

2018

DEMARGINALIZING THE INTERSECTION OF SPIRITUALITY AND LAW: OPPOSITIONAL CULTURAL PRACTICE™ THEORY, SELF-TRANSCENDENCE, AND SOCIAL CHANGE

Kim E. Clark

Follow this and additional works at: <http://digitalcommons.law.wne.edu/lawreview>

Recommended Citation

Kim E. Clark, *DEMARGINALIZING THE INTERSECTION OF SPIRITUALITY AND LAW: OPPOSITIONAL CULTURAL PRACTICE™ THEORY, SELF-TRANSCENDENCE, AND SOCIAL CHANGE*, 40 W. New Eng. L. Rev. 225 (2018), <http://digitalcommons.law.wne.edu/lawreview/vol40/iss2/3>

This Article is brought to you for free and open access by the Law Review & Student Publications at Digital Commons @ Western New England University School of Law. It has been accepted for inclusion in Western New England Law Review by an authorized editor of Digital Commons @ Western New England University School of Law. For more information, please contact pnewcombe@law.wne.edu.

DEMARGINALIZING THE INTERSECTION OF SPIRITUALITY
AND LAW: OPPOSITIONAL CULTURAL PRACTICE™
THEORY, SELF-TRANSCENDENCE, AND SOCIAL CHANGE¹

*Kim E. Clark**

This Article works toward a theory of self-transcendence that leads to social change. The Maslow self-transcendence hypothesis is reformulated. The old hypothesis, when applied to self-transcendence in humans, has two major problems: (1) it posits an erasure of the Self that was motivated to achieve the self-actualization state, i.e., the self-transcendence process causes erasure of the self-actualized Self as the individual moves toward gratifying self-transcendence motivational needs (ego-less, seeking communion with the transcendent, service to others, acting in more collectivist ways, coming to identify with something greater than the purely individual self); and (2) it does not adequately explain when self-transcendence values—as guiding principles for individual, social, or cultural action—can be expected to be observed and when not.

A reformulation of the self-transcendence hypothesis proposes to resolve these inadequacies. According to this reformulation, the process of self-transcendence produces a unitive identity under peak experience conditions resulting in the erasure of self-aggrandizement, yet the self-actualized Self persists with full agency. Furthermore, an acceptance of the unknown/unknowable (in contrast to communion with) causes an awareness and acceptance of maturity, growth, and health motivational values emanating through peak experiences.

* The Author, Kim E. Clark, expresses her fullest human potentiality in the field of jurisprudence through Oppositional Cultural Practice advocacy, educational programs, and being present with social justice allies. E-mail: kclark@ses.psr.edu.

1. COPYRIGHT 2018 KIM E. CLARK. ALL RIGHTS RESERVED. This Article is a continuation of the ClassCrits IX Symposium series found in Issue 4 of Volume 39 of the *Western New England Law Review*. For an explanation of and background for the ClassCrits group, see generally Matthew Titolo, *Foreword: ClassCrits IX Symposium Issue*, 39 W. NEW ENG. L. REV. 449 (2017).

Moreover, one achieves gratification of the self-transcendence universal human unitive needs, expressed as guiding principles for individual, social, or cultural action. The implications for this self-transcendence reformulation are also outlined. Self-transcendence, peak experience, Being-cognition, agency, structure, Being-values, and other concepts are explored as theoretical support. Oppositional Cultural Practice™² (OCP) as peak experience can lead to achievement of this reformulated self-transcendence, as well as social change. This Article exemplifies the possibility of grounding a scholarly voice in the material, aesthetic, emotional, and spiritual experiences of humans. Of specific interest to law students and practitioners is the benefit of experiencing justice in the now.

INTRODUCTION

Humans face grave challenges to survival on planet Earth. In addition to the insidious challenges posed by global climate change, there remain the ever-present specific threats of typhoons, hurricanes, droughts, earthquakes, and extra-terrestrial meteor strikes. Not to mention violence against humanity committed by man via war, the death penalty, environmental pollution, and general neglect. How to make sense of this reality and still live a good life is the age-old question. Oppositional cultural practice offers a way through existential angst to arrive at living one's fullest human potentiality—in the face of life's horrors and life's joys. Oppositional Cultural Practice (OCP), with its methodologies of critique and criticism, ethical commitments, use of narrative, feedback and adjustment, and spiritual practices, inspires experiences that support transition to (reformulated) self-transcendence.

Every human on the planet ought to care about providing individual, social, and cultural environments that support self-transcendence needs³ gratification because it results in more peaceful and productive human activity on the planet. And most importantly, an individual can escape existential angst, and enjoy

2. Oppositional Cultural Practice and OCP are registration pending trademarks.

3. ABRAHAM H. MASLOW, TOWARD A PSYCHOLOGY OF BEING 104–14 (2d ed., 1968) [hereinafter PSYCHOLOGY OF BEING]; Mark E. Koltko-Rivera, *Rediscovering the Later Version of Maslow's Hierarchy of Needs: Self-Transcendence and Opportunities for Theory, Research, and Unification*, 10 REV. GEN. PSYCHOL. 302, 306, 311 (2006).

purpose and meaning in life. Of specific interest to law students and practitioners is the benefit of experiencing justice in the now. In other words, experiencing a fulfilling, creative, and purposeful life as an officer of the court.

This Article is written twenty-eight years after Kimberlé Crenshaw coined the term “intersectionality.”⁴ The term refers to the idea that forms of prejudice overlap. In these intervening years, Crenshaw has broadened her own view of the theory. It is a theory that, in addition to providing a concept that “define[s] . . . profound invisibility in relation to the law,” is also “an analytic sensibility, a way of thinking about identity and its relationship to power.”⁵ This Article provides additional theoretical support for oppositional cultural practice theory,⁶ showing more clearly where law and spirituality⁷ intersect, and how social transformation results. OCP theory more urgently gives visibility and voice to all humans who seek attainment of universal

4. Kimberlé Crenshaw, *Why Intersectionality Can't Wait*, WASH. POST: IN THEORY (Sept. 24, 2015), https://www.washingtonpost.com/news/in-theory/wp/2015/09/24/why-intersectionality-cant-wait/?noredirect=on&utm_term=.c569abafe491 [<https://perma.cc/8ENN-2KVR>] (discussing the theory of intersectionality and its importance) [hereinafter *Intersectionality Can't Wait*].

5. *Id.*

6. See Kim E. Clark, *Critical Race Theory, Transformation and Praxis*, 45 SW. L. REV. 795, 804–05 (2016). OCP is a means to examine individual, group/social, and cultural moral beliefs and values, while working with scholars across disciplines such as theology, sociology, anthropology, economics, and law. From this perspective, one can think, talk, and act authentically about the challenges a commitment to liberation presents. The phrase “oppositional cultural practice” uses the astronomical understanding of the term “in-opposition,” meaning examination—up-close and illuminated. In OCP, criticism may take on the action of opposing, resisting, or combating as politics, race, and culture are contested; *however*, OCP is so much more than just this critical orientation. It includes critique, a new identity, and way of being. Cf. John O. Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World*, in CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT 315, 315 (Kimberlé Crenshaw et al. eds., 1995) (explaining oppositional cultural practice solely as opposition to dominant cultural contexts).

7. For this purpose, spirituality is defined as reformulated self-transcendent identity. Here, the lower case “self” is the general term used to convey the ability to think about, evaluate, or perceive one’s self; to be aware of oneself. The upper case “Self” is the general term used to convey both the core of one’s individual identity, and that which connects the individual with everyone and to the wider world.

human unitive requirements from where values are derived.⁸ “Values are cognitive representations of three types of universal human requirements: biologically based needs . . . social interactional requirements for interpersonal coordination, and social institutional demands for group welfare and survival.”⁹ OCP theory, through an up-close examination of the intersection of jurisprudence and the psychology of spirituality (understood as the attainment of universal human unitive requirements), reveals spirituality’s profound invisibility in relation to law. OCP theory conceptualizes methodology (including positive critique and praxis), motivational needs, and values, thus redefining identity and reframing the individual, social, and cultural relationships to power. Healthy individual, social, and cultural change results. The theory is not meant primarily as deductively related and empirically testable sets of propositions. It is a framework for conceptualization and analytical approaches from which propositions about the world ought to be formulated. The theory hypotheses are reflections on studies of transcendence, social change, and human growth. It is an attempt to explain observations relevant to the development and characteristics of self-transcendent individuals.

