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The Struggle for Justice in the Civil Rights March from Selma to Montgomery:
The Legacy of the Magna Carta and the Common Law Tradition

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Abstract

This article is based on a keynote address that the author gave in Montgomery, Alabama, last year, celebrating the anniversary of the famous Civil Rights March in Selma. It is being reprinted with the kind permission of the editors of the Faulkner University Law Review. The article introduces the reader to the idea that justice involves social action and struggle. It then shifts the perspective to the struggle for justice in historic memory. The author focuses on the struggle to limit sovereign absolutism, the outcome of which is reflected in the Magna Carta. The Magna Carta was not a gift of the sovereign, it represented a political struggle to obtain it. The article then traces the evolution of law in the common law tradition and the importance of casuistic legal methods to ground the specific rights of citizens. The article draws reference to the struggle between judges and the sovereign to secure justice under the common law. A pivotal feature of the Selma March was the critical role of a brave federal judge, Frank Johnson, who ruled that the marchers had a constitutional right to march. The article then examines the religious influences on marching for justice ideals and the deeper meaning this represents existentially and spiritually.

1. Introduction*

In March 1964, as the march from Selma to Montgomery was gaining strength in the face of threats of violence, repression and intimidation, Sister Pollard, a 70-year-old African-American woman in the march was offered a ride because of her age. She replied, "No," and she added, "my feets is tired, but my soul is rested." Sister Pollard's response captured the quintessence of a Christian, and perhaps more generally, a religious view of the struggle for justice and the religious idealism embodied in the idea of a rested soul that sustains the struggle. It is also a testament to the idea that struggle for the highest ideals of religious consciousness will embody sacrifice and courage.

The march on Montgomery was a momentous event of national and global significance. It was essentially an aspect of a larger struggle nationally and of global importance about the improvement of the human prospect, and, I think, today would be rightly regarded as a powerful symbol for the interdependence of human rights and legal justice. The idea of justice in human history is often grounded in and expanded by events whose times have come

* Speech delivered at Faulkner Law Review's Fall Symposium on September 12, 2014 titled From the Magna Carta to the Montgomery March: The Career of Rights in the Anglo-American Tradition. The author wishes to thank his Research Assistant, Christy Lopez, for assistance in writing the speech.

and these events generate a powerful symbology of the progress of justice. The march from Selma to Montgomery was just such an event.

2. Magna Carta, Justice, and the Rule of Law

I now want us to step back in time to another momentous historical event in England. In 1215, King John, the monarch of England, signed the Magna Carta. The Magna Carta was the outcome of momentous events. These events resulted in the compulsion or coercion generated by the conspicuous classes in England and imposed upon a king steeped in the belief of sovereign absolutism. The central idea in the Magna Carta was to stipulate, and publicize in writing the specific limitations on the sovereign, vis-à-vis the nobility and freemen. The principle of establishing a great Charter limiting arbitrary abuse of power represented an idea that even the sovereign could not violate Magna Carta prescriptions or those elements of the common law derived from those prescriptions. The most important clause for historical posterity was the 39th clause of the Magna Carta. This clause provided, "no man shall be arrested or imprisoned… except by the lawful judgment of his peers or the law of the land." The word "or" was meant to mean "and". The habeas corpus prescription in the Magna Carta was included in the Constitution of the United States.* Indeed, this ancient writ included in the Magna Carta continues to form one of the foundations of the modern rule of law concept. Most recently, the Supreme Court of the United States again recognized that the "writ of habeas corpus is the fundamental instrument for safe-guarding individual freedom against arbitrary and lawless state action." The quote continued that the writ must be, "administered with initiative and flexibility to insure that miscarriages of justice are surfaced and corrected." Indeed, Chief Justice Marshall wrote in 1830 that the "great object" of the writ, "is the liberation of those who may be imprisoned without sufficient cause."† In *Boumediene v. Bush*,‡ the Supreme Court ruled that Guantanamo detainees have the right to file habeas corpus petitions.

The Writ of Habeas Corpus has been a part of the development of the common law and the idea of the supremacy of the common law in defining the rights and duties of the citizen. In the development of the common law and its procedural practices, including the forms of action, the leading English jurists determined that the foundations of the modern rule of law were to be found in the interstices of the common law itself. Establishing the supremacy of the law, although deeply influenced by the Magna Carta, was a major historical challenge, which required courage and bravery from both judges and practitioners.

The common law, which developed in England in the aftermath of the Magna Carta, is in many ways a legal system that improved the rights and the duties of the subjects of the kingdom. It is important to note, an obvious datum that when the citizen's rights and obligations are matters that are publically ascertainable and enforced by an independent judicial system, the law provides the citizen with a zone, which secures both his freedom and the scope of his obligations. The common law empowered the citizen with an opportunity to

* "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." *U.S. Const*. art.I, § 9.

