

The
Economic
Club of
New York

ESTABLISHED 1907

The Economic Club of New York

117th Year
748th Meeting

Eric H. Holder, Jr.
Senior Counsel, Covington & Burling LLP
82nd Attorney General of the United States

February 27, 2024

Webinar

Moderator: Patricia Hurtado
Anchor, Bloomberg Television

Introduction

Chair John C. Williams

Well, good afternoon and welcome to the 748th meeting of The Economic Club of New York. I'm John Williams. I'm the President and CEO of the Federal Reserve Bank of New York, and I'm Chair of the Club. Recognized as the premier nonpartisan forum in the nation, The Economic Club of New York stands as a leading platform for discussion on economic, social, and political matters. And for more than a century, the Club has hosted over 1,000 guest speakers contributing to our tradition of excellence.

I'd like to extend a really warm welcome to students who are joining us virtually from Rutgers, Columbia, and Mercy University. And a special welcome to the Class of 2024 Fellows – our largest and most diverse group to date who are joining us today.

And we're honored to welcome Eric H. Holder, Jr. as part of our Equity and Inclusion programming. As you may know, in 2020 the Club launched its E&I programming with support from our corporate partners, BlackRock, Mastercard, PayPal, S&P Global, and Taconic Capital.

Eric is a partner at Covington and Burling LLP where he advises clients in investigations and litigation methods. Eric rejoined the firm after serving for six years as the 82nd

Attorney General of the United States, the third largest serving attorney general in U.S. history and the first African American to hold that office.

He's an internationally recognized leader across a broad range of regulatory enforcement, criminal justice, and national security issues. In 2014, *Time* magazine named Eric to its list of 100 Most Influential People, noting that he had worked tirelessly to ensure equal justice.

So the format today will be a conversation, in which we're honored to have Bloomberg's Patricia Hurtado as our moderator, and we'll end promptly at 12:45. As a reminder, this conversation is on the record as we do have media on the line. In addition, we'll be using the chat box for this conversation, and you can enter questions directly in the chat box for their consideration if time permits. So without further ado, I'll pass the time over to you, Patricia.

Conversation with Eric H. Holder, Jr.

PATRICIA HURTADO: Thank you very much, Mr. Holder, Mr. Williams. Thank you everybody for having me. I covered the Students for Fair Admissions Trial in Boston, federal, against Harvard. And then I covered the later trial against, the lawsuit brought against affirmative action policies against the University of North Carolina. In the wake

of the Supreme Court's decision last year in the cases, what do you see as the future for college admissions as well as diversity in the workplace? There was a brief that was filed to the Supreme Court, an amicus brief by at least 70 major companies that worried about the end of affirmative action should this case go forward and the affirmative action be struck down. Do you think this will drastically diminish corporate diversity? And how do corporations manage in the wake of such a decision?

ERIC H. HOLDER, JR.: Yes, there's a lot to unpack in that question. You know, I'd say first of all, the decision itself refers to, and deals with higher education. And so I don't think that, we can't necessarily, not necessarily extrapolate from that that a lot of the concerns that the Court expressed with regard to affirmative action are necessarily going to bleed into other areas, business, you know, chief among them. The fact that you had those amicus briefs, I think, is an indication of where substantial parts of the business community are.

And I think it's interesting to note that the Court, in its decision, carved out something for the service academies and said essentially that, you know, when it comes to building a diverse officer corp, race is a factor that can be taken into consideration. I think the possibility, at least the possibility – we don't know – at least the possibility exists that if businesses make the case that their bottom lines can be impacted by diversity initiatives, by having a diverse workforce, by taking into account a whole variety of

things to make sure that they're getting maximum talent from a variety of sources, that the possibility of another carve-out, or to say that what we said in higher education does not necessarily apply with the same force that it does onto the business community. I think that's at least possible.

A couple of justices, I think, will be likely to say, you know, that what you saw in the higher education sphere should apply to the business sphere as well. But I'm not at all certain that, I don't have the same degree of certainty that you're going to get five justices. I mean we'll have to see. Litigation undoubtedly is going to work its way up.

