

SENIORS AND MINORITIES IN AMERICA

Paul Simon

Editor's Note: This is an edited version of an address by former U.S. Senator Paul Simon and now Professor Simon, that was sponsored by The Elder Law Journal and the Black Law Students Association of the University of Illinois College of Law. The goal in preparing this memorial was to present in literary format the essence of the address and the question and answer period that followed. Accordingly, transitional matter and extraneous colloquy have been omitted. Additionally, the substantive basis of the address has been tailored to our publication's focus in that questions during the question and answer session which did not pertain to elder law have been omitted. Such omissions have not been identified by ellipses or other punctuation marks.

I. Introduction

Delivered by Associate Dean John D. Colombo:

Today marks the second annual Elder Law Journal lecture series. This year The Elder Law Journal is joined by the Black Law Students Association in sponsoring a speaker well known not only throughout Illinois, but the entire nation. That speaker is former Senator Paul Simon, here today with his wife, Jeanne Simon. Senator Simon has enjoyed a long and illustrious political career. Elected to both the Illinois State House and Senate, he also served a term as Illinois Lieutenant Governor. He spent ten years in the U.S. House of Representatives before his election to the U.S. Senate. While a member of the Senate, Senator Simon served on numerous committees, including those regarding budget, labor and human resources, the judiciary, foreign relations, and Indian Affairs. Just weeks after retiring from the Senate in 1997, Senator Simon joined the faculty at Southern Illinois University, where he now teaches classes in political science and journalism. One little known fact regarding Senator Si-

mon's career is that at age nineteen, he became the nation's youngest editor-publisher when he accepted a position with the Troy Tribune of Troy, Illinois. He also serves as director of Southern Illinois University's Public Policy Institute, an organization which he founded to, as he put it, "find new ways of solving some very old problems." Senator Simon's current position will allow him to indulge in his inclination for writing. A prolific writer, he already has seventeen books to his credit on subjects ranging from world hunger to international monetary policy. I am particularly honored to introduce Professor and former Senator Simon because he hails from a small southern Illinois town called Makanda, which is just down the road a piece, as those of us who grew up there would say, from my own home town of Herrin, Illinois. Please join me in welcoming former Senator and now Professor Paul Simon. Thank you.

II. Keynote Address

Simon: I thank you, Dean, and I'm pleased to be here. It is good to be here. I shouldn't start acknowledging people because I will get in trouble, as my wife who is here with me will tell you. First, Sam Gove has advised me through the years, and I am grateful to him. Also, I've worked with Bob Rich on a number of things and Victor Stone. I want to acknowledge Cindy Robertson for inviting me. Three former members of my staff—Marv Richards who is cohosting this and is head of the Black Law Students Association, Chris Parker, and Mike Cabonargi. You may want to look with care to the future in the profession of Law, because four former members of my staff have joined the White House staff, and there have been some difficulties in the White House since they went there. And Tony Renteria, I hope you don't mind me mentioning this, Tony. I met Tony when I used to go to the Hyatt Hotel in Chicago, and he helped with our luggage. He was an unusually fine, enthusiastic person. I encouraged him to go to college, and go to law school, and he is here, now in his first year of law school and doing well. Tony, it's great to see you here.

It's an unusual thing to be invited by The Elder Law Journal and the Black Law Students Association to speak, but it's a good thing that we reach out. I spoke recently in Houston to a meeting cosponsored by the bar association and the Journalists of the Houston area. I've never spoken to that kind of a combination before, and I've never spo-

ken to this kind of a combination before. I will try to keep my remarks reasonably brief and then toss it open for questions.

And I might add, I wear a hearing aid so some of you may have to repeat your questions. Let me add—this is not the subject of my topic here today—one out of ten Americans *should* wear hearing aids, but one out of forty Americans *do* wear hearing aids. If you need to wear them, wear them.

What I like about The Elder Law Journal and the Black Law Students Association working together is that we have to reach out to one another. We have to work together. Groups working in isolation simply can't be as effective as groups working together. It's like the old story that my father and many of your parents probably told. I remember my father taking me out in the back yard. He gave me one twig and I broke it, and then he gave me two twigs together. I can't remember if I broke them or not, but the illustration is that by working together you achieve power.

