

DUKE FORUM FOR LAW & SOCIAL CHANGE SYMPOSIUM: KEYNOTE ADDRESS

RUFUS WILLIAMST†

We can impact the status quo only when we have the courage to address difficult problems directly. It is warming that law students are considering important issues of education, because they are the ones who can make change. We all will long remember where we were, and who we were with, when Barack Obama was declared the Forty-Fourth President of the United States of America. We are a long way from *Dred Scott v. Sandford*, which held that blacks had no rights that the white man was bound to respect.¹ Following that opinion, the separate but equal doctrine was reinforced by Jim Crow laws and other unjust opinions, including *Plessy v. Ferguson*.²

For a guy who grew up on the West Side of Chicago, in the heart of the rough and tumble inner-city, as the fifth of six children, in a family of excruciatingly modest means, I am truly amazed by the events of the last two years on the national political scene. I didn't grow up with a silver spoon in my mouth. My father was a foreman at Sun Chemical Co., and my mother was a school crossing guard. Every grade school and high school I attended was a Chicago public school. Even as a child, within my district I could see huge differences from school to school, and neighborhood to neighborhood. A child might not be able to articulate that disparity, but he can feel it.

I was fortunate enough to have parents who cared deeply about my education, and I had teachers who motivated me to strive for more. Having been born in 1956, two-and-a-half years after *Brown v. Board of Education*,³ I know that I was lucky. Children face many obstacles growing up poor and black in America. Some of my peers didn't make it out, or aren't with us anymore. But thank goodness, I was able to go on to college, even though I couldn't afford to go immediately after graduation.

My college degree has allowed me to get to know some pretty amazing people, including my former employer, Oprah Winfrey. Working for Oprah allowed me to dream of owning my own company, and I realized that dream in 2000 when I started Olympus, LLC. Since then, my company has provided contract negotiation and business management for its clients, who include several well-known athletes and entertainers. Now, it is simply awe-inspiring to witness a black man I know being addressed as "Mr. President" in the White

† President of the Chicago Board of Education.

1. *Dred Scott v. Sanford*, 60 U.S. 393 (1857).

2. *Plessy v. Ferguson*, 163 U.S. 537 (1896).

3. *Brown v. Bd. of Educ. (Brown I)*, 347 U.S. 483 (1954).

House, two centuries after black slaves built it. It tells all of us that in spite of any obstacle, anything is possible.

Like many people, I'm still very emotional and excited about what this election means. I feel such a sense of pride in my country to have reached this benchmark. It's almost enough to make you feel that we have *arrived*, to lull you into a sense of completion, into a sense that the era of Civil Rights has reached its conclusion, and that we are in what some political pundits have called a "post-racial" period.⁴ If someone were to ask: "Are we there yet?" one might feel that the answer is "Yes."

But how far have we really come? Do we still need policies like affirmative action? Or policies that guard against racial profiling and workplace discrimination? Or policies promoting diversity at universities and desegregating schools? Perhaps a better way of looking at the state of race in America is to ask: "How far do we have to go?"

Let's look at the back-and-forth course of our education system and its racial politics. *Plessy* in 1896 gave us separate but equal schools. *Brown* in 1954 said segregated districts are unconstitutional; separate is inherently unequal. Then, a year later, *Brown v. Board of Education II* responded to the push-back from the first *Brown* decision, and limited its impact, allowing school districts and courts to ignore efforts to desegregate schools for many years.⁵ It said that desegregation should occur with "all deliberate speed." Thurgood Marshall defined that as "S-L-O-W."

In observing this see-saw history, legal scholar Derrick Bell, in *Silent Covenants*,⁶ argued that while educators and lawyers relied on *Brown* and attempted to engineer the racial makeup of schools, they should have sought education equity. I don't want to take credit away from the lawyers and civil rights activists who toiled to put *Brown* on the books, but I agree.

While I believe in the intangible value of a diverse and integrated student body, those schools often offer a higher quality of education simply because that's where the money is. Students in integrated schools tend to come from families with higher incomes, and have parents with higher levels of education than students in poorer communities. Those poorer communities are often predominantly black. More money means more education resources, better-paid and higher-quality teachers, better access to extra-curricular activities and sports, better-kept buildings, more support for students struggling in class, and more rigorous college-prep courses for students who have the ability to excel. A poor black student with potential who doesn't have access to these resources is at a disadvantage. And that's patently unfair.

