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ETHICAL RELIGION AND THE STRUGGLE FOR HUMAN RIGHTS: THE CASE OF MARTIN LUTHER KING, JR.¹

David A.J. Richards*

My investigation here arises within a certain context, namely, my past work on political contractualism as the most plausible theory of American constitutional law and more recent interpretive work on the role that theory plays in explaining and understanding the impact on American constitutional law of various struggles for human rights (including not only the struggles of religious minorities, but movements for racial justice, as well as feminism and, most recently, the gay/lesbian movement).² The appeal of contractualism, as a theory of American constitutional law, is the central place it accords basic human rights like conscience and speech and the corresponding requirement it imposes that such rights may only be abridged on the ground of compelling arguments of what John Rawls called public reason.³ For example, from this perspective, both strands of the First Amendment's guarantees of religious liberty (free exercise and anti-establishment) protect the human right of conscience from abridgments and burdens not justified by arguments of public reason.⁴ In my recent work on social movements like abolitionism, the neo-abolitionism of the NAACP, feminism, and gay rights, I have argued that such struggles for recognition of human and constitutional rights crucially elaborate a comparable structure of argument, calling both for recognition of basic human rights and criticism of abridgments of

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1. This Article is part of a larger work under the current working title, *Disarming Manhood: Voice and Resistance from Garrison, Tolstoy, Gandhi, King, to Churchill* (work in draft) (manuscript on file with author).

2. See David A.J. Richards, *Conscience and the Constitution: History, Theory, and Law of the Reconstruction Amendments* (1993) [hereinafter Richards, *Conscience and the Constitution*]; David A.J. Richards, *Foundations of American Constitutionalism* (1989) [hereinafter Richards, *Foundations of American Constitutionalism*]; David A.J. Richards, *Toleration and the Constitution* (1986) [hereinafter Richards, *Toleration and the Constitution*]; David A.J. Richards, *Women, Gays, and the Constitution: The Grounds for Feminism and Gay Rights in Culture and Law* (1998) [hereinafter Richards, *Women, Gays, and the Constitution*].

3. See John Rawls, *Political Liberalism* 212-54 (2d ed. 1999).

4. See David A.J. Richards, *Free Speech and the Politics of Identity* (1999); Richards, *Toleration and the Constitution*, *supra* note 2.

such rights unsupported by arguments of public reason. American feminism, for example, arose in the nineteenth century when the Grimke sisters (Angelina and Sarah) and Elizabeth Stanton not only argued that women's basic human rights had not been fairly recognized, but questioned whether conventional religio-cultural views to the contrary are supported by arguments of public reason.⁵

These interpretive investigations arise within the framework of a political theory, contractualism, the power of which was first taught to me as a Harvard undergraduate by my then-teacher, John Rawls. The powers of his mind and work have always remained with me, and this work hopefully will show how much thought, inspired by him, advances interpretive understanding of progressive developments and struggles central to the integrity of American constitutionalism.

I will now explore how this general view clarifies the role that a conception of ethical religion (drawing on Tolstoy and Gandhi) played in the civil rights movement brilliantly led by Martin Luther King, Jr. King, like Gandhi, must be understood not only as a person in himself, but as the leader of a nonviolent, mass movement of protest which he inspired. The brilliance of the historiography of Taylor Branch's *Parting the Waters*⁶ is that he studies King in this way, on the analogy of Jesus of Nazareth whom we know entirely through the words of the persons in the movement he inspired. I argue that the close study of King's life and work, including the social movement he led, reveals a highly personal and original interpretation of religion in terms of arguments of public reason accessible to all. Through this interpretation, King found a voice of moral authority that lives in history because that voice found a resonance in the voices of persons who were empowered to join a social movement that would give expression to their newly discovered voices.

To understand King and the distinctive features of his nonviolent movement of civil disobedience, we must place him and his period in the larger historical context of African-American protest and dissent.

I. AFRICAN-AMERICAN PROTEST AS A TRADITION

The study of Garrison and the radical abolitionists sets the stage for understanding the first period of African-American protest, for the radical abolitionists were remarkable among abolitionists not only for their criticisms of American slavery (an institution which held African-Americans in bondage) but for the racism it reflected. These general radical abolitionist conceptions of justice were constitutionalized by the

5. See Richards, *Women, Gays, and the Constitution*, *supra* note 2.

6. See Taylor Branch, *Parting the Waters: America in the King Years 1954-63* (1988) [hereinafter Branch, *Parting the Waters*]; see also Taylor Branch, *Pillar of Fire: America in the King Years 1963-65* (1998) [hereinafter Branch, *Pillar of Fire*].

terms of the Reconstruction Amendments,⁷ including the constitutional condemnation of state-supported cultural racism. However, in 1896, in *Plessy v. Ferguson*,⁸ the Supreme Court of the United States held state-sponsored racial discrimination to be consistent with the Equal Protection Clause of the Fourteenth Amendment, one of the more egregious examples of a grave interpretive mistake in the Court's checkered history.⁹ The Supreme Court, in this opinion, powerfully advanced the cultural construction of American racism.

The long road to the overruling of *Plessy* by *Brown v. Board of Education*¹⁰ in 1954 was the story of the critical testing and recasting of the assumptions that made *Plessy* possible. The great change in these background assumptions was in part achieved through the constitutional movement led by the National Association for the Advancement of Colored People ("NAACP"), founded in 1910 by a coalition of African-Americans (including W.E.B. Du Bois) and white liberals.¹¹ Black Americans in the South and elsewhere asserted, and were finally accorded, some measure of national protection by the Supreme Court (reversing early decisions to the contrary)¹² in the exercise of their first amendment rights of protest, criticism, and advocacy.¹³ These consequences were to be expected following the liberation of free moral voice,¹⁴ including the increasingly important black creative voice in American literature and the arts that confronted Americans with a sense of the human voice burdened with irrational hatred.¹⁵

Thurgood Marshall, in his argument to the Supreme Court for the NAACP, dramatized the force of this moral voice in terms of the blue-eyed innocent African-American child, indistinguishable in all

7. See Richards, Conscience and the Constitution, *supra* note 2.

8. 163 U.S. 537 (1896).

9. *Id.*

10. 347 U.S. 483 (1954).

11. See Richard Kluger, *Simple Justice* (1980); Genna Rae McNeil, *Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights* (1983); James M. McPherson, *The Abolitionist Legacy: From Reconstruction to the NAACP* 368-93 (1975).

12. See, e.g., *Gitlow v. New York*, 268 U.S. 652 (1925) (holding the First Amendment applicable to the states under the Fourteenth Amendment).

13. See generally Harry Kalven, Jr., *The Negro and the First Amendment* (1965).

14. Even under the harsh terms of American slavery, black Americans—though brutally cut off from their native cultures as well as from the rights of American public culture—demonstrated remarkable creativity in giving ethical meaning to their plight, laying the foundations of their later interpretations of the religious and constitutional values of emancipatory freedom that they correctly understood to be at the basis of the public culture around them. On the black interpretation of Christian freedom under slavery, see Eugene D. Genovese, Roll, Jordan, Roll: *The World the Slaves Made* 159-284 (1974). On religious and political freedom under emancipation, see Leon F. Litwack, *Been in the Storm So Long: The Aftermath of Slavery* 450-556 (1979); on the ideals of religious and constitutional freedom of Martin Luther King, see generally, Branch, *Parting the Waters*, *supra* note 6.

15. See, e.g., Eric J. Sundquist, *To Wake the Nations: Race in the Making of American Literature* (1993).

reasonable respects from other children—playing with them and living near them—except for the role the Supreme Court would play in legitimating a constructed difference (segregated education) which enforced an irrational prejudice with a long history of unjust subjugation.¹⁶ The Supreme Court was compelled to face a stark moral choice *either* to give effect to a culture of dehumanization, *or* to refuse any longer to be complicit with such rights-denying evil. Moral responsibility for one's complicity with evil could not be evaded. In effect, Marshall, as an African-American, stood before the Court in the full voice of his moral personality as a free person, and asked the Court to accept its responsibility for either degrading him as subhuman or to refuse any longer to degrade any person.¹⁷ State-sponsored racial segregation, once uncritically accepted as a reasonable expression of natural race differences, now was construed as itself an unjust construction of an irrational dehumanization that excluded citizens from their equal rights as members of the political community, and was unconstitutional. In 1954 in *Brown*,¹⁸ the Supreme Court of the United States articulated this deliberative interpretive judgment for the nation by unanimously striking down state-sponsored racial segregation as a violation of the Equal Protection Clause of the Fourteenth Amendment.

In 1967 in *Loving v. Virginia*,¹⁹ a similarly unanimous Supreme Court struck down as unconstitutional state anti-miscegenation laws.²⁰ Repeating, as it had in *Brown*, that the dominant interpretive judgments of the Reconstruction Congress could not be dispositive on the exercise by the judiciary of its independent interpretive responsibilities, the Court rejected the equal application theory of *Pace v. Alabama*²¹ on the same grounds the Court had earlier rejected it in 1964 in a decision invalidating a state criminal statute prohibiting cohabitation by interracial married couples.²² The Equal Protection Clause condemned all state-sponsored sources of invidious racial discrimination and, the Court held, anti-miscegenation laws were one such source.

In these and other cases, the Supreme Court, under the impact of the NAACP, reinterpreted the Equal Protection Clause in ways much closer to the normative views of the radical abolitionist movement that inspired it (its language of equal protection comes out of

16. See Anthony G. Amsterdam, *Thurgood Marshall's Image of the Blue-Eyed Child in Brown*, 68 N.Y.U. L. Rev. 226 (1993).

17. *Id.*

18. See *Brown v. Board of Education*, 347 U.S. 483, 495 (1954).

19. See *Loving v. Virginia*, 388 U.S. 1 (1967).

20. *Id.* at 12.

21. *Pace v. Alabama*, 106 U.S. 583, 584-85 (1882) (holding stronger penalties for interracial, as opposed to intraracial, sexual relations not racially discriminatory, since both white and blacks were subject to the same penalty).

22. See *McLaughlin v. Florida*, 379 U.S. 184 (1964).

abolitionist criticisms of slavery and racism). It was the radical abolitionists that interpreted both racial segregation and laws forbidding miscegenation as racist violations of equal treatment, a view that the Supreme Court finally adopted in *Brown* and *Loving*. And it was a group of radical abolitionists, the abolitionist feminists, who argued that equality also condemned all forms of structural injustice, like sexism, that had the same structure as racism; this abolitionist view has now been endorsed by the Supreme Court which condemns sexism on the same basis it condemns racism (the condemnation includes forms of homophobia as well).²³ Our story here, however, starts at the moment when this constitutional development expressed itself in one of the greatest successes of African-American constitutional protest, namely, *Brown* in 1954. This moment saw the entry of Martin Luther King onto the stage of American history in ways and with consequences we must now explore.

II. KING'S EARLY LIFE

Martin Luther King, Jr. was born in 1929 in Atlanta, Georgia to a family of Baptist preachers. His mother, Alberta Williams, was the only child of Rev. A.D. Williams, a slave preacher's son and graduate of Morehouse College in Atlanta, and Jennie C. Parks, a graduate of Spelman (which had been financially supported by John D. Rockefeller and bore the name of his abolitionist wife, Laura Spelman). Rev. Williams had built the Ebenezer Baptist Church into a prosperous, important congregation, after having moved his church and family to a better part of town that had been abandoned by whites after the 1906 race riots that killed over fifty blacks, followed by a similar racist riot two years later in Springfield, Illinois that led to the founding of the NAACP by W.E.B. Du Bois and others in 1910.²⁴ His daughter, Alberta, had gone to Spelman like her mother; she was "always known for her sweet shyness and humility,"²⁵ lacking the assertiveness of her father's achievement and "her mother's stature as the 'First Lady of Ebenezer.' But she became an astute observer of church politics, as taught to her by both parents, and she developed an enormous strength—passive, absorptive, sure of herself—on her own ground, which was always church and family."²⁶

Michael King ("Daddy King"), later known as Martin Luther King, Sr., was the second of ten children born on a sharecropper's farm, who, after saving his mother from an abusive beating by his drunk father, fled for his life to Atlanta "to pursue the most coveted

23. See Richards, *Women, Gays, and the Constitution*, *supra* note 2.

24. See Branch, *Parting the Waters*, *supra* note 6, at 27-49.

25. *Id.* at 32.

26. *Id.* at 32-33.

profession open to unschooled Negroes, the ministry.”²⁷ He was interested in marrying Alberta before he met her because of her father’s eminence at Ebenezer (where he was “the highest-paid Negro minister in Atlanta at the end of his first year”).²⁸ Mike King and Alberta were married in 1926, living with his in-laws until both died. Rev. Williams died suddenly in 1931, and, at the insistence of his wife, her son-in-law Mike King was appointed his successor at Ebenezer.²⁹

Martin Luther King, Jr. was the second of three children. He possessed a special closeness to his maternal grandmother.³⁰ The depth of Martin’s attachment to her is suggested by two suicide attempts as a boy, both over shock at harm to his grandmother.³¹ The first was when his younger brother, A.D., slid down a banister at high speed into grandmother Williams, knocking her to the floor. Martin, terrified, ran upstairs to his room at the back of the house and threw himself out of the window.³² The second was when Martin was a seventh-grader and was told his beloved grandmother had died of a heart attack; “young King discovered unforgettable feelings of anguish that went to the very bottom of him . . . so overwhelming him that once again he threw himself out the upstairs window.”³³ King identified his feelings for religion in his life from this time,³⁴ arising from the loss “of the one person in the household who seemed to combine pure love with natural, unforced authority.”³⁵ Andrew Young, who worked closely with King, observed that “Martin’s mother, quiet as she was, was really a strong, domineering force in the family.”³⁶ When the young Martin, who had played with white boys until he went to school, was then told by their mothers that he could no longer play with them, it was his grandmother and mother who explained slavery and segregation to him, and it was his mother who told him: “Don’t let this thing make you feel you’re not as good as white people You’re as good as anyone else, and don’t you forget it.”³⁷

It is not hard to understand why King turned to the church at this point in his life. It was one of W.E.B. Du Bois’s more astute observations about African-American cultural life that black churches were ““for the most part, curiously composite institutions, which

27. *Id.* at 34.

