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PURSUING RACIAL JUSTICE

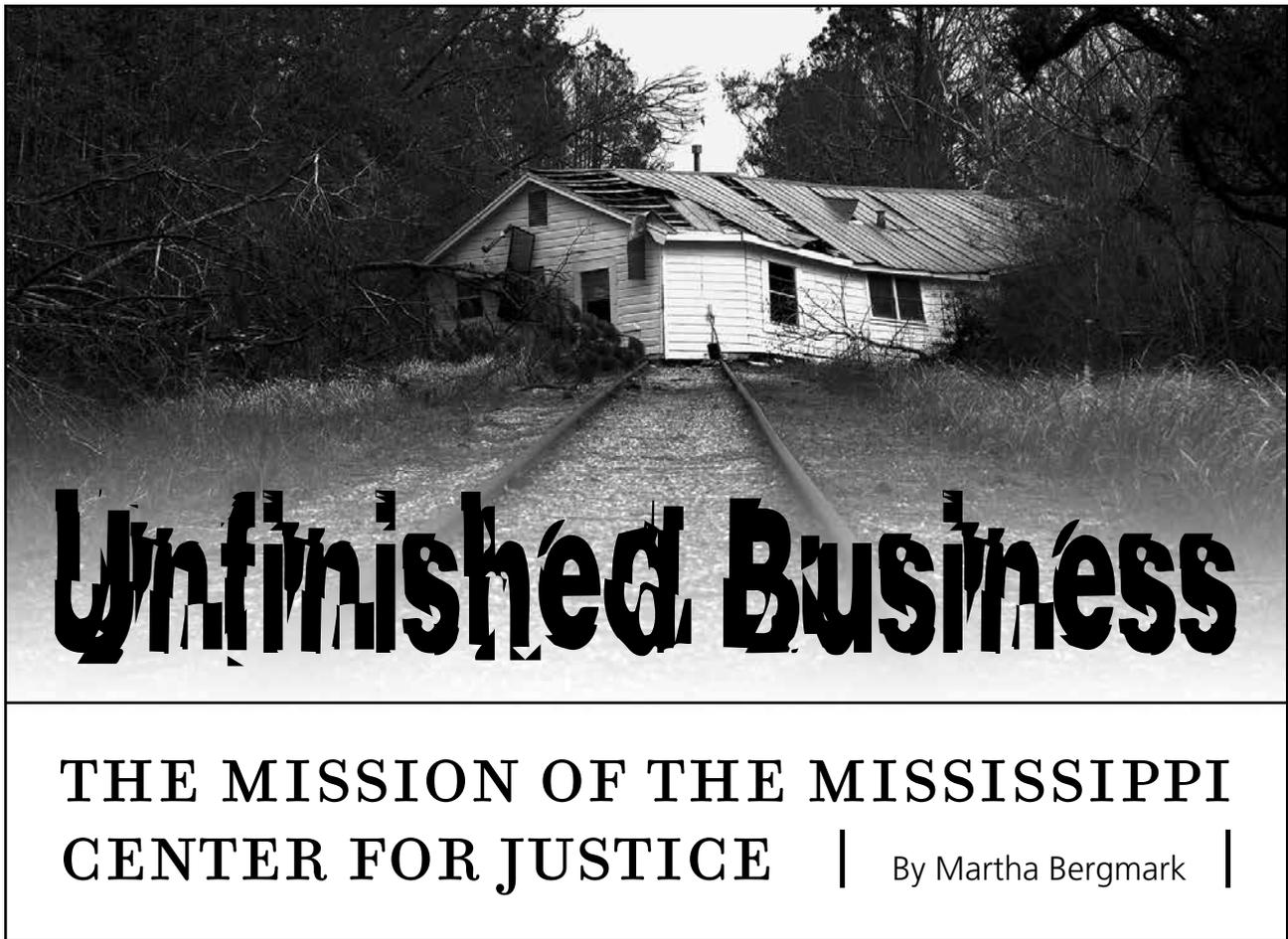
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21ST CENTURY



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Sargent Shriver National Center on Poverty Law



Unfinished Business

THE MISSION OF THE MISSISSIPPI CENTER FOR JUSTICE | By Martha Bergmark |

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The mission of the Mississippi Center for Justice originated in the hearts of Mississippi civil rights lawyers who never stopped mourning the loss of the state's home-grown capacity for legal advocacy to advance racial justice.

