

# FOREWORD

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In November 2015, approximately two hundred activists, academics, and students from across the United States convened at Duke University School of Law for a conference entitled *The Present and Future of Civil Rights Movements: Race and Reform in 21st Century America*. Planning for the conference had commenced a year earlier, in the fall of 2014. At that time, the nation was reeling from the deaths of Rekia Boyd, Eric Garner, John Crawford III, and Michael Brown, among others. In addition to the killing of these unarmed Black men and women by law enforcement personnel, many people, particularly within the civil rights community, were also alarmed by the use of military force against civilian protestors in Ferguson, Missouri, and with the acquittal of George Zimmerman following the death of Trayvon Martin. Amid grave concerns about the criminal justice system, significant threats to the ideal of democracy were being revived, particularly after the U.S. Supreme Court's 2013 decision in *Shelby County v. Holder*,<sup>1</sup> which struck down a key provision of the Voting Rights Act, as well as subsequent legislative action in several states to erode the franchise.

To be sure, these events sparked positive change. For example, protesters created powerful movements like BlackLivesMatter and #SayHerName. And, even in a very dark hour, there were some signs of progress for marginalized groups. Members of the LGBTQ community and their allies celebrated the U.S. Supreme Court's decision in *Obergefell v. Hodges*,<sup>2</sup> which advanced marriage equality, and the Equal Employment Opportunity Commission's decision in *Baldwin v. Foxx*,<sup>3</sup> which held that discrimination on the basis of sexual orientation was a form of sex discrimination under Title VII of the Civil Rights Act of 1964. The nation also witnessed the symbolic, yet tardy, removal of the confederate flag from South Carolina's State House and executive action by

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1. 133 S. Ct. 2612 (2013).

2. 135 S. Ct. 2584 (2015).

3. Appeal No. 0120133080, 2015 WL 4397641 (E.E.O.C. July 15, 2015).

President Obama on immigration reform, which included DAPA (Deferred Action for Parents of Americans and Lawful Permanent Residents).

Despite these indicators of progress, in 2014 and 2015 the United States continued to be reminded, on an almost-daily basis, that the struggle for racial justice remains a pressing national problem. The unemployment rate for African Americans and Latinos continued to be significantly higher than that of Whites. Furthermore, although income and wealth gaps continued to increase across the board, these gaps were particularly pernicious for African Americans and Latinos. Additionally, the United States' incarceration machine, fueled by the prison-industrial complex and policing-for-profit schemes, continued to disproportionately affect African-American and Latino communities. Sadly, we could continue this list for many more pages.

All of this evidence of institutionalized racism supported our decision to gather at Duke. But it was the faces and the headlines to which we were subject during our year of planning that lent a particular urgency to the assembly. Tamir Rice. Eric Harris. Walter Scott. Freddie Grey. Sandra Bland. Linwood Lambert, Jr. Laquan McDonald. These are but a few of the many African-American men, women, and children who were killed at the hands of law enforcement as we planned the conference. In addition, we witnessed law enforcement's response to protestors in Baltimore, Maryland, which demonstrated that the militarization of policing displayed in Ferguson was not an isolated incident. We were also disturbed by images of the violent treatment of young African Americans by security personnel in schools like Spring Valley High School and by police at middle-school parties in communities like McKinney, Texas. We witnessed protests across the country—at Yale, at Missouri, at Harvard, and beyond—as young people told the nation that they did not feel safe on college campuses. As if this were not enough, the mass shooting of worshippers at Emanuel African Methodist Episcopal Church in Charleston, South Carolina; the refusal of some county registrars to marry same-sex couples; and the backlash against DAPA underscored that racism, homophobia, and xenophobia remain an enduring and stubborn reality in the United States.

It was against this backdrop that we gathered in Durham, North Carolina to conduct an open and frank conversation about the present and future of civil rights movements. It is also against this backdrop that the authors of this symposium, many of whom participated in the conference, offered their observations and insights. The topics addressed in this issue are richly diverse, deeply complicated, and inextricably interwoven, reflecting the hopeful spirit of November's conference and also the complex and difficult path ahead as we work toward greater equality and a world less filled with hate. We are grateful for the care and diligence with which this issue's authors have labored, and we hope that readers will be enriched and heartened by the excellent analyses contained herein.

A final note. We would be remiss were we not to state that the conference and this issue would not have been possible without the patient support of the editors of *Law and Contemporary Problems*, particularly Kristin Bender, and without the initiative, enthusiasm, and herculean efforts of Duke students, particularly Ana Apostoleris, Ernest Britt III, Christine Kim, Alexandria Miller, Seth Pearson, and Liz Wan'gu. We are also grateful for the administrative efforts of Stephanie Lowd and for the financial support of Duke University's Office of the Provost and the Office of the Dean; the Program in Public Law; and the Center on Law, Race, and Politics at Duke University School of Law.