

THE CIVIL RIGHTS ACTS AND THE BLACK  
RESPONSE, 1964-1968.

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## PREFACE

The Black struggle for freedom and equality reached its apogee in the 1960s. The prejudices arising from racial differences and 'previous state of servitude', rampant after the Civil War, had developed into the racial problem affecting every sphere of the Black man's life in America. They were treated as social inferiors. Institutional racism marked all aspects of Black life. It was only after the Second World War that changes in their favour began to take place. Job openings in the war industries, entrance to labour unions, and the Executive Order passed by Truman to enforce desegregation in the armed forces were some of the landmarks in their progress. Little Rock, Arkansas was symptomatic of the barriers against desegregation. Racial animosity was demonstrated in a number of other episodes. Their collective impact was heightened by the publicity they received from the mass media.

The intensifying of the Civil Rights movement prompted the intervention of the Federal government. A number of associated issues such as the Constitutional balance of power, the relations between the centre and the states and individual rights were subjected to widespread debate.

The Black community was not unaffected by this ferment. The experiences of the Black soldiers during the Second World War generated a change in the community's consciousness. This, in turn, fostered organizational activity. Black participation in the War revealed to them the contradiction between American rhetoric about global equality and the fact<sup>of</sup> inequality to which they were subjected within the United States. This encouraged Black determi-

nation to redefine 'freedom and equality' in their own terms. A heterogenous group of leaders and spokesmen emerged. Martin Luther King Jr. spoke from the point of view of the clergy, Bayard Rustin, an intellectual and a pacifist, contributed his own mite. There were others like A. Philip Randolph, a spokesman of the working class and the trade unions, lawyers like Burke Marshall, politicians like Clayton Powell and student leaders and other professional groups also combined their efforts towards integration.

The separatist trend was also present and Malcolm X was its leading proponent. He saw Islam as the basis for founding a separate Black identity. He called for a separate Black nation within the United States.

The Black Power movement was a consequence of the shortcomings of the Civil Rights movement until 1966. The degree of oppression to which Blacks were subjected was directly related to the extent of their powerlessness. The leaders of this group, like Stokely Carmichael, Eldridge Cleaver and Huey Newton concentrated their efforts into organizing the militant Black youths in the ghettos. The Black Power movement took a radical turn when it called for Black liberation in terms of overthrowing the capitalist system in the United States.

This study relates to the important shifts in Black consciousness and Black organised activities leading to the Federal legislative intervention. The method adopted is historical. The first three chapters attempt to, provide a background to the Civil Rights Acts enacted during Lyndon Johnson's Presidency. The fourth chapter is concerned with studying the provisions of the Acts. The

fifth chapter is devoted to an investigation into the variegated Black response to the legislative endeavours of the American government.

In writing my dissertation I have mainly relied on the secondary source materials. I have, however, drawn my basic postulates on the basis of some primary source materials also.

It is a pleasure for me to acknowledge the kindness of my teachers and friends from whose help and advice I have benefited. I am deeply grateful to Dr R. P. Kaushik, my Supervisor, at the Centre for American Studies, School of International Studies, Jawaharlal Nehru University for reading and correcting my manuscript, Professor B. K. Shrivastava and Professor M. S. Venkataramani for their kindness. Similarly, I should thank the staffs of the American Resource Centre, Hyderabad, Central Library, Jawaharlal Nehru University, New Delhi, Indian Council of World Affairs Library, New Delhi and the American Library, New Delhi for their help. Lastly, I would like to thank my friends whose counsel and support went a long way in the preparation of this study. None who helped me should, however, share the responsibilities for any error to be found in the pages that follow.

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## Chapter I

### A HISTORICAL PERSPECTIVE

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The Emancipation Proclamation of 1st January 1863 set the Blacks free from slavery in the United States. The Fourteenth Amendment, enacted in 1868, guaranteed to all persons the enjoyment of the privileges and immunities of citizenship without regard to race, colour, or previous conditions of servitude. It aimed at the prevention of encroachment by individual states upon the rights of life, liberty and property of the citizens without the due process of law. It contained two important sections of the American Constitution: "nor shall any State deprive any person of life, liberty, or property without due process of law"; and "nor deny to any person within its jurisdiction equal protection of the laws". Two years later, in 1870, the Fifteenth Amendment was passed which declared that the right to vote shall not be denied or abridged on account of race or colour, or previous conditions of servitude.<sup>1</sup>

All these reforms marked important advances in the history of the Black's struggle for freedom and equality. But this did not signify as much an end to as the beginning of a new phase in their struggle. Having been set free, the Blacks faced a bleak and uncertain future. The various legislations made on their behalf proved ineffective in the face of opposition from the racist elements. In the South, the Whites mounted a remorseless anti-Black campaign. Lynching and social ostracisation became a general practice. Many legislatures in the

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<sup>1</sup> Carter Godwin Woodson, The Negro in Our History (Washington, D.C., 1944), pp. 397-8.

southern states imposed new restrictions on the Negroes. The "Black Codes" and "Jim Crow Laws" became the main features of such legislation. By these acts the Blacks were prevented from transacting business or from testifying in courts except in cases involving members of their own race. The new laws imposed heavy fines on them on such charges as making "seditious" speech, or adopting "insulting behaviour" to their White masters, or abstaining from work. All these laws denied the Negroes the rights and benefits promised under the Reconstruction Programme. To quote John Hope Franklin, a noted Black historian, "freedom [for the Blacks] became little more than a word; and equality was for the moment a pipe-dream in which only the more idealistic indulged".<sup>2</sup>

Economically too, the Negroes faced new problems in the South. The introduction of mechanized farming as also a large-scale shift from agriculture to cattle production reduced the employment opportunities for the Blacks. In addition, the competition from mechanized farming ruined the opportunities of Negro share-croppers.<sup>3</sup>

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2 John Hope Franklin, "The Emancipation Proclamation: 1863-1963", in Arnold M. Rose, ed., Assuring Freedom to the Free (Detroit, 1964), p. 22.

3 John Hope Franklin, From Slavery to Freedom (New York, 1967), 3rd edn, p. 196.

In the field of economic participation it was found that most of the skilled labour prior to the Civil War came from among the Blacks. In 1880, there were five times more Negro artisans than White artisans. However, economic liberation in the White community widened the spheres of competition and the Negroes were at the losing end.



### Reconstruction and Its Aftermath

Several historians have suggested that the period of Reconstruction was ideally suited for the betterment of Negroes in the southern states. In fact, in some southern states, like South Carolina, the rule of the Negro legislators was short-lived. However, during this brief period, in several other southern states the Blacks occupied important positions and carried forward their programmes of education and employment.

But the bulk of the Black masses did not benefit from these programmes.

Coupled with this experience the racist belligerency of the Whites as also the reduced opportunities for employment induced the Blacks to migrate to the cities in large numbers. During the period 1860-1870, Negro population in the cities increased at the rate of 100 per cent per year. In some of the big cities like New York, Chicago, and Los Angeles, Negro<sup>4</sup> population came to represent a sizable minority group.

Once the Blacks came to the cities they found that their position was no better than what they had left behind. Lack of training and education hampered their progress. In most instances they were unable to meet the required qualifications for skilled jobs. Hence, they could obtain only menial and low-paid jobs as vacated by the Whites. Job scarcity and discrimination led to the general regression of the Blacks. Great ghettos were spawned all over the northern and southern cities. Social ills

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<sup>4</sup> Benjamin Brawley, A Social History of American Negro (London, 1970), p. 337.

such as drunkenness, crimes, broken families became an integral part of these conditions.

Even in jobs the Blacks were segregated into auxiliary unions.<sup>5</sup> In reality they had no say in job distribution or wage demands. The tradition of seniority in the unions also affected their position. For, during times of recession they were the first to be laid off. Their uncertain position prevented them from organizing strong unions. Job scarcity, on the other hand, made the Blacks grab whatever was offered to them, especially in times of industrial dispute. For this reason the White workmen objected to work with them. On the other hand, employers were unwilling to employ non-union men for fear of labour unrest. Thus, whatever stance the Blacks took, it only proved an impediment to their progress.<sup>6</sup>

The period 1890-1910 witnessed a further decline in the position of the Negroes in the South. The ruling elite among the Whites sought to instil a psychology of inferiority into the Blacks. On 29 May 1895 they passed a resolution in Orange Park Academy, Florida, "An Act to prohibit Whites and Colored Youth from being Taught in the same Schools". "It shall be a penal offense" ran the resolution, "for any individual body of inhabitants, or association to conduct within this State any

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5 Robert C. Weaver, Negro Labor: A National Problem (New York, 1946), p. 12.

6 Charles H. Wesley, "Organized Labor and the Negro", in Henry N. Drewry, ed., Afro-American History Past to Present (New Jersey, 1971), p. 259.

school of any grade, public, private, or parochial, wherein white persons and Negroes shall be instructed or boarded within the same building, or taught in the same class or at the same time by the same teacher".<sup>7</sup> Following this the structure of racial segregation was strengthened by a wide variety of "Jim Crow"<sup>8</sup> laws.

### The Inter-War Years

During the period between the two World Wars, however, the Blacks made some advances. They showed progress in business, in living standards and education. By 1913 the "odd fellows" numbered very nearly half a million members and owned property worth two and a half million dollars.<sup>9</sup> Nearly one-fourth of all the Blacks in the southern states owned houses by themselves (430,449 of 1,917,391 members of the community). The percentage of illiteracy among the Blacks decreased from 80 per cent in 1880 to 30.4 per cent in 1910.<sup>10</sup> In 1917, 455 Blacks obtained

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7 Brawley, n. 4, pp. 302-3.

8 C. Vann Woodward, The Strange Career of Jim Crow (New York, 1966), 2nd edn, p. 322.

"A search of the statute books fail to disclose any state law or city ordinance specifying separate Bibles and separate elevators...laws are not an adequate index of the extent and prevalence of segregation and discriminatory practices in the South. The practices often anticipated and sometimes exceeded the laws. It may be confidently assumed - and it could be verified by present observation that there is more Jim Crowism practised in the South than there are Jim Crow laws in the books".

9 Brawley, n. 4, p. 342. In 1920 the Dunbar Amusement Corporation of Philadelphia erected a theatre costing \$400,000. Madame C.Y. Walker was a foremost business woman who dealt in simple business of toilet articles and hair preparations. She built an enterprise of a national scope.

10 Ibid., p. 327.

graduation degrees. Also, new General Education Board began assisting the institutions of higher education for them.

In 1914 the outbreak of the War reversed the tide of European migration. Foreign-born men streamed back to Europe from Pittsburgh, Cleveland, Detroit, and Toledo to shoulder responsibilities of the War. Immigration virtually stopped. Many cities which depended on migrant labour for running their industries experienced shortage of manpower at the very moment when the demand for production rose and the profits were high. For the first time the Blacks were invited to join industrial jobs. In January 1916 the Continental Tobacco Corporation decided on a policy of importing labour from the South. Within a year no less than 3,000 Blacks migrated to Hartford. Many Blacks also came from Jacksonville to work in Erie and Pennsylvania railroads. Between the years 1915 and 1918 three-fourth of a million Blacks including several hundred students went  
<sup>11</sup>  
north.

When the United States entered the War in April 1917, Black response to the draft was positive. By October, 625 Blacks became commissioned officers, 1,200 received commissions, and in all some 400,000 Blacks served in all the branches of the armed forces. Black nurses were authorized by the War Department to serve in base hospitals. Sixty Black chaplains were appointed as also 350 Blacks worked as Young Man's Christian Association (YMCA) secretaries. On 1 October 1917 Emmett J. Scott, a Black, was appointed Special Assistant to the Secretary

of War. The experience of the Black soldiers abroad not only widened their mental horizon but also opened their eyes to the realities of White hypocrisy at home.

Black progress was, of course, met with increasing opposition from the Whites. Negroes who stood high in the civil service lists were often set aside. In 1913 White railway-mail clerks discriminated against the Blacks in direct violation of the rules. In the cities, the attempt to restrict the Blacks to certain neighbourhood led to an outbreak of violence and killing. Often the Whites sought to block Black entry into what they considered to be their exclusive social and political preserves. In 1912, when the Progressive Party was organized, it made it quite clear to the Negroes that their support in the elections was not required. Cases of lynching and intimidation rose as unruly bands of White extremists sought their Black victims. On 12 August 1911, at Coastville, Pennsylvania, a Negro labourer, Zach Walker, was lynched publicly and his bones were distributed as souvenirs!

Among those who migrated into the cities, both skilled and unskilled Blacks - the educated and the ignorant, the improvident ones as well as the owners of "homes" - faced congestion and poor housing conditions. Often this led to racial riots between Black and White workers. In East St. Louis where the bulk of migrant population came from parts of Georgia, Mississippi, Kentucky and Tennessee, the White workers retained their original prejudice against the Blacks. The city was also reputed to be a centre of gambling and a haven for the ex-convicts. The sudden influx of Black population was regarded by

these elements as an encroachment on the living quarters of the Whites. The upshot was frequent occurrence of street-fights and racial riots. In February 1917, White workers in the Aluminium Ore Industry went on a strike to "make East St. Louis a Lily White town". On July 1st White men in automobiles rode through the black section of the city firing their guns at random. The next day properties worth hundreds of thousand dollars were destroyed. About six thousand Black families were driven out of their homes, while another hundred and fifty of them were hanged, burned, shot and maimed for life.<sup>12</sup>

Throughout the inter-War period little improvement took place in the civil life of the Blacks. Black labour still remained largely concentrated in agriculture. They were excluded from the larger world of finance and business. They could serve only in the segregated community. The professional workers amongst them comprised mainly teachers and small businessmen. The occupational distribution of the group was reflected in earnings of the Blacks which approximated to only half of the median income of the Whites .

Even in the defence industry there was discrimination: 75 per cent of the war industry was closed to the Black trainees. State employment services refused to register the skilled Blacks. Only New York and Illinois initiated steps to induce employers to accept Negro labour. Even then there was great opposition from the organized labour. The affiliates of the American

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12      Ibid., p. 348.

Federation of Labour (AFOL) and other unions continued to impose restrictions on the Blacks. Hence the latter were caught in a vicious circle: "No training therefore no jobs; no jobs and therefore no union memberships; employer and union opposition and therefore no training".<sup>13</sup>

Towards the close of the 1930s, the Blacks took steps to protest against discrimination. They pitted their hopes on positive government action backed by favourable public opinion.<sup>14</sup> In response to the pressure of the Black agitators the United States Employment Service (USES) adopted a plan for improving the service conditions of the Black workers as presented by National Urban League (NUL).<sup>15</sup> The US office of Education sent directives to the State educational offices instructing them to make defense training available to the Blacks either by admitting them to the existing classes or by setting up classes similar to those established for the Whites. Also, the National Maritime Union and the Steel Workers' Organizing Committee took steps to give equal job opportunities to the Negroes as part of their agreement with the management.

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- 13 Lester B. Granger, "Barriers to Negro War Employment", Annals of the American Academy, vol. 222, September 1942, pp. 72-80.
- 14 Federal Officials welcomed such move a memorandum was issued on 11 April 1941 calling employer's attention to the wastefulness of importing labour.
- 15 A division of Negro Employment was established in USES. Experienced employment service officials were placed in regional labour offices. Dr. Ira De and A. Reid - Negro economists were appointed assistants to the Director of the Bureau of Employment Security of which USES was a part.

On 25 June 1941 President Roosevelt issued an Executive Order [8802] which forbade the defense plants from discriminating against any minority group seeking employment. But this order met with the employers' resistance. On 18 June 1942, the President's Commission on Fair Employment Practice cited <sup>one</sup> Chicago Labour Unions, the Steam Fitters Protective Association [local 130], as guilty of preventing Negro steam-fitters and plumbers from working in defense projects. In September 1941, the US Employment Service enquired into selected defense industries to find out the number of jobs to be made available to the qualified Negroes. It found that out of the total number of job openings, 51 per cent<sup>16</sup> was barred to the Blacks. Although opinions differ regarding the improvement that was affected by the positive policy that Franklin D. Roosevelt followed, it is true that general conditions of the Negroes had improved. Much more could have been done but this remained only in the realm of wishful thinking on the part of the White liberals in America.

### The Second World War and After

The search for a watershed in recent Negro history brings us to the fateful years of the Second World War. As in the case of other important events, the Blacks had various reactions to the War. One view was strongly isolationist. An article, "Lynching and Liberty" that appeared in Crisis 1940, had this to say,

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16 Granger, n. 13, p. 76.



The Crisis is sorry for brutality, blood and death among the peoples of Europe, just as we were sorry for China and Ethiopia. But the hysterical cries of the preachers of democracy for Europe leave us cold. We want democracy in Alabama and Arkansas, in Mississippi and Michigan in the District of Columbia - in the Senate of the United States.

The Pittsburgh Courier wrote in its 9 September 1939 issue, that the Negroes had their 'own war' at home against oppression, exploitation from without and against disorganiza-<sup>17</sup>tion and lack of confidence from within. The Chicago Defender wrote that peace at home should be the main concern of Black Americans.

During these years, cynicism as well as hope existed side by side. Cynicism grew with every additional example of discrimination. After Pearl Harbor, however, there was increasing hope that favourable changes for the Blacks would follow soon after the War. This hope sprang from the belief that the War had unleashed revolutionary forces throughout the world. It had also shattered the myth of White invincibility, both, at home as well as abroad.

There was a widespread movement in the Afro-Asian world to liberate itself from colonialism. Several countries had attained independence and several others were in the process of attaining it. This phenomenon kindled a hope among the Negroes in America. In October 1942, a group of Southern Negro leaders met in Durham, North Carolina, and issued a statement on the race relations. Apart from endorsing the idea that the Negro

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17 Chicago Defender, 25 May 1940.

should fight for democracy at home, these leaders called for a complete equality for their brothers. In addition to this there were reports of deep discontent among the Negro college students and evidence of political activity among the blacks of the South, particularly at the local level.<sup>18</sup>

Optimism, however, was mixed with caution. The Negro soldier saw himself fighting a war "for personal survival, a fight for his own life".<sup>19</sup> The Pittsburgh Courier on 12 September 1942 emphasized the mistake of relying entirely upon the gratitude and a sense of fair play of the American people:

Now we are disillusioned. We have neither faith in promise, nor a high opinion of the integrity of the American people, where race is involved. Experience has taught us that we must rely primarily upon our own efforts.... That is why we protest, agitate and demand that all forms of color prejudice be blotted out....

When in 1944 fourteen prominent Negroes, conservatives and liberals from the south and north, were asked what they thought the Black Americans wanted, their response was almost unanimous: they thought Negroes wanted full political equality, economic equality, equality of opportunity and full social equality and the abolition of legal segregation.<sup>20</sup>

Stimulated by the democratic ideology of the war, the Negro began re-examining his position in the American society.

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18 Richard M. Dalfiume, "The Forgotten Years of Negro Revolution", in Seth M. Scheiner and others, eds., The Black Americans: Interpretative Readings (New York, 1971).

