

# Balancing Rights for “Us” and Rights for “Them”

BY NDIDI N. MOSES

**“Injustice anywhere is a threat to justice everywhere.”**

—Martin Luther King, Jr.

**C**rossing the Caribbean Sea, my parents boldly decided to leave their home country and their worldly possessions to begin anew in the United States. The textbook history of the United States mesmerized them, but the victorious struggle for democracy was something my parents idolized without context, and only understood from a distance. From a distance, the revolutionary Constitution of the United States trumpeted the demographic diversity of people that poured into the country from all over the world, creating a mosaic of varying complexions, ethnicities, religions, and ideologies. Relying on the protections promised by the United States Constitution, my parents were optimistic they could ensure a better life for themselves and their children and escape the dictatorship that was destroying their home country, because the power structure was maintained by pitting the country's nationals against each other based on their varied ancestral associations.

The United States Constitution alone could not ensure the equal protection and access my parents sought for us. It is true that the Constitution of the United States promises equal protection under the law for all citizens and is designed to unite its citizenship.<sup>1</sup> The actual struggle, however, which paved the way for

*Ndidi N. Moses is the 96th president of the CBA. Her focus for this bar year is balance for a better legal profession. As an active member of the association, she serves on the Board of Governors, House of Delegates, and Pro Bono Committee.*



some of the most notable Constitutional Amendments, such as the 13th, 14th, 15th, and 19th Amendments, were championed by a diverse array of people determined to make the Constitution's promise of equality a reality.<sup>2</sup> Incidentally, two of these Amendments celebrate milestone anniversaries in 2020. The 15th Amendment celebrates its 150th anniversary, and it is the centennial of the 19th Amendment. These two Post Civil War Constitutional Amendments, along with the 14th Amendment, made the United States a unique democratic society. The 14th Amendment allowed birthright citizenship in 1868, and 15th and 19th Amendments proclaimed the right for all of age citizens to vote.<sup>3</sup> My parents studied these movements in school, finding inspiration in the fact that the movements began in tandem, led by abolitionists and suffragists of different racial, socio-economic, and ethnic backgrounds. These crusaders set aside their own personal differences to fight side by side for equal rights for all citizens. What the history books failed to address was the clear tension between the move-

ments, which concluded with the passage of two separate Amendments, ratified 50 years apart.

History suggests that while the Constitution of the United States was designed to encourage equality for all citizens, the populace of the United States still clung to a tribalism, that when left unchecked, impeded progress and potentially derailed several movements, including many movements convened to unite the country.<sup>4</sup> In the case of the 15th and 19th Amendments, the division became apparent when the two groups collaborating to address the disenfranchisement of blacks and women turned against each other when the question emerged: who should be granted the Constitutional right to vote first—black men or white women?<sup>5</sup>

The “tribalism,” or “loyalty to one's own social group,”<sup>6</sup> which manifested from this question has existed since the dawn of time, driving all species to choose their own “tribe” over others, for the goal of protection and safety. Psy-

chologists would argue that tribalism, for the purpose of developing a sense of belonging, is not detrimental to society.<sup>7</sup> For the purpose of belonging, some form of tribalism may be important for survival. The issue emerges in a society when multiple tribes co-exist together under the same rule of law, and resources are perceived to be scarce, or finite and dwindling.<sup>8</sup> When tribalism is used as a mechanism to determine how those resources should be apportioned or reapportioned, it produces a perilous “us” versus “them” mentality, which turns people, who should be working towards a common goal, against each other.<sup>9</sup> In the case of new legislation and laws, which establish rights and obligations, tribalism may lead to the misperception that we have to balance “rights for us” at the expense of “rights for them.” Rarely is this the case, but history is replete with examples of how succumbing to our tribal instincts has halted, disrupted, and altered the trajectory of legislation, laws, and other social movements, often to the ultimate detriment of all tribes involved.

