TRAGEDY, OUTRAGE & REFORM: Crimes that Changed Our World: 1963 – Birmingham Church Bombing – Civil Rights

Paul H. Robinson
University of Pennsylvania Law School

Sarah M. Robinson
Independent

Follow this and additional works at: http://scholarship.law.upenn.edu/faculty_scholarship

Part of the American Politics Commons, Civil Rights and Discrimination Commons, Constitutional Law Commons, Inequality and Stratification Commons, Law and Race Commons, Law and Society Commons, Legal History Commons, Legislation Commons, Policy History, Theory, and Methods Commons, Politics and Social Change Commons, Public Affairs Commons, Public Law and Legal Theory Commons, Race and Ethnicity Commons, and the Supreme Court of the United States Commons

Recommended Citation
http://scholarship.law.upenn.edu/faculty_scholarship/1876

This Article is brought to you for free and open access by Penn Law: Legal Scholarship Repository. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of Penn Law: Legal Scholarship Repository. For more information, please contact PennlawIR@law.upenn.edu.
TRAGEDY, OUTRAGE & REFORM
Crimes that Changed Our World

Paul H. Robinson
Sarah M. Robinson

(forthcoming Rowman and Littlefield 2018)
Table of Contents

ACKNOWLEDGMENTS
PREFACE

1911 TRIANGLE FACTORY FIRE – BUILDING SAFETY CODES
1915 CHLOROFORM KILLER – MEDICAL EXAMINERS
1932 LINDBERGH KIDNAPPING & DILLINGER ROBBERIES – FEDERALIZATION OF CRIMINAL LAW ENFORCEMENT
1937 SULFANILAMIDE CRISIS – DRUG SAFETY
1956 NYC MAD BOMBER – CRIMINAL PROFILING
1957 MAFIA COMMISSION APALACHIN MEETING – RICO
1962 HARLEM HEROIN EPIDEMIC – WAR ON DRUGS
1963 BIRMINGHAM CHURCH BOMBING – CIVIL RIGHTS
1964 GENOVESE MURDER WITNESS SCANDAL – 9-1-1 EMERGENCY SYSTEM
1965 WATTS RIOTS & TEXAS SNIPER – SWAT AND THE MILITARIZATION OF POLICE
1967 CALABRESE INTIMIDATION – WITSEC
1969 SANTA BARBARA OIL SPILL & CUYAHOGA RIVER FIRE – EPA
1972 TWA BOMBING AND HIJACKINGS – AIRPORT SECURITY
1980 KILLING OF CARI LIGHTNER – DRUNK DRIVING
1981 REAGAN ASSASSINATION ATTEMPT – INSANITY DEFENSE
1982 SCHAEFFER STALKING MURDER – STALKING OFFENSE
1983 BEIRUT BARRACKS BOMBING – INTERNATIONALIZATION OF THE FBI
1983 THURMAN BEATING – DOMESTIC VIOLENCE
1986 LEICESTERSHIRE MURDERS – DNA
1989 SHRINER MUTILATION – SEXUAL PREDATORS
1993 POLLY KLAAS ABDUCTION – THREE-STRIKES SENTENCING
2001 9/11 ATTACKS – WAR ON TERROR
2001 ENRON SCANDAL – FINANCIAL CRIMES
CONCLUSION: TRIGGER CRIMES & SOCIAL PROGRESS

NOTES
INDEX
As we go through our daily routines, all but the Pollyannas among us see flaws in our existing world. We may try to avoid dwelling on them, but they are there and they bother us, sometimes a lot. What is easy to miss, without the perspective of even recent history, is that the flaws are generally minor, even trivial, compared to the often appalling state of affairs that existed in the same space just decades ago.

Within the memory of living persons, our world was one with no system of food or drug safety, essentially no building or fire codes, woefully ineffective criminal law enforcement, no protection of the environment, the appalling treatment of some people based on race or other group characteristic, rampant drunk driving, rampant domestic violence, rampant sexual assault, and a host of other conditions that we would now find intolerable.

What can seem almost bizarre to us is that people of not that long ago accepted this state of affairs as perhaps regrettable but tolerable. When we examine that not-too-distant past we frequently end up scratching our heads wondering, “What were they thinking?”

Of course, this has always been the way of progress. You can be sure that in our not-too-distant future people will be scratching their heads wondering about us, “What were they thinking?” We may each have our pet theory on what their source of wonderment will be, but more likely than not, if history is any judge, most of us will guess wrong. Our successors will find appalling and intolerable things that we as a society are presently quite willing to tolerate.

