

Foreword to the *Harvard Civil Rights-Civil Liberties Law Review*

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In 1966, at the height of the American Civil Rights Movement, I was a graduate law student at Harvard enrolled in a constitutional law seminar taught by Professor Paul Freund. Outside of class, I found affinity with two classmates also interested in the advancement of civil rights. In the course of discussing the events of the day, we started to muse about initiating a civil rights law review at Harvard. I volunteered to handle the official and business aspects of the undertaking and secured an audience with then-Dean Ervin N. Griswold. More successful than I could have hoped, I left his office with the authorization and funding to initiate the project. But as I was leaving, Dean Griswold said, “One last thing, Mr. Boyer. If you are going to use the name ‘Harvard’ on your journal, make sure it does Harvard proud.”¹ With a small staff, we published the first issue of the *Harvard Civil Rights-Civil Liberties Law Review* (“The Review”) in the spring of that year. Today, I am told that the staff membership of the Review numbers over two hundred.²

The societal and legal changes since the founding of the review have been tumultuous and momentous. In 2008, this country elected its first Black president. At the time, countless writers, pundits, historians, and other commentators proclaimed the ushering in of a post-racial country.³ Yet, we now know that the election of President Barack Obama, while groundbreaking, did not transform this nation into a race-blind country.⁴ In fact, in many ways, it triggered a backlash. As *The New York Times 1619 Project* has established, racism is at the bedrock of this country.⁵ While many have labored to mitigate the more overt and blatant scourges of racism, it nonetheless remains embedded in the substances and administration of our laws, our politics, our institutions, and our culture.

Before I was a graduate law student at Harvard, I was (and will always remain) a man of Howard. In 1956, I was awarded a life-altering full schol-

¹ Elaine McArdle, *A Journal Dedicated to Promoting “Revolutionary Law,”* HARV. L. TODAY (Feb. 24, 2021), <https://today.law.harvard.edu/a-journal-dedicated-to-promoting-revolutionary-law/>, archived at <https://perma.cc/D6K4-M7ZK>.

² See *id.*

³ See Keeanga-Yamahtta Taylor, *Barack Obama’s Original Sin: America’s Post-Racial Illusion*, GUARDIAN (Jan. 13, 2017), <https://www.theguardian.com/us-news/2017/jan/13/barack-obama-legacy-racism-criminal-justice-system>, archived at <https://perma.cc/34KK-ENEH>.

⁴ See Ta-Nehisi Coates, *Color-Blind Policy, Color-Conscious Morality*, ATLANTIC (May 13, 2015), <https://www.theatlantic.com/politics/archive/2015/05/color-blind-policy-color-conscious-morality/393227/>, archived at <https://perma.cc/XSD5-ECXC>.

⁵ *The 1619 Project*, N.Y. TIMES (Aug. 14, 2019), <https://www.nytimes.com/interactive/2019/08/14/magazine/1619-america-slavery.html>, archived at <https://perma.cc/4GSB-UDXQ>.

arship to the Mecca, Howard University. While there, I heard for the first time, in a speech given by Mordecai Wyatt Johnson—the first Black president of Howard University⁶—the term “race man.” President Johnson said that all graduates of Howard University were charged with the duty of being “race men”—today, of course, he would say “race people.” To clarify, a “race man” (or a “race person”) is defined as someone who strongly advocates for the rights of Black people.⁷ The term has nothing to do with racism; to the contrary, it bespeaks a consciousness of race and an awareness of how race impacts all facets of our lives. Therefore, as a “race man,” I went into the launching of *The Review* with the concept that there were already existing journals at Harvard that dealt with generic business, corporate, and other interests. This journal was to be a journal dedicated and primarily founded to publish scholarly articles and treatises on issues relating to Black matters. This did not mean that white advocates for Black rights were not integral to the work we undertook. Indeed, my co-founders of *The Review*, Frank Parker and Joseph Meissen, were white. Of course, *The Review* has evolved. We now understand that any civil rights violations or human rights violations that impact people based on their race, creed, or gender are Black matters.

As we approach the 55th anniversary of *The Review*, I was asked recently what the founders of the journal envisioned as its initial mission and what the mission should be going forward. *The Review* was born during a time of social upheaval, domestic discord, and civil strife. The 1960s saw a groundswell in the Civil Rights Movement and the groundbreaking work of some of the paramount civil rights leaders of the century. The initial aim of *The Review* was to be a revolutionary journal that would provide southern lawyers with library and scholarly ammunition to fight *de jure* and *de facto* violations of civil rights. In the 1960s, the struggle for civil rights was raw, naked, and violent. In the mid-1960s, when *The Review* was founded, voter suppression and disenfranchisement, inequitable police enforcement, unequal access to housing, quality education, and economic restrictions which capped wealth accumulation were major concerns.⁸ Sadly, these issues still

⁶ See generally RICHARD MCKINNEY, MORDECAI, THE MAN AND HIS MESSAGE: THE STORY OF MORDECAI WYATT JOHNSON (1998).

⁷ As the head of Howard University, Johnson was considered one of the preeminent “race men” of his time, a reputation reaching far beyond the realm of the Black elites. See Thomas John Edge, “The social responsibility of the administrator”: Mordecai Wyatt Johnson and the dilemma of Black leadership, 1890-1976 (May 2008) (Ph.D. dissertation, University of Massachusetts Amherst).

