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2016]

ESSAYS IN HONOR OF DR. MARTIN LUTHER KING, JR.

RUTH GORDON*

I must congratulate my colleague, Michelle Dempsey, for her brilliant idea to honor the sixtieth anniversary of the *Villanova Law Review* through reflections by Villanova Law Faculty on pioneering *Law Review* articles. It is both an honor for the *Law Review* and an acknowledgement of the talents of my esteemed colleagues. Still, when asked to be part of this endeavor, I paused; indeed I believe I initially misunderstood the assignment. I began to ponder my personal engagement with the *Law Review*, although I believe Professor Dempsey had a much broader project in mind. Nonetheless, my initial misunderstanding led to the subject of this Essay, the legacy of Dr. Martin Luther King, Jr.

I have only published in the *Law Review* once: a foreword to a symposium that explored the intersection between critical race theory and international law.¹ The conference was my brainchild and very successful, as it brought brilliant scholars to the law school and resulted in publication of groundbreaking papers that have had an impact on critical race theory and international law.² Eventually, my second major encounter with the *Law Review* also came to mind, a Festschrift to honor my colleague John F. Murphy.³ However, that volume represents Professor Murphy's rich intellectual legacy,⁴ and I thought that for this occasion, perhaps I would try to find my own. After more thought in this vein, I finally realized that I

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1. See Ruth Gordon, Foreword, *Critical Race Theory and International Law: Convergence and Divergence*, 45 VILL. L. REV. 827 (2000). This connection, or lack thereof, seemed to be one that was well worth exploring to an internationalist who is also very interested in exploring critical race perspectives.

2. See, e.g., *id.*; Penelope E. Andrews, *Making Room for Critical Race Theory in International Law: Some Practical Pointers*, 45 VILL. L. REV. 855 (2000); Antony Anghie, *Civilization and Commerce: The Concept of Governance in Historical Perspective*, 45 VILL. L. REV. 887 (2000); Keith Aoki, *Space Invaders: Critical Geography, the "Third World" in International Law and Critical Race Theory*, 45 VILL. L. REV. 913 (2000); Nathaniel Berman, *Shadows: Du Bois and the Colonial Prospect, 1925*, 45 VILL. L. REV. 959 (2000); James Thuo Gathii, *Retelling Good Governance Narratives on Africa's Economic and Political Predicaments: Continuities and Discontinuities in Legal Outcomes Between Markets and States*, 45 VILL. L. REV. 971 (2000); Makau Mutua, *Critical Race Theory and International Law: The View of an Insider-Outsider*, 45 VILL. L. REV. 841 (2000).

3. The idea for a Festschrift came from my Dean, John Gotanda; as is customary, Professor Murphy suggested the participants. Nonetheless, I played a major role in organizing the event while the editors of the *Law Review* did the hard work of actually publishing the articles.

4. See generally Norman J. Shachoy Symposium, *Tributes to Professor John F. Murphy*, 56 VILL. L. REV. 395 (2011).

wanted to examine the *Law Review's* depiction of America's racial dilemma through its publication of a series of essays in honor of Dr. King.⁵

In 1997, I became the first African-American⁶ to obtain tenure at what was then Villanova University School of Law,⁷ and I supposed that my work included engaging the profound lack of what is now termed *diversity* at Villanova Law.⁸ Part of this commitment included addressing the paucity of Black voices on the *Law Review*, as well as utilizing its often quite brilliant members to amplify and address the absence of this important influence.⁹ Thus, my initial misunderstanding of the assignment led me to my most enduring legacy to the *Villanova Law Review*: the brilliant amplification of marginalized voices found in a series of lectures in honor of the brilliance of Dr. Martin Luther King, Jr. and published in the pages of the *Villanova Law Review*. While the series had humble beginnings and unfolded over time, reading these essays to write this critique has not only been a pure delight, but it also helped me realize that individually they are excellent essays, while collectively they are really exceptional and a tradition of which the *Villanova Law Review* can be very proud.

I must admit that I did not begin curating these addresses with a lecture series in mind. Rather, the idea of a series unfolded over time and it was only after the first few years that I became more purposeful regarding publication, where I had several goals in mind. Some were particular to the *Law Review* itself, while others were in pursuit of keenly exploring the

5. Of course, the papers examined in this Essay are not a full representation of race within the pages of the *Law Review*, although collectively, I believe they are among the most significant. In 2005, the *Villanova Law Review* published papers presented at the Ninth Annual LatCrit Conference. See Charles R. Venator Santiago, *Countering Kulturkampf Politics Through Critique and Justice Pedagogy*, 50 VILL. L. REV. 749 (2005).

6. And the fifth woman of any race.

7. Villanova University School of Law is now the Villanova University Charles Widger School of Law.

8. When Villanova hired me in 1990, there was a great emphasis on the paucity of African-Americans, and especially African-American women, in the legal academy. A groundbreaking series of articles by African-American women published in the *Berkeley Women's Law Journal* documented this deficiency and its impact on the psyches of these brave pioneers. See 6 BERKELEY WOMEN'S L.J. 1-181 (1990). I participated in the twentieth-anniversary celebration of this landmark issue and wrote an essay inspired by these groundbreaking essays and experiences, as well as my personal account of a novice Black woman professor in legal academia. See Ruth Gordon, *On Community in the Midst of Hierarchy (and Hierarchy in the Midst of Community)*, in PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA 331 (Gabriella Gutiérrez y Muhs et al., eds., 2012) [hereinafter PRESUMED INCOMPETENT]. That we would still be wringing our hands twenty years later is a testament to the extraordinary power of race and gender. See *id.*

9. While the *Law Review* admits members using blind evaluations, the *Law Review* has had few Black members during my twenty-five years at Villanova. Further, several persons of color who were members have conveyed to me that it seemed to be difficult to rise within its ranks. This is true even if we broaden the category to people of color.

legacy of Dr. King and interrogating social justice in contemporary America. Part I of this Essay examines this history, explaining how the lectures came to be and how the *Law Review* came to publish them.¹⁰ Part II turns to some general comments about the lectures themselves, which explore a broad range of topics, including specific actions undertaken by Dr. King, as well as the position of both modern Black America and America in general.¹¹ Finally, Part III concludes with the effect reading these lectures in 2015 to 2016 had on me personally.¹² Racial relations in America seemed to be deteriorating around me and appeared to reach yet another low point. Admittedly, I cannot say they are at their lowest point, given America's unfortunate racial history, but this is most certainly another decisive moment in America's long racial torment and a new chapter in its disregard of the poor and disenfranchised.

I. HUMBLE BEGINNINGS

In 2000, perhaps unsurprisingly, then Villanova Law School Dean Mark Sargent appointed me to a newly formed committee that included staff, students, and faculty. Our charge was to organize activities during the week in January when the nation honors the Reverend Dr. Martin Luther King, Jr.¹³ From the outset, one activity, which in retrospect turned out to be permanent, was a formal lecture delivered by a prominent African-American. As the only tenured professor on the MLK Committee, who naturally knew many potential lecturers, I volunteered to find a speaker. I did not realize we were commencing a "lecture series," nor did I anticipate the longevity of that series.¹⁴ Yet, if I had known it would be a succession of lectures and lecturers, I trust I could have predicted just how outstanding it would ultimately be. Yet, perhaps I am getting ahead of myself.

As what began as an ad hoc committee morphed into the MLK Committee and progressed to a state of semi-permanence, my primary task be-

10. For more information on the history of the *Law Review's* MLK lecture series, see *infra* notes 13–21 and accompanying text.

11. For commentary on the lecture series, see *infra* notes 22–84 and accompanying text.

12. For a reaction to the lectures, see *infra* notes 86–127 and accompanying text.

13. On the third Monday of each January, most of the nation celebrates and honors Dr. King, who was born on January 15, 1929 in Atlanta, Georgia. On November 2, 1983, President Ronald Reagan signed the bill that created a federal holiday in Dr. King's honor that was observed for the first time on January 20, 1986. One consistent MLK Committee activity was a panel that discussed issues determined by the MLK Committee, which usually came from the student members of the Committee. We strove to include a wide variety of speakers and topics. We also, *inter alia*, showed films, had community dinners, and coalesced on and publicized activities taking place on Villanova's main campus.

14. During my tenure, there were fifteen lectures, and ten were published. Initially, we did not foresee that this would be a yearly event for almost fifteen years.

came obtaining an annual speaker, and I soon had at least three purposes in mind. The first focused on the *Law Review* itself. Knowing the caliber of the lecturers I intended to invite, I believed publishing their remarks could raise the profile of the *Law Review*, expose our students to top-notch scholars, and in turn allow those scholars to work with our best and brightest students. The second goal was to broaden the audience for what soon became known as the Annual Martin Luther King, Jr. Lecture. Publication meant members of the *Law Review* would attend the lectures and have a representative on the MLK Committee. Finally, and perhaps most importantly, I wanted to explore the rich intellectual legacy of Dr. King through lectures that would elicit careful reflections on Dr. King, the nature of contemporary America, and, more particularly, the position of modern Black America. Publication made this objective more palpable than lecturing alone, and there was the added bonus of preserving these ruminations for posterity.

A. *Raising the Profile of the Villanova Law Review*

Law professors tend to publish in the most prestigious journals that will accept their work; unfortunately, legal academia tends to link prestige to law school rankings. Thus, almost all professors would prefer to publish in the law reviews of Harvard, Yale, Columbia, New York University, or any of the other top-ranked law schools.¹⁵ Moreover, professors at these schools tend to publish at equally ranked schools if possible, making for a rather cozy club, where some scholars will not even consider publishing at schools outside this small cluster.¹⁶ Still, all law reviews would like to attract this talent, and an enduring method for doing so is through such mechanisms as hosting symposia or lecture series.¹⁷ If a law review can attract top academic talent for such proceedings, it means those scholars will publish in their law review.¹⁸

Some of the finest scholars in legal academia, teaching at some of the top law schools in America, accepted my invitation to deliver a Martin Luther King Lecture, and most published their remarks in the *Villanova Law*

15. Such placements are especially valuable to a faculty member seeking tenure or one who would like to teach at a higher-ranked law school than the one where he or she currently teaches.