† "The writ of *habeas corpus* is a high prerogative writ, known to the common law, the great object of which is the liberation of those who may be imprisoned without sufficient cause. It is in the nature of a writ of error, to examine the legality of the commitment." *Ex Parte* Tobias Watkins, 28 U.S. 193, 202 (1830).

‡ Boumediene v. Bush, 553 U.S. 723 (2008).

request from the King a writ. The writ was a requirement for the plaintiff to avail himself of the Royal or King's Court. The writ represented the command of the King, which enabled him to do so. Although writs originally were exceptional, by the time of Henry II, they became routinized. It was from the writs that the forms of action developed. Ultimately, there was resistance to creating new forms of action and lawyers were generally confined to the recognized categories or forms of action, which formed the common law formulary system. The importance of the forms of action was that they were very specific. Hence, a decision based on the forms of action would also be very case specific. This meant that rights and duties created were very concrete and formed the basis for the application of those rights to similar situations. Therefore, the forms of action generated a fidelity to the role of precedent. Here we see the fact-specific detail in legal development that is difficult to change by arbitrary executive action. The applications of the forms of action are highly technical and professionalized, an added buffer to the experience of arbitrary executive action. It is in this detailed professional sense that we see an important domain in the development of freedom based on the rule of law. Although the forms of action were abolished, the great historian, Maitland, suggested that they still rule the legal culture from their graves.* It should be noted that in the practice of law in the United States today, a multitude of writs still survive, such as: the Writ of Habeas Corpus [Article 1, Section 9, Clause 2, U.S. Constitution], the Writ of Certiorari, the Writ of Prohibition, the Writ of Error Coram Nobis, the Writ of Mandamus, the Writ Warranto, and a number of other writs.

The importance of the Magna Carta for the enduring relationship of law and the ideal of justice is found in the principle that the sovereignty of the monarch is limited by law. Hence, we have the establishment in the great charter of the principle of the supremacy of law. The text of the Magna Carta is a text largely concerned with the complex rights of the various social classes in a feudal system. Notwithstanding, the principle of Habeus Corpus which emerges from this system continues to endure today as a central principle of the modern rule of law. Additionally, the specification and detailing of rights and obligations in the feudal context reflects the deep concern for the normative salience of the principle of human liberty. The Magna Carta stipulates not only the liberty of the Christian faith but also the liberties of all free men. Thus, liberty, including religious liberty, is a restraint on sovereign absolutism. Additionally, many of the rules specified in the Magna Carta are rules that deal with human security and hence represent the principle that free men should be free from fear under law. Many of these rules deal with the complexities of fair management of economic entitlements and in particular suggest a sensitivity that the law provide protections for the freedom from want. Finally, in the concern for the liberty of the English Church we see a sensitivity to the freedom of conscience and belief. In this sense, although the Magna Carta is a document that deals with the exigencies of the appropriate management of feudal life in England, it contains the seeds of justice that endorse a natural law conception of the fundamentals of the rule of law.

3. The Judges vs. The Monarchy

One of the important outcomes in the development of rule of law based freedom in the common law tradition, influenced by the Magna Carta, was represented in the conflict between

* "The forms of action we have buried, but they still rule us from their graves." F.W. Maitland, The forms of action at common law 296 (1910).

the English judges and the Crown. This is illustrated in the behavior of Sir Edward Coke and best indicated in Dr. Bonham's case decided in 1610. Bonham was a physician practicing in London. He had a medical degree from a top university, but did not have a license to practice medicine. Bonham was fined for practicing medicine without the license. The Royal College of Physicians arrested, tried, and fined Bonham. The fine was to be paid to the Royal College of Physicians. Coke ruled that the Royal College could not sit as a complainant and act as a judge in its own cause. Coke stated the following:

> *"The common law doth control Acts of Parliament, and sometimes adjudge them to be void: for when an Act of Parliament is against Common right and reason, or repugnant, or impossible to be performed, the Common Law will control it, and adjudge such Act to be void…"*[*]

Just prior to deciding the Bonham case, Coke was asked by the king to rule on whether a royal edict, which sought to restrict building in London and to regulate trade of specific commodities, would be consistent with the law. According to Coke,

> *"The King cannot change any part of the Common Law, nor create any Offence by his Proclamation, which was not an Offence before, without Parliament"*[†]

Coke took on the King in this and other contexts. The King, in return, had him arrested and put into the Tower of London. Coke was later freed. Coke was largely supported by the English Parliament, which acted to preserve his legacy. What is important for the United States is that Coke's works were read by American lawyers before the revolution. Moreover, the leading precedent in the common law world, on the principle of judicial review[‡] without a doubt was influenced by Coke's daring assertion of the supremacy of the Common Law. Indeed Coke has been cited by American judges and statesmen throughout the history of the Republic.[§,¶,**,††,‡‡]

