

THE FUTURE OF NEGRO HIGHER EDUCATION
Remarks Prepared for Panel On
"The Education of the Negro Lawyer"

By

Kenneth S. Tollett, Dean
Texas Southern University School of Law

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IN THE CONTEXT OF SOCIAL CHANGE

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I remember very vividly Professor Herbert O. Reid saying in effect, in an address to the Southwest Regional Bar Association meeting in Houston five or six years ago, that Negro educators were the only entrepreneurs who constantly "knocked" their own operations and products. Would you believe any sane businessman would broadcast constantly the gross inferiority of his input materials, his processing of those materials, and his output quality? Perhaps, to a lesser extent, with subtle variations, some Negro lawyers are guilty of this same masochistic self-flagellation. However, this masochistic self-flagellation (and it is pervasive among some Negroes who have "arrived") is not the product of clumsy toilet training and arrested sexuality (particularly not the latter if we are to give credence to Moynihan's "biological anarchy"), but more likely it is the product of skillful brain-washing and convicted self-image-nation.

Now, of course, self-criticism is healthy and certainly much in Negro higher education deserves criticism and improvement. Further, we must guard against making our reactions to our critics a self-serving exercise in mere self-rationalization, self-justification and self-perpetuation. Certainly, we must take seriously much of the criticism of Negro higher education because many of the critics are high caliber people whose judgment deserves much respect.

First, let me summarize very briefly what criticisms are made of Negro higher education, who makes them, and how they affect the future role of predominantly Negro higher education. Second, let me advance the argument that predominantly Negro higher education, including law schools, is in a unique position

to train students with disadvantaged backgrounds and special problems.

Professor Bernard W. Harleston of Tufts University candidly canvassed the shortcomings of Negro higher education in the November 1965, The Atlantic, in an article entitled "Higher Education for the Negro." In the second paragraph of his article he said:

"The tragedy is that the educational opportunities which many of these institutions offer are so limited in range and depth that what they call higher education is at best a cruel hoax.....

Few of the Negro institutions have reached or can hope to reach full educational maturity." (Emphasis added.)

By "educational maturity" he meant "able and intellectually curious faculty and student body, adequate library resources and laboratory and classroom facilities, and an intellectual climate committed to academic freedom and intellectual integrity." Professor Harleston lamented the fact that few Negro educators achieved publications and "the educational opportunities in most Negro institutions are at best limited."

By "limited" he meant separate. Further, intellectual talent in these "limited" institutions is "wasted by a program of protracted mediocrity....." These institutions are narrow and lack challenge and diversity, and his coup de grace criticism is that most of the students in them earn degrees in education.

Now who makes this kind of criticism? Well-educated, professional and successful Negroes, such as Professor Harleston, and white liberals are the critics. The well-educated, professional, and successful Negro is probably the severest critic

of Negro higher education. He is the Negro who has "arrived," but would like to forget that in most instances he started his journey in a Negro higher educational institution. Many of them would abolish all Negro institutions of higher education, excepting from the axe their own select Alma Maters.

Seeing Negro institutions as anachronisms which today lack validity and social relevance, Professor Harleston would preserve and vigorously assist "many," such as Howard University, of which he is a graduate, Bluefield State College and West Virginia, the latter of which have already been transformed into interracial colleges, that is to say, they are now predominantly white. Hampton Institute and Lincoln University are on the right track, since they are actively seeking non-Negro students. "Certain other institutions should be either closed or radically changed." In short, the other four-year colleges should be converted into strong integrated junior colleges or pre-college centers.

Many of these well-educated, professional, and successful Negroes who criticize Negro institutions of higher education have "arrived" and "crossed over." By "crossed over," I mean in many instances they have got into the "mainstream," would like to think they have become white, and deny or are ashamed of their Negro backgrounds. They find Negro churches insufferable and primitive, Negro women badges of failure unless they are yellow with blow hair, and the National Bar Association merely an Amos 'n Andy operation. In their understandable and reasonable pre-occupation with being accepted in the white man's world, they have unconsciously and unwittingly accepted some of his racism.

Of course, I would be the first to deny that all well-educated, professional, and successful Negroes have "crossed over." I am just disturbed by the fact that too few Negroes have the obvious capabilities and developed talents of these well-educated, professional and successful Negroes and too many of them have turned their backs on their less fortunate brethren.

White liberals are critics of Negro and predominantly Negro institutions because they have been trapped by the rhetoric of integration. For them to preserve a Negro or predominantly Negro institution is to preserve segregation or to thwart integration. Generally, their over-all objectives are sound and they do not deserve the censure many Negroes who have "crossed over" deserve. However, sometimes they are guilty of a patronizing paternalism which defeats their ostensibly noble objectives.

