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THE FIERY FURNACE, CIVIL DISOBEDIENCE, AND THE  
CIVIL RIGHTS MOVEMENT:  
A BIBLICAL EXEGESIS ON DANIEL 3 AND LETTER FROM  
BIRMINGHAM JAIL

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\* Jonathan C. Augustine is the 46th Senior Pastor at Historic St. James African Methodist Episcopal Church in New Orleans and an adjunct professor at Southern University Law Center. This essay commemorates the 50th anniversary of the April 4, 1968 assassination of the Reverend Dr. Martin Luther King, Jr., while also honoring the heroism of so many—clergy and laity alike—who have and continue to use civil disobedience as a form of peaceful resistance to combat perceived injustices. Rev. Augustine thanks Drs. Ellen F. Davis and Sarah Stokes Musser of Duke Divinity School for facilitating the creative environment in which this interdisciplinary work was conceived, as well as for their comments on an earlier draft. He also thanks the editors of the Richmond Public Interest Law Review for selecting this essay for publication, and for the honor of working with them in bringing it to completion. Rev. Augustine extends special thanks to his wife, Michelle, and children, Mason and Jillian, for their unconditional support, as well as to Chancellor John K. Pierre and his faculty colleagues at Southern University Law Center. Rev. Augustine can be reached via Twitter: @jayaugustine9, or email: jayaugustine9@gmail.com. For more information on his work and ministry, visit [www.jayaugustine.com](http://www.jayaugustine.com).

## ABSTRACT

*This essay was written in observance of the 50th anniversary of the Reverend Dr. Martin Luther King, Jr.'s untimely assassination in April 1968. It highlights some of King's most important work during the American Civil Rights Movement in terms of its contemporary influence. As a focal thesis, this essay argues that King's famed Letter From Birmingham Jail—written during his April 1963 incarceration in Birmingham, Alabama, for deliberately refusing to follow what he morally deemed to be an “unjust law”—was predicated on the biblical foundation of civil disobedience exemplified in the famed story of Shadrack, Meshack, and Abednego, the three Hebrew boys who refused to obey King Nebuchadnezzar's order to bow down to a deity made of gold. This essay argues that the Hebrew boys' faith-based willingness to suffer the potentially fatal consequence for their civil disobedience instead of complying with immoral governmental dictates exemplifies the Judeo-Christian suffering servant theology that influenced King and permeated the Civil Rights Movement. King's work was fueled by a suffering servant theology that regards suffering as redemptive provided it is for a moral cause. In arguing the Hebrews' civil disobedience set a foundation for King's leadership in the Movement, this essay pays tribute to King's legacy by also connecting his example of selfless sacrifice in the form of civil disobedience in Birmingham to recent contemporary social movements, like Black Lives Matter, a successor to the 1960s Civil Rights Movement, that also seeks egalitarianism and inclusion.*

King Nebuchadnezzar made a golden statue whose height was sixty cubits and whose width was six cubits; he set it up on the plain of Dura in the province of Babylon. <sup>2</sup> Then King Nebuchadnezzar sent for the satraps, the prefects, and the governors, the counselors, the treasurers, the justices, the magistrates, and all the officials of the provinces, to assemble and come to the dedication of the statue that King Nebuchadnezzar had set up. <sup>3</sup> So the satraps, the prefects, and the governors, the counselors, the treasurers, the justices, the magistrates, and all the officials of the provinces, assembled for the dedication of the statue that King Nebuchadnezzar had set up. When they were standing before the statue that Nebuchadnezzar had set up, <sup>4</sup> the herald proclaimed aloud, “You are commanded, O peoples, nations, and languages, <sup>5</sup> that when you hear the sound of the horn, pipe, lyre, trigon, harp, drum, and entire musical ensemble, you are to fall down and worship the golden statue that King Nebuchadnezzar has set up. <sup>6</sup> Whoever does not

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fall down and worship shall immediately be thrown into a furnace of blazing fire.”<sup>7</sup> Therefore, as soon as all the peoples heard the sound of the horn, pipe, lyre, trigon, harp, drum, and entire musical ensemble, all the peoples, nations, and languages fell down and worshiped the golden statue that King Nebuchadnezzar had set up.

<sup>8</sup> Accordingly, at this time certain Chaldeans came forward and denounced the Jews. <sup>9</sup> They said to King Nebuchadnezzar, “O king, live forever! <sup>10</sup> You, O king, have made a decree, that everyone who hears the sound of the horn, pipe, lyre, trigon, harp, drum, and entire musical ensemble, shall fall down and worship the golden statue, <sup>11</sup> and whoever does not fall down and worship shall be thrown into a furnace of blazing fire. <sup>12</sup> There are certain Jews whom you have appointed over the affairs of the province of Babylon: Shadrach, Meshach, and Abednego. These pay no heed to you, O king. They do not serve your gods and they do not worship the golden statue that you have set up.”

<sup>13</sup> Then Nebuchadnezzar in furious rage commanded that Shadrach, Meshach, and Abednego be brought in; so they brought those men before the king. <sup>14</sup> Nebuchadnezzar said to them, “Is it true, O Shadrach, Meshach, and Abednego, that you do not serve my gods and you do not worship the golden statue that I have set up? <sup>15</sup> Now if you are ready when you hear the sound of the horn, pipe, lyre, trigon, harp, drum, and entire musical ensemble to fall down and worship the statue that I have made, well and good. But if you do not worship, you shall immediately be thrown into a furnace of blazing fire, and who is the god that will deliver you out of my hands?”

<sup>16</sup> Shadrach, Meshach, and Abednego answered the king, “O Nebuchadnezzar, we have no need to present a defense to you in this matter. <sup>17</sup> If our God whom we serve is able to deliver us from the furnace of blazing fire and out of your hand, O king, let him deliver us. <sup>18</sup> But if not, be it known to you, O king, that we will not serve your gods and we will not worship the golden statue that you have set up.”<sup>1</sup>

## INTRODUCTION

April 2018 marks the 50th anniversary of the assassination of the Reverend Dr. Martin Luther King, Jr. While many will commemorate King’s death with celebrations of his life by undoubtedly focusing on some of his most famous works, this essay argues that one of his most important works during the American Civil Rights Movement (“the Movement”) in terms of

<sup>1</sup> *Daniel* 3:1–18 (New Revised Standard Version) (all scriptural references cited herein are from the New Revised Standard Version of the Holy Bible, unless expressly stated otherwise).

its contemporary relevance in the United States was his *Letter From Birmingham Jail*.<sup>2</sup> The *Letter* was written after his April 1963 arrest for protesting against what he often called the “iron feet of oppression.”<sup>3</sup> A 20th century treatise on civil disobedience, King’s theologically-grounded letter became a lynchpin of the Movement. Moreover, this essay respectfully argues that the sociopolitical circumstances leading to King’s incarceration and authorship of the *Letter From Birmingham Jail* closely parallel the sociopolitical circumstances surrounding *Daniel* 3:1–18 (“the Pericope”). Accordingly, this essay explores the contextual similarities between *Letter From Birmingham Jail* and the famed story of Shadrack, Meshack, and Abednego (“the Hebrews”) being thrown into the fiery furnace at the order of King Nebuchadnezzar during the Babylonian Exile (“the Exile”).

