

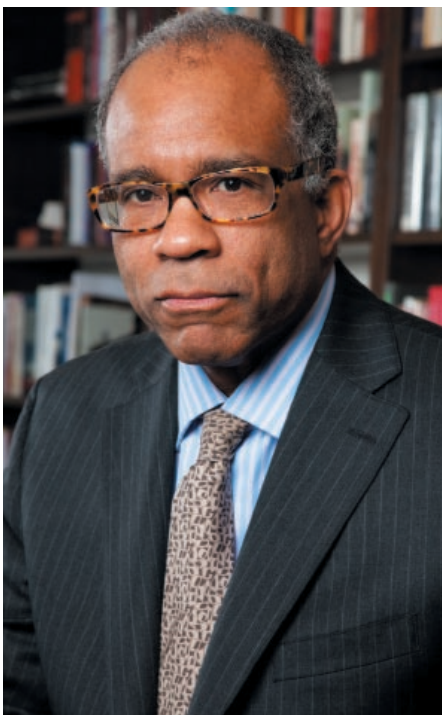
# False Comforts

by JIM SLEEPER

Can anyone who has known racial oppression and, with it, a community of color's endurance, defiance and memory, resist appeals to racial solidarity that foresee freedom in the rise of "the race"? Racial identity may be only a social construct imposed upon people of certain colors and cultures, but for anyone subjected to it, it can become all-defining, the more so if tempered by communal lore and love, and soon it binds everyone it touches. The danger is that the defensive side of racial identity—which insists, "I am excluded, therefore I am"—will incline its bearers to impose past experiences on new possibilities in ways that diminish them. Randall Kennedy, a professor at Harvard Law School and former clerk to Supreme Court Justice Thurgood Marshall, has tried through his legal scholarship, popular books and, sometimes, activism to reduce that danger. But Kennedy is so frank and exacting about the journey's difficulties that his road is as demanding as Barack Obama's campaign trail was. Obama the author has acknowledged some of the same difficulties in his accounts of his journeys in and out of racial constructions, but in Kennedy's judgment Obama the politician finesses those challenges, often dropping the subject of race as if he could just put it behind him and lead us to... what? A neoliberal promised land where liberty and justice are receding?

If the title of Kennedy's new book, *The Persistence of the Color Line*, like those of two of its predecessors, *Sellout: The Politics of Racial Betrayal* (2008) and *Nigger: The Strange Career of a Troublesome Word* (2002), suggests to some readers the work of a "race man," pretty much the opposite is true. Kennedy doesn't believe that the persistence of racism is proof of its perpetuity and, with it, racial destiny. He's quick to spot racialism's dimming actuarial prospects, noting that although Obama lost the white vote to John McCain, he not only won more of it absolutely and proportionately than had his white Democratic predecessors John Kerry and Al Gore but he "beat John McCain 54 percent to 44 percent among whites under thirty." When Obama showed in the primaries that he might garner enough white votes to win,

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Randall Kennedy

## The Persistence of the Color Line

*Racial Politics and the Obama Presidency.*

By Randall Kennedy.

Pantheon. 322 pp. \$26.95.

"blacks broke toward him in a frenzy and never looked back."

Kennedy recounts being swept up in the euphoria (and, often, near incredulity) at Obama's triumph. How could he not have been, knowing African-American history as he has from living it—he was born in South Carolina in 1954 but raised in Washington, DC, after his parents, a postal worker and a teacher, moved there to escape Jim Crow—and from trying to bend its arc toward justice? He was a guest at the inauguration, but even if he had not been invited, he makes clear he wouldn't have missed being there for the world, carrying as he does the memory and dreams of ancestors and intimates who hadn't reached this turn in the road. But Obama's victory moved him more, he realizes, because it was a quintessentially American one. The Republic was taking a big step beyond racialism because "the race" was transcending itself, as Martin Luther King Jr. had envisioned when, forty-five years earlier at the other end of the Mall, he told America about his dream.