19 Crisis (Chicago), vol. 51, September 1944.

20 Logan W. Rayford, ed., What the Negro Wants (Chapel Hill, 1944).

Writing in 1950 Gunnar Myrdal observed, "It cannot be doubted that the spirit of the American Negroes in all classes is different today from what it was a generation ago".<sup>21</sup> Partly this new spirit was a product of the cynicism, of the hope and the heightened race consciousness and militancy of the American Negro. It was expressed through Philip Randolph's march on Washington in 1948 with the slogan "We loyal Negro-American<sup>22</sup> citizens demand the right to work and fight for our country". The purpose of the march was to demand in the interest of national unity, the abrogation of every law which discriminated against citizens on the basis of religion, creed, colour or national origin. It called for the abolition of 'Jim Crow' laws in education and housing; abolition of segregation and discrimination in the army, navy, marine corps, air camps, and other branches of defense. The programme also demanded official action to enforce the Fourteenth and Fifteenth Amendments guaranteeing that no person shall be deprived of life, liberty or property without due process of law, so that the full weight of the national government may be used for the protection of life and thereby may end the disgrace of lynching. It wanted the enactment of the Paper Poll Tax bill so as to remove all barriers in<sup>23</sup> the exercise of suffrage.

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21 Gunnar Myrdal, American Dilemma (London, 1962), p. 744.

22 Pittsburgh Courier, 25 January 1941.

23 A. Philip Randolph, "Why Should We March" (Program of the March on Washington Movement), Survey Graphic November 1942, pp. 488-9.

The aftermath of the War also brought in its wake developments which altered the course of world history. The rapid decolonization of the countries in Africa and Asia mentioned earlier put the moral pressure on the United States. The moral stand the United States adopted on this issue made the Black's resent the double standards maintained by their government. The experience of the Black soldiers in Europe and Asia had a catalytic effect. For everywhere they went they were treated as soldiers of liberty. Hence, the treatment meted out at home prompted them to work for equality.

In sum, the democratic ideology with which the War was fought stimulated a sense of hope and confidence and particularly among the Black Americans. This confidence evoked a mass militancy and race consciousness that grew considerably in the years to follow. When the expected response from the Whites did not follow, the ground was prepared for the civil rights movement of the 1950s and 1960s. The seeds of the 'movement' was sown during final years of the War.

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They demanded an end to discrimination in jobs and job training - and further that FEPC be made a permanent administrative agency. That the coloured and the minority racial groups may have recognition of their democratic right to participate in formulating policies. They demanded representation for the coloured and the minority racial groups on all missions, political and technical which would be sent to peace conference so that the interests of the people everywhere may be fully recognized and justly provided for in the post-war settlement.

## Chapter II

TOWARDS THE FERMENT OF THE 1960s

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During the post-war period the problem of the Blacks was singled out as the one demanding special attention. This was corroborated by the series of steps the Federal Government took to improve the lot of the Blacks. But, it is nevertheless important to distinguish between the Federal Government's willingness to act in favour of the Blacks and the resistance put up by the Whites against such changes.

#### Post-War Advancement

At the end of the War, the Truman Administration (1946-1952) moved slowly towards an integrationist programme. An Executive Order was passed in 1948 declaring equality of treatment and opportunity for all men bearing arms. This measure was devised to prevent segregation in the armed forces - which has been a subject of great resentment for the Blacks during the War years. Another step in the same year was taken when a committee called the 'Freedom to Serve', was set up. This committee prepared a blueprint for the attainment of integration in the Armed Forces. In 1949, the Army adopted recommendations of the committee to open jobs to all qualified personnel. The Navy, which did not even deem the Negro to be fit for recruitment until 1943, moved first toward full integration, to

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1 Rupert Emerson and Martin Kilson, "The American Dilemma in a Changing World", in Ross K. Baker, ed., The Afro-American (New York, 1970), p. 446.

be followed by the Air Force. The Army dragged its feet until the outbreak of the Korean War. Commenting on integration in the Army, Louis E. Lomax, a noted Black journalist, remarked:

With a surplus of Negro troops piling up behind the lines and a critical shortage of white troops, who were leaving the brunt of the casualties, one regimental Commander in Korea explained that the 'force of circumstances' compelled him to integrate the Negroes in his decimated white platoons. It worked. Platoon leaders were delighted to have them.... The Negroes fought better than they had before. Race relations took a new turn for the better instead for the worse as feared. (2)

Further General Matthew Ridgeway, in command of the Far East, asked for special permission to integrate the Blacks in the Forces. Between May and August 1951 integration in the troops increased from 9 to 30 per cent.

The policy of integration was carried out in the civil front as well. Desegregation and equal treatment of all the citizens in school, housing, public accommodation, and employment became the theme of the post-War years.

The Federal Government played an active role in all these fields. In 1950 one hundred and seventy-seven local housing projects were opened to the families of all races. In 1955 the Administrator of the U.S. Housing and Home Finance Agency (NHFA) called upon the lending agencies to extend loans for the construction of homes by the minority groups. With the help of the NHFA, housing conditions in the urban areas improved. Between

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2      As quoted in C. Vann Woodward, The Strange Career of Jim Crow (New York, 1966), pp. 137-8.

1950 and 1960 the matching of non-White families with housing units provided increased space for them. Home ownership of the Negroes improved increasing, though slightly, from 35 per cent in 1950 to 38 per cent in 1960.<sup>3</sup> In 1962 President Kennedy passed the promised Executive Order barring future Government insurance where builders refused to affirm in writing a policy of non-discrimination.<sup>4</sup> It also permitted the Attorney-General to desegregate public housing involving organizations which received financial aid from the Federal Government.<sup>5</sup> However, desegregation in the residential sphere was slow in comparison to other fields.

In the case of employment some progress was sustained. By 1956 sixteen states had set up Fair Employment Committees to ensure openings for the Blacks. Employment opportunities for the Black was the brightest in the following industries: aircraft, electronics, automatives and chemicals. Numerous firms took interest in and encouraged the employment of Blacks as clerks, book-keepers and buyers. Upgrading and seniority put the Blacks in positions of responsibility.

The labour unions also played an important role in creating favourable conditions for Black employment. Efforts were directed towards increasing the membership of the Blacks in the

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3 Joseph H. Douglas, "The Urban Negro Family", in John P. Davis, ed., The American Negro Reference Book (New York, 1969), p. 345.

4 Executive Order No. 11063, 27 Federal Register 11527, Section 302, p. 11528.

5 Ibid., p. 11529.



unions as well as upgrading them to positions of leadership. When in 1955 the American Federation of Labor (AFL) and Congress of Industrial Organization (CIO) merged, Philip Randolph and Willard Townsend were elected as Vice-Presidents of the new organization. This raised hopes that the coming years would bring about greater improvement in the employment opportunities for the Blacks. President Eisenhower himself supervised the Fair Employment Programme designed to eliminate discrimination in federal employment and among those contracting federal business.<sup>6</sup>

Another important breakthrough came with the ruling of the Supreme Court in the case of Brown v. Board of Education in 1954. This marked the end of 'separate but equal' theory and the segregation of the races.<sup>7</sup> The Browns, a Topeka Kansas Negro family, had been denied admission for their daughter at a local all-White school. Aided by the NAACP, they sued not for "separate but equal facilities" but for the right of their daughter to attend the White school. The case dragged on for two years until Chief Justice Warren conveyed the verdict on 17 May 1954, stating that segregation of the White and Coloured children in public schools had a detrimental effect upon the

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6 John Hope Franklin, From Slavery to Freedom (New York, 1967), 3rd edn., p. 611.

7 Benjamin Munn Ziegler, ed., Desegregation and the Supreme Court (Boston, 1958), p. 78.

Plessy v. Ferguson, 163 U.S. 537 (1895). The Supreme Court ruled in favour of racial segregation thus giving it a legal sanction under the theory of 'separate but equal'.

development of the latter. The policy of segregating the races was usually interpreted as denoting the inferiority of the Negro group which affected the child's motivation to learn. Segregation having the sanction of law had, therefore, the tendency to retard the education of the Negro child and deprive him of the benefits he would otherwise have received in a<sup>8</sup> racially integrated school.

In compliance with the Court's decision, school desegregation began in the fall of 1954, notably in Wilmington, Delaware, Baltimore, Maryland and Washington, D.C., and in a few scattered counties in Missouri, Arkansas, and West Virginia. By 1958 desegregation of the schools took place in ten out of the seventeen states that had previously practised compulsory school segregation. In accordance with the Court-ordained 'deliberate speed' clause, desegregation proceeded with greater speed in Kentucky, Oklahoma and Texas than in Tennessee and North Carolina. Out of the 2,889 Southern School districts, with both White and Coloured pupils, desegregation had begun<sup>9</sup> in 764 by the end of 1958.

Desegregation in public accommodation also kept pace. In 1947 larger hotels in Washington began admitting Black clients. The Department of Interior and the City recreation Board made available the use of public parks, play-grounds and swimming-pools to them. By 1953 all the restaurants were open to the

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8 Ibid., pp. 78-79.

9 Virgil A. Clift, "Educating the American Negro", in Davis, n. 3, p. 374.

Blacks. Slowly but steadily the trend towards desegregation made headway in many parts of the country.

In the political sphere, the Black vote came to be counted as crucial. Steady migration towards the North and the West increased Black population in important cities like Chicago, Detroit and Cleveland. In 1947 the Federal District Judge J. Waites Waring declared that the Blacks could not be excluded from the Democratic Primary in South Carolina. That year 35,000 Blacks voted in the Democratic Primary. In 1948 the number of Black voters increased to over 150,000 in Georgia. It was found in 1952 that 63 per cent of the total Black electorate voted regularly. During the 1952 Presidential election the impact of Black votes was significant.

At the level of the States too participation of the Blacks in the ballot became perceptible. In 1954 Democrat William Dawson was elected to the House <sup>of</sup> Representative for the seventh consecutive term from Illinois and Adam C. Powell from New York for the sixth term. By 1956 there were forty Blacks in the State legislatures, mainly in the North and the West. Also, the number of Blacks elected to the city councils increased every year. Rufus E. Clement was elected to Atlanta School Board in 1953. Appointment of Blacks in high posts in the National Government was indicative of their new influence and prestige. In 1949 William H. Hastie became Judge of the third United States Circuit Court of Appeals. Thurgood Marshall was appointed to the Circuit Court in 1961, but resigned in 1965 to

become Solicitor-General of the United States. J. Ernest became Assistant Secretary of Labour in 1953. There were others who began getting the opportunity to serve in the nation's high offices.  
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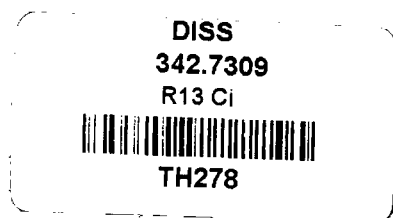
The Courts and the Inter-state Commerce Commission also moved in an effort to fight segregation. In 1950 the Supreme Court ruled out segregation of the Blacks in the dining cars of the inter-state railways. The inter-state Commerce Commission decreed that all racial discrimination in trains and buses must end by 10 January 1956. They also decreed that waiting rooms and bus terminals should be made available for the use of the Blacks.

The culmination of the efforts of the Federal Government came when the first Civil Rights Act after the Reconstruction era was passed in 1957. The Act was the product of President Eisenhower's proposals of 1956 embodied in his State of Union message. "Last year" he said, "the Administration recommended to the Congress a four point programme to reinforce civil rights". The programme included:

1. creation of bipartisan committee to investigate asserted violations of civil rights and to make recommendations;
2. creation of civil rights division in the Department of Justice in charge of an Attorney-General;
3. enactment by the Congress of new laws to aid in the enforcement of the voting rights; and

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11 Ibid., pp. 613-4.



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4. amendment of the laws so as to permit the Federal Government to seek from the civil courts preventive relief in the civil right cases. (12)

The major contribution of the Act subsequently passed by the Congress was the provision empowering the Attorney-General to seek injunctions against public and private interference with the right to vote. Also important was the creation of the Commission on Civil Rights and the Civil Rights Division of the Department of Justice which was headed by an Assistant Attorney-General.

Another Civil Rights Act was passed in 1960. This supplemented some of the provisions of the earlier Act. The major provision permitted the Attorney-General to sue the States and gave him access to the local voting records and authorized the courts to register voters in the areas of systematic discrimination.<sup>13</sup>

### White Backlash

Positive Governmental measures taken until 1960 were, however, inadequate to cope with the needs of the Blacks. Moreover, in many instances, these measures appeared to be in direct opposition to the interests of the White community. Although there were some among the Whites who were sympathetic to the Black cause, every point in alleviating the conditions of the Blacks was met with reciprocal violence and resistance from the White community. This made their progress slow and painful.

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12 Benhard Schwartz, Statutory History of the U.S. Civil Rights 2 (New York, 1970), p. 847.

13 Civil Rights Act of 1960, Titles 3 and 6.

While the White backlash in the Southern States was extreme, the North too did not go without its share of violence. When the Housing Scheme came into effect there were instances of resistance of various degrees. In 1951 a Black couple was all but driven out of the home they had purchased in Cicero, Illinois. Black homes were attacked in New York, Birmingham, Chicago and Detroit. The policy of excluding the Blacks from the Stuyvesant Town Housing project aroused much controversy. The Federal Housing Administration's FHA Under-writing Manuals of 1936, 1938 and 1940 editions advocated exclusion of Negroes and other minorities and mandated adoption of racially restrictive covenants of new constructions. The 1948 decision precluding governmental enforcement of such agreements urged the deletion of these proposals from the 1949 edition. However, FHA refused to require builders interested in selling houses to give them to the Blacks. This neutral attitude of the agency helped to perpetuate the already sorry state of affairs in the housing problem.<sup>14</sup>

The opening of jobs for Blacks often aroused anger and resentment from the White workers who threatened to quit before any Black was employed. White resistance groups mushroomed everywhere to fight the impending change. A National Association for the Advancement of the White People was established. Another such organization was the White Citizen's Council which was popularly known as the Uptown Ku Klux Klan. In the Deep South

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14 Constance Baker Motley, "The Legal Status of the Negro", Davis, n. 3, p. 502.

550 local Citizen Councils claimed to have over one quarter of a million members. There were other resistance groups with a membership of 50,000 persons.<sup>15</sup>

Southern legislators fought vigorously against the desegregation of schools. In 1956 the Governors of Georgia, Mississippi and South Carolina called on the Southern States to declare that the Federal Government had no power to prohibit segregation. In their efforts to resist change they developed a political doctrine "to protest in appropriate language, against the encroachment of the Central Government upon the sovereignty of the several states".<sup>16</sup>

In March 1956 more than ninety legislators led by Senator Walter George presented in the Congress their Declaration of Constitutional Principles, commonly known as the "Southern Manifesto". It condemned school desegregation as an encroachment on the powers of the states by the Federal Government. It called for the use of every lawful means to resist its implementation. Encouraged by these leaders the Southern Whites assumed the role of maintaining segregation at all costs. In some areas in the South violence produced great terror. Growing desperate in the face of change the Whites became exceedingly immoderate in their methods of resistance which included arson, murder, and other extreme means.<sup>17</sup>

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15 For further reference see John Bartlow Martin, The Deep South Says Never (New York, 1957).

16 Franklin, n. 6, p. 321.

17 Ibid., p. 323.

In September 1957 violence broke out in Little Rock, Arkansas, when six girls and three boys (all Black) attempted to desegregate Central High School. Governor Orval E. Faubus (D) ordered the National Guardsmen to prevent the children from entering the school. The Guardsmen were withdrawn but the mob violence which followed led the President to intervene and federalize the Arkansas National Guards. He sent paratroopers to restore order and escort the children to and from the school. The Little Rock schools remained closed throughout 1958-59<sup>18</sup> before they accepted desegregation. The leader of the Little Rock crisis was Mrs. Daisy Bates, Arkansas State President of the NAACP. Her home was attacked with bombs, bricks and rifle shots and was twice set on fire.

In Alabama, Governor George C. Wallace (D) carried out his electoral promise to stand at the school-house entrance to prevent Alabama's school integration. On June 1962 two Black students, Vivian Malone and James Hood, came to register at the Foster Hall school, at the University of Alabama. Wallace was under a Federal Court injunction not to bar their entry. But he was waiting at the door when the Deputy Attorney-General, Nicholas de B. Katzenback, and other officials arrived to urge the admittance of the students. Katzenback told Wallace that he had a proclamation from President Kennedy directing the Governor to end his defiant stand. Wallace replied by reading a lengthy statement charging that this was a "frightful example

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18 Revolution in Civil Rights: 1945-1968, Congressional Quarterly (Washington, D.C., 1970), pp. 10-11.



of the oppression of the rights, privileges and sovereignty of this state by officers of the Federal Government".<sup>19</sup> During the course of the day, President Kennedy signed an order federalizing the Alabama National Guards. At the second confrontation<sup>20</sup> Wallace gave up, and the two students were allowed to register.

Violence erupted on 30 September and 1 October on the University of Mississippi, Oxford Campus, when students and outsiders rioted over the admission of a Black student named James H. Meredith. Even as President Kennedy was making an appeal to the students to remain calm, two men were killed and many injured. US Marshals guarded the Lyceum building on the campus. Federal troops came into Oxford in an effort to clear the town of possible trouble makers. By 2 October an estimated 16,000 Federal troops had arrived in Mississippi. Governor Ross R. Barnett (D) led the state against the Federal enforcement<sup>21</sup> of desegregation of educational institutions.

While the South seemed to bear the brunt of the Civil Rights troubles, in the north too there was a series of school boycott by the Blacks in New York, Chicago, and other cities. They protested 'de facto' segregation caused by the racial<sup>22</sup> balance in the areas in which the schools were located.

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19 Ibid.

20 Ibid.

21 A.M. Schlesinger, Thousand Days: John F. Kennedy in the White House (London, 1965), p. 803.

22 A. John Adams and Joan Martin Burke, Civil Rights: A CBS Reference Book (New York, 1970), p. 87.

There were also cases of individual terrorism. On 12 June 1963 Medgar Evers, the NAACP Chairman of the Mississippi branch, was shot dead by a sniper as he entered his home. Medgar Evers had been active in leading a series of sit-ins and demonstrations in Jackson.

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### The Beginnings of Black Resistance

Faced by intimidation, the Blacks were shaken out of their dreams of gaining a better deal at the hands of the Whites. While the Federal Government's attitude was encouraging the results of the measures proved only marginal. At the beginning of the 1950s, the tenor of Black resistance took a new turn. They began to look for new ways to attain their goals. Their insistence on civil rights reflected a particular type of world view which was to bear further elements of racial discord in the course of the next decade.

The fact that the Blacks in America were demanding an equitable share in society reflected their optimistic belief in the inherent equality of the 'races'. This change in their attitude can be attributed to many factors. The exposure of the Blacks to the problems of the outside world, the knowledge of their indispensability as a part of the American society, and the radical socio-economic changes initiated in the years following the world war - all contributed towards this awakening.

