



# The Blackletter

HARVARD BLACK LAW STUDENTS ASSOCIATION

JANUARY, 1983

## Setting record straight at Harvard

*Race and Harvard*

**Law Students Urge Boycott  
Of Civil Rights Course**

**Students deny racism**

**Students Assert  
Hiring Is Biased  
At Law School**

**Black Law Students Assn.  
Supports Harvard Boycott**

**Tokenism, and chaos,**

**Harvard Boycott at Harvard:  
Should Teachers Be Colorblind?**

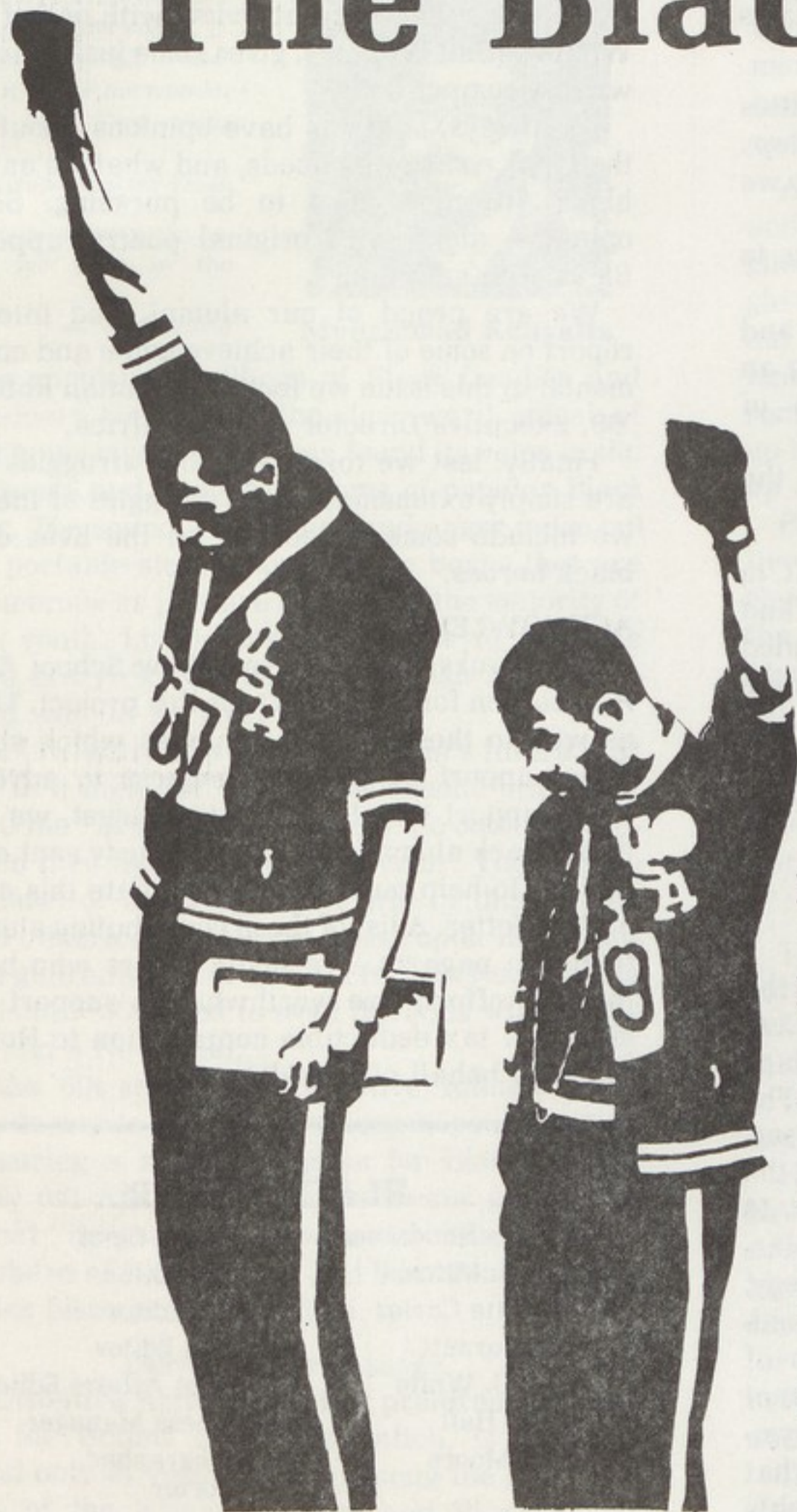
*Black and White at Harvard*







# The Blackletter



## WHAT'S INSIDE

President's Corner .....	3
BLSA Boycott .....	4
Affirmative Action Forum ...	9
BLSA Forum .....	11
Alumni Profiles .....	18
Historical Perspectives .....	21



# WELCOME TO THE BLACKLETTER

Welcome to the 1983 *Blackletter*, the voice of Harvard BLSA!

We publish *Blackletter* with the following goals in mind:

—to inform alumni and friends of the activities of Harvard BLSA, the issues we face and the steps we are taking. We want to give a sense of who we are and what we are doing and thinking.

—to provide a forum for black law students to express themselves on issues of concern.

—to establish a link between black students and alumni as we begin the process of developing an effective network among black graduates of Harvard Law School.

—to present legal scholarship in areas of the law having an impact on black people.

We have expanded the *Blackletter* format to allow greater participation from alumni and friends as we pursue these goals. The expanded edition also will make possible a more complete presentation and analysis of the important issues we address. We invite your comments, suggestions, criticisms, and support as we prepare future issues.

## WHAT'S INSIDE

This issue highlights BLSA's boycott of the winter course, "Racial Discrimination and Civil Rights," taught by Julius Chambers and Jack Greenberg of the NAACP Legal Defense Fund. The boycott goes on despite attempts by some segments of the press to label as "reverse racism" the extraordinary efforts of minority students to increase the number of minority faculty at Harvard Law School. We have included a chronology, put together by members of BLSA, of events leading up to the boycott decision. The opinion of Derrick Bell, former professor at HLS and current Dean of the Oregon School of Law, presents a sympathetic view. Student comments indicate that black students themselves have mixed thoughts about the boycott.

This issue also presents excerpts from the remarks of Reginald Gilliam, HLS '68, Vice Chairman of the Interstate Commerce Commission, made at BLSA's forum on affirmative action. Gilliam gives us a timely perspective based on more than a decade of experience in government.

With its newly adopted affirmative action policy in place, the *Harvard Law Review* this year gained two black editors. An interview with one of them, Wilburn (Bill) Williams, gives some insight into the writing competition.

As always, students have opinions about what the black community needs, and what we as rising black attorneys need to be pursuing. Several opinions, along with original poetry, appear in *Blackletter's* Forum.

We are proud of our alumni, and intend to report on some of their achievements and commitments. In this issue we focus on Randall Robinson, '68, Executive Director of TransAfrica.

Finally, lest we forget that our struggles today are simply extensions of the struggles of the past, we include some reflections on the lives of two black heroes.

## ACKNOWLEDGEMENT

Our thanks to the Harvard Law School Alumni Association for its support for this project. Thanks as well to those black businesses which showed their support by their willingness to advertise. Let's support them! Last, but not least, we thank those black alumni who so generously sent contributions to help publish and distribute this edition of *Blackletter*. A list of those contributing alumni is found on page 23. We invite others who believe that our efforts are worthwhile to support us by making a tax deductible contribution to Harvard BLSA on behalf of *Blackletter*.

## BLACKLETTER

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## PRESIDENT'S CORNER

### From Harlem to Harvard and Back Again

"Don't push me because I'm close to the edge . . . it's like a jungle sometimes. It makes me wonder how I keep from going under."

—Grand Master Flash

"You're playing us too close, we here in the ghetto."

—Third World



Muhammad Kenyatta

The anguish of millions of Black families and individuals trapped in the downward spiral of dying inner-city ghettos has found its voice in the soul songs and Reggae rhythms of popular Black music. The sounds of anguish and anger pulse out from portable stereophonic music boxes that are as numerous as jobs are scarce for the majority of Black youth. Life is desperate close to the edge where every day is another skirmish in the prolonged war for survival.

The brutal truth is that our people's future is at stake in a high rise political economic crapshoot where the "house man" controls the odds by loading the dice against people of color. There is no way most of us are going to win in this contest called America, unless we insist upon new rules and a guaranteed fair game. Franklin Roosevelt in the distant '30s tried to even the odds with a new deck and a New Deal.

In the '60s and '70s, Affirmative Action became the code words for compensatory measures aimed at insuring a new, fair game for Black people. Simply put Affirmative Action means guaranteeing that "down-pressed" minority citizens get our fair share of employment and educational opportunities historically denied us.

#### Password for Passage

Affirmative Action, so-called preferential treatment for victims of discrimination, is probably second only to Voting Rights among the great victories of the Negro Freedom and Black Power movements. In business, in government, in college opportunities, in job-training and in professional schools like the prestigious Harvard Law School, Affirmative Action has been the precious password for passage from the ghetto into the middle-class for hundreds of thousands of Afro-Americans.

Of course, Affirmative Action has been directly helpful to only a minority within the minority. Some criticize it as useless to the Black masses, as the trickle-down approach to racial justice. But, from my vantage point as former college instructor and as a student at the Harvard Law School mentioned above, I see Affirmative Action as our best current hope for building a stable Black middle-class.

And we need that middle-class financial base and those middle-class skills to transform the ghetto jungle where the underclass millions struggle to make it hand to mouth. Affirmative Action is our hedge against the edge. Caught between Reaganomics and racism, we need a growing, socially conscious middle-class to pitch in and pick up in the ghettos which the government has given up on.

But White America has turned sour on Affirmative Action. From once liberal journals like the *New York Times* to mealy-mouthed moderates of the political center to ultra-Right-wingers in the Moral Majority, we hear the cry that Affirmative Action is Reverse Racism. Reeling from economic recession and rocking from double-digit inflation, White America wants to return to the old game where even the best Black players almost always lost and any red-neck know-nothing could win.

