



**EDWARD L. BARRETT, JR. LECTURE
ON CONSTITUTIONAL LAW**

**Wanted: A White Leader Able to Free
Whites of Racism**

*Derrick Bell**

I arrive as the Edward L. Barrett Lecturer having worked for more than forty years to promote civil rights. You might think, and perhaps hope, that honored by the occasion, I would draw on my experience to craft some new legal theory or approach to litigation that would compel the courts and the country to discard the comforting, but wholly inaccurate, view that racial discrimination is a thing of the past and that color blindness is the appropriate answer to all racial questions.

American racial history and personal experience, however, teach that, with few exceptions, law, specifically judicial decisions, cannot and does not advance social reform, especially where race is involved, very far beyond where public opinion is ready to travel. The history of abortion rights, the death penalty and, some would say, school desegregation, provide unhappy evidence of this fact of judicial/political life.

The battle over abortion rights provides one example. I hailed *Roe v. Wade*, viewing it as providing the choice of whether to carry

* Visiting Professor, New York University Law School. This Essay was originally the Edward L. Barrett, Jr. Lecture on Constitutional Law, delivered at the University of California, Davis on October 7, 1999.

pregnancy to term to poorer women, a choice to which upper middle-class women already had expensive options.

Some prochoice advocates (like some proponents of desegregation not long ago) believed that victory in the Supreme Court guaranteed the defeat of the prolife crowd (just as some believed *Brown v. Board of Education* signaled the defeat of the segregationists) and provided a legal foundation for ending all injustices against women (or blacks). Suppose the Court struck down all of the “undue burden” barriers to abortion and ordered government to subsidize abortions for those that cannot afford them. You must agree that women burdened by poverty would not be significantly better off.

I am certainly not suggesting that the struggle to bring choice to all women was misguided, but, like the battles for integrated schools and affirmative action, our effort to shoehorn economic and class issues into constitutional norms caused us to neglect the problem of structural protection of vested wealth that is the real reason why so many citizens of the world’s wealthiest nation live subsistence existences. Our focus on law also causes us to neglect the political dimension of our struggle, including organizing, directing protest activities, and gaining political leverage. While I worked hard to win court orders requiring school desegregation, it was Jean Fairfax, a community worker on the Legal Defense Fund staff, who taught me that my efforts in court would be wasted unless I made sure, by door-to-door visits if necessary, that the community members understood both the rights they had gained and how to utilize these new rights.

Faye Wattleton, the former president of Planned Parenthood, reports that, in the wake of *Roe v. Wade*,¹ political guru David Garth warned prochoice advocates that “[t]he Supreme Court decision did more than just legalize abortion, it neutralized you, it robbed you of your rallying cry, your most provocative issue, your activist identity.”² Garth urged Planned Parenthood to become politically active. Planned Parenthood rejected his advice. Conversely, the decision energized the antiabortion forces into becoming politically active; the results of their efforts are all too plain.

I have not forgotten the appeal of the courts as vehicles for social reform for those marginalized. Rather, in a very pragmatic way, I

¹ 410 U.S. 113 (1973).

² FAYE WATTLETON, LIFE ON THE LINE 209 (1996).

am warning that those of us that advocate social reform tend to imbue litigation with an importance exceeding anything that judicial decisions can achieve, particularly in the long term. Does this mean we should forsake litigation as a major arm of the law reform movement just as conservative defense funds, modeling themselves on our efforts, make major strides in dismantling decades of hard-won precedents? It does not. But we need to constantly remind ourselves of the limitations of litigation in the law reform arsenal.

