



MLK 50

MEMPHIS LAW
SYMPOSIUM

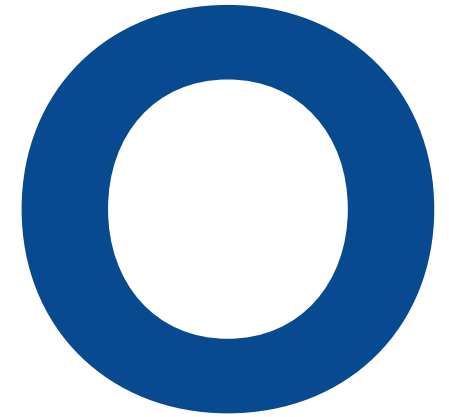


A SYMPOSIUM SUMMARY | APRIL 2, 2018

**MLK
50**
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"Where Do We Go From Here?"

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ON APRIL 2, 2018, the University of Memphis Cecil C. Humphreys School of Law, in partnership with the National Civil Rights Museum, presented the MLK50 Symposium: Where Do We Go From Here?, featuring keynote speaker the Hon. Eric H. Holder, 82nd Attorney General of the United States (2009-2015), Partner, Covington & Burling LLP, at the historic Peabody Hotel in downtown Memphis.

Part of a two-day symposium with the National Civil Rights Museum, the University of Memphis School of Law-led day of the historic event took a legal focus, with panel discussions on topics covering criminal justice, voting rights, persistent poverty, and 21st century activism.

"We were thrilled about the overwhelming community interest and support that this symposium inspired," said Professor Peter Letsou, dean of the law school at the time of the symposium. "We're hopeful that this symposium inspired the legal community — here in Memphis and around the world — to take action on the persistent injustices that Dr. Martin Luther King spent much of his life working to address."

KEYNOTE LUNCHEON

IN

a standing-room only ballroom at the Peabody Hotel, former U.S. Attorney General Holder emphasized the monumental importance of some of the day's overall themes. He homed in on the importance of voting rights and raised the question of how to unite the country in the name of tolerance, nonviolence, compassion, love, and justice; all things held in high regard by Dr. King; as well as topics being addressed throughout the day's symposium by panels of experts from across the country.

THE KEYNOTE LUNCHEON also featured U.S. Sen. Doug Jones (Alabama), who introduced his friend and colleague, Holder, and shared some remarks of his own about his work prosecuting two Ku Klux Klansmen responsible for the 1963 bombing of Birmingham's 16th Street Baptist Church.

Jones also said King's dreams and goals are unrealized, although King's movement has changed the nation and the South in particular.

"Fifty years later his influence can be seen in all of our lives, every day. You see it in the kinds of schools our children attend, where we eat, where we gather, where we work," Jones said. "But as we all know too well, Dr. King's dream has not been fully realized. And in many respects, it seems we have been

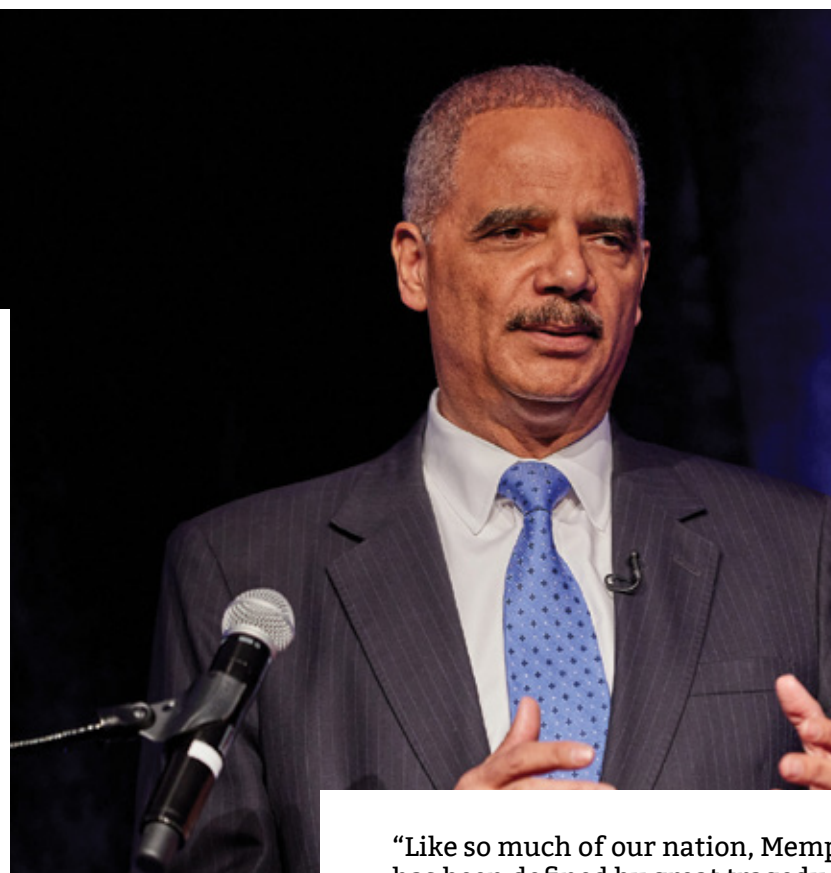
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backsliding. We've been sliding a little back on voting rights, access to the ballot box. We've been sliding back in the area of criminal justice reform. We've been sliding backward by empowering white supremacists and white nationalists."

