

# "A DREAM"

## Civil Rights

been the veterans of creative suffering. Continue to work with the faith that unearned suffering is redemptive.

Go back to Mississippi, go back to Alabama, go back to South Carolina, go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our modern cities, knowing that somehow this situation can and will be changed. Let us not wallow in the valley of despair.

I say to you today, my friends, that in spite of the difficulties and frustrations of the moment I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident, that all men are created equal."

I have a dream that one day on the red hills of Georgia the sons of former slaves and the sons of former slaveowners will be able to sit down together at the table of brotherhood.

I have a dream that one day even the state of Mississippi, a desert state, sweltering with the heat of injustice and oppression, will be transformed into a oasis of freedom and justice.

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.

I have a dream today.

I have a dream that one day the state of Alabama, whose governor is presently dripping with the words of interposition and nullification, will be transformed into a situation where little black boys and black girls will be able to join hand with little white boys and white girls and walk together as sisters and brothers.

I have a dream today.

I have a dream that one day every valley shall be exalted, every hill and



er King, Jr. '48  
28, 1963  
In Memorial

Wilson chapter 19  
Klein Oak High School

# A DREAM

## Introduction

from the veterans of creative suffering. Continue to work with the faith that unearned suffering is redemptive.

Go back to Mississippi, go back to Alabama, go back to South Carolina, go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our major cities. Know that every situation can and will be changed.

- **Civil rights issue**

I say to you today, my friends, that in spite of the difficulties and tribulations of the moment I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live up to the meaning of its creed: "We hold these truths to be self-evident, that all men are created equal."

I have a dream that one day on the red hills of Georgia the sons of former slaves and the sons of former masters will be able to sit down together at the table of brotherhood.

I have a dream that one day even the state of Mississippi, a sweltering with the heat of oppression, will be transformed into an oasis of brotherhood.

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.

I have a dream today.

I have a dream that one day the state of Alabama, presently dripping with blood, and still being made into a barren and desolate transformed into a garden of peace and justice, where little girls will be able to play with little white boys and white girls will be able to play with little black brothers.

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## The black predicament 1

- Perceived costs of granting black rights were not widely shared
  - Costs were concentrated in small, easily organized populations—interest group politics
  - Blacks were at a disadvantage in interest group politics since they were not able to vote in many areas and often lacked the resources for effective political organizing
- Majoritarian politics also worked against blacks
  - Lynchings shocked some whites, but little was done
  - General white public opinion was opposed to black rights
  - Jim Crow laws

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## The black predicament 2

- Progress depended on . . .
  - Finding more white allies, or
  - Shifting to policy-making arenas where whites had less of an advantage
- Civil rights movement did both
  - Broadened base by publicizing the denial to blacks of essential, widely accepted liberties
  - Moved their legal and political struggle from Congress to the federal courts

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## The campaign in the courts 1

- Ambiguities in the Fourteenth Amendment
  - Broad interpretation: the Constitution is colorblind, so no differential treatment is acceptable
  - Narrow interpretation: equal legal rights, but blacks and whites could otherwise be treated differently
  - Supreme Court adopted narrow view in *Plessy v. Ferguson* (1896)

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## The campaign in the courts 2

- “Separate but equal”

- NAACP campaign relied on courts—litigation didn’t require broad coalitions, so the organization could remain nonpartisan

- NAACP strategy went through a series of stages:

- Persuade the Supreme Court to declare unconstitutional the laws creating schools that were separate but obviously unequal
- Then persuade the Supreme Court to declare unconstitutional the laws creating schools that were separate but not so obviously unequal
- Then have the Supreme Court rule that separate schools are inherently unequal and therefore unconstitutional

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## The campaign in the courts 3

- Can separate schools be equal?
  - Step 1: obvious inequalities, addressed in 1938–1948 cases
  - Step 2: deciding that separation creates inequality in less obvious cases
  - Step 3: declaring that separation is inherently unequal, *Brown v. Board of Education*

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# The campaign in the courts 4

- *Brown v. Board of Education* (1954)
  - Unanimous Supreme Court opinion overturned *Plessy*
    - Implementing the decision
      - Class action suit that applied to all similarly situated black children
      - “All deliberate speed” met great resistance
      - Southern Manifesto
      - Collapse of resistance in the 1970s was due to numerous political changes
    - The rationale for the decision
      - Segregation detrimental, creating sense of inferiority in black students
      - Relied on social science because the Fourteenth Amendment was not necessarily intended to abolish segregated schools and the Court sought a unanimous opinion