But I think that, you know, what businesses need to remember is that certainly in the United States, you know, we're dealing with a nation that is in the midst of really amazing demographic changes. I actually think there's an ideologic change in what's going on in the United States as well. And a lot of the studies that I have seen indicate that those businesses that are more diverse, that are perceived as being more diverse in the same sector, those that are more diverse or seen as more diverse have healthier bottom lines than their competitors.

And so I think that, I understand the concerns and I think that, you know, what I counsel our clients is that you should stay committed to DEI or the commitments that you've made over the years, but you've got to be smart about the way in which you describe

those commitments and the programs that you have in place and some of the language might have to be tailored so as not to draw unwanted attention or make you, my client, a principal in a case that's potentially going to be brought.

PATRICIA HURTADO: I've certainly, I'm on Ed Blum's email list, so he always shoots off some kind of missive that he's considering filing a lawsuit against a law firm and a DEI program or complaining about certain language. Is there any specific advice you give to your clients about how to navigate? I mean do you think there's anything special that they need to be aware of?

ERIC H. HOLDER, JR.: Well, I certainly wouldn't want to be on Ed Blum's mailing list. So let me editorialize there, you have my sympathy. But beyond that, you know, the specific things I think are to understand what does diversity mean in the context of your business. And that means, I think, with all businesses, it certainly means looking at your workforce. It also means how does a particular entity deal with those communities in which it sits. There are a variety of stakeholders here. I think we have gotten away from the notion that the only stakeholders in the corporate setting are shareholders. You know, I guess it was the Business Roundtable a few years ago defined stakeholders more broadly.

And though I think, you know, there is a bit of backlash with regard to diversity efforts, I

think a lot of that is politically-driven. I also think it's probably enhanced during what I call the silly season, which is between now and November, the 5th, the elections. I think we'll have a better sense of what the political interest in this whole thing is when we get to November, the 6th and after the elections presumably have been decided.

So, you know, specific things though, I mean making sure that you're looking at statistical information. How many people of diverse natures do you bring on board? What is the journey of those people once they become a part of the institution? Do they leave in greater numbers than their counterparts? Are their opportunities for promotion the same? Do they get promotions at roughly the same rate? There are a whole bunch of metrics, I think, that can actually be looked at, examined. And then there's the softer stuff where, you know, you talk to employee resource groups, managements interacting with employees, just to kind of get a sense of how do people feel about their existence in a particular company.

So there are a whole bunch of touch points, I think, that people who run companies should be mindful of. And you want to stay in touch, I think, as I said, with your employee base, maybe first and foremost. Understanding that what you do there is going to have an impact on probably how the company is viewed outside the walls of the company.

PATRICIA HURTADO: Part of your practice at Covington is that you help conduct sensitive investigations, high-stakes investigations involving sometimes civil rights, gender and racial equality within the workplace as well as in communities. Any advice you can share with us about how companies can take a more proactive approach to gender and racial equality as part of their broader ESG strategy?

ERIC H. HOLDER, JR.: Yes, I think we've done about 12 of them now that have been publicly reported. We've done a number that have not been publicly shared as well. And, you know, these assessments – I like to call them assessments – sometimes they're described as audits, but they're not really audits – these assessments look at a variety of things. Again, you know, there are numerical things to look at. Again, as I said before, numbers tell an interesting story.

We do a lot of interviews with people of a diverse nature. We talk to people in management, talk to people on the board, talk to other stakeholders, civil rights organizations who have interactions with the company. We try to talk to members of the communities in which the companies sit. Also get a sense of how do you view this company? What's this company's reputation? There's the statistical case, and the numbers will tell one story, but the anecdotal evidence of what people share in a verbal way, I think, is another compelling part of it. And then we put it all together and try to identify the strengths that we have seen as a result of the work that we've done and

what opportunities exist.

I think it's pretty interesting that even in this time, and we've released a couple of reports, I guess in the last couple of months or so, they have not, the generation of these reports has not made the companies that have publicly released reports, have not made them the targets or anything like that. And I think management, typically when they, I'm just very generalizing now, when they get these reports that we prepare, they're usually about 60, 70 pages long or so, are really kind of, they feel pretty good about what it is that they see.

