

SPECIAL FEATURE

WHY LAW SCHOOLS SHOULD CELEBRATE THE CONTRIBUTION OF DR. MARTIN LUTHER KING, JR.

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We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness. . .—Thomas Jefferson, 1776¹

When we were the political slaves of King George, and wanted to be free, we called the maxim that “all men are created equal” a self-evident truth; but now when we have grown fat, and have lost all dread of being slaves ourselves, we have become so greedy to be *masters* that we call the same maxim “a self-evident lie.” The Fourth of July has not quite dwindled away; it is still a great day for burning fire-crackers!—Abraham Lincoln, 1855²

Our fathers had been compelled to postpone the principles of their great Declaration, and wait for their full establishment until a more propitious time. That time ought to be present now. But the public mind has been educated in error for a century. How difficult in a day to unlearn it. In rebuilding, it is necessary to clear away the rotten and defective portions of the old foundations, and to sink deep and found the unrepaired edifice upon the firm foundation of eternal justice.—Thaddeus Stevens, 1870³

I still have a dream. It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up, live out the true meaning of its creed: “We hold these truths to be self-evident, that all men are created equal.”—Martin Luther King, Jr., 1963⁴

INTRODUCTION

With a cursory reading of the preceding quotes, readers easily comprehend what Americans often view as the sole significance of Dr. Martin Luther King, Jr. for critical social institutions such as law schools: his moral challenge to America to fulfill its national dream of brotherhood. Obviously readers think of this point when they note Dr. King’s reference to a principal, sacred phrase in the catechism of the American political liturgy. When Americans chant or make reference to the phrase “all men are created equal,” as all of the above speakers do, they not only evoke memories of an alleged zenith of the Ameri-

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1. The Declaration of Independence para. x (U.S. 1776).
2. J. NICOLAY AND J. HAY, ABRAHAM LINCOLN, A HISTORY 390 (1917).
3. W.E.B. DUBOIS, BLACK RECONSTRUCTION IN AMERICA, 1860-1880, at 304 (1935).
4. L. DAVIS, I HAVE A DREAM: THE LIFE AND TIMES OF MARTIN LUTHER KING, JR. 263 (1963).

can political experiment, they also evoke visions of a blessed future. This phrase symbolizes the beneficence of the almighty spirit who has blessed America, this new Paradise, as a reification of the dream of brotherhood. Hence, Americans easily and quickly recall Dr. King's challenge to America to work for the blessed future implicit in this important phrase, particularly because of his stirring speeches that make use of the phrase. Yet, few Americans appreciate his other rich contributions to the development of American law.

Many Americans do not necessarily appreciate the larger framework within which he places these words from the Declaration of Independence. To be sure, Americans know that Dr. King's speech does not refer glowingly to a "Paradise Achieved" in the United States. It eloquently speaks to the history of "Paradise Postponed." It speaks volumes about betrayal and complicity besmirching the integrity of Paradise, reminiscent of similar biblical conduct starting with Adam and Eve. It eloquently speaks about moral disjunctions and detours in the reification of the dream of brotherhood, which take on fuller meaning when the reader examines the other quotes cited above. While Dr. King's message places him in that long line of American moralists who, like the prophet Amos, said "Let judgment roll down like waters and righteousness like an everlasting stream,"⁵ it goes further. It draws America's attention behind the principal phrase to illuminate the disjunction between the underlying vision of a community of humans living according to the Hebraic-Christian traditions of humanity and the harsh reality of American life. Moreover, he utilized the principal phrase to point to its connection to the combined European legal traditions that underlie and flow throughout this vision of humanity and to the community in which humans function.

An examination of the abundant and fetid history of the United States provides some insight into Dr. King's larger framework. This history amply supports the view that the early founders of this country distorted and misapplied the European ethical, religious, and political traditions that they adopted as the philosophical foundations of the republic. A group of brilliantly myopic men twisted the Hebraic-Christian and natural law traditions to create a fraudulent philosophical tradition. In turn, these men memorialized this tradition in the Declaration of Independence and the Constitution, and created a selective national dream of brotherhood. Dr. King's eloquent, clarion call for a moral reassessment of American life pointed toward the necessity of philosophically reconstituting the entire foundations of the American republic as Thaddeus Stevens had suggested before him.⁶ Dr. King heroically cleared "away the rotten and defective portions of the old foundations."⁷ He gave new meaning and positive life to that original dream through a variety of techniques and methods not successfully used in America before his time. He demonstrated the largess of the human spirit that permitted the shadows of a mean-spirited interpretation of this national dream to frame but not to eclipse the luminosity of the immediate moments of American brotherhood. Ironically, Dr. King arose from the very dispossessed persons whom the founders of the United States so hypocritically and ceremoniously dismissed as unworthy