Before proposing reformulation of the self-transcendence hypothesis and examining the validity of OCP theory, it is important to introduce two concepts: the psychological concept of self-transcendence and the sociological concept of unit of analysis. Abraham H. Maslow identified a construct—self-transcendence—in his motivational hierarchy.¹⁰ He noted that some self-actualized individuals show a strong motive toward self-transcendence through peak experience—“such individuals seek a benefit beyond the purely personal and seek communion with the transcendent, perhaps through mystical or transpersonal experiences; they come to identify with something greater than the purely individual self, often engaging in service to others.”¹¹ Maslow described the

8. See Shalom H. Schwartz & Wolfgang Bilsky, *Toward a Universal Psychological Structure of Human Values*, 53 J. PERSONALITY & SOC. PSYCHOL. 550, 551 (1987) (citation omitted).

9. *Id.*

10. See generally Koltko-Rivera, *supra* note 3.

11. *Id.* at 306; PSYCHOLOGY OF BEING, *supra* note 3, at 74–102 (explaining cognition of being in the peak experiences).

phenomena of peak experiences and their attendant cognitive activity to include such phenomena as mystical experiences, aesthetic experiences, emotional experiences involving nature, and so on.¹² He identified this special cognitive activity as Being-cognition (B-cognition), accompanied by sensing Being-values (B-values).¹³ Self-actualizing individuals *motivated* to seek experiences of B-cognition are at the stage of self-transcendence development. As to the sociological concept of unit of analysis, Troy Duster's book, *The Legislation of Morality*, is best known as a study of class-based moral definitions of an activity.¹⁴ The study, however, also includes a wonderful discussion of units of analysis. Duster notes three possible units of analysis in the behavioral sciences: "(1) the individual [personality system]; (2) the community or group [social system]; [and] (3) the larger culture [cultural system]."¹⁵ It is important to be clear from which reference point one is speaking when analyzing and communicating behavioral activity. "Where no reference point of social or cultural values is introduced, the individual's morality concerns the relationships between his own behavior and his beliefs."¹⁶ I will use the unit of analysis concept throughout this Article. This approach helps identify the behavioral unit of analysis and thus the axis of inquiry under consideration.

American jurisprudence serves the institution of public power/public opinion by lending authority and coercion, which shelters and controls the social, cultural, and economic institutions of society.¹⁷ Thus, the law as a linchpin articulates and re-enforces values. The application of law to complex legal cases ought to then be communicated with clarity, using a unit of analysis, concerning the various interests in dispute (political, economic, global, privacy, et cetera). Furthermore, communicating the unit of analysis allows

12. See generally ABRAHAM H. MASLOW, RELIGIONS, VALUES, AND PEAK EXPERIENCES (8th prt. 1974) [hereinafter PEAK EXPERIENCES].

13. *Id.*; PSYCHOLOGY OF BEING, *supra* note 3, at 71–102, 167–78.

14. See generally TROY DUSTER, THE LEGISLATION OF MORALITY: LAWS, DRUGS, AND MORAL JUDGMENT (1970).

15. *Id.* at 80; see also TOWARD A GENERAL THEORY OF ACTION (Talcott Parsons et al. eds., 1959).

16. DUSTER, *supra* note 14, at 81.

17. See generally ABRAHAM H. MASLOW, THE PSYCHOLOGY OF SCIENCE: A RECONNAISSANCE (1966). MICHAEL POLANYI, PERSONAL KNOWLEDGE: TOWARDS A POST-CRITICAL PHILOSOPHY 226 (1962).

justice to operate on a level where people can better understand how institutions and structures operate.¹⁸ People may be willing to reconsider their policy positions or their understanding of reality.¹⁹

Now, on to the reformulation of the Maslow self-transcendence hypothesis in order to reflect the generated novel predictions of OCP theory. Figure 1²⁰ compares and contrasts the old self-transcendence hypothesis (Maslow's Self-Transcendence) with the new reformulation of OCP theory (Oppositional Cultural Practice™ Self-transcendence).²¹

I. ERASURE OF SELF VERSUS SELF AND SELF AS OTHER

A. *Inadequacy One of the Old Theory*

When discussing how self-actualization precedes self-transcendence, Maslow notes a seeming paradox that psychology must face: "The goal of identity (self-actualization . . .) seems to be simultaneously an end-goal in itself, and also a transitional goal, a rite of passage, a step along the path to the transcendence of identity. This is like saying its function is to erase itself."²²

OCP theory finds no paradox in its conceptualization of self-transcendence. Several examples highlight a conceptual problem encountered by the existing self-transcendence hypothesis when

18. See generally HERBERT BLUMER, *SYMBOLIC INTERACTIONISM: PERSPECTIVE AND METHOD* (1969). For example, symbolic interactionism theory may lead to predictions that the meaning one gives a court ruling can be influenced based on the social interaction one has when discussing, hearing, or reading the court's reasoning and decisions. It is a stretch, yet the meaning one gives something is not permanent. It can change due to everyday life.

19. *Id.* According to Blumer's three tenets, people act based on the meaning they have given something. The same thing can have different meanings for different people. Based on social interactions, an individual may reconsider his or her previously held meaning to objects. Hence, the meaning one gives something is not permanent. It can change due to social interactions. Perhaps symbolic interaction with court decisions, like objects, can be influenced by reciprocal interaction between persons. Individuals may reconsider previously held meanings of the decisions, with concepts such as equal justice before the law, taking on new meaning.

20. *Infra* app. fig. 1.

21. Here, Self and Self as Other refers to the idea that the more fully realized one's own individual identity, the more one transitions to the ego-transcending level of the psyche that identifies with unitive values—values that serve *both* individual and collectivist needs, interests, and motivations. See Koltko-Rivera, *supra* note 3.

22. ABRAHAM H. MASLOW, *Peak-Experiences as Acute Identity-Experiences*, in *PSYCHOLOGY OF BEING*, *supra* note 3, at 114, reprinted in 21 *AM. J. PSYCHOANALYSIS* 254 (1961).

applied to the identity transitional goal from self-actualization to self-transcendence. Consider a self-actualizing lawyer whose efforts are to transition to self-transcendence with the goal of leaving behind self-actualization, self-consciousness, and self-observation under the old theory. While engaged in interpersonal conversation, he would more likely communicate in dissociated thought and talk.²³ Another way of illustrating this inadequacy concerns an individual's knowledge of, and capacity to apply, a wide range of different and even incompatible rules, and the ability to transpose or extend them.²⁴ Under the old Maslow theory, the self-actualized lawyer, upon transitioning to self-transcendence, would somehow lose his knowledge of self-actualization rules and lose the ability to transpose or extend those rules. He would lose his human agency.

Taken together, these examples point to one conceptual problem concerning transitional goals from self-actualization and self-transcendence. Recall the old self-transcendence transitional goal of Self-erasure. Self-ego, self-consciousness, and self-observation are obliterated. The examples illustrate this inadequacy. The next sections outline a framework that resolves this inadequacy and discusses the implications of this framework.

B. *Resolution of Inadequacy One of the Old Theory*

OCP theory hypothesizes the motivational goal of self-transcendence is not to erase Self, but to unite Self with Other. What will be erased, or at least reduced, is the possibility of self-aggrandizement that presents itself in self-actualization and self-transcendence.²⁵ A self-transcendent individual would retain Self-identity realizations in unitive identity with Other. This unified

23. Judee K. Burgoon & Ellen J. Langer, *Language, Fallacies, and Mindlessness-Mindfulness in Social Interaction*, in 18 COMM Y.B. 105, 105 (B. Burleson, ed., 1995). See generally Dale Hample, *Writing Mindlessly*, 59 COMM. MONOGRAPHS 315 (1992); Ellen Langer, *Interpersonal Mindlessness and Language*, 59 COMM. MONOGRAPHS 324 (1992) (discussing the consequences of mindless communication).

24. See William H. Sewell Jr., *A Theory of Structure: Duality, Agency, and Transformation*, 98 AM. J. SOC. 1, 21 (1992).

25. This is variously known as the "shadow" self in psychology or the "dark" figure in literature, typified by the unleashed ego resulting in selfishness, self-aggrandizement, and exercise of power to the detriment of others, among other immature self behaviors. See PSYCHOLOGY OF BEING, *supra* note 3, at 81 (explaining the peak experiences of self-transcendence can only be "good and desirable, and [] never experienced as evil or undesirable.").

identity, although a duality (Self and Self as Other), generates no psychological cognitive dissonance because no dualism, no conflict, and no tension exist. Humans have knowledge of rules usage—generalized, internalized social interaction schemas—in both the way it was first learned and as socially accepted, and the ability to creatively apply them under varying contexts.²⁶ Thus, the self-actualized lawyer would be capable of knowing and extending the rules of self-actualization along with the rules of self-transcendence, even if the rules were incompatible. The human mind is capable of creatively applying both sets of rules under varying perspectives. The word mindfulness is sometimes used to describe this ability of humans to pay attention to rules and apply rules creatively.²⁷

C. *Implications*

The distinction between erasure of Self and erasure (or reduction) of self-aggrandizement resolves the set of inadequacies stated earlier in this Article.²⁸ The transitional goal of self-transcendence is to erase self-aggrandizement, thereby achieving self-transcendence that is an identity as Self integrated with collective Other, according to the reformulated hypothesis. This allows for the individual to accept an integration of Self with the value of liberation of Self and Other. In this way, the individual can seek gratification of self-transcendence motivational needs, and act in ways that express their full humanness; that is to say, to convey both the core of one's individual identity, and that which connects the individual with everyone and to the wider world.