28. *Id.* at 43.

29. *Id.* at 40.

30. *See id.* at 49.

31. *Id.* at 48-49.

32. *Id.* at 48.

33. *Id.* at 57.

34. *See id.* at 58.

35. *Id.*

36. *See* Michael Eric Dyson, *I May Not Get There with You: The True Martin Luther King, Jr.* 195 (2000) (quoting Andrew Young).

37. *See* Flip Schulke & Penelope Ortner McPhee, *King Remembered* 9 (1986).

combine the work of churches, theaters, newspapers, homes, schools, and lodges,”³⁸ and that, appearances notwithstanding, women were major players in these churches.³⁹ Black churches have historically been a sanctuary of moral strength for African-Americans against the ravages and indignities of slavery and, after slavery, vicious racism.⁴⁰ Even in the formally patriarchal Baptist church, women played a powerful role not only as audiences but in forms of organization and participation in which they were major players. For example, in the National Baptist Convention they were the largest religious movement among African-Americans.⁴¹ The theology which expressed this experience “identified the church and Christ himself with feminine attributes—representing Christ, that is, as soft, gentle, emotional, and passive,”⁴² and derived its “conception of a triumphant feminine ideal from the Beatitudes of Christ’s Sermon on the Mount.”⁴³ Black women, in particular, found in Jesus:

the divine co-sufferer, who empowers them in situations of oppression. For Christian Black women in the past, Jesus was their central frame of reference. They identified with Jesus because they believed that Jesus identified with them. As Jesus was persecuted and made to suffer undeservedly, so were they. His suffering culminated in the crucifixion. Their crucifixion included rape, and babies being sold.⁴⁴

The slave woman thus identified her pain and struggles with those of Jesus:

Come to we, dear Massa Jesus. De sun, he hot too much, de road am dat long and boggy (sandy) and we ain’t got no buggy for send and fetch Ooner. But Massa, you ‘member how you walked dat hard walk up Calvary and ain’t weary but tink about we all dat way. We know you ain’t weary for to come to we. We pick out de torns, de prickles, de brier, de backslidin’ and de quarrel and de sin out of you path so dey shan’t hurt Ooner pierce feet no more.⁴⁵

Sojourner Truth found in her personal encounter with Jesus a tough, active love that could embrace even whites: “[T]here came

38. See Evelyn Brooks Higginbotham, *Righteous Discontent: The Women’s Movement in the Black Baptist Church 1880-1920*, at 173 (1993) (quoting Du Bois).

39. See *id.* at 1.

40. See Genovese, *supra* note 14, at 159-284 (discussing the black interpretation of Christian freedom under slavery). On religious and political freedom under emancipation, see Litwack, *supra* note 14, at 450-556.

41. See generally Higginbotham, *supra* note 38.

42. *Id.* at 139.

43. *Id.* at 140.

44. Jacquelyn Grant, *White Women’s Christ and Black Women’s Jesus: Feminist Christology and Womanist Response* 212 (1989).

45. *Id.* at 213.

another rush of love through my soul, an' I cried out loud—'Lord, I can love *even de white folks!*'"⁴⁶

Martin Luther King, Jr. came from a family of strong and pious Baptist women, his grandmother the wife of a preacher, and his mother the daughter and the wife of preachers; both had attended Spelman.⁴⁷ These intelligent and educated women brought to their relationship with the young Martin a powerful sense of their distinctive religious and ethical voice, as maternal caretakers, linked to the personal experience of Jesus as a loving, caring presence to which their caretaking witnessed. We know that Dr. King's antipathy to violence started at an early age, when the influence of these women was undoubtedly at its strongest.⁴⁸ Such women identified strongly with the Jesus of the Sermon on the Mount, as we see in Sojourner Truth's love of whites, which is clearly modeled on Jesus' command to love our enemies. It is revelatory, in this connection, that King's insistence on a course of nonviolence during the Montgomery bus boycott was a decision that conflicted with the will of Daddy King on at least two important occasions. First, after their house had been bombed, both King and his wife Coretta refused to leave Montgomery as both their fathers demanded.⁴⁹ And second, King decided, contrary to his father's advice, that he had to disobey a state court order not to demonstrate, leading to his imprisonment in Birmingham City Jail. His father commented: "Well, you didn't get this nonviolence from me . . . You must have got it from your Mama."⁵⁰

But the patriarchal character of authority in Baptist churches in this period carried with it, as it did elsewhere in American patriarchal culture and institutions of this period, the familiar division of women into two dichotomously exclusive categories: idealized asexual good women (one's idealized mother) and fallen sexual bad women. It is important to be clear about what the form of this patriarchal authority involved in the Baptist black ministry, as it was one of the conventional assumptions of manhood that the young Martin—as the son and grandson of Baptist ministers—had to take seriously. King absorbed from the women in his family a voice that was to challenge the gender roles of both black men and women; but, once he decided to be a minister, these patriarchal conventions established parameters within which King, as a black man and minister, had to work. We can get some idea of the conflicts King faced if we introduce some context for the choices King made, namely, the perspective of a great black

46. *Id.* at 214.

47. Branch, *Parting the Waters*, *supra* note 6, at 33.

48. See L.D. Reddick, *Crusader Without Violence: A Biography of Martin Luther King, Jr.* 59-60 (1959) (detailing King's "antipathy to violence" as a young boy); *id.* at 59.

49. See Branch, *Parting the Waters*, *supra* note 6, at 166-67.

50. *Id.* at 730.

artist of this period who knew and hated black ministers and knew and deeply admired King.

There is no more brilliant investigation of the impact of the idealized pedestal on men and women in the black churches during this period than James Baldwin's remarkable first novel, *Go Tell It on the Mountain*.⁵¹ The novel is a thinly disguised autobiographical study of Baldwin's relationship to his mother and his stepfather, a black preacher, and his stepfather's sister; all three had been born in the South and in the course of the novel moved North to Harlem, where Baldwin was born and brought up as the eldest child in a large family of brothers and sisters born to his beloved mother and her increasingly cruel and ultimately mentally ill husband. As his biographer David Leeming observed, "[f]or Baldwin the love that he learned in part from his mother was to emerge as the central idea in a personal ideology that was to inform his later life."⁵² Baldwin always remembered his mother in something she said to him in his teens:

I don't know what will happen to you in life. I do know that you have brothers and sisters. You must treat everyone the way I hope others will treat you when you are away from me, the way you hope others will treat your brothers and sisters when you are far from them.⁵³

The question explored in *Go Tell It on the Mountain* is why his preacher father not only did not love as his mother did, but why he was consumed and ultimately destroyed by hatred. Baldwin seeks the answer to his question in the effects of the patriarchal pedestal (good asexual vs. bad sexual women) on the psychology and ethics of black men and women of the South in the particular form, the racialized pedestal, that, as we saw earlier American racism unjustly imposed on them. The very role of the black churches as an institution that, as W.E.B. Du Bois noted, helped maintain the dignity of blacks against the indignities of racism led to its enforcement of a form of the pedestal. Because the racialized pedestal unjustly ascribed to all blacks a degraded sexuality, resistance to such unjust images led to insistence on a form of idealization of good black women's sexuality that rested on repression of sexual voice, and a corresponding devaluation of any women who had a free sexual voice and lived accordingly. Baldwin is mainly concerned with the impact of this form of the pedestal on men like his stepfather, which was first urged on him by his devout mother and, after a history of sexual dalliance, adopted by him at her death when he becomes a minister. His devotion to her ideals takes the form of marrying Deborah, a woman

51. See James Baldwin, *Go Tell It on the Mountain*, in James Baldwin: Early Novels and Stories 1, 1-125 (Toni Morrison ed., 1998).

52. David Leeming, James Baldwin: A Biography 9 (1994).

53. *Id.*

scorned by other black men as tainted because she had been raped by white men. In dreams he has before deciding to marry her, Gabriel (based on Baldwin's stepfather) first dreams of having armored himself in chastity, about to be stoned, and then battling (he wakes with a nocturnal emission) and then dreams of being on a cold mountain top and asked by a voice to go higher, finally coming to the sun and to peace.⁵⁴ As his dream shows, he married Deborah not from love, but from a sense of better meeting his religious ideals, which disfavor any sexual feeling for the woman he marries; she is childless. Gabriel is attracted to and has an affair with a young woman, Esther, whom he impregnates. He refuses to consider her offer to leave his wife and run off with her because he regards her as a fallen woman.⁵⁵ Esther is repelled by his dishonesty, his fear, and his shame, which shames her "before my *God*—to let somebody make me cheap, like you done done . . . I guess it takes a holy man to make a girl a real whore."⁵⁶ Gabriel steals money from Deborah to help Esther leave for Chicago; she dies in childbirth, leaving a son, Royal, whom Gabriel never acknowledges as his own and is killed as a young man. After the boy's death and before her own, Deborah confronts Gabriel with the truth, questioning his judgment about not going with the woman he evidently loved sexually but regarded as a "harlot" ("Esther weren't no harlot,"⁵⁷ Deborah replies); he has, Deborah says, done the wrong thing both ethically and before God.⁵⁸ Both Esther and Deborah identify Gabriel's sense of the pedestal as the root of what cuts him off from any real relationship to them or to any person or God.

Baldwin elsewhere describes the boundaries that the racialized pedestal, when absorbed into the minds and lives of blacks, imposes on any possibility of real relationships among them, a traumatic break in relationship "like one of those floods that devastate counties, tearing everything down, tearing children from their parents and lovers from each other, and making everything an unrecognizable waste."⁵⁹ The consequence is:

You very soon, without knowing it, give up all hope of communion. Black people, mainly, look down or look up but do not look at each other, not at you, and white people, mainly, look away. And the universe is simply a sounding drum; there is no way, no way whatever, so it seemed then and has sometimes seemed since, to get

54. See Baldwin, *supra* note 51, at 105-07.

55. *Id.* at 126.

56. *Id.* at 128.

57. *Id.* at 143.

58. *Id.* at 142-44.

59. James Baldwin, *The Fire Next Time*, in James Baldwin, *Collected Essays* 286, 304 (Toni Morrison ed., 1998). For further descriptions of the "boundaries" see *id.* at 291-347.

through a life, to love your wife and children, or your friends, or your mother and father, or to be loved.⁶⁰

The pedestal kills real sensual relationships of mutual voice, and thus kills relationships:

To be sensual, I think, is to respect and rejoice in the force of life, of life itself, and to be *present* in all that one does, from the effort of loving to the breaking of bread The person who distrusts himself has no touchstone for reality—for this touchstone can be only oneself. Such a person interposes between himself and reality nothing less than a labyrinth of attitudes.⁶¹

The pedestal is one of this “labyrinth of attitudes,” a stereotypical assumption that cuts one off not only from the voice of others, but from one’s own personal emotional voice. It thus stultifies emotional intelligence without which love is narcissism. Baldwin had seen this in his father and other preachers and had come, for this reason, to be skeptical about the Christianity of the black churches in particular and of established religion in general.

When Baldwin met Martin Luther King, Jr., he commented “Reverend King is not like any preacher I have ever met before. For one thing, to state it baldly, I liked him.”⁶² He was thinking, of course, of his stepfather and the other such ministers he had known. King was clearly a counterexample to Baldwin’s highly negative view of black preachers: “[w]hat he says to Negroes he will say to whites; and what he says to whites he will say to Negroes. He is the first Negro leader in my experience, or the first in many generations, of whom this can be said”⁶³

But, Baldwin, for all his admiration of and active support for King and his movement, did take critical note of a problem in black leadership, including that of King: “[o]ne of the greatest vices of the white bourgeoisie on which they have modeled themselves is its reluctance to think, its distrust of the independent mind.”⁶⁴ Even King had uncritically absorbed a conventionality which mirrors white conventionality, acquiescing, for example, in pressure brought “to force the resignation of [King’s] extremely able organizer and lieutenant, Bayard Rustin.”⁶⁵ The resignation was over Rustin’s homosexuality, which, for Baldwin (a gay man), bespeaks a kind of

60. *Id.* at 304.

61. *Id.* at 311-12. The purging of Rustin from the Southern Christian Leadership Conference, where King had wanted Rustin appointed as coordinator and publicist, was King’s response to a grotesque threat by Adam Clayton Powell that, otherwise, he would publicly state that King and Rustin had had a homosexual affair. See Branch, *Parting the Waters*, *supra* note 6, at 328-29.

62. James Baldwin, *The Dangerous Road Before Martin Luther King*, in James Baldwin, *Collected Essays* 638-58 (Toni Morrison ed., 1998).

63. *Id.* at 639.

64. *Id.* at 655.

65. *Id.* at 656.

hypocritical public face of sexual conventionality, which compromises the central aim of the civil rights leadership, recognition of the human rights of all on equal terms, which "necessarily carries with it the idea of sexual freedom: the freedom to meet, sleep with, and marry whom one chooses."⁶⁶ Baldwin is making reference to the racist obsession with miscegenation; the response of such conventionality is:

I am afraid we must postpone [the right to sexual freedom] for the moment, to consider just why so many people appear to be convinced that Negroes would then immediately meet, sleep with, and marry white women; who, remarkably enough, are only protected from such undesirable alliances by the majesty and vigilance of the law.⁶⁷

The issue of sexual freedom is not, Baldwin argues, peripheral to the civil rights movement, but central, as the Supreme Court itself recognized in 1967 when it struck down anti-miscegenation laws in *Loving v. Virginia*.⁶⁸

Baldwin found in Martin Luther King, Jr. a preacher in many respects quite different from his stepfather, but sensed in some areas the same kind of dishonest sexual voice—required by patriarchal conventionality—that he found in his stepfather. The problem, of course, arose from the ways in which the black churches, in resisting the racialized pedestal, adopted a form of the pedestal to accentuate their own sexual virtue and, correlatively, condemned any blacks who deviated from it (for example, Bayard Rustin). The problem was aggravated when some black churches under King's leadership became active in the civil rights movement. In order to be credible critics of dominant racist opinion (with its racialized pedestal), protesters had to be, if anything, hyper-respectable in the terms of Southern white respectability, including the pedestal.⁶⁹ King had been prepared for this role by the ways in which, as a black man, he had accommodated himself to its public requirements of respectable manhood once he decided that his vocation was that of his father and maternal grandfather, a Baptist minister.