Further, this essay explains how King Nebuchadnezzar’s role in the *Daniel* 3 narrative parallels that of the state. After capturing and subjugating the Hebrews, King Nebuchadnezzar later appoints them to governmental positions while simultaneously subjecting them to cultural oppression. By constructing the golden deity and ordering that everyone bow down to worship it, Nebuchadnezzar created a form of theocracy to which the Hebrews acted out their unequivocal objection.<sup>4</sup> Their subsequent civil disobedience grounded in theology provides a framework for understanding the theology behind King’s Good Friday arrest, Easter weekend incarceration, and authorship of the *Letter From Birmingham Jail*. Consequently, I argue the Hebrews’ civil disobedience set a foundation for both King’s leadership in the Movement and the suffering servant theology employed by many Black<sup>5</sup> clergy and lay leaders in the form of civil disobedience.<sup>6</sup> Finally, this essay

<sup>2</sup> See Martin Luther King, Jr., *Letter from Birmingham Jail* (1963), reprinted in *A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS AND SPEECHES OF MARTIN LUTHER KING, JR.* 289 (James M. Washington ed., 1986) [hereinafter King, *Letter from Birmingham Jail*].

<sup>3</sup> Martin Luther King, Jr., *Facing the Challenge of a New Age* (1956), reprinted in *A TESTAMENT OF HOPE*, supra note 2, at 136.

<sup>4</sup> *Daniel* 3 is not the only instance wherein oppressed Jews acted out their objection to cultural oppression in the form of civil disobedience. For example, as Dean Heath of Duke Divinity School writes, regarding the narrative in the book of *Esther*, “When Haman demanded that subordinates bow down before him, Mordecai practiced civil disobedience. Just as Vashti had refused to disgrace herself with the king’s drunken guests, Mordecai would not compromise his faith or dignity and bow down to Haman.” ELAINE A. HEATH, *WE WERE THE LEAST OF THESE: READING THE BIBLE WITH SURVIVORS OF SEXUAL ABUSE* 60 (2011).

<sup>5</sup> Several legal scholars argue “Black” should be capitalized as a proper noun because, similar to Asian and Latino, it denotes a specific cultural group. See, e.g., D. Wendy Greene, *Black Women Can’t Have Blonde Hair . . . in the Workplace*, 14 J. GENDER RACE & JUST. 405, 405 n.2 (2011); Kimberlé Williams Crenshaw, *Race, Reform, and Re-entrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1332 n.2 (1988); see also Neil Gotanda, *A Critique of “Our Constitution is Color-Blind.”* 44 STAN. L. REV. 1, 4 (1991). In deference to these scholars’ advocacy, I hereinafter either use the terms “African American” or “Black” to denote Americans of African descent.

<sup>6</sup> See, e.g., DAVID J. GARROW, *BEARING THE CROSS: MARTIN LUTHER KING, JR. AND THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE* 127–28 (1986) (discussing the North Carolina A&T college stu-

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highlights the Movement's theological influences that remain relevant today.

To support the foregoing thesis, this work is organized into two parts. Following this introduction, Part I offers a contextual analysis by exploring the sociocultural conditions that are a backdrop to *Daniel* 3 and draws a parallel between them and the sociocultural conditions that prompted King's civil disobedience in Birmingham. Part II provides an analysis of selected scriptural Pericope and connects its historical foundation to King's leadership in the Movement. In doing so, Part II synthesizes the Hebrews' civil disobedience against Nebuchadnezzar's oppression, King's civil disobedience against the unjust denial of a parade permit in Jim Crow Birmingham, and the suffering servant theological foundation that undergirded the Movement's success, while also showing its continued relevance.

## I. RISING ACTION & CONFLICT DEVELOPMENT: PARALLEL OPPRESSION IN *DANIEL* & THE MOVEMENT

### A. The Book of Daniel's Historical Context

In the Hebrew Bible, *Daniel* is grouped with the Writings.<sup>7</sup> In the Christian Bible, however, it is grouped with prophetic literature as the last of the Major Prophets.<sup>8</sup> Contemporary scholarship categorizes *Daniel* as apocalyptic and as having two parts, chapters 1–6 and 7–12.<sup>9</sup> Each of *Daniel*'s two parts corresponds to a different genre: the first comprises a collection of stories that follow the persecutions of heroic role models of faithful Jews, while the second comprises visions that promise Jewish deliverance in a new kingdom.<sup>10</sup> The narratives in chapters 1–6 create an exilic period set-

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dents' February 1, 1960, sit-ins in protest of racial segregation laws at the F.W. Woolworth lunch counter in Greensboro, N.C., along with Dr. King's vocal support of the college students' activities) [hereinafter GARROW, BEARING THE CROSS]; DOROTHY STERLING, TEAR DOWN THE WALLS!: A HISTORY OF THE AMERICAN CIVIL RIGHTS MOVEMENT 190–93 (1968). Moreover, there are also countless historical examples of how interfaith clergy and seminarians hosted and participated in public demonstrations against unjust laws. See, e.g., TAYLOR BRANCH, AT CANAAN'S EDGE: AMERICA IN THE KING YEARS 1965–68, at 216–17 (2006).

<sup>7</sup> See MICHAEL D. COOGAN, A BRIEF INTRODUCTION TO THE OLD TESTAMENT: THE HEBREW BIBLE IN ITS CONTEXT 398 (2009).

<sup>8</sup> JOHN F. WALVOORD, DANIEL: THE KEY TO PROPHETIC REVELATION 12 (1989). In Christian tradition, the writings of the four Major Prophets precede the twelve Minor Prophets. The four Major Prophets are: Isaiah, Jeremiah, Ezekiel, and Daniel. The Minor Prophets are Hosea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habakkuk, Zephaniah, Haggai, Zechariah, and Malachi. The distinction between "major" and "minor" does not denote social or political influence. It only relates to the volume of the literature attributed to the respective prophets. See, e.g., COOGAN, *supra* note 7, at 406.

<sup>9</sup> COOGAN, *supra* note 7, at 406.

<sup>10</sup> *Id.* In addition to *Daniel*'s genre division, there is also a second, linguistic division. "While Dan. 1:1–

ting in the 6th Century B.C.E.,<sup>11</sup> whereas the four visions in chapters 7–12 provide insights into events of later centuries.<sup>12</sup> Note, however, although *Daniel*'s literary setting is exilic, it is probably a much later composite, likely taking final form during Antiochus' persecution of the Jews beginning with the 167 B.C.E. temple desecration.<sup>13</sup> Further, while *Daniel* is presumed to be pseudonymous, its editors likely compiled it during the 2nd century Maccabean period.<sup>14</sup>

Although *Daniel*'s genre is apocalyptic and its canonical grouping is prophetic, the Pericope is a court tale. Old Testament scholar Michael Coogan, a professor at Harvard Divinity School, writes, "the book of Daniel is not prophesy, but comprises two distinct genres. Chapters 1–6 are tales of heroic fiction . . . containing plot motifs like those we have seen in the book of Esther."<sup>15</sup> Accordingly, as the first six chapters are a collection of interrelated tales, the Pericope—a part of *Daniel*'s first genre—is arguably best described as a court tale encouraging religious fidelity.<sup>16</sup> The same sort of religious fidelity, exemplified by Jesus' use of nonviolence, also fueled King and other religious leaders in the Movement.<sup>17</sup> As depicted in chapter 1–6, the Exile began when the Babylonians seized Jerusalem.<sup>18</sup> The Jews' captivity in Babylon was the 70-year span foretold by the prophet Jeremiah.<sup>19</sup> The Exile, also called the Babylonian Captivity, was predicated by the Israelites recurring apostasy and failure to maintain their covenant relationship with God.<sup>20</sup> The most comprehensive biblical account of the Exile, from a historical perspective, is detailed in *Jeremiah* 52.<sup>21</sup>

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2:4a and chaps. 8–12 are written in Hebrew, Dan. 2:4b–7:28 is written in Aramaic". *Id.*

<sup>11</sup> HAROLD ATTRIDGE, THE HARPER COLLINS STUDY BIBLE: FULLY REVISED AND UPDATED (NRSV) 1302 (1989); see COOGAN, *supra* note 7, at 407.