Turning now to the second set of inadequacies. The old hypothesis did not adequately explain when one could or could not expect to observe peak experience values as guiding principles for individual, social, or cultural action.

26. *See id.* at 20–21.

27. *See* Judee K. Burgoon et al., *Mindfulness and Interpersonal Communication*, 56 J. SOC. ISSUES 105, 105–06 (2000) (“[M]indfulness refers to active and fluid information processing, sensitivity to context and multiple perspectives, and ability to draw novel distinctions . . . to make the dynamic, contingent, and novel mental discriminations . . .”).

28. *Supra* Subpart I.A.

II. PEAK EXPERIENCE AND VALUES AS GUIDING PRINCIPLES

A. *Inadequacy Two of the Old Theory*

A second set of examples point to the other inadequacy of the old self-transcendence hypothesis. Consider a typical individual who has a peak experience: he experiences B-cognition—feelings of awe, wonder, and a sense of a desire to commune with something greater than one's self.²⁹ He may also sense joy, hope, or other B-values³⁰ in the experience. This alone does not result in an erasure of self-aggrandizement nor a commitment to collectivist goals, interests, and motivations. A second way of illustrating this inadequacy is the following: a group of law students feel disconnected from the events of social protest as an expression of resistance to perceived unjust laws. Yet at the same time, they are undertaking the study of legal philosophy that tells them that law brings about justice. Law, they are taught, is incremental, apolitical, objective, and ultimately indeterminable. Faced with this existential dilemma, they seek certainty in their religious traditions that tell them what is right and what is wrong behavior for individuals, society, and the larger culture. In their peak experience moment, they seek and find communion with a personal God. Their self-agency and beliefs are now given over to religious dogma.³¹ This behavior has been called “the negative pole of self-transcendence.”³² For example, those who perpetrate religious violence can be said to have spiritual motivations.³³ Recall the old hypothesis where experiencing awe, seeking communion with the

29. See PEAK EXPERIENCES, *supra* note 12 (explaining peak experiences and their attendant cognitive activity include “such phenomena as mystical experiences, aesthetic experiences, emotional experiences involving nature, and so forth.”); Koltko-Rivera, *supra* note 3, at 304 (stating this special cognitive activity includes B-cognition and B-values).

30. See PSYCHOLOGY OF BEING, *supra* note 3, at 149–88 (stating B-values include wholeness, perfection, completeness, justice, aliveness, richness, simplicity, beauty, goodness, uniqueness, effortlessness, playfulness, truth, and self-sufficiency).

31. Rona M. Fields, *The Psychology and Sociology of Martyrdom*, in MARTYRDOM: THE PSYCHOLOGY, THEOLOGY, AND POLITICS OF SELF-SACRIFICE 23 (Chris E. Stout ed., 2004) (reporting a number of investigators have emphasized those cases of surrendering beyond the self and the motivation for religious violence).

32. Koltko-Rivera, *supra* note 3, at 311.

33. BRUCE LINCOLN, *HOLY TERRORS: THINKING ABOUT RELIGION AFTER SEPTEMBER 11* (2d ed. 2006); JESSICA STERN, *TERROR IN THE NAME OF GOD: WHY RELIGIOUS MILITANTS KILL* (2003); see also PSYCHOLOGY OF BEING, *supra* note 3, at 167–78 (explaining deficiency needs and values verses being needs and values).

unknown, and perceiving value from the felt emotions was enough to transition to self-transcendence. The old hypothesis did not adequately explain when peak experience B-values could instead result in positive guiding principles for human growth and human health.

B. *Resolution of Inadequacy Two of the Old Theory*

OCP theory would not classify an occasion when one seeks communion with a higher power or something greater outside one's self as a self-transcendence peak experience. These experiences are deemed "spiritual" and nothing more—given its lack of communion with B-values and no resulting new identity as Self and Self as collective Other. Under OCP theory, this new identity—Self and Self as collective Other—is when one retains one's self-agency, while at the same time accepting that the needs they have are universal needs, shared by everyone else on the planet.

Spiritual experiences are sometimes highly informative and sometimes quite vacuous. For example, imagine a white law student traveling in a vehicle at night with her friends of color when the vehicle is pulled over without probable cause by police. The policeman's speech and acts are hostile to the driver and occupants, with insults and bullying. Yet, the policeman's behavior changes instantly when he notices the white occupant in the vehicle. The encounter abruptly ends, and the vehicle is allowed to continue on its way. Under the new theory, the white law student may find the encounter to be a highly informative peak experience: incredibly eye-opening as to the continued existence of racial bias, which fosters feelings that fairness is a value that ought to be extended to all—regardless of skin tone. In contrast, under the old theory, her experience may be less informative. Given the same conditions of the police encounter, for example, her experience may be wonderment, yet not in any manner indicative as to the continued existence of racial bias. Her wonderment, for example, may result because it is her first experience of being pulled over. Further, she may feel no value from the encounter—it was nothing more than a traffic stop. Whereas the highly informative experience may deepen a connection to fairness and justice values that become principles for the individual's life potentialities, the vacuous experience does not.

The old hypothesis was vague about when "peak experience" values and self-transcendence identity activity—as guiding

principles for individual, social, or cultural action—could be predictive. Healthy self-actualizing abounds, yet they are far from self-transcendence, incapable of causing unity perception.³⁴

The reformulated hypothesis of “peak experiences” makes a major new set of predictions about this topic: the individual accepts that certain commonly held understandings about reality are open to interpretation, then he has an experience where awe, wonder, B-cognition, and B-values are activated. He is cognitive of something that is beyond the ability to be known. His awareness accepts that reality is subject to a duality of interpretations, yet he also senses the unity. This unitive attribution affects his cognitive expectations about values and thereby his identity, goals, and motivations. He transcends the “unknown/unknowable mystery” through acceptance, and communes with unitive values. Acceptance of unitive identity activates guidance in developing principles for individual, social, or cultural action.

Consider an example: a lawyer is asked to provide a memorandum in favor of torturing wartime prisoners. He devises a rationale that is adopted by the government. Yet, many people are outraged by the seeming disregard for individual morality, group professional ethics, and existing cultural norms. A law student is one such horrified individual. She has been exposed to positive social critique, and critical theory across disciplines and domains. Reading the lawyer’s document sparks a peak experience: she experiences awe and wonder at the reasoning, and she feels an emotional connection to values of individual autonomy, respect, and dignity that extends not just to herself, but to all humans. She strongly feels these values to be “true”—as if emanating from some unknown/unknowable source—and takes these values into her unitive identity as Self and Self as collective Other. According to the reformulated hypothesis, if she accepts the unknown, connects to B-values, and embraces unitive identity—the behaviors observed will be far-reaching. Her behaviors will reveal a focusing of her potential in great extent in favor of service to others and to B-values conceived as being true outside the personal self. So, if she decides that this is indeed a “truer” reality, when she confronts the legal memorandum, she will expect that the rules are transposable and will advocate instead for goals that tend toward the highest and

34. THE JOURNALS OF A. H. MASLOW 794–95 (Richard Lowry ed., vol. 2 1979).

best good of health, talent, or possibility for self and others. She may attribute the torture policy to specific, internal (stable or unstable), or external (stable or unstable) factors that can be changed.³⁵ Thus, she will feel able and confident to offer a viewpoint that reflects differently from the memorandum's position. Further, her position will reflect B-values and a commitment to human maturity, growth, and health.

C. *Implications*

The attritional account of peak experiences, identity, and values explains when self-transcendence unitive identity and values can be predicted to result. Self-transcendence can be predicted where positive social critique, criticism, reformulated peak experience, acceptance of unitive self-transcendence identity, and B-values produces behavior that seeks expression of full individual potentiality in accordance with collectivist goals and motivations.

