PERSONAL RESPONSIBILITY

*Justice Clarence Thomas**

I would like to return to a topic I have touched upon in my previous speeches: personal responsibility. As many of you have heard me say before, the very notion of submitting to one's circumstances was unthinkable in the household in which I was raised. The mere suggestion that difficult circumstances could prevail over individual effort would evoke a response that my brother and I could lip–sync on cue: "Old man can't is dead; I helped bury him." Or, another favorite response: "Where there is a will, there is a way." Under this philosophy—the essential truth of which we all recognize in our hearts—victims have no refuge.

It may have seemed harsh at the time to be told that failure was one's own fault. Indeed, there may have been many circumstances beyond our control. But there was much that my family and my community did to reinforce this message of self–determination and self–worth, thereby inoculating us against the victim plague that was highly contagious in the hot, humid climate of segregation. What has become clear to me over the years, as I have witnessed the transformation of our society into one based upon victims rather than heroes, is that there is a more positive message to be gained from adversity: success (as well as failure) is the result of one's own talents, morals, decisions, and actions. Accepting personal responsibility for victory as well as for defeat is as liberating and empowering, as it is unpopular today. Overcoming adversity not only gives us our measure as individuals, but it also reinforces those basic principles and rules without which a society based upon freedom and liberty cannot function.

In those years of my youth, there was a deep appreciation of heroes and heroic virtue. Art, literature, and even popular culture (unlike today) often focused on people who demonstrated heroic virtues—courage, persistence, discipline, hard work, humility, triumph in the face of adversity, just to mention a few. These building blocks of self–reliance were replicated and reinforced at home, school, and church. The "rags to riches" Horatio Alger stories were powerful messages of hope and inspiration to those struggling for a better life. And, many of us used to read and dream about heroes—not to mention our favorite television heroes, something perhaps unbelievable these days. I am certain that

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many of you who attended grammar school in the 1950s or earlier probably remember reading a favorite account of the integrity and work ethic of George Washington, or of Abraham Lincoln, or of George Washington Carver, or even of some baseball or football legend. It seemed that we all had heroes (not role models, a term of far more recent vintage). Indeed, it would have been odd for a child of several decades ago not to have had a hero.

But today, our culture is far less likely to raise up heroes than it is to exalt victims—individuals who are overcome by the sting of oppression, injustice, adversity, neglect, or misfortune. Today, victims of discrimination, racism, poverty, sickness, and societal neglect abound in the popular press. Today, there are few (if any) heroes. Often, it seems that those who have succumbed to their circumstances are more likely to be singled out than those who have overcome those very same circumstances.

What caused this cultural shift—from an emphasis on heroes to a preoccupation with victims? Why are there more victims and virtually no heroes recognized today? Why in years past was there much less of an emphasis on victimage?

I think two things contributed to this change in the state of affairs. The first is that our political and legal systems now actively encourage people to claim victim status and to make demands on society for reparations and recompense. The second is that our culture actually seeks to denigrate or deconstruct heroes. Why would a civilized society travel down two such destructive paths? Why has it become no more admirable to rise valiantly above one's circumstances than it is to submit to them—all the while aggressively transferring responsibility for one's condition to others?

Let's begin with our political and legal systems—how have they contributed to this state of affairs? The classical conception was that government and the law were meant to ensure freedom and equality of opportunity by giving people the most room possible for self–provision and self–determination. James Madison made this point in *The Federalist Papers* when he observed that the "protection" of the "diversity of faculties in men" was the "first object" of government.[1] And, in more recent times, the great political economist Friedrich von Hayek— who witnessed totalitarianism first hand—made a similar point when he observed that the chief aim of freedom is to provide both the opportunity and the inducement to insure the maximum use of the knowledge that an individual can acquire.[2]

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[1]   THE FEDERALIST NO. 10, at 58 (James Madison) (Jacob E. Cooke ed., 1961).
[2]   *See* FRIEDRICH A. HAYEK, THE CONSTITUTION OF LIBERTY (1960).

Between the New Deal and the 1960s, a far different view began to hold sway—namely, that the role of the state was to eliminate want, suffering and adversity. Freedom was no longer simply a right to self–provision and self–determination, but was instead a right to make demands on government and society for one's well–being and happiness. That is the import of Franklin Roosevelt's "Citizen Bill of Rights," which spoke of freedom from want—rights to minimum income, housing, and other "adequate protections from economic fears."[3] And, I think it is axiomatic that the call for such new rights (if not claims) became ever more prevalent in the 1950s and 1960s.

