

# A WALL COMES TUMBLING DOWN

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The US presidential election held the attention of many of us for several months. Its sequential structure and the capacity of the American media to dramatize the unfolding of that sequence is only a part of the explanation. More than any other contest, the outcome of a US presidential election is of global concern. This year the stakes were particularly high.

The victory of Barack Obama signals the breach of a major barrier impeding the emancipation of Afro-Americans. An early sign post in that long march was the following inspiring clause in the American Declaration of Independence (1776):

We hold these truths to be self-evident that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just power from the consent of the governed.

But that inspiring sign post was not intended to define the status of all American men nor of American women. It was the Constitution to which the Declaration was attached that had the force of law and which reflected the will of the founding fathers and the US Congress. The term 'men' in the Declaration covered only a fraction of the population; all women and all non-whites were excluded. Even among white men, the poor, illiterate and semi-literate were denied voting rights. The US political establishment was white, upper class, male and slave owning; the Constitution was carefully drafted to ensure that it would continue to be so.

The first salient steps in the long process of emancipation of Afro-Americans was President Abraham Lincoln's Gettysburg address of 1863 setting out his vision of 'a new nation conceived in liberty and dedicated to the proposition that all men are created equal,' and his proclamation declaring all slaves in the Confederate states to be free. These were made tangible by way of the 13<sup>th</sup> Amendment of 1865 forbidding slavery, the Civil Rights Act of 1866 making the practice of slavery a criminal offence and extending citizenship rights to those freed from slavery and, most important, the 14<sup>th</sup> Amendment of 1868 incorporating the equal protection and due process clauses. It was only in 1870 that Afro-Americans gained voting rights, reaching the apex of what was termed the Reconstruction.

In the meantime Abraham Lincoln had been assassinated and the fate of many of the hard won rights of Afro-Americans was uncertain. Oppressive black codes and Jim Crow laws were formulated and enforced in many states. The presidential election of 1876 sealed the fate of the Reconstruction. US whites were willing to abandon slavery but not yet ready to accept desegregation and inter-racial equality. Though the 13<sup>th</sup> and 14<sup>th</sup> Amendments and the Civil Rights Act were not repealed, they were blatantly disregarded by the executive, judiciary and various state legislatures. In many states racial segregation was not merely tolerated but prescribed by law. The principle of 'separate but equal' was consistently upheld by the Supreme Court notably in the majority ruling in *Plessy v Ferguson* (1896) which includes the following formulation justifying laws prescribing segregation:

The State legislation may properly have concluded that the laws would preserve the public peace and good order ... The Constitution can act to equate the civil rights of the two races but cannot affect their social standing.

In this case, Justice Harlan, in his courageous and prophetic dissenting judgment, exposed the racism underlying both the state law prescribing segregation and the majority judgement of the Supreme Court:

... in the view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is colour blind ... In my opinion, the judgment this day will, in time, prove to be quite as pernicious as the decisions made by the tribunal in the *Dred Scott* case [that] the descendants of Africans who were imported into this country and sold as slaves, were not included or intended to be included under the word 'citizens' in the Constitution; ... the thin disguise of 'equal' accommodation for passengers in rail road coaches will not mislead anyone, nor atone for the wrong this day done ...

There was little progress till a decade after World War II, but the changes thereafter came in quick succession. Several barriers to Afro-American emancipation were successfully breached in the third quarter of the 20<sup>th</sup> century by the American civil rights movement led by Martin Luther King and many

olary. It was *Brown Board of Education* (1954) and *Bolling v Sharpe* (1954), both handed down on the same day by Chief Justice Warren that finally repudiated the separate but equal doctrine. The *Brown* judgment was based on the premise that public school segregation was a denial of 'equal protection of the law' set out in the 14<sup>th</sup> Amendment nine decades earlier, and the *Bolling* judgment on the premise that it was a denial of 'due process' set out in the same Amendment. These judgments were followed by a succession of significant executive, judicial and legislative advances for civil rights at both federal and state levels.

A dazzlingly brilliant collective leadership, among whom Martin Luther King was pre-eminent, developed and campaigned for a wide range of national, social and political issues. The achievements of the US civil rights movement in the 50s, 60s and 70s went far beyond expectations. Though its vigour gradually ebbed, it had initiated significant changes into American society and politics. Among these was the electability, in due course, of an Afro-American as the US president. Even that election required extraordinary confidence, courage, energy and vision, tremendous discipline, character and charisma, and exceptional innovative leadership and organizational skills. Obama was able to develop and project a vision that inspired and resonated with millions of voters. Hopefully these characteristics will enable him to go through his term of office with great distinction.

While the victories of Barack Obama, first in the Democratic primary and then in the presidential election, are widely welcomed as major advances in Afro-American emancipation, some feminists may have viewed them with mixed feelings. The loss of Hillary Clinton in the Democratic primary deprived the US of the possibility of electing a woman as the next president, and the loss of the Republican team on 4 November 2009 prevented a woman taking over as vice-president in January 2009. There is a curious parallel with the long struggles of Afro-Americans and women for voting rights about a century earlier. As set out by Justice Brennan in *Frontiero v Richardson*:

Throughout much of the 19<sup>th</sup> Century the position of women in our society was in many respects comparable to that of Blacks under the pre-civil war slave codes. Neither slaves nor women could hold office, serve on juries or bring suit in their own names, and married women were traditionally denied the legal capacity to hold or convey property or to serve as legal guardians

of their own children. And though Blacks were guaranteed the right to vote in 1870, women were denied even that until the adoption of the 19<sup>th</sup> Amendment, half a century later.

Many of the Afro-American gains of the Reconstruction had been lost and needed to be regained through renewed painful struggle. Women too were deeply disadvantaged. Afro-American women doubly so. The struggles of Afro-Americans and women were mostly but not always mutually supportive. Many who stood for desegregation and inter-racial equality were not yet ready for gender equality, and vice versa. At one point tension between proponents of women's emancipation and black emancipation developed into a split between the feminist movement led by Stanton, Anthony and others, and the Afro-American movement led by Frederick Douglass, Sojourner Truth and others. Some other members of the latter group suggested the deferring of the grant of franchise to women – mainly for sexist reasons and often for strategic reasons. It was argued that a strategy of meeting one challenge at a time was likely to be more successful than taking on both simultaneously.

In the event, white women secured voting rights in 1920, whereas Afro-American voting rights continued to vary widely from state to state. Till the Voting Rights Act of 1965, secured through by President Johnson. Both in the near Democratic primary and in the presidential election that followed there were occasional and fleeting glimpses of such a conflict between Afro-American and women's emancipation. Happily, none of the protagonists in those elections personally contributed to that tension. Perhaps in the course of the next decade we may witness the election of a woman as president or vice-president of the US, signalling the end of one of our will.

It would be incorrect to dismiss the election outcome as merely the victory of the better candidate. For very many voters, race, gender and youth were vital campaign issues. Moreover, the occupation of the US presidency by a young Afro-American will have considerable social and political implications. In the course of Afro-American emancipation, and in respect of various other justice and equality issues, many hurdles have been cleared and many remain. Though the clearing of each hurdle may merit celebration, struggles for justice and equality are never ending. ■

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