

AN INTRODUCTION TO THE *FORDHAM LAW REVIEW ONLINE* SPRING SERIES: SYSTEMIC INEQUALITY IN THE AMERICAN EXPERIENCE

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2020 has secured its place in future textbooks as a historically unprecedented period in the United States and across the globe. This, of course, begins with the COVID-19 pandemic, which has taken the lives of over three million people worldwide in just over a year.¹ In the United States, the pandemic's chilling health effects have disproportionately impacted communities of color and other minority groups.² Health aside, the pandemic has also kept children of color out of the classroom at unequal rates.³ At the same time, the killings of George Floyd, Breonna Taylor, and Ahmaud Arbery—to name a few—at the hands of police officers ignited nationwide

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1. See Mike Ives, Sameer Yasir, & Muktita Suhartono, *As Covid Death Toll Passes 3 Million, a Weary World Takes Stock*, N.Y. TIMES (Apr. 17, 2021), <https://www.nytimes.com/2021/04/17/world/covid-deaths-3-million.html> [<https://perma.cc/MKZ3-BC83>].

2. See Daniel Wood, *As Pandemic Deaths Add Up, Racial Disparities Persist – And in Some Cases Worsen*, NPR (Sept. 23, 2020), <https://www.npr.org/sections/health-shots/2020/09/23/914427907/as-pandemic-deaths-add-up-racial-disparities-persist-and-in-some-cases-worsen> [<https://perma.cc/JC3N-5F5W>]; *The Impact of the Fall 2020 COVID-19 Surge on LGBT Adults in the US*, UCLA SCH. OF L. WILLIAMS INST. (Feb. 2021), <https://williamsinstitute.law.ucla.edu/publications/covid-surge-lgbt/> [<https://perma.cc/U5FP-VEVK>].

3. Juan Perez Jr. & Natasha Korecki, *Kids Are Finally Returning to School. But Most of Them Are White.*, POLITICO (Apr. 26, 2021), <https://www.politico.com/news/2021/04/26/schools-in-person-learning-coronavirus-484542> [<https://perma.cc/6P3E-LHSU>].

civil rights protests that were extraordinary in both their size and scope.⁴ In 2020, the United States also saw its highest rates of unemployment since the Great Depression—yet another metric that disproportionately harmed BIPOC communities.⁵ On the heels of a contentious census process that left the fate of marginalized communities in the balance,⁶ the year concluded with record-breaking turnout in the 2020 presidential election marked by attempts to invalidate votes in diverse urban areas.⁷

Are you noticing a trend? If anything constructive has come from 2020, it is a long overdue reckoning that political and economic structures in the United States are not pillars of equal treatment. In almost every measurable department, marginalized communities—particularly people of color—suffer more and benefit less than their white counterparts. These systemic racial and ethnic inequalities have long been a topic of mainstream conversation with regards to law enforcement practices and the criminal justice system. However, the extreme conditions of this past year have brought a much deeper and more widespread issue to the forefront; one that is no longer possible to ignore. It is this very issue that inspired the student-written pieces that make up this wonderful series.

Joseph Palandrani and Danika Watson’s assessment of American voting rights captures a clear image of divided motives amongst our legislators to devalue or defend the voting power of BIPOC communities and other marginalized groups.⁸ Palandrani and Watson look for hope in the Redistricting Reform Act of 2021, a bill promising to end political and racial gerrymandering by depoliticizing the redistricting process.⁹ Robin Fisher turns her focus to America’s prison population, particularly the roughly 745,000 inmates who retain the right to vote but are inhibited from doing so because of deficient jail policies.¹⁰ Fisher explains how the Department of Justice is best positioned to effectively end jail-based disenfranchisement of

4. See Larry Buchanan, Quoc Trung Bui, & Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html> [<https://perma.cc/RMQ7-VT7V>].

5. GENE FALK ET AL., CONG. RSCH. SERV., R46554, UNEMPLOYMENT RATES DURING THE COVID-19 PANDEMIC: IN BRIEF 1, 8–9 (2021), <https://fas.org/sgp/crs/misc/R46554.pdf> [<https://perma.cc/3ZQ3-4S4U>].

6. Hansi Lo Wang, *To Figure Out Who’s A Citizen, Trump Administration Is Using These Records*, NPR (May 20, 2020), <https://www.npr.org/2020/05/20/855062093/to-figure-out-whos-a-citizen-trump-administration-is-using-these-records> [<https://perma.cc/73CH-2T82>].