With the new confidence they had gained the Blacks began to meet every attack on their rights by the Whites with

determination. For the first time their struggle took the form of a mass movement that cut across regional barriers. In the beginning the movement was aided also by the White liberals. They adopted methods of protest such as peaceful marches, freedom-rides and sit-in strikes. In opposition, the Whites resorted to outright violence. In Anniston and Birmingham, Alabama, on 20 May 1961 White mobs attacked the freedom-riders who entered these two cities to test segregation in interstate buses and terminals.<sup>24</sup>

At an early stage of the movement the effort of the Blacks was directed towards integration and desegregation. It was seen that the state of inequality rested on this artificial separation of the races. The panacea to the problem was singled out to be desegregation at all levels of social interaction.

The turning point in this movement came when the Supreme Court ruled out the 'separate but equal theory' in favour of complete integration. This also initiated a shift in the Black movement. A coalition of major organizations to fight discrimination at the local and national levels was brought about. Mass demonstrations were organized in Birmingham, Alabama, on 3 April 1963. Thousand of Negroes including school children, participated on 2-4 May in a demonstration. The protesters were met with fire hoses and police dogs. They were arrested for marching without permits.

On 10 May Negro leaders announced an agreement reached by

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24 Ibid., p. 145.

a biracial committee: public accommodation would be desegregated within ninety days. Negroes would be given greater job opportunities, and formal means of communication between Negroes and Whites would be established.

However violence did not abate. President Kennedy alerted the Federal troops on 12 May to be sent to Birmingham. Then violence receded and the alert was rendered unnecessary. The most important victory of Project C was the full-scale entrance of the Federal Government into the field of human rights.<sup>25</sup>

The wave of demonstration in 1963 reached its climax on 28 August when 200,000 persons, both Black and White, participated in the March to Washington for "Jobs and Freedom". The peaceful atmosphere of the marches won the admiration of the nation. President Kennedy expressed his satisfaction over the orderly manner in which the march was conducted. He pledged that the Federal Government would continue its efforts to obtain increased employment and end discrimination - the two prime goals of the march. A formal programme at the Lincoln Memorial was followed by a conference of ten march-leaders with the President and the Vice-President.

Earlier in June the President had appealed to the conscience of the people in a nation-wide broadcast. He said, "One hundred years of delay had passed since President Lincoln freed the slaves, yet their grandsons are not fully free.... Now the time has come for the nation to carry out its promise. The

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25 Lerone Bennett, Jr., What Manner of Man Martin Luther King Jr. (Chicago, 1964), pp. 131-2.

events in Birmingham and elsewhere have increased the cries for equal rights that no city or state can fail to hear".<sup>26</sup>

A week later in a second message to the Congress on Civil Rights he outlined a civil rights programme containing recommendations for legislation going far beyond what the President had asked for earlier in the year, including guarantees for equal access to public accommodation and equal employment opportunities.

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26     Albert P. Blustein and Robert L. Zungrando, eds., Civil Rights and the American Negro: A Documentary History (New York, 1968), p. 484.

## Chapter III

### BACKGROUND TO THE CIVIL RIGHTS ACT

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The early years of President Kennedy's Administration were not opportune for the enactment of legislation on civil rights. Kennedy was hopeful of solving the problem of racial discrimination by executive orders and by enforcing the already existing statutes.<sup>1</sup> Judging by the mood of the Congress he also considered it impolitic to initiate proceedings on civil rights for, he needed the support of key Congressmen from the Southern States to pass legislations on his other programmes.

In the spring of 1963, however, the incidence of violence in Birmingham marked the end of Kennedy's complacency. With the civil rights cause becoming uppermost in the country, the President chose to propose his bill. But mid-way, as support for the bill was being rapidly built, Kennedy was assassinated and the burden of steering it through the Congress fell on the shoulders of his successor, Lyndon B. Johnson. Between 1964 and 1968, during Johnson's Administration, three important civil rights acts were passed. These acts covered a wide range of areas affecting race relations (and the relations between majority and minority communities) in American society. The forces which provided a favourable background to the passing of these Acts may be classified in the following manner: (a) the initiatives of the States and the Courts in the direction of achieving civil rights for all citizens; (b) the rising public

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1 Arthur M. Schlesinger, A Thousand Days: John F. Kennedy in the White House (London, 1965), pp. 789-90.

support for the civil rights legislations as reflected in the findings of the Civil Rights Commissions; and (c) the mass mobilization of the Blacks in the 1960s under the leadership of Martin Luther King (Jr.). In this chapter we aim to present a description of these forces with a view to gain a fuller understanding of the significance of the three Acts to be discussed at length in the chapter that follows.

### Initiatives by the States and Courts

Prior to the outbreak of the Second World War, some 13 states had already enacted laws prohibiting discrimination in certain areas of public employment. The major breakthrough, however, came in 1945, when the state legislature of New York passed the first State Fair Employment Practices Act in the country.<sup>2</sup> The Ives-Quenn law created a State Commission to stop discrimination in employment because of race, colour, creed or national origin. All unions and employment agencies were subject to this law. By 1964, the Fair Employment Practice (FEP) Acts had been adopted by twenty-five other states.

In 1949, New Jersey became the first State to carry over to its public-accommodations law the administrative machinery originally established to handle only the FEP cases. This imposed on public agencies the duty to investigate all complaints of racial discrimination. The New Jersey experiment was followed<sup>3</sup> by Connecticut, Massachusetts, New York and other States.

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<sup>2</sup> Milton R. Konvitz, Expanding Liberties: Freedom's Gains in Post War America (New York, 1966), p. 257.

<sup>3</sup> Ibid.



The spread of civil rights and the FEP statutes in the states can be credited with helping the federal government to prepare for comprehensive and far-reaching civil rights legislations. These State laws were a clear indication of the changing public opinion on racial problems.<sup>4</sup>

The Courts too began to play an increasingly important role in the field of civil rights. In 1950, in the case of Henderson v. United States the Court banned Jim Crow laws from the inter-state dining cars. This was the first of the three suits filed by the National Association for the Advancement of the Colored People (NAACP) in 1950. The others were, Sweatt v. Painter, where it was explained that equal education meant more than a physical plant, and McLaurin v. Oklahoma State Regents which established that a Black student could not be segregated once he was admitted to a previously all-White school. Later, in 1964, in Morgan v. Virginia the Supreme Court outlawed segregation in all inter-state travels.<sup>5</sup>

The support of the judiciary at the State and the Federal levels helped the Congress and the Executive branches to deal successfully in the later years with the civil rights measures. Robert Kennedy, then Attorney-General of the United States, observed in a speech delivered before the Annual Convention of the Theatre Owners of America, New York City, on 28 October 1963, that time was long past when any opposition to civil rights could

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4 Ibid., p. 255.

5 Robert C. Towmbly, Blacks in White America Since 1865: Issues and Interpretations (New York, 1971), p. 332.

be defended on the grounds of morality. While admitting that there could be controversies over legal technicalities, he elaborated that there was nothing extraordinary in the concept of federal regulation in private enterprise or public property. Federal regulations must be met by the air lines; federal deposit insurance must be maintained by all banks and zoning laws that cover all property owners. To drive his point home, he said that a federal law prohibiting segregation in places of public accommodation would, in principle, be no different, and in fact would be less strict. The very definition of public accommodation and business as given by the laws in 31 of the 50 States should accommodate the public irrespective of race, colour, or national origin. Therefore, no organization or business man could lose rights by the proposed law to assure that no man or woman or child in America would be discriminated against because of race, colour, or creed.<sup>6</sup>

#### Commission Reports and Public Opinion

The Civil Rights Commission, set up in 1955, conducted surveys which had a special bearing in influencing public opinion in favour of civil rights. In areas such as public accommodation, voter registration and employment, the reports published by the Commission served an important purpose. In its 1961 Report on Education, the Commission found that seven years after the Supreme Court decision on school desegregation, only 775 out of

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6 Thomas A. Hopkins, Rights for Americans (New York, 1964), p. 187.

a total of 2,837 bi-racial school districts were segregated. In the 17 southern States no steps were taken to segregate schools. Instead, racial segregation was maintained in Alabama, Florida, Louisiana, Arkansas, North Carolina, Virginia, Tennessee and Texas.<sup>7</sup> Where desegregation was initiated progress was minimal. Thus, in a typical public school case, several years elapsed between the initial court decision and the actual<sup>8</sup> admission of Black pupils on a non-discriminatory basis.

The Commission insisted on the specification of a time-limit by the Congress on the implementation of segregation. It indicated that the enforcement of the directives of the Constitution concerned not only the judiciary but also every other branch of the Government. It objected to the way federal funds were granted to educational programmes that denied equal treatment on grounds of race, colour, religion or national origin.

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7 Richard Bardolph, ed., The Civil Rights Record: Black American and the Law, 1884-1970 (New York, 1970), p. 396ff. The trend begun in 1957-59, desegregation by court order rather than by voluntary compliance, had continued. During 1959-61, 44 school districts initiated desegregation plans; 13 of those acted under court order; 15 were pressurized by pending suits.

8 Education: Civil Rights Commission Report (Washington, D.C., 1961), pp. 176ff. It provided a devise to enforce school desegregation by a controlled allotment of Federal aids to school districts: allotting to each state only 50 per cent of any authorized grants-in-aid and by providing the remaining 50 per cent in proportion to the percentage of pupils in desegregated school districts as compared to the total school population. This would recognize efforts made by those schools as well as provide an incentive to the other school districts. Under this formula proportionate efforts would be recognized and wholly resistant would not be penalized for their intransigence since 50 per cent of authorized funds would be received by them.

The Commission recommended speedy federal action on desegregation and suggested that Congress should pass legislation making it incumbent for all local school boards which excluded pupils on the basis of race, colour or national origin, to file a plan for desegregation with a designated federal agency within six months of the adoption of the 1964 bill.<sup>9</sup>

In the area of voter registration, the Commission conducted hearings in Jackson (Mississippi) at the close of 1965. The witnesses who participated in these hearings helped the Commission to assess the prevailing situation. Charles Evers (brother of a murdered civil rights worker) and Aaron E. Henry (a leading NAACP official) gave testimony which largely dealt with the voting registration campaign which they had launched. They detailed the reprisals met by the prospective Black voters e.g. threats, burning, and bombing of homes and churches. Stressing the failure of the 1964 Civil Rights Act they insisted upon adequate protection against violence and intimidation of the Blacks in Mississippi. The discriminatory practices of the state government such as literacy tests, interpretation of parts of the Constitution, poll taxes and a statement of moral character were employed to discourage and disqualify Black voters.

The Commission emphasized that in view of the continued failure of some of the States to take appropriate steps, Congress should enact laws to establish uniform voter registration

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9      Ibid., pp. 181-3.

in order to enforce provisions of the 14th and 15th Amendments. It endorsed the voting rights bill of 1965 which provided for the appointment of Federal Registrars in any area where there existed a pattern of discrimination. It called for complete elimination of literacy tests - written or oral - on the ground that there was no possible way to legally ascertain how law could be fairly administered. It further recommended that in areas where Federal Registrars were appointed, all prospective voters should be free to seek registration without recourse to the state registration process. They urged the abolition of poll taxes and the appointment of federal poll watchers to supervise elections. The Commission also suggested the exploration of means whereby an affirmative Federal programme might be developed to encourage eligible persons to register and vote in all elections.<sup>11</sup>

The report of the Civil Rights Commission drew attention to the tragic hiatus between the administration's intent and practice. Burke Marshall, in one of his lectures, said that there existed double standards in the daily administration of laws "so deeply embedded in the southern folkways, so routine, so automatic, so pervasively affecting not only the citizens involved but the very concept of Government held by the law enforcement officials".<sup>12</sup> In such a situation the problems

10 Voting in Mississippi: A Report of the United States Commission, 1965 (Washington, D.C., 1965), pp. 59-63.

11 Foster R. Dulles, The Civil Rights Commission, 1957-1965 (Michigan, 1968), p. 243.

12 Burke Marshall, "Federalism and Civil Rights", in Speranza Lectures (New York, 1964), p. 76.

appeared imponderable and the federal authority powerless to take effective steps. The gulf between the Negro and the Whites<sup>13</sup> seemed to be widening everywhere.

Efforts were made to determine the connecting strands between poverty and civil rights. A case in point was a conference where participants tried to bring out and identify the intimate and important relation between the legal needs of the poor and the civil rights. It was found that the prime characteristic of poverty was the problem of a minority. In the case of the Blacks, a minority group, the colour of their skin<sup>14</sup> invited discrimination.

#### Black Movement and Martin Luther King

In the winter of 1962-63 the Negro leaders became more insistent about demanding civil rights legislation. Martin Luther King (Jr.) described 1962 as the year of civil rights in

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13 Schlesinger, n. 1, p. 799. Berl Bernhard, the Director of the Civil Rights Commission said in November 1961, that there could be no single approach which would bring about an end to discrimination, inequalities in political participation, education, employment and other administrative justice. Again in 1962, he said that the last battle for equal rights will be joined in the North where forms of discrimination were more often subtle and hence more difficult to combat.

14 Norman Dorsen, Frontiers of Civil Liberties: Poverty, Civil Liberties and Civil Rights (New York, 1968), p. 314. One of the conferences pointed out, that the laws were inadequate to meet the needs of the poor because the laws had evolved from the point of view of the middle class. He emphasized that the lawyers must be provided from the people who they were to serve. Lawyers who can feel what poverty is emotionally and not only intellectually can also provide the solutions politically.

America. Recognizing Negro discontent and the need for new action, King decided to launch a massive mass movement to seek legislation on civil rights.

As his movement gathered momentum, dramatic confrontations between the Blacks and the Whites took place in many places which highlighted the problems of the former. In addition to the leading Black organizations, other groups also became active in the civil rights movement. In 1964 a Freedom Summer was organized when hundreds of volunteers from the northern universities went into the Black belt areas to conduct civil rights activities. They occupied themselves in educating citizens for voting registration. Their activities were dramatically brought into focus when three civil right workers were<sup>15</sup> brutally murdered in Mississippi.

In 1965 the focus of the movement began to change. In the south it turned from desegregation to political and economic advancement. In the north, there was also a perceptible spread of the 'revolution'. Black participation increased with the commencement of the voter registration drive. What had thus begun as a protest movement increasingly assumed the dimension of a political movement calling for changes in institutional power capable of effecting social change.

On 7 March 1965, King initiated a March to Montgomery to arouse the conscience of the nation over the continual denial of the right to the Negro to vote. Acting on the orders of Governor

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15 The three civil rights workers who were murdered on 21 June 1964 were Michael Schwerner, Andrew Goodman, both Whites from New York City, and James Chaney, a Black from Meridian, Mississippi.

George Wallace, State troopers used tear gas, night sticks and whips to break up the non-violent demonstration. After complicated legal manouevres the Federal District Judge, Johnson, issued an injunction against further interference with the march to Montgomery. The demonstrators were protected by three thousand federalized national guardsmen and regular troopers. No further violence took place. After five days King led an estimated 30,000 persons to the steps of the capitol in Montgomery where he declared, "We are not about to turn around. We are on the move now. Yes, we are on the move, and no wave of racism can stop us".<sup>16</sup>

Reacting to the event, President Johnson in a televised message before the joint session of Congress called for a new voting legislation embodying recommendations of the Civil Rights Commission. He stressed the inability of the existing laws to protect voting rights and called for speedy action to make good the Constitutional guarantees. "The time for waiting has gone", he warned,... "For outside this Chamber is the outraged conscience of the nation - the grave concern of many nations - and the harsh judgement of history on our acts".<sup>17</sup> Two days later he submitted the text of his bill aiming to strike down restrictions on voting in all elections - federal, state and local.

As the civil rights years were on, a crisis in the Black movement surfaced. This was evidenced in the conflict between

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16 Dulles, n. 11, p. 243.

17 As quoted in New York Times, 16 March 1965.



the younger and the older groups which became marked as the results of the struggle seemed to be late in coming.<sup>18</sup> During the year 1965 Stokely Carmichael's cry of 'Black Power' caught the imagination of the young fire-brands. This spelled doom for Black unity. Threatened by dissonance within the rank and file, the civil rights leaders tried to step up their activities and reconcile the needs of the poor masses with the conscience of the Black middle-class.<sup>19</sup> This time the march on Washington was organized to represent the needs of the poor in the typical methods used by the civil righters. The march came to an abrupt end when King was struck down by an assassin's bullet. The event sent a wave of shock similar to the one that followed Kennedy's assassination in 1963. With King's death hysteria broke out amongst the Blacks and city after city went up in flames. The riots that broke out followed a pattern of arson and looting directed mainly at symbols of White dominance.

In the light of violence sweeping over the country, especially in the ghettos<sup>e</sup> of the metropolitan cities, President Johnson instituted the National Advisory Commission on Civil Disorder in 1967. The Commission came out with a startling

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18 The impatience of the younger group revealed the flaws in the movement itself. Their new self awareness and their pride in their colour was manifested in their efforts to steal the leadership from the hands of the White liberals. They were characterized by the disdain they exhibited towards both the Whites and the Black liberals.

19 Louis Lomax, "To Kill a Black Man", in C. Eric Lincoln, ed., Martin Luther King, Jr.: A Profile (New York, 1970), p. 172.

revelation on the nature of the disorders "This is our basic conclusion: our nation is moving toward two societies, one black, one white - separate and unequal".<sup>20</sup>

It observed that a destructive element totally unknown to the White community was being built up in the racial ghetto because of segregation and poverty. In the riots that broke out the White community was deeply implicated. The Commission found that the typical rioter was a teenager or a young adult, who was a lifelong resident of the city and was a high school drop-out. He was proud of his race, extremely hostile both to the White and the Negro middle-class and although informed of politics, highly distrustful of the political system.<sup>21</sup>

The disorders of 1967 could not be classified as typical riots. They were unusual in that they were irregular, complex and unpredictable. They involved Negroes against the local symbols of White American authority and property in the Negro neighbourhood rather than against White persons. A series of incidents over a period of weeks or months became linked in the minds of many in the Negro community with a reservoir of underlying grievances. Once this violence broke loose no control was effective enough to check it.

The Commission recommended that programmes on a large-scale be mounted to close the gap between promise and performance. It observed that new initiatives and experiments can

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20 Report of the National Advisory Commission on Civil Disorders (New York, 1968), p. 1.

21 Ibid., p. 7.

change "the system of failure and frustration that now dominates the society".<sup>22</sup>

Against this background the last of the Civil Rights bills were taken up by Congress in 1968. We shall now turn to an examination of the provisions and implications of the three legislations.

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22 Ibid., p. 2.

## Chapter IV

### THE CIVIL RIGHTS ACTS

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The underlying principle of the three civil rights bills enacted between the years 1964 and 1968 was the belief in the basic rights and equality of all citizens. The Civil Rights Act of 1964 covered a sweeping range of civil liberties. The other Bills of 1965 and 1968 covered specific areas such as voting, measures to curb civil disorder, and open housing. This chapter makes an attempt at obtaining a closer view of these acts - their specific provisions and the effect they had on protecting the civil rights of the Blacks. We shall also refer to the debates in the Congress in order to identify the main arguments presented in the floor of both Houses.

