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Paul G. Wolfteich

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SYMPOSIUM

The State of the Union: Civil Rights

INTRODUCTION

"The times," wrote Bob Dylan in 1963, "they are a-changin'." One hundred years after formal emancipation, blacks in 1963 were beginning to see the end of laws that prevented their full participation in American society. The United States Supreme Court had struck down the separate but equal doctrine, Congress had passed the first civil rights legislation in seventy-five years, and the executive branch was enforcing the law. Anthony Lewis wrote in the mid-1960s that "[n]o one could doubt that the conscience of America has been seized by the injustice of unequal treatment because of a man's skin."¹ A women's liberation movement also grew with publication in 1963 of Betty Friedan's *The Feminine Mystique*. A year later, blacks and women gained new legal rights with passage of the Civil Rights Act of 1964. The times were changing, and marginalized groups began to feel the winds of social progress at their backs.

This Symposium addresses the state of civil rights progress in America as a new Presidential Administration takes office. During the twenty-five years since passage of the Civil Rights Act of 1964, including eight years of the conservative Reagan Administration, the civil rights agenda has undergone a profound re-evaluation. In the articles

1. A. LEWIS, PORTRAIT OF A DECADE 4 (1964).

that follow, this Symposium examines the premises of the conservative philosophy on civil rights and considers four specific areas of civil rights concern: Housing, voting, employment, and women's status in the workplace.² Like a state of the union address, the articles are partisan, sometimes passionate, and they do not address all areas of concern from all points of view. They add to the debate without ending it.

Although the authors in this Symposium fall on both sides of the political spectrum, each believes that the civil rights agenda can still achieve social progress. The word "progress" implies movement toward a goal, and the goal for these writers is a society in which every member enjoys equal opportunity. In the articles that follow, William Bradford Reynolds and Drew Days debate the effectiveness of the Reagan Administration's efforts toward that goal. The other Symposium writers offer visions of equal opportunity in particular areas of civil rights concern. Robert Woodson envisions a rebirth of black entrepreneurialism. James Kushner, author of the housing article, looks forward to an integrated society with diverse schools and neighborhoods. Laughlin McDonald recommends changes in voting laws leading toward pluralism and political equality. David Rose calls for equal opportunity in the workplace, in which blacks and whites, women and men would enjoy comparable levels of employment, income, and job status. In the area of women's rights, Kathryn Abrams offers a vision of gender equality occasioned by a transformation of workplace norms.

These goals have long been part of the American dream. When the first President's Committee on Civil Rights issued its report in 1947, it identified in our national heritage the beliefs that "every human being has an essential dignity and integrity which must be respected and safeguarded," and that individual welfare is the final goal of our society.³ From the Declaration of Independence, the Bill of Rights, and the Four Freedoms described by President Franklin Roosevelt in his 1941 state of the union address,⁴ the Committee distilled four rights essential to social progress: (1) the right to safety of the individual; (2) the right to citizenship and its privileges; (3) the right to freedom of conscience and expression; and (4) the right to equality of opportunity.

The Committee also recorded the dissonance between the American dream and the lives of American blacks. Lynchings, sham trials, segregation, and other racist practices withheld the promise of

2. We also had planned an article on education, but circumstances prevented its completion.

3. REPORT OF THE PRESIDENT'S COMM. ON CIVIL RIGHTS, TO SECURE THESE RIGHTS (1947), reprinted in L. FRIEDMAN, *THE CIVIL RIGHTS READER* 2-27 (1967).

4. 87 CONG. REC. 44 (1941) (address of the President of the United States). The Four Freedoms are the freedom of speech, the freedom of religion, the freedom from want, and the freedom from fear. *Id.*

America's founding documents. In the 1960s a grass roots movement voiced loudly those dissonant chords and the dream which gave the movement hope. During a commencement address given in 1961, Martin Luther King, Jr., echoed the Declaration of Independence when he expressed his fervent belief "that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness."⁵ Women similarly explored the application of that language to their own condition. In 1963 Betty Friedan called for emancipation of women from the "feminine mystique," a phenomenon which suppressed women's sexuality, career aspirations, and general self-fulfillment. A society in which women were free to be themselves, Friedan speculated, would be the next stage in human evolution.⁶

