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Preface

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Preface

The papers which follow will speak for themselves. We believe that they will speak helpfully to the thousands of dedicated public officials and lawyers throughout the United States who are struggling to make real in the near future the American dream of equality of opportunity for all of its citizens. This conference, which was held in the hope of being able to afford some assistance in that difficult struggle, honors the memory of the late Justice Philip Halpern,¹ who contributed so much to the development of human rights.

As these papers make clear, the American Negro community is undergoing an economic depression of major proportions, a depression in which the rate of Negro unemployment is more than twice that of whites; in which the median Negro annual wage in 1962 was \$3,023, about \$2,400 less than the average white man's. There are indications that this wage gap is increasing.² Such a depression in the midst of our longest post-war prosperity intensifies a despair created by centuries of discrimination. It debilitates egos already subjected to ubiquitous humiliation and further weakens a social structure assaulted and distorted by centuries of repression.

In a society still desperately short of schools, teachers, housing, hospitals and the numerous other necessities of a decent life, such unemployment—which encompasses whites as well as Negroes—represents a waste of human resources which neither our needs nor our sense of justice can long permit. Yet, discrimination, poor education, an apparent shrinkage of jobs in precisely those areas for which Negroes are presently able to qualify, all conspire to keep a disproportionate share of the strains of unemployment on the Negro.

The magnitude of our present crisis stems not only from the harsh, tangible consequences of centuries of social injustice and deprivation, but also from the above-mentioned emotional factors which are too frequently disregarded. Many of our leading citizens of goodwill still fail to see this aspect of the problem. They point to the progress that has been made in the past 35 years in expanding the range of opportunity for Negro citizens, to what seems to be the recent acceleration in the rate of that progress, and they see the Negro now as simply going through the stage of winning a place in the American community which successive waves of immigrants of varying ethnic, national, and religious backgrounds have in their turn gone through. What they fail to recognize is the staggering extra burdens which the Negroes have faced and do face. *An American Dilemma*³ and the reports of the United States Commission on Civil Rights⁴

1. Buffalo Law Review, Vol. 13, No. 2 (1964) was dedicated to Justice Halpern, and contains comments on aspects of his work, pp. 303-338.

2. See testimony of Undersecretary of Labor John F. Henning, in *Hearings on Equal Employment Opportunity Before the Subcommittee on Employment and Manpower of the United States Senate Committee on Labor and Public Welfare*, 88th Cong., 1st Sess. 97 (1963); Testimony of Herman Miller, *id.* at 321; see also, generally, Hill, *infra*.

3. Myrdal, *An American Dilemma* (1944).

4. See 1963 Report of the U.S. Commission on Civil Rights, 265-68, Appendix II, List of Publications as of Sept. 30, 1963.

document beyond reasonable dispute the basic elements of the difference. No other group started in this country as slaves. The prejudice against no other group has been worked so deeply into the fabric of American *mores*. Despite the overwhelming consensus of scientific opinion,⁵ the notion still persists in some quarters that there is a racial discrepancy in human capabilities. Finally no other group has been so readily identifiable as to preclude an individual's opportunity to present himself as an individual before the prejudices directed against his group have been aroused.

Furthermore as the pace of corrective effort has begun to increase since World War II, the movement toward social justice has been almost buried under the two nationwide problems of urbanization and technological change. The explosive growth of the cities has brought to them thousands of people totally inexperienced in urban living just at a time when job opportunities for the untrained and uneducated have begun to shrink rapidly. Wholly apart from any question of group prejudice, the major domestic problems of our day are the problems of urban education and employment for the unskilled.

Under these conditions, a total change in the situation of American Negroes in a year or even a decade is beyond the range of possibility. Yet the *Brown* case,⁶ by its uncompromising reaffirmation of the American ideal, illuminated the enormous gap which remains between what has been achieved and what remains to be done. Inevitably it created a dramatic rise in the level of expectation. In this new perspective two things are demanded of American society. The first is intangible:—an assurance that the American community as a whole has decisively and for all time rid itself of any idea of racial superiority and inferiority. The second is the immediate adoption of decisive measures to remedy the present consequences of past injustice. The passage of the Civil Rights Act is dramatic evidence of the fact that the preponderant opinion of the country has followed the Supreme Court's affirmation of equality and has moved to effectuate it. But every local failure to break down an existing barrier to advancement or recognition not only brings its immediate disappointment, but also carries jar-

5. See the quotations in the *Advice to the Reader*, prefacing the 1962 (Meridian) edition of Kardiner and Ovesey, *The Mark of Oppression*, which the authors accept as a statement of their scientific position:

The prospect of continuing inferior status is essentially unacceptable to any group of people. For this and other reasons, neither colonial exploitation nor oppression of minorities within a nation is in the long run compatible with peace. As social scientists we know of no evidence that any ethnic group is inherently inferior. (Signed by eight social scientists including Gordon W. Allport, Georges Gurvitch, Harry S. Sullivan).

16. Lastly, biological studies lend support to the ethic of universal brotherhood; for man is born with drives toward cooperation, and unless these drives are satisfied man and nations alike fall ill. Man is born a social being who can reach his fullest development only through interaction with his fellows. The denial at any point of this social bond between man and man brings with it disintegration. In this sense, every man is his brother's keeper. For every man is a piece of the continent, a part of the main, because he is involved in mankind.

(Concluding point of UNESCO "Statement on Race," July 18, 1950).

6. 347 U.S. 483 (1954); 349 U.S. 294 (1955).

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ring overtones which stir anew the fear that the commitment has not been made, that the idea of full acceptance has not been sincerely embraced.

In such a context the only possible check on steadily growing frustration and tension is the formulation, community by community, of a comprehensive program for the total solution of the problem, the spelling out of detailed plans for the achievement of the program, and the steady fulfillment of the plans.

The purpose of the Conference was to provide some assistance to those who are developing this approach in the field of employment. There were three sessions, addressed first to general problems, then to the operation of the fair employment practice commissions, and lastly to supplements and alternatives to the commission approach. The papers presented and the comments on them make available in compact form the results of much experimentation and thoughtful consideration by the participants, all of whom have had significant experience as administrators, lawyers and students, about the methods of achieving equality of opportunity and employment. Some points not mentioned or fully developed in the formal presentations were brought out during the course of the discussion. Brief summaries of the highlights of those discussions appear after the papers of each session.

It is never easy to reshape a society, but our commitment to do so is based upon reason, justice, and history. We hope that this type of conference, bringing together scholars and administrators, will be followed by many similar meetings in order that our collective experience may be studied, evaluated and disseminated.

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