Now maybe it's a self-selecting group. It's those companies that are doing things that are asking us to examine their efforts. But I think in some ways the biggest failing that we see is that there's a lack of coordination with regard to the DEI efforts that they have underway, that they can actually get more efficiencies if there's greater centralization of those efforts.

But typically, I think management sometimes is also surprised to see how much they are, in fact, actually doing with regard to those efforts. And I think also pleasantly surprised by the way in which members of what we call the groups, civil rights organizations, although they might have some ideas about how things can be done better, they typically are pretty happy with the way in which companies have been

conducting themselves.

PATRICIA HURTADO: How's the transition been from going from the Attorney General's Office and back into private practice? Are you enjoying it?

ERIC H. HOLDER, JR.: Yes, you know, it's interesting. I don't miss getting beat up every day politically. And people will tell me, boy, you look a lot younger. And I say, yeah, well, you know, if you're not getting, you know, taking political shots every day, that'll tend to have an impact on your appearance. I always say that I miss the people. I miss the work, and I certainly do that.

But I also miss, there are only five cabinet members who can't fly commercially, and so at some level, I'm not sure this is first, second, third, I miss my jet. That transition from you're never late if you're the last one on the plane. It's your plane. You're never late for the plane. So waiting in line, in a TSA pre-check line – I have pre-check – waiting in a TSA pre-check line, I had to kind of get back, getting used to that.

But more seriously, I do miss the work. I grew up in the Justice Department. And the ability to be involved in some of the, I think, important issues that we confronted during the Obama Administration was a real privilege. But, as I said, I don't miss the political component of the job.

PATRICIA HURTADO: Well, speaking of the political component, I mean there have been a series of recent Supreme Court decisions that seem hyper-polarized and how they're being reacted to in the public. Any advice for us or companies on how they should be thinking, how they navigate these myriad of decisions that seem highly polarized?

ERIC H. HOLDER, JR.: Yes, you know, I think unfortunately the Court has taken some positions in some important areas that are inconsistent with precedent. I would say inconsistent with the facts, inconsistent with the law. And made decisions, determinations on the basis of personnel as opposed to precedent. And that's a dangerous thing, I think, for the Court. The Court puts its legitimacy at stake.

You know, we talk about in the reproductive rights field, you know, Roe was a decision, I don't know, 40, 50 years or so ago. People have relied on it in a variety of contexts. And to overturn it has meant a whole bunch of tension that has been unleashed in the United States, and this had political ramifications.

In other areas, the Court has done things that I think have implications for people on the business side, though. I would say even the reproductive decisions have implications for companies who are trying to decide what benefits should be parts of health plans and things of that nature. But the Court has also done things, you know, when it comes to

race that, I think, will have a potential, have a potential impact on companies. And I think what companies want to do is not necessarily to anticipate where the Court is going to go, but to certainly see what the Court has said, and then try to reasonably extrapolate from that how should we be conducting ourselves. Like we talk about these DEI programs, I mean how should we structure these things? How should we talk about these DEI programs such that we don't make ourselves the target, you know, in an Ed Blum newsletter or something like that?

But also stay, you know, committed to that which we say was important. Either after the murder of George Floyd or interestingly, and one of the things we find in the assessments that we do is that a lot of these commitments precede by a great many years the murder of George Floyd, these commitments. So the question, I think, for companies is, well, how do we stay true to that which we say has defined us while at the same time not unnecessarily exposing ourselves to scrutiny, publicity that is not necessarily good for the business.

PATRICIA HURTADO: What are your thoughts on the appointment, Judge Ketanji Brown Jackson's appointment to the Supreme Court? What does it mean to you personally?

ERIC H. HOLDER, JR.: Well, I think she's great. She's not a person who got on the

Court and said, well, you know, I think maybe I'm going to kind of feel my way through my first year. She was a force from day one. And I think she's been a welcome addition to the Court. I was the first Black Attorney General, and there's a special pressure that, I think, firsts feel in the sense that you don't want to disappoint the communities and the people who have pushed for, hoped for an appointment like yours. And so you feel a certain pressure there. And then there are others who will think, well, you're only there because of your gender or the color of your skin, your sexual orientation, and you want to prove to them that you're there based on the merits. And so there's that dual pressure, I think, that firsts face.

