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**CIVIL RIGHTS AND THE 1960S:
A DECADE OF UNPARALLELED PROGRESS**

LELAND WARE*

I. INTRODUCTION

The 1960s were a decade unlike any other in the twentieth century. It was an intense time consumed by rapidly unfolding developments. The decade began with institutionalized segregation still intact and massive resistance to school integration in the South. After ten years and hundreds of boycotts, demonstrations, and protests, federal laws were enacted that prohibited discrimination. This Tribute provides an overview of the events that propelled African Americans from segregation to full citizenship. Maryland's Chief Judge Robert Mack Bell's education during this decade of change underscores how race relations were transformed during this critical period in our history. To go from a sit-in participant in the 1960s¹ to the top jurist in a formerly segregated state speaks to the decade's unparalleled progress.

In 1896, the Supreme Court of the United States endorsed segregation in *Plessy v. Ferguson*.² In reality "separate-but-equal" meant that African Americans were always separated but never treated as equals. Segregation was a regime of systematic degradation and oppression that was all encompassing. Southern schools, restaurants, hotels, theaters, public transportation, and waiting rooms were segregated, as were elevators, parks, public restrooms, hospitals, drinking fountains, prisons, and places of worship.³ Segregation was cradle to grave. Whites and blacks were born in separate hospitals, educated in separate schools, and buried in segregated graveyards. The system was codified in state and local laws and enforced by intimidation and violence.

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1. Bell v. Maryland, 378 U.S. 226 (1964).
2. 163 U.S. 537 (1896).
3. ERIC FONER, RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION, 1863-1877 (1988).

There were, in effect, two criminal justice systems: one for whites and another for blacks. When the color line was breached, violence was unleashed against offenders by the Ku Klux Klan, often in concert with local law enforcement officials. Lynching and other forms of racial violence and intimidation were routine.⁴ Blacks were disenfranchised. The Fourteenth and Fifteenth Amendments were effectively nullified in the South.

In 1909, the National Association for the Advancement of Colored People (“NAACP”) was established to fight for racial equality. After years of lobbying and public education efforts the organization changed its tactics. In the early 1930s, the NAACP embarked on a long-range, carefully orchestrated legal campaign in which segregation would be fought in the courts.⁵ This strategy was developed by Charles Houston, the NAACP’s first legal counsel, and would be completed under the direction of his successor, Thurgood Marshall. This approach ultimately resulted in *Plessy*’s reversal in *Brown v. Board of Education*,⁶ in which segregation in public education was declared unconstitutional. When Houston developed the NAACP’s litigation campaign in the 1930s one of his goals was “to arouse and strengthen the will of the local communities to demand and fight for their rights.”⁷ That finally happened with *Brown*.

II. THE CIVIL RIGHTS MOVEMENT

On December 1, 1955, Rosa Parks was arrested after refusing to yield her seat to a white passenger.⁸ A few days later, local black leaders organized the Montgomery Improvement Association. Martin Luther King, who was just twenty-six years old at the time, was elected president. After a tense year in which carpools were organized and

4. LEON F. LITWACK, *TROUBLE IN MIND: BLACK SOUTHERNERS IN THE AGE OF JIM CROW* (1998); GUNNAR MYRDAL, *AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY* 558–72 (1944).

5. ROBERT J. COTTROL, RAYMOND DIAMOND & LELAND B. WARE, *BROWN V. BOARD OF EDUCATION: CASTE, CULTURE, AND THE CONSTITUTION* (2003). JACK GREENBERG, *CRUSADERS IN THE COURTS: HOW A DEDICATED BAND OF LAWYERS FOUGHT FOR THE CIVIL RIGHTS REVOLUTION* (1994); RICHARD KLUGER, *SIMPLE JUSTICE: THE HISTORY OF BROWN V. BOARD OF EDUCATION AND BLACK AMERICA’S STRUGGLE FOR EQUALITY* (1975).

6. 347 U.S. 483 (1954).

7. Minutes of AFPS/NAACP Joint Committee Meeting, March 21, 1935, in *PAPERS OF THE NAACP, PART 3, THE CAMPAIGN FOR EDUCATIONAL EQUALITY 1913–1950*, at Series A, Reel 4, Frame 00008.