At the height of the civil rights movement, Farish Street in Jackson was home to the Mississippi offices of the NAACP Legal Defense and Educational Fund, Lawyers' Committee for Civil Rights Under Law, and other national organizations that serviced the legal needs of the movement. But by 1980 all had shut down their local offices.

In 1968 federally funded legal services programs in Oxford and Jackson began to supplement the work of the national civil rights groups, but the legal services programs' focus on school desegregation cases was soon cut short by congressional restrictions. In the late 1970s a new Legal Services Corporation—funded state support center began a focus on voting rights litigation that helped give Mississippi the highest number of African American elected officials in the nation. But this work came to an end in 1995, when Congress' termination of funding for state support centers (and a new prohibition on representation with respect to redistricting) caused this program, too, to close its doors.¹

Thus Mississippi—with its centuries-long history of racial injustice and its unfinished business of the civil rights era—was left at the turn of the new century with no concerted capacity for legal advocacy to advance racial justice. In 2002 a group of civil rights lawyers and other state leaders filed nonprofit incorporation papers and developed a fund-raising strategy to change that, and the Mississippi Center for Justice—with its mission to advance racial and economic justice through systemic change—was born.

¹Redistricting, 45 C.F.R. § 1632 (2012).

We set the ribbon cutting for June 12, 2003, the fortieth anniversary of the slaying of Medgar Evers, the Mississippi civil rights hero who was gunned down in his driveway as he returned from a voting rights rally. We dedicated ourselves to the unfinished business of the movement for which Evers gave his life. And this year, as we commemorate both the fiftieth anniversary of Evers's death and celebrate the Center's tenth, we confront the continuing racial and economic disparities that are the legacy of slavery and Jim Crow.

Today, half a century after the historic advances of the civil rights movement, Mississippi remains our nation's poorest state and the state with the highest proportion of African Americans—38 percent.² Both the civil rights movement and the war on poverty produced significant gains for Mississippians, but we still score abysmally low on every measure of human well-being from infant mortality to educational attainment to family income. So the Center's dual lens—racial and economic—is historically based, and it still makes sense. But, as a practical matter, how does it play out?

In the Beginning: The Dirty Dozen

With a first-year budget of \$350,000 and a beginning staff of four, the Center's founding board identified the state's worst social injustices—a “dirty dozen” that became our radar screen for assessing opportunities for systemic change. The board adopted a campaign style of work designed to offer the right legal strategy at the right time to advance the social justice goals of our community partners as well as to leverage the resources of national and regional support organizations. Among our early successes are the passage of the Juvenile Justice Reform Act of 2005, which imposed community-based alternatives to mass incarceration of Mississippi children,

and the 2004 reinstatement, through litigation and subsequent legislation, of Medicaid benefits for 50,000 elderly and disabled Mississippians whose eligibility category had been eliminated by the governor.³ These victories exemplified an emerging method of work that included strong community partnerships, policy advocacy, impact litigation, media advocacy, and aggressive leveraging of national and regional resources.

Nature Intervenes: Hurricane Katrina

When Hurricane Katrina devastated the Mississippi Gulf Coast in 2005, the Center immediately opened an office in Biloxi to meet the overwhelming legal needs of individual survivors as well as to ensure equity in the development and implementation of recovery policies. Here the magnitude of the need, matched by a generous outpouring of offers of assistance from all over the country, enabled us to grow our community lawyering approach to include direct legal services to individuals and incorporate the volunteer services of pro bono lawyers and law students. Indeed, putting in place a delivery system with the capacity to say yes to the offers of pro bono assistance became one of our biggest challenges.

