



**ROBERT F.
KENNEDY
HUMAN
RIGHTS**

SPEAK TRUTH TO POWER

**HUMAN RIGHTS
DEFENDERS WHO
ARE CHANGING
OUR WORLD**

**THURGOOD MARSHALL AND ANDREA JAMES:
THE LEGACY OF CRIMINAL JUSTICE REFORM**

THURGOOD MARSHALL

(HE/HIM/HIS)



Thurgood Marshall was born in 1908, in Baltimore. He was denied admission to the University of Maryland Law School due to segregation and went on to graduate first in his class from Howard University Law School. Marshall represented the local NAACP chapter in a successful lawsuit that challenged the University of Maryland Law School's segregation policy. In 1936, he became the NAACP's chief legal counsel and founded their Legal Defense Fund. He challenged *Plessy v. Ferguson*, which called for "separate but equal," and argued *Brown v. Board of Education* before the Supreme Court in 1952 and 1953. "Separate but equal" was finally overturned.

President Kennedy nominated Marshall to the U.S. Court of Appeals. Four years later, he was appointed solicitor general by President Johnson, and in 1967, he became the first African American to serve on the Supreme Court. Marshall was a proponent of judicial activism, determined to address remnants of Jim Crow. He served 24 years before retiring in 1991. After his death in 1993, Chief Justice William Rehnquist wrote, "Inscribed above the front entrance to this Court building are the words, 'Equal Justice Under Law.' Surely no individual did more to make these words a reality than Thurgood Marshall."



ANDREA JAMES

(SHE/HER/HERS)

Attorney Andrea James has been engaged with criminal justice issues since her days as a youth worker. She is the founder and executive director of Families for Justice as Healing, the founder of the National Council for Incarcerated and Formerly Incarcerated Women and Girls, a 2015 Soros Justice Fellow, and the author of *Upper Bunkies Unite: And Other Thoughts On the Politics of Mass Incarceration*.

In 2009, James was sentenced to serve 24 months in federal prison and was stunned at what she encountered when she entered the prison system as an incarcerated person. She has subsequently used her experience to change the narrative and raise awareness about the effect of the incarceration of women on children and communities.

When Robert F. Kennedy voiced his approval for the Criminal Justice Act of 1964, he said he was taking a stand “to make our ideal of ‘equal justice under law’ a reality” for impoverished people throughout the country. By supporting the right to counsel for all, regardless of income, Kennedy held the U.S. criminal justice system to a higher standard of fairness. During his campaign, he would extend his criticisms to the death penalty, calling for an end to the widely accepted practice.

This lesson plan explores Robert F. Kennedy’s legacy of criminal justice reform in a time defined by the rise of the New Jim Crow, a term coined by author and academic Michelle Alexander in reference to the racial inequalities present in the criminal justice system today. As we build a bridge between the past and the present and reflect on the work of the advocates of then and now, we should keep one question in mind: What do we do next?

GETTING FROM THEN TO NOW

A BRIEF HISTORY OF CIVIL RIGHTS AND POLITICAL PARTICIPATION

MONROE V. PAPE | 1961

THIS SUPREME COURT CASE RELATED TO THE WRONGFUL SEARCH AND SEIZURE OF AN AFRICAN AMERICAN PLAINTIFF.

On October 29, 1958, 13 police officers, including Frank Pape, arrived at James Monroe's Chicago apartment at 5:45 a.m. The officers broke down the door, forced Monroe and his wife to stand naked in their living room, and ransacked the apartment. Afterward, Monroe was escorted to police quarters and held for 10 hours on "open" charges while he was interrogated about a murder. The police did not have a warrant for the search or the arrest, and they refused Monroe permission to call his attorney.

Monroe brought a complaint against each of the Chicago police officers individually and against the City of Chicago. The City of Chicago moved to dismiss the complaint on the grounds that it was not liable under the Civil Rights Act nor for acts committed in performance of governmental functions. All defendants moved to dismiss, arguing that there was no cause of action under the Civil Rights Act. The district court dismissed the complaint. The United States Court of Appeals for the 7th Circuit affirmed the district court's dismissal.