<sup>12</sup> ATTRIDGE, *supra* note 11, at 1302; see COOGAN, *supra* note 7, at 407.

<sup>13</sup> ATTRIDGE, *supra* note 11, at 1302.

<sup>14</sup> *Id.* at 1302–03. The Maccabean period, also popularly known as the time of the Maccabean Revolt, stands in sharp contrast to the emphasized civil disobedience exhibited in the Pericope. In the Bible's apocryphal/deuterocanonical section (those non-canonical writings not included as part of the sixty-six books comprising the Protestant Bible, but preserved as source of Jewish history), the Maccabean Revolt depicts a more radicalized response to Jewish oppression and subjugation, arguably similar to the popularized Black Power Movement, a response to 1960s subjugation of Blacks that was dramatically different from King's nonviolent, civil disobedience. See generally 1 and 2 *Maccabees* (describing the Maccabean Revolt); THE ILLUSTRATED HISTORY OF THE JEWISH PEOPLE (Nicholas de Lange ed., 1997).

<sup>15</sup> COOGAN, *supra* note 7, at 406.

<sup>16</sup> See *id.*

<sup>17</sup> See CHARLES MARSH, THE BELOVED COMMUNITY: HOW FAITH SHAPES SOCIAL JUSTICE, FROM THE CIVIL RIGHTS MOVEMENT TO TODAY 45–46 (2005).

<sup>18</sup> See COOGAN, *supra* note 7, at 360.

<sup>19</sup> See *Jeremiah* 25:10–11; see also *Jeremiah* 29:10–14.

<sup>20</sup> See *Jeremiah* 25:3–9.

<sup>21</sup> See generally *Jeremiah* 52 (providing a biblical account of the Exile). Arguably, however, the most profound account of the oppressive conditions under which the Jews suffered during the Exile is found in the book of *Lamentations*, a poetic work, also attributed to the prophet Jeremiah. See generally

### B. Story & Structure of the Pericope

The Pericope's movement flows like the image of an upward spiral reaching its highest point of drama at its apex and then plateauing. Accordingly, it includes a foundation (verse 1), rising action (verses 2–7), climax (verses 8–15), and plateau (verses 16–18). Verse 1 provides a foundation for the rising action and conflict seen in verses 2–7, as the action moves toward the climatic apex, and uses the literary tool of repetition, which enhances the narrative's drama. As the drama continues, verses 8–15 constitute a dramatic climax detailing both Nebuchadnezzar's rage and final warning. After Nebuchadnezzar's final commands making clear the consequences of noncompliance, the action plateaus with the Hebrews' civil disobedience and acceptance of consequences, in verses 16–18. Considering its contemporary application, this plateau is arguably the Pericope's most socio-politically relevant part.<sup>22</sup> Indeed, faith in divine power undergirded both Jewish resistance in the Exile and Black resistance in the Movement, as discussed below.

In *Daniel* 3, the Hebrews are living under the totalitarian regime of King Nebuchadnezzar, the Babylonian ruler who captured them in Jerusalem and subjected them to service in Babylon.<sup>23</sup> By the time of *Daniel* 3, although the Hebrews had been promoted in the hierarchy of their involuntary service to Nebuchadnezzar,<sup>24</sup> they are still subjected to “second-class citizenship” as non-egalitarian ethnic minorities in the Diaspora, much like the Jews in the book of *Esther* during the Babylonian Exile and African Americans in the Jim Crow South during the 1960s.<sup>25</sup> For example, as part of a

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*Lamentations* 1–5 (detailing the oppressive conditions suffered by the Jews during the Exile). Additionally, another biblical account that depicts the Jewish people's exilic oppression and suffering, in the form of poetry, is *Psalms* 137. See generally *Psalms* 137 (explaining further the Jewish people's suffering during the Exile).

<sup>22</sup> Goldie Taylor, *Black Lives Matter is Our Civil Rights Movement*, DAILY BEAST (July 12, 2016), <https://www.thedailybeast.com/goldie-taylor-black-lives-matter-is-our-civil-rights-movement> (arguing that the Movement set a foundation for recent acts of civil disobedience and the Black Lives Matter Movement, Taylor writes: “I am, quite frankly, glad Dr. King never stayed on the sidewalk. I am glad he chose to march without a permit or the approval of men like Bull Connor, Birmingham's commissioner of public safety, or Jim Clark, the former sheriff of Selma, Alabama. Now, I am also glad that social justice activist DeRay Mckesson can often be spotted wearing a blue puffer vest and a pair of loud red Nike shoes on the front line . . . Black Lives Matter is not a perfect movement. There were moments when I feared it was not sustainable and that its messages were being lost. I worried openly about how effectively the movement would impact public policy . . . Ultimately, we were a better nation because of the work so many did decades ago and we will be better still—despite the pain we are experiencing right now—because we did not shy away from this one.”); see also Peniel E. Joseph, *Why Black Lives Matter Still Matters*, NEW REPUBLIC (Apr. 6, 2017), <https://newrepublic.com/article/141700/black-lives-matter-still-matters-new-form-civil-rights-activism>.

<sup>23</sup> See *Daniel* 1:1–7.

<sup>24</sup> See *Daniel* 2:46–49.

<sup>25</sup> Margaret Hu, *Algorithmic Jim Crow*, 86 *FORDHAM L. REV.* 633, 651 (2017); see *Esther* 3:8–15.



presumably forced cultural assimilation similar to the experience of slaves in the Antebellum South, the Hebrews were forced to assume new names. Daniel was given the name Belteshazzar, Hananiah was called Shadrach, Mishael was named Meshach, and Azariah was called Abednego.<sup>26</sup> Cain Hope Felder, a noted African American biblical scholar and former professor at Howard Divinity School, writes, “in biblical thought, a name is not just a label of identification: it is an expression of the essential nature of its bearer. A man’s name reveals his character. When Nebuchadnezzar had Daniel and his brothers’ names changed to Babylonian names, it was more than a name change. It was intended to reflect a change in character.”<sup>27</sup>

The Pericope’s civil disobedience is occasioned by the oppressive conditions under which Jews lived in Babylon. *Daniel* encourages nonviolent resistance in breaking the laws of the land that do not comport with the moral laws of God.<sup>28</sup> The Pericope’s climax, again using literary repetition, restates Nebuchadnezzar’s command, while also emphasizing the consequences of non-compliance that were specific to the Hebrews,<sup>29</sup> much the same way consequences were expressly made known to King in Birmingham.<sup>30</sup> Verse 8 sets this climax in motion by underscoring the issue of race: “The Chaldeans of verse 8 may be people of Babylonian race (as in 1:4) who are hostile to the three Jews on ethnic grounds.”<sup>31</sup> According to Professor Levine, this is the same sort of ethnic prejudice that surfaced in *Esther* 3:8.<sup>32</sup>

### C. Civil Rights Rising

Opinion varies as to when the Civil Rights Movement began. I previously argued it began in December 1955 with Rosa Parks and the Montgomery Bus Boycott.<sup>33</sup> In other scholarship, however, I argue the Movement was al-

<sup>26</sup> *Daniel* 1:7.