#### The Act of 1964

The Civil Rights Act of 1964 was brought about by a combination of events viz., the growing restlessness among the Blacks as reflected in their civil rights activities; (2) the assassination of President Kennedy; and (3) what can be called the conversion of Lyndon B. Johnson to civil rights.

The Act itself contained eleven titles of which titles II, VI and VII provoked massive resistance. These titles extended the guarantees of the Black electorate; barred discrimination in public accommodation; authorized suits by Federal Government to desegregate public schools and facilities; broadened responsibilities of the Civil Rights Commission and expanded its life by four years; outlawed discriminatory

practices in employment, and created the Equal Employment Opportunity Commission to enforce these provisions. Further, it created a Community Relations Service to provide aid in resolving disputes arising from discriminatory practices.

Title II provided for injunctive relief against discrimination in places of public accommodation. It was divided into seven sections. Section 201(a) provided that all persons be entitled to full and equal employment of the goods and services, facilities, privileges, advantages and accommodation in any place as defined in this section. Four classes of business establishments were listed in section 201(b) namely, inns, hotels establishments which provided lodging to transient guests, any restaurant or cafeteria, motion picture house, and<sup>1</sup> any establishment otherwise covered by this section.

Section 202 affirmed that all persons were to be free from discrimination or segregation at any of the above mentioned places. Finally, section 203 prohibited the withholding or denial of any right or privilege secured by section 201 and 203.

The remaining sections of the title were remedial ones against violation of any of the previous sections. Remedies were limited to civil action for preventive relief. The Attorney-General could bring suits where he had reasonable cause to believe that persons or group of persons were engaged in a pattern

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<sup>1</sup> Bureau of National Affairs: The Civil Rights Act of 1964 (Washington, D.C., 1964), p. 106.

Section 201(d) declared that discrimination or segregation was supported by state if carried out under colour of any law statute ordinance regulations or any custom or usage required or enforced by the officials of the state or any of the subdivisions.

of practice of resistance to the full enjoyment of the rights secured by this title. An aggrieved person could appeal to the Attorney-General to intervene.<sup>2</sup>

Title VI was concerned with non-discrimination in federally assisted programmes. It declared that it was the policy of the United States that discrimination on the ground of race, colour or national origin "shall not occur in connection with programs receiving federal financial assistance". This section authorized and directed the appropriate federal departments and agencies to take action to carry out this policy. Section 602 directed each agency concerned with federal assistance by way of grant, loan or contract to take action in pursuance of the rule, regulation or order of general applicability to effectuate the principle of Section 601. The agencies were authorized to terminate or refuse to grant assistance to any recipient who failed to comply with the requirements under the programme. However, the agencies' compliance with these requirements was to be voluntary.<sup>3</sup>

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2 Ibid., pp. 106-7.  
Thirty days written notice before filing any such action must be given to the appropriate authorities of the state or subdivision the law of which prohibited the act complained of and which had established an authority which may grant relief. In states where such conditions did not exist the court after the case was filed could refer it to the Community Relations Service.

3 Ibid., p. 116.  
Section 603 stated that any agency action taken pursuant to Section 602 shall be subject to judicial review. It stated explicitly that in the latter situation such agency action shall not be deemed committed to unreviewable agency within the meaning of the section.

Title VII - Equal Employment Opportunity proposed to eliminate through formal and informal remedial procedures discrimination in employment based on race, colour or national origin. The title authorized the establishment of a Federal Equal Employment Opportunity Commission and delegated to it the primary responsibility of preventing and eliminating unlawful employment practices as defined in the title. The title contained sixteen sections. Section 701 specifically stated that all persons within the jurisdiction of the United States had a right to employment without discrimination on the aforementioned bases. The sections beginning with 702 described and defined various duties of employers, employees and other bodies connected with employment. This title dealt at length with the problems of discrimination in employment and economic transaction. It defined and demarcated clear lines of duties in order to protect the rights of the employees on the basis of race, colour and national origin.<sup>4</sup> On the basis of these provisions, the Federal Government envisaged a fuller realization of the principles of egalitarian society which the Blacks had not been experiencing.

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Ibid., p. 116 ff.

The obligations imposed by the Title on the employers, employment agencies were primarily negative in character. The law was not entirely a voluntary programme. Although the emphasis was on voluntary compliance there were enforcement procedures to compel elimination of discrimination in employment where conference, persuasion and conciliation failed.



### Mixed Reactions

Despite the Attorney-General's assurance, controversy over these titles raged not only within the confines of the House and the Senate but seemed to have agitated the entire country. Resistance on the part of the citizens was manifested in the form of verbal vituperation and assaults on the lives of the civil rights workers. In addition to these violent manifestations serious questions were aroused in the minds of the citizens. Taking into account the democratic concepts upon which American political and economic life was built, it raised grave doubts about these titles which appeared to vest massive powers in the federal government thus threatening to upset the delicate relationship between the centre and the states; and the concepts of private property and free enterprise to regulate economic activity; and an act of blackmail in controlling the federal financial assistance to the states and the various programmes.

On 16 March 1964, the Washington Post carried an article by Joseph Alsop which reported that the Seattle voters had turned down a city ordinance forbidding discrimination in real-estate sales by a majority of 2 to 1. In New York the beginnings of Negro protest brought about the White parents' reaction to de facto segregation in the shape of preferring the established system of neighbourhood schools. Alsop further reported that the guilt feeling of the northern Whites had deterred them from resistance so far, but the resistance had now begun. He warned that if these developments were not taken care of they could have

long term political effects. He finally observed that "the white majority seem to regard as excessive the same concessions which the Negro minority has already condemned as wholly insufficient. If this proves to be the case, the two groups are in a collision course".<sup>5</sup>

Another journalist wrote that the heart of the matter was not cloture but obtaining the true consensus of the country. The great fear he felt was not that the act would be passed but that it would remain a dead act. He went on to say that the vital drama was not in the floor of the Senate but was "being played out among the convictions of the American people: How far are they prepared to go to extend Federal force in the area?" He concluded, "To say that racist gangsterism will not be halted until the civil rights bill has been approved is to deal in a moral blackmail, that will recoil upon the civil rights movements itself".<sup>6</sup>

In the Senate, one of the opponents of the bill quoted from one among the 230 such letters he had received urging him "to stop the bill, to vote it down", because he feared "the imminent struggle of fraudulent powergrab in America".<sup>7</sup>

In the Committee Hearings, witnesses frequently ignored the legal trappings and testified on moral and emotional grounds. Roy Wilkins (NAACP spokesman) reacted to the public accommodations

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5 Washington Post, 16 March 1964.

6 Washington Star, 3 June 1964.

7 U. S. Congressional Records, Part 5, vol. 110, 88th Congress, 2nd Session, 19 March-6 April 1964, p. 5692.

section of the bill thus, "...if the bill is passed it would // correct affronts<sup>n</sup> and denials...that are intensely human and personal. It would protect human beings suffering from humiliations and denial simply because of color".

Governor Wallace of Alabama charged the same section with its aim to destroy free enterprise...the next step he said would be "land reform". Governor Barnett of Mississippi accused the Kennedy for aiding a "world communist conspiracy to divide and conquer".

The legislative battle was no less bitter than the battle that raged outside. The opponents of the Bill argued on grounds such as the unconstitutional nature of the bill; fear of federal officials exercising arbitrary power; and threat to "a way of life".

The mutually opposed views the bill evoked were not based on party line but on regional affiliation. Most opponents were from the South and the proponents from the North. Segregation was an established fact in the Southern states. Discrimination was practised by the White society and was condoned by the state authorities.

The Opponents of the Bill based their arguments on the following counts: (a) constitutional; (b) procedural, and (c) national considerations. On the constitutional ground they argued that the particular titles, as discussed above, went against the concept of free enterprise and the right to private property. The public accommodation title led them to assert that such a law would infringe upon the traditional private

property rights. The importance of the private property system and its traditional role were stressed because they had a strong emotional appeal. Senator Sam Ervin (Dem., North Carolina) criticized the title for its "attempts to undermine the citizens of some of their most basic economic, legal, personal and property rights" and therefore he asserted that the Congress had no right to pass such legislations.<sup>8</sup>

In the House of Representatives Donald Matthew (Dem., Florida) quoted from the Fourteenth Amendment which lays down categorically that "no state shall deprive any person of life, liberty and property without the due process of law".<sup>9</sup> He said that the bill subjected a great part of American industry to "bureaucratic whims, prejudices and caprices", that even the most far-fetched interpretation of the Fourteenth Amendment could not justify the bill. He proceeded to say that employers being private citizens, their acts did not come within the federal laws based on the Fourteenth Amendment.<sup>10</sup> Congressman Richard Russell (Dem., Georgia) also described the title as a 'Bureaucratic Dream' to amass huge powers in its hands.<sup>11</sup>

The concepts of private property and of individual rights were linked with the concept of balanced relationship of the federal and state governments. What disturbed the opponents of

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8 Bernard Schwartz, Statutory History of the United States: Civil Rights 2 (New York, 1970), p. 137ff.

9 Ibid., p. 1134.

10 Ibid.

11 Ibid., p. 1147.

the bill was the immense amount of power that would accrue in the hands of the federal officials. This threatened to brush aside state autonomy and create a situation in which the very basis of the American system was endangered. While the existence of the problems of discrimination could not be denied the methods adopted by the Congress and the Executive raised a series of doubts in the minds of the citizens.

In the course of the Senate discussion, Senator Tomer (Rep., Texas) asserted that the "Federal Government had no business to interfere in the cases of discriminations best handled at the state and local levels through the force of public opinions".<sup>12</sup>

Senator Ervin (Dem., North Carolina) criticized Title II on the ground that it constitutes the most drastic assault of any legislative proposal ever presented to an American Congress on the constitutional system established by the Founding Fathers, in that it seeks to transfer from the states and from the people themselves powers which the states and the people were given by the Constitution.<sup>13</sup>

On the procedural count, Congressman Russell (Dem., Georgia) described the bill as being a history of circumvention. He said the House Judiciary members were handpicked. They had a bias towards the civil rights bill. He accused them of conducting the civil rights bill in an arbitrary and summarary manner and of having steam-rolled it through the committee which

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12 Ibid.

13 Ibid., p. 1307.

he labelled as a farcical compliance with the Rules of the Committee. He accused the proponents of sugar-coating the bill. He particularly singled out Humphrey's statements. He said that he believed the Government was succumbing to pressures.<sup>14</sup> Congressman William Colmer (Dem., Mississippi) described the bill as 'legislative by labels'. He again objected to the hurrying of the bill and the Congress complying to the pressures of the rioters and asked whether the Congress should follow a course of appeasement.<sup>15</sup>

As for the objections based on national considerations, the opponents of the bill proclaimed that it was in the interest of the union that the bill should not be passed. Congressman Matthew (Dem., Florida) asserted that the communists were behind the civil rights movements. He proclaimed, "I would rather live and abide by the constitution. This is not a fight on the part of those of us who oppose the bill to save the confederacy; it is a fight to save the union".<sup>16</sup>

The proponents of the bill while countering the attacks pointed out the importance of its passage for national unity and progress. By taking into consideration the same counts, they argued for the bill in convincing terms. They advocated the measure as constitutionally sound, in consonance with the country's democratic principles and assured their opponents that the bill, in no way, jeopardized the crucial balance of power

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14 Ibid., p. 1141.

15 Ibid., p. 1099.

16 Ibid., p. 1135.

and the state-federal relationship. They justified the bill on the basis of guaranteeing equal rights and freedom to all citizens and not only to one section. They also emphasized the fact that the time was appropriate for action.

As to the constitutionality of the bill, Senator Ray Madden (Dem., Indiana) argued that the failure of the states to take action against discrimination clearly indicated the need for Federal action. He asserted that the Federal Government had both the power and the obligation to eliminate widespread discrimination. The Fourteenth Amendment moreover, specifically empowered the Congress to enact legislation to make it a certainty. He further elaborated that government action had the sanction of law. Echoing the views of Attorney-General, Robert Kennedy, he emphasized that "the use of private property must be utilized in conformity with the public interest".<sup>17</sup> Emanuel Celler (Dem., New York) another advocate of the bill argued that the bill was necessary to redress grievances in accordance with the Constitution. The bill sought only to honor the constitutional guarantees of equality under the law for all. The human factor like the colour of one's skin does not determine the right provided under the constitution. He cautioned against the wrong interpretation of the Constitution.<sup>18</sup> Senator Mike Mansfield (Dem., Montana) drew attention to the role allocated to the House by the Constitution, which was to guard freedom and

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17 Ibid., p. 9554.

18 Ibid., p. 1110.

equality for all. Their responsibility lay in shaping and equalising opportunities so that all may share fully the promise of the Constitution. He warned that they may not be able to perform their duty if they "calculate with a slide-rule political expediency".<sup>19</sup>

Celler recapitulated the three main points on which the bill was attacked. They were, infringement of the rights of the non-minority, governmental tyranny, and the unconstitutional nature of the bill. He proceeded to analyse the bill title by title in order to counter these as well as swing the opinion of the members. Senator Mansfield appealed to the Congress thus, "...great public issues are not subject to our personal timetables; they do not accommodate themselves to our individual preferences or convenience. They emerge in their own way and in their own time. We do not compel them; they compel us". He further appealed to the Senate that the time to act was 'now' and the cross-roads were in the Senate. He asked them to set aside "the passions, sectionalism and inertia which may plague us...on behalf of the Nation".<sup>20</sup>

However convincingly the proponents of the bill argued their case the opposition applied the usual tactics of delay with

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19 Ibid., p. 1138.

20 Ibid., p. 1136.  
Some states which continued to harbour strong racist sentiments still practised discrimination flagrantly. Thus, the Federal Government was pressurized to take initiative in this regard. The urgency of the problems could be gauged from the fact that it took barely six months between the proposal and the enactments of the bill.



much effect. As the debate wore on it became evident that the attitude of the minority leader Everett Dirksen (Rep., Illinois) was crucial. Dirksen provided the necessary support to break the filibuster. The supporters of the bill, the Attorney-General and others from the Justice Department and other Senators, took part in and off the floor negotiations. The result was a compromise introduced on 26 May, and the Mansfield-Dirksen substitute was ultimately voted as the Civil Rights Act of 1964.

#### The Voting Rights Act of 1965

While the Civil Rights Act of 1964 encompassed a wide ranging number of issues, the Voting Rights Act of 1965 concentrated on a single issue. This was the implementation of the laws passed earlier for equal voting rights.<sup>21</sup>

As mentioned earlier, the problem of implementing the laws was brought to the notice of the Government in several ways. Peaceful demonstrations were taking place in Selma, Alabama. There were civil rights workers dispersed all over the afflicted

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21 Ibid., p. 1489.

Under the bill, the use of specified voting qualification defined as tests and devices would be suspended in states and subdivisions upon the coincidence of two factors: (i) where such tests or devices were maintained on 1 November 1964, and (ii) if less than 50 per cent of the voting age population were registered or voted in the 1964 Presidential Elections. However, those states could gain exemption by adjudication which proved that they did not have such tests and devices over the preceding five years. Nevertheless, the formula was determined to apply as a separate unit; such subdivisions within the state and not afford the opportunity for exemption; suspension of the tests and devices was to be state-wide. Provision in section 4 assured that no state or subdivision would be treated unfairly and that the suspension of the tests and devices would be applied only to areas necessary for the enforcement of the rights guaranteed by the Fifteenth Amendment.

areas in order to fight discrimination through litigation. Another task they undertook was to educate and coach the Black registrants in the methods of filling the forms and interpreting state constitutions. Among other organizations which took active part in ventilating grievances were the Congress for Racial Equality (CORE) and the Students Non-violent Coordinating Committee (SNCC).

The Act of 1965 provided for the enforcement of voting rights as contained in the Fifteenth Amendment. Section 2 of the Bill clearly stated that voting qualification or prerequisite of voting, or standard, practice, or procedure should not be imposed or applied by any state or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or colour.

This Section also provided for additional remedies to deal with the denial or abridgement of the right to vote. Section 4 and 6 of the bill as amended, provided for automatic suspension of literacy and other devices and for the appointment of Federal agencies to register applicants to vote in federal, state and local elections.

The Bill incorporated the Commission's recommendations with respect to sanctions against anyone interfering with voting. The bill authorized the Attorney-General to initiate suits to

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22 Ibid., p. 1487.

It also added a provision, affecting particularly Puerto Ricans in New York, making a sixth grade education in a foreign language, and not only in English as stipulated by in 1964 Civil Rights Act as a proof for literacy.

determine the appointment of Federal poll-watchers and outlaw-  
<sup>23</sup>  
 ing poll tax.

The significance of the bill can be understood in the light of the previous attempts made to enforce the Fifteenth Amendment as summarized by the Report of the House Judiciary Committee. One of the principal aims of the Civil Rights Act of 1957 and 1960, and to a lesser extent of 1964, was to vindicate the constitutional right to vote. Enforcement of these Acts proved inadequate to deal effectively with the problem of voting discrimination. Therefore, as Justice Warren pointed out, the Congress of 1965 ought to cope with the problem by facilitating case-by-case litigation against voting discrimina-  
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 tion. Individual law suits could scarcely resolve the problem presented by a system of mass discrimination that bore upon millions of people. By 1965, only 71 voting rights cases had been filed by the Department of Justice, a number so small that it verged upon the ridiculous. It was clear if the system was to be eliminated, a new and more drastic approach by the Congress was demanded.

The Chief Justice explained the Voting Rights Act of 1965 in this manner: "The heart of the Act is a complex scheme of stringent remedies aimed at areas where voting discrimination has

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23 Foster R. Dulles, The Civil Rights Commission, 1957-1965 (Michigan, 1968), p. 125.

24 Schwartz, n. 22, p. 1469.  
 South Carolina v. Katzenback, 383, U.S. 301 (1966).

been most flagrant...."<sup>25</sup> The first of the remedies, contained in Section 4 was the suspension of literacy tests and the similar voting qualifications for a period of five years from the last occurrence of substantial voting discrimination. The second remedy was the assignment of federal examiners by the Attorney-General to list qualified applicants to be thereafter entitled to vote in all elections. Section 8, authorized the appointment of federal poll-watchers in places where federal examiners had<sup>26</sup> already been assigned.

The Voting Rights Act of 1965 supplanted state election machinery by the federal law and ad hoc federal officials, where necessary, to eliminate discrimination and to enforce provisions of the Fifteenth Amendment. The federal action came within the purview of the Amendment's second section (and of Article I section) which was demonstrated in the holding of the highest court in South Carolina v. Katzenbach, in 1966. The opinion

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25 Ibid., p. 1490.

The remedies would operate when it was determined by the Attorney-General that a state or a political subdivision maintained a test device and the Director of the Census determined that less than 50 per cent of its voting age population residents were registered or voted in 1964 Presidential elections.

