

THE CLASS CHARACTER OF THE BLACK COMMUNITY: POLARIZATION BETWEEN THE BLACK MANAGERIAL ELITE AND THE BLACK UNDERCLASS*

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I. INTRODUCTION

The role of black lawyers and academicians in determining a course of action for the black community is a discussion that has taken place for several decades. The role that black theorists have traditionally assumed has been one of externally defining the interests of the black masses. That role must be changed. Black economists, as espoused earlier by black scholars E. Franklin Frazier¹ and Oliver Cox² must allow the black masses themselves to identify their own interests.

II. THE REPRESSION OF THE UNDERCLASS

In slavery times, salvation for the masses of blacks was denied by the actions of whites. Today, however, the repression of the black underclass is conducted not only by whites but also directly by the black managerial elite, in particular, black officers of the court, academicians and public officials. Two significant court cases spaced more than a century apart illustrate the continuous repression of the black underclass.

First consider the well-known *Dred Scott*³ decision of December 1856. It is generally recognized that Dred Scott, when transported from Missouri to Wisconsin by his owner, Dr. Emerson, sued for his freedom. What is less well recognized is the fact that Scott sued not only for his freedom but for the freedom of his entire family, his wife Harriet, and his daughters, Leza and Liza as well as himself. Scott's action was not a mere declaration of individual legal personhood, it was a declaration of familial integrity. One hundred and ten years later the First U.S. District Court of Appeals heard the case of *Mazique v. Mazique*.⁴ Their decision in this case struck down congressional legislation passed in 1962 designed to protect women and children from loss of income and property associated with divorce or desertion. The Supreme Court refused to review the case, leaving the First District Court of Appeals' decision standing.⁵

Both of these cases were precedent setting and shared the following implications: first, they both constituted a denial of black dignity; second, they

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1. E. FRANKLIN FRAZIER, *BLACK BOURGEOISIE* (1957).

2. O. COX, *CASTE, CLASS AND RACE* (1948).

3. 60 U.S. (19 How.) 393 (1856).

4. 356 F.2d 801 (D.C. Cir. 1966), *cert. denied*, 384 U.S. 981 (1966).

5. *Id.*

both denigrated the status of the black family; third, they confiscated property; fourth, they denied due process; fifth, they denied appropriate legal defense; and sixth, they left open the possibility of attachment of future earnings. Chief Justice Roger Taney, a white man, rendered the majority decision in the *Dred Scott* case. The decision relayed the principle that the black man has no rights that the white man must respect.⁶ Taney even contended that the case should not have been heard at all since the descendants of Africans were outside the law.⁷ The Civil War intervened shortly thereafter, but the spirit of the *Dred Scott* decision lived on in the highest court of the land.⁸

It is important to recognize the significance of the message the *Dred Scott* decision relayed for the position of the black family. The minority opinion presented by Justice Curtis rested heavily on the argument that the Scotts' legal act of marriage provided the basis for declaring the black family free of slavery. Justice Curtis said, for example—

In my judgment there can be no more effectual abandonment of the legal rights of a master over his slave than by the consent of the master that the slave should enter into a contract of marriage, in a free state attended by all the civil rights and obligations which belong to that condition. And any claim by Dr. Emerson, or anyone claiming under him the effect of which is to deny the validity of this marriage and the lawful paternity of the children born from it, wherever asserted, is in my judgment a claim inconsistent with good faith and sound reason as well as the rules of international law.⁹

Based upon his reading of international law and the question of emancipation at that time, Curtis said further, in his minority opinion,

that the consent of the master that his slave, residing in a country which does not tolerate slavery, may enter into a lawful contract of marriage, attended with the civil rights and duties which belong to that condition is an effectual act of emancipation, and the law does not enable Dr. Emerson or anyone claiming under him to assert a title to the married persons as slaves and thus destroy the obligation of the contract and bastardize their issue and reduce them to slavery.¹⁰

The *Dred Scott* decision, in effect, repudiated the notion clearly stated by Justice Curtis that an especial legal protection was to be ascribed to the act of marriage, the official formation of families, if the consenting parties were black. Not only were the parents condemned to slavery but so were their offspring.

