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A Positive Step in Racial Classification

The federal government's recent announcement that it will permit citizens to check off more than one racial category in the 2000 Census is a positive step toward resolving a thorny racial classification controversy. The decision represents a compromise between those who advocate the addition of a "multiracial" category to the census form and those who believe such a change would be ill-advised. The Joint Center is among those who have opposed the Census Bureau's adoption of a multiracial category in the decennial population count because of its potential negative impact on voting rights and other issues of concern to African Americans.

In spite of our opposition to a new multiracial classification, we recognize that a growing portion of the nation's population has parents of different races. We believe that these individuals should have the right to embrace and identify with the cultural and ancestral heritage of each parent. Nevertheless, a multiracial category in the census count would be harmful to racial minorities who rely on an accurate count of their numbers to record racial progress and document racial bias.

Harold McDougall, director of the Washington office of the NAACP, enumerates many of the problems that a multiracial category would pose in a feature in this issue of *FOCUS*: "No 'Multiracial' Category in the Census." The article has been exerpted from his testimony before a congressional committee in May.

Over the last three years, the Joint Center has concurred with the NAACP and other civil rights groups in expressing concern over the adoption of the multiracial category that has been promoted by some mixed-race Americans and conservative groups. We believe that if a large number of Americans of color checked the "multiracial" box, it would compromise the quality of data essential to enforcing civil rights laws by reducing the proportion of the population in identifiable racial groups. This could be detrimental to blacks if it reduces the number of individuals counted as African Americans since the enforcement of many laws designed to ensure racial equity depend upon census data. African Americans could be placed at a disadvantage in the drawing of legislative districts and the enforcement of laws against discrimination in employment, lending, housing, education, and health care.

The government's plan to give individuals the option of self-identification in more than one of the established racial categories (White, Black, Asian & Pacific Islander, and American Indian or Alaskan Native) is welcome because it allows for a fuller delineation of the racial composition of the population. Rather than having individuals lumped into a vaguely defined "multiracial" category, they will be identifiable by their full racial heritage. This announcement does not put an end to the discussion, however. For example, the Census Bureau has not explained how the racial data will be tabulated—that is, how those who check more than one race will be counted. Will someone who checks both black and white be counted in both racial totals, only one, or neither? Will the data be treated differently for voting rights purposes than for other uses? Decisions on these matters could affect the racial totals in ways that are similar to a multiracial category.

With two and a half years to Census 2000, more procedural decisions by the Census Bureau remain. In addition to racial classification there is the ever-present issue of sampling (see April, "TrendLetter," "Economic Report"). As the process plays out, continued vigilance and involvement will be required to ensure an accurate count of all racial groups in America. ■



PRESIDENT

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Martin, Marshall, and the Supreme Court

Thurgood Marshall's Path to the Supreme Court Was Long and Strewn With Obstacles, But the Way Was Paved by Louis Martin

The following is the last in a three-part series of excerpts from Walking With Presidents: Louis Martin and the Rise of Black Political Power, *sponsored by the Joint Center and published by Madison Books in June. This biography of the first African American White House advisor to have regular access to presidents was written by former* Ebony *magazine writer Alex Poinsett with an introduction by noted civil rights historian David Garrow. The following condensed excerpt focuses on Martin's formative role in Thurgood Marshall's appointment to the federal bench and subsequently to the U.S. Supreme Court.*

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The fall of 1961 found Louis Martin busy considering black candidates for federal judicial appointments. One name that naturally came to mind was that of his friend Thurgood Marshall, who, by this point in his career as the director-counsel of the NAACP Legal Defense and Educational Fund, was so well known that the media had dubbed him "Mr. Civil Rights." Marshall had successfully argued before the U.S. Supreme Court not only the landmark *Brown* case in 1954 but 30 other cases as well.

During the 1960 presidential race, Martin had openly stated to John Kennedy and others on the campaign team that he wanted to see a black seated on the Supreme Court. But as Martin later recalled, as a candidate for appointment in 1961 "Thurgood Marshall was not, at that moment in the early days, the number-one guy in the thoughts of most people." Simply put, Marshall was viewed as a leader among the civil rights forces and therefore the last man on earth likely to be confirmed by the southerners in the U.S. Senate. Martin also heard through Marshall's friends that he was not interested in a federal judgeship. But the idea of seating "Mr. Civil Rights" on a federal court was too appealing to abandon, so regardless of the obstacles, Martin circulated the idea persistently among the White House's inner circle.

Eventually, Attorney General Robert Kennedy invited Marshall to meet with him, having decided that he could offer Marshall, at best, a judgeship on the federal district court of New York. When Marshall declined the offer, the attorney general wanted to know why. Marshall explained that anything less than a circuit court position, one of which he knew was vacant, was of no interest to him. Kennedy told him that seat was no longer available. The increasingly unpleasant conversation ended abruptly, with Kennedy startled and offended.

By a fortunate coincidence, Martin was at New York's Idlewild Airport two days later and ran into Marshall at a snack bar there. "What can you say about the language you used with my attorney general?" Martin asked him. "As far as I can remember," Marshall answered, "all I said was, 'Go to hell,' and believe it or not I can do better than that." "Thurgood," Martin implored, "I want to know now, what does it take to move you? What about this judgeship?" "I'm not going to do it," Marshall said. "I've got to be a circuit judge, or I don't take anything." Marshall emphasized that he considered a seat on a circuit court of appeals "a hell of a job," adding that he'd take it "any way I can get it."

