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THE NEGRO NATIONAL ANTHEM CONTROVERSY

By Wendy Tolson Ross

*Lift ev'ry voice and sing,
'Till earth and heaven ring.
Ring with the harmonies of Liberty:
Let our rejoicing rise,
High as the list'ning skies,
Let it resound loud as the rolling sea.
Sing a song, full of the faith that the dark past has taught us,
Sing a song full of the hope that the present has brought us,
Facing the rising sun of our new day begun,
Let us march on till victory is won.¹*

Recently, the Negro National Anthem has been the source of much controversy. For some Americans, it is a source of celebration of the rich black heritage and legacy. For others, it is a source of shame—an ugly remnant of our dark past that is no longer relevant today.

The reading and singing of the Negro National Anthem has been a topic of discussion in the news, the black community, and in the legal and political professions. This article will look at the raging controversy. Specifically, this paper will look at the controversy surrounding the Negro National Anthem at the Texas Tech Law School Black Law Students Annual Banquet in 2009. It will explore the lessons the millennial black attorney could learn from this intergenerational song and the black experience.

I. THE HISTORY OF THE ANTHEM

The Negro National Anthem was originally entitled “Lift Every Voice.”² The words of the Negro National Anthem were written by James Weldon Johnson and were set to music by his brother Rosamond Johnson, to commemorate the celebration of President Abraham Lincoln’s birthday in 1900.³ The Anthem was written for children to sing at the Stanton School, where James Weldon Johnson

1. This is known as the Negro National Anthem or the Black National Anthem. The words of The Negro National Anthem were written by James Weldon Johnson and the music was composed by his brother Rosamond Johnson in 1900. LIFT EVERY VOICE AND SING: A CELEBRATION OF THE NEGRO NATIONAL ANTHEM, 100 YEARS, 100 VOICES 3–4 (Julian Bond & Sondra K. Wilson eds., 2000) [hereinafter LIFT EVERY VOICE].

2. Herman Beavers, *James Weldon Johnson's Life and Career*, MOD. AM. POETRY, http://www.english.illinois.edu/Maps/poets/g_l/johnson/life.htm (last visited Feb. 1, 2010).

3. *Id.*

served as the principal,⁴ so that black children “would have an awareness for the past, an understanding of the present, and hope for the future.”⁵

The singing of the song spread from the school children to local church events, and then to national black celebrations.⁶ The song was later adopted as the official hymn for the National Association for the Advancement of Colored People (NAACP), an organization for which James Weldon Johnson served as one of the first leaders.⁷ “Lift Every Voice” would later become known as the Negro National Anthem.⁸

II. THE TEXAS TECH UNIVERSITY BLACK LAW STUDENTS CONTROVERSY

During the 2008–2009 school year, the Negro National Anthem came under fire in the Black Law Students Association at the Texas Tech University School of Law. Every year at Texas Tech University, the Black Law Students Association plans a banquet in the month of February in conjunction with Black History Month. In 2009, much debate ensued during the planning stage of the banquet over whether or not to sing the Negro National Anthem among the students.⁹ The debate centered around whether or not it was appropriate to sing the Anthem, given the fact that the attendees to the banquet would be of mixed racial composition.¹⁰ As a result of the differences of opinion over whether the singing of the Anthem would be appropriate, a heated debate followed.¹¹

A. *Those Students for the Singing of the Anthem*

Many students were in favor of singing the Anthem.¹² Those students advocating for the Anthem gave many reasons why the Anthem should be continued.¹³ Some argued that the Anthem is historical,

4. PATRICIA MCKISSACK & FREDRICK MCKISSACK, JAMES WELDON JOHNSON: LIFT EVERY VOICE AND SING 17 (1990) (Stanton School later became the first black high school located in Jacksonville, Florida); see LIFT EVERY VOICE, *supra* note 1, at 3.

5. Edward W. Brooke, in LIFT EVERY VOICE, *supra* note 1, at 36.

6. Alison Diefenderfer, *What is the “Negro National Anthem?”*, HIST. NEWS NETWORK, Mar. 23, 2009, <http://hnn.us/articles/68902.html>.

7. Beavers, *supra* note 2.

8. *Id.*

9. Interviews with Anonymous Students that attended the Black Law Students Banquet, in Lubbock, Tex. (Feb. 21, 2009). This story is based on what was told or submitted to me by students who wished to remain anonymous and what I believed occurred through the discussions and observations after the incident.