This process of the continuous march of progress – of increasing and shifting expectations and ever-rising baselines – is an interesting story in itself. One might think it is the natural result of hundreds or thousands of small steps of gradual improvement over time. And in some cases it is. But it turns out that the march of progress also has some sharp turns in it. The path of the march may be a long series of course corrections but sometimes it is a quick turn or an unexpected lurch. Sometimes our present circumstances seem entirely acceptable – until they aren’t. Then in a flash, we suddenly feel different about things, and often just as suddenly do something about it.

This book is about that fiery dynamic – changes that come quickly, sometimes suddenly, sometimes unpredictably, and sometimes inexplicably. Our focus will be on a particular group of triggers to change that we think are the most interesting, the most powerful, and sometimes the most unexpected: crimes.

In the cases we explore, the general dynamic is the same: a terrible crime provokes public outrage that in turn produces important reforms. But there are many differences in how the dynamic works and what drives it. Why do some crimes trigger a turn from the current path while similar crimes only a year or two before did not? Or, why didn’t the turn wait until a similar crime several years or decades down the path? Or why a turn at all, rather than many gradual course corrections?

The exact nature of the crime-outrage-reform dynamic can take many forms, and we will explore those differences as we work through some of the most important cases of the past century. Each case is in some ways unique but there are repeating patterns that can offer important insights about how change comes, and how in the future we might best manage it.

But what these extraordinary cases have in common is that all of them deal with crimes that changed our world.
On a cool Sunday morning, September 15, 1963, Sarah Collins preps for church in the ladies room with her sisters and friends. Addie Collins, 14, will be working as usher. Sarah is tying the sash of Addie’s white dress when Sarah looks up. Suddenly a wall of concrete comes crashing towards her; debris flies everywhere. After a second, Sarah can only feel the rubble around her and a searing pain throughout her body. She is covered in glass, her face bloody. Sarah whimpers for her sister. She hears nothing except the settling brick and the faint moans of the other girls. Addie’s voice is not among them. She is dead.

Addie’s tragic death occurs in the midst of a great social travesty. Birmingham, Alabama of 1963 is a city governed by the Jim Crow laws. There are few job opportunities for the city’s black citizens. They are permitted to be domestics, to work in some restaurant jobs, and at metal processing factories. Some serve as teachers or preachers, but only in black institutions. Only whites can obtain positions as store clerks, secretaries, police officers, firefighters, or librarians. All public facilities are segregated.

A year before the bombing, civil rights leadership in Birmingham negotiated a settlement with the city’s economic community. They agreed to several of the advocates’ demands, including, for example, the removal of “store’s humiliating racial signs.” In exchange, Reverend Fred Shuttlesworth and members of the Alabama Christians Movement for Human Rights agreed to stop demonstrating. The merchants, though, failed to follow through on their commitments. Convinced that further negotiation won’t lead to change, disillusioned civil rights leaders prepare for direct action.

The following spring, Rev. Martin Luther King Jr. comes to Birmingham to lead the Easter Boycott of segregationist merchants in the city. However, State Circuit Court Judge William A. Jenkins rules that King and his fellow civil rights leaders, Reverends Fred Shuttlesworth and Ralph Abernathy, are barred from leading further demonstrations. A group of clergymen also release a statement calling King’s activities in Alabama “unwise and untimely.” On the evening of Thursday, April 11, 1963, King tells three hundred and fifty people gathered for a mass meeting that he and Abernathy will ignore the ruling. “I can’t think of a better day than Good Friday for a move for freedom,” he declares. King is inviting confrontation: his goal is to generate national attention to the movement, and violating the court injunction is the perfect way to do just that.

On Friday morning April 12, 1963, Good Friday, King meets Abernathy at the Sixth Avenue Zion Hill Baptist Church, and about fifty demonstrators join them for the procession to City Hall. Having shed his normal coat and tie in favor of working man’s clothing as a symbol of solidarity, Rev. King sets out down Seventeenth Street.

They march about four blocks before being stopped by police. Law enforcement officers arrest King, Abernathy, and several other marchers. King is held in solitary confinement through Easter weekend. Sitting alone, King composes one of the most famous letters in American history, “Letter from a Birmingham Jail,” as a response to his critics. He points out a basic truth “There have been more unsolved bombings of Negro homes and churches in Birmingham than in
any other city in the nation. These are the hard, brutal facts of the case.” He knows that change is hard won, “We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed.” But the line that resonates around the country is his explanation for why he was in town to get arrested - “I am in Birmingham because injustice is here.”