Coke was also influential in the adoption of the Petition of Right and the Bill of Rights, instruments well known to American lawyers. Coke's effort to justify the values behind the Magna Carta has been rooted deep in the history of England prior to the Norman Conquest. It is not necessarily historically well founded. It is probably the case that he read into the Magna Carta an ideological orientation consistent with the Whig interpretation of history, influenced by Lockean ideas. These ideas found expression in the early Massachusetts Bay Company Charter, the Virginia Charter, including other colonies such as Maryland, which in 1638 recognized the Magna Carta as the law of the Province, but which was refused such recognition by the King. The further development of these ideas in England was reflected in Dicey's work

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* Dr. Bonham's Case, 77 Eng. Rep. 646, 652 (C.P. 1610).

† Case of Proclamations, 12 Coke 74 (1610).

‡ Marbury v. Madison, 5 U.S. 137 (1803).

§ Moody v. Daggett, 429 U.S. 78 (1976). Dissent by Justice Stevens quoted Coke on guarantee to speedy trial.

¶ Ford v. Wainwright, 477 U.S. 399 (1986). Justice Thurgood Marshall quoted Coke in the case of the execution of a man who had become insane since trial and sentencing: "[B]y intendment of Law the execution of the offender is for example, … but so it is not when a mad man is executed, but should be a miserable spectacle, both against law and of extreme inhumanity and cruelty, and can be no example to others." *Id.* @ 407.

** Pacific Mutual Life Insurance v. Haslip, 499 U.S. 1 (1991). Justice Blackmun quotes Coke on the phrase "due process of the law," and writes, "The American colonists were intimately familiar with Coke…" *Id.* @ 29.

†† Washington v. Glucksberg, 521 U.S. 702 (1997). Chief Justice Rehnquist, arguing against suicide, wrote, "In 1644, Sir Edward Coke published his Third Institute, a lodestar for later common lawyers. Coke regarded suicide as a category of murder…" *Id.*@712, footnote 10.

‡‡ Brogan v. United States, 522 U.S. 398 (1998). Dissent by Justice Stevens argued, "as Sir Edward Coke phrased it, 'it is the common opinion, and the *communis opinion* is of good authoritie in law.'" *Id*. @420-21.

on the English Constitution and the Rule of Law.* What Dicey was able to establish was that the common law, with its fidelity to concrete case law development, professionally instituted and decided by professionally capable and independent judges carried with it the elements of the supremacy of law and this is the foundation of the modern rule of law principle. In short, the rule of law is the essential component of modern governance, which respects the freedom and dignity of the individual and assures this by the assumption that the rights and obligations of the ordinary citizen may not be arbitrarily or capriciously violated by the state.

Although our approach thus far has focused on the salience of a natural law connection to the ideals of law and justice, we would be remiss not to point out that the scientific approach to law, although seen as unsympathetic to natural law principles, has nevertheless provided us with an important contribution to the application of law, in fact, to the principles of justice.

One of the most important problems that theorists and practical lawyers had to contend with was that the very notion of the right, notwithstanding the casuistic methods of the common law still left this important concept floating in a great deal of legal ambiguity. And if a legal right is ambiguous it is very possible that in the specific prescription and application of that right it may descend into the domain of arbitrary and capricious legal action. This is where the form of positivism, which focused on the scientific use of language in law, made an enormous contribution to unpacking the notion of a legal right in scientific terms. The leading theorist in this development was an American academic lawyer and Yale professor Wesley Newcomb Hohfeld.

Hohfeld's genius was to provide us with the operational grammar of a working legal system. It will be often seen that the term right is used erroneously to cover many different relationships. Additionally, the term right and its derivatives come in the form of jural opposites. Thus, if one has a right, the opposite would be one has no right. In the context of the correlative relationship of the notion of a right, we will see that there cannot be a right if there cannot be a correlative duty. Each exists because of the other. This approach has been fully developed in the American restatement of contract and property. Probably the best illustration of the value of Hohfeld's system is to be found in Corbin's *Corbin on Contracts,* 1952. The insight of Hohfeld that legal norms come in opposites or correlatives, sometimes referred to as legal complementarities, reflects upon a deeper insight into the prescription and application of the higher ideals of human justice. For example, the right to life is complemented by the right to self-defense.[1]

	(1)	(2)	(3)	(4)
	Right	**Privilege**	**Power**	**Immunity**
Jural Opposites	No Right	Duty	Disability	Liability
Jural Correlatives	Duty	No Right	Liability	Disability

* "That 'rule of law' then, which forms a fundamental principle of the constitution, has three meanings, or may be regarded from three different points of view."

