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## **INTRODUCTION TO WASHINGTON LAWYERS' COMMITTEE'S 50TH ANNIVERSARY ARTICLES**

The set of articles that follow was prepared for the fiftieth anniversary of the Washington Lawyers' Committee for Civil Rights and Urban Affairs. A similar set of articles was prepared in 1983 for the Committee's fifteenth anniversary. These initial articles were also published in the *Howard Law Journal*.

The articles appearing in this issue of the *Howard Law Journal* focus primarily, but not exclusively, on the Committee's work over the past thirty-five years.<sup>1</sup> We are proud that Howard University School of Law is once again taking the lead in publishing these papers because of the school's historic role in advancing the cause of civil rights in our country. We are particularly proud of the Committee's long affiliation with the school, notably dating back to Law School Dean Wiley A. Branton's extraordinary service as one of the Committee's early Co-Chairs and a Board Member for many years.

The authors of the articles included in this publication and their respective law firms have all had extensive experience working with the Committee, in many cases dating back to the Committee's earliest efforts involving the topics about which they are writing.

To put the Committee's work in proper perspective, a bit of history should be mentioned. The Washington Lawyers' Committee was established in 1968 as a project of the National Lawyers' Committee, an organization founded in 1963 by leaders of the organized bar at the request of President John F. Kennedy, to respond to the growing crisis of civil rights in our country, most evident in the South.

In the wake of a widespread series of riots in major cities across the country in the mid-1960s and the publication of the Kerner Commission's \*xii comprehensive report on the causes of these traumatic events, the leaders of the National Lawyers' Committee for Civil Rights, led by Louis F. Oberdorfer, took responsibility for organizing a set of local Committees in major urban areas. Their purpose was to engage the private bar in addressing the root causes of the violence the Commission had identified. Primary among these were: discrimination in housing, employment and public accommodations, and a range of issues related to inequality in the criminal justice system and public education.

The impetus for this work took on an added sense of urgency following the assassination of Dr. Martin Luther King in April of 1968. This tragic event set off a new wave of riots in cities across the country, including several days of violent disturbances in Washington, D.C. As a first step in addressing the situation in the District of Columbia, Louis Oberdorfer enlisted John E. Nolan, a partner at the firm of Steptoe & Johnson, to take the lead in establishing the Washington Lawyers' Committee. With the help of a small group of leaders from prominent firms in the city, including John Douglas, Robert Wald, Edward Bennett Williams, and Herbert Miller, among others, the Committee began operations in 1969. John Nolan was selected as the Committee's first Chair and Stephen J. Pollak succeeded him in 1971.

The new organization's 1971 Annual Report set out four criteria to guide its selection of specific programs going forward:

- (1) They should address problems of poverty and discrimination;
- (2) They should require the services of numerous pro bono resources;
- (3) They should hold out the prospect of systemic law reform; and
- (4) They should serve as a significant means for educating the private bar about the dimensions of urban problems in the community.

In keeping with these priorities, the early work of the Committee was focused on employment discrimination in both the public and private sectors and criminal justice reform. It is notable that the Committee began its work just as major new national civil rights laws covering employment, public accommodations, and housing discrimination were taking effect. As Louis Oberdorfer remarked at the time, “[l]awyers would be essential to making these new laws effective.”

One of the Committee's first projects, which engaged the pro bono services of more than 100 lawyers from more than a dozen firms, sought to establish a right to treatment for individuals addicted to heroin, who were being charged with drug possession for personal use. All of the volunteer attorneys who agreed to represent an individual defendant were asked to raise the defense addiction while also seeking diversion for their clients into a drug treatment program.

This innovative project--the Narcotic Addict Legal Services Project (NALSP)-- provided the first trial experience for dozens of young lawyers, \*xiii many of whom went on to assume leadership roles in major law firms as well as positions as leaders on the bench and in the Bar. The two young lawyers who argued the major law reform cases developed by this project before the D.C. Court of Appeals and Court of Appeals for the D.C. Circuit respectively were John Ferren and Patricia Wald, both of whom went on to serve as Chief Judges of the courts before which they argued for the Committee in the early 1970s.

