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Looking Back on 1963 Fifty Years Later

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# Looking Back on 1963 Fifty Years Later

By Jon Greenbaum

**A**t his inauguration as Alabama's governor in January 1963, George Wallace infamously and defiantly declared in a speech written by a former Ku Klux Klan leader, "segregation now, segregation tomorrow, and segregation forever." Earlier that month, the Kennedy administration, hesitant to alienate white southern constituents who been indispensable to his narrow victory in the 1960 election, had declined to issue any statement recognizing the 100th anniversary of the Emancipation Proclamation. Instead, the administration would hold a reception for African-American leaders on President Lincoln's birthday in February 1963.

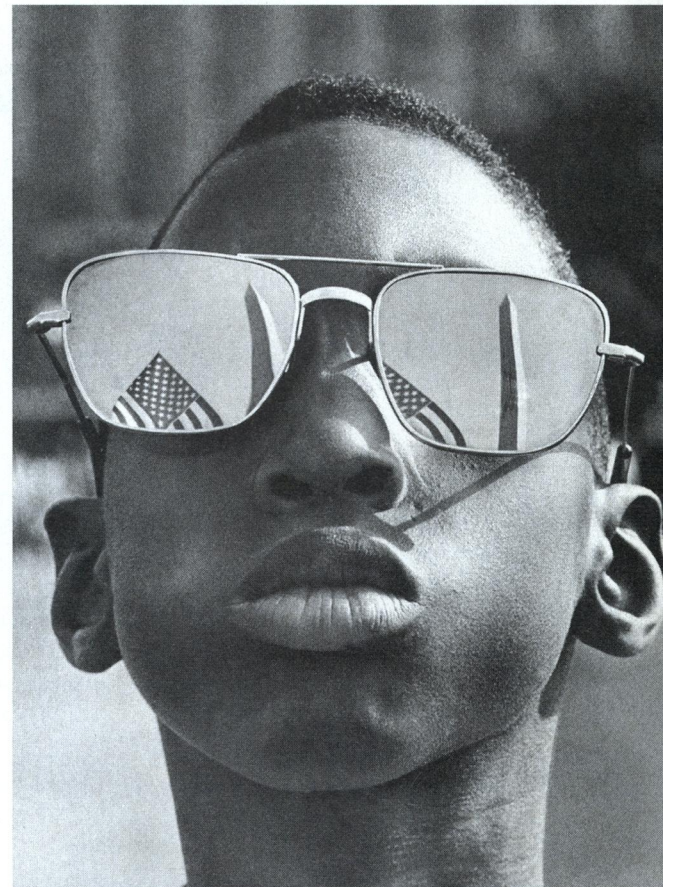
This reflected how little progress had been made in the century since President Lincoln had issued the proclamation calling for the end of slavery in the confederate states. Though slavery had been abolished by the Thirteenth Amendment in 1865, African Americans were treated as second-class citizens in many areas of the country in 1963, as they were unable to vote and denied the same access to employment, education, housing, and use of facilities as whites. The legal community had, for the most part, either turned a blind eye to these blatant injustices or been complicit, as legislators, judges, and lawyers had participated in enacting and maintaining the Jim Crow laws

that denied African Americans their rights.

But 1963 would prove to be the year the tide turned. The civil rights community and those citizens who risked their lives and welfare to resist white supremacist leadership—aided by the dramatic images captured by the media—forced Americans to confront the inhumane treatment of their fellow citizens. The Kennedy administration became emboldened to more aggressively protect and enforce the rights of African Americans, including desegregating the University of Alabama in a direct confrontation with Governor Wallace. In addition, the legal establishment answered President Kennedy's call to leverage its talent and resources to advance the cause of racial justice.

After President Kennedy's death, President Johnson's determination and mastery of the legislative process began to overcome the longstanding barriers to major civil rights legislation that southern congressmen had erected for decades. The events of 1963 would lead to the passage of landmark federal civil rights legislation and a legal community that in the decades since has used not only those statutes but a number of other means to move America toward justice.