I've gotten to know Rachel Robinson a bit. And to hear her describe what Jackie Robinson went through when he was the first, you know, integrating baseball back in 1947, and to hear what he had to go through, what she had to go through gives you a real perspective. And to think, well, you know, I might have been the first Black AG and there were certain pressures that came along with it, but they pale in comparison to what he had to deal with, what she had to deal with. And I always kept that example in my mind when things got, I think, a little rough, sometimes maybe a little unfair. And thought, well, you know what, you're privileged to have this position. You stand on Jackie Robinson's, and others', shoulders, and you got it a lot easier than they did. So take it easy, Eric, just calm down.

PATRICIA HURTADO: That's fascinating. It must have been extraordinary to witness, but also we all benefit from this kind of information, by talking to others who have been there ahead of us.

ERIC H. HOLDER, JR.: That's, I think, an important thing as well, you know, to understand that there are, there's a community of firsts. And you have the capacity to interact with those people and to get advice from those people. You don't have to go through these journeys alone in the way that, as I said, Jackie Robinson did. So, you know, I had the ability to pick up the phone and talk to Colin Powell, whoever, about thoughts that they had about issues that they had to navigate and how that would apply to the things that I was facing.

PATRICIA HURTADO: Now, you were nominated to the D.C. Superior Court by President Ronald Reagan. We'd love to hear your views on what you think has happened to the judicial nominating process. Is it your hope that the Senate could return to more advice, a limited advice and consent than a free-for-all the way it might become to some?

ERIC H. HOLDER, JR.: Yes, I mean I hope that the Senate can get back to that place. I think it's going to take some time. I would also hope that in the Executive Branch, we'll get to a place where selections can be made of judges on the basis of merit and not

necessarily a perception of what their political leanings are. You know, I was, as you said, appointed to the D.C. Superior Court, which requires Senate confirmation, you know, by President Reagan. I've been a card-carrying Democrat all my life.

And I kind of miss, I kind of miss that version of the judicial selection process where, you know, I was pretty young. I was, I guess, 37, 38 years old. But it wasn't, you know, I wasn't hiding who I was. And yet the Reagan White House decided that for this particular position I was the most qualified. And to have, you know, a president make that kind of determination and not have to worry about a Senate confirmation process, I mean at that point it was just, unless you really did something unbelievably terrible in your background, you were going to get confirmed.

I would hope that we could get back to that. I don't think it's necessarily going to happen in the short term. In my book, *Our Unfinished March*, I talk about how the selection process is what the Supreme Court has changed. You know, early on Supreme Court justices left the Court, in the early parts of the Republic, when they died. That was the deal, lifetime appointments. People left when they died. And now we see justices leaving. People live longer. They serve much longer on the Court. I think we need to have term limits when it comes to justices, and that seems to be something that is supported by both parties.

But people now leave the Court. Republicans leave when they have a Republican

president to replace them. Democrats leave the Court when there's a Democratic president there to fill the position. And I think, and then we look at judges and justices and we say, well, you know, I mean look at the way the media reports. And I understand, I don't think it's illogical to say, well, the decision was 2 to 1 with two Bush judges, one Obama judge, or something like that. You talk about the political affiliation or the appointment of the judge or the justice. And I think getting back to that era that existed, you know, I guess 40 years or so ago, would be a better, a better way to do it.

PATRICIA HURTADO: What advice do you give to Americans that may feel there's a lack of; a loss of faith in this system, in the criminal justice system, especially when people like Donald Trump are complaining about it? What advice do you give to Americans just generally of how to think about this big picture? Does the criminal justice system work? And should we still believe in a judiciary?

ERIC H. HOLDER, JR.: Yes, I mean I think our judicial system has shown that it works pretty well. I mean it's like any other system. There are problems and there are ways in which it can be improved. I kind of wince a little bit when I hear the former-President talk about a two-tiered system of justice and think that that applies to him in the way in which he has been treated. And, yes, there is, I think a two-tiered system of justice, but I don't think it has to do with billionaires who are facing criminal charges. It more likely has to do with people of color who are facing charges, poor people who are facing

criminal charges and who don't have access to great lawyers, don't have the economic wherewithal to develop defense cases when they are charged, just looking at the criminal sphere.