While regrettably, the law reform litigation the Committee pursued was ultimately unsuccessful, the model for deploying large numbers of pro bono attorneys to address significant civil rights issues became a central element in the Committee's work going forward. Because virtually all the individuals represented by Committee volunteers as part of the NALSP were able to enter and perform well in drug treatment programs, the Committee's project also demonstrated the great benefits of pre-trial diversion programs in dealing with drug addiction.

The next major Committee initiative to address systemic issues was its Employment Discrimination Project. This effort began in 1970, just as the city was beginning work on a major subway system and the local building trades were rife with historic practices of racial exclusion. At the same time, new federal legislation was being enacted to provide the first meaningful legal rights for federal, state, and local workers to challenge employment discrimination. Thus, in the early 1970s, the Committee made extensive use of panels of volunteer lawyers drawn from firms throughout the city to assist private and public sector workers.

The many cases brought during this period established legal precedents under the new federal civil rights laws, including dozens of successful class action lawsuits involving federal agencies and major private sector employers. Several cases were vital in supporting the adoption and implementation of affirmative action plans by the Department of Labor and the D.C. government involving the construction industry. The work undertaken by the Employment Project became the model for numerous projects that the Committee established over the following decades.

During the 1970s and early 1980s, the Committee began several programs responding to emerging community needs. These efforts included the creation of a panel of lawyers to represent Vietnam veterans seeking to challenge their less than honorable military discharges, the development of a special program to recruit area firms to support law reform work by the local Neighborhood Legal Services Program, and sponsorship of a program to provide legal services to migrant workers in Maryland, Virginia, and West Virginia. It also organized a special panel of lawyers to assist family day care providers to deal with difficult administrative constraints.

While none of these projects became permanent parts of the Committee's agenda, they did illustrate the organization's unique ability to harness \*xiv the resources of the private bar in collaboration with other legal services providers to meet emerging civil rights challenges.

The next major Committee program to become a long-term part of the organization's work was its Immigrant and Refugee Rights Project. This work began in 1978 when the Committee started to provide legal services to the rapidly growing number of newcomers in the region facing life-threatening human rights conditions and critical challenges in securing sanctuary in the United States. At the time this project began, it was, to our knowledge, the only legal services program in the D.C. area with a bi-lingual staff available to clients facing immigration issues. As in the case of its Employment Project, the Immigrant Rights Project quickly began to utilize the twin approaches of individual representation combined with law reform litigation and policy advocacy.

Also in 1978, the Committee began its now more than forty-year commitment to working with D.C. parents and community leaders to advocate on behalf of all children in the city for a quality public education. Since its first efforts in this field, no issue has been more fundamental to the Committee's work or engaged a larger quantity of law firm resources. Employing a broad spectrum of advocacy and general counsel services on behalf of parents and their children, as well as targeted litigation as appropriate, the Committee has played a vital role in keeping the issue of public education in the forefront of the civil rights agenda in our community. Recalling the meetings in 1978 and 1979 with Vincent Reed, then the D.C. Superintendent of Schools, that led to the Committee's decision to launch its Public-School Project, it would have been difficult to imagine the scope of the work that was about to begin or its continuing relevance as a local and national civil rights priority.

The next Committee project that began informally in the late 1970s was its Fair Housing Project. Since its creation, the Committee had worked on several fair housing cases in conjunction with local open housing organizations. This work took on a new sense of urgency and promise following the Supreme Court's 1982 decision upholding the standing of fair housing testing organizations and individual testers to pursue claims of discrimination under the 1968 Fair Housing Act. This decision and the Committee's subsequent role in aiding in the creation a new organization--the Fair Housing Council of Greater Washington (FHC)--ushered in a new era of proactive enforcement of fair housing laws that has now been a prominent part of the Committee's agenda for nearly forty years.

The combination of the Fair Housing Council's community outreach education and testing efforts and the Committee's provision of high-quality legal resources to aggrieved parties has proven to be a uniquely powerful resource for addressing a form of discrimination that has always been very difficult to identify and successfully challenge.

\*xv In 1990, the same combination of education, outreach, and paired testing was central to the creation of the Fair Employment Council of Greater Washington (FEC). Once again, the Committee provided legal support for establishing an independent organization that began to apply the concept of paired testing to issues of potential discrimination in employment hiring. In subsequent years, under the auspices of this group, several studies were conducted, and two major lawsuits established precedents upholding the use of employment testing as a civil rights enforcement tool.

