January 1994

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Berkeley Journal of African American Law and Policy

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Recommended Citation
Available at: http://scholarship.law.berkeley.edu/bjalp/vol1/iss1/5

Link to publisher version (DOI)
http://dx.doi.org/https://doi.org/10.15779/Z38H61W

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BOOK NOTES

"Each One, Pull One": The Inspirational Methodology Behind an Impassioned Though Somewhat Flawed Protest


Reviewed by Mario L. Barnes**

Each One, Pull One¹
(The Thinking of Lorraine Hansberry)
We must say it all, and as clearly as we can. For, even before we are dead, they are busy trying to bury us.
Were we black? Were we women? Were we gay? Were we the wrong shade of black? Were we yellow?
Did we, God Forbid, love the wrong person, country or politics? Were we Agnes Smedley or John Brown?
But, most of all, did we write exactly what we saw, as clearly as we could? Were we unsophisticated enough to cry and scream?²

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1. This Alice Walker poem, which is excerpted throughout the review, appears to capture the essence of Derrick Bell’s protests. The poem can be interpreted as encouraging every solo protestor to assume responsibility for all us. The poem resonates with the notion that “all of us must live or none.” Alice Walker, Each One, Pull One (Thinking of Lorraine Hansberry), in Horses Make a Landscape Look More Beautiful 50, 53 (1984).

2. Id. at 50 (emphasis in original).
I

INTRODUCTION

In *Confronting Authority: Reflections of an Ardent Protestor*, civil rights activist and former Harvard law professor, Derrick Bell, articulates “exactly what he has seen” throughout his repeated battles with authority. These battles demonstrate how Bell has mustered the courage to be “unsophisticated enough to cry and scream.” The book — which one can describe as a blueprint for action in the fight against institutional racism — simultaneously tells two riveting stories. One is an autobiographical narrative detailing the times during Professor Bell’s life when he felt compelled to protest what he perceived to be racial injustice, often at immense professional and personal costs. The other story, consistent with the style of his earlier works, is a fictional account of the Citadel, a great city upon a hill, inhabited by a prosperous, self-perpetuating Council of Elders. This privileged class constantly struggles to maintain its superiority over the sometimes rebellious, but continuously oppressed, lowlanders living just outside this would-be Camelot.

Professor Bell’s personal story, which chiefly describes the protest that led to his dismissal from Harvard, offers opinions on the rewards and dangers inherent in solo protest. Moreover, he gives other examples of ardent protests within the African-American community and attempts to explain why people are willing to confront authority when there is often little hope of success, and much to be lost. Bell does not jeopardize the credibility of the book by portraying himself as a prophetic activist who always makes the correct choice when confronting the problems of inequity. To the contrary, the reader is thoroughly exposed to the intrapersonal and community conflict that his decisions created. In the wake of Derrick Bell’s Harvard protest, both the students he sought to serve and the associates he sought to elevate may, ultimately, have been disserved greatly by his actions. The book provides an opportunity for readers, as witnesses to the aftermath of Bell’s struggle, to assess the prudence and the effectiveness of his methodology.

The book’s complimentary narrative — the story of the Citadel — is best described as an exemplar of any relationship between two

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3. *Id.*
groups, where a dominant group benefits from the labor of an oppressed group, without ever truly accepting any of its members among the ranks of the privileged. Specifically, the Citadel tale demonstrates the extraordinary lengths to which the dominant group is willing to go to preserve the status quo. The tale cautions underrepresented groups to be wary when their members are invited to join the kingdom of the oppressors on the basis of supposed “meritorious” competition and selection. Such an invitation may simply be an attempt to pacify cries for inclusion and justice without a genuine commitment to opening the doors of the kingdom to outsiders.

As with his personal narrative, Derrick Bell invites the reader to critique the Citadel tale and the view of the academy that it depicts: To the extent that the Citadel story is supposed to represent the patterns and practices of the legal academy, the question becomes whether the extreme positions Bell attributes to the dominant and oppressed groups in the tale obscure the less obvious but potentially more complex discrimination that he observed at Harvard. Both the value and methodology of protest seem much clearer in a world where all the members of the dominant society are villains intent upon locking out minorities. One section of this review will explore whether such a story is helpful in a world where academy members believe in meritorious standards for selection and do not perceive themselves as villains.

Both the parable and Professor Bell’s personal story can serve as models of action for African-American communities. I use the word “communities” rather than “community” to reflect the varied ethnic, social, and political identities and interests embodied in recognizable sub-divisions of the African-American diaspora. Although these models may not represent approaches that encourage collective protest, and may result in the attainment of finite goals less frequently than other approaches, Bell’s parable and personal story still remain valuable. Professor Bell’s reflections upon his ordeals, and those of other protestors, serve as an inspiration and a call-to-arms to communities whose leaders are often nonresponsive to institutional bigotry. The Citadel tale serves as a poignant reminder that all is not well in the fight for equality. Even when African-American leaders gain access to “the Establishment,” many African Americans feel that these chosen few do not always represent them and do not care about the plight of their communities.

In the last chapter of his book, Derrick Bell speaks fondly of Alice Walker, recalling how one of her personal protests exemplified the need to preserve a strong sense of self when confronted by the pressure to compromise (pp. 150-51). He also reflects upon one of her essays that he feels captures the essence of protest — the struggle to reconcile “what is” with “what might be” (p. 162). An insightful frame of refer-
ence from which to analyze Professor Bell's actions is provided by Alice Walker's poem, *Each One, Pull One*.

Not surprisingly, Ms. Walker, the womanist protestor, may have captured the spirit and objective behind all African-American solo protest. Because we do not "worship them," they try and prevent us from writing, telling, and singing the truth. In spite of them — the would-be repressors — each person must rely upon the strength of all those who came before him/her; each of us must try to help another out "of the grave" by pulling him/her "back into the sun." Walker's poem is a mandate for action, a challenge to each individual. Professor Bell's actions represent an answer to Walker's call and a continued challenge to others. Bell's deeds and Walker's words squarely pose the question of whether an individual's decision to take responsibility for one other person, or a group of people, can help to advance the goals of entire communities.

While Professor Bell did not include Walker's poem as part of his reflections, it clearly embodies the expanse of his goals, the depth of his vision, and the spirit of his protests. Through the use of Walker's poetry, one can recast Bell's reflections as more than just a retelling of his life experiences. This chronicle can be viewed as Derrick Bell's attempt to help others back into the light.

This review will summarize and analyze Professor Bell's protests, reflections, and warnings as communicated through his autobiographical recollections and the tale of the Citadel. It will highlight the advan-

5. As one among several definitions, Walker offers the following definition of the term "womanist":

1. From *womanish* (Opp. of "girlish," i.e., frivolous, irresponsible, not serious.) A black feminist or feminist of color. From the black folk expression of mothers to female children, "You acting womanish," i.e., like a woman. Usually referring to outrageous, audacious, courageous or willful behavior . . .


6. *Walker, supra* note 1, at 50. While Walker does not explicitly define the "them" in her poem, the phrase can clearly be interpreted as meaning those who oppress or silence minorities.

7. In approaching Walker's poem and its relevance to this review, I have decided that her cry for the inclusion of excluded voices is not limited to the writers and artisans referred to in the poem. Her words are also relevant to those within the legal academy. Professor Jerome Culp proposes the idea of adding the voices of African Americans within legal academia alongside others in the struggle for inclusion in the following passage:

Black art (jazz and the blues), black literature (slave narratives, novels, and autobiographies), and black religion have all been about ways around the required silencing of black voices. Black Legal Scholarship and Critical Race Theory have to be about altering that history by adding our voices to the *singin', writing and arguing of other black voices*.


tages of his approach and those of others who have challenged authority, and will question the effectiveness and, ultimately, the ability of these approaches to inspire others.

II
Derrick Bell and Protest

Well, then, they will fill our eyes, our ears, our noses and our mouths with the mud of oblivion. They will chew up our fingers in the night. They will pick their teeth with our pens. They will sabotage both our children and our art. Because when we show what we see, they will discern the inevitable: We do not worship them. We do not worship them. We do not worship what they have made. We do not trust them. 9

A. A Personal History

In 1992, Harvard Law School severed its sixteen-year association with Professor Derrick Bell. The school revoked his tenure in response to his refusal to end a self-imposed two-year absence (pp. 94-97). Professor Bell left in 1990 to protest the law school’s failure to offer a tenure-track position to a woman of color, despite the presence of those he viewed as “qualified” candidates. While Professor Bell’s leave from Harvard was the protest which garnered him the greatest amount of attention, it was but one in a long sequence of confrontations with authority. The book details Derrick Bell’s confrontations with many instances of individual and institutional racism. Most memorably, he recreates the story of being arrested in the sixties, in Jackson, Mississippi, for his uncommonly angry insistence upon using a public phone in a “whites only” waiting room of a train station (pp. 23-24). Some years prior to the arrest, Bell had resigned in protest from his first job after law school. Although there was little work in the sixties for African-American law school graduates, Mr. Bell resigned from his position with the Department of Justice when his superiors requested

9. Id. at 50.
that he terminate his membership in the National Association for the Advancement of Colored People (NAACP) (pp. 17-19). His subsequent job was with the NAACP Legal Defense and Education Fund. Following his tenure with the NAACP, he obtained a position as Deputy Director of Civil Rights for the Department of Health, Education and Welfare (DHEW), — a position he subsequently left amidst protest (p. 24). After a failed fight to force the bureaucracy to expedite the process of school desegregation, he sought different employment (p. 25).