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

particularly to the black race.¹⁴ It is the tradition that the Anthem be sung at black events, especially during Black History Month.¹⁵

Others argued that the Anthem was a source of pride for the black community and should be sung.¹⁶ Historically, it has been a song of inspiration for the black community.¹⁷

B. *Those Students Against the Singing of the Anthem*

Although some students supported the singing of the Anthem, there was opposition to the singing of it as well.¹⁸ Some of the opposition against singing the Anthem included those students who felt the Anthem was not suitable in mixed company¹⁹ because there would be faculty, staff, and students who would be attending the banquet.²⁰ The singing of the Anthem would be fitting if there were only black people in attendance.²¹ However, because there would be “other people” there, it would not be proper.²²

Similar to that argument, other students opposed the singing of the Anthem because it was not “inclusive.”²³ The singing of the Anthem would send the wrong message—a non-inclusive message of separation or alienation for non-blacks attending the event.²⁴

Others believed that it was no longer relevant today.²⁵ Simply because it was a tradition was not sufficient to continue singing the Anthem.²⁶ In fact, some of the students felt no desire to continue this old black tradition.²⁷ One student remarked, “It is ‘hackneyed, clichéd, and unnecessary. Singing the National Black Anthem is not a prerequisite to a “black event,” and even if it were, we are under no obligation to sing it simply because it is expected.’”²⁸ Therefore, some believed the Anthem had run its course and it was now time to discontinue the singing of the Anthem.

C. *The Result*

After the debate, the students reached a compromise. The students decided to live up to their mission “to articulate, promote, and discuss

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

issues of concern of African-American law students,” while being committed to diversity.²⁹ Therefore, they decided to give a history lesson about the importance of the Anthem. Before the singing of the Anthem began, a member of the Black Law Students Association read about the origins of the Anthem to the banquet attendees. Thus, the students chose to embrace their heritage and use the banquet as an opportunity to share with others about their culture.

D. *Other Controversies*

1. The Denver Controversy

In 2008, the Negro National Anthem was also the source of much controversy in the news. At a Denver, Colorado city council event, an incident occurred that involved the singing of the National Anthem.³⁰ This event was to begin with the singing of the “Star Spangled Banner,” as typically the case at national and local events. The singer hired to sing the National Anthem was a local native and a jazz singer of international prominence, Rene Marie. Without giving any prior notice to the local authorities, the artist, Rene Marie, sang the words of the Negro National Anthem to the melody of the “Star Spangled Banner.”³¹ Ms. Marie claimed that this rendition of the country’s National Anthem was a love song to her country.³² She claimed this was a song that epitomized her experience in her native land—a story that illustrates the “dichotomy and contradictions of being a person of color in America”³³—a song that inspired her when she returned from a trip to a foreign country where she reflected upon her experience as a black American.³⁴ This version of the National Anthem combined the three songs that she held dear as a child: “My Country Tis of Thee,” “America the Beautiful,” and “Lift Every Voice and Sing.”³⁵ Therefore, as an artist, she wanted to share this “love song” which she called “Voice of My Beautiful Country.”³⁶ She further described her rendition of the National Anthem as “a journey toward making peace with the contradictions that still exist within me when I think of my past, a conduit for hope when I think of the future and given me the freedom to finally feel like an American.”³⁷

29. Welcome to the Texas Tech Chapter of the Rocky Mountain Region, <http://blsa.law.ttu.edu/> (last visited March 15, 2010).

30. A Statement from Rene Marie, <http://www.renemarie.com/qa.htm> (last visited Feb. 1, 2010).

31. *Id.*

32. *Id.*

33. Rene Marie, Voice of My Beautiful Country, <http://www.renemarie.com/news.htm> (last visited Feb. 1, 2010).

34. *See id.*

35. *Id.*

36. A Statement from Rene Marie, *supra* note 30.

37. Marie, *supra* note 33.

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Many people criticized the singer's performance.³⁸ Many people were angered when she replaced the words of the "Star Spangled Banner" with words of the Negro National Anthem.³⁹ Some critics felt it was inappropriate for her to switch the words because that was not what she was hired to do.⁴⁰ Furthermore, some people denounced the singer's behavior and demanded an apology.⁴¹

2. The Inaugural Benediction

The Negro National Anthem was the source of yet another controversy in January 2009 during President Barack Obama's Inauguration ceremony. As part of this festival event, Reverend Lowery was charged with giving the inaugural benediction.⁴² The benediction included a paraphrased rendition of the Negro National Anthem:

God of our weary years, God of our silent tears, thou who has brought us thus far along the way, thou who has by thy might led us into the light, keep us forever in the path, we pray, lest our feet stray from the places, our God, where we met thee, lest our hearts drunk with the wine of the world, we forget thee. Shadowed beneath thy hand may we forever stand—true to thee, O God, and true to our native land.⁴³

Many people criticized the benediction.⁴⁴ The news media, as well as ordinary Americans, criticized the benediction.⁴⁵ One critic stated, "I could not be more appalled by this so-called benediction. The racism is blatant; the blame is endemic."⁴⁶ Other critics called the benediction prayer racist in nature.⁴⁷ Finally, another citizen writes, "I am so tired of the reverse discrimination that is so commonplace in this country today. When can we stop being a country of different colors and just be Americans? Reverend Lowery needs to work to that end and stop making everything race driven."⁴⁸

38. See [THE DENVER CHANNEL.COM](http://www.thedenverchannel.com/news/16762609/detail.html), 'Black National Anthem' at State of City Stirs Heated Debate: Broomfield Singer Says She Chose Song, July 1, 2008, <http://www.thedenverchannel.com/news/16762609/detail.html>.