There was, of course, a problem of black manhood under racism correlative to the problem of black womanhood, the consequences of which Orlando Patterson has argued are still very much with us.⁷⁰ The racialized pedestal defines the problem, a pedestal that allowed white

66. *Id.* at 653.

67. *Id.* at 653-54.

68. 388 U.S. 1, 11-12 (1967).

69. See generally Marisa Chappell et al., "Dress modestly, neatly . . . as if you were going to church": Respectability, Class and Gender in the Montgomery Bus Boycott and the Early Civil Rights Movement, in *Gender in the Civil Rights Movement* 69 (Peter J. Ling & Sharon Monteith eds., 1999).

70. See generally Orlando Patterson, *Rituals of Blood: Consequences of Slavery in Two American Centuries* (1998).

Southern men to indulge their sexuality on black women while rigidly controlling the sexuality of white women. The sexual desire of white women for anyone, let alone for black men, was such a threat to this ideology (to the point of rationalizing lynching) because it threatened the idealized pedestal itself (a point Ida Wells-Barnett had powerfully made).⁷¹ Black men were correlatively trapped in a kind of sexual cage. Any sexual interest in a white woman called for lynching, and their ability to protect their own black women was compromised by the terms of white racism, which rationalized its sexual exploitation of black women on the basis of dehumanizing stereotypes of black sexuality as of animals not of humans. The more promiscuous the sexuality of blacks, the more they accommodated themselves to the racist stereotype. Black men like King had as strong sexual interests as white men, but their manhood as Baptist preachers required that they keep their sexual interests undercover, so to speak, conforming in their public roles to idealized roles of husband and father and holding their wives under comparable idealizing controls, all to make the appropriate public statement in rebuttal of the racialized pedestal. It was as much a role at which black men like King played as it was for Tolstoy when he decided that, as a man, he must play to the hilt the roles of husband and father. James Baldwin, a gay man and an outsider to this conception of manhood, shows us the price in real relationships black men and women paid when they took this line, and he apparently sensed with the sensitivity and psychological insight of an artist that King had paid and was paying such a price.

Martin Luther King, Jr. attended Morehouse College in Atlanta, as had his grandfather. Most of his friends there were in rebellion against the ministry, regarding the law, on the model of Thurgood Marshall, as a better place to serve humanity than the ministry; "idealists must look to the law, breadwinners to the church."⁷² This was a stark cultural reversal of white views at that time, as was "the fact that some two-thirds of Negro college students always had been female."⁷³ King first intended to be a doctor, then a lawyer, but:

At Morehouse, King worked hard to develop the countermerits of urbanity To friends . . . King was an affable personality resting on a foundation of decency, moving politely but steadily away from the religious straitjacket of his youth toward the Morehouse ideal of the successful, fun-loving gentleman.⁷⁴

In 1946, when King was a junior at Morehouse, racism in the South became inflamed when colonized peoples in Asia and Africa denounced the racist hypocrisy of the nations that exercised dominion

71. See Richards, *Women, Gays, and the Constitution*, *supra* note 2, at 182-90 (discussing Wells-Barnett's analysis).

72. Branch, *Parting the Waters*, *supra* note 6, at 61.

73. *Id.*

74. *Id.* at 63.

over them, and in a similar spirit, black soldiers returned from World War II and began to demand treatment as equals; mobs in Monroe, Georgia lynched "no fewer than six Negro war veterans in a single three-week period" during the summer.⁷⁵ King and his friends began to wonder if the ministry could be designed to fit their ambitions, which certainly did not endorse fundamentalism.⁷⁶ To this end, they attended and studied the preaching of Rev. William Holmes Borders, in particular, "the high-toned sermons in which he aroused his congregation without merely repeating the homilies of eternal life."⁷⁷ By the end of his junior year, King gave up talking about becoming a lawyer, and, under considerable pressure from his father, told his father in the fall that he would follow him into the ministry. King gave his first sermon in his father's pulpit, and was quickly ordained a minister and made assistant pastor of Ebenezer.⁷⁸ "The last year at Morehouse was a heady one for King,"⁷⁹ and he and friends began to do work as ministers (preaching, marrying, burying) and basked in the admiration of local females; they (King among them) had by then "reputations as ladies' men."⁸⁰ The big news during King's last year was President Truman's decision to be the first American president who addressed an NAACP convention and subsequent support of civil rights legislation, followed by the shocking assassination in early 1948 of Mohandas Gandhi. King had agreed to be a minister, as his father wanted, but he would be one on his own terms, going to a seminary as had the preachers he admired, William Holmes Borders, Vernon Johns, and Harry Emerson Fosdick of the Riverside Church in New York (King had indeed used a Fosdick sermon as his first sermon at Ebenezer). King decided he would apply to Crozer Theological Seminary in Pennsylvania, and told his mother and sister and brother before he told his father, who was suspicious but acceded. Crozer was a white seminary known for its "liberal leanings in theology," and it was far from his father.⁸¹

III. KING'S GRADUATE EDUCATION, RELIGION, AND MARRIAGE

We can see the force and contours of King's struggle to find his own religious and ethical voice as a minister, independent of his patriarchal father in his insistence, usually with the support of his mother, on seeking graduate education, first in three years at Crozer Theological Seminary, and then in doctoral work at Boston University. During

75. *See id.*

76. King wrote that Morehouse freed him from "the shackles of fundamentalism." *Id.* at 62.

77. *Id.* at 64.

78. *Id.* at 65-66.

79. *Id.* at 66.

80. *Id.*

81. *Id.* at 68.

these years King forged both his own views on religion as ethical social gospel against entrenched evils like racism and his remarkable preaching style, which was a main subject of self-conscious study at Crozer. At the end, as he knew he must finish his studies and adopt a working vocation as a Baptist minister in some form, he knew that he must finally marry, leading to a remarkable process of negotiation with his parents who were as much part of his decision, for good or ill, as was the woman he married, Coretta Scott.

Martin Luther King, Jr. arrived at Crozer Theological Seminary in Chester, Pennsylvania, a town outside Philadelphia, in 1948. It was to be the most important educational experience in his life, one that turned the mediocre student of the Morehouse years into one utterly absorbed by his education and earning grades that would make him valedictorian of his class.⁸² The intensity of the transition was in part King's desire to distinguish himself in a white culture, but it was a culture at that time and place of a quite extraordinary kind. Students encountered at Crozer "an atmosphere of unorthodox freethinking that went far beyond the rebellions of youth in that taut era."⁸³ The African-American students in the entering class came there because it was a white school of very high reputation, anticipating an alien environment from the racially segregated educations from which they had largely come. They found, to their surprise, "[t]here were ten of them in a class of thirty-two," and there were in addition three Chinese students, several Indians, a Japanese student, and assorted other foreigners.⁸⁴ They were all stirred together in among the white students in classes, dormitories, and cafeteria; "[n]o major seminary of any denomination had achieved such a racial mix, and none would do so again."⁸⁵

The Crozer administration was making valiant efforts at this time to inculcate egalitarianism among the students and also maintain its rigorous intellectual traditions of liberal religious inquiry against the rising tide of more conservative religious thought "perfecting simpler messages of great popular appeal in a troubled, complex age."⁸⁶ King welcomed the skeptical required courses he first took that raised and sorted out the best historical work then done both on the Old and the New Testament;⁸⁷ "[t]he standing joke among the Crozer students who survived these courses was that Prichard destroyed the biblical image of Moses in the first term and Enslin finished off Jesus in the second."⁸⁸

82. *Id.* at 72.

83. *Id.* at 69.

84. *Id.* at 70.

85. *Id.*

86. *Id.* at 71.

87. *Id.* at 71-72.

88. *Id.* at 72.

Crozer's approach was to tear down the belief systems of students by skeptical study of the texts on which they based their beliefs, and then to start over, building a belief system of religious knowledge that was as reasonable as possible. It corresponded exactly to King's own psychic situation and his deepest needs:

Having muscled his way into a state of religious skepticism some years earlier against the combined weight of his heritage and his father's authority, he found Crozer's idea of religion no less liberating than the racially mixed classes, the unlocked dorms, and the white maids.... He became suddenly and permanently fascinated. The floor of his room was soon piled high with books, and he would sometimes read all night.⁸⁹

Among the philosophers and theologians King studied during his first year at Crozer was Walter Rauschenbusch's *Christianity and the Social Crisis*,⁹⁰ a book usually regarded as "the beginning of the Social Gospel movement" in the United States and one of the few King acknowledged as an influence on his religious beliefs.⁹¹ Rauschenbusch was a German-Lutheran turned Baptist whose experiences in the Hell's Kitchen area of New York City led him to reject the usual religious emphasis on matters of ritual, theology, metaphysics, and the supernatural to make room for what he took to be central, a spirit of brotherhood among humanity that is expressed through socially responsible ethical relationships. Rauschenbusch thus defined the proper role of Christian ministers as an elaboration of the Old Testament prophets, and conceived Jesus of Nazareth as building on and elaborating this tradition, "the greatest of all prophets."⁹² The task of a Christian minister was to give prophetic ethical voice to protest against the social injustices that pride, selfishness, and oppression inflicted on innocent people as transgressions of the divine historical plan which should culminate in the Christian ideal of the kingdom of God on earth. For many of his followers, including King, Rauschenbusch gave an alternative reading of religion from a distracting otherworldliness to an ongoing work of social justice as the closest way we can come, as persons made in God's image, to participating in God's love.⁹³

King was introduced to Rauschenbusch at Crozer, by a professor, George W. Davis, the son of a union activist, the only pacifist on the Crozer faculty, and the strongest admirer of the life and work of Gandhi.⁹⁴ It was Davis's copy of a book on Gandhi that King first

89. *Id.* at 73.

90. See Walter Rauschenbusch, *Christianity and the Social Crisis* (Robert D. Cross ed., Harper & Row 1964) (1907).

91. Branch, *Parting the Waters*, *supra* note 6, at 73.

92. Rauschenbusch, *supra* note 90, at 53.

93. *Id.*

94. *Id.* at 74.

read in the seminary library, which gave him a positive sense of how Christianity as social gospel might be translated into action in a context that, in the case of Gandhi, clearly involved resistance to racism both in South Africa and in India.⁹⁵ King did not accept pacifism at Crozer, indeed he criticized the pacifist work of A.J. Muste; but King took a third of his courses from Davis, whom he found warm and accessible.⁹⁶

A major feature of King's Crozer education was classes in preaching; "King's oratory was among his chief distinctions at Crozer."⁹⁷ Fellow students who remembered little else about King "would remember the text, theme, and impact of specific King practice sermons."⁹⁸ At Crozer, practice preaching courses brought King some of his highest grades and greatest approval.⁹⁹ King and his black friends would often hilariously compare the elevated sermons their professors encouraged with their own homemade preaching formulas, and King, a wonderful mimic, would offer parodies of sermons fellow students gave in local churches, delivering "the 'correct' versions in . . . exaggerated spiels of Enslin's rational historicism, speaking of Jesus as a gifted Jewish prophet with a lot of personal problems."¹⁰⁰

It was near the end of this study at Crozer, after he decided to go on to doctoral work, that King read Reinhold Niebuhr's *Moral Man and Immoral Society*.¹⁰¹ "The experience did not change his plans, but it appears to have changed nearly everything else, including his fundamental outlook on religion."¹⁰² Before he read Niebuhr, King had decided "to pursue his doctorate for reasons of pleasure, inertia, and prestige,"¹⁰³ building on the personal fulfillment and recognition beyond his dreams that he had experienced at Crozer. Life would be one of study, enabling him to find his own way, perhaps teaching at a seminary or university in the North, circumventing his doubts about the ambitions and way of life as a black Baptist preacher of the South.¹⁰⁴ For example, "Daddy King's unabashed pursuit of success embarrassed him."¹⁰⁵ After reading Niebuhr, "King experienced for

95. *Id.*

96. Branch, Parting the Waters, *supra* note 6, at 74.

97. *Id.* at 75.

98. *Id.* at 76.

99. *See id.* at 75-78.

100. *Id.* at 77.

101. Reinhold Niebuhr, *Moral Man and Immoral Society: A Study in Ethics and Politics* (Charles Scribner's Sons 1960) (1932); *see* Branch, Parting the Waters, *supra* note 6, at 81.

102. Branch, Parting the Waters, *supra* note 6, at 81.

103. *Id.*

104. *Id.* at 85.

105. *Id.*

the first time a loss of confidence in his own chosen ideas rather than inherited ones."¹⁰⁶

King never really gave up what he had learned from Rauschenbusch, but neither had Niebuhr. Niebuhr had been a prominent advocate of the Social Gospel as reflected in his background prior to coming to teach at Union Theological Seminary in New York in 1928, after attending Yale Divinity School.¹⁰⁷ He had spent thirteen years as a Social Gospel minister in Detroit, achieving fame for his defense of auto workers and Negro migrants trying to survive in Henry Ford's town in the wake of World War I; and he was also a nationally known pacifist "who had served several terms as president of the Fellowship of Reconciliation."¹⁰⁸ The 1932 publication of *Moral Man and Immoral Society* was a shock to nonfundamentalists interested in religion because the work attacked the premise of Social Gospel's picture that the steady advance of reason led by Enlightenment leaders, whether Social Gospel religionists or secular philosophers like John Dewey, could be depended on to secure justice.¹⁰⁹ There was no good reason to think that better education in itself made people less selfish or cruel.¹¹⁰ Injustice survived because, as Augustinian Christianity had noticed, people were flawed by original sin.¹¹¹ A religious liberalism that did not take this seriously was fundamentally flawed.¹¹²

Niebuhr's internal criticism of Social Gospel religion was in part directed at its alliance not only with secular thinkers like Dewey, but at its doctrine of progress which was false in itself and too much in tune with the false science of Marxism, which suppressed the role of moral judgment in politics.¹¹³ Niebuhr interpreted original sin as a feature of human group psychology very similar to the secularized version of original sin of Hume's political science of faction that Madison prominently used as a realistic psychology of politics under democracy in justification of the design of American constitutionalism.¹¹⁴ Madison, like Niebuhr, assumes that such facts of group psychology are permanent features of our human nature.¹¹⁵ But also, like Niebuhr, Madison believes that we, as individuals, have ethical values expressive of conscience and that we must assess forms of government and politics in terms of whether we can so structure

106. *Id.* at 81.