Holder took the stage and immediately moved the discussion forward, embracing the overall idea of the symposium by asking, "Where do we go from here?"

"Let's pledge our best efforts to protect the advances that we have inherited and make real the legacy that has been entrusted to each of us," Holder said. "That is our charge, and this is our moment."

Holder also noted Memphis' unique ability to showcase its progress without glossing over its past.



WHERE DO WE GO FROM HERE?

Former U.S. Attorney General Eric H. Holder address the crowd at the MLK50 Keynote Luncheon.



"Like so much of our nation, Memphis has been defined by great tragedy, but also by great achievement," he noted. He lauded the grassroots Memphis movement, the #TakeEmDown901 initiative, which helped to bring about the awareness and community support that brought down two long-standing Confederate memorials this year.

"It's good to be here in Memphis," he said. "I love this city. I love its energy. I love its sense of possibility. The feeling that, as Dr. King once described it: 'Something is happening in Memphis.'"

Holder noted that Dr. King's birth and death anniversaries, as well as this symposium itself, are unique opportunities to consider where we are now as a nation; to take stock of progress, to take responsibility for remaining work and to rededicate to social and economic justice. He also

reminded the crowd that it may not always be the popular move to confront racism, poverty, and war, as Dr. King knew all too well. He noted that Dr. King was a very unpopular figure in the years before his death, citing a 1966 Gallup poll that showed nearly 2/3 of Americans had an unfavorable opinion of him. But the work that he did, and that still needs to be done today, exists outside the need for popularity.

"I wish he could see how effectively concerned women, LGBTQ Americans, still distressed minority communities, and now students and citizens who have seen enough of gun violence have copied Dr. King's tactics," he said.

But in 2018, the country's struggle to overcome injustice, eliminate disparities and eradicate violence is not over, Holder said.

"We are still marching," he said. "We are still striving. And we are still calling on our nation's leaders to act with a sense of justice, compassion and common humanity."

THE SYMPOSIUM PANELS

The MLK50 Symposium also featured four moderated panels, each with four panelists drawn from academia, government, and the legal profession. The goal was to examine a specific aspect of Dr. King's legal legacy, and each panelist also prepared an essay for publication after the symposium. The essays presented examined the progress over the last 50 years and proposed actions and solutions for the future. Our own University of Memphis Law Review will publish the collected essays in a special issue.

Attendance for these panel sessions reached capacity numbers, with more than 650 registered and many more viewing the proceedings online or in our overflow rooms at the Peabody and the law school. It was a consensus opinion among attendees that these individual panels were some of the most interesting portions of the entire event, with the majority of guests staying to attend each panel for the length of the day.

It was, in short, the Law School's most successful event ever, with an incredible slate of nationally recognized experts taking part in some of the most important discussions that the school has ever publicly examined.

The panels themselves addressed the topics of voting rights, criminal justice reform, confronting persistent poverty, and 21st century activism, and each panel was moderated by a distinguished Memphis Law professor.



PANELISTS

CRIMINAL JUSTICE



Roy Austin

Partner, Harris, Wiltshire & Grannis LLP; former Deputy Assistant to President Barack Obama for the Office of Urban Affairs, Justice & Opportunity

Toussaint Losier

Assistant Professor, University of Massachusetts - Amherst College of Humanities & Fine Arts, W.E.B. Du Bois Department of Afro-American Studies

Tracey Maclin

Professor of Law & Joseph Lipsitt Faculty Research Scholar, Boston University School of Law

Mark Osler

Professor and Robert and Marion Short Distinguished Chair in Law, University of St. Thomas School of Law

MODERATOR

Demetria Frank

Assistant Professor of Law, University of Memphis School of Law

This panel addressed policing in communities of color and contemporary penal policy, and grappled with the complex question of what policing and punishment should look like going forward.



SETTING THE TONE for the day, this panel addressed a topic that has been in the news quite often recently, and can become a heated topic among various audiences. From questions regarding class and access to wealth, to unconscious bias in our society and criminal justice system, to the importance of education and focusing on local communities and activism, the panelists approached all of these issues and more head-on, with legitimate ideas on how to improve our country's situation, while also offering up ample evidence and first-hand accounts of the seriousness of the current situation.

"There is no doubt that black folks are still being brutalized," said panelist Roy Austin in reference to any recent progress made regarding criminal justice reform. "So, I guess I am not completely satisfied about where we are at, as I sit here today."

The conversation quickly turned towards bias, specifically unconscious or implicit bias, and its role in society and the criminal justice system.

"There's bias in our country, in this society, and as long as there is bias in society, there's going to be bias in criminal law," said panelist Mark Osler. "That's because there are these big pools of discretion where people make decisions in a 'hidden' place. For example, police officers who make arrests and prosecutors who make

charging decisions. There's a poison in those waters, and the poison is that bias."

"This is going to be a very long-range project if we are going to address bias in the greater society, and it is not until we solve that problem, as long as we have those big pools of discretion, we're going to have that same problem within the criminal justice system."

And any long-range project is most successful if it is able to reach its primary audience as early

CONTINUING CRIMINAL JUSTICE

as possible. In this case, that is the children in these communities. As Austin pointed out, “It all starts with our kids. It starts with school discipline. It starts with a million kids being expelled or suspended every year,” said Austin. “And once you take that kid out of school or put him behind in school in some way, it is unbelievable that we are then surprised that that kid then struggles later in life.”