RACIAL JUSTICE ACT IN KENTUCKY | 1998

KENTUCKY WAS THE FIRST STATE TO PASS AN ACT THAT DECLARED THAT RACE CANNOT PLAY A ROLE IN THE ADMINISTRATION OF THE DEATH PENALTY.

Kentucky was the first state to pass a Racial Justice Act, in March 1998. In capital cases, statistical evidence is allowed to be used to show that race influenced the decision to seek the death penalty. If the judge determines that race was a factor, then the use of the death penalty will be barred. The act is not retroactive. The bill came about after it was found that all of the African Americans on death row were there for killing whites, but there were no whites on death row for killing African Americans.

THE NEW JIM CROW | 2018

THIS CUTTING-EDGE BOOK DISCUSSES INSTITUTIONALIZED RACIAL DISCRIMINATION AND THE LEGACY OF JIM CROW.

[Book trailer](#)

THE LEGACY OF CRIMINAL JUSTICE REFORM

UNIVERSAL DECLARATION OF HUMAN RIGHTS

- **ARTICLE 1:** Everyone is born free and equal in dignity and with rights.
- **ARTICLE 3:** Right to life, liberty, and personal security.
- **ARTICLE 6:** Right to recognition as a person before the law.
- **ARTICLE 9:** No one shall be subject to arbitrary arrest, detention, or exile.

GUIDING QUESTIONS

- Why is it important for citizens to understand their civil rights?
- How are education, politics, and the criminal justice system related?
- How can access to education affect a community's economic situation?

OBJECTIVES

By the end of the lesson, students will:

- Discuss the impact of incarceration on families.
- Examine the lasting impact of incarceration on a person after serving a sentence.

CONCEPTS

- "Equal justice under law"
- Racial inequality
- Jim Crow
- Political rights
- Voting rights
- Death penalty

VOCABULARY

- Legal counsel
- Criminal justice reform
- Inequality
- Equality
- Poverty
- Discrimination
- Voting rights
- Civil rights attorney
- Wrongful search
- Jury selection
- Disenfranchisement

TECHNOLOGY REQUIRED

- Computer with internet connection.
- CD player and CD/or Internet connection to a music link

MATERIALS

- [*Marshall* film trailer](#)
- ["Thurgood Marshall Confirmed as Supreme Court Justice: 1967"](#) from AP Archive
- ["Race Relations and Criminal Justice"](#) from C-SPAN
- ["2 Years in Prison Inspired Me to Fight for Justice Reform"](#) from *Time* magazine
- [Statement by Attorney General Robert F. Kennedy before the Senate Committee on the Judiciary Regarding S. 1057, the proposed Criminal Justice Act](#)

STUDENT ACTIVITIES

ACTIVITY 1 UNDERSTANDING THE DEFENDER

- Have students review the primary sources, then have them answer the following questions (some questions may require additional research).
 - Identify three compelling aspects of Thurgood Marshall and Andrea James' lives.
 - What about Thurgood Marshall as a person stands out to you?
 - What about Andrea James as a person stands out to you?
 - Who were some of the people who influenced Thurgood Marshall and Andrea James?
 - What was the primary cause Marshall sought to address? What is the primary cause Andrea James seeks to address?
 - What were/are some of the specific issues?
 - What were/are their desired outcomes?
 - What tactics did Marshall use to seek resolution? What tactics does James use to seek resolution?
 - What was the political/social context in which Marshall worked? What are the political/social contexts in which James works? Think locally and nationally, if applicable.

ACTIVITY 2 PIECES OF THE PUZZLE

- Divide the class into three groups and assign each group one or more of the timeline events. Have students research their assigned events and answer the following questions:
 - Who were the key players in the event?
 - What was the political/social/economic context in which this event took place?

- How does the work of Thurgood Marshall and/or Andrea James relate to this event?
- How did the event help or hinder progress on this issue?
- What was the aftermath of this event?
- Have students present their findings to the rest of the class, and then moderate a discussion about how this issue has evolved over time. Use the following questions as a guide:
 - Are there any common threads or themes that are present in each of the events/pieces of legislation?
 - How has this issue evolved over time?
 - What do you believe needs to happen to create long-lasting change surrounding this issue area?
 - Did one event affect or lay the groundwork for another?
 - How do these events fit together?

