

ESSAY

HAVE WE CROSSED THE BRIDGE YET?

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*Columbia Law School's Black Law Students' Association's
Paul Robeson Conference*

It is great to come home to Columbia, especially to Low Library, a venue I love, from my days as an undergrad as well as the many alumni functions hosted in these hallowed halls. It is a venue worthy of the impressive legal talent that sits before me.

It is a particular delight to be your speaker tonight at the 16th Annual Paul Robeson Conference and Gala. I would be remiss if I did not mention a few words about Paul Robeson, who was a truly remarkable man who deserves our admiration and respect. His list of accomplishments is legion. He graduated first in his class in high school in nearby Somerville, New Jersey. You heard from Jade about Robeson's exploits at Rutgers. Few among us before or since could say that they were known to be of world class caliber in several pursuits—as a student, activist, athlete, actor, singer, orator, a noted linguist, and, of course, he was a lawyer. He was a person who spoke from the heart and spoke with clarity, conviction, and candor, no matter the cost, personal, political, or otherwise.

Sadly, the law was not kind to him. He attempted, as many people of color have since, to distinguish himself in the private practice of law, but prejudice was too strong. The turning point in his brief stint as a practicing lawyer occurred at the New York firm of Stotesbury and Miner. Early in his tenure, his secretary refused to take dictation from him because he was a black man. He quit immediately and followed his other callings; otherwise, he may never have gained his world-wide acclaim.

Today, times have changed. As you leave Columbia Law School, the same indignity Paul Robeson encountered is unlikely to be your experience, but the question of the day will be in what form

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or way do those types of indignities persist? This year's conference is focused on the implications of race in two mainstream areas of American life, the ability to exercise the right to vote and racial profiling and stereotyping in everyday settings—the workplace, educational institutions, and public settings. Earlier today, the panelists brought to bear the many ways that race remains ubiquitous as a consideration in so many ways that we do not consciously consider on a daily basis. Our right to vote, which is constitutionally protected, is not impregnable. Federal law and many state laws present myriad scenarios, including, as discussed earlier, one's status as a felon, incarcerated or not, which may inhibit or terminate one's ability to vote. The other panel discussed stereotyping and racial profiling in a way that evidenced how race continues to be a factor that those in positions of power or authority continue to invoke and employ as a means to differentiate between and among people, generally to the detriment of people of color.

This evening I wanted to continue today's conversation about perceptions of race in our societal discourse. As with most attempts to delve deeper into this subject matter, the past provides important insight.

Last week, David Remnick's book, *The Bridge*, was published.¹ It is a book ostensibly about the life and rise of our President, Barack Obama. The Bridge is a reference to the bridge in Selma, Alabama where civil rights demonstrators were violently attacked by state troopers on March 7, 1965 on their way to Montgomery. You have heard the historical reference to that day as Bloody Sunday, one of the turning points in the civil rights movement because the event was captured on film and brought into the homes of America. Like Bull Conner's dogs and fire hoses that were set upon children in downtown Birmingham, those images of Bloody Sunday created visceral reactions and indelible impressions on our collective psyche. Although deterred that day, the marchers, invoking the rule of law, eventually prevailed and were permitted to complete their historic march to Montgomery. That confrontation galvanized our nation and helped lead to the passage of the Voting Rights Act² later that year.

One of the participants in that march was John Lewis, then a student leader, now the respected and venerable Congressman. During the festivities relating to President Obama's inauguration,

¹ DAVID REMNICK, *THE BRIDGE: THE LIFE AND RISE OF BARACK OBAMA* (2010).

² Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437 (codified as amended at 42 U.S.C. §§ 1973–1973aa-6 (2006)).

when asked to comment on the historic significance of the impending inauguration, Congressman Lewis commented that Barack Obama is what comes at the end of that Bridge in Selma.

It is a powerful, yet intriguing, metaphor that is susceptible to many interpretations. Is having an African American President reaching the promised land? Is he what we, as African Americans, have hoped for in our quest for freedom? Is President Obama the proverbial pot of gold at the end of the rainbow? Regardless of the interpretation one adheres to, President Obama has changed the way we, as African Americans, look at ourselves and likewise how we are perceived by others, both at home and abroad.

Our past in America has told us that we, as African Americans, cannot be confident about what any one accomplishment means going forward. Throughout much of our existence as African Americans, we have had to endure countless barriers—physical, psychological, and legal. This phalanx of barriers have kept us from the true enjoyment of all that America has to offer. Indeed, when our country was literally fighting for its life, during the Revolutionary War, it is clear that we were not intended to enjoy the benefits of citizenship. At the nascent stage of our nation, Crispus Attucks and the other patriots lost their lives in our collective quest for freedom. The quest was ultimately achieved but not for all of us. The Constitution mentioned nary a word about us, Africans in the Americas, but the 3/5 clause made it crystal clear what was in store for us: an existence conceived by law as property not human beings.