#### War on Poverty Surrendered

The New Deal became the fast shuffle. America surrendered the War on Poverty. Instead of the game becoming fair, Black people are becoming fair game. Again. And if we do not take action to save Affirmative Action, we may be cut out of the deck. Entirely. Forever.

Here at Harvard Law School, Black students have mounted a sustained objection to this school's efforts to evade Affirmative Action in the hiring of professors. The White media and some misguided Black journalists have painted the fight for Affirmative Action at Harvard as an exercise in Reverse Racism. The Law School Dean labels it anti-white prejudice. That is patent nonsense.

The details of the Harvard controversy have been distorted, discussed and debated in this and other journals. This is not the time or place to rehash old arguments. The simple fact is that students have chosen to make an issue of Harvard's lily-white Law faculty: only two blacks out of seventy professors. Students are demanding that more Black and minority professors be hired.

continued on page 20



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# Affirmative Action at HLS: BLSA Boycott

## *Editor's Note:*

BLSA and the Third World Coalition have maintained their resolve to boycott the winter course, Racial Discrimination and Civil Rights, being taught by Julius Chambers and Jack Greenberg of the NAACP Legal Defense Fund. Student leaders felt that this would be the most effective way to protest the failure of Harvard Law School to hire more full-time, tenure-track minority and women professors. Of the tenured professors at HLS, only one is black (Professor C. Clyde Ferguson) and one is a woman.

Students from the Coalition met with Chambers and Greenberg in early November in an unsuccessful attempt to convince them to abandon the course as a show of support for the students' concerns. They argued that Greenberg and Chambers, by ignoring the students, will give support to the institutional racism which they ostensibly oppose. The two distinguished litigators stated that they hope the course will attract more students to pursue civil rights careers.

To date, there are no minorities enrolled in the winter course. As part of the boycott strategy, students, with the support of legal scholars in the Boston area (e.g., Denise Carty-Bennia of Northeastern), have been working to establish an alternative, non-credit course on civil rights. The course will begin in January and run until sometime in the spring. It will be taught by visiting lecturers.

In order to give the boycott some context, we have printed the following chronology of events leading to the boycott. The chronology was compiled by members of BLSA and approved by the Executive Committee.

## **CHRONOLOGY LEADING TO BOYCOTT**

**Fall, 1979:** Minority student organizations form THE THIRD WORLD COALITION whose purpose is to present a unified minority student voice on issues of concern common to member organizations. Two representatives from each member organization are selected to form its board which subsequently begins to formulate proposals for affirmative action at Harvard Law.

**Spring, 1981:** Derrick Bell, the first tenured minority faculty member at HLS, indicates that he will accept a position as

Dean of the Law School of the University of Oregon. The course he created, "Constitutional Law and Minority Issues," is discontinued upon his departure.

**Fall, 1981:** The board of the THIRD WORLD COALITION presents its affirmative action proposals to member organizations for ratification. These proposals outline specific policies to increase the number of minority students, faculty and staff at the Law School and urge HLS to adopt the same. Subsequently, all member organizations ratify the proposals.

**October, 1981:** Several Black students initiate negotiations with Lance Liebman, Associate Dean and chair of the Curriculum Development Committee, seeking reinstatement of "Constitutional Law and Minority Issues." When students ask why the course is not included in the 1982-83 curriculum, Associate Dean Liebman says that the committee "forgot" about the course. Subsequent efforts fail to render a commitment to reinstate the course.

**November, 1981:** These students, joined by others, circulate a petition urging HLS to reinstate "Constitutional Law and Minority Issues" and to hire tenure-track professors to teach courses addressing minority issues. The petition is signed by over 500 students, most of them white, and is later presented to the administration.

**December, 1981:** A delegation from BLSA meets with Dean Vorenberg to emphasize BLSA's interest in the course and to urge the increase of tenured minority faculty at the Law School. At the conclusion of this meeting, the major issues of concern remain unresolved.

**December 20:** BLSA representatives again meet with Dean Vorenberg to reaffirm BLSA's interest in the course and to express its desire that a black professor be hired to teach it. During the course of this meeting, Dean Vorenberg asks the students if they would not prefer "an excellent white teacher" over a "mediocre black one," and he suggests Jack Greenberg as a possible candidate. Students respond that the choice is not one of excellence versus mediocrity and insist that Harvard has not made sufficient efforts to contact qualified individuals.

**February, 1982:** BLSA develops a list of 30 minority legal scholars for the Law School's consideration. The list receives endorsement from Professor Derrick Bell.

**March 9, 1982:** Representatives of BLSA send a letter to Dean Vorenberg "to reaffirm" BLSA's interest in the reinstatement of "Constitutional Law and Minority Issues" and to urge that the course be taught annually. They also "underscore" their "strong desire" that a black professor be recruited to teach this course. With this letter is included the list of minority legal scholars whom BLSA urges HLS to contact.

**March, 1982:** The THIRD WORLD COALITION presents its affirmative action proposals to the administration. To date, no final decision or formal response from HLS.



**April 9, 1982:** HLS announces ten new faculty members. All ten are white. All ten are males.

**April 26, 1982:** The AMERICAN INDIAN LAW STUDENTS ASSOCIATION, the CIVIL RIGHTS ACTION COMMITTEE, the HARVARD LAWYERS GUILD, the BLACK LAW STUDENTS ASSOCIATION, LA ALLIANZA, the THIRD WORLD COALITION and the WOMEN'S LAW ASSOCIATION jointly send a letter to Dean Vorenberg expressing "outrage at the uniform racial and gender composition of the ten new faculty." The letter also expresses disappointment in the all-white, all-male composition of the Appointments Committee which selected the new faculty. The letter emphasizes the need for tenured minorities and tenured women in the Law School faculty. No formal response from HLS was received.

**April 26, 27:** Second and Third year students register for the 1982-83 academic year. Still absent from registration materials (preliminary and supplementary) is "Constitutional Law and Minority Issues."

**May 3, 1982:** Dean Vorenberg tells members of the BLSA executive committee that a course entitled "Racial Discrimination and Civil Rights" will be offered during the 1982-83 academic year and will be taught by two visiting attorneys: Julius Chambers and Jack Greenberg. The course is to be offered during the 3-week winter term.

**May 12, 1982:** The BLSA executive committee meets to discuss the events of the previous academic year. The discussion focuses on (1) frustration over the administration's apparent reluctance to increase the number of tenured minority professors, (2) disappointment that "Racial Discrimination and Civil Rights" was announced two weeks after students had registered for the 1982-83 academic year and would only be offered during the 3-week winter term (in which students can take only one course) instead of during a regular 14-week term, (3) indignation that the persons secured to teach the course would be visiting lecturers and thus, the administration had failed to take advantage of this opportunity to increase the number of tenure-track minority professors.

**May 13, 1982:** BLSA president Muhammad Kenyatta writes a letter to Julius Chambers to explain BLSA's position. He sends copies to Dean James Vorenberg, Associate Dean Lance Liebman and attorney Jack Greenberg.

Referring to the course boycott, Kenyatta says in his letter, "This issue has been part and parcel of an ongoing struggle to enhance the 'minority' presence at HLS. The campaign for the course has been a strategem, the broader goals of which include increasing the number of full-time, tenured Black and 'Third World' faculty members at the Law School."

Kenyatta also adds, ". . . for a significant number of Black students the selection of Mr. Greenberg seems especially inappropriate. . . ." He alleges that Greenberg is hostile towards "historically, predominantly Black educational institutions," that Greenberg has adamantly refused to relinquish directorship of the NAACP Legal Defense Fund to a Black attorney, and that Greenberg is also hostile to Black student associations on predominantly white campuses.

**May 24, 1982:** The THIRD WORLD COALITION, in a letter to the Harvard Law School Community states that it "will urge

the members of its constituent organizations to boycott" the course. Among the reasons for its decision the COALITION cites "the availability of qualified Third World legal professionals to teach this course in particular and teach at the Law School in general" and "the inadequate efforts of Harvard Law School to find these professionals and the biased criteria it uses to judge prospective Third World faculty candidates." The COALITION argues that "the lack of a Third World professor to teach . . . [the course] is a manifestation of the larger problem of Third World appointments to the Harvard Law School faculty."

**Late May, 1982:** Members of the Executive Board of BLSA and the board of the THIRD WORLD COALITION meet with Dean Vorenberg and Professors S. Clyde Ferguson, Christopher Edley, Jr., and Alan Dershowitz to discuss the boycott. Dean Vorenberg indicates that he did not anticipate student opposition to the course. The students argue that they are boycotting the course to protest the Law School's failure to take advantage of the opportunity offered by this course to increase the number of tenured minority professors. The students indicate that administration acceptance of the THIRD WORLD COALITION's affirmative action proposals would be seen as a significant effort to address the issue.

**July 21, 1982:** Registration materials are sent to returning students. Included in these materials is the first formal announcement of "Racial Discrimination and Civil Rights." Another addition to the winter term, "Sex Discrimination," to be taught by a prominent visiting female attorney, is also announced.

With the registration materials, Dean Vorenberg encloses (a) a course description of "Racial Discrimination and Civil Rights," (b) biographical notes on Julius Chambers and Jack Greenberg, (c) Muhammad Kenyatta's letter to Julius Chambers (with permission), (d) the THIRD WORLD COALITION's open letter to the Harvard Law Community, (e) Julius Chambers' letter dated May 25 to Muhammad Kenyatta, (f) Jack Greenberg's letter to Kenyatta, dated May 27. In a cover letter to these materials, Dean Vorenberg argues, "I fully understand and support the desire to increase the number of minority teachers at the school." For the first time, he announces that two Black attorneys have been offered positions at the Law School.

In stating his opposition to the boycott, the Dean strongly implies that BLSA and the THIRD WORLD COALITION are urging a boycott of the course "because part of it is taught by a white lawyer."

**July 1982:** After receiving the packet, Ruth Markus, a second-year student employed during the summer as a staff writer with the *Washington Post*, writes an article based solely on the information provided in the packet.