5. Amos 5:24 (King James).

6. DuBois, *supra* note 3, at 304.

7. *Id.*

for inclusion within the original dream, that intoxicating summer over two hundred years ago. Hence, Dr. King's life symbolized a moral reckoning by the dispossessed for the centuries long moral discontinuities and disjunctions, wrought by the wedding of the sweet, innocent bride of moral idealism to the sullied bridegroom of economic greed. In this sense, a larger framework emerges: the concerted effort of a people, symbolized through an ethical, religious, and political commitment of one individual to reconstitute the philosophical foundation of the American republic, to achieve the evolution of a national dream of brotherhood.

Based on the above alone, do those of us within American law schools fully comprehend the depth and breadth of Dr. King's singular commitment and hence his significance for legal education that justifies a larger tribute? Can law schools identify a deeper and richer set of lessons and value for themselves in the contributions of Dr. King, such as the lessons from his utilization of the creative tension in nonviolent civil disobedience and the lessons in his focus on the communitarian character of human existence? Moreover, will law schools give a celebration of this man's contributions the important role that they deserve within law school activities? Perhaps the tension and anxiety caused by confronting the bitter and the sweet of this important celebration may cause persons within law schools to miss its full significance for them. Like the fact or not, those within law schools cannot avoid walking through the corridors of history with the ironic statements such as quoted at the outset echoing in their ears, urging them on to play meaningful roles in the task of the unfinished dream of brotherhood. On the other hand, this same tension and anxiety, and possibly selfishness and greed, may cause persons within law schools to trivialize Dr. King's celebration. For example, one cannot avoid noting that as the nation initiated the honoring of Dr. King, America, led by the former Chief Justice of the United States, Warren Burger, has devoted untold hours and spent millions of dollars in a bicentennial celebration for a Constitution still redolent with the sickly, sour smell of the "three-fifths of a person"⁸ language and with the legacy of *Dred Scott*.⁹

GENERAL SYMBOLISM OF DR. KING FOR AMERICA

The previous discussion provides only a brief introduction to a consideration of the significance of Dr. King for law schools. Most certainly Dr. King has a broad and rich significance for America that reaches far beyond the obvious focus on his contribution to political oratory and to the enrichment of the American history of political personalities. His significance also includes his character and skills, his brilliant articulation, his political astuteness, his deep knowledge of world moral history, his capacity to emotionally stir the listener, and his keen vision. While the range and the subtlety of his contributions may make a summary of it difficult, the critical observer can still roughly articulate aspects of this contribution that relate to the *raison d'être* of law schools.

One can begin this consideration with a further examination of Dr. King's singular commitment to reconstitute the philosophic foundations of the

8. U.S. CONST. art. I, § 2.

9. *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

American republic. Consider some relevant background of the seminal document in American life, the Declaration of Independence, with emphasis on the very first Declaration on November 7, 1775, a proclamation¹⁰ by John Murray, Earl of Dunmore and Governor-General of the Colony and Dominion of Virginia. Dunmore's proclamation freed "all indented Servants, Negroes or others . . . able and willing to bear Arms. . . ." ¹¹ for the king's troops. While this Declaration did not achieve its immediate result, it did, as Judge A. Leon Higginbotham states, "ultimately play a part in the evolutionary process"¹² of freeing the slaves, and that evolutionary process played a role in stimulating the creation of the second Declaration of Independence. Indeed, Dunmore's Declaration probably not only compelled Thomas Jefferson to structure the initial July 2, 1776 draft¹³ of the second Declaration of Independence to condemn the international slave trade, but to also speak in glowing terms about the natural rights of man. Jefferson probably feared both the slaves' efforts to avail themselves of the natural rights language and the economic damage that might result if Dunmore's proclamation took effect. In sum, Jefferson did not write from a broad view of humanity or a genuine attitude about the brotherhood of man, consistent with the European humanist tradition that he interweaves into the Declaration; rather economic imperatives compelled his response to the original Declaration.