⁸ See Cheryl Bond-Nelms, *Boycotts, Movements, and Marches*, AARP (Feb. 9, 2018), <https://www.aarp.org/politics-society/history/info-2018/civil-rights-events-fd.html>, archived at <https://perma.cc/8ZZD-EJR5>; see also Spencer Boyer, Speech Given on the Occasion of the 35th Anniversary of the Founding of the Harvard Civil Rights-Civil Liberties Law Review (Mar. 3, 2000).

remain.⁹ Voter suppression and disenfranchisement are still with us; the methods have simply evolved. Instead of poll taxes and special literacy tests, we now have efforts to eliminate mail-in balloting, unnecessary signature verification, a demand for voter identification cards, the curtailing of accessible voting sites and drop boxes, an assault on the efficiency of our national postal service, and the levying of fines to prevent formerly incarcerated individuals from re-enfranchisement.¹⁰ As of this date, there are over 250 bills in forty-three states to restrict access to the ballot and surely there will be more by the time of publication.¹¹ Like a virus, the disease of discrimination mutates, but the illness persists.

But while these were and are some of the multitude of challenges facing then and now the implementation and exercise of our civil rights, they were not the mission of The Review. The mission then, as now, is the mission of providing those who represent individual clients and societal issues in the realm of civil rights with the ammunition to fight discrimination, whether it is based in race, ethnicity, sex, gender, status, or any other identity. In 1966, it was the mission of The Review to provide civil rights lawyers filing local and federal cases with the legal research, scholarship, and creative analysis and approaches needed to win cases and move the law—and therefore society—forward. That was the mission of The Review in the mid-20th century, and it is and should be the mission of The Review in the 21st century.

Radical right groups, militants like The Proud Boys, QAnon, and neo-Nazi factions, presently fill social media and public spaces with conspiracy theories and hate speech calculated to start a race war.¹² The Review needs to engage with this. For the first time in our nation's history, the question of reparations is being legitimately elevated in our public discourse.¹³ The Review need to be a part of that dialogue. For the first time, a realistic possibility of obtaining enfranchisement for the residents of the District of Columbia has gained legal and political traction.¹⁴ The Review needs to have a voice in this. A national reckoning with environmental racism is on the nation's

⁹ Kriston McIntosh et al., *Examining the Black-white wealth gap*, BROOKINGS UP FRONT BLOG (Feb. 27, 2020), <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>, archived at <https://perma.cc/XZ7U-LJ6J>.

¹⁰ See *State Voting Bills Tracker 2021*, BRENNAN CTR. FOR JUST., <https://www.brennan-center.org/our-work/research-reports/state-voting-bills-tracker-2021> (Apr. 1, 2021), archived at <https://perma.cc/Q25K-XNK4>.

¹¹ See *id.*

¹² See, e.g., Robert Guffey, *What Are The True Goals of QAnon? It's The 21st Century's Ultimate Catfish Scheme*, SALON (Sept. 23, 2020), <https://www.salon.com/2020/09/13/what-are-the-true-goals-of-qanon-its-the-21st-centurys-ultimate-catfish-scheme/>, archived at <https://perma.cc/7VDJ-G6S8>.

¹³ See Ta-Nehisi Coates, *The Case for Reparations*, ATLANTIC (June 2014), <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>, archived at <https://perma.cc/7VDJ-G6S8>.

¹⁴ See *About DC Statehood*, GOV'T OF D.C., <https://statehood.dc.gov/page/about-dc-statehood> (last visited Apr. 14, 2021), archived at <https://perma.cc/Q6RW-2XWQ>.

agenda.¹⁵ The Review needs to be heard. COVID-19 has forced to the fore the disparities in the health and life expectancies of minorities.¹⁶ The Review has a part to play in this. In sum, the lawyers who will fight these fights and battle these causes need the ammunition that The Review can provide just as much as those earlier civil rights lawyers for whom the journal was started.

This law review, like the United States Constitution, is living and breathing. It is an impactful law review. It exists not to impress a white-collar law firm partner with one's *Harvard Civil Rights-Civil Liberties Law Review* membership on her resume. It is not to impress upon other law schools that, to have founded and maintained a progressive civil rights publication, Harvard Law School must have a progressive bent. It is not its mission to sit unopened and unread on the dusty shelf in the law review collection of a library or in the digital cloud. The mission of this law review is to be the North Star for practitioners at all levels of litigation and policy as they work to move this society towards a more just and righteous future.

It is gratifying that a publication I helped found in the naiveté of youth is prospering today. For fifty years, I taught law at Howard University School of Law in Washington, D.C. before retiring. During that half-century, I am proud that I taught and in some small way helped to shape the lives and careers of over 4,000 Black law students.¹⁷ Among these students are legal practitioners, judges on both local and federal courts, CEOs of major corporations, mayors, congressmen, presidents of universities, civil rights attorneys, and others. I claim a little piece of all their careers as my legacy. But the *Harvard Civil Rights-Civil Liberties Law Review* is, and shall remain, my child—a child that has matured, aged, and done both Harvard and I proud. Thank you to the law review members both past and present and to all its faculty advisers and contributors, all of whom have made its survival possible and its future bright.

¹⁵ See Alejandra Borunda, *The Origins of Environmental Justice—And Why It's Finally Getting the Attention It Deserves*, NAT'L GEOGRAPHIC (Feb. 24, 2021), <https://www.nationalgeographic.com/environment/article/environmental-justice-origins-why-finally-getting-the-attention-it-deserves>, archived at <https://perma.cc/23R8-LQYC>.

¹⁶ See Theresa Andrasfay & Noreen Goldman, *Reductions In 2020 US Life Expectancy Due to COVID-19 and the Disproportionate Impact on the Black and Latino Populations*, PROC. NAT'L ACAD. SCIS. (Feb. 2, 2021), <https://www.pnas.org/content/118/5/e2014746118>, archived at <https://perma.cc/TX9S-V5VH>.

¹⁷ I taught at the Howard University School of Law for 50 years. I generally taught about 100 students per year.