**July 26, 1982:** Markus' article is published in the *Post*. In the first sentence Markus writes, "Two minority groups at Harvard Law School are urging classmates to boycott a race discrimination course to be taught by one of the country's leading civil right lawyers, because the lawyer is white."

Subsequently, the story is transmitted throughout the nation over the *Washington Post*'s wire service.



# A Question of Credentials

By Derrick Bell, Jr.

Harvard Law School's affirmative action policies are back in the news. Their problems will likely continue until they can find a law school equivalent of baseball's Jackie Robinson.

Last year, the country's best-known law school caused consternation in some circles when the student-run Law Review decided to consider race as a factor in selecting its membership. The Law Review's action was frankly intended to increase the small number of blacks and other minorities who have served on the prestigious legal periodical's staff.

Critics of the decision predicted a fall to mediocrity of one of the last institutions in which applicants for membership were judged strictly on their grades and the quality of unsigned writing samples. For their part, black law students, the supposed beneficiaries of the plan, opposed it as a patronizing means of protecting with a thin veneer of tokenism a selection system that favors students with elite educations, and who come from upper-class backgrounds.

Lost in the often heated discussion was the fact that the Harvard Law Review had adopted racially-sensitive selection criteria quite similar to those the Law School has used for a decade to recruit what are probably the nation's most impressive group of minority law students. Both sides agreed that the Review should have more black students, but how qualified applicants were to be determined was the divisive issue.

In the most recent controversy, Harvard's Black Law Student Association and a Third World Coalition of minority law students have called for a boycott of a racial discrimination course in order to protest the two civil rights lawyers selected by the school to teach the course.

More specifically, the black students claim that the two appointees, Jack Greenberg and Julius Chambers, who are, respectively, the Director Counsel and President of the Board of the NAACP Legal Defense and Educational Fund, Inc., are too committed to the civil rights goals of the 1950s to effectively delineate contemporary racial issues in the law for black students.

Again, the issue is qualifications. Both Greenberg and Chambers have exemplary records in civil rights litigation, but the students question the Legal Defense Fund's litigation priorities in recent years. They also express the view that while Greenberg's contributions to civil rights have been

great, that he should long since have recognized the symbolic value of his position to the black community and turned over the leadership post to a black lawyer. Jim Lorenz, a white lawyer who helped start the highly successful California Rural Legal Assistance program in the 1960s, turned over his director's position after a few years to a Mexican-American lawyer.

Civil rights organizations generally have integrated staffs, but virtually all of them, including the major Jewish groups, are led by members of the minority the organization was established to serve. The value of such leadership for blacks is not merely symbolic. When Thurgood Marshall was director of the Legal Defense Fund, black lawyers around the country, but particularly in the South, placed his photograph in a prominent spot in their offices as a reminder to clients that black lawyers could and did handle cases competently and gain victories in the court.

As important as their opposition to Chambers and Greenberg is the disappointment of black students that Harvard is not using the civil rights course opening to hire and take a close look at a black teacher who might later be considered for a permanent faculty position. At present, there are about 75 full-time members of the Harvard Law faculty. Only two of them are black. Neither is a woman.

Harvard officials insist that they are searching for qualified, minority faculty, but Dean James Vorenburg reportedly told the students that he would prefer "an excellent white teacher" for the civil rights course over a "mediocre black one." No one can disagree with the dean's preferences, but obviously, the black students define excellence and mediocrity very differently than their dean.

Blacks wish that ability in the classroom could be determined as clearly and as directly as it can on the playing field. When Jackie Robinson finally made it to the major leagues, his outstanding performance, as measured by his batting average, bases stolen, fielding plays made, left no room for debate about qualifications. Robinson was a superstar, and his consistently outstanding play ended all reasonable argument about the inferiority of blacks in professional sports.

But there are few performance statistics in law school teaching. Faculty are hired, in the main, based on potential, and potential is determined in large part by where the applicant went to law



school and how well he or she performed there. The law school equivalent of Jackie Robinson who lacked these credentials, in the absence of vigorous insistence by black students, would likely not get a second look at Harvard.

It should be said that Harvard has done about as well in hiring minority law teachers as most other mainly white law schools. Like other schools, Harvard ended generations of all-white male teaching staffs in the late 1960s in response to the rather vigorous protest activities of minority students, and aided by the effective support of some faculty members.

In 1969, after a dozen years of litigation and administrative experience with both private and government civil rights agencies, I became the first black on the Harvard Law School's permanent faculty. Granted tenure in 1971, I taught there for eleven years, and developed a fairly popular civil rights course based on my law text, also written at Harvard, *Race, Racism, and American Law*. While I taught courses in Criminal Law and Constitutional Law, my major contribution was in the law of race relations, the area of both my practice and life experience.

My academic record, good grades and a law review editorship at the University of Pittsburgh Law School, ordinarily would not have gained me much consideration for a faculty position at Harvard where credentials required for serious consideration include extraordinary grades from Harvard or another major law school, a clerkship on the U.S. Supreme Court, and perhaps a few years at one of the country's prestigious law firms.

Applicants with credentials of this character are assumed to have teaching and scholarly potential. And unlike baseball before Jackie Robinson, there are no overt racial barriers at Harvard. But some faculty believe it is as wrong to consider race as a positive qualification in hiring teachers as it was to use it as a disqualifying factor in professional sports.

Race can be an important positive qualification in filling a teaching position intended to interpret to law students the impact of racial discrimination on the law and lawyering. The special and quite valuable perspective on law and life in this country that a black person can provide is not limited to civil rights issues as Supreme Court Justice Thurgood Marshall's thundering dissents have proven over the years.

Quite often during my years at Harvard, my views on policy matters differed substantially from those held by my colleagues. I had achieved some success as a teacher and writer without the

benefit of Harvard-type academic credentials, but my efforts to recruit more blacks with backgrounds similar to mine were often stymied by faculty who preferred to wait for applicants with academic credentials like their own, and who just happened to be black.

Blacks with high-level academic credentials do exist. Understandably, some prefer the far more lucrative life of big law firm practice to teaching. But two blacks with outstanding academic credentials were hired and tenured at Harvard during the years after I arrived. The first, Prof. Clyde Ferguson, an expert in civil procedure and constitutional law, is still there. The second, Harry Edwards, is now a Judge on the federal court of appeals in the District of Columbia Circuit. A third, Christopher Edley, Jr., was one of the handful of blacks who served on the Harvard Law Review, and last year joined the faculty as an assistant professor.

But neither Ferguson nor Edley are currently specialists in civil rights law. After I left Harvard at the end of 1980, some 500 students petitioned the school to hire someone to "teach Derrick Bell's civil rights course." They specifically requested that a black teacher be hired for the course.

As two of the more than 150 black students put it in a letter to the dean in March, 1982, "While the Civil Rights movement or experience has touched many, we feel strongly that the course we seek, should be taught by a professor who has personally experienced the unique insidiousness of racism in the United States."

Rather clearly, the request is not reverse racism. It is a call for a teacher whose credentials include experiences in and with American racism similar to those the students have already suffered. Unless there is a miraculous racial reform quite soon, these students as lawyers, and their black clients, will likely have to face such experiences for the remainder of their lives.

Harvard's black students do not wish to decide who should be hired to teach there. This is properly a faculty responsibility. They do not even begrudge the subtle but real ego gratification that must come when Harvard faculty select new teachers with credentials quite like their own. Obviously, some persons with outstanding academic records become good teachers and some do not.

Similarly, not every black lawyer can bring to the classroom the insights and understanding the students seek. But some clearly can. They are needed and a civil rights course is an ideal means to test that ability.

*continued on page 17*



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## Reflections on the Boycott

"The boycott itself is a meritorious effort; it is the faulty expression of our rationale and purpose which has been problematic. The initial letter addressing the boycott served as a ready target for sensationalist media people eager to discredit our cause. The attack upon Greenberg's politics and professional activities was a grievous error because it allowed the focus to be shifted from the lack of an affirmative recruitment policy at HLS to the issue of reverse discrimination. This crucial mistake significantly flawed our efforts.

The boycott has been an experience to learn from; most importantly, we need to recognize our own weaknesses, resolve to overcome them and ready ourselves to fight future causes with greater self-knowledge and political savvy."

—Stephanie Bell 3L

"In the '60s Derrick Bell was hired because students took to the walkways of the law school. In the '70s C. Clyde Ferguson was hired because Professor Bell threatened resignation. In the '80s students are boycotting in order to bring more minority faculty to the law school. The problem is the same, the solution is the same. The consciousness of the ruling class is not coddled open, it is jarred open. The one problem with the boycott is that we have been afraid to make all of the arguments that justify our action. The primary argument that we have shied from is the preferability of a minority professor teaching about minority folks with minority problems. Why have we been afraid to ask them, "Would you appoint a Black American to teach Judaic law?" They have not been afraid to tell us that an "excellent white man" can best teach us about us. This fright we have of presenting all our concerns is the single most impressive flaw of the boycott."

—Cecil McNab 3L

"I have supported the idea of refusing to enroll in the Greenberg/Chambers course from the beginning. Despite the educational and historical ironies of blacks boycotting a civil rights course taught by leading civil rights attorneys, and despite my deep respect for the NAACP Legal Defense Fund, the boycott continues to have validity to the extent that it is an effective protest against the Dean's failure to respond to the affirm-

ative action concerns of BLSA and the Third World Coalition. However, in my view, we should be more concerned about pedagogy and curriculum than hiring practices. The first year at HLS — characterized by over-sized classes, intimidation, the so-called Socratic method, rigidly prescribed courses, and insufficient attention to normative and social analysis — is a broader, more pernicious problem."

—Anita Allen 2L

"Once again the media has chosen to highlight an issue which affects a very small segment of our community. Why should an action taken by the Third World Coalition at HLS have received more attention this summer than the progress of the liberation movement in Namibia, South Africa, and El Salvador? It was just two years ago that a proposal for affirmative action in the selection of Harvard Law Review members eclipsed (for a moment at least) the murders of 26 children in Atlanta. Our struggle is petty compared to those of the community."