Kennedy is well aware that as a tenured professor at Harvard Law he can publicly parse the pros, cons and ironies of transracial strivings as few elected officials can. But Obama, too, has unusual advantages: having found transracialism in infancy and again

in adolescence in Hawaii, he married into a South Side Chicago city worker's family whose circumstances were marked by Jim Crow, thereby claiming an identity he could stand on but reinterpret for himself and others. His embrace of African-American blackness was existential and political more than "essentialist" in the way American constructions of race make it seem. His was an infinitely more "American" embrace in another sense, one that manifested itself in the transracial euphoria in Chicago's Grant Park on November 4, 2008, and again at the inauguration. Obama's segue from Hawaii to the South Side reinforced the cosmopolitan, multiracial ethos that Kennedy has long espoused. By dint of Kennedy's experiences and choices, he's especially well suited to assess Obama's complicated affirmation and reinterpretation of an African-American racial identity this country still imposes.

Kennedy has often insisted that any race is little more than "a conglomeration of strangers." In a 1996 lecture at Columbia I attended, Kennedy cast a cold eye on the apparent solidarity of the Million Man March (which, as he notes in *The Persistence of the Color Line*, Obama attended). He asked a less than receptive audience to consider how men who were calling one another "brother" at the march would have responded had someone asked, "Would you be willing to loan \$100 to this 'brother'?" Civic solidarity at Obama's inaugural; a deficit of it at Louis Farrakhan's rally. *The Persistence of the Color Line* is a tour through some of the many similarly dissonant, sometimes dizzying juxtapositions of race consciousness, liberal principle and cool political calculation that have persisted during Obama's ascent. Kennedy subjects each kind of struggle—racial, liberal, tactical—to the strict scrutiny of the others. He does so with such subtlety, legalistic rigor and respect for the past that die-hard racialists of all colors and ideologues of all stripes will accuse him of coming down on too many sides of controversies whose lines they've drawn more sharply.

At a Harvard Law School class I sat in on in 1996, Kennedy challenged students to grant some credibility to police officers' reasons for stopping black motorists more often than others in some high-crime, high-accident areas. As long as an officer is polite and just checking papers, he asked, why shouldn't black motorists accept the stop as the price of greater safety for themselves as well as others? Kennedy didn't tell his class then what he explained to me afterward and now tells readers of this book: his father,



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whom he likens somewhat to the defiant Rev. Jeremiah Wright, suppressed his rage and was extremely polite to Southern cops who pulled him over, calling him “boy” and demanding to know his destination as he drove his family to visit relatives in South Carolina. Kennedy saw it all, but to test and strengthen the only civic principles that might blunt racism, he provokes himself and others to look beyond personal and collective memory instead of imposing it summarily on the present.

What fascinates him is the paradox of the color line’s persistence amid its seeming implosion: many people on both sides of it seem to like it, or at least act and think as if they couldn’t live without it. He wants to push the envelope of racist assumptions and risk venturing beyond them, and he’s hardest on those who evade his challenge. He criticizes conservatives who pretend that the only important color is dollar green but keep fiddling with color lines they have imposed in order to shield plutocracy, dividing and co-opting its challengers. Kennedy exempts McCain (though not his advisers) by noting that in 2008 he was “unwilling, on grounds of political morality,” to make an issue of the sermons by Obama’s pastor, Reverend Wright. Kennedy also finds fault with leftists who’ve challenged plutocracy with cries like “Black and white, unite and fight!” yet indulge a “politics of difference” that recapitulates the old divisions. And he faults liberals who’ve done so well by the present system of casino finance and corporate welfare that they can’t be serious about reconfiguring it. Yet they can’t defend it wholeheartedly, either, so they resort to draping it in the raiment of diversity, turning the better universities into cultural galleries for a colorful global elite.