16. Indeed, some suggest that if we somehow had blind readings—that is, law review editors did not know who wrote a particular submission as they were deciding on publication—it would make for a fairer process.

17. Taking part in a symposium in your area of expertise allows for an in-depth exchange of ideas and an opportunity to commune and converse with other scholars in your field of research. They are also attractive to academics, as having their papers published with other papers on that topic makes it more likely their work will turn up in search results.

18. Villanova Law's Giannella Lecture serves a comparable function. Each year the Law School invites leading legal philosophers to deliver an address focused on legal and political philosophy, and the remarks are published in the *Villanova Law Review*. The MLK Lectures have served a similar purpose.

Review.¹⁹ Of course, this meant Villanova Law students benefitted from an opportunity to work with brilliant academics. Conversely, it exposed prominent U.S. scholars to our best and brightest students; it is my understanding that most were quite impressed (which is not at all surprising).

B. *Broadening the Audience for MLK Lectures*

An added bonus of *Law Review* publication was *Law Review* involvement in MLK week activities.²⁰ This input broadened the focus of an evolving MLK Committee and of a program that continuously evolved, improved, and matured as the world and the student body around it changed and progressed. *Law Review* publication meant having a member of the *Law Review* on the MLK Committee, and this individual consistently added a diverse, energetic, and often insightful voice to the Committee's deliberations. As the MLK Committee grew to include varied student voices, having a member of the *Law Review* on the Committee invariably was a welcome addition. This would not have transpired without publishing the MLK Lectures, and it significantly augmented our joint planning efforts for the entire week of activities.

Law Review publication, which also meant *Law Review* attendance, expanded the audience for MLK lectures, and perhaps other MLK activities. This, in turn, exposed *Law Review* students to speakers they might have otherwise overlooked. Members of the *Law Review* must attend lectures that the *Law Review* intends to publish, and this particular obligation had several benefits. It meant a larger turnout for the lectures (which the MLK Committee certainly appreciated) and perhaps much more importantly, it meant a *broader* audience. Often one sees the same faces at lectures about race, while other members of the law school community are almost never present. Many frequent attendees, however, are already supporters who are aware of and care about racial issues; in other words, it means one is often "preaching to the choir," so to speak. Yet publication meant members of the *Villanova Law Review* had to attend as part of their *Law Review* commitment, which in turn meant a wider audience, even if it was not voluntary.

While some of these students undoubtedly would have attended in any case, it is highly unlikely that this is true for all members of the *Law Review*. It may seem unkind to be gratified that we forced students to attend, and hopefully listen to, lectures they might have otherwise missed. Nevertheless, I am actually very pleased, for they were rarely disappointed. Almost without exception, these were exceptional lectures delivered by

19. All of our lecturers have been leading thinkers on issues of race and social justice. Some teach at top-ten schools, including Professors Angela Harris (University of California at Berkeley), James Forman, Jr. (Yale Law School), and Trina Jones (Duke University Law School).

20. Over the years, activities included community dinners, films, panels, community service activities, and coordination with the many activities at Villanova University.

gifted lecturers, and I could tell by the reaction in the room that they did not disappoint. I sincerely hope that at least some, if not most, students were intellectually stimulated and intrigued by new and surprising ideas; that they learned something profound; that they left feeling a bit more contemplative, which of course was the objective. I do know that this is what seemed to happen; which would not be a surprising consequence when the best and the brightest ponder the best and the brightest.

For me, this was all quite predictable, as I knew many of the scholars who accepted our invitation and that, when they stepped up to the podium, we most likely were in for a treat. Not only were the very best addressing us, but what they spoke of—the state of Black and poor America—was compelling. Having members of the *Law Review* in the audience meant the best minds were considering and interrogating this condition. Dread at having to come to a lecture usually turned to appreciation.²¹ Obviously, I cannot speak for everyone, but I observed this scenario often enough that I can speak generally and with confidence. Like the essays, the lectures themselves were informative, and the speakers were usually engaging.

II. THE LECTURES

A. Introduction: Themes and Insights

As I perused the essays, several observations materialized almost immediately. First, it was a journey through recent history, recalling mostly forgotten undertakings, such as “Occupy Wall Street,”²² as well as unforgettable disasters, such as the catastrophe that followed in the wake of Hurricane Katrina.²³ There were then-current controversies, such as Bill Cosby’s derogatory comments about low-income and working class African-Americans, which have a different nuance and meaning in the wake of intervening events.²⁴ Moreover, as always, the benefit of hindsight augments this historical journey; that is, we know the outcome and the aftermath. Accordingly, unlike the writers, we know that Occupy Wall Street would fade, although it might live on in the fierce contemporary debates regarding economic inequality.²⁵ Bill Cosby, discussed in the essay by Pro-

21. Indeed, it was sometimes rather amusing to watch faces change from, “Damn, I wish I did not have to be here,” to “Wow, this actually is not so boring and is really kind of interesting.”

22. See generally Trina Jones, *Occupying America: Dr. Martin Luther King, Jr., the American Dream, and the Challenge of Socio-Economic Inequality*, 57 VILL. L. REV. 339 (2012).

23. See generally Wendy B. Scott, *From an Act of God to the Failure of Man: Hurricane Katrina and the Economic Recovery of New Orleans*, 51 VILL. L. REV. 581 (2006).

24. See James Forman, Jr., *From Martin Luther King to Bill Cosby: Race and Class in the Twenty-First Century*, 50 VILL. L. REV. 213, 214 (2005).

25. During my tenure, there were fifteen lectures and ten were published. Initially, we did not foresee that this would be a yearly event for almost fifteen years.

essor Forman, has been disgraced, as numerous women have come forward to expose him as a sexual predator. Yet in 2005 he not only commanded an audience, but was able to comment on Black folks in such a way that he was taken seriously and would be the subject of an essay by a professor as esteemed as Professor Forman. Ten years later, we know that Hurricane Katrina would not only rob Professor Scott of her home,²⁶ but would also mean the permanent demise of Black New Orleans.

The second discovery was that many of these essays are linked, even if only indirectly. One might expect that any such linkage would be due to their association with the life of Dr. King. Yet the papers that are most directly about Dr. King, studying him as an international human rights leader and as a man of the cloth, are also the least related to the other essays.²⁷ These papers proved the exception, however, for there are several recurring themes in many of the other lectures, including one subject that arises directly from the first published essay: a devastating critique of segregation in America, with a particular emphasis on the segregation of Black Americans.²⁸

It is hardly surprising that segregation would be so central to the many problems plaguing Black America. American Apartheid is at the core of our discontent and demonstrates the persistence of many of the racial problems currently troubling our nation and highlighted in some of the MLK lectures. For instance, housing segregation means school segregation and thus, as observed by Professor Banks, *Brown v. Board of Education*²⁹ has largely been a failure.³⁰ We could not have lost *Black New Orleans*, as chronicled by Professor Scott, without housing segregation, for there would have been no *Black New Orleans*.

Intimately connected to and exacerbated by segregation is Professor Cashin's second major concern, the tenacity of poverty, an issue that was also of acute concern to Dr. King. In the face of a rising inequality that nowadays deeply affects most Americans, poverty is a concern that reso-

26. See Scott, *supra* note 23, at 582–83.

27. Professor Henry Richardson III considers Dr. King as an international human rights leader who won the Nobel Peace Prize and spoke out against the war in Vietnam. See Henry J. Richardson, III, *Dr. Martin Luther King, Jr. as an International Human Rights Leader*, 52 VILL. L. REV. 471 (2007). Professor Reverend Reginald Whitt examines the Black church in America through the lens of Dr. King and the civil rights movement. See D.R. Whitt, “*With Righteousness in His Suitcase*”: *Reflections on the Ministry of Dr. Martin Luther King, Jr.*, 54 VILL. L. REV. 421 (2009). Of course, even these papers touch upon topics examined by other writers. Reverend Whitt examines the Black church, while Professor Scott discusses her faith as a mechanism to help survive the horrors of Hurricane Katrina. See Scott, *supra* note 23, at 582–83.

28. See Sheryll D. Cashin, *Drifting Apart: How Wealth and Race Segregation Are Reshaping the American Dream*, 47 VILL. L. REV. 595 (2002).

29. 347 U.S. 483 (1954).

30. See Taunya Lovell Banks, *The Unfinished Journey—Education, Equality, and Martin Luther King, Jr. Revisited*, 58 VILL. L. REV. 471 (2013); see also Cashin, *supra* note 28, at 598–604; Scott, *supra* note 23, at 588–92.

nates strongly today, and other essays touch upon this condition, even if obliquely. Thus the tax inequities examined by Professor Robinson are rooted in the problems of the poor, while Professor Forman's meditations on Bill Cosby very much entail Cosby's attitude towards poor and working-class Black people.

Finally, it was not until I began this project that I realized that, although I had attended all but one lecture, I had not actually read most of the essays. Initially, I was a bit regretful and contrite, but ultimately I was pleased, for it allowed me to read the series in its entirety, which I believe was more gratifying than reading them synchronously, but ultimately in isolation. This rapidly led to my third and final conclusion—just how outstanding these essays truly are. From the beginning, I wanted the MLK lectures to explore the rich intellectual legacy of Dr. King from a varied but distinctly scholarly perspective. Thus, I consciously sought scholars who would deliver erudite lectures that they would publish in the *Villanova Law Review*, and I am certain that it was only the opportunity to publish that allowed me to fulfill this goal. The promise of publication narrowed our field of speakers and elicited ruminations that were more considered and thoughtful. In other words, the *Villanova Law Review* was an indispensable part of the success of this series.