Also in 1990, following the passage of the Americans with Disabilities Act, the Committee became more active in seeking to assist individuals now afforded new civil rights protection. To further this work, in 1992 the Committee supported the creation of a third new entity--the Disability Rights Council of Greater Washington (DRC). Like its predecessor organizations, the DRC immediately set to work identifying areas of discrimination affecting individuals with various disabilities and developing outreach programs to inform affected people of their legal rights. The DRC has played a significant role in building relationships with other local and national disability rights organizations and has served as an institutional plaintiff in dozens of ground-breaking civil rights cases.

The FHC and FEC came together in 1999 to form the Equal Rights Center (ERC) and in 2005, the DRC also became a formal part of this organization. The Washington Lawyers' Committee continues to serve as litigation counsel for all these organizations in their new structure.

Another important milestone in the Committee's history occurred in 2006 when the organization merged with the DC Prisoners' Legal Services Program. While the Committee had a long history of concern for issues of criminal justice reform and prisoners' rights dating back to its earliest days, it had not been active in these fields since the mid-1980s. In 1989, a new organization--the D.C. Prisoners' Project--was formed to assume the primary leadership role for providing pro bono legal services in this field.

Over the next decade it became clear that there was potential for achieving far greater effectiveness for both organizations through a merger. This became even clearer following the closing of Lorton Reformatory in 1999 and the dispersal of D.C. prisoners throughout the federal prison system. In 2006, the D.C. Prisoners' Project became a formal part of the Washington Lawyers' Committee. Over the past twelve-years, the promise of this programmatic merger has been realized in the greatly expanded litigation and policy advocacy work of the combined entities.

The articles that follow discuss the Committee's efforts in the primary program areas just noted, with the addition of a seventh article on the Committee's public accommodations work. While never formally constituted as a separate Committee project, public accommodations litigation has been \*xvi such an important part of the Committee's work over the years that we believe it deserves special recognition in this publication.

Due to limitations of time and space, the articles that follow do not discuss one other Committee initiative that does bear mention here--the Introduction to Legal Reasoning Program. This was a special Committee program, begun in 1981, to provide tutorial services to minority and disadvantaged students about to enter law school. It was based on a pilot effort developed in Chicago, that used law firm volunteers to teach classes for six-week sessions during the summer. During the more than thirty-years that the Washington Lawyers' Committee has operated this program, over 2,000 students have participated, and hundreds of area law firm attorneys have provided instruction. For many years, the administrative support for this successful work was provided by the firm of Hogan Lovells.

Throughout the Committee's fifty-year history, thousands of lawyers drawn from more than 150 firms have worked with the Committee on its various programs and projects. This work has encompassed large and small civil rights and poverty cases, as well as education, outreach and general counsel support for dozens of community groups. While a precise determination of the full amount of pro bono services provided is impossible to calculate, by any measure, many thousands of clients have benefitted from the Committee's efforts.

While the full impact of the Committee's efforts will best be measured over time, it is not too soon to note several of the factors that help account for the organization's longevity and success in providing an enormous volume of pro bono services.

The first of these is the vision of the Committee's founders who understood the magnitude of the challenges presented by the Nation's long history of racial discrimination and the untapped potential of the private bar in this city to respond to an urgent call to service. The initial response to this call issued by Louis Oberdorfer, John Nolan, and their colleagues fifty-years ago set the organization on a course from which it has never wavered. In making clear, as Judge Oberdorfer did throughout his career, that our civil rights law would have no meaning without lawyers to enforce them, the Committee found a message that resonated powerfully with the lawyers of our city.

A key element in the Committee's success over the years has been the willingness of its Board and Co-Chairs to embrace a mission that, while never failing to maintain a focus on issues of racial bias in our society, has at that same time consistently encouraged the development of new programs addressing the civil rights concerns of other groups in need of legal representation.

It was with that vision in mind that the Committee expanded the scope of its work to address the civil rights of women, immigrants, individuals \*xvii with disabilities, and members of the LBGTQ community. The Committee is proud of its foresight in responding to the legal needs of these groups. In doing so, it has consistently attempted to bring these different constituencies together.

Similarly, the Committee is proud of its record of being among the first pro bono organizations in the city to focus significant resources on the critical need to improve the quality of our city's public schools, especially in terms of resources targeted on minority and disadvantaged students.

