Derrick Bell’s Children

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When I received Kendall Thomas’s invitation to participate in a conference on Derrick Bell, I immediately thought of two things. What came to mind first was a “public conversation” I participated in at New York University (NYU) Law School back in March 2009. The conversation, sponsored by several minority student groups, was on the topic of the state of critical race theory in the academy. At the time, I was still an associate professor at Hofstra University School of Law. Barely four years into teaching, I was honored that students at NYU Law School even knew who I was. But the real honor was knowing that my conversation was to be with a scholar whom I had long admired from afar, a scholar whom I had once seen speak, but whom I’d never met in person: the esteemed Professor Derrick Bell. What did Bell and I talk about during that conversation on the “state of critical race theory” in the academy? I haven’t a clue. What I remember is how incredibly warm and down-to-earth he was. What I remember is that we talked as if we were old friends. But more on this later.

My other thought when I received Kendall Thomas’s invitation was this: “The Chronicle of the Space Traders.”1 It was more than just a thought. I was immediately transported to over twenty years earlier—yes, I’m dating myself—when I was a student at Columbia Law School, and the school was abuzz with news that Derrick Bell would soon be giving a lecture. Looking back, I suppose this was around the time Bell was threatening to leave Harvard over their failure to hire a female scholar of color, a threat that he aired publicly and that the media willingly covered. But part of the buzz, at least among the African American students, was also because of who he was: the first tenured black law professor at Harvard. I remember a packed audience awaited him. And I remember he related “The Chronicle of the Space Traders,” on one level a science fiction story about space aliens landing on earth and offering to provide needed resources, and on another level a parable about how a white majority would be willing to sacrifice a black minority for the right price. In exchange for unlimited gold and fuel, the visitors want “to take back to their home star all African Americans.”2 Congress is called into special session, state legislatures are convened, and eventually a constitutional convention is convened to draft an amendment that would override the Reconstruction Amendments and allow the sacrifice, quite literally, of minorities in order to benefit the majority:

By vote of seventy percent in favor—thirty percent opposed—Americans accepted the Space Traders’ proposition. Expecting this result, the government agencies had secretly made preparations to facilitate the transfer. Some blacks escaped, and many thousands lost their lives in futile efforts to resist the joint federal and state police teams responsible for the roundup, cataloguing, and transportation of blacks to the coast.

The dawn of the last Martin Luther King holiday that the nation would ever observe illuminated an extraordinary sight. The Space Traders had drawn their strange ships right up to the beaches, discharged their cargoes of gold, minerals, and machinery, and began loading long lines of silent black people. At the Traders’ direction, the inductees were

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2 Id. at 58.
stripped of all but a single undergarment. Heads bowed, arms linked by chains, black people left the new world as their forebears had arrived.\textsuperscript{3}

What a story! Two things in particular resonated with me. First, there was the pessimism. I was a student at law school. And a minority student, to boot. This was at a time when Columbia would give students dire warnings about straying into Morningside Heights or Harlem. A time when the election of David Dinkins as mayor was sharpening the racial fault lines in the city. A time when the rape of the Central Park Jogger by “wilding” black youth was still on everyone’s mind,\textsuperscript{4} and when boycotts of Korean delis were not uncommon. It was a time when we were bracing ourselves for the next big thing. (We didn’t have to wait long: the Crown Heights Riots came next.) Pessimism was almost de rigueur.

But there was something else that resonated even more: Bell’s use of narrative to talk about law in new ways, and to expose law in new ways. To expose society as well, and say the unsaid. My background, after all, was as a literature major, which for the longest time had seemed far removed from what I was learning in law school. But here was a bridge between literature and the law. Thus, it was hearing Bell use narrative that stuck with me throughout the years, and that quite literally changed my life. After all, it was thinking about Bell’s use of storytelling that likely prompted my use of hypotheticals to open my Columbia Law Review note when I was still a student.\textsuperscript{5} More importantly, it was Bell’s storytelling that got me thinking that I could, on a sustained basis, contribute something to legal scholarship. When I began to think seriously about becoming a professor and writing legal scholarship, I thought of Bell. I thought too of other scholars who are direct and indirect beneficiaries of his use of storytelling, especially those who incorporated personal narrative. I am thinking specifically of Cheryl Harris’s “Whiteness as Property,”\textsuperscript{6} and Patricia Williams’ The Alchemy of Race and Rights,\textsuperscript{7} and Paulette Caldwell’s “A Hair Piece”\textsuperscript{8}; even Kenji Yoshino’s “Suspect Symbols.”\textsuperscript{9} All of these scholars influenced my scholarship, which routinely employs storytelling.\textsuperscript{10} For me, it began with Bell. Indeed, my first law article not only opened with personal narrative; it also devoted an entire section to Bell’s “Chronicle of the Space Traders.”\textsuperscript{11}

I want to conclude by suggesting that Bell, in his way, served as an father figure to me, and if the conference at Columbia is anything to go by, to dozens upon dozens of us. For me in particular, he (along with Kendall Thomas and Kellis Parker) represented a way to be a black male professor in an ivory tower, and a way to be a black scholar in an ivory tower. There is another reason, though, that I like the father analogy. Because in all honesty, the more I read Bell’s work, and the more I developed my own voice as a scholar, the more I found myself disagreeing with him. I came to think that his work was

\textsuperscript{3} Id. at 72.

\textsuperscript{4} It would be years before we would realize the youth were innocent and their convictions would be vacated. See Susan Saulny, Convictions and Charges Voided in ’89 Central Park Jogger Attack, N.Y. TIMES, Dec. 20, 2002, at A1.

\textsuperscript{5} I. Bennett Capers, Sex(ual) Orientation and Title VII, 91 COLUM. L. REV. 1158, 1158 (1991).

\textsuperscript{6} Cheryl J. Harris, Whiteness as Property, 106 HARV. L. REV. 1707 (1993).


\textsuperscript{11} I. Bennett Capers, Flags, 48 HOW. L.J. 121, 158–60 (2004).
flawed for overemphasizing the black-white binary; and as an avowed atheist, I found his reliance on faith and religion a distracting shortcoming. In short, he was a father figure, but we all have our Oedipus complexes. I want to conclude too by returning to the “public conversation” Bell and I had at NYU. I still don’t remember what we talked about. But of this I am sure: he made it clear that he was a champion of critical thinking, and would appreciate the fact that I’m willing to be critical of him. And that, of course, is one of the many qualities that made him great.