Mazique v. Mazique in 1966 had many of the same implications for the position of the black family. The Chairman of the House of Representatives' District Committee, a white southerner,¹¹ said that the decision handed down by the First U.S. District Court of Appeals and the refusal to review on the part of the Supreme Court resurrected the legal conditions, the outsideness of the law facing the black family prior to the Emancipation

6. 60 U.S. 393 (1856).

7. *Id.* at 403-404.

8. A further manifestation was the *Plessey v. Ferguson*, 163 U.S. 537 (1896).

9. 60 U.S. at 600.

10. 60 U.S. at 601.

11. Congressman John McMillan, democrat-South Carolina 1945-1972, served as the Chairman of the House of Representative's District Committee when *Mazique* was decided in 1966.

Proclamation; that is to say, the law afforded no protection. This decision, of courses, coincided with the modern wave of Civil rights legislation which was allegedly the foundation for bringing blacks fully into American life. Is it not strange that simultaneously the judicial system was dismantling whatever protection existed, *de jure* if not *de facto*, for the black family.

Is it not strange that the Warren Court rejected consideration of an appeal. Perhaps strangest of all it was Thurgood Marshall who had the *certiorari* set aside.¹² Marshall, later to become the first known descendant of Africans to sit on the U.S. Supreme Court, was then Solicitor General. Taney's actions supported an older order of things, an order that sought to maintain control over black slaves, slaves whose presence was the product of capitalist development on the eve of its golden age. Marshall's actions in the 1960's supported a different order. Suffice it to say, in Taney's era segregation was an instrument of ruling class control over those it cast outside of salvation and hence outside the law. By the mid-1960's integration served the same end, but the character of the dominant class had altered.

Roger Taney's world on the eve of the Civil War was an America still at the periphery of global capitalist development, for the center was still northern Europe. It was a world where a fundamental division had arisen over the character capitalist development would take in the United States. Would it be dominated by southern plantation capital relying heavily on gangs of black slaves for labor or by northern industrial capital which would require an assault on the southern plantations' privileged access to black labor? Taney's world was the capitalist world of America entering into its prime. Thurgood Marshall's world, however, had moved beyond capitalism into a new era. Marshall's era already had become the age of what I would like to refer to as managerialism. And Marshall's actions served the interests of the managerial class.

III. THE POLARIZATION BETWEEN THE BLACK MANAGERIAL ELITE AND THE BLACK UNDERCLASS

What is the character of this post-capitalist era that I would like to call the managerial age? It is an era in which the power held in finance and money gives way to knowledge, information and expertise as the foundation of class domination. The managerial class possesses as its power base the capacity to solve social policy problems, to construct alternatives and to derive the choices between those alternatives. It is this capacity more so than access to the almighty dollar that has become the key agent of class strength. That is not to say that capital no longer survives; quite the contrary, it survives with awesome residual strength of its own. Old ruling classes die hard and can last for long periods of time in uneasy co-existence with the class that eventually may displace them.

The recent presidential election reveals the depth of capital's survival. There is no mere shadowboxing between the Democrats and Republicans. There is a class gulf between them. It is the gulf between the managerial class and capital, respectively. The managerial class was originally the creator of capital. In the progressive era, we find an effort to rationalize the

12. Supreme Court Justice Thurgood Marshall was U.S. Solicitor General from 1965-1967.

organization of capitalist society. This required the creation of a group of individuals to perform management tasks both inside and outside the factory. In the period of the 1890's through the 1920's, capital spawned a group of workers with the special responsibility of performing a variety of tasks aimed at maintaining capitalist social relations. These individuals largely were drawn from the older, petty bourgeoisie, the group that lay somewhat ambiguously between capital and labor.

