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CIVIL RIGHTS, THE NEGRO PROTEST
AND POVERTY: EFFORTS TO CURE
OUR SOCIAL ILLS (*)

by

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If I were to characterize the 20th Century, it would be as The Age of Paradox.

Science and technology make possible higher standards of realization than mankind has ever known. The entire solar system lies within our reach. On the other hand, we have created atomic weapons which have within their power the destruction of entire nations and, 1° — the world!

Our knowledge of the mind and psychology is steadily increasing. Yet, bias and prejudice continue to prevail in man's relations to man. We have developed systems of instantaneous communications. Our airplanes can take us from one corner of the globe to the other in a day's journey. I left Philadelphia on Sunday, at 9 p.m. and arrived here in Istanbul less than 20 hours later. On the other hand, many nations restrict freedom of communication and prohibit the free travel of their citizens.

For many men we have provided a high and satisfactory standard of living; for others we provide sickness, hunger and poverty.

This strange paradox is present in America too, and perhaps nowhere more sharply than in our racial relations. Sitting on the Supreme Court of the United States is Thurgood Marshall, a Negro. When President Johnson meets with his cabinet, the Secretary of

(*) Delivered before the Law Faculty and Students of Istanbul University, April 29, 1968.

the pervasive Department of Housing and Urban Development is Robert C. Weaver, a Negro. Sitting as a member of the Atomic Energy Commission, which deals with the handling of that powerful weapon for both good and evil, was, until recently, Samuel A. Nabrit, a Negro. Our Federal Reserve System which handles the delicate financial institutions connected with the economic health of our country, has as a Governor, Andrew F. Brimmer, a Negro. One of our ambassadors to the United Nations, James Nabrit, was a Negro, and now Patricia Roberts Harris, our ambassador to Luxembourg, is a Negro woman. In the austere august body of the United States Senate sits Edward W. Brooke, a Negro. I could go on and on.

There is no doubt that this is an impressive record, achievable only in a nation which is dedicated to Liberty, Human Rights and to the principle that its Constitution must be color blind.

On the other hand, large numbers of our Negro citizens live in abject poverty. In the South of our nation, there is still virulent discrimination and all too often vicious brutality toward the Negro. In the North, racial inequality, while more subtle, nevertheless affects the Negro at virtually every turn, catching the affluent as well as the impoverished in its daily clutches.

The key challenge for our nation today is how to resolve this paradox, to cure the social ills that plague this country and which detract from its great achievements and contributions.

Essentially, the goal that we are seeking is the development of each individual to his fullest potential. The acid test of successful Government is the effective liberty it makes available to the person. In other words, it is the individual for whom Government exists.

But Liberty is a broad word. Liberty as we understand it today surely encompasses far more than what we understood it to mean in the 18th or 19th centuries. Today, I regard the basic element of Liberty as Human Dignity which in turn consists of two elements. First, there is the economic element. It is true that history has given us examples of men who have reached achievement in poverty and yet maintained Dignity. Certainly, Ghandi is one example who comes to mind. Realistically, however, a man who does not know where his next morsel is coming from, who does

not have clothing for his wife and children and whose conditions of abode are infested by disease and vermin cannot maintain his dignity. First and foremost, if we are to establish a condition of Human Dignity, we must cure the social ills of poverty.

Dignity, too, involves a condition of the spirit. A man cannot have Dignity if his fellow men make him feel unworthy because of his race, color or creed. A man cannot have Dignity if he lives under conditions of hopelessness and despair. A man cannot have Dignity if the law treats him unequally. A continuing sense of injustice, a state of inequality before the law, in my mind, robs a man of his Dignity and his worth. To provide Dignity to men, therefore, we must provide them with Equal Justice.

In the United States we recognize the urgency of both of these critical needs : the need to provide Equal Justice for all of our citizens and the need to eliminate the curse and disease of Poverty. If we are successful in these tasks, then we will have fulfilled the dream that the American people started in 1776 when they declared Life, Liberty and the Pursuit of Happiness as inalienable rights for all men - indeed, the dream that the late world humanitarian, Dr. Martin Luther King died for.

How close are we to making that dream a reality? What progress have we made? And what is the prognosis?