"It means, in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government. Englishmen are ruled by the law, and by the law alone; a man may with us be punished for a breach of law, but he can be punished for nothing else." A.V. Dicey, *Law of the Constitution* 189 (3rd ed. 1889).

4. 1965 Selma to Montgomery Civil Rights March

If the Magna Carta was an event concerning the quality of justice for the citizen, and which has had the traction for over a millennium, we now come to another event which is also a sentinel event symbolizing the struggle for justice. One way to capture the importance of this march for equal justice under law is to recognize events leading up to it that were also indicators of a form of paradigm change for justice, possibly on a global scale. In 1941, the Congress of the United States adopted the Atlantic Charter.* The Atlantic Charter was the brainchild of President Franklin Delano Roosevelt (a liberal) and Prime Minister Winston Churchill (a conservative). The Atlantic Charter was seen as necessary to establish the war aims of the allies, or more precisely, the reason why we were fighting the war. The Charter proclaimed the four freedoms of universal salience. This was a fight about the freedom of speech and expression (political freedom), the freedom from fear (security freedom), the freedom of conscience and belief (religious freedom) and the freedom from want (economic justice). In another continent (Africa), the African National Congress of South Africa, endorsed the Atlantic Charter as representing the values which the African people sought in their struggle for freedom. The basic values expressed in the Atlantic Charter, although conceived in a contemporary context still demonstrates the underlying values of the Magna Carta itself.

If Americans, including African-Americans were fighting for freedom in terms of the Atlantic Charter, it is apparent that these freedoms should also have some domestic resonance. One of the earliest effects of these efforts was the executive order of President Truman to integrate the armed forces of the United States. If African-Americans were brave enough to fight for American freedom, then their claims to experience freedom at home would certainly be legitimate political claims. Additionally, as the cold war intensified the ideological position of the United States, its foreign policy was that: we were for freedom and human rights and our ideological adversary was not. I am inclined to believe that the United States' position as a leader in the fight for global freedom and dignity must have had an effect on the legal profession, the practice of law and the evolution of adjudicatory craft skills and values. In short, when the Supreme Court decided *Brown v. Board of Education*†, it may not have used the language of human rights as such, but *Brown* was essentially a

* "The President of the United States of America and the Prime Minister, Mr. Churchill, representing His Majesty's Government in the United Kingdom, being met together, deem it right to make known certain common principles in the national policies of their respective countries on which they base their hopes for a better future for the world."

"First, their countries seek no aggrandizement, territorial or other";

"Second, they desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned";

"Third, they respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self government restored to those who have been forcibly deprived of them";

"Fourth, they will endeavor, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity";

"Fifth, they desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labor standards, economic advancement and social security";

"Sixth, after the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all lands may live out their lives in freedom from fear and want";

"Seventh, such a peace should enable all men to traverse the high seas and oceans without hindrance";

"Eighth, they believe that all of the nations of the world, for realistic as well as spiritual reasons must come to the abandonment of the use of force. Since no future peace can be maintained if land, sea or air armaments continue to be employed by nations which threaten, or may threaten, aggression outside of their frontiers, they believe, pending the establishment of a wider and permanent system of general security, that the disarmament of such nations is essential. They will likewise aid and encourage all other practicable measures which will lighten for peace-loving peoples the crushing burden of armaments." Franklin D. Roosevelt & Winston S. Churchill, The Atlantic Charter (August 14, 1941).

† Brown v. Board of Education, 347 U.S. 483 (1954).

breakthrough on the question of human rights in race relations in the American legal culture. I am also inclined to believe that the broadened vistas of freedom generated in the post-war struggle against totalitarianism also inspired a renewed activism in the demand for civil rights in the domestic legal and social process of the United States. Certainly, extremists on the right wing of the political spectrum saw the ascendance of human rights as a threat to extremist reactionary values. Thus, it was that Senator Bricker, for example, argued that he wished to bury the human rights covenants so deep that no president of this country would dare to resurrect them.*, 2 Reactionaries saw as a particular threat to their values the concern that the United States might in fact ratify the convention that outlaws genocide.† Since genocide is a crime that also implicates a conspiracy to actually destroy, in whole or in part, other races. Since racism is an initial step toward genocide, they feared the implications of an international criminalization of the form of racism that could lead to genocide. Race became implicated in the human rights values our nation was proclaiming in the war against totalitarian order.

"The struggle for justice does not come from inaction."