Moreover, in rejecting Jefferson's "significant diatribe against the international slave trade,"¹⁴ as Judge Higginbotham denominates Jefferson's language, the Continental Congress similarly rejected this European notion of a community of equals, while making use of the language that refers to such a community. At that moment, the Congress could only apprehend the investiture of the phrase "all men are created equal" with the protection of its members' right to participate in the economic plunder of the New World, which meant addressing the concern of the alleged economic crimes of the British crown against the property of the American colonies. Yet, the Congress had to appreciate the distorted and twisted philosophical foundation on which it constructed the country, even though it probably did not take full measure of the impact of the remaining language on the second Declaration on future generations of Americans. Certainly, it did not recognize what Justice Cardozo has called "the tendency of a principle to expand itself to the limit of its logic."¹⁵ It did not foresee that this Declaration would be, in the words of former Dean Louis Pollak, the "apt progenitor of the Emancipation Proclamation, the Gettysburg Address, the Fourteenth Amendment's guarantee of 'the equal protection of the laws,'"¹⁶ as well as *Brown v. Board of Education*¹⁷ and its progeny. In essence, the founders did not foresee that the words would eventually place major "moral demands on all Americans"¹⁸ to create a com-

10. F. BERKELY, DUNMORE'S PROCLAMATION OF EMANCIPATION (1941).

11. *Id.*

12. A. HIGGINBOTHAM, JR., IN THE MATTER OF COLOR: RACE AND THE AMERICAN LEGAL PROCESS, THE COLONIAL PERIOD 373 (1978).

13. *Id.* at 380.

14. *Id.* at 381.

15. I L. POLLAK, THE CONSTITUTION AND THE SUPREME COURT: A DOCUMENTARY HISTORY 16-17 (1968).

16. *Id.* at 17.

17. 347 U.S. 483 (1954).

18. HIGGINBOTHAM, JR., *supra* note 12 at 384.

munity of brotherhood underneath all of those who sought to use the words for their own purposes. The words demand a certain moral rectitude, owing to the vision of humanity and the community of humans that the words denote. Unwittingly, the founders created a promissory note to create the community of brotherhood at the center of their moral discontinuity in the inaugural minutes of their great political experiment, which stood ready for future "moral creditors" to present to the descendents—both blood and intellectual—of the founders, for full payment.

Importantly, this moral discontinuity both shaped the more distant past and the period from the 19th century through the life of Dr. King. This moral discontinuity signified what Judge Higginbotham calls the tendency of the American character to manifest "'moral overstrain'...that...tension caused between high ideals and low achievement, between the American creed including egalitarian individualism and the historical American'"¹⁹ greed causing unjust, unequal, and class treatment for persons of color. As such, it brought forth *Dred Scott*,²⁰ the "watershed" of the Civil War, *Plessy v. Ferguson*,²¹ the infamous Black Codes, the Hayes-Tilden Compromise, race riots, lynchings, and the resistance to *Brown*. On the other hand, it brought forth the creation of the thirteenth, fourteenth, and fifteenth amendments, the Freedman's Bureau, the great post-Civil War civil rights statutes, *Brown*, and numerous other events. Moreover, one can also note that this moral discontinuity gave birth to numerous moral leaders whose powerful, educational statements nurtured the moral fiber of Dr. King. Indeed, one can easily march forth highlighting numerous statements given birth by this moral discontinuity, statements of important historical figures such as Henry David Thoreau, the Quaker David Cooper, the abolitionist William Lloyd Garrison, the Black abolitionist and orator Fredrick Douglas, President Abraham Lincoln, the Radical Republican Charles Sumner, the Black writer and civil rights activist W.E.B. DuBois, and the Black labor organizer and civil rights activist A. Phillip Randolph, to name but a few. All these individuals formed the long line of precedent and moral authority that shaped the consciousness of Dr. King's vision of humanity and the community of humans, and assisted him in comprehending the original distortations of the founders of this country. In fact, one can literally feel the influence of these sources (if one cannot see their direct influence) shaping his vision of the community in this portion of Dr. King's powerful, moving, and memorable August 28, 1963 "March on Washington" speech:

In a sense we've come to our nation's capital to cash a check. When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir.²²

Further, Dr. King signifies the inauguration of the "second Great Emancipation" with his struggle to reconstruct the philosophic foundations of the republic, to end America's moral discontinuity. He powerfully signalled that the day of reckoning had arrived, reminiscent of the signal that Thaddeus Stevens had given to the day of reckoning at the end of the "First Great

19. *Id.*, citing Miller, *Constitutional Law and the Rhetoric of Race*, in 5 PERSPECTIVES IN AMERICAN HISTORY 148 (D. Fleming and B. Bailyn ed. 1971).

20. *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

21. 163 U.S. 537 (1896).

