

Summer 1995

Black History and America's Future

Derrick Bell

Follow this and additional works at: <https://scholar.valpo.edu/vulr>



Part of the [Law Commons](#)

Recommended Citation

Derrick Bell, *Black History and America's Future*, 29 Val. U. L. Rev. 1179 (1995).
Available at: <https://scholar.valpo.edu/vulr/vol29/iss3/3>

This Seegers Lecture is brought to you for free and open access by the Valparaiso University Law School at ValpoScholar. It has been accepted for inclusion in Valparaiso University Law Review by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.



Bell: Black History and America's Future
Seegers Lecture

BLACK HISTORY AND AMERICA'S FUTURE

DERRICK BELL*

A few years ago, I published a story, *The Space Traders*,¹ that attempted to use an allegorical drama to illustrate what I view as the constant "at risk" status of black people in a society that now, as throughout the nation's history, has been willing to sacrifice black rights, black interests, and even black lives to enhance the status, further the profits, and settle differences among whites. In the story, aliens from outer space visit this country on New Year's Day in the year 2000. They promise wealth in the form of gold, environmental-cleansing material, and a substitute for fossil fuels. If accepted, their gold and space-age technology will guarantee another century of prosperity for the nation. In return for these wares, the space traders want to take back to their home star all black people. Given two weeks to decide, Americans in a variety of settings debate the trade offer. Finally, in a referendum vote, Americans opt for the trade by a seventy to thirty percentage.

The story ends:

The last Martin Luther King holiday the nation would ever observe dawned on an extraordinary night. In the night, the Space Traders had drawn their strange ships right up to the beaches and discharged their cargoes of gold, minerals, and machinery. They closed the doors. As the sun rose, they began to arrange in long lines, some twenty million silent black men, women, and children, including babes in arms. First, the Traders directed the inductees to strip of all but a single undergarment. Then the doors swung open. Ahead, the traders directed them toward the yawning holds where they would be swallowed by what Milton might have described as a "darkness visible." Behind them, the U.S. guards, guns in hand, stood watch. There was no escape, no alternative. Heads bowed, arms now linked by slender chains, black people left the new world as their forbears had arrived.

* Visiting Professor of Law, New York University. Professor Bell's latest book is *Confronting Authority: Reflections of an Ardent Protester* (Beacon Press, Sept. 1994).

1. *The Space Traders*, in DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* 158 (1992).

Initially, a number of reviewers criticized *The Space Traders* story as negative and unremittingly despairing. Blacks should be more grateful, critics complained, of the substantial gains made by black people in this great country. Some even condemned the story as racist for daring to suggest that white Americans would ever trade away any American lives for profit and well-being.

Most black people accepted the story as a rather too accurate portrayal of their worse fears. Always, there were a few blacks in my audiences who not only were certain that, if offered, Americans would accept the trade, they would willingly go voluntarily. "Better the unknown," one man told me, "than the certainty of the disaster that awaits us here." A strong statement, but even the criticisms of the story have been muted by subsequent events. While some blacks are doing very well, the true beneficiaries of the civil rights era, more than one-third of all black people are mired in poverty that is degrading, dispiriting, and destructive. Those in the middle-class have seen their progress halted, and many are sliding back toward the low-income status they worked so hard to escape. The space ships are looking more like a means of escape rather than exile and death.

What would Martin Luther King, Jr., whose birthday we commemorated with a national holiday, say about *The Space Traders* story? How would he like a story scandalizing white folks? Was he not committed to the cause of racial integration? Did he not preach the ideal of one society and urge color blindness as the road to racial equality? That, at least, is how he is remembered. But there is the rub.