107. *Id.* at 82.

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.*

112. *See id.* at 82-83.

113. *See id.* at 81-87.

114. *See* Richards, Foundations of American Constitutionalism, *supra* note 2, at 32-39.

115. *Id.* at 36-39.

and limit such facts of group psychology so that they better meet reflective ethical aims of justice and the public good.

What may have particularly arrested King's attention in Niebuhr's argument was the way he focused on the group psychology of racism. Whether in the British colonial domination of India or in the American South, racism was a problem that remained intractably intact¹¹⁶ and that would remain so as long as Tolstoyan pacifists failed to take seriously the need for legitimate forms of force to combat such evils.¹¹⁷ In contrast, Niebuhr regards Gandhi's *satyagraha* in India as a much more effective way of combating such racism precisely because it is a form of nonviolence, rooted in the expression of ethical conviction in politics, that "does coerce and destroy"¹¹⁸—for example, the coercive effects of the Indian boycott of British manufactured cloth on the "cotton spinners of Lancashire."¹¹⁹ To the extent that Gandhi's praxis is nonviolent, Niebuhr argues that its political advantage is its way of expressing ethical values of resistance, namely, "that it protects the agent against the resentments which violent conflict always creates in both parties to a conflict."¹²⁰ Such a political scheme gives very vivid proofs of moral good will whose effects are tremendous:

In every social conflict each party is so obsessed with the wrongs which the other party commits against it, that it is unable to see its own wrongdoing. A non-violent temper reduces these animosities to a minimum and therefore preserves a certain objectivity in analysing the issues of the dispute.¹²¹

Niebuhr endorses Gandhi's *satyagraha* because it "is a type of coercion which offers the largest opportunities for a harmonious relationship with the moral and rational factors in social life."¹²² In particular, he gives a general view of Gandhi's strategic judgments of ethics and effectiveness, and directly points out their relevance to the resistance of African-Americans to American racism:

[N]on-violence is a particularly strategic instrument for an oppressed group which is hopelessly in the minority and has no possibility of developing sufficient power to set against its oppressors.

The emancipation of the Negro race in America probably waits upon the adequate development of this kind of social and political strategy. It is hopeless for the Negro to expect complete emancipation from the menial social and economic position into which the white man has forced him, merely by trusting in the moral

116. See Niebuhr, *supra* note 101, at 118-20.

117. See *id.* at 20, 269-70.

118. *Id.* at 241.

119. *Id.*

120. *Id.* at 247.

121. *Id.* at 248.

122. *Id.* at 250-51.

sense of the white race. It is equally hopeless to attempt emancipation through violent rebellion.¹²³

One can see what must have moved and unsettled King when he read Niebuhr. On the one hand, Niebuhr accords an indispensable role to prophetic religion in expressing ethical judgments in politics in the Social Gospel tradition, but, on the other, he denies that education or progress or more reasonable argument will alone suffice against such evils as racism, which, as forms of group psychology, are so deeply entrenched in human nature and culture. Niebuhr's views of racism very much fit what King knew about the American South, and resonated as well with a developing constitutional tradition that, under the impact of the NAACP, was coming to see state support of racism as a form of faction condemned by the Equal Protection Clause of the Fourteenth Amendment. In light of these constitutional developments, ethically rooted resistance to the force of racism in American politics was now very much aligned with the principles of American constitutional law. Nothing could have jolted King more from the trajectory he was on to join the faculty of some seminary or university in the North than Niebuhr's sharp anti-assimilationist critique of such a trajectory:

The progress of the Negro race . . . is retarded by the inclination of many able and educated Negroes to strive for identification and assimilation with the more privileged white race and to minimise their relation to a subject race as much as possible.¹²⁴

Being a Baptist minister in the South might now make a new kind of vocational sense to King if it could be in the service to a prophetic religion of ethical resistance on the model of Gandhi's *satyagraha*. King would devote much of his remaining graduate school career to the study of Niebuhr.¹²⁵

In 1951, King decided to pursue a doctorate at Boston University because of the presence of Edgar S. Brightman, "the leading exponent of a school of theology known as Personalism."¹²⁶ In contrast to the metaphysical abstractness of the theology of Barth and Tillich, Personalism "harked back to the intensely personal God of the Jewish scriptures and to early Christian theologians such as Augustine, who sometimes described God using only a long list of human emotions, modified to remove any objectionable qualities and raised to infinite strength."¹²⁷ Buber, who King cited frequently, captures the personalist point when he models man's relationship with God on

123. *Id.* at 252.

124. *Id.* at 274.

125. On Niebuhr's impact on King, see Branch, Parting the Waters, *supra* note 6, at 87.

126. *Id.* at 90.

127. *Id.* at 91.

personal ethical relationships of loving care and concern for the individuality of one another.¹²⁸ King liked Brightman and would take ten of his fifteen doctorate courses from Brightman or L. Harold DeWolf—his Personalist protégé.¹²⁹ King's dissertation would use Personalism as a tool of criticism of the theology of Paul Tillich and Henry Nelson Wieman as "too arid, speculative, and cerebral to answer human yearnings in the province of religion."¹³⁰

King was now nearing his moment of choice of vocation as to what kind of Baptist minister he would be, and he was, in view of the patriarchal conception of manhood such ministry involved, under considerable pressure from his parents to marry and was now "doing his best to marry."¹³¹ There is reason to believe that there was a psychic strain in King between his sense of his personal needs as a man and the kind of wife required of a Baptist minister. In his first year at Crozer, he had dated Juanita Sellars, a friend of his sister Christine who, like her, was a graduate of Spelman now doing graduate work at Columbia University.¹³² She was "precisely the sort of woman Daddy King was anxious for his son to marry," but nothing came of it.¹³³

Later at Crozer, King evidently fell in love with Betty, the white daughter of a German immigrant woman who served as the cook for the Crozer cafeteria; King resolved to marry her.¹³⁴ He was, however, cautioned by friends about the problems an interracial marriage would cause in his getting a ministry.¹³⁵ While King was evidently willing to take whatever Daddy King would say, "he could not face the pain it would cause his mother."¹³⁶ Although King told friends both he and Betty were in love, he broke off the relationship. The break of any such love must be traumatic, and it is certainly worth noting, in light of King's later sexual infidelities and marital misery, that he makes such a painful choice on the basis of an idealized image of his mother; an image that rationalizes the suppression of King's own loving sexual voice.

While doing graduate work at Boston University, King was aggressively dating with a view to marriage.¹³⁷ "Early in 1952, he

128. For King on Buber, see Speech of Martin Luther King, Jr., *The Ethical Demands for Integration* (December 27, 1962), in *A Testament of Hope: The Essential Writings of Martin Luther King, Jr.* 117, 119 (James Melvin Washington ed., 1986).

129. Branch, *Parting the Waters*, *supra* note 6, at 92.

130. *Id.* at 102.

131. *Id.* at 94.

132. *Id.* at 78.

133. *Id.*

134. *Id.* at 88-89.

135. *Id.* at 89 (discussing the objections of Marcus Wood).

136. *Id.*

137. *Id.* at 94.

called a woman blindly on the recommendation of a friend."¹³⁸ The woman, Coretta Scott, was the daughter of an African-American elite among poor Alabama farmers. She acquired enough of the family courage and drive to seek education at a private school nearby, and Coretta "followed her older sister north to Antioch College and, after graduation she had come to Boston's New England Conservatory of Music on a small scholarship."¹³⁹ Her ambition was to be a singer of classical music. When King first met Coretta, "he shocked her . . . by declaring that she would make him a good wife. 'The four things that I look for in a wife are character, intelligence, personality, and beauty . . . And you have them all. I want to see you again.'"¹⁴⁰ The sense of a menu of idealized traits in "a good wife" immediately strikes one now, as it must have struck Coretta then, as a highly impersonal way to frame a personal relationship. King put Coretta through various tests of eligibility to be a minister's wife, including agreeing to visit with his family in Atlanta.¹⁴¹ Like Juanita Sellars, Coretta initially refused, but, unlike Juanita, eventually complied with King's angry demand.¹⁴² Daddy King regarded Coretta as a country girl, not the kind of well-connected society girl he wanted his son to marry, and King's mother was also complacent.¹⁴³ When his parents visited Boston in the fall, the father brought the issue to an emotional boil by asking Coretta bluntly whether she took his son seriously, and insisting that there were much better choices for Martin, Jr. in Atlanta.¹⁴⁴ Martin, Jr. said nothing, but his father's outrageous intervention may have decided him; he told his mother in the next room "that he planned to marry the woman his father had just blistered unmercifully."¹⁴⁵

A few weeks later, King composed an outline for a sermon entitled "How a Christian Overcomes Evil," that included the following steps: first, honestly identify the evil within—"[t]he hidden fault must be called by its right name, otherwise we miss seeing our pride under fear of an inferiority complex;" and second, cultivate a virtue that crowds out the evil.¹⁴⁶ The evil is later identified as "sensuality," something King claims our pride rooted in an inferiority fear makes it difficult for us to acknowledge.¹⁴⁷ Taylor Branch suggests that such pride may arise in reaction to a racism that ascribes an inferiority to black manhood—"warning that such a handicap in a Negro could make him

138. *Id.*

139. *Id.* at 95.

140. *Id.* at 95-96.

141. *Id.* at 96.

142. *Id.*

143. *Id.*

144. *Id.* at 97-98.

145. *Id.* at 98.

146. *Id.* at 99.

147. *Id.*

blind to his own racial pride, or to the pride that lies beneath all considerations of race.”¹⁴⁸ King never developed the outline into a complete sermon, which is understandable in light of the questions the outline raises about his own conflicted sexuality at this crucial period in this life.¹⁴⁹ If a certain pride in one’s manhood takes the form of living in a way that defies the sexual mythology of racism, that pride could take the form of suppressing one’s sexual voice in the name of an assertion of the idealizing pedestal of one’s relations to a good wife or good woman. The outline of King’s sermon suggests this conflicted psychology of suppressed sensuality and idealization at the time he decides to marry Coretta Scott.

Coretta and Martin married on June 18, 1953. “Years ahead of her time,” she insisted that the injunction to obey her husband be removed from the ceremony, which it was.¹⁵⁰ However, when King was offered the position of new pastor for the Dexter Avenue Baptist church in Montgomery (which had previously been occupied by Vernon Johns, whom King enormously admired),¹⁵¹ Coretta’s plea that they settle in the north went unheeded.¹⁵² King asserted “what he called his authority as head of the household.”¹⁵³ King’s assertion of patriarchal authority in his marriage required Coretta to live in a part of the country she had been trying to escape, and to give up any hope of the career in music that was her ambition.¹⁵⁴ King would be a very different kind of Baptist minister from his father, but his marriage was just as patriarchal—as it turned out, for such an otherwise unconventional black man, disastrously so.

IV. NONVIOLENCE IN MONTGOMERY

Martin Luther King, Jr. arrived in Montgomery, Alabama, to become pastor of Dexter in 1954, the year of *Brown*.¹⁵⁵ The condemnation of American cultural racism in that opinion had once been the view of only the radical abolitionists within the larger abolitionist movement. Now, however, such a view was not limited to a political minority within a minority, but sponsored by the unanimous authority of the Supreme Court of the United States which found racist practices in blatant contradiction to the normative premises that actuate the Reconstruction Amendments as fundamental constitutional law. However, much work still remained; and while developments in constitutional law would do some of it, it was not

148. *Id.*

149. *Id.* at 100.

150. *Id.* at 101.

151. *Id.* at 103; *see id.* at 1-26.

152. *Id.* at 111-12.

153. *Id.* at 112.

154. *Id.* at 111-12.

155. 347 U.S. 483 (1954); *see also* Branch, Parting the Waters, *supra* note 6, at 114.

clear that arguments to a counter-majoritarian judiciary could do all the work alone. There was a need, building on and extending judicially enforced constitutional principles, to forge a democratic political consensus both in the South and in the nation supportive of the just claims of African-Americans.¹⁵⁶ Martin Luther King, Jr. was a pivotally important figure in helping forge such a democratic consensus through a movement much less elitist than the NAACP had required, indeed much more democratically inclusive. It was Thurgood Marshall who once dismissed King's movement as aiding desegregation because "school desegregation was men's work, and should not be entrusted to children."¹⁵⁷ This statement suggests the difficulty black elites had in understanding the importance of King's movement which prominently included women and even children and which helped shape the democratic consensus that passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Nonetheless, King's movement would not have had the authority and appeal it commanded without *Brown*.¹⁵⁸

King very often spoke and wrote about the connections of principle between the anti-racist struggle in the United States and the worldwide struggle against the role racism had played in Western colonialism in Africa and Asia.¹⁵⁹ Gandhi became important to King not only because of the disciplined strategies of nonviolence of *satyagraha*, but because the great truth to which Gandhi gave voice: the unjust role racism played not only in South African prejudice against Indians, but in the British raj over Indians and the other forms of such prejudice Gandhi identified and condemned (including prejudice against the untouchables in India, European anti-Semitism, and American racism). By placing American civil disobedience in this larger context, King found and appealed to an international audience for his movement, which, upon the award to him of the Nobel Prize for Peace in 1964, enormously enhanced his authority within the United States.

