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Race and Constitution: Epilogue

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THE CONSTITUTION AND RACE: A CRITICAL PERSPECTIVE EPILOGUE

We have reached that point on this journey where we must look back as we look forward. It would be impossible for me to summarize all of the powerful ideas which were shared in the last two days. Therefore, my aim is to capture the spirit of the people and the movement that underlies our quest for justice, so that it might give us insight about our future directions.

There are small parts of our social reality which are like diamonds. Deep within the history, culture, and experiences of African American People, there are stories, chronicles and parables which are like diamonds, if understood and appreciated. I would like to share with you one of those parables, in the hope that it will help us to better understand the "nature of law" and our role as advocates for social justice. This diamond is called *THE PARABLE OF THE WHITE MAN'S MAGIC*.

THE PARABLE OF THE WHITE MAN'S MAGIC

In the hot delta sun of Indianola, Mississippi, in a small "shotgun" house at the edge of town, there lived a regal Black woman, whose age had blessed her with great wisdom, but whose southern circumstances crippled her ambition. Her home was like a haven to anyone in distress, and though she was not related to anyone, everyone referred to her affectionately as "Grandma."

In the latter part of the summer of 1965, a young law student paid Grandma a visit. Without giving the customary and mandatory greeting of "good afternoon," she enthusiastically informed her elder that Congress had just passed a Civil Rights Bill, which in her estimation would correct the problems of many of the people who came to grandma, and would surely transform Indianola and the country into a "just" place.

After a brief silence, Grandma responded, "that's nice child," as she continued to stir the large pot that sat on her wood stove. "That's nice?," the young student inquired. "It's more than nice, it's history; it's what all of us have been working

for, striving for, and some of us have even died for; and all you can say is that's nice." Grandma looked very compassionately at the student and said, "I was wrong for calling your news nice, for that was giving it more praise than it really deserved."

The young perplexed student looked deep into the woman's eyes and at the wrinkles in her brow for some understanding of this strange response. She had visited Grandma on many occasions, but never before had she seen her so stern and so distant. After a long silence, the student asked, "Why aren't you glad that the Congress of the United States has decided to pass a law that will benefit our people? Don't you care anymore?" Grandma responded, "That's the trouble my child, I do care, and my concern keeps me from rejoicing. Unlike you, I see deeply. Your eyes are newer than mine, but not as deep. I see more than just the form of things, I see the inners. . .that which most would like to cover up."

Grandma sat down and continued her explanation. "Though you, like many in this town, think you know me, in reality you don't. I am old, child, older than you can count. The spirit that resides in this body is not from this time and space. These eyes have seen the 'strength and frailties' of a world divided. I have seen our people in their hours of greatness and glory. I know the genius that exists within us and have seen so much of it evaporate from lack of use. I have also seen my people suffer in ways that you could never imagine and no history book has ever recorded. *I know first hand the duality of law.*

"I remember as if it was yesterday, when Thomas Jefferson enshrined those compelling words into the foundation of this country: that 'all men are created equal.' But I also remember that he returned to his plantation the same as he left; an owner of other human beings. I was there when the Emancipation Proclamation was read, and I rejoiced. But then I saw us quickly move from formal slavery to informal slavery. I was there during the Reconstruction, child, and I remember the faith we placed in the 13th, 14th, and 15th amendments. I was also there to watch the Supreme Court turn those documents against the very people they were intended to help. I was there during the *Brown* case, and I sang 'hallelujah' just like the rest. But I am here now and I see so many children in this community reading and writing worse than when I taught them in this house. So I'm tired of

placing our hopes on the white man's magic while we foresake our own."

Somewhat perplexed, the student interrupted. "Laws are not magic. Laws are real. You can see them, touch them, read them!"

"They are no more real than you or I," Grandma responded. "They are magic, my child, because like the magician they lull us to sleep while we are wide awake. They give us the illusion of security at our most vulnerable moments. They smoothly coax us into worshipping powers outside ourselves instead of powers inside. They subtly transform our spirit, inviting us to exchange our movement for promises written on shifting sands at high tide. Laws are magic, my child, because they never do what we think they are going to do, and sometimes they do worse."

"But Grandma," the young student replied, "laws can't do everything. They can't solve all our problems and it's wrong for you to expect them to do everything."

"Child," the woman replied, "I long stopped thinking they could do everything. My question to you is, can they do anything that you and I are not able to do? And, if they can't, why do we place so much faith in the white man's magic, instead of placing it where it belongs—in our own magic."

"Our magic?" the student asked. "What in the world are you talking about? I don't beleive in this 'voodoo' you folks like to talk about."

"Well child," Grandma warned, "don't run from those things that you can't hide from and don't talk about those things you don't understand. The magic I'm talking about is as real as I am standing here. My life is magic. In this little house I made unwed mothers feel whole again. I turned hardened criminals into upstanding baptist deacons. And many of you students would never have made it to college without my few words of encouragement and a lot of this stew. It is this spirit which we have lost and no law can give that back to us. All those laws can do is make us think we've arrived when in reality we just got started again. We worship them even though we say we don't. We have depended on them for so long that we have forgotten what we leaned on before there were any laws for us. We use to lean on each other, but now we just lean."