—Cecelie Counts 3L

"I support the boycott because the level of minority involvement at HLS, at the minimum, indicates a de facto situation of the operation of discriminatory hiring practices. Although Harvard does not uniquely flaunt a paucity of minority and women tenured faculty, other equally excellent schools, a fraction of Harvard's size, have made larger strides in terms of aggressively recruiting more members from traditionally discriminated groups. Indeed, the presence of "the proverbial one" black member on a tenured faculty of sixty not only affronts the minds of the Third World Community, but shocks the consciences of non-minority persons and should scorch the consciences of HLS faculty members. I regard the boycott as one effective method of arresting the attention of people of conscience everywhere, be they Third World individuals, Harvard faculty or student body members, or other concerned persons. I hope that the unfavorable political winds do not frighten them into cowering in silence as occurred during such eras as the Civil Rights Movement and Nazi Germany."

—Douglas Jackson



# Affirmative Action: New Strategies Needed?

On Nov. 3, 1982, BLSA held an Affirmative Action Forum. Guest speakers were Reginald Gilliam, Jr., HLS '68, Vice Chairman of the Interstate Commerce Commission and Dr. Sherman Labovitz, Professor of Sociology at Stockton State College. Reflecting first upon his years at HLS, Gilliam noted that there was no concept called Affirmative Action when he came to Cambridge in 1965. Harvard had made a unique policy decision to recruit top black students from top black colleges — the only place where most blacks could attend. Many of those exceptional students were from the "grass roots," and had been involved in community activism. Gilliam also noted that students established BLSA in 1967 as "a political institution and vehicle" — an organization whose initial focus was "outward" into the community. While he believes that students and BLSA have changed, Gilliam suggested that the common denominator remains — "black and minority operating within an institution whose traditions and practices remain representative of larger society."

Gilliam then turned to the general topic of "career prospects for graduates and the concept of Affirmative Action." The following is excerpted from his remarks.

## Gilliam Remarks at Harvard

My somber advice to you is to not allow your HLS experience to act as an opiate that induces the feeling "everyone will do well." Anyone who has spent time in Ivy League institutions certainly knows . . . there's a certain "born to rule" mentality that percolates and permeates. I submit to you that reality does not spare fantasy — that there are some violent confrontations with reality awaiting you — events that you should anticipate and prepare for.

Let me be more specific. For seven years I've had the opportunity to sit on the inside of the national policy-making process — and I can tell you that there is a quiet constant internecine war going on that affects your future. Let me talk about several specific areas.

### The I.C.C. and "Hidden Government"

I am Vice Chairman and the senior member of the I.C.C. This is the nation's oldest regulatory agency and I am the 2nd Black Commissioner in its history. We regulate the nation's truck, rail, bus and waterway traffic — subject areas that take us to the very core of this nation's business operations. We have a practitioners bar of 1320 attorneys and 1980 qualified non-attorneys. We have a commission staff of roughly 1400. The percentages of minority professionals in these areas are fractional.

There has never been a Black Bureau Head or General Counsel at our agency. In fact, until 1980, only one Black attorney had ever served as an attorney-advisor on a Commissioner's staff. To put that in perspective, I was the 89th Commissioner appointed to the Commission, each Commissioner commonly employs four attorneys. Of my own cur-

rent staff of four, two are Black, three are women. In the course of my duties, I have traveled to over 20 states and given over 30 addresses to industry groups (shippers, carriers, practitioners). I estimate, conservatively, total audiences of 3,400-4,000 people and I would venture a guess that in total there were no more than five minority professionals in attendance and perhaps 25 women. Prior to joining the Commission, I served as Legislative Counsel to a U.S. Senator. In 1975, I was one of four Black professional staff members in the entire Senate. By 1980, that number had risen but I would venture a guess that still no more than four had direct access and reporting responsibility. There are still no minority staff directors or chiefs of offices.

I cite all of this to make one point — there are vital, critical hidden areas of government and private industry that are, as yet, untouched by the new generation of minority professionals. Not only is the immediate professional opportunity missed, but perhaps more importantly, untouched is the unspoken unique and unusual symbiotic relationship between industry and government, that is a vital tool of career advancement — a tool and methodology from which Blacks are excluded. It works something like this — and I would urge you to become familiar with this process — the Washington Game."

(1) A young attorney, often through pre-existing connections, begins a business-related congressional job, or, alternatively, begins a practice seeking to specialize in a given area.

(2) That attorney cultivates his expertise and contacts to the point where he possesses a saleable commodity in a political or business sense. By this time, the "expertise" or "brilliance" is a combination of perception and reality.

(3) The "sale" continues, back and forth at ever higher levels of responsibility and compensation.

This is a political process that incorporates the old shibboleths of "merit" and "hard work," but is not exclusively that. With adjustments, I would venture that this same political process applies across the board — in the corporate world, in law practice, and right here in the academic world. It's the hidden dynamic! People talking about "affirmative action" had better understand this dynamic and have sophisticated strategies for dealing with it.

Absent such strategies, "affirmative action" will not lead to meaningful access to power and



influence. I can only use Washington, D.C. as a guide, but I can cite inordinantly large numbers of able, bright, minority attorneys who have failed to make partner, have been maneuvered out of Capitol Hill positions and who hold surprisingly low-level government jobs. Many of these individuals, just like you, were thought of several years ago as "brilliant" or "hard-working." Statistics like the ones I gave you for my agency speak for themselves.

#### **Breaking into "Hidden Government": White-Collar "Affirmative Action"**

We can begin to attack the problem by forthrightly destroying some of the unfortunate mythology that surrounds the debate.

**No. 1 — The "Traditional Skills" Argument:** that Blacks must "work their way up" from the lowliest starting positions, scramble and boot-lick "just like everyone else." I also call this the "noble savage argument" because the unstated assumption lurking here is that until a few days ago, Blacks knew nothing, had no skills and were barely literate in most "traditional" areas.

The facts are that Blacks have played Horatio Alger since before Alger. That alone has produced surprising large talent pools — although sometimes in unusual places.

Let me give you two concrete examples. When I became a Commissioner, it was my goal to employ two Black attorneys with legal, transportation and regulatory experience. From the statistics I shared with you earlier, you might say that was not possible.

It was possible. I needed a chief of staff. I discovered a young Black woman (Duke Law 1975) who had worked for Senator John Heinz, the ICC, the FMC (summer), a railroad (summer) and who was minority counsel on the House Transportation Appropriations Committee. She has been my Chief of Staff for two-and-one-half years, handling every major case during that period. For my motor carrier law specialist, I called law firm after law firm, holding the position open until I discovered a young man who was practicing that. He joined me and has handled all motor carrier proceedings for me for two-and-one-half years and is in line for a senior commission staff position.

So, don't tell me what you can't find — you've got to look.

If I can do these types of things at my plantation of an agency, you should expect that they be done as a matter of routine elsewhere. If not, why not?

**No. 2 — The "Black Studies" Argument:** that Blacks brought into an institution are best suited for, and should be expected to be involved in

"Black-oriented" activities of the particular institution.

This myth is more dangerous than No. 1 because if you accept the parameters of the argument you begin to define yourself out of the mainstream of the U.S. economic and commercial life. If I accepted that argument, my transportation lawyers would have as their expertise questions involving the handful of minority carriers and internal E.E.O. — probably less than one-half of 1 percent of our mandated responsibility. So you can take all of those arguments about "Blacks relating best to Black problems" and file them under "diversion."

This argument is often used as a rationale for a latent refusal to recognize and accept as fully legitimate exceptional Black talent and achievement in mainstream traditional fields.

For example, you probably have courses in various aspects of economic regulation (anti-trust, merger, administrative law, etc.). I can give you, right now, the names of at least seven Black present and former Commissioners from C.A.B., F.C.C., F.E.R.C., C.S.P.C., I.T.C., and so on, who would be an invaluable resource for Black and White students — all of them highly successful, accomplished practitioners, who could at least be approached to come here with salary and status befitting their current positions. That's just one possibility, you can multiply that by others. And let's not even take seriously the notion that somehow these types of individuals would not be competent as compared to White counterparts. When you find Blacks who have survived the rigors that I described earlier to get up on the ladder, you have found some enormously talented and formidable individuals. No one gets there by accident!

**No. 3 —** that it is somehow "disruptive," "threatening" and "damaging to morale" to have an influx of Blacks recruited for positions traditionally held and aspired to by Whites.

To that I can only say that the personnel marketplace is highly competitive and intensely political. The interjection of new competitors is by nature disruptive. The benefits of tapping new skills, talents and ideas far exceed any real or perceived "disruption." Nevertheless, that really is the policy question, the balancing act that every institution in this society must ultimately face.

I hope that my suggestions this afternoon have at least contributed to tearing away the "fuzz" that surrounds so much of the "debate" — not only at Harvard Law School but on your professional career tracks. Is it "yes" or is it "no"? Is the light green, yellow, red or broken?



## A Call for Activism

Dr. Sherman Labovitz, Chairman of the Department of Sociology at Stockton State College (New Jersey) and an expert on "Black/Jewish Relations," participated in the November Affirmative Action Forum sponsored by BLSA. Labovitz, a Jew who adamantly supports affirmative action, stated that affirmative action has reaped modest gains for the black middle class in the areas of college enrollment, employment, and government contracts. He noted, however, that even these modest gains are under assault. He pointed particularly to the Reagan Administration's refusal to support affirmative action programs, and to the increasing popularity of the notion of reverse discrimination.

The basis for affirmative action, Labovitz said, is remedy for past discrimination: Society must take affirmative steps to make up for racism and its debilitating effects. He concedes that such a policy necessarily means that certain groups or individuals must suffer relatively as the remedy is implemented. But he hastens to add that all of us, as recipients of great benefits from this society, are called upon from time to time to make sacrifices so that the best interests of society are advanced. Rooting out the vestiges of racism and discrimination is in society's best interest.