The struggle for justice does not come from inaction. As in all human relations context, they must emerge from the social process itself, those specific claims that target specific deprivations in the demand for justice. Therefore, the civil rights movement of necessity was a response to the widespread claims among African-Americans, as well as all those Americans committed to the notion of universalizing justice. Then the specific question would emerge: how should leaders in the communities respond to these claims for basic social, political, and economic justice? This is where the Gandhian style of political struggle influenced the leadership of the civil rights movement, led by Martin Luther King, Jr. Gandhi had started his professional life as a political activist in South Africa. He was a newly minted lawyer trained in England. He was asked to represent clients in the Transvaal Province of South Africa. On the way to Johannesburg, he was removed from the train because he was of the wrong race, although he had a first-class ticket. His immediate experience in South Africa was of severe, often legislated forms of racial discrimination, which targeted the Indian community. Since the authorities were well armed and often prone to violence, Gandhi developed a theory of political struggle, which he began to implement.‡ It was, for example, immoral on the part of the victim not to oppose unjust laws. It was immoral on the part of the victimizer to impose unjust laws. Victim and victimizer were implicated. Not only must the victim change, but also so must the victimizer. The struggle, therefore, was not only concerned with the objects of the struggle for justice, but also the method to secure those objectives. Moreover, the method used should be one that would have an educative effect on both the

* "My purpose in offering this resolution is to bury the so-called covenant on human rights so deep that no one holding high public office will ever dare attempt its resurrection." Senator John Bricker (R-Ohio), 1951.

† Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277, entered into force Jan. 12, 1951.

‡ Gandhi is generally regarded as the person who gave the principle of non-violence a distinctive status in political struggle. In effect, with Gandhi, non-violence became both a philosophical approach to politics as well as a preferred human ideal for human development. What is important is that Gandhi made non-violent political action reach a level that had never before been achieved. In Gandhi's action non-violence gravitated from the individual to the social to the political and indeed the spiritual plane. Gandhi captured the notion of non-violence (ahimsa) and its various applications under the concept of satyagraha. In the political struggle in which the victim uses non-violence and accepts violence inflicted on himself without the victim inflicting it on others, the victim is in fact a hero. The sacrifice of enduring the suffering of violence is a monument to moral courage. It is the absolute antithesis of cowardice. In the political struggle, the perfect weapon to confront prejudice, and repression fed by violence, is the weapon of non-violence. The absorption of ahimsa into the concept of satyagraha essentially means that non-violence contains the element of truth force or soul force or what Martin Luther King called, "love in action". See Jude Thaddeus Langeh Basebang, AFRICA NEEDS GANDHI!: The Relevance of Gandhi's Doctrine of Non-violence (2010). http://www.mkgandhi.org/africaneedsgandhi/gandhi's_philosophy_of_nonviolence.htm

victim and the victimizer. In short, there is a morality in both the method and the objective for the struggle for justice. There is a morality in protesting unjust laws. This morality should be respected by both the victim and the victimizer and hopefully the victimizer will see the futility of fighting for immorality. Additionally, there is the strength where the principle of non-violence is an essential strategic component of confronting injustice. In my view, violent solutions are generally a high cost non-solution to the problems of coexistence, human solidarity, and peace. It was these procedures that Gandhi used in South Africa, and later in India, that had some important successes. These strategic methods were reflected in the famous Selma to Montgomery March. The idea of a march itself was reflected in the protest marches that Gandhi used to protest the unjust British Salt Tax[3] in India. The notion of a march demonstrates mass support, disciplined, non-violent foci on a specific target of injustice, such as the Salt Tax in India or the right to vote in Alabama.

The Selma – Montgomery march occurred throughout March of 1965. Demonstrators were confronted with violence from both the public and private sectors. March 7th is remembered as Bloody Sunday. The march started on March 7th with about 600 marchers starting to walk the 50 miles from Selma to Montgomery. The prime objective of the march was to end discrimination in voter registration. On the first day of the march, law enforcement officers attacked the peaceful marchers with teargas and billy clubs. On March 9th, Martin Luther King, himself, led another march to Edmund Pettus Bridge. The bridge was barricaded by state troopers. The barricades had led to demonstrations throughout the United States in solidarity with the marchers in Selma. On the same day, President Johnson condemned the violence in Selma. On March 10th, the Department of Justice filed a suit in Montgomery, Alabama requesting an order to prevent the state from punishing people from exercising their civil and political rights. On March 17, a brave federal judge, Frank M. Johnson, ruled for the marchers. "The law is clear that the right to petition one's government for the redress of grievances may be exercised in large groups." Judge Johnson exemplified the common law tradition of an independent judiciary, acting in case-specific circumstances and unequivocally upholding the supremacy of the law.