Litigation achieves its greatest success when a sizeable portion of policymakers, and the public that they influence, favors, or can be moved towards favoring, the positions advocated in test cases. Although it was not apparent at the time, such support proved to be a major asset to civil rights litigation in the two decades after *Brown v. Board of Education*. That support began to erode exactly twenty years later when the Court in *Milliken v. Bradley*,³ determined, by a 5-4 vote, that relief for blacks would in effect be limited to those measures that did not harm innocent whites; "innocent" denoting those whites not found to have intentionally discriminated against blacks on the basis of race. What it implied in *Milliken*, the Court has virtually made the law in subsequent affirmative action cases such as *City of Richmond v. J. A. Croson*⁴ and *Aderand Constructors, Inc. v. Pena*.⁵

By that standard, as Professor Charles Lawrence has made clear, the major components of racism — those based on the often unconscious priorities and privileges of whiteness — remain insulated.⁶ Meanwhile, voluntarily adopted remedial measures, the only ones utilizing racial classifications, are subjected to strict scrutiny and, more often than not, found to violate the Equal Protection Clause. In *Hopwood v. Texas*, for example, a panel of the Fifth Circuit found that considering race or ethnicity in admissions decisions is unconstitutional even when intended to combat perceived effects of a hostile environment, to remedy past discrimination, or to promote diversity.⁷

The Center for Individual Rights, a conservative public policy law firm in Washington D.C., has wracked up victories in several

³ 433 U.S. 267, 290 (1977).

⁴ 488 U.S. 469 (1989).

⁵ 515 U.S. 200 (1995).

⁶ See Charles Lawrence, III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 380 (1987).

⁷ See 78 F.3d 932, 962 (5th Cir. 1996).

cases and is actively looking for more. In January 1999, they spent up to \$40,000 running full-page ads in fifteen college newspapers across the country, attacking affirmative action in student admissions. The Center chose a range of schools, from the most competitive private colleges to large public universities, each of which the Center believed engaged in illegal, race-based admissions practices. The ads encouraged students to request the Center's handbooks, which discuss the laws on racial preferences and explain how students can determine whether their schools comply with those laws.⁸

Even with its well-financed campaign, the conservative legal attack on affirmative action has seen more success in the courts of law than in the court of public opinion. Referendum victories in California and Washington have led to a short-term drop in minority admissions at public universities but, as with *Roe v. Wade*, the anti-affirmative action victories have spurred equality advocates to challenge the fairness of standardized tests and other admissions criteria which should eventually result in greater diversity at undergraduate institutions and a fairer admissions process for whites as well as people of color.

For example, following the precipitous drop in minority enrollment at public universities in California after Proposition 209 took effect, several organizations, including the NAACP Legal Defense and Educational Fund, filed a class-action lawsuit on behalf of African Americans, Latinas/os, and Filipino Americans who had been denied a space in the University of California at Berkeley's undergraduate class. The plaintiffs alleged that the institution's new undergraduate admissions policy violated federal civil rights laws because it put "undue reliance" on standardized tests and gave "preferences to students who take advanced placement courses that are less accessible in high schools' attended largely by underrepresented minorities."⁹ While not a direct challenge to California's Proposition 209 or to the University of California Regent's Resolution SP-1, which prohibits the explicit consideration of race in the application process, plaintiffs contend that affirmative action programs, when in place, provide a necessary, if not entirely suffi-

⁸ See Ken Liebeskind, *Conservatives Attack Affirmative Action in College Newspaper Ads*, EDITOR & PUB. MAG., Jan. 30, 1999, at 37.

⁹ Mary Beth Marklein, *Hot Issues: Fees, Affirmative Action*, U.S.A. TODAY, Feb. 23, 1999, at 6D.

cient, counterweight to the discriminatory components in Berkeley's admissions process.

In 1997, after the Fifth Circuit prohibited the consideration of race as a factor in admissions at Texas's public universities, the Texas legislature responded by ordering each of the state's public undergraduate institutions to admit all applicants whose grade point averages placed them in the top ten percent of their high school's graduating class.¹⁰ This approach, strongly supported by black parents and the NAACP, is thought to encourage minority enrollment from high schools that have an overwhelmingly minority student body.

One writer believes that the ten percent approach may have an even more profound effect in improving the primary and secondary public schools by altering the incentives that a school's quality creates.¹¹ Under the current system, politically influential parents of school-age children tend to prefer that their children attend statistically superior schools, while the children of parents that lack political influence attend the weaker schools. Under the Texas approach, parents have less to gain from concentrating their children at stronger schools and more to gain from dispersing their children over a larger number of schools. Accordingly, Texas' ten percent policy may lead to a public school system with smaller disparities in quality from school to school.¹²

I am not suggesting that these counter-measures, although potentially valuable, are adequate to combat discrimination based on race and color in this country. That is why my title does not promise new legal strategies but instead calls for new leadership in the fight against racism — to be more specific, new white leadership. There are, of course, many whites that believe in and work for racial equality, but for the most part, they are not well known. We are not likely to see them on the *Lehrer News Hour* or *Meet the Press*. The leaders I seek and that this country needs must be well-known, able to be heard and with the power or charisma to be taken seriously.