Labovitz, while supporting affirmative action, does not believe that the policy has helped poor blacks. He stated that the black poor are "no less poor, no less powerless, no less despairing" than they were in the late sixties when affirmative action policies were born. The gap in income between blacks and whites has increased; the proportion of black families below the poverty line has remained constant; unemployment rates for blacks are three times greater today than in 1970. Compounding the problem is the fact that many blacks have difficulty getting access to Medicare and AFDC.

In order to turn this bleak picture around for the black poor, Labovitz suggests that the black middle class must become less selfish and more politically active. The black middle class must be willing to advocate the interests of the poor by fighting for a full employment policy, becoming involved in grass roots political organizing. Expressing his support of BLSA's efforts in the current faculty hiring controversy, Labovitz said that this kind of activism is crucial to the goal of re-politicizing Black America.

## Forum

### "Ghetto Sounds"

Long, drawn out cacophony sound  
Melodious and sweet like slowly performed  
    copulation  
Yet like sorrow  
Bending over a weeping, ghetto child  
Humming the revolutionary  
Tones of outrage.

Praise the sound  
For it veils the cries  
Of ecstasy emanating from  
Inner barren walls.

But do pity the child  
Having to look up  
At sorrow looking down.

By Larry Stinson 1L



### "Time"

Time was when  
    I used to think  
of the little things  
    the ephemeral rather  
than the long  
    the fallen leaves rather  
than the fall.

So my eyes began  
    to see the effect  
rather than the cause  
    and my mind grew  
as this inner source  
    within me became  
the reservoir of nature.

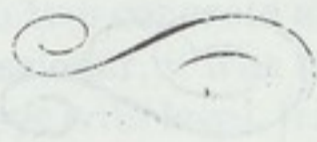
By Larry Stinson 1L



## "Folks"

Sometimes when I am walking down the street and  
I see a brother or sister,  
I'll look up, smile and then they'll look away.  
Other times when I am walking down the street  
someone will glance in my direction and I'll look  
away  
Because I'm too tired to speak or I just don't feel  
like it.  
But, we as a people can't afford to harbor and  
foster these attitudes,  
In this age of assimilation, this is one more charac-  
teristic that we don't need to imitate.  
God made us for each other and we must take  
care of ourselves, for ourselves  
Because we are all we've got.  
So—  
Look up, my brother,  
When I speak to you.  
Smile, my sister,  
When I look your way.  
We cannot afford to make speaking an obstacle,  
Because if we do,  
Then the real reason for struggle will pass us by.

Karen Freeman 1L



## "Faith"

The Bible says that Faith is the substance of things  
hoped for, the evidence of things not seen,  
Our ancestors never saw God coming—never even  
received an RSVP to their prayers—but they  
believed He would set them free.  
Between the lines of "We Shall Overcome" (which  
makes some of us cringe) are the words "By  
Faith."  
But sometimes in our analysis of this faith of our  
fathers,  
We say that it is senseless, blind, ignorant—  
That it emanated from the ignorance of our people,  
And now that we have acquired some  
"education,"  
We must discard our religious beliefs, because  
any book will tell you that you don't believe  
what you can't see.  
But you know, some things should never change,  
And finally after all our analyzing, rationalizing  
and intellectualizing, we realize—  
Without God, we are nothing.

Karen Freeman 1L

Note: The following opinions reflect the views of a  
law school aspirant, a 3L, a 2L, and a 1L. All sug-  
gest that we have to put our achievements into  
perspective.

## Public Service: Part-Time or Double-Time Commitment?

In a recent conversation with two law students I  
broached the subject of selection of a legal spe-  
cialty. As a law school aspirant, I had my own  
ideas as to how they would respond as folk of  
color. My first expectation was to hear articula-  
tion of altruistic motivations. My hopes sunk at  
both reactions to the question, "Who will you be  
serving as an attorney?"

Brother Kujichagulia [Self-Determination]  
released a wailing sound as if he were suffering  
undue torture. "As a 2L, I'm unsure if there's a  
proper place for me! All of my interviews with  
firms have been discouraging . . . devastating! The  
market for lawyers has been shrinking for years.  
Furthermore, public interest work no longer ap-  
peals to me. I think I deserve better; in fact, I know  
I do. This institution was founded in part on the  
Northern revenue reaped from the slave trade. I  
figure—unless I receive a break, my people will be  
shortchanged of yet another role model who has  
made it in the corporate world!"

While Bro. Kuji lamented his fate, Sis. Imani  
[Faith] crooned a different tune: "Acquiring pres-  
tige is the way to reserve our slots within the  
realm of professionals! Once we pass the bar  
we've effectively entered a closed circuit. Whe-  
ther we choose to be crusading litigators or super-  
salient consultants, ultimately our placement in  
the race to be notable is what counts!"

Misplaced defeatism and cocky individualism  
have no place in our collective growth and devel-  
opment. These days we cannot afford to opt for  
self-aggrandizement. The image of the noble pro-  
fessional who basks in the ritzy domain of illusory  
gains and hollow rewards must be shattered. This  
private figure appears in Blackface in between  
board meetings, after executive sessions and dur-  
ing nominal visits to the city limits to address dis-  
possessed youth.

I had to apprise Sis. Imani that PRESTIGE is a  
relative phenomenon: It can either emanate from  
the expropriators' corner or it can come in the  
form of a gift from the ranks of grateful needy. The



latter brand of prestige is bestowed upon service-providers who are welcome mentors who do more than flex their credentials from armchair positions.

To answer Bro. Kuji's appeal: there is a surplus of roles for First World attorneys. We are bleeding for more dedicated advisors and policy-drafters to buttress campaigns for solvent, independent community institutions. *Pro bono publico* should be selfless service that stretches beyond the quota of hours which will guarantee a hefty tax credit.

Young lawyers purport to have such finely honed insight and discipline. How better to test those skills than within the movement of people charging this country with a soiled record of genocidal practices? More individuals are recognizing the need to demand reparations and to solidify historical attempts to internationalize the struggle for self-determination and human rights according to inter- and intra-continental covenants. We should not have to commandeer counselors to confront the wave of policy issues surrounding the gentrified invasion of our urban neighborhoods. It should not entail a national hunt to recruit lawyers to support the holding of a plebiscite to gauge the sentiment toward growth of the National Black Independent Political Party.

Kinship connections are not bonds we can assume, then reject carelessly. Let us resist repressive external controls of our community development corporations instead of resisting appeals to serve the people. African-Americans are progressively losing title to Southern land holdings. Individuals who organize for a redistribution of national resources often find themselves brought up on fabricated criminal charges. Urban enclaves of people of color become no more than domestic colonies of hostages. . . . Yet, we have folk deliberating on what their professional role is? Awful shame, it is!

It is not a choice between service as an agent of the law vs. an agent of the people. Nor is it as simplistic as betrayal of Afrocentric affinities for assimilation and homogenization in the hallowed halls of the temporarily-dominant infrastructure. It is as basic as prioritizing support for our people over and above fashioning a worldly reputation for ourselves as individuals.

Nia Burnett  
Community Organization  
Toward A New Survival, Inc.

## What Does It Mean?

What is the significance of our decision to join this rat race called the legal profession? W.E.B.

DuBois once said, "Why aspire to be a lawyer except that you desire to see justice." What does it mean when our motivation has nothing to do with justice, but with the pursuit of a lifestyle, an income, a prestige?

What does it mean when black students have little to talk about other than interviews and fly-outs; when we give little attention to building relationships or community; when many of us couldn't find Roxbury if we wanted to, even with a map?

What does it mean when we give our all trying to get an offer from a prestigious firm, when these firms serve only a small segment of the population—those with wealth and power, and who want to keep it that way; when the overwhelming majority of black people, and poor people, have no access to effective advocacy, and even less access to justice?

What does it mean when our professional employment consists of long hours intimately involved in areas of the law which have little relevance to the day to day struggles faced by many in our communities?

And what about those lunches and cocktail parties where the partners and sometimes bootlicking associates gather to display their emptiness? We talk about sports cars, and mice in New Jersey, or perhaps philosophize about legal education or the flat 10 percent income tax. They release a little tension with a drink, or two, or three. . . . And just think, if we succeed, we'll be just like them. What would that mean?

What does it mean when the "faith of our fathers" means little to us anymore, when the only time we get together as a community is to party (and we haven't done much of that this year), when individual pursuit preoccupies us more than thoughts of how to move the people forward?

Perhaps it means that we strangers in a foreign land have gotten quite comfortable with our resident status, much like the children of Israel who told Moses they would rather have stayed in Egypt and served Pharaoh than to go out and die in the wilderness trying to establish a nation and dignity of their own. They had lost their faith—and the vision. They were willing to accept the status quo even though God had charged them to go forward, as a people.

The Last Poets have declared:

"Blessed are those who struggle to survive.  
Oppression is worse than the grave.  
Better to die for a noble cause  
than to live and die a slave."



Where is our noble cause today? What does it mean if we cannot find one to rally around? What will it mean if we can find no greater meaning or purpose for our lives than the pursuit of a lifestyle, an income, a prestige?

Christ declared that He came to set free the captives, to bring good news to the poor, to heal the brokenhearted. Isaiah tells us that we must seek to loose the bonds of wickendess, to undo the heavy burdens, to let the oppressed go free, and to break every yoke, Shouldn't that tell us something about what our lives, and life's work, should mean?

Dennis Henderson

## Up From Indoctrination

There's a subtle process happening at Harvard Law School and it has very little to do with classes, professors, studying or grades. This process deals with the formation of values and visions. It addresses the distinction between comfort and quality and spans the vast gap between "selling out" and being committed. This process is a broad one, a human one, a process which calls for us to choose or to be indoctrinated. And whatever we do, we will build the castles of our dreams and visions upon the decisions which we make here.

Many of us are introduced to indoctrination through the interviewing process. We are courted by the institution of corporate law. Shakespeare once said that lawyers are parasites, and certainly the overbearing presence of lawyers in corporate dealings, matters of death and marriage, and every form of government, suggests such a relationship. We are courted by the wealth and opulence of corporate law in the form of \$600+ per week for our summer hours, prestigious offices high above the heart of the city and the opportunity to be among society's upper strata. Most of us, who at this stage of the game face the pressure of tremendous loans, are lured by the fanfare and bottom line dollars that corporate law offers. But in buying into "the system" we often accept it uncritically; and our seduction has begun. The values and role models of the upper strata become ours (usually with some cultural variations). We become comfortable in our ascent, prestige, money, and sophistication.