39. *See id.*

40. *Id.*

41. *Id.*

42. See Lynn Sweet, *Rev. Lowery Inauguration Benediction: Transcript.*, CHI. SUN-TIMES BLOG, Jan. 20, 2009, http://blogs.suntimes.com/sweet/2009/01/rev_lowery_inauguration_benedi.html.

43. *Id.*

44. *See id.*

45. *See id.*

46. Posting of Kathryn Jones to *id.* (Jan. 20, 2009, 15:39 EST).

47. Sweet, *supra* note 42.

48. Posting of Jay to *id.* (Jan. 20, 2009, 15:36 EST).

III. THE PROBLEM

These examples of controversies beg the question: “When did the Negro National Anthem become negative?” This question is not one normally associated with the Negro National Anthem. Historically, it has not been something that one would associate with any negativity. However, the events of the past year or two have cast the Anthem in a negative light.

As one ponders the question, one must examine the Anthem both historically and in its present context. Thus the following sections will look at the Anthem from two perspectives: as a source of inspiration and, on the flip side, a source of shame.

A. *A Source of Inspiration*

*Out from the gloomy past,
Til now we stand at last*⁴⁹

For many older black Americans, the song has been a source of inspiration.⁵⁰ Many older black Americans remember the singing of the Negro National Anthem with fondness and endearing memories.⁵¹ “‘Lift Every Voice and Sing’ has been and continues today to serve as black America’s rallying cry for attaining full citizenship without condition.”⁵² “It is more than a Negro National Anthem, it is a lyric of freedom with which all human kind can identify.”⁵³

The Negro National Anthem has always been a cherished song among most older blacks.⁵⁴ It was traditionally a song that used to begin a black ceremony or major event.⁵⁵ For many it became a song that, during their childhood years, represented an essential part of the black experience and the symbol of black pride in one’s being and one’s heritage.⁵⁶ As one writer suggests, “Let us march on into the twenty-first century carrying high the pride and determination that our ancestors, upon whose shoulders we stand, bequeathed to us.”⁵⁷

It has served as a song of hope and strength. “[H]istory serves as a form of empowerment, a reminder of our past to know our capabilities for a sound and productive future.”⁵⁸ “For it is the God of our ‘weary years’ and ‘silent tears’ who points the way through the storm,

49. LIFT EVERY VOICE, *supra* note 1, at 4. This is a verse from the Negro National Anthem.

50. Hank Aaron, *in* LIFT EVERY VOICE, *supra* note 1, at 7–9.

51. *Id.*; see also Marie, *supra* note 33 (discussing this childhood experience).

52. John Conyers, Jr., *in* LIFT EVERY VOICE, *supra* note 1, at 62.

53. Andrew Jackson, *in* LIFT EVERY VOICE, *supra* note 1, at 252.

54. Marie, *supra* note 33.

55. See Diefenderfer, *supra* note 6.

56. Aaron, *supra* note 50, at 7–9; see also Marie, *supra* note 33 (discussing this childhood experience).

57. Charles Blockson, *in* LIFT EVERY VOICE, *supra* note 1, at 27.

58. Ilyasah Shabazz, *in* LIFT EVERY VOICE, *supra* note 1, at 215.

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under the rainbow sign.”⁵⁹ The Anthem “soothe[d] our emotional wounds while, simultaneously, lifting our spirits.”⁶⁰ Thus, for older black Americans it served as a song of encouragement and reminder to continue on to fight for equal opportunity.

B. *A Source of Shame*

For the younger generations of black Americans, the sentiments about the song may not be quite the same. As illustrated by the Texas Tech debate,⁶¹ the emotions regarding the Negro National Anthem are not the same. Some believe that it continues to be a song of inspiration, while others believe it has outlived its time—a relic of the past, and no longer necessary or needed.⁶²

C. *Symbolism*

The above controversies symbolize the problems faced by society in the millennial age. Are blacks at a crossroad? Should blacks as a whole, and the black attorney specifically, be concerned about continuing on the social-justice mission that has been a part of their fabric and their work? Or, is it as the comments from each of the respective controversies described above suggest, that we, as a society, are in an era of post-racialism or colorblindness—where race does not matter and racism is now dead? Should there be concern with carrying on the struggles that the Negro National Anthem describes and are synonymous with the Anthem? The following sections will explore the ideas of the race-conscious ideology.