No doubt, this gradual transformation in ideas took root and flourished (at least in part) because of the aggregate growth in wealth and resources we were witnessing in this country during the course of the 20th century. Against the background of this prosperity, poverty stood out in bold relief and in uncomfortably stark contrast, even as the number of people suffering from it shrank. It is not surprising that people began to think that, in a world of seemingly unlimited resources, adversity could be eliminated, or, at the very least, remedied. The ideal of the "benevolent state" took hold. In our "enlightened" society, neglect, misfortune, and injustice did not have to be accepted as inevitable facts of life. Good government and laws could step in when necessary, as many believed they had successfully done during two World Wars, the Great Depression, and the Civil Rights Movement.

If one assumes that suffering and adversity can be eliminated, but sees a number of people continuing to suffer from adversity or misfortune, then there must be some forces in society that relegate the "have nots" to this fate. Or, at the very least, the less fortunate are being ignored. Those facing adversity, hence, are victims of a society that is not doing as much as it could (if it so desired), and these victims can (and should) stake a legitimate claim against the political and legal systems for recompense. On this view, neglect or selfishness on the part of society and government is responsible for the sting of oppression, injustice, and misfortune that the unfortunate and "have nots" feel today.

In light of this modern ideology, is it any surprise that people identify themselves as victims and make demands on the political systems for special status and entitlements? Our culture expects (and, indeed, encourages) people to do exactly that. Consider, for example, the creation and continued expansion of the welfare state and other social programs in this country. How often have we heard proponents of these programs lull the poor into thinking that they are hopeless victims, incapable of triumphing over adversity without "benevolent

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[3]   FRANKLIN D. ROOSEVELT, 4 THE PUBLIC PAPERS AND ADDRESSES OF FRANKLIN D. ROOSEVELT 1 (1938).

intervention" by the state? How often have we heard these proponents encouraging the less fortunate in our society to become indignant about their situation in life and more demanding on the political system to find solutions to their problems?

It is not only in the political system, though, that we see our society and its leaders succumbing to the modern ideology of victimhood. As with the political system, people today also are strongly encouraged to make demands on the legal system by claiming victim status. Indeed, the legal system has, in many ways, become a significant driving force behind the modern ideology of victimhood. Courts are viewed as an effective means of forcing (or at least pressuring) political institutions into meeting demands for protected status and new rights or entitlements. Pointing to perceived "victimization" by "the system" or by others in society, our legal culture has often told the least fortunate in our society that their last hope is to claim special legal rights and benefits, or to seek exoneration for the harmful, criminal consequences of their acts. The least fortunate are encouraged to turn to legal arguments that admit defeat and that challenge the moral authority of society. In these ways, courts are called upon to solve social problems—by creating special rules, and by crafting remedies that will satisfy the claims and demands of victim groups but that do not apply to all of us.

Appealing to the legal system, though, was not as easy a task as making demands on the political system. Our legal system has traditionally required that redress for grievances only be granted after very exacting standards have been met. There had to be, for example, very distinct, individualized harm. And, the definition of harm was circumscribed by a traditional understanding of adjudication under the common law, where narrow disputes regarding traditional property rights were resolved among private parties who could not settle matters on their own. Very generalized claims of misfortune or oppression or neglect—the kinds of assertions made in the political system—would not easily fit into this common mold of court activity. It would not be enough for people to be indignant, angry, and demanding about their situation in life. There would have to be an assertion of a legal wrong and a persuasive argument that a legal remedy was available.

The pressure of victimology "revolutionized"—and that word does not always have positive connotations—the courts and the law. For those in our culture seeking to use the courts as agents of social change, poverty, unemployment, social deviancy, and criminal behavior were not just unfair conditions in our society that could be eliminated if only people or politicians cared. Instead, these abstract problems were personified as the direct actions of local schools, churches, businesses, and other social institutions so that they could be sued for causing

individualized harm to the victims. Based on this new kind of harm—a kind of legalistic understanding of "victimage"—the courts were said to be obligated to recognize special rights and protected status under the law.