To the law school students here, you owe the law more than just using it as a tool to make a living. You have an unusual ability to influence public policy. Lawyers, whether it is right or not, have a huge impact in policy making. I haven't looked at the statistics since a year ago in January, but either a majority or close to a majority of members of the Senate are lawyers. The House would be a little less than that, and my guess is that the State Legislature would be somewhat less. Disproportionately you have an influence in shaping the law, and you will see the need for changes. Look for those changes not just to satisfy a client, but to build a better society. My observation is that satisfaction in life comes, not from what you add to yourself—wealth, for example. I know some very unhappy millionaires. It's not what you add; it's what you take from yourself and give to others. If you recall, when you were three or four years old, how eager you were, for those with a Christian background, how eager you were for Christmas to get those gifts. Then as you matured, what gave you satisfaction, was not what you received, but what you gave. That is true for life, and because you are being given the tools of the law, you're going to have the opportunity to contribute more than most people.

Let me talk about the problems of the elderly first, then comment about where we are as far as African Americans, and then toss this open for any questions that you may have.

When we talk about elderly Americans, that is a women's issue. Two out of three of those over the age of sixty-five are women. Primarily because of Social Security, we have lifted the numbers who are below the poverty level for the elderly, to a relatively small percentage. It is still not as good as we would like it to be. But it is much, much better. I don't recall the statistics precisely—but it's around twelve percent. Some people then because of that low percentage say "Let's look at the children." Twenty-one percent of our children live in poverty. The suggestion is, "Let's do a little less for the elderly and do more for the children." I'm for doing more for the children, and I will mention that shortly, but because we have been successful for those who are over sixty-five, we should not pull back the elder programs but rather build on that success and then move from there.

Social Security is very basic, and we have to safeguard it. I now head, as the Dean mentioned, the Public Policy Institute at Southern Illinois University. At the request of three members of the Senate, we've pulled together some former members to look at Social Security. Anyone who looks at Social Security fifteen minutes knows that we're going to have to make changes, if we're going to preserve it. But there are no popular answers. So neither political party is leading. Although I have many defects, one of my assets is an ability to work with people of varying backgrounds. So my colleagues and former colleagues in the Senate asked me to pull some people together. I got Alan Simpson, a former Republican Senator from Wyoming, Jack Danforth, a former Republican Senator from Missouri, David Pryor, a former Democratic Senator from Arkansas, together with the Deputy Chief Actuary of Social Security. We went through a whole series of possibilities—about sixty of them. Some of them we did by mail, some by conference call. Then we met in Carbondale and just plowed through them. We have made basically two recommendations, neither of which is popular. But again there are no popular answers. But something has to be done, if we're going to have Social Security for all of you.

The Actuary suggests that the two recommendations that we made would preserve Social Security for seventy-five years. The first recommendation is to correct the consumer price index. This is the way we measure inflation in our country. The consumer price index does not consider substitution, for example. If the price of beef goes up, people eat more chicken, or less beef in any event. It does not include discount stores, Wal-Mart, K-Mart—which have changed our

culture. That is not included. Generic drugs are another example. So there is an exaggeration in the consumer price index. I have to tell you, candidly, the senior organizations, AARP and the others, are not in favor of our suggestion.

The second suggestion that we made is that we ought to pay into Social Security, no matter what our income is. We now pay on the first \$69,000 of income. I make more than \$69,000. Why shouldn't I pay on the full amount? Someone digging ditches and making \$10,000, he or she has to pay on every penny of income. If you make a million dollars a year that means you're going to pay an extra \$58,000. If you're making \$1,000,000 a year, you can afford that. And for my wife and me, if we can pay in a little more now and protect our grandchildren I would like to do it. That makes sense.

The other factor that is difficult to calculate is longevity. When the Actuary says that we are going to cover Social Security payments for seventy-five years, that is assuming that the majority of demographers are correct in terms of longevity. But some people are suggesting we're going to be in for some fairly dramatic changes. A century ago the average American lived to be forty-eight years old. When Social Security was passed, in my lifetime, the average American lived to be fifty years old. Now we live to be an average of seventy-six. Two specialists in this field, one at the University of Minnesota and one at Duke, now predict that a person born in the United States in 1984 will live to be an average of ninety years old. I regret to say that's not going to include any of you in this audience. And they think it is possible that a child born today in the United States, will live to an average age of about 100. That will obviously change everything.