IV. POST-RACIAL SOCIETY AND BELIEFS

The idea of a society that is beyond seeing color, a society of colorblindness, has been around for decades. “It reflects the traditional liberal view that the autonomous individual . . . ought never be credited with, nor blamed for, personal characteristics not under her own control, such as race, or group membership or social status that is a consequence of birth rather than individual choice or accomplishment.”⁶³ Thus, racial justice equals not seeing a person’s color.⁶⁴ Similar to “colorblindness,” the term, “post-racial society” has recently become in vogue and popular with the rise of President Barack Obama’s candidacy and eventual election as President of the United

59. Jackson, *supra* note 53, at 257.

60. Quincy Jones, in *LIFT EVERY VOICE*, *supra* note 1, at 151.

61. Interview with Anonymous Students, *supra* note 9. This sentiment was discussed in the Texas Tech debate.

62. See Sweet, *supra* note 42.

63. Barbara J. Flagg, “*Was Blind, But Now I See*”: *White Race Consciousness and the Requirement of Discriminatory Intent*, 91 MICH. L. REV. 953, 953 (1993).

64. *Id.* at 954.

States.⁶⁵ Post-racial society is simply described as, “a society in which race is no longer significant or important.”⁶⁶ Thus, in the case of Barack Obama, he is said to “transcend” race.⁶⁷

The “[p]ost-racial logic calls instead for a ‘retreat from race.’”⁶⁸ It encourages society to reexamine “the concept of race.”⁶⁹ It fosters the notion that race should not count or even be considered.⁷⁰ The post-racial logic advocates for race-neutral stances and policies.⁷¹ It champions “the elimination of race-based remedies in favor of more seemingly universal solutions.”⁷² It is particularly attractive to the younger generations as they are less experienced with racial situations.⁷³

This logic reveals the question: Is there too much focus on race and racism? Or, is “race an issue this nation cannot afford to ignore?”⁷⁴ As exemplified by the controversies, many Americans, particularly non-blacks or minorities, are tired of hearing about racism and tired of people “playing the race card.”⁷⁵ Does this mean that we have, as a country, gone beyond questions of race and racism in the millennial age? A study in the *Journal of Science* suggests that, on the contrary, race is important, and racism is still prevalent today.⁷⁶ The study revealed that even those who consider themselves to be nonracist still have some racial biases.⁷⁷ These beliefs are so strong that they prevent nonracists from taking action when confronted with overt racial

65. Adrienne Christina Miles, *Is America Really Post-racial?: A Definition and Assessment of Post-racialism in the US*, SUITE101.COM, Mar. 14, 2008, http://racism-politics.suite101.com/article.cfm/postracialism_in_america.

66. *Id.*

67. *Id.* At the Humanities Conference of 2006, Dr. Sandra Lopez Rocha, stated that “if we consider that racial differences are becoming less important we are arguing for a post-racial stand.” *Id.*

68. Sumi Cho, *Honoring Our Past, Charting Our Future*, 94 IOWA L. REV. 1589, 1589 (2009) (distinguishing “colorblindness” from “post-racial” beliefs).

69. *Id.* at 1599.

70. *Id.* at 1594.

71. *Id.*

72. *Id.* at 1601.

73. *Id.* at 1600 (“[P]ost racialism is able to exploit a generational drift to attract youth who are already disaffected from ‘old school’ civil-rights leadership and modes of protest, and, for the more privileged classes, those who have not seen how ‘race matters.’”).

74. Senator Barack Obama, Speech at the Constitution Center: A More Perfect Union (Mar. 18, 2008) (transcript available at www.c-span.org/Content/PDF/obama_031808.pdf).

75. See generally Margaret M. Russell, *Beyond “Sellouts” and “Race Cards”: Black Attorneys and the Straightjacket of Legal Practice*, 95 MICH. L. REV. 766 (1997) (discussing how the phrase “playing the race card” was coined during the O.J. Simpson Trial where defense attorneys for O.J. Simpson were accused of “playing the race card” inappropriately to obtain a favorable verdict).

76. See generally Eben Harrell, *Study: Racist Attitudes Are Still Ingrained*, TIME.COM, Jan. 8, 2009, <http://www.time.com/time/health/article/0,8599,1870408,00.html>.

77. *Id.*

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acts.⁷⁸ In fact, surveys revealed that “60 percent of whites admit to holding racist views about black folks.”⁷⁹ Thus, the study highlighted the fact that there was a huge difference between what people believe and what people actually do when it pertains to racism.⁸⁰

Some would contend that racism is not dead but has taken on a different form;⁸¹ a form that “allows for and even celebrates the achievements of individual persons of color, but only because those individuals generally are seen as different”⁸² This new racism “manages to accommodate individual people of color, even as it continues to look down upon the larger mass of black and brown America with suspicion, fear, and contempt, suggest[ing] the fluid and shape-shifting nature of racism. It indicates that far from vanishing, racism has become more sophisticated.”⁸³ This colorblindness further acts to limit the need for affirmative action policies and suggests that there is no problem in America with racial discrimination.⁸⁴ Thus, the color-blind philosophy has given rise to a “new racism,” which shields racial bigotry.⁸⁵

V. LEST WE FORGET

*Lest our hearts, drunk with the wine of the world, we forget Thee;
Shadowed beneath thy hand,
May we forever stand*⁸⁶