The panel went on to detail the importance of reform to every single step of the criminal justice system, especially in regard to the impact it has on African-American male children, which unsurprisingly segued into police officers and police brutality, in light of recent events in America. The panelists were adamant about the impact that unconscious bias, cultures of ignorance and corruption, combined with institutionalized bias and poor police training have had on the perception of today’s police and criminal justice system in the eyes of African-Americans, as well as that of our greater society.

“The problem is how police officers are trained and the institutional, often unconscious bias, that drives these policies,” said panelist Tracey Maclin. “It’s not about racist police departments or racist police officers, it’s about police officers thinking that certain types of individuals fit their understanding of what it is to have a gun or who has guns/drugs, and that is what is driving these decisions.”

In a room full of mostly like-minded individuals that were there to engage in discussion and learn about the way forward, it was easy to have these types of conversations freely. However, as moderator Demetria Frank asked the panel, “Is

it possible to have these types of conversations without appearing to be anti-police?”

“We have to find ways to get past the rhetoric of criticism of the police being interpreted as being against the police,” said panelist Toussaint Losier. “It’s like any kind of questioning about how police officers operate is considered ‘anti-police’ and that reinforces a logic that only police officers can be criticized by other police officers and not general citizens.”

Other panelists built upon this idea that it’s important for the public to be able to freely criticize law enforcement officials.

“One of the reasons that it is crucial that we feel free to criticize police officers is that law enforcement has disproportionate political power in government and their voice is always going to be heard,” said Osler. “There needs to be a greater diversity of critical voices and we have to be brave enough to withstand the charge that we are being critical of police in order to make a difference.”

When Frank posed the question of how to bridge this divide between communities and police officers, the importance of training once again took center stage.

“It’s actually not that hard,” said Austin. “It is sitting down with the community and asking them what their concerns are. What do you want as a community? Where do you want the police to be? Where do you think we should be — knowing we have limited resources to enforce things?”

Austin went on to say that officers



"It is sitting down with the community and asking them what their concerns are."

Q&A

An audience member asks a question of panel members at the end of their Criminal Justice panel.

should be trained more on implicit bias, and went on to recommend that communities need a sort of training and re-education as well.

“Black folks have implicit bias about other black folks,” he said.

One possible training route? Teaching de-escalation as an actual method of policing. Austin pointed towards teaching officers how to lower the volume and tension in a situation. “You have to get officers to realize there is courage in retreating, that there is courage in calling a social worker and therefore re-empowering the officer,” said Austin. “It’s the idea of police officers being guardians instead of warriors.”

Training. Education. More awareness around issues such as implicit and unconscious bias and police officer training. Continued community discussions amongst neighbors and police officers. All of these are clear starting points for reforming our criminal justice system and the relationship our country and its citizens, particularly African-American citizens, have with it. But one thing was clear after this groups discussion, and that was the fact that there is still a lot of work to be done, on all levels. And it will not happen without open dialogue and understanding between all parties, without fear of reprisal or retaliation.

“You cannot look at the current justice system and say that we are living up to what Dr. King asked us to live up to,” said Austin. “You just can’t do it.”

VOTING RIGHTS



This panel addressed current voting rights challenges and strategies for reform, whether through litigation, legislation, or mobilization.

Our own Professor Mulroy kicked this panel off by posing a question, with a grading requirement, to our panelists.

If you were to grade the progress that we've made since Dr. King's time, in the area of voting rights, what grade would you give? What areas have we succeeded and where have we failed? And to the extent that Dr. King's vision has only partially been achieved, why is that the case?"

Moving away from offering a specific grade ("I've always preferred comments to grading"), panelist Sherrilyn Ifill started off the discussion with a thorough recap of where she thought we'd failed and succeeded regarding Dr. King's legacy.

"There's no question that the movement to ensure that African-Americans can participate in the political process in this country, particularly in the South, has

been one of the areas of tremendous progress in this country," noted Ifill. "The 1965 Voting Rights Act has often been referred to as the crown jewel of civil rights legislation, and understandably so."

She also noted that tremendous progress has been made in electing African-Americans to public office, pointing out that the election of Barack Obama as President of the United States would not have been possible without the Voting Rights Act. But she also touched upon some of the areas where our country has come up short.

"How do you unleash transformative political power from marginalized groups," asked Ifill. "Dr. King certainly recognized the scale of the challenge and thought that the potential was there, but I think that we have not yet fully scaled that wall yet."

Other panelists agreed with the Voting Rights Act as a pinnacle of achievement. Karlan noted that it is an ongoing process though, pointing toward eras known as "Reconstruction," as periods that showcased how African-American voters have ebbed and flowed in their levels of involvement.

PANELISTS

Debo Adebile

Partner, Wilmer Cutler Pickering Hale and Dorr LLP; Past Senior Counsel to the Chairman of the U.S. Senate Judiciary Committee and Director of Litigation and Acting President for the NAACP Legal Defense and Educational Fund, Inc.

Richard Hasen

Chancellor's Professor of Law and Political Science, University of California

Sherrilyn Ifill

President and Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc.