As we begin to celebrate the anniversaries of the 15th and 19th Amendments, we must acknowledge the challenges both movements faced because of tribalism. History tells us that black men attained the right to vote first, with the passage of the 15th Amendment. The 15th Amendment was ratified over 50 years before the 19th Amendment, because at the time, the momentum was behind ensuring equal rights for former slaves, and abolitionists were concerned that arguing for rights for women, at the same time, would delay their success.<sup>10</sup> Paradoxically, the 15th Amendment was not successful in giving all black men the right to vote. It took almost 100 years, until the Voting Rights Act of 1965, for the rights contemplated by the 15th Amendment to be realized. This is because after the passage of the 15th Amendment, many states implemented discriminatory laws, such as requiring citizens to pay poll taxes and pass literacy tests, before they could vote. While the suffragists were aware of the discrimination preventing the full implementation of the

15th Amendment, women still did not have the right to vote in most states. Furthermore, slighted with the passage of the 15th Amendment, many leaders of the suffrage movement made clear that they were setting their sights on ensuring their own Constitutional Amendment was ratified.

So, the movement to ensure the passage of the 19th Amendment proceeded without fully addressing the barriers that were set up to prevent the 15th Amendment’s tenets from being realized. In fact, some leaders of the women’s suffrage movement sought to take advantage of the momentum that was now building against the 15th Amendment, and proposed adding language to the 19th Amendment to prevent black women from voting, to gain the support of white supremacists in the South. The plea of black suffragettes for equality and inclusion in the suffrage movement too often fell on deaf ears, and the suffrage movement proceeded, apathetic to the barriers that were created to prevent people of color from voting. This indolence would set the stage for the 19th Amendment’s ratification, but also its limitations, as the 19th Amendment’s passage would not ensure all women could vote.

In essence, the Constitution’s promise of equality was undermined by the movements designed to ensure equality. Following the passage of both the 15th and 19th Amendments, working-class and underprivileged citizens, immigrants, and minorities were denied access to the polls, and as such, denied the right to participate in the democratic process in the United States for almost an additional half-century. While the civil rights movement of the 50s and 60s rekindled the country’s desire to ensure all citizens realized the guarantee of equal protection under the law, the struggle is not over, and in fact continues today in different forms. Indeed, while tribalism can be based on race and gender, history is replete with examples of tribalism based on ethnicity, religious affiliation, socio-economic background, political affiliation, and ideology, to name a few.

While our tendency towards tribalism is innate, and can be witnessed across numerous species, it is also true that human beings possess a unique ability to overcome tribalism and work towards a common objective. Our ability to overcome tribalism allows us to work towards inclusion, justice, and equality. Groups typically are able to overcome their tendency to default to tribalism, or an “us” versus “them” mentality, when they are forced to cooperate and work towards a common goal, or unite against a common threat.<sup>11</sup> Therefore, how we perceive a situation may dictate whether we view it from a lens of “us” versus “them.” The key then may be as simple as us acknowledging that we are all interconnected. What impacts one of us, will eventually impact all of us. As Martin Luther King, Jr. explained: “In a real sense, all life is interrelated....I can never be what I ought to be until you are what you ought to be, and you can never be what you ought to be until I am what I ought to be.” ■

## NOTES

1. Chua, Amy and Rubenfeld, “The Threat of Tribalism,” *The Atlantic*, October 2018. [www.theatlantic.com/magazine/archive/2018/10/the-threat-of-tribalism/568342](http://www.theatlantic.com/magazine/archive/2018/10/the-threat-of-tribalism/568342).
2. *Id.*
3. *Id.*
4. *Id.*
5. See Coates, Ta-Nehisi Coates, “The Great Schism,” *The Atlantic*, October 18, 2011, available at [www.theatlantic.com/national/archive/2011/10/the-great-schism/246640/](http://www.theatlantic.com/national/archive/2011/10/the-great-schism/246640/); Ann D. Gordon, *The Selected Papers of Elizabeth Cady Stanton & Susan B. Anthony, Volume II: Against an Aristocracy of Sex*, (Rutgers University Press, 2000); see also Civil War Blog, available at [civilwarref.blogspot.com](http://civilwarref.blogspot.com).
6. Berreby, David, “Why Do We See So Many Things as “Us” vs. “Them”.” *National Geographic: Race Issue*, April 2018.
7. *Id.*
8. *Id.*
9. *Id.*
10. Coates, Ta-Nehisi Coates, “The Great Schism,” *The Atlantic*, October 18, 2011, available at [www.theatlantic.com/national/archive/2011/10/the-great-schism/246640/](http://www.theatlantic.com/national/archive/2011/10/the-great-schism/246640/)
11. “Why Do We See So Many Things as “Us” vs. “Them”,” *supra*.