Let me say quickly, emphatically, and somewhat sadly, that the leadership role we need cannot be filled by a black person. We

¹⁰ See TEX. EDUC. CODE ANN. § 51.803 (West 1998).

¹¹ See David Orendticher, *Affirmative Action and Texas' Ten Percent Solution: Improving Diversity and Quality*, 74 NOTRE DAME L. REV. 181, 188-89 (1998).

¹² See *id.* at 181-82.

know from the Reverend Jesse Jackson's runs for the presidency that an articulate black can gain support across racial lines when advocating a range of social programs for those who, as Reverend Jackson phrased it, "take the early bus."¹⁵ When dealing directly with race, however, any black's message will be dismissed at best as special pleading and at worst as racial condemnation.

Despite the positions he took (and failed to take) to gain the presidency, I admit that I once hoped that President Clinton might be the leader I believe is necessary. While, at times, I believe his heart is in the right place, his commitment to racial equality is too easily dampened by the pressures of politics. And while I am not unhappy with Senator Bill Bradley's statements about race as he seeks the Democratic nomination for president, his rhetoric is not what is needed, and not what we are likely to hear from Bradley or any other presidential candidate that wins the nomination of either major party.

What we need is a white leader that is both able to be heard and courageous enough to deliver a three-point message about race. First, race in America is not a black but a white problem. Second, racism might never be overcome and might play a permanent role in the American social structure. Third, even if eradicating racism is an impossible goal, the fight for tolerance and equality carries an inherent value.

1. The racial problem in this country is not people of color but whites.

While it is beyond denial that blacks have borne the heavy burden of "the other" in our society, the barriers which racial discrimination places on blacks should not be the focus of the leader's statements, or of discussions among whites. Rather, the dialogue must focus on the cost which that burden exacts from whites. I am not referring to the moral or ethical cost, however high those costs might be. Rather, the white leader that I call for must demonstrate to other whites the economic harms, social disadvantages, and lost opportunities that white people have suffered and continue to suffer as a result of the pervasive and corrosive effects of social neglect which are linked directly to institutionalized racial inequality.

¹⁵ See Laura Younkin, *Between Two Worlds*, THE DISABILITY REG., Jan.-Feb. 1990, at 30.

The leader will ask all whites to consider why the United States, the world's richest nation by a wide margin, lags behind any number of less affluent countries in matters of social welfare, health care, housing, education, child care, and protection for the aged. I speak not just of wealthy western European nations; Canada and even Cuba far exceed the United States in protecting all citizens against such destroyers of life as pestilence, poverty, and ignorance. The leader I seek would force whites to acknowledge that racial separation in this country plays a major role in maintaining the discrepancy between total wealth on the one hand and the unequal distribution of such basic necessities as shelter and education on the other.

Economist Robert L. Heilbroner observed years ago that while blacks suffer from social neglect in America in disproportionate numbers, merging the issues of race and economic neglect serves to rationalize the policies of inaction that have characterized so much of the American response to need. Many perceive programs to improve slums as intended to "subsidize" blacks and proposals to improve prison conditions are seen as measures to coddle black criminals. A list of such perceptions could continue *ad infinitum*. All too often, "the fear and resentment of [blacks] takes precedence over the social problem itself. The result, unfortunately, is that the entire society suffers from the results of a failure to correct social evils whose ill effects refuse to obey the rules of segregation."¹⁴

While on a trip last week I picked up a local paper in which I found a letter to the editor arguing that we should stop coddling drug dealers. Give them a quick trial and, if found guilty, execute them. Sadly, such sentiments are common. Any white leader, in order to emancipate whites from their racial pathologies, must ask: what fuels the fear that manifests itself in the fact that the United States is the only major country that retains the death penalty?¹⁵ Not only do we retain it, we extend it to more crimes at every opportunity. Simultaneously we dismantle legal services for the poor, which provide the only means of legal defense for many facing the death penalty.