Martin felt reassured. "I felt I had pinned Thurgood down," he recalled, "and I could get to work on the project with no misgivings…. A day or so later, when I mentioned Thurgood as an excellent candidate for the circuit court whose appointment would strengthen our ties with blacks, Bobby shocked me by his response. He said that I was out of my mind and had no idea of the political realities in the Senate, which had to consent to such a presidential appointment. He also noted that Thurgood's legal experience had been limited to civil rights cases." Martin recognized that the attorney general was probably on target—the NAACP, in Martin's experience, "was no more popular among some senators than the Communist Party."

Nevertheless, Martin was unwilling to rest his case. Referring to Robert Kennedy, he remembered, "I just stayed on him. You know how you do it, you start talking to everybody that's close to him. I had a campaign to get it straight." Two weeks later the attorney general telephoned him. "Well, I think I might go for the court," he announced. The vague reference momentarily baffled Martin. "You remember—Thurgood?" Kennedy asked him.

"Oh my gosh," Martin responded, "You don't mean—"

"Yes, I think I might," the attorney general answered, and then gave Martin the go-ahead to telephone Marshall with the good news. Reaching Marshall at his vacation spot in New England, Martin filled him in, adding, "The last thing you had better do is tell anybody else about it." Marshall soon heard from President Kennedy, who made the offer official.

To secure the confirmation, the president struck a deal with James Eastland [D–Miss.], chairman of the Senate Judiciary Committee, who desired that his former college roommate and fellow Mississippian, William Harold Cox, be honored with a district judgeship as one of Kennedy's first judicial appointments. Roy Wilkins of the NAACP and others warned Kennedy that Cox, despite his high rating by the American Bar Association, would be bad news for desegregation. The next few years would show how right they were.

From *Walking With Presidents: Louis Martin and the Rise of Black Political Power*, by Alex Poinsett (Madison Books, June 1997), available in major bookstores.

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Louis Martin

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Although Eastland stalled the confirmation for almost a year, as Martin recalled, "Most of our fears about the tough time in store for the appointment of Thurgood Marshall never really materialized. A deal is respected on the Hill, and Senator Eastland went through his angry role according to the script." On September 11, 1962, the Senate confirmed the appointment by a vote of 54 to 16, placing the most famous black civil rights lawyer in America on the Second Circuit Court of Appeals.

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Even after he took office as president, Lyndon Johnson spoke frequently with Martin, particularly on the phone late at night. During these calls the president peppered him with questions, allowing Martin to debate and argue with him, a privilege denied many of his other aides. "He was forthright and straight," Martin recalled, "I've never seen anybody like him—white or black."

More than Kennedy had done, Johnson consulted with Martin often about people and issues outside the area of race and civil rights and often took him into his confidence. Working with Johnson was much different from dealing with Kennedy. Martin recalled that when Kennedy considered a prospective appointee, he would ask simply, "Has this guy got any balls?" But no president, Martin felt, dug deeper into a candidate's life than Lyndon Johnson. Once when Martin extolled the virtues of a certain candidate, describing his superior intelligence and flawless credentials, Johnson cut him off abruptly. "Yes, I know he's a genius," he said. "What I want to know is, can you trust the son of a bitch?"

In July 1965, Thurgood Marshall, now a federal appellate judge, was having lunch in New York City when President Johnson telephoned him. The president immediately offered to appoint him solicitor general of the United States. "No way," Marshall answered. "I'm not going *down* the ladder. I'm going *up* the ladder." "Well, you come down and talk to me about it. I'll call you in a day or so," the president promised. "Take your time."

Driving home that evening, Marshall pondered Johnson's offer. As solicitor general, he would leave the judicial bench and go back to arguing cases, but this time he would be the lead attorney for the United States, not a one-issue lawyer concerned only with civil rights. Now he was considering yet another change, as he discussed Johnson's offer with his wife and two sons. They assured him that whatever was good for him was good for them. The next morning, the president was on the phone. Marshall protested that he had been promised a day or two to consider. Johnson was firm: "I said you could take as much time as you want, and you've had as much as you want. What are you going to do?"

"Well, I don't know," Marshall said. "I'll take it. You know I'll take a hell of a cut in salary…. I don't see what's so good about it." "Yes," the president parried, "I know that."

The next morning, Marshall boarded a shuttle flight to Washington from New York. Moments after Johnson announced the appointment, he told Marshall that he had absolute authority, that if Attorney General Nicholas Katzenbach gave him any trouble, he, the president, "would kick his pants." "Yes sir, I understand," Marshall replied, "but I'm sure we can get along." The president also warned Marshall that he was not grooming him for the Supreme Court. "Don't take your solicitor general appointment as a step to any place," the president told him. "What do I get after this?" Marshall asked. Johnson's reply was succinct: "The street."

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One evening in June 1967, Marshall was at a private party for Justice Tom Clark, who was retiring from the U.S. Supreme Court. The president pulled Marshall aside and said, "Thurgood, you know there's no future in this for you. I want to continue to emphasize that." But the next morning, Johnson paced the floor in his inner office, ready to call key senators to share a most important announcement. He had been unable to find Louis Martin, who had pressed for Marshall's appointment as the first black justice. Nevertheless, the president would not begin the historic formalities without Martin. Searching frantically, the White House switchboard finally located Martin—at his DNC office, according to Martin's recollection, although others said he was at the golf course where he sometimes went for his lunch hour, following his doctor's advice. "Come on over here," Johnson ordered. "Make sure nobody sees you.

