

cotton fields. As he slowed down to take in the view, Jones grew anxious. Zwerling recalls Jones telling him to speed up. As Jones knew, a car like theirs was sure to attract attention among a police force that, in many counties, had close ties to the Ku Klux Klan. It had New York tags, and blacks and whites traveling together, highly unusual in Mississippi. As Zwerling would learn years later, when he'd exchanged his New York license plates for Mississippi ones, his name, local address, and new Mississippi plate number had been passed promptly on to the Klan.

On June 23, when he wrote his first letter home, all seemed well. "Safe and sound in Clarksdale," he wrote. "So far community is extremely friendly and no harassment so far." The letter was unlikely to have reassured his parents. They'd been wary about his going. "Apparently, without telling me, they had very deep questions about whether they'd be willing to let me go to Mississippi, given the level of danger," Zwerling says. "They spared me that agonizing by just coming to me and saying, 'If you feel like you want to go, we're behind you all the way.'"

BY THE TIME THEY RECEIVED THE LETTER, GOODMAN, ALONG WITH two other civil rights workers—James Chaney and Michael Schwerner—had been reported missing. The news was a source of deep worry for northern volunteers, and it cast a pall over Zwerling's first week in Mississippi. "There isn't really any way I can convey what I feel about Andy," he wrote to his parents on June 26.

Few veteran activists doubted the fate of the three workers, whose bodies would be discovered, buried in a ditch outside Philadelphia, Miss., in August.

Zwerling was slower to acknowledge their likely fate. "It didn't register until Andy had been missing for about a week," he recalls. "Once a week had gone by, it was clear that they had been killed somewhere."

But like soldiers in battle, they weren't to dwell. "I did the thing

that people from SNCC were trained to do. Just to say, 'I'm not moving. They can't scare me out of here. I'm staying and registering voters.'"

The disappearance of the three workers quickly became national news. That Goodman, Chaney, and Schwerner would become three of the most recognizable faces of the movement is evidence of what African-American veteran civil rights workers knew from long experience. It was far from the first time that ordinary citizens had been murdered in Mississippi for advancing civil rights. Had Chaney, who was black, been the only victim, it's unlikely anyone outside the activist organizations would ever have known. Among those making that charge was Schwerner's widow, Rita Schwerner, herself a SNCC activist in Mississippi. In numerous memoirs, veterans including Henry note that the recruitment of white students to Freedom Summer was a deliberate means to place national focus on the violence and lawlessness in Mississippi. When volunteers like Zwerling signed up to go to Mississippi, they were lending more than manpower. They brought power in the form of white skin and connections to elite institutions. In his memoir, *The Fire Ever Burning*, Henry wrote that Mississippi civil rights workers needed "national publicity and coverage that would reflect the significance of our efforts." In 1963, when a group of white students from Yale and Stanford came to help with a voting rights project, Henry noticed a curious thing: "They were able to get the news media to almost every mass meeting that we held in the state."

Moses had worked for three straight years trying to register black voters in Mississippi. But as scholars such as Clayborne Carson, professor of history at Stanford and author of *In Struggle*, a history of SNCC, explain, Moses found that neither his nor anyone's efforts had borne much fruit. The dearth of African-American voters demonstrated the effectiveness of the threats against blacks who attempted to vote—from firings, foreclosures, and evictions, to sniper fire, fire bombings, and murders. Indeed, a 1963 U.S.

## Q&A

# Civil Rights and Civic Lessons

Maya Sen, assistant professor of political science, explores the legal significance of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Freedom Summer is considered pivotal in President Lyndon Johnson's decision to introduce the Voting Rights Act in the spring of 1965. But during that same summer, Congress passed a legal landmark that was arguably even more significant: the Civil Rights Act of 1964, which prohibited racial discrimination in public accommodations.

It wasn't the first such effort, says Maya Sen, assistant professor of political science at Rochester. The legal twists and technicalities on the road to ending legal segregation began nearly a century earlier. Sen, who joined the faculty in 2012, holds a law degree in addition to a doctorate in political science and teaches courses on law, judicial politics, and the politics of race and ethnicity in the United States.

### From a legal standpoint, why was the Civil Rights Act of 1964 so significant?

It was significant in two major ways. First, we think of the Supreme Court ruling in *Brown v. Board of Education* in 1954 as being that definitive moment when we knew that separate was inherently

unequal and that segregation was no longer the law of the land. It galvanized the civil rights movement, starting with the Montgomery bus boycott. Segregation was still the informal law of the land, even if it had been declared unconstitutional. As several political scientists have shown, the percentage of African-American children attending desegregated schools in the South was close to zero for many years after the *Brown* rulings. It wasn't until passage of the Civil Rights Act that things changed. The new law called for desegregation of schools and empowered the federal government to sue for enforcement. One could say that the Civil Rights Act really implemented the spirit of the *Brown* rulings.

