

Rights, Relationships, Responsibilities

By Judge Timothy P. Connors



RIGHTS

"We hold these truths to be self-evident, that all men are created equal, that they are all endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness . . ."

These words have resonated in our American discourse for 247 years. Through the conscious employment of capitalization, certain guideposts were established. These unalienable rights (not transferable to another; not capable of being taken away or denied) are supported by a permanent fund. The endowment is not from a pre-emptive creator (the); but from one of choice (their). Those 37 words in our Declaration of Independence lay the foundation for a justice system based on the recognition of rights that are equal, accessible, permanent, and resilient. But then the reality sets in.

As the history of our legal system has documented, the application of these rights has not been equal, accessible, or permanent. They may however be resilient. If we acknowledge other truths in the history of our justice system, it is possible that these unalienable rights may spring

back, rebound, or return to their original form or position after being bent, compressed, or stretched. The choice is ours.

Our Declaration further asserts that when a man-made government "becomes destructive to these ends, it is the right of the people to alter or abolish it, and to institute new Government, laying its foundation on such principles, and organizing its powers in such form." Ironic, of course, that when it comes to the actual work of altering or abolishing, gender qualification is not necessary. Beyond irony is that one of the "facts . . . submitted to a candid world" claims "absolute tyranny" over the colonists by the colonist, and, in support of that grievance, the colonist has protected "the merciless Indian savages, whose known rule of warfare is an undistinguished destruction, of all ages, sexes and conditions." The root of the unalienable right to "the pursuit of happiness" is land acquisition and the potential to maximize the economic profit from it. That right was for some, not all. The history of our justice system documents the long-standing protection of that root. But that is a deeper, longer, and more thoughtful discussion.

One-hundred-forty years later, a different population asserted their rights against a government founded on colonialism. The proclamation of the Irish Republic in 1916 declared "the rights of the people of Ireland to the ownership of Ireland, and to the unfettered control of Irish destinies, to be sovereign and indefeasible. The long usurpation of that right by a foreign people and government has not extinguished the right, nor can it ever be extinguished except by the destruction of the Irish people . . . the Republic guarantees religious and civil liberty, equal rights, and equal opportunities of all its citizens . . . oblivious of the differences carefully fostered by an alien government, which have divided a minority from the majority in the past." The shift in focus and emphasis on equality is significant, as is the declaration of the right of sovereignty.

RELATIONSHIPS

The United States has relationships with sovereign nations both outside of our borders as well as within our borders. There are 574 federally recognized Indian tribes in the United States, each having

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some degree of sovereignty, depending on their relationship with the federal, state, or local government. Some of those relationships are healthier than others. The best are based on mutual respect and cultural appreciation of Indigenous sovereign nations, as opposed to cultural appropriation by those governments or its citizens.

Over 30 years ago in Michigan, then Supreme Court Chief Justice Michael Cavanagh began a relationship with our Tribal Courts. His initial words were prophetic to our neighbors: “We know we have more to learn from you than you do from us.” And so, it began. We have only scratched the surface of what we can learn. We *can* learn because there is a need, perhaps a necessity, that we open spaces and places for incorporating

other world views and create procedures that nurture values that address areas of conflict in our communities.

RESPONSIBILITIES

Many of our Tribal Courts have implemented their traditional justice systems of Peacemaking. While Peacemaking has common ground with restorative justice, it is deeper, broader, ancient, and profound. Based on values of relationships, responsibilities, respect, and resiliency, it has greater potential for healthy resolutions than a system based on power and control, prescription, punishment, and property as the major goal.

CONCLUSION

In the end, what do any of us really need? We need to love and to be loved. We need

to give and to be given to. We need to laugh and cry and laugh again. We need to see each other as human beings, desperately needing each other as we hurtle through time and space in this ship called Mother Earth. We need to see and feel the goodness and decency that exist within us and around us on this earth. We need to live in the nourishing light of dignity, see it, and acknowledge it. We need peace.

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