This was no different for the experience of blacks, in a sense, whose own managerial cadre was created at the same time and assigned the specific task of social management of the black community itself. Consider the motivation for producing black physicians openly expressed in Abraham Flexner's famous turn-of-the-century report on medical practice in the United States.¹³ E. Richard Brown has written, "[c]onsistent with the racism of the period, Flexner argued that the practice of the Negro doctor should be limited to his own race."¹⁴ "However, self-protection not less than humanity should encourage white society to support improved training for black physicians. Ten millions of them live in close contact with sixty million whites," Flexner wrote. "In addition, the importance of black physicians in facilitating the mental and moral improvement of their race required creating an elite corps of scientific black doctors."¹⁵ Applying the formula of the fewer the better, Flexner recommended that of seven black medical schools then in existence only Meharry and Howard be continued. Black doctors, then, were to be a select few, a tiny few who would be given access to the fruits of medical science. Science and selectivity, as we shall see, are the cornerstones of a managerial age.¹⁶

Adolph Reed, Jr.,¹⁷ in an important recent paper, has glimpsed the significance of the rise of a select few blacks to administer and to administrate the condition of the black masses. The origins of this class can be identified at the start of the 20th Century. The same strategy is evident in modern South Africa.¹⁸ The active creation of a black middle class is being undertaken by the State there for precisely the same purpose, to provide a buffer group in between the white, dominant class and the black masses. And, of course, the lure to enter the middle class is a promise of a better standard of living for those who will give in return active acts of control over the many.

IV. THE DEVELOPMENT OF THE BLACK MANAGERIAL ELITE

The capitalist crisis of the 1930's afforded its managers an opportunity to assert independence from the class that brought them into existence. The central capitalist institution which the managerial class seized and remade in its own image was the national government. As Burnham argued in his brilliant work *The Managerial Revolution*,¹⁹ the State was transformed from its essentially limited character under capitalism to an unlimited character

13. See FLEXNER, *MEDICAL EDUCATION IN THE UNITED STATES AND CANADA* (1910).

14. E. BROWN, *ROCKEFELLER MEDICINE MEN* (1979).

15. *Id.*

16. *Id.*

17. Reed, *Black Particularity Reconsidered*, 1979 TELOS 71.

18. *S. Africa Offers Lures to its Blacks*, Washington Post, March 3, 1980, § A at 1.

19. J. BURNHAM, *THE MANAGERIAL REVOLUTION* (1941).

under managerialism. The State became the site for retreat, resistance and even containment of the older ruling class from its progeny. Government's resources became the source of funds for the specifically managerial institutions, the post-war university, the foundations and think tanks.

Black managerial domination reached its height in the 1960's; slippage occurred in the 1970's with the first managerial crisis—a crisis whose dimensions were not so overwhelmingly economic as they were in the 1930's. Rather, it was a crisis that was overwhelmingly a crisis of ideas—ideas that failed to produce the results expected of them. Note also, the character of social mobility under a managerial estate is quite different from what it is under capitalism. After all, under capitalism one can become petty bourgeoisie if one gets some money. But under managerialism it is very difficult to make the transition from being part of the working class into the managerial estate because the distance is one of culture.

The managerial crisis of the 1970's paved the way for a capitalist resurgence, an effort by capital to discipline its rebellious progeny. This is the true meaning of the current assault on government—capital dreams of restoring the limited state with which it is most comfortable. This means in turn undercutting the managerial class's base for independent action. I view the rebirth of capitalist strength as only a temporary setback for the managerial class. For the managerial class constitutes the designated experts at solving problems, and capital as a class can be beholding to those who hold the answers or are believed to hold them.

The fluidity of the managerial class as it shifts from apparent service to the working class as it did in the 1930's to apparent service of capital as it appears to be moving in the 1970's is remarkable. For at all times the managerial class serves to reinforce its stature as the agent determining social policy. Consider the great convergence that has occurred between the positions taken by the great policy design institutions—the American Enterprise Institute and the Brookings Institution. Also note the efficient managerial style of Reagan's transition team as the candidate disappears into the California sunset. More fascinating, still, and frightening are the individual members of the managerial class who actively have moved the ideological grounds on which we tread.

