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## CRITICAL RACE ACTION: QUEER LESSONS AND SEVEN LEGACIES FROM THE ONE AND ONLY PROFESSOR BELL

FRANCISCO VALDES\*

I begin, as Professor Derrick Bell might have, with a short story based on personal experience related to social realities. When the Law and Society Association met in Pittsburgh during the early 2000s, I was asked to participate in an author-meets-reader session focused on the Professor's then-latest book, *Ethical Ambition*.<sup>1</sup> After the session, we all walked over to the nice restaurant located in the refurbished central train station nearby, and as we approached, I went to open the door for him. He paused, looked at me, and said: "I remember when, as a child, I was prohibited from walking through these doors. As a kid, I had to use another door. I think this may be the first time I actually walk through them." His eyes, voice, and face all projected a heavy sense of personal experience with pain, perseverance, and only incomplete yet triumphant liberation. In that moment, I was able to "get" (only part of) Derrick Bell's uniqueness as an agent of social change.

Having been born in the United States during the Jim Crow era of racial apartheid and white supremacy, Derrick Bell knew full well, as this anecdote underscores, that formally separate was never actually equal.<sup>2</sup> Coming of age, he struggled shoulder to shoulder in the legal trenches of civil rights with Thurgood Marshall and other civil rights legal pioneers, helping "win" *Brown v. Board of Education* in the years following the *Brown I* and *Brown II* rulings of 1954 and 1955.<sup>3</sup> After his 1957 graduation from the University of Pittsburgh School of Law, he

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\* Professor of Law, University of Miami. Many thanks to the organizers, faculty, and students of Western New England University School of Law for bringing us together on September 28, 2012 at a lively symposium in celebration of Derrick Bell's life and legacies, where this keynote talk was delivered. All errors are mine.

1. See DERRICK BELL, *ETHICAL AMBITION: LIVING A LIFE OF MEANING AND WORTH* (2002).

2. See DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL* (1992).

3. See generally *Brown v. Bd. of Educ.*, 349 U.S. 294 (1955); *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); MARK TUSHNET, *THE NAACP'S LEGAL STRATEGY AGAINST SEGREGATED EDUCATION, 1925-1950* (1987).

entered the Civil Rights Division of the U.S. Justice Department, one black attorney among thousands. After two years, he departed, rather than comply with the government's request that he end his NAACP membership. It was at this time that he became First Assistant Counsel at the NAACP Legal Defense and Educational Fund under Thurgood Marshall, managing about 300 Mississippi school desegregation cases.<sup>4</sup>

With this work, he helped pry slightly open the law's gates to allow some racial mobility—first in education, and later as the equality principle was seen to apply across the social board, across society at large.<sup>5</sup> This was the vexed “progress” of formal equality, which Bell both helped to accomplish and later came to rue, as we will see below.<sup>6</sup> As an academic he was equally a scholar and teacher, as well as a dean and administrator. Indeed, he famously used his positions as the first tenured, black professor at Harvard Law School and the first black law dean at the University of Oregon to practice the same kinds of anti-subordination academic activism that his scholarship promoted.<sup>7</sup> His life and career spanned, and helped to catalyze and direct, a revolutionary transition from formal hierarchy to formal equality in U.S. legal culture and well beyond.

This little story about a casual lunch in the Pittsburgh train station therefore is but a small window into the complex man who became legendary literally in his own time. But it underscores that he became a legend in great part because he compounded the basic elements of his and our humanity in our common work as legal scholars and educators, creating a uniquely powerful alchemy in which writing was action, but never enough in itself. By persistent example, Bell revolutionized both the methods and substance of intellectual work in the legal academy in the United States during the second-half of the past century.

Methodologically, he centered the tradition of storytelling as legal scholarship, helping to pioneer and establish the use of critical narrativity to produce knowledge.<sup>8</sup> This kind of work was/is called

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4. *In Memoriam, Derek Bell: 1930-2011*, N.Y. UNIV. SCH. OF LAW, [http://www.law.nyu.edu/news/Derrick\\_Bell\\_Memoriam](http://www.law.nyu.edu/news/Derrick_Bell_Memoriam) (last visited May 10, 2014).

5. For a good critical summary of equality's post-Brown history, see DAVID KAIRYS, *PHILADELPHIA FREEDOM* (2008).

6. See DERRICK BELL, *SILENT COVENANTS: BROWN AND UNFULFILLED HOPES* (2004); Derrick Bell, *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 *YALE L.J.* 470 (1975-1976); see also *infra* notes 18-37 and accompanying text.

7. See *In Memoriam, Derek Bell: 1930-2011*, *supra* note 4.

8. See Derrick Bell, *After We're Gone: Prudent Speculations on America in a Post-Racial Epoch*, 34 *ST. LOUIS U. L.J.* 393 (1989-1990) [hereinafter Bell, *Post-Racial Epoch*].

irresponsible, dismissible, mere anecdote or—even worse—fabrication, by those who in every other arena of life are quite content to convey understanding through storytelling.<sup>9</sup> But Derrick Bell persisted, firm in the conviction that parables are powerful for good, human reasons. He defiantly denied that this historically and multiculturally proven methodology of human communication and understanding could not be applied to contemporary intellectual work in legal academia. Much to our collective benefit, Bell helped secure a beachhead for nontraditional methods in legal education and scholarship through decades of hard work and personal example.<sup>10</sup>

Substantively, he centered the role of race and, in particular, white supremacy, in the origination, development, and maintenance of general socio-economic prosperity and stability in the lands now known as the United States.<sup>11</sup> His rich body of work on race and racism documents and demonstrates this basic point time and again.<sup>12</sup> And, indeed, even today can we think of a time in the history of U.S. nation-building when racial hierarchy was not hotly in contest? Certainly not in Philadelphia, nor Appomattox, nor Birmingham, nor Wounded Knee, nor Detroit, nor in the Rodney King uprising, nor in Sanford, Florida, where Trayvon Martin was killed by a white-identified vigilante in February of 2012 while living out his American obsession with profiling and policing race at a personal, and even fatal, level.<sup>13</sup>

As he observed in 1988—a year before the very first Critical Race Theory (CRT) workshop took place in Madison, Wisconsin<sup>14</sup>—while commenting on the then-trendy liberal revival of civic virtue,

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9. See, e.g., Daniel A. Farber & Suzanna Sherry, *Is the Radical Critique of Merit Anti-Semitic?*, 83 CALIF. L. REV. 853 (1995).