Kennedy skewers all these parties’ righteous furors over race and pious evasions of it. In *Sellout*, he provoked liberals by finding much to like in Clarence Thomas’s jurisprudence, acquitting him of racial treason in service to conservatives such as Antonin Scalia. Parsing the 2008 campaign in *The Persistence of the Color Line*, Kennedy decides in a similarly counterintuitive way that the liberal historian Sean Wilentz, writing for *The New Republic*, was “tendentious” and “went overboard” when accusing Obama of playing the race card against Hillary Clinton, and that liberal columnists such as Bob Herbert and *New Yorker* writer Hendrik Hertzberg went too far in accusing Clinton and McCain of playing it when they hadn’t—even though, in other instances, Kennedy finds that they had.

It takes a while to grasp the method behind the more Solomonic of Kennedy’s judgments. An economic progressive, he disagrees vehemently with most of Thomas’s jurisprudence and agrees often with Wilentz, Herbert and Hertzberg. But he wants to focus on a prize more elusive than a redress of grievances that are defined and brandished racially, and that is even more elusive than any grand progressive strategy. He wants to strengthen a liberal understanding of freedom that, because it’s ultimately individual, even when socially nurtured, can exist only beyond the reach of both race loyalty and the necessary oversimplifications of activists in struggle. True freedom requires a different solidarity, the transracial, civic-republican kind that Kennedy experienced in the inaugural but not in the Million Man March.

Far from wanting to drop the subject of race entirely, Kennedy would like to see Obama tackle frontally the high rates of black unemployment and “the mass-incarceration disaster that...dramatically decreases opportunities for employment, civic engagement, or family life” and “reinforces the stigmatization of African Americans.” He wants Obama to make clear distinctions between practices that produce racial inequities and polemics that produce only an ethno-racial moralism that steers progressive struggles off course: Kennedy has long opposed demands by black nationalists and the National Association of Black Social Workers for extensive restrictions on whites’ adoptions of black infants, and he disdains accusations of racism that are theatrically compelling but collapse under scrutiny.

Obama’s avoidance of race during the overheated, on-edge campaign probably enhanced America’s prospects of tearing down its Berlin Wall of color. Kennedy is not fond of the speech on race, “A More Perfect Union,” that Obama was constrained to give in March 2008 in Philadelphia amid the uproar over Reverend Wright. After parsing the speech at some length, Kennedy concludes that it was tactically successful—and received by Obama’s supporters like manna—because it was banal and evasive in “equating the racial wrongs of whites and blacks,” as Obama the politician bowed to “the formulaic imperative to distribute plaudits and blame equally.” Obama certainly wasn’t telling the whole truth in Philadelphia, but Kennedy thinks that with the candidate’s fate hanging in the balance, the speech mollified opponents and skeptics with bromides. He goes on to explain that for most blacks, it mattered more how Obama presented himself—that he was electable—than whether he had a plan for redress. Here, at last, was a national leader for

whom they didn’t have to make excuses of the kind Obama was making for Wright.

Kennedy sounds less conflicted about Obama when he’s dismissing black conservatives such as Shelby Steele, who “was transfixed by the mistaken belief that most whites are racked by a pathological racial guilt that makes them vulnerable to black racial demagogues,” of whom Steele considered Obama a smooth example. And Kennedy is equally critical of black leftists such as Adolph Reed Jr., Glen Ford and Bruce Dixon, who, treating black grievances and assumptions as inherently progressive, condemned Obama for not pressing them. In the eyes of these leftists, Kennedy explains, Obama couldn’t or wouldn’t acknowledge that corporate capitalism relies on racism to justify marginalizing some in order to keep its elusive promises to others. So he offered too easy a way out: having reconfigured race for himself through his biracial provenance and introspection, he turned his odyssey into a national fairy tale. By contrast, Dr. King learned that justice comes only with jobs; when he was assassinated, he was leading a Poor People’s Campaign and defending sanitation workers in Memphis. Obama’s critics lamented that he had no intention of taking such risks.