Take, for example, welfare rights and due process. Beginning with *Goldberg v. Kelly*,[4] our cases underscored the importance of welfare as a means of preventing social malaise, promoting the general welfare, and securing the blessings of liberty for all Americans. The rights to life, liberty, and property were, in effect, transformed from freedom from government interference into a right to welfare payments. There are countless other examples in legal literature and judicial opinions—some have argued that inner city minorities and the poor should not be held responsible for the consequences of their criminal acts because of oppression and misfortune; and, of course, there is the debate now raging about preferences based on sex, race, and ethnicity.

This change in our political and legal systems has been accompanied by the rise of the "victim group." These groups are quite useful to public officials for building coalitions for future political support and legitimacy as well. And, for the courts, "victim groups" provide useful justification or cover for energizing the legislative process, changing the legislative agenda, forcing reconsideration of spending priorities, and transforming public debate.

But the rise of victimhood, and its perpetuation by government and the law, is only part of the modern tragedy. There is also the dearth of heroes in our culture. Significantly, as the number of these "victim groups" has escalated, there has been a corresponding decline in the amount of attention that our culture has paid to heroes or, even worse, a conscious attempt to cheapen their achievements. Today, success or a commitment to fighting for noble ideas is attributed to self–interest, revenge, self–aggrandizement, insecurity, or some psychological idiosyncrasy. Just thumb through recently published biographies in the library or bookstore—in many of them, it is not a conscious effort to be virtuous or to do good, but instead a series of unforeseeable and external forces, that lead to greatness or success. And, in many of these biographies, we are introduced to the uncut, "never before seen" foibles, mistakes, and transgressions of people our culture idealized for centuries. The message—that these so–called heroes are really just regular people capable of folly and vice who happened to have a few good breaks. In *Democracy in America*, Tocqueville anticipated this state of affairs when he said:

> historians who live in democratic times do not only refuse to admit
> that some citizens may influence the destiny of a people, but also take

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4   397 U.S. 254 (1970).

away from the people themselves the faculty of modifying their own lot and make them depend on an inflexible providence or a kind of blind fatality.[5]

Now, the problem these days is not that there are no people who should be singled out as heroes. Rather, as Daniel Boorstin suggests in his book, *The Image*, society is preoccupied with celebrities.[6] And heroism and celebrity status are two very different things. The word hero refers to people of great strength, integrity, or courage who are recognized and admired for their accomplishments and achievements. The word celebrity, on the other hand, refers to a condition—the condition of being much talked about. It is a state of notoriety or famousness. As Boorstin says, "a celebrity is a person who is known for his well–knownness."[7] Thus, while a hero is distinguished by his achievement, celebrities are created by the media and are simply a trademark.[8] Celebrities are, in short, neither good nor bad—they are just a big name.[9] Publicity is the defining feature of a celebrity's existence, and, unlike a hero who will become greater as time passes, time destroys celebrities. Over time the glare of publicity, as Boorstin notes, melts away the celebrity by shedding light and heat on his vices and commonplaceness.[10]

This pattern of ignoring and deconstructing heroes—and focusing instead on the ephemeral celebrity who is known for his well–knownness rather than character or individual worth—stems from the rise of radical egalitarianism. In the 1960's, many of the cultural elite saw a need to ensure absolute equality. On this view, differences in ability and level of achievement are random or uncontrolled; and to permit these characteristics to dictate human happiness and well–being would therefore be unfair. Celebrity status, in contrast, is not a problem for egalitarians, for as Boorstin notes, "anyone can become a celebrity, if only he can get into the news and stay there."[11] Certainly, real achievement is not necessarily required.

It should surprise no one that our culture now has far less difficulty recognizing celebrities than it does those who achieve success as a result of personal effort and character traits that we traditionally would consider heroic. Denigrating heroic virtue—in other words, chalking

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[5]   ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 496 (J.P. Mayer ed. & George Lawrence trans., Anchor Books 1969).

[6]   DANIEL J. BOORSTIN, THE IMAGE: A GUIDE TO PSEUDO–EVENTS IN AMERICA 45–76 (Atheneum 1971).

[7]   *Id.* at 57.

[8]   *See id.* at 61.

[9]   *See id.* at 57–58.

[10]   *See id.* at 63.

[11]   *Id.* at 60.

heroism up to circumstance—fits quite well with the notion that we must all be the same and that there can be no significant differences in our achievement, social standing, or wealth.