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## The campaign in the courts 5

- Desegregation versus integration—what does each require?
  - *De jure* (South) and *de facto* (North) segregation
    - *De jure* = imposed by law
    - *De facto* = in reality
  - 1968 rejection of “freedom of choice” plan because it did not produce a unitary, nonracial system of education
  - *Charlotte-Mecklenburg* (1971) set guidelines for school integration cases
    - To violate the Constitution, a school system must have intended to discriminate
    - One-race school creates presumption of intent
    - Remedies for past discrimination can include quotas, busing, redrawn district lines
    - Not every school must reflect the racial composition of the entire system

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## Civil Rights in Congress 1

- Get issues on the political agenda by mobilizing opinion by dramatic events
  - Sit-ins and freedom rides, voter registration efforts
  - Martin Luther King, Jr., Rosa Parks—Montgomery bus boycott
  - From nonviolent civil disobedience to the “long, hot summers” of racial violence (1964–1968)

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## Civil Rights in Congress 2

- Mixed results

- Agenda-setting success

- Coalition-building setbacks since demonstrations and riots were seen as law-breaking by many whites

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Go back to Mississippi, go back to Alabama, go back to South Carolina, go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our major cities. Know that the deepest of our concerns is that this situation can and will be changed.

I say to you today, my friends, that in spite of the difficulties and frustrations of the moment I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident, that all men are created equal."

I have a dream that one day on the red hills of Georgia the weary slaves and the sons of former slaveowners will be able to sit at the table together.

I have a dream that one day even the state of Mississippi, a desert sweltering with the heat of injustice and oppression, will be transformed into a oasis of freedom and justice.

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.

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I have a dream that one day the state of Alabama, whose governor is presently dripping with the words of interposition and nullification, will be transformed into a situation where little black boys and black girls will be able to join hand with little white boys and white girls and walk together as brothers.

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## Civil Rights in Congress 3

- Legislative politics
  - Opponents had strong defensive positions
    - Senate Judiciary Committee controlled by southern Democrats
    - House Rules Committee controlled by Howard Smith (Virginia)
    - Senate filibuster threat
    - President Kennedy reluctant to submit strong civil rights legislation

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## Civil Rights in Congress 4

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Go back to Mississippi, go back to Alabama, go back to South Carolina, go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our modern cities.

– Four developments broke this deadlock

I say to you today, my friends, that in spite of the difficulties and frustrations of the moment I still have a dream. It is a dream which will one day come true.

I have a dream that one day the nation will rise up and live up to the true meaning of its creed: "All men are created equal."

I have a dream that one day the sons of the former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood.

I have a dream that one day every valley shall be exalted, every desert shall be sweetened with the feast of justice and oppression, will be transformed into a vast oasis of freedom.

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.

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# Civil Rights in Congress 5

- Five bills pass, 1957–1968
  - 1957, 1960, 1965: voting rights law
  - 1968: housing discrimination law
  - 1964 civil rights bill: the high point—employment, public accommodations, voting, schools
  - Effects since 1964
    - Mood of Congress has shifted and is now supportive of civil rights
    - 1988 overturn of Reagan’s veto of the civil rights law
      - » Dramatic rise in black voting and change in white elite opinion



# Women and equal rights 1

- Court review of gender-based classifications required the Supreme Court to decide about standards
  - Reasonableness standard versus strict scrutiny
  - Court chooses a blend—more than reasonable but not as much as strict scrutiny

# Women and equal rights 2

- Gender-based differences are prohibited by the courts; applies to . . .
  - Age of adulthood
  - Drinking age
  - Arbitrary employee height-weight requirements
  - Mandatory pregnancy leaves
  - Little League exclusion
  - Business and professional associations
  - Retirement benefits
  - Salaries for high school coaches of girls and boys

# Women and equal rights 3

- Gender-based differences allowed by courts
  - Statutory rape
  - All-boy/all-girl public schools
  - Widows' property tax exemption
  - Delayed promotions in Navy
  - V.M.I. (Virginia Military Institute) case came close to imposing strict scrutiny test

