

☆ EXEMPLARY LEGAL WRITING 2015 ☆

• BOOKS •

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EXEMPLARY LAW BOOKS OF 2015

FIVE RECOMMENDATIONS



Cedric Merlin Powell[†]

Ta-Nehisi Coates,
Between the World and Me
(Spiegel & Grau 2015)

Expanding the canon on Black identity previously explored in works such as W.E.B. DuBois' *The Souls of Black Folks* (1903) and James Baldwin's *Notes of a Native Son* (1955), Ta-Nehisi Coates offers a searing critical assessment of how the Black male body is framed, as a rhetorical tool of oppression, in his memoir and open letter to his son. Building upon his articles making the case for reparations and analyzing structural inequality in the criminal justice system of mass incarceration in *The Atlantic*, Coates posits that violence against the Black male body is an indispensable component of the history of racial oppression and subjugation in America. The present day effects of this brutal history are manifested in state-sanctioned violence, which results in the disproportionate use of lethal force

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against young Black boys and men. In winning the National Book Award for non-fiction, this evocative book secured its place in the national literary imagination and canon, but its true significance rests in its scathing eloquence in trying to reconcile the aspirational tenor of American exceptionalism with America's primal thirst for violence against its own citizens who live in bodies long scorned because of race and racism.

Ellen Berrey,

The Enigma of Diversity: The Language of Race and the Limits of Race Justice
(University of Chicago Press 2015)

This term, the United States Supreme Court will render its opinion in *Fisher v. University of Texas*, and many constitutional law scholars are predicting the end of affirmative action as it is currently conceived and constructed. This may be premature; however, some of this uncertainty rests in the core concept that is essential in determining the constitutionality of the admission program — diversity. Ellen Berrey presents a comprehensive and insightful analysis of the rhetorical and doctrinal limits of diversity. The aspirational features of diversity, particularly inclusion, are laudable goals for any societal institution, but diversity never really eradicates racial hierarchies or the permanence of structural inequality. Berrey examines three arenas of social life — the University of Michigan, housing redevelopment in Chicago's Rogers Park, and a Fortune 500 company — to conceptualize how the pursuit of diversity is advanced in these institutions and what this means in terms of race, culture, and inequality. Deconstructing the rhetorical allure of diversity, Berrey effectively illustrates its limitations because its value is not in dismantling systemic inequality, but appealing to the interests of whites so that they will accept the incremental (and oftentimes transitory) progress of affirmative action. The path-breaking Critical Race Theorist Derrick Bell made this point by articulating the interest convergence theory: there is only minimal progress for people of color when it is in the interest of whites to embrace this limited social change. Berrey's work is a valuable addition to the literature for political scientists, sociologists, and constitutional law scholars.

Jeffrey A. Engel (editor),

The Four Freedoms: Franklin D. Roosevelt and the Evolution of an American Idea
(Oxford University Press 2016)

This edited collection focuses on freedom and how it is central to the American polity. In 1941, with World War II looming ominously on the horizon, President Roosevelt sought to define the unique strands of the American identity in relation to freedom. Roosevelt espoused four essential freedoms: freedom of speech, freedom from want, freedom of religion, and freedom from fear. Indeed, it would be these freedoms that Americans would fight for in World War II in less than a

year. But these pivotal freedoms have even broader implications as the scholars writing in this volume explore how Roosevelt's four freedoms have evolved over time for post-World War II America and the world. These essays resonate with clarity and analytical power because they trace, in comprehensive detail, how some of the central debates in American political life have transformed government and its underlying policies.

Nancy E. Dowd (editor),
A New Juvenile Justice System: Total Reform for a Broken System
 (NYU Press 2015)

Advancing an argument for the replacement of the existing system of juvenile justice with a new model emphasizing the centrality of child well-being rather than an exclusively punitive approach, the scholars in this volume seek to re-envision the current system around three core ideals. First, the authors seek to incorporate the substantive ideals of equality, freedom, liberty, and self-determination into a transformative conception of juvenile justice. Second, they theorize a rehabilitative model that moves away from the inherent labeling which fast tracks juveniles to the adult criminal justice system and precludes any chance of a meaningful transition to adulthood and active citizenship. Third, a new model is proposed that emphasizes family-focused and community-based interventions rather than the current imprisonment model. While much of the public discourse on the criminal justice system has focused on the use of lethal force on communities of color, this edited collection takes an important look at the structural factors that buttress the school-to-prison pipeline. The authors make a compelling argument for a new juvenile justice system.

Adam Benforado,
Unfair: The New Science of Criminal Injustice
 (Crown 2015)

Incorporating implicit bias analysis into his comprehensive study of injustice in the criminal justice system, Adam Benforado crafts a strikingly persuasive argument about the discriminatory impact of ostensibly neutral decision-making by criminal investigators, judges, and juries. The system is fundamentally flawed because crucial decisions about guilt or innocence are based on human intuition rooted in subjective assessments that are often automatic. Thus, even if the criminal justice system functions as it should structurally, there are still inherent psychological factors that produce “wrong convictions, biased proceedings, trampled rights, and unequal treatment.” Benforado argues for a new model of criminal justice, “grounded in the science of the mind,” so that any structural change is accompanied by full integration of psychological inquiry to ensure equality of results.