Second, it outlawed discrimination in places of public accommodation, such as hotels and restaurants.

### President Ulysses Grant signed into law the Civil Rights Act of 1875, also outlawing discrimination in public accommodations. Why did the 1964 law succeed while this one has been all but forgotten?

The 1875 act was enacted under Congress's authority under the Enforcement Clause of the 14th Amendment, and the Supreme Court ruled very soon after that Congress had exceeded its author-

Commission on Civil Rights investigation found “open and flagrant violation of constitutional rights in Mississippi,” carried out by intimidation and violence.

Despite pleas from civil rights leaders, the federal government under President Kennedy had not intervened to protect voters, leaving the job to local police. Moses calculated that federal intervention was the only way to secure voting rights in Mississippi. And the only way to get federal intervention, he reasoned, was to invite the sons and daughters of elite white Americans to join the struggle in Mississippi.

The Mississippi state legislature responded to Freedom Summer with multiple new laws targeting political activity and a near doubling of the state’s highway patrol. Gov. Paul Johnson told a television news reporter that the police would respond to Freedom Summer with “Mississippi-style” justice. But the influx of northern whites also made the internal politics of the civil rights movement complicated. Many African Americans in the civil rights movement were opposed to recruiting white participants, fearing the implications of dependence on whites.

As a volunteer in Clarksdale, Zwierling would feel that tension more acutely than volunteers in almost any other area of the state. “Freedom Summer was different in Clarksdale because of the very

strong NAACP presence in the town and an already vibrant movement taking place,” says Françoise Hamlin, an assistant professor of history and Africana studies at Brown University.

In her 2012 book, *Crossroads at Clarksdale: The Black Freedom Struggle in the Mississippi Delta after World War II*, Hamlin explores the leadership of Henry, and of another Clarksdale NAACP leader, Vera Mae Pige, who died in 2007, virtually unknown to the history books.

“There were strong movement leaders in Clarksdale, Pige among them, who did not necessarily support Freedom Summer as enthusiastically as Aaron Henry, which made for some interesting interactions between the older grassroots leadership and the young volunteers,” Hamlin says.

As it turned out, Zwierling would be among Pige’s first volunteer houseguests. Through her, he would become acquainted with the complicated internal politics of the civil rights movement.

Pige owned a hair salon in downtown Clarksdale. As a hairdresser, she knew more than just about anybody about the daily lives, circumstances, and opinions of the black residents of the town. For years, she helped build the NAACP’s membership in the region, helping Clarksdale to become the stronghold of the NAACP in the state. From the back of her salon, she ran Freedom Schools to educate locals on citizenship rights



**AT WORK:** Aaron (Doc) Henry, an NAACP leader and a pharmacist, “rallied the troops” in Clarksdale, Zwierling says.

ity under that clause. But the 1964 act was not passed under the 14th Amendment. It was actually passed under Congress’s authority to regulate interstate commercial activities, what we would call the Commerce Clause. This is an important distinction, and it led the court to uphold the constitutionality of the Civil Rights Act in 1964. It’s hard to know where we would be today were it not for the 1964 law.

### **Do you think the constitutionality of the Civil Rights Act is secure?**

There have been challenges as to whether the law usurps Congress’s authority under the Commerce Clause—i.e., whether this really constitutes interstate commerce as the founders intended it. It appears to be settled that the constitutionality of the law isn’t in question.

Whether there continues to be popular will in support for the Civil Rights Act is a different question. And I think there continues to be. We’ve agreed as a society that it’s wrong for hotels, movie theaters, and restaurants to discriminate against customers solely because of their race or ethnicity.

**Next year marks the 50th anniversary of the Voting Rights Act. Last year, the Supreme Court struck down a portion of that law. What was the significance of that ruling?**

In *Shelby County v. Holder*, the Supreme Court struck down the formula used to determine which jurisdictions were “covered” for purposes of the Voting Rights Act, a designation that triggers additional scrutiny from the Department of Justice. The coverage formula struck down by the Supreme Court is based on historical data. Chief Justice John Roberts, who wrote the opinion, said we can’t rely on a formula that uses 40-year-old data. He argued, quite reasonably to a lot of people, that a lot has changed in the last few decades.

It’s not that the entire act is invalid after *Shelby County*, or that it can’t be worked through. But it does raise the question of whether Congress will try to rewrite the coverage formula that *Shelby County* struck down. The Voting Rights Act has in the past enjoyed broad, bipartisan support. For example, the last time it was reauthorized was in 2006, and that was under a Republican president and a Republican Congress. So there is good support for it. In addition, the Voting Rights Act has been by most markers quite successful. In some states, the percentage of eligible black registered voters went from approximately 10 percent to 60 or 70 percent.

Time will tell whether Congress will take up the challenges posed by the *Shelby County* decision.

—Interview by Karen McCally '02 (PhD)