Harvard Law School approached Professor Bell in 1969 after his departure from DHEW, while he was a lecturer and clinical program director at the University of Southern California (pp. 31-33). Bell accepted the position in the wake of nationwide student protests and the general unrest among African-Americans following the death of Dr. Martin Luther King, Jr. (p. 33). Professor Bell accepted the position with the understanding that part of his duties were to serve as a role model and mentor for African-American students (p. 34). He also conveyed to the dean his expectation that the faculty would hire and tenure other professors of color (p. 34). In 1974, Professor Bell threatened to stop teaching unless Harvard honored the commitment that it had made to hire other minority faculty members (p. 43). Soon thereafter, Harvard hired Clyde Ferguson, another African-American male, although it denied that the decision was due to Bell’s protests (pp. 43-44). Harvard subsequently hired three additional African-American men between 1981 and 1986. Harvard hired no women of color (p. 47).

To protest the lack of women faculty of color at Harvard, Professor Bell left Harvard in the early eighties to assume the deanship at the University of Oregon — a post he subsequently left due to the faculty’s refusal to hire an Asian-American woman who had been interviewed (pp. 44-46). He then returned to Harvard with expectations of reform; however, he was met with disappointment, as one promising candidate after the next was reviewed but not hired. On April 24, 1990, he announced that he was taking a leave of absence and would not return to Harvard until it offered a permanent position to a woman of color (p. 3). So began his latest great confrontation, as well as the end of his academic career at Harvard.

Derrick Bell’s history of protest, especially his willingness to relinquish his coveted Harvard seat, is a direct manifestation of Walker’s notion that “we” do not worship “what they have made.”10 With the exception of his NAACP work, Bell had worked primarily in white organizations. Certainly, Harvard, one of the most prestigious universities

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10. Id.
in the world, was "their" creation; it was not created by or for people of color. Moreover, the present state of the law school faculty indicates that the institution does not value the potentially positive impact of the voices of African-American women.

More than just a lyrical soliloquy given to oppressed communities, Walker's words could almost be the dialogue of a one-man play created for Bell. He did not worship "them" and learned not to trust "them". Bell reflects that his father, like many pre-Civil Rights Era African Americans, generally distrusted whites. Bell latently discovered that a dose of his father's sensibility would have aided him in his fight against institutional racism (p. 14). Immediately prior to his protest, Bell realized that he could no longer rely on the University's promise to treat fairly the outstanding female candidates of color and the students who deserved the benefit of their presence (p. 90). Refusing to be silenced, as if by the "mud of oblivion," he exercised the most powerful action at his disposal; he left. The attention he could not obtain with his presence at Harvard certainly came with his absence. In Bell's own words, if he could not reason with Harvard's faculty, "[he] could damn well embarrass them," through his very public departure.18

B. Whether "Doing Right" Means "Doing Good"

Bell's salient history of protest is marked by a challenge that every potential protestor must face: When and where is it appropriate to take disruptive actions? Through reference to his self-doubt, Bell invites readers to decide if he was right to act, and if his actions were a correct form of resistance. Ultimately, Bell and his supporters decide that he was correct in his mission and his behavior.18 However, not all observ-

11. Id.
12. Derrick Bell, Speech given at Marcus Bookstore, Oakland, CA (Nov. 4, 1994).
13. See generally, DERRICK BELL, CONFRONTING AUTHORITY: REFLECTION OF AN ARDENT LAW PROFESSOR ix-xii (1994) [hereinafter BELL, CONFRONTING AUTHORITY]. Even though Bell indicates that he was conflicted in his decision-making, some of his scholarship prior to his Harvard protest perhaps foretold his actions. In an earlier work, Bell had written:

'There are undoubtedly some in civil rights work who willingly serve their employers by talking tough without intention of following through. They accept their salaries knowing that the less work they do, the better their employers will like it. But many want to make progress, work hard toward that end, and take risks that may cost them their jobs.'

ers believe that Bell’s insistence on action is the most productive method of challenging authority. One reviewer notes that some will decide that rather than work within institutions, Professor Bell “too often takes his marbles and goes home.”

Professor Bell, himself, admits that his protest did not accomplish his ultimate goal: “Judging from the results, I must conclude that I moved the school’s policies in a direction opposite to that I intended” (p. 5). However, he also believes that virtually all racial advances in this country are spawned by disruptive activity or its threat (p. 62).

Thus, while Professor Bell seems confident that his commitment to action was a display of “doing right,” he is not as certain that the behavior also represented “doing good.” Bell calls attention throughout his story to the limitation of words without deeds. What about the impact of deeds without wisdom? Professor Bell’s self-sacrificing behavior was courageous, but some argue that such behavior should have been tempered with greater care for the outcome and impact on others. For instance, after his protest, Harvard students were left

At a symposium given in Professor Bell’s honor after his departure from Harvard, Charles Lawrence labelled Derrick Bell’s methodology, the “practice of liberationist pedagogy,” which is composed of “(1) classroom teaching, (2) teaching through scholarship, (3) teaching through activism, and (4) teaching by making us family.” Charles R. Lawrence III, Doing “The James Brown” at Harvard: Professor Derrick Bell as Liberationist Teacher, 8 HARV. BLACK LETTER J. 263, 264 (1991) (emphasis added). Note finally, one reviewer referring to Bell’s story as “the triumphant saga of one who has made plain the content of his character.” Evelyn C. White, The Man Who Fought Harvard Law, S.F. CHRON., Jan. 22, 1995, Sunday Review, at 9 (emphasis added).


15. In this context, “right” means that the actions were correct because they preserved Derrick Bell’s sense of self, and because Bell was morally correct in asserting that the Harvard faculty should be diversified. However, even as Professor Bell claimed that solo protest offered value beyond the praise it garnered, he admitted that “the affliction of all do-good protestors is the knowledge — usually gained in painful ways — that there are no unmitigated good works.” BELL. CONFRONTING AUTHORITY, supra note 13, at 6-7 (emphasis added). Moreover, he fully admits that “[e]ven the most well-meaning can err in the mission of good . . . .” Id. at xii.

16. Professor Bell cautions that the “wise protestor” is the person who can see past laudatory commentary of observers to their sometimes oppositionist feelings. BELL. CONFRONTING AUTHORITY, supra note 13, at 6. I posit that an additional definition of a wise protestor is the person who can gain the greatest concessions with the fewest costs to himself/herself or others.

17. In addition to “right” referring to moral correctness, see supra note 15, “right” can also refer to whether Derrick Bell had a “right” — the power/ability one ought to possess as a means to do good — in taking the actions that he took. With regard to this definition of “right”, one theorist has proposed:

[R]ights and their exercise are limited by other rights. . . . Within limits . . . the meeting of the needs of the community — or the promotion of the good of the community — justifies restrictions of the behavior of individuals, whether they consent or not. Vernon Van Dyke, The Individual, the State, and Ethnic Communities in Political Theory, 29 WORLD POLITICS 343, 350 (1977) (emphasis added). Depending upon how one defines “good of
without Bell, and they still do not have a tenured woman of color. No matter how right he was, he acknowledges that these results certainly were not "good" (p. 65).

Bell also concedes that in some ways he may have ostracized many within the very group that he was attempting to help. Regina Austin, the black woman professor visiting at Harvard when Bell began his leave, did not believe that the protest was "good" for her. In fact, she believed his protest hurt her chances of becoming a tenured law professor at Harvard Law School (pp. 65, 114). Moreover, Bell's failure to consult with Regina Austin prior to taking his leave has been described as "a decision that will strike many as selfish and hopelessly paternalistic." 8

It does seem strange that Professor Bell did not at least confer with Professor Austin before casting her teaching and scholarship into the public eye. In the book, while making a case for Austin's appointment, he raves about her article, Sapphire Bound!. 9 Ironically, this article reveals Austin as a person fully capable of fighting her own battles. 20 Moreover, her scholarship advocates that women of color act on their own behalves. 21 While it is disingenuous to assert that it was Derrick Bell's intention to "oppress" Professor Austin, in Sapphire Bound!, Austin generally cautions women of color about the crippling results of relying on others, dissimilarly situated, to advocate on their behalf. 22

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the community," one could argue that Derrick Bell's individual protest should have been curtailed in favor of a greater possibility of gaining a "good" result for the community.

18. Kalman, supra note 14, at 16. Professor Bell's reflection on this element of his protest is not at odds with this description. BELL. CONFRONTING AUTHORITY. supra note 13, at 116. He attempts to explain that all solo protestors face tough choices about the sacrifices that must be made in the name of cause. One of the casualties of this cause was the temporary loss of Austin's friendship. Id. at 113-14.