8. TAYLOR BRANCH, *AT CANAAN’S EDGE: AMERICA IN THE KING YEARS 1965–68* (2006) [hereinafter *BRANCH, CANAAN’S EDGE*]; TAYLOR BRANCH, *PILLAR OF FIRE: AMERICA IN THE KING YEARS 1963–65* (1999) [hereinafter *BRANCH, PILLAR OF FIRE*]; TAYLOR BRANCH, *PARTING THE WATERS: AMERICA IN THE KING YEARS 1954–63* (1988).

weekly prayer meetings were held, the Supreme Court ruled in November of 1956 that segregation on public transportation was unconstitutional,⁹ ensuring victory for the boycott.

One year later in 1957, events in Little Rock, Arkansas were a major turning point in the efforts to desegregate schools in the South.¹⁰ This episode signaled the beginning of the era of “massive resistance,” when Southern states actively resisted efforts to desegregate schools. Arkansas Governor Orval Faubus deployed National Guard troops to prevent nine African American students from enrolling in Central High School.¹¹ Crowds of angry whites gathered on the school grounds shouting threats and racial epithets.

These confrontations were broadcast on nightly news reports to a stunned nation. After several days of rioting and disorder, President Dwight Eisenhower dispatched federal troops to Little Rock. The federal troops restored order and the students were able to enroll and attend classes. The Supreme Court’s decision in *Cooper v. Aaron*¹² was the result of these events.

Three years later, four black students from North Carolina A&T State University staged a sit-in at a Woolworth’s lunch counter in Greensboro, North Carolina.¹³ Within weeks, sit-ins were organized in cities across the South. In April of 1960, the college students who organized the protests founded the Student Nonviolent Coordinating Committee (“SNCC”) at Shaw University in Raleigh, North Carolina.

Over the spring and summer of 1961, student volunteers took bus trips through the South to test federal laws that prohibited segregation in interstate travel facilities.¹⁴ The Congress of Racial Equality (“CORE”) and SNCC organized the program. It involved more than 1,000 black and white volunteers. In many cases violence and beatings were inflicted on the freedom riders when they arrived at Southern bus terminals.

9. *Browder v. Gayle*, 352 U.S. 903 (1956); FRED GRAY, *BUS RIDE TO JUSTICE: CHANGING THE SYSTEM, THE LIFE AND WORKS OF FRED D. GRAY* (1995).

10. DAISY BATES, *THE LONG SHADOW OF LITTLE ROCK: A MEMOIR* (2007).

11. MELBA PATTILLO BEALS, *WARRIORS DON’T CRY: A SEARING MEMOIR OF THE BATTLE TO INTEGRATE LITTLE ROCK’S CENTRAL HIGH* (2007).

12. 358 U.S. 1 (1958) (holding that, under the Supremacy Clause of the U.S. Constitution, the Arkansas officials were bound by the Supreme Court’s interpretation of the Fourteenth Amendment in *Brown v. Board of Education*).

13. CLAYBORNE CARSON, *IN STRUGGLE: SNCC AND THE BLACK AWAKENING OF THE 1960S*, at 9–19 (1995); WILLIAM H. CHAFE, *CIVILITIES AND CIVIL RIGHTS: GREENSBORO, NORTH CAROLINA, AND THE BLACK STRUGGLE FOR FREEDOM* (1981).

14. RAYMOND ARSENAULT, *FREEDOM RIDERS: 1961 AND THE STRUGGLE FOR RACIAL JUSTICE* (2006).

On October 1, 1962, James Meredith became the first African American student at the University of Mississippi.¹⁵ A federal court ordered the university to admit him, but when he attempted to register on September 20, Mississippi Governor Ross Barnett blocked the entrance to the office. On September 28th, the governor was found guilty of civil contempt and ordered to cease his interference with desegregation or face arrest and a fine of \$10,000 a day.

Two days later, U.S. Marshals escorted Meredith to the University of Mississippi. After he arrived, rioting ensued. The violence was so intense that President John F. Kennedy sent U.S. Army police and troops from the National Guard to Oxford, Mississippi. Two people died during the conflict, 160 U.S. Marshals were injured, and forty soldiers and National Guardsmen were wounded. Order was eventually restored. Meredith graduated in 1963.