Pamela Karlan

Kenneth and Harle Montgomery Professor of Public Interest Law; Co-Director, Supreme Court Litigation Clinic, Stanford Law School

MODERATOR

Steve Mulroy

Professor of Law, University of Memphis School of Law

CONTINUING
**VOTING
RIGHTS**

“The Voting Rights Act of 1965 is the centerpiece of what came to be known as the Second Reconstruction,” noted panelist Pamela Karlan. “It’s worth remembering that there was a First Reconstruction that failed though. During this first reconstruction era, 80 percent of black men voted, and then that number went down below 1 percent by 1900.”

“It’s important to recognize that reconstruction is an ongoing process,” said Karlan. “And the First Reconstruction failed in part because of the disenfranchisement of African-Americans in the South, which is why the Second Reconstruction was even necessary.”

Further delving into areas that explain what voting really is and how it relates to Dr. King’s legacy, Karlan explained that voting is really about three separate things, and how these things tie into Dr. King’s famous “Give Us the Ballot” speech.

THESE THREE ELEMENTS OF VOTING ARE:

- › A symbol of full citizenship
- › Who wins and loses elections
- › Governance and changes in the legislature

As it pertains to actual issues and legal cases, Karlan said these elements are specific “generations of problems,” with each generation being dealt with differently and at different times. She notes that “voting is not just about the symbol of your ability to cast a ballot and have it counted,” i.e., the first generation, but also about who wins and loses elections (the second generation). In fact, much of her work focuses on those issues: redistricting, judicial election cases, and setting up systems where African-Americans and Latinos can elect the candidates of their choice to public offices.

“Dr. King’s ‘Give Us the Ballot’ speech was really about governance and making changes in legislature (the third generation),” said Karlan. “He said we’ll be able



“We’ve seen explicit actions that are designed to suppress a part of the population that is composed of racial minorities, and the fact that we are here today for this anniversary means that we have to talk about the fact that it is still with us and threatens to corrode our democracy.”

to get rid of a stagnant and hypocritical federal congress and talked about the blatant hypocrisy of right-wing reactionary northerners, and finally about how giving the vote to everyone would get rid of the ‘high blood pressure of words and the anemia of deeds’ that we’re dealing with in this country.”

Karlan explained that we haven’t gotten to this third generation yet and, indeed, are back at litigating the first generation again.

“The very issue that was at issue in 1965, the right of everyone to vote and have it be counted, is back on the front lines again,”

said Karlan. “It is absolutely critical that people remember that we can’t really talk about the third generation of problems yet until we solve the first generation of problems so that EVERYONE can vote.”

UC Irvine School of Law professor Rick Hasen ventured so far as to offer up the requested grade on progress. Opting for a “gentleman’s C,” Hasen notes the progress we’ve made with and since the Voting Rights Act, but says that it has lost a lot of its luster over the intervening years.

“There are three main reasons why Dr. King’s vision has only been partially fulfilled,” said Hasen. “First, parties have long been able to harness private racism towards political ends. The second thing is the failure of the Supreme Court to read the Voting Rights Act with the spirit of what it was meant to do in mind. The final area is the role of felon disenfranchisement.”

All panelists touched on the need to keep pushing forward on these, and other, issues related to voting and civil rights. Understanding exactly what progress means, in the context of civil rights, is key to knowing how to keep pushing the boundaries though.

“How do you measure progress? When is enough, enough? Do you dishonor progress by acknowledging that the aspiration is to do more and push beyond what the current situation is?” asked panelist Debo Adegbile. “I think there’s a bit of a tendency to want to declare victory...and to settle in that space.”

Adegbile notes that this distinction between the ambition to do more and to continue to move forward, while also acknowledging progress already made, is key to keeping Dr. King’s dream alive and growing. He stressed the importance of not using our progress to date as a limit on what can be accomplished in the future.



“The very issue that was at issue in 1965, the right of everyone to vote and have it be counted, is back on the front lines again.”

But where do we go from here, to echo our symposium’s theme? What hopes do these panelists have for the future and what ideas will get us there?

“I’d love to see Congress pass rules for the conduct of congressional elections,” said Hasen. “There’s nothing that would stop Congress from having universal voter registration for all federal elections across the country. If we’re talking ambitiously, why shouldn’t it be that we have a national, non-partisan Federal Election Board that is proactively registering every voter in the country and lets you vote in these federal elections anywhere in the United States?”

“Voting should be as easy as operating an app on your smartphone. It shouldn’t be that you have to spend so much time with voter registration drives and getting people eligible to vote,” said Hasen. “It should be a no-brainer that if you are an eligible voter, that it should be easy for you to cast that vote in a way that is fairly and accurately counted.”

It was noted that, across the world, governments take it upon themselves to make it



CONTINUING VOTING RIGHTS

drastically easier to vote than it is in the United States, especially in terms of felon disenfranchisement. “Every other advanced democracy in the world makes it easy to vote,” noted Karlan. “The United States is an outlier here because of racism in the criminal justice system.”

Karlan also pointed out several avenues where she sees room and hope for future growth. She suggests that we expand the voting period, from a Tuesday between 7 a.m. – 7 p.m., to a two-week period including weekends and nights, in order to increase the number of voters dramatically.

Despite these worthwhile ideas, other panelists still

see lots of problems waiting to be addressed. While our country struggles to find ways to address these problems, panelists pointed towards other countries, as well as politicians in our own nation, to find ways to exploit our voting and race-based problems.