20. Professor Austin states:

Well, I think the time has come for us to get truly hysterical, to take on the role of "professional Sapphires" in a forthright way, to declare that we are serious about ourselves, and to capture some of the intellectual power and resources that are necessary to combat the systematic denigration of minority women. It is time for Sapphire to testify on her own behalf . . . .

"To testify" means several different things in this context: to present the facts, to attest to their accuracy, and to profess a personal belief or conviction. The minority feminist legal scholar must be a witness in each of these senses.

Id. at 542 (footnote and citations omitted).

21. Note the following passage:

[I] can think of nothing more debilitating than thinking ourselves dependent upon the good will and civility of those in a position to oppress us. . . . We have paid our dues, done more than our share of the doing and the dying, and are entitled to prosper with everyone else.

Id. at 543.

22. Professor Austin's instruction is quite important since it has been noted that African-American female activism within institutions may be a function of the group being impacted by
Furthermore, the passage in *Sapphire Bound!* seems just as relevant to Bell's behavior when one reads Austin's claim: "It is imperative that our writing acknowledge and patently reflect that we are not the voices of a monolithic racial/sexual community that does not know class divisions or social and cultural diversity." In essence, Austin's voice may not have embodied the same perspective as Bell's.

multiple systems of oppression. See *Patricia Hill Collins, Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* 155 (1990). Moreover, studies on black women leaders suggest that black women "work for institutional transformation in characteristically Afrocentric feminist ways." *Id.* at 159 (emphasis added). It should be noted that while I find it helpful to suggest that Regina Austin may have wished a different response to Harvard's actions than Prof. Bell's protest, I am not supporting the potentially "essentialist" notion that can result from such a claim. I am not asserting that black women, as a monolithic group, respond uniformly to institutional racism. I agree with law Professor Barbara Flagg; she has asserted that rejecting the essentialist notion that particular sex/race group members share uniform interests and perspectives does not mean that "one may never make roughly accurate generalizations about groups or their interests." *Barbara J. Flagg, Enduring Principle: On Race, Process, and Constitutional Law,* 82 Cal. L. Rev. 935, 936 n.5 (1994). For an excellent discussion of race and gender essentialism, see *Angela P. Harris, Race and Essentialism in Feminist Legal Theory,* 42 Stan. L. Rev. 581, 588 (1990) (explaining essentialism as the concept that a homogeneous "women's experience" or "black experience" exists independent of other important aspects of experience).

23. See supra note 21.

24. Austin, *supra* note 19, at 544. Bell and Austin may both want increased participation by women of color in the academy, but Austin may not have agreed that her potential teaching offer was the time to wage such a fray. Derrick Bell, himself, admits that "the decision to confront rather than conform is intensely personal . . . ." *Bell, Confronting Authority, supra* note 13, at x. Psychological research also indicates that male and female responses to situations involving conformity versus confrontation may be different. See *David G. Myers, Social Psychology* 262 (2d ed. 1987) (noting a slight difference between males and females in conformity experiments that can be described as a "greater people orientation" by women). See also *Carol Gilligan, In a Different Voice: Psychological Theory and Women's Development* (1982). Gilligan's research contends that women's moral judgment differs from that of men to the extent with which women's judgments are tied to feelings of empathy and compassion. *Id.* at 69. Before discussing Gilligan's research further, it should be noted that her conclusions about gender and difference have been significantly criticized by social scientists and members of the legal academy. See *Catherine G. Greeno & Eleanor E. Maccoby, How Different is the "Different Voice"?,* 11 Signs 310 (1986) (finding that Gilligan's work on moral reasoning is contradicted by other studies indicating no gender-based differences); *Catherine A. Mckinnon, Feminism Unmodified: Discourses on Life and Law* 38-39 (1987) (criticizing Gilligan's description of women's moral reasoning as being rooted in gender inequality); Deborah L. Rhode, *Feminist Critical Theories,* 42 Stan. L. Rev. 617, 624-25 (1990) (claiming that "different voice" theory is a mechanism to support harmful stereotypes of women); Joan C. Williams, *Deconstructing Gender,* 87 Mich. L. Rev. 797, 801 (1989) (characterizing Gilligan's description of gender differences as "inaccurate" and "potentially destructive").

25. I believe Derrick Bell's actions are an example of a person following through on a morally correct principle, no matter what the consequences. Carol Gilligan gives us examples of women whose moral reasoning is more closely tied to considering the pain caused to themselves and others. See *Gilligan, supra* note 24, at 132-50. Moreover, the research of both Gilligan and Mary Belenky has supported the following belief about black women:

[O]ur experiences as othermothers, centerwomen, and community othermothers foster a distinctive form of political activism based on negotiation and a higher degree of atten-
As the previously cited *Sapphire Bound!* passages reveal, Austin has strong views on the role of women of color in the legal academy. It is inconceivable that she would not be allowed to assist in defining the terms on which the battle for her livelihood would be fought. Some will decide that Bell's actions were correct, despite their impact on Austin. After all, though she stood to gain or lose directly, Bell's protest was not only about her; it was designed to call attention to Harvard's institutional racism/sexism.

I disagree with any such assessment. This is a case where exercising greater wisdom could have culminated in a better result. Such wisdom would not have allowed Bell to divorce consequences to Austin from the assessment of the effectiveness of the struggle. Despite his belief in his action, Bell seems to understand the potential for such criticism and attributes his decision to the protestor's fallible human nature.

Ultimately, however problematic Professor Bell's individual acts of heroism, they have a place alongside the actions of those working in the collective struggle to gain "true" equal rights for African-American communities. African Americans are disrespected and devalued in...
their working environments and society in general, but most remain in those environments without challenging those who discount their worth. Some are rendered passive by economic fears; others believe that working for change within the organization is the most prudent course of action. Professor Bell’s rejection of these rationalizations does not irreparably hurt the opportunity for progress. To the contrary, Bell’s methodology complements the actions of those who remain in the academy working for inclusion of women of color. While others wage a daily war within universities, Derrick Bell’s “unsophisticated” agi-

models based on personal initiative and move past its previous “narrow based formula for success”).

31. In the following passage, Professor June Jordan reflects upon the failure of African Americans to protest even as our rights are stripped away:

Should we surrender our grievances and wither away in civil silence? Have we lost heart? Have the streets and the highways and the bridges of America closed down? Can we not take to them in anger and in expectation of relief? Is it better to scream or to die?

If we are afraid to insist we are right, then what?

JUNE JORDAN, Where Is the Rage?, in TECHNICAL DIFFICULTIES 175, 179 (1992). One legal scholar has also discussed the cost of such acquiescence:

[As my colleague Jim Coleman points out, the status of black people in the 80’s was at least partially impacted by the acquiescence of the black community in some of the actions of the Reagan Administration and the Supreme Court that helped to increase the power of white supremacy.

Culp, supra note 7, at 212 (emphasis added).

32. Choosing how to respond to struggle and affront has created community strife throughout the history of African Americans in this country. See generally TAYLOR BRANCH, PARTING THE WATERS: AMERICA IN THE KING YEARS 1954-63 (1988) (a chronicle of the Civil Rights Movement, describing the turmoil created in the black community by boycotts, sit-ins, freedom rides, and school integration); A COMMON DESTINY: BLACKS AND AMERICAN SOCIETY 220-29 (Gerald D. Jaynes & Robin M. Williams, Jr. eds., 1989). Many simply think about change without ever sacrificing anything for it. Alice Walker appropriately subtitled her poetic call for unity and action, “Thinking of Lorraine Hansberry.” On the topic of fighting for change during the 1960’s, this great African-American playwright posed the question: “’Do I remain a revolutionary? Intellectually — without a doubt. But am I prepared to give my body to the struggle or even my comforts?’” TO BE YOUNG. GIFTED AND BLACK: AN INFORMAL AUTOBIOGRAPHY OF LORRAINE HANSBERRY xix (Robert Nemiroff ed., 1969) (emphasis in original). In response to her own question, an ill but no less defiant Hansberry answered, “’I think when I get my health back I shall go into the South to find out what kind of revolutionary I am.’” Id. at xx. Derrick Bell, implicitly, and Alice Walker, explicitly, encourage us to ask ourselves what kind of revolutionaries are we?

33. Most persons working for change in the legal academy cannot have the impact of Derrick Bell. Each person concerned with improving faculty diversity will be limited by some constraints. For those who applaud Bell’s actions, his response to Harvard Law School appears to be a unique example of “the right thing to do, the right time to do it, the right man and the right place.” Cf. Charles J. Ogletree, Justice Marshall’s Criminal Justice Jurisprudence: “The Right Thing To Do, The Right Time To Do It, The Right Man and The Right Place”, 6 HARV. BLACK-LETTER J. 111 (1989) (Professor Ogletree quoting President Lyndon Johnson’s nomination speech for Justice Thurgood Marshall) (footnote omitted).