I am amazed at the transformation of black leaders who, feared and hated because of their bold speech during their lives, are transformed into patriots by their demise, patriots in whom we are all indebted. I was able to attend the funeral in January, 1993, of Supreme Court Justice Thurgood Marshall. Held in the great National Cathedral in Washington, the speakers transformed Marshall's requiem into a celebration of a life committed to the eradication of racism. Borne on rhetorical wings, the eulogies lifted him to a special place with Dr. Martin Luther King, Jr. in that uniquely American racial pantheon, where Marshall and King share space with so many blacks who have been accorded in death a distinction usually reserved for those who in life have achieved, rather than failed to accomplish, the goals for which they committed their lives.

Then, as now, I marvel at how readily this society assimilates the myriad manifestations of black protest and achievement. In that process, the continuing devastation wrought by racial discrimination is minimized, even ignored, while those who gained some renown as they worked to end those injustices are conveniently converted into cultural reinforcements of the racial status quo.

They become irrefutable proof that even minorities can make it in America through work and sacrifice. For some, it is easy then to conclude that those minorities who do not make it have only themselves to blame.

Though he denied it, many felt that Justice Marshall left the Court embittered by the dismantling of so many liberal precedents he had helped to establish. Marshall surely was not pleased as he witnessed conservative Court majorities dismantling decades of hard-won doctrines. A more probable source of bitterness was a tardy recognition that the reliance that he and other civil rights advocates had placed in the law all too often served eventually as a betrayal of our clients and the masses of black people who relied on our counsel and willingly placed their hopes on our professional skill and commitment. He surely knew that, despite a lifetime of struggle and accomplishments that insured him a major place in American history, he, like many of us who tried to emulate him, believed that we could affect racial reform through law. Too late, we discovered that the system distorted our commitment into coaptation, and transformed our advocacy of rights into doctrines of neutrally imposed oppression.

As one of my students, John Schoeffel, put it:

History, had we given it even cursory attention, would have taught us that courts always play a very reluctant role in social change movements, assisting peoples' movements only when pressured to give ground. From the courts' active hostility and early resistance to Jeffersonian decentralization, Reconstruction, and the New Deal, to the entire history of the civil rights movement, the overwhelmingly dominant function of the legal system has always been "preservationism" and the insulation of private power from direct challenge. When the courts have given ground—or even offered tools of assistance—in movements for social change, they have always done so under continued public pressure, activism, or threats of revolt. Whether it was the democratic revolutions, the overthrow of slavery, the quest for women's suffrage, the construction of a rudimentary social welfare state, the expansion of free speech -- whatever -- *that's the way it happened.*²

Operating in a climate of faith based on the courage of our clients, we placed our civil rights advocacy in the service of our integrationist ideals, ignoring in the process our experience with the resiliency of racism. We viewed segregation as the prime barrier to black advancement. By our sustained efforts,

2. John Schoeffel, *Civil Law, Political Lawyering, and Extensive Social Change* (Nov. 1994) (on file with the author).

we dismantled the hated “Jim Crow” signs. We uncovered in the process, the standards deemed “neutral” to race but that have developed into a more sophisticated and more invidious vehicle for maintaining the dominance of white elites, while perpetuating the belief in a great many white people that, because they too are white, they are part of the dominant class. However, their opportunities are as limited, their subordination as oppressive, as that suffered by blacks.

Neither the righteous rhetoric of Dr. King, nor the thundering dissents of Justice Marshall have been able to dent, much less alter, the deeply ingrained belief of whites that they can protect or even enhance their well-being by opposing the easing or elimination of racial injustice if the relief sought by black people in any way appears to infringe on their perceptions of white privilege. None of our finest writers, such as Frederick Douglass, W.E.B. DuBois, Ralph Ellison, James Baldwin, Alice Walker, Toni Morrison, Maya Angelou, nor all those less-gifted, but no less courageous souls who sacrificed their lives in the cause of racial equality, have made more than a modest impact on patterns of racial thinking. These ideals are easily traceable back to the Virginia colonies of the Seventeenth Century and are as vibrant and vehement in the philosophy, policies, and practices of today.