Greenwood, Mississippi, a city in LeFlore County and the Mississippi Delta, was the site of the first major flashpoint of 1963. The Student Nonviolent Coordinating Committee (SNCC), led by Bob Moses in Mississippi, sought to register African-American voters in six Mississippi Delta counties. On February 20, four African-American businesses near SNCC's Greenwood office were



The top of the Washington Monument and part of a U.S. flag are reflected in the sunglasses of Austin Clinton Brown at the March on Washington, August 28, 1963. Associated Press, AP

destroyed by fire. Greenwood police arrested Sam Block, an SNCC student, two days later for "statements calculated to breach the police." More than 100 African Americans attended Block's trial. After finding Block guilty, the judge offered to suspend Block's sentence if he left town. Block refused and instead accepted a sentence of six months in jail and a \$500 fine. The next day, about 200 African Americans sought to register to vote. Though virtually none of them were able to register, this was an unusually bold action. On February 28, the SNCC staff met in Greenwood with Randolph Blackwell of the Voter Registration Project, which funded voter registration activities. The meeting ended when Jimmy Travis, an SNCC volunteer, saw three white men staking out the office in a Buick. The SNCC staff

left for their home counties. The Buick followed the car containing Travis and Moses and the men in the Buick fired gunshots, hitting Travis in the neck. Travis survived.

Events continued to escalate. Attorney Wiley Branton, who played a key role in the Voter Registration Project, telegraphed President Kennedy to announce a campaign to register to vote every qualified African American in LeFlore County. African-American churches began holding voter registration classes. In response, arsonists destroyed the Greenwood SNCC office. When a number of people marched to city hall to protest the lack of police protection on March 28, police and police dogs attacked the marchers. The same thing happened the next day and the *New York Times* published a story with an accompanying photo of the police charging behind a dog. SNCC workers were arrested and convicted of disorderly conduct. The registration marches continued and President Kennedy spoke out in support of the marchers. John Doar of the Justice Department ultimately settled the matter by getting the SNCC workers out of jail.

Birmingham was the next hot spot. In early 1963, Martin Luther King Jr. and the Southern Christian Leadership Conference began laying out plans to commence their next major campaign in Birmingham, Alabama, in spring 1963. Birmingham was one of the most segregated southern cities due in no small part to Theophilus Eugene "Bull" Connor, Birmingham's commissioner of public safety, who in 1961 allowed Ku Klux Klan members to board a bus of Freedom Riders and beat the riders and in 1962 had closed sixty city parks after a court had issued an order to desegregate the parks. In October 1962, Birmingham's voters had decided to change from a commission form of government to a mayor-council form. Connor lost the runoff election for mayor on April 2 but he announced that he would not leave office when he was supposed to on April 15.

The Birmingham campaign began slowly on April 3 with lunch counter sit-ins. On April 10, city officials obtained a sweeping injunction designed to prevent King and other African Americans from engaging in organized protests. Two days later Birmingham police arrested King, Ralph Abernathy, and fifty others for contempt because they marched in violation of the court order. On April 26, eleven African-American leaders, including King, were convicted and sentenced to five days in jail.

The turning point in the Birmingham campaign was the "Children's Marches," where children marched in protest. On May 2, the first day, police arrested almost a thousand children and the city and county jails were bursting. With no room in the jails, Birmingham officials resorted to more violent tactics the next day. The fire department used water hoses on the marchers and the police used sticks and dogs. Television brought the dramatic visuals into living rooms all across America. Over the next several days, the marches would continue. Eventually, black and white business leaders and civil rights leaders would reach a settlement on May 10 that would integrate lunch counters and public facilities, enable African Americans to obtain city jobs, and release the protestors from jail. The hardline segregationists responded the next day by bombing the Gaston Motel where King had been staying and had just left and the parsonage of A.D. King, Martin Luther King's brother. On May 13, the federal government deployed 3,000 federal troops to Birmingham to restore order. Eight days later Connor left office.

The twenty-four hours between the mornings of June 11 and June 12 were perhaps the most significant in the history of the civil rights movement. On June 11, the federal government and Governor Wallace squared off in the "Stand in the Schoolhouse Door." The University of Alabama had denied admission to every African-American applicant

until June 1963, when a federal court ordered the university to admit three African-American students. On June 11, two of the students, James Hood and Vivian Malone, walked to Foster Auditorium to register. Deputy Attorney General Nicholas Katzenbach of the Justice Department and the Alabama National Guard, which had been federalized by President Kennedy, accompanied the students. In the presence of the media, Wallace stood in the entrance to Foster Auditorium, refused to let the students pass, and began giving a speech on states' rights. Katzenbach asked Wallace to step aside and he refused. Wallace would later step aside when told to by General Henry Graham and the students were admitted.