The statistics revealed that although the ballot cast by 62 per cent of the national electorate, there were nine states where fewer than 50 per cent voted. Of these nine states seven maintained literacy tests. Further, certain states which maintained these tests in November 1964 fewer than 50 per cent voted, although state-wise percentage exceeded 50 per cent. Voting qualifications of the following states and subdivisions were affected by the bill: Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, Apache County (Arizona), Elmore County (Idaho), Aroostook County (Maine) and thirty-four counties in North Carolina.

26 Schwartz, n. 8, p. 1492.

there affirmed that the power of the Congress to enact 'appropriate legislation' enforcing the Fifteenth Amendment was governed by the same basic test as in all cases concerning the express powers of Congress with relation to the reserved powers of the states.

Two points emerged from the legislative history of the Act: (i) Congress felt (itself) confronted by an invidious and pervasive evil, which had been perpetuated in certain parts of the country through unremitting and ingenious defiance of the Constitution; and (ii) Congress concluded that the unsuccessful remedies which it had prescribed in the past would have to be replaced by sterner and more elaborate measures to satisfy the clear commands of the Fifteenth Amendment.

The opponents to the bill attacked it mostly on legal grounds. Their main speaker was Senator Sam Ervin (Dem., North Carolina), a former member of the State's highest court and dean of the Upper House's constitutional lawyers. He consistently attacked the bill as ex post facto law and a bill of attainder. He referred to the assurance that he had sought from the Government regarding the intentions of the bill and his objections. He pointed out that among the many defects of the bill the most overriding one was that it sought to degrade certain states and subdivisions of states to the point where they were denied fundamental rights which every one, could afford by common consent even those charged with the foulest crime against the nation. He said that the bill created an artificial formula under which seven states of the Union, either in whole or in part,

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were presumed to be violating the Fifteenth Amendment. Other opponents of the bill focused their attack on six points. First, the bill was unnecessary because existing statutes in the Federal statute books were sufficient for securing registration and the right to vote to any qualified citizen of any race in any precinct in the United States. Second, the bill was repugnant to the constitutional principle that the United States was a union of States with equal power and dignity. Third, the bill condemned and subjected to punitive measures the States of Alabama, Georgia, Louisiana, Mississippi, and South Carolina and many cities and counties in North Carolina and Virginia without a judicial trial, for which reason it constituted a bill of attainder within the meaning of Article I, Section 9, clause 3 of the Constitution of the United States. Fourth, the bill aimed at nullifying or suspending the constitutional power of the seven States to establish and use literacy tests as qualifications for voting, and laws relating to election and voting procedures. Fifth, the bill "prostituted" the judicial process in these respects: it denied to the states access to all courts sitting anywhere in the United States except the United States District Court in the District of Columbia; it granted the Attorney-General full liberty to proceed with actions against them and their officials and citizens in any court as he desired;

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Ibid., p. 1500.

As for the non-constitutional merits relatively little debate was devoted to the bill's most far-reaching provisions - the suppression of the state election officials by the federal examiners who would themselves examine and register the voters.

the States to which the bill applied were subjected to specially created rules of evidence and procedures which robbed them of the fundamentals of simple justice.<sup>28</sup>

Most of the attack of the opposition was directed against the 'triggering' provision under which tests and devices would be automatically outlawed in States and subdivisions coming within the provision. They criticized this bill as arbitrary and discriminatory, asserting that it deprived their States of the authority to test the literacy of the electorate and that low registration did not necessarily result from discrimination.

As the House was divided over these issues, doubts were expressed by some newspapers of the country. In an article in Washington Star, Richard Wilson questioned what he called the 'anomaly' of the bill. He asked why should literacy test as a qualification be perfectly right in forty-five of the fifty states but be invalid in the other five. He described the bill as an example of "the devious legislative tactics in the Johnson Administration to achieve results by legal circumlocution". He found the bill to be 'strange, awkward, and unequal'.<sup>29</sup> Other papers came out with equally strong condemnations of the bill. They found it to be immoral as it aimed at a particular section of the country and, was therefore, "a class and geographical<sup>30</sup> legislation".

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28 Ibid., p. 1511.

29 Washington Star, 24 March 1965.

30 Greensboro Daily News, 23 March 1965.

The proponents of the bill, notably Senator Philip Hart (Dem., Michigan) and Jacob Javits (Rep., New York) sought to show, first of all, the need for such a measure. According to Philip Hart, statistical experience demonstrated that where there was a coincidence of the use of tests or devices with low registration and voting of a substantial Negro population, there was a strong possibility that the latter was a result of racial discrimination in the use of the tests. Second, most tests and devices, notably the 'interpretation' and 'understanding' tests, were adopted and administered for the purpose of denying the Negroes the right to vote. They had been, as Justice Black had held in a unanimous court verdict, 'not a test, but a trap'. Third, most states and counties for which the three criteria that the bill provided for had in fact engaged in widespread violation of the Fifteenth Amendment. This was amply demonstrated by the evidence collected by the Justice Department during the past five years and by the studies of the Civil Rights Commission. Fourth, the States primarily affected, Alabama, Georgia, Louisiana, Mississippi and South Carolina, had each within the past decade applied a general public policy of racial segregation. Virginia and North Carolina, which were also covered by the bill, had a policy of racial segregation in their laws. Yet, in most of the literacy tests where the electorate turned out in force - states for which 50 per cent determination could not be made - there were statutes prohibiting discrimination.

These four fundamental factors, Hart suggested, "are more than enough to warrant the conclusion that whenever the circumstances recited in the determinations made by the Attorney-General



and the Director of the Census exist, it is possible that there were violations of the Fifteenth Amendment right to vote without distinction of race or color".<sup>31</sup>

Javits argued that the bill was based upon the power of the Congress to prevent violations of the Fifteenth Amendment "by means reasonably adopted for the end". He admitted that the Constitution provided, in unequivocal terms, that "the fixing of qualifications for voting shall be in the hands of the States", but the Constitution also provided that "no citizen shall be denied the right to vote on the ground of race and color". The Supreme Court had made it clear that these two provisions were completely reconcilable: that when a State failed to honor the mandate of the Fifteenth Amendment, the Congress might adopt appropriate means even if those means reduced the power of the States in so far as other provisions of the Constitution which preserved powers to them were concerned.

In addition, the Congress was acting on a massive revelation of facts showing that violation of the Fifteenth Amendment was so widespread as "to justify general Federal legislation". The supporters of the bill thus cited statistics with regard to Negro voting in many of the Southern States. They urged that in this extreme situation the provision of the bill was justified, particularly those calling for the federal examiners to take over the electoral process in states covered, and the suspension of all tests and devices coming within the 'triggering provision'.

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31 Schwartz, n. 8, p. 1519.

They argued that nothing less would be effective since in the Southern States election officials had been able to frustrate Congressional and judicial efforts to implement the Fifteenth Amendment.

The consideration of the bill in the House of Representatives was cut short. The House, it is true, had the advantage of a lengthy report by the Judiciary Committee. Father Hesburgh of the Civil Rights Commission testified extensively before the sub-committee of the House Judiciary Committee. He stressed the lack of any real progress in guaranteeing the right to vote through previous legislations. He conveyed to the members the conviction that action could not be further delayed. He told the Committee "For the past six years we have recommended such legislation. We have done so in the belief that nothing less will suffice to root out the discrimination in voting".<sup>32</sup>

The House debate was essentially a shorter version of the Senate. On 9 July the House voted 328-74, its own version of the bill as a substitute for the Senate measure. The Senate and the House measures were reconciled by the Conference Committee. The Conference Committee bill was voted by the House on 3 August and approved by the President on the 6th.

### Civil Rights Act of 1968

Accelerated Black protest, worsening conditions in the ghettos of the cities, and finally the assassination of Martin

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Ibid.

Some of these grievances were racial in origin but by no means all of them: the tenements appeared in the cities long before the Negroes arrived.

Luther King, Jr. hurried the enactment of the 1968 bill. Unlike the two previous acts, which mainly sought to protect the civil rights of the Negroes in the Southern States, the 1968 act was mainly concerned with meeting Negro grievances in the northern cities. As early as 1966 the Washington Post noted that the tide of Negro protest would move from the South to the North, where it would become an attempt at social revolution. In the South the protest was directed towards specific legal and political wrongs; whereas in the North, the protest ran through the entire gamut of slum life. Again, whereas the civil rights in the South remained a precise legal term referring to the citizen's legal standing before the law, in the north it covered every<sup>33</sup> kind of reaction and grievance of the urban outcasts..

One of the issues which contributed towards the ghetto crisis was fair housing. The President's Riot Commission had recommended the enactment of a comprehensive and enforceable occupancy law. The support for fair housing also came from a group of top businessmen. They expressed concern over the grave problem facing American cities on this account. Charles B. Thornton, chairman of the board of Litton Industries called for not only prompt action on fair housing but also new job opportunities, better education, and community relations to "improve<sup>34</sup> the quality of life for all Americans".

The editor of Los Angeles Times urged the Congress to enact a workable fair housing measure. Otherwise, he warned,

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33 Washington Post, 9 August 1964.

34 Los Angeles Times, 11 March 1968.

the Riot Commission's prediction of the United States getting  
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 divided into two societies would come true.

Sixty leading lawyers, including seven who headed the American Bar Association, urged the House to approve the Senate's housing legislation. They stated that "maintenance of an orderly society ruled by law require, that the law itself  
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 must be just to all people".

On 3 March 1968 a TV Programme 'Meet the Press' had six Mayors from metropolitan cities in which they voiced their opinions on the fair housing problem. Mayor Ian Allen, Jr., of Atlanta, Georgia, said that racial discrimination, segregation plus the immigration of millions of Negroes into the urban centres of America had created the most serious domestic problem that the nation had ever been confronted with. He stated that inadequate housing, reasonable job opportunities and education in poverty areas have deprived full opportunity to the Negro. The gap between the White and the Negro have vastly increased and the leadership at all levels should shoulder the responsi-  
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 bility to close this gap.

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35 Ibid.

36 Evening Star (Washington), 9 April 1968.

37 Atlanta Constitution, 7 April 1968.  
 In New York City a chapter of the National Social Workers Association urged fair housing policy. The local membership of 45,000 professional social workers believed that adequate housing will assure health, safety and a chance for the future, basic social need and priority for all city dwellers regardless of race, ethnic background or economic status. The Association supported the Fair Housing Bill as a major step toward reaching this goal.

In the light of the violence sweeping over the major cities and the report of the National Advisory Commission which came on 1 March 1968, the President sent a message to the Senate asking for a much broader civil rights bill, including provisions for fair housing throughout the country. This time there ensued massive resistance from the Southern opponents which manifested itself in thirty-three days of filibustering.

The bill contained ten titles. The most consequential ones being Title I and Title VII dealing with federally protected activities and open housing problems respectively.

Title I was designed to deter and punish interference by force or threat of force with activities protected by Federal law and the Constitution. The areas protected included were voting and voter registration, education in public schools and colleges, participating or enjoying benefits of services, programme facilities or activities of Federal, state or local governments, employment and services of employment agencies, union membership serving in juries, public transport, participating in federally assisted programme or activities and enjoying the facilities of hotels, restaurants and other public accommodations.  
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Title VII encompassed the residential area and proposed

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38 Richard Bardolph, The Civil Rights Record: Black Americans and the Law (New York, 1970), p. 426. The statute resolved to punish interference or attempts to interference with any person because of race, colour or religion. The bill also urged for aid in participation in the above protected activities. Persons acting alone or in groups would be covered by the bill's prohibitions.

to eliminate discrimination in residential rights on the basis of race, colour, religion or national origin. Subject to exemptions of fair housing provided with federal funds, including loans, grants, insurance or guarantees of the Federal Government and urban renewal redevelopment were also stated. State or local agencies, receiving Federal financial assistance, would be subject to prohibition against discrimination.<sup>39</sup>

The prohibited acts covered by the bill were as follows:

- (1) Refusal to sell or rent, negotiate for the sale or renewal of, or otherwise made unavailable a dwelling to any person;
- (2) Discrimination against any person in terms of, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith;
- (3) Making, printing, or publishing any notice, statement or advertisement indicating a preference, limitation or discrimination, or an intention to make any such preference, limitation or discrimination;
- (4) Representing to any person that a dwelling is not available for inspection, sale, or rental when such dwelling in fact is so available;
- (5) Inducing or attempting to induce anyone to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighbourhood of a person or persons of a particular race, colour, religion or

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39 Schwartz, n. 8, p. 1692.

If such housing was provided under agreements or contracts entered into after 20 November 1962. Dwellings owned or operated by the Federal Agencies would be similarly covered. Thus the effect of the bill would be to cover by statute the kinds of housing now subject to prohibitions or discriminations under the Executive Order under the Equal Opportunity in Housing, No. 11063.

national origin. (This is the 'anti-block busting' provision);

(6) Denying a loan or other financial assistance to any person applying for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or otherwise discriminating against such persons in terms of amount, interest rate, or other conditions of such a loan. (This prohibition is applicable to banks, building and loan associations, insurance companies, or any other enterprise whose business consists in whole or in part in the making of commercial or real estate loans);

(7) Denying access to or membership or participation in any multiple-listing service, real estate brokers' organizations or other service relating to the business of selling or renting dwellings, or discriminating in the terms or conditions of such access, membership, or participation.

The procedure to bar discrimination would work in three stages. (1) Upon enactment, to federally owned or operated dwelling provided in whole or in part with federal assistance including loans, grants, mortgages, insurance, slum clearance, urban renewal and similar activities. (2) After 31 December 1968 the bill would apply to multiple-unit housing and to single family housing owned by contractors (or building firms) or by private individuals (provided the individual owned more than three homes), with certain exemption. This provision was intended primarily to cover most apartments and single family housing in new subdivisions. (3) After 31 December 1969 to be applied to all other housing, including privately owned single-

family housing with certain exemptions.

The Secretary of Housing and Urban Development (HUD) was to administer the provisions of the bill and was provided with five additional Assistant Secretaries. The bill gave the HUD responsibilities for research, education and technical assistance to reduce discriminatory housing practices. A person, who had been discriminated against, could file a complaint with the Secretary of HUD to investigate and conciliate. It also provided that the person could sue for injunctive relief in a federal court. However, if state or local remedies were available they must be sought before federal action could be taken.<sup>41</sup> It also empowered the U.S. Attorney-General to bring in a civil suit,<sup>42</sup> where there was a pattern of discrimination of public importance.

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- 40      Ibid.  
Houses owned by private individuals owning not more than three houses who sold or rented and who did not indicate any preference or discrimination in advertising the sale or rental of the house. Dwellings upto four living units in which the owner maintained a residence would also be exempted. This is often referred to as 'Mrs. Murphy's housing'. Religious organizations and private clubs housing their own members on non-commercial basis were exempted from coverage under the bill.
- 41      Ibid., p. 1694.  
It also provided that a person could sue in federal, local or state courts for relief or damages without filing a complaint with the Department of HUD.
- 42      Ibid., p. 1693.  
It made a criminal offence for intimidation, interference with any person because of his race, colour, religion and national origin because he had sold, bought or rented a dwelling. And because he had lawfully aided or encouraged a person to participate without discrimination, or lawfully opposed the denial of the opportunity to participate without discrimination, or lawfully opposed

(footnote contd.)



The proponents of the bill pointed out that such a legislation was necessary in the light of the growing violence and flouting of law by the law enforcement officials themselves. Racial violence had been used to deny affirmative federal rights. This was a clear indication of flouting the expressed will of the Congress.<sup>43</sup> Thus such crimes fell distinctly within the jurisdiction of the Federal Government. Moreover, the Constitution (Art. I Sec. 8) delegates the regulation of commerce to the Congress.<sup>44</sup> The explicit order of the Fourteenth Amendment in Section 5 was that there should be no interference by public official or private individual in the exercise of their rights. The purpose of the bill was not only to punish but to deter violations of the individual's exercise of his civil rights.

While the Senate debate was in progress, President Johnson sent a special message to the Congress asking for a much broader civil rights legislation, including fair housing measure which was to cover the whole country.

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the opportunity to participate in buying or selling or renting of a dwelling.

Assault of the Negro while practicing the federally sanctioned activities (e.g. attempting to attend a desegregated school or casting a ballot) it is not only the individual but also the peace and dignity of the state that is injured through such violent and lawless acts.

43 Ibid.  
These sources of power provide ample authority for statute's prohibition of interference with such activities as voting in Federal elections, use of inter-state carriers, employment and access to public accommodations.

44 Schwartz, n. 8, p. 1511.

The opponents of the bill contended that the bill was nothing short of abridgement of the individual's freedom and his right to be free from 'governmental tyranny'. The open occupancy title was opposed on the grounds that it sought to destroy and impair the constitutional principles and rights by usurpation and nullification rather than by the amendment of the Constitution under Article V. They claimed that it was unconstitutional on the Federal Government's part to deprive all Americans of their basic economic, legal, and personal property rights to give equality to 20 million Negro Americans. They insisted that all Americans of all races possessed identical rights under the Constitution and the laws of the United States. Therefore, "No men of any race can legislate their way either economics or social equality in a free society". Moreover, the open occupancy proposal did not really undertake to confer equality. It attempted to confer upon its supposed beneficiaries privileges superior to those ever granted by Federal law to any other Americans in history. They urged Americans to choose between equality coerced by law and freedom of the individual. There was nothing iniquitous <sup>in</sup> in men of one race preferring to sell or rent their residential property to men of their own race. Such conduct was in perfect harmony with the natural law. The open occupancy bill sought to rob all Americans of the power to determine their own dealings in respect of their privately owned property of residential nature. The bill even questioned the motive of the owners which was grossly irrational. All the opponents of the title emphatically opposed

the bill on the ground enumerated above.

If the opponents of the bill were strongly opposed to the bill, the proponents of the bill were equally emphatic about their support. William McCulloch (Rep., Ohio) stated that the problem of the civil rights and civil disorders which the bill covered was the most difficult and troublesome one. He cited from *Civil Disorders* where in clear terms it reported the evil in such discrimination. Discrimination prevented access to any non-slum areas,.... In addition, by creating a 'back pressure' in the racial ghettos it made it possible for landlords to break up apartments for denser occupancy, and keep prices and rents of deteriorated ghetto housing higher than they would be in a truly free market. Ghetto dwellers were thus prisoners outside the prison because the White society prevented them from moving to better housing blocks. If the law ensured certain mobility in housing pattern it would help the Negro community to better their position like any other minority in the country. Better homes meant better education, this would mean better jobs. Then the Negro would have won his equality through economic power. The scope of the Federal power as interpreted under the commerce clause of the Fourteenth Amendment empowered the Federal Government such regularization.<sup>45</sup>

Emanuel Celler (Rep., New York) further elaborated why such legislation was necessary. He pointed out that what the majority took for granted was still arbitrarily denied to the

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45      Ibid., p. 1632.

minority. He recalled the tragic assassination of Martin Luther King to emphasize the gravity and the importance of the bill. However he did not make it the case on which the legislation should be made but nevertheless did not deny the implication of such violence. He recounted the past efforts and their failures to eliminate discrimination in that area. It was plain, he asserted, that the combined efforts, of state and local laws, Executive Orders, as well as actions by private volunteer groups had all failed. He went on to say that while discrimination in housing in fact needed no proof, the consequence for both the individual and his community were not always apparent. Isolation of racial minorities also meant isolation from public life, inferior public education, recreation, health, sanitation, denial of access to training and employment. He saw the roots of the urban crisis in Negro segregation in ghettos.<sup>46</sup> With this the last of the Civil Rights Bill was enacted.