Governor George Wallace attacked Judge Johnson's ruling before the state legislature. He additionally claimed that he could not provide security for the marchers nor did the state have the financial resources to do so. Wallace then sent a telegram to President Johnson indicating that the state did not have enough troops to provide adequate security. In turn, President Johnson issued an executive order, which federalized the Alabama National Guard and authorized the Defense Secretary to deploy such federal forces as were necessary to ensure the security of the marchers. The very next day, March 21, 1965, some 3,200 marchers set out from Selma to Montgomery, in a march that symbolized more than simply the repression of voting rights, but rather the effort to validate the legitimacy of the human right to democracy for all. The numbers of the marchers grew and by the time they reached Montgomery, they were 25,000 strong. During the march, a makeshift stage was erected one evening, featuring a Stars for Freedom Rally. Famous singers were on hand, including Harry Belafonte; Joan Baez; Tony Bennet; Peter, Paul and Mary; Nina Simone and many others. Notwithstanding the promise of federal security support, harassment continued and the Ku Klux Klan murdered Viola Liuzzo, a white mother of five from the Midwest. In the wake of the Selma to Montgomery March process, President Johnson presented a bill to a joint

session of congress. This bill was eventually passed as the Voting Rights Act. In introducing the bill, Johnson told the Congress that:

> *"Even if we pass this bill, the battle will not be over. What happened in Selma is part of a far larger movement, which reaches into every section and state in America. It is the effort of American Negroes to secure for themselves the full blessings of American life. Their cause must be our cause, too, because it is not just Negroes but really, it is all of us who must overcome the crippling legacy of bigotry and injustice. And we shall overcome."*[4]

At the conclusion of the Selma to Montgomery march Martin Luther King determined that this march was one of the "great marches of American history." It was a march that generated profound solidarity, among not only African-Americans, but also the nation as a whole. It was, he thought, the democratic spirit that compelled congressional action. In his speech, he recognized that the Civil Rights Act restored to African-Americans the "rightful dignity," but he also pointed out that without the right to vote, the dignity did not have cultural efficacy. The symbology of the notion of the march as a tool of struggle is repeated again and again with such phrases as, "let us march," and "let's march," regarding such issues as poverty, starvation, ballot boxes. Indeed, the march becomes a symbol for the march of universal justice, for the march of human solidarity of universal dignity of all of human kind. The march provides the struggle for justice with a tool of mobilization, a tool of creative non-violent struggle and a tool for reaching out and activating the victim and challenging the victimizer. It is the march and the morality of non-violent struggle that recognizes, in King's words, "the dignity and worth of all of God's children."

"The Court deals with discrimination as an abstraction from reality and not as a product of the imperfections of our social processes."

5. Voting Rights: Post-Script

The march and the struggle for justice and essential dignity proceeds in fits and starts, and sometimes even setbacks. Thus, today, we see renewed efforts of a political party to prescribe and implement procedures designed to undermine the right to vote. A great deal of support for these initiatives have come from five Supreme Court Justices who believe that efforts to protect the right to vote are simply forms of racial entitlement and constitute a form of prohibited discrimination.* This is a view that is vastly divorced from social reality and is moreover an astigmatic misconception of the fundamentals of modern moral imperatives. In short, the Court deals with discrimination as an abstraction from reality and not as a product of the imperfections of our social processes. In truth, any form of legislation must perforce make distinctions. A distinction means that different members of society will be treated differently: some may benefit, some may be indifferent, and some may feel they have lost something. To determine when a distinction is meant to be discrimination, there must be an examination of the conditions where the distinction leads to unfair discrimination. And such a determination can only be made by examining the context of conditions which suggest that the distinction, deemed to be unfair is one that targets a group culturally conceived in

* Shelby Co., Al., v. Holder, 570 U.S. 2 (2013), striking down section 5 of The Voting Rights Act.

historic terms as constituting a group of non-self others. Moreover, the court has never really grappled with the social process of unfair discrimination itself and particularly the distinctive concept of racial discrimination. This is doubtless a continuing struggle. What I want to get back to, in conclusion, is a reexamination of the struggle for human and civil rights and to consider the role of religious values in shaping the struggle.

6. The Inspiration of Religious Values in the Struggle for Justice & Dignity

In the 20th century, it was the Indian political activist (Gandhi) who thought through the issue of the morality of the struggle against prejudice and political oppression. His initial lessons were learned in South Africa. However, the religious influences in his life were significantly developed when he was a student in London. There he connected with the Theosophical Society, which had been initiated by Helena Blavatsky and others. The Theosophical Society took a universalistic view of religion and was greatly influenced by Hinduism, Buddhism, the Kabala tradition, as well as Christianity. It was here that Gandhi became acquainted with Hinduism and Christianity. It is difficult to pinpoint precisely whether the roots of his Hinduism were the foundation of his non-violent approach to political action. Certainly, in the Bhagavad Gita there are references to the high value of non-violence, yet the Gita is also a justification for the moral imperative of engaging in a just war. However, in the Christian tradition, there is Christ teaching that if one slaps you, turn the other cheek. This represents a much stronger form of how one manages to confront violence with non-violence. Here, I believe, at the back of the Christian message is the notion that even the victimizer is not ultimately bereft of all moral sensibility. Giving him the other cheek is also giving him pause to reconsider, and if this happens, he may become aware that violence is simply amoral and he must retreat from it.