On the evening of June 11, President Kennedy addressed the nation concerning civil rights and he made the bold speech civil rights leaders had anxiously awaited. He stated that 100 years after President Lincoln freed the slaves, African Americans were not free from injustice and social and economic oppression. He called for Congress to enact legislation that gave Americans the right to be served in all places of public accommodation and to enable the federal government to more fully participate in education desegregation cases. The next week President Kennedy would submit a comprehensive civil rights bill—the first such bill of his administration—to Congress.

After these successes on June 11, the wee hours of that evening would end in tragedy. In May, Medgar Evers, who led the Mississippi NAACP, had publicly demanded that Jackson, Mississippi, reach an agreement to desegregate similar to that in Birmingham. While Mayor Allen Thompson was dodging this demand, African-American students and a white professor staged a sit-in at Woolworth's. The students and professor were beaten and a photograph of a white ex-policeman kicking an African-American student appeared on the front page of the *New York*

*Times*. African Americans continued to demonstrate and several hundred were arrested. In the early morning hours of June 12, Evers was shot dead outside his home. Five thousand people attended his memorial service and his casket was placed on a train that passed through the South to Washington, where his body was buried at Arlington National Cemetery.

The tumult of the time inspired the creation of an organization that would mobilize the private bar on civil rights issues. With the exception the NAACP Legal Defense Fund; a couple of other organizations; a small, mostly African-American cadre of lawyers; and fewer than fifty Justice Department lawyers, the legal profession had largely stood on the sidelines of the civil rights movement. That would change when Geraldine Segal, wife of Bernard Segal, a lawyer at the Philadelphia firm Schnader, Harrison, Segal and Lewis, asked her husband about the ongoing civil rights crisis, "What is the bar of the nation doing about this? What should you be doing?"

Mr. Segal drafted a statement in opposition to Governor Wallace's refusal to follow the court order that would desegregate the University of Alabama and he and his partner Jerome Shestack reached out to lawyers across the country and asked them to serve as signatories. Former attorneys general, past ABA presidents, and other leaders of the bar joined the statement, which appeared in the June 10, 1963, edition of the *Birmingham News*. Encouraged by this success, Segal suggested to Attorney General Robert Kennedy a couple of days later that the president schedule a meeting of lawyers at the White House on the issue of civil rights. That same day the White House instructed Segal to arrange this conference. On June 15, the White House sent telegraphs from President Kennedy to 250 lawyers representing every state and Puerto Rico. The telegraph stated in pertinent part: "AT FOUR O'CLOCK

ON FRIDAY, JUNE 21, I AM MEETING WITH A GROUP OF LEADERS OF THE BAR TO DISCUSS CERTAIN ASPECTS ON THE NATION'S CIVIL RIGHTS PROBLEM. THIS MATTER MERITS SERIOUS AND IMMEDIATE ATTENTION. . . ."

Two hundred forty-four of the 250 invitees attended the June 21 meeting. President Kennedy, Vice President Johnson, and Attorney General Kennedy addressed the lawyers and other guests in attendance. President Kennedy implored the lawyers to use their skills and resources to engage in civil rights issues. He also asked Segal and Harrison Tweed, a partner at Milbank and Tweed in New York, to co-chair the President's Committee. At the conclusion of the meeting, Segal and Tweed invited the lawyers in attendance to serve on the President's Committee and many of them did. The group would later be renamed the Lawyers' Committee for Civil Rights Under Law and, before the year was out, several of the nation's leading law firms would be engaged in the civil rights fight as litigators, counselors, and negotiators.

The civil rights movement continued to forge ahead. The historic March on Washington occurred on August 28, 1963. A. Philip Randolph had first proposed the march in 1941 as a way to compel the federal government to end segregation but agreed to cancel the march when President Roosevelt issued an executive order stating that wartime industries would be desegregated. Randolph reinstated the idea for a march and was appointed to organize the festivities, with Bayard Rustin serving as deputy director. An estimated 200,000 to 300,000 people participated in the march without major incident. Marian Anderson started the festivities by singing the National Anthem and a series of civil rights leaders provided remarks. Martin Luther King Jr. capped off the day by giving his iconic speech,

"I Have a Dream," that was televised by all three major networks.

