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## Educational materials for American Civil Rights Movements

### INTRODUCTION TO AMERICAN CIVIL RIGHTS MOVEMENTS

In this article, William Allen sets out to provide the context, content and implications of civil rights in the American Constitutional tradition. He shows how civil rights have been understood to depend upon natural law by citing the United States Constitution, the [Declaration of Independence](#), the writings of [Supreme Court Justice James Wilson](#), Dr. Martin Luther King, Jr.'s famous "[Letter from a Birmingham Jail](#)," as well as several Supreme Court decisions. These important documents indicate, not only that civil rights are concerned with the rights of a people to common or equal participation in civil society, but also that civil rights originate in the fundamental theories of natural law. It is because of this relationship between the positive laws that describe civil rights and the higher authority of the natural law from which they are derived that we discover both the central importance of the rights of 'domestic society' but also the grounds for legitimate civil disobedience. As the example of Dr. Martin Luther King, Jr. makes evident, the concern for civil rights cannot be divorced from a concern for the common good, for, in his words, "injustice anywhere is a threat to justice everywhere." For King, injustice meant nothing less than the outright failure of a law to correspond to the natural law, or the law of God. To defend the civil rights of black people through civil disobedience in the American civil rights movement of the 1960s, then, amounted to nothing less than a moral imperative. Civil rights, where correctly defined and upheld, secures for all the opportunity to common, equal participation in civil society that is necessary for living in accord with the law of nature.



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### MARTIN LUTHER KING, JR.

Martin Luther King, Jr. was born in Atlanta Georgia on January 15th, 1929. His father and grandfather had both been pastors in the Baptist Church and, in 1954, King was selected as pastor of the Dexter Avenue Baptist Church in Montgomery, Alabama. A year later, he received his Ph.D. in systematic theology from Boston University. It was during his time in Boston that he met and married Coretta Scott. Together they had four children, two sons and two daughters.

In 1955-56, Martin Luther King, Jr. took part in the famous bus-boycott of Alabama. He led the effort to desegregate the buses of Montgomery, Alabama through non-violent protest. His effort, which lasted 382 days, was successful and the Supreme Court of the United States declared laws of bus segregation to be unconstitutional. In 1957, King helped found the Southern Christian Leadership Conference and served as its first president. In 1963, after being imprisoned for further non-violent protests in Birmingham, King wrote the famous '[Letter from Birmingham Jail](#),' which argued that people have a responsibility to disobey unjust laws. That same year King delivered his 'I Have a Dream' speech to the thousands that had gathered to march peacefully for civil rights in Washington, D.C. In 1964, King was awarded the Nobel Peace Prize. At the age of 35, he was the youngest man ever to receive the Prize. Martin Luther King, Jr. was assassinated on the evening of April 4th, 1968, in Memphis, Tennessee.

To read more about Martin Luther King, Jr.'s life and works, please click [here](#).



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### GLOSSARY OF TERMS FOR AMERICAN CIVIL RIGHTS MOVEMENTS

**Augustine, Saint (354—430):**

Neo-platonic intellectual in the late Roman Empire who converted to Christianity and became the bishop of Hippo, a city in modern-day northeastern Algeria (Africa). He wrote extensively on matters of philosophy and theology and is considered to be in large part the father of the philosophical and theological tradition of European Christianity, and thereby of European civilization generally. His thoughts about law and human nature contributed much to the theories of natural law of those who came after him, especially that of [Thomas Aquinas](#).

### [Blackstone, Sir William](#) (1723–1780):

English jurist and writer on law whose ideas on natural law as expressed in his [Commentaries on the Laws of England](#) highly influenced the drafting of the [U.S. Constitution](#).<sup>[i]</sup>

### **Burke, Edmund (1729-97):**

British statesman, orator, and writer, born in Ireland.<sup>[ii]</sup> Known to [James Wilson](#) for his view that when individuals entered civil society, they gave up a certain amount of natural rights. Wilson disagreed strongly with Burke's view.

#### **civil society:**

a group of individuals united by a particular human government.