As Ifill pointed out, this issue is, in truth, a democracy problem. She notes the voter ID case in Texas and the voter suppression law in North Carolina as two examples of cases that have been found discriminatory by Federal Courts as it relates to race and voting rights. But she stresses that Congress still does not see the issue as this larger democracy problem just yet.

“The urgency of seeing this as a democracy problem is reflected by what we saw with the manipulation of race by Russian operatives in the 2016 election,” said Ifill. “Even foreign governments know

about our race problem and know that you can manipulate race in elections.”

“Racism in our election system is a national security vulnerability. Anybody can see it and manipulate it.”

Building on that observation and analysis, Ifill suggests that a possible route towards growth centers around Congress treating racism in our electoral system as a true democracy problem, and having the “courage, spine, and patriotism” to do something about resolving it.

As it did in other panels discussions, the topics of bias, both implicit and explicit, and that of overt racism, were a significant portion of this panel's focus. As the panel drew to a close, several speakers pointed toward those topics as important things to address if our country is going to improve voting rights issues.

“Political parties have found a way to harness white racism in order to achieve political ends,” noted Hasen, while addressing the idea of racially polarized voting. “This intersection of partisanship and race makes it really hard for courts to deal with the problem, but it is a real phenomenon that the courts need to take cognizance of.”

In regards to bias and discrimination, Karlan noted that “There’s not just explicit bias and implicit bias, there’s also the legacy of hundreds of years of past discrimination that even people that have no bias at all engage in.” It’s this legacy that our country has to willingly acknowledge and educate itself in, in order to move forward in an equal way.

In closing, Ifill touches upon why this panel is important and notes the important work still to be done, if our democracy is to remain intact.

“It’s important in this moment to recognize that explicit bias is completely back on the table,” noted Ifill. “We’ve seen explicit actions that are designed to suppress a part of the population that is composed of racial minorities, and the fact that we are here today for this anniversary means that we have to talk about the fact that it is still with us and threatens to corrode our democracy.”

“The very issue that was at issue in 1965, the right of everyone to vote and have it be counted, is back on the front lines again.”





PANELISTS

Dorothy Brown

Professor of Law, Emory Law School

Dayna Matthew

William L. Matheson and Robert M. Morgenthau Distinguished Professor of Law; F. Palmer Weber Research Professor of Civil Liberties and Human Rights, University of Virginia School of Law

Tomiko Brown-Nagin

Daniel P.S. Paul Professor of Constitutional Law; Director, Charles Hamilton Houston Institute for Race & Justice; Co-Director, Program in Law and History, Harvard Law School; Professor of History, Faculty of Arts and Sciences, Harvard University

Dorothy Roberts

George A. Weiss University Professor of Law and Sociology; the Raymond Pace and Sadie Tanner Mossell Alexander Professor of Civil Rights, University of Pennsylvania School of Law

MODERATOR**Amy Campbell**

Associate Professor of Law; Director, Institute for Health Law & Policy, University of Memphis School of Law

CONFRONTING PERSISTENT POVERTY

This panel examined some of the contemporary areas where poverty impacts life chances for individuals.

The symposium's third panel focused on persistent poverty and how to address it in today's environment; but as evidenced by the diverse range of panelists involved in the discussion, it is a topic vastly more complex than one would expect on the surface.

MODERATOR AMY CAMPBELL, director of the law school's Institute for Health Law & Policy, was particularly well-suited to oversee the discussion. With her work at the Institute focusing in part on how structural economic inequality has ties to poor community health, particularly in Memphis where 52 percent of African-American children live in poverty, professor Campbell has experience looking at this issue through a unique lens.

This panel allowed us to examine the role of poverty and its relationship with issues such as

housing and racial inequities and opportunities, economic and racial inequality in our education systems, health inequalities and poverty and race, and health and poverty matters related to ZIP codes.

It was made abundantly clear that all of these issues and more are closely related to the ongoing poverty problem; not only in Memphis, but across the country. Panelists examined how we got to this situation and some of the problems we are addressing today, as well as some ideas for solutions going forward if we are ever going to fully realize Dr. King's dream.

As panelist Dorothy Brown noted, it might be initially confusing why someone that writes about the racial implications of tax policy would be included on this panel. However, she made it immediately clear that her work is vitally important to understanding how tax policy, home ownership, and tax subsidies all relate to this ongoing persistent poverty problem.

"Blacks are more likely to pay higher taxes than their white counterparts," Brown said as she quickly homed in on the problem. "We know that the majority of whites are homeowners and the majority of blacks are not, so we know that any tax subsidies for home ownership are going to disproportionately benefit white people."

She went on to explain that black and white homeowners actually get different tax subsidies based on race, clearly something that could drive economic inequality.

Brown noted that when you sell your home at a loss, it is not tax deductible. This is an important detail related to race and homeownership, as blacks and whites experience home ownership differently. "Whites tend to live in homogeneous neighborhoods and blacks tend to live in racially diverse neighborhoods," said Brown. "Sociological studies show us that when more than 10 percent of your neighbors are black, the value of your home falls, and that rate increases the higher the percentage of your black neighbors."

This means that white homeowners are more likely to sell their house at a gain and benefit from a tax-free provision, whereas blacks are more likely to sell their homes at a loss, specifically a non-tax deductible loss.