10. See, e.g., Derrick Bell & Erin Edmonds, *Students as Teachers, Teachers as Learners*, 91 MICH. L. REV. 2025 (1993).

11. See generally DERRICK A. BELL, *RACE, RACISM AND THE AMERICAN LAW* (1973).

12. See *In Memoriam, Derek Bell: 1930-2011*, *supra* note 4.

13. See Lizette Alvarez, *Justice Department Investigation is Sought in Florida Teenager's Shooting Death*, N.Y. TIMES, March 17, 2012, at A10.

14. See, e.g., Sumi Cho & Robert Westley, *Historicizing Critical Race Theory's Cutting Edge: Key Movements That Performed the Theory*, in *CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY* 32 (Francisco Valdes, Jerome McCristal Culp & Angela P. Harris eds., 2002); Kimberlé Crenshaw, *The First Decade: Critical Reflections, or "A Foot in the Closing Door"*, in *CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY* 9 (Francisco Valdes, Jerome McCristal Culp & Angela P. Harris eds., 2002); Richard Delgado, *Liberal McCarthyism and the Origins of Critical Race Theory*, 94 IOWA L. REV. 1505 (2009); Athena D. Mutua, *The Rise, Development and Future Directions of Critical Race Theory and Related Scholarship*, 84 DENV. U. L. REV. 329 (2006-2007); Stephanie L. Phillips, *The Convergence of the Critical Race Theory Workshop with LatCrit Theory: A History*, 53 U. MIAMI L. REV. 1247 (1998-1999).

communitarianism, and the ideal of republican enlightenment:

The virtuous citizen, however, can only be free to pursue his human essence through civic participation and through the life of the mind by having the luxury of material independence. “Civic” societies in Athens and in early America affected this luxury in part by creating a subclass of humans who tended to the citizen’s needs of the flesh and who were thereby excluded from the realm of public dialogue . . . . Indeed, regardless of the epoch, any attempt to define human essence or to posit a notion of the common good historically has resulted in hierarchy, exclusion, and alienation.<sup>15</sup>

This unrelenting substantive centering of white supremacy cost him dearly. Mainstream legal culture, unaccustomed to seeing race relations at the center of anything, subverted his legitimacy even while squirming. For example, while visiting Stanford Law School in the 1980s the liberal administration readily acquiesced to a “shadow” constitutional class for Bell’s students because of their uninformed “concern” that his race-centric approach to the legal acts constituting this nation-state somehow did not teach them what they needed to know.<sup>16</sup> This act was immediately recognized as a scandalously, cowardly appeasement that, in the end, diminished only that institution—but that, in the meantime, also caused Derrick much angst.<sup>17</sup>

As the sun set on the last millennium, the special alchemy of his intellectual work and personal experience had led him to insights and conclusions that stirred unprecedented controversy among minority and allied scholars. In 1987, in his book, *And We Are Not Saved*,<sup>18</sup> he introduced the idea of “whiteness” as property, which Cheryl Harris also proposed and then developed fully in her 1993 Harvard Law Review article by that name.<sup>19</sup> Based on those insights, by the year 2001 Bell could state simply that: “The set of assumptions, privileges and benefits that accompany the status of being white can become a valuable asset that whites seek to protect” *and* upon which they bond fractionally.<sup>20</sup>

It is this intra-white racial compact to mutually maintain racial

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15. See Derrick Bell & Preeta Bansal, *The Republican Revival and Racial Politics*, 97 YALE L.J. 1609, 1612 (1987-1988).

16. See Dorothy Gilliam, *An Insult to a Law Professor*, WASH. POST, Aug. 4, 1986, at C3.

17. *Id.*

18. See generally DERRICK BELL, *AND WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE* (1987).

19. See Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707 (1993).

20. See Derrick Bell, *Revised Opinion in Brown v. Board of Education*, in WHAT BROWN V. BOARD OF EDUCATION SHOULD HAVE SAID 185, 188 (Jack M. Balkin ed., 2001).

privilege that is at the crux of American nationhood, and always has been.<sup>21</sup> This is why race *is* constitutional in American law and society. This is why inter-racial, class-based coalitions have failed to materialize throughout U.S. history—poor whites have a conflict of interest pivoting perpetually between race and class.<sup>22</sup> For this reason, he concluded early on, racial justice progress can be achieved only when the interests of whites as a whole converge with those of blacks.<sup>23</sup>

That same year, Bell summarized this complex foundational insight thusly:

The barriers to moving beyond reliance on an out group for social stability are monumental in a nation where whites of widely divergent stations are able to make common cause through their unspoken pact to keep blacks on the bottom. No other aspect of social functioning has retained its viability and its value to general stability from the very beginning of the American experience down to the present day. Because of this fixation, I agree . . . that racism is not an anomaly, but a crucial component of liberal democracy in this country. The two are historically, even inherently reinforcing. In effect, the apparent anomaly is an actual symbiosis.<sup>24</sup>

In other words, legal reform always accommodates and facilitates the morphing of “original” identitarian hierarchies favoring white, male heterosexuals. Thus, as the new millennium prepared to dawn, Bell already saw all around the “most ominous evidence that we are in a period of racial rejection, a time when many whites can block out their own justified fears about the future through increasingly blatant forms of discrimination against blacks.”<sup>25</sup>

But he had been tracking and denouncing the mounting politics of racial identity politics among whites and their elites his whole life. He had seen the 1978 result in the fractured *Bakke*<sup>26</sup> rulings as paradigmatic of this new backlashing era. This is how Professor Bell pithily described the judges’ judging in overturning the affirmative action medical school admissions policy in that case:

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21. See generally DAVID THEO GOLDBERG, *THE RACIAL STATE* (2002).

22. See generally Jerome M. Culp, *To the Bone: Race and White Privilege*, 83 MINN. L. REV. 1637 (1998).

23. See Derrick A. Bell Jr., Comment, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523 (1980).

24. See Derrick Bell, *Racism: A Major Source of Property and Wealth Inequality in America*, 34 IND. L. REV. 1261, 1270 (2001) (footnote omitted).

25. See Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363, 370 (1991-1992) [hereinafter Bell, *Racial Realism*].

26. *Bakke v. Regents of Univ. of Cal.*, 438 U.S. 265 (1978).