Reversals in legal doctrine, combined with the devastating statistics of black poverty, unemployment, crime, and family and community destruction are destroying an ever growing number of black lives despite the committed efforts of civil rights lawyers. And yet, neither those who labor in the civil rights vineyards today, nor those of us who are the predecessors of today’s civil rights lawyers should forget that we urged a people deeply oppressed by law to turn to law and litigation as the primary means to end racial discrimination. We advocated this in good faith but with an inadequate understanding of both the limits of law and the pervasive role of racism in this society.

We who honor Justice Marshall continue to compete in the legal arena hoping our efforts, whether in the courtroom or in the classroom, can relieve racism’s burdens. It is distracting to realize that Marshall’s successor on the Supreme Court seems to personify a well-traveled, though hardly noble, road to success for minorities. Namely, if we ignore the continuing perversity of racism and act as though the law is fair and color-blind, blaming the lowly status of so many black people on their lack of values, rather than the absence of jobs, those with favors to grant will reward our conformance with their racist assumptions.

Our current plight is too perilous to devote our energies to bemoaning the presence in our midst of those like Justice Clarence Thomas, who while they look like us, are not on our side, but in our way. Be of good cheer. Perhaps, Justice Thomas’ true value to people of color, particularly legal professionals,

is that his presence provides us with a constant reminder that what many of us condemn as a serious deficiency in him is, as well, a constant temptation to us. The temptation to extol the system while blaming the victims of that system is neither a new nor fortuitous phenomenon. We must marvel that relatively few blacks have opted for the easier path of comforting rather than confronting whites in power.

Again, these blacks are a disappointment, but they are not the real danger. The threat to this country is posed by a major transformation of the economy that threatens our system in ways different in kind, but not much different in disastrous effect than those that have beset the fall of the Soviet Union. Communism also failed, but the seeming triumph of capitalism may prove a short-term victory unless those who profit most from this system recognize that rebellion can arise from an excess of exploitation as well as from the long-term abuse of power.

Rather than address the economic threat honestly, we are again witnessing the use of racism to mask the real dangers that those whites most at risk erroneously attribute to their shaky, race-based status, and that those whites at the top ignore because they are too consumed with crass greed. Most blacks feel the threat, but their cries are deemed self-serving and not worthy of serious concern.

But whether or not deemed worthy by society, the concern of black people is real and justified by history. In past economic crises, black people have borne the burden of whites' anxieties. When the indentured labor failed to supply the labor needs of Southern plantations in the Seventeenth Century, black indentured servants were made slaves. When the Framers of the Constitution became bogged down over whether a new government created to recognize individual liberty should also recognize and protect slavery, they decided that protecting the property of slave owners must have priority over black freedom. When an electoral dispute in 1876 threatened a new Civil War, the so-called Hayes-Tilden Compromise resolved the issue at the expense of the freedom and protection of the new black citizens who, under the agreement, were left to the far from tender mercies of white Southerners.

This trend can be traced to the present. Today, we are already into a major economic crisis, and black people are already bearing the costs of white anxiety. In the December 16, 1994, edition of the *New York Times*, a piece titled, *On My Mind; Lean and Very Mean*,³ which bemoaned the loss in America that once provided steady work and optimism, Rosenthal said: "Now it is withering . . .

3. A. M. Rosenthal, *On My Mind; Lean and Very Mean*, N.Y. TIMES, Dec. 16, 1994, at A39.

. . . If it expires, the epitaph will be 'Dead of lean and mean.' He continued:

If you are looking for basic meaning in the last election, it is that Americans are beginning to understand that the unwritten contract between them and their society is being torn up. The understanding was that in bad times everybody would hurt but that if the boss was doing well so would the workers—better wages to take home and more job security to build on.

Unemployment is low—well, if you don't want to count young black men. Inflation is under control, foreign trade growing, corporate profits generally up, productivity rising. But nobody sings and dances.

Instead Americans are edgy. They look for targets—sometimes immigrants, the press, and in the last election the party in power.

