

ADDRESS

A Holiday for Dr. King: The Significance of Symbols in the Black Freedom Struggle

*Derrick Bell, Jr.**

I was in New York City a few weeks ago and hailed a taxi for the long ride to the airport. Settling down in the back seat, I glanced at the driver's name tag and said, "I can't believe it."

"Can't believe what, brother," the driver responded, turning slightly to face me. He was dark, wiry thin, with plenty of self-confidence, or so I gathered from his driving, which caused me to hope his skill and my insurance coverage were in keeping with the car's speed.

"I can't believe your name is Jesse B. Semple."

"You may not believe it," the driver said, without slowing his speed up West End Avenue, "but that's been my name all my life, and I'm not about to change it."

"You know," I said, ignoring his belligerent response, "that's a pretty famous name. Langston Hughes regaled millions of black people over many years with his short essays about conversations with a street-wise Harlem black named Jesse B. Simple. Hughes always called him 'Simple.' I think he published five or six books filled with those Simple

*Dean and Professor of Law, University of Oregon. A.B. 1952, Duquesne University; LL.B. 1957, Pittsburgh University. Staff Attorney, United States Department of Justice, 1957-59; Executive Secretary, Pittsburgh NAACP, 1959; First Assistant Counsel, NAACP Legal Defense Fund, 1960-66; Deputy Director, Office for Civil Rights, Department of Health, Education & Welfare, 1966-68; Executive Director, Western Center on Law & Poverty, 1968-69. This address was first presented as a speech at the Fourth Annual Martin Luther King Day, University of California, Davis, School of Law, Jan. 15, 1984.

stories, as they came to be known."¹

"Who you telling," the driver injected. The cab was moving swiftly uptown, getting through every traffic light possible and then some. "My mother loved Langston Hughes. Our family name was Semple, and it was a natural to name me Jesse B. If you know the character, you also know why I am not sorry about the name."

"Simple had plenty of 'mother wit' and 'street smarts,'" I conceded.

"I've read all of the Langston Hughes books," Semple said, "but that was years ago. Nowadays, I'm too busy trying to make ends meet."

"Things are tough for black folks," I agreed, "but we have come a long way. For just one example, can you believe a national holiday for Dr. Martin Luther King. Who would have thought we could ever get them to do it."²

"Do what," Jesse B. Semple responded, obviously unimpressed. "A holiday is just the latest gimmick white folks have come up with to keep dumb blacks satisfied. It's an updated version of the glass trinkets and combs they used in Africa a few centuries ago."

"It's not the same," I responded. "The country has only a few national holidays celebrating the birthdays of individuals. And now thanks to the persistence of thousands of people, including Coretta King, representatives like John Conyers, and entertainers like Stevie Wonder, Dr. King's birthday is one of them."

"As the old folks used to say," I added expansively, "'black folks use to not have show, but we sho got show now.'"

"You wrong, man," Semple said disgustedly. "All we got is symbols." He paused to insure that I got his point. When I didn't disagree, he continued. "From the Emancipation Proclamation on, the Man been handing you a bunch of bogus freedom checks that he never intends to

¹ See, e.g., L. HUGHES, *THE BEST OF SIMPLE* (1961). In a Foreword to this collection, Langston Hughes reports that Simple and the other characters in his stories are a composite of people he has met and known in Harlem. Simple first appeared in Hughes' columns in the *Chicago Defender* and the *New York Post*, and later in book form and on the stage. In *V ENCYCLOPAEDIA BRITANNICA* 187 (1977) Simple is described as a "hard-working, uneducated, but knowledgeable Harlemiter, . . . one of the master comic creations of the latter 20th century."

² After years of effort, and a last-ditch attempt by North Carolina Senator Jesse Helms to derail Senate action by calling for hearings on King's "action-oriented Marxism," the Senate (by a 78 to 22 vote) supported earlier House action to create the nation's 10th official holiday, in recognition of the civil rights contributions of Dr. Martin Luther King, Jr. President Reagan, who earlier had opposed the measure, promised to sign it. The holiday, commemorating the birth of Dr. King on January 15, will be the third Monday in January beginning in 1986. NATIONAL URBAN LEAGUE, *THE STATE OF BLACK AMERICA* 1984, at 151.

honor. He makes you work, plead, and pray for them, and then when he has you either groveling or threatening to tear his damn head off, he lets you have them as though they were some kinda special gift. As a matter of fact, regardless of how great the need is, he only gives *you* when it will do *him* the most good.