[U]tterly ignoring social questions about which race in fact has power and advantages and which race has been denied entry for centuries into academia, the Court . . . introduce[ed] an artificial and inappropriate parity in its reasoning[] the Court effectively made a choice to ignore historical patterns, to ignore contemporary statistics, and to ignore flexible reasoning.<sup>27</sup>

For more than a quarter century he labored to help foment awareness and solidarity in the face of massive regression.

In Bell's critical estimation, by the 1990s the protection of white privilege, which he had seen so evident historically in *Bakke*, had become commonplace. This was the case despite civil rights legal reforms, to the point of becoming a tragic farce, as signified to him most outrageously by the Clarence Thomas spectacle and result. It was exactly twenty-one years and two days ago<sup>28</sup> since the Judiciary Committee deadlocked on this nomination as the nation looked on, and it will be twenty-one years exactly in another twenty days since the full Senate confirmed it by the lowest vote in history—52/48.<sup>29</sup> However, at that time, Bell was already observing and predicting that:

The addition of Judge Clarence Thomas to the Court, as the replacement for Justice Thurgood Marshall, is likely to add deep insult to the continuing injury . . . . The cut is particularly unkind because the choice of a black like Clarence Thomas replicates the slave masters' practice of elevating to overseer and other positions of quasi-power those slaves willing to mimic the masters' views, carry out orders, and by their presence provide a perverse legitimacy to the oppression they aided and approved.<sup>30</sup>

Professor Bell saw a proximate line between our shared, continuing work and this (ongoing) spectacle, and what it signified and portended. He bore a sense of personal responsibility for helping put into motion historic events leading up to this national perversion: formal equality. He was moved to public apology:

As a veteran of a civil rights era that is now over, I regret the need to explain what went wrong. Clearly we need to examine what it was about our reliance on racial remedies that may have prevented us from recognizing that these legal rights could do little more than

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27. Bell, *Racial Realism*, *supra* note 25, at 369.

28. As of the date of the live symposium where this talk was delivered. *See supra* note \*.

29. *See* R.W. Apple Jr., *Senate Confirms Thomas, 52-48, Ending Week of Bitter Battle; 'Time For Healing,' Judge Says*, N.Y. TIMES, Oct. 16, 1991, at A1.

30. Bell, *Racial Realism*, *supra* note 25, at 370.

bring about the cessation of one form of discriminatory conduct that soon appeared in a more subtle though no less discriminatory form. The question is whether this examination requires us to redefine goals of racial equality and opportunity to which blacks have adhered for more than a century. The answer, must be a resounding “yes.”<sup>31</sup>

Explaining, he continued:

Traditional civil rights law is highly structured and founded on the belief that the Constitution was intended—at least after the Civil War Amendments—to guarantee equal rights to blacks. The belief in eventual racial justice, and the litigation and legislation based on that belief, was always dependent on the ability of believers to remain faithful to their creed of racial equality, while rejecting the contrary message of discrimination that survived their best efforts to control or eliminate it.<sup>32</sup>

....

... [H]istory should also trigger civil rights advocates to question the efficacy of equality theory. After all, it is an undeniable fact that the Constitution’s Framers initially opted to protect property, including enslaved Africans in that category, through the Fifth Amendment. Those committed to racial equality also had to overlook the political motivations for the Civil War Amendments—self-interest motivations almost guaranteeing that when political needs changed, the protection provided the former slaves would not be enforced.<sup>33</sup>

Analogizing this history to *Bakke*, Bell concluded, “the historic pattern and its contemporary replication require review and replacement of the now defunct, racial equality ideology.”<sup>34</sup>

Ever since, as Bell also saw clearly even back then, “[l]egal precedents we thought permanent have been overturned, distinguished, or simply ignored. All too many of the black people we sought to lift through law from a subordinate status to equal opportunity, are more deeply mired in poverty and despair than they were during the ‘Separate but Equal’ era.”<sup>35</sup> This dawning of formal equality and its illusory “equal opportunity” is what makes this era of racial rejection so dangerous, alarming, destructive, and pernicious in Bell’s wary view:

Despite our successful effort to strip the law’s endorsement from the

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31. Bell, *Racial Realism*, *supra* note 25, at 375-76.

32. Bell, *Racial Realism*, *supra* note 25, at 376.

33. Bell, *Racial Realism*, *supra* note 25, at 376.

34. Bell, *Racial Realism*, *supra* note 25, at 377.

35. Bell, *Racial Realism*, *supra* note 25, at 374.

hated “Jim Crow” signs, contemporary color barriers are less visible but neither less real nor less oppressive. Today, one can travel for thousands of miles across this country and never come across a public facility designated for “Colored” or “White.” Indeed, the very absence of visible signs of discrimination creates an atmosphere of racial neutrality that encourages whites to believe that racism is a thing of the past.

Today, blacks experiencing rejection for a job, a home, a promotion, anguish over whether race or individual failing prompted their exclusion. Either conclusion breeds frustration and eventually despair.<sup>36</sup>

Thusly the Professor summarized the bittersweet results of progress, the fruits of formal equality, the wild journey, and the unfinished business of his own life and generation.

Assessing the landscape of social injustice and the dynamics of its apparent intractability, Bell concluded this pithy articulation of “racial realism” with his most controversial bottom line:

It is time we concede that a commitment to racial equality merely perpetuates our disempowerment. . .

. . . .

Casting off the burden of equality ideology will lift the sights . . . . From this broadened perspective . . . we can better appreciate and cope with racial subordination . . . . [O]ur actions are not likely to lead to transcendent change and, despite our best efforts, may be of more help to the system we despise than to the victims of that system . . . . 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 . . . .

. . . .

We must realize, as [did] our slave forbears, that the struggle for freedom is, at bottom, a manifestation of our humanity that survives and grows stronger through resistance to oppression, even if that oppression is never overcome.<sup>37</sup>

To many, this stark and unexpected bottom line became a conundrum, a cause for confusion, despair, and perhaps paralysis: they found “Bell’s thesis about racism’s permanence to be so despairing that, on its own terms, it renders any meaningful possibility of action against racism totally unavailing.”<sup>38</sup> How can it be, some still ask, that racism is

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36. Bell, *Racial Realism*, *supra* note 25, at 374 (footnote omitted).