Around ten that same morning, Ramsey Clark, who had since become attorney general, entered Marshall's office and started talking about the weather, a football game, and other trivia. "I was wondering where you're going this morning," Clark finally said. "I have an appointment at the White House," Marshall told him. Clark then asked Marshall to arrive fifteen minutes early, at eleven-thirty.

When Marshall arrived, he was escorted into the Oval Office. Finding Johnson hunched over a ticker tape machine, he coughed. "Oh—Thurgood!" the president greeted him. "Yes sir. What's up?" Marshall asked. "Sit down," the president ordered gently. "I might tell you." After about five minutes of suspense, Johnson spoke. "I'm going to put you on the Supreme Court."

"Well, that's new," Marshall replied. "What do you mean by that?" Johnson asked. "Last night, you said no," Marshall pointed out. "Now you're saying yes,"

"That's the way I wanted it," the president said. "Now I have to ask you, will you accept it?" "That you don't have to ask," Marshall answered. "You know damn well I will."

Johnson added, "This is about the end of the road for us. We won't be getting together, I don't guess." "No sir," Marshall agreed. "You stay in your bailiwick and I'll stay in mine. You know Tom Clark was Harry Truman's best friend. When Truman went wrong on the steel case, it was Tom Clark who wrote the opinion that kicked him in the ass. If you get out of line, I'll do the same thing for you."

It was a threat Marshall never had to make good on. ■

No "Multiracial" Category in the Census

Groups Charge That a Multiracial Classification Would Weaken Government's Ability to Enforce Civil Rights Laws

In July, the federal government announced that it will permit individuals to check off more than one racial category on the 2000 Census form. The decision represents a compromise between some mixed-race Americans and conservative groups who have promoted the addition of a "multiracial" category to the census form and those who oppose such a change. Major civil rights organizations have contended that a multiracial category would threaten the collection of data necessary to enforce civil rights laws by undercounting the number of Americans of African descent. The following article, taken from the testimony of Harold McDougall, director of the Washington office of the NAACP at a congressional hearing, presents some of the dangers that a multiracial category might pose. The hearing was on Federal Measures of Race and Ethnicity and was held by the House Subcommittee on Government, Management, Information and Technology of the Government Reform and Oversight Committee.

The NAACP has great sensitivity on the issue of multiracial categories, and we support the right of individual self-identification and support self-determination in defining one's racial makeup. But the census may not be the correct place to make such a personal statement, particularly in light of the fact that repercussions in census numbers impact the lives of many people. Provisions of the Voting Rights Act, for example, are specifically directed at correcting past discrimination (particularly in the deep South) where African Americans were denied their constitutional rights. With some figures showing 70 percent of African Americans as possibly fitting into a multiracial category, will we be able to identify black voters in terms of fair representation?

The enforcement of laws against discrimination in employment, lending, housing, and education depends upon census data and requires that demographic data be kept on racial and ethnic groups that have historically been the targets of discrimination. Thus, the creation of a multiracial classification might make it difficult to discern the numbers of members of discrete minority groups, diluting benefits to which they are entitled as a protected class under civil rights laws and under the Constitution itself.

Why are we considering a multiracial category?

Currently, the federal government uses race data for statistical and administrative purposes, including monitoring civil rights compliance. However, the Census Bureau and the Office of Management and Budget (OMB) have come under increasing pressure from those who believe the minimum racial categories set forth in OMB Directive No. 15 ("Race and Ethnic Standards for Federal Statistics and Administrative Reporting") do not reflect the increasing racial and ethnic diversity of our nation's population. Some have proposed changes, including the addition of a "multiracial" category.

Who are "multiracial" ("biracial," "interracial") citizens, and how does the issue of their classification fit into the overall milieu of race relations in the United States?

In 1960, only 0.4 percent of all married couples were interracial. In the 1960s and 1970s, however, the numbers began to increase. One reason for this growth was the U.S. Supreme Court decision in *Loving* v. *Virginia* in 1967, striking down as unconstitutional laws forbidding interracial marriages. Another was a general relaxation of racial boundaries occasioned by the culture of the civil rights movement. The absolute numbers of black-white marriages, particularly of marriages in which the husband was black, increased substantially during this period, but at a much slower rate than marriages between whites and Asians and Pacific islanders. Whereas black-white marriages were one-third of all interracial marriages in 1960, interracial marriages involving one black spouse accounted for only one-seventh of all interracial marriages in 1990.

The very term "multiracial" implies the existence of "pure" and distinct races. But what does it mean, we might ask, to be "white?" What does it mean to be "black?" These are socially and politically constructed categories, unique to the United States, that are different from Asian and Hispanic categories, which have a distinct cultural component.

