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### Patricia Roberts Harris

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# Patricia Roberts Harris

DEAN JOHN T. BAKER

Patricia Roberts Harris was my teacher, advisor, and friend, when I was a student at Howard Law School. I took every course that she offered and she served as the advisor to the *Howard Law Journal* while I was its Editor-in-Chief. She guided my career for my first few years out of law school and never failed to make time for me in her busy schedule whenever I needed to discuss something which I thought important. For this I am deeply grateful and I will continue to miss Mrs. Harris very much. I know that I spent many hours in the presence of a good woman whose life among us was and will remain an inspiration, not only for the superlative quality of her work, but also for the charm and grace of her being. What Mrs. Harris did has influenced and will continue to influence great institutions to our common benefit. What she was will long echo in our spirits.

The intellectual problem with which Mrs. Harris wrestled all of her adult life was, I believe, how to resolve what Professor Derrick Bell has called the "American Contradiction." Bell says that this contradiction was created when the United States Constitution was drafted and has haunted American society ever since:

The framers made a conscious, though unspoken sacrifice of the rights of some in the belief that this forfeiture was necessary to secure the rights of others in a society embracing, as its fundamental principle, in the equality of all. And thus the framers, while speaking through the Constitution in an unequivocal voice, at once promised freedom for whites and condemned blacks to slavery.<sup>1</sup>

Today, long after the decision in *Brown v. Board of Education*,<sup>2</sup> this contradiction still haunts us. One has only to look at the statistics relating to the disparity between socio-economic conditions of blacks and whites in this country for confirmation. To be sure, significant progress has been made but we still have a long way to go. I am confi-

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JOHN T. BAKER\*

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dent that Mrs. Harris understood this problem as well as anyone and better than most.

Indeed, Mrs. Harris dedicated much of her life to the task of attempting to free American society to come to terms with this contradiction. Teaching at Howard Law School presented a wonderful opportunity to train young men and women to cope with the American contradiction in the context of the legal system. I remember, as if it were yesterday, being exposed for the first time to one of the central dilemmas of constitutional theory in Mrs. Harris' class in Constitutional Law. What theoretical basis can and should the courts use to thwart the will of the majority because the legislation or regulation in question infringes upon some "right" of the minority? Where do these "rights" come from and how often, in a democratic society can courts afford to engage in these countermajoritarian efforts? "This is a law school," she would say. "You must be prepared to make legal arguments which will persuade the courts. Don't simply tell me that the statute is offensive to the rights of black people." She helped many of us understand the importance of keen, creative and forceful reasoning.

Equally importantly, Mrs. Harris helped us to understand that one of the real costs of living in a society where the majority excludes, fails to recognize if you will, the legitimate concerns of the politically powerless minority is that the minority might, at best, resort to civil disobedience and, at worst, resort to violence.<sup>3</sup> Her view, and certainly one that I share, was that the legal system and more particularly the courts must be prepared to assist politically powerless minorities in their quest for those things which they cannot obtain through normal political channels if some modicum of social order, and decency, is to prevail.

In her lifetime, Mrs. Harris witnessed the courts playing this role. And as the courts and legislatures began to redress some of the injustices inflicted upon blacks by according formal equality in many areas of public life, opportunities presented themselves for blacks to work within the system to attempt to solidify some of these gains. A voting rights statute does not assure that blacks will register to vote; a federal statute prohibiting racial discrimination in public accommodations will obviously be challenged and lawyers are needed to defend the stat-

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3. See Harris, *The Rightful Limits of Freedom*, reprinted in Roston, *IS LAW DEAD* (1971).

ute's validity; and fair housing legislation is not self-enforcing. Mrs. Harris understood this and devoted some portion of her life to attempting to transform some of this newly acquired formal equality into substantive equality. She was appointed Chairman of the Democratic Party's Credentials Committee for its 1971 convention. The significance of this appointment lies in the fact that prior to this Convention the Democratic Party decided to revise its rules for delegate selection to encourage more participation of "the young, the minorities and women."<sup>4</sup> Mrs. Harris was responsible for enforcing these newly adopted rules. The summer before the Convention, Mrs. Harris had to recruit persons from across the country to hear challenges to local party's selection procedures. I was one of the persons selected. While on vacation, I received a call from Mrs. Harris who stated very matter-of-factly that she wanted me to be a hearing officer for a challenge to the party's selection of delegates in Maine. I tried to beg off by telling her that I was on vacation and preferred not to go to Maine, hold a hearing and write an opinion. She said that she was engaged in a lot of activities which, given her preference, she would have eschewed. "Besides," she said, "I need you to do this." This brought the conversation to an end. I went to Maine. Many other lawyers similarly responded to Mrs. Harris and as a result of her tireless efforts that spring and summer, the Democratic Party's Convention in 1971 had substantially more blacks and female delegates. Surely, working to expand the avenues for black participation in mainstream American politics is an effective way to convert formal into substantive equality and to confront and help resolve the "American Contradiction."

There are other ways to deal head-on with racism, its current reality as well as its past effects. Mrs. Harris worked in some of these arenas also. As Secretary for the Department of Health, Education and Welfare, she was intimately involved in trying to eliminate the almost intractable problem of residential segregation and later as Secretary to the Department of Health, Education and Welfare, she had an opportunity to eliminate obvious inequities in the delivery of federally sponsored health and social services to blacks.

In short, Mrs. Harris devoted most of her life to the task of helping a society overcome the effects of a grievous harm which it inflicted

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4. EBONY 104 (1971).

upon its black brothers and sisters. I am not sure that this society will ever have the will and strength of conviction to successfully deal with this problem. I am sure that without people like Pat Harris, we as a society will not even have a chance at resolving the "American Contradiction."

Howard Law School is proud to count Mrs. Harris as one of its most outstanding and devoted faculty members. The memory of her fine deeds and courageous behavior will remain with us for a long time to come.