

Letter from the Editor

To Our Readers, Contributors, and the Communities We Serve:

Law does not merely describe society—it shapes it. At its best, the law has served as a vehicle for dismantling entrenched hierarchies and extending the promise of equal justice to those long denied it. At its worst, it has provided the architecture through which those hierarchies endure—cloaked in the language of neutrality, universalism, and principle. The five works gathered in Volume 17 of the *Georgetown Journal of Law & Modern Critical Race Perspectives* refuse to look away from that uncomfortable duality. Together, they constitute an unflinching examination of how law—constitutional doctrine, labor regulation, immigration policy, educational governance—has been deployed in ways that perpetuate racial subordination even as it professes otherwise.

The unifying thread running through this volume is one of structural contradiction: the gap between law's egalitarian promise and its subordinating function. Each piece in this volume approaches that contradiction from a distinct angle—taking up a different institution, a different legal text, a different moment in history—yet they arrive at a shared diagnosis. The facially neutral operation of law, untethered from the historical conditions that produced racial inequality, does not simply fail to correct injustice. It actively reproduces it. These scholars refuse to accept that framing as innocent, and their work demands that we refuse it too.

Publishing this scholarship matters now more than ever. In an era when the very vocabulary of race-conscious inquiry is under pressure—when the language of equity is recast as grievance and the study of systemic racism is treated as itself a form of division—journals like ours serve a vital function. We provide a space where rigorous, honest, and courageous scholarship can be done without apology. We do not believe that examining how race operates within legal structures is a partisan exercise. We believe it is a scholarly and civic obligation. The work in this volume is not advocacy dressed in academic garb; it is careful, deeply researched, and methodologically sound legal scholarship that takes seriously the full complexity of the American legal tradition and the full humanity of those whom that tradition has too often failed.

ABOUT THIS VOLUME

The five articles in Volume 17 span higher education, public school finance, immigration enforcement, labor law, and constitutional theory. While each stands alone as a significant contribution to its respective field, read together they illuminate a broader pattern: the ways in which seemingly neutral legal doctrines—colorblind constitutionalism, local control, crime-based grounds for deportation, First Amendment absolutism—function as instruments of racial hierarchy in the twenty-first century.

Re-casting Brown: Post-Racial Federalism and the Demise of the Anti-Subordination Principle by Cedric Merlin Powell

Professor Powell's article offers the volume's most sweeping analytical lens—a unified theory of what he terms “post-racial federalism”: the Roberts Court's doctrinal framework for allocating state and federal power in ways that systematically erode anti-discrimination law while advancing a colorblind conception of constitutional equality. Drawing on school desegregation jurisprudence from *Brown* through *SFFA*, and extending to voting rights, reproductive freedom, gun rights, and religious liberty, Powell demonstrates that the apparent incoherence of the Court's recent doctrine is, in fact, coherent—coherent in its defense of systemic privilege and its dismantling of the anti-subordination principle. This article is a landmark contribution to constitutional theory and one that will shape the field for years to come.

Ensuring Diversity: How to Retain Affirmative Action in Higher Education in a Post-SFFA Landscape by Gabrielle Armstrong

Armstrong's note confronts the institutional aftermath of *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College* and offers a concrete, three-part roadmap for preserving meaningful racial diversity in higher education. Armstrong argues that institutions need not abandon their commitments; they must instead restructure admissions practices to surface the lived reality of racial disadvantage through narrative, socioeconomic criteria, and the elimination of legacy preferences that have long served as proxies for racial and class privilege. It is a practical and principled contribution to one of the most pressing questions in education policy today.

A Tale of Two Constitutions: How Maryland Deprives Baltimore City Public School Students of a Constitutionally Adequate Education by Allemai Dagnatchew

Dagnatchew traces Baltimore City's decades-long experience of educational disinvestment to its constitutional and historical roots, beginning with the city's foundational role in the development of racial zoning and redlining. Drawing on the text and ratification history of Maryland's constitutional guarantee of a “thorough and efficient” education, Dagnatchew argues that the circuit court's decision in *Bradford II* set the interpretive bar far too low—and that predominantly Black communities have paid the price. This note is a meticulous work of constitutional text, history, and comparative jurisprudence that reframes school finance not as a policy debate, but as a constitutional reckoning.

Black Beyond Borders: An Analysis of the 1996 Immigration Laws and the Invisibility of Black Immigrants by Annaelle Clara Lafontant

Lafontant's note illuminates the particular vulnerability of Black immigrants within a legal system that operates at the intersection of anti-Black carceral logic and immigration enforcement. Analyzing IIRIRA, AEDPA, and the 1994 Crime Bill through a Critical Race Theory lens, Lafontant demonstrates how a nominally immigration-neutral framework channels the historic criminalization of Blackness into the mechanisms of detention and deportation—subjecting Black migrants to consequences that their non-Black counterparts largely avoid. The note's framing of contemporary immigration law as an “afterlife of slavery” is as analytically precise as it is morally clarifying.

BLM in the Workplace: Protected, Concerted Activity or Compelled Speech? A Case Study in the Rhetoric of the Deregulatory First Amendment by Katie Parker

Parker's note examines a coordinated employer strategy to recast labor protections for racial justice advocacy as First Amendment violations—using the Black Lives Matter movement as its central case study. Through close rhetorical analysis, Parker identifies the doctrinal and discursive mechanisms through which employers have attempted to “speechify” NLRB regulation and deploy a “race-as-controversy” frame to neutralize protected, concerted activity. Parker not only diagnoses this emerging threat to worker rights but develops a counter-rhetorical framework grounded in a more egalitarian vision of the First Amendment. This is timely, sophisticated legal scholarship that sits at the crossroads of labor law, constitutional theory, and critical race analysis.

A NOTE OF GRATITUDE

A journal does not produce itself. Every piece in this volume passed through the hands of dedicated senior editors and staff editors whose contributions are often invisible to readers but are indispensable to the quality of the work that ultimately appears in print. Their labors—late nights spent with Bluebook in hand, careful attention to citation accuracy, close reading of arguments and structure, and the countless small decisions that separate a good law review article from a great one—are what make Volume 17 possible.

But beyond the technical work, what distinguishes this editorial team is something harder to teach and impossible to mandate: the courage of their convictions. Publishing scholarship on race, law, and power requires editors who understand what is at stake in this work and are willing to stand behind it. This team has demonstrated that commitment at every turn, and they have done so with a dedication to excellence that sets a standard for those who will follow them.

This volume was initiated under the leadership of Volume XVII's Editor-in-Chief Isabela Gibson and completed under the leadership of Volume XVIII. We are grateful for Isabela's leadership and equally grateful to Haleigh Quinn, whose election as Editor-in-Chief of Volume XIX ensures that this journal's mission will continue to be carried forward with capable and dedicated hands.

To our senior editors and staff editors: thank you! Your hard work, your precision, your moral seriousness, and your unwavering commitment to this journal and its mission are reflected on every page of this volume. We are proud of what we have built together!

LOOKING FORWARD

The questions at the center of this volume—about equality, subordination, the meaning of constitutional promises, and the reach of legal reform—are not questions that will be resolved in any single term or election cycle. They are foundational questions about what kind of society we intend to be and what role law will play in getting there. The Georgetown Journal of Law & Modern Critical Race Perspectives remains committed to publishing scholarship that takes those questions seriously:

rigorously, honestly, and without retreat. We hope that the work in Volume 17 contributes meaningfully to that ongoing project, and we are grateful to every scholar, editor, and reader who has made this journal a home for it.

With gratitude,

Dymir Frederick Arthur

Editor-in-Chief

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