Throughout the Civil Rights Era, black Americans made many strides. These strides included passing the Voting Rights Acts, desegregation, and Affirmative Action.⁸⁷ However, have we taken these gains of the past for granted? Or, are we, in essence, asleep at the helm—are we as civil rights activist Gary Orfield claims, “sleepwalking back to Plessy”?⁸⁸ As the term “sleepwalking” suggests, are black

78. *Id.*

79. TIM WISE, *BETWEEN BARACK AND A HARD PLACE: RACISM AND WHITE DENIAL IN THE AGE OF OBAMA* 93 (2009).

80. Harrell, *supra* note 76.

81. See Ralph Richard Banks, *Beyond Colorblindness: Neo-Racialism and the Future of Race and Law Scholarship*, 25 *HARV. BLACKLETTER L.J.* 41, 51 (2009).

82. WISE, *supra* note 79, at 9.

83. *Id.* at 23.

84. *See id.*

85. *Id.* at 93; see also Afi-Odelia E. Scruggs, *Colorblindness: The New Racism?*, 36 *TEACHING TOLERANCE*, Fall 2009, at 45, available at <http://www.tolerance.org/magazine/number-36-fall-2009/colorblindness-new-racism> (quoting EDUARD BONILLA-SILVA, *WHITE SUPREMACY AND RACISM IN THE POST-CIVIL RIGHTS ERA* (2001)).

86. *LIFT EVERY VOICE*, *supra* note 1, at 4.

87. NAACP, 100 NAACP CENTENNIAL CELEBRATION 02.12.09 NATIONWIDE, <http://naacp.org/about/history/index.htm> (last visited Jan. 30, 2010).

88. GARY ORFIELD & SUSAN E. EATON, *DISMANTLING DESEGREGATION: THE QUIET REVERSAL OF *Brown v. Board of Education** 331 (1996); See also MICHAEL ERIC DYSON, *DEBATING RACE* 12 (2007) (Orfield claims that “[a]ll of the race-conscious efforts to change the pattern of inequality that was built on generations of discrimination are being taken apart.”).

Americans, although seemingly awake, walking around as if they are asleep to the present injustices and inequalities?⁸⁹ For some, it is believed that we (Americans) have not solved the problems of the past vestiges of racism.⁹⁰ “We cannot—and we must completely refuse to—pretend that the past doesn’t affect the present.”⁹¹ Thus, the end result is that the “historical and societal aspects of racism are de-emphasized.”⁹²

Despite the fact that personal racial prejudices have social origins, racism is considered an individual and personal trait. Society’s racism is then viewed as merely the collection, or extension, of personal prejudices. . . . These extremely individualized views of racism exclude an understanding that race has institutional or structural dimensions beyond the formal racial classification.⁹³

In fact, many would contend that the past still influences today and continues to raise its ugly head. It continues to wield its influence in this millennial era. “The past isn’t dead and buried. In fact, it isn’t even past.”⁹⁴ Instead, society must wake up to the fact that, as a society, we have not arrived at our destiny, but we must continue along the path to a colorblind or post-racial society. “We’ve got to give up the dream that it’ll work out without our working on it, and realize it is the challenge of our generation.”⁹⁵

The above scenarios suggest that many people in today’s generation seem to think things are different. The world is not the same as in the Civil Rights Era. Many of them do not understand the struggle. A friend of mine, who is a professor, relayed to me a conversation she and her adult daughter had that epitomizes the problem. As each of them shared their experiences and perspectives in their lives, the daughter told her mother, the professor, that their lives are quite different—that their opportunities and struggles were different. The mother grew up in an era where her mother (the professor’s mother) did not even have a high school education, whereas the professor had a college education. Their lives are different and the times are different. They are not the same.

Another story came to me as I worked on the presentation for this article. My daughter came to me and asked me what I was working on. When I told her I was working on an article about the Negro National Anthem, she asked, “Is that the old song that they sing sometimes at events?” This got me to thinking—this generation does

89. THE NEW OXFORD AMERICAN DICTIONARY 1595 (2d ed. 2005).

90. See WISE, *supra* note 79, at 23.

91. DYSON, *supra* note 88, at 72.

92. Cedric Merlin Powell, *Blinded by Color: The New Equal Protection, the Second Deconstruction, and Affirmative Inaction*, 51 U. MIAMI L. REV. 191, 211 (1997).

93. *Id.* 212.

94. Obama, *supra* note 74 (quoting WILLIAM FAULKNER, *REQUIEM FOR A NUN* (1951)).

95. DYSON, *supra* note 88, at 24.

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not understand the significance of our heritage and the struggles of the past. They have not truly cherished their rich legacy. It also reminded me that we, as parents, have to emphasize and help our children understand their legacy, lest we (as a race) forget.