Direct representation of thousands of Katrina survivors formed the basis for understanding how policy decisions about disaster recovery were playing out to the systematic disadvantage of low-wealth and African American people and communities. Across the board, in Federal Emergency Management Agency decisions, grant programs, insurance coverage decisions, and evictions from rental housing, the Center identified distinct patterns of discrimination based on race, economic status, and disability. To respond to them, we called upon every weapon in our community lawyering arsenal.

²U.S. Census Bureau, 2007–2011 American Community Survey, ACS Demographic and Housing Estimates tbl.DP05 (2011), <http://1.usa.gov/1alSEA>. For a ranking of states, see Kids Count Data Center, Annie E. Casey Foundation, Adult Population by Race (2013), <http://bit.ly/1czLOUz> (citing Mississippi as having the highest proportion of African Americans of all states).

³Mississippi Juvenile Justice Reform Act of 2005, 2005 Miss. Laws ch. 471; Miss. CODE ANN. § 43-13-115 (West 2005) (amendments to Medicaid authorization).

As a founding member of Steps, a grass roots coalition of nonprofit organizations committed to a healthy, just, and equitable recovery, the Center worked closely with the Biloxi chapter of the NAACP and the Lawyers' Committee for Civil Rights Under Law, among others, to investigate, organize, educate, advocate, and litigate. We sought to tell—and change the ending of—the story of “two recoveries” on the Coast. As one example of our success in that regard, the Center and our partners challenged Mississippi Gov. Haley Barbour's diversion of federal funds, appropriated for low and moderate income housing recovery, to expand the State Port of Gulfport. The Center's federal lawsuit resulted in a settlement that required the state to commit \$172 million to rebuild the homes of 6,000 families—disproportionately African American, low-income, and elderly—who were previously excluded from eligibility for assistance.

In the aftermath of Katrina, the Center grew to a 2007 operating budget of \$1.6 million with fifteen staff members at offices in Jackson and Biloxi. We established long-term relationships with national advocacy organizations and law firms, expanded our influence and reach within the state, and put ourselves in a better position to turn our attention toward the most challenged region of our state, the Mississippi Delta.

Back to the Disaster Before the Disaster: A Home in the Delta

Located in northwest Mississippi, the Mississippi Delta has the largest concentration of African Americans in the country—nearly 60 percent of the population—and the region stands out from the rest of the state in other ways, too: more racial disparity, more poverty, fewer opportunities for high-quality education, and worse health outcomes.⁴ While the wealth gap and the racial disparities

are glaring, there is hope. This is a region with a long history of political activism and leadership, having produced such civil rights pioneers as Fannie Lou Hamer and Aaron Henry. As we traveled there from our Jackson office to provide legal representation and community legal education, we witnessed the strong commitment to fight for a future that bridges economic and educational gaps, and we yearned to have a real presence there as a partner in that fight. In October 2011, following many months of planning, advance work, and fund-raising, the Center achieved its long-term goal of opening an office in the Delta city of Indianola, county seat of Sunflower County, where staff members focus their efforts on education and health advocacy.

Improving Mississippi's public education system is the necessary prerequisite to reducing the state's persistent high poverty and pervasive racial inequities. Poor education performance accounts for over half the state's economic gap, according to a recent study.⁵ The test scores of Mississippi schoolchildren in reading, writing, and mathematics sharply trail national averages.⁶ Within Mississippi, the test scores of African American students lag those of white students by significant margins. Efforts at systemic improvement have been hampered by funding disparities and by the resegregation of many public schools.

Nowhere is this situation more dire than in the Delta. For this reason, our educational opportunities director is based in Indianola, and our education team of attorneys and a community organizer press forcefully on the levers of change to keep children in school despite discipline and special education practices that, without our representation, would push them out; to engage parents and communities in preserving and improving their neighborhood schools; and to promote

⁴For a ranking of state human well-being indicators, including economic, social, and health statistics, see Robert Wood Johnson Foundation, *County Health Rankings and Roadmaps: Mississippi* (2013), <http://bit.ly/XZqWA4>. Mississippi Delta counties range from 46 percent to 86 percent African American, with an average of 60 percent (U.S. Census Bureau, *supra* note 2).