34. WALKER, supra note 1, at 50.
tation acts as a form of audacious storytelling, a story that must be heard by foes and friends. He reminds the dominant members within the academy that some of their colleagues of color are dissatisfied with their mere token efforts to include. Derrick Bell's autobiography challenges fellow workers in the struggle — present and future — not to forget that there is more work to be done. As civil rights advocacy has indicated, protest is most effective when exercised in all its forms. Viewed in this context, the costs associated with Professor Bell's powerful, though arguably imprudent approach, do not seem so great.

In Alice Walker's poem, she describes the oppressors as depriving African Americans of their ability to speak. Professor Bell is a testament to the refusal to be silenced. Walker's words and Bell's actions encourage the casting off of sophistication and privilege to ensure that our voices are heard. The individual action-oriented methodology ad-

35. In speaking of a textbook edited by Derrick Bell, Charles Lawrence asserts that Bell's view on antidiscrimination serves as a model for students of "the essential revolutionary act of assuming the authority to tell one's own story." Lawrence, supra note 13, at 266. His story, like those of other law professors, includes "the conflict he feels daily as an outsider on the 'inside.'" Id. at 267. While others work within the system toward the goal of overcoming the academy's token inclusion, Bell uses his story, his autobiography, to fight it. For a discussion of the use of autobiography as a method of impacting legal academia, see Jerome M. Culp, Jr., Autobiography And Legal Scholarship And Teaching: Finding The Me In The Legal Academy, 77 VA. L. REV. 539 (1991). Professor Culp posits that the conscious use of autobiography by African-American professors is a method of destroying the "homogeneity myth" — the myth that all professors share essentially the same experience. Id. at 540.

36. As one professor commenting on the potential impact of Bell's methodology has noted, the change borne of protesting is not limited to the world of the oppressors:

There is a potential for change nascent in that failure to acquiesce and part of the change in our status as black people is that we are no longer wise by continuing to be silent. Culp, supra note 7, at 212 (commenting on how Derrick Bell's "harassing" behavior contradicts the notion proliferated since slavery — that for blacks there is wisdom in silent acquiescence to oppression).

37. See generally, Manning Marable, Race, Reform and Rebellion: The Second Reconstruction in Black America, 1945-1990 (1991). More specifically, history is replete with examples of how solo protests, based on disparate views, acted in concert with collective movements to produce change. For example, the success of the anti-lynching campaign of the 1930's was tied to the collective integrationist approach of the NAACP and the outspoken segregationist rhetoric of solo protestor, W.E.B. Dubois. See Herbert Shapiro, White Violence and Black Response: From Reconstruction to Montgomery 273-82 (1988); W.E.B. Dubois, The Souls of Black Folk (1969). Also, the Civil Rights Movement of the 1960's was effective, in part, due to group protests, such as sit-ins and marches, and individual protests, such as the defiant actions of Martin Luther King, Jr., Rosa Parks, and Malcolm X. See generally Branch, supra note 32; Alex Haley & Malcolm X, The Autobiography of Malcolm X (1964).

38. History has shown us that African Americans have not only kept silent in the face of white oppression, but have also lived under the fiction that there is a uniform African-American voice or position which requires that the group even be silent when its oppression is being exacerbated by the actions of other African Americans. Such a phenomenon may explain why many African Americans who believed Anita Hill's allegations against Clarence Thomas, did not support her coming forward. See, e.g., Race-ing Justice. En-Gendering Power (Toni Morrison
vocated by both are clearly not the only approaches for making change. However, Bell’s reflections remind us of the often overlooked truth; African Americans and others who are dissatisfied with the treatment they receive from institutional authorities must do something — sometimes something bold — to correct the condition and protect their dignity. Paraphrasing the Bible, Professor Bell states the basis

William Monroe Trotter, the African-American editor of the Boston Guardian described this particular subscription to silence when he challenged the rhetoric of Booker T. Washington, the leading black educator and politician of the time. In a 1902 editorial criticizing Washington for urging blacks to follow the tenets of newly-developed Southern constitutions and to exhibit “right living” Trotter opined:

William M. Trotter, *Why Be Silent*, in *AFRO-AMERICAN WRITING: AN ANTHOLOGY OF PROSE AND POETRY* 200, 201-02 (Richard A. Long & Eugenia W. Collier eds., 2nd ed. 1993). I raise this point about multiple forms of silence not to imply any similarity between the roles of Derrick Bell and Booker T. Washington, but to stress the position that African-American communities speak with many voices. Just as Derrick Bell’s actions broke a silence, so too does his behavior set in motion a dialogue where other African Americans may be heard on this issue, even those that disagree with Bell’s approach.

39. For example, Justice Harry Edwards has revealed the following about his experience as a professor at Michigan Law School:

When I started teaching, in the heat of the civil rights battles that were aiming to integrate academia, I faced some conflicting signal about my role. On the one hand, there was the possibility of being an “activist” professor . . . . On the other hand, there was the possibility of focusing on teaching and scholarship in Labor law . . . . and fully integrating myself in the life of the law school . . . .

Harry T. Edwards, *Personal Reflections on Thirty Years of Legal Education for Minority Students*, Paper presented at the Minority Alumni Weekend, University of Michigan Law School 5 (Nov. 5, 1993) (copy on file with the author). In explaining why he chose the latter course of action, Justice Edwards further explained: “[T]he students told me, ‘We don’t need you on the picket lines. We need you to be a role model. We want you to be as good as any professor in the law school . . . . If you are respected, we will be respected.’” *Id.*

40. African-American professor/philosopher/protestor bell hooks speaks of the 1980’s as a time where the reeducation to black self-determination created an opportunity to repel the “internalized racism” to which African Americans are subject in a culture of white dominance. However, she also seems to note the problematic results of our unwillingness to confront authority in this internal context:

The only justifiable critique we can make of militant black liberation struggle is its failure to institutionalize sustained strategies of critical resistance. Collectively and individually, we must all assume accountability for this failure.
of this approach: "[I]ntellect without action, like faith without works, standing alone, is dead [James 2:26]" (p. 108).

III

WHY WE MUST CONFRONT AUTHORITY

In short, we who write, paint, sculpt, dance or sing share the intelligence and thus the fate of all our people in this land. We are not different from them, neither above nor below, outside nor inside. We are the same. And we do not worship them.

But lately you have begun to help them bury us. You who said: King was just a womanizer; Malcolm, just a thug; Sojourner, folksy; Hansberry, a traitor (or whore, depending); Fannie Lou Hamer, merely spunky; Zora Hurston, Nella Larsen, Toomer: reactionary, brainwashed, spoiled by whitefolks, minor; Agnes Smedley, a spy. I look into your eyes; you are throwing in the dirt. You, standing in the grave with me. Stop it!

A. Derrick Bell's Life As An Explanation

Why would Derrick Bell, noted civil rights activist and learned Harvard professor, give up his tenured position for an ultimately unrealized goal? Consistent with an attitude found in his earlier work, bell hooks, *Back to Black: Ending Internalized Racism*, in *OUTLAW CULTURE: RESISTING REPRESENTATIONS* 173, 179 (1994).


42. Some would argue that such action is not only impractical, but also not indicative of the response of today's African-American leadership. Consider these remarks by one well-respected philosopher and activist:

[M]ost present-day black political leaders appear too hungry for status to be angry, too eager for acceptance to be bold, too self-invested in advancement to be defiant. And when they do drop their masks and try to get mad (usually in the presence of black audiences), their bold rhetoric is more performance than personal, more play-acting than heartfelt.
Professor Bell, in *Confronting Authority*, offers the following: "The disappointment of my expectation that racism would end has certainly fueled some of my protests, and may have inspired them all" (p. 17). Yet, responding to the permanence of racism was certainly not Professor Bell's only motivation or concern. His memoir indicates that the rationales behind his protests have been multi-faceted.

Professor Bell's boycotts are more than just political action; a sense of righteousness appears to accompany all of his protests. While he never explicitly admits it, he was only in a position to protest effectively because, like those who protested during the civil rights movement of the 1960's, he stood on the moral high ground. In the case of his Harvard protest, he could no longer tolerate the hypocrisy, indignity, and racism that the University's behavior embodied. Bell's reflections make clear that it was ludicrous that Harvard would not, and still has not, tenured a woman of color. Both Regina Austin and Anita Allen, two women of color who visited at Harvard but were not offered tenure-track positions prior to, and during Bell's protest, were excellent

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**Cornel West. Race Matters** 38 (1993) (speaking on African-American political leaders of the post-Civil Rights era). Showing similar disdain for black intellectuals, Professor West continues: "Like black politicians, black scholars fall into three basic types — race-distancing elitists, race-embracing rebels, and race-transcending prophets." *Id.* at 42. Only "race-transcending prophets" represent hope for the Black intellectual scene. West posits that James Baldwin was such a prophet and Toni Morrison another. In describing Baldwin, West contends that such a prophet is marked by his ability to be "beholden to no white academic patronage system" and "his commitment to fusing the life of the mind . . . with the struggle for justice and human dignity regardless of fashions of the day or the price he had to pay." *Id.* at 42-43. It is certainly arguable that Derrick Bell's sense of self, vision, and actions make him such a "prophet".