37. Bell, *Racial Realism*, *supra* note 25, at 377-78.

38. George H. Taylor, *Racism as “the Nation’s Crucial Sin”*: *Theology and Derrick Bell*, 9 MICH. J. RACE & L. 269, 269-70 (2004).

permanent and yet at the same time Bell insists that the struggle against racism remains worthwhile and valuable? The answer lies, again, in Derrick Bell's own work and personal example.

During the years and decades that Professor Bell was formulating and organizing those provocative thoughts and conclusions, new cohorts of women, people of color, sexual minorities, and other outsiders were pioneering critical outsider jurisprudence, including critical race theory, critical race feminism, other legal feminisms, queer legal theory, Asian legal scholarship, Native American scholarship, clinical scholarship, and more too numerous to mention.<sup>39</sup> These OutCritical or "OutCrit" genres of intellectual work are vibrant and rich, both severally and jointly.<sup>40</sup> Interestingly, however, in none of these genres do we find a similar claim—a claim to the permanence of patriarchy, or heterosexism, or systemic poverty, for example. Even though analogies between race, gender, sexual orientation, and other identity constructs abound, none are found on this particular point within the legal literature of the United States. Despite all the commotion that Derrick Bell's "racial realism" has ignited, no similar lines of gender or sexual orientation "realism" have surfaced, as such, in any serious terms.

But what if it did? What would "gender realism" or "sexual orientation realism" look like? What insights or responses might these new thoughts entail for critical theorists and academic activists? And, assuming that these new thoughts make sense, how might they help critical outsider studies develop an expansive conception of "critical realism" that transcends specific identity categories to help elucidate the mutually-interlocking systems of privilege and subordination that help to link race, class, gender, sexuality, and other socio-legal identity categories in law and life, or in policy and society?

In other words, does it make sense to speak of patriarchy's permanence in the same, or similar, ways in which Derrick Bell spoke of white supremacy's permanence? Similarly, does it make sense to speak of heterosexism's permanence along these lines? Do the differences between white supremacy, patriarchy, and heterosexism beckon a project of critical realism that addresses all and each as part of the same legal regime? Does it make sense for critical outsider jurisprudence to frame

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39. See generally Margaret E. Montoya & Francisco Valdes, "*Latina/os*" and *Latina/o Legal Studies: A Critical and Self-Critical Review of LatCrit Theory and Legal Models of Knowledge Production*, 4 FLA. INT'L U. L. REV. 187 (2008).

40. See generally Francisco Valdes, *Bringing Society to Law: A Critically Raced Accounting*, in EXPLORING THE SOCIO OF 'SOCIO-LEGAL' STUDIES 251 (Dermot Feenan ed., 2013).

the target of our work as the dynamic fusion of these/other identitarian ideologies in the form of contemporary Euro-heteropatriarchy,<sup>41</sup> and *its* resilience or permanence?

These are just some of the profound pending questions prompted by Bell's articulation of racial realism. These are just some of the questions that still await critical outsider interrogation in the same spirit as Bell's own work on racial realism. These are the questions that I hope a next generation of critical outsider scholars might engage as part of the inter-generational social justice project that Bell's own example has put into motion for all of us.

To begin this work, we might ask how Professor Bell would likely position himself in such a case. Of course, we cannot know for sure. But, looking at the record he left behind, we can find clues that also show how he navigated the seeming conundrum of permanent struggle against permanent structures of subordination operating across "different" vectors of law and life, identity and society.

For instance, applying the same gritty sense of social awareness and responsibility underlying racial realism, we see Bell's response to the perpetuation of patriarchy in the context of the continuing struggle towards sex/gender justice in his local community, New York City. An exchange of Letters to the Editor between him and the New York ACLU appearing in the pages of the New York Times during 1996 is revealing in various important respects.

Involving a laser-like sense of critical realism, Bell wrote on July 18, 1996 that:

The opposition of the American Civil Liberties Union to an experimental public junior-high school for girls only reflects a rigid view of sex discrimination, which is not mandated by existing law.

....

But the proposed Harlem school for seventh-grade girls bears only a superficial resemblance to V.M.I. Throughout its 157-year history, V.M.I. excluded women from an elite institution that served as a gateway not only into military service, but into prestigious business and professional jobs.

....

The Harlem school will not protect a privileged class of people; it will address educational and social problems of black and Hispanic

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41. See generally Francisco Valdes, *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of 'Sex,' 'Gender,' and 'Sexual Orientation' in Euro-American Law and Society*, 83 CALIF. L. REV. 3 (1995); Francisco Valdes, *Unpacking Hetero-Patriarchy: Tracing the Conflation of Sex, Gender and Sexual Orientation to its Origins*, 8 YALE J.L. & HUMAN. 161 (1996).

girls. The school will emphasize math and science, two subjects in which girls have lagged behind boys. It will also give young girls an opportunity to attend school in an environment free of the sexual pressures that are so prevalent in inner cities.

....

Paradoxically, the A.C.L.U.'s position mirrors that of the conservative majority on the Supreme Court, which in recent years has implied that any law or policy that mentions race is constitutionally suspect. This approach has echoes in the period after Reconstruction, when the Court used it to invalidate legislation intended to protect the former slaves.

....

... [T]he Court now “perks up only when it has the opportunity to decree that a white male has been the ‘victim’ of our effort to achieve greater racial equality.”

....

But success in court, as the long struggle for school desegregation proves, does not guarantee better education. We civil-rights lawyers should recognize that our views on what the Constitution permits are not always in harmony with what poor, minority children need.

We need to give innovative educational initiatives a chance before intervening with legal actions that—even when they succeed—do no more than maintain a woeful status quo.<sup>42</sup>

Two days later, the ACLU's New York Executive Director wrote back:

Derrick Bell . . . misunderstands our opposition to an all-girls junior high school in East Harlem.

....

Attempts to create programs that are responsive to the needs of students—especially girls and racial minorities—should be encouraged. Nonetheless, regardless of good intentions, school boards may not, as a general rule, segregate by sex or race without violating the Constitution and Federal and local laws.

Mr. Bell also misunderstands the A.C.L.U. Of course we promote and defend the rights of women, African-Americans, lesbians and gays and others. We champion “liberal” and other causes, but we defend civil liberties regardless of how unpopular or “politically incorrect” the cause, or our clients, may be. Remember Skokie?<sup>43</sup>

These lengthy quotes from these relatively short and simple texts

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42. *Derrick Bell, Et Tu, A.C.L.U.?*, N.Y. TIMES, July 18, 1996, at A23 (citation omitted).