⁵Southern Education Foundation, *Miles to Go Mississippi*, at vii (2006), <http://bit.ly/14tfh25>.

⁶The Nation's Report Card, *Mathematics: 2011 State Snapshot Report: Mississippi Grade 8 Public Schools* (n.d.), <http://1.usa.gov/14tfMsU> (data from National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, National Assessment of Educational Progress, various years, 1992–2011 Mathematics Assessments).

equity and adequacy in school funding. Their work is concentrated in the Delta, Jackson, and the Gulf Coast.

Our advocacy to improve access to affordable health care presents comparable challenges. Mississippi has the dubious distinction of having the lowest life expectancy in the nation.⁷ There are many causes of low longevity, and Mississippi has them all: inaccessible health care, high rates of controllable disease, low levels of education, generational poverty, and embedded racism.⁸ The Delta, in particular, leads the nation in infant mortality, teen pregnancy, and heterosexually acquired HIV/AIDS.⁹

In recent years the Center has battled unnecessary and burdensome bureaucratic impediments to the enrollment of eligible Medicaid recipients. We commissioned research that documented the adverse impact, in particular, of face-to-face recertification—a requirement imposed only in Mississippi—and advocated forcefully but unsuccessfully the elimination of this provision. We have turned our attention to an advocacy campaign to assure full and timely implementation of the Patient Protection and Affordable Care Act, which will, among many other benefits for low-income Mississippians, finally prohibit the bureaucratic churn and inequitable impact of face-to-face recertification.

Today the Center has an operating budget of \$4 million, and our thirty-four staff members include lawyers, community organizers, communications professionals,

a policy analyst, and pro bono counsel at offices in Jackson, Biloxi, and Indianola.

Financial Inclusion: From Plantation Store to New Roots Credit Partnership

Predatory lending is a national problem, but it has caused particular damage in Mississippi, which has the highest per-capita concentration of payday lending stores in the nation, and where predatory lending is a racial justice issue.¹⁰ Payday lending and its cousins—check cashers, pawnshops, rent-to-own outlets, and car title lenders—are modern-day versions of the sharecropper’s plantation store, with its crushing cycle of debt. Under Jim Crow, African Americans also suffered discrimination at the hands of mainstream financial institutions, and a legacy of distrust remains. Today more than 15 percent of the state’s residents lack a checking or savings account, the highest such rate in the nation.¹¹

When our efforts over several years to solve this problem through policy change came up short, we decided we needed a new approach. New Roots Credit Partnership brings employers, community leaders, and financial institutions together to engage Mississippians shut out of the economic mainstream for generations. The approach combines public education, grassroots outreach, and workforce development with responsible and fair lending products. This public-private partnership, backed by the Clinton Global Initiative, is beginning to

⁷Sarah Burd-Sharps et al., American Human Development Project, A Portrait of Mississippi: Mississippi Human Development Report 16 (2009), <http://bit.ly/NIX8DP>.

⁸See Robert Wood Johnson Foundation, *supra* note 4, and Burd-Sharps et al., *supra* note 7, at 35.

⁹See Burd-Sharps et al., *supra* note 7, at 27–35; Robert Wood Johnson Foundation, *supra* note 4. A 2005 study found that heterosexually acquired HIV is more likely in the Southeast, particularly in the Mississippi Delta, than elsewhere. The same study found that HIV diagnoses among young people aged 13–24 years were highest in the Mississippi Delta (see H. Irene Hall et al., *HIV in Predominantly Rural Areas of the United States*, 21 JOURNAL OF RURAL HEALTH 245 (2005)). Recent data from the Mississippi Department of Health indicates a steady increase in HIV/AIDS rates from 2007 to the present, with the Delta region experiencing the highest rates, while African Americans continue to be disproportionately affected, making up 75 percent of newly reported cases in 2012 (see Mississippi State Department of Health, Mississippi HIV Statistics (2012), <http://1.usa.gov/1c1r0rk>).