The success of the March on Washington was quickly tempered by the Sixteenth Street Baptist Church bombings in Birmingham. On September 15, 1963, desegregation began in the Birmingham city schools. That Sunday four Ku Klux Klan members planted a box of dynamite under the steps of the church, which had been a central meeting point during the campaign earlier in the year. The dynamite exploded hours later, killing four girls between the ages of eleven and fourteen. A witness later identified Klan member Robert Chambliss as having placed the bomb under the church. Chambliss would receive a \$100 fine and a six-month jail sentence for possessing the dynamite.

In November, the assassination of President Kennedy rocked the nation. Civil rights would prove to be one of the most enduring aspects of his legacy. Indeed, in his first address before Congress, President Johnson stated that passage of the civil rights bill would best honor President Kennedy's legacy:

First, no memorial oration of eulogy could more eloquently honor President Kennedy's memory than the earliest possible passage of the civil rights bill for which he fought so long. We have talked enough in this country about equal rights. We have talked about it for a hundred years or more. It is time now to write the next chapter, and to write it in the books of law.

Over the months to come President Johnson would make this happen. He combined a fierce determination with an unequalled mastery of the ins and outs of legislative process and strategy, and an understanding of how to best handle each barrier. On July 2, 1964, he signed the Civil Rights Act of

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increasing belongingness. Working out of the color-blind/post-racial myth is not one of them. Instead, we must acknowledge and humanize the racial other as well as other others by increasing our exposure to racial outliers in diverse settings and meaningful activities. We are more likely to understand and strive to eliminate racialized structures if they impact someone we actually know or can relate to. More transformative approaches might engage with the racial other through higher-order thoughts and actions such as those exhibited by Martin Luther King Jr., who employed friendship and love, not hatred.

It will take much effort to create and live out of this more honest and challenging American race narrative. We know that resistance from both the Left and the Right will persist, but, in the words of Justice

Kennedy, “[t]his Nation has a moral and ethical obligation to fulfill its historic commitment to creating an integrated society that ensures equal opportunity for all of its children. . . . Our Nation from the inception has sought to preserve and expand the promise of liberty and equality on which it was founded.” Like King and W.E.B. Du Bois, we have to recognize the interrelated nature of civic/human rights, the economy, identity, and belonging. We may be actually approaching the fifth moment in our history in which we have the opportunity to become a more inclusive and perfect union. We have learned a great deal about implicit bias and some are attempting to put racialized structures back on the table, backed by our changing demographics. But how we deal with these realities depends on us. We can make history, not by repeating our

failures of the past, but by fashioning and bringing about a more just future. This will require a different story as well as different structures.

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1964 into law—which, among other things, outlawed discrimination in places of public accommodation and in the workplace and gave the attorney general authority to file school discrimination lawsuits. This would be followed by the Voting Rights Act of 1965 and the Fair Housing Act of 1968.

The United States turned a corner on civil rights issues in 1963. The dramatic events of that year demonstrated that our country needed to make the language of the Civil War Amendments requiring equal protection under the law a reality. Essential to this was changing the orientation of the law and the legal profession so that they would be instruments that promoted equality.

Fifty years later, the lessons of 1963 continue to resonate. The United States continues to have high levels of racial inequality and disparity

in areas such as employment, housing, education, and criminal justice in addition to recent assaults on the right to vote. At times, solving these problems appears to be futile. But the obstacles in 1963 were far greater. Those hostile to civil rights were seemingly entrenched in positions of power and willing to take extremely drastic means to maintain the status quo. The legal profession is also in a dramatically different place. Law firms and attorneys have spent countless hours on civil rights matters and pro bono service is an essential component of that practice. The legal organization begun by President Kennedy, the Lawyers' Committee for Civil Rights Under Law, has thrived over the years and law firms contributed more than 90,000 hours valued at \$47 million to the Lawyers' Committee and its clients in 2012. On August 1, 2013, President Obama and Attorney General Eric Holder, the nation's first African-American president and attorney general, reissued President Kennedy's call to action of fifty years

ago in the East Room of the White House to 300 board members, staff, and distinguished guests of the Lawyers' Committee. Jane Sherburne, senior co-chair of the Lawyers' Committee Board and general counsel of BNY Mellon, stated at the event prior to the president's remarks: "Should President Obama repeat President Kennedy's question: 'where are all the lawyers?,' our answer is 'right here, Mr. President, right here.'"

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