

July 2, 1996  
WORKSHOP IN POLITICAL THEORY  
AND POLICY ANALYSIS  
513 NORTH PARK  
INDIANA UNIVERSITY  
BLOOMINGTON, INDIANA 47403-3186  
Reprint Files--CPR

## **Martin Luther King's Message on Civil Rights, Community, and Collective Action**

Scholars interested in collective action dilemmas have recently turned to the American Civil Rights Movement to explore social incentives, reputational concerns, and "narrowly rational" expressive benefits as motivations for commitment to difficult and dangerous forms of political participation. Civil rights protests from 1954-1968 have been expressed in formal models as a case study assurance game, yielding not only valuable insights concerning rationality assumptions and coordination problems, but also have advanced our efforts to model the decline of public action in accommodating and unresponsive policy environments. As useful as these models have been, they have failed to incorporate a central feature of this case, its religious foundations and concern for the transcendent good as well as material benefit. This omission not only limits such models' effectiveness in explaining the case of civil rights protests, it allows us to misinterpret the ontology of much collective action. Dr. Martin Luther King Jr.'s political thought and other historical documents reveal that the Civil Rights Movement must be viewed in a context of covenantal relations, a perception not captured by our usual presentations of a rational calculus and the coordination of interests. His message, delivered most often in the form of a jeremiad, demands a change in consciousness as a condition for common action directed at political transformation. Political transformation resulted not merely from individual expressions of rights, but also depended on beliefs according value to the community in which these rights gained much of their significance. These political sermons link common action to such beliefs -- a transcendent common purpose -- evoking the covenantal roots of the American polity. By examining these foundations of the Civil Rights Movement through King's voice, I suggest an important role for *community* as a variable in our institutional analysis of commons dilemmas, emphasizing the significance of moral theory in addressing problems of collective action.

**Barbara Allen  
Carleton College  
Northfield, MN, USA 55057**

**Voices from the Commons, The sixth Annual Common Property  
Conference of the International Association for the study of  
Common Property, Berkeley, California, USA, 5-9 June 1996**

## **Martin Luther King's Message on Civil Rights, Community, and Collective Action**

From 1954 throughout the 1960's United States citizens engaged in large-scale political activism, using non-violent direct action as a method for confronting racial injustice. Civil Rights boycotts and civil disobedience demanded a considerable commitment from people who often took tremendous personal risks pursuing such public goods as school desegregation and national voting rights legislation. These actions defy the usual logic of collective action depicted in prisoner's dilemma games and similar models of rational choice in a public goods context. That logic suggests that since the benefits of desegregation would be available to protesters and non-protesters alike, we should not only expect little voluntary contribution to the effort, we should also be very surprised to find participants taking great risks to achieve a collective good.

For example, when the Montgomery Bus Boycott is modeled as a typical prisoner's dilemma game, the individual could either boycott public transit, a choice which often meant walking up to twenty miles to and from work, or continue to ride in the back of the bus while others walked to change segregation laws. In this scenario each potential hold-out could benefit from legislative change without participating, but if everyone "rides free," the bus boycott would fail. The stakes of the dilemma increased as the risks incurred by participants grew. Confrontative protests such as sitting-in to desegregate a lunch counter, marching to Selma, and "riding for freedom" to desegregate interstate bus transportation, involved much greater personal risk than walking to work. In these instances, engaging in non-violent direct actions meant submitting to violent retaliation from the opposition, resulting in a higher threshold for participation than boycotting merchants and public facilities. Following this logic, public goods should present a collective action problem; we expect free riders, not freedom riders. Yet non-violent direct action, the method for confronting racial injustice, garnered participants from all walks of life and from a variety of racial groups and social circumstances.

The civil rights protests have been expressed in formal models as a case study assurance game, yielding not only valuable insights concerning rationality assumptions and coordination problems, but also advancing our efforts to model the decline of public action in accommodating or unresponsive policy environments. As useful as these models have been, they have failed to incorporate a central feature of the civil rights case, its religious foundations expressed as a public philosophy of non-violent civil disobedience. In this paper I explore some of the ways the moral foundations of protest contributed to the high level of individual commitment characterizing civil rights participation. Models of collective action must take account of the roles played by public philosophy, in this case, the moral theory of non-violence that compelled community activism

### **Civil Rights and Models of Collective Action**

Analysts have considered a number of ways to account for empirical instances of voluntary collective action by examining the effects of communication and iterative relationships among players, as well as exploring the role selective incentives play in motivating participation. Selective incentives can make participation more attractive by increasing either the benefits of participation or the costs of free riding. Social and psychological incentives such as friendship, reputational concerns, and opportunities for political empowerment, for example, increase private benefits to participants. Alternatively the costs of non-participation increase when individuals suffer censure and privation for free riding

"Solving" the free rider problem through selective incentives cannot insure collective action, however. Individual preferences for participation often remain conditional, resulting in a variety of obstacles to coordinated collective action. For example, everyone may be willing to participate, but only if they are assured that enough others will join to make the group effective. A Group may fail to form for even the most popular cause simply because too few people believe it will. The subtleties of these "assurance games" reveal complex problems of coordinating multiple thresholds for group size. A variety of points of agreement are often theoretically possible, but actual coordination depends on the opportunities for negotiation among potential participants. Tacit negotiations based on past experience

and extrapolation from similar situations serve well in daily interactions, but large-scale political activism may require more overt means of coordinating the various minimum group size requirements that potential collaborators hold

