



"The Sanctity of Private Property": The Civil Rights Act and the Limitations of American Liberalism

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Martin Luther King Jr. and Malcolm X meet for the first and only time, March 26, 1964, Washington, D.C. They had come to hear the Senate debate on the Civil Rights Act of 1964.

“The Sanctity of Private Property”: The Civil Rights Act and the Limitations of American Liberalism

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In marking the fiftieth anniversary of the Civil Rights Act of 1964, commenters frequently lamented the contrast between progress toward legal equality and the persistence of economic inequality today. “The decision to pursue purely legal change, and to leave economic relationships alone, says much about the intellectual and moral limitations of midcentury liberalism,” wrote journalist Clay Risen. “There was a significant increase in the black middle class,” agreed historian William Chafe, “but it had almost no effect on the 50 percent who were at the bottom.”¹

African-Americans made significant and unprecedented gains in income and occupational status during the two decades following 1964.

There is no denying that African-Americans suffer rates of poverty that are similar to, and in some respects worse than, their predecessors in the 1960s. Yet, it is doubtful that this situation can be attributed to the Civil Rights Act. Numerous studies have shown that African-Americans made significant and unprecedented gains in both income and occupational status during the two decades following 1964, and those improvements resulted in large part from federal civil rights policies. It is true that the number of black professionals quadrupled between the 1960s and the 1990s, but that was equaled and often exceeded by improvements within blue-collar occupations. An important

recent study by historian Gavin Wright shows that economic gains were most dramatic in the South, where expanded employment opportunities were reinforced by better access to stores, schools, and the right to vote.²

Indeed, the breadth and speed of that transformation reflected the degree to which the Civil Rights Act transcended economic and political beliefs that united a broad spectrum of liberal and conservative politicians in the decades following the Second World War. When President John F. Kennedy first proposed the law, on June 11, 1963, he insisted that discrimination in public services and voter registration violated egalitarian ideals “as old as the scriptures and as clear as the American Constitution.” Senate Republican Leader Everett Dirksen agreed it was high time to ensure equal access to voting and public services such as schools, parks, libraries, and swimming pools. The Illinois moderate warned, however, that he and other northern Republicans could not endorse Kennedy’s proposal to impose those principles on privately owned “public accommodations” such as hotels, restaurants, and stores. Even more alarming for Dirksen were proposals to create a Fair Employment Practices Commission (FEPC) to investigate private businesses charged with discriminating against workers on the basis of their race, color, religion, or nationality. Such powers “could easily

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be abused and should not be given lightly,” Dirksen told a reporter on June 12, pointing out that his support would be critical to overcoming the filibuster that southern Democrats were certain to launch if Kennedy’s bill ever made it to the Senate floor. Kennedy conceded by weakening the public accommodations measure and moving the FEPC into a separate bill that had little chance of gaining support in Congress.³

For civil rights leaders, however, that compromise was unacceptable. After all, the FEPC had been central to the movement’s agenda since the Second World War, when black labor leader A. Philip Randolph threatened to lead a massive March on Washington to protest employment discrimination in defense industries and the armed forces. Randolph canceled the demonstration at the last minute after President Franklin D. Roosevelt issued an executive order barring federal contractors from discriminating during the war, but he and other black leaders vowed to continue fighting for a “Permanent FEPC.”⁴

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By the 1960s, FEPC laws had been adopted by fifteen states and several major cities, but still rejected by Congress. Noting that automation was eliminating the unionized manufacturing jobs that black workers struggled to gain in the postwar era, Randolph warned that without an end to employment discrimination,

Negroes may wind up, not only as unskilled and unemployed, if not unemployable, but as the forgotten slum proletariat in the black ghettos on the great metropolitan centers of the country, existing within the grey shadows of a hopeless hope.⁵

Meanwhile, mass protests expanded the fight from employment to demand equal treatment from privately owned transportation firms, restaurants, and stores across the Jim Crow South. Boycotts and sit-ins won important victories in

the courts, but federal authorities refused to enforce those decisions nationwide. Indeed, it was the brutal repression of protests aimed at winning equal service and employment at stores and restaurants in downtown Birmingham, Alabama that forced President Kennedy to propose his civil rights bill in 1963. The exclusion of private businesses from that law would have represented a tremendous defeat.⁶