But King was not a constitutional lawyer—though he had thought about studying law. Nor was he a religious prophet, inventing a new kind of ethical religion of pacifism, like Tolstoy and Tolstoy's follower, Gandhi. King always accepted the right of self-defense,¹⁶⁰ which pacifists do not; and his study of Niebuhr made him a life-long skeptic of pacifism. King was a Baptist preacher very much within the Protestant Christian tradition, and, after much struggle over vocation, a Baptist preacher of a black church in the deep, racist South. His

156. Branch, *Parting the Waters*, *supra* note 6, at 114-18.

157. *Id.* at 190.

158. 347 U.S. at 483.

159. See *A Testament of Hope: The Essential Writings of Martin Luther King, Jr.* 86, 96, 135-36, 146, 161-62, 183, 318, 364, 468-69 (James Melvin Washington ed., 1986).

160. See *id.* at 56, 389-91, 571, 589-90.

originality was the prophetic ethical voice he found within this role, a voice which, to his initial surprise, energized a remarkably disciplined social movement and a voice which spoke to the conscience of the nation as no black voice ever had before. The key was nonviolence.

In the long history of African-American protest, nonviolence had only occasional advocates. Bayard Rustin, of Quaker background, was a pacifist, imprisoned as a conscientious objector during World War II, and, as a disciple of Gandhi, afforded invaluable advice to King during the Montgomery boycott.¹⁶¹ However, the path of Frederick Douglass was much more typical. Douglass, an ex-slave, initially gravitated to the nonviolence of Garrison, the man who had given him a forum to speak. But, as the South proved increasingly intransigent to abolitionist arguments, Douglass claimed as his birthright the right to revolution founded in the Declaration of Independence, and argued unanswerably that African-Americans had a more legitimate right to invoke that right against slavery and racism than white Americans had when they invoked it against the British in 1776.¹⁶² King was certainly not a pacifist, so why nonviolence?

King came to nonviolence through both the developmental psychology that gave rise to his sense of religion and through his strenuous theological studies of what made religion valuable. His developmental psychology found its sense of religious voice almost certainly not in his father's patriarchal voice, but in the voices and loving care of his grandmother and mother, reflecting a long tradition of such intense identification of Baptist black women with Jesus of Nazareth. His theological studies brought him to Personalism, the view like Buber's that what is valuable in religion is the sense of persons made in God's image and finding themselves in loving, caring relationships to the individuality of other persons. This psychology and ethics of religion were, like that of Gandhi, highly relational, attuned to the impact of one's voice on the audience, whether in a movement one leads or in the audience the movement addresses. The model for what is authentic and valuable in religious experience is maternal caretaking with the usually nonviolent aims of protection, nurture, and ethical acceptability. As a boy, King had certainly experienced such care and love from his grandmother and mother, and drew upon that experience as a form of psychological and ethical intelligence that he could use, as Gandhi had, for broader ethical and political ends. Like Gandhi, King came to nonviolence as an

161. See generally Jervis Anderson, *Bayard Rustin: Troubles I've Seen: A Biography* (1997); James Haskins, *Bayard Rustin: Behind the Scenes of the Civil Rights Movement* (1997); see also *Down the Line: The Collected Writings of Bayard Rustin* (Bayard Rustin ed., 1971); Bayard Rustin, *Strategies for Freedom: The Changing Patterns of Black Protest* (1976).

162. See Frederick Douglass, *The Meaning of July Fourth for the Negro* (July 5, 1852), reprinted in *2 The Life and Writings of Frederick Douglass* 200 (Philip S. Foner ed., 1950).

experiment in voice that shocked and disturbed him, as it carried him into a role he had not anticipated and burdened him with responsibilities he had never imagined himself bearing.

It was pivotally important, then, that the Montgomery bus boycott not only began by the 1955 refusal of a woman, Rosa Parks,¹⁶³ to obey the laws governing segregation on buses, but that its initial groundswell of support came spontaneously from women, and women were disproportionately involved in the boycott itself.¹⁶⁴ This ethical leadership of women had become so conspicuous that when black male leaders of Montgomery first met to discuss tactics and some urged keeping their names secret, E.D. Nixon, a railroad porter and admirer of A. Philip Randolph, exploded in rage at their timorousness in comparison to the courage of women:

Let me tell you gentlemen one thing. You ministers have lived off these wash-women for the last hundred years and ain't never done nothing for them We've worn aprons all our lives It's time to take the aprons off If we're gonna be mens, now's the time to be mens.¹⁶⁵

Nixon's trenchant, salty observations question a black manhood that was apparently less ready, willing, and able effectively to resist injustice than womanhood. Constance Baker Motley, an NAACP lawyer during this period, notes in this connection that, with respect to nonviolence:

[King] sometimes had problems with young men who believed that violence was the answer, but . . . [w]hen he preached nonviolence to the largely elderly females in those Birmingham churches at night, King was preaching to the converted They were always there, night after night. Strong black women had always set the tone in Southern black communities.¹⁶⁶

King arrived late at the meeting, hearing the last of E.D. Nixon's taunts.¹⁶⁷ He replied, "I don't want anybody to call me a coward.' All the leaders should act openly . . . under their own names."¹⁶⁸ His remarks led to his being elected president of the Montgomery Improvement Association, which would coordinate the boycott and

163. See Branch, *Parting the Waters*, *supra* note 6, at 128-36, 655.

164. See, on these points, Mary Fair Burks, *Trailblazers: Women in the Montgomery Bus Boycott*, in *Women in the Civil Rights Movement: Trailblazers and Torchbearers, 1941-1965*, at 71 (Vicki L. Crawford et al. eds., 1990); Lynne Olston, *Freedom's Daughters: The Unsung Heroines of the Civil Rights Movement from 1830 to 1970*, at 149 (2001); Belinda Robnett, *How Long? How Long?: African-American Women in the Struggle for Civil Rights 53-70* (1997).

165. Branch, *Parting the Waters*, *supra* note 6, at 136.

166. Constance Baker Motley, *Equal Justice Under Law: An Autobiography* 157 (1998).

167. See Branch, *Parting the Waters*, *supra* note 6, at 136.

168. See *id.* at 136-37.

engage in negotiations over the demands of blacks.¹⁶⁹ There would be a mass meeting at a Holt Street church that night at which the leaders would see what kind of support they had.¹⁷⁰

When King was driven to the mass rally that night, he was caught in a traffic jam, which he realized was the product of the huge crowd of some ten thousand people who overflowed from the church into the streets, where loudspeakers had been set up.¹⁷¹ King began:

We are here in a general sense, because first and foremost—we are American citizens—and we are determined to apply our citizenship—to the fullness of its means But we are here in a specific sense—because of the bus situation in Montgomery. The situation is not at all new. The problem has existed over endless years. Just the other day—just last Thursday to be exact—one of the finest citizens in Montgomery—not one of the finest Negro citizens—but one of the finest citizens in Montgomery—was taken from a bus—and carried to jail and arrested—because she refused to give up—to give her seat to a white person.¹⁷²

The crowd punctuated his speech with responses—“Yeses” and “Amens.”¹⁷³ The crowd was stirring now, following King’s argument: “And you know, my friends, there comes a time, . . . when people get tired of being trampled over by the iron feet of oppression.”¹⁷⁴ The individual responses then joined:

into a rising cheer and applause exploded beneath the cheer. . . . Thunder seemed to be added to the lower register—the sound of feet stomping on the wooden floor The giant cloud of noise shook the building and refused to go away. One sentence had set it loose somehow, pushing the call-and-response of the Negro church service past the din of a political rally and on to something else that King had never known before.¹⁷⁵

Perhaps daunted by the force of what he had unleashed, King turned (as Gandhi had in his speech at the Jewish theater) to the pitfalls of a boycott: “Now let us say that we are not here advocating violence. . . . We have overcome that.”¹⁷⁶

A voice from the audience demanded: “Repeat that! Repeat that.”¹⁷⁷ King went on:

I want it to be known throughout Montgomery and throughout this nation that we are Christian people. The only weapon that we have

169. *Id.* at 137.

170. *Id.* at 138.

171. *Id.*

172. *Id.* at 138-39.

173. *Id.* at 139.

174. *Id.*

175. *Id.* at 139-40.

176. *Id.* at 140.

177. *Id.*

in our hands this evening is the weapon of protest. . . . If we were incarcerated behind the iron curtains of a communistic nation—we couldn't do this. But the great glory of American democracy is the right to protest for right.¹⁷⁸

When the shouts of approval subsided, King offered his final reason for nonviolence, namely, distinguishing themselves from the violence of the KKK:

There will be no crosses burned at any bus stops in Montgomery. . . . There will be no white persons pulled out of their homes and taken out on some distant road and murdered. There will be nobody among us who will stand up and defy the Constitution of this nation. . . . My friends. . . . I want it to be known—that we're going to work with grim and bold determination—to gain justice on the buses in this city. And we are not wrong. We are not wrong in what we are doing. . . . If we are wrong—the Supreme Court of this nation is wrong. . . . If we are wrong—God Almighty is wrong.¹⁷⁹

The crowd exploded a second time.¹⁸⁰ “Wave after wave” of noise broke out as King fused the cutting edge of his ethical faith to their hearts: “If we are wrong—Jesus of Nazareth was merely a utopian dreamer and never came down to earth! If we are wrong—justice is a lie.”¹⁸¹ He had to wait until the responsive storm of sound subsided, and then delivered his soaring, indignant, inspired conclusion: “And we are determined here in Montgomery—to work and fight until justice runs down like water, and righteousness like a mighty stream!”¹⁸² He spoke using a passage from the prophet Amos, “the lowly herdsman prophet of Israel who, along with the priestly Isaiah, was King’s favorite biblical authority on justice.”¹⁸³ As King walked out, the audience continued to applaud and members of his congregation at Dexter were amazed as they had never heard King speak like that.¹⁸⁴ King had achieved a power of ethical communion with his audiences that was to last for the next twelve years until his death by assassination in 1968.

In the Holt Street speech, King found his prophetic ethical voice in relationship to the voices of his audience, discovering in this process the enormous power and appeal of nonviolence for his audience. King came rather accidentally to his leadership position through his response to a challenge to the manhood of the ministers of the black churches, a challenge that asked men to measure up to the example of women. The women in question already lived nonviolence, as Rosa

178. *Id.*

179. *Id.*

180. *Id.* at 140-41.

181. *Id.* at 141.

182. *Id.*

183. *Id.*

184. *Id.* at 142.

Parks did when she disobeyed the law knowing she might be arrested and punished and as other women did when they began a boycott of the segregated buses in protest. Nonviolence was already very much in black women's religious culture, expressing their identification with Jesus of Nazareth and their intuitive sense, as maternal caretakers of both black and white children, of the place of loving care in the protection, nurture, and ethical acceptability of waywardly immature persons (black and white). When King, as a man and Baptist preacher, brought nonviolence into the center of a movement of mass social protest, he aligned himself with an experience women already found intuitive, as Constance Baker Motley observes.¹⁸⁵ He thus spoke to women about the moral authority of their own experience, empowering them to act on that experience in new ways and new contexts that challenged conventional gender roles. No small part of the appeal of the prophetic ethical voice discovered at the Holt Street meeting was black women in the audience recognizing what they believed already, only they understood it to have a wider scope, applicability, and resonance. In contrast, Andrew Young, an important figure in King's movement, observed that getting black men to accept nonviolence was always more of a struggle:

Throughout the movement, the men were usually the last to become involved, always using the reason that they didn't believe in a nonviolent response to violent provocations. This was more an excuse than anything else. I began challenging the men as they went into the pool halls and bars, attempting to shame them for letting the women and children carry the movement. . . . Finally the men realized that their presence was essential. . . . Women and the elderly had borne the brunt of our demonstrations for far too long.¹⁸⁶

But, King was also speaking in a voice that challenged traditional manhood, including black manhood. His challenge appeals to two kinds of arguments: constitutional and religious. Constitutionally, he took on board the remarkable successes of the NAACP's litigation strategy, arguing that African-American protest rests on a more reasonable understanding of American constitutionalism than its racist opponents, a fact shown by its appeal to the constitutional right to protest rather than to the kinds of unjust political violence which characterized Southern racists.¹⁸⁷ By centering his movement for justice in nonviolence, King underscored the grounds of his movement in voice, supported by fundamental constitutional principles of free speech. Indeed, under the impact of King's movement, the Supreme Court held that the state (including police authorities) must protect

185. See Motley, *supra* note 166.

186. See Andrew Young, *An Easy Burden: The Civil Rights Movement and the Transformation of America* 295 (1996).

187. See *Cox v. Louisiana*, 397 U.S. 536 (1965).

against the hostility and offense of audiences who disagreed with their message and tried to silence them by forms of violence.¹⁸⁸

It was because the police in Birmingham and Selma were themselves often conspicuous agents of state violence against such claims that Americans during this period came increasingly to see that King's movement rested on constitutional principles. The claims of voice of the movement were grounded in basic constitutional principles of free speech. And its protest of state-supported racism rested on constitutional principles of equal protection. As King's movement showed, such prejudices had no other support but the irrational violence that bigoted thugs aggressively targeted against any voice that would challenge such racism.

Religiously, King appealed to a prophetic ethical voice within America's dominant religion—Christianity—namely, the ethical voice of Jesus himself as a prophet in the tradition of the Jewish prophets. King strikes a chord he was to repeat throughout his career, that the racist persecution of African-American protest was in principle the same atrocity as religious persecution, for example, the religious persecution of Christians under the Roman Empire.¹⁸⁹ King and his social movement were thus as much an ethical reformation of the true meaning of Christianity against its corruptions as they were a movement of justice under American constitutional law.

The appeal of both the constitutional and religious arguments is that centering a mass movement of resistance to injustice in nonviolence properly removes the irrationalism of a sense of male honor that expresses itself in violence against any insult to its honor from struggles over competing views of justice and injustice. A plausible interpretation of Jesus' injunction, "if anyone strikes you on the right cheek, turn the other also,"¹⁹⁰ is its ethical skepticism about the ways in which insults to male honor triggered endless cycles of violence. King has rediscovered or reinvented this interpretation, an interpretation which would have great appeal to black men of the South who had suffered for centuries under a racist regime of white male violence directed at imagined black threats to their honor, including lynchings. It also appealed to African-American constitutionalism which had come so far, under the leadership of the NAACP, by an insistence on pressing its constitutional rights of free speech and protest.¹⁹¹ By centering a mass social movement in nonviolence, King made central to the democratic experience of African-Americans in general the exercise of their constitutional

188. See *id.*; see also Harry Kalven, Jr., *The Negro and the First Amendment* (1965).

189. See *A Testament of Hope*, *supra* note 159, at 50, 88, 265-66, 290, 294, 348-49.

190. Matthew 5:39.

191. See, e.g., *Cox*, 379 U.S. at 536.

rights to protest that had theretofore largely figured in the rights of black elites to protest, including black lawyers and intellectuals.