Despite *Dred Scott*,³ winning the Civil War, and the passage of the Civil War Amendments surely, we thought, would lead to both actual and legal freedom, but we know that as our union matured, what had started as an era of participation in the highest forms of government, just after the Civil War, just as quickly ended with Reconstruction. No longer did we, or could we, occupy the highest seats in government. Vagrancy laws, poll taxes, and Jim Crow insured that it would be one hundred years before another African American served in the Senate of the United States and decades before another African American served in the House.

Even the modern civil rights movement, which came about because of the sacrifices of countless Americans of all hues stepping forward, did not provide us with the freedom we desired. In the last fifty years, myriad laws have been passed, some effective, some not. Yet few believe we have reached our collective goal.

³ *Scott v. Sandford*, 60 U.S. 393 (1857).

Since the 1960s our elders have continuously employed the phrase I never thought I would live to see the day when: a black would be on the Supreme Court; a black senator would serve in the United States Senate again; a black astronaut would participate in a space mission; a black would become CEO of a Fortune 500 Company; a black president would be appointed to an Ivy League school; a black would serve in the cabinet of the President of the United States. And now, of course, who among us a decade ago, or even five years ago, would have imagined that a black man would serve in our lifetime as President of the United States?

All of us today have experienced at least some of that feeling of wonder when we witnessed one or more of these events, which brings me back to my premise.

Is achieving election to the presidency now reaching our promised land? Of course, as with any conundrum, the issue is how you define your terms. Is it the promised land that Martin Luther King, Jr. mentioned in his famous speech, that feeling as if we are a seamless part of the American mosaic or is it more tangible? Is it the feeling, the understanding that the promised land is reaching or becoming an America where we share in the American dream equally, we access that dream equally, and we enjoy that dream equally.

There are those who say the promised land represents those tangible rights that came about as a result of the civil rights movement—the Voting Rights Act,⁴ the Civil Rights Act,⁵ the Fair Housing Law⁶ and the like. There are still others who believe that despite progress, there is far to go. I stand with those sharing that view.

What has become clear to me is that the Bridge metaphor presents an interesting dichotomy for America. Does the Bridge represent a chapter in American history of racial divisiveness and prejudice which is now over? Can we finally stop having the conversation on race? Or is the Bridge and President Obama's walk over the Bridge symbolic of a huge step to be sure but with work left to be done?

Undoubtedly, there are those who believe the talk of bias and discrimination should now cease. After all, we have an African

⁴ 42 U.S.C. §§ 1973–1973aa-6.

⁵ Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. § 2000a *et seq.* (2006)).

⁶ Fair Housing Act of 1968, Pub. L. No. 90-284, 82 Stat. 73, 81-90 (codified as amended at 42 U.S.C. §§ 3601-3631 (2006)).

American President and an African American Attorney General. If our country has these officials serving in office, how could we have a problem?

Of course, recent events show the folly of this perspective. Our President is among the most erudite persons to ever occupy the Oval Office. His academic achievement is beyond compare. He is the author of two extraordinary best sellers, yet within months of occupying 1600 Pennsylvania Avenue, he was caricatured in a major national newspaper as a monkey. Several weeks ago, ironically enough, the aforementioned Congressman Lewis, was called the N-word in public for committing the dastardly act of casting a vote in Congress to aid millions of people. Another legislator endured a vile attack and was spat upon while walking to the Capitol. Are we there yet? I think not.

Times have never been more challenging. We cannot be complacent. Chief Justice Roberts stated in the Seattle school case in 2007 that “[t]he way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”⁷ Wish that it was that simple. We know it is not. You and your generation of lawyers must fight the complacency that suggests the Bridge represents the end game and that having attained the Presidency, the work is now done.

All of our experiences, everything we’ve heard here today, tells us in no uncertain terms that the work is not done.

What can you do? What should you do? What is my entreaty to you? Fight complacency! Get involved! Yes, try public service, do for others, donate your time and money, but most important, I implore you please do not think or believe I got mine. I got my Columbia degree. I’m okay. Remember what the experience of our forefathers has taught us the accomplishment of any individual, while laudable, does not mean we’re done. The metaphor of the Bridge can only mean hope because there is no promised land, there is no real freedom until we all cross the Bridge. Thank you.

⁷ Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1, 551 U.S. 701, 748 (2007).