And so, yes, there are things, I think, that can be done. It's one of the reasons why I focused on that issue when I was attorney general working with state chief justices who were both Republicans and Democrats to try to come up with ways in which we could try to eliminate some of the disparities that still exist in our system. And we focus a lot on the criminal justice system as we should because we're talking about taking people's liberty away from them.

But we don't focus enough, I think, on the civil side where life-altering decisions can be made in a civil context. You know, child custody, landlord-tenant, you know, divorce. There's a whole range of things that happen on the civil side that can be life-impacting as well. So when I think about our system of justice, I never restrict it to just the criminal side. And I think, as I said, the system is doing pretty well, but there are places where it can be improved.

But I also think we need to understand that the criminal justice system doesn't exist separate and apart from the society in which it's encased. You know, people say, well, there's racism, sexism in the criminal justice system, in the judicial systems. It's kind of

like, well, yeah, that exists in the larger society, so why would you think that a component of that larger society would not have those same flaws. So to improve it, there are specific things that we can do with regard to our justice system, but to ultimately improve it we have to make sure that our society at large is making strides.

PATRICIA HURTADO: Walk us through some of the reforms that you implemented when you were attorney general. Anything you're especially proud of that people might forget.

ERIC H. HOLDER, JR.: You know, it's interesting you say that. That's almost like asking me which of my three kids do I like the most? And on a given day, I can answer that question. But, you know, I think I'm proud of the things that we tried to do with regard to criminal justice reform, tried to make the system more fair, tried to make sure that people were charged with and served time that was commensurate with their offense. Too many people went to jail for too long for no good law enforcement reason as a result of these mandatory minimum sentences, so trying to get a handle on that. The decision that I made to try the 9/11 conspirators in the regular criminal justice system, which ultimately I was not able to do, I think, was the right thing to do. And ultimately, you know, as we predicted, I said you put this in the military system and you're going to have real problems. And here we are, what, 21 years later, and Khalid Sheikh Mohammed and his confederates have still not been tried.

The decision not to defend the Defense of Marriage Act and the work that we did to try to promote same-sex marriage, I think that's something that history will look favorably upon. And then I think last, maybe it would be the protection of voting rights. Really to focus on making sure that every American citizen had the ability to cast a ballot. I mean that's what really makes our nation exceptional, that the people decide what direction the nation should go in, the people decide who should represent them in various political bodies. So try to remove some of the barriers that made it more difficult for people to vote. I've focused since I left on dealing with partisan and racial gerrymandering, structural changes that we're trying to make to make the system just more fair. So those are the kinds of things that I think I'm proud of coming out of the Justice Department.

PATRICIA HURTADO: Talk to us about the gerrymandering aspect. Any specific initiatives that you're trying to accomplish there?

ERIC H. HOLDER, JR.: Yes, what we've tried to do is identify those states where we have the greatest problems with regard to gerrymandering. And then we've taken a state-by-state approach. Sometimes it means bringing litigation. Sometimes it means putting in place an independent commission to draw the lines as opposed to having interested politicians do it. It certainly means getting people involved in the process.

I'm head of something called the National Democratic Redistricting Committee, and we have a component called All on the Line. And the All on the Line part of the NDRC is really just trying to get citizens involved in fighting gerrymandering. People think, you know, gerrymandering, that's kind of wonky, kind of ethereal. But if you care about the issues of the day, you will see that they are decided by, you know, state legislatures. And state legislatures that are gerrymandered can do things that are inconsistent with the desires of the people, and the legislators can do things that are against the wishes of their constituents but face no political consequence.

And so we've had a number of victories. The *New York Times* said that the redistricting that was done, and it's actually still going on – redistricting used to just be a one-year process, but now it seems to be a perpetual process – the *New York Times* said it was the fairest redistricting of the last 40 years. And about 78% of the congressional seats now are considered to be fair, which is up substantially from the last time we did it in 2011. But it also means about 22% are not considered fair. And with the margins that we have in our nation, that number is still unacceptably high. So there's still more work to do. You know, we started the NDRC back in January of 2017, and I'm proud of the work that we've done but there's still a lot of work to do to make sure that we are eliminating to the extent that we can partisan and racial gerrymandering.