In the end, King’s campaign is largely successful. On May 9, a little over a month after King launches his direct action campaign, the civil rights leadership is able to negotiate a new settlement with Birmingham’s business leadership. Lunch counters, water fountains, and bathrooms are to be integrated, and some businesses agree to start hiring blacks as clerks. King calls the agreement “the most significant victory for justice we have seen in the Deep South.”

Not everyone is happy about the new agreement. On the night of May 10, bombs explode at a motel owned by a black family and at the home of Alfred Daniel Williams King, Reverend King’s younger brother. In response, 2,500 African Americans take to the streets and fifty people are injured. President Kennedy sends federal soldiers to Alabama to keep the peace in Birmingham. On May 20, Birmingham’s virulently racist Mayor Bull Connor leaves office and is replaced by Albert Boutwell, a moderate segregationist. This eases some of the tension, and the hostility subsides.

As summer wanes, racial tensions across the South again escalate. Federal judges order the University of Alabama to accept twenty-four black students, five of whom hail from Birmingham. Alabama Governor George C. Wallace physically plants himself in front of the school in order to prevent the students from entering. After the incident, on June 11, 1963 President John F. Kennedy makes an impromptu address to the nation on civil rights and race relations, calling on every American to “examine his conscience” on the issue. However, Kennedy does not ask Congress to take action, and his words do little to quell the hatred filling the streets of the South.

On August 20, the house of Arthur Shores, a black attorney and an advocate for desegregation, is bombed. No one is hurt. As the first day of school approaches, segregationists grow increasingly agitated, and crowds waving Confederate flags protest desegregation throughout Birmingham. On September 4, someone sets off another bomb at Shores’s home that injures his wife. Again blacks take to the streets to protest the bombings. Police meet the protesters, and shots are fired. One black man is killed, allegedly while running out of a house with a blazing gun in hand. Twenty-one people are injured, including some police struck by bricks, rocks, and bottles.

On September 8, the Sixteenth Street Baptist Church secretary, Mary Bucks, gets a phone call. She hears a man’s voice on the line. “This is the KKK. Your church will be bombed tonight.” September 8 passes with no bombing but the message makes the church uneasy.

The following Sunday, September 15, 1963, begins as innocently as any. Sisters Addie, Sarah, and Jane Collins walk the sixteen blocks through the northwest side of the city, a mostly African American neighborhood with a mix of residential and commercial buildings, from their home to the Sixteenth Street Baptist Church. The trio make a game of tossing Addie’s purse around like a football. They run along, laughing as they weave and leap around one another, calling for passes.

Meanwhile, fourteen year old Cynthia Wesley is about to leave for church when her mother exclaims “Young lady, your slip is hanging below your dress!” She turns around, and her mother continues. “You just don’t put your clothes on any way when you’re going to church, because you never know how you’re coming back.” Cynthia adjusts her slip and heads to church...
with her father. They arrive by 9:30, in time for Sunday school. Her best friend, Carole Robertson, is also there with her father.

A few minutes later, Carol Denise McNair, a fun-loving eleven year old girl whom everyone calls Denise, also arrives at church. She was going to get an early ride with her father, but he is running late, so instead she goes with her mother. As usual, she says goodbye to her dog Whitey.

About a dozen people make their way up the concrete steps leading to the side entrance of the Sixteenth Street Baptist Church. No one thinks to look under the steps, where a group of KKK members left a small box with sticks of dynamite the night before. The unsuspecting congregants proceed into the house of God, without knowledge of the bomb beneath their feet.

Most adults congregate in the main sanctuary, while children and adolescents go downstairs to the large, brown assembly area for Sunday School. At 9:30, Sunday School instructor Ella C. Demand starts her 30-minute lesson. After the lesson at around 10:10, Cynthia and Carole are discussing their usher responsibilities. They decide to go to the women’s lounge to freshen up before the service begins at 10:30.

