star Trek brought us to see a Russian named Chekov in charge of a weapon system far more destructive than nuclear missiles at the very time that the United States and the Soviet Union were engaged in a cold war that threatened the whole planet. The spaceship Enterprise was commanded by a white American (James T. Kirk) whose first officer (Spock) was from another world at a time when humans had not even placed a person on our own moon. The medical doctor (McCoy) was from the American South, and his prejudice against the Vulcan named Spock was a recurring fact in the series. The Enterprise had a communications officer named Uhura—an African woman—whose very presence at the decision-making level was a dramatic contrast to the way that black people and women were treated in the United States. The chief engineer was a hearty-drinking and colorful Scotsman named Scott. The helmsman/navigator was a man of Asian ancestry named Sulu at a time when the prevailing image of Asians was as laundry workers and coolies. This was the vision of diversity that Roddenberry and Star Trek offered as an alternative to the divisiveness, racism, sexism, bigotry, and cross-cultural distrust that dominated our society and world.

The mission of the Enterprise and its crew was to *go* where no one else had gone before in a spirit of cooperation and peace. Yet the mission was constantly beset with challenges. The tension between McCoy and Spock caused by McCoy's bigotry toward the Vulcan was a constant undercurrent that Kirk had to address. Something was always going wrong with the propulsion system (the "dilithium crystals") so that Scott, the engineer, was fashioning creative ways to power the spaceship across the galaxy. The Enterprise constantly faced threats from the Klingons, a warrior society, and from the Romulans, a society that mastered the interplay of intrigue and war.

Star Trek offered the people of my youth a working model of Dr. King's dream. Although most people probably saw the television show as mere entertainment, it was truly a well designed exercise in working diversity. The crew of the Enterprise had a common purpose that transcended their separate histories and identities. Yet that transcendent purpose did not demand that the crew deny their separate histories and identities. We saw that women are capable of exercising leadership, and that being white, male, or even human (witness Spock) was not a prerequisite for nobility, valor, integrity, or compassion. And we saw that diversity is constantly faced with challenges.

Some of those challenges can be met with tactful and honest communication. Yet Star Trek showed us that there are some challenges to diversity that must be met by forceful action to back up our moral commitment for goodwill and cooperation.

Our challenge as a society is to become the Enterprise and make life imitate art so that people fulfill their roles in society and within our institutions based on what they can contribute, not based on our traditions of non-white exclusion and white privilege. And our challenge is to exercise the moral will and institutional force needed to overcome the people and policies that hinder or frustrate that goal. If our society is to be more like the Enterprise and less like the divided culture that our racist history and current plight of racial injustice demonstrates, we must develop new thinking, create and follow new leadership, and pursue new actions.

Diversity pronouncements and policies must become institutional practices and personal patterns. *The mission of the Enterprise on Star Trek was not to talk about going places or even to hold meetings on going places. The mission was to go where no one had gone before in the spirit of intergalactic peace and cooperation. The Enterprise had to get somewhere.* Its performance was not based on how much history had passed in the age of space travel, but was based on travel really taking place. Travel is always about *distance* and the experiences that we have while dealing with distant personalities and situations. No matter how much or how little time may pass, if our diversity efforts don't take us beyond where we are, then we do not travel, we merely age in place.

We must insist on something more than history lessons and commemorative events, with all their value, if we hope to take our society to the place Dr. King envisioned and Star Trek modeled. Diversity in our leadership and management circles and across our business, professional, and cultural relationships must be our destination. We are not there yet, and we are much too content about traveling slowly and fitfully. It is a sad irony that in the less than half-century since the *Brown v. Board of Education* decision, we have developed breakthrough treatments for disease, moved from stereophonic sound to compact disc and fiberoptic forms of communication and entertainment, and have sent spacecraft to explore distant planets in our solar system. However, our private sector remains virtually the way it looked in 1954. We hire, promote, and do business in ways that exclude diversity until and unless we are faced with legal action; then we do as little as we can as slowly as we can to comply with the law.

The challenge before us is to decide that we really want to become the society that Dr. King envisioned and Star Trek modeled. Then we must engage our faculties and forces to get there. Everything and all the people

who resist getting there must be confronted and overcome. We must stop talking about time. The issue for us is distance and the speed we are willing to travel to reach the racial justice destination we profess to seek.

The last Star Trek movie featuring the Enterprise crew that we came to know in the late sixties was titled, "The Undiscovered Country." That movie saw the Enterprise crew engaged in a mission to save the Klingon society that it had warred against so long. Some members of the crew openly distrusted the mission; Captain Kirk had lost his only son to the Klingons. The mission was fraught with difficulties arising from the resentments and resistance that always accompany change. But the movie ended with a historic peace accord following a decisive battle against forces that were determined to continue the history of distrust and exclusion. The Enterprise teamed with a sister spaceship commanded by a Captain named Sulu and won that battle. Sulu, the former helmsman, had become a starship captain like Kirk, no doubt in large part because of the great experience he gained as helmsman on the Enterprise under Kirk's command years earlier. He was not Kirk's competitor, he was his partner.

I learned from that movie, from the Star Trek series, and from Dr. King's vision that human understanding and cooperation is the "Undiscovered Country" that we must explore. Our racist history and ongoing predicament of exclusion, injustice, and distrust is the distance we must overcome. We must travel to that Undiscovered Country and conquer that racism, distrust, and exclusion with all our might, as fast as we can, and using every action necessary to do so.

That is why I am calling for new thinking, new leadership, and new action regarding racism and racial justice. I do not know if anyone will heed my call, or whether they will have the courage and conviction to act on it if they do. But I am convinced that we have witnessed enough of the old thinking, old action, and old leadership to know that we cannot afford to carry them into the 21st Century. Furthermore, I fear that if we do take them into the new century, our future as a society looks grim indeed.