43. Norman Siegel, *A.C.L.U. Sees Unequal Education, But . . .*, N.Y. TIMES, July 24, 1996, at A24.

reveal profound points about the larger integrity and vision of Bell's work, and how he navigated the conundrum of apparent permanence in a sex/gender context.

In these succinct texts, we see that, even if his work was forged in the crucible of race-centric scholarship, Derrick knew how to apply and extend the insights and lessons of that work to other domains of social injustice under the rule of the same masters' law. These two short letters crisply bring into sharp relief the gulfs between a capaciously conceived sense of "critical realism" based on the example of racial realism on the one hand, and other current approaches to law and policy—whether liberal, conservative or whatever.<sup>44</sup> In that gulf of difference lies what he came to call "ethical ambition,"<sup>45</sup> the proactive embrace of personal responsibility for social justice action. This equally fierce commitment to theory *and* action against any *and* all systems of injustice, in personal terms, has now become a distinctive characteristic of the legal counter-traditions that he helped to pioneer.

It is a fundamental intellectual and functional subject position that Bell helped to carve out in the legal landscape during his lifetime, again by personal example, which highlighted and confirmed the need for critically capacious approaches to legal intellectual work more generally. Bell helped to pioneer a jurisprudential revolution through his own work in race contexts, but as we can see, he lived and acted on the principles of anti-subordination, criticality, and racial realism in other contexts too, including anti-patriarchal struggle. As these letters only begin to illustrate, the power of his example is in the personal practice of critical realism in public, substantive, and principled terms.

These letters from the mid-1990s effectively show a snapshot of Bell's multidimensional activism and social engagement as an intellectual worker based in the legal academy. Though he authored numerous academic articles and books, he also made time and found energy to speak out in public fora like writing these letters, and acting up in protest against all racist, sexist practices in his workplace and beyond, including famously the leave he took from Harvard until the Law School hired a woman of color.<sup>46</sup> It was this alchemy that, in time, produced the living legend.

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44. See generally Francisco Valdes, *Culture, "Kulturkampf," and Beyond: The Antidiscrimination Principle Under the Jurisprudence of Backlash*, in *THE BLACKWELL COMPANION TO LAW AND SOCIETY* 271 (Austin Sarat ed., 2003).

45. See BELL, *supra* note 1.

46. See Fox Butterfield, *Harvard Law Professor Quits Until Black Woman is Named*, N.Y. TIMES, April 24, 1990, at A1.

While he wrote in greater depth and length, and in academic venues, about the interplay of race, sex, and gender, Bell's forays into same-sex sexuality are more elusive to track down. In this instance, two texts stand out in helping us to begin imagining how a queered critical realism—Queer Realism—might have looked to Bell. Neither of these is a traditional legal text; both are short stories, underscoring again his commitment to knowledge-production through narrative and other non-traditional practices. Neither is extensive; both are strongly suggestive, however.

In the first, *The Entitlement*,<sup>47</sup> Bell tells a story about a new dysfunction suddenly sweeping black communities in the United States, which prevents all black people from engaging in sex without mutual intimacy. This dysfunction, Sexual Entitlement Therapy or "SET," turns out to be a gift, a therapeutic release from all kinds of self and mutual destructiveness expressed through sexual experiences. This is how Bell puts it:

[S]ex for black people is no longer a right, as many men believed. Nor is it an obligation, as many women had concluded . . . . It is an earned privilege, "the Entitlement." Sexual fulfillment has to be deserved, and is the result of loving treatment flowing in both directions between two people who honestly love and respect one another.<sup>48</sup>

Ideally, he continues,

[s]ex should be the reward for achieving full personhood, instead of a substitute for it. Engaging in sex without honestly caring about one's partner leads eventually, if not sooner, to despair, not bliss. It leads to exhaustion, not exaltation; to heartache, not happiness; to disappointment, not deeper affection.

. . . .

. . . "And there's a political component at work here . . . . only when our hearts are in play can our minds fully open to the needs of those around us and to the dangers that threaten."<sup>49</sup>

This first story is both explicitly and implicitly heterosexual and heteronormative, as the characters and their dialogue makes plain. But Queer people do appear once: it turns out that black members of sexual minorities are affected "equally" by SET; it turns out we are all the same, regardless of sexual orientation. We all deserve intimate love,

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47. See Derrick Bell, *The Entitlement*, in *GOSPEL CHOIRS: PSALMS OF SURVIVAL FOR AN ALIEN LAND CALLED HOME* 188 (1996).

48. *Id.* at 198.

49. *Id.* at 201-02.

regardless of sexual orientation. In this story, even if revealed only in passing, black Queer people *are* part and parcel of the imagined black community.

One might critically question the normative premises or imperatives underlying Bell's vision of human sexuality, but let us notice how clearly, in his view, the sexual *is* the human, and the personal *is* the political. Bell's lesson here is that insurgent resistance to hegemonic injustice crosses all identitarian bounds, both "public" and "private." Critical realism applies in thought and deed to *all* the stuff comprising human society, even the Queer stuff.

In the second text, *Shadow Song*,<sup>50</sup> Bell focuses squarely on same-sex love—both its social perils and human beauty. In this story, a black lesbian former student, Gwynn, is in dialog over dinner with the Professor. They spend the evening discussing Gwynn's coming of age—her coming out story while she was a law student, at an event during which the Professor had been present, but without his ever having realized it—as well as her current love life with her white partner, Meredith. Along the way, we get Bell's definition of us: "an identifiable group suffering discrimination because of innate characteristics that entitle them to special protection of their basic rights."<sup>51</sup> Again, one might critically question the premises or consequences of this formulation, but, instead, the noteworthy point here is this: to the legal ear, this specific language seems to compel a recognition of suspect or suspect-like group status for sexual orientation akin to race, functionally acknowledging his recognition of an analogy between racial and sexual minorities. This is not to say that facile analogies were part of Derrick Bell's anti-subordination toolkit, as we next see.

Though expressing repeatedly his respect and unconditional acceptance of sexual minorities, Bell, through Gwynn, provides a glimpse of his skepticism toward identitarian analogies: at one point, he has Gwynn saying of Meredith that she "can never understand what it is to be black in America" even if she knows what it is like to be Queer here.<sup>52</sup> Beyond analogy, there is no substantial equivalence. Though interconnected and mutually-reinforcing, "different" systems of oppression *are* different. Experience with, and knowledge of, one does

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50. See Derrick Bell, *Shadow Song*, in GOSPEL CHOIRS: PSALMS OF SURVIVAL FOR AN ALIEN LAND CALLED HOME, *supra* note 47.

