

Commencement Address
by Professor Lani Guinier
at the University of Illinois at Urbana-Champaign
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It is indeed an honor to be here, not only to address you, but to receive an Honorary Degree in the company of Frances Allen, Shirley Ann Jackson, Temple Grandin, Robert Moses, and Freeman Hrabowski. I stand on the shoulders of giants like these in speaking to you, as requested, about the Brown v. Board of Education decision. I always wanted to be a civil rights lawyer. When I was twelve years old, I saw Constance Baker Motley - a tall, dignified, black woman, escorting James Meredith to the University of Mississippi where he was seeking to desegregate that school pursuant to the mandate of Brown v. Board of Education. And I saw Constance Motley stand tall in the face of an angry mob and I thought, "I believe I can do that, too." I believed I could do that, because I saw in Constance Motley's erect stance a woman who dared to be powerful. Audrey Lord once said, "When I dare to be powerful, to use my strength in the service of my vision, then it becomes less important whether I am afraid."

Your school just honored several distinguished people who also "dared to be powerful." As you watched them come forward to receive their honorary degrees, you bore witness to people who used their strength in the service of their vision. They were able to take risks and to be courageous because, as Audrey Lord predicted, when you use your strength in the service of your vision, it becomes less important whether you are afraid. For example, the inscription that accompanied the Honorary Degree to Robert Moses described the challenges he faced as an activist during the civil rights movement and as a teacher who sees math education as an extension of that movement. As you heard the inscription -- that the first voter Robert Moses registered in Mississippi in the early 1960s was murdered -- I am sure you could see in your minds eye Audrey Lord's vision. And you can no doubt imagine Constance Baker Motley standing up to that angry mob, daring to be powerful, working to implement the Supreme Court's unanimous decision in Brown v Board of Education, using her strength in the service of her vision to the point it became less important whether she was afraid.

It is a privilege to speak about the Brown v. Board of Education decision because it represents the culmination of the work of many fine lawyers, social scientists and ordinary people, who all dared to be powerful in the service of their vision. They achieved an important victory when the Supreme Court unanimously decided Brown v Board of Education 50 years ago tomorrow. In the minds of most legal scholars, that decision is a Constitutional icon. Ted Shaw, the Director Counsel of the NAACP Legal Defense Fund, has said if he had to rank Brown among the great moments in United States history, it would be right at the top. It would follow, he said, perhaps the Declaration of Independence and the adoption of the United States Constitution. But even those events, in Ted Shaw's view, were "stained by the United States' compromise with slavery." Brown, Ted Shaw says, "breathed life, finally, into the Constitution for African Americans." Julian Bond, the NAACP Board Chairman, who has said that Brown v. Board of Education was important because "it said segregation was unconstitutional", joins Ted Shaw in celebrating the decision. But, Julian Bond concluded that Brown v. Board of Education was also important because "it created a wedge that allowed" people like Robert Moses and the non-violent civil rights movement to argue that segregation was not only unconstitutional, "it was immoral." And that combination of a legal declaration of principle and the fearlessness of those civil rights activists, who rewrote the law with their marching feet, that combination brought us to where we are today, celebrating the 50th anniversary of Brown v. Board of Education.

Brown is an important statement of principle; but Brown, in many ways, has been a failure. If we look around, for example, right here in the State of Illinois, we see that this state is the second most segregated state in the country for blacks attending public school. This state is the fifth most segregated state in the country for Latinos attending public school. Forty-eight percent of black students graduate from high school; fifty-eight percent of Latinos graduate from high school; eighty-three percent of white students graduate from high school. As Mark Tushnet, who is a professor of law at Georgetown Law Center, has said, "If Brown was a decision about integration, rather than Constitutional principle, it was a failure." John Minor Wisdom, one of the courageous judges in the Fifth Circuit Court of Appeals, who was in the position of seeking to implement Brown during the 1950s and 1960s, a Republican judge who believed in the principle of Brown, concluded, after fifteen years, that the court had ordered an end to segregation but segregation was not ended.

What do we do with a noble statement of principle that has failed when measured by current reality? Well, Julian Bond, who said that segregation was unconstitutional, and, with the aid of the civil rights movement also became understood to be immoral, suggests that the fact that we have not followed and implemented Brown successfully is not a measure of our failure. No he declared, "It's a measure of the challenges we face." So I would like to talk to you this afternoon about how to take something that represents failure and convert it, instead, to measure our continuing challenges. Can we take failure and turn it inside out to become success? It is what I like to call the "Failure Theory of Success."