One manifestation of this inequity is the actual number of hours our children spend in school. I am troubled that Chicago's school days and school

4. See Andrea Billups & David R. Sands, *Obama Term Expected to be Post-Racial*, WASHINGTON TIMES, Nov. 9, 2008, <http://www.washingtontimes.com/news/2008/nov/09/obama-presidency-expected-to-be-post-racial/>.

5. See *Brown v. Bd. of Educ. (Brown II)*, 349 U.S. 294 (1955).

6. DERRICK BELL, *SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM* 4 (2004).

years are among the shortest in the nation.⁷ If you compare our 1,001 hours per year to New York City's 1,278 hours, you will note that a student who attends school in New York City, from kindergarten through twelfth grade, has almost 3 years more instruction than a student in Chicago.⁸ Resources matter.⁹ So under *Brown*, we could put the poor black kid and the poor white kid in a class together and call it desegregation, but that doesn't really solve the problem.

The *real* problem is the imbalance of resources and the disparities in the quality of education offered in different demographics. It is as if the *Brown* solution is simple math, and the real solution is a complex equation that, if written out, would stretch around the room. What's more, this simple math has had unforeseen consequences.

In the midst of desegregation efforts in Chicago and other districts across the country, many white parents panicked. The mere thought that their white children might have to go to school with black children sent many white families to the suburbs, or to all-white or mostly-white private schools. Those families took with them their middle-class tax base. Soon middle-class black families followed, leaving behind only the poorest black families. These families became the sole financial support for the public schools their children depended on. This process defeated the purpose of *Brown*, leaving many urban school districts strapped for cash. It also turned many of our urban schools, once beacons of education, into schools of last resort.

Today, we are no longer fighting segregation within our school districts. We now have racially identifiable districts entirely segregated from each other, with huge disparities in resources and achievement. Where we once had segregated schools we now have segregated school systems.

In Illinois, two funding realities work against our children. First, each year Illinois ranks near the bottom in school funding,¹⁰ somewhere between forty-eighth and fiftieth in the nation.¹¹ This is because the state supplies only about 35% of education funding.¹² On average, most states provide 47% of funding,

7. Greg Toppo, *Online Database Opens a Window for Parents to Compare Schools*, USA TODAY, Jan. 4, 2007, http://www.usatoday.com/news/education/2007-01-03-teacher-website_x.htm.

8. CHICAGO PUBLIC SCHOOLS, ON THE SAME PAGE: CELEBRATING PROGRESS, MOVING FORWARD 7 (2007), http://www.stratplan.cps.k12.il.us/pdfs/District_Strategies/FINAL_COPY_05.16.07.pdf [hereinafter ON THE SAME PAGE].

9. *Enough Time in School?*, CHI. TRIB., Graphic, July 2, 2007, <http://www.chicagotribune.com/media/acrobat/2007-08/32172546.pdf> (chart showing comparatively few hours spent in school by Chicago students).

10. See generally CHICAGO PUBLIC SCHOOLS, BUDGETING FOR EVERY CHILD: A CITIZEN'S GUIDE TO UNDERSTANDING THE CHICAGO PUBLIC SCHOOLS BUDGET 10 (2009), <http://www.cps.edu/SiteCollectionDocuments/Citizen's%20Guide%20Budget.pdf> [hereinafter BUDGETING FOR EVERY CHILD].

11. Karen Berkowitz, *Illinois Sinks to 49th in State Education Funding*, PIONEER PRESS, Oct. 29, 2009, <http://www.pioneerlocal.com/elections/west/1244504,pp-education-103008-s1.article>. According to the *Pioneer Press*, Illinois expended 33% of the cost of educating public school pupils in 2004, and 28% in 2007. *Id.*

12. CHICAGO PUBLIC SCHOOLS, POPULAR ANNUAL FINANCIAL REPORT 22 (2008), available at http://www.cps.edu/About_CPS/Financial_information/Documents/FY2008_PAFR.pdf [hereinafter FINANCIAL REPORT].

with states like Vermont providing 85%,¹³ New Mexico at 70%,¹⁴ and even California, with all of its economic woes, providing 59%¹⁵ of education funding.