22. DAVIS, *supra* note 4 at 261.

Emancipation" some 100 years earlier.²³ In effect, Dr. King drew public attention and sentiment to the moral injunction implicit within the community of brotherhood that lay underneath the phrase "all men are created equal." From within what DuBois called "the veil"²⁴ that shrouded the life of persons of color in America, Dr. King struggled to bring forth reminders of this community of brotherhood, to supply connectiveness to the liberating heritage of humankind for persons of color. He called on Hebraic-Christian belief that every individual in this community represented humanity and that each individual had the potential for accomplishing all that humanity has achieved. For this reason, Dr. King initiated a people's struggle to equally enjoy the fruits of the tree of life through connecting themselves up with the politically liberating moral notions that permeate the concept of the community underneath the American Declaration of Independence. In this manner, he reminded America of the meaning of "equal dignity," which permeates American laws. Moreover, he recognized, like others before him, that the Constitution does not ensure enjoyment of these fruits; nor does it represent salvation for millions of persons of color in America who sought shelter from the systematic dehumanizations of America's treatment. The Constitution represented protection of the economic and political interests of the numerical majority. Indeed, America took nearly 90 years after the promulgation of the Declaration of Independence to even insert the notion of equality into the Constitution through the thirteenth and fourteenth amendments, only to subsequently eviscerate this notion through Supreme Court decisions that again sought to protect equality of economic opportunity for the majority. Hence, Dr. King's emancipation signalled the necessity of creating a new legal foundation for protecting the "equal dignity" of persons of color.

Beyond this larger symbolism, there are several other contributions of Dr. King that flow from his focus on the community, his call for a moral reassessment, and his inauguration of a second emancipation. Dr. King educated America with his wedding of moral force to political urgency and political action. He had a major hand in combining economic boycotts with the ballot box, driven by the moral propulsion of the plangent words of the Declaration of Independence. The legacy of the massive voter registration drives lead back to Dr. King's pioneer work. He symbolized the evolution and maturation of the consciousness and conscience of America, which signified the intellectual, emotional, and moral maturation of America as a world moral leader. He uplifted America's consciousness to the lessons of world moral history and shaped America's conscience by integrating the Greco-Roman-Hebraic teachings into the plangent words of the Declaration of Independence. Like Thoreau before him, Dr. King urged Americans to develop a conscience based on "common moral standards, humane sensibilities, and individual responsibility."²⁵

23. DuBois, *supra* note 3 at 304.

24. See W.E.B. DuBois, *THE SOULS OF BLACK FOLK* viii (1968) ("Leaving, then, the world of the white man, I have stepped within the Veil, raising it that you may view faintly its deeper recesses,—the meaning of its religion, the passion of its human sorrow, and the struggle of its greater souls.").

25. *CIVIL DISOBEDIENCE: THEORY AND PRACTICE* 23 (Bedeau ed. 1969).

Dr. King brought focus to the communal ground²⁶ of all existence that lay beneath the plangent words of the Declaration of Independence. He made Americans acutely aware of the dialogic character of the American political experiment. He pointed out that America had to center itself, particularly as a community of God, on a sense of interconnectedness, interdependence, reciprocity, and responsibility of its inhabitants and its laws. Dr. King brought the Gandhian message of nonviolent civil disobedience to America.²⁷ In effect, he helped supply further content to Thoreau's earlier message of civil disobedience, with the mass protests, kneel-ins, sit-ins, and other demonstrations.

He utilized nonviolent civil disobedience to reconstruct the institutional and cultural life of America, particularly through the development and enrichment of American law. He recognized that the creative tension of nonviolent civil disobedience propelled all Americans from the bondage of the "patriotic mythology" to a reexamination and reconstitution of the self and language.²⁸ He uncovered the falsification of the notion of shared values of freedom and justice that lay beneath the "patriotic mythology." Dr. King broadened this call for a reexamination and reconstitution of the self and language beyond the immediate interests of persons of color, in an ecumenical human rights manner. Dr. King helped filter the social experiences of persons of color to discern lessons for all dispossessed persons. As such, he deepened and extended the meaning of "equal protection of the laws."

Dr. King gave America international stature as a symbol of civil rights activism. He helped move America out of the darkness of the rhetoric of equality into the dawning reality of equal dignity and respect. Moreover, this activism helped move America's civil rights laws to the level of a world model for human rights protections. Finally, Dr. King reawakened the attitude about the "educational potentialities of suffering"²⁹ and self-sacrifice. He educated America to the view that people must purchase fundamentally important goals in life with their suffering; they cannot obtain these ends by reason alone. Moreover, Dr. King helped America appreciate that individual and societal suffering provide a bridge to the transformation of American society into the morally healthy community contemplated in the language of, if not the conduct beneath, the Declaration of Independence.