Anyone can see what these intellectual currents have done to the ideals of human dignity, personal responsibility, and self–determination. Preoccupation with victim status has caused people to focus covetously on what they do not have in comparison to others, or on what has happened to them in the past. Many fail to see the freedom they do have and the talents and resources that are at their disposal.

Our culture today discourages, and even at times stifles, heroic virtues—fortitude, character, courage, a sense of self–worth. For so many, the will, the spirit, and a firm sense of self–respect and self–worth have been suffocated. Many in today's society do not expect the less fortunate to accept responsibility for (and overcome) their present circumstances. Because they are given no chance to overcome their circumstances, they will not have the chance to savor the triumph over adversity. They are instead given the right to fret and complain, and are encouraged to avoid responsibility and self–help. This is a poor substitute for the empowering rewards of true victory over adversity. One of my favorite memories of my grandfather is how he would walk slowly by the corn field, admiring the fruits of his labor. I have often thought that just the sight of a tall stand of corn must have been more nourishing to his spirit than the corn itself was to his body.

But the culture of victimology—with its emphasis on the so-called "benevolent state"—delivers an additional (and perhaps worse) blow to dignity and self–worth. When the less fortunate do accomplish something, they are often denied the sense of achievement, which is so very important for strengthening and empowering the human spirit. They owe all their achievements to the "anointed" in society who supposedly changed the circumstances—not to their own efforts. Long hours, hard work, discipline, and sacrifice are all irrelevant. In a world where the less fortunate are given special treatment and benefits—and, significantly, where they are told that whatever gains or successes they have realized would not be possible without protected status and special benefits—the so-called beneficiaries of state–sponsored benevolence are denied the opportunity to derive any sense of satisfaction from their hard work and self–help. There is not a one among us who views what others do for us the same way we view what we do for ourselves. No matter how much we appreciate the help, it is still just that—help, not achievement.

It also bears noting that our culture's preoccupation with grouping victims has balkanized society. The "We/They" mentality of calling oneself a victim of society breeds social conflict and calls into question

the moral authority of society. The idea that whole groups or classes are victims robs individuals of an independent spirit—they are just moving along with the "herd" of other victims. Such individuals also lack any incentive to be independent, because they know that as part of an oppressed group they will neither be singled out for the life choices they make nor capable of distinguishing themselves by their own efforts.

As victim ideology flourishes, and people are demoralized by its grip, more and more people begin to think that they must claim victim status to get anywhere in this world. Indeed, is it any surprise that anyone and everyone can claim to be a victim of something these days. In his book *The Abuse Excuse*, Alan Dershowitz criticizes countless examples of conditions that "victimize" people and thereby release them from responsibility for their actions.[12] Here are just a few examples:
- the "black rage defense," which asserts that blacks who are constantly subjected to oppression and racial injustice will become uncontrollably violent;[13]
- "urban survival syndrome," which claims that violent living conditions justify acts of aggression in the community;[14]
- "self–victimization syndrome," which maintains that people become less productive and creative, and become severely depressed, as a result of societal neglect and discrimination.[15]

Most significantly, there is the backlash against affirmative action by "angry white males." I do not question a person's belief that affirmative action is unjust because it judges people based on their sex or the color of their skin. But something far more insidious is afoot. For some white men, preoccupation with oppression has become the defining feature of their existence. They have fallen prey to the very aspects of the modern ideology of victimology that they deplore.

Some critics of affirmative action, for example, fault today's civil rights movement for demanding equality yet supporting policies that discriminate based on race. These critics expect the intended beneficiaries of the civil rights regime to break away from the ideology of victimhood: to cherish freedom, to accept responsibility, and, where necessary, to demonstrate fortitude in the face of unfairness. I do not quarrel with this. But these critics should hold themselves to the same standards, resisting the temptation to allow resentment over what they consider reverse discrimination to take hold of their lives and to get the best of them. They must remember that if we are to play the victim game the very people they decry have the better claim to victim status.

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[12]   *See* ALAN M. DERSHOWITZ, THE ABUSE EXCUSE AND OTHER COP–OUTS, SOB STORIES AND EVASIONS OF RESPONSIBILITY 3–42 (1994).
[13]   *See id.* at 89–91, 323.
[14]   *See id.* at 73–75, 340.
[15]   *See id.* at 337.

