

PREFACE

A Call To Us All

“Where there is no vision, the people perish.” Wiser words than these were never spoken, for they flowed from the mouth of the reputed wisest man to ever live, *i.e.*, King Solomon. Solomon was asserting that without an underlying sense of unified purpose to drive a nation or a people, that that nation would cease to be a nation and that people would cease to be a people. Why? Because the inevitable ravages of time, executed upon all through the medium of human events, will capriciously determine the fate of any people who do not control the determinants of their fate. In other words, because change is inevitable, then, as Gil Scott Heron has said, “the only question that remains is will we begin to direct the change, or simply continue to go through the change.”

A synopsis of the present condition of Blacks in America should amply illustrate the dangers of just “go[ing] through the change.” The sobering spectre of starvation that has plagued our brethren who dwell in such places as Ethiopia and the Sudan, has not totally spared those of us who live in such places as New York, Chicago, and Los Angeles. Too many Black men still are unable to find meaningful work, while Black youths, facing an unemployment rate in excess of 40%, consider themselves very fortunate if they can find any employment at all. One of the major causes of this unacceptable state of affairs is the overall quality, or rather the lack thereof, of the education afforded our young people by our nation’s public school system. As disheartening as the causes of our underemployment may be, the effects are even more so. Large numbers of Black men, who are out of work because they have been undereducated, find taking to the streets to be their only alternative; yet even the streets take their heavy toll on our community through illicit drug use and violent crime. The path that leads from our cities’ streets to the jail cells so readily afforded our youth is an all-too-well-traveled road. Ironically, incarceration may even be a perverse blessing to our youth, in light of the fact that murder is the number one cause of death for young Blacks in our major cities. In addition, many young Black women are caught up in a “vicious cycle” of teenage pregnancy and welfare dependency. This is what is meant by merely “going through the change.”

Can any race of people long endure such conditions, conditions that are fostered by the degenerating throes of uncontrolled change? Does this sound like a people perishing for the lack of a vision? Does this sound like the systematic undermining of, or even the intentional destruction of an entire people? If so, then it is “on all fours” with Webster’s definition of GENOCIDE. Are you concerned? Concerned enough to “direct [a] change?”

Not all Blacks face these miseries. The collective struggle for our civil rights in the 1950’s and 60’s provided a fair number of us with limited access to, what for us is, “the other America.” More of us than ever before are attending college, and some of us go even further than that by attending graduate and professional schools. Some of us have even managed to meet the

“standards” set for us by admissions committees and are attending law school. Legal education has afforded us a look into the mysteries of jurisprudence, and has taught us what it means to be lawyers: either to be the guardians of democracy, or to be adverse possessors of the American Commonwealth. In addition, it has provided manifold insights into why we as a people have a disproportionately low share of the wealth and political power in this nation. This privilege of education that was won for us through the long-suffering struggles of our forebears, is not ours without qualification: it was delivered to us coupled with responsibility.

Responsibility? Yes, responsibility. Visions are the product of the minds of men and women who have a sense of responsibility towards their people. In our community, if no one else has this abiding commitment to the well-being of the whole, those who have benefited the most from the community should have it. These are they who have the most ability to manifest positive change, these are they who have the responsibility of leadership. The privileged few, or the “talented tenth,” if you will, of our community are responsible to and for the less fortunate.

It was in this spirit of commitment, that seventeen years ago, a small group of Black UCLA Law School students heeded the call of responsibility by founding the *Black Law Journal*. These pioneers had a vision of the future that necessitated the creation of a national legal forum for all Blacks to discuss the problems inherent in, and the solutions necessary for, the advancement and protection of our race. They had the insight to recognize that the most effective road to Black progress in our struggle for dignity, had been, and would continue to be, the road that went through the courts. This is why the *Journal* must continue to be an index without parallel of the pertinent thoughts and ideas of all those sympathetic to our struggle for freedom and justice.