¹⁰Calculated on the basis of data contained in Nicholas Bianchi, National People’s Action, Profiting from Poverty: How Payday Lenders Strip Wealth from the Working-Poor for Record Profits 19 (Jan. 2012), <http://bit.ly/16jLUJ3>, combined with data on number of payday lenders and state population from U.S. Census Bureau, Profile of General Population and Housing Characteristics 2010: Demographic Profile Data (n.d.), <http://1.usa.gov/eQewP4>.

¹¹SUSAN BURHOUSE & YAZMIN OSAKI, FEDERAL DEPOSIT INSURANCE CORPORATION, 2011 FDIC NATIONAL SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS 128 (Sept. 2012) <http://1.usa.gov/PbLzmD>.

provide real alternatives to predatory lending and building a stronger movement for reforming the lending industry.

Racial Justice: Still Mission Critical

On the day that Medgar Evers died fifty years ago, I was a white teenager in Jackson, Mississippi, and absorbed most of the time with the typical concerns of childhood. But I vividly remember June 12, 1963, because that day my family and I heard the news that this well-known civil rights leader in our state had been shot and killed at his home, just a few miles from where we lived.

Evers had fought in the U.S. Army in Europe during World War II, only to return home to a state where slavery had been replaced by Jim Crow laws that institutionalized discrimination in every aspect of life. Before long, he applied unsuccessfully to become the first African American to attend the law school at Ole Miss and led sit-ins and boycotts of businesses that practiced segregation, even though he knew that challenging the white power structure could cost his life.

For many of us, white as well as black, the assassination of Medgar Evers was a turning point. We were forced to ask ourselves with regard to the growing civil rights movement, “Where do I stand, and what am I willing to risk?” Today we as a nation are confronted by the same question. Undeniably the heroic movement that Evers and many others inspired brought an end to legal apartheid and transformed my home state and our country.

But our work as a nation to achieve racial and economic justice is far from done. It is not just that the right to vote is once again under attack in many states, including Mississippi, and even, unbelievably, by the U.S. Supreme Court’s decision to nullify the Voting Rights Act’s most powerful enforcement tool.¹² More than that, de facto segregation and discrimination continue to threaten opportunities for access to education, health care, financial services, and the job market. Nationally the unemployment rate is about twice as high for African Americans as for whites.¹³ On average, African American and Latino families have about one-sixth the wealth of white families.¹⁴ Fewer than half of black males graduate from high school. African Americans are incarcerated at nearly six times the rate of whites.¹⁵

Before Medgar Evers was killed, he told other activists worried about the safety of their leaders, “You can kill a man, but you can’t kill an idea.”¹⁶ In this season of fiftieth anniversaries of the civil rights era, we should pause to celebrate the courage of people such as Evers who challenge injustice no matter what the price. And we should use the occasion to rededicate ourselves to fulfill our nation’s promise of justice for all.

Author’s Acknowledgment

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¹²*Shelby County v. Holder*, 133 S. Ct. 2612 (2013).

¹³Bureau of Labor Statistics, U.S. Department of Labor, Table A-2: Employment Status of the Civilian Population by Race, Sex, and Age (Aug. 2, 2013), <http://1.usa.gov/2ZYGjf>. In June 2013 the national unemployment rate was 6.6 percent for whites and 13.7 percent for African Americans.

¹⁴Signe-Mary McKernan et al., Urban Institute, *Less than Equal: Racial Disparities in Wealth Accumulation 1* (April 2013), <http://urbn.is/14JeN7c>.

¹⁵For data on racial disparities in high school graduation rates, see Schott Foundation for Public Education, *The Urgency of Now, Black Male Graduation Rates* (2012), <http://bit.ly/18bWi7G>. For national incarceration data, see Sentencing Project, *Racial Disparity* (n.d.), <http://bit.ly/9di0EK>. For racial disparities in Mississippi’s juvenile incarceration rate, see Burd-Sharps et al., *supra* note 7, at 42.

¹⁶BrainyQuote.com, Medgar Evers (2013), <http://bit.ly/14XE0cD>.



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