B. *Pondering Dr. King*

The essay that most directly discusses Dr. King's work is the 2007 essay, *Dr. Martin Luther King, Jr. as an International Human Rights Leader*, where renowned international legal scholar Professor Henry Richardson III makes a persuasive case for viewing Dr. King as an international human rights leader.³¹ Dr. King was a recipient of the Nobel Peace Prize and based his tactics to confront U.S. racism on the teachings of Indian human rights leader Mahatma Gandhi. Nevertheless, these particular international connections are common knowledge. Professor Richardson goes much further, locating Dr. King within a long tradition of internationalism in the African-American struggle for human rights.³²

He begins his essay by briefly tracing this tradition where Black organizations and leaders, such as W.E.B. DuBois and A. Philip Randolph, took the Black-American struggle for human rights to the international stage.³³ Focusing on Dr. King's historic speech at Riverside Church, where he con-

31. See generally Richardson, *supra* note 27.

32. See *id.* at 472–73.

33. Professor Richardson demonstrates that the Black movement for civil rights has always been an international struggle that is part of the larger campaign for international human rights; indeed, Dr. W.E.B. DuBois, Martin Delaney, and Dr. King relied on international human rights norms. For instance, Dr. DuBois cited the United Nations (UN) Charter and testified at the UN conference in San Francisco, where signatory nations negotiated and signed the Charter. He spoke on behalf of the human rights of Black Americans who at the time were living under Jim Crow, terrorism, and widespread, persistent, and unfathomable racism. Indeed, it was segregated Armed Forces that fought the Second World War. The

demned the American war in Vietnam and urged U.S. withdrawal, Professor Richardson demonstrates that Dr. King not only personified, but also went beyond this tradition. The Vietnam War deeply divided the American people and triggered widespread, frequent demonstrations; yet, condemning the Vietnam War was groundbreaking. Many urged Dr. King to stick to the Negro struggle for civil rights and keep out of international affairs of any kind.³⁴ These admonitions from both Black and white allies were part of a long tradition to deny Black Americans any voice in international affairs, a mindset that persists to the present day and which Professor Richardson notes in his essay.³⁵ Finally, Professor Richardson brings Dr. King forward to the present and attempts to surmise how Dr. King would approach our current international conundrum, the war on terrorism and terrorism more generally.³⁶

In his 2009 essay, “*With Righteousness in His Suitcase*”: *Reflections on the Ministry of Dr. Martin Luther King, Jr.*,³⁷ Reverend Reginald Whitt explores Dr. King as a man of the cloth, a station that resonated throughout both his work and the civil rights movement more generally; certainly, religion continues to figure prominently in Black culture.³⁸ Reverend Whitt began his essay with a 1956 gospel-laden letter sent by Reverend Marcus Wood, a Black Baptist minister, to Dr. King during the Montgomery boycott. Dr. King knew this gospel well, for he had very deep roots in a strong Black Church created in the African tradition. He began to question his resolve to continue when he was justifiably frightened as his home was bombed, he received threatening letters, and he was arrested. Dr. King found his courage, his strength, and his will to persevere in God. This was a God he had long been intimate with, for Dr. King “had grown up in the Black Church,”³⁹ and like many Black Americans, his life was rooted in that church.⁴⁰ Indeed, Professor Scott notes that this is where she found her

U.S. government denied a passport to Paul Robeson to prevent him from bringing the conditions under which Black Americans lived to the wider world.

34. I noticed this in my own career. For example, after expressing surprise that I study international law rather than poverty or civil rights law, the next assumption is I must write about human rights, a topic I actually have not studied.

35. See Richardson, *supra* note 27, at 471–73.

36. Professor Richardson contends that Dr. King would take a radically different approach to the War on Terror. As for terrorists, he believes Dr. King would abjure their tactics, but try to discern their motives. See Richardson, *supra* note 27, at 481.

37. See generally Whitt, *supra* note 27.

38. Professor Scott recalls her reliance on her faith as she confronted the ravages and aftermath of Hurricane Katrina. See Scott, *supra* note 23, at 582–83.

39. See Whitt, *supra* note 27, at 431. Dr. Whitt, a Catholic priest, also observes that the Black church is a broad church that may have begun with primarily Methodist and Baptist congregations, but expanded to embrace Catholicism. See *id.* at 430. Dr. King was “the son of a preacher, the grandson of a preacher, the great-grandson of a preacher, the only brother of a preacher, and he himself had been ordained a preacher before he had even finished college[.]” *Id.* at 431.

40. Thus, the terrorist who sought to murder Black Americans for being Black went to a Black Church to find his victims; he knew he would find them

strength and salvation in the aftermath of losing her home in Hurricane Katrina.⁴¹

Reverend Whitt's essay explores the Black community's relationship to religion, beginning with its expression in African culture and in slavery, where it was the only place slaves had some measure of freedom and was the only institution to emerge intact from this circumscribed world.⁴² As Reverend Whitt documents, the Black Church remains at the heart of Black culture. Naturally, many of the important institutions that waged the struggle for Black freedom emerged from this Church.⁴³ The Church is by definition a collective, and Reverend Whitt observes that America does not judge African-Americans as individuals, but as a group.⁴⁴ Accordingly, the Black struggle for freedom has been communal.

there and that he would be welcomed. Unfortunately, on this very sad front, he was correct. For a further discussion of the events at Emanuel AME Church, see *infra* notes 123-25 and accompanying text.

41. See Scott, *supra* note 23, at 582–83.

42. See Whitt, *supra* note 27, at 431. He also notes that the church was one of the few institutions slaves shared with the slaveholder and was the purview through which slaves could judge the slaveholder.

43. This includes the National Association for the Advancement of Colored People (NAACP) and the National Urban League. See *id.* at 429. Professor Jones concludes that part of the reason there was such a paucity of Black voices in the Occupy Wall Street Movement (OWS) may be that its leaders did not lodge OWS in the Black church. See Jones, *supra* note 22, at 350–51. It will be interesting to observe if this connection to the Black church continues as technology plays a larger role in organizing tactics. For example, the “Black Lives Matter” movement seems to have more organic, self-standing characteristics than previous movements.

44. The discussion regarding Muslim Americans in the waning months of 2015 indicates that America imposes this perspective upon most outsider groups in America, especially if they are non-white. Thus, Muslim Americans must stridently denounce the actions of a group, ISIS, whose ties to Islam appear to be tenuous at best. The very bad and horrible acts of a few are generalized and applied to the whole—something African-Americans are very familiar with, but it is likely invisible to most white Americans. An example might help illustrate this reality. A couple in San Bernardino, California murdered fourteen people at a Christmas party on December 2, 2015, and injured twenty-one more. First, there was a pause to first determine if terrorism (meaning foreign or concerning people of color) was involved. That is, it first had to be ascertained if this incident was more than the usual random mass shooting commonly perpetrated by white males that seem to take place in America on an almost daily basis. See Ritchie King, Carl Bialik & Andrew Flowers, *Mass Shootings Have Become More Common in the U.S.*, FIVETHIRTYEIGHT, Dec. 2, 2015, <http://fivethirtyeight.com/features/mass-shootings-have-become-more-common-in-the-u-s/> [<https://perma.cc/V56D-9XT7>]; see also Berkowitz et al., *The Math of Mass Shootings*, WASH. POST, Feb. 26, 2016, <https://www.washingtonpost.com/graphics/national/mass-shootings-in-america/> [<https://perma.cc/9ZY5-52QT>]. Until we knew which it was, Americans were not sure whether or how to be afraid, nor who, whether, and how to condemn these horrific acts. It was a fascinating spectacle. Once the nation could deem it “terrorism,” we could have a discussion and then condemn terrorism. Of course, previously, a Christian-inspired shooting by a white man resulted in the deaths of nine people and the wounding of one more. See Lizette Alvarez & Alan Blinder, *Recalling Nine Spiritual Mentors, Gunned Down During Night of Devotion*, N.Y. TIMES,

C. *Connecting Some of the Dots*

As I thought about planning this project—meaning how to organize my thoughts and structure my reading—I considered starting at the beginning with the 2002 lecture on segregation by Professor Sheryll D. Cashin.⁴⁵ I could then simply read my way to the final address on my watch, the 2013 lecture by Professor Tauyna Lovell Banks on the failure of *Brown v. Board of Education*. At that lecture, I announced my retirement from this endeavor, for after fourteen years, it seemed time for new blood and new ideas; it was the end of my era.⁴⁶ As I thumbed through the essays, however, I could not resist beginning with a lecture that I vividly recalled, the 2006 address by my colleague, friend, and former New York University School of Law classmate and roommate Professor Wendy Brown

June 19, 2015, at A17, *available at* <http://www.nytimes.com/2015/06/19/us/nine-victims-of-charleston-church-shooting-remembered.html> [<https://perma.cc/R2DM-68BD>]. No one called on Christians to condemn these murders, nor were white men held responsible as a group. White people who commit such acts are outliers or mentally ill or somehow to be forgiven, in a sense. They most certainly do not represent all white people or all Christians. People of color and non-Christians, however, face a very different reality.

45. *See generally* Cashin, *supra* note 28. Professor Cashin delivered the first published MLK Lecture in 2002, and her essay subsequently became part of her book, *THE FAILURES OF INTEGRATION: HOW RACE AND CLASS ARE UNDERMINING THE AMERICAN DREAM* (2004) [hereinafter CASHIN, *FAILURES OF INTEGRATION*]. Unfortunately, several authors did not publish their lectures, and thus their reflections have been lost to history. They include the January 2001 lecture by Villanova Professor Larry Little, “14th Amendment, Civil Rights and the Law”; an unrecovered lecture by the late Jerome Culp; and a 2004 lecture by activist and community organizer Jaribu Hill, a memorable and extraordinarily dynamic speaker. Finally in 2008, days after the inauguration of Barack Obama, America’s first African-American president, noted voting rights scholar Terry Smith delivered an address entitled *Triangulating Black Politics: The Supreme Court, Black Conservatism, and the Obama Effect*. This address later became a chapter in his book, *BARACK OBAMA, POST-RACIALISM, AND THE NEW POLITICS OF TRIANGULATION* (2012).