¹⁴ Robert L. Heilbroner, *The Roots of Social Neglect in the United States*, in *IS LAW DEAD?* 288, 296 (Eugene V. Rostow ed., 1971).

¹⁵ See Ved P. Nanda, *Recent Developments in the United States and Internationally Regarding Capital Punishment: An Appraisal*, 67 *ST. JOHNS L. REV.* 523, 546 (1993).

Why is it that our Congress refuses to enact meaningful gun control laws, even as we witness a series of horrendous attacks on our schools, businesses, and even churches, perpetrated by whites, including young students, armed with an array of lethal weapons, that kill scores of innocent, unarmed persons? Could deep set racial fears be the real barrier to joining the rest of the civilized world in abolishing the death penalty and controlling the purchase and possession of guns? How was president Clinton able to replace a deeply flawed welfare system with a draconian series of measures by calling for an "end [to] welfare as we know it,"¹⁶ a slogan with racist overtones which overlooked the fact that most persons on welfare are white, and that the real recipients of government largesse are not the poor but corporations, banks, and other major entities in our economic system? The white leader this nation needs, though likely does not want, will force whites to confront these issues.

This discussion may lead to an understanding that a major barrier to much-needed social reform is the unacknowledged, but very real, fear and resentment of blacks. Powerful entities in our society harness this deep-seated fear and resentment to convince a great many white people to think and act in ways that contradict their own best interests. Fear and resentment of blacks led many whites in North Carolina to vote to reelect Jesse Helms to the Senate over Harvey Gantt; now it is Helms who blocks the appointments of even highly qualified individuals, and Helms who advocates that the United States withdraw from the United Nations.

Helms is highly conservative, and his political views find expression not only on issues of race, but also in his support for economic measures that advantage the rich while burdening the lives of poorer whites — the very constituents that provide Helms with his electoral victories. And Helms is not alone. The leadership of both the House of Representatives and the Senate hold their powerful positions in substantial part because, like Helms, they convinced whites that if elected, they would preserve the racial status quo. Having done so, congressional leaders can ignore the nation's need for health care, environmental reform, effective schools, and a decent minimum wage. They need not acknowledge the tremendous, and growing, gap in wealth and income.

¹⁶ See *President's Statement on Signing the Personal Responsibility and Work Reconciliation Act of 1996*, 2 PUB. PAPERS 1328 (Aug. 22, 1996).

Congressional leaders can protect the interests that fill their campaign coffers with millions of dollars in legal, but nonetheless immoral, bribes.

This confusion of race and self-interest is not a recent phenomenon. It dates back to early colonial times. Historian Edmond Morgan explains that plantation owners convinced working class whites to support slavery even though they could never compete with those that could afford slaves. Slave holders appealed to working class whites by urging that their shared whiteness compelled the two groups to unite against the threat of slave revolts or escapes. The strategy worked. In their poverty, whites vented their frustrations by hating the slaves rather than their masters, who held both black slave and free white in economic bondage. While slavery ended, the economic disjuncture, camouflaged by racial division, continued unabated.¹⁷

During the latter half of the nineteenth century, a shared feeling of racial superiority to blacks was one of the few things that united the huge influx of European immigrants, who themselves were brutally exploited by the mine and factory owners, for whom they toiled long hours under wretched conditions for subsistence wages. Of course, many of these immigrants were far more recent arrivals than the blacks that they mocked. The racially derogatory minstrel shows of that period helped immigrants acculturate and assimilate by inculcating a nationalism, the common theme of which was the disparagement and disadvantaging of blacks. Immigrants focused on maintaining racial oppression, rather than uniting across racial lines to resist the exploitation and deprivation, which respects no color line, then or now.¹⁸

The historical mirrors the present.¹⁹ The ideology of whiteness continues to oppress whites as well as blacks. Whites employ whiteness to make whites settle for despair in politics and anguish in the daily grind of life. Somehow, whites have observed that a majority of America's population is white and that most power is held by whites and interpreted these facts as meaning that, as whites, they are privileged and entitled to preference over people

¹⁷ See EDMUND MORGAN, *AMERICAN SLAVERY, AMERICAN FREEDOM* 326-27 (1975).