Americans are mad and should be madder. The surprise is that Americans are so passive while the foundations of their working lives and nation-building optimism are destroyed.

They all know what is going on—that often it takes a husband and wife to earn what the husband once earned, that in a time that should be prosperity, thousands of Americans are fired by companies showing nice profits, that if the unemployed do find a job it is at lower wages, and lower dignity, and that their kids will be lucky to get that much.

Politicians and journalists use new terms for millions of American workers and their children—the losing class, the anxious class, yesterday's people.

If Americans were not anxious they would be fools. First they lost the right to public security, now that of job or pride. Companies that once built links with employees now build headquarters designed to keep them away.

If leanness and meanness goes on too long and American optimism finally dies, workers may one day fill the streets again. There will be no F. D. R. to rescue capitalism. A new counterculture can grow; this one not besotted by drugs and narcissism. American business will find out how very mean life can get.

The crisis, as Mr. Rosenthal points out, is most manifest in the steady disappearance of jobs in a society in which our jobs enable us to pay our bills,

determine our social status, and provide the basis for our self-worth. The details of the danger are not secret. The evidence is available almost daily on the business pages as corporations announce with pride rather than the more appropriate shame that they are laying off thousands of workers *to cut costs* they say, and *to enhance profits* they mean.

Since 1989 (only five years ago), the United States has lost 1.6 million manufacturing jobs, and it is easy to predict that such losses will continue to mount.⁴ The policies of "down-sizing" so popular in business, are made feasible by technology, by the export of thousands of jobs to third-world countries, and by the importation of uncounted multitudes of legal and illegal aliens. The hard-hearted policies are making millions for a few, have cost millions of Americans their jobs, and have placed millions more at risk.

The job crisis we face is not diminished by the government propensity to cite outmoded unemployment data, which includes data that does not consider those no longer seeking work or those working in part-time, low-paid jobs. Even the far from progressive magazine, *Business Week*, ran a cover story last November titled: *The Real Truth About the Economy: How Government Statistics Are Misleading Us*.⁵ "Americans are right to be worried about jobs these days, despite the low official unemployment rate," *Business Week* tells us, as they provide pages of data and charts to report about the joblessness that so many of us are experiencing first-hand.

According to some estimates, one-third of America's work force is now in temporary jobs, with low pay, no benefits, and no security. The nation's largest employer is now Manpower, Incorporated, a broker for temporary jobs. The second largest employer is WalMart, not known for its high wages and generous benefits. The great majority of American workers have not only experienced unprecedented job upheavals, but also an absolute twenty year decline in personal earnings.

Edward Luttwack writes in *The Washington Post* that the exciting new High-Tech companies will not hire many displaced workers, even those with ample skills and experience. For example: Intel, Microsoft, Apple Computer, and Genentech, altogether employ a grand total of 62,500 people, only 500 more than Home Depot alone, a retail chain that offers mostly low-paid and part-time jobs. Furthermore, Apple recently laid off several hundred of its employees.

The fact is that we are at the end of the era when work was the society's

4. Richard J. Barnet, *The End of Jobs*, HARPER'S, Sept. 1993, at 47 (assessing unemployment patterns).

5. Michael J. Mandel, *The Real Truth About the Economy*, BUS. WK., Nov. 7, 1994, at 10.

sustaining force. We can expect serious dislocations from government, influenced as it is by those who are either profiting from or willing to maintain the economic status quo, will not erradicate. Everyone claims to deplore a recession, but as John Kenneth Galbraith points out: "A great many people and an even higher proportion of those who have political voice and vote, . . . find a recession quite comfortable, and certainly more so than the measures that do anything effective about it." This, he added, "no one dreams of saying."⁶

As Secretary of Labor, Robert Reich is fond of saying, America is now divided into the upper-class, the lower-class, and the anxious class.⁷ What we are lacking is a courageous political class, or even a few representatives willing to speak unpopular truths in order to even put these issues on the table for debate and then face up to the hard, politically unpopular policies necessary to address them.