Second, Illinois uses a funding formula which relies on property tax revenue, creating huge disparities in per-pupil funding *within* the state. Chicago's tax base allows the district to spend an average of \$9,700 per year on each student.¹⁶ That amounts to only half of what other districts can spend per student. Just a few miles up the lakefront, the Evanston school district can spend almost \$20,000 a year per pupil. It is no wonder that in Evanston, all elementary students—Asian, African-American, Hispanic, white, and low-income—have *exceeded* reading standards since 2006.

Meanwhile, in Chicago, we're celebrating the fact that 65% of our students are meeting or exceeding standards in reading this year.¹⁷ This number represents a real gain since 2001, when only 39% of our students could meet or exceed state standards.¹⁸ I do not begrudge any of those who are doing all they can for their district's children; it is what everyone should do. But, our children need more and are getting less. Less funding also translates into shorter and fewer days in school. It also means the district can't easily attract the kind of highly-qualified teachers and principals our children need to catch up with their well-heeled peers.

This is why everything we do in Chicago Public Schools is designed to overcome funding hurdles and offer better education options for our children. At last count, the demographics of our district were roughly 46% African-American, 41% Hispanic, 9% white, 4% Asian, and 3% multi-racial.¹⁹ With our white student population down to about 9% in the post-white-flight era, the racial integration of all 655 of our schools is no longer a possibility. Education equity, however, remains our goal. About 85% of our students come from families that live at or below the poverty level.²⁰ Under a desegregation consent agreement that the district signed in 1980, the schools with the highest concentration of poor students receive the most funding. The agreement's purpose was to allow these schools to match the higher quality programs offered in schools with better funding.

Some will recall when, more than 20 years ago, then-U.S. Secretary of Education William Bennett labeled Chicago Public Schools "the worst in the

13. ON THE SAME PAGE, *supra* note 8.

14. *Id.*

15. *Id.*

16. BUDGETING FOR EVERY CHILD, *supra* note 10, at 10.

17. FINANCIAL REPORT, *supra* note 12, at 10.

18. Chicago Public Schools, Public Schools Office of Research, Evaluation and Accountability, Meeting Expectation Chart, http://research.cps.k12.il.us/export/sites/default/accountweb/Reports/Citywide/isat_msexcel_cps_categories_2008_mexc_Without_ELL.xls (last visited April 23, 2009) [hereinafter MEETING EXPECTATIONS CHART].

19. Chicago Public Schools, Public Schools: Stats and facts (FY 2008-09), http://www.cps.edu/About_CPS/At-a-glance/Pages/Stats%20and%20facts.aspx (last visited April 23, 2009).

20. *Id.*

nation,"²¹ citing low standards. That's why in 1995, Mayor Richard M. Daley took over the school district. Since then, we have been working hard to raise the bar. We've also been able to try a host of innovative measures to counter long-standing disparities, and we've had some success. For example, where traditional methods and interventions have not worked to raise achievement, we close the school. In some schools, we do what we call a "turn around." That means we remove the old staff from the school, bring in a new pool of highly-qualified teachers and an extraordinary principal, and the children return to a new school in the same building. In such schools the talented new teachers and principal have been specially trained to teach in an urban environment. To attract the best and brightest teachers and principals, we've enhanced our relationships with top universities and we've strengthened our Alternative Certification Program. This Certification Program trains people from other professions as teachers. We're also opening new schools with much more rigorous curricula through a program called Renaissance 2010, which aims to open 100 new schools by next year. This program allows us to open more charter schools, which can schedule more school days with longer school hours.

The results speak for themselves. At the elementary level, our aggregate test scores have risen about 28% over the last seven years.²² This improvement is largely due to the Chicago Reading Initiative and the Chicago Math and Science Initiative. Both programs put a laser-like focus on improving proficiency in these subjects. Like most urban school districts, performance gains at the high school level have been much harder to come by. This is mostly because the national high school formula hasn't changed in decades, and not a lot of attention has been paid to transitioning students from middle school to high school. Urban high schools also face the huge problem of students dropping out, which stems from a myriad of academic and social issues.

