

**A PERSONAL STATEMENT :**  
**SOCIAL ACTION AS A SPIRITUAL COMMITMENT**

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*by Gary D. Nissenbaum 8/10/07*

The spiritual aspect of social action resides in the commitment we each make to honor the interconnectedness of living things by bringing peace, liberty and justice to those among us who are without it.

Indeed our guiding Unitarian principles highlight this by stating that we commit to honor “the right of conscience and the use of the democratic process ... in society at large” with “peace, liberty and justice for all” and a “respect for the interdependent web of all existence of which we are a part.”

There is a tipping point when each of us hopefully reaches that stage of life in which our commitment expands beyond the mere acquisition of money; the parochial interests of our immediate community; the mundane exigencies of our family and work life. It is the point at which we add to our daily checklist that we must also do some small part to help those who cannot return the favor, to lift up the lives of those who may never know what we did for them.

I want to share with you just such a tipping point in my life. It took place over Sunday morning brunch. It was early 2004, and I was sitting at a table on a sidewalk in Millburn, reading the New York Times and eating a bagel. The cover story concerned four attorneys who were military officers assigned to defend the accused terrorists in Guantanamo. The thrust of the article was that while they had been ordered to defend the accused, their commanding officers were upset that they were providing too effective and spirited a defense.

However, these attorneys took their oaths seriously. They advocated that their clients were entitled to a fair hearing with such basics as the right of cross examination of adverse witnesses; the right to see the evidence against them; the right to be charged with a specific crime; and so forth. None of that was happening, and so, these military officers had banded together and brought the matter before the United States District Court. The article implied that, as a result of doing their jobs too well, their military careers were essentially over. They were told that they would not be promoted, and therefore, they were ultimately required to leave the military entirely.

By seeing this and other examples of the abrogation of basic constitutional and human rights over the years since 9/11, I had come to the conclusion that this was a basic struggle for control going on between the Executive and Judicial branches of our government, and that the Judicial was losing. It was a struggle that if lost, would serve to completely collapse the fundamental constitutional values that I and others had simply taken for granted. The country might end up looking the same – it would still be called America and the flag would still fly – but it would be a dead shell of its former self. That special spark of individual liberty that made America different from the rest of the world would be gone.

And now, here I was reading about the military retaliating against its own officers for fighting to preserve, protect and defend the constitution of the United States. Did I not have a role to play? On that pleasant spring Sunday morning, I came to the conclusion that without the involvement of private lawyers such as me, this fight might very well be lost. It was that serious. The private bar could no longer rely on the usual suspects to do the heavy lifting. We had to step up.

This led me to meet with Deborah Jacobs, the Executive Director of the ACLU-NJ, at their headquarters in Newark. She selected my firm to represent her in an ongoing dispute with the New Jersey Attorney General. The case had been brought under the Open Public Records Act and concerned the Federal Office of Homeland Security's program to identify potential threat elements, PTE for short, in New Jersey.

I had never heard of this program, and I think it is a safe bet that most people in this room have not, as well. That is part of the problem.

In 2003 and 2004, the Federal Office of Homeland Security made enormous grants available to local law enforcement in return for identifying PTEs in their local communities. It appears that this would usually come down to the Chief of Police and/or County Prosecutor secretly identifying the ne'er do wells in town, the ones the Police keep an eye on. These are people who did not commit a crime; for whom there is not necessarily any probable cause to arrest or reasonable suspicion to detain; but merely someone who may someday use a weapon of mass destruction. This is a completely new type of police work: a purely *visceral* approach to law enforcement. The government identifies the people or organizations who may *someday* commit a crime. Perhaps it is not so new after all; George Orwell wrote about it, as did Franz Kafka. But that was fiction; this is not.

New Jersey identified over thirty individuals and entities as potential threat elements in three counties (Hudson, Cape May and an unidentified county). The protocol required that this secret list then be given to the FBI for investigation.

However, if the person or organization were found by the FBI to be free of suspicion, it would not end there. To the contrary, we surmise that the name would then be placed in

the Pentagon's TALON ("Threat & Local Observation Notice") super-database which was supposedly set up to track threats against the military. In a front page article, the New York Times quoted the Pentagon as stating that even if a person in the database is found free of suspicion, they are kept there because *someday* they might do something wrong. How Orwellian is that?

This super-database may be accessed by twenty eight organizations, including the National Security Agency (NSA), the Central Intelligence Agency (CIA), the Joint Terrorism Task Force (JTTF) and perhaps most chillingly, foreign governments cooperating in the so-called war on terror.

So, in essence, a person whom the FBI has found was innocent of wrongdoing will have his name floating in the military and intelligence community's database of potential terrorists possibly forever. All of this because a local police chief in that person's town decided to add them to the list, without showing cause before a Court, without giving the person the right to assert his innocence.

Our litigation is ongoing; how it will turn out is anyone's guess. The government has largely resisted our requests for documents concerning even the program's general application in New Jersey. But we keep at it and I give monthly speeches about all this for the ACLU of New Jersey. I do that because as Justice Brandeis famously observed, sunlight is the best disinfectant.

Looking back, I believe that this has been my start down the road of living a larger life. I think that becoming involved in social action is like uncorking a bottle to your soul. One thing leads to another. The key is to remain undaunted by the sheer

enormity of the challenge. There are so many worthy causes that no one person, no one community or even country could support them all.

It seems to me that the key is to find a place between doing nothing and doing everything. In other words, we need to do something. At this same time, I decided to form a non-profit charity to help the disadvantaged start small businesses in depressed urban communities. I was also asked to continue the fine work that Alice Rogers-Pearlman had done as Chair of the Social Action Committee for our Church. We started a series of initiatives in the Irvington schools; in its senior citizen center; and through City Hall working in the unemployed community. We also support the numerous other causes spearheaded by individual members of our congregation who have a similar commitment to improve the world around us.

At this point, social action has taken over a sizable portion of my work week, which is only notable in the sense that before my awakening in 2004, it was taking essentially no portion of my work week. There is something about doing this kind of work that is irresistible. It is like coming back to the beginning. There is something elemental about it. Social action draws us to the better angels of our nature and highlights the purpose for which we were born: to leave this blue and green marble just a little bit better than we found it. To improve things.

Bobby Kennedy spoke frequently about the need for each generation to become involved in the issues of their day. He made this point most eloquently in his address in South Africa in 1966. In the few days of his visit, he created such a stir against Apartheid among the young people of both races that the government politely threw him out of the country. He said, in part, "Few will have the greatness to bend history; but each of us can

work to change a small portion of events, and in the total of all those acts will be written the history of this generation ... It is from numberless diverse acts of courage and belief that human history is thus shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance.”

Sounds to me like a pretty clear statement of Unitarian principles.