The disappearance of jobs is leading to ever-increasing disparities in income and wealth, always an easy to ignore (at least for the well-off) sign of impending economic disaster in a capitalist system. A recent issue of *The Economist* found income inequalities in America are greater than at any time in the past fifty years.⁸ Such inequalities are growing in all rich countries, but the income gap is higher in America because deregulation and the loss of labor unions have enabled employers to squeeze wage earners. The loss of jobs has produced a huge increase in single-parent households. As we know, there are few good jobs for single mothers and difficult child-care choices for those able to find work.

Ownership of wealth has always been extremely unequal in the United States. In 1929, the year of the stock market crash that ushered in the Great Depression, the top one percent of households owned 36.3 percent of the nation's financial wealth. It has been suggested that, in ways hard to trace, this much wealth at the top serves as a giant "suction pump" siphoning the life out of the economy.

By 1949 the share of financial wealth owned by the top one percent fell to a post-1929 low of 20.8 percent, a result of New Deal legislation and wartime tax rates. After 1949, the trend toward less concentration reversed itself. Today, the top one percent of households own 37.0 percent of the nation's financial wealth, a piece of the wealth pie slightly larger than what they owned in 1929. The disparity continues to grow.

6. John K. Galbraith, *Recession? Why Worry?*, N.Y. TIMES, May 12, 1993, at A19.

7. See, e.g., Bob Herbert, *In America: Workers Unite!*, N.Y. TIMES, Sept. 14, 1994, at A19.

8. *Inequality: For Richer, For Poorer*, ECONOMIST, Nov. 5, 1994, at 19.

Kevin Phillips in his provocative book, *The Politics of Rich and Poor*,⁹ states that there have been only two other eras in American history which saw such far-reaching changes in the distribution of income and wealth toward persons at the top as has taken place during the years of the silent depression. These were the "Gilded Age" of the 1870s and 1880s, and the Harding-Coolidge "return to normalcy" era of the 1920s.¹⁰

On the subject of income inequality, the Christmas Day issue of *The New York Times* informed us that income disparities in New York City are not only greater than almost any place in this country, they are as great as in many third-world countries. As of 1990, the top one-fifth of Manhattan households made thirty-two times as much as the bottom one-fifth, an average of \$174,486 compared with \$5435. These figures are only averages and have almost certainly widened in the last four years. Moreover, they count only cash income; the disparity in wealth between the top and bottom quintiles is far greater.¹¹

Statistics on unemployment and disparities in income and wealth support Vermont's Independent Congressman, Bernard Sanders' assertion that the United States is becoming a Third World economy.¹² Twenty years ago, Sanders reported that America led the world in terms of worker wages and benefits. Now, we are in twelfth place with wages, health care, vacation time, parental leave, and educational opportunity lagging behind much of the industrialized world. In addition, twenty-two percent of our children live in poverty, five million kids go hungry, and two million Americans lack permanent shelter or sleep out on the streets. Food stamps are a necessity for ten percent of American families to put food on the table and tens of millions more survive on bare subsistence, from paycheck to paycheck.

The vast majority of poor and working class American no longer believe that government is relevant to their lives. Most do not vote. Too many of those who do vote, swayed by appeals to their prejudices, vote against their interests. Sadly, Democrats and Republicans either ignore the economic plight of those without work or urge remedies that are irrelevant: more training for non-existent jobs by the Democrats or counter-productive lowering capital gains taxes by the Republicans, which would be a financial bonanza for the well-to-do, who would chiefly benefit from such a reduction. Both parties favor cutting

9. KEVIN P. PHILLIPS, *THE POLITICS OF RICH AND POOR: WEALTH AND THE AMERICAN ELECTORATE IN THE REAGAN AFTERMATH* (1990).

10. *Id.* at 10.