Around the same time, Addie, Janie, and Sarah Collins arrive at church. The girls are sweaty from their long and playful walk. Seeing that Sunday school is already over, Janie suggests they go wash up in the lounge. “We can’t go into church looking like this,” she says.7

A couple minutes later, Denise asks her mother for permission if she can go to the lounge too. On her way, Denise stops to chat with one of the youth usher sponsors, Mrs. Rosetta Young. “My, don’t you look pretty.” Mrs. Young says. “Thank you, ma’am,” Denise replies, grinning. By now Denise McNair, Cynthia Wesley, Carole Robertson, Addie Mae Collins, and Sarah Collins are all in the women’s lounge in the basement. Janie lingers in the lounge for a little while as well before she is told several times by a woman to leave and get to her classroom. After the final time, she leaves the lounge and walks up the steps to her Sunday school classroom. The other five little girls are downstairs, tying their sashes. Denise passes by Addie and asks her to tie the sash on her dress.

At 10:20 am, the bomb timer ignites a spark, and the dynamite explodes. The sash is never tied.

The explosion blows a gigantic hole in the large wall, which is thirty inches thick and made of stone and brick. Chunks of concrete blast into the basement. The stained glass windows shatter in the sanctuary, and shards of broken glass rain down on the congregation. The detonation crumples a couple cars nearby like tin cans. Windows that are blocks away shatter. Doors in the church fling open. Bibles, song books, and furniture tumble through the air. A wave of heat washes over the Baptist church. In the main sanctuary, people begin screaming, and some struggle to free themselves of the debris. Downstairs, people pour out of their classes and make for the street. The church held four hundred people when the bomb went off, eighty of them children. Many of those trying to escape are injured.

The women’s lounge suffers the worst of the blast. Someone notices Denise’s little shoe, lying amid the rubble. Emergency personnel dig people out of the collapsed building materials. Addie Mae Collins, Cynthia Wesley, Carole Robertson, and Denise McNair are all dead. One of the girls is decapitated. Everyone is shocked and scared. The mothers of their dead daughters are wailing, denying the truths that their little angels have been taken away.

Sarah Collins is taken to Hillman hospital in an ambulance; she had been hit by several shards of glass in both eyes from the sweep of debris. On the way, she asks for Addie. The driver hears her say “I saw two white men run through and then the wall fell down. I thought they were
A lone stain glass window depicting Jesus leading a group of children survives in its frame. The brightly colored glass is mostly intact, but the head of Jesus is gone. He too has been decapitated by the explosion.

The Outrage

Despite Reverend Cross’ pleas, thousands of furious and distraught African Americans surround the church in the hours following the bombing. The police struggle to impose order on the crowd, firing their guns into the air. Violence breaks out across the city and lasts well into the night. In the midst of the chaos, a black teenager named Johnny Robinson and his friends find a car with a Confederate flag and begin throwing rocks at it. The boys flee after police notice them, but Robinson doesn’t run far before being fatally shot in the back by one of the officers.

Segregationists hold their own counter-rally at a nearby Go Kart Track. It is cut short by a white preacher who interrupts the event and chides the participants, but that does not stop a couple of teenagers from leaving the rally and shooting at two black boys riding a bicycle on their way home. They kill one of them, thirteen-year-old Virgil Ware. Police also report at least five fires in black establishments throughout Birmingham. The violence does not stop just at gunfire. At one point, three fires are burning simultaneously in Negro sections. A supermarket is firebombed, though the flames are quickly extinguished.

Even in the hospitals, the local racists are at full throttle. In the University of Alabama hospital, Dr. Speir treats a young black boy. After sewing him up, she turns to treat a white supremacist bleeding from his head. Her aid is met with his fingers clasped around her neck. He says, “You’ve touched a nigger, and you ain’t touchin’ me.”

Police struggle to restore order to the tense city. Local law enforcement, reinforced by three hundred state officers, break up congregating groups. Governor Wallace sends five hundred National Guardsmen to stand ready at Birmingham armories.

King tells President Kennedy that he is going to Birmingham to ask the black community to “remain non-violent,” but he warns the President that unless “immediate Federal steps are taken” the nation will witness “in Birmingham and Alabama the worst racial holocaust this Nation has ever seen.” By nighttime, King is back in Birmingham, meeting with Fred Shuttlesworth.

The story of the Sixteenth Street Church bombing makes national headlines. The nation is particularly moved by the emotional reactions of some of Birmingham’s white citizens. United Press International reports that Birmingham “Mayor Albert Boutwell, tears streaming down his cheeks, announced the city had asked for help. ‘It is a tragic event,’ Boutwell said. ‘It is just sickening that a few individuals could commit such a horrible atrocity. The occurrence of such a thing has so gravely concerned the public ... ’ His voice broke and he could not go on.” A group of white Baptists from Nashville, Tennessee writes a statement communicating their solidarity with the congregation of the Sixteenth Street Church but the Southern Baptists Convention represses the document.
President Kennedy addresses the nation, declaring, “I know I speak on behalf of all Americans in expressing a deep sense of outrage and grief.”