#### **civil rights:**

the entitlements that each individual of a civil society possesses to participate in the life of civil society in common with and equally to the other members of that society. Members of civil society have these rights for no reason other than that they are human beings. (See CIVIL SOCIETY)

### [Coke, Sir Edward](#) (1552-1634):

English scholar of law who discerned elements of English common law already in Athenian Greece. James Wilson was particularly keen to note Coke's acknowledgment of the importance of the right to life in this ancient common law.<sup>[iii]</sup>

#### **domestic economy:**

all matters related to the management of households; that is, all matters related to family life. James Wilson believed that civil rights existed in order to protect the natural order of the domestic economy. (See CIVIL RIGHTS)

### ***The Federalist Papers:***

A series of eighty five essays published in the 1780s in newspapers in the state of New York advocating for the ratification of the newly drafted and proposed federal Constitution. The essays outline the political theory on which the Constitution was drafted and provide a very helpful insight into how the framers of the Constitution understood what they had written. *The Federalist Papers* were signed "PUBLIUS" but are believed to be the work of Alexander Hamilton, John Jay, and James Madison.

#### **municipal law:**

That law that any human society makes for itself. James Wilson said that municipal law is subordinate to the natural law, and that civil rights limit the scope of municipal law. (See CIVIL RIGHTS)

#### **natural law:**

a standard of right conduct; a law existing in nature, which man knows through reason. The kind of natural law thinking prevalent in the pre-modern age was most particularly exemplified by Aquinas. It was characterized by an emphasis on laws rather than rights (*see also* NATURAL RIGHT), and by the idea that divine authority was the source of natural law.

### **natural right:**

a right or advantage that people possess by reason of their human nature, and thus which holds and is owed to them regardless of customs or positive laws to the contrary.

### **political rights:**

the general entitlements that individuals have, simply because they are citizens, to participate in the government of the state under which they live. The state in turn has a duty not to deny these rights, and individuals have a duty to participate in government as is appropriate to their station in society.

### **reason:**

for James Wilson, the ability that all human beings have (without any special Revelation) to know God's moral law for man, also called the natural law. Closely linked to conscience.

### ***reductio ad absurdum:***

a kind of logical proof whereby one disproves an argument by demonstrating that it contradicts itself. According to Professor Allen, the sit-ins of the civil rights movement could be called a *reductio ad absurdum* of a kind because they undeniably showed the fact that segregationism violated the rights of individuals to participate equally in society, which rights American society had always claimed to faithfully uphold.

### **state of nature:**

a hypothetical condition in which all individual human beings lived separately from one another before they came together into societies. This intellectual experiment was a commonplace of the early modern European political theories that influenced the foundation of the United States. James Wilson defined the state of nature as those aspects of human nature that can be conceived apart from an individual's relation to others, such as a man's life, property, character, etc.

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[i] "Blackstone, Sir William," *Webster's College Dictionary*, Fourth Edition. Agnes, Michael, Ed. (Foster City, Calif.: IDG Books Worldwide, Inc., 2001).

[ii] "Burke, Edmund," *Webster's College Dictionary*, Fourth Edition. Agnes, Michael, Ed. (Foster City, Calif.: IDG Books Worldwide, Inc., 2001).

[iii] "Coke, Sir Edward," *Webster's College Dictionary*, Fourth Edition. Agnes, Michael, Ed. (Foster City, Calif.: IDG Books Worldwide, Inc., 2001).



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## **OUTLINE OF ESSAY FOR AMERICAN CIVIL RIGHTS MOVEMENTS**

### **I. Introduction**

#### **A. Definition of civil rights: rights to equal participation in civil society.**

B. Civil rights are based on the natural law.

### II. The [Declaration of Independence](#).

A. Declares the existence of natural rights as antecedent to government.

B. Civil rights are secondary rights that protect natural rights, and therefore the Declaration refers to them also.

### III. James Wilson's [Lectures on Law](#)

A. [Wilson](#) was a member of 1787 Constitutional Convention and the first Supreme Court.

B. Outlined two main categories of civil ("acquired") rights (in agreement with the *Federalist Papers*):

1. honest administration of the government in general

2. impartial administration of justice toward individuals

C. Civil rights come from nature, not from human institution; civil rights are not "given up" to the state.

1. Derivation of the kinds of law: God's law → natural law (reason and conscience) → human law → municipal law

D. Civil rights govern municipal law as it concerns:

A. man as an unrelated individual (rights to life ["paramount"], liberty, property)

B. man as related 1) to others generally (freedom from injury; right/duty to fulfillment of contracts) and 2) to peculiar others (rights/duties of marriage, rights/duties of parents to raise/educate children; slavery impermissible).

E. Sum: Civil rights govern the relations of citizens to the state and to each other in their ordinary lives (in the "domestic economy").