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46 Ibid.

## Chapter V

### NATURE OF BLACK RESPONSE

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The response of the Blacks to the Civil Rights Legislations was a varied one. It was partly optimistic and partly cynical. The inability of the leadership to cope with the changing situation and the rising expectations of the Blacks, especially among the youth, led to conflicts. The resulting disturbances caused expensive damage, including the loss of many lives. In 1967, Bayard Rustin, a Black intellectual and a civil rights activist, wrote that no precedent could be found in "our History" of the massive destruction the past three years had brought to the American cities.<sup>1</sup> He also stated that the danger was not merely the loss of property or even lives but a repetition of the conditions in the aftermath of Civil War when the country turned its back on "the Negro - on the root cause of his discontent, on its own democratic future".<sup>2</sup> The reasons for Black discontent he cited to be the following: (i) the rate of progress was less than it was generally supposed to be; for whereas the Negro had gained certain important legal and constitutional rights, his relative socio-economic position had scarcely improved; (ii) the Civil Rights movement raised the self esteem of Negro youth, but he was not willing to submit to the unequal situation; and (iii) the attempts to mystify the Negro problems, for if society was interested in maintaining

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1 Bayard Rustin, "A Way Out of the Exploding Ghetto", New York Times, 13 August 1967.

2 Ibid.

stability it should either not have made promises or kept them.

It is appropriate at this point to examine what is meant by Black response. Black is a blanket term which includes different elements in the Black community. These elements represent different economic, regional, group or ideological affiliations. Their responses, during the 1960s, ranged from extreme cynicism towards the civil rights legislations to equally strong optimism. With the expansion of the Civil Rights movement, other problems also emerged involving Black unemployment, poor housing, illiteracy and poverty gained prominence.<sup>4</sup> These problems could not have been cured by legislation. Also, so long as the Blacks demanded admittance into the dominant society, they were tolerated by some and encouraged by others. But as soon as they began insisting on self-determination and special consideration to compensate for three centuries of exploitation, their allies deserted them. The movement took a new turn.

### Rise of Black Power

The basic tenet of Black power was self-determination and the consolidation of power in the hands of the Blacks. Hence the

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3 Ibid.

4 Rap Brown, Die Nigger Die (New York, 1969), pp. 21-22. When the Civil Rights movement expanded its demands from equal rights to the problems of unemployment, poor housing facilities, illiteracy and poverty they were disappointed. Rent and price of food were higher in the ghettos than in the suburbia. An apprentice system designed to keep Black union members at a lower wage scale and university admission policies that tacitly condoned inferior secondary education for which no one seemed to be responsible were not cured by integration.

leaders of Black Power challenged integration. They contended that school desegregation was meaningless in the context of ghetto life in the cities. They insisted that instead of being 'bussed' to suburbs to learn about the White Americans, the Blacks be given increased funds and improved instruction oriented towards the life of Harlem and of Watts. Equal access to public accommodation, in their view, was meaningless<sup>5</sup> when the average Black man had no money to enjoy such rights. Instead of integration they demanded better jobs and housing facilities.

This position was quite opposed to the goals of the Civil Rights Movement which was largely southern-based. It drew support from Black and White middle classes, advocating integration. On the other hand Black power drew its strength from the Northern ghettos demanding separatism as a path to freedom.<sup>6</sup> It considered integration to be not only unattainable but also undesirable. For it left all initiatives in the hands of the Whites.<sup>7</sup>

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- 5 Julius Lester, Look Out Whitey! Black Powers Con' Get Your Mamma (New York, 1969), p. 104.  
Julius Lester, a member of the Student Nonviolent Coordinating Committee, wrote that the March on Washington allowed Dr. King to orate about his dreams of a Nigger eating at the same table with some Georgia Cracker while most of the Black people were just dreaming about eating.
- 6 Alvin F. Poussaint, "The Negro American: His Self-Image and Integration", in Floyd B. Barbour, ed., The Black Power Revolt: 36 of the Most Potent Voices (Boston, 1968), p. 112.
- 7 Ibid., p. 116

(footnote contd.)



Rap Brown, a Black Power activist, viewed education in America as a propaganda machinery which sought to teach the Blacks to hate themselves. 'Bussing' of children to schools<sup>8</sup> outside the community was, in fact, a move to divide them. As for integration itself, he argued an attitude could not be legislated away. Integration was based on an attitude of mutual acceptance and respect between two racial and cultural groups which was absent in American society. "Laws can be forced or enforced. What the civil rights movement was concerned with was the controlling of the animalistic behaviour of the White people.... We were not fighting for integration. We were letting White folks know that they no longer legislate where we went

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The disenchantment of the Blacks with the Civil Rights Movement sprang from the fact that integration was manned by White resistance and tokenism. Integration was a 'one way street' where the movement was from the Black to the White!

"Negroes travel to White institutions...inherent in the situation itself is the implied inferiority of the Black man". To these people integration by its very definition took place according to the larger societal model of culture and behaviour and thus it meant that the Negro must give up most of culture and identity to be wholly integrated. To them the Negroes who sought integration became preoccupied with proving themselves to the Whites. They said that many Blacks expended their energy trying to seek individual freedom in the White man's world. They asserted that it was a vain effort because personal acceptability has to be repeatedly proved to each new White group. The Negroes' pursuit of middle class status symbols is frequently an over determined attempt to demonstrate to the White man as well as to themselves that they can be successful and worthwhile human selves. White America, however, has lumped all the Negroes together in one collective image.

8 Brown, n. 4, p. 22.

He said that they take the brightest students outside the community and mould them in such a manner that they become total misfits in their own community.

and what we did".<sup>9</sup>

Stokely Carmichael, who enunciated the meaning of Black power, declared to a Black audience, in 1966, that integration was mere 'tokenism'. Black Power was born out the necessity to reclaim 'our history' and 'our identity' from the cultural terrorism and depredation of the Whites. He argued Whites dominated Blacks in a manner resembling the domination of the capitalist world over the third world. The Negro community in America was a victim of White imperialism and colonial exploitation. This, he said, was true in practical economic and political terms. The geographic separation of the Blacks can, therefore, be compared to a situation of internal colonialism. The Negro people did not control the resources within the community - its political decisions, law enforcement, housing standards and even physical ownership of land, houses and stores were outside the community.<sup>10</sup> Admitting the Negro into the mainstream of the society from which he had been traditionally excluded could be a way of bringing about the required change. He accused the Civil Rights movement of acting as a liaison between the Whites and the poor Blacks. The movement itself was not based on an organized political structure; instead it depended on coalition with various liberal pressure groups among the Whites. He concluded by saying that the Student Non-Violent Coordinating Committee would stop pandering to the fears and

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9 Ibid., pp. 55-56.

10 Stokely Carmichael and Charles V. Hamilton, Black Power: The Politics of Liberation in America (London, 1967), pp. 21-24.

anxieties of the White middle class in an attempt to earn goodwill. It would, instead, return to the ghetto to organize these communities to control themselves.<sup>11</sup>

Parallel to Carmichael, there also appeared the Black Muslims who advocated total separation and supremacy of the Blacks as an alternative approach to their problem. The significant contribution of this group was that it was able to reinstate group self-dignity without taking recourse to integration or full acceptance of the Blacks to the American society.<sup>12</sup>

Malcolm X, a dissident exponent of the Black Muslims, saw that the Negro problem could not be solved through integration. He argued for the conversion of the Civil Rights movement into a broader human rights movement. He rejected integration on the grounds that it was a Northern liberal invention used as a smokescreen to confound the true needs of the Black man. Hence, he called for self-determination on the part of the Blacks.<sup>13</sup>

It is interesting to note here that both Malcolm X and Martin Luther King projected themselves as religious leaders. Both sought to uplift the Blacks from their present situation, but their approaches were different. King sought equality and

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11 Ibid.

12 Glen A. Newark, ed., "From the Autobiography of Malcolm X", Contemporary Issues (New York, 1971), p. 276.

13 Ibid., p. 279.  
Further he elaborated that the terminology not only confused the Blacks but also aroused in the hearts of many Whites anger and confusion.

freedom for the Blacks through integration and non-violent methods, Malcolm X through separation. Although he did not openly advocate violence as a method he did not rule it out from his programme. Malcolm X said that no Black man can become independent and be recognized as a human being until he takes the initiative in his own hands and learns to cope with his problems himself. Therefore, the Black man in the ghettos should begin correcting his own material, moral and spiritual defects. He needed to start his own programme by shedding drunkenness, drug addiction and prostitution. In short the Black man in America has to lift his own sense of values.<sup>14</sup>

In his message to the Grass Roots, Malcolm X stressed the importance of land in bringing about a revolution. Since the Civil Rights movement did not relate itself to land, it was not a revolution. "These Negroes", he said, "were not asking for a nation, they were merely trying to crawl back on the plantation".<sup>15</sup> He called the civil right workers the "modern Uncle Toms".

Closely related to the problem of land was the concept of citizenship. Malcolm X declared that the pre-condition of being an American was not that one was born in that country but that he had the ability to enjoy the fruits of America. He asked, "if by birth you are made an American you wouldn't need any legislations; you wouldn't need any amendments to the

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14 Ibid., p. 279.

15 Malcolm X, "Message to the Grass Roots" in Arthur C. Littleton and Mary, Burger, eds., Black View Points (New York, 1971), p. 125.

Constitution; you wouldn't be faced with civil rights filibustering. They don't have to pass a civil rights bill to make a Pollock an American".<sup>16</sup> He identified himself as one among the 22 million victims of American democracy in contrast to the dreams of Martin Luther King. Malcolm X said, "I don't see any American dream; I see an American nightmare".<sup>17</sup>

The Black Panther Party, another Black Power off-shoot, visualized a power structure that could match the White power structure. This group was basically a political one. It tried to provide an alternative government for the Blacks. Its method was to confront the administration at both the political and military fronts. For the group the role of the police symbolized the strength of the enemy it was trying to fight. It perceived the presence of the police in the ghettos as that of an occupying army.<sup>18</sup> Disillusioned with the ineffectiveness of the civil rights legislation and the slow process of change, the young militants of the Black Panther Party turned towards violence. Their experience during the civil rights movement provided them with enough evidence about the prejudice of the White community against all Blacks.

Finally, there were others, in the Black community, who contributed to the crisis of civil rights. Kenneth B. Clark, a

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16 Malcolm X, "The Ballot or the Bullet", in Herbert J. Storing, ed., What Country Have I? Writings by Black American (New York, 1970), p. 149.

17 George Brietman, The Last Year of Malcolm X (New York, 1967), p. 149.

18 "Why the Police Attack the Black Panther", in Woodie King and Earl Anthony, eds., Black Poets and Prophets (New York, 1972), p. 82.

Black intellectual, wrote in 1965, "The central problems in attempting to understand what is happening to the Negro and America are the problems of rapidity of change", and "the effects of patterns of accommodation, the part of both the Whites and the Negroes in their inability to adjust to new realities".<sup>19</sup>

Many liberal civil rights workers also went through change. Reverend Vivian, a civil right worker, said that the assumption that integration would be the 'route' to Black freedom had won allegiance because it seemed to fit into their understanding of the values which should determine the institutions and the priorities of a society. But the movement itself revealed to the Blacks that integration was impossible. What emerged was a reality of America indifferent to verbal or moral appeal. What needed to be confronted was not the conscience of the power structure but the structure itself. The position of the Blacks as a minority group did not make the other alternative feasible. For these reasons Vivian concluded that the 'integration model' had "built-in obsolescence".<sup>20</sup>

By the time the last of the civil rights legislation

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19 Kenneth B. Clark, The Dark Ghetto (New York, 1965), p. 162.

20 C.T. Vivian, "Black Power and the American Myth", in Henry J. Richards, ed., Topics in Afro-American Studies (New York, 1965), p. 162. He said that how this understanding was inadequate in an understanding of the American realities as they existed, and, 'the measure by which we misjudged that reality is precisely the measure of the yawning gulf between the Blacks and Whites.'

was enacted in 1968, the tendency towards cynicism had further increased. Dick Gregory, a Black comedian, wrote in Avante-Garde Magazine, in 1969, that people pointed out the civil rights legislations as a sign of the progress that the Blacks have made. However, in his view, they were nothing but a way of insulting them. "It means that for a hundred years a White man has changed my dollar for 32 cents, and now he is giving 64 cents for a dollar progress. That is still cheating. We are going to get a full dollar's change for this dollar, or the cash register won't ring again".<sup>21</sup>

Eldridge Cleaver, a Black militant, criticized the Federal Government's involvement with the civil rights cause as a move to kill the movement. He said that the motive behind President Johnson's stand was that he merely wanted peace and quiet at home so that he could carry on his war in Vietnam.<sup>22</sup>

#### Advancement in the Socio-Economic Field

While a section of the Black community became impatient with the slow progress of the civil rights legislations, involvements in the general national activities by the others, however, continued. In certain areas matters worsened, but in others progress was achieved. As mentioned in an earlier chapter, the changed economic situation brought about migration of Black population from the rural to the urban areas. During the sixties

21 Newark, n. 12; Dick Gregory, "Breaking Out: A Black Manifesto", p. 270.

22 King and Anthony, n. 18; Eldridge Cleaver, "The Land Question and the Black Liberation", p. 39.

this trend continued along with its accompanying problems. Thus a study conducted by the Bureau of Labour indicated the distribution of Negro population by region from 1960-1968. It showed a general depletion of the Black population in the south and a simultaneous growth in other regions. Whereas in 1960 some 60 per cent of the Blacks was concentrated in the South, by 1968 it fell to 7 per cent. On the other hand, there was an increase by 6 per cent in the north over the same period. Similarly, Black population grew in numbers in the north-east by 2 per cent; North Central by 4 per cent; and the west by 2 per cent.

The average annual rate of change in the population of the metropolitan areas also indicated interesting mobility along racial lines. In the central cities, the Whites numbered less than 10 per cent and the Blacks more than 40 per cent between the years 1950 and 1960. Within eight years, the number of Whites in these areas fell to zero, while the percentage of the Blacks remained constant. Out of the total population, 40 per cent of the Whites and 25 per cent of the Blacks lived outside the central cities in 1960. During the next eight years composition of the population changed to 30 per cent Whites and 38 per cent Blacks.

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23 See Appendix I

24 The Blacks living in metropolitan areas during 1950 and 1960 constituted 15 per cent and the Whites 22 per cent. During the next eight years the White population living in the same areas decreased to 14 per cent and conversely the Blacks increased to 27 per cent. (see appendix



These facts indicate a substantial process of Black urbanization. However, improved economic prospects did not ensue. But a relatively greater proportion of Black families lived below the poverty line.<sup>25</sup> We may take a few major cities to illustrate the point. In New York City, 28 per cent of the non-White population lived below the poverty level. The number increased to 35 per cent in 1966 and in 1968 it decreased to 31 per cent. For the same years in Chicago the percentages were 33, 37, and 35. Los Angeles also revealed a similar pattern - 32, 29, and 33 for the same years. At the national level the percentage of Whites and the non-Whites living below poverty levels in the year 1967 were 12 and 40 per cent respectively. In 1968, 35 per cent of non-Whites and 10 per cent of the Whites lived below the poverty level. 14 per cent of non-Whites were recipients of welfare assistance whereas 3 per cent of Whites were in that category in 1968.<sup>26</sup>

A study of the employment pattern between the years 1957 and 1972 revealed an increase of employment amongst the Blacks as well as a trend towards Black advancement into higher jobs. In the White-collar jobs, the percentage increased from 12.8 to 29.8 in fifteen years. In the professional and technical fields the increase was from 3.7 to 9.5 per cent. In non-

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25 See Appendix II

26 Since the Blacks constitute the majority of the non-White population, it is taken that the percentage quoted would represent a greater number of Blacks than other non-White ethnic groups. (See Appendix III).

collegiate teaching, the increase was from 1.3 to 3.0 per cent. Non-farm managers and administrators increased from 2.6 to 3.7 per cent. Salaried workers increased from 0.5 to 2.6 per cent. The number of self-employed decreased from 1.6 to 1.1 per cent. Sales workers increased from 1.0 to 2.2 per cent. In the retail trade the number decreased from 0.8 to 0.7 per cent.

In the category of blue-collar workers, the total number decreased from 41.8 in 1957 to 39.9 in 1972. This category included craftsmen, foremen, carpenters, mechanics, drivers, deliverymen and non-farm workers. In the service industries, total percentage of the employed decreased from 32.0 to 27.2 per cent. Private house-hold workers decreased from 14.9 in 1957 to 6.8 in 1972. Non-private workers increased from 17.5 to 20.5 per cent in the same years. In the category of farm workers the percentage dropped from 13.5 to 3.0 per cent. The number of farm workers also decreased from 3.2 to 0.6 per cent. Similarly, the percentage of paid workers on the farm as well as unpaid workers decreased.

In 1969, the Bureau of Census conducted a study on Minority owned business houses. The figures were as follows.

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27 See Appendix IV.

28 With regard to the unemployed Blacks and other minorities, the percentage decreased from 8.1 to 6.4 per cent between 1965 and 1969. A study conducted by the Bureau of Labor Statistics indicated the total number of Negro (and other) labour force participation to be 63.0 per cent in 1960. The percentage of men participation in 1960 was 80.1 and in 1970 74.7 per cent. The participation of women for the same years was 47.2 and 48.9 per cent respectively. (See Appendix V).

The total number of firms owned by the Blacks was 163,000 and it constituted 2.2 per cent of the total number of firms. Within this category, there were 16,000 contract and construction firms, 3,000 manufacture, 17,000 transportation and other public utilities, 1,000 wholesale trade, 45,000 retail trade, 8,000 finance insurance and real estate, 56,000 selected services, and 17,000<sup>29</sup> others. The total business receipt was 4.5 billions.

Housing conditions also improved; though it was far from perfect. By 1970 two out of every five housing units of the Blacks were owned by the occupant, compared with about two in every three occupied by the Whites. The proportion of Blacks living in homes they owned increased from 38 per cent to 42 per cent between 1960 and 1970. In 1970 the rate of owner occupancy was highest in the South, i.e. 47 per cent, followed by the North Central region. Over-crowding, as measured by the index of persons per room, was much greater in the Black occupied housing units than in the White-occupied units. In 1970, 20 per cent of the Blacks lived in units with more than 1.01 persons compared to 7 per cent of White households. 17 per cent of the total Black households (triple the number of White households)<sup>30</sup> lacked modern amenities like plumbing.