In the area of problems for senior citizens, as people live longer, the problems of domestic abuse of seniors is going to be an increasing problem, as is the whole health care field, nursing homes, and Medicare. I will digress just to say that one of the things we have to do is look at the whole health care program that we offer in the United States. Forty-one million Americans are without health care coverage. I'm no longer in the Senate, but I still, once every two weeks or so, get a letter from someone. I just got one two weeks ago. I showed it to Jeanne, and I have three of my students working to try and help this family. I won't go into all the details but this woman has lung cancer. The family has used up their insurance and face the loss of everything. That shouldn't happen. We should be sharing in that.

Black law students—and this applies to everybody incidentally—must speak out and not just from “our own little group” whatever “our own little group” is. I am very much concerned about a decision that was made by the Sixth Appellate Court called the *Hopwood* decision. If I may encourage faculty members to assign something, Judge Leon Higginbotham, one of the really great jurists of our country, had an article in the *New York Times* magazine, two weeks ago, on the *Hopwood* decision. Justice Smith wrote the decision. I’ve never met the gentleman, but Justice Smith said, “You can no more consider the racial and ethnic background of students as you admit them than you can consider blood types.” The problem in our society is not blood type As getting along with blood type Os.

If you’re from the greater Chicago area, as many of you are, a high percentage of high school students who are black go to schools that are ninety percent or more black. A high percentage of white students go to schools that are ninety percent or more white. I don’t know the statistics of our Hispanic students, but my guess is you could come up with a fairly comparable statistics there.

Justice Smith said it’s okay for a school to consider an outstanding flute player, an outstanding physics student, or children of alumni. We held a hearing on that. The first witness was my former Senate colleague, now Governor of California, Pete Wilson, who at that point was, by being against Affirmative Action, trying to get the Republican nomination for president. He happened to grow up in Lake Forest, Illinois, an affluent Chicago area suburb. I said to him, “Who do you think has a better chance of becoming an outstanding flute player, not because of native ability, but because of educational opportunities—someone from Lake Forest, Illinois, or the west side of Chicago?” And then I asked the same question about physics. My guess is that some of the schools in the west side of Chicago don’t even offer physics. And then I said—Pete went to Yale—“Do you think there are more children of Yale alumni in Lake Forest or in the west side of Chicago?” Well, the answer is fairly obvious.

The *Hopwood* decision is going to make it more difficult for minorities. It’s already having adverse consequences around this country. When I look at this audience, I see diversity. One of the things I hope you’ll learn here is the most important lesson you can learn in life, that people are people, with the same hopes and fears. We share so much. In June, I headed an international team monitoring the presidential election in Croatia, part of what was Yugoslavia. I saw bitter-

ness there ultimately based on religion between ethnic groups and the killing of tens of thousands of people because Roman Catholics hate Orthodox Catholics who hate Muslims. Somehow we have to move beyond that. I'm afraid the *Hopwood* decision is moving us in the wrong direction. I hope there will be some law students here who will work on how to define alternatives if the *Hopwood* decision is not reversed. And I'm not optimistic that it will be.

All of us also ought to be concerned about poverty and what's happened in America. No western industrialized democracy has anything close to the percentage of children living in poverty that we have. France and the United States both have about 26% of their children living in poverty before the application of government programs. Through government programs, the United States has reduced that number from 26% to 21%. France has reduced it to 6.5%. We ought to be asking whether we're really responding to our needs. Part of the problem is obviously our system of campaign financing.

I can remember when I was in the fourth grade, reading about this clash between Hamilton and Jefferson. Hamilton said people with property and wealth ought to be given a greater voice in government. Jefferson said "People should be treated equally." Well, not quite, because he didn't include women, didn't include African Americans, and didn't include Native Americans, but the theory was there. I remember how proud I was, and you remember how proud you were, that Jefferson prevailed rather than Alexander Hamilton. Through our system of how we finance campaigns, my friends, Alexander Hamilton has prevailed. We need to change that. I want members of the Bar to stand up more for those less fortunate.