Historian Nancy MacLean points out that passage of the Civil Rights Act forced conservatives to abandon explicit defenses of segregation and white supremacy in favor of “color blind” critiques of government encroachment on private property, but it is important to note that they were trailing broader shifts in public opinion. Polls conducted early in 1963 indicated that white Americans had grown far more egalitarian over the two decades since A. Philip Randolph first proposed a March on Washington. Eighty-three percent of whites, for example, believed that “Negroes should have as good a chance as white people to get any kind of job,” nearly double the percentage that expressed the view in the 1940s. Whites were far more resistant to the idea that government should impose such beliefs on private citizens, however. Whereas three-quarters of white northerners, and even the majority of white southerners, believed that property owners had the right to sell or rent their homes to anyone regardless of their race, the majority in both regions objected to laws requiring them to do so. Vermont Senator George Aiken tapped into that sentiment when he warned that restrictions on discrimination in public accommodations would rob business owners of their “right to select the people” they serve. Raising the specter of a black man forcing his way into a white woman’s home, he told a reporter soon after Kennedy proposed the law, “I don’t think it would be safe to force Mrs. Murphy, who took tourists perhaps down a country road, to accept anyone who comes along.”⁷

It was precisely such logic that Randolph sought to counter by renewing the March on Washington in 1963. Calling initially for a “March for Jobs,” the aging trade unionist was convinced to reach out to Martin Luther King and others pushing for integration and voting rights in the South. In his opening address to the

nearly quarter million people who gathered at the Lincoln Memorial on August 28, 1963, the civil rights leader rejected Kennedy's view that racial equality could be achieved by simply upholding egalitarian principles that had guided the United States since its founding. "Now, we know that real freedom will require many changes in the nation's political and social philosophies and institutions," he insisted. Responding directly to Senator Aiken, Randolph declared,

For one thing we must destroy the notion that Mrs. Murphy's property rights include the right to humiliate me because of the color of my skin. The sanctity of private property takes second place to the sanctity of the human personality.⁸

Often credited with shifting popular opinion in favor of civil rights, the March on Washington actually solidified positions on both sides. Initially, leaders of the largest civil rights and labor organizations hesitated to endorse the mobilization out of fear that a militant mobilization would alienate supporters in the White House and Congress, but Randolph convinced them that it was worth risking defeat of Kennedy's moderate bill for the possibility of getting one they really wanted. "The job question is critical," labor leader Walter Reuther insisted in his speech at the Lincoln Memorial, "because we will not solve education or housing or public accommodations as long as millions of American Negroes are treated as second class economic citizens and denied jobs." Roy Wilkins, perhaps the most moderate of all civil rights leaders, blasted Kennedy's bill as "little more than sugar water" and insisted all other gains would be meaningless without "the pride and responsibility and self-respect that goes along with jobs." Even AFL-CIO President George Meany, who refused to join the demonstration due to Randolph's harsh criticism of racism within organized labor, lent the full weight of his organization behind efforts to add the FEPC law to the bill in the months following the March on Washington.⁹

Some feared that white religious organizations supporting struggles for integration and voting rights in the South would be alienated by

the emphasis on jobs and economic reform but Anna Arnold Hedgeman, who led the campaign for a Permanent FEPC in the 1940s, pointed out the nation's major religious denominations all had long histories of pushing for economic justice. Hedgeman also pushed Randolph to invite representatives from the National Council of Negro Women, a network of black women's clubs and sororities that had backed Randolph's efforts since the 1940s, into the official leadership of the demonstration. Randolph refused, leading some to propose picketing him when he addressed the national press club, but Hedgeman and others resolved to withhold their grievances. The day after the March on Washington, NCNW President Dorothy Height invited leaders of black and white women's organizations to gather at her Washington headquarters to plan a Leadership Conference on the links between sexism and racism.¹⁰

Even as the March on Washington solidified a coalition around the demand "For Jobs and Freedom," liberal Senator Hubert Humphrey noted that it "probably hasn't changed any votes on the civil rights bill." South Carolina Senator Strom Thurmond dismissed the protest as "totally unnecessary and uncalled for," and Everett Dirksen insisted that legislators "had a responsibility to render an independent judgment" rather than being swayed by protesters. Few Senators accepted A. Philip Randolph's invitation to be introduced at the Lincoln Memorial, and although Kennedy greeted March leaders warmly in the White House that evening, he made it clear the bill would move forward without the FEPC or a stronger public accommodations clause.¹¹

The resistance was understandable. Kennedy's approval ratings declined steadily since he announced the civil rights bill in June and, while civil rights leaders were increasingly frustrated by his moderation, polls showed that a majority of white northerners and three-quarters of white southerners felt he was "pushing integration too fast." Meanwhile, Arizona Senator Barry Goldwater, who claimed to support equal treatment but blasted Kennedy's public accommodations proposal as "destructive to the rights of property," gained a steady lead over more liberal Republicans in the bid to challenge the President in 1964. Attorney

General Robert Kennedy defended the president's civil rights bill as "a necessary step," but admitted that it was "having an adverse political effect on his brother's chances of re-election in the North and the South."¹²