One of the reasons so few Negroes seek law as a career is that there are insufficient, highly visible examples of successful Negro lawyers who can be emulated readily. Full integration is very essential, but examples of successful Negro institutions and individuals are also very important. If young aspiring Negroes are going to believe they can affect and mold their destiny, they must not be persuaded that predominantly white institutions are the only paths. Such a thoughtless, inflexible integrationist philosophy will greatly undercut the already limited effectiveness of many Negro and predominantly Negro institutions of higher education. It is a philosophy which belittles the Negro's sense of worth, dignity and potential.

Let's face it, about fifty percent of the Negroes in this country are educated in the 119 predominantly Negro colleges and universities in the South. Add to this fact Professor Harleston's observation that seven out of ten of the Negro students enrolled in these Negro institutions drop out before graduating and you should then realize that you will write off nearly half a generation of Negroes if you write off these institutions. For if only three out of ten can successfully matriculate "at best a cruel hoax," how many more of that ten can be expected to matriculate successfully the "genuine things"? Of course, I do not believe that most Negro institutions are at best cruel hoaxes or that most white institutions are the genuine things.

Now I have used the majority of my allotted time describing and partially analyzing the criticisms of Negro institutions of higher education, who makes the criticisms, and their impact on Negro institutions. Too briefly, I must deal with a positive analysis of the important and unique roles Negro higher educational institutions, including law schools, can, should, and do play.

The positive role they are already playing has been stated. They are probably educating the majority of Negroes in this country today and will continue to play this role in the immediately foreseeable future, if their most distinguished and least grateful alumni do not bring about their unseasonable demise.

A concentric and cumulative principle frequently comes into play even when a comparatively weak institution graduates Negro students. The children of college graduates are more likely to go to and finish college than children of parents who have not

finished or attended college. Warkov and Zelan forcefully and statistically demonstrated this principle in connection with lawyers in their recent book, LAWYERS IN THE MAKING (1965).

They can play an even greater and more successful role in the future if many of their faculty members could free themselves of a variation of the "crossed-over" syndrome. Dr. S. M. Nabrit, President (on leave of absence) of Texas Southern University and presently a member of the Atomic Energy Commission, has observed to me in conversation that Negro college teachers could do a much better job teaching Negro students if they did not try to deny or conceal their common background with their students.

That is to say, many Negro college professors, when they started college, had many of the same deficiencies or problems a lot of their students have and from which they derive considerable, misguided pleasure by hypercritically belaboring them. Instead of a common background creating sympathy and concern too frequently it causes impatience and contempt. What could be a very unique teaching advantage is repressed and a false sense of security and achievement is built upon the shortcomings of their students. This fault could quickly and easily be transformed into an advantage by an honest admission and a rededication to professional-like service.

Howard Zinn has argued persuasively for Negro colleges concentrating on some of their other unique advantages and opportunities in the May, 1966, Harper's in an article entitled, "A New Direction for Negro Colleges." He argues, and I quote at length:

There is too much wistful talk in education circles about how far Negro colleges must go to "catch up" with the rest. What is overlooked is that the Negro colleges have one supreme advantage over the others; they are the nearest this country has to a racial microcosm of the world outside the United States, a world largely non-white, developing, and filled with tensions of bourgeois emulation and radical protest. And with more white students and foreign students entering, Negro universities might become our first massively integrated, truly international educational centers.

Although universities like Fisk, Howard, and Atlanta are in the best position to exploit this supreme advantage, lesser Negro colleges might serve another kind of special function with their larger percentage of handicapped students.

Making a point similar to the one I have already made, Professor Zinn of Boston University says, "They could turn into an advantage what middle-class education deems a handicap:--the fact that so many of their students come from poor families." With work-study programs modeled somewhat after Antioch, "they could have students spend half their time in the poor communities that surround most of these colleges, and half the year in school studying the problems of poverty." Creative imagination could design many other ways of building positive relationships with and exploiting opportunities in the surrounding communities.

To some extent we have already been able to partially do what Professor Zinn is talking about here with our Legal Aid Clinic in which all of our law students must participate in order to graduate.

Together with the University of Houston Law School we are designing and seeking a grant for a more ambitious program which will dovetail into the Legal Services Program in Houston, Texas.

The Houston Legal Foundation, on whose board of trustees I serve, is probably operating the most ambitious, comprehensive, and bar involved criminal defender and civil legal services program in the United States.

I might note here that five of the twenty-lawyer staff are Negroes and graduates of our Law School, with two of them being in charge of two of the three neighborhood law offices already established and a third graduate has one of the four top positions in the Foundation. We plan to have ten neighborhood law offices and there is a great demand for Negro lawyers in them. We have supplied all the Negro lawyers so far and will probably supply most of the rest when the operations are expanded.