It is true that for a variety of factors, democracy today is under a strain. The 20th Century, with its revolutions of rising expectations, with the unforeseen consequences of technology and urbanization, and with the unfortunate consequences of our commitments abroad have made the problem so terribly difficult. And the question is often asked whether America is equal to the problems that confront this great country. My answer is a measured somewhat cautious but nevertheless, a confident Yes. My experience, my reason, my instinct rebel against the judgments of those that say a democratic nation is unequal to the task of a great nation in a revolutionary world. We have proved our adaptability many times in the past and we can bear up under the strains of the future. All governments today are under a strain; but I think that a democracy such as ours has the will, resources and imagination for dealing effectively with these problems that are common to advanced societies.

Let me deal first with the problem of *Civil Rights*.

When we are talking about Civil Rights, we are speaking essentially about the achievement of equal justice. The words chiseled in marble on the portals of the Supreme Court of the United States are "Equal Justice Under Law". It is this theme which guided the founding fathers of our nation and has been the ideal toward which we are still striving. In all candor, I must say that while the pursuit of equality in America has been long, it also has been less than consistent. Although our forefathers fled the old world seeking freedom from oppression, they brought with them the wicked institution of slavery. For almost a hundred years this vicious practice was the pertinent issue that divided our nation and which involved our citizens in the bloodiest war of our history.

Nevertheless, the Civil War provided America with a sound opportunity to pursue justice and equality. Had that opportunity been firmly grasped, I am sure that our country would have been spared much of the present agony and bitterness which has exploded to our great despair and embarrassment throughout the world.

The 14th and 15th Amendments to the Constitution of the United States, the products of the Civil War, did provide full rights of citizenship to Negroes — the right to due process of law and the equal protection of the law as well as the right to participate freely in the elective process. There were in addition many other measures designed to give the country's racial minorities the rights enjoyed by all citizens.

Regrettably, many of these acts in the decades that followed the Civil War were not enforced, or were repealed and even were nullified by various court decisions.

For unfortunately, following the Civil War, the Court, steeped in conservatism, said in the infamous Civil Rights Cases (109 U.S. 3 (1883)) that Congress lacked the power to help secure for the newly freed slaves their newly won rights. That decision gave support to the sentiment that the 14th Amendment was not going to be allowed to render effective the 13th Amendment's promise that slavery was at an end or the 15th Amendment's guarantee of true citizenship.

The real evil of those cases was that they paralyzed action by the legislative or executive branches for some 50 years. The struggle of the Negro for legal status, therefore, had to continue in the courts. In *Plessy v. Ferguson* (163 U.S. 537) the Court said that a law requiring the separation of two races in public conveyances was not obnoxious to the Constitution. That Court laid down the monstrous and cynical doctrine that it was constitutional to provide so-called separate but equal facilities, one for white, and one for black. That doctrine had all the potential of creating in America an apartheid society. The Negro, once again, had to start from nadir to seek the zenith of equality in a free America.

Fortunately, the Supreme Court of the United States finally got around to recognizing emancipation. The curative decisions were a long time in coming because courts do not easily override their own precedents. But beginning slowly — oh so slowly — in the 1920's and then through the 1930's and 1940's, the decisions came with steady regularity.

One series of cases struck down the white primary system and paved the way for the increased exercise of political rights. Another series of cases dealt a death blow to the concept of segregation on inter-state carriers.

In 1948, in the landmark case of *Shelley v. Kraemer* the Court held that the enforcement of covenants maintaining racially segregated areas was prohibited as a denial of equal protection of the law.

I shall not belabor here the long line of decisions which slowly made inroads on the years of accepted discrimination, other than to highlight the momentous decision handed down on May 17, 1954 in the famous school and segregation case of *Brown v. Board of Education*.

In that case, our present Supreme Court Chief Justice Warren, speaking for the Court, declared that in the field of public education the doctrine of separate but equal has no place. What this meant is that in the field of education the mere separation of the races, in and of itself, was an unlawful symbol of inferiority and therefore a denial of equal protection of our law.

Brown v. Board of education stands as the landmark case. It marked the bulwark against the establishment of an apartheid

policy. It is no wonder that Roy Wilkins, the dynamic leader of the National Association for the Advancement of Colored People, declared the date of that decision as the date of the *Second Emancipation*.

In short order thereafter the Court's decisions made it amply clear that segregation sanctioned by law in any aspect of American life is a direct contradiction of the Constitution. Racial discrimination was outlawed in parks, libraries, hospitals and other governmentally-involved facilities.

Meanwhile, executive action, and then Congressional action also brought additional changes. As an illustration, in 1939, during President Roosevelt's administration, a small Civil Rights Section was established in the Department of Justice — the forerunner of the present full-fledged Civil Rights Division which, however, was not created until 1956.