Kennedy counters that while Reed, Ford and Dixon “rightly insisted on looking beneath the cosmetics of the Obama candidacy to its underlying ideological and programmatic innards,” they offered little but “support for utopian ‘revolution.’” They acted as if “Obama should have been ‘brave’ enough to articulate a platform that would have immediately resulted in his being cripplingly attacked as an irresponsible radical,” and as if “the presidential electoral competition” might be “an irrelevant sham.” Kennedy invokes Amiri Baraka’s warning that “no amount of solipsistic fist-pounding about ‘radical principles’ will change this society as much as the election of Barack Obama.” It was foolish to condemn him when unprecedented opportunities lay within his grasp, even though he’s missed some of them, as critics on the left had feared.

Kennedy has long resisted hopes that a “politics of difference” and “identity politics” can catalyze major social change. He remains an uncompromising critic of the presumptive historical and communal wisdom of “critical race theorists,” who rocked Harvard Law School in his early years there in the 1980s (and during Obama’s student years there shortly thereafter) by invoking racial knowledge to demand that the school offer tenure to a black woman it had turned down and, more

fundamentally, to demand that courts adjust evidentiary and jury-selection standards to give special weight to claims of plaintiffs and defendants of color, who presumably understand best what's true and at stake in cases involving them. Kennedy would have none of it. He argued in the *Harvard Law Review* that the very thing the "crits" wanted to tear down—the liberal tradition and the institutions that uphold it—was what had provided a forum for their views and allowed them the chance to earn the attention of others and, perchance, their respect and support.

Similarly, he writes in a nuanced chapter about Sonia Sotomayor's nomination to the Supreme Court that she was wrong to express her hope "that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life." Kennedy notes that Clarence Thomas "famously experienced impoverishment and bigotry. But the lessons he draws hardly evidence 'a sense of compassion.'" He wishes Obama had fought openly for a political philosophy instead of shadowboxing over Sotomayor's qualifications and race: "Obama underappreciates... that sometimes a political leader can win in the long run by pushing a position (or an ap-

pointment) that loses in the short run. Ronald Reagan lost the battle over Robert Bork. But in waging that struggle for judicial conservatism, Reagan won a larger battle by showing fidelity to principle and loyalty to supporters."

In contrast, Kennedy laments that "Obama's much-vaunted pragmatism degenerates at key moments into sheer expediency, facilitating default on the difficult task of promoting progressive policies" by failing to stand up and fight, especially when pursuing justice demands recognizing racist practices. He doubts "that Obama will expend much political capital addressing America's shameful penal policies" because, as "a professional politician first and last," Obama is "willing to adopt, jettison, or manipulate positions as evolving circumstances require.... I demand that he be a president who governs as progressively as circumstances will allow." Here Kennedy tries to join cool political calculation to liberal principles and consciousness of race. I think that he succeeds.

I'd want Kennedy on the bench were I or any other imperfect citizen in the dock, because he takes his bearings from the law's demand for rigorous specificity in determining what's true, even as he draws extralegally on historical experiences that remind him

that no person can be purely liberal; all of us are raised in communities that cultivate public virtues (or don't) in our formative years, among trusted (or untrustworthy) intimates who share with us resonant languages and narratives of hope or despair. Kennedy touches this truth memorably in the chapter "Reverend Wright and My Father," and it tempers his insights throughout the book; but he doesn't let it carry him as far as critical race theorists would.

If some of Obama's critics feared that his election would deprive blackness of its prophetic, even angelic qualities, many more on the other side of the color line feared that it would bring to power an ethos destructive of America as they understand it. But to see black Americans running governments, military machines and multinational corporations is to see the angels of blackness withdraw along with the demons. It is to surrender white condescension along with contempt. Kennedy would have us do that and face up to freedom's more fundamental republican challenges. He agrees with the left that Obama hasn't shown us how to face up to them, but he credits Obama with showing that a politics based on racial grievance or paroxysm will never hit the moving target of plutocracy. ■

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