“The tax subsidies are targeted to how white people engage in society,” Brown noted. Moving toward the way that quality education and concentrated poverty relate, Brown-Nagin highlighted several important issues about how this related to our panel topic.

“What we’ve done is create ‘islands’ of disadvantage,” she noted. “And our schools reflect that disadvantage in those neighborhoods.”

Tying her work to Dr. King’s vision of quality integrated schools being vital to equality, panelist Tomiko Brown-Nagin went on to elaborate that this country needs an educational system that meets the needs of families and students who live in high poverty neighborhoods that also tend to be people of color.

AREAS OF FOCUS THAT BROWN-NAGIN STRESSED:

- 1. Internal, school-based disadvantages
 - a. Race/segregation problems
Assignment of inexperienced teachers to minority-heavy schools
 - b. Punitive disciplinary policies that push students out of school
 - c. Curricula predicated on low expectations
- 2. Disadvantages related to place/neighborhoods
 - a. Underserved parents and families in neighborhoods
 - b. Community violence
 - c. Consequences of mass incarceration

“When students experience all of these stressors, they have developmental delays and all sorts of other disadvantages,” said Brown-Nagin. “So we see what we call achievement gaps when these students are tested. In reality though, these are ‘opportunity gaps’ and we need to find ways to invest in these neighborhoods and students and find ways, holistic ways, to help them.”

Panelist Dayna Matthew shared three things that she believes are also related to persistent poverty and important to this discussion.

Poverty is different than racism, and racism is the reason that black and brown people are over-represented in the ranks of the poor.

We must strive to treat poverty as a public health problem and concentrate on the “social determinants” of health, a topic that our very own Institute of Health Law & Policy focuses on intently.

It is important to resist the political divisiveness of solutions that separate us by race in an artificial way.

The women on this persistent poverty-related panel agreed that all of the solutions and ideas should cross racial lines in order to be successful.

In one of several straightforward statements about racism and economics, panelist Dorothy Roberts went into detail about how racism is a reason, perhaps the primary reason, that we have such an unequal economic system in the United States.

“What we’ve done is create ‘islands’ of disadvantage.”

“We have white, working-class people who oppose Medicaid and the expansion of Medicaid,” said Roberts. “How do you explain a white person who needs Medicaid, and doesn’t have the money to afford healthcare, opposing these healthcare benefits? My explanation is that they don’t want black people to have those benefits because it maintains white supremacy.”

“Racism is an impediment to the dream that Dr. King had,” Roberts pointed out.

So, why is persistent poverty not getting solved? Why are so many people in the country dealing with the issues brought up by our panelists?

Our panelists pointed to home ownership as an interesting place to start.

CONTINUING CONFRONTING PERSISTENT POVERTY

Prior to the Fair Housing Act, which ushered in fixed 30-year fixed low-interest rate mortgages, people paid cash for homes. There was no such thing as long-term fixed financing. That meant that even for whites, the rate for home ownership was not

this exclusion anymore, but there was no compensation to make up for this wealth gap.

Even with today’s society offering more opportunities for black people to own their own homes, the situation is still tinged with racism and

Norwood, a law professor at Washington University School of Law. In the opinion piece, Norwood stated that she lives in an upper-middle class suburb outside St. Louis, where only 3.5 percent of the residents are black. She detailed a recent example,



dramatically high. However, after the FHA and Veterans Loans went into action, there was a dramatic increase in home ownership that excluded blacks. This created a vast gap in generational wealth between whites and blacks in terms of home ownership in America. The federal government eventually said it would not tolerate or sanction

inequality.

“There is still a downside to the sound financial investment of a black person owning a home,” said Brown. She shared a story with the audience that clearly illustrated this.

Brown cited a CNN opinion piece from 2014 by Kimberly

which Brown showcased as an example of the downside of black people choosing to own homes in typically affluent neighborhoods where they are the minority. Norwood writes that prior to her and her husband going out of town on a vacation, she felt the need to email the chief of police with photos of her two teenage boys who would be staying home

CONTINUING

CONFRONTING PERSISTENT POVERTY

and would be walking to and from school and throughout the neighborhood while they were out of town. She even offered to meet with the police chief herself and introduce her sons to the officers, which she did do and all went well.

Her point though is that white parents do not have to think about emailing the police about their children being in their own neighborhood before going out of town. And this, Brown notes, is a prime example of one of the many downsides and disadvantages that black people face even when they do manage to own their own homes and escape conditions of poverty.

“That’s the price you pay as a black person for making a good financial investment,” said Brown. “So you’re between a rock and a hard place.”

An audience member raised the question: “What is the middle class black citizen’s responsibility in helping to reduce these problems of persistent poverty?” This provided our panelists a good opportunity to list a few things that normal citizens can actually do in a practical manner to address this problem.

SEVERAL IDEAS PUT FORTH BY OUR PANELISTS:

- › Assuming positions of leadership on issues for the entire community
- › Paying attention to where you put your money and getting your finances in order
- › Saving money for retirement
- › Start thinking more communally, not just individually

The key, as was made evident throughout the day’s discussions, was one of collaboration. Matthews noted that in order to do a better job in making the larger community aware of these and other issues, we must seek to partner with the real experts in communities.



“Community-engaged scholarship seeks to partner with authentic researchers in the community who will accurately start to name the problems that cities like Memphis are experiencing.”