VI. IDENTITY CRISIS

As exemplified by the recent controversies, does this aversion to race consciousness symbolize an identity crisis for the millennial black attorney? “Identity Crisis” is related to the idea “that the social, cultural, and historical context is the ground in which individual identity is embedded.”⁹⁶ “A people’s identity is determined by the behavior of that people”⁹⁷ “The collective history of African-Americans in the United States is one of many contradictions. It is a history of struggle and triumph, of exclusion and inclusion, and of humility and pride, as well as denial and recognition.”⁹⁸

It is a peculiar sensation, this double-consciousness, this sense of always looking at one’s self through the eyes of others, of measuring one’s soul by the tape of a world that looks on in amused contempt and pity. One ever feels his two-ness—an American, a Negro; two souls, two thoughts, two unreconciled strivings; two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder.⁹⁹

Typically the struggle to fully figure out one’s identity is “a life-long, continuously changing process for blacks.”¹⁰⁰ Thus, the millennial black attorney must resolve this struggle individually for himself or herself.

96. BEVERLY DANIEL TATUM, *WHY ARE ALL THE BLACK KIDS SITTING TOGETHER IN THE CAFETERIA* 19 (2002). Beverly Tatum cites William Cross’s theory in “becoming black.” It is a five stage process of racial identity: pre-encounter, encounter, immersion/emersion, internalization and internalization commitment. The first stage takes on the value of the dominant culture; and the second stage, “force[s] the young person to acknowledge the personal impact of racism.” *Id.* at 54–55.

97. Ewuare Osayande, Address to panel discussion “What’s in a Name” at Temple University: Defining Black Identity in 21st Century America (Nov. 10, 2004) (transcript available at <http://www.africaspeaks.com/articles/2004/1212.html>).

98. Cleopatra Howard Caldwell et al., *Identity Development, Discrimination, and Psychological Well-Being Among African American and Caribbean Black Adolescents, in GENDER, RACE, CLASS, AND HEALTH: INTERSECTIONAL APPROACHES* 163, 166 (Amy J. Schultz & Leith Mullings, eds., 2006).

99. W.E. BURGHARDT DU BOIS, *THE SOULS OF BLACK FOLK: ESSAYS AND SKETCHES* 3 (A.C. McClung & Co. 1903).

100. Alicia Fedelina Chavez & Florence Guido-DiBrito, *Racial and Ethnic Identity and Development*, 84 *NEW DIRECTIONS FOR ADULT AND CONTINUING EDUC.* 39, 41 (1999), available at <http://isites.harvard.edu/fs/docs/icb.topic551690.files/Chavez%20and%20Guido%20Debritto.pdf>.

VII. OUR LEGACY

The history of African-Americans is filled with black attorneys who have fought for civil rights and social justice. In particular, the NAACP was founded on this legacy.¹⁰¹ The NAACP was formed on February 12, 1909, to combat racial and social injustices.¹⁰² “The NAACP’s principal objective is to ensure the political, educational, social and economic equality of minority group citizens of [the] United States and eliminate race prejudice.”¹⁰³

Throughout the NAACP’s history, some prominent black attorneys have led the struggle to eradicate racism and the barriers of inequality.¹⁰⁴ In 1917, James Weldon Johnson, the writer of the lyrics of the Negro National Anthem, joined the NAACP as field secretary. He helped establish several branch offices throughout the South and helped increase membership from 10,000 to 44,000 by 1918.¹⁰⁵ In 1919, a few short years after the NAACP was founded, James Weldon Johnson became the first black to head the organization and served as the Executive Secretary from 1919 to 1930.¹⁰⁶ Through Johnson’s leadership, the NAACP began a thirty-year campaign to get rid of lynching.¹⁰⁷ It was during Johnson’s leadership that the organization proposed an “anti-lynching” bill, “The Dyer Bill,” and produced the NAACP report “Thirty Years of Lynching in the United States” to protest lynching in America.¹⁰⁸

Other prominent black attorneys were also active in the NAACP. In 1930, Charles H. Houston was recruited to serve in the role of chief counsel of the NAACP.¹⁰⁹ Houston, Dean of Howard University Law School, was instrumental in helping secure victory in the landmark case *Brown v. Board of Education* by developing the “equalization strategy,” which demanded that the same facilities given to white students be given to black students.¹¹⁰ Houston was known as “The Man Who Killed Jim Crow” and helped win several cases using this strategy from 1930 to 1950.¹¹¹

One of America’s most famous black attorneys, Thurgood Marshall, also played a pivotal role in winning *Brown v. Board of Education*.¹¹²

101. See NAACP, *supra* note 87.

102. *Id.*

103. *Id.*

104. *Id.* The NAACP was started by an interracial group. See Beavers, *supra* note 2.

105. Beavers, *supra* note 2.

106. *Id.*

107. *Id.*

108. *Id.*

109. NAACP, *supra* note 87.

110. NAACP, CHARLES HAMILTON HOUSTON, <http://naacp.org/about/history/chouston/index.htm> (last visited Jan. 26, 2010).

111. *Id.*

112. *Id.* Marshall was a student recruited by Charles Houston to work with the NAACP.