Today, as we at the *Black Law Journal* stand at this particular nexus of events upon the infinite plane of Time, we are able to look back and see that through much sacrifice and determination, our Founders were able to ascend and to ride the crest of the wave of activism that swept through America in the 1970's. However, (pardon our colloquialism) “the times: they are a-changin’.” The activist decade of the seventies has given way to the passive “me generation” of the eighties. Projects, plans and visions that won't necessarily provide instant gratification to the egocentric are often thought to be not worthwhile. We at the *Journal* cannot agree.

In order to reaffirm that vision and commitment of our Founders, we at the *Black Law Journal* are changing our name to the *National Black Law Journal*. This direction of a change is by no means a change of direction. We believe that this change is necessary to reflect the national focus and constituency that the *Journal* has always had. The *Journal* has always sponsored consortium issues in order to involve Black students from around the nation in the *Journal*'s publication process. In addition, the *Journal* always has urged, and will continue to urge individual Black law students from across the nation to submit articles to the *Journal* for possible publication, without regard to whether their school has or will publish an issue of the *Journal*. We will continue to emphasize the fact that the *Journal* is a national vehicle for Black unification and progress; and as such, can never be a local law students' vehi-

cle of privilege, but must always be a tool for carrying out our responsibility to the at-large Black community. This is our vision. This is why we feel the need to stand on the vanguard of positive change.

In the first issue of Volume 10, we have effectuated additional changes: some of which are merely cosmetic, others of which are fairly substantive. For the first time in the *Journal's* history, we are publishing a joint-edition to symbolize our commitment to the nation-wide unification of our effort. This joint UCLA/Boalt Hall edition is but a harbinger of good things to come in the arena of synergy. With this edition, we at the *Journal* will begin to more fully focus our attention on the manner in which we can solve our people's present plight. This is not to say that analyses of our once and present difficulties will be undercut, for we believe that such analyses are an integral part of the problem solving process. However, let us no longer be content with urbane pronouncements of what our problems are, we all know what they are. Responsibility calls for more than sensitivity, it calls for solutions. This is a call to us all.

As we mentioned above, the lack of quality education is a major problem in our community; therefore, the *National Black Law Journal* board at Boalt Hall sponsored a symposium on "Education for Black Power in the Eighties." We hope that our readers find Judge Henry Ramsey's *Opening Remarks*, Charles Lawrence's *Present-Day Implications of the Bakke Decision*, and Mary Hoover's *The Politics of Education: Illiteracy and Test Bias* to both inspirational and informative. Reginald Clark's *Major "Social Change" Initiatives in the Quest for Effective Education in Black Communities Directions Old and New* is an in-depth analysis of, coupled with concrete proposals for, our beleaguered educational system. It is really an article on the vanguard of change.

In addition, Arthur Haywood offers some concrete proposals and strategies for legally challenging employment discrimination: *Can Theories of Intentional Wage Discrimination and Comparable Worth Help Black People?* You bet they can! As a Special Feature, we are proud to present Patrick Patterson's *Statement on Behalf of the NAACP Legal Defense and Educational Fund, Inc. before the House Subcommittee on Employment Opportunities*, which explains how, under the current administration, the EEOC has attempted to turn the clock back twenty-five years with regard to discrimination in employment. *Administrative Res Judicata and Section 1983: Should the Rule of Preclusion Apply to Unreviewed State Administrative Agency Decisions?*, Gregory L. Wallace's student comment, addresses this timely issue and offers suggestions that will allow full vindication of a plaintiff's civil rights under 42 U.S.C. § 1983 (1983). Finally, Elana M. Yancey's *The Administration of Criminal Justice in the United States and the Republic of Nigeria: a Comparison* is a continuation of the broadening of the *Journal's* horizons both within and without the shores of the United States. This scope-broadening is necessary because the struggles of people of color neither begin nor end from sea to shining sea.

With this first issue of Volume 10, we at the *National Black Law Journal* heed the self-same call that our Founders heeded, and we re-dedicate ourselves to their worthy vision. The vision of providing a national legal forum for Black Americans. A forum that is an integral part of the call to strive in unity for dignity; the call to transform the "jangling discord" of our individualized

efforts into a well-orchestrated example of synergistic effectuality. This call is a call to us all.

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