11. Sam Roberts, *Gap Between Rich and Poor in New York City Grows Wider*, N.Y. TIMES, Dec. 25, 1994, at 33.

12. Bernard Sanders, *Whither American Democracy?*, L.A. TIMES, Jan. 16, 1994, at M5.

entitlements for the poor as though this further sacrifice of our neediest on the altar of free enterprise will allay the economic gods we worship despite the growing risks.

Leaders of both political parties, caught up in this unholy dogma, have responded to our economic crisis by moving to the political right and promoting a growing antipathy toward this society's traditional scapegoats: black people. This is not mere rhetoric as we all saw plainly enough in last November's elections. The gap in incomes and wealth was never mentioned, nor, save for a few vague generalities, was there any mention of unemployment levels and anxieties among the middle-class.

There has been a good deal of discussion about crime, the death penalty, welfare, affirmative action, and immigration. Conservative politicians skillfully turned these code words into winning vote margins. Alas, all too many Democrats were enticed into taking similar positions in a mostly failed effort to gain support as "wannabe Republicans."

Two years ago, following the Presidential election of 1992, many of us felt that we had elected a man whose obvious intelligence and ability to articulate the society's serious social problems indicated his ability to perform the Thurgood Marshall-Martin Luther King, Jr. role, but in the White House, not in the courts or the streets. The Presidency is a tough, perhaps impossible job. But too often, our President has misunderstood what King and Marshall knew so well: that those willing to follow a leader do not expect that he will win every battle. But, we do expect that he will fight. We expect leaders to keep their word, at least some of the time. We want them to stand by their friends and give Hell to their enemies, not as has happened so frequently in the last two years, where friends have been abandoned and enemies and their positions have been embraced, no matter how despicable.

Mr. Clinton counts Martin Luther King, Jr., and likely Thurgood Marshall, as among his heroes. But like so many of us, the President is far more ready to invoke black leaders' names than to emulate their courageous commitment to justice. Indeed, the President seems quite willing to commit sacrilege in order to make political points at the expense of King's memory and black folks' needs.

Standing in the Memphis church where Dr. King delivered his last sermon, Mr. Clinton had the audacity to spout right-wing rhetoric, insulating himself from deserved criticism by placing his words in the mouth of King who could not respond, and asserted that if King would return, he would chastise black people for the conditions in their communities. With barely a mention as to the joblessness that was at the root of those conditions, and with no mention of the administration-sponsored programs like NAFTA and GATT that are destined to

enrich some and impoverish many, he deigned to tell us how critical King would be of black people were he to return from the dead:

I did not live and die to see the American family destroyed. I did not live and die to see thirteen-year-old boys get automatic weapons and gun down nine-year-olds just for the kick of it. I did not live and die to see young people destroy their own lives with drugs and then build fortunes destroying the lives of others. That is not what I came here to do. I fought for freedom, he would say, but not for the freedom of people to kill each other with reckless abandon, not for the freedom of children to have children and the fathers of the children to walk away from them and abandon them, as if they do not amount to anything.

Of course, Dr. King would be appalled by conditions in so many black communities. He would urge blacks to work together as they did during the segregation era, but he would understand who the real culprits are and condemn those who are outright enemies, particularly those hypocrites, in and out of public office, who assume that by providing jobs to a few blacks, one gains the license to libel *all blacks*. However, the black ministers in the audience cheered Clinton's remarks, and the media, even the conservative media, gave him rave reviews. Perhaps I have become too disillusioned to see nothing other than a cold, calculating cynicism in those remarks.

The administration has done a great deal that has worsened the job situation for millions of the least well-off Americans and improved it for those at the top. The President has supported some measures of potential help until political opposition developed, and then he has dropped them. He boasts about the number of blacks in his cabinet, but when they faced any difficulty, his response is one form or another of the reactive, politically-motivated and principle deficient, "cut-your-losses" tactic that he used in the Lani Guinier case, a tactic most recently used to fire the Surgeon General, Joycelyn Elders, perhaps the only honest spokesperson in the Cabinet.