Panelists went on to say that scholarly “experts” like themselves need to be held accountable and pushed to partner with communities and other researchers in order to come to fully realized goals and ideas.

“What the community can do is partner with the researchers and partner with the people who are seeking to bring equity in a way that is new and different; that is not isolated from the community, but cooperating and collaborating with it,” Matthews said in closing.



21ST CENTURY ACTIVISM

This panel examined the shifts in the legal landscape, modern technology, and the understanding of more subtle manifestations of discrimination impact, advocacy, and activism.



MEMPHIS IS A city where activism matters. It makes up a substantial part of the city's DNA, and the citizenry has historically always taken it seriously. From the marches of Dr. King to the modern-day activism of Black Lives Matter and the #TakeEmDown901 Confederate Statues removal, activism has imprinted Memphis with its undeniable mark.

So, in a city such as this, at a conference devoted to one of our city's greatest activists (by deed, if not by birth), activism was a topic that came up throughout the day during every panel. But this panel devoted to the topic itself and how activism looks in today's world was one of the most anticipated of the symposium. The panel didn't disappoint and it definitely left attendees with plenty of questions and answers simultaneously about the day's main theme, "Where Do We Go From Here?"



SEVERAL QUESTIONS POSED BY PROFESSOR KIEL:

- › What has changed with how we experience and understand racism in 2018?
- › What has changed in regard to strategies and tools activists have today?
- › How has racism itself changed?
- › What should 21st century activism look like?

"Activism today is going to look different in some ways," noted panelist Charles McKinney. "We're going to see shifts in leadership, shifts in structure, shifts in communication because of the realities of social media. The reasons people are going to be drawn to activism today are rooted in the patterns and practices of racism in the United States."

Looking specifically at how racism has changed since Dr. King's time, panelist Beverly Tatum addressed the unique demographic shift in our population since the 50s and 60s. Looking back at the 50s demographic makeup, 90 percent of the U.S. population was white. Yet when we look at the school age population in 2014, 50 percent were children of color. Tatum points to that demographic change as the impetus as to why so many issues of racism, white supremacy, and "white fear" have come to the forefront of our society.

PANELISTS

Cornell Brooks

Former President of the NAACP, 2014–2017

Charles McKinney

Neville Frierson Bryan Chair of Africana Studies; Associate Professor of History, Rhodes College

Claude Steele

Professor of Psychology, Stanford University

Beverly Tatum

President Emerita, Spelman College

MODERATOR

Daniel Kiel

Professor of Law, University of Memphis School of Law





“You hear more and more about the articulation of the white fear about being ‘outnumbered’ and what that might mean,” said Tatum. “We know that is a large source of anxiety. The sense of the world being turned on its head at some visceral level is part of what we are seeing in terms of how people respond to cognitive dissonance and anxiety. We’re definitely seeing that manifesting itself in response to the Trump election.”

Panelists Tatum and Steele both pointed towards “opportunity hoarding” as one of the reasons that our society is still drowning in racism and segregation. With the nation’s public schools and many of its neighborhoods still as segregated today as they were 30 years ago. The patterns of racial segregation that were put into place years ago still persist today, resulting in opportunities for advancement left unevenly distributed amongst society, with people of color being drastically underserved.

So, what does 21st century activism look like when one considers that many of the same racism problems persist today?

Tatum believes that dialogue itself is this century’s form of activism. The mixing together of people from different races and socio-economic backgrounds and having them engage with each other is key.

“It’s the lack of empathy that allows these conditions to persist,” noted Tatum. “Sometimes people are driven by a moral compass, but more often it is because someone they care about is being affected, and it is not until people have enough contact with each other to care about each other that we will start to see the dismantling of structural systems that we all want to see.”

On a panel composed of several academic experts, panelist Cornell Brooks lent an interestingly activist and theological viewpoint to the proceedings. He pointed out that Dr. King was trained at Boston University in a philosophical theory called “Boston Personalism,” which was based on the idea that “every person is created in the image of God and therefore has innate worth.” He bridges the divides of time and changes in activism by noting that this idea is still what we see today with the formation and

beliefs of groups like Black Lives Matter.

“We have a theological point updated, sociologically speaking.”

“We all have innate worth” equals the idea that “black lives matter.” It’s an idea that has stood strong through the years and is now being reinterpreted by a different generation.

“Theologically speaking, today we are saying what was said a generation ago,” said Brooks. “But we have to say it in a way that gives people hope. Organizing today is much the same today as it was years ago. You have to be honest and candid about the difficulties and the deep ceded nature of racism, but ultimately you have to give people hope. You gotta move people! You gotta inspire people!”

Another important item to consider when thinking about where activism will go in the 21st century was brought up by Steele.

Echoing the sentiment of hope that pervades Dr. King’s work and referenced by Brooks, he noted that King’s work often centered on communities and how the hope for positive change in those communities, even beyond the social justice aspect of things, was vitally important to his work. “In terms of improving the quality of hope in communities, I think the strategic point of focusing as much on prevention and not just reaction is an important part of where activism should go,” said Steele.

An interesting question from an audience member about the church and the clergy and their involvement (or lack of) in the civil rights movement and their activism in today’s social justice matters closed the day out in truly memorable fashion. With McKinney and Brooks both dipping into their preacher personas and historical knowledge of the matter, the room was electrically charged with purpose and discussion around a matter that ultimately relates to how activism moves forward today by looking at its past. In what he described as something once told him by Wyatt T. Walker of the Southern Christian Leadership Conference, McKinney illustrated the church’s often differing

viewpoints on its involvement in important civil rights and social justice movements through the years.