46. It seemed I was correct, for the 2014 lecture by Professor Mildred Wigfall Robinson on how the poor fare under U.S. tax laws was one of the most interesting and informative talks of the series, thus proving that the lecture series can and will live on. Several other developments, however, led to my resignation. The MLK lecture series is now sponsored by Pepper Hamilton, LLP, which consistently sends representatives to both attend and support the lecture series; support that is very much appreciated. With a law firm name attached to it, however, the MLK lecture now appears to be an endowed lecture, but there are actually no funds to pay lecturers. While many had come for no or very little pay, once it appeared to be an endowed lecture series, more presenters began to expect payment and there were no longer funds for this purpose. Moreover, by this point, the law school had disbanded the MLK Committee, which was subsumed by the Inclusiveness Commission (now termed the Inclusiveness Committee), which at one point was itself almost abolished. Perhaps unwittingly, the law school had dismantled a well-oiled machine and organizing the week’s activities became increasingly challenging. Of course, priorities and philosophies change and evolve. After almost fifteen years, it is hardly surprising that the significance of MLK activities would change also.

Scott.⁴⁷ She spoke of the unmitigated personal and public disaster that unfolded in New Orleans in the wake of Hurricane Katrina, which she reminded us was a disaster of man, rather than nature. It was a great choice for many reasons, not the least of which was that the country was about to observe the tenth anniversary of this catastrophe.⁴⁸ The staggering images of this debacle were once again before us in all of their awfulness, and again we were appalled.⁴⁹

1. *The Essence of Our Collective Distress*

Professor Scott began her essay by articulating her faith in God, including how the destruction wrought by Katrina strengthened, rather than weakened, this faith.⁵⁰ She then described fleeing New Orleans with her family before the storm struck, levees broke, and floodwaters inundated the city; she lost everything in the devastating deluge that followed. I still recall the superb lecture, the riveting photographs, and her audience sitting in stunned silence, myself included. For me there was an added layer, for I personally remembered Professor Scott's home in better times, and thus seeing the destruction was especially poignant. I could recall our last visit in that house when we broke bread, ate fish (from a restaurant that no longer exists), and cooed over her then-new baby boy. As I wept, I realized my memories took place in a space that no longer existed and never would again. Amazingly, Professor Scott was one of the lucky ones who could and did flee before the storm actually struck. Men with guns did not block her evacuation from the city, nor did she have to shelter in the infamous New Orleans Superdome.⁵¹ Professor Brown also had insurance and

47. See generally Scott, *supra* note 23. Of course, she was simply Wendy Brown back then and is now Dean Wendy Brown Scott of the Mississippi College School of Law.

48. See, e.g., *Hurricane Katrina: 10 Years Later*, CNN, <http://www.cnn.com/specials/us/hurricane-katrina> [https://perma.cc/25SR-ABM8] (last visited Sept. 6, 2016); *Hurricane Katrina*, NOLA.COM, <http://www.nola.com/katrina/#/0> [https://perma.cc/Y7Q4-8ASD] (last visited Sept. 6, 2016).

49. See, e.g., *Hurricane Katrina: 10 years later*, CNN, <http://www.cnn.com/specials/us/hurricane-katrina> [https://perma.cc/A9XE-GX74] (last visited Sept. 6, 2016); see also *The 10th Anniversary of Hurricane Katrina*, NEW ORLEANS OFFICIAL GUIDE, <http://www.neworleansonline.com/news/2015/Aug/katrina-ten.html> [https://perma.cc/CJ7F-6CCP] (last visited Sept. 6, 2016).

50. As previously noted, Dr. King was a man of the cloth, and his struggle for civil rights was rooted in faith, a theme explored in some depth by Professor Reginald Whitt in 2008. See generally Whitt, *supra* note 27. This trust and reliance upon faith is common in the Black community.

51. The New Orleans Superdome became a place of horrors in the aftermath of Hurricane Katrina. The city flooded, many lacked funds to escape before the fact, thus stranding thousands in the Superdome, a sports stadium with insufficient services, sanitation, food, and assistance. The nation watched in revulsion as these horrors unfolded on a daily basis on television screens across the nation. For a more detailed account, see Ruth Gordon, *Katrina, Race, Refugees and Images of the Third World*, in *HURRICANE KATRINA: AMERICA'S UNNATURAL DISASTER* 226, 226 (Jeremy I. Levitt & Matthew C. Whitaker eds., 2009).

knew how to fight her way through the regulatory maze that was to follow. Still, she and her family never returned to New Orleans—that phase of her life was over.

I began with Professor Scott's essay for both personal reasons and because it was a topic I had previously written about, albeit from a different perspective.⁵² Ultimately, however, it proved to be a good springboard for other lectures in the series, for it epitomized the collective distress of the Black community at a time of great sorrow and distress, where its worth to the United States of America was witnessed by the entire world, which may have been disturbed at its treatment of its citizens. African-Americans, however, were distressed but perhaps not completely shocked; still it was horrifying, and we experienced a pain and anguish that persists to this day.

a. Segregation

Professor Scott wrote not only of losing her own home, but also of the loss of Black New Orleans, a demise rooted in the deep-seated poverty and segregation that defines America.⁵³ The acute segregation of Black Americans is the subject of the first published Martin Luther King Jr. essay. Professor Sheryll D. Cashin explores the persistence of widespread racial segregation and describes in detail the pervasive Balkanization of America by both race and class.⁵⁴ Professor Cashin examines how profoundly America is segregated by race and income, with racial integration proceeding “at a glacial pace” and segregation persisting in the large metropolitan areas of the Midwest and Northeast; further, to the extent there is change, it is in high-growth areas with few African-Americans.⁵⁵ So why has segregation persisted? Cashin postulates two theories—beginning with “garden variety, rank discrimination,” where a Black person who attempts to buy or rent a home has a 50% chance of being discriminated against.⁵⁶ If he or she uses at least three agents, the odds of discrimination increase to 90%.⁵⁷ The second theory is the personal preferences of the American people, where majorities in all races state, “they do not mind integration, so long as their own racial group is in the majority”; it seems “no racial group wants to be vastly outnumbered by other races.”⁵⁸ Nonetheless,

52. *See id.*

53. *See generally* Scott, *supra* note 23.

54. *See generally* Cashin, *supra* note 28. Professor Cashin went on to publish a book on the subject. *See* CASHIN, FAILURES OF INTEGRATION, *supra* note 45. I ran into Professor Cashin at a professional conference in January 2016 and told her about this Essay and that I was highlighting her lecture. She informed me that not much had changed at all.

55. *See* Cashin, *supra* note 28, at 596–97. Indeed, I feel this constantly, as it is painfully obvious that we are unwelcome or only welcome as long as there are not too many of us.

56. *See id.* at 599.

57. *See id.*

58. *See id.*

“there is a consistent strain of antipathy on the part of whites, Latinos, and Asians toward integrating with Blacks. These groups are highly uncomfortable with majority-Black neighborhoods. African-Americans are the group with which they least prefer integrating.”⁵⁹

Professor Cashin notes that children are the most segregated cluster of all.⁶⁰ This condition is taken up by Professor Taunya Lovell Banks in her cogent analysis of *Brown v. Board of Education*, which examines the decision’s disappointing legacy.⁶¹ Professor Banks met Dr. King in 1959 as a high school student, and she views herself as a product of the *Brown* legacy. Still, in analyzing its legacy, she deems *Brown* a failure in terms of implementing the decision’s mandate of “racially integrated, equally resourced public schools.”⁶² The essay builds on the hypotheses of segregation and socioeconomic inequality, as the lack of school desegregation is rooted in residential segregation, where it is painfully obvious that white America does not want to live anywhere near a Black America that is often segregated in ghettos currently termed “inner cities.”⁶³ At the heart of the problem is that schools in low-income communities are funded on a degraded tax base.⁶⁴ Intimately connected to this inadequate tax base is the residential segregation of the Black community; racial segregation exacerbates the problems underfunded schools generally face in poor neighborhoods.⁶⁵

b. Class and Poverty

While poverty is intimately connected to segregation, it also has a life of its own. Professor James Forman Jr., the son of civil rights icon James Forman,⁶⁶ directly addressed issues of class and race in his essay on Bill Cosby’s rather derogatory comments regarding poor and working-class Black Americans.⁶⁷ It began in May 2004, when Cosby publically stated that the plight of much of Black America was due to the activities and

59. *Id.* at 599–600.

60. *See id.* at 598–99.

61. *See generally* Banks, *supra* note 30.

62. *See id.* at 472.

63. *See id.* at 474.

64. *See id.* at 474–77.

65. *See id.* Segregation is damaging in that it exacerbates and confirms damaging racial stereotypes, although the courts have only struck down de jure segregation. Banks also demonstrates that the damaging effects of segregation go both ways and that integration also benefits whites.

66. James Forman was a civil rights leader, active in the Student Nonviolent Coordinating Committee (SNCC) and briefly with the Black Panther Party. James Forman passed away the week before Professor Forman delivered his lecture in 2005.