### IV. Declarations of Supreme Court Regarding Civil Rights

A. Citizens have a right to marry ([Loving v. Virginia](#))

B. Citizens have a right to property as a pre-condition of other rights. ([Shelley v. Kraemer](#))

C. Citizens have a right to educate their children: "the child is not the creature of the state." ([Pierce v. Society of Sisters](#))

D. These rulings were based on reasoning about the natural law ("fundamental theory").

### V. Dr. Martin Luther King, Jr., "[Letter from Birmingham Jail](#)"

A. Defended the civil rights of black people by appealing to natural law, that is, to universal moral rules that apply to everyone, and not just one class of people.

B. "[S]egregation is not only politically, economically, and sociologically unsound, it is morally

wrong and sinful.” “An unjust law is no law at all” (St. Augustine).

C. Parallels between Wilson’s and King’s division of the kinds of civil rights:

1. Wilson : honest administration of government : :

King : equal treatment in law (“sameness made legal”)

2. Wilson : impartial administration of justice : :

King : equal treatment of races in public (lunch counter sit-ins)

3. Racial segregation impeded the domestic economy (family life, education) of black people, and therefore impeded their full political participation.

VI Conclusion: In theory, civil rights secure for all the opportunity to common, equal participation in civil society that is necessary for living in accord with the law of nature.



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### STUDY GUIDE FOR AMERICAN CIVIL RIGHTS MOVEMENTS

#### Part I. Basic Interpretation of Civil Rights

If you are interested in civil rights after reading Allen’s essay, please go to the [Primary Source Documents](#) to read some of the essential passages from James Wilson’s collected works and from *The Federalist Papers* and Martin Luther King Jr.’s famous “Letter from a Birmingham Jail.” A biography of Martin Luther King, Jr. is also available. As you go back to the primary sources, keep in mind the following questions:

1. What are civil rights? Who possesses them? By what authority? What sorts of rights fall under the category of “civil rights”?
2. Why is the natural law important for civil rights? How are they connected?
3. What is the difference between political and civil rights? Why, as Allen says, might someone think that the “Declaration of Independence establishes a defense of political rights and therefore not, as such, civil rights”?
4. What sort of rights do you think are entailed by the [Constitution](#)? Can we legitimately say?
5. Civil disobedience through direct action became an important aspect of the Civil Rights Movements in America. How are civil disobedience and civil rights linked?
6. How does Martin Luther King, Jr.’s “Letter from a Birmingham Jail” demonstrate that a concern for civil rights is connected to a concern for the common good? Point to specific passage to illustrate your claim.

#### Part II. Connections to Other Thinkers

In order to understand the issue of civil rights, and the people whose thought and work have contributed to the topic, it is important to consider the theories of natural law and natural rights that were influential for the arguments supporting civil rights movements. As you look deeper into the writings of James Wilson, Martin Luther King, Jr., and other important civil rights advocates, consider these contextualizing questions:

1. Compare Wilson’s derivation of positive law with [Aquinas](#)’. How do they differ?
2. According to Wilson, the paramount universal duty of government is to “preserve human life.”

How does this compare with the Federalists' contention that the end of government is justice? Is the preservation of human life subordinate to the imperative to act justly? Is preserving human life simply an aspect of justice? (It seems that it is).

3. Madison, who authored the [Federalist Paper #51](#) in which we find the claim that "justice is the end of government," does not expound upon or explain his assertion. How might he have argued that justice is the end of government using a form of natural law theory, such as that of [Thomas Aquinas](#), [John Locke](#), [Montesquieu](#) or the [New Natural Lawyers](#)? Would any other thinkers discussed on this website have disagreed with Madison about the proper end of government? How and why?
4. Plato views the family as a source of ill in society, and therefore thought that it should be eliminated: children should be raised by the state, and women should be held in common by all of the men in a community. Compare this with Wilson's thesis that the family is the source of rights and virtues in society. What does he say to justify this position?
5. In what sense do natural rights entail civil rights? Wilson thinks that positive law is directly entailed by natural law. Compare this to Aquinas' view that positive law is not directly derived from the natural law—that is, the natural law does not specify what *determinations* need to be made.
6. In what ways did the [Post-Civil War amendments](#) pave the way for the American Civil Rights Movements? How did those amendments clarify what was held by the Founders and James Wilson about civil or "acquired" rights?.