"It's magic child and I ain't rejoicing no more over some law

tacked to some Constitution. History teaches us that everything we gain through law will be lost though law. As my father used to tell me, 'The white man giveth and the white man taketh away.' But I have learned to understand the real meaning of the song: 'God bless the child who's got his own.' Only when we look deep inside ourselves and petition the reservoir of power and will that we possess can we change this community, this nation and even this world."

"Well, I'm very tired and a bit confused," the student said respectfully as she got up from the table. "I'm working hard, trying to finish law school and you make it all seem so meaningless."

Grandma responded very slowly and compassionately, "To a great extent it is meaningless, my child, but that doesn't mean you shouldn't try to become a lawyer, and a good one. But try first to become yourself. Our people are suffering not from the lack of laws and lawyers; they suffer because of a lack of self-knowledge and self-worth. Laws can't give us that. To seek law is to seek the white man's magic. To seek the truth about who we really are and what our purpose is in this place and time will allow us to embrace our magic."

"But, that is so simplistic, Grandma. The world is much more complicated than that."

With a wrinkled brow, Grandma replied. "The world is no more complicated than this pot of stew. It has a lot of different things in it and sometimes you can't tell one from the other. All we know for sure is that somebody controls the heat and somebody knows how to stir things up. In this life, I prefer being both of those somebodies. Unless we start controlling our destiny from the smallest level, then we will never be able to truly control things at the highest level. Law is magic in this society because it gives us the illusion that we can control things on the highest level before we have control of self."

"Well, I guess I'll go now," the student interjected. "They are planning a celebration at Second Baptist Church at 8:00, and I still think its good news. I would prefer having the law than not having it."

"Rejoice my child," the woman encouraged, "for I once rejoiced. But remember my spirit and my eyes as you rejoice. I have seen us expect so much for so long, yet receive so little that

I refuse to rejoice with you. I weep this day because we haven't gotten the message yet. Maybe future generations of black lawyers will seek their own magic.

"Then again, I may be wrong, and this act will be different. Maybe twenty years from now there won't be a serious problem with voting, housing, education and employment. But, if there is a problem and you are there when the discussion occurs about what must be done, tell them for me, in case I'm no longer around, that 'there's nothing new under the sun.' Tell them that, lawyers as wise as they have pondered these same matters and developed insightful solutions which turned out to be only temporary and superficial. Tell them not to think that the ultimate answer is buried somewhere in some dusty court opinion. We have sought that opinion for generations . . . and we always came up wanting. Then tell them that my generation, and the generations before me, placed deep within their souls a key that could unlock the door to our freedom. If they choose to seek that key as they seek those laws, then their struggle will not be in vain. This journey will lead them to places that the 'old dusty law book' will never take them."

"What is the key?" the student quickly inquired.

"As you said, child, life is not that simplistic. If I could tell you what it was, would you really understand it? Only in pursuing a dream will you ever grow to understand reality. But I guarantee you that the key exists and it exists within all of us. The problem is that we have been attempting to unlock the wrong door. Study yourself and the wisdom of your people as intensely as you study the law, and you will find the key. If we had placed as much faith in ourselves as we have placed in the Supreme Court, then we would be the architects of justice, instead of the victims of injustice.

"Magic," she continued, "magic is a gift that all people possess. Some magic makes you think you're moving when in reality you're not. Other magic moves you, though it looks like you're standing still. Our problem, my child, is not magic. Our problem is that we chose the wrong magic."

On these words, their meeting ended, and these two generations said goodbye for the last time.

SUMMARY

There is something in this parable for all of us. Grandma's insights are not new and many of us have had the same realizations. Yet there are at least three lessons that speak directly to this conference and to our future directions.

First: *To seek to codify our movement for justice is to destroy it.* To even think that any law or body of laws could reflect and embrace the goals we seek is to confuse ends with means. Law is a means not an end: Justice, peace and prosperity is an end which cannot be carved into law, but can only be diligently sought, continuously, by all of us.

Second: *A people's strength is also their weakness.* No one can dispute the fact that this society is a different place today for Black people, Latino people, Asians and Native Americans than it was thirty years ago. This was accomplished in great part through a legal strategy. However, this same strategy failed to alter the lives of so many people of color in ways that really count. So, when we seek the strength of law, we must be ready to deal with its vicissitudes. We must be aware of its vices as well as its virtues. In addition, law is more than a system of dispute resolution. Law is culture, filled with traditions, rituals and behavior, whose social functions can easily separate us from our goals as well as lead us to them.

The Final Lesson is: *There are numerous limitations to law, but there is no limitation to the human will.* Therefore, we must invest our greatest energy into the latter and not the former. We must use the latter to construct a future for our people that is not totally dependent on a legal strategy. It must be based on an economic, political, educational, spiritual and historical strategy where lawyers assume the role of servants among equals and not leaders among servants. How we fashion and implement that strategy should be our thought in every awakening hour.

As we bring this part of the conference to a close let us reflect on this experience and on the "magic" of all of those who contributed their ideas and to all of you who took the time to make this a special event. Our quest from this point should lead us to refine the ideas and amendments that were discussed and to make them part of the national agenda, not because they will be readily accepted, but because they reflect the aspirations of a

“not yet free people.” They speak to a need that has been neglected and they amplify a voice that has been hushed by the marching boots of conservatism.

It is our role as advocates to ensure that “grandma’s” voice is heard for generations and that her petition is properly filed in the inner sanctum of our hearts and souls. Thank you for your time, your patience and your inspiring ideas.

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