<sup>27</sup> CAIN HOPE FELDER, ORIGINAL AFRICAN HERITAGE STUDY BIBLE 1254 n.5 (1993).

<sup>28</sup> Daniel Smith-Christopher, *Daniel*, in THE NEW INTERPRETER’S BIBLE 34 (1996). In relying on civil disobedience and nonviolent resistance, King details the evolution of his socio-theological thought, in his first book, *Stride Toward Freedom*, published after the success of the Montgomery Bus Boycott, King details how he was originally influenced by Henry David Thoreau’s *Essay on Civil Disobedience*, before his formal study of works by Rauschenbusch, Niebuhr, and Nietzsche, along with his comprehensive study of Gandhi. See also MARTIN LUTHER KING, JR., *STRIDE TOWARD FREEDOM: THE MONTGOMERY STORY* 91–107 (1958) [hereinafter KING, *STRIDE TOWARD FREEDOM*] (explaining how King’s views on nonviolent resistance and civil disobedience undergirded his leadership in the Movement.).

<sup>29</sup> See *Daniel* 3:8–15.

<sup>30</sup> King, *Letter from Birmingham Jail*, *supra* note 2, at 289.

<sup>31</sup> John E. Goldingay, *God Vindicates His Power When Three Jews Choose Burning Rather than Apostasy* (3:1–30), in 30 *Word Biblical Commentary* 70 (David A. Hubbard et al. eds., 2015).

<sup>32</sup> See THE NEW OXFORD ANNOTATED BIBLE 1239 (Michael D. Coogan ed., 4th ed. 2010).

<sup>33</sup> Jonathan C. Augustine, *The Theology of Civil Disobedience: The First Amendment, Freedom Riders*,

ready underway when the Court decided *Brown v. Board of Education* in 1954.<sup>34</sup> While opinion may vary as to when the Movement began, I respectfully argue it remains a work-in-progress that has given birth to other movements, like the Environmental Justice Movement,<sup>35</sup> as well as the Black Lives Matter Movement.<sup>36</sup>

In addition to spurring other movements, the Movement successfully spurred advances in the right of Blacks through seminal legislation. Although “success” is arguably a subjective measure, in recent scholarship, I argue the Movement can empirically be termed successful because of the passage of the Voting Rights Act of 1965<sup>37</sup> and the subsequent increase in political participation by minority citizens who were not able to participate in the electoral process prior to the Act’s passage.<sup>38</sup> Indeed, in chronicling the Act’s historical significance, noted historian David Garrow writes:

The newspapers of August 7 devoted [significant] headline coverage [to the Act]. On the same morning, front page stories also informed readers that voter registration officials in Sumter County, Georgia had dropped their opposition to a [B]lack registration drive that had been going on for two weeks, and that some three hundred new [B]lack voters had been registered in Sumter County on August 6 alone.<sup>39</sup>

Moreover, in analyzing the Act, Professor Garrow also writes, “the Voting Rights Act was being called ‘the most successful piece of civil rights legislation ever enacted’ by [Nicholas Katzenbach] a former attorney general and ‘one of the most important legislative enactments of all time’ by [the Rev. Theodore M. Hesburg] . . . [president emeritus of the University of Notre Dame and former] chairman of the U.S. Civil Rights Commission.”<sup>40</sup> While the Act’s passage marked a significant change in America’s political history, it was also critically important in protecting the right to vote, described by the Supreme Court as “preservative of all rights.”<sup>41</sup>

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*and Passage of the Voting Rights Act*, 21 S. CAL. INTERDISC. L.J. 257 n.2 (2012) [hereinafter Augustine, *The Theology of Civil Disobedience*].

<sup>34</sup> Jonathan C. Augustine, *The Interest Convergence of Education Reform and Economic Development: A Response to “The State of Our Unions,”* 51 U. LOUISVILLE L. REV. 407, 408 n.3 (2013).

<sup>35</sup> Jonathan C. Augustine, *Environmental Justice and Eschatology in Revelation*, 58 LOY. L. REV. 325, 329–30 (2012).

<sup>36</sup> Jelani Cobb, *The Return of Civil Disobedience*, NEW YORKER (Jan. 9, 2017), <http://www.newyorker.com/magazine/2017/01/09/the-return-of-civil-disobedience>.

<sup>37</sup> Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437 (codified at 52 U.S.C. § 10,301).

<sup>38</sup> See Augustine, *The Theology of Civil Disobedience*, *supra* note 33, at 293–95; see also Jonathan C. Augustine & John K. Pierre, *The Substance of Things Hoped For: Faith, Social Action and Passage of the Voting Rights Act of 1965*, 46 CUMB. L. REV. 425, 429–32 (2016).

<sup>39</sup> David J. Garrow, *Protest at Selma: Martin Luther King, Jr., and the Voting Rights Act of 1965*, at xi (3rd ed. 1979) (citations omitted).

<sup>40</sup> *Id.*

<sup>41</sup> *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) (discussing the Equal Protection Clause and using the

Although King clearly did not act alone, he is popularly regarded as the Movement's leader.<sup>42</sup> King's nonviolent leadership was influenced in large part by his divinity school study of Mohandas K. Gandhi's use of civil disobedience during the Indian Independence Movement in the 1940s.<sup>43</sup> A theologically-related morality and a refusal to follow laws that were deemed immoral served as the foundations for Gandhi's successful use of civil disobedience in India, as well as the basis for King's successful use of civil disobedience in the Movement.<sup>44</sup> King's leadership in the Movement was also significantly influenced by the theology of Walter Rauschenbusch, a Baptist minister and professor of church history, who "believed that the American democracy undergirded by Christian morality represented a new era of social progress."<sup>45</sup> King also credited his studies of Rauschenbusch and Gandhi's ethics of nonviolence as a basis for his social views.<sup>46</sup>

King's theology influenced the Movement's innocuous acts of civil disobedience, like the North Carolina A&T student-led lunch counter sit-in on February 1, 1960.<sup>47</sup> Moreover, in the same context, Black liberation theologian Vincent Harding writes:

[T]he movement's bold strand of nonviolence (and we will surely teach that there were other, sometimes competing, strands) provides a chance and a challenge that cannot be left unmet. It allows us to go with our students as deeply as we choose toward the sources of that lifestyle, delving, for instance, into the experience and experiments of Gandhi and his movement, into the paths of the Buddha, working our way toward Jesus of Nazareth and his justice-obsessed brother and sister prophets of Israel, moving quietly, firmly into the river-deep meditations of Howard Thurman—perhaps even reading more of King than the worthy and well-worn 1963 March on Washington "I Have a Dream" speech. We must work our way into the depths of spirit which supplied the movement with so much of its early power.<sup>48</sup>

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right to vote as an example of a fundamental political right in a larger discussion).

<sup>42</sup> See generally JESSIE CARNEY SMITH, *BLACK HEROES* 422–30 (2001) (detailing King's life and legacy).

<sup>43</sup> See MARSH, *supra* note 17, at 45–46. See generally Yxta Maya Murray, *A Jurisprudence of Nonviolence*, 9 CONN. PUB. INT. L.J. 65 (2009) (providing an excellent analysis of how King understood Gandhi's position on civil disobedience, its influence on his leadership in the Movement, and civil disobedience in other contexts).

<sup>44</sup> See Smith-Christopher, *supra* note 28, at 34; see also JAMES H. CONE, *THE CROSS AND THE LYNCHING TREE* 88–89 (2011).