¹⁸ See, e.g., KEN EMERSON, *DOO DAH! STEPHEN FOSTER & THE RISE OF AMERICAN POPULAR CULTURE* (1998) (discussing continuing racial oppression).

¹⁹ See Peggy R. Smith, *Regulating Paid Household Work: Class, Gender, Race, and Agendas of Reform*, 48 AM. U. L. REV. 851, 878 (1999).

of color. Over time, these views have solidified into a kind of property — a property right in whiteness. The law recognizes and protects this property right based on color, similar to other forms of property.

The United States is a nation built on valuing property and the protecting rights of ownership. That was the chief goal of the Framers who gathered in Philadelphia in 1787.²⁰ Requiring that government recognize that individuals are entitled to life, liberty, and property, was a means of protecting property from government incursion. In a nation where property is viewed as a measure of worth, many whites, possessing relatively little property of the traditional kind — money, securities, and land — view their whiteness as a property right.²¹

Professor Cheryl Harris asserts that:

[T]he valorization of whiteness as treasured property takes place in a society structured on racial caste. In ways so embedded that it is rarely apparent, the set of assumptions, privileges, and benefits that accompany the status of being white have become a valuable asset that whites sought to protect. . . . Whites have come to expect and rely on these benefits, and over time these expectations have been affirmed, legitimated, and protected in law.²²

Professor Harris explains:

[T]he wages of whiteness are available to all whites regardless of class position, even to those whites who are without power,

²⁰ See Mark W. Smith, *A Congressional Call to Arms: The Time Has Come for Congress to Enforce the Fifth Amendment's Takings Clause*, 49 OKLA. L. REV. 295, 300 (1996).

²¹ See generally NOEL IGNATIEV, *HOW THE IRISH BECAME WHITE* (1995) (exploring relationship between concepts of race and acts of oppression); JANE LAZARRE, *BEYOND THE WHITENESS OF WHITENESS: MEMOIR OF A WHITE MOTHER OF BLACK SONS* (1996) (outlining how realities of obvious and subtle racism cause problems in society); IAN F. HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* (1995) (explaining definition of Whiteness in America as human invention); TONI MORRISON, *PLAYING IN THE DARK: WHITENESS AND THE LITERARY IMAGINATION* (1992) (discussing prevalence of white characters in American fiction); DAVID R. ROEDIGER, *THE WAGES OF WHITENESS: RACE AND THE MAKING OF THE AMERICAN WORKING CLASS* (1991) (examining race relations in context of white laborers); ERIC J. SUNDQUIST, *TO WAKE THE NATIONS: RACE IN THE MAKING OF AMERICAN LITERATURE* (1993) (looking at American authors that have crossed cultural boundaries); HOWARD WINANT, *RACIAL CONDITIONS: POLITICS, THEORY, COMPARISONS* (1994) (evaluating racial issues in societies 90 years after W. E. B. DuBois).

²² Cheryl Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1713 (1993).

money, or influence. Whiteness, the characteristic that distinguishes them from blacks, serves as compensation even to those who lack material wealth. It is the relative political advantage extended to whites, rather than actual economic gains, that are crucial to white workers.²³

Maintaining their political advantage over blacks, though, requires that whites not identify with blacks even regarding matters that transcend skin color. To give continued meaning to their whiteness, whites must identify with the whites at the top of the economic heap, not with blacks, with whom most whites hold so much in common save their skin color.

Personal experience provides just one example of how this self-inflicted, racial disadvantaging works in practice. Not long ago, I met a young man attending a law school at which most of the students were from white, working-class families. Most were the first in their families to attend law school and, like this young man, most opposed affirmative action. This student felt he had made it on his own, and he told me that, while there had been racial discrimination in the past, we had to move on. In his view “everyone, including black people, must make it on merit. That is the “American Way.”