Peter McGrath, writing in a major article in the *Washingtonian* in December 1980 had this to say about the neo-conservatives:

The neo-conservatives are disillusioned, liberal democrats. When Norman Potteritz of *Commentary* magazine attacks the trendy left he is attacking something he helped launch. When Senator Daniel Patrick Moynihan criticizes social engineering by the government he is criticizing his own past. Once upon a time Potteritz was publishing radical critiques such as Paul Goodman's *Growing Up Absurd*. Moynihan was writing Lyndon Johnson's Great Society legislation, running the Harvard/MIT Urban Studies Center and calling for liberal programs in any publication that would give him space. Both products of working-class environments in New York, the Jewish Potteritz and Catholic Moynihan typify neo-conservatism in its odyssey from Humphrey to Reagan.²⁰

"Scratch a neo-conservative," says McGrath, "and you find a left-winger somewhere in the past. Irving Kristol—the founding father of the move-

20. McGrath, *The Powers That Will Be*, WASHINGTONIAN, Dec. 1980 at 125.

ment, and the only one who accepts the label without a fight—was a Trotskyist. Sociologists Seymour Martin Lipset, Daniel Bell and Nathan Glazier were all radicals of one variety or another." Concludes McGrath, dripping with irony, "[n]eo-conservatism is rooted in the recurrent fratricidal wars among New York's left-wing intellectuals."²¹

Neo-conservatism has found its black recruits with little difficulty. Witness the conference of 125 persons held in December in San Francisco organized by the Institute for Contemporary Studies.²² Included here were such black luminaries as the scholarly Tom Sowell, his protegee Walter Williams, community organizer Oscar Wright and journalists Tony Brown and Chuck Stone. We can only wait patiently for the neo-liberal resurgence which has a standing army of recruits from the leadership ranks of the Civil Rights organizations, especially the N.A.A.C.P. and the National Urban League. Then the battle will shape up as one between black neo-conservatives versus black neo-liberals—a split over the direction that the black community takes with the debate confined to the black managerial class. The underclass will sit outside the decision-making process again, outside salvation.

1960's liberalism was notorious for planning for the poor without consulting the poor about whatever mattered to the poor in the first place. *The Washington Post* recently did a series of articles on the Job Corps and it was quite revealing.²³ It was not at all clear that the folks who were supposed to be the beneficiaries of the Job Corps had much to say about whether they wanted a Job Corps or whether it was going to take the form it subsequently did. Neo-conservatism promises to do no better. As Herbert Denton reports on the San Francisco conference, there was one embarrassed moment in the conference.²⁴ It came when Robert Woodson of the American Enterprise Institute asked if the conferees were not guilty of the same kind of arrogance that they accuse liberals of, by proposing solutions when there were no poor people there to give their views. Concludes Denton, "Silence hung from the vaulted ceiling."²⁵

V. THE IDEOLOGY OF RACIAL EQUALITY

The battle between black neo-conservatives and black neo-liberals is a dangerous one. It is a debate that will be led primarily by economists. It presupposes the outsidersness of the black masses and consequently presupposes a shared aim of the black struggle common to all blacks; it becomes, then, merely a debate over means towards an end. The end, defined with varying degrees of precision, is commonly conceived as of racial equality. This is the ideological corps that virtually all members of the black managerial class are agreed upon and also believe that the underclass consents to as well. Hence, all that remains in this view is the application of expert knowledge to find the best way to get to racial equality.

21. *Id.* at 279.

22. The Institute of Contemporary Studies sponsored this conference on Dec. 12-13, 1980 in San Francisco, Calif.

23. *Epilogue to the Great Society: The Job Corps Revisited*, *Washington Post*, Dec. 7-11, 1980.

24. *Meese Pledges Top Cabinet Jobs for Blacks*, *Washington Post*, Dec. 15, 1980 § A at 1.

25. *Id.* § A at 8.

The equality that is sought in the 1980's is economic equality, that is, 'let's bring black incomes up to a par with whites'. This is a pervasive view. It has been expressed by Jordan of the Urban League, by Hooks of the N.A.A.C.P., by Elias Blake, President of Clark College. The position now is claimed that civil rights have been won; now all we need to do as black people is get our economic rights. Our proportionate share of America's wealth should be coming our way, more jobs and income; the race problem will be at an end when black incomes equalize with white incomes. Well, there are some subtleties here. First, a glib subtlety: bringing white incomes down to the black level will bring about income equality. Second, a hypernationalist subtlety: why not do better than whites? Why not aim for higher incomes? Third, an extreme prospect, if we would eliminate the underclass, if we could decimate their numbers by population control measures, then we could raise the average black income and get closer to income equality. Fears of genocide on the part of the underclass are quite justified in this context. Those are not my most serious points, although the last possibility I do not rule out as a potential direction the current strategy is taking.