<sup>45</sup> Janet Forsythe Fishburn, *Walter Rauschenbusch and "The Woman Movement": A Gender Analysis*, in *GENDER AND THE SOCIAL GOSPEL* 71 (Wendy J. Deichmann Edwards & Carolyn De Swarte Gifford eds., 2003).

<sup>46</sup> See Michael Dwayne Blackwell, *In the Legacy of Martin Luther King, Jr.: The Social Gospel of Faye Wattleton and Marian Wright Edelman*, in *GENDER AND THE SOCIAL GOSPEL*, *supra* note 45, at 217 (discussing the egalitarian theory that is arguably the best example of evangelical liberalism).

<sup>47</sup> See, e.g., GARROW, *BEARING THE CROSS*, *supra* note 6, at 127–28.

<sup>48</sup> VINCENT HARDING, *HOPE AND HISTORY: WHY WE MUST SHARE THE STORY OF THE MOVEMENT* 98 (1990) (discussing the theology of hope that permeated the acts of civil disobedience during the Civil

In the days leading up to his arrest, because of Birmingham's widely noted racial prejudice, King and other African American ministers unsuccessfully sought a parade permit, as required by municipal ordinance, to protest the city's oppressive conditions.<sup>49</sup> Leslie Griffin, a noted interdisciplinary scholar and law professor writes that, in denying the permit, Birmingham Police Commissioner Bull Connor publicly and repeatedly remarked, "No, you will not get a parade permit in Birmingham, Alabama to picket. I will picket you over to the City Jail."<sup>50</sup> Police Commissioner Connor, the infamous head of the Birmingham Police Department, was no friend of the African American community. Andrew Young describes him as "a man who made no secret of his contempt for [B]lack citizens. Connor had become a sort of folk hero to racists everywhere."<sup>51</sup> Consequently, much like in the selected Pericope from *Daniel*, the consequences of King's dissidence were publicly known. King engaged in civil disobedience, disobeying what he deemed to be an "unjust law," and readily accepted the consequences of his actions.<sup>52</sup>

## II. CLIMAX & PLATEAU: PARALLEL RESISTANCE INSPIRED BY FAITH

### A. Civil Disobedience & Suffering Servant Theology

Definitions of civil disobedience abound.<sup>53</sup> In previous scholarship, I define civil disobedience as "an outward act in direct contravention of a known prohibition or mandate, *based on a moral duty* to violate that which is deemed immoral, with the *understanding that the immoral prohibition or mandate was government imposed*."<sup>54</sup> Also helpful on this point, as it relates to defining civil disobedience in the context of a social movement, is Jelani Cobb, who writes:

Movements are born in the moments when abstract principles become concrete concerns. MoveOn arose in response to what was perceived as the Republican

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Rights Movement).

<sup>49</sup> See *Walker v. Birmingham*, 388 U.S. 307, 307 (1967).

<sup>50</sup> See *id.* at 325.

<sup>51</sup> ANDREW YOUNG, *AN EASY BURDEN: THE CIVIL RIGHTS MOVEMENT AND THE TRANSFORMATION OF AMERICA 200* (1996).

<sup>52</sup> See GARROW, *BEARING THE CROSS*, *supra* note 6, at 224.

<sup>53</sup> See, e.g., Steven M. Bauer & Peter J. Eckerstrom, Note, *The State Made Me Do It: The Applicability of the Necessity Defense to Civil Disobedience*, 39 *STAN. L. REV.* 1173, 1175 n.14 (1987); Matthew R. Hall, *Guilty but Civilly Disobedient: Reconciling Civil Disobedience and the Rule of Law*, 28 *CARDOZO L. REV.* 2083, 2085 n.2 (2007).

<sup>54</sup> Augustine, *The Theology of Civil Disobedience*, *supra* note 33, at 262 (emphasis added) (citations omitted); see also HENRY DAVID THOREAU, *CIVIL DISOBEDIENCE* (1849), *reprinted in* THE POWER OF NONVIOLENCE 15 (2002).

congressional overreach that resulted in the impeachment of President Bill Clinton. The Occupy movement was a backlash to the financial crisis. The message of Black Lives Matter was inspired by the death of Trayvon Martin and the unrest in Ferguson, Missouri.<sup>55</sup>

While both of the foregoing definitions specifically address governmental action, I argue herein that in *Daniel 3*, King Nebuchadnezzar plays a role similar to the modern state or, more precisely, to the combined “church and state.”

My definition of civil disobedience further presupposes the underlying act is quasi-First Amendment in nature because the dissident actor(s) openly display their nonconformance against that which is deemed unjust by deliberately disregarding the government’s position in a public place and during a peaceful assembly.<sup>56</sup> In relevant part, the First Amendment provides “Congress shall make no law . . . abridging the *freedom of speech . . . or of the people peacefully to assemble, and to Petition the Government* for a redress of grievances.”<sup>57</sup> Although the First Amendment’s express language obviously refers to Congress, a branch of the federal government, it was made applicable to the states and/or state action through the Fourteenth Amendment’s Due Process Clause.<sup>58</sup> As such, the discriminatory state actions against King discussed herein fell squarely within the First Amendment’s protections. Consequently, when either the state or a municipality or a political arm thereof attempts to abridge an individual’s First Amendment guarantees, as did the city of Birmingham in denying the parade permit at issue, “First Amendment due process” requires the states to justify its actions.<sup>59</sup>

When civil disobedience is tied to faith as it was for King and the Hebrews, the actions that follow adhere to the “suffering servant theology.” The Movement’s suffering servant theology—paraphrased as redemptive hope through sacrificial suffering—is based on the messianic connection of *Isaiah 53* to certain parts of the gospel narratives.<sup>60</sup> The suffering servant

<sup>55</sup> Cobb, *supra* note 36.

<sup>56</sup> Augustine, *The Theology of Civil Disobedience*, *supra* note 33, at 262 n. 23.

<sup>57</sup> U.S. CONST. amend. I (emphasis added).

<sup>58</sup> See *Wallace v. Jaffree*, 472 U.S. 38, 48–49 (1985); see also *Gitlow v. New York*, 268 U.S. 652, 666 (1925).

<sup>59</sup> See Henry P. Monaghan, *First Amendment “Due Process,”* 83 HARV. L. REV. 518, 519 (1970).

<sup>60</sup> See, e.g., *Matthew 27*; *Mark 15*; *Luke 23*; *John 19*. See generally Morna D. Hooker, *Jesus and the Servant: The Influence of the Servant Concept of Deutero-Isaiah in the New Testament* (1959); Jesus and the Suffering Servant: *Isaiah 53 and Christian Origins* (William H. Bellinger & William R. Framers eds., 1998) (including exegetical interpretations of the messianic suffering servant connectedness between *Isaiah* and the gospel narratives); Stanley Hauerwas, *The Weapon of Love: How Martin Luther King, Jr. Became Nonviolent*, ABC Religion & Ethics (Jan. 16, 2017), <http://www.abc.net.au/religion/articles/2017/01/16/4604568.htm> (suggesting that, for King, this connec-

theology was also evident in other clergy-led acts of civil disobedience throughout the Movement. For example, my previous work explores events like the Freedom Rides of 1961 and the infamous Bloody Sunday March over the Edmund Pettis Bridge in Selma, Alabama in 1965, as acts of civil disobedience undergirded by a suffering servant theology where oppressed people sought full equality for riding in interstate commerce and exercising the right to vote, respectively.<sup>61</sup> Moreover, like the Hebrews in *Daniel 3*, the Movement's dissident actors were fully aware of the potentially life-ending consequences of their refusal to comply with the law. This type of civil disobedience is arguably the essence of a suffering servant theology. Here, I describe the Hebrews and King's acts of civil disobedience in light of their suffering servant theology.