Closely related to the visionary leadership of the Committee's founders are the efforts of three groups of individuals: (1) the dedicated lawyers from firms throughout the city who have answered the call to service as Board Members and volunteers on Committee cases and projects; (2) the exceptional men and women who have served as project directors and staff attorneys over the years; and (3) perhaps most importantly, the remarkable individuals and organizations who have been the Committee's clients.

It would be difficult to exaggerate the importance of the men and women who have served as Committee Co-Chairs, Board Members and Trustees throughout its history. Not only have they been instrumental in the development of the Committee's program and carrying the major responsibility for fundraising but also in many cases, they have served with distinction as co-counsel in prominent Committee cases. The record of their success as litigators is illustrated by the list of authors of articles in this volume of the *Howard Law Journal* and the earlier articles about the Committee dating back to 1984. Individuals like David Cynamon, Marc Fleischaker, George Ruttinger, Nancy Noonan, John Freedman, Joe Edmondson, Alan Pemberton and Robert Duncan, to name only a few, represent decades of deep commitment to the Committee's mission.

No discussion of contributors to the Committee's legacy would be complete without noting the extraordinary contributions of the many African-American lawyers, such as Frederick Abramson, George Jones, Charles Duncan, Tyrone Brown, Jeffrey Robinson, John Payton, Tom Williamson, Benjamin Wilson, Inez Smith-Reid, Melvin White, Denise Vanison and Ted Howard. Each of these individuals served as a Committee Co-Chair, several of them for more than a single term. All of them carried on the high standard of leadership established by Wiley Branton, the Committee's first African-American Co-Chair.

The Committee is also very proud of the dedicated women who have served with distinction as Co-Chairs of the organization. Marguerite Owen, Sara Ann-Determan, Denise Vanison, Stasia Kelly, Inez Smith-Reid, and Jennifer Levy have all made lasting contributions to the Committee's legacy.

Special recognition should be afforded to the several distinguished judges who earlier in their careers served as Committee Co-Chairs, Trustees \*xviii or co-counsel in major cases. These include the Honorable James Robertson, David Tatel, Patricia Wald, John Ferren, Inez Smith-Reid and Steven Wellner.

As much as anything the Committee's record is the product of the commitment, judgment, and skill of the principal staff lawyers who have helped to develop its innovative programs and guide its litigation and advocacy efforts with particular distinction. Going back to its earliest days, lawyers like Ann Macrory, who for over a decade served as the Committee's Associate Director and later as a staff attorney directing a number of Committee projects, will never be forgotten. Similarly, the incredible efforts of Project Directors, such as Avis Buchanan, Joe Sellers, Kerry Scanlon, John Relman, Elaine Gardner, Susan Huhta and Matt Handley, were essential to the Committee's success. The same may be said of the contributions of Mary Levy and Iris Toyer. Their leadership and commitment for nearly forty-years defined the Committee's dogged pursuit of securing a quality education for the neediest children in our city. The numerous dedicated lawyers who have directed the Committee's work on behalf of immigrants and refugees are equally deserving of commendation.

The final group to be acknowledged is perhaps the most appropriate to recognize: the individuals and organizational clients the Committee has been privileged to represent. Often at great personal risk, these men and women became true heroes by directly challenging injustice. I know every Committee staff member could name numerous clients whose personal stories will always be sources of inspiration. Space does not permit an extended discussion of many of these individuals. However, dating back to the Committee's earliest days, there are three people in particular who will always be foremost in my personal memory.

Perhaps no one personifies the courage and commitment of the Committee's clients more than Alfred McKenzie, who, beginning in the early 1970s, led the extended legal battle to address systemic racial discrimination in the Offset Press Section of the Government Printing Office (GPO). Following his service as a bomber pilot with the famed Tuskegee Airmen in World War II, Mr. McKenzie returned to his position in a low-level job at the GPO. For over twenty-years, he confronted a pervasive system of racial discrimination there that denied all African-Americans opportunities for advancement to supervisory positions.

In 1973, the Committee initiated a lawsuit on the behalf of Mr. McKenzie and his fellow workers that extended for over fifteen-years. Following Alfred McKenzie's retirement, the extraordinary victory achieved in this case could never have been won without his inspired leadership.