During the civil rights era of the 1960s, the United States was about 90 percent white and 10 percent black. Asians and Pacific Islanders were only 0.5 percent, Native Americans, Eskimos, and Aleuts were 0.1 percent, and Latinos, though an estimated 3.9 percent, were sorted into black and white categories. By 1990, whites were 80.3 percent of the population, blacks were 12.1 percent, Asians and Pacific Islanders 2.9 percent, Native Americans, Eskimos and Aleuts 0.8 percent, and "other" were 3.9 percent. Latinos, now separately counted, constituted 9 percent of the population. Over 33 percent of the growth in population during the 1980s was due to immigration.

The meaning of racial/ethnic identification for specific groups and individuals varies enormously. Multiracial categories as proposed may well create confusion under these circumstances. For example, multiracial categories as proposed by multiracial advocates apply only to the children of interracial marriages. They would not apply to the grandchildren or great-grandchildren of interracial marriages. For example, the child of a black father and a white mother would thus be "multiracial." However, if their child

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were to marry another multiracial child, the grandchildren would be considered black, and not multiracial. So a child with two black grandfathers and two white grandmothers would be a black child, not a multiracial child.

Yet if we look at ancestry, rather than parentage, the majority of African Americans have mixed African, European, and American Indian heritage, and these mixtures took place before 1920. Today, the majority of multiracial children born of black-white marriages identify with the race of the black parent. Yet the majority of multiracial children born of Asian-white marriages identify with the white parent. What will be the implications of a multiracial category for either group of children? What about the much larger group of African American children who bear a multiracial heritage that dates back to slavery but who presently identify as black? These open questions further emphasize the danger of taking anything other than a very cautious approach to changing the census categories.

Would the multiracial category protect multiracial citizens from segregation, discrimination, or hate violence?

No. Individuals who designate themselves as multiracial on the census form will not thereby reduce by any amount the discrimination they face, which is based on appearance and not racial classification. Consider the case of Homer Plessy, classified by the U.S. census in 1890 as an "octoroon." He was nonetheless placed in a "black" railroad car rather than a "white" railroad car, laying the groundwork for a century of legal Jim Crow segregation, particularly in the South, and for the landmark Supreme Court decision of *Plessy* v. *Ferguson*.

Tiger Woods' multiracial identity has not kept him from being threatened with bodily harm and death in the development of his career as a golfer, nor did it spare him the racist remarks of pro golfer Fuzzy Zoeller.

Further, because historic discrimination has been against persons assigned to a single racial category—such as black—there is no court or legislative or other legal record of discrimination against multiracials. Without such a record of discrimination, courts today will dismiss claims of discrimination against multiracials, indicating that there is no evidence they ever suffered discrimination. Further, if multiracial continues to mean "the product of an interracial marriage," any history of discrimination against multiracials might well be moot after one generation.

Could the multiracial category make it more difficult to protect members of recognized minority groups from segregation, discrimination, or hate violence?

Yes. Multiracial categories, if adopted by a significant segment of the minority population, could make it difficult for government agencies and civil rights organizations to track ongoing civil rights violations. The multiracial category in this light could well make it more difficult to identify where discrimination has taken place and is taking place, by clouding census counts of discrete minorities who have been restricted to certain neighborhoods and, as a consequence, to certain schools. It could cloud the census count of discrete minorities kept out of certain occupations, or whose progress towards seniority or promotion has been skewed. The list goes on, to include civil rights reporting in the areas of lending practices and the provision of health services.

Census data is used by all levels of government, so the impact would be at the state and local level as well. The proposals could change not only the census, but all federal program reporting and statistical activities requiring data on race and ethnicity. Thus, the negative impact on the ability to track ongoing civil rights violations would be greatly magnified. Multiracial categories can also reduce the level of political representation for minorities. It is unlikely that majority-minority legislative districts will be created for multiracials, especially given the lack of recorded discrimination against them within the meaning of the Voting Rights Act.

Further, the experience of other nations, such as Brazil and South Africa, with multiracial categories, has been that such categories increase, rather than decrease, social stratification and stigmatization on the basis of race.

What impact will adopting multiracial categories have on the battle against segregation, discrimination, and hate violence?

Some political conservatives have seized upon the difficulty of establishing coherent racial categories as an excuse to call for the abolition of all racial classification and record keeping. Such a move, they argue, would save federal dollars and minimize racial/ethnic distinctiveness, consciousness, and divisive politics. Yet accurate racial classification and record keeping is essential to systematically track patterns of discrimination and to gather data useful for evaluating policy with respect to racial inequality.

As stressed by the Coalition of Groups Opposed to the Proposed Modification of OMB Directive No. 15 in 1995, if we are to reach the deep roots of the legacy of slavery, involuntary servitude, segregation, discrimination, and hate violence, we must commit ourselves not merely to undo the words of forced division, but also to undo the consequences of oppressive acts. The coalition also includes the Lawyers' Committee for Civil Rights Under Law, the National Urban League, the Mexican American Legal Defense & Educational Fund, National Black Caucus of State Legislators, the National Coalition on Black Voter Participation, and the Joint Center for Political and Economic Studies.

