

commentary, we have done little to meaningfully address racial inequality<sup>15</sup>—and a political solution may be impossible under our current system.<sup>16</sup> *Retort* comes to the Constitution with an awareness of this moment and how the Constitution shaped and was shaped by previous disruptions.

Mystal argues that, unlike South Africa, when the United States first faced a reckoning for its racist original sins, we left our apartheid constitution in place and hoped a few band-aids would fix it (p. 127). Thanks to the modern efforts of bad-faith conservatives and their bad-faith legal philosophy of originalism,<sup>17</sup> that failure to start the whole thing over from scratch perpetuates a litany of injustices old and new. With so many participants in the system arguing in bad faith, the already technical field of constitutional law gets a bit more obscure.<sup>18</sup>

Thankfully, *Retort* serves as a guide to the Constitution on many levels. It functions as a field guide, helping readers identify the role of constitutional law in their daily lives. It also functions as a user's guide, pointing out practical areas of constitutional law that Americans might actually redress and reform through political processes. Finally, it functions as a survival guide for Black men. In this respect it makes clear that for some Americans, merely understanding the Constitution at both the surface and granular levels will not suffice. Indeed, the Constitution itself may cultivate the conditions that render America *unsafe* for certain constituencies. With this insight in mind, *Retort* is a survival guide for Black men in America, providing them with practical information for interacting with—and surviving—the various encounters with the law that the Constitution underwrites. Overall, these approaches combine

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John Gramlich, *A Look Back at Americans' Reactions to the Jan. 6 Riot at the U.S. Capitol*, PEW RESEARCH CENTER (Jan. 4, 2022), <https://www.pewresearch.org/fact-tank/2022/01/04/a-look-back-at-americans-reactions-to-the-jan-6-riot-at-the-u-s-capitol/> (describing deep partisan divisions in Americans' views on the insurrection).

<sup>15</sup> Janell Ross, *Americans Have Learned to Talk About Racial Inequality. But They've Done Little to Solve It*, TIME (May 13, 2021), <https://time.com/6046298/america-racial-inequality/>.

<sup>16</sup> See also Brandon Hasbrouck, *Don't Be Fooled by the 2022 Congressional Map*, NATION (Apr. 5, 2022), <https://www.thenation.com/article/politics/2022-congressional-map/> (describing the inequalities baked into our legislative districts through disenfranchisement).

<sup>17</sup> See Dean Obeidallah, *Elie Mystal: Our Constitution Is "Actually Trash"—But the Supreme Court Can Be Fixed*, SALON (Mar. 23, 2022, 6:30 A.M.), <https://www.salon.com/2022/03/23/elie-mystal-our-constitution-is-actually-trash-but-the-court-can-be-fixed/> (“Originalists have this PR campaign that they're going back to the original definitions of the Constitution as understood by the founders, when really they're just making stuff up that's convenient for their current political agenda.”).

<sup>18</sup> See also Elie Mystal & Dahlia Lithwick, *Nation Conversation: A Black Guy's Guide to the Constitution*, NATION (Mar. 16, 2022), <https://plsonline.eku.edu/sites/plsonline.eku.edu/files/the-history-of-policing-in-us.pdf> (discussing Justice Scalia's intellectual dishonesty in citing George Mason's speech promoting the Second Amendment as evidence that it was meant for self-defense while leaving unsaid what Mason wanted protection from).