43. *See* Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363 (1992); Bell, *Faces at the Bottom of the Well*, *supra* note 4 (the work uses parables to offer legal and social remedies to assist people of color, accepting the premise that racism is a permanent part of American society).

44. Harvard's unpleasant treatment of Professor Bell and his requests is best summarized by the statements of other members of the academy: "We do not escape the reality of our experience as members of a racially oppressed group when we enter the legal academy." Robin D. Barnes, *Race Consciousness: The Thematic Content of Racial Distinctiveness In Critical Race Scholarship*, 103 HARV. L. REV. 1864, 1867 (1990). Also, consider the following interpretation of three strategies used by majority legal scholars to silence the black voice:

These [majority] scholars, like many white Americans, insist on being in control of their relations with black people. We see this in scholarship which makes the words of black people irrelevant. When majority scholars are in master mode they cannot hear the words of scholars of color; hence they are in control of the discourse.

The second strategy . . . is to claim that any diminution in the absolute control of the legal and economic discourse by the majority scholars is an effort to make white people what black people are . . .

[The third strategy of denying the existence of racism helps to enforce the racial status quo by silencing those who speak out claiming their voices are shrill and out of sync with appropriate responses.

candidates (pp. 50-55, 82-83). While Bell takes issue with Harvard's hiring practices as in the least, very elitist, and at the most, potentially illegal, both of the candidates met Harvard's unspoken requirement that they "look good on paper" (pp. 41-42). Additionally, each had been tenured previously at another highly respected law school.

Bell claims that in order to maintain its elitist hiring process, Harvard used standards not predictive of potential success, a sporadically-used tenure offer deferral policy (p. 55), and unfair comparisons between candidates to deny offers. The faculty acted as if it could not make an offer to a candidate teaching there, because the next candidate would be better. Professor Bell recounts that in response to his inquiries about Professor Allen's performance, one faculty member responded, "[s]he's o.k. but I gather the appointments committee may be thinking of extending a visit to Lani Guinier, a University of Penn...

45. Regina Austin was an honors graduate of the University of Pennsylvania Law School, and she spent three years as an associate in a Philadelphia law firm prior to beginning her teaching career. Anita Allen graduated from Harvard Law School. She also obtained a doctorate degree in philosophy from the University of Michigan. Her publication record was impressive, including a book on privacy rights entitled, Uneasy Access.

46. Professor Bell's major dissatisfaction with the faculty selection method was its focus on status-oriented credentials, instead of the candidate's teaching skill or scholarship quality. Bell complains:

While Harvard hires people who look good on paper even though their teaching and writing skills are untried, it regularly rejects black and other minority candidates with proven skills because their law school grades are not at the very top.

Bell. CONFRONTING AUTHORITY, supra note 13, at 41-42. Professor Bell is not alone in this belief. As one reviewer indicated, even a former dean of Harvard Law School was forced to admit that the faculty selection process was a "vicious circle" and that "our faculties tend to reproduce themselves"; Kalman, supra note 14, at 15 (Former Harvard Dean Erwin Griswold commenting on the merits of a hiring system whose candidates are chiefly selected based on law school grades, editorial board positions on their schools' law reviews, and United States Supreme Court clerkships). But see Alice Dembner, Two Books Raise Anew Questions of Bias at Harvard Law, BOSTON GLOBE, Oct. 11, 1994, Metro, at 17 (demonstrating that the atmosphere at Harvard was not apologetic, the article quotes a member of the Appointments Committee responding as follows to Professor Bell's charges: "'I hope we are elitist,'" and "'[w]e hire the very best persons possible. It is a meritocratic competition.'").

47. Not only is this approach insulting in its insinuation that there are no qualified women of color to teach at Harvard, but it also supports the notion that, when and if a woman of color is ever tenured, there can be only one. Harvard compares one candidate against the next, and then the next, searching for "the one" good black woman. This appears to be what Yale law professor Stephen Carter describes as the "best black" syndrome:

We are measured by a different yardstick: first black, only black, best black. The best black syndrome is cut from the same cloth as the implicit and demeaning tokenism that often accompanies racial preferences: "Oh, we'll tolerate so-and-so at our hospital or in our firm or on our faculty, because she's the best black." Not because she's the best-qualified candidate, but because she's the best-qualified black candidate. She can fill the black slot. And then the rest of the slots can be filled in the usual way: with the best-qualified candidates.

sylvania law professor with more practical experience than Austin or Allen’” (p. 83). This is a peculiar comment, especially since Harvard, like most other premier law schools, has historically placed little significance on faculty members having practical experience.\(^{48}\)

The reader comes away from *Confronting Authority* with the distinct impression that the Harvard law faculty selection committee both undervalued and “exceptionalized”\(^{49}\) Bell’s worth and accomplishments.\(^{50}\) Instead of using Bell’s success as an example of the potential

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48. See Derrick Bell, *Strangers in Academic Paradise: Law Teachers of Color In Still White Schools*, 20 U.S.F. L. Rev. 385, 387 (1986) (commenting on how strange it is that members of the academy train future lawyers, although few have practical experience themselves).

49. I use the term “exceptionalize” to describe the phenomena where white culture refuses to accept the ramifications of black success stories within its institutions. For example, Professor Bell notes that rather than use him as an example of the merits of hiring by other than traditional methods, his colleagues portended that his success was due to an “unusual talent.” BELL, *CONFRONTING AUTHORITY*, supra note 13, at 42. Such a curious assessment is commonplace in the African-American community. The dominant society rarely chooses to re-evaluate its erroneous stereotypes about African Americans, even when faced with examples that clearly dispel its views. Instead, society maintains the faulty “rule” and makes the success story the “exception”. This tendency to “exceptionalize,” working in concert with other forms of undermining treatment, such as Carter’s “best black” syndrome, see CARTER, supra note 47, at 49-52, serves to deprecate African-American accomplishments and limit African-American access.

“Exceptionalizing” Professor Bell was not the faculty’s only misstep. They seemed to ignore the special pressures placed on Bell in an environment absent of any women of color. They also failed to realize that their failure to consider his request seriously resulted in a form of alienation. These occurrences are not limited to Professor Bell and his experiences. See generally, Derrick Bell & Richard Delgado, *supra* note 13, (the survey notes the peculiar stresses on law professors of color); see also Austin, *supra* note 19, at 542 (suggesting that a manual of “ten thousand ways to say ‘no’” is needed to help over-committed professors of color). Another professor of color notes the following:

Tenured minority law professors are pulled, twisted and stretched in all directions by demands. On the other hand, they stand alone in an environment that offers token support and frequent antagonism. They are depersonalized, sometimes dehumanized, and potentially bent out of shape by a law faculty and administration that too often gives low priority to their concerns.


In describing minorities and women in the academy, another professor suggests that taking a pluralistic approach to survival results in minority faculty members constituting a “Society of One.” She claims that law faculties are perniciously reluctant to engage in self-examination. They are “apt to dismiss complaints by minority and women law faculty as idiosyncratic reactions rather than treat these grievances as predictable responses to institutional deficiencies.” Rachel F. Moran, *Commentary: The Implications of Being a Society of One*, 20 U.S.F. L. Rev. 503, 506 (1986). Suggesting that neither a pluralistic nor an assimilationist approach works to ensure full participation for the small number of minority law professors, Professor Moran concludes that “those minorities and women who presently serve on law faculties will inevitably find their experience a lonely and frustrating one.” Id. at 513.

50. In his discussion of the use of autobiography by African-Americans in academia, Professor Culp suggests that professors of color often use narrative to defend their accomplishments: "Where being African American was used to limit their ambitions, they use their lives as proof . . . their autobiographies are a form of proof (not definitive, but proof none-
for others' success; Harvard continually denied opportunities to minority applicants whose educational backgrounds and "paper" requirements were "superior" to those of Professor Bell. Moreover, in addition to ignoring Professor Bell's valid claim that he could not be an effective role model for female students of color, Harvard slighted the importance of his concerns.52

The sentiment behind Professor Bell's pressing need to take action is captured in Jesse Jackson's words on the matter: "To say . . . that in 1990 there is no black woman anywhere in America qualified to be a tenured faculty member is both an error and a gross insult to our intelligence"53 (p. 63, citation omitted).

Culp, supra note 35, at 542.

51. For an excellent discussion of the special role women of color serve in the legal academy, see generally Symposium, Black Women Law Professors: Building a Community at the Intersection of Race and Gender, 6 BERKELEY WOMEN'S L.J. 1 (1990-1991). One piece in this volume, Margalynne Armstrong, Meditations on Being Good, 6 BERKELEY WOMEN'S L.J. 43 (1990-1991), relays, through an anecdote, the special role a black female law professor can fill. In her first week of teaching at Santa Clara University Law School, Professor Armstrong was greeted in her office by two black female students who parted by advising, "Girl, you'd better be good." Id. Professor Armstrong took these words as "a plea, a cheer, and a challenge." Id.