In this regard, census data aggregated in its present form has been used to: enforce requirements of the Voting Rights Act; review state redistricting plans; collect and present population characteristics data, labor force data, education data, and vital and health statistics; identify discrimination in the public and private sectors and establish and evaluate affirmative action plans; monitor the access of minorities to home mortgage loans under the

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Race, Justice, and History

One of America's Premier Civil Rights Thinkers Offers a New Body of Scholarship to Inform the National Conversation on Race

by Marland E. Buckner

Judge A. Leon Higginbotham, Jr.'s *Shades of Freedom: Racial Politics and Presumptions of the American Legal Process* (New York: Oxford University Press, 1996) provides welcome relief in an era when commentary on Clarence Thomas's "blackness" and O.J. Simpson's Italian loafers masquerades as intelligent debate about race and the American justice system. This, the second volume in Higginbotham's series "Race and the American Legal Process," builds on his masterful, *In the Matter of Color*, published in 1978, which examines the origins of race law in colonial America. In *Shades of Freedom*, Higginbotham takes the story of racialism in American jurisprudence into the twentieth century, showing how racialist assumptions have persisted, some to this day.

A distinguished public servant and scholar, Higginbotham began his career in government in 1962 when President John F. Kennedy appointed him to the Federal Trade Commission. As U.S. district judge for the Eastern District of Pennsylvania from 1964 to 1977, Higginbotham was the youngest person to be appointed to such a position in a generation. In 1977, President Jimmy Carter appointed him to the Third Federal Circuit Court of Appeals, where he served until his retirement from the bench in 1993 to become Public Service Professor of Jurisprudence at Harvard's Kennedy School of Government.

A widely respected commentator on the role of law in American culture, Higginbotham attempts in *Shades of Freedom* "…to highlight significant legal issues that exemplify the precept of racial inferiority" as he puts it. He outlines ten precepts of American slavery jurisprudence, that serve as "an explicit repudiation of the Declaration of Independence." These ten commandments of racialist justice, including black inferiority, white racial purity, and denial of education to blacks, to name a few, nicely summarize what was a complex body of law used to oppress blacks well into this century.

Higginbotham cogently describes these oppressive doctrines from colonial Virginia through the mid-nineteenth century and, for the benefit of those unfamiliar with his first book, revisits much of this material so as to set the stage for his main concern, the 1800s and early 1900s. He claims ideas about black inferiority penetrated Virginia from Europe as early as the 1600s, well before they appeared in legal codes, indicating that racial inferiority "was and is based on hate." The volume exposes how race, religion, and sexuality became entangled through the 1700s, so that by the 1800s, white supremacists in the South viewed blacks as sub-humans who represented darkness and carnality. In the North, even white abolitionists viewed blacks as dopey Uncle Tom's: simple, sweet, but still not quite human.

Higginbotham is at his best when describing judicial rulings on the status of blacks during the 1800s. His analyses of the 1857 *Dred Scott* decision and of the rapid demise of Reconstruction's civil rights possibilities are superb. He shows how precepts of black inferiority culminated with the devastating *Plessy* v *Ferguson* decision of 1896 from which, he claims, America has yet to fully recover. By the 1930s, the Supreme Court began to turn the corner on its "separate but equal" doctrine articulated in *Plessy*. Led by Chief Justice Charles Evans Hughes, something of a moderate on race relations, the Court was particularly active on questions of due process. In several high-profile criminal matters, most notably the Scottsboro case, the Court overturned state rulings where the rights of black defendants had clearly been violated.

Higginbotham closes the book by summarizing issues surrounding voting rights, pluralism, and political power, and addresses issues of contemporary concern in the epilogue, which consists of an open letter to House Speaker Newt Gingrich (R–Ga.) previously published in the *National Law Journal* and two *Boston Globe* op-ed pieces.

All that said, some legal or civil rights scholars might claim Higginbotham tells us nothing we don't already know. They might argue that he simply confirms what other historians have been proving in the 18 years since *In the Matter of Color* appeared. But even if they are right, this book remains important for a number of reasons. It is a timely, cogent analysis of a vast amount of case law that must be brought to public attention if informed dialogue regarding race relations is to occur.

What Higginbotham has done is to provide us with a touchstone, a point of departure, an opportunity to fully understand the dimensions of what the nation and its President face in the recently initiated "race conversation." Higginbotham teaches us that an unvarnished understanding of the past must inform contemporary debate.

His tone in *Shades of Freedom* suggests he may be increasingly inclined to use his vast knowledge and powerful voice toward crafting public policy solutions to the problems he has so effectively documented; few Americans are better suited to the task. In the midst of much national hand wringing and lamentation, *Shades of Freedom* is a gauge of where we are on racial progress, and how far we have to go. ■

Mr. Buckner is the Southern Education Board Doctoral Fellow in American Studies at the College of William and Mary.

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Home Mortgage Disclosure Act; enforce the Equal Credit Opportunity Act; monitor and enforce desegregation plans in the public schools; assist minority businesses under the minority business development programs; monitor and enforce the Fair Housing Act; and monitor environmental degradation in communities of color.

Finally, the conclusion of the Coalition of Groups Opposed to the Proposed Modification of OMB Directive No. 15 in 1995 still stands today:

> Significant improvements have occurred in [the enforcement of civil rights laws] and, for nearly two decades, OMB Directive No. 15 has been instrumental in the progress made. However, the evidence is equally clear that much more remains to be done. Racial discrimination is still prevalent in American life, and the residual effects of past discrimination continue to limit the advancement of African Americans and other racial minorities. The census data has been used for widely published reports and studies which have enhanced the American public's understanding of the obstacles to racial equality that continue to exist in our society. Empirical studies using the data continue to document deep racial inequalities in virtually every major dimension of American social, economic, and political life.