III. VALIDITY OF OCP THEORY

OCP theory is a new set of hypotheses and propositions that must be assessed for validity by its ability to generate novel predictions that survive attempts at disconfirmation. Nevertheless, I submit available evidence that perhaps lends only limited support to the theory for individual spiritual transformation and social change. Of course, not all possible support can be identified at this time nor can it be addressed in this Article. I will attempt to identify some possible areas of support for this theory. For the sake of discussion, terms used in the fields and domains of myth, philosophy, psychology, and theology are arrayed in Figure 2.³⁶ The planes of consciousness (e.g., Field of Time, Field of Action, Timeless Unity) are juxtaposed with three psychological states of being (e.g., self-actualization, self-transcendence, reformulated self-transcendence). In this way, one can compare and contrast the conscious state of mind with the psychological state of being—in terms of needs gratification.

35. Lyn Y. Abramson et al., *Learned Helplessness in Humans: Critique and Reformulation*, 87 J. ABNORMAL PSYCHOL. 49, 57 (1978) (reformulating learned helplessness hypothesis with implied treatment, strategies, and tactics to overcome deficient attributions); Jeannette L. Nolen, *Psychology: Learned Helplessness*, ENCYC. BRITANNICA (Dec. 24, 2015), <https://www.britannica.com/topic/learned-helplessness> [<https://perma.cc/VD7B-FYFS>]. See generally Neera K. Badhwar, *The Milgram Experiments, Learned Helplessness, and Character Traits*, 13 J. ETHICS 257 (2009).

36. *Infra* app. fig. 2.

A. *OCP and Self-Transcendence: Duality and Unity*

The phenomenon of the reformulated unitive B-cognition is an abstraction no less real and important in the peak experiences. That which Paul Tillich calls “the ground of being,”³⁷ Joseph Campbell calls the field of time: a duality being-consciousness co-existing simultaneously without conflict.³⁸ The unitive B-cognition of the duality of Self and Self as collective Other take on value relative to the position in which the individual is standing. Campbell reports, “All things in the field of time are pairs of opposites. So this is a shift of consciousness from the consciousness of identity to the consciousness of participation in duality. And then you are into the field of time.”³⁹ Transcendence, according to Campbell, occurs in the field of time, where pairs of opposites, good and evil, right and wrong, are brought to consciousness, *while at the same time*, one remains cognizant of the absence of opposites. Each individual stands as a manifestation of the mystery of a human in the field of time. “The hero is the one who comes to participate in life courageously and decently, in the way of nature, not in the way of personal rancor, disappointment, or revenge.”⁴⁰ “But the transcendent is unknowable and unknown. . . . The mystery of life is beyond all human conception.”⁴¹ Thus, in the field of time, according to Campbell, the individual is cognizant of duality. The self-transcendent individual affirms this condition yet participates in life. Life is wonderful, and it also hurts. It is a hard-temporal task, to affirm the world the way it is and consciously choose to restrain ego and seek to focus one’s life potentialities in service to Self and Others maturation, health, and self-fulfillment.

37. PAUL TILlich, *THE COURAGE TO BE* 156–57 (1952).

38. JOSEPH CAMPBELL WITH BILL MOYERS, *THE POWER OF MYTH* 48 (Betty Sue Flowers ed., 1988).

39. *Id.*

40. *Id.* at 66.

41. *Id.* at 49. Campbell speaks to when “just by the act of recognizing duality” one moves out of the B-cognition: the mythological dreamtime zone where there is no time, where men and women do not even know that they are different from one another, where there is transcendent unity with all creation, with all things. *Id.* at 48.

Figure 3 is a graphic representation of this concept,⁴² which is expressed below:

There's a Hindu image that shows a triangle . . . and a dot in the center . . . which is the energy of the transcendent entering the field of time. And then from this triangle there comes pairs of triangles in all directions. Out of one comes two. All things in the field of time are pairs of opposites. So this is the shift of consciousness from the consciousness of identity to the consciousness of participation in duality. And then you are into the field of time.⁴³

OCP theory postulates that self-transcendence can be expected to be observed where the individual has determined to experience life as someone whose primary identity is relatively egoless, agency of Self is retained, identity is Self and Self as collective Other, attainment of a balance of interests served—between the individual and collectivist—and collectivist motivational values (e.g., security, self-direction, restrictive-conformity, prosocial, maturity)⁴⁴ are the driving motivational need. OCP self-transcendence has strong motivational needs toward universal achievement of these values as a means for individual, social, and cultural liberation. Note that the reformulated B-cognition does not mean anything goes. OCP theory aligns with reality. Although one transcends duality and lives with acceptance of the integration of said duality, one nevertheless must live in the world. This may sometimes require actions that demand not only B-cognition, but also saying “no” to circumstances, bringing about conflict, intrinsic and necessary selfishness, and self-protectiveness. Yet for those who are self-transcendent, “[t]his means that fighting, struggle, striving, uncertainty, guilt, regret must also be ‘necessary’ epiphenomena of self-actualization. It means the self-actualization involves *both*

42. *Infra* app. fig. 3.

43. CAMPBELL, *supra* note 38, at 48.

44. Schwartz & Bilsky, *supra* note 8, at 551–53. Defining value contents has three facets. The first is that goals or values represent three types of universal human requirements—biologically based needs, social interaction requirements, and social institutional demands. The second value facet is the distinction that values serve interests (e.g., individual, collectivist, or both individualist and collectivist interests). And finally, the third value facet is the distinction that refers to motivational domains—in which human requirements are expressed (e.g., enjoyment, security, achievement, self-direction, restrictive-conformity, prosocial, social power, maturity).

contemplation and action *necessarily*.⁴⁵ As Campbell explained, “in the field of action, if [one] see[s] a poisonous serpent about to bite somebody, [one] kill[s] it.”⁴⁶ “That’s not saying no to the serpent,” according to Campbell, “that’s saying no to that situation.”⁴⁷ One also can say “no” to brutality, to tyranny, to vulgarity, to oppression.

1. Unitive Being-Cognition and Identity

I believe Maslow’s B-cognition to be an excellent theory of what is understood to be having a *spiritual experience*. For example, the individual experiences the thought of awe, feels tingling in the body, and identifies with something felt greater than oneself, leading to actions that are less ego-motivated. Yet OCP theory posits a reformulation of peak experience B-cognition to include a *phenomena of acceptance* of duality and a moving past or transcending duality to identify as Self and Self as collective Other. Maslow hints of this phenomena in his discussion of B-cognition of the other:

B-cognition of the other is most possible when there is simultaneously a letting-be of the self *and* of the other; respecting-loving myself *and* respecting-loving the other each permit, support, and strengthen each other. I can grasp the non-self best by non-grasping, i.e., by letting it be itself, by letting go, by permitting it to live by its own laws rather than by mine, just as I become most purely myself when I emancipate myself from the not-me, refusing to let it dominate me, refusing to live by *its* rules, and insisting on living only by the laws and rules intrinsic to me. When this has happened, it turns out that the intra-psychic (me) and the extra-psychic (other) are not so terribly different after all, and *certainly* are not *really* antagonistic. It turns out that both sets of laws are very interesting and enjoyable and can even be integrated and fused.⁴⁸

Identity has various useful meanings. Disciplines and domains partly discover and partly create definitions and concepts of identity. In this Article, identity makes no claim that it is *the* true

45. PSYCHOLOGY OF BEING, *supra* note 3, at 117.

46. CAMPBELL, *supra* note 38, at 66.

47. *Id.*

48. PSYCHOLOGY OF BEING, *supra* note 3, at 109.

meaning of identity, only that when it comes to self-transcendence, people are their *most* true Self.⁴⁹ In other words, in self-transcendence, one is their most real self, closest to their most idiosyncratic self.⁵⁰ In OCP self-transcendence, a new identity can be said to emerge. This new identity is: Self and Self as collective Other.⁵¹

Critical Race Theory (CRT) scholarship is rich in its set of doctrines and methodologies, yet also cohesive in its common interests. OCP addresses itself to the second of these common interests—the desire to change the “vexed bond between law and racial power”⁵² through the commitment to human liberation.⁵³ This lens through which CRT examines American jurisprudence and social structure—OCP theory posits—is an expression of the motivational need to transcend the status quo and to gratify the need to identify with something greater than the purely individual self—devoting themselves to aspects of self-transcendence. An individual embracing CRT’s ethical commitments to liberation as a value for Self, society, and culture may attain self-transcendence (particularly when one’s motivational life is focused on gratifying unitive values).

B. OCP and B-Value: Peak Experience as Acute Identity Experience

OCP theory moves beyond the pair of opposites to unitive being-cognition. Unitive being-cognition in that, while retaining one’s agency and at the same time identifying as the collective Other, one accepts the reality of the existence of both as an inseparable whole. When the individual can transcend awareness

49. See *id.* at 105 (“That is, the greatest attainment of identity, autonomy, or selfhood is itself *simultaneously* a transcending of itself, a going beyond and above selfhood. The person can then become relatively egoless.”) (emphasis added).