In 1947, a committee on Civil Rights, appointed by President Truman presented a comprehensive blueprint for federal legislation. In 1948, by executive order, the armed forces were desegregated. Racial discrimination in federal employment and employment under government contract was prohibited by the war-time FEPC and later by a series of executive orders, beginning in 1948.

However, the greatest single advance in the Civil Rights field since the *Brown* decision came through the Civil Rights Act of 1964. This was a controversial law introduced by President Kennedy. No law was introduced with deeper conviction; none was opposed with deeper passion. It is a triumph of our democratic process in America that it was enacted.

The summers of 1963 and 1964 in the South which preceded the Act were inflamed by hundreds of non-violent demonstrations, many led by the late Dr. Martin Luther King. It was a time marked by brutal Southern sheriffs, such as Bull O'Connor, lashing at demonstrators with whips, fire hoses and unleashed dogs, by bombing and killing of children and burning churches, by the senseless killing of Civil Rights workers, add to the haunting refrain of "We Shall Overcome" echoing throughout the nation. That summer the valiant and non-violent struggle of the Negro to remove the remaining bonds of discrimination aroused the conscience of the nation.

For the first time in our history, cloture was invoked in a Civil Rights debate and the Civil Rights Act was enacted. This Act represented the first legislation in Civil Rights other than voting in 90 years. This legislation substantially extended voting rights; it prohibited racial segregation in public accommodation; it permitted the Attorney General to bring suits to desegregate government facilities; it directed that public funds not be used in a discriminatory fashion; and it established the right to equal employment opportunities regardless of race, sex or religion.

What the Act did, in effect, is to say that the principle of official, systematic, state-supported discrimination was now dead, or at least, if not dead, it was given a death blow.

There has been subsequent Civil Rights legislation which has enlarged the body of Civil Rights. In this last session of Congress, for example, a significant act was passed which outlaws, in large measure, discrimination in the sale of housing.

It is tragic that in almost every case Civil Rights legislation was enacted only in the wake of some brutality or outrage that stirred the community. The 1964 Act followed a summer of bombing and brutality in the South and the murder of defenseless Civil Rights workers. The present Civil Rights Act was in the danger of defeat when the tragic assassination of Dr. Martin Luther King occurred. Our nation, as indeed the world, was shocked and outraged by this barbaric act. In the period of penance and mourning which followed, the Civil Rights Act of 1968 was enacted. It stands as a monumental tribute to the conscience and spirit of Dr. Martin Luther King.

Whatever the catalyst, the fact is that we are at long last on the right path regarding Civil Rights in a legal *formal* sense. The institution of Law in this struggle has been encouraging. As Supreme Court Justice Thurgood Marshall said not long ago :

"What is striking to me is the importance of law in determining the condition of the Negro. He was effectively enslaved, not by brute force, but by a law. He was emancipated by law and then disenfranchised and segregated by law. And, finally, he is winning equality by law".

That does not mean that there is still not a long, long way to travel on the Civil Rights road. There is still discrimination among

many labor unions. It is a deplorable fact that some unions who were once in the forefront in the fight for civil liberties have seen fit to deny their benefits to Negroes. There is still active and virulent discrimination in employment, in housing, in education and in many other areas. So too, the law has not yet dealt adequately with the problem of *de facto* discrimination — that discrimination which is inherent in Ghetto living. Surely this is a task to which we must vigorously address ourselves. Until we complete the task we shall not have fulfilled the promise of our nation not only as a Great Society but as a Just Society.

T h e W a r A g a i n s t P o v e r t y

But beyond the achievement of Civil Rights legislation lies even a more difficult and pressing task. So far I have spoken about the plight of Negroes because they are Negroes and, indeed, the phrase "Civil Rights" in our country has signified in a popular sense Negro rights. But now I turn to a broader concern. This is the plight of our citizens, both Negro and white, the plight of Americans who suffer from the evils of Poverty. For even beyond the tremendous obstacles which custom or bigotry have erected in the path of the Negro are the problems of Poverty which stand in the path of both Negro and White.

The real War in which my nation is engaged is not on foreign shores. It is the War on Poverty within our gates. This War will be long and tedious. It is a War in which the greatest escalation is needed. It is a War that will be costly in time and energy. It is a War that we are not sure of winning but one that we dare not lose.

The enemy in this War is ancient and durable. The terrain is plainly marked : Some 35 million "hard core" poor, one-fifth of our population have incomes of less than \$3,000. Their lives are characterized by repetitive cycles of poor health, substandard housing, disoriented families, interrupted schooling, joblessness, debt, despair and dependence. Eleven million are children. Three million are fatherless. While the majority are White, ten million are Negroes, Puerto Ricans, Indians — hired last, paid less, fired first.