The plea - an uncomfortable urge to double check her competence - centered around the shared race and sex of the parties. If Professor Armstrong were bad, her performance would reflect poorly on all black women in the environment. The phrase was a cheer, in that clearly the students were rooting for her, a "sister," to get ahead. Lastly, Armstrong perceived the statement as a challenge to help students become good lawyers, partly by allowing them to maintain their "home voices" - the familiar, almost slang language that they had felt comfortable using in her presence. This story indicates that a special relationship lies at the intersection of race and sex. Even with all of his brilliance and willingness, Derrick Bell was probably right that he could not create this type of comfort for female students of color. In his own words, he could not in good conscience carry on in his efforts to be a role model for black men and women. See Fox Butterfield, Harvard Law Professor Quits Until Black Woman is Named, N.Y. TIMES, Apr. 24, 1990, at A1. Not all those within the academy who support increased participation of women of color are supportive of this role-model argument. See Anita Allen, On Being A Role Model, 6 BERKELEY WOMEN'S L.J. 22 (1990-1991); Linda S. Greene, Tokens, Role Models, and Pedagogical Politics: Lamentations Of An African American Female Law Professor, 6 BERKELEY WOMEN'S L.J. 81 (1990-1991); Richard Delgado, Affirmative Action As A Majoritarian Device: Or, Do You Really Want To Be A Role Model?, 89 MICH. L. REV. 1222 (1991).

52. This attitude continues to permeate Harvard's current hiring practices. See Dembner, supra note 45 (Harvard faculty member, Charles Fried, commenting that Harvard's recent minority hiring record boasts five African Americans and four women). African Americans and women are discussed without ever mentioning the lack of a tenured African-American woman. For an extensive discussion of society's refusal to account for African-American women, see ALL THE WOMEN ARE WHITE. ALL THE BLACKS ARE MEN. BUT SOME OF US ARE BRAVE (Gloria Hull et al. eds., 1982); Frances L. Ansley, A Civil Rights Agenda For The Year 2000: Confessions of an Identity Politician, 59 TENN. L. REV. 593, 603-04 (1992).

53. Reverend Jackson's expression of the condition at Harvard mirrored the feelings of some African-American women in the legal academy. Professor Patricia Williams recalls hearing a news story regarding Professor Bell's protest and describing with sarcasm Harvard's insulting position as follows: "Harvard Law School cannot find one black woman on the entire planet who is good enough to teach there, because we're all too stupid." PATRICIA WILLIAMS, THE ALCHEMY OF
Professor Bell stresses that he drew part of his motivation and strength from his role models. These models included family members (pp. 10-11), members of his childhood church and community (p. 16), and other courageous black protestors, especially those in the South, who risked far more than he in the battle to gain civil rights (pp. xi-xii).

In the tradition of the feats accomplished by Bell’s trailblazing motivators, his protests too have been relatively extraordinary. There have been many African Americans in positions of power and influence who would never have considered sacrificing their livelihood, even for the noble goal of greater inclusion.

Bell’s struggles are all the more extraordinary in light of his assertion that racism is permanent and that there is little to be done to change that condition (p. 149-50). After all, he, more than anyone, should accept the idea that struggle is futile in the regime of white dominance. He reconciles his protests with this belief in the permanence of racism:

Saying racism is permanent is no different from saying poverty is permanent or evil is permanent. It is the challenge to use one’s life in a way that responds to the evils in your midst. That is what we all must do.

He also has commented that even in the face of a “racial reality” that does not include equality, there are still benefits to fighting the war against oppression.

Far more than just validating his moral reasoning or honoring those who inspired him, Derrick Bell’s protests have been a spiritual odyssey. They represent an attempt to protect his spirit and the spirits.


54. On Derrick Bell’s “sacrifice,” Professor Lawrence comments:

His status, his authority, his well-being, and security are dependent, not upon academic tenure or the recognition of his individual brilliance by a meritocratic system, but upon the collective intellectual, emotional, and political resources of the community he serves.

Lawrence, supra note 13, at 267.


56. In a speech given during the middle of his protest, Professor Bell counseled:

While implementing Racial Realism we must simultaneously acknowledge that our actions are not likely to lead to transcendent change and, despite our best efforts, may be of more help to the system we despise. . . . Nevertheless, our realization, and the dedication based on that realization, can lead to policy positions and campaigns that . . . will be more likely to remind those in power that there are imaginative, unabashed risk-takers who refuse to be trammeled upon. Yet confrontation with our oppressors is not our sole reason for engaging in Racial Realism. Continued struggle can bring about unexpected benefits and gains that in themselves justify continued endeavor. The fight in itself has meaning and should give us hope for the future.

Bell, Racial Realism, supra note 43, at 378.
of others by allowing for the unlikely possibility that racism might actually be defeated. Bell insists that the spiritual rewards gained from the power of protest are "self-affirming" (p. 120). One can spend years fighting the good fight, waiting for change; all the while your spirit is slowly dying. Bell believes that confronting authority can re-vive the spirit. The process can be "soul-saving" (p. 147). Discussing the lone protests of a group of individuals who risked even more than he, such as Paul Robeson, Martin Luther King, Jr., W.E.B. DuBois, and Muhammad Ali, Bell astutely highlights perhaps the greatest returns on the risk. He believes that "individual protests create a magnetic field of their own with a power and influence beyond anything that happens to the protestor" (p. 130).

In her poem, Alice Walker demands that all intelligent persons make themselves accountable for helping their brothers and sisters. She further encourages us to stop assisting in the castigation of African-American heroes. Bell's refusal to comply with the academy's elitism and tokenism illustrates his position of accountability to his brothers.

57. In expanding on this idea, Professor Bell has recently offered: "Our sense of self as Black people is always under attack in this society, but it's reaffirmed and enhanced at the moment you take a stance." Challenging Power, supra note 55, at 134.

58. Professor Patricia Williams has written that racism is a deeply painful and assaultive offense that is analogous to a crime. She has termed the "devastating" and "psychically obliterating" assault of racism, "spirit-murder." Patricia J. Williams, Spirit-Murdering the Messenger: The Discourse of Fingerpointing as the Law's Response to Racism, 42 U. MIAMI L. REV. 127, 129 (1987). Even as she recognizes the debilitating effects of racism, she also recognizes the need for futile protest. Recalling her anger after a gum-smacking New York store clerk refused to "buzz" her in to an obviously open store, she reflected:

In the wake of my outrage, I wanted to take back the gift of my appreciation, which my peering in the window must have appeared to be. I wanted to take it back in the form of unappreciation, disrespect, and defilement... I was quite willing to disenfranchise myself in the heat of my need to revoke the flattery of my purchasing power. I was willing to boycott this particular store, random white-owned businesses, and anyone who blew bubble gum in my face again.

My rage was admittedly diffuse, even self-destructive, but it was symmetrical.

Id. at 128-29.

59. Professor Bell reiterated his belief in the inspirational power of solo protest in his Marcus Bookstore address, see supra note 12. He commented that part of the reason one must protest even where there is little chance for success, is the hope that someone will see your actions and be inspired "so that the struggle may continue." If the struggle continues, then there is always the possibility "for a miracle."

Others have also commented on the power of an individual to affect the lives of many:

History isn't made by civilizations, it's made by people who inhabit those civilizations. Sometimes it moves forward on the contribution of just one man or woman who dares to enter that city armed with an idea, and the courage and dedication to carry it off. All of us reap the benefits. The torch is being passed on to you and to carry it demands commitment. It means lighting your way out of darkness. You are walking, living, breathing, electro-magnetic human beings and you have power.

and sisters. Moreover, in his writing, Bell resurrects African-American heroes. He retells the history of those who could not even garner the support of African-American communities when protesting to improve the rights of those communities. Through his actions and his reflections, Professor Bell heeds Walker's call to “Stop it!” — to stop digging and throwing dirt on our collective graves.

B. No Place For Us In Citadels, Academies, and Celestial Cities

As the reader progresses through Professor Bell’s reflections, one might find herself or himself speeding through his retelling of the Harvard narrative in order to reach the portions of Bell’s fable of “The Citadel” that begin each chapter. Professor Bell describes the story and its use in this book as “a broader view of the events reported here, events that, swayed by the temptations of advocacy, I may tend to portray in terms of right and wrong” (p. xii). In actuality, “The Citadel” reflects a less cluttered, more crystallized version of life in a divided land. In effect, it serves as a more lucid indictment of racism, oppression, and elitism.

Professor Bell’s reflections on racism in the legal academy are of course limited by his personal experience; his encounters do not allow the portrayal of all the dangers attendant with ascension into the academy. His story explains the danger facing an outsider who challenges the system after gaining admittance. While the Citadel story encompasses some of the issues Bell faced, it also warns of what happens when outsiders enter the academy with no intention of protesting.