The breadth of opposition to the March on Washington's agenda was overshadowed by the particularly violent backlash in the South, most notably the bombing that killed four young girls and wounded dozens of worshippers at 16th St. Baptist Church in Birmingham, Alabama. That same week, over four thousand white homeowners marched on Chicago's City Hall to protest an ordinance banning racial discrimination in the sale, rental, and financing of housing. Echoing their senator Everett Dirksen's defense of private property, they carried signs asking "Is My Home My Castle?" and chanted "I'll pick my own neighbors; I'll sell to whom I choose." Similar protests mounted against "open housing" laws in Michigan and California, and one survey indicated that the majority of white northerners believed a homeowner had the right to discriminate against potential buyers or renters on the basis of their race. "The white North is no more ready to accept genuine integration and real equality than the deep South," the pollsters concluded.¹³

Kennedy opposed efforts to strengthen the bill until his assassination on November 22, 1963, but "the March on Washington coalition" found an unexpected ally in his successor, Lyndon B. Johnson. With deep roots in New Deal liberalism and personal experience with the links between race and poverty in rural Texas, Johnson proved far more sympathetic than Kennedy toward Randolph's belief that racial equality could not be achieved without economic justice. In his first major address as president, Johnson urged a joint session of Congress to honor the slain executive by passing "the civil rights bill for which he fought so long." In addition to endorsing the FEPC and public accommodations clauses that Kennedy had opposed, however, Johnson also pushed lawmakers to couple the civil rights law with an "unconditional war on poverty in America." The idea of a War on Poverty originated in a modest health and education proposal from the Kennedy administration but, as with the civil rights bill, Johnson expanded it into the largest

increase in federal spending on education, housing, and health care since the 1930s. Johnson "made it very clear that he feels the fight on poverty and illiteracy is a vital part of the fight on discrimination," stated James Farmer, who headed the Congress on Racial Equality.¹⁴

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With support from the White House, the March on Washington coalition finally succeeded in strengthening the civil rights law. When a surprisingly strong bill advanced to the House of Representatives in February 1964, civil rights leaders mobilized to prevent conservatives from gutting the FEPC and public accommodations clauses. "Busloads of foot soldiers rolled in daily from across the country," writes Risen, "church groups from Iowa, union workers from Cleveland, civil rights activists from New York City." Ironically, their broadest victory came from the women who had been excluded from leadership in the coalition. When Virginia Congressman Howard Smith proposed to expand the FEPC clause to bar employers from discriminating on the basis of sex, as well as race, color, religion, and nationality, most civil rights leaders saw it as an effort to discredit the law. Pauli Murray, however, an attorney who helped organize the March on Washington Movement in the 1940s and delivered the keynote address at the NCNW's Leadership Conference in 1963, convinced them that without Smith's amendment, "the civil rights bill would be including only one half of the Negroes."¹⁵

Emerging from the House far stronger than anyone could have predicted, the bill still faced Dirksen and his allies in the Senate. Southern Democrats lacked the votes to defeat the law outright, but their filibuster gave northern Republicans an additional opportunity to weaken it. Dirksen obliged by demanding over seventy amendments, which he narrowed down eventually to restrictions on federal authority to

prosecute discrimination in public accommodations and employment. President Johnson accepted those terms and, on July 2, 1964, signed the Civil Rights Act into law.¹⁶

Having won a partial victory, civil rights leaders recognized that they needed to keep pushing to strengthen and defend the law. NAACP Labor Secretary Herbert Hill asked local civil rights leaders across the country to identify victims of employment discrimination and help them bring cases before the newly created Equal Employment Opportunity Commission (EEOC). Nearly ten thousand complaints were filed in the first year of the law, increasing to over seventy thousand by 1975. The most successful drives occurred in Southern textile mills, which had shut black workers out of most jobs for nearly a century. Noting that black employment in textiles rose from under one hundred thousand to over two hundred twenty thousand between 1970 and the early 1990s, Gavin Wright argues that the industry provided “an escape route from poverty for a full generation of African-Americans.”¹⁷

Nearly ten thousand [employment discrimination] complaints were filed in the first year of the law, increasing to over seventy thousand by 1975.