51. See Derrick Bell, *Shadow Song*, in GOSPEL CHOIRS: PSALMS OF SURVIVAL FOR AN ALIEN LAND CALLED HOME, *supra* note 47, at 96-97.

52. See Derrick Bell, *Shadow Song*, in GOSPEL CHOIRS: PSALMS OF SURVIVAL FOR AN ALIEN LAND CALLED HOME, *supra* note 47, at 100.

not necessarily, nor tidily, help against another. Oppression is both joint and several.

After discussing the “scars” of racism, sexism, and heterosexism that afflict us as individuals, couples, families, and communities, Bell delivers a wry bottom line through the Professor, who says, “I’m certainly not saying that there’s no problem, . . . but it’s far from hopeless.”<sup>53</sup> This pithy line is perhaps another, and somewhat lighter, way of encapsulating the essence of racial, or critical, realism: the concurrent and perpetual acknowledgement of gravity coupled with an equal urgency for principled anti-subordination action, whatever the scale or context, and regardless of probable or actual outcome in the short term.

One might observe, somewhat correctly, that letters to the editors and short stories are a bit trifling in light of the enormous woes being tackled. And indeed, perhaps these writings are not terribly complex or academic in any traditional sense. But they also put on display what it means to avoid intellectual, personal, or political paralysis under conditions of mounting crisis, even retrenchment and regression. We see in these efforts not despair but resistance, a decisive positioning of self in arenas beyond race and his personal or intellectual comfort zones of knowledge and experience. We see Bell practice racial realism in sex, gender, and sexual orientation contexts. In these and similar texts we see him go from racial realism to critical realism as personal praxis. Through this observation we can each better imagine, and more concretely begin, to do the same—to depart from existing comfort zones and practice critical realism multidimensionally.

Many of us may have—and did—wish that Bell had integrated multidimensional analysis more expressly and robustly in his academic work back in the day. He was criticized more than once for sticking to his basic talking points.<sup>54</sup> Perhaps it was a limitation, but we all share personal limitation as an aspect of our common humanity. For this reason, no person is expected to do it all: yet Derrick Bell, without doubt, did more than most. In actions like these writings, he showed us both where he stood, and how we might now stand.

The amazing thing about Derrick as exemplar is that we cannot claim he had advantages that we lack. He was in our same profession, navigated its vexing limitations, contradictions, and dysfunctions like the

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53. See Derrick Bell, *Shadow Song*, in *GOSPEL CHOIRS: PSALMS OF SURVIVAL FOR AN ALIEN LAND CALLED HOME*, *supra* note 47, at 97.

54. See, e.g., Leroy D. Clark, *A Critique of Professor Derrick A. Bell’s Thesis of the Permanence of Racism and his Strategy of Confrontation*, 73 *DENV. U. L. REV.* 23 (1995).

rest of us, and traveled the material world amongst us. Nonetheless, over a long lifetime, his was an academic profile shaped by ethical ambitions, always personally prepared to confront authority on behalf of the faces at the bottom of the well, always personally ready to continue the struggle against all systems of injustice despite their seeming permanence.

This brief survey of Derrick Bell's contributions to our world tells a tale of personal struggle against hegemonic systems of injustice based on race and/or other axes of identity. Over the course of decades, his pioneering practices helped to craft a kind of insurgent resistance against multiple forms of subordination through intellectual and personal activism. He put on display a kind of personal praxis showing anti-subordination ethics on multiple planes of action. His ideas, words, and actions were in continuous anti-subordination synergy.

I have emphasized today the writings and deeds of Derrick Bell as our own exemplar of the ideal social justice scholar and educator in the hope that this partial summary and remembrance of his legacies might inspire each of us to do a bit better in following his admittedly giant footsteps. We have no real choice: everything he diagnosed or prognosticated has come to pass—and even worsened beyond the once not-too-long-ago unthinkable—in the two decades since he composed the sobering, prescient thoughts recited above. The ongoing wars on people of color, poor people, sexual minorities, and undocumented immigrants waged mainly through law and policy have intensified in the wake of a black family's residence in the nation's White House,<sup>55</sup> and also have *expanded* with a vengeance against women and their liberty, against workers and their unions, and against universities as bastions of critical knowledge and thinking.<sup>56</sup> The social and legal reassertion of white privilege, patriarchy, heterosexism, and related Euroheteropatriarchal ideologies through backlash lawmaking and cultural warfare is today better funded, better coordinated, and more established than when Derrick Bell was sounding his many alarms.<sup>57</sup>

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55. See generally Sumi Cho & Francisco Valdes, *Critical Race Materialism: Theorizing Justice in the Wake of Global of Neoliberalism*, 43 CONN. L. REV. 1513 (2011) [hereinafter Cho & Valdes, *Critical Race Materialism*].

56. See Steven W. Bender & Francisco Valdes, *At and Beyond Fifteen: Mapping LatCrit Theory, Community, and Praxis*, 14 HARV. LATINO L. REV. 397 (2011).

57. See generally Francisco Valdes, *Beyond Sexual Orientation in Queer Legal Theory: Majoritarianism, Multidimensionality, and Responsibility in Social Justice Scholarship or Legal Scholars as Cultural Warriors*, 75 DENV. U. L. REV. 1409 (1997-1998); Francisco Valdes, *The Constitution of Terror: Big Lies, Backlash Jurisprudence, and the Rule of Law in the United States Today*, 7 NEV. L.J. 973 (2006-2007).