In response, we've developed programs like "Freshman Connection," which helps eighth-graders become high school students, and watches over ninth-graders to make sure they stay on track to graduate. We've also developed a department called "Graduation Pathways," which addresses the problems that throw students off track and prevent them from completing their high school education. In 1999, we had a shocking drop-out rate of more than 50%.²³ That number has decreased to just fewer than 42%.²⁴ Yes, that's still unacceptably high, but we are hopeful that this indicator will continue to move in the right direction. We've created a Department of Post-Secondary Education, which gets students thinking about a college education as soon as they enter their freshmen year. Over the last four years, our college enrollment rate has climbed from 42%

21. Editorial, *Schools in Chicago Are Called the Worst By Education Chief*, N.Y. TIMES, Nov. 8, 1987, <http://www.nytimes.com/1987/11/08/us/schools-in-chicago-are-called-the-worst-by-education-chief.html>.

22. MEETING EXPECTATIONS CHART, *supra* note 18.

23. Chicago Public Schools, Public Schools Office of Research, Evaluation and Accountability, Cohort Citywide 1999–2007, http://research.cps.k12.il.us/export/sites/default/accountweb/Reports/Citywide/website_cohort_citywide_1999through2007.xls (last visited April 23, 2009).

24. *Id.*

of our graduates entering college to 50%.²⁵ Of course, these programs are all works-in-progress. There is still much room for improvement.

We're also working very hard to maintain labor peace with teachers, principals and other district employees, because that, too, has gotten in the way of providing a quality education to our students in the past. Students can't get a good education if their teachers are walking a picket line each year. This is an issue Mayor Daley has focused on. Due to his efforts, labor peace in our district has lasted more than 20 years, and we have a teacher's contract that extends for another four years. Because our regular state funding has fallen far short, we've also been very aggressive about pursuing federal grants and philanthropic contributions, which help fund after-school programs, early-childhood programs, and everything else I've mentioned. Still, we have huge challenges ahead of us, starting with getting our federal lawmakers to understand the importance of education funding.

Thank goodness, we finally have a U.S. President who understands that education funding should not be a privilege or a perk dependent on where one lives. Education is a human right. It's an investment in the future of our youth and vital to the survival of our nation. Former Chicago Public Schools CEO, now U.S. Secretary of Education, Arne Duncan understands this. Still, this right is not ensured. This is clear as we watch our elected officials in Washington try to figure out how to deal with the economic stimulus package. Throughout its many incarnations Republicans have been quick to go after education funding when they seek to cut dollars out of the legislation.

So, have we come a long way from *Brown*? Yes. Are we there yet? No. In fact, the farther along this path you go, the farther you realize you have to travel to get there. *Brown* did succeed in acknowledging for the first time the gigantic disparities in our education system, and that generations of children have been cheated out of a quality education, which in the end cheats us all. Right now, we have to do the real work in the next chapter of our history to close the achievement gap. Our new president tells us to begin this chapter with hope. To paraphrase President Obama in his election night address: to all of those who ever thought that anything is possible in America, you now have your answer.²⁶ Oprah succinctly stated: "It feels like hope won."²⁷ Cornell West said we have "Hope on a Tightrope."²⁸ With those words, I hope that we are all inspired to keep doing the work that we have been doing, to continue striving for educational equity. What seemed impossible in America's yesterday is definitely in the realm of our possibilities for tomorrow.

25. College Enrollment for CPS Grads Reaches 50%, Mayor Daley and School Officials Say, Chicago Public Schools Press Release, May 13, 2008, http://www.cps.edu/News/Press_releases/2008/Pages/05_13_2008_PR1.aspx.

26. Transcript: 'This is Your Victory,' says Obama, CNN.com, Nov. 4, 2008, <http://edition.cnn.com/2008/POLITICS/11/04/obama.transcript/>.

27. 'Yes We Did,' Obama Crowd Chants at Rally, CNN.com, Nov. 5, 2008, <http://www.cnn.com/2008/POLITICS/11/04/obama.celebration/>.

28. See generally CORNELL WEST, HOPE ON A TIGHTROPE: WORDS AND WISDOM (2008) (explaining West's view that true of hope for a better future is based on hard work and perseverance).