Under these conditions, any effort that threatens to complicate, retard, or thwart further progress toward erasing the vestiges of slavery, segregation, and discrimination must be resisted. The proposed multiracial category poses such risks, as it could make the collection of useful data on the effects of societal segregation and discrimination more difficult, if not impossible. We believe that the entire nation would suffer from its effects. For, in today's world, racial discrimination and disadvantage are liabilities that affect us all. ■

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TRENDLETTER

POLITICAL REPORT

By Mary K. Garber

After School Ambush

The recent shooting of an 18-year-old high school sophomore near Redford, Texas, by a U.S. marine on border patrol has galvanized protests against the use of military troops for drug surveillance along the U.S.-Mexico border. On May 20, just after six in the evening, **ESEQUIEL HERNANDEZ, JR**., was tending the family herd of 30 goats about a half mile from his house when he was shot dead by Corporal **CLEMENTE BANUELOS**, heading up a unit of four U.S. Marines.

The Marines were a part of Joint Task Force 6 which is based near El Paso about 200 miles north of Redford, a town of about 100. Comprised of troops from the Navy, Army, Marine Corps, and Air Force, both active duty and reserve, Joint Task Force 6 has been assigned to assist the U.S. Border Patrol in the surveillance of drug trafficking areas along that part of the Texas-Mexico border.

A spokeswoman for the Joint Task Force contends that the shooting was in self-defense. She claims that Hernandez shot at the patrol twice and then raised his gun for a third shot, aiming at one of the marines, which prompted the marine squad leader to shoot the young man. The marines admit that they made no attempt to shout a command to stop or fire a warning shot, but insist that their "rules of engagement" do not require them to do so.

Texas Rangers investigating the incident found discrepancies between the marines' story and the physical evidence. According to Texas Rangers spokesman Captain **BARRY CAVER**, Hernandez's fatal wound indicated that he could not have been facing the marines when he fired his rifle.

The Rangers also found that the marines did not administer first aid or call for an ambulance, although the victim was clearly still alive at the time. Not until the U.S. Border Patrol arrived twenty-two minutes later did Hernandez receive any first aid. Caver also said that the marines had apparently followed Hernandez for twenty minutes, further contradicting the claim of self-defense.

Hernandez's family and neighbors, who were nearby at the time, claim to have heard only one shot. Hernandez, they said, carried an 80-year-old .22 caliber rifle, of the type originally used in carnival shooting galleries, to protect the herd from coyotes and for target practice in the remote mountainous area. Few who are following the case can understand why the young man, who had never been in any trouble before the shooting, would take on four heavily armed marines with such a weapon. **MELVIN W. LaFOLLETTE**, a retired Episcopal missionary who knew the youth, described him as "quiet, law-abiding and respectful of authority." He suggests that the marines' attempt not to be noticed may have been successful. Hernandez may not have been aware of the presence of the heavily camouflaged men, with blackened faces, crouching in the brush.

The shooting fits into a context of growing violence along the border. During recent months, a number of border patrol agents in Texas and California have been shot at by suspected drug traffickers. The episode raises a number of political and legal issues. According to the Posse Comitatus Act of 1878, the use of military forces for domestic law enforcement is prohibited. But these rules were loosened in the 1980s to permit the use of military personnel for the "war on drugs." However, even under the liberalized rules, troops are forbidden to make arrests or fire weapons except in self-defense.

In June, the U.S. House of Representatives passed an amendment sponsored by Congressman **JAMES TRAFICANT** (D–Ohio) to the omnibus defense authorization bill (HR 1119) that would authorize the secretary of defense to assign an additional 10,000 troops to immigration control and border patrol efforts. No such amendment has been attached to the Senate version of the defense bill.

All activities of Joint Task Force 6 were suspended immediately following the shooting. The Texas Rangers will seek indictments for murder or manslaughter from a grand jury to be convened in July.

The incident sparked protests by several human rights groups. "The tragic death of young Esequiel Hernandez is a direct result of the militarization of the U.S.-Mexico border with military tactics and weapons," asserts **RACHAEL KAMEL**, coordinator of the Mexico-U.S. Border Program of the American Friends Service Committee. "I fear that this increased military presence is adding a new and alarming dimension to the already serious problem of abuses of civil liberties and increased violence by law enforcement officials along the border."

Harvey Johnson Wins in Jackson

Once a bastion of white supremacy and segregation, Jackson, Mississippi, elected its first black mayor on June 3. In his second bid for the spot, **HARVEY JOHNSON**, a Democrat, pulled almost 70 percent of the vote to beat his Republican opponent **CHARLOTTE REEVES** resoundingly. The election was racially divided. Although Johnson won by huge margins in the mostly black inner-city wards, he lost by sizable margins in two of the wards where most of the city's white population resides. Jackson's population is 56 percent black.

Johnson replaces two-term mayor **KANE DITTO**, whom he defeated in the May 6 Democratic primary. In the Republican primary, Reeves had defeated former civil rights activist **JAMES H. MEREDITH**. This year's victory represented Johnson's second mayoral bid. In 1993, Johnson placed third in the Democratic primary behind two white candidates, Ditto and **DALE DANKS**, a former mayor, but ahead of two black candidates.