During the same year, Alabama Governor George Wallace stood at the door of Foster Auditorium at the University of Alabama in a symbolic effort to prevent two black students, Vivian Malone and James Hood, from enrolling.¹⁶ During his election campaign, Wallace had boasted of physically putting himself between the schoolhouse door and any attempt to integrate Alabama's all-white public schools. On June 11th, reporters and camera operators watched as Governor Wallace positioned himself in front of the auditorium. State troopers surrounded the building.

Accompanied by two federal marshals, Deputy Attorney General Nicholas Katzenbach informed Wallace that he was obligated to abide by the court order to admit the black students. Wallace refused, citing the right of states to operate public schools, colleges, and universities. After a few tense minutes, Governor Wallace stepped aside to allow Malone and Hood to register for classes.

In 1963, Martin Luther King launched the Birmingham campaign.¹⁷ The effort started with a boycott and switched to marches and sit-ins. Eugene "Bull" Connor, Birmingham's Commissioner of Public Safety, ordered police officers to use high-pressure water hoses, police dogs, and tear gas to control protesters, many of whom were children. The extreme brutality inflicted on protestors was featured on nightly newscasts. King was arrested and, during his incarceration,

15. WILLIAM DOYLE, *AN AMERICAN INSURRECTION: THE BATTLE OF OXFORD, MISSISSIPPI, 1962* (2003); CONSTANCE BAKER MOTLEY, *EQUAL JUSTICE UNDER LAW: AN AUTOBIOGRAPHY*, 162–88 (1999).

16. E. CULPEPPER CLARK, *THE SCHOOLHOUSE DOOR: SEGREGATION'S LAST STAND AT THE UNIVERSITY OF ALABAMA* (2007).

17. BRANCH, *PILLAR OF FIRE*, *supra* note 8.

he wrote the *Letter from Birmingham Jail* in which he argued that individuals have “a moral responsibility to disobey unjust laws.”¹⁸ After weeks of tense negotiations, an agreement was reached that provided for the desegregation of Birmingham’s stores, restaurants, and schools.

The historic March on Washington was convened on August 28, 1963. It was the result of the collective efforts of several civil rights groups. The march was the largest civil rights demonstration in American history and received international attention. Approximately 250,000 people gathered peacefully on the Mall in Washington, D.C. King captivated the audience with his *I Have a Dream* speech.¹⁹

In 1964, “Freedom Summer” was organized as a voter registration project in Mississippi. It was part of an effort by a coalition of civil rights groups to register black voters in the South.²⁰ A large, racially mixed group of college students traveled to Mississippi to participate in the project. On June 16, 1964, two of the white students, Michael Schwerner and Andrew Goodman, and a local African American, James Chaney, disappeared. Their badly beaten bodies were discovered buried in an earthen dam six weeks later. They had been arrested by local police and released to the Klu Klux Klan.

During the registration drive, the Mississippi Freedom Democratic Party (“MFDP”) was organized. It selected a delegation to attend the 1964 Democratic National Convention in Atlantic City, New Jersey, and to challenge the seating of Mississippi’s all-white delegation.²¹ Senator Hubert Humphrey brokered a compromise in which Mississippi’s white delegates would be seated if they pledged loyalty to the party’s platform. Two MFDP delegates would also be seated, but as at-large delegates, not Mississippi delegates. While neither side liked the agreement, both sides reluctantly accepted in the end.

That summer, the Civil Rights Act of 1964 was enacted.²² The major provisions of this landmark legislation are Title II, which outlawed discrimination in hotels, motels, restaurants, theaters, and other public accommodations; Title VI, which authorized the withdrawal

18. Martin Luther King, Jr., *Letter from Birmingham Jail*, Apr. 16, 1963, *available at* http://mlk-kpp01.stanford.edu/index.php/resources/article/annotated_letter_from_birmingham/.

19. Martin Luther King, Jr.: *I Have a Dream*, Address at the March on Washington (Aug. 28, 1963) [hereinafter King’s speech], *available at* <http://abcnews.go.com/Politics/martin-luther-kings-speech-dream-full-text/story?id=14358231#.UYBZ58qG5Mg>.