PATRICIA HURTADO: I don't think a lot of people realize that the Justice Department is

so massive. I think when you were attorney general you oversaw some 100,000 employees, and not just lawyers but all kinds of other employees. What kind of lessons did you learn for leadership going forward that others might benefit from learning?

ERIC H. HOLDER, JR.: Yes, I guess when I was at the department, about 115,000, 120,000 people really all around the world. About 7,000, 8,000 of the people when I was there were lawyers. Everybody else, the whole range of other things, from FBI agents to ATF agents to people doing statistical stuff, a whole range of issues. And I think, you know, what I learned, I guess, in my leadership style, was to be very clear about what my goals were, where I wanted to take the Justice Department, what I wanted this Justice Department under my leadership to be focusing on and to be doing. Be clear in your goals. Give people who are reporting to you the tools that they need, the necessary support, so that they can hopefully achieve those goals. And understand that every attempt at achieving a goal is not going to be successful. And that's okay. We learn from, I think, failure, in some ways more than we learn from success.

You know, Nelson Mandela said – and I had this behind me, my desk, when I was AG, and I have it behind my desk at Covington & Burling now – Mandela said, I never lose. I either win or I learn. And I think that's a good way to think about the leadership of an organization. You never lose. You either win or you learn. And the other thing, I think, is to make sure that you stay in touch with the organization that you are leading.

I was the first attorney general in history to visit all 94 U.S. Attorney's offices. It took me six years to do it. That means U.S. Attorney offices as far west, I guess, as Guam, and as far east as – I've been to the Virgin Islands, Maine, I'm not sure which one is further east. But I hit all of them in an attempt to really kind of let people understand in a very personal way what I wanted to do with the department. But it also gave me the opportunity to hear from the people who I was leading, who had ideas, great ideas about policy, about efficiencies. And so that's something I would urge managers to do as well, to stay in touch with the people who you lead. There are a lot of good ideas out there.

We had a thing called Talk to the Attorney General that allowed people to send me emails. And so, you know, I didn't answer all of them, but I got a book every month to kind of go through what people had sent in. And sometimes, you know, really interesting ideas. Sometimes it was just like, well, you've got to tell the guy in the office next to me to turn his radio down. I'm not sure I can do much about that. But there were lots of good ideas. So staying in touch with the population that you lead, I think, is a really important thing.

PATRICIA HURTADO: One of our participants is asking a question regarding Donald Trump's, the pending decision before the Supreme Court about whether, the states' views on whether Donald Trump should be disqualified from serving, from state or

federal office as a result of his actions taken in the lead-up to the 2020 election and trying to overturn the results of it. If the Supreme Court rules otherwise, do you think they will be making a political decision or a judicial one or both?

ERIC H. HOLDER, JR.: Yes, I think it's going to be a judicial decision. And you can kind of review the arguments and the reactions that the justices had to the various proponents, various litigators. It seems, I think it seems pretty clear that the Court is not going to say that he should not be on the ballot because he engaged in insurrectionist activities. So I think that one is pretty clear. I think also it's, I think, relatively clear that the immunity argument that he has been propounding is not likely to be successful.

I think what's potentially interesting, though, is that if Donald Trump were to be reelected, and if somebody brought a lawsuit in federal court that said he should not serve as president because he engaged in insurrectionist activities, that puts a different cast on it than saying, well, he shouldn't be on primary ballot. It's a whole different deal. And that would be an interesting thing to see how the courts would deal with that. You wouldn't have to deal with this checkerboard and worry that I think the Court has, you know, Colorado decides one thing, Texas decides another.

If something is brought in a federal court, and ultimately Court of Appeals in some circuit, and then the United States Supreme Court have to decide whether or not he can

serve, whether the 14th Amendment, prohibition against those who engage in insurrectionist activities can serve. Then I think the issue would in some ways be really joined, and it would be interesting to see what happens at that point.