It is very tempting to aspire to affluence and power while seeking to be a "positive" part of the corporate law system. But what usually happens when you run after money, comfort and prestige is that you feel that you are your job and position. Such a person lacks real creative energy. From such a perspective life is a hollow sort of existence in which your ability to really be a "positive" part

of the system is very small. You become afraid to stick your neck out, or to stand up for what you believe because there is too much to lose, and losing is too uncomfortable.

Those of us who play in the corporate law game must be careful to observe our motivations, ideals and direction. There is the striking fact that this strata of white Americans created the American "system" which works for some and clearly not for others. History has shown that being well-meaning in such a system is not enough. In order to really make a difference, we must be interested in finding deeper meaning in our lives. This meaning may elude us if we strive only in the direction of being successful, powerful attorneys.

In respect to making changes in the quality of life on earth, each one of us in every walk of life has a part to play and everyone holds the potential to make a difference. But what holds us back from stepping in and getting our feet wet in affecting the quality of life is our indoctrination, i.e., our "security," our feelings of hopelessness and most importantly our lack of commitment to life. Yuri Andropov, the present leader of the Soviet Union, once said that he respected men committed to Western ideology but that people without commitment don't count. The great leaders and thinkers whom we admire and love are all possessed of great commitment. It is the source of their power and the foundation of meaning in their lives.

There are no pat answers as to what each person should be committed to. This is an individual matter which requires depth of thought. In considering the direction of our commitment, there are certain guidelines which should be considered. First, we must be aware of our vast potential to do, to think and to create. Second, in some way our commitment must be related to quality—in our relationships, in our work, in our standard of living, in our achievements. Quality is the bottom line.

From the perspective of a commitment to quality life for oneself and others, the seductive rewards and role models of the corporate law world do not confine and control us. In our day to day lives we work hard to bring our visions into reality. We do not believe that we've "made it" because we happen to be on Wall Street. We have respect for everyone and we bring meaning and dignity to everything that we do. And although we don't always have a "program," we are always aligned with the struggle to bring freedom, justice and equality to every person.

Joe Mitchell

*continued on page 21*



# Black Christian Fellowship: Community Building

by Pamela Denise Moore

What is the Black Christian Fellowship (BCF)? Some people may say it is an organization of "born-again" Christians who like to get happy every Wednesday night. Some may say it is a group of people who gather to discuss the intellectual significance of God and religion. Still others may say that it is merely a facade to perpetuate and impose certain political ideologies on unsuspecting individuals in the guise of religion.

To those who are members of BCF, it is a small community that provides support, encouragement, and meaning within an environment seldom responsive to the needs of individuals concerned about their spiritual growth and instilled with a sense of social responsibility. Equally important, it provides an opportunity to develop meaningful relationships in a place where few seem to have time for anyone beyond the classroom setting.

BCF consists mostly of Harvard Law students. But occasionally students from the Divinity School and Kennedy School attend. BCF consists mostly of Black students. But there are a few white and Hispanic members, also. BCF is people who are spirit-filled, but it is also people who may still be doubters at heart. Most importantly, BCF is a forum for open and honest dialogue on the issues of Chris-

tian living in a complex and confusing world. It is people studying scripture together, praying together, and sharing experiences in an effort to facilitate individual spiritual growth.

The Black Christian Fellowship was begun around 1977 by law students of varying religious backgrounds who felt a need to come together to explore the meaning of Christianity in a legal environment. At that time members met in the room of one of the law students. Presently, BCF meets every Wednesday for Bible Study in the office of the Black Law Students Association, its parent organization. Thus far, Bible Study has been centered on pre-planned topics addressing community growth by "Building Up One Another."

According to Jenny Hall, who attends BCF Bible Study along with her husband Alton Hall, a second year law student, "I like the fellowship because it gives me a chance to meet other students, and it gives me an opportunity to share my Christian beliefs with others in my peer group."

And according to Dennis Henderson, "It's one of the few places where community can be found, where there is open and honest sharing and attempts to build up one another. It's the type of sharing we can all benefit from."

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## BLSA SPORTS

by Burlette Carter

While professional football players were on strike, some young men in Harvard Law School's intramural football leagues were giving sports fans in BLSA something to cheer about. The Black Plague, one of two predominantly black intramural football teams, defeated The Armadillos to seize the championship of the competitive "A" league.

The Plague has a long and interesting history which one of its more modest players called simply "a history of winning." Between 1976 and 1979 the Plague amassed an impressive record of four consecutive undefeated seasons. In one of those seasons (1978), the team held all of its opponents scoreless. But in 1980, the Plague's streak was stopped by another predominantly black team, The Mean Machine, and in 1981 the Plague was defeated by SBR Fog. The 1981 defeat, its second consecutive championship loss, was a crushing blow to the Plague which vowed to avenge its loss in the coming year. And so it happened that the Plague literally put its reputation on the line this year as they faced The Armadillos in the intra-

mural championship. Although it was a heartstopping game which went down to the final minutes, the Plague emerged victorious, 12-6. At the moment of victory one particularly clairvoyant Plague member pulled out a bottle of champagne he had been keeping for the occasion and began the celebration.

Although he offered congratulations to the Plague on its victory, Mean Machine quarterback Dennis Henderson still insists that he is not moved by the Plague's success. Says Henderson, "The Plague has yet to intimidate me. I am happy to say that I leave HLS with a record of 2-0-1 against the Plague during my time here." Indeed, Henderson points out that it was The Mean Machine which snapped the Plague's string of championships, handing the Plague a second place consolation prize in 1980. But Plague captain Ron McCrae scoffed at Henderson's comments. Although McCrae acknowledged that The Mean Machine hasn't lost to the Plague during Henderson's three years here, he pointed to the Plague's outstanding

*continued on page 17*



## Interview with Wilburn "Bill" Williams by Burlette Carter

This year two black students, Annette Gordon and Wilburn Williams, were among those named to the Board of Editors of the *Harvard Law Review*. The last black student to make the *Review* was current Harvard Law School Assistant Professor Christopher Edley. Last year the *Review* announced that it would institute an affirmative action program on a trial basis in an effort to increase the number of minority and socio-economically disadvantaged students on the Board. This year was the first year of the program's operation.

Although Annette Gordon declined comment, Wilburn Williams agreed to speak with the *Blackletter* and offer his views on the *Law Review* Competition and black students at Harvard. In addition to being a law student, Williams is an instructor in the Afro-American Studies Department of Harvard College. His wife, who is Nigerian, is a medical doctor, and the two of them have three-year-old twin daughters.

Q. Tell me a little about how the writing competition worked.

A. Well, I can simply tell you how it worked this year. There were two phases. In the first, the contestants were given a "doctored" Supreme Court case comment that analyzed the logic of the decision. Errors of law, logic, grammar, and style had been deliberately entered into this comment, so we had to check all of the footnotes. We were given all of the materials necessary for us to do this. It was a huge packet of about three to four hundred pages of xeroxed material. Then we had to check the writing to make sure that the grammar right, the logic was there and so on. Finally, we wrote a five-page memo giving the big picture, a critique of the way the case comment had been written. We had seventy-two hours to do this. Then those entrants were reduced to fifty-four. The second phase—to boil down that fifty-four to about twenty—took six days. We were divided, I think, into five groups and each group had to work on a separate case. And this time, instead of criticizing a case comment, we had to write one. We were given a recent Supreme Court case, Xeroxes of a number of precedents and, I think, one or two law review articles dealing with that area of the law. . . . We had to turn in five copies because, I take it, there were five different graders. Some were *Law Review* editors and others were Harvard faculty. They use the Harvard grading system.

Q. Did the pressure ever "Get To You" during the competition?

A. Well, someone in BLSA got word of the names of some of the black students who made the finals and posted our names on the BLSA bulletin board. So, I'd walk through the corridors, full of tension worried about that case comment and somebody would say, "Oh! Congratulations! Congratulations! Good luck! Good luck!" And I'd think, "Oh, God! What did I do to deserve this!" And then, there was simply the physical pressure of being up very late at night for five nights in a row. It really does take a great deal out of you. I did virtually all of my work at home. My children noticed: "Daddy's acting strange this week!"

Q. What is your perception of the affirmative action program which the *LAW REVIEW* has instated?

A. Exactly how it worked, I don't know. Affirmative action was applied to both phases of the competition. If you wanted to submit an affirmative action statement you could; you were limited to fifty words. Having to talk about a complex issue like that in fifty words or less does make you feel a little silly. There is something odd about having to explain to someone else how you overcame something that shouldn't have been a barrier in the first place.

Q. If a student has that "uneasy" feeling about filing a statement, would you still advise him or her to do so?

A. Well, it's not as if it's something that someone has given you. They are simply recognizing the fact that, historically, certain kinds of institutions have worked in a fashion so that certain kinds of people have been systematically excluded from positions of prestige, power and recognition. If you really do believe that blacks and women have the same intellectual capacities as white males, when you have a system that systematically excludes those groups, you can only conclude that there is something wrong with the selection procedures. I think that one thing you have got to do when you think about any kind of affirmative action program is remember that it's society's way of telling you, "We've done you wrong, and we're trying to make amends." It's not as if they're doing you a favor. In fact, affirmative action programs are usually designed out of a certain kind of pragmatic recognition that in a very diverse culture it is socially dysfunctional to have an elite group composed only of white males and that in the long run, affirmative action provides benefits to the entire society. The program is a way of dealing with some very serious social tensions within this culture. After all, it's no accident that notions like affirmative ac-



tion gained respectability because this nation was being torn apart by racial conflict. But there certainly won't be more black students on the *Review* unless more participate in the competition.