I grew up in the state of Oregon, something that I didn't stress in recent election years in Illinois. My father was a Lutheran minister and active in what we then called "race relations." I remember February of 1942, the President of the United States said to 120,000 Japanese Americans, "You have one to three days to sell everything you own—all your property and everything—put everything in one suitcase. We're going to take you off to camps." Not one of those 120,000 people had committed a crime. I remember my father standing up and saying "This is wrong." I wish I could tell you that I defended my father. I remember him explaining to my brother and me why he had done it. I was thirteen then. My friends made fun of me, and it was awkward. I was embarrassed and wished that my father hadn't done it. Now as I look back on my father's life, that is one of the things I

am proudest of. I wonder where were the members of the Bar who should have stood up for Japanese Americans. Ominously silent.

Right here in Illinois in 1837, an abolitionist by the name of Elijah Lovejoy published an antislavery newspaper in Alton, Illinois. Sentiment in Illinois in those days was very much pro-slavery, I regret to say. There was violence against Lovejoy. Twice his presses were tossed into the Mississippi River. The Attorney General of Illinois, Usher Linder, called a meeting to set up a compromise. Leading members of the Bar were there. The Attorney General said "This is the compromise," and offered to Lovejoy, "You can get out of town with your family and no one is going to be harmed. But you have to quit publishing your newspaper." Lovejoy, in an eloquent defense of freedom of speech, said, "I'm not going to leave. If I die, my grave's going to be right here in Alton." Five days later a mob killed him. We do not have the record of a single member of the Bar standing up to defend Lovejoy and freedom of speech, whether they happened to agree with his views or not.

I direct this next comment particularly to African Americans. I was the chair on the subcommittee on Africa. When I was in the Senate, when I went into a Polish neighborhood in Chicago, people asked me about Poland. When I went into a Greek neighborhood in Chicago, they asked me about Greece. When I went into a Jewish neighborhood, they asked me about Israel. When I went into an African American neighborhood, hardly ever did anyone ask me about Africa because the roots were severed. I understand that. But this means that we're going to have to have people identify with Africa if we're going to do the right thing for the poorest continent in the world. We're just not responding as we should.

Rwanda—I remember getting on the phone with Senator Jim Jeffords, Republican of Vermont, in a call to General Delairre, a Canadian General, who was in the capital city of Kigali, with a little contingent of 250 United Nation (U.N.) troops. He said, "If I can get 5,000 to 8,000 troops quickly, we can stop this slaughter." Jim Jeffords and I that afternoon got a message down to the State Department—hand delivered it—and to the White House—and nothing happened. I called and they said, "There isn't much public support for doing anything in Africa." It was in May that we made the original phone call. Finally, in October when things had deteriorated, the U.N. Security Council acted. France, to its credit, sent 2,000 troops down to Rwanda. We did nothing. Tom Friedman, in the *New York Times*, said

something that I regret to say is accurate. He wrote, "France acts like a great power but doesn't have the resources. The United States has the resources but doesn't act like a great power."

I saved the newspaper clippings from July of 1996 that indicated that the National Basketball Association signed contracts in one day for \$927 million. I have nothing against that. I'm a Chicago Bulls fan myself. But our total economic developmental assistance for sub-Saharan Africa last year, and it will be lower this year, was \$628 million. That's the equivalent of one half of one cent of the gasoline tax. We just celebrated the fiftieth anniversary of the Marshall Plan. We used to lead the world in assisting the poor beyond our borders. Now of the twenty-one wealthiest nations, regarding the percent of the income that we give to help the poor beyond our borders, we're twenty-first. I'm not proud of that.

To African Americans and all the rest of you, we tend to be a little cynical. Cynicism is one of the dangers on campuses. Cynics won't make progress.

As a young, green state legislator, I was the sponsor of civil rights legislation, something that you didn't do when you were from southern Illinois. As a result of that, Martin Luther King asked me to come down to Montgomery in 1957 to speak at the second anniversary of the bus boycott. I spent two days with him, Ralph Abernathy, and some others, going from meeting to meeting. If you were black, you had to fill out long forms in order to vote. If you were white, you were just registered automatically. We have made progress. I remember the debate on the 1964 Civil Rights Act. Hubert Humphrey read a list of hotels and motels in the south that accepted African Americans, and then he read a list of motels and hotels in the south that accepted pets. The second list was much longer than the first list. We have made progress. I mention these things simply because if we stand up and work in a positive way, we can achieve change. I can give you a great number of illustrations of that. Don't get too cynical. Don't give up on your potential. Your potential is real.