The faith of the civil rights movement in social progress reaffirms an idea that had lost credibility after World War I. Until the twentieth century, philosophers of history believed that humankind's increasing ability to control and explain nature moved it closer to perfectibility.⁷ In the late eighteenth century, for example, the Marquis de Condorcet observed that progress in science and civilization, as well as the development of reason, showed that "nature has set no limits on our hopes."⁸ The same advances led a later writer to call the nineteenth century the "century of hope."⁹ The agony of two world wars, however, convinced many of the persistence of human evil and the inability of progress to explain history. The modern experience, wrote Reinhold Niebuhr in 1949, was characterized by irony, because the technology that once convinced us of social progress now made possible our extinction.¹⁰

Some writers retained a belief in humankind's ability to improve its standards of social justice. In 1961 Arnold Toynbee concluded his massive *A Study of History* with the belief that human beings were renouncing their traditional role as their brother's murderer and were beginning to tend to his welfare.¹¹ Another writer conceded that progress was no longer a satisfactory explanation of history, but argued

5. The American Dream, Commencement Address at Lincoln University (June 6, 1961), reprinted in J. WASHINGTON, *A TESTAMENT OF HOPE* 208 (1986).

6. B. FRIEDAN, *THE FEMININE MYSTIQUE* 363-64 (1963).

7. For a history of the idea of progress, see: R. NISBET, *HISTORY OF THE IDEA OF PROGRESS* (1980); C. VAN DOREN, *THE IDEA OF PROGRESS* (1967); and M. GINSBERG, *THE IDEA OF PROGRESS* (1953).

8. Condorcet, *Outline of an Historical Picture of the Progress of the Human Mind*, excerpt reprinted in *THE IDEA OF PROGRESS SINCE THE RENAISSANCE* 86 (W. Wager ed. 1969) [hereinafter *THE IDEA OF PROGRESS*].

9. F. MARVIN, *THE CENTURY OF HOPE* (1919).

10. R. NIEBUHR, *FAITH AND HISTORY* 1, 8 (1949).

11. Toynbee, *A Study of History*, excerpt reprinted in *THE IDEA OF PROGRESS*, supra note 8, at 189.

that nations could plan progress toward improved health, welfare, education, and individual dignity.¹² Both writers believed that human beings could improve their condition, even though they could not achieve moral perfection. Research done in the 1950s on racial and ethnic prejudice confirmed that hypothesis. In *The Nature of Prejudice*, Gordon Allport wrote that prejudice results from natural processes of overgeneralization and hostility toward the unknown.¹³ While arguing that prejudice is endemic to all human beings, Allport argued that it could be reduced by legislation, education, mass media, and other methods.¹⁴

The civil rights movement has moved American society toward improved standards of social justice. In this Symposium, William Bradford Reynolds and James Kushner, writers on opposite sides of the political spectrum, agree that most Americans now accept the principle of nondiscrimination as it refers to blacks and ethnic minorities. The movement also has expanded and achieved progress for other groups, including women, the aged, the handicapped, lesbians, and gay men. The success of the movement in gaining recognition for the civil rights of its constituents has raised expectations. Daniel Patrick Moynihan wrote in 1965 that, while blacks finally enjoyed full recognition of their civil rights, a new period was beginning. "In this new period," he wrote, "the expectations of the Negro Americans will go beyond civil rights. Being Americans, they will now expect that in the near future equal opportunities for them as a group will produce roughly equal results, as comparable with other groups."¹⁵ We are in the midst of that period now. As discussed in this Symposium, the rising expectations of blacks, ethnic minorities, and women for equal opportunity have added more items to the civil rights agenda: encouragement of black business, higher quality education, less drug abuse, child care, and better parental leave policies in the workplace. The civil rights agenda has come to embody our best hopes for social progress and our worst discontent with contemporary life.

At the same time, the increasing number of concerns and constituents of the civil rights movement have strained the resources available for future progress. As more causes clamor for funding and public attention, the branches of government have become less receptive to remedies requiring affirmative action and large outlays of funds. Whether the civil rights movement can harness the discontent of its constituents

12. Iggers, *The Idea of Progress: A Critical Reassessment*, 71 AM. HIST. REV. 1, 16 (1965).

13. G. ALLPORT, *THE NATURE OF PREJUDICE* 17 (1958).

14. *Id.* at 444-62.

15. Moynihan, *The Negro Family: The Case for National Action*, reprinted in L. FRIEDMAN, *supra* note 3, at 278.

and continue to achieve social progress, we leave for the reader to consider.

Paul G. Wolfteich
Symposium Editor