"And before you can cash them in," Semple added, warming to his subject, "the Man has called the bank and stopped payment, or otherwise made them useless . . . except, of course, as symbols.

"You know Langston Hughes," Semple lectured me, "but you need to read your black history, man. Get into some John Hope Franklin,³ Lorin Miller,⁴ Lerone Bennett,⁵ and Vincent Harding.⁶ Or," he added, "if you don't believe black historians, try Leon Litwack,⁷ Eugene Genovese,⁸ and even C. Vann Woodward.⁹ They will all tell you that is how it has been, and that is how it is now."

"I do read," I responded somewhat guardedly, not prepared for a confrontation with a literate cab driver and wondering how I always get pushed into the position of defending white America. "My history tells me that the black race has come a long way from slavery and segregation to the present time, when we not only have laws protecting our rights, but a holiday recognizing one of our greatest leaders. We have . . ."

"What you have, man, is a hard-won symbol with a lot of token black government officials, politicians, and law school professors boring us working folks to death with their speeches about what a great life Dr. King lived, with not near enough reminders of how he died. Which, as I assume you know, is how Malcolm died, and Medgar Evers, and probably Whitney Young and George Wylie. And God knows how many other blacks were killed because they had the gumption to tell the truth about the conditions for blacks in this country and then come down off the speaker's stand and actually try to do something to

³ J. FRANKLIN, *FROM SLAVERY TO FREEDOM* (4th ed. 1974).

⁴ L. MILLER, *THE PETITIONERS: THE STORY OF THE SUPREME COURT OF THE UNITED STATES AND THE NEGRO* (1966).

⁵ L. BENNETT, *BEFORE THE MAYFLOWER: A HISTORY OF BLACK AMERICA* (1961).

⁶ V. HARDING, *THERE IS A RIVER: THE BLACK STRUGGLE FOR FREEDOM IN AMERICA* (1981).

⁷ L. LITWACK, *BEEN IN THE STORM SO LONG: THE AFTERMATH OF SLAVERY* (1979).

⁸ E. GENOVESE, *ROLL JORDAN, ROLL: THE WORLD THE SLAVES MADE* (1974).

⁹ C. WOODWARD, *THE STRANGE CAREER OF JIM CROW* (1955); C. WOODWARD, *REUNION AND REACTION* (1951).

improve those conditions.”

Semple could have added black leaders stretching back to Nat Turner, and including Marcus Garvey, Paul Robeson, and W.E.B. DuBois, all killed or driven into exile because they posed a real or imagined threat to the white power structure. I recalled the words of a friend, Professor Joseph Boskin, who in a review of a book chronicling the FBI's persecution of Dr. King, spoke of the ongoing fear that there exists one black male who might be able to assume the mantle of national leadership and move the masses into a revolutionary cadre: “It was not King's developing ideology which so disturbed Hoover and others but rather the fear of his historical possibility.”¹⁰

While I was musing, Semple continued to preach, his voice louder, his tone more strident than before.

“What you have, or will have if Congress doesn't change its mind before 1986, is a holiday for one black man, great as he was, when there are more black people out of work now than at any time since slavery. More black families are headed by females than ever before, and more than half the black babies now being born are to unwed mothers, many of them unwed teenage, school dropout mothers at that. Tell me where there is anything in those statistics to celebrate, and tell me how a holiday for Dr. King is going to help all the poor, uneducated, unemployed, and undernourished blacks all over this still racist land.”¹¹

Under this onslaught, I decided to change tacks. Semple was certainly right, but as a lawyer, law teacher, and general civil rights expert, I didn't have to lose an argument on this subject.

“I know, as the poet says, that life for blacks ain't been no crystal stair. But we need some victories to keep our spirits up, and the King holiday is a victory, acknowledged by a President who claimed it was neither necessary nor justified. As the old folks would put it, ‘We ain't what we going to be, but thank God, we ain't what we was.’”