In response, I suggested that, while he seemed quite able, he would have a hard time getting hired at large corporate law firms, which prefer to hire students from Ivy League schools. Many of the students at these schools come from upper-class families. They aren't any smarter than he is; they were just born into wealthier families. Was that fair? My question stopped him cold. His eyes glazed over. Obviously, he had never considered the class disadvantage he suffered. After several moments, he said with a shrug, “Well, those are the breaks.”

In other words, any time a black got a job that this particular student had sought, he suspected preferential, and therefore unfair, treatment. If a white who benefited from being born into an upper-class family got the job, however, the student did not presume the same unfairness. The latter phenomenon was acceptable and inevitable. This attitude is widespread. It explains why there is so much opposition to affirmative action in college admissions, but none to legacy admits — special consideration for the children of

²³ *Id.* at 1759.

alumni, faculty, or large contributors. "Affirmative action" based on family connections wins general approval even though more spaces are taken by such students than by those for whom race was considered. And the alumni children, as an aggregate, do not possess better academic credentials than the minority students.

And one need not possess prophetic power to predict that if the law student is turned down for the job he seeks in favor of a person of color, he will harbor suspicions and resentment that unfair, race-based hiring policies motivated the decision. Some employers may build on these suspicions by suggesting, usually untruthfully, that they had to give the job to a black candidate. Politicians and some employers are altogether too ready to suggest that the understandable job anxieties of whites are the fault of programs intended to remedy longstanding discrimination against blacks. And now both the courts and a large part of the citizenry condemn affirmative action programs that have been of benefit to far more white women, and white men, than to people of color.

Such deep-set suspicions must not sidetrack the white leader on race into the routes most racial discussion generally follow — namely about blacks, our intelligence, our morality, our entitlement to rights, and all the other issues that usually monopolize American race discussions. Rather, this leader must keep the spotlight focused where the discussion belongs and where it should have been all along: on whites. This much-needed dialogue should not be a discussion about who is or is not racist. That debate leads to rancor, not reconciliation. As Beverly Tatum points out in her book, *Why Do All the Black Children Sit Together in the Cafeteria?* racism is a system of privilege, based on color, that advantages all whites regardless of whether they seek such advantage.

If race is not a black but a white problem the white leader we need will have to ask the nation's whites two questions. First, if blackness does not mean subordination then what does it really mean to be white, not as a matter of appropriate respect and pride in cultural heritage, but as a social and economic fact of life in these United States? Second, do whites in this country have enough love and respect for one another to remain a stable society without using blacks as a societal glue?

2. Racism may not be something that can be overcome and may be a permanent part of the American social structure.

When whites discuss race optimism usually trumps reality. "These things take time" is a ready response to troubling instances of continued racial discrimination. "Well," others say, "the answer is intermarriage, so that one day all Americans will be a pleasing shade of year-round tan." The leadership I seek, though, will understand, and be willing to speak plainly about, the barriers to moving beyond reliance on an out group for social stability. Those barriers are monumental in a nation where whites of widely divergent stations make common cause through their unspoken pact to maintain a system of presumptions and priorities based on race — a system that enables some blacks who combine talent, hard work, and good fortune to advance, but keeps a great many on the bottom. No other aspect of social functioning has retained its viability and its value to general stability from the very beginning of the American experience to the present day.

Because of this fixation, I agree with Princeton Professor Jennifer Hochschild's assessment that racism is not an anomaly, but a crucial component of liberal democracy in this country.²⁴ The two are historically, even inherently, reinforcing. As she puts it, "the apparent anomaly is an actual symbiosis."²⁵

You might respond to this assertion by arguing that, if racism remains a key oppressor, then it demonstrates the need not for a charismatic white leader but for a truly extraordinary educational campaign. That is, given a true understanding of the harm racial discrimination inflicts on blacks, whites might find it easy, or easier, to abandon racism. Education leads to enlightenment. Enlightenment opens the way for empathy. Empathy foreshadows reform.