King had come across nonviolence, like the boycott, almost by accident. The function of boycott leaders, like himself, had been to inspire and to persevere, despite arrests and bombings of their homes. The boycott was lasting and effective, and the issue was ultimately resolved when the Supreme Court affirmed the ruling of a three-judge federal court that Montgomery's bus segregation ordinance was unconstitutional.¹⁹² King had become a national figure, but his idea of leadership did not yet conceive the deliberate creation of new struggles and strategies. That would take place at Birmingham six years later.¹⁹³

V. NONVIOLENCE IN BIRMINGHAM AND THE MARCH ON WASHINGTON

King had stumbled onto nonviolence in the Montgomery bus boycott, but at this point he was not experienced in either its theory or practice. His interest in Gandhi at Crozer and Boston University was that of a scholar, though Niebuhr's favorable discussion of Gandhi as a model for African-American protest undoubtedly impressed King enormously.¹⁹⁴ As the events in Montgomery got under way, Bayard Rustin, long committed to pacifism and Gandhian nonviolence, went to Montgomery to advise and assist King. Rustin had worked for A.J. Muste at the pacifist Fellowship for Reconciliation and for a new organization the Fellowship developed during World War II, the Congress of Racial Equality, as also did a young Negro aristocrat, James Farmer. Together they sat at the foot of a traveling Gandhi disciple named Krishnalal Shridharani, author of *War Without Violence*,¹⁹⁵ they studied the book as a kind of bible of the Congress of Racial Equality ("CORE").¹⁹⁶ Other close studies of Gandhi's movements were also available during this period,¹⁹⁷ and African-Americans, including King, studied Gandhi as a possible model.¹⁹⁸ Rustin was impressed by the intuitive Gandhian method at work in the Montgomery boycott, and worked happily in the background.

192. See Branch, *Parting the Waters*, *supra* note 6, at 188, 193; see also Gayle v. Browder, 352 U.S. 903 (1956).

193. For a fuller discussion of these events, see Branch, *Parting the Waters*, *supra* note 6, at 143-205.

194. See *supra* text accompanying note 118.

195. See Krishnalal Shridharani, *War Without Violence: A Study of Gandhi's Method and Its Accomplishments* (1939).

196. Branch, *Parting the Waters*, *supra* note 6, at 171.

197. See, e.g., Joan V. Bondurant, *Conquest of Violence: The Gandhian Philosophy of Conflict* (revised ed. 1965); Richard B. Gregg, *The Power of Nonviolence* (Oxford Univ. Press 1971) (1935).

198. See generally Sudarshan Kapur, *Raising Up a Prophet: The African-American Encounter with Gandhi* (1992).

King told him he was trying to practice nonviolence, but "he did not subscribe to Muste-style pacifism because he believed no just society could exist without at least a police power."¹⁹⁹ When the press discovered Rustin's background (including his gay sex life), he knew his advisory connection would be used to discredit the boycott, and he quietly left.²⁰⁰ But, he told Muste they must send someone to Montgomery qualified to teach nonviolence, and Glenn Smiley replaced Rustin.²⁰¹

In 1959, King traveled to India with Coretta and his biographer, L.D. Reddick.²⁰² Bayard Rustin had encouraged King to go, and King himself wanted time to absorb Gandhi's *satyagraha* as a discipline that he might find useful in his work in America.²⁰³ King talked at length about Gandhi not only with Prime Minister Nehru, but with a range of disciples of Gandhi in India.²⁰⁴ He returned to America determined to make a fresh start on the basis of what he had learned in India.²⁰⁵ King was thinking of organizing the American equivalent of Gandhi's salt *satyagraha* and arranged for a conference in Atlanta at which there would be sustained discussion about how Gandhism could be implemented and adapted to American culture; workshops were led by Bayard Rustin, James Lawson, Glenn Smiley, as well as by King and his close associate and fellow minister, Ralph Abernathy.²⁰⁶ Rustin, Smiley and others talked of some of the "disarming nonviolent [techniques] they had discovered in the past twenty years."²⁰⁷ James Lawson had been a Methodist missionary in India and was a Gandhian pacifist; King had persuaded him to move from Ohio to Nashville, where he had been running nonviolence workshops that would be test demonstrated at segregated stores in Nashville.²⁰⁸ Lawson and the other American Gandhians developed a discipline that could be taught, and would inspire young black men like John Lewis and James Bevel to play important, courageous roles in nonviolent civil disobedience.²⁰⁹ When student sit-ins began in North Carolina cities and spread to Nashville, "Lawson found himself giving [crash courses in] nonviolence late into the night."²¹⁰ King embraced what the students were doing as it represented what he had been

199. Branch, *Parting the Waters*, *supra* note 6, at 179.

200. *Id.* at 179-80.

201. *See id.* at 180.

202. *Id.* at 250.

203. *Id.*

204. *Id.* at 250-55.

205. *Id.* at 255.

206. *Id.* at 259.

207. *Id.* at 259-60.

208. *Id.* at 260.

209. *Id.* at 261-64.

210. *Id.* at 274.

thinking about for years, namely, identifying and pursuing new ways of nonviolent confrontation with segregation laws.

In 1963 King was to develop and lead such a strategy in Birmingham, Alabama, followed by the March on Washington. As the largest industrial city in the South, Birmingham was a strongly segregationist city. If protests were successful there, it would have enormous symbolic significance both regionally and nationally. King decided that the city might be vulnerable to nonviolent mass civil disobedience because there was only one indigenous black leader, Rev. Shuttlesworth, allied with King's Southern Christian Leadership Conference (so that there were no crippling divisions in black leadership as there had been elsewhere).²¹¹

The other dimension of King's thinking was, of course, the audience for such a social movement. There were three audiences, all of which might lend themselves to the overall success of nonviolent mass resistance in Birmingham. First, there were the business leaders of Birmingham, who should have been the targets of the resistance (rather than the government). Second, the city's defense of segregation would be led, until the upcoming municipal election in March, by Public Safety Commissioner Bull Connor, who was notorious for his temper and virulent advocacy of segregation. Connor's conspicuous violence might make the right public statement about the basis of racism that the protest movement wanted to make. And third, the Kennedy Administration was now in power in Washington, D.C. and might, if prodded in the right way, be more responsive to a movement of mass protest than previous administrations.²¹²

There was no guarantee that things would turn out better in Birmingham than they had anywhere else, and they could turn out much worse. Stanley Levison, one of King's closest advisors, attended the planning meeting for the protests in Birmingham, and reported discussions about Bull Connor's history of violence against demonstrations by the labor movement.²¹³ King then spoke: "I have to tell you that in my judgment, some of the people sitting here today will not come back alive from this campaign. And I want you to think about it."²¹⁴ When the Birmingham campaign finally began, its opening was inauspicious. In a recent city election, Connor had been defeated by a more moderate candidate, and some black activists were not inclined to rock the boat by participating in the projected protests (until the Alabama Supreme Court resolved Connor's challenge to the election, however, he would remain in day-to-day control of the

211. See David J. Garrow, *Bearing the Cross: Martin Luther King, Jr. and the Southern Christian Leadership Conference* 277 (1986).

212. See *id.* at 226-28.

213. See *id.* at 229.

214. *Id.*

police).²¹⁵ There was a mass meeting to announce the protest, and "seventy-five members of the audience volunteered to join future demonstrations;" these volunteers were then trained in the discipline of nonviolence (by James Lawson, among others).²¹⁶ King called for a boycott of the segregated stores, and there were sit-ins as well, but the numbers of volunteers was not as he expected.²¹⁷

King made a major step toward surmounting the obstacle of insufficient volunteers by speaking to a large group of black ministers. He brought the black leadership to his side, and he declared at the more well attended mass meetings that he intended to be arrested. King said he and Abernathy would make their protest, and go to jail, symbolically, on Good Friday. At virtually the same time, city attorneys secured an injunction from a state judge barring all marches or other protests.²¹⁸ By this time, the number of sit-in protesters in jail reached 160.

As the time for the Friday march approached, King met with advisors. The movement's bail funds were depleted, so the protesters faced the possibility that if arrested, they would have to spend weeks or even months in jail. There were protesters in jail who had been promised they would be bailed within a week, and for whom bail money was not available. Although King felt responsible to them, he also felt an overriding obligation to keep his promise to be imprisoned; he hoped his arrest might inspire greater participation in the movement. Everyone agreed that the movement had reached a crisis point.

Deeply disturbed, King went to another room to pray alone. Thirty minutes later, King reappeared wearing a new pair of blue-denim overalls. The first sight of him made clear he had decided to go to jail. "I have to make a faith act."²¹⁹ He spoke with great firmness: "The path is clear to me. I've got to march. I've got so many people depending on me. I've got to march."²²⁰ As for the injunction, it had to be disobeyed. "If we obey it, then we are out of business."²²¹ King Sr. was one of the first to speak, urging his son not to disobey the injunction. King, Jr. let his father finish, but then noted that there were more important things than the injunction.²²² King and Abernathy began their Good Friday protest march later that day in defiance of the injunction.²²³ Connor's officers blocked the march, and a paddy wagon pulled up as the protesters, including King, were

215. *Id.* at 236.

216. *Id.*

217. *Id.* at 237.

218. *Id.* at 240.

219. Branch, *Parting the Waters*, *supra* note 6, at 729.

220. Garrow, *supra* note 211, at 242.

221. *Id.*

222. *Id.*

223. *Id.*

placed under arrest. Earlier that day, just hours before King's arrest, some of Birmingham's most liberal white ministers condemned the protests as "unwise and untimely" and had urged "our own Negro community to withdraw support from these demonstrations."²²⁴

During his incarceration at the city jail, King was placed in solitary confinement, cutting him off from contact with Abernathy.²²⁵ There was no news. He had no mattress or linen, and was sleeping on metal slats. Jail had always been difficult for King, even when Abernathy shared it with him, but the sense of abandonment of solitary confinement and absence of any outside contact made it very painful for him. King later said that his first night alone in the Birmingham jail was among "the longest, most frustrating and bewildering hours I have lived I was besieged with worry."²²⁶

Unknown to King, movement lawyers had tried to meet with him on Friday evening, but only made contact with him later Saturday afternoon; but questions of further access, including any phone call by King to the outside, were unresolved. Wyatt Walker, who had helped King plan the Birmingham campaign, knew a good issue when he saw one, and got Coretta King to call the White House. Eventually an operator connected her with presidential press secretary Pierre Salinger, who was in Florida with the president. Salinger promised to pass on the message, and forty-five minutes later Attorney General Robert Kennedy phoned Mrs. King to express his concern, and said he would make inquiries in Birmingham about the terms of her husband's imprisonment. Movement lawyers were again allowed to see King at the end of the day Sunday, and told him that Clarence Jones, a well-connected California entertainment lawyer, would be arriving from New York on Monday. Jones arrived at the jail to relieve King's anxieties about the bond money by announcing that Harry Belafonte and others had obtained sufficient funds to cover the bail costs. On Monday afternoon, without warning, President Kennedy "phoned Coretta King to express his concern about her husband's imprisonment," and to tell her that the FBI had informed him that King was safe. Thirty minutes later, a puzzled King was allowed to receive a phone call from his wife, telling him about the President's call.²²⁷

Press reactions to the Birmingham campaign were largely negative, and King was dismayed when he read the newspapers Clarence Jones smuggled into his cell. He was infuriated, however, when he read a report in a Birmingham paper about the white clergymen attacking the Birmingham campaign. The statement cut King to the quick. He was being criticized on his own turf by liberal clergymen most of

224. *Id.* at 242.

225. *Id.* at 243.

226. *Id.*

227. *Id.* at 243-44.

whom had incurred risk by publicly criticizing Governor Wallace's "Segregation Forever!" inaugural speech in January, but none of whom had ever taken the kinds of risks for a humane morality that black ministers were now taking, including being bombed, stabbed, murdered, and arrested. Now these white liberals stood behind the injunction and the jailers to attack King's voice and message. He began scribbling a response in the margins of the newspaper, which he passed to Clarence Jones when he visited, with instructions how to follow the arrows to connect various sections. He borrowed additional paper from Jones, on which he kept working, draft after draft. By the time he had finished, he had written twenty pages of his most important statement on the role of nonviolence in civil disobedience, "The Letter from Birmingham City Jail."²²⁸

"The Letter from Birmingham City Jail" displays the extraordinary range and versatility of prophetic ethical voice that King commanded as he moved through a number of different voices in speaking to white liberals about the full range of African-Americans now moved to protest injustice. At no point in the argument is there an appeal to anything that would conventionally be understood as religious dogma, ritual or theology. Rather, King speaks of an ethical voice that craves and demands just recognition by other persons of moral personality, and speaks now in such a way (nonviolent resistance to unjust laws and accepting legal punishment) that displays what holds in place such injustice, the traumatically breaking of ethical relationship by a structural injustice that represses voice by violence and terror.²²⁹

The terrifying impact of this culture on the psyche of African-Americans had, of course, been described by brilliant black artists like Richard Wright, in his autobiographical novel, *Black Boy*, about what it was like to grow up black in the apartheid South.²³⁰ Wright provided a remarkable insight into how Southerners controlled the lives and aspirations of African-Americans. A series of patterns of control—physical intimidation and its pervasive fear (including lynching as a mode of terror), economic domination, the psychological power of whites both to define and circumscribe the aspirations of blacks—were devastatingly effective in limiting the life options of young blacks to two alternatives: either "conformity to the white system or exile."²³¹ Even modes of resistance were, Wright argued,

228. Branch, *Parting the Waters*, *supra* note 6, at 737-42; see Martin Luther King, Jr., *Letter from Birmingham City Jail*, in *A Testament of Hope*, *supra* note 159, at 289-302.

