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**SYMPOSIUM**

**THE CIVIL RIGHTS ACT OF 1964 AT 50:  
PAST, PRESENT, AND FUTURE**

**EDITORS' FOREWORD**

On July 2, 1964, President Lyndon B. Johnson signed the Civil Rights Act into law after months of Congressional debate and after decades of activism and advocacy by those struggling to achieve equal rights for all Americans. Upon signing the bill, President Johnson called the American people to action:

This Civil Rights Act is a challenge to all of us to go to work in our communities and our States, in our homes and in our hearts, to eliminate the last vestiges of injustice in our beloved country. So tonight . . . I urge every American—to join in this effort to bring justice and hope to all our people—and to bring peace to our land.<sup>1</sup>

With the fiftieth anniversary of the Civil Rights Act's passage came an opportunity to evaluate the past, present, and future of this landmark legislation and to reflect on its successes as well as its limitations. This anniversary invited consideration of what equality means in America today and what has and has not changed in the fifty years since President Johnson told his fellow citizens that “we have come now to a time of testing. We must not fail.”<sup>2</sup>

To celebrate this landmark anniversary, Boston University School of Law held a Symposium examining the Civil Rights Act's history, considering its present-day implications, and looking forward to the changes yet to be achieved in our law and society. Held from November 14-15, 2014, the Symposium reflected upon the relationship between social movements and law reform and the evolution of prohibited classifications over time through amendments to the Act, judicial decisions, and civil rights legislation.

Speakers considered the impact of the Act on understandings of and expectations about public and private spaces and civic life and how subsequent civil rights laws continue to shape those expectations. What are some of the continuing challenges and controversies concerning ending discrimination in, for example, education, employment, housing, and public accommodations? Speakers addressed the problems that public agencies and private plaintiffs

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<sup>1</sup> Lyndon B. Johnson, *Remarks upon Signing the Civil Rights Bill* (July 2, 1964), available at <http://millercenter.org/president/speeches/speech-3525>.

<sup>2</sup> *Id.*

have confronted in proving discrimination under the 1964 Act and subsequent civil rights laws and will consider contemporary challenges in addressing inequality and discrimination.

Holding this Symposium was particularly meaningful for Boston University School of Law because of the school's special connection to the Civil Rights Movement and the Act: BU Law School is proud to have among its alumni leading civil rights lawyers and politicians, such as the late Senator Edward Brooke, co-author of the Fair Housing Act; Barbara Jordan, the first southern black woman elected to the U.S. House of Representatives; and Howard Moore, who worked with the NAACP Legal Defense and Education Fund on major civil rights cases. In addition, the Boston University School of Theology trained the Reverend Martin Luther King, Jr., and other civil rights leaders, and Dr. King, in 1964, the year he won the Nobel Prize, donated his papers to Boston University. To highlight this relationship, the School of Theology held a reception for conference participants, at which Walter E. Fluker, Martin Luther King Jr. Professor of Ethical Leadership, offered remarks.

*Panel I: Historical Perspectives*

Professors Margaret Burnham, Serena Mayeri, George Rutherglen, and Gavin Wright commented on the Civil Rights Act through a variety of historical lenses. From considering the Act's economic significance (Wright) to the role intersectionality played in Title VII's development, passage, and implementation (Mayeri), the panelists looked at the factors that made the Civil Rights Act possible and its overarching impacts in the years that followed its enactment. Professor Bruce Schulman offered commentary on the papers.

*Panel II: Classifications and Categories in the 1964 Act and in Subsequent Civil Rights Laws*

Professors Henry Chambers, Courtney Joslin, and Michael Waterstone presented, and Professor Joseph Fishkin participated, with commentary offered by Professor Kathryn Zeiler. Central to an understanding of the Civil Rights Act's impacts is an understanding of the definitions underlying its central protections, and these panelists took a close look at the types of discrimination contemplated and addressed by the Civil Rights Act. While Professor Chambers explicates the relationship between Congress and the courts in determining Title VII's boundaries, Professors Joslin and Waterstone turn their attention to specific types of discrimination (marital status and disability, specifically) as they consider the boundaries defining protected groups.