Gene Patterson, editor of the *Atlanta Constitution*, writes a column so moving that Walter Cronkite has him read it on the CBS Evening News. Patterson emotionally describes the image of Denise’s mother holding her dead daughter’s shoe. “Every one of us in the white South holds that small shoe in his hand,” he writes. “We hold that shoe in our hand, Southerner. Let us see it straight, and look at the blood on it. Let us compare it with the unworthy speeches of Southern public men who have traduced the Negro; match it with the spectacle of shrilling children whose parents and teachers turned them free to spit epithets at small huddles of Negro school children for a week before this Sunday in Birmingham; hold up the shoe and look beyond it to the state house in Montgomery where the official attitudes of Alabama have been spoken in heat and anger.”

Racism is no longer an abstract issue. It is personal.

The following day, September 16, a young lawyer gives a speech at a Birmingham Young Men’s Business Club lunch. “And who is really guilty?” Charles Morgan, Jr. asks, with moral outrage. Who is at fault for the death of “four little Negro girls”? “Each of us,” he says. “Each citizen who has not consciously attempted to bring about peaceful compliance with the decisions of the Supreme Court of the United States, every citizen who has ever said ‘they ought to kill that nigger,’ every citizen who votes for the candidate with the bloody flag, every citizen and every school board member and schoolteacher and principal and businessman and judge and lawyer who has corrupted the minds of our youth; every person in this community who has in any way contributed during the past several years to the popularity of hatred, is at least as guilty, or more so, than the demented fool who threw that bomb.”
Morgan asks “What's it like living in Birmingham?” In response to his own question, he says, “No one ever really has known and no one will until this city becomes part of the United States. Birmingham is not a dying city; it is dead.”

King organizes a large funeral honoring the dead girls. Though Carole Robertson’s parents decline, explaining that “her loss was personal to us,” eight thousand people attend the service. A host of white clergymen come, making the funeral the largest interracial religious event in Birmingham’s history. Speaking over their dead bodies, King eulogizes the young girls. “At times, life is hard,” he tells a grieving audience, “as hard as crucible steel.”

The bombing of the Sixteenth Street Baptist Church is part of a larger campaign of violence against African Americans in the South. A reporter for The New York Times spends the day compiling a list of twenty Birmingham bombings, starting with the devastation of Reverend Shuttlesworth’s home in 1956. As of September 15, 1963, all these cases are still unsolved. All the attacks are racially motivated, targeting civil rights activists’ houses or civil rights bases. Shuttlesworth’s old church was bombed three times.

The Reform

With the death of the girls in Birmingham, national outrage begins to press in on the Capitol. The laws must change. In a televised speech at 8:00 pm on June 11, 1963, President Kennedy delivers a civil rights address, saying, “This is one country. It has become one country because all of us and all the people who came here had an equal chance to develop their talents. We cannot say to 10% of the population that you can’t have that right; that your children cannot have the chance to develop whatever talents they have; that the only way that they are going to get their rights is to go in the street and demonstrate.”

He calls for a bill “giving all Americans the right to be served in facilities which are open to the public – hotels, restaurants, theaters, retail stores, and similar establishments. … Greater protection for the right to vote.”

The impassioned speech hopes to bring even just a little bit of peace following the church bombing and the ensuing riots and violence.

Two days later, he meets with Senate Minority Leader Everett Dirksen and Senate Majority Leader Mike Mansfield, both of whom voice their support for such a bill, though they also raise concerns over the provisions guaranteeing equal access to public areas. Nevertheless, on June 18, Kennedy sends the bill to Congress in its original form. The bill goes to the House of Representatives, where it is referred to the Judiciary Committee, then headed by Democrat Emanuel Celler. Under Celler, the bill is expanded to include provisions to ban racial discrimination in employment, provide greater protection to black voters, eliminate segregation in all publicly-owned facilities, and strengthen the anti-segregation clauses proposed by Kennedy. The bill leaves the Judiciary Committee for the Rules Committee in November 1963, chaired by Democrat Howard W. Smith, an avid supporter of segregation. When he receives the bill, he makes no effort to hide his intent to table the bill indefinitely.