The legend of the Citadel begins and ends with a “midnight bag sacrifice” (pp. 1, 165). During the ceremony, the prosperous residents of this would-be Camelot expel dissidents by dropping them in a mea-
ger sack over the wall of their mountaintop community (p. 5). The expulsion, we later learn, is the punishment for confronting the authority of the Citadel's ruling body, the Council of Elders. These Elders, the elite among even the Citadel's privileged inhabitants, are selected by a system that couples graduation from the best Citadel preparatory school with apprenticeships (p. 49). This system produces Elders of varying qualities, but serves the purpose of maintaining the Citadel's wealth and dominant relationship over the lowlanders. The lowlanders are the exploited class of workers who are locked out of the Citadel, but whose labor is "necessary for the Citadel's prosperity" (p. 2).

As is the course in such relationships, the permanently-deprived lowlanders eventually rise in protest. They ultimately force the hand of the Citadel through the use of disruptive demonstrations and blockades (p. 49). In an attempt to end the revolt without relinquishing the vestiges of power, Xercis, leader of the Council, devises a plan. Appearing to accede to the constant demands of his lowlander-sympathetic daughter, Tamar, Xercis promises to admit lowlanders to the Citadel (p. 82). While the Citadel pretends to offer equal representation to the lowlanders, the Council actually plans only to admit a token lowlander, selected through "meritocratic" means. This action gives the appearance that individual effort leads to the individual's success or failure. The Elders want to appear fair, yet maintain power (p. 82).

The choice for admittance is a well-educated lowlander named Timur. He is selected primarily because he has "cultivated many qualities shared by those in the Citadel" (p. 102). To the great dismay of Tamar and the great disadvantage of the lowlanders, Timur turns out to be a better selection than the Elders could have expected. He is the ultimate insider-outsider, supporting the Elders in their oppression of his people. Among other surprising events, he suggests harsh measures to oppose lowlander resistance (p. 125), and he opposes the ascension of other lowlanders into the Citadel. He feels that the lowlanders are not as "qualified" as he, having been selected through a meritorious competition. When other lowlanders are admitted, he treats them as poorly as do the other Citadalean Elders (p. 126).

Ultimately, the still-oppressed lowlanders begin calling for proportional representation. The Elders claim to share their concern, but respond that no other lowlanders "merit" admittance. When any others are ever admitted, they resemble Timur (p. 146), not the protestors.

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63. This appears to be an example of a minority who brings to the academy a minority "voice" but is lacking in the more critical minority "perspective". See Jerome M. Culp, Jr., Voice, Perspective, Truth, and Justice: Race and the Mountain in the Legal Academy, 38 Loyola L. Rev. 61 (1992) (the "mountain" in this title refers to the "urge toward whiteness" that black scholars in the legal academy must overcome to maintain an empowering black perspective).
Timur, believing that the rest of the lowlanders lack his excellence, declares that the lowlanders need more discipline (p. 146). Frustrated by the lack of change for the lowlanders, Tamar sacrifices her place in the Citadel. She hopes that this effort will expose Timur for the fraud that he is and lead to a great revolt (p. 147).

In the end, I found the Citadel story valuable on at least two levels. On the one hand, it is clearly a metaphor for the deplorable behavior of the legal academy. On the other hand, it challenges African Americans to recognize and take responsibility for becoming willing participants in the "meritocracy" sham. Law professors, like the Council of Elders, typically represent the pinnacle of elitism, ostensibly promoted based on merit and deserving of their positions. They horde these positions and are very reluctant to admit outsiders — people of color. When they do admit minorities, the admissions process of both the Citadel leaders and law professors can easily appear to be shrouded in vagaries. They may only admit minorities to silence revolts (like the outrage and civil disobedience following the assassination of Dr. Martin Luther King, Jr. and the lowlander uprising in the Citadel story). And when they do admit minorities, they try to do so in such a way that the admittee begins to believe that the positions are earned only through merit; therefore, if others do not follow, the Academy and the admittee can simply reason that they were not qualified.

The admissions process is also designed to ensure that those who do enter are more like the dominant group than the victims of oppression. Indeed, peruse our privileged society. There are many well-placed Timurs, positioned to refute the accusation of exclusion, all the while helping to exclude. Through both the Citadel parable and his personal story, Bell is calling for minorities to resist becoming like Timur.

64. For a sampling of the discussion on the danger of belief in "meritocracy" in hiring standards within the legal academy, see Duncan Kennedy, A Cultural Pluralist Case for Affirmative Action In Legal Academia, 1990 DUKE L.J. 705, 732-34 (teaching positions in the academy are distributed as a function of power, rather than as a function of "merits"); Bell, supra note 13, at 1605 (credentials required to be a law professor are irrelevant and of little importance); Delgado, supra note 51, at 1225 (noting that treating minority exclusion as "a question of standards" is ridiculous because "we took no part in creating those standards and their fairness is one of the very things we want to call into question.") (footnotes and citations omitted); Williams, supra note 53, at 102-03 (noting standards are not "neutral" but a function of cultural preference). For an argument in support of meritocratic standards, see Randall Kennedy, Racial Critiques of Legal Academia, 102 HARV. L REV. 1745, 1772 (1989).

65. Such a challenge is reflected in the following passage of an earlier Bell work:

Given the obstacles, and considering the hopeless contradictions in the academic community, the major function of which is to serve a society's need to look on injustice and call it just desserts, sanction arbitrary exclusion and deem it merit, and observe exploitation and talk of free enterprise, our presence here must count as at least an opportunity. . .

Strangely, our status as blacks, Hispanics, Asians, and Indians is our major shield
Derrick Bell resists the impulse to name any real-life Timurs, those idly benefiting from their spaces in the academy. Nevertheless, many will obviously note the similarity between Timur and Supreme Court Justice Clarence Thomas. And Bell appears aware that this analogy will result. In a discussion of those who gain access to power, Bell first warns African Americans of the potential “evil” inherent in positions of authority. This warning is “most appropriate for successful blacks whose success unintentionally makes life harder on the many blacks they would like to help” (p. 157). He, however, separates Justice Thomas from this well-meaning category of folk. Thomas is like Timur in his propensity to kick his own people when they are down (p. 160). Bell ultimately reflects: “At the least, Thomas’s presence . . . provides black people with a continuing reminder that what many of us condemn as a serious deficiency in him is, as well, a constant temptation in us”\(^6\) (p. 160).

The story presents Tamar, an insider fighting for change, as a ray of hope. Bell, however, preserves her status as somewhat of an outsider at the Citadel through the use of her gender. Her ability to affect change is limited by the fact that as the only woman elite among an academy of men, her agenda is viewed as unimportant. Tamar’s plight seems to mirror Bell’s feelings about his position at Harvard. Tamar’s most significant contribution to the fight, like Bell’s, is through her untidy expulsion.

More through the Citadel story than his personal memoir, Bell hints at the conspiracy perpetrated by all Citadels, Academies, and Celestial Cities. They feign the desire to include, but in fact, seek to perpetuate the existing hierarchy. Some would argue that by constructing the Citadel story in a manner such that the insiders are conniving power-brokers, hell-bent on maintaining their positions, Bell may have obscured the message presented by his real-life story. Not only are his Citadel Elders intentionally discriminating, but lowlanders who are invited to join work to keep out other minorities.\(^7\) The Harvard story is a

\(^6\) The dynamic of tokenism says some blacks must succeed to validate a system that is rotten to the core. The reality of capitalism says some must fail, and most of the failures will be black.
powerful illustration of the fact that Bell’s colleagues believed in the meritorious principles of the hiring practice that they advanced. These colleagues certainly did not consider their practices as unlawful discrimination. After all, unlike the Citadel story, the Harvard faculty who rejected the black female candidates were all subject to the standards they employed. The fact that the Citadel characters were so obviously prejudiced is only problematic until the reader closely compares Bell’s fictional tale to his autobiographical account.

While the Citadel Elders construct their “competition” deliberately to lock out lowlanders, the Harvard faculty deeply believe in meritocratic standards. However, this difference is meaningless. Bell contends that the standards promulgated by Harvard Law School are not related to a person’s teaching capacity, and that both the Elders and white faculty benefit from the unfair advantage of privilege.\(^8\) Regardless of intent, in either scenario, the minority group is permanently excluded. Actually, Bell may even see his Harvard colleagues as deliberately discriminatory. Whichever the case, his life and the ending of his fictitious tale indicate that rebellious protest has a greater potential for exposing this type of discrimination than silently working from within ever could.

While the intentions of the Citadel and the Harvard law faculty appear outwardly different, both promise much and deliver little. Unfortunately, in both cases, the permanently excluded group is too easily assuaged by small concessions. Therefore, the “Great Revolt” is never launched. Failure to launch such a position-redefining revolt allows protests, such as Bell’s and Tamar’s, to go for naught. Where Walker’s poem cautions us to stop destroying our heroes, Bell’s Citadel story challenges us to have enough courage to be one. African Americans must heed both calls if we wish to successfully combat oppressive organizations.

It should be noted that there is a disturbing twist at the end of the Citadel story. Readers will find that Professor Bell has deftly created the identities of the Citadaleans and the lowlanders such that it becomes more difficult to analogize the relationship to the present day relationship between whites and African Americans. Rather than re-
veal Bell's literary maneuver, it is enough to say that at the end of the story, African Americans will not only deliberate upon the need for protest, but will also need to question how we will approach the world, if the day ever comes when we conquer Camelot.