“In 1963 Birmingham, what percentage of black churches do you think were actively involved in the Birmingham movement? It was not 70, it was not 50, it was not 30, it was not 20 percent... it was NINE PERCENT!” McKinney passionately told the crowd. “But go to Birmingham now, (and) every black preacher over the age of 80 marched with Martin!”

“The very issue that was at issue in 1965, the right of everyone to vote and have it be counted, is back on the front lines again.”

He went on to remind the crowd that in rural Mississippi in the 1960s, it wasn’t the preachers who were out in front of the civil rights movement, it was the women in the community who were out front in the vanguard of this movement, who had to drag the male leadership into the movement to help the community.

This panel noted that it is this same spirt of pushing forward by marginalized groups that will advance causes today and not just by individuals and organizations that talk a good game, but by those willing to work for change, like those few activists from the church in the 60s. And McKinney passionately closed the day’s proceedings with what he sees as important questions regarding the way forward for activists inclined to change the racist leanings of our society.

“The question isn’t necessarily who’s involved, but it’s HOW are you involved? What are you willing to DO? What are you willing to risk, to build this new world that we say we want?”



**Former U.S.
Attorney
General
Eric Holder
Hosts
Memphis
Law
Student**

Q&A

Much like Dr. Martin Luther King, Jr, former U.S. Attorney General Eric Holder sees hope in what sometimes seems a hopeless world. He also sees young people as a key to that hope blossoming in our country.

“You all are the best and the brightest,” said Holder in a special Q&A session with Memphis Law students. “I tend to think that the 21st century is going to be another ‘American’ century because of people like you.”

Holder spoke to a crowd of Memphis Law students, faculty and staff in our Historic Courtroom while in town to serve as the keynote speaker at the law school’s MLK50 Symposium, “Where Do We Go From Here?” a collaborative two-day symposium with the National Civil Rights Museum. The Law School presented the first day of events at the Peabody Hotel in downtown Memphis.

Holder took time to conduct a very informal Q&A session and make brief remarks at the Law School. While weighing in on current issues and reflecting on his time in the Obama administration, he also imparted some words of wisdom about law school and the legal futures of the soon-to-be attorneys gathered in the courtroom.

“Whether you are Republican or Democrat, liberal or conservative, don’t lose what I think you have right now, which is a sense of idealism,” said Holder. “I’d hope that you want to make your mark on this nation, and I know you want to take this country to a better place. It’s going to be up to you all to make real progress and foster the dialogues that move us forward as a nation.”

Holder served for six years as the 82nd attorney general of the United States under former President Barack Obama.



"I'd hope that you want to make your mark on this nation, and I know you want to take this country to a better place."



Since leaving the Justice Department, he has rejoined the law firm Covington & Burling LLP as a partner advising clients on complex investigations and litigation matters. Additionally, he is leading an initiative focused on gerrymandering and redistricting for the National Democratic Redistricting Committee.

During the Q&A session, Memphis Law student and

Law Review Editor-in-Chief George Scoville inquired about the worries that Holder might have about the Court "entering the political thicket" in the area of partisan gerrymandering.

"Even if you do nothing as the Court, you are making a political statement there," said Holder. "I think the Court is still trying to figure out where they are going to go and how they are going

to get there. My hope is that the Court will say that line-drawing and redistricting is inherently political and it can go too far. I think if the Court simply says that, I think that would give the National Democratic Redistricting Committee the tools we need to get into court and challenge things that an objective observer would say need to be fixed," Holder said. Noting that his organization's chances of

TIME FOR STUDENTS

Memphis Law students Kelsey Duckett, Danny Bounds, and Karlyn Washington join other Memphis Law students in applauding Mr. Holder after his speech to students in the Historic Courtroom.



success were in line with the country's feelings, he noted, "There is a growing awareness among the American people about the problem of redistricting, and how it impacts their lives."

Holder also reflected upon his time as part of the Obama administration and being a part of history, specifically in the history of African Americans, was like. Memphis Law 3L Danny Bounds asked him to tell students more about what it was like being a part of the Obama team, and what it was like both before and during his presidency.

"I'm proud of what we did and there were times when you had to pinch yourself," said Holder. "There was a time once upstairs in the

White House residence when we were having dinner and I looked around and everyone in that room was an African-American, and I thought to myself, 'This has probably never happened in this house before,' and it was pretty amazing."

"I was also laughing because the President had music piped into the room, and we were playing some John Coltrane, maybe some Tupac, and I'm betting that was the first time Tupac and Biggie were played in the White House, so it was historic in a lot of big ways and smaller ways like that as well."

Former Attorney General Holder closed on the same optimistic, yet practical, note that he began with. Building on words often spoken by Dr.

King, Holder said, "The arc of the moral universe is long, but it bends toward justice." "Well, that is true, but only when people like you put your hands on that arc and pull it towards justice."

"You all have that unique responsibility as lawyers to bend that arc," Holder said. "You have that ability, but you also have that responsibility. Every one of you as an individual can have an impact on what our society ultimately becomes. I have faith in you, and I want you to have faith and confidence in yourself. Be change-agents. Be agents for the good. You can do it."

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