However, on November 22, 1963, President Kennedy is assassinated and Vice President Lyndon B. Johnson takes the oath of office. To the surprise of many, the new southern-bred President puts civil rights at the top of his agenda. Johnson notes that the nation had “talked for one hundred years or more” about equal rights, he implored them to consider that it was finally time “to write the next chapter, and to write it in the books of law.” To bypass the Rules Committee, Celler files a petition to discharge the bill, which would require the support of the majority of the House members in order to move the bill to the floor. Public opinion in the North
is strewn and becomes apparent that the petition would acquire the necessary number of signatures. To avoid humiliation, Smith gives in and allows the bill to pass through the Rules Committee.

On March 30, 1964, the bill reaches the Senate floor for debate. However, a “Southern Block,” made up of eighteen Democratic Senators and one Republican Senator launches a filibuster. The leader, Richard Russell, says, “we will resist to the bitter end any measure or any movement which would have a tendency to bring about social equality and intermingling and amalgamation of the races in our states.”

After fifty-four days of the filibuster, four Senators, two Republicans and two Democrats, introduce a substitute bill in hopes of attracting enough Republican swing votes to end the filibuster. The compromise weakens the government power to regulate the conduct of private business but it is enough for the House to reconsider. On June 10, Democratic Whip Hubert Humphrey, the bill’s manager, says that he has the 67 votes (the super majority) required to end the filibuster. With six wavering senators voting for, the filibuster is ended by a vote of 71 to 29. Finally, on June 29, the compromise bill is passed by a vote of 73 for and 27 against and passes. Three days later, on July 2, 1964, President Johnson signs the bill into law.

Thus, the Civil Rights Act of 1964 becomes the law of the land. The Act is designed to end racial discrimination and ensure African Americans are guaranteed a fair education, the right to vote, and equal employment opportunities. Title I bars unequal application of voter registration requirements. It does not bar literacy tests as a qualification to vote, as long as such a test is administered to every individual. Title II prohibits discrimination in businesses and places of public accommodation. Title III empowers the Attorney General to take legal action against alleged discrimination. Title IV encourages the desegregation of public schools through various incentive programs and remedial efforts. Title V more definitively establishes the role of the Commission on Civil Rights through 1968, as previously authorized under the Civil Rights Act of 1957. Title VI allows federal funds to be withdrawn from programs that discriminate. Title VII prohibits employment discrimination and creates the federal agency, the Equal Employment Opportunity Commission, to further address these specific concerns. Title VIII directs the Secretary of Commerce to collect voluntary voter registration and statistical information on national origin, race, and color. Title IX allows civil rights cases at the state level to be reviewed by a federal appeals court, even though this is typically prohibited for every other type of case. Title X establishes a Community Relations Service to provide community assistance for resolving disputes involving discrimination that potentially affects commerce.

Many political and social movements converged within this piece of legislation to enhance the position of minorities in the United States. For example, President Johnson took affirmative steps to “open the gates of opportunity” for these individuals by requiring that certain amounts of federal contract funding be reserved for “minority” businesses. Through Executive Order 11246, Johnson requires “that contractors make good faith efforts to achieve certain ‘goals’ of minority employment” through a federal program called “Philadelphia Plan,” as issued on June 27, 1969. Under this order, workers in the Office of Federal Contract Compliance work to create compliance programs in particular markets within the construction industry. This requires bidders on projects to also submit their plan for incorporating minority workers into their projects.

Johnson has no illusions that simply having the laws on the books will be sufficient to attain equality for millions of citizens cast in the role of second-tier Americans. He makes it clear that the Civil Rights Act of 1964 will be little more than symbolic unless the nation makes a
commitment to enforcing the law and rooting out racism at a grassroots level. Nowhere is it possible to “wipe away the scars of centuries by saying: Now you are free to go where you want, and do as you desire, and choose the leaders you please.” President Johnson sees the next steps in the social movement for equality and civil rights as seeking “not just freedom but opportunity. We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result.”

Civil rights leaders take President Johnson at his word. Even with the 1964 Civil Rights Act on the books, they continue pushing for stronger laws to block the series of discriminatory requirements and practices across the South. In particular, Southern states continue to use an array of deceptive tactics in order to prevent blacks from exercising their right to vote, including literacy tests, poll taxes, or even institutionalized intimidation.