What emerges here then is that non-violent resistance to injustice is a sacrifice. Moreover, this sacrifice, in part, is an act of reaching out to the victimizer and giving him the possibility of redemption. So political struggle is meant to be a process of redeeming mankind from himself. This is a very high order of morality and, in my view, it is the quintessence of Christ consciousness. This idea seeped into the Gita and became a part of Krishna consciousness. We may therefore see in the march from Selma to Montgomery the Martin Luther King reconstruction of the Gandhi Christ-Krishna consciousness. The object of struggling for political freedom and dignity cannot shed itself of the moral foundations of Religious consciousness. And Religious consciousness includes: disinterested altruism; a globalizing of compassion and kindness; a constant search for the defining characteristics of human solidarity on a global basis; a deep sense of responsibility that humanities moral order faces immense threats from weapons of mass destruction and from global warming; and that the moral responsibility, underlined by Gandhi and King, requires us to abolish weapons of mass destruction, and to do what must be done to save humanity from global warming. In short, we need global marches to affirm the moral values and affirm our faith in the capacity of humanity to expand its sense of global affection and global love of all.

7. Conclusion

When I was a child, I was able to see the movie, The Wizard of Oz. There is a song in that movie, Somewhere Over the Rainbow. The song includes the lines, "…and the dreams that

you dare to dream, really do come true." In the March on Washington, Martin Luther King said that he too had a dream. His dream was a dream that our nation would judge people on the content of their character and not the color of their skin.[5] At a deeper level, this is a dream in which the very idea that as a nation and as a world we are beset with non-self others who are continuously being characterized as a threat. In the New Testament, Christ gives us the parable of the Good Samaritan.* The Good Samaritan is a non-self other who rescues another non-self other. In short, this act abolishes the idea of a non-self other and broadly expands the inclusive notion of the we, as a symbol of humanities brotherhood and solidarity. In our own time, the Good Samaritan could be a Palestinian and the victim, who is rescued by the Palestinian, an Israeli citizen. From a Christian point of view, they would represent the common "brotherhood or sisterhood of humanity". That is the dream that we must dare to dream. That is the dream that sustained Martin Luther King's Christ-consciousness informed vision of the future of humanity.

"The struggle for justice is not only existentially, but also spiritually a march based on a profound ethical and moral commitment to non-violence and universal brotherhood." – Martin Luther King

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Martin Luther King consistently stresses that the struggle for justice is not only existentially, but also spiritually a march based on a profound ethical and moral commitment to non-violence and universal brotherhood. Let us pause for a moment to consider the implications of the concept of the march itself. It is possible to see the symbology embodied in the march as having both an existential and an allegorical significance for justice and freedom as a step toward marching for spiritual enlightenment. Moreover, here, we have a search for meaning that is both existential and spiritual. Poets have envisioned the search for meaning as also a search for enlightenment. The poet William Blake gives us this version of enlightenment,

"To see a World in a Grain of Sand
And Heaven in a Wild Flower
Hold Infinity in the palm of your hand
And Eternity in an hour...
Every Night and every Morn
Some to Misery are Born.

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* On one occasion an expert in the law stood up to test Jesus. "Teacher," he asked, "what must I do to inherit eternal life?"
"What is written in the Law?" he replied. "How do you read it?"
He answered, "'Love the Lord your God with all your heart and with all your soul and with all your strength and with all your mind'; and, 'Love your neighbor as yourself.'"
"You have answered correctly," Jesus replied. "Do this and you will live."
But he wanted to justify himself, so he asked Jesus, "And who is my neighbor?"
In reply Jesus said: "A man was going down from Jerusalem to Jericho, when he was attacked by robbers. They stripped him of his clothes, beat him and went away, leaving him half dead. A priest happened to be going down the same road, and when he saw the man, he passed by on the other side. So too, a Levite, when he came to the place and saw him, passed by on the other side. But a Samaritan, as he traveled, came where the man was; and when he saw him, he took pity on him. He went to him and bandaged his wounds, pouring on oil and wine. Then he put the man on his own donkey, brought him to an inn and took care of him. The next day he took out two denarii and gave them to the innkeeper. 'Look after him,' he said, 'and when I return, I will reimburse you for any extra expense you may have'."
"Which of these three do you think was a neighbor to the man who fell into the hands of robbers?"
The expert in the law replied, "The one who had mercy on him."
Jesus told him, "Go and do likewise."
The Parable of the Good Samaritan, (Luke 10:25-37, King James Version)