“Brother,” Semple replied quietly and with deadly seriousness, “for someone able to afford a cab to the Kennedy Airport, carry your clothes in Hartman luggage, and dress like you are related to the Brooks Brothers, you need to get off quoting the old folks, and open your eyes

¹⁰ Boskin, *The Rite of Purification: The FBI and the Black Historical Possibility* (Book Review), *REVS. IN AM. HIST.*, Sept. 1983, at 472 (reviewing D. GAROW, *THE FBI AND MARTIN LUTHER KING, JR.: FROM ‘SOLO’ TO MEMPHIS* (1981)).

¹¹ The statistics are set out in NATIONAL URBAN LEAGUE, *THE STATE OF BLACK AMERICA 1984*, at i to vii; see also JOINT CENTER FOR POLITICAL STUDIES, *A POLICY FRAMEWORK FOR RACIAL JUSTICE* (1983).

to what is going down right around you in the here and now.”

Semple stopped talking and concentrated on driving through 125th Street. I looked out the window and saw more evidence on Harlem's main thoroughfare than I needed of the points he was making all too well.

The fact is that Semple was more correct than he perhaps realized. He intuitively understood black history as well as many scholars who have studied it for years. I wondered if he had gotten the breaks I had, gone to school, gained the jobs that degrees open up, which of us would be riding to Kennedy, and which would be driving the taxi. It is the same thought I have when I speak with groups of black men in prison.

Still, symbols have been the mainstay of the faith that some day blacks might truly be free in this land of freedom. Not just holidays, but most of our civil rights statutes and court decisions have been more symbol than enforceable law. We hailed and celebrated each of these laws, but none of them are fully honored at the bank, as Semple put it.

The hopes of blacks soared when the thirteenth, fourteenth, and fifteenth amendments were added to our fundamental law. Even earlier, when Abraham Lincoln ended slavery with an executive order, slaves were overjoyed at the very prospect of life without chains. But the Emancipation Proclamation, by its very terms, extended freedom to only those slaves living in areas under Confederate control.¹² In effect, the document was of no legal value to those who needed it most. And yet the “good news” that freedom had come was no less valued as symbol, as promise of what might some day be real. The soon to be former slaves reveled in future hopes, tempered by recognition of present perils.

Ambrose Douglass, a former North Carolina slave, reported how it was in those areas where freedom depended on the presence of Union troops and the ever-changing military situation during the Civil War:

I guess we musta celebrated ‘Mancipation about twelve times in Harnett County. Every time a bunch of No’thern sojers would come through they would tell us we was free and we’d begin celebratin’. Before we would get through somebody else would tell us to go back to work, and we would go.¹³

The historical paradox here has significance for contemporary conditions in civil rights law. The slaves rejoiced because the Union soldiers told them that President Lincoln had set them free. But the Emancipa-

¹² See D. BELL, *RACE, RACISM AND AMERICAN LAW* ¶ 1.2 (2d ed. 1980).

¹³ L. LITWACK, *supra* note 7, at 173.

tion Proclamation was motivated far more by political imperatives than humanitarian concerns. Lincoln had promised to free the slaves, but only if it would help save the Union. Symbolically, his action had great meaning. Legally, it was worthless.

As a matter of law, when the Union troops were in the area, slaves were able to celebrate a form of de facto freedom, but legally they were not free. When, on the other hand, the troops departed and the slaves were ordered back to work, they were, even in their coerced compliance, "covered" by Lincoln's order and thus entitled to their freedom.¹⁴

Today, we are witness to an increasingly grim national scene of black people sinking ever deeper into the misery of unemployment, crime, broken families, and out-of-wedlock births, all the indicia of an exploited, colonized people.¹⁵ These multitudes are without jobs, decent homes, and viable educations. Their options are few, their reasons for hope virtually nonexistent. Yet all blacks, including these, are covered by more laws protecting them against racially discriminatory treatment than any of their black ancestors.

As with the slaves in nineteenth century Harnett County after "the surrender," the masses of poor blacks today have legal rights that are worthless and unmet economic needs that threaten life itself. They lack the schooling, skills, or financial resources needed to survive, much less succeed, in a society where manhood is measured by job and worth is defined by income. They, like Harriet Tubman, remain "strangers in a strange land." Because poor blacks remain outcasts in this country, the greater opportunities extended to better-off blacks are diluted by their poverty, diminished by their despair.