My first serious point is that we are settling for money to keep silent on the question of the destruction of black family life and on the lack on our part of the true source of power which is knowledge in the new age. The managerial class does not bother to ask the underclass what they want. Jobs and income are not necessarily their first priority. But more importantly, it is clear that the key source of power in the 1980's is no longer access to finance, it is access to information and expert knowledge. My second serious point is, suppose we get equal incomes with whites. I mean it's doubtful that such a redistribution is possible given the prevailing social relations, but suppose it did occur. What then? Is it the route of decimating the numbers of blacks in the underclass? The outcome would be, I presume, the same stratification that exists among whites would be reproduced among the black population. We'd have our eleven percent share of everything, including the appropriate share of poverty. That is to say that there might be less blacks who were poor but there still would be some.

This leads back to the fundamental question of how one conceives of racial equality. Do we mean equal opportunity or do we mean equal outcome? If it is the former, that is, if it is a view that what we want is an equal set of life chances for individuals independent of their racial characteristics, we accept the conditions that exist for opportunity for whites in the first place. We assume that those conditions are appropriate for blacks. This, then, is the view that what we should be striving for is the achieving of a pure meritocracy. This is the ultimate in managerial rationalization. If it is the latter view, that what we are after are equal results with whites, rather than equal life chances, then we are back at square one. Because then we have to pose the question that the managerial class loves to ask: how to get from here to there? What theory guides us to equal legal rights to a call for equal economic rights? This constitutes a shift in the 1980's by the black managerial elite.

What I want to pose at this stage is the contradiction. The legislation of the 1960's, the civil rights legislation, was passed at the same time that black families were denied specific legal rights and those specific legal rights which

were denied were critical for poor black families. The contradiction is resolved by looking at the class character of the black community carefully. The law moved forward in the 1960's on fronts that aided the class development of black managerial elite. It moved backward, back toward *Dred Scott*, on fronts that generally would have aided the black underclass. I therefore agree with William Wilson's charge that what benefits affirmative action have showered on blacks have been directed toward blacks with characteristics that typify what I call the black managerial class. The types of social programs implemented for the poor in the 1960's go hand in hand with the precipitous rise in female-headed families in the black community—forty percent by 1978.²⁶ Note, female-headed families were twenty-eight percent of the total number of black families in 1969.²⁷ By 1978 there had been a twelve percent increase. These families are overwhelmingly poor. The median income of black female-headed families in 1978 was \$5,888.²⁸ That is \$9,690 less than male-headed families.²⁹ The social programs in the 1960's also fostered the destruction of quality education for poor black youths. Balancing and busing did nothing to uplift the caliber of schooling for the mass of black youths. School desegregation and affirmative action were two policy initiatives that sparked the imagination of blacks in the 1960's and 1970's, at least the imaginations of the black managers. School desegregation led ultimately to denunciations of such Negro leaders as Kenneth Clark, from spokesmen among the underclass. But in the end the courts victimized the grassroots efforts of people to try to bring about quality education to bypass the whole question of whether or not black kids should sit next to white kids in school. This pattern was repeated in fair housing legislation, which enabled the courts to create conditions for the managers to live in any neighborhoods they desired while the underclass was *de facto* segregated by income and culture.

Why the shift in the 1980's to a focus solely on economic equality? It is due, I believe, not so much to the overwhelming success of civil rights as a development strategy for the black managerial elite, but to the failure of the managers to continue to fulfill successfully their management tasks—their failure to successfully contain the black masses. The rebellion in Miami revealed plainly the depth of repudiation of Negro leadership. The Negro leaders could not calm the rage. The managerial class is seeking to cap the underclass to the point where HUD actively plots ghetto dispersal strategies. If the black managers cannot control their brothers and sisters, their class position is endangered. They do not fulfill their task. To preserve that class position, jobs and income are hit upon as the priority for the 1980's. Jobs and income that are expected to quell the black masses' discontentment. All that is left for the black managers is to find the best way, the optimal way to get jobs and income to the poor.