67. Professor Forman noted that he is “in every sense, a child of the civil rights movement,” recounting the story of how his parents met as members of SNCC, where James Forman was the organization’s leader. *See* Forman, *supra* note 24, at 213.

actions of “lower economic and lower middle economic people”⁶⁸ As Professor Forman explains, “[t]he heart of Cosby’s argument was that the multiple problems affecting the [B]lack poor are not primarily the result of racial discrimination, structural inequities or state policy, but rather are due to individual and collective behavioral dysfunction in that segment of the [B]lack community.”⁶⁹ This critique struck a nerve and many took it very seriously; thus, Professor Forman believed we should take it seriously as well. He concluded, however, that Cosby’s assessment was at best incomplete. Initially, however, Professor Forman offered a brief historical account of the class schisms prevailing in the Black community, and more particularly the mindset of the Black elite. He demonstrates that upper-class hostility toward the Black underclass was neither novel nor new. He also observes that Cosby’s arguments resonated because they were “consistent with today’s prevailing narrative concerning urban policy, and urban education policy in particular.”⁷⁰ If the failings of Black America are the fault of Black Americans themselves, there is no need for “solutions [to] poverty, crime and educational failure.”⁷¹ Professor Forman then goes on to explain just how partial this critique was and that it fell far short of the kind of analyses we could expect from Dr. King, who was brilliant at demonstrating complexity. Dr. King may have found that while there may be individual responsibility, public obligation was just as crucial.⁷²

Professor Jones directly addressed U.S. socioeconomic inequality in her 2012 examination of the Occupy Wall Street Movement (OWS). Rising economic inequality is widening beyond the Black community to profoundly affect the American white middle class. This demographic is under increasing stress due to wage stagnation, the disappearance of unions and union level wages, outsourcing, automation, and other factors.⁷³

68. *See id.* at 214.

69. *Id.* Cosby stated, “‘*Brown v. Board of Education*’ is no longer the white person’s problem ‘It’s not what they’re doing to us. It’s what we’re not doing.’” Cosby then blamed bad parenting. *See id.*

70. *Id.* at 218.

71. *See id.*

72. *See id.* at 222–25.

73. Professor Jones begins her analysis of the 2012 Occupy Wall Street Movement with the rising income inequality that has characterized the U.S. economy since the late 1960s. It seems that “the tide has not lifted all boats equally.” *See* Jones, *supra* note 22, at 342. Wages for those at the bottom have remained frozen since the early 1970s, while the salaries of those at the top have risen steeply, leading to the concentration of both income and wealth at the top of the economic hierarchy. Professor Jones cites statistical evidence that demonstrates that “the tale of economic prosperity that is so emblematic of the American Dream is for many just that—a dream.” *Id.* It was possible to disguise this stagnation through such economic events as the mortgage boom of the 1990s, where homeowners used their homes as bank accounts, borrowing against rising home values. With the collapse of the mortgage bubble in 2008, this became impossible, and wage stagnation became apparent and painful. *See* Ruth Gordon, *The Dawn of a New, New International Economic Order?*, 72 *LAW & CONTEMP. PROBS.* 131, 154–57 (2009). Professor Jones maintains that it was the absence of a political movement to reverse or cor-

OWS was distinctly white, but failed to attract large numbers of the white working class⁷⁴ or African-Americans,⁷⁵ both of whom are on the bottom of the socioeconomic ladder. She also expounds upon the American discomfort with discussions of class and the belief that America is a classless society.⁷⁶ Still, given the 2016 presidential primaries where at this moment Democratic Senator Bernie Sanders and Republican Donald Trump are surging, perhaps this is changing.⁷⁷

The loss of Black New Orleans transformed an old and very special city and displaced more than 150,000 African-Americans.⁷⁸ Professor Scott not only examines this loss in detail, but also reframes this loss in

rect this alarming trend that directly caused the rise of OWS. *See* Jones, *supra* note 22, at 350.

74. Professor Jones notes that OWS claimed to represent a large cross-section of the country, but participation in the movement was surprisingly low, especially given the broad effects of economic inequality. Several reasons are posited, including that the truly poor were too busy working to protest, and many of the not-so-poor did not join the protest because they did not understand the protests or the protesters. The impression that OWS protestors were “hooligans”—and perhaps not actually representative of the poor, but were merely temporarily disaffected members of the middle-class with economic grievances—may have deterred some. *See* Jones, *supra* note 22, at 345.

75. Professor Jones also examined the almost total absence of Blacks and Latinos within the ranks of OWS activists. While celebrities of color made appearances, the protests exhibited a general lack of diversity. To Professor Jones, this absence was surprising given that Blacks and Latinos have historically endured the most oppressive forms of American economic inequality and OWS used tactics, such as sit-ins and marches, which were long utilized by communities of color. Professor Jones explains this incongruity by establishing that OWS did not reach out to grassroots organizations, such as the NAACP and La Raza, which have been the cornerstones of Black and Latino protests. In addition, OWS’s inability or unwillingness to couch its protests in terms that explicitly captured the racial elements of today’s economic reality for communities of color left the people in those communities without a way to moor themselves to the protests. Without such an anchor, Blacks and Latinos were left to wonder why it took whites so long to realize what they have known about American life for centuries. *See id.* at 347–52.

76. Among potential explanations posited by Professor Jones for the lack of broader OWS mobilization is the American notion of class (or lack thereof). She asks whether there is “something about the nature of economic class itself, and the way Americans view it, that makes class-based solidarity and mobilization particularly difficult[.]” *Id.* at 346 (internal quotation marks omitted). Unlike how they view race or gender, Americans have historically tended to reject viewing class as part of their identity, and many subscribe to the notion of America as a “classless society.” *See id.* at 347. Many Americans are also convinced that there is an American Dream, meaning “hard work, discipline, and skill” will create economic prosperity and, thus, the poor are responsible for their own troubles. *See id.* Professor Forman notes the hesitancy in American discourse to confront class, including in the Black community. He discusses intra-race class issues to account for Bill Cosby’s critique of the conditions confronting Black America. *See* Forman, *supra* note 24, at 215–16.

77. At the moment, Bernie Sanders is running as a democratic socialist, highlighting the class divisions that characterize present-day America, while Donald Trump is successfully running as a political outsider.

78. *See* Scott, *supra* note 23, at 584–86.

economic terms.⁷⁹ Professor Scott explores the institutional bias in U.S. law against the accumulation of wealth in Black communities, especially in the South. Discriminatory institutions and policies have ensured wealth inequality, and thus we cannot understand such disparities separate from the context of race.⁸⁰ In the aftermath of Katrina, wage laws and affirmative action policies that had created some economic vitality in the Black community were suspended, further eroding the ability of African-Americans to create wealth. Professor Scott advocates eliminating discrimination by private and public actors—which makes it difficult for African-Americans to accumulate wealth—and using market regulation to ensure middle to upper-income African-Americans can return to their communities.⁸¹

Finally, I came to the first essay published after I resigned from this enterprise, and it continues the tradition of insight, depth, and a consideration of issues that go beyond conventional discourse. Professor Mildred Wigfall Robinson examined income, class, and social justice through the lens of the tax system, as well as how we finance our government at the federal, state, and local levels.⁸² Professor Robinson began with assertions by right-wing commentators generally, and then more specifically during the 2012 presidential campaign, that 47% of American taxpayers do not pay federal income tax and thus should have no say in U.S. policy-making. These commentators assert that these citizens should pay at least some federal tax, which would give them some “skin in the game.” This outstanding essay systematically deconstructs this understanding, first explaining that it is possible that some citizens actually pay no federal income taxes.⁸³ Professor Robinson then demonstrates that low-income Americans most definitely do pay taxes at both the federal level, through payroll taxes, and at the state and local level, where tax systems tend to be regressive. Accordingly, these individuals may be paying much more than their fair share of financing our government. Moreover, state income taxes are not only regressive, but states often impose sin taxes—meaning taxes on alcohol, cigarettes, and gambling—the latter two of which are dispropor-

79. *See id.* at 585–86.

80. *See id.* at 586. Thus, she characterizes New Orleans as a racial and economic “pyramid” with a large Black base at the bottom, a “racially diverse middle class,” and a “white aristocracy” at the apex. *See id.* This was entrenched by a regressive combination of high sales taxes and low property and business taxes, with the latter being paid by those at the top.

81. *See id.*

82. *See* Mildred Wigfall Robinson, “*Skin in the Tax Game*”: *Invisible Taxpayers? Invisible Citizens?*, 59 VILL. L. REV. 729 (2014). Professor Joy Mullane, a tax professor, scholar, and chair of the Inclusiveness Committee, invited Professor Robinson to deliver her lecture. Professor Robinson is also the mother of another Villanova Law colleague, Professor Teri Ravenell.

83. Professor Robinson explains that it is due to a variety of tax exemptions and especially the Earned Income Tax Credit, enacted during the Nixon Administration, which is credited with helping to lift many Americans out of poverty. *See id.* at 733–34.

tionately borne by the poor.⁸⁴ Thus, the poor disburse a disproportionate share of their income in taxes—that is, as usual, the poor pay more—sometimes much more.

III. SOME THINGS HAVE NOT CHANGED ENOUGH: THE CONTINUING RELEVANCE OF DR. MARTIN LUTHER KING, JR.

Analyzing the substance of these essays brought several thoughts to mind regarding their content. First, they demonstrate the breadth of Dr. King's work and his pivotal role in leading the movement that liberated African-Americans from the most egregious forms of American Apartheid. Dr. King also successfully linked the struggle for civil rights to the broader international struggle for human rights and human dignity, and to the broader ills affecting those on the bottom rungs of the economic hierarchy. Because we are a forgetful country, especially when it comes to our failings and flaws, we often overlook or ignore the shameful, cruel history of African-Americans in an America that has been, and remains, a racist and often callous country.⁸⁵

Still, I am an American, and Americans often wear blinders but nonetheless are a peculiarly optimistic people, especially when it comes to race. Upon reading my words, many readers would refrain that things are getting better, are they not? After all, the President of the United States is African-American, and there are Black mayors, congressional representatives, and senators. We have eliminated the worse remnants of Apartheid; the "whites-only" signs are long gone, as are other formal vestiges of legal segregation. Indeed, even some of the confederate flags adorning state houses across the South are finally coming down. However, I do not feel optimistic, not in the least, not living in 2016 America. In reality, I have only grown more disaffected and fearful for African-Americans, and the following tirade affords a small taste of why.