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Marshall served as the NAACP's special counsel following Houston.¹¹³ He was successful in changing many laws and establishing civil rights laws.¹¹⁴ Later, he would go on to serve as the first black Supreme Court Justice and continue to be an ever-present influence in civil rights cases.¹¹⁵

What does that legacy mean for the average black attorney? Charles Houston is famous for saying that “[a] lawyer is either a social engineer or a parasite on society.”¹¹⁶ Therefore, true to their heritage, black attorneys must also decide which they will be. “Yet, the real story of the nation’s most significant civil rights organization lies in the hearts and minds of the people who would not stand idly by while the rights of America’s darker citizens were denied.”¹¹⁷

VIII. PROBLEMS STILL REMAIN

Today problems still remain for black Americans. Although there have been many strides gained from the Civil Rights Era and black Americans today have greater opportunity, we are far from reaching the finish line. Today, African-Americans lag behind whites and still face discrimination. There are significant disparities between whites and blacks in all areas of life including housing, education, and employment.¹¹⁸ These are the same issues that have been around since the beginning of the Civil Rights Era. As recently as 2007, for example, the NAACP filed suit against the nation’s lending institutions for discriminatory lending practices.¹¹⁹ These included violations against African-Americans across the nation and from every socio-economic level.¹²⁰ “People with six-figure incomes, significant down-payments, and who had owned several homes before were not immune from being discriminated against because of their race.”¹²¹ One NAACP official claimed that “discrimination [such as this] is keeping communities and the next generation of young people from moving forward.”¹²²

113. *Id.*

114. Lewis F. Powell, Jr., *A Tribute to Justice Thurgood Marshall*, 44 *STAN. L. REV.* 1229, 1229 (1992).

115. See Warren E. Burger, *A Tribute to Justice Thurgood Marshall*, 44 *STAN. L. REV.* 1227, 1227–28 (1992).

116. NAACP, *LEGAL DEPARTMENT HISTORY*, <http://naacp.org/legal/history/index.htm> (last visited Jan. 26, 2010). “African-Americans are up to 34 percent more likely to receive higher-rate and subprime loans with a prepayment penalty than are their similarly situated white counterparts.” *Id.*

117. NAACP, *supra* note 87.

118. NAACP, *supra* note 116.

119. Press Release, NAACP, NAACP Files Landmark Lawsuit Against Major Home Mortgage Companies for Discriminatory Lending (July 11, 2007), <http://naacp.org/news/press/2007-07-11/index.htm>.

120. See *id.*

121. Press Release, NAACP, NAACP Calls National “Day of Action” Against Mortgage Discrimination (July 2, 2008), <http://naacp.org/news/press/2008-07-02/index.htm>.

122. *Id.*

Additionally, the U.S. Department of Housing and Urban Development (HUD) reported that in 2006, housing discrimination complaints reached an all-time high.¹²³ These complaints ranged from allegations of discrimination in the selling or renting of homes to refusing to rent out homes to minorities.¹²⁴

Black Americans still face several other problems. For instance, blacks still fall far behind in income and educational opportunities. Blacks earn about two-thirds less than whites.¹²⁵ In fact, the Census report revealed that in 2005, the “median income for black households has about 60 percent of the income for white households since 1980.”¹²⁶ “Black families have also been hurt by the decline of manufacturing jobs—the same jobs that helped propel many white families into the middle class after World War II.”¹²⁷ Furthermore, the report revealed gaps in the education of blacks today.¹²⁸ According to the 2005 Census report, only 17 percent of blacks hold a college degree.¹²⁹

“[O]ur struggle for justice and equality for all remains unfinished. . . . African-Americans earn incomes that are only half those of whites; the poverty rate for African-American children far exceed that for white children; and African-Americans and other minorities are far more likely to suffer from heart disease, AIDS, diabetes, and cancer.”¹³⁰

This is not one of anger, or blame, but one of continuing the struggle for equality and justice.¹³¹

IX. HOPE FOR THE FUTURE

*Facing the rising sun of our new day begun,
Let us march on till victory is won.*¹³²

For the millennial black attorney, the question must be asked, what will be your role in the future? How will you further the struggle for equality? Today’s black attorney must choose what his or her individual contribution to the race will be. “If we are to win this race, a new generation of leaders must emerge to spotlight issues that eradicate

123. Press Release, HUD, Housing Discrimination Complaints at an All-Time High (Apr. 3, 2007), <http://www.hud.gov/news/release.cfm?content=PR07-032.cfm>.

124. *Id.* (reporting that one particular case in Pennsylvania resulted in a \$40,000 settlement being awarded to an African-American woman because a landlord refused to rent a house).

125. Stephen Ohlemacher, *Race Still Divides U.S.: Census Says Disparities Widening in Incomes, Education*, CHI. TRIB., Nov. 14, 2006, available at <http://archives.chicagotribune.com/2006/nov/14/news/chi-0611140160nov14>.