The cab negotiated the traffic of East Harlem streets and turned up the long ramp toward the Tri-Borough Bridge. The neighborhoods reflected poverty in Spanish, but there seemed a vitality there lacking in the black ghetto, causing me to wonder, not for the first time, whether

¹⁴ Professor Litwack writes that only with "the surrender," as the slaves came to call it, the fall of Richmond, and the collapse of the Confederacy, did the slaves realize that their freedom no longer depended on the outcome of every skirmish. Ambrose Douglass, who claimed to have celebrated emancipation every time the Yankees came into Harnett County, North Carolina, sensed that this time it was different and, according to Litwack, he proposed to make certain. "I was 21 when freedom finally came, and that time I didn't take no chances on 'em taking it back again. I lit out for Florida." *Id.* at 177.

¹⁵ See Selig, *The Justice Department and Racially Exclusionary Municipal Practices: Creative Ventures in Fair Housing Act Enforcement*, 17 U.C. DAVIS L. REV. 445, 451-53 & nn. 22-30 (1984).

even these non-English speaking immigrants would make it in America before poor blacks managed an escape from their current misery.

"You're right. It is pretty depressing, Mr. Semple," I said, breaking the long silence.

"It is and it ain't," Semple replied thoughtfully. "The fact is that we been living on symbols for a long time. Religious symbols, freedom symbols, legal symbols, and now holiday symbols. They are all but worthless at the bank, but sometimes black folks don't try to cash them in. They put them in their pockets and feel rich and, more important, they act rich. That is how we ended slavery, and gave some meaning to that 1954 decision by the Supreme Court that promised a lot, but gave us 'all deliberate speed,' which would have translated into not a damned thing if Dr. King in Montgomery, the freedom riders in Birmingham and Jackson, and those college students in North Carolina, had not proved to us that segregation would not work unless black folks went along with it."

"But," I added quickly, "the Montgomery boycott and the sit-in protesters needed the law to get them out of jail and to enforce the desegregation standards set by the Supreme Court. Even Dr. King said both were needed. Listen to this."

I dug into my trench coat pocket and pulled out a worn paperback copy of Martin Luther King's book, *Why We Can't Wait*,¹⁶ written in late 1963. I found an underlined paragraph and read:

Direct action is not a substitute for work in the courts and the halls of government. Bringing about passage of a new and broad law by a city council, state legislature or the Congress, or pleading cases before the courts of the land, does not eliminate the necessity for bringing about the mass dramatization of injustice in front of a city hall. Indeed, direct action and legal action complement one another; when skillfully employed, each becomes more effective.¹⁷

"You sound as much in love with laws as you are with holidays," observed Semple. "Why can't our bourgeoisie black folks get some love for ordinary black folks?"

"I think that's unfair," I retorted somewhat heatedly. "You don't know what contributions I have made, and there are many other successful or bourgeois blacks, as you call us, who have given much to the black cause."

"Cool down, brother," Semple said. "I don't mean any offense. The

¹⁶ M. KING, JR., *WHY WE CAN'T WAIT* (1964).

¹⁷ *Id.* at 42.

fact is that you scotch and soda black folks hurt us drylongso¹⁸ blacks simply by being successful. The white folks see you doing your thing, making money in the high five figures, latching on to all kind of fancy titles, some of which even have a little authority behind the name, and generally 'moving on up.' They conclude right off that discrimination is over and that if the rest of us got up off our dead asses, dropped the welfare tit, stopped having illegitimate babies, and found jobs, we would all be just like you.

"It's not fair, brother, but it's the living truth. You may be committed to black people, but believe me, you have to work very hard to do as much good for black people as you do harm simply by being good at whatever you do for a living."

"That is a pretty heavy burden to hang on anybody," I suggested. "I assume you don't include Dr. King in your condemnation."

"Man. Get it straight," Semple replied. "I don't include anyone. It's the white folks who make these conclusions. We black folks, working class and upper-class, simply have to live with them.

"But," he continued, "you are right. Dr. King was recruited by the masses back in Montgomery and responded to the call with some down-home, black Baptist leadership for us and some pretty potent philosophy for the rest of you.¹⁹ Even so," he recalled, "I don't think middle-class blacks and many liberal whites really accepted King until 1964 when they gave him the Nobel Prize."

