

FOREWORD

RALPH R. SMITH[†]

If we are to seek new goals for our struggles, we must first reassess the worth of the . . . assumptions on which without careful thought, we have presumed too much and relied too long

. . .

Derrick Bell
Faces at the Bottom of the Well

Women victimized by "domestic" violence. Asian Americans relegated to the status of aliens and non-aliens. "At-will" employees who remain "at-risk" of losing their livelihood, status in the community and social support. People needing legal services just to assert their most basic rights. Haitian refugees who risk all on open seas only to find the closed doors, closed minds, closed hearts. Incarcerated men and women whose souls are seared by callous retribution masquerading as just punishment.

These are the people whose issues and concerns occupy the articles and pages of this inaugural edition of *Hybrid*. People who maintain high hope in law despite overwhelming evidence that help from the law comes grudgingly when it does, often too late to make a difference, and sometimes not at all. Through them, *Hybrid* signals its readiness to merge the admonitions of Jesse Jackson and Derrick Bell to "keep hope alive" by listening to the voices connected to the "faces at the bottom of the well." And by so doing, *Hybrid* embarks on a journey which however long or short could challenge many assumptions which are so widely held as to seem deserving of repose and immunity from critical scrutiny. Whether those challenges mature will depend upon whether, as its name implies, *Hybrid* creates new possibilities by consciously, constantly and conscientiously transgressing established institutional, disciplinary and doctrinal boundaries.

This inaugural issue holds considerable promise for the creative trespass. Working collaboratively and enduring the often torturous process of developing consensus, the editors have garnered selections that are diverse in form and content, each bringing its own challenge to the complacency of business as usual. They have opted against the contemporary preference for paralyzing critique and for engagement ranging from education and consciousness-raising to

[†]Ralph R. Smith is an Associate Professor at the University of Pennsylvania Law School. He is also founder and Executive Director of the Philadelphia Children's Network. As a student at the Law School of the University of California at Los Angeles, Professor Smith was a member of the Law Review as well as a founding member and editor-in-chief of the Black Law Journal.

legislation and litigation to system reform. And all along the way, they have made the decisions which even now distinguish *Hybrid* from the rest. For example, the real significance of the closing exchange between Associate Justice Blackmun and the Assistant U.S. Solicitor ("Ms. Mahoney, have you ever been to Haiti"? "No sir, I have not.") and the powerfully incisive nature of Justice Blackmun's question would go unrealized but for the editorial decision to eschew dispassionate exegesis for an evocative first person reaction to the arguments on the challenge to the Bush/Clinton policy on Haitian refugees. Similarly, because the myriad activities involved in the evolution of Pennsylvania's approach to domestic violence are not banished to footnotes reserved for the local and anecdotal nor imprisoned within "legislative history," there is an empowering understanding of the potential for social change inherent in the successful braiding of litigation and systems advocacy.

With its auspicious beginning now behind it, we can speculate that, standing on the shoulders of its pioneering board, *Hybrid's* next generation could provide a forum for those who wish to explore the transformative potential of law and legal institutions in addressing the corrosiveness of power and powerlessness; the implications of a new "dilemma" occasioned by velcro-ing the social liberalism of the post-*Brown* era onto a persisting dominant ideology that is fundamentally conservative; the challenge to Democratic values and democratic controls when public bureaucracies persist seemingly in a state of permanent failure.

And this is but a small portion of the agenda that awaits.

In memory of
Justice Thurgood Marshall

We gratefully acknowledge the following
for their generous support:

ROSEMARY AUTH
ALBERT G. BIXLER
COZEN & O'CONNOR
MORGAN, LEWIS & BOCKIUS
BRIAN M. RUDNICK
DAVID RUDOVSKY
SCHNADER, HARRISON, SEGAL & LEWIS
DAVID UNKOVIC
DEBRA WILLIG

Hybrid's continued existence depends upon the generosity of private donors such as those listed above. Contributions towards the publication of our second issue may be mailed to: *Hybrid*, 3400 Chestnut Street, Philadelphia, PA 19104.