ACTIVITY 3

COMPARE AND CONTRAST

- Building on what students have learned about both defenders and the context in which they worked or are working, have students create a visual representation that answers/addressess the following questions:
 - How does Marshall's work intersect with that of RFK? How does James' work intersect with that of RFK? Which parts of RFK's legacy are present in the work of each of these defenders?
 - Analyze the similarities and differences in the tactics and approaches of these two defenders. Why do you think these similarities/differences exists? In this instance, consider the social positions of both Marshall and James. How does that affect the work that he/she did or does?

- How do you think Marshall would react to the work of James? What might he say about the present-day work that is being done on this issue? How do you think RFK would react to the work of Andrea James? Of what would he approve or disapprove?
- How did Thurgood Marshall's activism pave the way for Andrea James?
- What are the similarities and differences between the political/social/economic contexts in which Marshall and James worked/work?
- Do you believe this issue is still a problem, and if so, why?

ACTIVITY 4 CONTINUING THE LEGACY

- This activity is designed to help students begin thinking about the impact that they can make on the criminal justice system. The key to becoming an effective human rights defender is to turn the things that we find interesting, that resonate with us, that we consider to be our assets into our own vehicles for change.
 - Have students brainstorm a list of their skills, passions, or hobbies.
 - For each activity or skill on their list, have them create a plan of action that uses that activity or skill to help bring about change in the area of criminal justice reform.
 - Ask each student to choose and complete one of those plans.



INTERNATIONAL HUMAN RIGHTS FRAMEWORK

Since the creation of the Universal Declaration of Human Rights (UDHR) by the United Nations (UN) in 1948, many other international documents—also called treaties, covenants, resolutions, or conventions—have been drafted to develop these rights further. Countries commit to protect the rights recognized in these treaties by ratifying them, and sometimes a specific institution is created within the UN to monitor their compliance.

Here are examples of relevant international documents

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

This is an international human rights treaty that gives legal force to the themes of the United Nations Declaration on Human Rights. Since this treaty came into force in 1976, it has protected issues related to the freedom to protest and the right to political participation.

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

This convention requires all countries to outlaw hate speech and racist groups. It condemns racism, apartheid, and incitement of racism. Significantly, it stipulates that actions that have racially disparaging effects are considered racism.

CONVENTION OF THE RIGHTS OF THE CHILD

This convention codifies the rights of people under the age of 18. It differs from other human rights frameworks in that it makes the best interest of the child of paramount importance. This convention also ensures that children are able to enjoy many of the same rights as adults, particularly freedom of speech and expression.

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

This covenant expands on the Universal Declaration on Human Rights by ensuring that people can live with dignity. This legally binding document has been signed by 169 parties. It protects labor rights, the right to family life, education, health, and cultural rights.

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

This can be described as an international bill of rights for women. This convention encourages equal opportunities for women in public and political life, as well as in health, education, and employment. It denounces human trafficking and affirms women's reproductive rights.

For more information, visit the Office of the High Commissioner for Human Rights' website:

www.ohchr.org.

SUSTAINABLE DEVELOPMENT GOALS (SDGS)

These 17 goals were set by the United Nations General Assembly. The broad aims of these goals are to encourage social and economic development as they relate to poverty, education, gender equality, and the environment. It serves as a global plan to combat systemic issues and provides indicators that track success toward achieving these goals. The relevant SDGs to this lesson plan are:

- **GOAL 1:** No poverty.
- **GOAL 2:** Zero hunger.
- **GOAL 3:** Good health and well-being.
- **GOAL 4:** Quality education.

For more information, visit the United Nations website:

www.undp.org/

BECOMING A DEFENDER

Here are some ways you can join the coalition of human rights defenders pushing for criminal justice reform.

- Organize a fundraiser to donate to Andrea James' organization or another organization that focuses on criminal justice reform.
- Research statistics associated with mass incarceration in the U.S. and create a pamphlet to share with the class.
- Write to your state representatives urging them to pass legislation that will result in a fairer, more effective criminal justice system
- If your state has these kinds of laws in place, send a thank-you note to your government officials and ask how the law is being implemented
- Research local organizations within your community that serve the families of people who are currently incarcerated, and find ways for you and your classmates to help them further.