I think it appropriate to observe at this point that in considering the poor of our country it is not relevant to compare them with the poor that exist in some parts of the world and particularly the poor of some of the newly independent nations. We do not have mass starvation in the United States. We do not have thousands dying in the streets from hunger as is the condition in some parts of the world. Our poor live better than those of higher classes in many parts of the world. But the American poor are poor in terms of what the rest of our nation enjoys and in terms of what the society could provide if it had the will. In an affluent America they live on the fringe, excluded from the mainstream of a rich and resourceful nation. They are the victims of a sense of exclusion which gives rise to a source of defeatism which in turn intensifies the exclusion. As Michael Harrington writing in "The Other America" so well says :

"To have one bowl of rice in a society where all other people have half a bowl may well be a sign of achievement and intelligence, it may spur a person to act and to fulfill his human potential. To have five bowls of rice in a society where the majority have a decent balanced diet is a tragedy".

Therefore, in thinking of Poverty we must think of the present level of achievement in the United States. We must think in terms of man and what he can be in society. *Where man does not achieve his potential, he is improvenished!*

What have we done in our War against Poverty? I am far from satisfied at our progress. Yet, I do not want to minimize it. Significant steps have been taken. Let me tell you about them briefly.

For the first time in history, a resourceful, imaginative and novel approach has been developed to attack the enemy and the indignity and inequality that ride by its side. Neither the hand-out, the leafraking, the condescending charity, nor the distribution of surplus food — in short, none of the temporizing of the past, form a part of this new program. It is built around a single concept : the invasion of the pockets of Poverty, the slums and the ghetto, and the enlistment of the poor themselves to fight their own battle to gain jobs, independence, education and self-respect. The

major efforts of the program are directed toward youth. The aim of these efforts is not so much the employment of young people as an end in itself, but rather their training for employment, by teaching them the required demeanor for holding any job, and the specific skills for holding specific jobs.

The agency administering this program is our Office of Economic Opportunity (OEC) which until recently has been headed by our dynamic Sargeant Shriver.

One of the most important OEC programs has been its "Head Start" Program designed to help pre-school children living in poverty. These children suffer from medical and dental neglect and all of the other disadvantages of the dark, enclosed world of poverty. Children in poverty generally knew nothing of things that other children take for granted : a visit to the zoo, a new pair of shoes, a comforting smile of a concerned adult. If they speak, no one listens; if they were spoken to, it was a brief command or a rebuke. The adults in their life are generally too pre-occupied with seeking out an existence. The chances of these poor children to keep pace with their classmates when they enter school is dangerously thin. Under the Head Start program hundreds of thousands of children have been enrolled in programs, particularly in the summer. Working with School Boards, Health and Welfare Departments, doctors, dentists, educators, psychologists, nurses and social workers, these children were made to feel that someone cared about them; they were given self-confidence and the ability to relate to a group. Surely this program holds great promises in training new generations to rise from the shackles of the sub-culture of Poverty.

The Neighborhood Youth Corps is another new program. It offers work experience and training and remedial education to unemployed young men and women, 16 through 21, from low income families. The program is aimed at disadvantaged youth who have had few breaks in life — the dropouts, the problem students, the delinquents, the disciplinary problems. It gives them an opportunity to earn money — usually \$1.25 an hour — as they do something useful for their community. Through full or part time jobs, they are able to stay in school, return to school or increase their employability.

And in city after city, they are responding to this second chance in life with the best that's in them.

The best evidence of the Corps' success is that enrollees are being hired by hospitals, museums, parks, schools, police departments, youth boards and other organizations sponsoring NYC projects. The Corps has, in effect, created new jobs which free specialists to spend more time at their work. Enrollees are being hired by industry and are entering more advanced skill training such as that offered in Manpower Development and Training Programs. I wish I could tell you about all of the programs, but time prevents me. The two I have mentioned, however, provide a fair sampling.

The decision to emphasize youth was almost dictated by the nature of the poverty problem. Our poor consist in large measure of old people retired from the labor force and young people not yet in it, living in families, often without adult male providers. Almost as high a proportion of children as of old people live in poverty. The best study shows that 25 per cent of those under 18, and 30 per cent of those over 65, live in poverty. Among the 30-35 million poor almost half are under 18, and 5 million over 65.