In speaking at the fairness hearing approving the ultimate settlement of the McKenzie case, Judge Barrington Parker, among the first African- \*xix American Judges to serve on the US District Court for the District of Columbia, said:

We have something here which I consider a permanent and lasting victory as far as the black workers of the GPO are concerned. And I may say that it was really something which in my judgment and in the judgment of elder members of this court we felt should have been resolved a long time ago. These victories perhaps don't come about as frequently as we like, but they do come about, they do come about ...

The McKenzie case settlement provided injunctive relief that fundamentally reformed the discriminatory employment practices of the Government Printing Office. In 1993, not too long after the conclusion of his case, Alfred McKenzie

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died and was buried with full military honors at Arlington Cemetery. Today his leadership in fighting for equal rights is prominently noted in the official history of the Government Printing Office.

During the same period the Committee began representing Mr. McKenzie, the Committee also agreed to assist a group of women led by Dorothy Thompson in the Bindery Division of the GPO. These women sought our help in challenging systemic sex discrimination and denials of equal pay. At that time, sex discrimination was pervasive within the federal government and especially blatant in the Bindery Division where women were limited to rates of pay well below that provided to male employees performing similar or lesser work.

Only after two trials and several appeals did the plaintiffs win a sweeping victory in this case. The relief eventually provided included, broad injunctive relief and back and front pay of over \$20 million for several hundred female employees. Dorothy Thompson, the fearless leader of the plaintiffs in this case for decades, never wavered in her commitment or backed down in the face of threats and harassment. Like Alfred McKenzie, she is today recognized by the GPO as a champion of equal rights.

It is noteworthy that in 2017, several of the principal lawyers who had represented Alfred McKenzie and Dorothy Thompson in their landmark cases were invited to the GPO to meet the new Public Printer, Davita Vance-Cooks, an African-American woman.

Sandy McCrary and her son, Michael, are the final clients to be noted. In the early 1970s, Sandy, a white woman married to an African-American man, sought to enroll her mixed-race son in a private nursery school in Fairfax County. When Michael presented himself at the school, accompanied by his father, he was turned away on the basis of his race. With the Committee's support, a lawsuit challenging this action was filed that ultimately reached the Supreme Court. In 1976, the Court struck down the school's policy under Section 1981 of the Civil Rights Act of 1866. Without Sandy's persistence this case could not have been prosecuted so successfully.

\*xx There are two notable postscripts to this story. First, in her capacity as a federal government EEO official in the years following her son's case, Sandy McCrary brought numerous other clients with meritorious claims to the Committee's attention. Second, her son, Michael, went on to have an All-Pro career as a defensive end for the Seattle Seahawks and Baltimore Colts in the NFL. As a star player, Michael was widely known as an indomitable force with an exceptional will to win. Shortly after his retirement, when asked about the source of his spirited play, he cited his mother's example as a fighter for civil rights as his inspiration.

The articles that follow set out an evolving history that I hope provides a fair representation of what the Committee has accomplished. It is essential when evaluating this record to remember that the challenges to civil rights we are confronting today are incredibly serious and the gains that at one time seemed secure cannot be taken for granted.

It is with this reality in mind that I hope these articles will serve as a call to action by all who share the Committee's commitment to equal opportunity and a just society. As we look ahead, it gives me great confidence to know that the Committee's leadership is in excellent hands and a new generation of supporters is fully prepared to address the critical challenges that lie ahead.

Footnotes

<sup>a1</sup> Roderic V.O. Boggs served as the Executive Director of the Washington Lawyers' Committee from April of 1971 until June of 2016. At that time, he became a Senior Advisor to the Committee. Prior to becoming the Committee's Executive Director,

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beginning in November of 1969, Mr. Boggs served as a staff attorney at the National Lawyers Committee. In that capacity, he played a major role in supporting the Washington Committee's early work in the fields of fair employment litigation and criminal justice reform.

- 1 The articles written by members of the Washington Lawyers' Committee for Civil Rights and Urban Affairs incorporate the personal and professional recollections of some of the members and associates of the Committee whose work over the last thirty-five years has helped define the Committee's identity as an organizational leader in civil rights and urban affairs across the six subject matters included. Throughout the articles, the Washington Lawyers' Committee for Civil Rights and Urban Affairs is abbreviated to WASH. LAW. COMM. in citations.

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