Of course, de—emphasizing heroism exacerbates all these problems. Human beings have always faced the temptation to permit adversity or hate to dominate and destroy their lives. To counter this tendency, society had heroes—people capable of overcoming the very adversity or injustice that currently affects today's victims. They rose above their circumstances and inherent imperfections. Heroes cherished freedom, and tried to accomplish much with what little they had. Heroes demonstrated perseverance in the face of adversity and used hardship as a means to strive for greater virtue. And heroes accepted responsibility— they did what they did despite fear and temptation, and tried to do the right thing when presented with a choice between good and evil. It is awfully hard for society to inculcate these values without some useful models from the past and present.

I may not have realized it as a child, but my grandfather was a hero who had a tremendous impact on my life. He certainly would not be a celebrity by today's standards. Though barely able to read and saddled with the burdens of segregation, he worked hard to provide for his family. He was a deeply religious man who lived by the Christian virtues. He was a man who believed in responsibility and self–help. And though this could not bring him freedom in a segregated society, it at least gave him independence from its daily demeaning clutches.

In all the years I spent in my grandparents' house, I never heard them complain that they were victims. No, they did not like segregation or think that it was right. In fact, there was no question that it was immoral and that anyone who promoted it was morally reprehensible. But there was work to be done. I assure you that I did not enjoy the demands he placed on us. I saw no value in rising with the chicken, and, unlike him, I was not obsessed with what I will call the "reverse dracula syndrome": that is, fear that the rising sun would catch me in bed. It would not be until I was exposed to the most fortunate and best educated in our society that I would be informed that all this time I had been a victim. I am sure you can imagine what it was like when I returned home to Savannah, and informed my grandparents that with the education I had received because of their tremendous foresight and sacrifice, I had discovered our oppressed and victimized status in society. Needless to say relations were quite strained, and our vacation visits were somewhat difficult. My grandfather was no victim and he didn't send me to school to become one.

There are many people like my grandfather alive today. The cultural elite does not honor them as the heroes they are, but instead views them as people whom are sadly ignorant of their victim status or who have forgotten where they came from. Our social institutions do not

train today's young to view such people as heroes and do not urge them to emulate their virtues.

In idealizing heroic virtue and criticizing the victim ideology of our day, I am not saying that society is free from intractable and very saddening injustice and harm. That would not be true. But, the idea that government can be the primary instrument for the elimination of misfortune is a fundamental misunderstanding of the human condition. There has always been bad and suffering in the world, and we must admit that wrongs have been and will continue to be committed. People will always be treated unfairly—we can never eliminate oppression or adversity completely, though we can and should fight injustice as best we can.

But keep in mind that all of us are easily tempted to think of ourselves as victims and thereby permit adversity to be the defining feature of our lives. In so doing, we deny the very attributes that are at the core of human dignity—freedom of will, the capacity to choose between good and bad, and the ability to endure adversity and to use it for gain. Victimhood destroys the human spirit.

I also am not saying that we should expect everyone to be a hero all of the time. We humans are weak by our very nature; all of us at times will permit hardship to get the very best of us. But having a set of norms to guide us and to push us along—the stuff of heroes—can be a source of great strength. If we do not have a society that honors people who make the right choices in the face of adversity—and reject the bad choices—far fewer people will make the right choices. Ultimately, without a celebration of heroic virtue, we throw ourselves into the current state of affairs, where man is a passive victim incapable of triumphing over adversity and where aggression, resentment, envy and other vice thwart progress and true happiness.

What I am saying is that it requires the leadership of heroes and the best efforts of all to advance civilization and to ensure that its people follow the path of virtue. And, because of the role law has played in perpetuating victim ideology, and because of the influence law can have in teaching people about right and wrong, lawyers have a special obligation here. We should seek to pare back the victimology that pervades our law, and thereby encourage a new generation of heroes to flourish.

I am reminded of what Saint Thomas a Kempis wrote more than 500 years ago about the human spirit. His standard is a useful one for thinking about the instruction that our law should be offering:

> take great care to ensure that in every place, action, and outward occupation you remain inwardly free and your own master. Control circumstances, and do not allow them to control you. Only so can you

be a master and ruler of your actions, not their servant or slave; a free man . . . .[16]

May God bless each of you!

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[16]   THOMAS A KEMPIS, THE IMITATION OF CHRIST NO. 38, 141–42 (Leo Sherley–Price trans., Penguin Books 1952).