# Women and equal rights 4

- The draft
  - *Rostker v. Goldberg* (1981): Congress may require men but not women to register for the draft
  - Secretary of defense in 1993 allowed women in air and sea combat positions, but not on ground combat positions

# Women and equal rights 5

- Sexual harassment

- Two forms:

- Quid pro quo, sexual favors in return for holding the job or for promotion; employers are strictly liable
- Hostile environment, creating a setting in which harassment impairs a person's ability to work, employers liable if they were negligent

- Supreme Court position continues to evolve and standards are not yet clearly articulated

# Women and equal rights 6

- Abortion
  - Decided by states until 1973
  - 1973: *Roe v. Wade*
    - Struck down Texas ban on abortion and all similar state laws
    - Woman's freedom to choose is protected by the Fourteenth Amendment
      - First trimester: no regulations
      - Second trimester: no ban but regulations to protect health of woman
      - Third trimester: abortion ban is possible

# Women and equal rights 7 (Roe cont'd.)

- Critics claimed life begins at conception
  - Fetus is a person entitled to equal protection guaranteed by Fourteenth Amendment
  - Right-to-life, pro-life position
- Supporters said no one can know when life begins – right to choose, pro-choice position
- Constitutional amendments to overturn *Roe* did not pass Congress
- Hyde amendment (1976): no federal funds for abortion except when woman's life endangered
  - Constitutionality upheld in 1980
- Gag order imposed under Bush, removed under Clinton



# Women and equal rights

- 1973–1989: Supreme Court withstood attacks on *Roe v. Wade*
- *Webster* (1989): Court upheld some restrictions on abortions
- *Casey* decision (1992) does not overturn *Roe* but permits more restrictions: 24-hour wait, parental consent, pamphlets
- Struggle over abortion law has recently involved public demonstrations and violence
  - Courts must balance the right to protest and the clinic's right to function

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## Affirmative action 1

- Equality of results
  - Racism and sexism can be overcome only by taking them into account in designing remedies
  - Equal rights not enough; people need benefits
  - Affirmative action should be used in hiring
  - Supporters tend to be liberal and favor more choice in lifestyle decisions
- Equality of opportunities
  - Reverse discrimination occurs when race or sex is used as a basis for preferential treatment
  - Laws should be color-blind and sex-neutral
  - Government should only eliminate barriers
  - Supporters tend to be conservative, favoring a traditional family arrangement

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## Affirmative action 2

- Issue has been fought out in the courts
  - No clear direction in Court decisions
  - Court is deeply divided—affected by conservative Reagan appointees
  - Law is complex and confusing
    - *Bakke* (1978): numerical minority quotas are not permissible, but race could be considered
    - But Court ruled otherwise in later cases

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## Affirmative action 3

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go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our modern cities, go back to the backwoods of our country.

I say to you today, my friends, that in spite of the difficulties and frustrations of the moment, I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live up to the meaning of its creed: “We hold these truths to be self-evident, that all men are created equal.”

I have a dream that one day the sons of the former slaves and the sons of the former slaveholders will be able to sit together at the table of brotherhood.

I have a dream that one day the sweltering with the heat of injustice and oppression will be replaced by oases of freedom and justice.

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I have a dream that one day the state of Alabama, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of Georgia, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of Louisiana, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of Mississippi, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of South Carolina, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of Alabama, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of Georgia, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of Louisiana, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of Mississippi, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream. I have a dream that one day the state of South Carolina, presently dripping with the blood of injustice and hate, will be transformed into a land where justice will flow like a clear stream.

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### – Emerging standards for quotas and preference systems

- Quota system subjected to strict scrutiny – must be a compelling state interest to justify quotas
- Must correct an actual pattern of discrimination
- Must identify actual practices that discriminate
- Federal quotas will be given deference because the Constitution gives Congress greater power to correct the effects of racial discrimination
- Voluntary preference systems may be easier to justify
- Not likely to apply to persons who get laid off



# Gays and the Supreme Court

- Georgia case allows states to ban homosexual sexual activity
- Colorado case prohibits law that would deny homosexuals the “equal protection of the law”
- “Don’t ask, don’t tell” military policy
- Boston case allows people to exclude those with whom they disagree
- Homosexual civil rights status is therefore unclear



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Dr. Martin Luther King, Jr. '48

April 4, 1968

In Memoriam

The End!