"And," I interjected, "many blacks and liberals were appalled when King spoke out early against the war in Vietnam, and then moved from race to poverty."

"Folks got one-track minds," Semple explained. "It's like with Jesse Jackson. He's okay as a quick-mouth preacher with his Operation Push, telling ghetto kids to stop listening to those 'Do It To Me Baby' lyrics on those so-called 'soul radio stations' and having them repeat, 'I

¹⁸ A colloquial term in the black community decades ago. It means ordinary, nothing special. See J. GWALTNEY, *DRYLONGSO: A SELF-PORTRAIT OF BLACK AMERICA* (1980). In his introduction, Professor Gwaltney quotes from one of several hundred persons interviewed for his book:

Since I don't see myself or most people I know in most things I see or read about black people, I can't be bothered with that. I wish you could read something or see a movie that would show the people just, well, as my grandmother would say, drylongso. You know, like most of us really are most of the time — together enough to do what we have to do to be decent people.

Id. at xix.

¹⁹ See M. KING, JR., *STRIDE TOWARD FREEDOM* (1958).

Am Somebody' in the outside hope that a few of them might believe it despite the whole world telling them that they are, have been, and will be, nothing. But when he decides to run for President, he is suddenly a joke. I hope to laugh with him right into the White House."

"I richly enjoyed Reverend Jackson's victory in bringing Lieutenant Goodman home," I replied, "but given your outlook on the race question, you really don't think he has a chance at the Democratic nomination, much less the presidency, do you?"

Semple half-turned so as to see me while keeping one eye on the road. "Man, I don't read tea leaves, nor in other ways foretell the future, but Jesse Jackson has my vote locked up even if it helps put Ronald Reagan back in the White House. He is my kind of black man. I don't know about you, but when he landed back here with that black Navy flyer in tow, it was worth a million dollars to me, as broke as I am. And that is the kind of money on which I pay no taxes and which keeps on earning interest even though I do not take it near a bank . . . or a bar. If you get my point."

"You sound as though you believe in symbols after all," I said, trying to recoup a few debater's points.

"Never said I didn't" said Semple. "It's what you use them for. I don't want my symbols on the shelf. I want them in action, embarrassing white folks and mobilizing black folks to take themselves seriously. Jackson going to Syria is like Dr. J. making a slam dunk from the free-throw line. It's not just that he did it, but that he looked pretty while he was doing it. And," he added, "he may not win, but Jackson is going to show you a few more pretty moves before this election year is out."

Even anticipating these moves broke Semple up. I waited until his laughter had died down. "But will it be worth it to have Reagan in the White House for another four years?"

"Reagan may get everybody killed in a nuclear war," Semple replied, serious again, "but he is not the main enemy of black folks. White folks are. When enough of them (or enough of us) indicate that some Reagan policy has gone too far, he backs down every time.

"Also, Reagan has taught a lot of white folks a lesson I thought they would never learn, which is that their white skins do not protect them against exploitation, unfair taxes, unemployment, inadequate health care, and all the other social problems black folks have been complaining about for years."

"Are you suggesting," trying to end our discussion on a harmonious note as the cab neared my terminal, "that until white folks get smart, black folks will never be free? That we must continue the work Dr.

King started with his Poor People's March and somehow forge a coalition of minorities and the poor that will finally explode the White Supremacy myth that has divided blacks and whites for the benefit of the ruling classes since the earliest days of slavery in this country?"

"Preston Wilcox is a Harlem leader," Semple said, seeming to ignore my rhetorical question. "He always says to blacks, 'No one can free us but ourselves.' I believe that. And maybe it is as true for whites as it is for blacks. But for them to accept it, they will have to give up the symbol which they think is more important than life itself."

I did not have to ask him what that symbol was. Paying my fare and taking my bags, we shook hands and I asked, "Do you think they can do it?"

"I think," Semple said, "that Reverend Jackson is going to be asking them to do it. And that is one of the reasons he has my vote.

"By the way," he said, "take this clipping. It's a piece out of the National Urban League's annual report, *The State of Black America 1984*. This guy makes my point almost as well as I can."