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29 In this the contract and construction shared 0.5, manufactures 0.3, transportation and other public utilities 0.4, wholesale trade 0.4, retail trade 1.9, and others 0.2. The total business receipt of all the firms was 0.3 per cent. (See Appendix VI)

30 The Editors of Ebony, The Ebony Handbook (Chicago, 1974), p. 7.  
The disparity was the greatest in the South. In the West the lack of such facilities was the least but even then

In the field of education too the Blacks were making progress. There was an attempt at desegregating schools between the years 1955 and 1966. In a total of 10,569 school districts in 1955, 159 were desegregated. In 1960 out of 7,016, 755 were desegregated. In 1966, out of a total of 5,072, 4,072 were desegregated.

The Blacks made significant advances in higher education during the five year period between 1967 and 1972. About one half million or 18 per cent Blacks between 18 and 24 years of age were enrolled in colleges in 1972. Overall, the enrolled Black students in colleges in 1972 were about double the number enrolled in 1967.<sup>31</sup>

In voter registration and voting, too, more Blacks were participating. In 1970 approximately 60 per cent were registered of which about 44 per cent reportedly went to the polls. Notable gains were made in the number of Blacks holding public offices since the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Between 1962 and 1972, the number of Blacks elected to the Congress increased from 4 to 16 (14 Representatives

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it was three times worse than the White households - Approximately, 95 per cent of the Black households had incomplete plumbing systems.

31 Ibid.

The dropout rate for Blacks declined between 1967 and 1970, from 22.8 per cent to 17.5. 90 per cent of the Black students between the age group 16-17 enrolled in schools in 1972 compared to 80 per cent in 1967. The proportion of 20-29 (year old) high school graduates rose from 54 to 65 per cent (1967-72). The proportion of 25-34 year olds with four years of college increased from 5-8 per cent during the same years.

and 2 Senators). The number elected to the State legislatures increased from 52 to 238. In 1972, of the 2,600 Black elected officials, 238 were State legislators, i.e., more than double the number in these offices in 1964.<sup>32</sup>

### Shift From Protest to Politics

Underneath the Black protest movements, a new trend was thus coming to the surface during the 1960s. This trend reflected a shift from protest to politics. As the previous discussion showed, Blacks in these years had gained certain civil rights legally guaranteeing them the right to vote and access to public accommodation, to desegregated schools and equal employment opportunities. Another important fact was that notwithstanding the cynicism reflected in Black power rhetoric, there were moves to consolidate these gains by exercising their franchise with deliberation and a clarity of purpose. In spite of the headway made by the movement a certain degree of political caution still persisted towards consolidating the Black gains within the American political system.

In 1969 an important development took place when the Congressional Black Caucus (CBC) was formed. The Caucus consisted of 15 Black Congressmen, all belonging to the Democratic

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32 Ibid.

The increase was greatest in the South, and consequently, a greater share of all Black state legislators were office-holders in the South.

Marked increase was also noticed in the number of Black Mayors. In 1972, there were 83 Mayors compared to 29 in 1968. About 58 per cent of all Black Mayors were located in the South in 1968. The proportion declined to 51 per cent in 1972.

Party. They called the Caucus the 'Washington Lobby for the Blacks and the poor'.<sup>33</sup> The leadership of the CBC came from the elected legislators and locally and nationally important personalities. This leadership was pragmatic in its approach. This was demonstrated by the statement of its Chairman, Charles Rangel (Dem., New York), that there were "No permanent friends, no permanent enemies, just permanent interests of the Blacks and the minorities".<sup>34</sup>

By early 1970, emphasis had shifted from personalities to issues. This was seen in the support the Blacks gave to George Wallace in his election to the Governorship of Alabama in 1971. They realized by now the value of coalition and adopted politics as a game of strategic moves. Their attitude was described by Smythe and Stokes in this manner, "You go with the man who can help you. He (Wallace) saw to it that we got \$153,000 in funds. Everybody in the town remembered that, instead of what he had done to us before". The tone of the Blacks as well as their queries had changed. They asked pragmatically 'What have you done for us?' They no longer cried, 'Freedom Now'.<sup>35</sup>

The instrument of politics was chosen because the Blacks

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33 Lucius J. Barker and Jese J. McCorry, Jr., Black American and the Political System (Cambridge, 1976), p. 297.

34 New York Times, 18 March 1974.

35 Hugh H. Smythe and Carl B. Stokes, "The Black Role in American Politics: Part I", in Mabel Smythe, ed., The Black American Reference Book (New York, 1976), p. 604.

realized that by participating in the political arena they could overcome their immediate disadvantages. One of their objectives was increased employment especially in responsible public offices. It was hoped that there would be employment for larger members of the Black community. A second objective was to gain political influence by electing the incumbent legislators who could then eventually become senior members in the Congress and occupy Committee posts.<sup>36</sup> By the advancement of members of their own community in important decision-making bodies, the Blacks hoped to secure such legislations as would promote their interests well as those of other minorities in general. But the Blacks had no illusion about the extent of their power and strength. They knew that the issues relating to race had only gone underground. They were thus willing to participate in the political system without ruling out violence in case of necessity.

Another strategy adopted by the CBC was to extort promises from the likely Presidential candidates in one form or another. They adopted a hardline method of bargaining by demanding concrete commitments in return for their votes. The Blacks choice to work within the system of American politics thus became a conscious act. They knew that, "It is better to work within the system and get things done than to be standing in the street corners with an upraised clenched fist that is empty and a head that is empty too".<sup>37</sup> This was the rationale

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36 Ibid.

37 Ibid., p. 604.

behind their choice to participate effectively in the political arena.

By 1970, the Blacks had thus turned from protest to politics.



## Chapter VI

### CONCLUSION

## Chapter VI

### CONCLUSION

The major events that influenced the course of civil rights movement in America for the Blacks were as follows:

(i) the influx of Black population into the cities in the wake of industrialization; (ii) the two World Wars and their aftermath, the Korean and the Vietnam Wars; and (iii) the decolonization of several Asian and African countries after World War II.

In a sense industrialization and the wars were inter-related in the case of the Blacks. During both the first and the second World Wars, opportunities were for the first time opened to them to join the labour force of the war industries. Further, enlistment of the Blacks in the armed forces and their experience in the foreign lands afforded them an opportunity to review their situation at home with critical eyes. The new consciousness brought about by these experiences emerged, both, at the individual as well as national levels. At the national level, the Blacks began to see themselves as part of the great American nation willing to protect its ideals - democracy, freedom and racial equality. At the individual level, they found themselves denied the rights for which they had gone out to fight the wars. The people in distant lands treated them on par with the white soldiers, despite their being enlisted in the segregated forces. The irony of fighting for equality and freedom in segregated forces became all too clear to the Black soldiers to be duped any further.

It was only towards the close of the war that Truman

sought to enforce desegregation in the armed forces. In 1946, he appointed a committee of Black and White personnel to inquire into the conditions of civil rights and to make recommendations. The report entitled To Secure these Rights denounced the denial of civil rights to some Americans. In the same year the President appointed another inter-racial committee to look into the problem of higher education. The committee recommended not only the elimination of inequalities in education but also the abandonment of all forms of discrimination in higher education.

In 1948, the President appointed another committee to study the problem of integration in the Armed Forces and its report called Freedom to Serve was later taken as a blueprint by which integration was to be achieved. Acting on the recommendations of the committee the Army adopted the policy in 1949 of opening all jobs to qualified personnel without regard to race or colour and it abolished the racial quota. The Navy and Air Force also adopted similar policies. In 1950 during the Korean War a battle-field test of integration was made. This was completely achieved by the time the Vietnam war came about. In a similar fashion desegregation as a public policy gained ground, especially in areas of housing and public transportation.

The changed situation in the world with the crumbling of imperialist powers and the emergence of new nations in Africa and Asia helped to enforce the newly found self-esteem of the Blacks. The formation of the United Nations Organization also offered a forum for the eradication of racial inequalities in the world. The intensification of the Cold War and the

polarization of the big powers enabled the critics of American domestic racial policy to voice their dissatisfaction. The question of human rights and racial equality in the United Nations began embarrassing the US Government since it was accused of practising double standards - one for home and another in relation to the international community. These external pressures as well as the growing militancy of the Blacks eventually persuaded the Federal Government to initiate measures for the promotion of civil rights.

The full involvement of the Federal Government in securing rights for the Blacks in the post-war period prompted the different state governments also to follow suit. By 1956, sixteen states set up Fair Employment Committees to promote Black employment. In this, the labour unions also played an important role. They took special pains to increase Black membership in the unions. During the 1950s President Eisenhower himself supervised Fair Employment Programme to eliminate discrimination in federal employment and business.

The civil rights movement in the sixties was unique in that it attracted attention both at the national and international levels. It induced full involvement of the Federal Government and mass scale mobilization on the part of the Blacks themselves. For the first time the movement cut across regional barriers and the Blacks united to fight the common evil. Despite differences in their experience of White hostility they nevertheless pooled their resources in order to achieve their goal. The methods they adopted were mainly peaceful and within

the purview of the US laws. They organized peaceful marches, boycotts, freedom rides and sit-in strikes. Later, as the cause of the civil rights mounted they organized, with the help of the White sympathizers, programmes to educate voter registration in Mississippi and other Southern States.

The goal of the civil rights movement in the initial stages was 'integration' under the leadership of Martin Luther King. It appeared at a particular point of time that equality could only be achieved through a free inter-mingling of the two races. Segregation symbolized both racial inequality and the root-cause for the perpetuation of unequal conditions.

Even as the civil rights movement gained momentum, resistance grew. In May 1961, an enraged White mob attacked peaceful freedom-riders in Anniston, Alabama. In the case of school desegregation, violence was unleashed in Little Rock, Arkansas, when an attempt was made to desegregate the Central High School. In Alabama, Governor George Wallace stood at the entrance of the school-house in defiance of the Federal order to desegregate schools in that state in 1962. Violent resistance was demonstrated in the University of Mississippi when a Black student, James Meridith, sought admission. This attracted the President's attention to the problem of school desegregation. Similarly, in the areas of housing and employment resistance was clearly evident. White resistance groups mushroomed everywhere and organizations such as National Association for the Advancement of the White People and White Citizens Council were formed, while an older organization, the Ku Klux Klan, rapidly grew in

strength.

Despite resistance, the tempo of civil rights activities was maintained throughout the sixties. This facilitated the passage of three important civil rights bills. In 1964, the first Civil Rights Bill was enacted which covered a sweeping range of civil activities. It contained eleven titles of which the most consequential ones were titles II, VI, and VII. These titles extended the guarantees of the Black electorate, barred discrimination in public accommodations, authorized suits by Federal Government to desegregate schools and facilities, broadened responsibilities of the Civil Rights Commission and expanded its life by four years, outlawed discrimination practices in employment, and created the Equal Employment Opportunity Commission to enforce these provisions, and further created the Community Relation Service to settle disputes arising from discrimination.

The Civil Rights Act of 1965, known as the Voting Rights Act, dealt with the single issue of freedom and opportunity to exercise franchise. It provided for the enforcement of voting rights as contained in the Fifteenth Amendment. Section 2 of the Bill pointedly stated the abolition of tests to qualify voters which it considered to be prompted by racial bias. It also provided for remedial measures to ensure that no discrimination would be practised to deny or abridge the right to vote to the citizens.

The Civil Rights Act of 1968 contained ten titles out of which the most consequential ones were titles I and VII. They

dealt with the federally protected activities and open housing problems. Title I was designed to protect from interference by force or threats, activities covered by Federal law or the Constitution. Title VII encompassed the residential area and proposed to eliminate discrimination in residential rights on the basis of race, religion or national origin.

As the civil rights acts were passed one by one during the crucial years of 1964 to 1968, the mood of the Blacks began changing. The ineffectiveness on the part of the leadership led to conflict within the Black Movement, involving in particular the older and younger groups. Desegregation began to lose its magic. The goals changed from civil rights in paper to concrete economic gains. In theory the Acts themselves seemed to promise far-reaching possibilities: in practice they fell far short of Black expectations. Thus the Blacks began insisting on general improvement of their economic and social status not in tune with 'integration' but in relation to qualitatively superior ones.

The response of the Blacks to the Bills was determined by their particular status in society. The Black response cannot be gauged from the reaction of their leadership. While the rhetoric of Black Power advocates strongly disagreed with the effectiveness of the Acts as a smoke-screen to conceal and deprive the people of their real power, statistics revealed certain improvements in the status of the Blacks, though still far from the American Dream. In the field of employment there was a trend towards higher and skilled jobs. In the field of

education there was a lower percentage of school drop outs and the number of Black students in the higher educational category also increased. With the intensifying of voter-registration campaigns a significant number of Blacks registered and exercised their franchise.

Although there was a pervasive dissatisfaction over the progress of the Blacks in the areas of education, housing, employment and politics, there was a certain gain in the consciousness of the Blacks to their real situation as part of the American society. At the abstract levels of speculation a series of questions marked the response of the Blacks to the Acts. The problem of equality, freedom, and the principles of democracy were all deeply pondered. In the next phase of the movement the Blacks exploited the gains made by the movement of the sixties. They began diverting their attention to ethnic problems and political power. This, however, did not mean undermining the achievements of the Civil Rights movements. Without the gains of the movements, in terms of the Bills passed and the experience of confrontation the new phase would have almost been inconceivable. The shift from protests to politics was a natural follow up since separatism as well as integration had failed. Hence the rise of an effective Black lobby in the game of American politics.



APPENDIX I

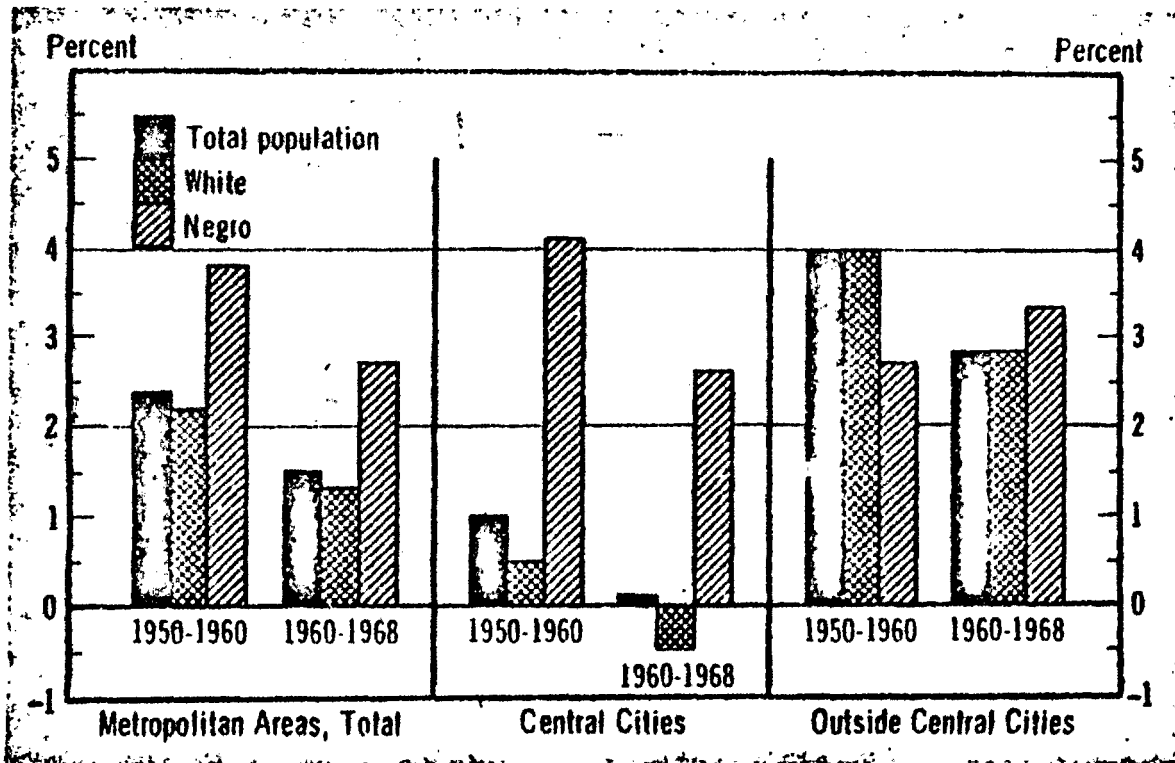
Per Cent Distribution of Negro Population by Region,\*  
1960 and 1968

	1960	1968
United States .....	100	100
South .....	60	53
North .....	34	40
Northeast .....	16	18
North Central .....	18	22
West .....	6	8

\* The standard census definition for each region is used. In that definition the South includes the states of the old Confederacy, as well as Delaware, the District of Columbia, Kentucky, Maryland, Oklahoma and West Virginia.  
(Credit: Bureau of Labor Statistics, Bureau of the Census)

APPENDIX II

METROPOLITAN AREAS--AVERAGE ANNUAL PERCENT CHANGE IN POPULATION, BY RACE: 1950 TO 1960 AND 1960 TO 1968



## APPENDIX III

Numbers and Per Cent of Nonwhite Families in Poverty Areas\*  
of Large Cities, 1960, 1966 and 1968

(Numbers in Thousands)

	Nonwhite families			Families in poverty areas* as a per cent of nonwhite families		
	1960	1966	1968	1960	1966	1968
All large cities **	2,024	2,558	2,543	77	62	56
Central cities in metropolitan areas of—						
1,000,000 or more	1,392	1,770	1,816	76	59	53
250,000 to 1,000,000	633	788	728	79	69	63
New York City	260	388	406	77	62	59
Chicago	187	239	247	80	54	48
Los Angeles	100	128	150	61	47	40

\* Poverty areas were determined by ranking census tracts in metropolitan areas of 250,000 or more in 1960, according to the relative presence of each of the following equally weighted poverty-linked characteristics: (1) family income below \$3,000, (2) children in broken homes, (3) persons with low educational attainment, (4) males in unskilled jobs, (5) substandard housing. It includes an adjustment for changes brought about since 1960 by urban renewal. In general, the lowest 25 per cent of census tracts are included.

\*\* In metropolitan areas of 250,000 or more in 1960

Credit: U.S. Department of Commerce, Bureau of the Census)

## Per Cent of Nonwhite Families Living in Poverty Areas of Large Cities with Incomes below the Poverty Level,\* 1960, 1966 and 1968

	1960	1966	1968**
All large cities***	38	36	30
Central cities in metropolitan areas of—			
1,000,000 or more	34	34	30
250,000 to 1,000,000	45	40	30
New York City	28	35	31
Chicago	33	37	35
Los Angeles	32	29	33

\* The poverty level relates to the previous year. The poverty definition (as developed by the Social Security Administration) is based on the minimum food and other needs of families, taking account of family size, number of children and farm-nonfarm residence. As applied to 1967 incomes, the poverty threshold for a nonfarm family of four was \$3,335.

\*\* Based on revised methodology.

\*\*\* In metropolitan areas of 250,000 or more in 1960.