As I read the MLK essays, I also perused the penetrating polemic by Ta-Nehisi Coates, *The Case for Reparations*.⁸⁶ Mr. Coates catalogues the tragic history of African-Americans in America, and he documents the extensive history of injuries and injustices perpetrated against us from the moment we landed on these shores; it is painful, disgraceful, and infuriating. He makes a strong case for reparations, but we all know that little will

84. Indeed, as I read Professor Robinson's essay I was preparing a session with members of my family on retirement and financial planning. I was pondering how to explain to some of them why gambling, such as playing the lottery and visiting the many casinos that are proliferating in many cities, is a loser's game. Her analysis cogently discusses how it is a poor people's game, and most Americans of any race do not want to be labeled "poor." I used some of this analysis when meeting with my family members.

85. See Ta-Nehisi Coates, *The Case for Reparations*, ATLANTIC, June 2014, <http://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/> [<https://perma.cc/D23J-9SXC>].

86. See generally *id.*

come of it, in part because it is not entirely clear our country is remorseful regarding these wrongs—indeed, it often seems they are not quite certain they *really* were wrong.⁸⁷ Part of the explanation for this skepticism lies in an entrenched and profound belief in Black inferiority; indeed the denial of our very humanity, which persists to this day. I hear that inferiority in the language many of my colleagues use when discussing a person of color who might join their esteemed ranks, and every time they give an almost-pass to any white person who deigns to do the same. They only use such terms as “qualified” when the candidate is Black, as the assumption is they are unqualified and must prove they are proficient and worthy of consideration.⁸⁸ When the candidate is white, it is assumed they are qualified, and they must prove the opposite—that they are somehow unqualified.

I, and many Black people, live segregated lives—segregation and racism are not theoretical concepts, even when we reside in integrated communities. For example, in finding my integrated environs, I faced hostility from potential neighbors in other neighborhoods who feared we might move into a home on their block—even if the house was much more luxurious than anything they might afford. As the house was more expensive than surrounding properties, we knew it was not about class, but about the color of our skin.⁸⁹ Whites have called my husband and me “niggers,” as we walked through our quaint integrated community; I have been fol-

87. See generally *id.* A recent example is the latest edition of a textbook that labeled African-American slaves as “workers.” See Zoë Schlanger, *Company Apologizes for Texas Textbook Calling Slaves ‘Workers’: ‘We Made a Mistake,’* NEWSWEEK (Oct. 5, 2015, 6:16 PM), <http://www.newsweek.com/company-behind-texas-textbook-calling-slaves-workers-apologizes-we-made-380168> [https://perma.cc/8KQK-LGJX?type=image]; see also Manny Fernandez & Christine Hauser, *Texas Mother Teaches Textbook Company a Lesson on Accuracy*, N.Y. TIMES, at A10, available at <http://www.nytimes.com/2015/10/06/us/publisher-promises-revisions-after-textbook-refers-to-african-slaves-as-workers.html>. As Texas is one of the largest textbook purchasers in the nation, it is often the national textbook template. See *id.*

88. I am certain some would say that affirmative action accounts for their assumptions. However, the assumption behind this rationale is that affirmative action is not to remedy past discrimination, where African-Americans were denied admission to institutions and jobs just because they were Black. Rather, it requires hiring people who are otherwise inferior and unqualified. But opposition to affirmative action is more about the loss of white privilege, which became glaringly apparent when the California State University system eliminated affirmative action, and Asian students almost immediately filled the spots at the top schools. I have heard similar comments regarding my high school, Stuyvesant High School in New York City, which admits students through a highly competitive citywide test. I recall my middle school classmates being quite upset when my best friend and I studied and then passed that test—without affirmative action—because that just did not seem to be our place, or something to that effect. Some New York residents now believe that after more than 100 years, the City should scrap the admission test because Asian students—who, like me, merely pass the test—now fill a high proportion of Stuyvesant’s seats. Of course, if it is really only about “merit,” then why would the admission of a large number of Asians make any difference in either instance?

89. As we walked around the neighborhood, smiling and saying hello, our potential neighbors quite obviously were not poised to welcome us. Many refused

lowed around stores, while dressed in a business suit, and completely ignored by sales personnel while shopping in upscale retail establishments.⁹⁰ College professors I thought were supporters were actually working against me by trying to sabotage my efforts and ambitions to get into graduate school.⁹¹ All of this, and I am supposed to be one of the smart ones who is firmly established in the middle class; indeed, I am about to be an elderly woman with all the trappings of the upper-middle class. Actually, this may make it worse, for in the working-class communities that surround my upper-middle-class one, I am not supposed to be middle class, and when we meet in passing at local shops, they let me know it, as some clearly and specifically direct their hostility at me.⁹² It is evident that this resentment goes beyond class; it is also about race.⁹³

All of this being said,⁹⁴ I realize I have it exceedingly easy when compared to less privileged African-Americans, indeed most Americans generally. This was on prominent display up until the moment I finished this paper, for it seemed that each day there was some new and harsher insult and injustice directed against Black America. Thus, the following is only a partial inventory; at some point, I simply had to cut it off. Nevertheless, it roams through a maze of difference, indifference, inequality, bias, and injustice, including perhaps one of the most definitive displays of hatred and intolerance in recent memory—mass murder committed against innocents while praying simply for the crime of being Black.

to acknowledge our existence, and the few who did bother to chat made it evident that they were very uncomfortable with us.

90. Black Americans did not shop or work in department stores in either the North or South until the 1960s, when desegregation finally became more widespread, and even then, most of the more exclusive stores tolerated, rather than welcomed, us. African-American sales clerks at such stores as Neiman Marcus and Saks Fifth Avenue have explained that this behavior can also be explained by class bias—that is, unless one is dressed a certain way, it is assumed you do not have the funds to buy merchandise at the store.

91. See Gordon, *supra* note 8, at 316 n.6. A professor who gave me an A in two of his courses wrote a bad evaluation to keep me out of Yale Law School, which had asked me to apply based on my LSAT scores and GPA. A more complete account of this and other episodes are detailed in PRESUMED INCOMPETENT, *supra* note 8, at 315–19.

92. An example: when one encounters friendly three- or four-year-olds, the natural inclination is to return that friendliness. Their parents have made clear that with me, an older woman, that is inappropriate; it is okay, however, if it is a white older woman. Believe me, the chill is palpable, as is the distinct separation found in bars and pubs.

93. For those of you thinking, “But how can you tell?” Perhaps, you really cannot and may be entirely mistaken. That is part of the insidious nature of racism—one is never quite sure if it is race, you, or something else.

94. For more on my comparatively mild encounters with racism, see Gordon, *supra* note 8, at 313–29.

A. *Criminal Justice?*

In *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*,⁹⁵ Professor Michelle Alexander documents the many evils of mass incarceration of African-Americans in the United States.⁹⁶ She concludes that, in essence, we have reinstated Jim Crow, as the United States incarcerates vast numbers of African-Americans at the local, state, and federal levels, and the consequences are dire.⁹⁷ It means large numbers of African-Americans cannot vote and are subject to “legalized discrimination in employment, housing, education, public benefits, and jury service . . .”⁹⁸ In *Just Mercy: A Story of Justice and Redemption*, Professor Bryan Stevenson makes a potent case for the injustices of the U.S. criminal justice system and especially America’s imposition of the death penalty.⁹⁹ These brilliant books sharpened, deepened, and broadened our understanding of issues that were already of utmost concern in Black America.

We could say the same thing about police violence against African-Americans; we knew, but it seemed no one believed us. We understood the police violence that pervades our communities and that police officers were, and still are, rarely indicted and almost never convicted. In other words, it was rarely murder, rather it was justifiable homicide—the role of the police force is to hunt down criminals and if necessary, shoot them—and everyone realizes that Black people are criminals. If there were occasional mistakes, they were understandable because any lapse means these lawbreakers will do harm—thus, the use of force is explicable and excusable, meaning convictions are exceptional. In the minds of many Americans, this also accounts for the high rates of prosecution, incarceration, and our disparate presence on death row.¹⁰⁰

Nevertheless, by 2015, the violence became more visible and controversial; there were cameras and then doubts about the prevailing narrative. I believe the crisis began with the 2012 killing of Trayvon Martin, when a self-appointed neighborhood vigilante shot a seventeen-year-old, unarmed Black teenager for the crime of walking down the street. Florida charged George Zimmerman with second-degree murder, but the jury

95. MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2010).

96. *See generally id.*

97. *See generally* Ta-Nehisi Coates, *The Black Family in the Age of Mass Incarceration*, *ATLANTIC*, Oct. 2015, <http://www.theatlantic.com/magazine/archive/2015/10/the-Black-family-in-the-age-of-mass-incarceration/403246/> [<https://perma.cc/Z7B2-TNKM>].

98. *See* ALEXANDER, *supra* note 95, at 1–2.

99. *See generally* BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* (2014).

100. I have had colleagues say to me that all of this is because Black people *are* criminals. I fully realize that there is a great deal of violence in the Black community that is not committed by police officers. That is another topic, however, and does not excuse or justify violence by those who have sworn to protect us.

found him not guilty.¹⁰¹ We learned that many states, including Florida, have “stand your ground” laws—which almost give a license to kill—and some of us suspected some of these laws were to allow white men to kill Black men, especially as these cases began to appear in the newspapers. One just had to claim fear for one’s life and self-defense; Black men and women are threatening almost by definition.

However, the problem was greater, and it was incessant. As I read these essays, police misconduct was front and center as incident after incident came to national attention. The African-American community has long complained of over- and under-policing.¹⁰² However, the ubiquitous cameras that are now standard on the phones we are never without, now record the terrorism that confronts the African-American community and especially Black men. Rather than only the stories of danger and threats told by law enforcement, we can now see the images, and they are often disturbing.¹⁰³ There were videos of people being shot in the back, as they ran from expensive cars; children with toy guns being gunned down; a man choked to death as he cried, “I can’t breathe”; a woman found dead after a questionable traffic stop. This is only the tip of an iceberg that spawned a movement crying “Black Lives Matter.” This new multiracial movement challenges the indiscriminate killing of African-American men and its young, articulate spokespersons would do Dr. King proud. Indeed, I found myself wishing for the next essay, which undoubtedly would examine these events and the movement that has risen in its wake.