50. The descriptions of the aspects of identity used in this Article are not to be seen as “separate” characteristics, but rather as overlapping aspects of a complete whole. It is a “holistic analysis” as contrasted to atomistic or reductive analysis. Thus, each aspect discussed can be considered a partial explanation of each of the other “aspects.” It is not splitting identity apart into separate, mutually exclusive components.

51. See generally Sam McFarland et al., *All Humanity Is My Ingroup: A Measure and Studies of Identification with All Humanity*, 103(5) J. PERSONALITY & SOC. PSYCHOL. 830 (2012) (suggesting additional study of measures of caring for all humanity, not just one’s own ingroup, as the positive quality of identification with all humanity is a measure of fully mature individuals).

52. Kimberlé Crenshaw, *Introduction to CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT*, at xiii (Kimberlé Crenshaw et al. eds., 1995).

53. Calmore, *supra* note 6, at 317 (“In that sense, our efforts must, while directed by critical theory, extend beyond critique and theory to lend support to the struggle to relieve the extraordinary suffering and racist oppression that is commonplace in the life experiences of too many people of color.”).

of duality, and accept unity values, one can accept the oppositions as just labels for the nature of reality. This unitive being-cognition has four elements: (1) wonder, awe, and a sense of something greater than self; (2) B-cognition motivated to connect not primarily with something greater than self, but with *acceptance* of the “unknowable mystery”⁵⁴ and its unitive nature; (3) an acceptance that although the transcendent can never be known, the values it evokes are valid to be put into practice in the human experience (connection to B-values as some object of the experience); and lastly, (4) Self-identity relatively egoless as Self and Self as collective Other. This process leads to: (a) a desire for growth toward unitive values; (b) *acceptance* of duality of self and other as maturity and growth toward unity (integrated and fused); and (c) a motivational need to seek peak experiences for self, society, and culture. This unity B-cognition is *both* acceptance of reality as best as may possibly be known in this moment of time *and* acceptance that reality cannot truly be known.⁵⁵ Thus, evil is just evil, good is just good; man is just man, woman is just woman; one is not better or worse than the other. “The ultimate mystery of being is beyond all categories of thought.”⁵⁶ This transcendent consciousness allows for humility, empathy, compassion, reconciliation, and forgiveness.⁵⁷ OCP theory posits that this unitive B-cognition is a necessary phenomenon for individual self-transcendence. Those individuals who are motivated to achieve peak experiences may have the capability to reach self-transcendence.

54. The disciplines of religion, mythology, storytelling, and philosophy can help here, when one has hit the existential boundary of the “unknowable/unknown” typically addressed in cosmogony. Religion and philosophy can help one accept the mystery. For example, spiritual practices, rites, rituals, and traditions serve this purpose. Note that cosmology can serve a quite different and distinct purpose. The “unintelligible/intelligible” boundary of concrete cosmology, helps in the field of time (duality). This is the field of action—of life. Here, one understands that although something currently is not understood, in time and with attention through research, study, observation, thought, etc., it can be understandable. OCP theory distinguishes and acknowledges the existence of both states of cognition/consciousness. One holds an awareness that behind this duality there is a singularity (energy of transcendence) over which this reality plays out like a shadow game.

55. CAMPBELL, *supra* note 38, at 48 (“It’s a matter of planes of consciousness. . . . There is the plane of consciousness where you can identify yourself with that which transcends pairs of opposites. . . . [It is] [u]nnameable. It is transcendent of all names.”). This statement communicates the “unknown/unknowable” singularity (energy of transcendence) found in cosmogony and may also be the same singularity referred to in cosmology.

56. *Id.* at 49.

57. See PSYCHOLOGY OF BEING, *supra* note 3, at 103–14.

as fairness or love) is the object.⁶² Thus, Dworkin suggests that the term “religious atheists” be used to describe this concept of a religious attitude in which a non-personal god resides.⁶³ With this understanding of the phrase religious atheists, one could say that Carl Sagan expressed a religious atheist point of view.⁶⁴ “He revered the universe. He was utterly imbued with awe, wonder, and a marvelous sense of belonging to a planet, a galaxy, a cosmos that inspires devotion as much as it does discovery.”⁶⁵ The values identified here, behind the experience, are *belonging* and *devotion*. Dworkin offers the phrase religious atheists, which would include agnostics like Sagan, in order to advance the discussion of values and religion.

Dworkin’s work is an attempt to liberate individuals—particularly lawyers—from the fog of religious judgment and fear so as to identify themselves as holistic human beings, confident to talk about these peculiarly human experiences.⁶⁶ OCP theory provides the tools to speak and live courageously in full embrace of one’s total human experience of feeling emotion and belonging.

Peak experience of unity B-cognition for some individuals evokes a belief in a god, however it is only one possible conclusion.⁶⁷ Yet the commitment is to the independent reality of value revealed in the experience. One may choose to identify as religious, spiritual but not religious, atheist, pantheist, agnostic, or nothing at all. The conviction that some energy or thing (mysterious and unknowable) underwrites a value presupposes a prior commitment to the independent reality of that value—a commitment that is available to everyone. Fortified with this knowledge, one can think and act with courage in one’s certainty in the acceptance of B-values. This shared commitment to the

62. *Id.* at 43.

63. *Id.* at 31–43.

64. *Carl Sagan, in THE FAITH OF SCIENTISTS: IN THEIR OWN WORDS* 222 (Nancy K. Frankenberry ed., 2008).

65. *Id.*

66. *See* DWORKIN, *supra* note 58, at 14–15 (discussing grounded and ungrounded realism—grounded being a form of theism that makes the status of value hostage to biology or metaphysics; and the ungrounded religious attitude—in which the only valid reason one could have for believing humans have a capacity for sound value judgments is “we reflect responsibly on our moral convictions and find them persuasive. We think them true, and we therefore think we have the capacity to find the truth.”).

67. *See* PSYCHOLOGY OF BEING, *supra* note 3, at 81–84.

independent reality of values can furnish a basis for improved communication between those who are religious and those who are not.

The presence of human emotion in the peak experience must not be overlooked. Convictions of value are complex emotional experiences. In the case of faith and values, Dworkin writes:

A conviction of truth is a psychological fact, and only a value judgment can argue for the conviction's truth. . . . Our felt conviction that cruelty is wrong is a conviction that cruelty is really wrong; we cannot have that conviction without thinking that it is objectively true. Acknowledging the role of felt, irresistible conviction in our experience of value just recognizes the fact that we have such convictions, that they can survive responsible reflection, and that we then have no reason at all, short of further evidence or argument, to doubt their truth.⁶⁸

There is yet another caveat: good can be subjective (personal preference) or objective (external facts). Good can also be relative (depending on individual or cultural circumstances), or absolute (something that should apply to everyone everywhere). Nevertheless, an inherent set of values is needed to provide a backdrop stimulus before which social ethics and cultural norms can question individual morality.⁶⁹

1. Peak Experience: B-cognition and B-Values

OCP theory posits that self-transcendence can be expected to occur through individuals experiencing and coming to terms with life as it is, by learning to understand, to accept, and act as Self and Self as collective Other. This is critical. It differentiates a spiritual experience from a unitive B-cognition self-transcendence experience in OCP theory. OCP peak experience—unitive B-cognition with its attenuate B-values—finds validity, for example, in law professor Dworkin's construct that he called "faith" writing:

In each domain we accept felt, inescapable conviction rather than the benediction of some independent means of verification as the final arbiter of what we are entitled responsibly to believe. This kind of faith is not just passive acceptance of the conceptual truth that we cannot justify our science or our logic or our values

68. DWORKIN, *supra* note 58, at 20.

69. MEL THOMPSON, UNDERSTAND ETHICS 126 (3rd ed. 2010).

without appealing to science or logic or value. It is a positive affirmation of the reality of these worlds and of our confidence that though each of our judgments may be wrong, we are entitled to think them right if we have reflected on them responsibly enough.⁷⁰

What OCP theory defines as unitive B-cognition and B-values, theologian Paul Tillich referred to as “absolute faith.”⁷¹ For Tillich, “absolute faith” is a consciousness such that when one resists despair, one stands at an abyss of meaninglessness.⁷² Yet at that very moment, one is aware of a hidden meaning within this destruction of meaning. One senses the *dependence* of the experience of nonbeing upon the experience of being, and the *dependence* of the experience of meaning upon the experience of meaninglessness.⁷³ This acceptance of perceived duality, and behind it an integrated and fused singularity, constitutes absolute faith.⁷⁴ Absolute faith includes an element of skepticism and humility, which one cannot find in the mystical experience alone.⁷⁵ While a mystical or numinous experience is awe, wonder, sense of something greater than self, the peak experience is that experience, along with all those other elements found in Figure 1, that includes acceptance of the “unknown/unknowable mystery” and its unitive nature.⁷⁶

Consider an example from the science discipline. Astrophysicist Neil deGrasse Tyson refers to acceptance of the “unknown and the unknowable.” During Aisha Tyler’s *Girl on Guy* podcast, deGrasse Tyson discusses how he came to what I am defining as OCP B-acceptance.⁷⁷ He describes having a sense of self as human being during the broadcast of the funeral for John F. Kennedy when an “eternal flame” was lit.⁷⁸ DeGrasse Tyson reports,

I said, “eternal . . . what?” At the age of five, I knew that they had to keep adding fuel to this It was the first time I had heard the word ‘eternal’ and that was difficult for me, because that’s an unmeasurable quantity of time.⁷⁹

70. DWORKIN, *supra* note 58, at 19.

71. TILlich, *supra* note 37, at 178–81.

72. *Id.* at 189.