SPECIAL IMPORTANCE OF DR. KING FOR LEGAL EDUCATION

The previous discussion illuminates Dr. King's general significance for America, outlining an importance for law schools that, by implication more than direct reference, relates to their *raison d'être*. Yet, persons involved in education need to explore further the special, rich lessons and fundamental value that Dr. King brings to legal education. This article examines Dr. King's significant impact on the present and future course of legal education, focusing on his moving and penetrating document, "Letter from Birmingham

26. See generally, Sturm, *Crisis in the American Republic: The Legal and Political Significance of Martin Luther King's Letter from a Birmingham Jail*, 2 J. OF L. & RELIGION 309 (1984).

27. See Wofford, Jr., *Non-Violence and the Law: The Law Needs Help*, in CIVIL DISOBEDIENCE, *supra* note 25 at 62-64.

28. See King, Jr., *Letter from a Birmingham City Jail*, in CIVIL DISOBEDIENCE *supra* note 25 at 75.

29. See Wofford, Jr., *supra* note 27, at 67.

City Jail.”³⁰

Instructions for Legal Education

Dr. King brings to legal education the major lesson about the unfinished work of the national dream of brotherhood. He symbolizes the indefatigable struggle to overcome the American tendency of “moral overstrain.” He points to the unceasing vigilance that our critical institutions must exhibit to play a positive role in the quest. For instance, he fully understood the immorality of groups³¹ and the necessity of revitalizing the civic conscience to identify and extirpate unjust laws, through the responsible action of critical social agents.³² He instructs law schools that they must serve as pivotal social actors in fostering and maintaining the dialogical foundation of the revolutionary ideal of brotherhood. Further, his acute analysis of the moral detour of the founders of the United States illuminates the conduct of humans who use base economic and political motives to deceptively call “law and order” justice. He instructs law schools that “law and order” exists to establish the community’s notions of justice³³ and equality. Finally, his focus on the unfinished work of implementing the American dream underscores the intricate and inextricable trend that ties race, politics, and social reform together. He instructs law schools that race relations in America so often serve as the thoroughfare into the resolution of equality problems in a particular community.

Dr. King also brings to legal education the lesson of the primal nature of human existence, its communal orientation. With his emphasis on the “Beloved Community,”³⁴ or brotherhood, he stressed the solidarity of human existence,³⁵ in the sense of humans belonging and relating to each other. He appreciated that implicit within this community lay, as Martin Buber points

30. See King, Jr., *supra* note 28.

31. See King, Jr., *supra* note 28 at 76. (“Individuals may see the moral light and voluntarily give up their unjust posture; but as Reinhold Niebuhr has reminded us, groups are more immoral than individuals.”).

32. See King, Jr., *supra* note 28 at 75. (“Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, we must see the need of having nonviolent gadflies to create the kind of tension in society that will help men to rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood. So the purpose of the direct action is to create a situation so crisis-packed that it will inevitably open the door to negotiation.”).

33. See King, Jr., *supra* note 28 at 79. (“I had hoped that the white moderate would understand that law and order exist for the purpose of establishing justice. . .”).

34. See generally, K. SMITH & I. ZEPP, JR., *SEARCH FOR THE BELOVED COMMUNITY: THE THINKING OF MARTIN LUTHER KING, JR.* (1974) (“The vision of the ‘Beloved Community’ was the organizing principle of all King’s thought and activity.” *id.* at 119); see also Sturm, *supra* note 26 at 321 (“Where equality is a principle of distribution, stipulation how the benefits and burdens of a society are to be allocated, brotherhood or the beloved community is a principle of solidarity, indicating how the members of a society belong to and with each other.”).

In his “March on Washington” speech Dr. King said, “. . .with this faith, we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood.” M. KING, JR., *WHERE DO WE GO FROM HERE: CHAOS OR COMMUNITY?* (1967).