20. BRUCE WATSON, *FREEDOM SUMMER: THE SAVAGE SEASON THAT MADE MISSISSIPPI BURN AND MADE AMERICA A DEMOCRACY* (2010).

21. BRANCH, *PILLAR OF FIRE*, *supra* note 8, at 343–490.

22. Pub. L. 88–352, 78 Stat. 241 (1964).

of federal funds from programs, including public schools, which practiced discrimination, and Title VII, which prohibits discrimination in employment and created the Equal Employment Opportunity Commission to review and investigate complaints.²³

The legislation was a major accomplishment that met several of the goals of the Civil Rights Movement. The denial of access to places of public accommodations stigmatized and demeaned African Americans. The threat of the loss of federal funding made discrimination in schools, colleges, and universities too costly to continue. The Civil Rights Act dramatically expanded the educational opportunities available to blacks. Discrimination in employment had relegated African Americans to the lowest paying, least desirable occupations. The law forbade employment discrimination.

The 1964 Civil Rights Act did not address voting rights. The Fifteenth Amendment of the Constitution guaranteed African Americans the right to vote. By the end of the nineteenth century, however, almost all of the Southern states had enacted laws that disenfranchised African Americans. The Selma, Alabama voting rights effort was publicized in January of 1965, when Martin Luther King addressed a mass meeting in that city. SNCC workers had been attempting to register voters for several weeks.²⁴ During their first march, police officers stopped the protestors by savagely attacking them with billy clubs, and tear gas. After a second march was aborted, King led a group of demonstrators on a journey from Selma to Montgomery. They set out on March 21st with approximately 3,000 demonstrators. Four days later they reached Montgomery with 25,000 marchers.

President Lyndon Johnson signed the Voting Rights Act into law on August 6, 1965.²⁵ It prohibits states from imposing any requirement that would deny the right of any citizen to vote on account of race. The act contains special enforcement provisions targeted at areas of the country where Congress believed the potential for discrimination to be the greatest. Under Section 5, jurisdictions covered by these special provisions cannot implement any change affecting voting until the Attorney General or the United States District Court for the District of Columbia determines that the change does not have a discriminatory purpose or effect. The legislation was another significant accomplishment of the Civil Rights Movement.

23. THE CIVIL RIGHTS ACT OF 1964: THE PASSAGE OF THE LAW THAT ENDED RACIAL SEGREGATION (Robert D. Loevy ed., 1997).

24. BRANCH, CANAAN'S EDGE, *supra* note 8, at 45-108; JOHN LEWIS, WALKING WITH THE WIND: A MEMOIR OF THE MOVEMENT (1999).

25. Pub. L. 89-110, 79 Stat. 437 (1965).

III. BLACK POWER

Martin Luther King's nonviolent protests were premised on an integrationist ideology in which African Americans would "not be judged by the color of their skin but by the content of their character."²⁶ During the mid-1960s, however, a different and competing philosophy emerged.

The Black Power Movement advocated unity, community building, a celebration of blacks' African heritage, and the development of independent black organizations. The integrationist goal of the Civil Rights Movement was rejected. Black Power advocates believed that African Americans should focus on improving their own communities rather than integrating into white society.²⁷ Where Martin Luther King and his followers found their inspiration in the nonviolent teachings of Mohandas Ghandi, Black Power advocates preferred Malcolm X, Marcus Garvey, and Frantz Fanon.

Kwame Ture, then known as Stokely Carmichael, was the first to utter the phrase "Black Power." Carmichael was SNCC's eloquent and charismatic leader. During a 1966 march in Mississippi, SNCC field workers Stokeley Carmichael and Willie Ricks chanted "Black Power" to counter the rhetoric of Martin Luther King and other advocates of nonviolence. In a call and response, Carmichael and other SNCC workers shouted "What do we want?" and prompted their audiences to answer "Black Power." Black Power meant black political and economic control of predominately black communities in the Deep South, especially in Alabama and Mississippi.²⁸

In 1967, the frustrations and impatience of African Americans erupted in 159 race riots in cities across the United States.²⁹ The first occurred in Cleveland, but the most destructive violence took place in Newark, New Jersey and Detroit, Michigan. In Newark, 26 people were killed and 1,500 were injured. There were 40 deaths in Detroit and 2,000 individuals were injured. Entire blocks were in flames. Nightly news reports showed burning buildings and looted stores, with police and paratroopers at the scenes.