73. *Id.* at 177–78.

74. *Id.* at 188.

75. *Id.* at 186–90.

76. *Infra* app. fig. 1.

77. *Girl on Guy 219: Neil deGrasse Tyson*, AISHATYLER (Nov. 1, 2016), <http://www.girlonguy.net/podcast/girl-on-guy-219-neil-degrasse-tyson/>.

78. *Id.* at 00:26:36.

79. *Id.*

Then, he experienced existential “curiosity.”⁸⁰ He adds, “[humans] are really good at knowing whether something with teeth is going to eat us. . . . We have no life experience dealing with eternity. This may be why it took so long for calculus to be invented, because it involves infinities.”⁸¹ DeGrasse Tyson elaborates further, going on to define what infinitely large or infinitely small must be, using Zeno’s paradox. “The paradox is if you have to keep going half way, there is clearly an unlimited number of ‘half-ways’ that you can establish here and, so therefore, you will never reach your destination . . . but you do.”⁸² DeGrasse Tyson’s “first thought outside of [himself] was how [to] deal with eternity” and he dealt with it using Zeno’s paradox.⁸³ He noted that “the source of so many religious inspirations is looking up and seeing how small you are and you say to yourself, ‘Clearly there is something bigger that started this.’”⁸⁴ For deGrasse Tyson, science provides a means to accept unity cognition.⁸⁵

In OCP theory, self-transcendent individuals have peak experiences, yet retain a sense of Self that is independent, or transcendent, of theological doctrines or teachings. As a result, one can pursue truth as a way of life.

D. *CRT Methodology of the Narrative and Personal Potentiality for Creative Agency*

Maslow’s self-actualization refers to self-fulfillment of one’s full potentiality. Creativity is one form of self-agency.⁸⁶ Storytelling, the narrative form of creativity, shapes the way human beings share their experiences: to tell a story about them.⁸⁷ Storytelling is the way humans

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.* at 00:26:36–00:32:48.

86. See generally Eitan Wilf, *Sincerity Versus Self-Expression: Modern Creative Agency and the Materiality of Semiotic Forms*, 26 *CULTURAL ANTHROPOLOGY* 462 (2011).

87. Charles R. Lawrence, III, *The Word and the River: Pedagogy as Scholarship as Struggle*, in *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* 336, 337 (Kimberlé Crenshaw et al. eds., 1995) (“[L]eav[ing] space for, to encourage, and to value, the articulation of feeling and experience . . . is particularly important in teaching law, where the story that is told within the dominant discourse has systematically excluded the experience of people of color and other outsiders, and where we are trained to believe that the story told by those in power is a universal story.”).

share their experiences with others.⁸⁸ The narrative form as a methodology for expressing CRT ethical aspirations can allow for “what Edward Said has called ‘antithetical knowledge,’ the development of counter-accounts of social reality by subversive and subaltern elements of the reigning order.”⁸⁹ During the OCP critique and positive criticism phases of the practice, one can tap into the creative juices of narrative writing to reveal one’s own sense of the world as it is. Yet OCP posits that narrative can serve a more powerful cognitive role: it can reveal the nature of the *structures* of society.⁹⁰ And with its telling of the tale, narrative can bring about social change.⁹¹

1. Structure Theory Methodology

William Sewell, Jr. offers a definition of structure in his work *Toward a Theory of Structure: Duality, Agency, and Transformation*. In it, Sewell states:

Structures . . . are sets of mutually sustaining rules and resources that empower and constrain social action and that tend to be reproduced by that social action. But their reproduction is never automatic. Structures are at risk, at least to some extent, in all of the social encounters they shape—because structures are multiple and intersecting, because rules are transposable, and because resources are polysemic and accumulate unpredictably. Placing the dynamic relationship between resources and rules at

88. See generally CAMPBELL, *supra* note 38; CHRISTOPHER BOOKER, *THE SEVEN BASIC PLOTS: WHY WE TELL STORIES* (2004).

89. See Crenshaw, *supra* note 52, at xiii.

90. OCP grounds the voice of narrative in universal human requirements (needs (organism), social motives (interaction), and social institutional demands); values which serve both individualistic and collectivist interests, and motivational domains in which these requirements are expressed (B-values).

91. See Lawrence, *supra* note 87, at 344 (detailing narrative as the force to change the public discourse about the distortions and limitations of traditional legal analysis).

the center of a concept of structure makes it possible [to] show how social change, no less than social stasis, can be generated by the enactment of structural rules in social life.⁹²

Jurisprudence is the embodiment of structure. Structure is comprised of rules (mental cognitions) and resources (material existence and embodied rules) that mutually imply and sustain each other over time. Scholars have examined how rules and resources so powerfully reproduce one another, re-enforcing culture, ideology, and social structure.⁹³ However, structural change is possible. Sewell proposes “a conceptual vocabulary that makes it possible to show how the ordinary operations of structures can generate transformations.”⁹⁴ He proposes five key axioms, one of which is the polysemy of resources.⁹⁵

The polysemy of resources, for example, is clearly seen in the narrative structure of CRT methodology.⁹⁶ Polysemy (or multiplicity of meaning),⁹⁷ applied to the concept of resources (that by definition embody rules),⁹⁸ implies that their meaning is never entirely unambiguous. Sewell relates this insight:

Resources, I have insisted, embody rules. Like texts or ritual performances, however, their meaning is never entirely unambiguous. The form of the factory embodies and therefore teaches capitalist notions of property relations. But, as [Karl] Marx points out, it can also teach the necessarily social and collective character of production, and thereby undermine the capitalist notion of private property. . . . Any array of resources is capable of being interpreted in varying ways and, therefore, of empowering different actors and teaching different rules. Again, this seems to me inherent in [the] definition of agency as the capacity to transpose and extend rules to new contexts. Agency, to put it differently, is the actor’s capacity to reinterpret and mobilize an array of resources in terms of rules other than those that initially constituted the array.⁹⁹

92. Sewell, *supra* note 24, at 22.

93. See generally PIERRE BOURDIEU, *OUTLINE OF A THEORY OF PRACTICE* (Richard Nice trans., Cambridge Univ. Press 1977); RENATO ROSALDO, *ILONGOT HEADHUNTING 1883–1974: A STUDY IN SOCIETY AND HISTORY* (1980); MARSHALL SAHLINS, *CULTURE AND PRACTICAL REASON* (1976).

94. Sewell, *supra* note 24, at 16.

95. *Id.* The five axioms are: “the multiplicity of structures, the transposability of schemas, the unpredictability of resource accumulation, the polysemy of resources, and the intersection of structures.” *Id.*

96. See Lawrence, *supra* note 86, at 341–43.

97. Sewell, *supra* note 24, at 21.

98. *Id.*

99. *Id.* at 21–22.

The narrative forms of pleadings, arguments, judicial decisions, legislative policy, and similar components of jurisprudence can bring about structural change by bringing attention to the polysemy of resources.¹⁰⁰ For example, Crenshaw's theory of intersectionality is an analytic sensibility expressed through the voices of those who are most dispossessed. Crenshaw adds that the theory is "a way of thinking about identity and its relationship to power . . . [that] has given many advocates a way to frame their circumstances and to fight for their visibility and inclusion."¹⁰¹

Finally, narrative can reveal the psychology, cosmology, pedagogy, epistemology, and sociology of being human. It is a creative expression of self agency. In the words of Cornel West,

On the one hand, the [CRT] movement highlights a creative—and tension-ridden—fusion of theoretical self-reflection, formal innovation, radical politics, existential evaluation, reconstructive experimentation, and vocational anguish. But like all bold attempts to reinterpret and remake the world to reveal silenced suffering and to relieve social misery, Critical Race Theorists put forward novel readings of a hidden past that disclose the flagrant shortcomings of the treacherous present in the light of unrealized—though not unrealizable—possibilities for human freedom and equality.¹⁰²

100. See Lawrence, *supra* note 87, at 337 (noting the tradition of storytelling in the law and contrasting African-American storytelling that values rich contextual detail with the law, that excludes large parts of the story as irrelevant). "Where we celebrate the specific and the personal, the law tells stories about disembodied 'reasonable men.'" *Id.*

101. *Intersectionality Can't Wait*, *supra* note 4; see also James Bohman, *Critical Theory* § 3.4, in STAN. ENCYC. PHIL. (Mar. 8, 2005), <https://plato.stanford.edu/archives/fall2016/entries/critical-theory/>.