35. See King, Jr., *supra* note 28 at 73. (“Moreover, I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly.”).

out, a dialogic center,³⁶ a sense of interacting and communicating among individuals, the turning of one individual to another with a "mutuality of inner action," the sense of reciprocity manifest even in moments of unpleasantness, the sense of love that individuals must have one for another, and the sense of responsibility, in its non-specialized ethical dimension of responding to moments of life and its moral sense of responding to the cosmic spirit immanent in the self responding. Importantly, Dr. King centered the vision of the human community both within and outside of man-made positive laws, judging the basic political structures and policies of the society as they affect the fundamental human personality.³⁷ Indeed, this focus brings attention to the fact that all forms of "alienation"³⁸—psychological, economic, and political—signify excruciating separation that distorts the meaning of human existence. Moreover, this focus on the communal existence brings out the ancillary point that America struggles with the tension between its received traditions of Enlightened liberalism, with its economic focus in its individual orientation, and religious communalism,³⁹ with its extra-legal critique of human existence. His focus makes law schools acutely aware of the essentially negative and antithetical character of the American concept of freedom for the individual,⁴⁰ to the concept of the community. American slavery, and Dunmore's and Jefferson's Declarations of Independence all create a notion of individual freedom that center on the absence of restraints from the community, especially the absence of restraints to pursue some economic course of action. Dr. King's communal focus makes us aware that Americans view freedom from the perspective of communion, the opening up and the drawing in of the individual into the community of brotherhood. For these reasons, persons within law schools should appreciate Dr. King's focus on this communal perspective. The "Beloved Community," has metamorphosing connotations that greatly affect the positive law, as law schools study it, develop it, and expound it.

Dr. King brings law schools the lesson about the interconnectedness of sacred and secular laws⁴¹ in the American political design. As Professor Douglas Sturm notes, Dr. King understood as few of his contemporaries that "the traditions of religious sensibility and political thought at times interpenetrate and together constitute a resource for understanding and evaluating given religious and political practices."⁴² Dr. King underscored that this synergism brings forth, through the combination of Hebraic-Christian and European natural law traditions, the "concept of human personality."⁴³ In turn, this concept serves as an integral part of the American political philosophy within the notion of the community and underneath the positive law, and, by extension, serves as a criterion of the morality of the society. Because of this criterion of the human personality, Dr. King could argue that "any and all

36. M. BUBER, *BETWEEN MAN AND MAN* 1-39 (1947).

37. See Sturm, *supra* note 26 at 316-321.

38. *Id.* at 322.

39. *Id.* at 318.

40. See O. PATTERSON, *SLAVERY AND SOCIAL DEATH: A COMPARATIVE STUDY*, 340-42 (1982). (Patterson notes that freedom in the sense of the absence of individual restraints gets its origins from the human parasitism of slavery; the slave first recognized the concept and the master later appropriated the concept for the master's purposes.)

41. See King, Jr., *supra* note 28 at 77; see also Sturm *supra* note 25 at 317.

42. See Sturm, *supra* note 26 at 317.

43. *Id.* at 316-20.

social systems that distort the soul and damage the personality are morally culpable."⁴⁴ Hence, Dr. King argued that this concept impels the reified political institutions and the positive laws to reflect that the community consists of healthy human relationships founded on this primal human personality. Importantly for law schools, by focusing on this broad reach of the concept, especially because the ancient Hebraic-Christian tradition centers on the Thomistic philosophy of law, Dr. King brought America's attention to the broad definition of law. He understood that America's laws embrace not only legislative enactments, judicial decisions, and societal customs, they embrace all "institutional forms and social systems, economic structures and patterns of family life."⁴⁵ Law as such, like the complex human existence it represents, accordingly envelops and permeates every aspect of human activity. For this reason, Dr. King could argue, for example, that an important societal measurement, the situational application of justice, must address the various manifestations of the human personality, broadly reflected by the extensive fabric of law and that justice is not simply legislative enactments or judicial decisions.⁴⁶

Moreover, Dr. King's focus on the interconnectedness of the sacred and secular laws brings law schools a sharper examination of the "structural crisis" of the American republic. His utilization of the combined religious and political traditions causes Americans to appreciate that the country could not simply cast the crisis as the tension between racism and the idealism of equality.⁴⁷ The crisis signifies, as Professor Sturm notes, a tension between the "*reality of human personality*, a principle of religious deprivation and political implication, and the *reality of racism*, a principle that . . . distorts the essential character of religion and politics."⁴⁸ Dr. King understood that this criterion of human personality, with its religiously based natural law, clearly manifests itself in the Constitution. For this reason, Dr. King makes law schools aware that America's organic laws, from which other laws radiate, reflect the religious and the constitutional political traditions that converge in a meaning of human life antithetical to racism. Indeed, by transcending the limited concern of equality, Dr. King makes law schools aware that they must address larger social and economic questions when analyzing the fabric of American laws. This approach permitted Dr. King to argue that poverty in America, for example, signifies a glaring failure of communal responsibility and institutional denial of human dignity and social participation.⁴⁹ Furthermore, Dr. King's utilization of this rich religiously and constitutionally based concept of human personality highlights the fact that brotherhood does not mean equality.⁵⁰ For him, equality brings attention to the distribution of benefits and burdens of society, while the notion of the community brought attention to the solidarity and dialogic character of American life. Hence, American racism in the fabric of the law both contradicts the notion of equality, unfairly preferring one indi-

44. *Id.* at 319. See also King, Jr., *supra* note 28 at 77. ("Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality.").