229. Branch, *Parting the Waters*, *supra* note 6, at 739-40.

230. See Richard Wright, *Black Boy*, in *Richard Wright: Later Works* 5-365 (Arnold Rampersad ed., 1991). For illuminating commentary, from which I have profited, see William H. Chafe, *Women and Equality: Changing Patterns in American Culture* 59-65, 73-74 (1977).

231. Chafe, *supra* note 230, at 59.

shaped by the need to accommodate dominant white culture.²³² Wright gave a searing insight into the experience of structural injustice and the kind of moral independence, often forged (as it was by the Grimke sisters) in self-conscious exile from the South, that was often required to combat it. It is surely significant, in this connection, that two of America's best black writers and critics of American racism were expatriates, Richard Wright and James Baldwin.²³³ King had as profound an analytic understanding of the irrationality of racism as Wright and Baldwin,²³⁴ but he spoke about it in a voice that had a resonance for the people of the South that others did not always have.

Richard Wright identifies one of the tools of black oppression in the South as their religion. A great force in this struggle, like the similar struggle of Baldwin against his stepfather, was King's attempt to criticize the role religion had played in the life of his Southern family, in particular, in the religion of his grandmother. King had a very different developmental psychology, involving a quite different kind of grandmother, and came to a sense of ethical voice in religion (after a long period of exile and study in the North) that enabled him to offer a similar analysis of structural injustice to Wright's but as a minister of a black church in the South on the basis of the sense of voice that empowered him and moved others.

A prominent feature of this new kind of ethical voice is that it does not simply dismiss religion, as Wright did, but makes its argument to religious leaders, taking them and their arguments quite seriously and showing why their arguments are wrong on religious grounds. King wrote several passages addressing the clergymen's criticism that his demonstrations were "untimely."²³⁵ But no demonstration is regarded as well-timed "according to the timetable of those who have not suffered unduly from the disease of segregation . . . I guess it is easy for those who have never felt the stinging darts of segregation to say, 'Wait.'"²³⁶ Then in a sentence of some three hundred words King confronts the ministers relationally, person to person, with the psyche of a people subject to a structural injustice like racism:

But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick, brutalize and even kill your black brothers and sisters with impunity; when you see the vast majority of your twenty million Negro brothers smothering in an airtight cage of poverty in the midst of an affluent society; when

232. For commentary, see *id.* at 62-65.

233. For useful commentary on this and related points, see Leeming, *supra* note 52.

234. See *The American Dream*, in *A Testament of Hope*, *supra* note 159, at 211, 358-55, 471, 478, 489.

235. See King, *supra* note 228, at 292.

236. *Id.*

you suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year-old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her little eyes when she is told that Funtown is closed to colored children, and see the depressing clouds of inferiority begin to form in her little mental sky, and see her begin to distort her little personality by unconsciously developing a bitterness toward white people; when you have to concoct an answer for a five-year-old son asking in agonizing pathos: 'Daddy, why do white people treat colored people so mean?'; when you take a cross-country drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you; when you are humiliated day in and day out by nagging signs reading 'white' and 'colored'; when your first name becomes 'nigger' and your middle name becomes 'boy' (however old you are) and your last name becomes 'John,' and when your wife and mother are never given the respected title 'Mrs.'; when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tiptoe stance never quite knowing what to expect next, and plagued with inner fears and outer resentments; when you are forever fighting a degenerating sense of 'nobodiness'; then you will understand why we find it difficult to wait.²³⁷

King took on a number of different perspectives and voices, often changing from one phrase to another. He expressed sympathy with the lives of a people waiting "for more than 340 years for our constitutional and God-given rights,"²³⁸ and with the life of a child at a particular moment. He looked at the white clergymen through the eyes of Negroes, and even tried to look at Negroes through their eyes: "The Negro has many pent-up resentments and latent frustrations. He has to get them out. So let him march sometime."²³⁹ He represents himself in a range of voices: suffering servant—"what else is there to do when you are alone for days in the dull monotony of a narrow jail cell other than write long letters, think strange thoughts, and pray long prayers?";²⁴⁰ father, husband, and son;²⁴¹ modern-day Paul of Tarsus;²⁴² fellow man of affairs: "If I sought to answer all of the criticisms that cross my desk,"²⁴³ and as political leader.²⁴⁴ But, he also spoke as a teacher and scholar, invoking Saint Thomas and Martin Buber:

237. *Id.* at 292-93.

238. *Id.* at 292.

239. *Id.* at 297.

240. *Id.* at 302.

241. *Id.* at 292-93.

242. *Id.* at 290.

243. *Id.* at 289.

244. *Id.* at 289-90.

How does one determine when a law is just or unjust?

... To put it in the terms of Saint Thomas Aquinas, an unjust law is a human law that is not rooted in eternal and natural law. 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. It gives the segregator a false sense of superiority, and the segregated a false sense of inferiority. To use the words of Martin Buber, the great Jewish philosopher, segregation substitutes an "I-it" relationship for the "I-thou" relationship, and ends up relegating persons to the status of things.²⁴⁵

And he wrote as a fellow student seeking common ground: "a fellow clergyman and a Christian brother."²⁴⁶

King achieves here a universal ethical voice, timeless and beyond race. In speaking in that ethical voice, he argues, he can elicit such violence from bigots and such dismissal from white liberals living "in monologue rather than dialogue,"²⁴⁷ both wedded to a structural injustice that rests on dehumanizing repression of such voice. What nonviolent civil disobedience does is to "dramatize the issue that it can no longer be ignored," producing the "creation of tension" over ethical contradiction that Socrates cultivated,²⁴⁸ as he later comments, "academic freedom is a reality today because Socrates practiced civil disobedience."²⁴⁹ White liberals, in particular, self-critically fail to understand their own complicity with racism, when "Reinhold Niebuhr has reminded us, groups are more immoral than individuals."²⁵⁰

The universal ethical appeal of the argument is the way King phrases it in terms of the relational web of interdependent relations among persons, "an inescapable network of mutuality, tied in a single garment of destiny,"²⁵¹ which a structural injustice like racism traumatically disrupts, separating persons from any sense of their common relational humanity. Thurgood Marshall had made reference to this unjust breaking of relationship when he observed in his oral argument for *Brown v. Board of Education* that white and black children played together as children, only to be violently separated by segregation laws requiring separate education. The violence in question was all too real and undeniable, especially when targeted against the protesting voice of African-Americans: "There have been more unsolved bombings of Negro homes and churches in

245. *Id.* at 293.

246. *Id.* at 302.

247. *Id.* at 292.

248. *Id.* at 291.

249. *Id.* at 294.

250. *Id.* at 292.

251. *Id.* at 290.

Birmingham than any city in this nation. These are the hard, brutal and unbelievable facts."²⁵² What the nonviolence of civil disobedience shows so clearly is the political violence that holds such injustice in place, a violence targeted at protesting ethical voice. The argument ends poignantly with King taking up the position of black women subject to such injustice when they protest: "if you would watch them push and curse old Negro women and young Negro girls"²⁵³ and, Rosa Parks and the

old, oppressed, battered Negro women, symbolized in a seventy-two-year-old woman of Montgomery, Alabama, who rose up with a sense of dignity and with her people decided not to ride the segregated buses, and responded to one who inquired about her tiredness with ungrammatical profundity: "My feet is tired, but my soul is rested."²⁵⁴

King turns at the conclusion to women's ethical voice, as well as to the role of "young high school and college students,"²⁵⁵ because they embody and express a kind of courageous maternal care for healing a culture wounded by such traumatic breaks in ethical relationship.

King gives a universal ethical significance to such courage, which he associates with the willingness to die of both Socrates and Jesus.²⁵⁶ Both, of course, were ethical teachers, and King's example of women and young students, as protesters, invests such protests with the same ethical significance. Both women and students are at points of transmission of a racist culture that breaks ethical relationships. As agents of King's movement, they impart a new teaching that subjects such culture to protest and to remedy in terms of ethical reintegration of all persons on equal terms. King elsewhere put this point in terms of Jesus' injunction in the Sermon on the Mount, "Love your enemies,"²⁵⁷ calling for a response to insult not by violence, as traditional codes of honor required, but by protesting voice, which showed the degree to which a structural injustice like racism was as oppressive and stultifying to whites as it was to blacks. Such a voice could speak to the suppressed voice in whites, which showed itself in a sense of shame and guilt when confronted with nonviolence.²⁵⁸ If King's sense of this ethical voice was first experienced in maternal caretakers with their nonviolent aims of protection, nurture, and acceptability, his universalization of this voice empowers the voices of women and children, among others, to bring a culture through

252. *Id.*

253. *Id.* at 301.

254. *Id.* at 302.

255. *Id.* at 302.

256. *Id.* at 295-96.

257. See Martin Luther King, Jr., *Loving Your Enemies*, in A Knock at Midnight 41-60 (Clayborne Carson & Peter Holloran eds., 1998).

258. See, on this point in King's thinking, A Testament of Hope, *supra* note 159, at 140, 144, 336, 358, 484, 514, 593.

nonviolence to some sense of the protection, nurture, and acceptability of ethical maturity of all in the interest of all.

We have already seen the resonance for women's protesting ethical voices that King's ethical voice offered them. In Birmingham, quite consistent with the argument he made in "Letter from Birmingham City Jail," his voice remarkably energized protests there called "the children's miracle."²⁵⁹ When King and Abernathy bonded out after nearly nine days in the Birmingham jail, King found that James Bevel's nonviolence workshops had drawn enormous numbers of students, from high schools and even grammar schools.²⁶⁰ Bevel and his wife, Diane Nash, had experience with recruiting students in their work on voting rights in Mississippi,²⁶¹ and Bevel drew on that experience in Birmingham. At a mass meeting with the students, King thanked them for their support and hoped they would inspire their parents, but he was, at least initially, skeptical that Birmingham jail was the right place for children.²⁶² The students did not agree. Bevel persuaded King to use a simple formula: Any child old enough to belong to a church should be eligible to march to jail.²⁶³ On this understanding, King committed himself to the role of schoolchildren in protest.²⁶⁴

More than a thousand young people marched. Fire hoses were turned on them, some were beaten by Connor's police, and a thousand were jailed. American public opinion was shocked. In later marches, older people in significant numbers joined, comprising more than half the demonstrators. Some parents went to jail with their children. Under pressure from the Kennedy administration and feeling the effects of the economic boycott, the business leaders entered into serious negotiations with the protesters about their claims. A tentative settlement, calling for phased integration of businesses, was announced.²⁶⁵ Extremists then bombed the Gaston Motel, where King was staying, and the home of King's brother. Federal troops were introduced to make sure the settlement was observed.

Only after the success of Birmingham did King and his allies consider how they might use the national impact of the campaign to support new federal initiatives to protect civil rights. The Kennedy administration had now decided to propose federal desegregation of all public accommodations, and President Kennedy spoke on national television and for the first time in his presidency gave a clear moral

259. See Branch, *Parting the Waters*, *supra* note 6, at 756-802.

260. *Id.* at 750-51.

261. See *id.* at 752.

262. *Id.* at 750-51.

263. *Id.* at 755.

264. *Id.*

265. For the settlement, see Garrow, *supra* note 211, at 259.

call for the "American people to banish segregation and racism from the land."²⁶⁶ A march on Washington, which had been proposed by A. Philip Randolph and Bayard Rustin, might now usefully be aimed at the Congress rather than the president. The March, which was planned by Rustin, took place on August 28, 1963, and culminated in King's eloquent "I Have A Dream" Speech. National public opinion had now been moved toward support of the new civil rights bill, which was strengthened by national shock over the September 15, 1963 dynamite blast, killing four young black girls in Sunday school at Birmingham's Sixteenth Street Baptist Church. After the assassination of President Kennedy, President Lyndon B. Johnson secured passage of the federal open accommodations statute, the Civil Rights Act of 1964.

VI. NONVIOLENCE IN SELMA

In the wake of his receiving the Nobel Peace Prize and the landslide victory of President Johnson, King convened a Southern Christian Leadership Conference ("SCLC") staff retreat in Birmingham to chart the future course of the nonviolent movement. The primary issue on the agenda was voting rights in the Deep South. The group talked in depth about Selma, Alabama as the site for nonviolent protest. After the bombing murder of the four young black girls in Birmingham, Diane Nash had presented to King "the germ of what became the Selma voting rights campaign in 1965."²⁶⁷ King had now decided that a plan along these lines was ripe for action. Selma might be an effective testing ground because an attitude of defiance had been strongly demonstrated in the past. Selma activists were interested in mobilizing the community to protest the discriminatory registration practices, which had kept all but several hundred Dallas County blacks from becoming registered voters. Also, analogous to Connor in Birmingham, Dallas County Sheriff James G. Clark, Jr. was infamous for his bad temper and violent racism.²⁶⁸

For the local leaders, the campaign would be a way to change voting practices in Selma, but for King and James Bevel (who planned the campaign), "it was a way to challenge the entire structure of racial exclusion in [the politics of the South] and to force Lyndon Johnson's hand on a federal voting statute."²⁶⁹ It seemed probable that, if Sheriff Clark's responses to nonviolent demonstrations were violent, "Selma might become the national symbol that the movement needed."²⁷⁰

266. *Id.* at 269.

267. See Branch, *Parting the Waters*, *supra* note 6, at 892.

268. See Garrow, *supra* note 211, at 357-60.

269. *Id.* at 380.