Q. Why do you think black students are reluctant to enter the competition?

A. Well, there is a substantial investment of your own time and your own energy. And, certainly, there are plenty of people who don't make *Review* but are perfectly capable of doing the work required. That's why the whole process of making *Review* can be so painful; people recognize that the distinctions which separate "the sheep from the goats" are so fine, so narrow that really they don't make much difference at all. Also, people must have a tradition of working for certain kinds of things. Since there have been very few blacks on *Law Review* and very few blacks on the faculty, the kinds of things that *Law Review* gets you are not immediately visible and available to the students in the persons of white people with whom they can instinctively identify. I think that has a significant effect upon the amount of energy people put into specialized insane activities like *Law Review*. If there were more Christopher Edleys and Clyde Fergusons around, students would be inspired to try it more often. But in the final analysis, it just comes down to individual ambitions. There's a reluctance to get caught up in Harvard's "competitive drive" because it's difficult enough here.

Q. What is your perception of black students at Harvard? Do you think there is a sense of "community" here?

A. Well, there certainly is a sense of "community." How deep that goes is another question. I suppose it is just like any other collection of highly talented people. It is very hard to make a close knit group of people out of a crowd like that. But I would like to see a bit more social interaction which centers on intellectual interests rather than simple fun and games. I suspect that maybe some of the "community" of black students is based not so much on an effort to come together and share the experience of learning the law as it is an effort to come together to escape the pressures of having to learn the law.

And I am a little surprised that there hasn't been more of an effort to reach out to those African students who are getting advanced degrees and who, no doubt, feel the social chill of Harvard as much as we do. I'm thinking of all those Africans who will be going back to their countries, becoming part of the power elite; that's a resource. We very often complain about the harsh-

ness of the American legal order, the moral deficiency of a legal system that often reaches appallingly bad results under the guise of remaining true to some abstract, bloodless principles. It seems to me that people who come from nonwestern cultures may be able to provide some perspectives and in doing so sharpen our awareness of how our own American legal system operates—allow us to bring an even more powerful critique against that system when we see it operating against the interests of minorities and women. So when I say we should rub elbows with Africans, Iranians, Indians, Saudi Arabians, and so on, I'm not just saying this as some empty gesture of international brotherhood. There are some very good practical reasons for getting to know these people.

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### CREDENTIALS — continued from page 7

Surely though, the correlation between good grades and academic success is not closer than the students' suggestion that in a school with so large a faculty, at least one civil rights teacher should have experienced as well as worked to end racial discrimination. The racial outlook for Harvard's black students, and for that matter, the country, is not so bright that there is no need for a teacher who in the context of an academic offering is able to speak in depth and detail about the contradictions and dilemmas that will come with black professional status.

Indeed, early in the course, this teacher might try to explain why a society which after 400 years of slavery and the most debilitating policies of racial discrimination, needs to believe that the deep racial injustices it has condoned may best be cured by convincing black victims that what they and theirs have experienced has no significance, and surely is not the credentialing equivalent of straight A grades in a mainstream, mainly white law school.

\*Excerpted from opinion originally appearing in the *Harvard Record*.

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### BLSA SPORTS — continued from page 15

record of seven years as evidence that it was indeed the better team. When asked to explain the 1980 championship loss to The Mean Machine, McCrae said, "They got lucky."

Needless to say, the next football season at Harvard Law should be an interesting one. And certainly, the eyes of BLSA will be focused on The Black Plague and The Mean Machine as they battle each other and the rest of the Harvard Law intramural teams for the right to be called "Number One."



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# ALUMNI PROFILE

## RANDALL ROBINSON:

### The Man Behind TransAfrica

With the birth of TransAfrica in 1977, blacks across the nation finally had a voice in foreign policy. TransAfrica was the brainchild of men and women who realized a need for a black lobby on African and Caribbean affairs. Once the idea was conceptualized, the search began for someone who could blow the breath of life into the infant organization. The search ended with Randall Robinson.

Randall Robinson has been the executive director of TransAfrica since its incorporation in July of 1977. What began as a fledgling group of penniless but faithful few has become one of the nation's most respected foreign policy lobbies. Supporters of TransAfrica credit much of the half million dollar institution's success to Robinson. Thus the story behind the development of TransAfrica is really the story behind its leader.

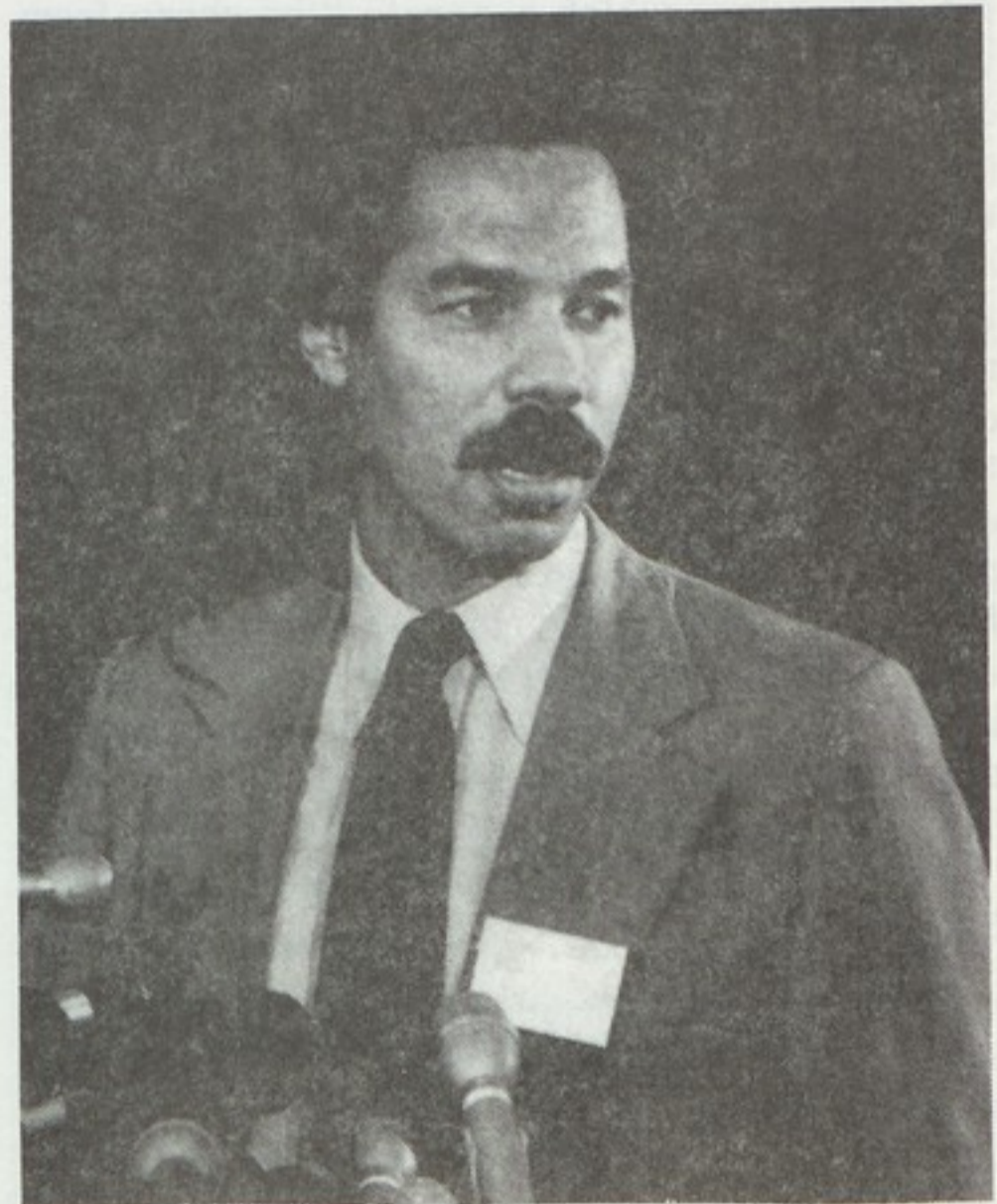
#### The Robinson Family Ethic

Robinson was born July 6, 1941, in Richmond, Virginia. His parents, both college graduates, used their son's formative years to impress upon him a sense of duty and desire "to contribute to the collective betterment of all people." Robinson remembers his father as "a stern taskmaster" and says his mother remains "a paragon of ethics." Both had a powerful influence over the maturation of their four children.

Prior to his early twenties, Randall Robinson had minimal contact with "the white world." After attending black grammar and high schools, he took an athletic scholarship at Norfolk State University. For his final year of college, however, he selected his parents' alma mater, Virginia Union. The racial setting of his high school and college days was in marked contrast to that he would face later at Harvard Law School.

#### HLS: The Great Experiment

Robinson arrived at Harvard Law School in 1967 "exhilarated, excited and frightened." He did not relish the idea of his first integrated experience. "I was coming out of a mass-resistance



*Randall Robinson, Executive Director of TransAfrica*

South that had spent all of its resources teaching us that blacks were inferior. Harvard would be an immense challenge."

"The Great Experiment" was three years old and in full swing by the time Robinson and 24 other blacks sat in their first year classes. In 1965, the HLS administration had realized its numbers of black students were embarrassingly low; on the average there were two blacks in each entering class prior to 1965. The administrators quickly devised a plan to increase those numbers. That plan was known as the Great Experiment.

Black students, however, were not misguided by the University's sudden charitable interest in their welfare. "Harvard did not begin to recruit blacks out of any spontaneous recognition that they had



been discriminating," Robinson recalls. "It's no accident the recruitment of blacks coincided with the riots of the 1960's."

With the numbers of black students having increased from two to an average of 25 per class, some thought discrimination was no longer an issue. But Robinson vividly recollects the insensitivity of University administrators to the new mass of black faces. Special tutorial programs were offered for black students, based on the notion that they weren't academically equipped to deal with the rigors of Harvard.

Students organized the Black Law Students Association (BLSA) to address the patronizing administration offers. Robinson and others told the University, "If we need academic help, we will let you know. Until such time, you should not assume that we do." It was advice well-given in light of the commendable grades most blacks, including Robinson, received at the end of the first year.