Related to Professor Zinn's arguments is an opportunity for Negro institutions, their faculty and students, to play a special role in furnishing leadership and even research in the solution of national and international problems similar to what C. Vann Woodward says Southerners can do in his *THE BURDEN OF SOUTHERN HISTORY*. You will recall he suggested that the South's history of poverty and absence of success and innocence should give its able and educated leaders a peculiar advantage in dealing with the rest of the world, perhaps, a lesser degree of arrogance and hybris. I suppose Senator Fulbright is an example which would support this suggestion, however, some would raise questions regarding President Johnson, Secretary of State Rusk and maybe even that most distinguished international law scholar and fellow panelist, Professor McDougal. Yet there is some merit to Professor Woodward's suggestion and we need not get carried away in an Oscar Wildean type glorification of suffering in order to recognize it.

In connection with this "catch-up" problem, further it should be remembered what Earl J. McGrath reported in THE PREDOMINANTLY NEGRO COLLEGES AND UNIVERSITIES IN TRANSITION (1965), namely:

.....On any measure of faculty competence, library facilities, salaries, physical equipment, and a host of other characteristics, the predominantly Negro institutions run the entire gamut from the highest to the lowest. When compared with the predominantly white colleges they can be matched institution by institution.

However, this preoccupation with "catching up" or emulating the prestigious schools can be a self-defeating error. Negro institutions should not seek to be black mirror images of white institutions. This is particularly important in regard to predominantly Negro law schools. David P. Cavers, Fessenden Professor of Law at Harvard University, makes a similar point in his book review of Warkov and Zelan's LAWYERS IN THE MAKING in the Summer, 1966, The University of Chicago Law Review.

In commenting upon Warkov and Zelan's stratification of law schools and the great differentiation in quality and caliber of students among the three Strata, he says:

Most casebooks used are devised for Stratum I students, and the instructional methods employed rest on assumptions as to student quality, motivation, and freedom from other demands which are not valid for many Stratum III schools. These schools thus may be missing an opportunity to devise a type of training better fitted to the needs not only of their students, but also of the communities that those students will eventually serve.

I believe Professor Cavers' point has general validity. Certainly it has much validity in law schools. For example, it has taken considerable effort for me to convince my faculty that more frequent examinations should be given our students. Most of us attended schools where examinations were given only at the

end of a course. However, we are slow to consider the probability that this was a practice which was a function of the sizes of classes rather than thoughtful pedagogical policy. Further, even if there are sound pedagogical reasons for giving so few examinations at the big schools, our students need more experience in writing examinations. I could give other examples of mechanically and stubbornly following practices and policies of the big schools which have no rational relevancy to our situation.

Before I close, let me add a point with which some of you may take umbrage. For cultural and social reasons, many Negroes may prefer to go to predominantly Negro colleges and law schools. It is the genius of our history that every underprivileged group in the United States which was on the ascent has had educational institutions with which the members of that group could comfortably, easily and readily identify. In the spurious name of desegregation, are we now to discriminate against Negroes?*

Some institutions of higher education closely identified with particular ethnic groups are desirable and needed, especially when those groups are underprivileged. Pluralism in our educational system and history has been a response to this need.

* The following three paragraphs were not in the original speech, although the substance of them was stated in the course of the Symposium.

Each emerging group has had institutions of higher education with which it especially could identify and in which it could comfortably develop. Land grant universities responded to the needs of farmers and the frontier States in the last twenty-five years of the nineteenth century and the first forty-odd years of the twentieth century. Private catholic schools responded to the needs of the Irish and other catholics; all-women colleges, private and public, responded to the needs of aspiring women; and New York City College, and now Brandeis, fulfilled the special needs of the largest community of Jews in the United States.

The special-group-oriented colleges serve as educational enclaves in which their students can prepare for and make the necessary transition from an underprivileged status to full integration or participation in the American economy and society. The very high achievers of the special groups do not need necessarily the transitional enclaves, although even some of them may more comfortably realize their potential in the, so-to-speak, transitional enclaves than in the non-special-group-oriented colleges--colleges, in some instances, which are striving toward elitism. Apart from the content and approach of those special-group-oriented colleges serving special educational functions, they also serve a very important ego and self-image bolstering function, which may be more important than the former.

I have more or less limited my discussion to this more general analysis of the problem because I think there is a need to free ourselves from hardened ideologies and brain-

washed perspectives. Lawyers are supposed to be creative thinkers and expert problem solvers. We should use more of that creativity and expertise in solving the problem of attracting to and educating more Negroes in law. Perhaps, I can deal with some of the other many questions Professor Shuman raised for this panel to deal with when we get into our open discussion.

Thank you for bearing with me.

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