Failure is often the only way we learn. Failure helps to focus the mind. Oftentimes, when we fail, we revisit the source of our failure and we try again. Indeed, it is those with the will to practice, in the face of failure, who often succeed. Atul Gawande, a surgeon, describes in a book, *Complications*, a difficult procedure in which he had to thread a line through a patient's rib cage, being careful to avoid the patient's lungs; and he didn't get it right the first time; and he had to do it again. And he realized that to be an excellent surgeon, he needed what he calls "the will to practice." Many of us think that surgeons are born and that surgeons are those who have excellent hand-eye coordination. But Atul Gawande concluded, Surgeons are made, not born. Surgeons are those who are willing to try and try again until they succeed. James Baldwin, a brilliant essayist, said, in our effort to practice, we have to confront our failures. We cannot run away from them. He said, and I quote, "not everything that is faced can be changed; but nothing can be changed until it is faced."

So failure can be a source of important learning. It can help us learn to do what we have been trying to do better. It can also help

us come to terms with, and understand, what it is that we are made of in the first place. I certainly learned that, in my experience, being publicly humiliated in 1993 - being called names on national television - alliterative names such as "Loony Lani," but humiliating nonetheless. And I learned, through that experience - number one - not to internalize that humiliation; not to personalize it. I learned number two the importance of standing on principle. I learned both lessons from my Personal Board of Directors - something that I hope each of you has been able to either convene or will put together after you graduate - a personal board of directors - a group of people who share your vision and can hold you accountable. And I was lucky, in 1993, to have had a personal board of directors.

I was never as fearless as Bob Moses; I was never as dignified as Constance Baker Motley; but I had had the opportunity to work as a lawyer for the NAACP Legal Defense Fund fighting the good fight in the courts, not on the streets. And, in that process, I had been able to meet and work with many people who were fighting discrimination or injustice. Many if not most of these people were much worse off than me. These were people who had lost loved ones; who had lost their chance to earn a living. Even though in 1993 I had lost a job - I was dis-appointed - I still kept my day job. I was a tenured professor, at the time, at the University of Pennsylvania. I could not feel sorry for myself; and Roger Wilkins, a member of my personal board of directors, reminded me of the importance of learning from failure. He said, "Lani, American don't like victims. You have to become a woman with a cause - not a grievance." And I hope that each of you, when you confront the inevitable failures in your life, will become people with a cause, not a grievance. I hope, if you fail, you will focus, not on falling down; you will focus instead on getting back up. Janet Reno, the Attorney General at the time, also gave me excellent advice. She said, "Lani, stand on principle; because, even if you fail, you still have your principles."

So failure can focus the mind so that we can learn how to do what we have been trying to do. Failure can help us rediscover what it is we are made of, especially if we work through that failure with the support of our Personal Board of Directors. But failure can also push us to innovate - to experiment - to move forward with new ideas. That is one of the great things about the American dream. It encourages us to be entrepreneurial - to be innovative. It pushes us to take risks, to dare to be powerful in the service of our vision.

The problem with the American dream, however, is that it often encourages us to do these things individually or at least to think that we can do these things individually - that if we, as individuals, work hard and play by the rules then we, as individuals, will succeed. What do we do, then, about failure? If success is solely an individual pursuit, how do we explain failure? Do we think about failure as an individual problem or do we begin to understand that success is failure turned inside out. Do we realize that even when we succeed, we succeed because our community invests in us or stands by us; and we fail when our community lets us down.

I propose, in trying to think about the failure of Brown, trying to reconcile its role as a magnificent statement of Constitutional principle with many of the devastating realities of the last fifty years that we not think about apportioning blame - we don't think about this as an individual problem. We need to re-imagine the role that race-as a structural not just individual problem -- has played in our thinking about success and failure. We need to begin to see the relationship between success and community; between failure and the absence of community. We need to begin to appreciate those who link their fate, who work to ensure that the community will invest in all of us so that we can all succeed - so that we can all appreciate the benefits of a great public education such as the education that you have received here at the University of Illinois. And to think about this re-conceptualization - to think about how we might learn from our failures in dealing with the challenge of race, I propose a metaphor that captures this notion of linking the fate of the individual to the fate of the community.