PATRICIA HURTADO: There's a fascinating aspect to the Trump hush money case. His lawyers moved to have the case heard in federal court arguing he was a federal officer and that state law didn't apply to him. So I think people forget that, that, you know, Donald Trump's own team has made that argument. I guess that's a footnote later on to see how things develop. Judge Hellerstein said he was, you know, state law did apply to him, but he was not in his job as president at the time.

ERIC H. HOLDER, JR.: Yes, there's a whole range of things that will be interesting depending on who wins the presidency. So that's why I want everybody to get out there and vote on November 5th or in early voting. Let's all decide, you know, what direction the nation is going to go in.

PATRICIA HURTADO: Are you worried that apathy may make people, oh, this is the same people from 2020, so they're not going to vote? Are you worried about apathy?

ERIC H. HOLDER, JR.: Yes, that is something that worries me. I don't think the choices could be more stark. The policy differences are really kind of fundamental. And so

whether you are a supporter of the former-President or the current President, it seems to me that your voice needs to be heard. The reality is that if you don't vote or if groups of people don't vote, that creates a vacuum where other people will vote and will decide the policy direction of the nation.

I also think that, you know, we, as Americans, have an obligation to generations past to cast a ballot. People committed themselves, sacrificed, died so that we would be a nation, a republic free from the greatest empire in the world at the time. The notion being that, you know, the people should decide. We were an imperfect nation at its beginning. A Civil War had to be fought. Women had to fight for the right to vote. People of color got the right to vote after the Civil War, had to fight for it again in the 1960s.

And we dishonor all those past generations by not participating in our democracy in the most fundamental of ways, which is by casting a ballot. So I'm worried about apathy but hope that people will be energized by the choices that they have and have a memory of what it is about this nation that is in some ways unique and the obligation that we have to honor those who gave us the ability to make these policy choices through voting.

PATRICIA HURTADO: I believe that you were quoted in an interview with NPR in January saying that the Voting Rights Act is alive but not well. What did you mean by that?

ERIC H. HOLDER, JR.: Yes, I mean, you know, as a result of a couple of Supreme Court decisions, some of the power of the Voting Rights Act has been taken away. In the Shelby County case in 2013, the Supreme Court – without getting into too much detail – essentially took away from the Justice Department the ability to pre-clear electoral changes that happened in states or jurisdictions that were covered by the Voting Rights Act. And these jurisdictions were generally those that had a history of doing inappropriate electoral things, usually based on race and usually the states in the south. By taking away that pre-clearance authority, states were then free to do a whole range of things that the Justice Department would have opposed and probably would have won if it had gone to court.

But one of the abilities, one of the things about pre-clearance was that a lot of states wouldn't do a lot of the things that they wanted to do knowing they couldn't sustain them if the Justice Department challenged them. And I think one of the things you have seen since the Shelby County case is that about 1,700 polling places around the country have closed. So we see these long lines in communities where polling places have closed. They are disproportionately in communities of color. We've seen voter purges go up, again disproportionately in communities of color. And so that part of the Voting Rights Act of 1965 taken away, I think has really weakened it.

Section 2 of the Voting Rights Act appears to still be fairly strong. We've got a good

decision out of the Supreme Court just this term that said that the redistricting that was done on a racial basis in Alabama violated Section 2 and diluted the power of African Americans, the political power of African Americans in Alabama to pick a congressman of their choice. So it's, in some ways, a mixed bag. I'd rather have a full and functioning Voting Rights Act of 1965, which is the crown jewel of the civil rights movement. And my hope would be that a future Congress will look at the Shelby County case, cure what the Court thought were deficiencies in the act and put back in place a new Voting Rights Act that would protect the right to vote, make sure that electoral processes are done in a way that's consistent with the nation's values.

PATRICIA HURTADO: Well, the Voting Rights Act case in Shelby County, wasn't that one of the Ed Blum cases? I believe that he was behind it. Do you perceive that it will require more litigation brought by a group that's trying to reform some of these retreats from civil rights initiatives? I mean do you think we'll have to require further litigation to be brought.