45. See Sturm, *supra* note 26 at 320.

46. *Id.*

47. *Id.* at 316.

48. *Id.*

49. *Id.* at 319, quoting W. SULLIVAN, RECONSTRUCTING PUBLIC PHILOSOPHY 160 (1982), who refers to the civic republicanism of Dr. King representing this view.

50. See Sturm, *supra* note 26 at 321.

vidual over another, or one group of individuals over others, and contradicts the notion of the community, since it pits individuals against each other and groups against each other.

Dr. King brings law schools lessons about civil disobedience.⁵¹ One cannot by any means attribute the notion to him, since very early acts of civil disobedience were performed by the celebrated ancients Antigone and Socrates, by the American revolutionaries, by one of the most celebrated of American adherents, Henry David Thoreau, by the early suffragettes, by the early labor unionists, and by Ghandi. However, Dr. King revitalized and popularized the notion, giving further refinement to the Thoreauvian message that all humans, particularly as citizens of a government, must accept responsibility for injustices in her or his community.⁵² For example, Dr. King stressed the capacity of civil disobedience to channel explosive emotions into creative societal efforts for positive change.⁵³ Further, Dr. King stressed educative function of civil disobedience, especially in enlightening the public about the necessity to reconstruct unhealthy human relationships within various communities. Dr. King appreciated the capacity of civil disobedience to shape public sentiment, both outside and within law schools, to make the law the truly effective fundamental teacher and shaper of the morals of the community. Indeed, Dr. King's emphasis on the educative capacity of civil disobedience dramatized his instructive utilization of what Harris Wofford, Jr. has called the "rhythm beyond the law:"⁵⁴ that boundless, vital stream of religious, moral, and political sentiments that nurture and replenish the moral center of positive laws. Dr. King demonstrated that law will only fulfill its moral role as a teacher insofar as it remains responsive to the dialogue implicit within the interaction between the positive laws and this "rhythm beyond the law." Also, Dr. King's adoption of civil disobedience illustrates the value of being part of what William Sullivan calls the time-honored "tradition of civic republicanism."⁵⁵ His conduct educates law students about the personally enriching experience of craving for and being a part of what Sullivan calls "a life of inclusion in a community of mutual concern."⁵⁶ Finally, Dr. King's adoption of civil disobedience focuses attention on the policy justifications for this conduct. In fact, several late 20th century thinkers,⁵⁷ probably stimulated by the conduct of Dr. King and his intellectual progeny in the Vietnam anti-war movement, examined the moral justification for civil disobedience within constitutional democracies, considering such bases as the individual conscience, natural law, utilitarian appeal, justice, and fair play as the foundations of such conduct.

51. See generally, Wofford, Jr., *supra* note 27.

52. See Bedau, *supra* note 25 at 52.

53. See King, Jr., *supra* note 28 at 75.

54. See Wofford, Jr., *supra* note 27 at 71.

55. See Sturm, *supra* note 26 at 318-19.

56. SULLIVAN, RECONSTRUCTING PUBLIC PHILOSOPHY 160 (1982); see also Sturm, *supra* note 26 at 319.

57. See e.g., Rawls, *The Justification of Civil Disobedience*, in CIVIL DISOBEDIENCE, *supra* note 25, at 240; Wasserstrom, *The Obligation to Obey the Law*, in CIVIL DISOBEDIENCE, *supra* note 25, at 256.

Fundamental Value For Legal Education

The teachings of Dr. King do have a fundamental value for legal education. He makes legal education acutely aware of the focus of all education. His deep reflections, his willingness to rigorously ask the demanding questions about human existence and the American political experiment, and his willingness to demand the accountability of America to its religious, ethical, and political heritage, all encourage law students, as part of a sound liberal education to examine life, and to make themselves mindful of Socrates' point that the "unexamined life is not worth living."⁵⁸

Dr. King's example broadens law students, as all education does, opening them up to allow in views of others beyond the student's immediate view. Dr. King's example deepens and widens the student to the rich diversity of life, which alerts the student to the tapestry of humanity that comprises the "Beloved Community." Most certainly, his example encourages students to have respect for the existences of others, to accept and even desire the cultural pluralism of the "Beloved Community." In sum, Dr. King's life illustrates Martin Buber's concept of "inclusion."⁵⁹ He encourages the student to extend her or his concreteness, her or his own reality, to live through the reality forged by the connection to the diversity of others. Dr. King urges the student to permit a selection of the world to affect her or him through the medium of the other person's diversity, with the end result being an enrichment of the self through a reconstitution of the self with new dimensions from life's many possibilities.