101. See *Trayvon Martin Shooting Fast Facts*, CNN <http://www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts/> [<https://perma.cc/PDE7-3A8B>] (last updated Feb. 7, 2016, 4:25 PM). George Zimmerman has remained in the news for posting revenge porn, racist rants, and other distasteful matters. See Abby Ohlheiser, *George Zimmerman Was Suspended from Twitter After Doxing an Alleged Ex-girlfriend*, WASH. POST (Dec. 3, 2015), <https://www.washingtonpost.com/news/the-intersect/wp/2015/12/03/george-zimmerman-was-suspended-from-twitter-after-doxing-an-alleged-ex-girlfriend/> [<https://perma.cc/5P9L-QPD8>]; see also Hilary Hanson, *George Zimmerman Tweets Photo of Trayvon Martin’s Body*, HUFFINGTON POST (Sept. 28, 2015, 1:18 PM), http://www.huffingtonpost.com/entry/george-zimmerman-tweets-trayvon-martins-body_us_560965b1e4b0dd85030846e5 [<https://perma.cc/XQG6-MFRX>]. Most recently, Zimmerman has attempted to auction off the gun used to kill Mr. Martin. See Frances Robles & Mike McPhate, *George Zimmerman Tries to Auction Gun Used to Kill Trayvon Martin*, N.Y. TIMES (May 12, 2016), http://www.nytimes.com/2016/05/13/us/george-zimmerman-gun-auction-trayvon-martin.html?_r=0 [<https://perma.cc/Y2TT-VHQF>].

102. Under-policing would be the failure to protect the community from the criminals in its midst. Over-policing would be stop-and-frisk policies, which of course only apply to Black men, and the wholesale use of violence against the community as a whole.

103. The taking of any life is always a sad event, but it is understood that not all shootings by police officers are problematic. Police officers of all races have a difficult job and face danger on a daily basis; sometimes they must take such actions to protect themselves or others. This discussion is about another problem, the excessive use of force on a regular basis against a distinct part of the population based on their race and gender.

Then again, we knew of many instances of rampant police violence and the injustices of the criminal justice system, even if we did not fully understand its depths. However, what of the hidden policies that are having an enormous impact on the lives of poor people, many of whom are Black and brown? While high rates of African-American incarceration have seemingly become the norm, unless one was in the field, it might have been difficult to discern the breadth and depth of the use of solitary confinement within that system. America has unusually high rates of solitary confinement and, astoundingly, solitary can last for years, if not *decades*.¹⁰⁴ State and federal prisons hold approximately 75,000 prisoners in solitary confinement for a variety of reasons. Some are deemed dangerous or believed to be gang members,¹⁰⁵ while solitary has also become a means to control the mentally ill whom we are locking even deeper into the bowels of the criminal justice system, only worsening, rather than treating, their illnesses. It is only recently that policymakers of all political stripes and at all levels of government, including the courts and even prison guards, have begun to question and abandon this cruel and misguided policy.¹⁰⁶

104. See Erica Goode, *Punished for Life*, N.Y. TIMES, Aug. 4, 2015, at D1, available at http://www.nytimes.com/2015/08/04/health/solitary-confinement-mental-illness.html?_r=0 [<https://perma.cc/4VE4-6VQE>]. Of course, the use of solitary confinement, just as incarceration itself, transcends race, as poor whites have higher rates of incarceration than the more prosperous and face similar solitary confinement policies. It is a problem for prisoners, most of who are at the lower end of the socio-economic scale. Yet it is uncontested that Black and brown people are in the criminal justice system at far higher levels than their percentage of the general population would suggest. See ALEXANDER, *supra* note 95, at 6–7.

105. See Ian Lovett, *California Agrees to Overhaul Use of Solitary Confinement*, N.Y. TIMES, Sept. 2, 2015, at A14, available at <http://www.nytimes.com/2015/09/02/us/solitary-confinement-california-prisons.html> [<https://perma.cc/C8UN-DA3P>]. Prison officials have claimed solitary confinement is necessary to:

separate prisoners who they say are too dangerous to house with the general population, either because they have been violent in prison or because they have been identified as gang members. Many such prisoners are left in solitary confinement indefinitely, with severe psychological effects; over the years, hundreds have spent more than a decade in isolation.

Id.

106. See Peter Baker, *Obama Calls for Effort to Fix a 'Broken System' of Criminal Justice*, N.Y. TIMES, July 15, 2015, at A18, available at <http://www.nytimes.com/2015/07/15/us/politics/obama-calls-for-effort-to-fix-a-broken-system-of-criminal-justice.html> [<https://perma.cc/CCQ2-SJMU>]. “Do we really think it makes sense to lock so many people alone in tiny cells for 23 hours a day, sometimes for months or even years at a time?” Mr. Obama asked in a speech at a convention of the NAACP in Philadelphia, where he called for an overhaul of the criminal justice system. See President Barack Obama, *Remarks at the NAACP Conference in Phila., Pa.* (July 14, 2015), available at <https://www.whitehouse.gov/the-press-office/2015/07/14/remarks-president-naacp-conference> [<https://perma.cc/K3EZ-SGR4>]. “That is not going to make us safer. That’s not going to make us stronger. And if those individuals are ultimately released, how are they ever going to adapt? It’s not smart.” *Id.*; see also Timothy Williams, *Prison Officials Join Movement to Curb Solitary Confinement*, N.Y. TIMES, Sept. 3, 2015, at A1, available at <http://www.nytimes.com/>

B. *On the Backs of the Indigent*

With the events in Ferguson, Missouri we also learned about police departments and municipalities financing their operations on the backs of poor people, which often means Black people.¹⁰⁷ Thus, police departments target Black citizens for traffic and other minor vehicular violations, tickets that are not ordinarily issued against others. When they could not pay—and many live paycheck-to-paycheck and thus cannot—the fines compound and only grow larger and more unaffordable.¹⁰⁸ Courts then impose additional fees and jail people for not paying fees, fines, and tickets. Collection agencies have only made the problem inexorably worse, consigning people to almost permanent debt. It seems the police and courts were collection agencies whose purpose was to raise revenue rather than being engaged in seeking the truth or administering justice. Halting this practice was part of the settlement between the U.S. Department of Justice and the City of Ferguson, Missouri. Moreover, state and federal courts and agencies are examining these policies, causing some police departments to merge due to insufficient revenue.¹⁰⁹ This is really about the poor, but then so many of the poor are Black, and they are a convenient and visible target.

On a related front, even working-class and middle-class people can lose everything more easily than one might expect. Who knew America had what almost seems to be debtors' prisons, as cities and states aggressively collect fines, fees, and other costs imposed by both civil and criminal courts. This may seem fair—after all, citizens should pay fines and costs imposed by courts and municipalities. Yet these practices have taken an ominous turn, transforming courts into collection agencies, rather than offices of justice; the poor bear the burden of these policies. Many people in America live paycheck-to-paycheck and can ill afford an extra expense of almost any kind.¹¹⁰ When they fall behind on such payments, munici-

2015/09/03/us/prison-directors-group-calls-for-limiting-solitary-confinement.html?_r=0 [https://perma.cc/SK6F-HLMZ]. President Obama ordered that the Justice Department review solitary confinement policies in federal prisons while Congress and more than a dozen states are considering limits on it. *See id.* Justice Anthony M. Kennedy, in a Supreme Court ruling in June 2015, all but invited a constitutional challenge. *See Davis v. Ayala*, 135 S. Ct. 2187 (2015) (Kennedy, J., concurring).

107. *See* Andria Simmons, *Georgia Towns Are Getting Rich off Speeding Tickets*, GOVERNING (Oct. 23, 2014), <http://www.governing.com/topics/finance/georgia-towns-are-getting-rich-off-speeding-tickets.html> [https://perma.cc/93RQ-EKLQ].

108. *See* Joseph Shapiro, *In Ferguson, Court Fines and Fees Fuel Anger*, NPR (Aug. 25, 2014, 5:56 PM), <http://www.npr.org/2014/08/25/343143937/in-ferguson-court-fines-and-fees-fuel-anger> [https://perma.cc/R33Q-W9VN].

109. *See* Tim Jones, *Without Ticket Revenues, St. Louis Area Having Trouble Funding Police*, GOVERNING (Oct. 23, 2015), <http://www.governing.com/topics/finance/Police-agencies-fold-in-St-Louis-area-as-ticket-blitzes-stop.html> [https://perma.cc/DM8X-ZDHE].

110. *See* Neal Gabler, *The Secret Shame of Middle-Class Americans*, ATLANTIC, May 2016, <http://www.theatlantic.com/magazine/archive/2016/05/my-secret-shame/>

palities often impose high rates of interest on the arrears, send offenders to jail for non-payment, or hire collection agencies that are permitted to compound these debts even further. Those who are working, but perhaps just hanging on economically, can lose everything.¹¹¹

C. *At Least Clean Water?*

It seems the people of Flint, Michigan are being poisoned. In April 2014, in the interest of saving money, the City of Flint began drawing its water from the Flint River, rather than from its long-established source, the City of Detroit.¹¹² Flint residents immediately began to complain about the “smell, taste and appearance of the water,” and over time these complaints only grew louder and more insistent.¹¹³ General Motors declined to use the water because it was rusting their equipment; boil advisories were issued; there were positive tests for bacteria; and a group of doctors “urge[d] Flint [residents] to stop using the Flint River for water after finding high levels of lead in the blood of children.”¹¹⁴ Although the City eventually went back to obtaining water from the Detroit water system, Flint pipes had already suffered irreversible corrosive damage.¹¹⁵

The people of Flint complained, but were ignored, belittled, and told they were wrong or just being political; they were presented with all kinds of evasions and lies from all levels of Michigan government.¹¹⁶ Governor Rick Snyder insisted “race was not a factor in the state’s response,”¹¹⁷ but it is very difficult to believe there would have been a similar response if Flint had been rich and white.