The riots reflected the anger and frustration that had been building for decades. Blacks had been exploited, oppressed, and subjected

26. King's speech, *supra* note 19.

27. KWAME TURE & CHARLES V. HAMILTON, *BLACK POWER: THE POLITICS OF LIBERATION* 34-58 (1992).

28. PENIEL E. JOSEPH, *WAITING 'TIL THE MIDNIGHT HOUR: A NARRATIVE HISTORY OF BLACK POWER IN AMERICA* 142 (2006).

29. Susan Olzak, Suzanne Shanahan & Elizabeth H. McEneaney, *Poverty, Segregation, and Race Riots: 1960 to 1993*, 61 *AM. SOC. REV.* 590 (1996).

to daily indignities. Government policies and private practices in the real estate industry confined them to substandard housing in undesirable neighborhoods. Blacks were routinely harassed by police officers. Northern ghettos had long been tinderboxes waiting to explode.

In 1967, Dr. King announced his intent to organize a Poor People's Campaign that would focus on unemployment and poverty. As plans were being finalized, King traveled to Memphis, Tennessee to support striking sanitation workers. In March of 1968, King led a demonstration in Memphis that went out of control and turned violent. Disappointed but undeterred, King returned to Memphis. On April 3rd he delivered a powerful speech in which he seemed to anticipate his death. King said:

I got into Memphis and some began . . . to talk about the threats But it really doesn't matter with me now Like anybody I would like to live a long life [B]ut I'm not concerned about that now. I just want to do God's will . . . and I've seen the Promised Land. I may not get there with you but I want you to know tonight, that we as a people will get to the Promised Land.³⁰

On April 4th, King was fatally shot by an assassin while standing on a balcony of the Lorraine Motel in Memphis. Riots erupted in 130 American cities and 20,000 people were arrested. Washington, Baltimore, and Chicago were the heaviest hit among the cities that experienced unrest following King's assassination.³¹ While many of the nation's cities were still smoldering from the riots, the Fair Housing Act of 1968 was enacted.³² This law forbade discrimination in the sale and rental of housing and allowed blacks to move away from the ghettos to which they had been confined. With the passage of the Fair Housing Act, the movement's legislative agenda was achieved.

IV. CONCLUSION

Prior to the 1960s, efforts to secure civil rights for African Americans were carried out by groups that relied on a gradualist approach consisting of lobbying, public education, and filing "test" cases in courts. Beginning in the late 1950s and continuing throughout the

30. Martin Luther King, Jr.: I've Been to the Mountaintop, Address in Memphis, Tennessee (Apr. 3, 1968), *available at* http://www.speeches-usa.com/Transcripts/023_king.html.

31. CLAY RISEN, *A NATION ON FIRE: AMERICA IN THE WAKE OF THE KING ASSASSINATION* (2009).

32. Pub. L. No. 90-284, § 801, 82 Stat. 81 (1968).

1960s, demands for equal treatment were made by thousands of ordinary individuals who participated in meetings, boycotts, sit-ins, marches, and other forms of mass demonstrations. It was a broad-based, grassroots revolution. Peaceful, non-violent protests contrasted the movement's moral foundation to the violence and brutality to which demonstrators were often subjected.

The 1960s began with Jim Crow laws and massive resistance to school desegregation. By the decade's end, federal legislation outlawed the practices that had been used to reduce African Americans to second-class status. The Civil Rights Act of 1964, the Voting Rights of 1965, and the Fair Housing Act of 1968 ended the era of state-sanctioned discrimination and segregation. A generation later some vestiges of segregation endure, especially in racially isolated, inner-city communities. But, we have traveled down a very long path. Conditions now are indisputably better than they were a generation ago. Chief Judge Robert Bell is a product of the 1960s and the Civil Rights movement. Bell's pioneering judicial career commenced in 1975 and concluded with his retirement from the position of Chief Judge Maryland Court of Appeals.