Dr. King encourages law students to become responsible individuals through this deep reflection. His life brings to mind the following thoughts of H. Rheinhold Niebuhr about responsibility: "[t]he idea or pattern of responsibility, then, may summarily and abstractly be defined as the idea of an agent's action as response to an action upon him in accordance with his expectation of response to his purpose; and all of this in a continuing community of agents."⁶⁰ Dr. King's conduct encourages law students to translate outside events with meaning, symbolic of the larger social drama in the on-going American dialogue, according to that "rhythm beyond the law."

Dr. King's life encourages law students, using the words of Professor James White, "to construct a coherent language of value out of the naturally complex and inconsistent materials of [his or her] time and, in so doing, to define new possibilities for the life of the self and of the community."⁶¹ In essence, his thinking and his life encourages students, as did Socrates and Christ before him, to expose the contradictions in the thoughts and behavior of a community, to finish the task of constructing the "Beloved Community." His teaching instructs law students to formulate questions about the individual's and the community's values that make acceptable and harmonious the "variabilities, complexities, and inconsistencies" of the community's life and language. Dr. King makes legal education recognize that it has an important

58. PLATO, APOLOGY 45 (R. Cumming trans. 2d ed. 1956).

59. See Buber, *supra* note 36 at 97.

60. H. NIEBUHR, THE RESPONSIBLE SELF: AN ESSAY IN CHRISTIAN MORAL PHILOSOPHY 61 (1963).

61. White, *The Ethics of Argument: Plato's Gorgias and the Modern Lawyer*, 50 U. CHI.L.REV. 849, 853-54 (1983).

role in the evolution of the national dream of brotherhood. This point has particular moment for law schools, where before the civil rights activities of the 1960's, legal educators generally did not concern themselves with social change, except for the noteworthy efforts of Dean Charles Hamilton Houston at Howard University School of Law. Law schools cannot simply dispense knowledge and skills, so that students can go forth to enjoy the spoils of their talents and hard work. They must prepare law students for their roles in the long struggle for human dignity, justice, and fairness, especially preparing persons of color for the commitment to be part of the untiring struggle, against serious resistance, to evolve that "Beloved Community." In effect, law schools must continue Dr. King's lead by stressing the improvement of society, not simply stressing the perpetuating of the well-ordered, well-functioning community, or the maintenance of the status quo through a fixation on structure, rules, and order. At all levels, law schools must sensitize their students and teachers to recognize and to work with the "rhythm beyond the law." Further, law schools must foster ethnic and cultural diversity through a host of actions and activities. They must continue the long struggle to widen the school ranks, at all levels, to ensure that persons of color equally participate, to ensure that all genders equally participate, and to ensure that persons with various health conditions have equal access.

CONCLUSION

Law schools owe a huge debt to Dr. Martin Luther King, Jr. He has done far more than provide them with wonderful speeches for quoting in classes and on special days. He has done far more than stir a national consciousness to develop a rich vein of civil rights cases and laws, which law faculty can unceremoniously examine only within constitutional law or civil rights law courses. He has done far more than stimulate talented women and men to pursue legal education in such numbers as America has never seen before and probably will never experience again. Most certainly, Dr. King has affected law schools in various important ways. Most importantly, he has affected law schools in the very core of their beings, providing them with the substance for their moral rebirths as pivotal educational centers in the evolution of the national dream of brotherhood, and providing them with moral exhortations for continuing to work as creative social agents who oversee the "rhythm within the law" through application of the "rhythm beyond the law." Hence, Dr. King's birthday signifies, as my son notes, the "assemblage of beliefs" about humanity and human existence that deeply touch all of us who work with the reflections of this humanity, the law. A celebration of his birthday also signifies, very importantly, the maturation of American law on the stage of moral history. For this reason, law schools should grandly celebrate his contribution, with all the pomp that has surrounded the celebration of the centennial of the Constitution, as a measure of true devotion to the commitment to remember, revitalize, refine, and redirect the combined religious, ethical, and political traditions of American law to enrich American life.