### B. The Hebrews' Fate & Faith

Foundationally, Nebuchadnezzar makes a golden image and sets it out on a public plain in the Babylonian province.<sup>62</sup> As the tale begins its upward trajectory, Nebuchadnezzar then gathers his empire's principal officials for the golden deity's dedication, under a quasi-consolidated form of church and state, as described by *Daniel's* writer(s) use of repetition as a literary tool.<sup>63</sup> Nebuchadnezzar's all-inclusive command and pronounced consequences follow as he admonishes people of every language that at "the sound of the horn, flute, zither, lyre, harp, pipe, and all kind of music," they were to fall down and worship the gold image.<sup>64</sup> Indeed, the variety of instruments referenced arguably symbolized the fact that Nebuchadnezzar's order covered a wide variety of people that were subject to his rule.<sup>65</sup>

Nebuchadnezzar, then, required that the many classes of people fall prostrate to the ground as a sign of reverence to the deity.<sup>66</sup> Arguably, therefore, under his imperial conflation of church and state, refusal to yield homage to the golden deity was an act of hostility against the kingdom and its monarch, subject to the penalty of being thrown into a blazing furnace.<sup>67</sup> As Walvoord explains,

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tion also linked Gandhi to Jesus' Sermon on the Mount).

<sup>61</sup> See Jonathan C. Augustine, *The Keys Are Being Passed: Race, Law, Religion and the Legacy of the Civil Rights Movement* 22, 28, 33–34 (2014) [hereinafter Augustine, *The Keys are Being Passed*].

<sup>62</sup> See *Daniel* 3:1.

<sup>63</sup> See *Daniel* 3:1–3.

<sup>64</sup> *Daniel* 3:4–5.

<sup>65</sup> See THE NEW OXFORD ANNOTATED BIBLE, *supra* note 32, at 1239 (arguing that the range of instruments, reprised in *Daniel* 1:7, 10, and 15, is folkloric, echoing hyperbole, but indicates the almost universal acceptance of Nebuchadnezzar's order).

<sup>66</sup> See *id.*

<sup>67</sup> See *id.*

The worship of the image was intended to be an expression of political solidarity and loyalty to Nebuchadnezzar rather than an intended act of religious persecution. It was in effect a saluting of the flag, although because of the interrelationship of religious with national loyalties, it may also have had religious connotation.<sup>68</sup>

This type of hegemonic imperialism, an affront to the ethnic heterogeneity in Nebuchadnezzar's kingdom,<sup>69</sup> is arguably similar to the racial subjugation Blacks experienced under segregationists like Police Commissioner Bull Connor. In the midst of Nebuchadnezzar's rage, the Pericope's apex, the drama plateaus when the Hebrews demonstrate the suffering servant theological fidelity that undergirds their refusal to follow what they obviously deemed an unjust law.<sup>70</sup> Just as King did in Birmingham, the Hebrews readily accepted the consequences of civil disobedience. I respectfully argue this verse is the Pericope's apex because it climaxes the rising action and anticipation of the state-imposed consequences of noncompliance.<sup>71</sup>

The Hebrews fully understood the potentially fatal consequences of their civil disobedience by refusing to participate in the immorality of idolatry.<sup>72</sup> Indeed, regardless of potentially life-ending consequences, the Hebrews were not detoured,<sup>73</sup> much in the way the Movement's activists were not detoured from their acts of civil disobedience, fully appreciating their potentially life-ending consequences.<sup>74</sup> Consequently, the Hebrews' rejection of Nebuchadnezzar's order is a form of civil disobedience, with an understood anticipation of what was presumed to be certain death, that sets a theological foundation for the Freedom Rides of 1961,<sup>75</sup> the Bloody Sunday March across the Edmund Pettis Bridge in 1965,<sup>76</sup> and King's obvious will-

<sup>68</sup> WALVOORD, *supra* note 8, at 82.

<sup>69</sup> See *Daniel* 3:4–7. Based on the diversity of languages referenced in the Pericope's verses 3 and 7, "Nebuchadnezzar's Babylon had become a cosmopolitan city whose population included people of many national and ethnic origins." ZONDERVAN, NIV STUDY BIBLE 1420 (2011).

<sup>70</sup> See *Daniel* 3:15–18.

<sup>71</sup> See *Daniel* 3:16–18.

<sup>72</sup> See DAVID JEREMIAH & C.C. CARLSON, *THE HANDWRITING ON THE WALL: SECRETS FROM THE PROPHECIES OF DANIEL* 76–77 (1992).

<sup>73</sup> *Daniel* 3:16–18.

<sup>74</sup> See generally RAYMOND ARSENAULT, *FREEDOM RIDERS: 1961 AND THE STRUGGLE FOR RACIAL JUSTICE* 125–47 (2011), for an excellent and comprehensive account of how the suffering servant theology manifested in the form of civil disobedience by members of the Student Nonviolent Coordinating Committee (popularly known as "SNCC" (snick)), where college-aged young people literally risked their lives to combat racial segregation through organizing and participating in "freedom rides" on Greyhound and Trailways Buses, as public demonstrations against racial segregation in interstate commerce.

<sup>75</sup> See *id.*

<sup>76</sup> See AUGUSTINE, *THE KEYS ARE BEING PASSED*, *supra* note 61, at 22, 28, 33–34.

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ingness to accept the potentially fatal threat of being incarcerated in Birmingham in 1963.<sup>77</sup>

In emphasizing the theological foundation upon which the Hebrews rejected Nebuchadnezzar, after receiving his ultimatum of idolatry or death, the last two verses of the Pericope provide the following:

Shadrach, Meshach, and Abednego answered and said to the king, ‘O Nebuchadnezzar, we have no need to answer you in this matter. If that is the case, our God whom we serve is able to deliver us from the burning fiery furnace and He will deliver us from your hand, O king. But if not, let it be known to you, O king, that we do not serve your gods, nor will we worship the gold image which you have set up.’<sup>78</sup>

Moreover, as Matthias Henze, a professor of Hebrew Bible and early Judaism at Rice University writes, in expounding upon the forgoing two verses: “The conditional form of their reply . . . *If our God . . . But if not . . .* makes clear that the three youths themselves are not without doubt about the outcome of their trial. They act on the basis of moral principle, not because they are certain about their deliverance.”<sup>79</sup> Verses 14–16 and Professor Henze’s interpretation of those verses support the conclusion that the Hebrew’s morally motivated act of dissonance undergirded their noncompliance without personal fear of suffering the consequences. This type of dissident action, whether during the Exile or the Movement, is the best illustration of the definition of civil disobedience adopted for this Essay.<sup>80</sup>

### C. King's Redemptive Martyrdom

King and other notable Movement activists were engaged in acts of civil disobedience as part of a desegregation campaign against merchants in Birmingham’s business district. In detailing his planned resistance to the oppressive conditions in Birmingham, King wrote “I had intended to be one of the first to set the example of civil disobedience. . . . We decided that, because of its symbolic significance, April 12 [1963], Good Friday, would be the day that Ralph Abernathy and I would present out bodies as personal witnesses in this crusade.”<sup>81</sup> King originally wrote the famed *Letter From Birmingham Jail* after his April 12, 1963 Good Friday arrest in Birmingham, Alabama. King directed the letter to interdenominational members of

<sup>77</sup> *See id.*

<sup>78</sup> *Daniel* 3:16–18 (New King James Version).