270. See *id.* at 381.

While Selma's white leadership was able to keep Sheriff Clark under wraps in some cases, in others, he met the movement's expectations. In one march of demonstrators, when they refused to move off the courthouse sidewalk as Clark ordered, he publicly beat Mrs. Amelia Boynton, a Selma activist; the incident received national publicity.²⁷¹ In late January 1965, King marched refusing to split up into smaller groups to comply with Selma's parade ordinance, and was arrested with 260 others; the leaders refused to accept release on bail and were led away to a cell (King gave detailed instructions about future marches from his cell). National concern about these events led to growing presidential interest. Upon release from jail, King in fact met briefly with President Johnson and was told "a voting rights proposal would go to Congress 'very soon.'"²⁷² Upon King's return to Alabama, Sheriff Clark and his men provided another violent spectacle for the nation when they used "nightsticks and cattle prods to drive a group of 165 protesters out in the countryside on a forced march at a runner's pace."²⁷³ At another demonstration in Marion, Alabama, state troopers unleashed a violent onslaught, shooting a demonstrator Jimmie Lee Jackson who died. These events brought renewed press coverage and calls for national legislation.²⁷⁴ King flew to Washington, D.C. and had a longer conversation with President Johnson about voting rights legislation under consideration.²⁷⁵

Over the month of March 1965, police responses to demonstrations became increasingly violent. On March 7, voting rights marchers were beaten at Edmund Pettus Bridge. On March 11, Rev. James Reeb died after a beating by white racists. On March 25, a Selma to Montgomery protest march concluded with an address by King. A few hours afterward, Klan night riders killed Viola Gregg Liuzzo while she transported marchers back to Selma. The national shock at these and other events led finally to the president's proposal of, and Congressional action on, the Voting Rights Act of 1965, which suspended literacy tests in the South (that had been manipulatively used to disenfranchise African-Americans), introduced federal examiners who would ensure that qualified blacks were allowed to vote, and required Justice Department consent of any change in voting laws in order to make sure such laws did not reflect racist disempowerment.²⁷⁶ The legislation was the most successful voting rights legislation in American history in terms of securing constitutionally guaranteed rights to African-Americans.²⁷⁷

271. *Id.* at 379.

272. *Id.* at 388.

273. *Id.*

274. *Id.* at 391-92.

275. *Id.* at 395.

276. *See id.*

277. *See Young, supra* note 186, at 369-72.

VII. THE SCOPE AND LIMITS OF NONVIOLENT VOICE IN KING

I have examined three of King's most successful experiments in voice: the Montgomery boycott, Birmingham (leading to the Civil Rights Act of 1964), and Selma (leading to the Voting Rights Act of 1965). Not all of the movements King led in the South were successful, and the movements in the North against slums and poverty (for example, in Chicago) even less so.²⁷⁸ He was, of course, like Gandhi, assassinated in 1968 by a racist bigot inflamed by his voice and success. There was, finally, increasing evidence in the last years of his life of the deep emotional price he paid in depression and marital unhappiness for the role he had undertaken.²⁷⁹

There are two dimensions of the role of nonviolence in King's voice that, in light of our argument, we can now analyze more closely: first, its impact in forming and sustaining a mass social movement (prominently including women), and second, its impact on its audience in the South, and then nationally and internationally.

The appeal of King's nonviolent voice for the movement he led drew importantly on both the achievements of African-American constitutionalism—the Montgomery bus boycott was one year after *Brown*—and the role of the black churches in the South. On the one hand, his insistence on nonviolent voice, protesting the structural injustice of racism, brought him into the very center of developing principles of American constitutionalism, including not only the constitutional recognition of the evil of racism as a violation of the Equal Protection Clause of the Fourteenth Amendment, but a muscular, speech-protective interpretation of the First Amendment, which King's movement importantly used, tested, and extended.²⁸⁰ On the other hand, the authority of his voice drew upon an interpretation of nonviolence in the life and teachings of Jesus of Nazareth, in particular, the Sermon on the Mount described by Matthew 5:7,²⁸¹ that justified participation in nonviolent civil disobedience as an ethical and religious duty of protesting prophetic voice. King's voice gave an ethically compelling sense to Jesus' injunction, "Love your enemies,"²⁸² to which he appealed, as early as 1957, as the proof text for the demands of his movement. As he put the point:

So this morning, as I look into your eyes, and into the eyes of all my brothers in Alabama and all over America and over the world, I say to you, 'I love you. I would rather die than hate you.' And I'm

278. See, e.g., Garrow, *supra* note 211, at 173-230, 287-355, 431-624.

279. See Dyson, *supra* note 36.

280. For a discussion of these free speech principles, see generally Kalven, *supra* note 13; Richards, Free Speech and the Politics of Identity, *supra* note 4.

281. On the role of this text in King's statements, see A Testament of Hope, *supra* note 159, at 38, 90, 140, 216, 256, 297, 436, 447.

282. Matthew 5:44.

foolish enough to believe that through the power of this love somewhere, men of the most recalcitrant bent will be transformed. And then we will be in God's kingdom.²⁸³

"I look into your eyes" is a remarkably intimate thing for a preacher to say, but it captures both the style and substance of King's prophetic ethical voice, much of whose audience would have been black women of the South. King connected with these women, because both his developmental psychology and his sense of God drew upon loving maternal care, person to person, as a model for the very heart of religion. As Constance Baker Mottley put the point, when King "preached nonviolence to the largely elderly females in those Birmingham churches at night, [he] was preaching to the converted."²⁸⁴ Nonviolent resistance by women began in the Montgomery bus boycott before King arrived on the scene, but King gave a new significance and sense of possibility to the resistance to injustice that now had become for them an imperative of action.

King was the right man in the right place at the right time; his own original voice drew upon experience in place and showed how it might be used as the basis for a mass movement based in religious conscience. His view of religion was very much his own, so different from the role of the black churches in the past that it was questioned not only by the white clergymen who criticized the Birmingham campaign, but by black ministers as well.²⁸⁵ He certainly worked within the patriarchal assumptions of the Baptist church, but his voice connected to black woman not in terms of the patriarchal preachers familiar to them (thus, James Baldwin's remark, King was not like any preacher he had ever met), but in a way that spoke to them with a moral authority, grounded in nonviolence, that they recognized and responded to in ways that challenged dominant patriarchal assumptions. Under the impact of King's voice, these women moved out of their homes and out of the sanctuaries black colleges had traditionally been for them, into the moral and political agency of mass protests with all of its risks and challenges, not least to their sense of themselves as women.²⁸⁶ The feeling of black women for King was remarkable:

One 'sister' said that when King spoke she felt that God himself was near; another testified that when she heard King's voice she could

283. See King, *supra* note 257, at 59.

284. Motley, *supra* note 166, at 157.

285. See, e.g., Joseph R. Washington, Jr., *Black Religion: The Negro and Christianity in the United States* (1964).

286. For an autobiography of one such woman who participated, as a student, in the civil rights movement, see Charlayne Hunter-Gault, *In My Place* (1992). For a rather different perspective by an activist woman who was not part of the nonviolent civil rights movement, see Angela Davis, *An Autobiography* (1988).

also hear the rustle of angels that she could see dimly, hovering over him.

To many a mother, here was her symbolic son: neat, clean, well-spoken, smart, good-looking, manly. To many a childless woman here too was her son. At the same time, King was to the predominantly female audience the father symbol: strong, wise, protective. When it was suggested that King represented the father-son complex, one woman who may not have understood the term said, "Oh yes, Father, Son—and Holy Ghost."²⁸⁷

The intimacy of King's voice ("I look into your eyes") may have been, for these women, a new experience of a black man able to relate to them, as persons, suggesting a new kind of humane relationship between men and women that empowered them as collaborative moral and political agents in remarkable ways.

We are only now, in the light of the feminist project to recover women's roles in history, coming to some understanding of the role women played not only in mass demonstrations throughout the South, but important leadership roles.²⁸⁸ These women included, among many others, Ella Baker,²⁸⁹ Septima Clark,²⁹⁰ Diane Nash,²⁹¹ and Fannie Lou Hamer.²⁹² King was enough of a patriarchal man to maintain the Baptist tradition that top leadership was kept in the hands of men and some of these women, notably Ella Baker, resisted him on this and other points. But, these and other women were drawn into such active participation, including leadership roles (for example, the role of Diane Nash in proposing the Birmingham campaign), by something that moved them, as women, in King's prophetic ethical voice and in his actions. The patriarchal problem was not just King's, of course; it was endemic in the civil rights movement. One of the important motives to feminism was the ethical empowerment of some women by participation in the civil rights movement that led them to

287. Reddick, *supra* note 48, at 131.

288. For important studies, see generally Burks, *supra* note 164; Paula Giddings, *When and Where I Enter: The Impact of Black Women on Race and Sex in America* (1984); *Gender in the Civil Rights Movement* (Peter J. Ling & Sharon Monteith eds., 1999); Olston, *supra* note 164; Robnett, *supra* note 164; *Sisters in the Struggle: African American Women in the Civil Rights-Black Power Movement* (Bettye Collier-Thomas & V.P. Franklin eds., 2001).

289. See Branch, *Parting the Waters*, *supra* note 6, at 231-33, 258, 264, 273-75, 292-93, 317, 392, 466-67, 487, 518; Branch, *Pillar of Fire*, *supra* note 6, at 192-93, 439.

290. See Branch, *Parting the Waters*, *supra* note 6, at 263-64, 290, 381-82, 573, 575-78, 819; Branch, *Pillar of Fire*, *supra* note 6, at 124, 191.

291. See Branch, *Parting the Waters*, *supra* note 6, at 279-80, 295, 392, 424, 428-29, 437, 439, 449, 455, 466-67, 487, 559, 588, 712, 754, 892-93; Branch, *Pillar of Fire*, *supra* note 6, at 54-55, 68, 139-41, 524, 553, 579, 599.

292. See Branch, *Parting the Waters*, *supra* note 6, at 636, 819; Branch, *Pillar of Fire*, *supra* note 6, at 57, 71, 74, 109, 179, 219, 240, 329, 458-59, 461, 465, 474, 481, 547-48.

question its sexism and sexism generally, both as an aspect of racism and as an independent evil.²⁹³

The same ethical voice that, through nonviolence, energized a movement of mass political protest also gave a growing, strengthening resonance to the theretofore feeble voices of the white South that protested the role racism had played in its political and economic backwardness. King always emphasized how much blacks and whites shared in the South; he emphasized the "network of mutuality"²⁹⁴ that often made them part of one another's life, sometimes as children on playgrounds, sometimes as black caretakers in white homes, sometimes in easy social and even sexual relationships, or clandestine visits by whites to experience black dance or music.²⁹⁵ The dominant racist ideology required that such relationships not be recognized or accorded any significance that would challenge the ideology. When King's nonviolent ethical voice energized a mass movement of often remarkably disciplined nonviolent civil disobedience, it raised exactly the questions that, when heard, destabilized the hegemonic power the ideology had enjoyed for so long. What the nonviolence of the movement brought out with such clarity, when its moral dramaturgy was most successful, was that it was violence, including the violence of public officials like Connor in Birmingham and Clark in Selma, that held this ideology in place. Voices raised in nonviolent protest, questioning racist ideology and practices, were targeted with public and private acts of merciless, brutal, and all too conspicuous violence.

What gave King's nonviolent voice increasing appeal to its audiences, both North and South, was the way it drew upon something that American whites and blacks deeply shared: constitutionalism and a religion that was broadly Judaeo-Christian. On the one hand, King appealed to a value of voice and free speech that was among the most broadly respected constitutional values, and the use of violence in response revealed an unconstitutionally racist culture at war with such values. On the other hand, King spoke with an authority grounded in the life and teaching of Jesus of Nazareth understood, as King certainly thought of him, as the greatest of the Jewish prophets.²⁹⁶ His view of Jesus was not only remarkably in line with the best work on the historical Jesus up to his time, it gave expression to a sense of ethical religion as grounded in public reason, in Rawls's sense,²⁹⁷

293. See Sara Evans, *Personal Politics: The Roots of Women's Liberation in the Civil Rights Movement and the New Left* (1980).

294. On King's statements, see A Testament of Hope, *supra* note 159, at 210, 254, 269, 474.

295. *Id.* at 290, 588, 594, 626.

296. For a work along these lines that was influential on King, see Abraham J. Heschel, *The Prophets* (New York: Perennial Classics 2001) (1962). For King's friendship with Heschel and Heschel's participation in the Selma march, see Branch, *Pillar of Fire*, *supra* note 6, at 30-32, 611.

297. See Rawls, *supra* note 3, at 212-54.

namely, reasons of respect for persons that transcended sectarian religion or irreligion and that relentlessly criticized the role established religions had played in repressing prophetic ethical voice (a point powerfully made in "The Letter from Birmingham City Jail").

King's voice was rooted in a naturalistic sense of ethical values, what the abolitionist preacher Theodore Parker described, "The arc of the moral universe is long, but it bends toward justice,"²⁹⁸ a passage King loved and frequently repeated.²⁹⁹ Ethical argument does not have such appeal unless it touches something in our human developmental psychology, helping us recognize and resolve contradictions in our psyches. King called its effects, "disarming the opponent,"³⁰⁰ an effect he attributed to an underlying sense of shame or guilt in the opponent that nonviolence elicited.³⁰¹ What made King's voice psychologically possible was the value he placed on his relationships to the voices of maternal caretakers, relationships that he held onto despite his induction into patriarchal black manhood. Is it really surprising that black women, who played so powerful a role in his movement, found in King's voice a maternal voice of caring love for sometimes wayward, difficult, even violent children they already knew in themselves? What gave this voice such authority for African-Americans and Americans generally was the way in which it showed that this ethical protesting voice was not peripheral or marginal, but decisively central to the most reasonable interpretation in contemporary circumstances both of American constitutionalism and Judaeo-Christian religion. King's sense that nonviolence was a way of working through racism's psychic injuries of hatred, fear, and anger was a matter of strategic disarmament: By disarming themselves of the usual violence by which men act out their hatred, fear, and anger, African-Americans found their ethical voice and feelings as deeply, centrally American and connected to fellow Americans by what King, unashamedly, called love: "I love you. I would rather die than hate you."³⁰²

298. Branch, *Parting the Waters*, *supra* note 6, at 197.

299. See *A Testament of Hope*, *supra* note 159, at 88.

300. See *id.* at 102; see also *id.* at 109, 125, 164, 281, 282, 484.

301. See *id.* at 140, 144, 336, 358, 484, 514, 593.

302. King, *supra* note 257, at 59.