But I have the sense that, however much individuals might deplore it from time to time, the harm done by racial discrimination is an open secret, which everyone has agreed on. Whites might recognize, at some level of consciousness, that they, the oppressors, are among the oppressed, but nonetheless conclude (like my law student) that "those are the breaks." Although difficult for me to

²⁴ See Jennifer L. Hochschild, *The Word American Ends in "Can": The Ambiguous Promise of the American Dream*, 34 WM. & MARY L. REV. 139, 169 (1992).

²⁵ JENNIFER HOCHSCHILD, *THE NEW AMERICAN DILEMMA* 5 (1984).

imagine, being white in this country means you represent the norm and that you need not think about race all the time, and almost never about racism. Certainly racism is not something that most whites could conceptualize as constantly disadvantaging their own lives.

The problem, though, may extend beyond these forms of racial thoughtlessness. Just as I know that all whites benefit from racism, I know that not all whites are evil or guilty in any normative sense. Consequently, I wonder whether factors more fundamental even than white racism, more essential than good government to a civilized society, cause the plight of black people in this country. While some racial reforms are motivated by financial considerations, disaster, threat, guilt, love, and, yes, even education, there may be a primary barrier to racial reform that nullifies all these.

I wonder whether here, as seems the case in many other societies, the melding of millions of individuals into a nation requires that some within it must be sacrificed, killed, or kept in misery so that the rest, who share the guilt for this monstrous wrong, can forge out of their guilt the qualities of forbearance and tolerance that are essential to group survival and growth. If so, who in the legal system plays the more important role: the prosecutors who are the instruments of the sacrifices mandated by a social physics we do not understand, or the defendants, whose efforts are destined to fail but who, by those efforts, serve to camouflage from society the bitter reality of those sacrifices and, alas, from themselves as well?

If racism galvanizes the bonds that maintain a stable society, perhaps its value is greater than generally realized. In addition to providing a comforting sop to the poor and a convenient scapegoat for politicians, racism also connects all whites in a knowing but unspoken alliance. The writer bell hooks correctly asserts that whites, consciously or unconsciously, bond on the basis of race.²⁶ And as paradoxical as it seems, viewing racism as an amalgam of guilt, responsibility, and power, all of which are generally known but never acknowledged, may explain why educational programs undertaken by the leader I seek are destined to fail.

The onus of this open but unmentionable secret about racism marks the critical difference between blacks and whites in this

²⁶ BELL HOOKS, *FEMINIST THEORY FROM THE MARGIN TO THE CENTER* 54 (1984).

country — the unbreachable barrier, the essence of why blacks can never be deemed the orthodox, the standard, the conventional. Indeed, the fact that as victims, blacks suffer racism's harm, but, as a people, cannot share the responsibility for that harm, may be the crucial component in defining what it is to be black in America. For all the reasons outlined above, being black in America means remaining perpetual outsiders. As outsiders we are expendable and live knowing that we are at risk of some ultimate betrayal by those who will treat such treachery, when it is deemed necessary, as a patriotic duty.

3. There is value in the struggle for what is apparently a hopeless cause.

In a society where success is worshiped, it will be tough for even the most effective leader to convince this country's whites that there is value — a kind of spiritual salvation, really — in undertaking causes for which the chance of victory, as conventionally defined, is so remote as to make the term "impossible" sound optimistic. The outstanding white leader I seek may come, but I would hope that no one would await such a leader's arrival. Others have not been waiting; the crusade to diminish race as a basis of privilege and priority is already underway. There are many white, antiracist groups who are organizing and enacting plans to reduce the dangers, and disadvantages, of using whiteness as a measure of worth — a normative standard. A national network of groups call themselves "Race Traitors." They reject loyalty to whiteness in favor of loyalty to humanity. Thus, if a white person tells a racist joke or story in a group of whites, a member of this group would say: "Oh, you must have told that story in front of me because you assume I am white. I am actually black and just look white. And let me tell you why I found that story offensive."²⁷

Other whites are both recognizing and rejecting the privileges of whiteness. At each instance of special treatment, they ask, "Would you have done this were I not white?" Whites, by refusing to accept without question the privileges of whiteness, begin the process of destabilizing that construction which society relies on to preserve