Every Morn and every Night
Some are Born to sweet delight.
Some are Born to sweet delight,
Some are Born to Endless Night."[6]

Thus, the march for justice and freedom is also a march for spiritual meaning. In the words of the physicist, David Bohm,

> *"In human life, quite generally, meaning is being…"*[*]

The march for justice is a march that implicates the interpretation of the universe and we may be in part creating that universe with a commitment to spiritual enlightenment. This search for meaning is vital to the being and becoming of humanity and its spiritual potentiality. As Bohm points out:

> *A change of meaning is necessary to change this world politically, economically and socially but that change must begin with the individual; it must change for him… If meaning itself is a key part of reality, then, once society, the individual and their relationships are seen to mean something different from what they did before, a fundamental change has already taken place.*[†]

It is therefore possible to place the meaning of the Selma to Montgomery march in a broader challenge of the unfolding of meaning as critical to the political and spiritual transformation of humankind. This, I would suggest, is the deeper meaning and the lasting value of the Civil Rights March from Selma to Montgomery, Alabama. It is also Dorothy's dream from *The Wizard of Oz* that the dreams that we dare to dream will really come true.

8. Afterthoughts

I have decided to provide an expanded conclusion to this presentation. In part this has been inspired by the tragic events in Missouri involving Michael Brown. I began to think of the problems of the proliferation of guns and the tragedies that they inspire. In thinking of Ferguson and Connecticut and the stand-your-ground problems regarding Trayvon Martin in Stanford, Florida, I was reminded of the title of a famous Hemmingway novel which is "For Whom the Bell Tolls." These words were appropriated from a poet of the 17th century John Dunn and they first appeared in a sermon he gave. The fuller text is as follows:

"Any man's death diminishes me because I am involved in mankind and therefore never send to know for whom the bell tolls. It tolls for thee."

This is a profound insight into the idea of the intricate oneness of humanity and that such tragedies as in the Michael Brown case or the children of Newtown, Connecticut, profoundly diminish us all. Indeed, because of our human interconnectedness a tragedy for one is a tragedy for all. This is a universalizing of compassion and empathy, but in a deeply

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* Swami Ranganathananda, Human Being in Depth: A Scientific Approach to Religion (Albany: State University of New York Press, 1991)
Bohm: "I am interested in meaning because it is the essential feature of consciousness, because meaning is being as far as the mind is concerned."
Weber: "Is meaning being?"
Bohm: "Yes. A change of meaning is a change of being. If we say consciousness is its content, therefore consciousness is meaning. We could widen this to a more general kind of meaning that may be the essence of all matter and meaning."

† *Id.*

personalized way.

My second insight is owed to a physicist, Albert Einstein. When we consider that so many of our political and economic leaders see the future of America and indeed, the future of mankind as a gigantic poker game or crap shoot, we must of course be very distressed. Our most cherished national and global values are simply poker stakes. It was Albert Einstein's profound instinct that said, God does not play games.

My third point of enlightenment comes from honest Abe Lincoln. It was Lincoln who uttered an absolutely profound caution:

"I tremble for my country when I consider that God is a just God."

My final comment as a point of departure is about the Tea Party. The Tea Party was not a party but a commitment to destroy the tea in Boston Harbor. Today the Tea Party seems bent on destroying some of our most cherished institutions of national government. To them our whole national experience which includes the advancement of human rights for all Americans is a matter to be confronted and destroyed. I would like to see us promote a national tea party where on the 4th of July all the people get together throughout the country and have a national tea party to celebrate our diversity, our commitment to human rights, and to celebrate the universal dignity of man. That is a tea party that I could live with.

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Notes

1. Myres McDougal, "The Ethics of Applying Systems of authority: the balanced opposites of a legal system," in *The Ethic of Power: the interplay of religion, philosophy, and politics*, eds. Harold Lasswell and Harlan Cleveland (New York: Harper and Brothers, 1962)
2. Natalie Hevener Kaufman and David Whiteman, "Opposition to Human Rights Treaties in the United States Senate: The Legacy of the Bricker Amendment," *Human Rights Quarterly* 10, no. 3 (1988): 309 -337
3. Thomas Weber, *On the Salt March: The Historiography of Gandhi's March to Dandi* (New Delhi: HarperCollins, 1997)
4. Lyndon B. Johnson, "We Shall Overcome," *The History Place* http://www.historyplace.com/speeches/johnson.htm
5. Martin Luther King III, *The Words of Martin Luther King, Jr* (New York: Newmarket Press, 2008) I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.
6. William Blake, "Auguries of Innocence," in *The Pickering Manuscript* (Whitefish: Kessinger Publishing, 2004)