Fortunately, so are we, by which I mean the diverse and overlapping communities of critical outsider scholars who have been building critical outsider jurisprudence during the past couple of decades as a viable alternative to business as usual. And it is important to remind ourselves of our gains even as we acknowledge and oppose the setbacks. During these past twenty years, and for the first time in U.S. history, scholars like Derrick Bell and others following in his footsteps have collectively developed lines of inquiry in the U.S. legal academy focused on race, gender, class, ethnicity, sexuality, and other axes of identity used legally and socially to privilege the few and subordinate or marginalize the many. Starting from the legacies established by legal realism and critical legal studies, these various genres of “OutCrit” legal studies have established networks, discourses, and agendas that help us each to do our part in the preservation and promotion of the early breakthroughs bequeathed to us by Derrick Bell and his contemporaries.<sup>58</sup>

Following in Derrick Bell’s formidable footsteps, scholars associated with critical outsider projects now hold several basic convictions in common—a commonality not yet cohered before Bell’s work. For instance, like Professor Bell we hold the conviction that white privilege is alive and well, and that racial domination is maintained through law and policy, whether “liberal” or “conservative.”<sup>59</sup> As a result, critical and outsider scholars also believe that law and policy are central to the advancement or inhibition of equality based on race, ethnicity, and other social identities, and that the laws of every nation-state provide both opportunities for opposition to oppression as well as for oppression itself.<sup>60</sup> Finally, today’s critical outsider scholars hold the conviction that race, ethnicity, and other social identity markers are socially constructed, and thus require social recognition to operate: none stand alone or operate separately. Instead, critical outsider networks believe that social realities and legal systems based on identity politics operate in mutually reinforcing ways that stratify society based on power, privilege, and their legalized distribution.<sup>61</sup> Therefore, scholarship building on Bell’s foundational work encourages critical interrogation of law and society in structural, systemic, historical, and

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58. See generally *supra* notes 14 and 39 and sources cited therein (on the development of critical outsider jurisprudence in the U.S. legal academy since the late 1980s).

59. See, e.g., Charles R. Lawrence III, *Two Views of the River: A Critique of the Liberal Defense of Affirmative Action*, 101 COLUM. L. REV. 928 (2001).

60. See, e.g., Cho & Valdes, *Critical Race Materialism*, *supra* note 55, at 1533-41.

61. See, e.g., Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 STAN. L. REV. 1183 (1991).

intersectional or multidimensional frames of analysis.<sup>62</sup>

Importantly, these analyses and projects also encompass both intra-group and inter-group issues of race, ethnicity, and similar identity constructs. In addition to making sense of policy and doctrine, these efforts aim to spur social reforms by cultivating cross-group frameworks of analysis designed to produce knowledge as well as coalitional methods and theories.<sup>63</sup> These approaches in turn have fueled counter-disciplinary and internationalist emphases in critical and outsider projects and discourses, striving to transcend “domestic” constructions of race, ethnicity, and other categories of identity relevant to law and policy.<sup>64</sup> Finally, critical outsider theorists building on Professor Bell’s breakthroughs have insisted that “class” and other categories of identity must be understood as interrelated and interlocking rather than as different or disconnected elements of legal regulation.<sup>65</sup> Since the 1990s, these collective investigations have demonstrated key complexities of race and ethnicity in terms of gender, sexuality, class, religion, culture, language, sexuality, imperialism, and colonialism.<sup>66</sup>

Today, critical outsider scholars continue this expansive and expanding work with a nimble focus on current or emerging issues. In recent years, for example, we increasingly have examined the interplay of poverty and globalization, and how these phenomena correlate transnationally to race, ethnicity, gender, and other identity categories.<sup>67</sup> Similarly, we have engaged arguments about “color blindness”<sup>68</sup> and “post-racialism”<sup>69</sup> that gained currency and notoriety during the 1990s

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62. See generally CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al. eds., 1996).

63. See, e.g., Julie A. Su & Eric K. Yamamoto, *Critical Coalitions: Theory and Praxis*, in CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY 379 (Francisco Valdes et al. eds., 2002).

64. See, e.g., Berta Hernández-Truyol, Angela Harris & Francisco Valdes, *Beyond the First Decade: A Forward-Looking History of LatCrit Theory, Community and Praxis*, 17 BERKELEY LA RAZA L.J. 169 (2006) [hereinafter Hernández-Truyol, Harris & Valdes, *Beyond the First Decade*].

65. See, e.g., Charles R.P. Pouncy, *Institutional Economics and Critical Race/LatCrit Theory: The Need for a Critical “Raced” Economics*, 54 RUTGERS L. REV. 841 (2002).

66. See generally CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY (Francisco Valdes et al. eds., 2002).

67. See, e.g., Carmen G. Gonzalez, *Deconstructing the Mythology of Free Trade: Critical Reflections on Comparative Advantage*, 17 BERKELEY LA RAZA L.J. 65 (2006); Tayyab Mahmud, *Colonialism and Modern Constructions of Race: A Preliminary Inquiry*, 53 U. MIAMI L. REV. 1219 (1999).

68. See, e.g., Neil Gotanda, *A Critique of “Our Constitution is Color-Blind”*, 44 STAN. L. REV. 1 (1991); Lawrence III, *supra* note 59.

69. See, e.g., Bell, *Post-Racial Epoch*, *supra* note 8; Sumi Cho, *Post-Racialism*, 94 IOWA L. REV. 1589 (2009).

and 2000s. These issues, in tandem with the ongoing work of the past several decades spearheaded by critical pioneers like Bell, constitute a key part of our research agenda even today—a continuing campaign of resistance to backlash and regression that Professor Bell helped to create and guide through his own personal choices.

Not surprisingly, key to our steady and precarious progression has been a careful, if imperfect, even messy, blending of personal and collective action. As suggested by Derrick Bell's own life, this blending has aimed to synthesize the various atomized initiatives associated with critical outsider scholarship and convert those efforts into programmatic, sustainable interventions that go beyond the atomized ways and means of academic work. This work has allowed us to conceive of "collective personal praxis" as a continuation of the legacies left to us by the Bell generation.<sup>70</sup>

Nonetheless, as the Professor emphasized in his own work, some things never really do change. Whatever else may be said about the accomplishments and the setbacks of the recent past, the call to, and challenges of, personal anti-subordination action remain constant.<sup>71</sup> Whatever insights, experiences, and aspirations may underlie our ongoing commitment to personal collective praxis, the issues surrounding ethical ambition will likely remain key to the substantive integrity and social endurance of our professional labors. Whatever else may be said of whatever else, the question to which each of us arises every day is the same: what will I do today, personally, to practice social justice principles in solidarity with others?

In some crucial respects, this persisting emphasis on personal collective praxis and its intricacies engages a conundrum that Bell himself never quite resolved, as he acknowledged in *Ethical Ambition*. There, in 2002, he wrote:

I would have loved to have had allies in some of my early challenges to authority, but my efforts to change grouch sessions into forums for planning positive action were rarely successful. According to my co-workers, the time or the plan or the circumstances were never right. At the same time they felt uncomfortable about making excuses for not being candid with those in authority, and I was embarrassed by their efforts to rationalize inaction. After enough disappointments of this kind I stopped trying to organize and started speaking up or

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70. See Hernández-Truyol, Harris & Valdes, *Beyond the First Decade*, supra note 64, at 194-99.