I have known every President, starting with Harry Truman, with the exception of Dwight Eisenhower. These are not people with greater ability than most of you here. What they've been willing to do is work a little harder and dedicate themselves a little more. That's what you have to do. We have to reach out to African Americans, to Hispanic Americans, and work with the elderly, and other groups.

I will close by telling you of the only time in my life that I've ever had a car radio on and gotten all choked up. The day after the Special Olympics, National Public Radio had a story about nine retarded people in a fifty-yard race. When one of them stumbled, the other eight stopped. A girl in the race went over and kissed the boy who had stumbled and said, "I hope you're all right." Then the nine of them—I still get choked up when I think about it—the nine of them joined arms and walked to the end of the fifty yards. Now *they're* supposed to be mentally retarded and *we're* supposed to be smart—but, my friends, that's what we have to do. We have to reach out across the barriers of race, and age, and creed, and ethnic background, and sexual orientation, and disability, and economic circumstances, and walk together to build a better society.

All right. Now I want to take your questions.

Question: Much of the budget goes to programs that aid the elderly. The elderly in this country are disproportionately white. Do you think that support for many of those programs is going to change as minorities make up an increasing percentage of the people who are elderly?

Simon: I don't think that will happen as long as we let everyone share in these programs. I can remember an analogous issue regarding school lunches. I voted for something that ultimately was a mistake. We decided that because our school lunch money really shouldn't go to help people who were more fortunate, we should cut back on money for lunches for those who could afford them. As a result, a lot of school districts cut out the school lunch programs completely. We deprived poor people, as well as those more fortunate, of having a school lunch program.

Frankly, I am all for those in the high-income category paying a greater percentage of our income in taxation. But I do think that we have to leave Social Security and Medicare open to everyone. Regarding Medicare, it does seem to me that we could do means testing. For example, anyone with an income of \$100,000 or more should pay his or her own physician's bill, unless that amount exceeds twenty percent of income. That means that your hospital bills and anything catastrophic would still be paid for. You can make some modest changes, but you have to be careful. If you don't continue to include a good chunk of the population, the basic support will diminish.

Question: More and more elders are requiring nursing home care. Do you think that the government will ever begin to more effectively encourage support for long-term care insurance?

Simon: We have to adopt some kind of federal insurance. In my 1990 race for re-election, I introduced a bill for a half cent increase in Social Security to go for long-term care. My opponent in that race then held a press conference denouncing me—for high taxes and so forth. She didn't bring it up during the rest of the campaign because she found that people supported it. If you ask, in general, whether we should increase taxes, people oppose it. But if we can earmark funds, that is different.

Incidentally there is a myth that we are an overtaxed people. We build on that myth, but the reality is that as a percentage of our income, the only western European nation, including Japan, that is lower in percentage of income taxed is Turkey. I'm not sure Turkey is the model that we ought to be following. If you want to make an argument that taxes are not equitable, I'll join you. But the reality is that we ought to tax ourselves one or two percent more to have a health care system. We ought to be investing more in education; we ought to be genuinely balancing our budget, not counting Social Security surpluses as part of balancing the budget.

In 1990 George Bush, to his great credit, asked for an increase in taxes and got in political trouble for it. In 1993, Bill Clinton did the same. What happened as a result of those two courageous acts is that interest rates lowered, we had investment, and our unemployment went down. We became a richer nation. Now that doesn't mean automatically that tax increases are a good thing. But where you have specific needs, we as a society ought to share in providing for those needs.

The last town meeting that I had, a woman got up and said "Our family had a six figure income. My husband was an executive but the company downsized. I didn't realize what a terrible word downsizing was. But for six months because of federal law we were covered by insurance. Three days later, we discovered that my husband had cancer." She added, "We've now lost our home, we've lost everything." I had to tell her, "If you lived in Denmark, or any of the other western European nations, you would have been protected. But not in the United States." We have to do a better job.

Are we a country that has done a lot of great things? You bet. Are we a nation that can do better? Yes. And we ought to do better. You who are the future lawyers, disproportionately you are going to have a voice in whether we do better or not. I want you to lift our vision. I want you to make us a more compassionate people. And you can do it.