There is a new push in the courts, now, to use Title VII of the Civil Rights Act to let the victims of discrimination sue employees, not just the employers. In the current climate of race war what this implies is pitting the

26. See W. WILSON, *THE DECLINING SIGNIFICANCE OF RACE* (2d. ed. 1980).

27. *Id.* at 158.

28. *Id.*

29. *Id.*

underclass of blacks against the employed strata of the working class which is predominantly white. Note also, no strategy is forthcoming that clearly produces the requisite jobs and income, and further, it is not clear, as I suggested above, that more jobs and income will placate the black masses who are seeking salvation and survival. Consider that the signs in Miami read 'Justice not Jobs.' The biblical injunction "Man does not live by bread alone"³⁰ and the experience of the United States' effort to provide material aid to various countries throughout the Third World does not reveal that salvation is produced by a redistribution of income. The examples that I cite to come to the forefront of your minds are Iran, Haiti and El Salvador.

Well, what good will come of this? Very little if the current direction is followed. If the current direction continues, we are in for, I fear, an internal bloodbath within the black community—an intra-race war rather than merely the inter-race war that is predicted so vigorously these days in the media. That is to say that the black underclass will sooner or later throw off its black bosses—what happened to the black overseer when there was a slave revolt. I wonder if any of us black economists will be left standing at that point. It is to avoid that point that I propose that we conceive of a different ideology altogether from the ideology of equality. I propose that we conceive of an ideology of liberation, arising out of the direct and clear interest of the black underclass, for that is the only route to salvation for the black masses.

VI. BLACK MANAGERIALISM AND THE JUDICIAL PROCESS

The judicial system has also revealed the broader social transition from capitalist to managerial society. The legal system typically is subordinate to the dominant class as well. Perry Anderson's brilliant study of the absolutist state under feudalism revealed to what extent Roman Law was resurrected to enhance the power of the feudal lords.³¹ Martin Shapiro has documented clearly how the pre-New Deal judiciary in the United States acted on behalf of business interests.³² Thereafter, the pattern Shapiro describes can be reconciled easily with support from managerial liberalism. The Warren Court lies at the heart of that transition. Shapiro depicts the unlimited character of managerial courts versus the limited character of capitalist courts.³³ The former, managerial courts, touch all phases of human existence stretching into the realm of sexual reproduction³⁴ and even beyond the question of conception,³⁵ into the realm of genetic code itself.³⁶ The latter prospect suggests ominously that the logic of managerialism in its extreme means producing the sort of people the managers would like to have around. Of course, the decisions will be made in expert fashion. Similarly, the managerial courtroom becomes the scene of debates between experts on all details of social existence. That is to say the court becomes the site of expert wit-

30. *Matthew* 4:4.

31. R. ANDERSON, *LINEAGES OF THE ABSOLUTIST STATE* (1974).

32. Shapiro, *Judicial Activism, THE THIRD CENTURY* (1979).

33. *Id.*

34. *See generally* *Griswald v. Connecticut*, 381 U.S. 479 (1969); *Roe v. Wade*, 410 U.S. 113 (1973).

35. *Id.*

36. *See generally* *Diamond v. Chakrabarty*, 444 U.S. 1028 (1980).

nesses. Judges then become expert in their non-expertness at evaluating the experts. Lawyers as technicians in legal argument are not generally trained to understand the broad implications of the kinds of issues that are being cast upon the court system to decide. And in this setting I fear that there are real dangers. Because under managerialism we find that we have a figurehead president, a token cabinet, a pivotal congress, and dictatorship of the court system.

