

John Lewis: Conscience & The Path of the Law

By William H. Widen* | 7/29/2020 9:37 PM | © 2020

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This essay reflects on a Sunday spent in Montgomery, Alabama, when a city and a state honored Rep. John Lewis.

LESSON OBJECTIVE: Use the following essay to motivate your thinking about how and why the law changes. Using the life of John Lewis as inspiration, identify instances in which conscience shapes the path of the law.

*Professor of Law at the University of Miami School of Law in Coral Gables, Florida, and an elected member of the American Law Institute.



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This essay reflects on a Sunday spent in Montgomery, Alabama, when a city and a state honored Rep. John Lewis.

In Montgomery last Sunday, many of those who attended the memorials for Rep. John Lewis noted the irony of his reception into the State Capitol of Alabama, contrasting it with his savage beating in Selma on the Edmund Pettus bridge over 50 years earlier.

Some recalled the words of Martin Luther King, Jr., famously echoed by President Barack Obama: “The arc of the moral universe is long, but it bends toward justice.” Based on what I saw and heard on Sunday, we risk misunderstanding Dr. King’s quote if we believe John Lewis’s honor guard instantiates this inspiring idea in a straightforward way.

Justice does not just happen as a natural phenomenon.

*Professor of Law at the University of Miami School of Law in Coral Gables, Florida, and an elected member of the American Law Institute.



John Lewis's honor guard, Alabama State Capitol | Photo Credit © 2020 William H. Widen

John Lewis was the “conscience of the Congress.”

On Sunday, I glimpsed the truth: it is conscience that bends toward justice—the moral trajectory of the universe derives from progress made when conscience motivates action.

The arc of the moral universe bends towards justice only because people of conscience drag it kicking and screaming in that direction. Of practical significance for law reform, the path of the law does not, of its nature, bend toward justice either. Indeed, the law—as an imperfect reflection of the moral universe—perhaps needs even more prodding from conscience than the arc.

On Sunday evening, in the basement of the Dexter Avenue Baptist Church, before a small group, Rev. Dr. Bernard LaFayette, a freedom rider with John Lewis, recounted the beatings on the Edmund Pettus Bridge. If you look at the video, he said, you will see that the police batons look longer than normal. That is because they were actually table legs, acquired from a factory near Selma, with metal inserts to keep them from breaking when you beat someone.

He said that John Lewis was never afraid. You could knock him backwards with a stick—even one with a metal insert—but he, as a man, never took a step backwards.



Rev. Dr. Bernard LaFayette, Jr., in the Dexter Avenue Baptist Church basement | Photo Credit © 2020 William H. Widen

That is the real lesson. Conscience does not take a step back. First and foremost, it is conscience that bends towards justice.

Later in the evening, Rev. Dr. Bernice King—Dr. Martin Luther King Jr.’s youngest daughter—publicly remarked that it would be a fitting tribute to John Lewis to restore protections for voting rights. Reflect on why this is necessary. The path of the law did not bend toward justice when the Supreme Court failed to require continued voting rights protections, allegedly because circumstances had changed since 1965.

Bernice King’s words remind us that law reform, directed by conscience, must redirect the path of the law to the path of justice.



Rev. Dr. Bernice King honors John Lewis | Photo Credit © 2020 William H. Widen

We must recognize that the arc of the moral universe does not bend toward justice merely as an impersonal law of nature operating of its own accord.

Justice will not just take care of itself if we leave well enough alone. We must struggle against the idea that progress in law is inevitable.

The seductive idea of a march of progress infuses many disciplines, from Hegel’s philosophy of history to Darwin’s theory of evolution. Henry Sumner Maine theorized that societies had evolved from feudal *status* to voluntary *contract*. But, in law, the promise of progress often is illusion.

In the law of consumer contracts, for example, we find backwards steps. The law is in the process of reverting from contract back to status—as evidenced by the American Law Institute’s proposed restatement of the law of consumer contracts. The Supreme Court’s expansion of the scope of arbitration—and the inability of Congress to provide a correction—illustrate another retrograde motion.

Nowhere does the law more clearly reflect a step back than in confirming broad First Amendment speech rights to corporations in *Citizens United v. FEC* and what I see as fall out from that decision. It is instructive to note that the *Citizens*

United decision was followed shortly thereafter by *Shelby County v. Holder* which held Section 4(b) of the Voting Rights Act of 1965 unconstitutional. These decisions operate as a one two punch combination against the right to vote—the vehicle through which the electorate may express its collective conscience.

Indeed, Rep. Lewis called the right to vote “the most powerful nonviolent tool we have in a democratic society.” The path of the law, as a reflection of the arc of the moral universe, will only bend toward justice if conscience can be brought to bear on its trajectory. Suppressing the right to vote represses our collective conscience—lessening the lever of justice. Justice requires active participation, not passive waiting for universal laws to kick into gear. There is some evidence for this active approach in the recent introduction of the “John Lewis Voting Rights Advancement Act”—sponsored by 47 Democrats and Republican Lisa Murkowski (Alaska).

Conscience is wasted if it does not motivate action. “Passive” conscience—if such is even a coherent idea—is a pale reflection of the ideal form. To understand Dr. King’s remarks about the arc of the moral universe, we must read those words in context to understand why conscience is a call to action and the role that conscience plays in our moral history as a Nation.

“We must come to see that the end we seek is a society at peace with itself, a society that can live with its conscience.”
— Dr. Martin Luther King, Jr.



Departure of John Lewis | Photo Credit © 2020 William H. Widen