The 50-year-old Johnson is considered by most to be a political outsider despite his considerable background in public service. An urban planner and former member of the State Tax Commission, he is currently the executive director of the Mississippi Institute for Small Towns, a group that develops water, sewer, and housing projects for communities throughout the state. Johnson was also an assistant professor of political science at Jackson State University.

He has promised to help all neighborhoods within the city reach an acceptable standard of living. Other commitments include reducing crime, improving economic development through aggressive marketing, keeping schools open year-round for community use, and developing after-school programs for children.

Edwin Dorn to Head the LBJ School

EDWIN DORN, Undersecretary of Defense for Personnel and Readiness and former deputy director for research at the Joint Center, has agreed to become the new dean of the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin. He will replace out going dean **MAX SHERMAN** in August.

Established in 1970, the LBJ School prides itself on pioneering a new approach to public policy education that combines a core academic curriculum with the acquisition of practical experience in the field. The school offers graduate programs in public policy at the masters and doctoral levels for about 300 students. Dorn has said that he intends to focus on three areas the school has not emphasized in the past: international affairs and defense policy, race issues, and leadership.

Dorn becomes the first black dean to head the school, named after the president who pushed through the comprehensive Civil Rights Act of 1964 and the Voting Rights Act of 1965 and appointed **THURGOOD MARSHALL** to the U.S. Supreme Court.

In assuming the deanship, Dorn, a native of Houston, will be returning to his home state and alma mater. He graduated Phi Beta Kappa from the University of Texas at Austin with a degree in government in 1967. He was a Fulbright Scholar in England and also holds a masters degree from Indiana University and a doctorate from Yale. He was an instructor at Yale after returning from two years active duty as an officer in the Army.

Dorn has a wide range of public policy experience. From 1981 to 1990, he developed and directed the Joint Center's military fellowship program. He also spent three years as a member of the senior staff of the Brookings Institution.

At the Department of Defense, Dorn has held the position of Undersecretary for Personnel and Readiness since 1994, where he has been responsible for recruitment and personnel matters for the entire 1.5 million active military personnel as well as members of the National Guard and Reserves and civilian employees. In this capacity, he has also been directing the nation's second largest health care system, an enormous K-12 school system, its retail facilities, and the largest equal opportunity program in the country. During his tenure at the Pentagon, Dorn oversaw the development of a multi-billion dollar program to improve the quality of life of military families, new methods for monitoring readiness, and the first advertising campaign directed at recruiting women specifically. ■

ECONOMIC REPORT

by Cecilia Conrad and Malinda Lindquist

Reviving African Economies

President Clinton used the June G7 meeting in Denver of the world's richest nations to promote his proposed "Partnership for Economic Growth and Opportunity in Africa." This initiative promises expanded access to U.S. markets and financial and technical assistance to sub-Saharan African countries that have undertaken significant economic reforms.

Clinton's proposal coincides with a major turnaround in the economies of many African countries. Following two decades of negative economic growth, the average gross domestic product (GDP) for sub-Saharan African grew by 3.4 percent in 1995 and by nearly 5 percent in 1996. More important, for these two years, economic growth on the continent outpaced population growth (by 0.8 of a percentage point in 1995 and 2.4 percentage points in 1996). Lesotho, in southern Africa, enjoyed a growth rate for real per capita GDP of a whopping 14.4 percent in 1995.

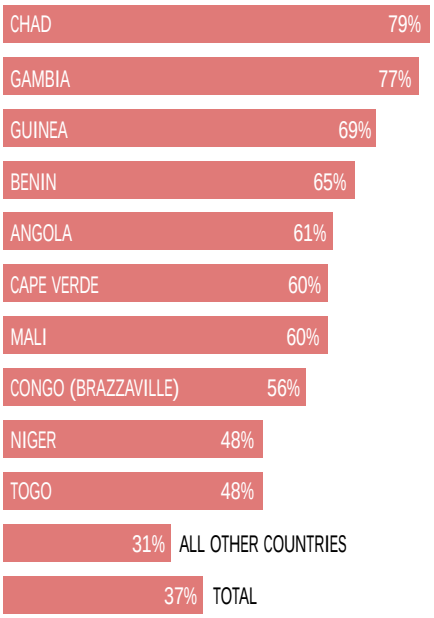
JEAN-LOUIS SARBIB, a World Bank vice president for the Africa region, attributes some of this success to the economic reforms made by many African countries in the 80s and early 90s. For example, over this period, Guinea Bissau eliminated price controls and embarked on an extensive program of privatization. Mozambique devalued its currency, deregulated prices, reduced its budget deficit, and transferred more than 180 state-owned enterprises to private control. Indeed, according to Sarbib, sub-Saharan countries fostered private sector growth by privatizing state-owned enterprises on an unprecedented scale. (See figure.)

Clinton's Initiative

Clinton's "Partnership for Economic Growth and Opportunity in Africa" offers a special package of incentives and opportunities to spur the growth of those countries that have introduced significant economic reforms. The initiative rewards countries for strong efforts in the areas of trade and investment liberalization, improvements in human resources such as higher literacy rates and lower infant mortality, and better policy management and governance such as streamlining government and maintaining impartial judicial systems.