476415/ [https://perma.cc/9SN6-JEHM]. Gabler details the precarious financial conditions of most Americans, including those situated in the middle class, and notes that “[n]early half of Americans would have trouble finding \$400 to pay for an emergency.” *See id.*

111. *See* Lisa Riordan Seville & Hannah Rappleye, *Sentenced to Debt: Some Tossed in Prison over Unpaid Fines*, NBC NEWS (May 27, 2013, 3:43 AM), <http://www.nbcnews.com/feature/in-plain-sight/sentenced-debt-some-tossed-prison-over-unpaid-fines-v18380470> [https://perma.cc/9E4Z-5KLZ].

112. *See A Timeline of the Water Crisis in Flint, Michigan*, ASSOCIATED PRESS (Jan. 16, 2016, 8:18 PM), <http://bigstory.ap.org/article/3d046d3adca6475fa756e260b3165685/timeline-water-crisis-flint-michigan> [https://perma.cc/ESL5-DDZP].

113. *See id.*

114. *See id.*

115. *See* Jeremy C.F. Lin, *The Reach of Lead in Flint’s Water Supply*, N.Y. TIMES (Jan. 15, 2016), http://www.nytimes.com/interactive/2016/01/15/us/flint-lead-water-michigan.html?_r=0 [https://perma.cc/A6CK-V4XU].

116. *See A Timeline of the Water Crisis in Flint, Michigan*, *supra* note 112; *see also* Julie Bosman, Monica Davey & Mitch Smith, *As Water Problems Grew, Officials Belittled Complaints from Flint*, N.Y. TIMES, Jan. 21, 2016, at A1, *available at* http://www.nytimes.com/2016/01/21/us/flint-michigan-lead-water-crisis.html?_r=0; *see also* Lin, *supra* note 115.

117. *See* Richard Pérez-Peña, *Michigan Governor Says Race Had No Role in Flint Water Response*, N.Y. TIMES (Jan. 22, 2016), <http://www.nytimes.com/2016/01/23/us/flint-water-crisis-michigan-governor-rick-snyder.html> [https://perma.cc/Q93Z-3YZY].

Governor Snyder has tried to blame local officials—presumably officials elected by the people of Flint. Yet, the people of Flint did not elect the government that switched Flint’s water supply from the Detroit Water system to the Flint River and then ignored the protestations of its residents. In 2011, the State of Michigan placed Flint under the control of an Emergency Financial Manager, who made the fateful decisions regarding Flint’s water supply.¹¹⁸ Thus Flint, like many other localities, has been taken over in whole or in part by state authorities, and they no longer have a vote—people they did not elect rule them.¹¹⁹

Many poor, and often Black, Americans no longer elect their local governments or control the local levers of government; Flint is simply one of many—perhaps more than we realized.¹²⁰ There have also been determined efforts to make voting more difficult and to suppress the votes of various populations. Thus, in the recent national elections, voters have stood in line for many hours to cast their vote.¹²¹ Some states have imposed voter identification requirements, ostensibly to address non-existent voter fraud, but in a candid admission actually to suppress the Black vote.¹²² Moreover, as Professor Alexander demonstrates, there is the incarceration and subsequent disenfranchisement of large segments of the African-American community.

D. Charleston, South Carolina

I spent weeks thinking about how to end this Essay, wondering if I was being too harsh, whether I was not being American enough because, like Ta-Nehisi Coates, I too have little hope. But then there was Charleston, South Carolina and the events at Mother Emanuel African Methodist Episcopal (AME) Church, and I knew I wanted to end with this act of terrorism. On the evening of Wednesday, June 17, 2015 at evening Bible study,

118. See Julie Bosman & Monica Davey, *Anger in Michigan over Appointing Emergency Managers*, N.Y. TIMES (Jan. 22, 2016), <http://www.nytimes.com/2016/01/23/us/anger-in-michigan-over-appointing-emergency-managers.html> [https://perma.cc/CG8E-VVWR].

119. See Kate Abbey-Lambertz, *Michigan Emergency Manager Law in Effect in 6 Cities After Detroit Appointment (MAP)*, HUFFINGTON POST (Mar. 25, 2013), http://www.huffingtonpost.com/2013/03/15/michigan-emergency-manager-law-cities_n_2876777.html [https://perma.cc/9H3C-V5F5]; see also Matt Katz, *Takeover Fever*, NEW REPUBLIC (May 1, 2013), <https://newrepublic.com/article/113077/city-school-takeovers-spread-across-america> [https://perma.cc/SYC9-GBMT].

120. See Katz, *supra* note 119.

121. See Jeremy W. Peters, *Waiting Times at Ballot Boxes Draw Scrutiny*, N.Y. TIMES, Feb. 5, 2013, at A1, available at <http://www.nytimes.com/2013/02/05/us/politics/waiting-times-to-vote-at-polls-draw-scrutiny.html>; see also Adam Cohen, *Op-Ed, No One Should Have to Stand in Line for 10 Hours to Vote*, N.Y. TIMES, Aug. 25, 2008, at A18, available at <http://www.nytimes.com/2008/08/26/opinion/26tue4.html>.

122. See Jamelle Bouie, *Republicans Admit Voter-ID Laws Are Aimed at Democratic Voters*, THE DAILY BEAST (Aug. 28, 2013, 4:45 AM), <http://www.thedailybeast.com/articles/2013/08/28/republicans-admit-voter-id-laws-are-aimed-at-democratic-voters.html> [https://perma.cc/7VEQ-TN48].

a group of African-Americans,¹²³ much like the members of my family, sat in the basement of the historic Mother Emanuel AME Church in Charleston, South Carolina.¹²⁴ I could picture it, for while I do not attend church, my family does, and I was raised in the AME Church. I often heard my mom, Ruth Copeland Maddox, and my late Aunt, Alyce Copeland, mention Wednesday Bible study at Mt. Pisgah AME Church in Philadelphia, Pennsylvania; my niece, Reverend Donna Minor, went back to school to become an assistant pastor at Mt. Pisgah, and I know the pastor. Therefore, I could easily picture the scenario, thus making it all the more horrifying.

In any case, a young blond white man asked to join the Bible study group, and they welcomed this stranger just as most Black churches are apt to welcome visitors who want to worship with them. After praying with the congregants for an hour, this man, whose name I refuse to put in print, rose from his seat and murdered nine worshippers, in cold blood.¹²⁵ What was their crime, what sin made them deserve this horrible fate? It was actually quite simple, at least to him, they were Black. Black people were taking over America and thus we must go; he hoped to spark a race war. What hatred? What horror? It crystalized and focused my thoughts and this Essay as it was in formation.

You see, as I read, I had been thinking about how much they despise us—and then someone stood up and said it aloud, garnering our attention and focus. He killed nine people to make his point; many others have died, albeit without such an explicit statement and perhaps without such focused and hateful views. Yet the belief in Black criminality, inferiority, mendaciousness, and so on, speak to very similar things. The widespread, deep-rootedness, and persistence of segregation is a sure sign, and indeed most of the essays speak to this point, either directly or indirectly, beginning with the first published essay by Professor Cashin. They hate us; it is much more than class, for it is also very much a matter of race.

It is undeniable that racism is alive, well, and thriving in 2016 America and will not disappear soon.¹²⁶ These essays and the analysis of Mr.

123. The victims included Reverend Clementa Pinckney, 41; Reverend Sharonda Coleman-Singleton, 45; Tywanza Sanders, 26; Ethel Lance, 70; Susie Jackson, 87; Cynthia Hurd, 54; Myra Thompson, 59; Reverend Daniel Simmons, Sr., 74; and Reverend DePayne Middleton-Doctor, 49.

124. For an account of that sad June night, see Richard Fausset, John Eligon, Jason Horowitz & Frances Robles, *A Hectic Day at Charleston Church, and Then a Hellish Visitor*, N.Y. TIMES, June 21, 2015, at A1, available at <http://www.nytimes.com/2015/06/21/us/a-day-at-the-statehouse-and-a-night-of-slaughter.html>.

125. For an account of the victims' lives, see Alvarez & Blinder, *supra* note 44.

126. Indeed, as I write these words, the primaries for the 2016 presidential election are in full force and racial animosity and anxiety are on full display. An example is the leading Republican candidate being very slow to disavow the support of the former head of the Klu Klux Klan. See Alan Rappeport, *Donald Trump Wavers on Disavowing David Duke*, N.Y. TIMES (Feb. 28, 2016, 11:13 AM), <http://www.nytimes.com/politics/first-draft/2016/02/28/donald-trump-declines-to-disavow-david-duke/> [<https://perma.cc/3VF5-SUB2>].

Coates confirm how firmly America has fused racism into its very fabric, making it immutable to individual protestations of tolerance. Many decry racism and its very existence, do not see themselves or those around them as racist, and believe they and most of America truly has overcome.¹²⁷ I take them at their word, although while one can possibly vouch for oneself, it is difficult to vouch for others. Nevertheless, even if these protestations are accurate, which would undoubtedly be a very good thing, ultimately it simply cannot be enough. What does give me hope is the brilliance of Mr. Coates and the bravery and boldness of the multiracial Black Lives Matter Movement. Both are part of the legacy of Dr. King while also transcending that inheritance. I believe Dr. King would have been among their most enthusiastic and determined admirers and allies.

127. Of course, a white farmer from the Deep South was on television pontificating about the desirability of bringing back slavery. He thought Black people were better off as slaves, and would be better off *today* if we brought slavery back—of course, just for us. He too declared that he was not racist.