The metaphor that I propose is that of the miner's canary. The miners used to take a canary into the mines to alert the miners when the atmosphere in the mines was too toxic for the miners. The canary had a more fragile respiratory system; and when that system gave way, that was a signal to the miners to evacuate the mines. I propose that we begin to see that the experience of people of color - the experience of blacks and Latinos and Asians and Native Americans -- as the experience of the canary. The experience of those who have been left out and underrepresented - oftentimes the experience of women or the experience of the disabled - the experience of those who are vulnerable in our society is often the experience of the canary. Because we can see their vulnerability - just like we can see the canary - their experience makes problems visible to the naked eye that otherwise we don't notice. And the trouble has been that when we see things converging, being made visible around the experience of people of color - in particular African Americans, but not only African Americans - we pathologize the canary. Rather than seeing that experience as a signal - as a symptom - as a diagnostic tool - we think, "We better fix that little canary. Get a little respirator - a pint-size respirator and fix the canary." And I am proposing that when we see the canary gasping for breath that is a sign that the atmosphere in the mines needs to be fixed, not just the canary. This is not just about saving the canary.

So I want to just give you a quick example of the way in which the experience of people of color and particularly the experience of blacks and Latinos is a miners' canary in terms of access to higher education and, in particular, access to public higher education. Indeed, Tony Carnevale, who is the Vice President of the Educational Testing Service and who has studied 146 of the most selective colleges and universities in the country, including the University of Illinois, has found that a disproportionate number of the students going to public institutions of higher education come from the most affluent portions of our society. Seventy-four percent of the students at the 146 most selective colleges and universities come from the top twenty-five percent of the socioeconomic status indicators. Three percent come from the bottom twenty-five percent of the socioeconomic status indicators; and ten percent - meaning three plus seven percent - come from the bottom half of the socioeconomic status indicators in our country. He concludes, therefore, that higher education has become a gift from the poor to the rich. The poor people are paying taxes and the rich people are getting an education.

Now I propose that this is a problem that we have thought about almost exclusively in terms of race. And many of the poor and

working class whites, who have not gotten into the University of Michigan or the University of Texas - also flagship public institutions - and who are the ones who brought lawsuits challenging affirmative action in those states, these plaintiffs have thought that the problem was blacks and Latinos were somehow taking their place. And yet, if you look at the data, it is not blacks and Latinos who are monopolizing access to higher education. This is a dynamic and complex problem. It is a problem of race and class. But it is a problem not only of race and not only of class - it is also a problem of geography. The people who have the greatest chance of getting into schools like the University of Illinois, the University of Michigan, the University of California, the University of Texas, are affluent whites who live in the suburbs.

Rural whites, poor whites, working class whites are also not having the chance for an equal educational opportunity even at our public institutions of higher education. This was a problem in the 1950s and the 1940s, the period during which the social engineers in Brown v Board of Education were preparing their case. The lawyers in Brown focused on the problem of race; they could see the ways in which blacks in the South were getting an inferior education. Blacks in the South were tremendously disadvantaged. But if you look at the census data, in 1940 nearly three-quarters of the wealthiest seventeen-year-olds in the South, but less than one-sixth of the poorest, had completed at least eleven years of schooling. In 1950, a majority of southern whites - a majority of southern whites - were semi-literate. The lawyers could see how blacks were disadvantaged. They could see race. And they helped the Court to see race too. But the plight of the canary was also a signal that we as a society were failing to educate poor and working class and rural whites as well.

There is a Chinese Proverb that says, "If your vision is for one year - plant rice. If your vision is for ten years - plant trees. If your vision is for one hundred years - educate children." I hope that you leave this great institution with a hundred-year vision in which you are committed to following the experience of the canary in order to fix the atmosphere in the mines. I hope you pursue a hundred-year vision investing in the education of children. ALL children. Chief Justice Earl Warren wrote for a unanimous Court in 1954: "In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education [which]... is a right that must be made available on equal terms." I hope that in another 50 years you will witness the hundred-year anniversary of Brown v Board of Education and will be able then to celebrate not only the constitutional principle but also the reality of its vision. I hope that on its 100th anniversary you can proudly proclaim that our society does provide an equal education for all Americans. And I hope, supported by your Personal Board of Directors, you will dare to be powerful in the service of that vision.

Thank you very much. Thank you.