*Keynote Address, William Julius Wilson: Public Policy Challenges Facing the Growing Shift in Emphasis from Race-Based to Class-Based Programs*

Basic structural changes in our modern economy have compounded the problems of poor blacks because education and training have become more important for entry into the more desirable and higher-paying jobs, and

because increased reliance on labor-saving devices have aggravated the conditions of untrained black workers. In short, once the civil rights movement faced these more fundamental issues, argued Bayard Rustin in 1965, "it was compelled to expand its vision beyond race relations to economic relations, including the role of education in society." In his keynote address, viewable on the Symposium's website, Harvard Kennedy School's Lewis P. and Linda L. Geysler University Professor and Director of Joblessness and Urban Poverty Research Program William Julius Wilson revisited Rustin's argument and critically examines its application in the 21st century, as well as its public policy implications.

*Panel III: Reshaping Public and Private Space: Public Accommodations, Neighborhoods, and Housing*

Professors Jeannine Bell, Katherine Levine Einstein, David Glick, Linda McClain, Joseph Singer, and Robin Fretwell Wilson presented, and Professor Len Albright participated. These papers speak to the spaces in which we live and what the Civil Rights Act and subsequent legislation have done—and can do—to alter them. From the empirical (Einstein and Glick), to the historical (McClain), to the normative (Wilson), these panelists looked at the myriad impacts that laws have had and will continue to have on our communities.

*Panel IV: Reshaping Public and Private Space: Education, the Workplace, and the Military*

While Panel III considered the spaces in which we live, this panel, at which Professors Deborah Brake, Catherine Connell, Joanna Grossman, and Katherine Silbaugh presented their work, examined the institutions that, in many ways, define American life. These papers delve into the challenges facing members of protected groups on college campuses, in workplaces, and in the military, asking what methods of bringing about change are most effective in these unique settings.

*Panel V: Proving Discrimination*

Professors Michael Harper, Tristin Green, Pauline Kim, and Noah Zatz ask what it means to "prove discrimination" and how the Court asks plaintiffs to make their cases. With particular attention to the Court's 2011 decision in *Wal-Mart v. Dukes*, the papers discuss Title VII jurisprudence and the procedural and substantive burdens plaintiffs face in presenting their claims.

*Panel VI: The Limits and Future of Antidiscrimination Law*

This panel looked beyond civil rights legislation as it exists today with a view toward the ways in which the law can still change in order to perhaps better align with society's changing preferences and goals. Professor Sonu Bedi compared employment discrimination legislation in South Africa and its

comparison to American law in its treatment of religious autonomy, while Professor Ruth Colker discussed the shortcomings in existing special education law. Professor Vicki Schultz's piece, *Reaffirming Affirmative Action*, will appear in the Boston University Law Review Annex. Professor Khiara M. Bridges offered commentary.

*Reception Address: "Now We Must Cross a Sea": Remarks on Transformational Leadership and the Civil Rights Movement*

Boston University School of Theology Professor Walter Fluker delivered a reception address to our Symposium. Remarking upon the Civil Rights Movement leaders who advocated for the protections embodied in existing antidiscrimination legislation, Professor Fluker looked ahead to what remains to be done in order to achieve greater justice as a society.

*Closing Keynote Address, EEOC Commissioner Chai Feldblum: Gender Equity: 50 Years After the Passage of the Civil Rights Act of 1964*

While many believe that "sex" was added to the Civil Rights Act solely as a means of jeopardizing the bill's passage, in reality the addition of the sex discrimination prohibition followed decades of debate on the issue of gender equity in the context of a proposed Equal Rights Amendment. Nevertheless, neither the country nor the EEOC, the agency responsible for enforcing the sex discrimination prohibition, was initially prepared for the radical changes in the workplace that such a provision would necessarily entail. In her address, viewable on the Symposium's website, EEOC Commissioner Chai Feldblum traced the developments in the understanding of the sex discrimination prohibition over the past fifty years, leading up to various cutting edge issues affecting gender equity today, including pay disparity, pregnancy discrimination, and coverage of lesbian, gay, bisexual and transgender people.

The *Boston University Law Review* is honored to publish the excellent pieces these professors have prepared. We are grateful to all of the participants in the Symposium, including our own Boston University professors. We also greatly appreciate Dean Maureen O'Rourke's support of the *Law Review* and the annual symposium. We thank Professor James Fleming, *Law Review* faculty advisor, for his continuous guidance and assistance. Thanks especially to Professor Linda McClain, the Symposium's organizer, who was incredibly helpful in this issue's publication. This special symposium issue would not be possible without the hard work of our dedicated *Law Review* editorial board and staff.

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