At the discretion of the President, the Partnership provides for the following: (1) duty-free access to U.S. markets for some products currently excluded from the Generalized System of Preference (GSP) Program; (2) U.S. support for strengthening the World Bank/IMF Heavily Indebted Poor Countries (HIPC) initiative that provides multilateral debt relief; (3) technical assistance to make reforms such as bringing trade regulations into compliance with the standards of the World Trade Organization; (4) financial support for agricultural market liberalization and economic policy reform; and (5) a yearly meeting of U.S. and African ministers of Commerce, Finance, and Trade to create stronger economic links.

Privatization in Africa: Percentage reduction in state-owned enterprises, in selected countries, 1990–96



Source: World Bank, 1997

These benefits will be available only to those countries with a demonstrated commitment to reform. In addition, the President's initiative will provide support for a larger group of sub-Saharan African countries through the creation of two new U.S. Overseas Private Investment Corporation (OPIC) funds. The first fund of $150 million would provide financial support to commercial and natural resource development projects, and the second fund of $500 million would be available for infrastructure development.

The President's initiative could alter both the volume and pattern of U.S. trade with sub-Saharan Africa and could increase foreign direct investment in the region. Currently, Africa accounts for only 1 percent of U.S. trade. Eighty-four percent of U.S. imports from Africa originate in just four countries—Nigeria, Angola, South Africa, and Gabon (in decreasing order). Oil and natural resources account for the lion's share of these imports.

The proposed expansion of the GSP program could alter this pattern of trade and increase imports from other sub-Saharan African countries. For example, most textiles are not eligible for GSP unless they are handmade products of the exporting country. An expansion of the GSP to

include textiles could increase exports to the United States from Kenya and Mauritius.

Clinton's proposal attempts to make Africa more attractive to private investors by providing funding for infrastructure development—roads, railways, ports, and telecommunications networks—essential to get agricultural products and natural resources to markets.

African countries already offer higher average rates of return on investment than most developing countries, but they are accompanied by greater risks. As a result, Africa attracts far fewer investment dollars than other regions. In testimony before the U.S. House Ways and Means Committee, Deputy Treasury Secretary **LAWRENCE H. SUMMERS** noted that in 1996 over half ($15 billion) of the $27 billion in foreign resources obtained by sub-Saharan Africa came from official development sources; the remaining $12 billion was private capital. On the other hand, nearly 95 percent ($73 billion) of the $77 billion received by Latin America that same year was private capital.

According to Tim Wall in *Africa Recovery*, foreign direct investment (FDI) in Africa is less than 2 percent of foreign investment worldwide and while FDI expanded globally between 1994 and 1995, FDI in Africa contracted. Furthermore, most of the money invested in sub-Saharan Africa, 61 percent of FDI from 1993 to 1995, went to a single country, Nigeria. But improvements in transportation and communications are likely to reduce the perceived riskiness of doing business in Africa and attract foreign investors.

Debt Relief for Burdened Economies

The Partnership's provisions for debt relief may also stimulate private investment by releasing government revenues for investments in infrastructure. Although the total external debt of Africa is much smaller than that of Latin America, debt service obligations command a high percentage of foreign exchange earnings, diverting resources from other development needs. **DONALD L. SPARKS** writes in *Africa South of the Sahara* that Africa spends four times more on debt service than on the provision of health services. Debt relief will free up funds for investment in transportation, communications, and education. Expenditures in these areas will create a more hospitable environment for private investors and stimulate growth.

Clinton's proposal is almost identical to HR 1432, a bill introduced by Rep. **PHILLIP M. CRANE** (R–Ill.) and cosponsored by twenty-seven Democrats and six Republicans. HR 1432 differs from the President's proposal in two respects: (1) It specifically targets women entrepreneurs as beneficiaries of a proposed equity investment fund (the OPIC fund), and (2) it would allow quota-free imports into the United States of up to $1.2 billion annually in African textiles and apparel. This provision is certain to be unpopular with domestic textile producers.

Although Clinton's initiative is likely to enjoy bipartisan support, skepticism about the U.S. commitment to Africa remains. The United States recently delayed approval of debt relief to Uganda despite that country's introduction of economic reforms and its recent history of economic growth. Oxfam, the international development organization, argues that the President's proposal only makes minor trade concessions and does not increase direct foreign aid to Africa. Indeed, the White House fact sheet on Clinton's proposal emphasizes trade over aid. While Clinton's 1998 budget request for the U.S. Agency for International Development (U.S.A.I.D.)'s sustainable development assistance program is less than the 1996 outlays, Clinton's fiscal year 1998 budget request does include $50 million to replenish the African Development Fund and $700 million for the Development Fund for Africa.

U.S.A.I.D.'s sustainable development assistance program provides grants and subsidies to child nutrition, health, and education programs. The African Development Fund, an affiliate of the African Development Bank, makes loans to the poorest African nations. The Development Fund for Africa is administered by U.S.A.I.D. to promote economic reforms.

Although most observers are optimistic about the economic prospects for Africa, future growth is not guaranteed. Africa's economic woes have not been solely the result of domestic economic policies. External factors such as weather conditions, commodity prices, and the trade policies of the United States and Western Europe are also critical. For example, Kenya's garment industry collapsed after the United States imposed an import quota in 1994. According to Oxfam, export dumping and subsidized agricultural production in the United States and Europe have undermined market opportunities for African producers. Sustained economic recovery in Africa will require international cooperation not only to encourage private investment, but also to guarantee access to markets. ■