²⁷ See, e.g., RACE TRAITOR (Noel Ignatiev & John Garvey eds., 1996). *Race Traitor*, a journal published in Cambridge, Massachusetts, "aims to serve as an intellectual center for whites and others seeking to abolish the white race." *No More Mr. Nice Guy*, HARPER'S MAG., Mar. 1995, at 17.

the current system of racial subordination. One of my students had an experience that reflects her awareness. She wrote:

On the days when I work, I often take papers down to Manhattan Family Court. I don't dress up just to drop papers off, so last Wednesday I headed down to the courthouse in jeans and a plaid flannel shirt. I also don't carry identification marking me as the employee of an attorney — identification which would allow me to skip the metal detector and go right into the courthouse. While I could make some sort of badge, I never remember to do so. So last Wednesday I was in line waiting to go through the metal detector. I was the only white person in the line, and I was at the very end of the line. I was dressed considerably worse than most of the other people in the line.

Nevertheless, one of the security guards spotted me, left the metal detector, came back to the end of the line and asked me why I was going in. I replied that I worked for the Family Law Center, but didn't have a badge. He smiled and waved me through. My whiteness was my badge, whether I actively asserted it or not.

For those whites that are concerned but not sure they are ready to tackle the existing system, there are courses and workshops designed to help overcome the indoctrination caused by pervasive racism. Trained persons can help whites understand and recognize the stages that whites must undergo to rid themselves of a sense of guilt or denial rooted in being white. Ultimately, whites must replace long-held and often destructive myths with an acceptance of whiteness as an important part of oneself, and develop a realistically positive view of what it means to be white.²⁸

Why, you might ask, should any one try to challenge the system of racism which I have said is a permanent component of American life? It is this question that I tried to answer at the close of my book, *Faces at the Bottom of the Well: The Permanence of Racism*. There, I tried to imagine how my enslaved ancestors survived despite knowing that, for most of them, there was no escape — no way out. We know that they continued to engage themselves, continued to carve out a humanity in a world where they were deemed no more

²⁸ See generally BEVERLY DANIEL TATUM, *WHY DO ALL THE BLACK CHILDREN SIT TOGETHER IN THE CAFETERIA* (1997) (presenting ways to help children develop sense of racial identity).

than chattels who could be worked to the limits of their endurance, beaten, sold, raped, and even killed for profit or sport. They defied the murder of self-hood and their awful lives were not without meaning despite being imprisoned.

It is a paradoxical source of inspiration for whites, but perhaps those of you who can admit that we are all imprisoned by the history of racial subordination in America can accept, as slaves had no choice but to accept, our fate. Thus, by acknowledging the power of racism, we do not legitimize it or surrender to it. Rather, we can only discredit racism if we can accurately pinpoint it. Racism lies at the center, not the periphery; in the permanent, not in the fleeting; in the real lives of black and white people, not in the sentimental caverns of the mind.

Armed with this knowledge, and with the enlightened, humility-based commitment that it engenders, whites can accept, as blacks must accept, the dilemmas of committed confrontation with evils we cannot end. This calls for engagement and commitment, both of which connote service. And genuine service requires humility. You must first recognize and acknowledge (at least to yourselves) that your actions are not likely to lead to transcendent change and may, despite your best efforts, serve to reinforce existing power structures rather than advance the racial reforms you endeavor to bring about.

Despite this sobering recognition, my experience tells me that continued struggle can bring about unexpected benefits and gains, which justify continued endeavor in themselves. You can recognize miracles that you did not plan, and value such miracles for what they are rather than always measuring their worth by their likely contribution to traditional goals. As a former student, Erin Edmonds, who was white, came from Utah, and whose insight into race matters was at least the equal of my own, wrote:

[I]t is not a matter of choosing between the pragmatic recognition that racism is permanent no matter what we do, or an idealism based on the long-held dream of attaining a society free of racism. Rather, it is a question of *both, and*. *Both* the recognition of the futility of action — where action is more civil rights

strategies destined to fail — *and* the unalterable conviction that something must be done, that action must be taken.²⁹

This is, I believe, a more realistic perspective from which to gauge the present and future worth of your race-related activities, including talking about race to a nation whose people learn from a young age that one race is dominant and another subordinate in a society boasting that it offers equality for all.

²⁹ DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* 199 (1992).