**"Harvard did not begin to recruit blacks out of any spontaneous recognition that they had been discriminating. It's no accident the recruitment of blacks coincided with the riots of the 1960's."**

Displeased with the student response, Robinson says the University fought back by recruiting a "different kind of black. They began looking for blacks who had been socialized in a white world. The thinking was that they would know less about the problems of poor blacks, and would be less troublesome to the school." Thus, the Great Experiment continued and the numbers of black students continued to rise. But more often, they had attended prep schools and received degrees from prestigious northeastern colleges. They were more interested in corporate America and had no time for the concerns of fellow black men.

Robinson remembers that this kind of black student was remarkably suited to the HLS scheme. "At that time the world's best law library had very few books on the rights of the poor and the school had only one class on criminal law. There were no classes or activities which dealt with the day-to-day concerns of blacks." The thing Robinson regrets most about Harvard was the institution's attempt to prepare blacks for the same corporate lives many white students sought.

The University's insensitivity did not quiet the resistance of a determined few. Their persistence resulted in the hiring of Derrick Bell, Harvard's first black professor. In the aftermath of the celebrated hiring, Robinson and others continued to pressure the University for more minority students

and professors, and better course selection. Administrators seemed content to parade Bell as the "token black" and refused to let him teach the "nuts and bolts courses of contracts or civil procedure." Instead Bell was asked to develop his own course, "Racism in American Society."

### **Moving to a New Struggle**

Robinson graduated in 1970, untainted and stronger for the University's attempt at socialization. A post-graduate research fellowship at the University of Dar Es Salaam in Tanzania helped trigger his interest in African affairs. Upon returning to the United States, the young attorney joined the Boston Legal Assistance Project. It was the only job he would have practicing law, and it was brief. He was fired a year later after insisting his supervisor hire more black attorneys.

The firing gave Robinson an opportunity to become a community organizer. He took a job with the Roxbury Multi-Services Center and became one of the founders of the Pan-African Liberation Committee. The committee was concerned with Portugal's prosecution of colonial wars in Africa, and American corporations which supported Portugal's reign of terror. Gulf Oil was a major supporter of Portugal and Harvard University happened to be Gulf's largest university stockholder. Harvard became the target of the committee's local efforts.

In 1972, members of the Pan-African Liberation Committee, along with over 3500 Harvard students, seized the University administration building, Massachusetts Hall, for seven days. It was the last major all-campus demonstration and its message was heard nationwide.

"It was a great political and spiritual experience," Robinson said of the takeover. "We never expected Harvard to sell its stock, but it proved useful in terms of raising questions about our involvement in Africa."

**Robinson graduated in 1970, untainted and stronger for the University's attempt at socialization. A post-graduate fellowship at the University of Dar Es Salaam in Tanzania helped trigger his interest in African affairs.**

In 1975, Robinson moved to Washington, D.C. to work for Missouri Congressman William Clay. Shortly thereafter, Michigan Congressman Charles Diggs asked Robinson to join his staff as administrative assistant. Diggs had long been the primary congressional champion of African self-determination. Thus, he eagerly sought Robinson as an ally. Together with then Congressman



Andrew Young, Robinson and Diggs convened a task force of black American and African leaders. The task force was charged with proposing an organizational lobby for Africa and the Caribbean. TransAfrica emerged from that meeting.

The task force asked Robinson to steer the organization in its early stages — stages that would prove crucial to its survival. With admitted trepidation and scarce resources, Robinson began to shape the objectives and programs of TransAfrica. The grassroots response was overwhelming in cities across the nation. Money began to pour in in larger amounts than anyone expected.

"I was quite excited and pleased, and even somewhat surprised at the rate of growth of the institution. It demonstrates conclusively that blacks are not only interested in foreign affairs, but that we have also made tremendous strides in clasping hands with our African and Caribbean brothers and sisters," Robinson said.

TransAfrica is important for Robinson because of the power potential it carries for blacks. "Afro-Americans will never be strong until there is a strong Africa. As long as we perceive ourselves as a minority against a majority — 30 million black

Americans unconnected with 500 million Africans — we are indeed a lost people."

#### Reflections on Harvard in 1982

"I support the boycott," Robinson frankly says of his reaction to the BLSA-organized protest of the racial discrimination course taught by Julius Chambers and Jack Greenberg. Though he has not visited Harvard recently, Robinson keeps updated on the boycott by talking frequently with HLS students and not by depending solely on the media.

"The publicity has been unfortunate because people around the country have not received it in its real light. There's too much focus on the Jack Greenberg issue and not enough on the broader issue of minority hiring." Robinson singled out the *Washington Post* as having particularly "narrow and distorted coverage."

"The simple need for a boycott would indicate that things have not changed dramatically in the 12 years since I've been gone." As an alumnus of HLS and one of the first members of Harvard BLSA, Robinson remorsefully ponders whether his memories differ much from those which the students matriculating at Harvard in 1982 will have. For they, too, will recall the on-going struggle for equality.

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### WHERE ARE THEY NOW?

Just in case you've lost word of some of HLS's most recent graduates, the Blackletter will provide an alumni update in each issue. This issue we'll take a look at a few alumni who graduated last year.

**Stephen A. Bruschi**, '82, The Legal Aid Society, Criminal Appeals Bureau, Philadelphia, Pa.

**Lorna R. Franklin**, '82, Breidenbach, Swainstou, Yokaitis & Crispo, Los Angeles, Calif.

**Michael Stephen Jackson**, '82, Spector, Cohen,

Gadon & Rosen, Philadelphia, Pa.

**Lorenzo S. Little**, '82, Chambers of Hon. John J. Gibbons, U.S. Court of Appeals, Third Circuit, Newark, N.J.

**Robert L. Mallet**, '82, Chambers of Hon. John R. Brown, U.S. Court of Appeals, Fifth Circuit, Houston, Texas.

**Clayton J. Powell Jr.**, '82, Frank, Bernstein, Conway & Goldman, Baltimore, Md.

**Corliss C. Stone**, '82, Isham, Lincoln & Beale, Chicago, Ill.

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### PRESIDENT'S CORNER — Continued from page 3

#### Putatively Premiere

Because Harvard is America's putatively premiere educational and intellectual center, this student struggle has struck a national nerve. Whether the Affirmative Action maintains its potency as a legal concept will largely depend upon the success or failure of Harvard's much

maligned Black Law Student Association. And you had better believe that what happens at Harvard will influence economic and educational policy-makers all over America.

*Muhammad's comments were originally published in the National Leader.*



## A Starting Point

Access to higher education is a privilege and the opportunity to study at a prestigious institution is certainly an advantage. Unfortunately, it seems that as we move higher up the socio-situational spectrum, we become more divided as a race/group. Contrary to what some of us seem to believe, genuine progress cannot be made on an individual basis; "getting yours" is not enough. An altruistic view of the situation would consider that one can't really be "successful" alone, knowing that most of our people are still at the bottom. For those of us who need a more direct impetus, whether we care about our brethren or not, the discontent "below" will boil to eruption and threaten our own security if unheeded. Whichever way we look at it, ignoring one's racial ties is a mistake.

There are many reasons for our splintered communities in these arenas, but perhaps the most overlooked is the inherent individuality in each of us. It appears that less privileged blacks are far more cohesive, but there are reasons for that. Being poor and black in an urban ghetto is probably not very different from being poor and black anywhere else in America. That is not to stereotype those of us who live in these situations, but certainly one does not become overly preoccupied with such esoteric concerns as "inner identity" when there are more pressing, or just more tangible, issues present. As we become "middle class" our lives not only become more complex in terms of race, but the black people we encounter become more diverse. Some members of the group come from families that have been "well-off" for decades, while others are the first members of their families to go to college. Some are assimilationists, others integrationists and others separatists, but all are nonetheless aggressively upwardly mobile, usually in a material fashion.

Examining the so-called "black elite" complicates matters even further. For one thing, black people enter this stratum through a multitude of avenues: through family assets, reputations, family histories, education, etc. Education is the access channel that brings together the most diverse group of blacks at any social stratum (at least comparable to religion) but is particularly effective at this level primarily because it is only through this avenue that the large majority of Afro-Americans can get this far. Ostensibly the most diversified sub-group of the black social structure, this variegated group becomes even more important when one realizes that even those blacks who have come from situations more characteristic of the Black American experience, are in themselves atypical. Those of us who stem from the urban ghetto or the rural South have understood what it means to be regarded as different and isolated *even among our own* long before we reached this detached-from-the-black-mainstream plateau.

The solution at this level cannot be what it is at any other level. We "black elite" have to begin to realize that we do at least have some intra-group ties, and certainly have more in common in terms of experience with each other than with anyone else, white or black. That is not to say our links to each other supersede our larger racial obligations, but if the problem, at bottom, is the total fail-

ure to recognize any social affinity along racial lines, then we must establish it at some starting point and it is only logical that we begin here.

Contact with other blacks or whites is not discouraged, but it doesn't address this particular problem. Of course the danger of this approach is the potential formation of a truly elitist class, a vitiated talented tenth that finds comfort in itself and repudiates the larger black society. But there is already a gap between us and black America and we must establish some sense of self, some race-based social affinity before we can address that gap. We must feel thoroughly secure as blacks before we can effectively reach out to blacks whose experiences differ from our own. We must bring this about for the good of ourselves as a people, or, if you prefer, to preserve the security of our own advances. Whichever way you look at it, whatever your motivation, ignoring your racial ties is a mistake.

Lateef Mtima, 1L

## Historical Perspective



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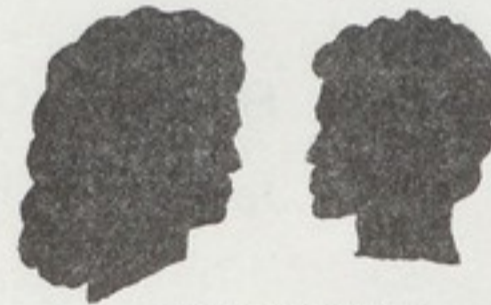
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