Another new aspect of the anti-poverty program is that it functions in large measure through community action agencies. Community action agencies are formed essentially to administer the poverty programs within the poverty communities themselves. Representatives of the poor who serve on these agencies are given an authoritative voice in determining their own programs. This is a revolutionary concept! *It is changing the face of American society by redistributing power.* The community action program is based on an analysis that what the poor need is *power* to deal with their problems. The vote alone does not give them power because education, money and time are needed to organize their votes. Through community organization, however, they are in effect given power within their own areas and it is hoped that in this way they can improve education, enlarge welfare service, increase housing inspection, make the police more respectful, open up new jobs, and generally change the pattern of rewards and services distributed by the public agencies.

This, then, is the grand design of the community action program. It is only in its initial stages and, by its very nature, one cannot predict where it is going or what it will do, for it is designed to evoke a distinctive response in each community. Ideally, it brings into the concept of city government new voices and new powers which will be able to affect city programs so that they operate more humanely and more effectively. In doing so, of course it must also give opportunities to more radical forces which do not always have such limited ameliorative ends in view. But that is part of the price of this experiment. It is a grand spectacle not simply of democracy at work, but of democracy trying to stimulate the response that makes it work better.

Certainly this is an experiment in curing social ills which is worth the careful scrutiny of other nations with large masses of poverty stricken people and who wish to involve their people more and more in their governmental programs.

This, of course, is not our only effort. Our nation is revising its social welfare programs. In many areas we are attacking the failure of our school system. We recognize that we need improved police community relations.

The federal government has undertaken massive programs. We have enacted new legislation dealing with elementary and secondary education, medical and social security, higher education, housing and old age. These are fine, but I do not believe they are enough. The deplorable riots which have occurred in our cities in recent years reflect the frustration that our Negro citizens feel at the petty pace of progress. The commitment thus far has been too little; especially in an economy as productive as our own. *We must overcome years of neglect.* Therefore a sharply expanded program is necessary in education, welfare, housing and other areas. The recent report of The National Advisory Commission on Civil Disorders (The Kerner Commission) has set forth the tremendous commitment that it believes to be necessary. I have every confidence that our country will undertake that commitment. And I have every hope that we will soon settle the War in Viet Nam so that we press forward with the War against Poverty with increased and concentrated effort and vigor.

There is one other area which I would be delinquent in omitting and that is the area of providing Legal Services for the poor.

Anyone who has lived or worked among the poor as I have, or who is sensitive to the currents swirling through this segment of our population knows the poor are just prone to legal trouble. It is, in a sense, a way of life with them.

Until recently, however, legal services have been largely unavailable to the poor. This has had unfortunate consequences. As Nicholas De B. Katzenbach has pointed out :

"...The poor man has little reason to believe it (the law) is his guardian; he has every reason to believe it is an instrument of the other society, of the well-off, the well-educated, the well-dressed, and the well-connected. The poor man is cut off from this society - and from the protection of its laws".

Surely, the very preservation of our democratic society and institutions require that the law be capable of satisfying reasonable demands for equal justice for the poor and rich alike. The provision of legal services for the poor is not, of course, the entire answer. Yet it is indeed an important element. Unless the poor man can be convinced that he has a stake in the law and that this society is his society as well, the possibility of a unified and harmonious society will surely be lost.

Happily, in this area, we have made considerable progress. Within the past three years the legal profession in our country, acting under the impetus of the American Bar Association and in cooperation with the Office of Economic Opportunity, has begun a comprehensive Legal Services Program for the poor. Last year, almost 50 million dollars was spent for this purpose. Legal Services Programs now exist in 48 of the states and in 45 of the largest cities. These are now over 800 neighborhood law offices with an aggregate staff of over 2,000 lawyers.

One of the first cases challenging the legality of this Program was brought before my Court and I was able to fully sustain the legality of this Program in a long Opinion which explored the many aspects of the Program. I am happy to report that this early precedent has since become the law of our land. See : Com-

munity Legal Services Inc. - Full Opinions, Vol. 43 (2 rev.) D. and C. Reports. (Pa. November 20, 1967) pp. 51-93.

Time dictates an end to my discourse. Suffice it to say that despite our progress, we in America have not yet cured our social ills. We have not yet overcome attitudes of racism. We have not yet devoted the spirit and resources needed to win the war against Poverty.

But we are not sitting idle. I believe that our nation is irrevocably committed to national action — compassionate, massive and sustained. And I believe that action will be backed by the resources and will of the majority of our American citizens.

Dr. Martin Luther King had a dream of a Great Society and a Just Society for all men. God willing, that dream will come true.