7. See Juana Summers, *Trump Push to Invalidate Votes in Heavily Black Cities Alarms Civil Rights Groups*, NPR (Nov. 24, 2020), <https://www.npr.org/2020/11/24/938187233/trump-push-to-invalidate-votes-in-heavily-black-cities-alarms-civil-rights-group> [<https://perma.cc/AE9F-G7GJ>].

8. Joseph Palandrani & Danika Watson, Comment, *Racial Gerrymandering, the For the People Act, and Brnovich: Systemic Racism and Voting Rights in 2021*, 89 FORDHAM L. REV. ONLINE 124, 124–25 (2021).

9. See *id.* at 137–38.

10. Robin Fisher, Comment, *Ballot Access Behind Bars*, 89 FORDHAM L. REV. ONLINE 86, 87 (2021).

a population overrepresented by people of color.¹¹ Next, a fellow *Fordham Law Review* colleague comments on the now-infamous “citizenship question” that never quite made it to the 2020 Census and on the Trump administration’s impact on future voting rights of marginalized communities.¹² This author suggests immediate voting rights legislation and a modernized census system are needed to mitigate the damage already done.¹³

Robert Bentlyewski and Mina Juhn take stock of America’s environmental racism problem caused by generations of dumping waste in the backyards of immobile minority communities.¹⁴ These authors argue administrative and congressional action is needed to turn the tide and distribute the costs of pollution more evenly.¹⁵ Kimberly Ayudant narrows in on the de facto racial segregation of America’s public schools caused by the federal government’s absence in the public education discourse over the past fifty years.¹⁶ Ayudant assesses the Strength in Diversity Act of 2021, a federal bill seeking to stimulate the racial and economic integration of schools across the country.¹⁷ Kendra Kumor takes issue with the racist history of child neglect laws that target low-income families and disproportionately remove Black children from their homes.¹⁸ Kumor suggests state legislatures can close the racial gap by narrowing their definitions of child neglect and accounting for the broader effects of community neglect.¹⁹

Finally, two authors turn towards the Fourth Amendment’s role in limiting unconstitutional law enforcement practices against BIPOC. First, Eric Szkarlat discusses what it means for people “to be secure in their persons” under the Fourth Amendment at a time when Black Americans are disproportionately subject to excessive force.²⁰ Noticing a recent shift in the U.S. Supreme Court’s jurisprudence, Szkarlat sees a window for courts to finally get the analysis right.²¹ Second, Zach Huffman identifies the exclusionary rule’s failure to protect minorities from the effects of law enforcement’s unlawful practices.²² One of several solutions Huffman

11. *See id.* at 96–98.

12. Comment, *Not Just Any Pretext: The 2020 Census and the Voting Rights Act*, 89 FORDHAM L. REV. ONLINE 152, 152–53 (2021).

13. *See id.* at 164–66.

14. Robert L. Bentlyewski & Mina Juhn, Comment, *Race, Place, and Pollution: The Deep Roots of Environmental Racism*, 89 FORDHAM L. REV. ONLINE 74, 75 (2021).

15. *See id.* at 84–85.

16. Kimberly Ayudant, Comment, *A Call for Desegregation in Education: Examining the Strength in Diversity Act*, 89 FORDHAM L. REV. ONLINE 60, 67 (2021).

17. *See id.* at 69–73.

18. Kendra Kumor, Comment, *Systemic Racism and Child Neglect Laws*, 89 FORDHAM L. REV. ONLINE 113, 114 (2021).

19. *See id.* at 118–23.

20. Eric Szkarlat, Comment, *Not Secure in Their Persons: Bridging Garner and Graham*, 89 FORDHAM L. REV. ONLINE 140, 140–41 (2021).

21. *See id.* at 150.

22. Zach Huffman, Comment, *Recasting the Exclusionary Rule’s Net*, 89 FORDHAM L. REV. ONLINE 99, 100–01 (2021).

recommends is inviting the Supreme Court to offer a different remedy by rethinking its qualified immunity doctrine in cases for civil relief.²³

Together, these pieces highlight the grave inequities BIPOC suffer under laws and policies in the United States that perpetuate systemic racism. This series is but one contribution to a larger, serious dialogue on action that must be taken to leave inequality behind in 2020.

23. *See id.* at 109–10.