Rather than claiming objectivity in a trans-perspectival sense, most practically oriented Critical Theorists have always insisted that their form of social inquiry takes a "dual perspective." This dual perspective has been expressed in many different ways. Critical theorists have always insisted that critical approaches have dual methods and aims: they are both explanatory and normative at the same time, adequate both as empirical descriptions of the social context and as practical proposals for social change. This dual perspective has been consistently maintained by Critical Theorists in their debates about social scientific knowledge, whether it is with regard to the positivism dispute, universal hermeneutics, or micro- or macro-sociological explanations.

Id. (internal citation omitted).

102. Cornel West, *Forward* to CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT, at xi, xi–xii (Kimberlé Crenshaw et al. eds., 1995).

IV. OCP: PRAXIS THAT MAKES POSSIBLE INDIVIDUAL, SOCIAL, AND CULTURAL CHANGE

Last, yet perhaps most important, is praxis. When OCP becomes the lens through which one views life, one's life becomes an artistic expression through praxis.¹⁰³ Praxis reinforces growth toward maturity.¹⁰⁴ One thinks, feels, and acts creatively toward achieving unitive goals. Praxis gives vibrancy and resilience in the face of drastic changes that occur in a society. For example, one can pursue a jurisprudence that chooses the rule which, when applied, produces the greatest advantage to the community.¹⁰⁵ One can also pursue jurisprudence that allies with scientists that call for an end to the use of race as a variable in genetic research.¹⁰⁶ A self-transcendent lawyer—living out his moral, ethical, and legal commitment to liberate self, society, and culture—engages in praxis, a testament to the human ability to call upon the better angels of our nature.¹⁰⁷ The lived experience of the individual, so

103. Praxis (Ancient Greek: *πρᾶξις*) is the process by which a theory, lesson, or skill is enacted, embodied, or realized. *Praxis*, MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY (11th ed. 2004).

104. *Cf.* THE ROUTLEDGE COMPANION TO THEISM 660 (Charles Taliaferro et al. eds. 2012) (arguing that praxis as a routine in spirituality will lead to maturity, but noting that this does not require religious activity).

105. Jurisprudence is the philosophy or theoretical study of the law. *Jurisprudence*, BLACK'S LAW DICTIONARY (10th ed. 2014).

106. *See generally* Michael Yudell et al., *Taking Race Out of Human Genetics: Engaging a Century-Long Debate About the Role of Race in Science*, 351 *SCI.* 564 (2016) (calling for the end of the use of race as a variable in genetic research due to disputed and mired confusion in the use of biological concepts of race); Troy Duster, *A Post-Genomic Surprise: The Molecular Reinscription of Race in Science, Law and Medicine* (2014), <https://www.youtube.com/watch?v=H-McFX0dZVI&feature=youtu.be>, reprinted in 66 *BRIT. J. SOC.* 1 (2015) (stating genetic differences are not proven to be applicable to large groups of peoples identified solely by race, as race has historically been used as a taxonomic categorization based on hereditary traits (such as hair texture or skin color) to explain the relationship between our ancestry and our genes).

107. *See* STEVEN PINKER, *Preface*, *THE BETTER ANGELS OF OUR NATURE: WHY VIOLENCE HAS DECLINED*, at xxv (2011). Pinker uses the phrase "better angel of our nature" as a metaphor for four human motivations—empathy, self-control, the "moral sense," and reason—that, he writes, can "orient us away from violence and towards cooperation and altruism." *Id.* at 571–670.

transformed, becomes a type of living witness to what it means to be human. OCP inspired me to design courses in law that apply OCP theory to general practice, elimination of bias in the profession, ethics, and competence issues, including substance abuse and mental health.¹⁰⁸

OCP provides a possibility of sustaining a truer experience of life. In legal practice, for example, writing entails a higher state of consciousness.¹⁰⁹ Contemplation of a concept or legal theory takes on additional considerations of the interests of the individual, society, and culture. Reflection includes thinking about bias and heuristics that may arise due to perceived duality in the field of action.¹¹⁰ One can turn an everyday occurrence—such as meeting with clients or other lawyers—into a peak experience just by intentionally being on the self-transcendence plane of consciousness.¹¹¹ Thoughts, actions, and feelings can take on a sense of stillness, connection, and peace.

CONCLUSION

*It's as if we think liberation a fixed quantity, that there is only so much to go around. That an individual or community is liberated at the expense of another. When we view liberation as a scarce resource, something only a precious few of us can have, we stifle our potential, our creativity, our genius for living, learning and growing.*¹¹²

It has been my contention that a reformulated self-transcendence (peak experience, B-cognition, and B-values) hypothesis supports OCP

108. Four one-hour law courses are taught by the author, which constitutes an application of OCP theory in general legal practice, ethics, elimination of bias, and competence issues, such as substance abuse and mental health. A course on praxis is currently under development. *Minimum Continuing Legal Education (MCLE)*, JOHN F. KENNEDY U., <https://www.jfku.edu/Programs-and-Courses/Continuing-Extended-Education/Minimum-Continuing-Legal-Education-MCLE.html> [<https://perma.cc/5A22-EFZW>]. Reference herein to any specific commercial products, process, or service by trade name, trademark, external hyperlinks, or otherwise, does not necessarily constitute or imply its endorsement, recommendation, or favoring by the *Western New England Law Review*.

109. See, e.g., Rhonda V. Magee, *Legal Education and the Formation of Professional Identity: A Critical Spirituo-Humanistic—"Humanity Consciousness"—Perspective*, 31 N.Y.U. REV. L. & SOC. CHANGE 467, 472 (2007) ("Critical legal theory and critical race theory arguably are joined and enhanced by a deeper consideration of the spiritual and psychological effects of law, and an embrace of the praxis objectives of humanism.").

110. See, e.g., Darren Lenard Hutchinson, "Continually Reminded of Their Inferior Position": *Social Dominance, Implicit Bias, Criminality, and Race*, 46 WASH. U. J. L. & POL'Y 23 (2014).

111. See *infra* app. fig. 2 for definition of terms.

112. Andrea Canaan, *Brownness*, in THIS BRIDGE CALLED MY BACK: WRITINGS BY RADICAL WOMEN OF COLOR 232, 235 (Chérrie Moraga & Gloria Anzaldúa eds., 1983).

theory of self-transcendence and social transformation. At a minimum, OCP theory is consistent with available experimental evidence (because available evidence has been one factor shaping the hypothesis). OCP theory posits that when an individual decides to make oppositional cultural practice a way to, or a quest for, truth, the individual begins to sustain oneself over a lifetime, through full creative expression.¹¹³ This approach is life as lived “peak experience.”

For those who are self-transcendent, OCP theory posits that legal practice can take on an artistry—an expression of one’s vision of jurisprudence in all its meta-ethical possibilities. Yet this artistry is not limited to lawyers. Individuals in professions that employ the philosophy of jurisprudence—law enforcement, penal system, legal scholars, law students, judges, for example—can express artistry in the work they do in the world, thus liberating society.¹¹⁴

113. Examples of individuals who the Author finds model this way of creative and sustainable quest for truth are: Cornel West, *Examined Life*, https://www.youtube.com/watch?v=xfD3X3f5C_w (Mar. 22, 2013) (video discussing living a good life); Judy Chicago, *The Dinner Party, 1974–79*, BROOKLYN MUSEUM, N.Y., https://www.brooklynmuseum.org/exhibitions/dinner_party [<https://perma.cc/L8XK-BMH4>] (ceramic, porcelain, textile, 576 x 576” (1463 cm x 1463 cm) art exhibit); Fred Wilson, *Mining the Museum, 1992–93*, M.D. HISTORICAL SOCIETY, M.D., <http://www.mdhs.org/digitalimage/installation-view-mining-museum> [<https://perma.cc/UKH6-KYDW>]; and, generally, the works of Glenn Ligon, www.glennligonstudio.com/ (last visited Apr. 25, 2018) (containing paintings appropriating fragments from African-American literature which all raised awareness by excavating historical evidence of the long legacy resisting marginalization). OCP praxis is limitless in its creative expression pathways. Music, art, dance, writing, speaking, any human effort can be praxis under OCP.