The class of experts is the class that will rule the roost in managerial society. It is an expert class that excludes those who mismanage from any serious contribution to the determination of their own fate. That is the crux of matters. The black managerial class has used the black movement for its own development. Class warfare among blacks will become open and terrifying unless the gap is bridged. Blacks who are potential managers must resist temptation, must say no to a policy agenda that appears destructive toward the black masses even at the cost of their own livelihoods. The design of an agenda for the 1980's must be designed by and for the black masses. It means a rejection of Vernon Jordan's recent resuscitation of DuBois' 'Talented Tenth' perspective. I'd like to share this quotation with you because I think it epitomizes the black managerial viewpoint. Jordan said the following:

Even when the struggle was against us and all of the negative forces were operating in the open, educated blacks such as (Dr. W.E.B.) DuBois and others made a difference. You had to have something in your head, and the one clear way to see to get at the power was intelligence. I think what people overlook is that this Black elite intellectual clan could see the problems and perspectives and give leadership, from Frederick Douglass on. We can never lose sight of the need for that Black intellectual elite to help give us some perspective on the problems and some direction. It was no accident that Martin was a Ph.D., that Whitney was an M.S.W. and a former dean, that Roy (Wilkins of the NAACP) was a journalist, that Dorothy Height was a social worker, because it took brains.³⁷

The 'Talented Tenth,' unfortunately, cannot prejudge what the black masses want. And it is our challenge as educators, and as students—I think we continue to be students all our lives—to be certain that we are careful about subordinating our interests to the will of the black masses. We cannot proceed with a sense of condescension or a sense that the black masses lack intelligence. We have to begin to recognize the extent to which our own actions have hampered the underclasses' efforts to achieve their own destiny and to define their own destiny. Officers of the court have been fundamental in the process of blocking this definition—the underclasses' destiny. For example, in the District of Columbia where we have the most black attorneys per capita, we also have the most blacks in jail.³⁸ Another case in point is the fact that the District of Columbia also has the most black physicians per capita, and also has one of the highest black infant mortality rates in the country.³⁹ Now when we get to the question of what will be in the interest of the black masses, the underclasses' destiny has to be our starting point.

37. Johnson, *Ebony Interview with Vernon Jordan*, EBONY, Dec. 1980 at 36.

38. D. GLASGOW, *THE BLACK UNDERCLASS POVERTY, UNEMPLOYMENT AND ENTRAPMENT OF GHETTO YOUTH* (1980).

39. The author has calculated these figures based on his own research.

But I suggest that there might be some surprises for us. It is my suspicion that strengthening the family and providing quality education for sons and daughters would be enormous priorities. A simple example of a surprise is of note here. Robert Higgs in a book that has become recently popular with economists called *Competition and Coercion: Blacks and the American Economy 1865-1914*,⁴⁰ asserted that after Emancipation the first priority of blacks was an extended celebration and vacation from labor. I think Mr. Higgs is sorely wrong. The evidence is that the first thing that blacks attempted to do after Emancipation was to bring their families together,⁴¹ especially if they had been scattered as a consequence of slavery. Reformation of the family unit was the first priority, not vacation, comfort or food.

VII. CONCLUSION

It was with the black family that we started this investigation; it is with the black family that we have to begin the hardest phase of our fight as a race. Both black economists as theorists and black officers of the court as activists must redirect our energies on behalf of the underclass with the underclass defining our assignments rather than our assignments being defined externally to the black community. We are faced with a choice between permanent dictatorship by the experts, which sounds remarkably like fascism, versus the building of genuine socialism. It has been said that each time the United States comes to a fork in the road it goes both ways. That is no longer possible. The choice confronts us with a clear challenge in terms of what direction we are going to take in changing the fate of the black community in the United States.

THE ROLE OF THE BLACK LAWYER: A MARXIST VIEW

Harold McDougall

I. INTRODUCTION

In the following discussion of the role of the black lawyer as an agent of social change, a Marxist analysis will be employed to examine, initially, the place of law in the progress of black people. This analysis will focus upon two great upheavals in American history, termed here as the First and Second Reconstructions.

The First Reconstruction, from 1865 to 1877, sprang out of the Civil War and the Abolitionist Movement, and took liberty as its ideology; it was

40. R. HIGGS, *COMPETITION AND COERCION: BLACKS IN THE AMERICAN ECONOMY, 1865-1914* (1977).

41. See H. GUTMAN, *THE BLACK FAMILY IN SLAVERY AND FREEDOM 1750-1925* (1976).