An hour later, my plane was heading west and in true workaholic fashion, I had my briefcase opened and papers spread over two seats. But my mind was still on my conversation with Jesse B. Semple. I glanced at the last few pages of the Urban League article he had given me. They were heavily underlined and I smiled, recognizing an article I had written which Semple's stamp of approval gave a validity I richly prized.

On the pages Semple had marked, I suggested that as a cursory examination of legal history will reveal, blacks have never been the special favorites of the laws. Rather, we have been the involuntary sacrifices in compromises between differing groups of white men, and the beneficiaries of pro-civil rights actions taken primarily to protect or further white interests. The Emancipation Proclamation and the *Brown* decision are only two of the more dramatic instances when blacks, through courageous self-help, gave substance and movement to the empty and often hypocritical symbolism that characterizes so much of civil rights policy.

But the worsening condition of so many black Americans, as recorded annually in the Urban League reports, presents a challenge to blacks able to advance and perhaps prosper under the aegis of laws that we ignore at our peril. We recognize, despite improved status, that the removal of racial classifications does not insure equal opportunity, and the doctrine of equality, undefined and tailored to idealistic hopes

rather than realistic assessments, can pose an unneeded barrier to still-needed racial remediation. Racism remains a principal ally of the country's economic and political structure, and will remain a barrier to opportunity for blacks until remedies needed for blacks encompass as well the masses of whites whose subordinate status in society is less dramatic than that of blacks but no less real. Coalitions have been tried, but whites, particularly working class whites, are mesmerized by the race question which, as in the post-Reconstruction period, remains "an everlasting, overshadowing problem that served to hamper the progress of poor whites and prevent them from becoming realistic in social, economic, and political matters."²⁰

A racial schism that has lasted so long will not easily be healed. But civil rights policies, if possible, should not needlessly make matters worse. A Rainbow Coalition of the disadvantaged, while not new, and easier to proclaim than to bring into being, remains a concept worth working toward by civil rights lawyers as well as politicians. Even if whites continue to ignore it, blacks should not forget the still relevant advice of a Populist Party leader who told a meeting of black and white farmers in 1892:

You are kept apart that you may be separately fleeced of your earnings. You are made to hate each other because upon that hatred is rested the keystone of the arch of financial despotism which enslaves you both. You are deceived and blinded that you may not see how this race antagonism perpetuates a monetary system which beggars both.²¹

Martin Luther King suggested a cure for this race-based, class suicide. He urged the country to adopt a broad-based and gigantic Bill of Rights for the Disadvantaged, similar to the GI Bill of Rights enacted without opposition or controversy for war veterans. He said the bill's benefits should not go to blacks alone, because, in his words:

While Negroes form the vast majority of America's disadvantaged, there are millions of white poor who would also benefit from such a bill. The moral justification for special measures for Negroes is rooted in the robberies inherent in the institution of slavery. Many poor whites, however, were the derivative victims of slavery. As long as labor was cheapened by the involuntary servitude of the black man, the freedom of white labor, especially in the South, was little more than a myth. It was free only to bargain from the depressed base imposed by slavery upon the whole labor

²⁰ J. FRANKLIN, *supra* note 3, at 272.

²¹ Bell, *Ceremonies in Civil Rights: A Thirty Year Retrospective on the Law and Race*, in NATIONAL URBAN LEAGUE, *THE STATE OF BLACK AMERICA* 1984, at 119, 135-36 (quoting Watson, *The Negro in the South*, in S. CARMICHAEL & C. HAMILTON, *BLACK POWER, THE POLITICS OF LIBERATION IN AMERICA* 68 (1967)).

market. Nor did this derivative bondage end when formal slavery gave way to the de-facto slavery of discrimination. To this day, the white poor also suffer deprivation and the humiliation of poverty if not of color. They are chained by the weight of discrimination, though its badge of degradation does not mark them. It corrupts their lives, frustrates their opportunities and withers their education. In one sense it is more evil for them, because it has confused so many by prejudice that they have supported their own oppressors.²²

These sentiments are now twenty years old. Much has changed. A general social reform bill intended to eliminate poverty and disadvantage that once seemed a possibility now seems as far away as the stars. But if blacks retain their belief in the symbols of freedom, and at least some whites come to see beyond the destructive symbol of racism, anything could happen.

On that point, I think even Jesse B. Semple would agree.

²² M. KING, JR., *supra* note 16, at 138.