<sup>79</sup> Matthias Henze, *Daniel*, in 7 THE NEW INTERPRETER’S STUDY BIBLE: NEW REVISED STANDARD VERSION WITH THE APOCRYPHA 1237 (2003).

<sup>80</sup> Augustine, *The Theology of Civil Disobedience*, *supra* note 33, at 256.

<sup>81</sup> Martin Luther King, Jr., *The Birmingham Campaign*, in THE AUTOBIOGRAPHY OF MARTIN LUTHER KING, JR. 181 (Clayborne Carson ed., 1998).



the clergy that challenged his dissident actions as “unwise and untimely.”<sup>82</sup> The letter earned King a notable place in history, along with Mahatma Gandhi and Henry David Thoreau, because of his effective use of civil disobedience as a nonviolent tool of resistance.<sup>83</sup>

Similar to the Hebrews, King’s civil disobedience, especially his willingness to be incarcerated in Birmingham on Good Friday in 1963—a potential fatal scenario—resulted from the oppressive conditions under which African Americans lived in the South,<sup>84</sup> some of which mirrored the oppressive conditions under which the Jews lived during the Exile.<sup>85</sup> In the face of oppression, therefore, King’s leadership in the Movement affirmed the moral duty he believed Judeo-Christian objectors had to deliberately disobey society’s unjust laws. For example, in responding to fellow clergy members’ criticisms, King writes:

You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court’s decision of 1954 outlawing segregation in public schools, it is rather paradoxical to find us consciously breaking laws. One may well ask, ‘How can you advocate breaking some laws and obeying others?’ The answer is found in the fact that there are two types of laws: there are *just* and there are *unjust* laws. I would agree with St. Augustine that “An unjust law is no law at all.”<sup>86</sup>

As Peter Paris, professor emeritus at Princeton Theological Seminary, writes, “King had advocated time and again that those who acquiesce to evil participate in promoting evil and are, therefore, as much the agents of evil as the intimidators themselves[.]”<sup>87</sup> Accordingly, civil disobedience in the Movement—as in *Daniel* 3:1–18—was about using moral authority to

<sup>82</sup> See King, *Letter from Birmingham Jail*, *supra* note 2, at 289.

<sup>83</sup> JONATHAN RIEDER, *GOSPEL OF FREEDOM: MARTIN LUTHER KING, JR.’S LETTER FROM BIRMINGHAM JAIL AND THE STRUGGLE THAT CHANGED A NATION*, at xiv (2013). Because of *Letter from Birmingham Jail*’s analysis of civil disobedience, the letter was reprinted in *Atlantic Monthly* magazine and, because of the letter’s sociopolitical importance, it has been reprinted in law review articles. See, e.g., Martin Luther King, Jr., *Letter from Birmingham Jail*, reprinted in 26 U.C. DAVIS L. REV. 835 (1993).

<sup>84</sup> See, e.g., CONE, *supra* note 44, at 65–92 (describing the social conditions of lynching and the frequent oppressive conditions under which African Americans were forced to live in the South); see also Jonathan C. Augustine & Ulysses Gene Thibodeaux, *Forty Years Later: Chronicling the Voting Rights Act of 1965 and its Impact on Louisiana’s Judiciary*, 66 LA. L. REV. 453, 455–58 (2006) (describing the cultural oppressive and discriminatory practices of many Southern states in preventing African Americans from voting).

<sup>85</sup> As an example of the Jewish people’s cultural oppression during the Exile, in relevant part, the author of *Psalms* 137 writes as follows: “By the rivers of Babylon we sat and wept when we remembered Zion. There on the poplars, we hung our harps, for there our captors asked us for songs, our tormentors demanded songs of joy; they said, ‘Sing us one of the songs of Zion!’ How can we sing the songs of the Lord while in a foreign land?” *Psalms* 137:1–4 (New Int’l Version); see also Smith-Christopher, *supra* note 28, at 34; KING, *STRIDE TOWARD FREEDOM*, *supra* note 28, at 18–19.

<sup>86</sup> King, *Letter from Birmingham Jail*, *supra* note 2, at 293.

<sup>87</sup> PETER J. PARIS, *BLACK RELIGIOUS LEADERS: CONFLICT IN Unity* 120–21 (2d ed. 1991).

overcome the injustices of culturally oppressive circumstances. In believing that laws requiring racial segregation and discrimination were “unjust laws,”<sup>88</sup> and that suffering was necessary to eradicate such injustices, Professor James Cone of Union Theological Seminary of New York, an ordained minister in the African Methodist Episcopal Church and the popularly regarded father of “Black Liberation Theology,” describes King as follows:

Unlike most Christians . . . King accepted Jesus’ cross, knowing that following Jesus involved suffering and, as it did for Jesus, the possibility of unjust death. Even as a child, King’s favorite song was ‘I Want to Be More Like Jesus’; and as a minister and civil rights activist, he put that song into practice until he, like Jesus, was killed trying to set people free. While King never thought he had achieved the messianic standard of love found in Jesus’ cross, he did believe that his suffering and that of African Americans and their supporters would in some mysterious way redeem America from the sin of white supremacy, and thereby make this nation a just place for all. Who can doubt that those who suffered in the [B]lack freedom movement made America a better place than before? *Their suffering redeemed America from the sin of legalized segregation.*<sup>89</sup>

One can also logically argue that as a Baptist minister, King’s Judeo-Christian theology and associated willingness to accept the consequences of breaking unjust laws shows that “[t]he philosophy of civil disobedience embodies the recognition that obligations beyond those of the law might compel law breaking, but the doctrine steers that impulse toward a tightly-cabined form of illegal protest nevertheless consistent with respect to the rule of law.”<sup>90</sup>

The Hebrews ready acceptance of the consequences of their civil disobedience is the Pericope’s plateau and arguably the heart of suffering servant theology. As evidence of its influence on King, in defending his actions in Birmingham, King writes:

Of course, there is nothing new about this kind of civil disobedience. It was seen sublimely in the refusal of Shadrach, Meshach and Abednego to obey the laws of Nebuchadnezzar because a higher moral law was involved. It was practiced superbly by the early Christians who were willing to face hungry lions and the excruciating pain of chopping blocks, before submitting to certain unjust laws of the Roman Empire.<sup>91</sup>

<sup>88</sup> King, *Letter from Birmingham Jail*, *supra* note 2, at 293.

<sup>89</sup> CONE, *supra* note 44, at 88–89.

<sup>90</sup> Hall, *supra* note 53, at 2083.

<sup>91</sup> King, *Letter from Birmingham Jail*, *supra* note 2, at 294. Further, King also embraced a suffering servant theology in citing so-called religious extremists, in defining his civil disobedience in Birmingham, by giving specific biblical examples within the famous letter: “. . . as I continued to think about the matter I gradually gained a bit of satisfaction from [being considered an extremist]. Was not Jesus an extremist in love . . . Was not Amos an extremist for justice: ‘Let justice roll down like waters and

Accordingly, the Pericope sets a theological foundation for King's civil disobedience in Birmingham and the Judeo-Christian suffering servant theology that undergirded the Movement.<sup>92</sup> Further, in addition to the suffering servant theology, an egalitarian evangelical liberalism, along with the spirit of a *Daniel 3*-like civil disobedience, also undergirded the Movement as an expression of the social gospel.<sup>93</sup> King and the Hebrews were both willing to accept potentially fatal consequences, rather than conform to morally unjust laws. This "martyrdom theology"—mandating acceptance of consequences, rather compliance with state-sponsored immorality—directly connects the Hebrews in the Exile with King in the Movement.