114. See, e.g., Magee, *supra* note 108 (arguing that the integration of spirituality into legal educations will ultimately lead to a more holistic approach to social change); Soia Menschikoff & Irwin P. Stotzky, *Law—The Last of the Universal Disciplines*, 54 U. CIN. L. REV. 695, 701 (1986) (“The best practical training a law school can give to any lawyer is the study of law as a liberal art. In this vision of legal education, there are three necessary components to a first rate education—the technical, the intellectual, and the spiritual.”); Lucia Ann Silecchia, *Integrating Spiritual Perspectives with the Law School Experience: An Essay and an Invitation*, 37 SAN DIEGO L. REV. 167, 192 (2000) (arguing that in order for lawyers to be properly indoctrinated, spirituality must

be integrated with their law school experience); Jennifer M. Pigza & Marshall J. Welch, *Spiritually Engaged Pedagogy: The Possibilities of Spiritual Development Through Social Justice Education*, 5 SPIRITUALITY HIGHER EDUC. no. 4, <http://spirituality.ucla.edu/publications/newsletters/5/4/welch.php> [<https://perma.cc/NK4B-JRZ3>]. For a discussion of the legal distinction between spirituality and religion, see Courtney Miller, “*Spiritual but Not Religious*”: *Rethinking the Legal Definition of Religion*, 102 VA. L. REV. 833, 854 (2016).

Legal systems, structures, and laws ought to be de-biased of thinking errors that lead to perpetuating oppressive status quo.¹¹⁵ The current model of legal instruction has not done enough to free human life from suffering, illness, poverty, injustice, homelessness, and war. The great question is, what is it that galvanized Lincoln, King, Gandhi, Tutu, Tubman, and countless other unnamed women and men, to devote their lives to reducing oppression and suffering of self and other? What lead them to embrace the pursuit of unitive values as a way of life? They were, and are, tireless witnesses to their own transcendence.

OCP theory with its ethical commitments to the liberation of Self and Others and to understanding and *changing* the vexed bond between law and oppressive power has implications in both the philosophy of law and epistemology, lending significance and meaning to peak experiences. Finally, when the jurisprudence of humans changes, then everything changes. Imagine the jurisprudence of politics, economics, ethics and values, and interpersonal relations changing. Suppose the jurisprudence of legal education, the judiciary, the justice system, and the theories of how to help individuals and societies reach their fullest potentiality becomes the change we wish to see in the world.

115. See generally Govind Persad, *When, and How, Should Cognitive Bias Matter to Law?*, 32 L. & INEQ. 31 (2014) (discussing findings of cognitive bias being used to reduce racially biased legal outcomes).

APPENDIX

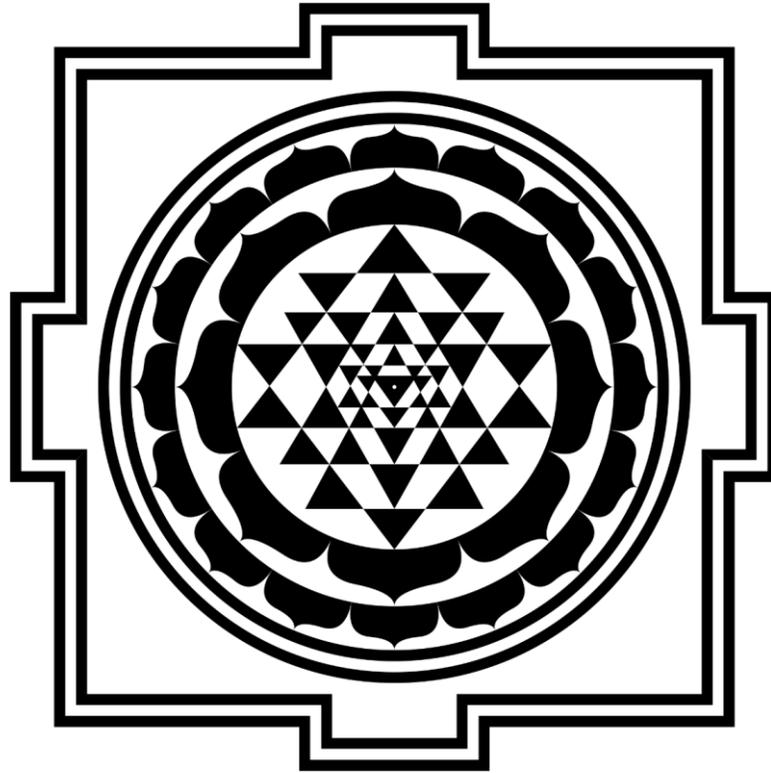
Figure 1: Reformulated Self-Transcendence	
Maslow's Self Transcendence	Oppositional Cultural Practice™ Self-Transcendence
B-cognition—awe, wonder, sense of something greater than self (“God of the gaps” spiritual experience) UNCHANGED.	B-cognition—awe, wonder, sense of something greater than self (“God of the gaps” spiritual experience) UNCHANGED.
B-cognition—seek communion with the transcendent.	B-cognition—primary cognition is of <i>acceptance</i> of the “unknown/unknowable mystery” and its unitive nature (<i>acceptance of duality</i> of Self and Self as Other as maturation and growth toward unity). Motivation to connect with something greater than self is <i>not</i> primary motivational focus, if existent at all.
B-values—motivation to grow toward “good values.”	B-values—connect with <i>values</i> emanating from the experience that are “true” or “real.”
Come to identify with something greater than purely individual self; Self whose “consciousness” has been raised.	(a) Adopt collectivist values (goals, interests and motivations) as one’s own individual integrity/morals with resulting <i>acceptance of unitive identity</i> as Self and Self as Other; attainment of human psychological health.
Service to others, act in more collectivist ways.	(b) <i>Personal potentiality focused to bring about conditions</i> for Self and Others to attain maturation; growth; and health goals, interests, and motivations.

Figure 2: Definitions

Figure 2: Definitions			
Plane of Consciousness	Field of Time (Where all things are pairs of opposites; the current state of our reality)	Field of Action (Where decisions take place and actions manifest)	Timeless Unity (When there is no thought of pairs of opposites)
SELF- ACTUALIZATION Consciousness of duality: consciousness of participation in duality	One identifies as Self, subject to bias, heuristics, anxiety, fear, et cetera	Thinking and decisions are vulnerable to errors	May or may not <i>experience</i> awareness of or unity with the transcendent
SELF- TRANSCENDENCE (B-cognition) Consciousness of timeless unity - where one seeks communion with the mystery that is unknowable (god)	One identifies as Self with an acceptance of some B-values	Thinking and decisions are vulnerable to ego self-aggrandizement ¹¹⁶	Vulnerable to existentialism, criticism, other psychological health deficiencies
REFORMULATED SELF- TRANSCENDENCE unitive B-cognition: Consciousness of timeless unity (where one can identify with that which transcends pairs of opposites) AND simultaneously consciousness of duality (where one can identify with the nature of our <i>experience</i> of reality)	One identifies as Self and Self as Other, holding an awareness that this is the nature of human <i>experience</i> of reality	Thinking and decisions informed by positive critique, criticism, and interests and motivational domain values (particularly prosocial and maturity domains); Consciousness to check for bias and heuristics, and to respond to feedback	Hold awareness that behind the duality there is a singularity ¹¹⁷ over which this reality plays like a shadow game

116 See, e.g., Douglas E. Litowitz, *Some Critical Thoughts on Critical Race Theory*, 72 NOTRE DAME L. REV. 503, 528 (1997) (writing that the “problematic assumption running through much CRT scholarship [is] to the effect that once our consciousness has been raised through narratives and stories, the correct legal decision will immediately become clear to us”); Robert John Araujo, *Critical Race Theory: Contributions to and Problems for Race Relations*, 32 GONZ. L. REV. 537, 574 (1997) (“[A]rguing that many of the problems that emerge from racial difference tend to forget the sameness or mutuality of human existence.”).

117 If the known laws of physics are extrapolated to the highest density regime, the result is a singularity, which is typically associated with the Big Bang. Physicists are undecided whether this means the universe began from a singularity, or that current knowledge is insufficient to describe the universe at that time.

Figure 3: The Hindu Sri Yantra¹¹⁸

118. The Hindu Sri Yantra takes the Practitioner from an outward journey (the square) to the center of spiritual Being (the dot in the center of the diagram). WIKIMEDIA COMMONS, <https://commons.wikimedia.org/wiki/File:SriYantra.svg> [<https://perma.cc/8KJS-WR6Y>].