71. See generally Francisco Valdes, *Insisting on Critical Theory in Legal Education: Making do While Making Waves*, 12 BERKELEY LA RAZA L.J. 137 (2001).

protesting on my own.<sup>72</sup>

....

However, despite the conservative political climate—especially because of that climate—it is crucial that we challenge unjust work practices and health threats as a group. It may sound naïvely idealistic, but it is only our ability to take action as a group that provides real checks and balances in a democratic society. Group struggle is hard, sometimes the hardest of risks, because at any point the urge to leave the struggle to others can so easily justify our not continuing. But it is also the most honorable, the most clearly selfless of all the risks, because its immediate effect on others is so palpable.<sup>73</sup>

Summing up this foundational yet unresolved observation, he then concluded:

[T]here have been times over the years when my efforts to live an ethical life have made me a poorer rather than a better colleague. I try to get along with everyone and pull at least my share of the workload, but my strong commitment to independence sometimes makes it hard for me to be a team player—particularly when the team wants to go in a direction with which I disagree. Sometimes this involves what I consider an ethical issue, but more often it is simply a disagreement. When I do go along, I try hard not to compromise my sense of independence.<sup>74</sup>

In these three quotes or excerpts we can see the Professor struggling with the question, and with the ethics, of individual versus concerted action.

We observe him sometimes gravitating toward the need for “group struggle” even though it is “sometimes the hardest of risks” while struggling simultaneously to “not compromise [his] sense of independence.” The commitment both to collective action and to individual independence frames the author’s unresolved ambivalence. After decades of personal, social, and intellectual struggle, a towering pioneer of critical outsider jurisprudence remains unsure about the path to take in this choice over method in praxis. It is an uncertainty well known, and still reflected in, the venues and texts of scholars following in Bell’s footsteps, who confront similar vexations in the day-to-day doings of our work. Indeed, the history of critical outsider jurisprudence during the past two decades or so is marked by the efforts of many

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72. BELL, *ETHICAL AMBITION*, *supra* note 1, at 55-56.

73. BELL, *ETHICAL AMBITION*, *supra* note 1, at 70-71.

74. BELL, *ETHICAL AMBITION*, *supra* note 1, at 123.

pioneering scholars and activists who, like Derrick Bell, struggle to strike a principled balance between the imperatives of ethics and the dynamics of ambition. It is a struggle that necessarily continues today.<sup>75</sup>

And so I conclude by turning to—and cheerfully reminding us of—the seven distillations of critical wisdom that Derrick bequeathed us expressly as “Legacies” for us, his posterity. Included in another of his storytelling texts—*Afrolantica Legacies*<sup>76</sup>—these seven Legacies provide us all with a daily mantra to internalize and apply this very day as we go about our personal, professional, social and economic lives. I conclude by intoning them because I hope and believe that, over time, they can help to sustain our flesh and spirit for the never-ending hand-to-hand combat against hegemonic injustice, as did the one and only Professor Bell to the very end of this lifetime.

This is how they go:

- I. No matter how justified by the racial [and other identity-based social] injustices that they are intended to remedy, civil rights policies, including affirmative action, are implemented for [outgroups] only when they further interests of [ingroups].
- II. Service in the cause of truth and justice is no less worthy of praise because it is misunderstood, misused, or condemned.
- III. Coalition building is an enterprise with valuable potential as long as its pursuit does not obscure the basic fact: nobody can free us but ourselves.
- IV. An individual whose actions against [oppression] threaten the powerful must be prepared to endure both the condemnation of enemies and the abandonment by friends.
- V. Continued resistance by the powerless eventually triumphs over power, and thus oppression must be resisted, even when opposition seems useless.
- VI. The courage to confront [subordination], while worthy of praise, should not obscure the fact that the powerful can employ our confrontative statements[acts] to serve their ends as effectively as they can those deplorable self-blaming comments by [some outgroup members].
- VII. Life seems to favor those in power, while it seldom rewards triumphs with good works. The righteous must rely on their faith and champion justice even in a seemingly lost cause.<sup>77</sup>

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75. See generally *supra* notes 50-71 and sources cited therein (on continuing work to build critical outsider studies and discourse on the U.S. legal academy).

76. DERRICK BELL, *AFROLANTICA LEGACIES* (1997).

77. *Id.* at xi-xii.

In the end, I would add and posit, these legacies are “Queer” lessons—if we understand Queer to mean, as it did to Queer Nation in the 1990s—a multidimensional, personal, and coalitional engagement in action against the combined yet variegated effects of systemic Euroheteropatriarchy. In the end, even though Professor Bell drew his lessons from racial domination, he came down to the same bottom line, at roughly the same time, as did the Queer sexual minority activists of the 1990s. The hard-gained wisdom of his actions and these legacies are now a shared inheritance.

Invoking the Queer sensibilities of these seven Legacies, I hope to have provided some encouragement to the inclinations within each of us to follow in Derrick Bell’s footsteps, to the best of our abilities, and in light of our own frailties, limitations, or other circumstances. The very fact that we are all and each here today,<sup>78</sup> to celebrate his remarkable work and example, shows we have something to build. Nevertheless, the difficulty, oftentimes, seems to be: how do we individually carry on, after we disperse and return to our atomized lives, under the wearing grind of hegemonic injustice? How do we sustain the daily energy and courage to mount insurgent resistance to an implacable and multidimensionally deranged status quo? How do we cope, day in and day out, with the micro-and-macro aggressions that kill both bodies and spirits, while marching out each day resolutely to battle against intentionally blinded regimes of permanent neocolonial oppressions?

Bell’s personal and intellectual life shows that no panacea exists for these existential queries. But his unflagging lifelong commitment to permanent resistance as a personal, everyday, multidimensional practice in myriad situations does provide a case study for the ages in how to engage them concretely. Returning time and again to Derrick Bell’s biography and body of work provides manifold lessons, insights, and techniques for coping ethically with the bottom lines of critical realism for a lifetime of academic and social activism. And concluding with his seven self-styled Legacies provides us all with a weekly set of daily mantras to help us each carry on with integrity akin to the late Professor’s unflinching ways.

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78. *See supra* note \*.