Those gains were certainly limited by deindustrialization and continued resistance to equality, but the Civil Rights Act remained a powerful vehicle for economic improvement. Pauli Murray and Anna Hedgeman joined an interracial network of feminists who formed the National Organization for Women (NOW), which they called “the NAACP of women’s rights,” after Hill and other male civil rights leaders made it clear that they took race discrimination against black men more seriously than sexism. Both civil rights and feminist groups also succeeded in expanding the scope of the anti-discrimination law to stop the use of tests and other screening measures that had a “disparate impact” on protected groups, and to protect pregnant women from discrimination. In 1972, Congress granted the EEOC authority to initiate suits, reversing the most damaging of

Everett Dirksen’s amendments. “Perhaps the most dramatic, and largely unnoticed change brought about [by] the civil rights revolution was a massive transformation of the black workforce,” March on Washington organizer Bayard Rustin wrote in 1975, noting that “a combination of anti-discrimination laws, federal manpower programs, and a rapidly growing economy acted to pull most black workers out of the ranks of the working poor and into the solid working class.”¹⁸

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It was the elimination of those three factors, and not “the decision to leave economic relationships alone,” that undermined the economic gains made by African-Americans in the 1960s and 1970s. While Gavin Wright points out that textile employment remained strong until the 1990s, he notes that other southern industries declined rapidly in the 1980s. This was even more apparent in northern cities, where deindustrialization produced a “hopeless hope,” not unlike that predicted by A. Philip Randolph two decades earlier. Meanwhile, both Congress and the Supreme Court backed away from the commitments to federal authority that civil rights leaders insisted were critical to any real progress toward racial equality. The lesson to be learned from this is not the limitations of the Civil Rights Act but, rather, the potential of such a law when strengthened and wielded by a robust social movement.¹⁹

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Notes

1. Clay Risen, *The Bill of the Century: The Epic Battle for the Civil Rights Act* (New York: Bloomsbury Press, 2014), 257; Richard Wolf, "Equality Still Elusive 50 Years after the Civil Rights Act," *USA Today*, April 1, 2014, <http://www.usatoday.com/story/news/nation/2014/01/19/civil-rights-act-progress/4641967/>.
2. James J. Heckman and Brook S. Payner, "Determining the Impact of Federal Antidiscrimination Policy on the Economic Status of Blacks: A Study of South Carolina," *The American Economic Review* 70, no. 1 (March 1989): 138-77; Kenneth Y. Chay, "The Impact of Federal Civil Rights Policy on Black Economic Progress: Evidence from the Equal Employment Opportunity Act of 1972," *Industrial and Labor Relations Review* (July, 1998): 608-32; Jenny Bourne, "'A Stone of Hope': The Civil Rights Act of 1964 and Its Impact on the Economic Status of Black Americans," *Louisiana Law Review* 74, no. 4 (Summer 2014): 1195-1225; Gavin Wright, *Sharing the Prize: The Economics of the Civil Rights Revolution in the American South* (Cambridge: Harvard University Press, 2013). See also Nancy MacLean, *Freedom Is Not Enough: The Opening of the American Workplace* (Cambridge: Harvard University Press, 2006).
3. John F. Kennedy, "Civil Rights Speech, June 11, 1963," in *The Civil Rights Movement*, ed. Peter B. Levy (Westport: Greenwood Press, 1998), 173; "Threat to GOP Backing on Civil Rights Looms," *Los Angeles Times*, June 12, 1963, p.9.
4. William P. Jones, *The March on Washington: Jobs, Freedom, and the Forgotten History of Civil Rights* (New York: W.W. Norton, 2013).
5. Jones, *The March on Washington*, 133.
6. Thomas F. Jackson, *From Civil Rights to Human Rights: Martin Luther King, Jr., and the Struggle for Economic Justice* (Philadelphia: University of Pennsylvania Press, 2007).
7. Jones, *The March on Washington*, xviii-xix; Samuel B. Hand, Anthony Marro, and Stephen C. Terry, *Philip Hoff, How Red Turned Blue in the Green Mountain State* (Lebanon, NH: University Press of New England, 2011), 135.
8. Jones, *The March on Washington*, 190-91.
9. Walter Reuther and Roy Wilkins quoted in "Excerpts from Addresses at Lincoln Memorial During Civil Rights March," *New York Times*, August 29, 1963, 21; Jones, *The March on Washington*, 194-95.
10. Jones, *The March on Washington*, 166, 171, 205.
11. Jones, *The March on Washington*, 184.
12. "Senator Goldwater Pays a Visit to Angletown," *Los Angeles Sentinel*, September 19, 1963, B19; Jones, *The March on Washington*, 209.
13. Jones, *The March on Washington*, 209.
14. Risen, *The Bill of the Century*, 150-65; Nick Kotz, *Judgment Days: Lyndon Baines Johnson, Martin Luther King Jr., and the Laws That Changed America* (New York: Houghton Mifflin, 2005), 86-111.
15. Risen, *The Bill of the Century*, 157; MacLean, *Freedom Is Not Enough*, 121.
16. Risen, *The Bill of the Century*, 224-39.
17. MacLean, *Freedom Is Not Enough*, 76-113; Wright, *Sharing the Prize*, 114.
18. MacLean, *Freedom Is Not Enough*, 117-54; Bayard Rustin, "The Foundation: A Black Working Class," *Ebony*, August 1975, 92.
19. Wright, *Sharing the Prize*, 115-20.

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