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.*

130. Bill Clinton, in *LIFT EVERY VOICE*, *supra* note 1, at 52.

131. MICHAEL ERIC DYSON, *CAN YOU HEAR ME NOW?* 127–29 (2009).

132. *LIFT EVERY VOICE*, *supra* note 1, at 4.

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social and economic disparities, organizing avenues that provide education . . . building business, financial development and socioeconomic rehabilitation, minimizing crime and maximizing our resources.”¹³³ To this end, everyone must play a role. Even those attorneys who do not practice civil rights or social justice can play a part. Some would even argue that “they have a moral obligation running to the black community that must be balanced against other legitimate professional duties.”¹³⁴ Black attorneys have a “moral obligation to advance the interests of the black community—an obligation that is justified in part by the critical need that the black community has for the talents of its privileged members.”¹³⁵ The sacrifices of past generations compel this generation to continue to “pay it forward” to future generations of blacks.¹³⁶ “The current generation of black Americans is the direct beneficiary of actions taken by prior generations of blacks in the name of collective advancement.”¹³⁷ The same inequalities of the past, such as not having access to attorneys, still exist today.¹³⁸ Thus, even those attorneys who practice in other fields, such as corporate law, can help bridge the gap.¹³⁹

One way black attorneys contribute is through their unique voice. Black attorneys speak with a different voice to the justice system. For, “those who have experienced discrimination speak with a special voice”¹⁴⁰ As “victims of racial oppression [they] have distinct normative insights . . . [and] [t]hose who are oppressed in the present world can speak most eloquently of a better one.”¹⁴¹

Additionally, even black attorneys who do not practice civil rights law or do not practice in the area of social justice can help serve in other ways. Black attorneys, regardless of their practice, serve as role models for the next generation. Further, they help provide society with positive images of the black community and eradicate negative stereotypical images.¹⁴² “The progress of any individual black person and the black community is ‘inextricably linked’ because the actions of individual blacks are often attributed to other blacks.”¹⁴³ Thus, re-

133. Mathew Lynch, *Are African Americans Losing the Race? Part 2*, <http://www.blackrefer.com/br-opinion9.html> (last visited Feb. 1, 2010).

134. David B. Wilkins, *Two Paths to the Mountain Top?: The Role of Legal Education in Shaping the Values of Black Corporate Lawyers*, 45 *STAN. L. REV.* 1981, 1984 (1993).

135. *Id.* at 2010.

136. *Id.* at 2007.

137. *Id.* at 2001.

138. *Id.* at 1988.

139. *Id.* at 1988–93.

140. Randall L. Kennedy, *Racial Critiques of Legal Academia*, 102 *HARV. L. REV.* 1745, 1747 (1989) (quoting Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 *HARV. C.R.-C.L. L. REV.* 323, 346 (1987)).

141. *Id.*

142. Wilkins, *supra* note 134, at 2001.

143. *Id.* at 2000.

ardless of the area of practice, black attorneys help to empower and influence the next generation.¹⁴⁴

As stated by President Barack Obama in his NAACP speech, “destiny is in your hands.”¹⁴⁵ We cannot rest on our laurels.¹⁴⁶ We cannot be content with what we as a race have done in the past. We cannot fall asleep. Challenges still remain; we must remain vigilant and continue to fight for equality. “[T]he progress we have made in civil rights in the twentieth century must be only the beginning of the progress we will make in the twenty-first [century].”¹⁴⁷ As illustrated by the Texas Tech University Black Law Students Association controversy, the millennial black attorney must take advantage of the opportunities he or she is given to continue to even the playing field and work towards a nation that is truly equal for everyone. To effectuate change, millennial blacks must be “bridge people.”¹⁴⁸ “[L]awyers have to learn how, with all their skills, to journey with the community¹⁴⁹ . . . [and] involve the community.”¹⁵⁰ This generation must embrace the baton that has been handed off to them and continue the race towards true equality for its race and culture.

144. *Id.* at 2001.

145. Remarks Celebrating the 100th Anniversary of the NAACP in New York City, DAILY COMP. PRES. DOC. 200900575, at 5 (July 16, 2009).

146. Commencement Address at Arizona State University in Tempe, Arizona, DAILY COMP. PRES. DOC. 200900360, at 1 (May 13, 2009). “[O]ne thing I know about a body of work is that it’s never finished. It’s cumulative; it deepens and expands with every day that you give your best, each day that you give back and contribute to the life of your community and your nation.” *Id.* at 5.

147. Al Gore, *in* LIFT EVERY VOICE, *supra* note 1, at 102.

148. LANI GUINIER, LIFT EVERY VOICE: TURNING A CIVIL RIGHTS SETBACK INTO A NEW VISION OF SOCIAL JUSTICE 247 (1998).

149. *Id.* at 221.

150. *Id.*