### Part III. Critical Interpretation of Civil Rights

With a basic understanding of the concept of civil rights, let us examine the topic, as presented in Allen's essay, more critically. Are the arguments of James Wilson, Martin Luther King, Jr. and the founding fathers persuasive? Can we expand their arguments to determine what they would say about issues they did not directly address? Use the questions below as your guide:

1. Given that the goal of government is justice, what, according to Madison, is the greatest danger to that goal? How does the federal Constitution lessen that danger and increase the likelihood of reaching the goal of civil society?
2. For Wilson, family is central and essential to society. [He argues](#) that family or "domestick society" is what gives rise to the need for civil rights. What does he mean by this? Does he imply that, since families are good, they must be protected by civil rights? Or is his claim even broader than that? Point to specific passages to substantiate your claims.
3. Many thinkers, and even modern-day political theorists, argue that there are no such things as natural rights. Does this, if true, negate the whole rights enterprise? Are rights useful even as legal fictions?
4. Do rights imply duties? If so, to what extent do they do so?
5. If, as James Wilson thought, civil or political rights are entailed by the natural law, then would it follow that every form of government should be the same? If the natural law dictated specific positive laws for civil or political rights, then wouldn't every government have to grant and respect the same form of civil or political rights in order to adhere to the natural law? This seems a problematic claim; can you see a way to resolve it?
6. Even though the American system tolerated the abuses perpetrated against African Americans for a very long time, Dr. Martin Luther King, Jr. did not propose abolishing the American system of government; rather, he proposed to disobey unjust laws through non-violent direct action (such as sit-ins). Why might he have wanted to preserve it?
7. What is the relationship of civil rights and justice? What is meant by the principle that the rule of justice is "sameness made legal"? What does "sameness" mean here?

### Part IV. Contemporary Connections

Civil rights theory is an important aspect of political theory with continuing application. Let us now turn

to some contemporary issues and see how discussions of civil rights might be applied to them:

1. In modern society, there seems to be a proliferation of rights and people are eager to claim rights while being unwilling to shoulder corresponding responsibilities. How are we to know when something is a real right? And how far do our responsibilities extend? For example, the Bill of Rights upholds a right to the free exercise of religion. Is there a corresponding duty for all citizens to make laws and take measures to support religious practice, even if they are not personally religious? Or consider the even more basic right to life: does your enjoyment of the right to life also mean that you have a duty actively to defend and preserve the lives of others in society when they are threatened? How might Martin Luther King, Jr.'s example guide us in answering these questions? Furthermore, how important is it correctly to categorize specific rights as natural, civil or political? How can we tell in which province of law they belong?
2. Is there a difference between a positive and negative right, an inalienable and an absolute right? Take a particular example from the specifically enumerated civil rights, such as, the right of parents to educate their children and compare it to the contemporary discussion about the right to healthcare. Do the writings of Wilson, the Federalists or Martin Luther King, Jr. shed light on this discussion? Consider also what the most pressing civil rights issues of today are. Do we tend to think about civil rights differently today than formerly?
3. In the Supreme Court case [Pierce v. Society of Sisters](#), the court opinion asserts that, because the child "is not the mere creature of the State" the state has no authority to "standardize its children by forcing them to accept instruction from public teachers only." It is further emphasized that it is the province and "high duty" of parents to "recognize and prepare him [the child] for additional obligations." What does this statement contribute to contemporary discussions about the proper role of state-funded education with respect to the moral formation of students?
4. As Allen notes, the "United States Supreme Court has upheld individual rights of marriage not merely as a positive result of the prescriptions of the Constitution or statutes but as something 'long recognized' as one of 'the vital personal rights essential to the orderly pursuit of happiness by free men.'" As Supreme Court case [Loving v. Virginia](#) determines, "marriage is one of the basic civil rights of man, fundamental to our very existence and survival." Today, the value of marriage as an institution is being questioned. When the importance and relevance of the traditional family becomes a subject of dispute, is the political society, and indeed the civil rights generated by the needs of "domestick society", as envisioned by Wilson possible? Why is the family important for society and what potential problems might the decline of traditional family life cause for the wider society?
5. In the essay, Allen remarks that "it is perhaps ironic...that the most fundamental, initiating right to life itself, in light of which the rights of domestic economy gain traction, has received from the Supreme Court only the blessing of positive prescription and been qualified by subjection to the countervailing will of others." What do you make of this analysis? Do you agree that the right of life is the basis for the other domestic civil rights that are held so tenaciously? If true, what does this signify for the right to life? What else is compromised when this right is subjected to "the countervailing will of others"?

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