In responding to his fellow members of the clergy's criticisms, in writing *Letter From Birmingham Jail*, King expounded on his discernment of "just" and "unjust" laws to illustrate their difference and support his actions of civil disobedience. In relevant part, he wrote:

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a law that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: an unjust law is a

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righteousness like a mighty stream.' Was not Paul an extremist for the Christian gospel . . ." *Id.* at 297.

<sup>92</sup> In illustrating this point, Prof. Cone argues, "*King saw in Jesus' unmerited suffering on the cross God's answer to [B]lack suffering on the lynching tree.* Even in the face of the killing of four little girls in the Sixteenth Street Baptist Church in Birmingham (September 15, 1963), King did not lose his faith that love is redemptive, even for the whites who committed the unspeakable crime. In his 'Eulogy for the Martyred Children,' King said that 'they did not die in vain. God still has a way of wringing good out of evil. *History has proven over and over again that unmerited suffering is redemptive.*' He contended that their 'innocent blood' could serve as a 'redemptive force' to transform 'our whole Southland from the low road of man's inhumanity to man to the high road of peace and brotherhood.'" CONE, *supra* note 44, at 86–87 (emphasis added).

<sup>93</sup> Evangelical liberalism stands in direct contrast to what might be termed "evangelical conservatism," where there is a strict separation between the church and sociopolitical issues. See Augustine, *The Theology of Civil Disobedience*, *supra* note 33, at 265. Instead, evangelical liberalism focuses on human good and the church's role in society at large. On this point, Georgetown law professor Anthony Cook writes as follows: "Evangelical liberalism, from its theory of human nature, deduced a new role for the Church and for Christians. Given intrinsic human goodness, social institutions could and should be transformed to reflect more accurately the ideals of universal kinship and cooperation. An infallible scripture reflecting the static will of God could not justify social institutions like slavery and segregation." Anthony E. Cook, *Beyond Critical Legal Studies: The Reconstructive Theology of Dr. Martin Luther King, Jr.*, 103 HARV. L. REV. 985, 1025–26 (1990). Furthermore, as evidence of how evangelical liberalism fueled the Movement and theological activism, other scholars also note that "the formative religious traditions of the Western world—Judaism and Christianity—have for millennia embraced the conviction that their religious duty entailed active intervention in the 'body politic.' As a result . . . 'churches and synagogues can no more be silent on public issues than human beings can refrain from breathing.'" Daniel O. Conkle, *Secular Fundamentalism, Religious Fundamentalism, and the Search for Truth in Contemporary America*, in LAW & RELIGION: A CRITICAL ANTHOLOGY 326 (Stephen M. Feldman ed., 2000) (citing Dean M. Kelley, *The Rationale for the Involvement of Religion in the Body Politic*, in THE ROLE OF RELIGION IN THE MAKING OF PUBLIC POLICY 159, 168 (James E. Wood, Jr. & Derek Davis eds., 1991). Further, with respect to the church's role in society, Cook also writes that "unlike the dichotomy of conservative evangelicalism, there was a necessary relationship between the sacred and the secular, the Church and social issues." Cook, *supra*, at 1026.

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human law not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority.<sup>94</sup>

The same spirit of civil disobedience that led to a theologically-based rejection of unjust laws in Birmingham is the same spirit of civil disobedience that led to the Hebrews rejection of Nebuchadnezzar's order in Babylon. Moreover, it also undergirded another popular example of the Movement's suffering servant theology manifesting in the form of civil disobedience: Rosa Parks' rejection of the state-imposed inferiority system of segregation that led to King's leadership in the Montgomery Bus Boycott.<sup>95</sup> Indeed, as Adam Fairclough writes:

Her decision to choose arrest rather than humiliation when driver J. F. Blake ordered her to give up her seat on December 1, 1955, was more than the impulsive gesture of a seamstress with sore feet. Although shy and unassuming, Rosa Parks held strong and well-developed views about the inequities of segregation. Long active in the NAACP, she had served as secretary of the local branch. In the summer of 1953 she spent two weeks at Highlander Folk School in Monteagle, Tennessee, an institution which assiduously encouraged interracial amity. Founded and run by Myles Horton, Highlander flouted the local segregation laws and gave black and white Southerners a virtually unique opportunity to meet and mingle on equal terms. Rosa Parks' protest on the Cleveland Avenue bus was the purposeful act of a politically aware person.<sup>96</sup>

It was civil disobedience. It was a suffering servant theology. These motivations were a thread interwoven throughout and undergirding the Movement's success. Moreover, it is a thread that is interwoven with contemporary social movements seeking egalitarianism and inclusiveness, as discussed above.

<sup>94</sup> King, *Letter from Birmingham Jail*, *supra* note 2, at 293.

<sup>95</sup> Parks' dissident act of civil disobedience was in response to the 1950s sociopolitical climate. After she was arrested for refusing to follow a bus driver's order to vacate her seat for a white passenger, King and almost all the other Black ministers in Montgomery led a boycott of the city's bus system. See KING, STRIDE TOWARD FREEDOM, *supra* note 28, at 43–48; see also JAMES H. CONE, RISKS OF FAITH: THE EMERGENCE OF A BLACK THEOLOGY OF LIBERATION, 1968–1998, at 57–58 (1999) (discussing King's study of Henry David Thoreau while a student at Morehouse College and Gandhi while at Crozier Seminary as influences on his philosophical development regarding civil disobedience). Further, in noting the boycott's significance in the Movement and impliedly citing the suffering servant theology, Prof. Oppenheimer writes that “[t]he Montgomery bus boycott initiated a profound change in the struggle for civil rights. Whereas the NAACP believed in legal reform through lobbying and litigation, the preachers used the weapon of direct confrontation. Dr. King believed that only by personally confronting the immorality of segregation, placing his own safety and liberty at risk, would the laws of inequality be challenged.” David Benjamin Oppenheimer, *Kennedy, King, Shuttlesworth and Walker: The Events Leading to the Introduction of the Civil Rights Act of 1964*, 29 U.S.F. L. REV. 645, 648 (1995) (emphasis added).

<sup>96</sup> ADAM FAIRCLOUGH, TO REDEEM THE SOUL OF AMERICA: THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE AND MARTIN LUTHER KING, JR. 16 (1987).

### CONCLUSION

Fifty years after King's death, as America pauses to reflect on some of his most significant accomplishments, his legacy remains. This interdisciplinary essay explores the biblical basis of his leadership in the Movement at the intersection of evangelical liberalism and civil disobedience, where a suffering servant theology manifested to undergird King's use of civil disobedience.

The Pericope exhibits nonviolent resistance during the Exile with the famed story of Shadrack, Meshack, and Abednego. The narrative's climax and plateau demonstrate a theologically-based resistance in the form of civil disobedience exemplifying a suffering servant theology that preempts individual concern with communal focus, that allows morality to compel non-conformity. This same theological framework was the basis of King's civil disobedience in Birmingham and his leadership throughout the Movement. Moreover, from a Judeo-Christian perspective, this example of martyrdom theology, finding redemption in suffering for a moral cause, was the very essence of the crucifixion of Jesus the Christ. Furthermore, this suffering servant theology is not only evidenced in the Pericope, as a biblical foundation for civil disobedience, but its influence on King was arguably the Movement's very foundation. In building upon it, King's legacy remains alive and well as his influence continues to manifest in contemporary social movements, even 50 years after his untimely assassination.