IV

WHAT MUST WE DO?

Each one must pull one
Look, I, Temporarily on the rim
of the grave,
have grasped my mother's hand
my father's leg.
There is the hand of Robeson
Langston's thigh
Zora's arm and hair
your grandfather's lifted chin
the lynched woman's elbow
what you've tried to forget
of your grandmother's frown.
Each one pull one into the sun

Alice Walker's words are a gift and challenge to African-American communities. So too are Professor Bell's actions and reflections. What we must do is help someone or everyone. People of color in positions of authority must be willing to sacrifice prized possessions without the assurance that we will receive anything in return or even be accepted by our communities.70 Dignity and conscience must guide us, not just materialism and prestige.71 Derrick Bell knows the social and economic value of his tenured position at Harvard — the very value of the position constituted the reason he had to sacrifice it. The fact that Harvard had never been forced to fire a tenured faculty member made the protest more prominent. The fact that this momentous occasion was the result of the University's refusal to "do right" by women of color

69. WALKER, supra note 1, at 52 (emphasis in original).

70. See Derrick Bell, The NAACP Needs a Strong Leader, Not a Safe Pick to Mollify Whites — We Tend To Forget That Unorthodox Thinking and Confrontational Tactics Have Been the Hallmarks of our Best Black Leaders, PHILADELPHIA INQUIRER, Aug. 30, 1994, Editorial, at A17 (noting that "now-revered" African-American leaders, such as Marcus Garvey, Malcolm X, or Martin Luther King, Jr., were "castigated during [their] lifetime[s], often for perceived personal failings that led many to conclude each was unfit for leadership").

71. Author and media personality, Jerri Lange, claims that the secret to a successful protest is the maintenance of one's dignity and the refusal to expose vulnerability in the face of one's oppressor. Jerri Lange, Remarks at African-American Law & Policy Report and Poets Essayists & Novelists (PEN) Oakland Symposium, Is Media Coverage Making Minorities Sick?, University of California, Berkeley, Boalt Hall School of Law (Oct. 25, 1994).
was a powerful indictment of Harvard's bigotry.

I do not mean to imply that we should not care about what we sacrifice. Even in the midst of his protest, Professor Bell did not step down without exhausting the available remedies to protect his job. Nevertheless, when he learned that the Harvard faculty would not concede, he did not break. He realized that silent acquiescence was too high a price to pay for prestige and financial security (p. 101). We must capture this unbreakable spirit and apply it at each critical moment in our lives, when we are forced to choose between status or material comfort and peace of mind.

There will be pitfalls. Some lie within the control of the protestor. The unnecessary rift caused by Bell's failure to communicate his plans with Professor Austin is a noteworthy example. However, it simply may be that because of the nature of solo protest blind spots inevitably result. Other problems, such as potential financial difficulty, may be within the control of the protestor, but only precariously so. Professor Bell advises that if we "step out on faith" and do the right thing morally, that decision may often turn out to be fine financially. This notion implies that something better will come along as a reward for good deeds. Practically speaking, protesting will be too costly for some. Professor Bell admits that throughout his protest, he never wondered from

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72. Protestors from Rosa Parks to Lani Guinier concur that making sacrifices for one's beliefs is difficult, but that ultimately the cost of not protesting may be greater. See Branch, supra note 32, at 131-34; Challenging Power, supra note 55; Stephen L. Carter, Foreword to Lani Guinier, Tyranny of the Majority at vii, xiv-xx (1994).

73. Since his Harvard protest, Professor Bell has given the following commentary on the failure to speak out against institutional racism: "[W]hen we seek to testify about race, we speak, and no one listens; we protest and nobody cares. The record-making function, though, brings solace, if not relief from the ever-deepening concern about the consequences of truths that seem to blind those who grope in the self-imposed darkness toward their destruction and ours." See Derrick Bell & Linda Singer, Comment, Making A Record, 26 Conn. L. Rev. 265, 273 (1993) (a troubled commentary resolving that scholars who point out racism in the legal academy are like civil rights attorneys in the 1960's — their message falls on deaf ears, but hopefully they are creating a record for appeal).

74. Lani Guinier has proven herself to be an ardent protestor as well. When the Clinton administration revoked her nomination to head the Civil Rights Division of the Department of Justice, she described the danger of not protesting in the following manner:

But what people don't realize is that ultimately the sacrifice that they are making by not speaking up is too high, because what they are giving up is their integrity and their sense of purpose and their sense of who they are.


75. Professor Bell understood that his "good intentions might well translate into results that — at least in part — might be the very opposite of what [he] intended." Bell, Confronting Authority, supra note 13, at 148. However, such interpretations are typically only apparent through the use of hindsight. Bell's protest was overwhelmingly motivated by a sense of righteous urgency. His example forces the question: If the goals of the solo protest are admirable and designed to obtain greater group rights, are we willing to accept less than a "good" result in the short run?
where his next meal was coming (p. 62). His economic privilege was a factor in his ability to protest. What Derrick Bell did not concede in his book or speech, however, was that his ability to “step out on faith” was a function of his “status” privilege. While he hopes that protests will inspire others, he does not quite own up to the fact that many will never be able to protest in the manner in which he did, because they are not endowed with his opportunities and station in life.

The activist will have no control over other stumbling blocks. Professor Bell points to several dangers of solo protests, including strains on valued relationships and the potential for your community and others to belittle or ignore your views (pp. 109-11, 143-44). He also seems disturbed by the lack of support from friends, faculty, and students. Many expressed their gratitude, but few seemed willing to join the battle (pp. 60-61, 71-72, 108-110, 121-22). Few are ever willing to endure the personal sacrifice or ridicule (pp. 135-37). However, those who do, can have a lasting impact.

The actions of all ardent protestors indicate that if we can meet Walker’s challenge of helping each other, then we must endure some level of pain. As long as we make ourselves a link in the historical

76. Although Professor Bell’s protest made headlines, it did not transform him into a community-revered heroic figure. While he may have become more famous or “infamous” within the legal academy, the media did not embrace or hold him out as a role-model. Reflecting on this point, one commentator surmised:

Professor Derrick Bell left the Harvard Law School faculty in the spring of 1990, on leave until “a woman of color” was granted tenure on the faculty. Two years later he was still on leave, and his job was revoked. I didn’t see his kind of male character on sitcoms or in popular novels. Just a point.

RALPH WILEY, WHAT BLACK PEOPLE SHOULD DO NOW: DISPATCHES FROM NEAR THE VANGUARD 317 (1993). A colleague within the academy notes: “I believe that Professor Bell has gotten too little credit for his ability to reshape how we think about race. Professor Bell’s work provokes me individually and the legal academy in general”. Jerome M. Culp, Jr., Reply: “Real” Men and History, 26 CONN. L. REV. 297 (1993).

77. Describing the phenomena of what he terms the “protestor’s dilemma” Bell notes “While striving to do the Lord’s work, we will look to many of our adversaries and some of our friends like the Devil incarnate.” BELL, CONFRONTING AUTHORITY, supra note 13, at 7 (emphasis added).

78. With regard to a lack of support by other African Americans, Lani Guinier relates such a lack of support to the “fear of being punished twice — first for being Black and second for being angry.” Therefore, there is a general resistance to show solidarity for Black protestors who challenge authority. Challenging Power, supra note 55, at 138.

79. The continuing importance of protestors like Professor Bell can be derived from what many have seen as the legacy of the protestors within the civil rights movement. In a 1967 essay discussing the importance of what some perceived as the dead civil rights movement, Alice Walker sums up perhaps the movement’s greatest legacy, “It gave us heroes, selfless men of courage and strength, for our little boys and girls to follow. It gave us hope for tomorrow. It called us to life.” ALICE WALKER, The Civil Rights Movement: What Good Was It?, in IN SEARCH OF OUR MOTHERS’ GARDENS 119, 129 (1983). This may well be what Derrick Bell’s protest can also contribute.
chain, we will have done our best. Bell did this. As Alice Walker instructed, he relied on the strength of his past heroes to protect his dignity, and in the process he also assisted others. As Alice Walker instructed, he relied on the strength of his past heroes to protect his dignity, and in the process he also assisted others. Professor Bell has more than lived up to Walker's challenge for all of us to "pull one back into the sun." Through his protests, he has transformed himself into the newest model for others to follow. However imperfect his methodology, his powerful and lasting impact cannot be denied.

80. The fact that Professor Bell understands this challenge is evidenced by the closing passage of his personal story:

As the slave singers raised their voices to freedom, they must have known that there was no escape, no way out — in this world. The lyrics of their songs dreamed of a 'City Called Heaven,' but while they lived, they continued to engage themselves in the creation of humanity. Here is our model. We need do no more — and surely must do no less — than seek to emulate what they have done.

Bell. Confronting Authority, supra note 13, at 164.

81. Walker, supra note 1, at 52.