Beyond Reform

The Civil Rights Act is a complex piece of legislation, and as a result it finds its way into many legal disputes. One of those is affirmative action, the practice of giving preference to minorities, particularly in relation to decisions about employment and education. In 1968, the Medical School of the University of California has zero ethnically diverse students. In order to expand opportunities for non-white students and build a more diverse student body, the university reserves sixteen of the 100 open seats for “disadvantaged” students starting with the 1971 class.

Allan Bakke, a white candidate, is denied admission to medical school at the University of California at Davis in 1973 and 1974. Bakke sues the university, arguing that he has been discriminated against on the basis of his race. The case makes its way up to the United States Supreme Court, which demands that Bakke be admitted to the medical school, while still recognizing that the state of California had a “substantial interest that legitimately may be served by a properly devised admissions program involving the competitive consideration of race and ethnic origin.” The legal application of the decision is unclear: Can affirmative action be used in other contexts? What impact will the ruling have on the nations’ efforts to eliminate racial discrimination? Is substituting one type of discrimination for another legal?

Affirmative action is also part of the Public Works Employment Act of 1977 (Public Works Act), which conditions federal funding for state and local public works projects on the guarantee that a minimum of ten percent of the funding will be allotted to subcontract minority business enterprises. The Public Works Act is challenged in court as being unfair, and the case makes its way to the Supreme Court. In its 1980 decision in the case of Fullilove v. Klutznick, the Court finds that the Constitution grants Congress the power to regulate interstate commerce, and thus Congress has the authority to enact legislation “control[ling] discriminatory contract procurement practices,” including the use of quotas, so long as their use was narrowly tailored to this objective. However, the Court walks this back nine years later when it deems the same procedures to be a “highly suspect tool” in City of Richmond v. J.A. Croson Co.

The project for equality that began with the Civil Rights Act continues in other ways as well. In 1972, Congress passes the Equal Employment Act (EEA) to expand the power of the Equal Employment Opportunity Commission (EEOC). This statute empowers the federal agency to directly bring actions against employers – a goal the Civil Rights Act of 1964 originally envisioned, but did not allow for on its own. With the EEA, the EEOC may now effectuate change in accordance with the goals of the original Civil Rights Act, such as by bringing major
changes to employment practices at corporate giants such as General Electric, Ford, AT&T, General Motors, and Sears.\textsuperscript{46}

The scope of whom the law should seek to protect is also expanding. The Americans with Disabilities Act of 1990 uses parts of the Civil Rights Act to eradicate discrimination based on disability status. More recently, the EEOC has prioritized ending discrimination based on gender, gender identity, and sexual orientation in the workplace. Additionally, in the fiscal years 2013-2016, the agency listed a number of priorities, including eliminating recruitment and hiring barriers, enforcing equal pay laws, and preventing harassment through targeted outreach and systematic enforcement.\textsuperscript{47}

The Civil Rights Act of 1964, in conjunction with other federal civil rights laws such as the Education Amendments of 1972, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, has also made significant strides towards eliminating discrimination in education.\textsuperscript{48} According to the United States Department of Education, there are strong indications that significant progress has been made in providing an equal education to every student in America.

For example, high school graduation rates for African Americans have significantly increased over the last twenty years to attain a level closer to the rate of white high school students, and many more enroll in advanced placement classes from 1982 to 1997. Further, the dropout rate of African American students aged sixteen to twenty-four has declined from 20.5 percent in 1976 to 13 percent in 1996. African American students’ performances on national standardized tests, such as the National Assessment of Educational Progress (NAEP) and Scholastic Assessment Test (SAT), has significantly increased. Additionally, college enrollment for African Americans has increased from fifty-two percent in 1987 to sixty percent in 1997, with this population making up 10.5 percent of all college students in the fall of 1996. The percentage of African Americans receiving bachelor’s degrees has increased from 11.3 percent in 1990 to 13.3 percent in 1997.

In 2014, it is reported that eighty-five percent of blacks over the age of twenty-five have graduated from high school, with the percentage of blacks attaining college degrees increasing from four percent to over twenty-one percent. The report notes that African Americans have not caught up to whites on all levels of educational achievement, as the black college graduation rate remains somewhat stagnant at forty percent, as compared to sixty-two percent for whites, approximately seventy percent for Asian-Americans, and fifty percent for Hispanics. John Brittain, University of the District of Columbia law professor and previous chief counsel for the Lawyers’ Committee for Civil Rights Under Law, contends that these numbers reflect the larger civil rights challenge our country now faces fifty years after the initial controversy, as “Class and poverty have largely superseded race as the cause of inequality today, particularly in education.”\textsuperscript{49}

Comparatively, progress for housing rights has been slower. The Fair Housing Act of 1968 attempts to extend the main objectives of the Civil Rights Act to public accommodations. However, this piece of legislation has not substantially raised black home ownership rates.