As he has done so often, the President acknowledged the importance of work. In wonderfully expressive phrases, he has said: "I do not believe we can repair the basic fabric of society until people who are willing to work have work. Work organizes life. It gives structure and discipline to life. It gives meaning and self-esteem to people who are parents. It gives a role model to children." But then he does not mention the double-digit unemployment rate that has been a fact of life in poorer, black communities for the past two decades. He ignores the many reports of how many young black males are seduced into drug selling because it is the only source of money available to them.

Because racism serves such a valuable role as stabilizer in a society that otherwise might be rent asunder by the disparities in wealth, income, and opportunities, I am convinced that blacks will be blamed directly and indirectly for the transformation that we now all fear, and more and more of us will feel. Even so, we must renew our commitment to challenge the evils of racism at every turn, at every new variation.

Justice Marshall made this point in what was to be almost his last major speech. He said: “[t]he battle for racial and economic justice is not yet won; indeed, it has barely begun. . . .”¹³ Marshall gave vent to yearnings that we all share. He said:

I wish I could say that racism and prejudice were only distant memories . . . and that liberty and equality were just around the bend. I wish I could say that America has come to appreciate diversity and to see and accept similarity.

But as I look around, I see not a nation of unity but of division -- Afro and white, indigenous and immigrant, rich and poor, educated and illiterate.¹⁴

Justice Marshall warned that there is no sanctuary in the suburbs. “We cannot play ostrich. Democracy cannot flourish amid fear. Liberty cannot bloom amid hate. Justice cannot take root amid rage.”¹⁵ Rather, Marshall urged continued confrontation with the evils that he had fought all of his professional life. There is no promise of victory here, no guarantee of success. Marshall called us to the need and to the sense of salvation inherent in struggle for struggle’s sake.

We must go against the prevailing wind. We must dissent from the indifference. We must dissent from the apathy. We must dissent from the fear, the hatred, and the mistrust. We must dissent from a government that has left its young without jobs, education, or hope. We must dissent from the poverty of vision and the absence of moral leadership. We must dissent because America can do better, because America has no choice but to do better.¹⁶

One of our responsibilities is to cultivate our awareness of what our roles are and what our histories have been. Lawyers are still needed to deflect the

13. CARL T. ROWAN, *DREAM MAKERS, DREAM BREAKERS; THE WORLD OF JUSTICE THURGOOD MARSHALL* 453 (1993).

14. *Id.*

15. *Id.* at 454.

16. *Id.*

attacks against those on the bottom, particularly those willing to confront aggressively the policies of economic and political subordination. Our labors, though they be in vain, may serve to remind those who follow us that there is another way of living and that they should not accept oppression simply because they cannot envision a choice. Our not so distant recollections of the overt barriers to black success and dignity are equally important because they remind us what we must not allow ourselves to become, again.

We know now that even those gains we consider rock-solid can be taken away in a moment. While my resort to science fiction in the *Space Traders* story was not intended as a prediction, it is unnerving precisely because some part of us recognizes that the trade, if not the space traders, is not so fantastical. Although less dramatic, the last decade has shown us that we cannot rely on the pleasant but naive belief that, having been set in motion, our society will continue forward.

Justice Marshall is right about the crisis we face as a nation. Most of the nation, though, including many of its economic victims who are not black, do not see it that way. The storm clouds on the horizon representing joblessness, decreasing opportunity, increasing disparities in income and wealth, all point to future calamities that people of color must suffer but that we did not cause.

Justice Marshall's admonition to continue the struggle is, of course, no less appropriate because there are so many signs that struggle is hopeless. Surely, it is no more hopeless for us than it was for our slave ancestors. And yet they persevered, survived, and left as a legacy the spirituals, virtually a theology in song. "Hold On!," the slave singers urged through their pain, "Hold On! Keep your hand on the plow, hold on."