ERIC H. HOLDER, JR.: Yes, I think there's litigation that can be brought, you know, under the remaining parts of the Voting Rights Act, Section 2 especially. There's a lot of litigation that now goes on in the state courts as opposed to the federal courts. You know, the Voting Rights Act of 1965 certainly circumscribed state activity but there are ways in which you can get at that same negative activity by filing cases in the state

system using state constitutions as a way to get at, for instance, partisan gerrymandering. We've brought cases in the state courts.

So, yes, I think there's going to be more litigation. But I think at the end of the day, this is ultimately going to be a legislative question. Congress had before it the John Lewis Voting Rights Advancement Act, you know, in the, I guess it was passed by the House, in the early part of the Biden administration, filibuster in the Senate. That would go a long way to curing the problems that I think the Shelby County decision actually generated. And so I think ultimately it's going to have to be a legislative act that will have to take place.

PATRICIA HURTADO: I have a question about...you've advised a number of clients, including on reputational crisis, including Uber and Starbucks. What have those experiences taught you about what core values need to be maintained in a moment of crisis?

ERIC H. HOLDER, JR: Yes, I mean I think that companies need to ask themselves what are our core values? You know, companies generally have value statements. I think those ought to be examined every now and again to see are we living up to those values? Do people in this company understand that this is supposed to be the way in which we defined ourselves, how we interact with one another? And I think also there

need to be, what we called in government, you know, tabletop exercises. You try to imagine situations where you've got a group of disgruntled employees perhaps complaining about something. Well, how does the company react to that? So that you're not surprised when something like that actually happens.

Because some of these things, you know, I think about the Uber case where you had a female engineer talk about how women engineers were not treated very fairly by Uber as it existed then. The company is fundamentally different now. Did a blog post about that. And that had a reputational impact on Uber and how Uber was viewed, and the tech sector, I think, even more generally.

So an individual not treated particularly well or not heard can have an impact on reputation, which has an impact on the bottom line. You know there are lots of competitors in the economic sphere. And when consumers are making choices, they will consciously or subconsciously pick the company with the better reputation, understanding if the service is generally the same. And so reputation is something that really matters and is something that must be protected.

PATRICIA HURTADO: Have you found that they're receptive to you? Are they in crisis mode and any help and all help is welcomed? How has that been?

ERIC H. HOLDER, JR.: Yes, you know, it's interesting. What I always tell companies when I engage with them is that you don't want to learn about a problem by reading the *New York Times* or listening to Patricia reported on something. You want to know about the problem before. And so that's why these assessments that we do, I think, are so valuable. Taking, it's like a pulse check, you know, where is our workforce? What's our reputation like? Are we doing things consistent with our values? You want to protect yourself from those unexpected and very public controversies that can be hard to deal with and that can have a negative impact on reputation and ultimately the bottom line. And so companies that we've interacted with have been, I think, pretty receptive to that approach.

CHAIR JOHN C. WILLIAMS: Patricia and Eric, I'm afraid we're now out of time. It's been a fascinating conversation, terrific conversation. Thank you so much for sharing your time with us today. It's been a terrific event.

So in the next one minute, I'll just highlight some of the guest speakers we've got planned for the Club's calendar. We have Jennifer Doudna, Nobel Laureate in Chemistry, coming in on March 4th. David Ricks, CEO of Eli Lilly on March 12th. And my colleague, Chris Waller, Member of the Board of Governors of the Fed, on March 27th. Then looking ahead further in the spring, we have Professor Jeremy Siegel at the Wharton School, who I'm going to be in a conversation myself. And then we have

Chairwoman Jessica Rosenworcel of the Federal Communications Commission. And then we have Susan Collins, the President and CEO of the Federal Reserve Bank of Boston. And then I'm looking forward to an event with Francois Villeroy, the Governor of the Banque of France, I'll be participating in. And then we have Jamie Dimon of J.P. Morgan Chase. All events are currently listed on our website. Please be sure to review those dates and add them to your calendar.

Finally, I'd like to take just a moment to recognize the 372 members of the Centennial Society joining us today as their contributions continue to be the financial backbone of support for the Club. Thank you all for attending today. We look forward to seeing you at future events soon.