Progress has been made by African-Americans in nearly every economic category. The median family income for this population, as adjusted for inflation, has increased from $22,000 in 1963 to over $40,000 today, which still comprises only two-thirds of the median for all Americans. Black unemployment levels remain twice as high as white unemployment levels. Black poverty has declined from over forty percent in the 1960s to approximately twenty-seven
percent today, and child poverty has similarly declined from approximately sixty-seven percent to approximately forty percent.

Progress also has been made in enfranchising minorities in the political process. Indeed, in 2008, Barack Obama made history by being the first African American to win the Presidency. In his 2012 reelection, the rate for black voter turnout surpassed that of whites for the first time ever. Further, the number of black elected officials has increased from fewer than 1,500 in 1970 to over 10,500 today, a sevenfold increase.

Michael Wenger, senior research fellow at the Joint Center for Political and Economic Studies, a leading think tank in the country on African-American socioeconomics, comments that these numbers reflect a “dramatic change in attitudes and principles . . . . Change has been much less dramatic in actual behavior.” Yet others, such as civil rights attorney and former president of the NAACP Legal Defense and Educational Fund and professor of law at Columbia University, Ted Shaw, note that civil rights progress over the previous fifty years has been “breathtaking and unimaginable.” Yet even Shaw is quick to note that even though some of the most substantial benchmarks of this success, such as the election of a black president, “[don’t] mean that all these systemic issues of racial inequality have disappeared.” Yet others, such as civil rights scholar and professor emeritus of history at Duke University, William Chafe, note that all progress is relative, in saying, “The impact of the Civil Rights Act is totally defined by where you are when it starts – economically, geographically, socially. . . . There was a significant increase in the black middle class . . . but it had almost no effect on the 50% who were at the bottom.”

President Kennedy, before his death, noted that the civil rights challenges the nation faced in the 1960s could not be remedied by mere legislation, “Law alone cannot make men see right. . . . We are confronted primarily with a moral issue.” President Johnson a man from a segregated upbringing took over the fight. To Johnson, and King, segregation and discrimination were not merely violations of an individual rights: they were “bad”; they were “wrong.”

The truth of these views is undeniable. Only changes in people’s attitudes can bring morality and justice to society. However, the Civil Rights Act of 1964 may claim some significant credit for helping to change people’s attitudes toward others of a different race. While it may be true that “law cannot make men see right,” it may also be true that law plays a necessary role in reaching that goal. It may not be sufficient but it may be necessary.


2 Sikora, Until Justice Rolls Down, 10
3 “Letter from a Birmingham Jail [King, Jr.]”
4 Sikora, Until Justice Rolls Down, 7
5 Sikora, Until Justice Rolls Down, 8
6 Sikora, Until Justice Rolls Down, 3-4
7 Sikora, Until Justice Rolls Down, 10
8 Sikora, Until Justice Rolls Down, 10
9 Sikora, Until Justice Rolls Down, 13
10 “Six Dead After Church Bombing”
11 Wright, “‘No screaming, only crying.’” Wright, B.
12 “Six Dead After Church Bombing”
“Six Dead After Church Bombing”
Branch, *Pillar of Fire*, 138


Cohen, “The Speech That Shocked Birmingham the Day After the Church Bombing.”

Cohen, “The Speech That Shocked Birmingham the Day After the Church Bombing.”

Branch, *Parting the Waters*, 892.

Branch, *Parting the Waters*, 892

Tonight at 8:00pm.

Tonight at 8:00pm.


Remnick, “The Civil Rights Act”


448 U.S. 448 (1980).


Wolf, “Equality Still Elusive 50 Years After Civil Rights Act.”

Wolf, “Equality Still Elusive 50 Years After Civil Rights Act.”

Wolf, “Equality Still Elusive 50 Years After Civil Rights Act.”

Wolf, “Equality Still Elusive 50 Years After Civil Rights Act.”

Wolf, “Equality Still Elusive 50 Years After Civil Rights Act.”
54 Finkelman, “The Long Road to Dignity.”