(Credit: U.S. Department of Commerce, Bureau of the Census)

APPENDIX V Labor Force, Employment, and Earnings

EMPLOYED PERSONS, BY OCCUPATION AND RACE: 1957 TO 1972

[Percent distribution. 1957 excludes Alaska and Hawaii. Covers persons 16 years old and over. Annual averages, based on data for January, April, July, and October in 1967; on 12-month data thereafter. Beginning 1971, data not comparable with prior years due to reclassification of census occupations]

OCCUPATION	WHITE					NEGRO AND OTHER				
	1957	1960	1970	1971	1972	1957	1960	1970	1971	1972
Total employed.....1,000	87,513	58,850	70,182	70,716	73,074	6,047	6,927	9,445	8,403	8,628
Percent.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
White-collar workers	44.2	48.6	50.8	50.6	50.0	12.8	16.1	27.9	29.1	29.8
Professional, technical, and kindred	10.8	12.1	14.5	14.6	14.6	3.7	4.8	9.1	9.0	9.8
Medical and other health	1.9	2.1	2.3	2.3	2.4	0.6	0.8	1.6	1.7	1.8
Teachers, except college	2.2	2.6	3.2	3.5	3.5	1.3	1.7	2.9	2.8	3.0
Managers, administrators, exc. farm	11.4	11.7	11.1	11.8	10.6	2.1	2.6	3.5	4.1	3.7
Salaried workers	5.2	5.9	8.4	8.9	8.3	0.5	0.9	2.1	2.7	2.6
Self-employed	6.2	5.8	3.0	2.9	2.2	1.6	1.7	1.4	1.3	1.1
Salesworkers	6.7	7.0	6.7	6.9	7.1	1.0	1.6	2.1	2.3	2.2
Retail trade	4.0	4.1	4.0	4.0	4.1	0.8	1.0	1.6	1.7	1.7
Clerical workers	15.2	15.7	18.0	17.4	17.8	6.0	7.3	13.2	13.7	14.4
Stenographers, typists, and secys	3.6	3.9	4.7	4.8	5.2	1.2	1.4	2.3	2.7	3.3
Blue-collar workers	38.2	36.2	34.5	33.7	34.4	41.8	40.1	42.2	39.9	39.9
Craftsmen and foremen	14.4	13.2	13.5	13.5	13.8	5.7	6.0	8.2	7.9	8.7
Carpenters	1.5	1.4	1.1	1.2	1.3	0.5	0.4	0.7	0.6	0.7
Constr. craftsmen, exc. carpenters	2.7	2.7	2.5	2.7	2.8	1.4	1.6	1.8	2.1	2.3
Mechanics and repairmen	3.8	3.2	3.7	3.2	3.5	1.8	1.7	2.6	1.8	2.1
Metal craftsmen, except mechanics	2.0	1.8	1.6	1.6	1.4	0.6	0.6	0.8	0.7	0.7
Foremen (not elsewhere classified)	2.0	1.9	2.0	1.9	1.8	0.3	0.4	0.9	0.9	1.0
Operatives	19.3	17.9	17.0	15.8	16.0	21.2	20.4	23.7	21.7	21.3
Operatives, except transport	(NA)	(NA)	(NA)	(NA)	12.3	(NA)	(NA)	(NA)	(NA)	15.8
Transport equipment operatives	(NA)	(NA)	(NA)	(NA)	3.7	(NA)	(NA)	(NA)	(NA)	5.5
Drivers and deliverymen	3.5	3.5	3.1	3.2	3.2	4.7	4.4	4.1	4.3	4.4
Nonfarm laborers	4.6	4.4	4.1	4.5	4.6	14.9	13.7	10.3	10.3	9.9
Service industries	9.1	9.9	10.7	11.8	11.8	32.0	31.7	28.0	27.6	27.2
Private household workers	1.5	1.7	1.3	1.2	1.2	14.9	14.2	7.7	7.3	6.8
Service workers, exc. priv. household	7.5	8.2	9.4	10.6	10.6	17.1	17.5	18.3	20.3	20.5
Protective service workers	1.2	1.2	1.3	1.4	1.4	0.5	0.5	0.9	1.2	1.4
Farmworkers	8.6	7.4	4.0	3.9	3.8	13.5	12.1	3.9	3.4	3.0
Farmers and farm managers	5.3	4.3	2.4	2.3	2.2	4.2	3.2	1.0	0.7	0.6
Farm laborers and foremen	3.3	3.0	1.6	1.6	1.6	9.3	9.0	2.9	2.6	2.4
Paid workers	1.6	1.7	1.0	0.9	1.0	6.6	6.6	2.6	2.5	2.3
Unpaid family workers	1.6	1.3	0.7	0.6	0.6	2.7	2.4	0.3	0.2	0.1

NA Not available.

Source: U.S. Bureau of Labor Statistics, *Employment and Earnings*, December 1970; and unpublished data.

APPENDIX V WEEKLY EARNINGS OF FULL-TIME WAGE AND SALARY WORKERS IN CURRENT AND 1967 DOLLARS: 1969 TO 1972

[Figures are for May and represent medians of usual weekly earnings. For definition of median, see preface]

CHARACTERISTICS	CURRENT DOLLARS				1967 DOLLARS			
	1969	1970	1971	1972	1969	1970	1971	1972
All workers.....	\$121	\$130	\$138	\$144	\$111	\$112	\$114	\$118
Male.....	142	151	162	168	130	131	134	135
16-24 years old	108	112	114	119	99	97	94	95
25 years and over	148	160	172	178	136	138	142	143
Female.....	86	94	100	106	79	81	83	85
16-24 years old	82	88	91	96	75	76	75	77
25 years and over	88	96	103	110	81	83	85	88
White.....	125	134	142	149	115	116	118	120
Male.....	146	157	168	172	134	136	139	136
Female.....	88	95	102	108	81	82	84	87
Negro and other races.....	90	99	107	115	83	86	89	92
Male.....	104	113	123	129	95	98	102	103
Female.....	78	81	87	89	67	70	72	79
Occupation:								
Professional and technical workers	167	181	189	192	163	156	156	154
Managers, administrators, exc. farm	178	190	200+	214	163	164	163+	172
Salesworkers	123	133	141	121	113	116	117	121
Clerical workers	102	109	115	151	94	94	95	97
Craftsmen and kindred workers	146	157	167	172	134	136	138	138
Operatives	109	116	120	126	100	99	99	101
Operatives, except transport	(NA)	(NA)	(NA)	111	(NA)	(NA)	(NA)	95
Transport equip. operatives	(NA)	(NA)	(NA)	152	(NA)	(NA)	(NA)	122
Nonfarm laborers	106	110	117	123	97	95	97	99
Private household workers	34	35	34	34	31	33	31	32
Other service workers	92	87	96	94	75	75	79	83
Farmworkers	66	71	74	74	61	61	61	64

NA Not available. + Exact medians could not be computed, either in current or constant dollars, where more than 50 percent of a group's workers earned more than \$900 a week.

Source: U.S. Bureau of Labor Statistics, *Special Labor Force Report*, No. 143, *Usual Weekly Earnings of American Workers, 1971*, and unpublished data.

Appendix

VI

Summary of the Results of the Study on the Effect of the Program on the Achievement of the Students

Name of the school: ...  
Name of the teacher: ...  
Name of the subject: ...  
Name of the class: ...

Item	Before the Program	After the Program
1. Achievement of the students	...	...
2. Attitude of the students	...	...
3. Interest of the students	...	...
4. Cooperation of the students	...	...
5. Self-confidence of the students	...	...
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Conclusion: ...

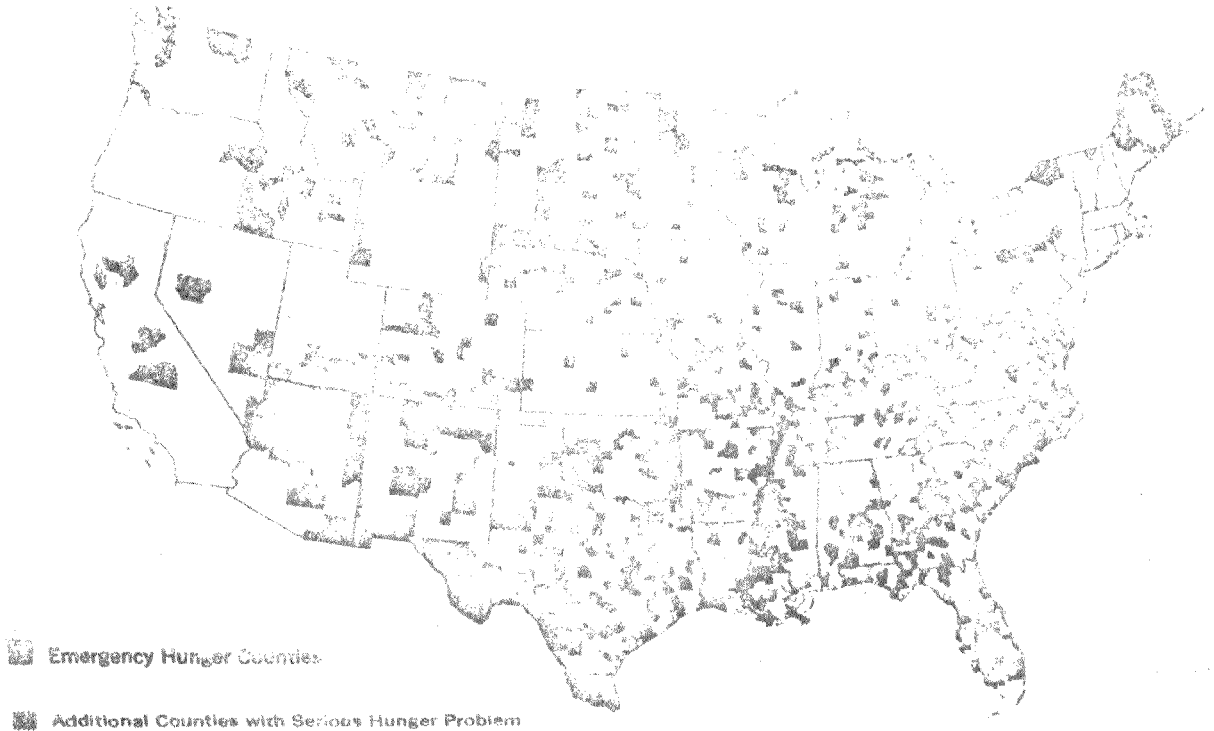
Recommendations: ...

Item	Before the Program	After the Program
1. Achievement of the students	...	...
2. Attitude of the students	...	...
3. Interest of the students	...	...
4. Cooperation of the students	...	...
5. Self-confidence of the students	...	...
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Prepared on ...  
U.S. Department of Education, Office of Research and Statistics, Washington, D.C.

APPENDIX 5

The Geographic Distribution of Hunger in the United States  
(Similar data for all divisions of Utah and Alaska was not available)



 Emergency Hunger Counties

 Additional Counties with Serious Hunger Problem

Map prepared by the U.S. Department of Agriculture, Economic Research Service, Washington, D.C.

PUBLIC ELEMENTARY AND SECONDARY SCHOOLS—SEGREGATION—DESEGREGATION STATUS, 17 SOUTHERN STATES: 1957 TO 1965

[As of May, except as indicated. For States included, see table 170. Desegregation refers to change in schools from segregated white and Negro status to biracial or multiracial status, either in practice or principle.]

DATE	SCHOOL DISTRICTS			ENROLLMENT (1,000)				NEGRO STUDENTS IN SCHOOLS WITH WHITE STUDENTS	
	Total	With both white and Negro students	Desegregated	Total		In desegregated districts		Number (1,000)	Percent of Negro enrollment
				White	Negro	White	Negro		
1957	9,097	2,895	982	9,124	2,798	11,848	325	110	(NA)
1958	8,314	2,932	758	9,428	2,924	11,953	377	132	(NA)
1959	7,876	2,876	770	9,651	3,008	12,262	447	146	(NA)
1960	8,017	2,871	775	10,304	3,057	12,633	530	193	6.4
1961	8,673	2,879	822	10,414	3,097	12,904	706	217	7.0
1962	9,179	2,927	820	10,496	3,250	12,545	818	247	7.6
1963	9,782	2,926	827	10,650	3,329	12,917	1,007	265	8.0
1964	9,120	2,927	827	10,941	3,421	13,356	1,484	316	9.2
1965	9,447	2,927	827	11,179	3,481	13,704	1,939	380	10.9
1965, December	9,772	2,927	827	11,573	3,573	(NA)	(NA)	598	15.9

NA Not available. † Excludes Missouri and West Virginia. ‡ Excludes Missouri and West Virginia.  
 \* Number of school districts with "in compliance" with Federal regulations of U.S. Office of Education. Not all desegregated districts for 1965-66 school year were "in compliance."

Source: Southern Education Reporting Service, Nashville, Tennessee; *Statistical Summary . . .*, December 1965. (Copyright.)

APPENDIX W PUBLIC ELEMENTARY AND SECONDARY SCHOOLS—SEGREGATION—DESEGREGATION STATUS FOR 17 SOUTHERN STATES, BY STATE: 1965

[As of December. See definition of "in compliance," see headnote, table 169.]

STATE	SCHOOL DISTRICTS			ENROLLMENT			NEGRO STUDENTS IN SCHOOLS WITH WHITE STUDENTS	
	Total	With both white and Negro students	Desegregated	Total (1,000)		Covered by compliance acceptances, white and Negro <sup>2</sup> (1,000)	Number (1,000)	Percent of Negro enrollment
				White	Negro			
Total	5,372	2,999	4,804	11,573	3,573	13,468	568	15.9
Alabama	118	118	165	1,559	296	656	41	0.4
Arkansas	410	217	400	1,338	112	472	45	4.4
Delaware	58	47	59	83	20	103	17	83.3
District of Columbia	1	1	1	15	129	-	109	84.8
Florida	67	67	67	1,057	256	1,210	25	9.8
Georgia	196	180	162	1,735	356	919	9	2.7
Kentucky	200	167	204	1,713	60	694	47	78.4
Louisiana	37	67	35	454	319	552	2	0.7
Maryland	24	23	34	584	179	729	99	56.6
Mississippi	149	149	128	309	297	398	2	0.6
Missouri	1,036	212	675	843	105	890	479	75.1
North Carolina	170	170	165	829	349	1,102	418	5.2
Oklahoma	1,046	323	1,044	1,564	446	698	48	33.3
South Carolina	108	108	63	374	264	555	4	1.3
Tennessee	152	129	149	1,714	177	761	29	18.3
Texas	1,325	850	1,333	2,136	343	2,459	65	17.2
Virginia	130	127	124	757	240	627	28	11.5
West Virginia	55	44	55	425	20	433	16	79.9

- Represents zero.  
 † U.S. Office of Education approval of the desegregation proposal offered by a school district. Some school districts have desegregated but are not officially "in compliance."  
 ‡ U.S. Office of Education data. † 1964-65 data. ‡ Estimated.  
 \* U.S. Office of Education reports more districts "in compliance" than the total districts listed by the State Department of Education.

Source: Southern Education Reporting Service, Nashville, Tennessee; *Statistical Summary . . .*, December 1965. (Copyright.)

## APPENDIX XI

## Elections

## ESTIMATED POPULATION OF VOTING AGE, BY AGE AND RACE—STATES: 1972

[In thousands. As of November. Resident population; includes aliens]

STATE	TOTAL, 18 YEARS OLD AND OVER		18-24 YEARS		25-44 YEARS		45-64 YEARS		65 YEARS AND OVER	
	White	Negro	White	Negro	White	Negro	White	Negro	White	Negro
U.S.	123,743	13,992	22,106	3,174	44,067	5,352	35,815	3,825	19,058	1,422
Ala.	1,765	503	319	100	655	158	644	161	248	88
Alaska	165	6	43	3	80	3	36	1	5	(2)
Ariz.	1,147	32	218	8	418	12	346	6	168	4
Ark.	1,115	192	185	40	374	82	375	56	201	43
Calif.	12,486	922	2,331	214	4,044	390	3,762	240	1,748	77
Colo.	1,492	46	310	14	566	19	418	10	198	6
Conn.	1,979	116	325	27	706	84	654	27	292	8
Del.	321	47	58	11	124	19	98	13	41	5
D.C.	148	362	28	61	43	145	41	104	36	32
Fla.	4,463	621	699	135	1,398	243	1,394	173	1,003	70
Ga.	2,396	700	472	168	929	250	701	193	294	90
Hawaii	214	6	64	8	91	2	46	(2)	14	(2)
Idaho	470	1	87	1	165	(2)	147	(2)	71	(2)
Ill.	6,586	893	1,106	196	2,327	331	2,123	230	1,031	87
Ind.	3,273	224	604	82	1,189	87	993	61	488	25
Iowa	1,882	21	323	6	623	7	679	5	357	2
Kans.	1,462	67	270	18	487	23	443	17	261	19
Ky.	2,054	147	368	38	720	45	618	42	327	24
La.	1,714	616	332	143	639	215	617	168	226	89
Maine	661	2	116	1	223	1	205	(2)	117	(2)
Md.	2,228	441	400	100	862	182	694	117	272	42
Mass.	3,314	115	687	29	1,284	49	1,200	29	644	16
Mich.	5,104	647	954	155	1,918	247	1,696	161	716	64
Minn.	2,517	23	463	6	863	9	745	2	426	2
Miss.	982	416	188	88	347	128	299	122	148	78
Mo.	2,948	304	496	67	994	111	919	84	340	43
Mont.	443	1	79	1	155	1	140	(2)	70	(2)
Nebr.	991	26	177	7	329	10	296	6	153	8
Nev.	323	17	58	4	136	8	102	4	32	1
N.H.	618	2	95	1	183	1	186	(2)	84	(2)
N.J.	4,493	499	681	107	1,601	221	1,626	126	663	44
N. Mex.	582	11	116	3	227	8	170	2	69	1
N.Y.	11,121	1,486	1,788	300	3,315	668	3,047	392	1,672	128
N.C.	2,766	665	552	169	1,048	224	821	191	345	61
N. Dak.	392	2	75	1	129	1	121	(2)	67	(2)
Ohio	6,537	623	1,169	134	2,367	239	2,043	177	957	72
Okla.	1,639	106	299	26	660	34	605	28	285	18
Oreg.	1,490	18	255	5	503	6	453	5	239	3
Pa.	7,458	664	1,200	134	2,488	262	2,533	195	1,216	83
R.I.	661	17	127	5	210	7	208	4	106	2
S.C.	1,264	488	266	112	482	149	372	124	144	59
S. Dak.	416	1	75	1	132	(2)	129	(2)	80	(2)
Tenn.	2,334	373	420	87	856	122	717	106	340	36
Tex.	6,747	579	1,303	207	2,519	323	1,994	231	931	116
Utah	672	5	155	2	261	1	184	1	82	(2)
Vt.	308	1	61	(2)	106	(2)	90	(2)	51	(2)
Va.	2,686	528	542	119	1,024	184	776	155	314	66
Wash.	2,267	48	436	14	808	18	693	12	329	3
W. Va.	1,141	39	197	7	389	9	377	13	187	10
Wis.	2,859	77	519	21	978	35	879	17	494	3
Wyo.	210	2	39	1	81	1	68	(2)	31	(2)

(2) Less than 500.

Source: U.S. Bureau of the Census, Current Population Reports, series P-23, No. 479.

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