In his game theoretic analysis of the civil rights movement Dennis Chong presents an assurance game to account for the movement's emergence, actions, and eventual decline. He finds that social networks, public media, moral leaders, and political entrepreneurs facilitated communication and reassured potential collaborators that collective action was viable.<sup>1</sup> As important as these ingredients for coordination were, however, Chong concludes that the threshold for civil rights participation could be reached for most activists only when the prospects of success were raised by successful models of past collaboration. In his analysis "success" means not only that collaboration occurred, but ultimately that the protesters' demands were met.<sup>2</sup> Representing the assurance problem as a "supply-and-demand relationship between a group that is seeking social change and the authorities that are capable of providing it." Chong argues that government's response ultimately determined the movement's achievements and continued viability.<sup>3</sup> As intuitively appealing as this proposition seems, closer inspection reveals a more complex path from government responses to changes in assurance thresholds, and from these to individual choices to participate or not.

Two different, although related assurance games follow from Chong's two definitions of success, one pertaining to group size thresholds and a second concerning the group's prospects for achieving its objectives. At least two different processes might link these games. In one process the group evolves sequentially; the second assurance game relating participation to government response begins after the thresholds for group size have been reached. The group might also unfold through the interaction of the two games. An interactive process emphasizes the direct effects of government responses on participation, in which winning government concessions lowers thresholds for group size. The nature of this effect is also variable, since thresholds may be lowered in a variety of ways. Participants might be reassured because they believe success creates a greater desire on the part of others to join in collective

action. Alternatively, they might believe that, following a successful action, they need a smaller initial core to attract new members, or that a smaller total group is enough to threaten authorities and gain the desired government response.

The proposition that successful past collaboration raises the prospects for present collective action may encompass a variety of logics, representing a number of different games. For example, while past success may convince potential participants that enough people will collaborate, this belief could either lower thresholds in an assurance game or return potential participants to a prisoner's dilemma. Chong asserts that selective incentives maintain the assurance game, claiming that when it becomes clear that collective action will not only survive, but that it will have real meaning, potential participants feel obligated to join.<sup>4</sup> In many instances government concessions concerning civil rights actually had the opposite effect, however, fracturing the group by delivering individual rewards selectively and encouraging free riders by equating civil rights with the public provision of goods such as public housing to participants and free riders alike.<sup>5</sup> In other words, any obligation for joining that a person might feel could be countered by selective incentives from government that motivated participants to quit.

The civil rights movement declined, Chong argues, when activism no longer stimulated government response, revealing a movement that had exhausted its supply of ideas for getting government attention. A political movement loses this capacity when it "has accomplished the significant elements of its agenda and there are no further plans on the horizon that can stimulate another round of activism." Rather than seeing this decline as a indication of success, Chong cautions, "unfortunately the demise of the movement is also frequently accompanied by a corresponding decline in government responsiveness to the concerns of the group. The government, in other words, reverts to its earlier practice of ignoring calls for reform until there is another crescendo of demand."<sup>6</sup>

In this narrative, community is a vehicle for making demands. Leaders are either risk-taking entrepreneurs who "initiate activity on the assumption that they are investing in a collective endeavor that

will ultimately be profitable" for them or are morally committed zealots speaking as voices in the wilderness. When democracy works, citizens demand and government delivers.

This is an inadequate portrayal of the relationship of citizens and government the case of civil rights in two respects. It underestimates the importance of the public philosophy of non-violence that guided civil rights and consequently misinterprets the protests' ultimate goals. By ignoring this philosophy, this depiction also diminishes individual's commitment to participation by inaccurately portraying the movement's "leaders" and "followers."

#### **Modeling and Motivating Leaders and Followers: Government Concessions or A Role for Community?**

The role of leadership is an important and subtle variable in understanding how government response and the private benefits of participation effected participation in the civil rights movement. Chong distinguishes two types of leaders, moral leaders and political entrepreneurs. Moral leaders are described as "a core of highly dedicated, extremely moral -- some might say extremely "irrational" -- individuals who are willing to assume leadership roles," creating a critical mass that results in collective action.<sup>7</sup> Alternately leaders may be political entrepreneurs who "are conventionally described as people who will pay the costs of soliciting and coordinating contributions in exchange for individual benefits such as power, prestige, or a share of the profits derived from collective action."<sup>8</sup>

Political entrepreneurs are more easily factored into the assurance game model, as their choices remain very closely tied to movement success, defined as government response. If no concessions are made, political entrepreneurs have a difficult time capitalizing on their efforts. Moral leaders present a more difficult set of attitudes to model. Moral types participate regardless of the movement's success, but their effectiveness still depends on government response. Leaders may cry out, but without government concessions, no one will follow. Chong concurs with Mancur Olson's observation that ineffective devotion to the collective good garners few followers.<sup>9</sup> Ineffective moral leaders may even be detrimental to collective efforts, "would-be heroes in social movements produce a collective bad when they induce the authorities to punish the entire group, including those innocent of participation."<sup>10</sup>

Each type of leader is portrayed as rescuing a foundering mass from the assurance game impasse. "Leaders become involved irrespective of the degree of success and the level of mobilization previously established by the movement. Followers join collective action only in response to success and the existing levels of mobilization."<sup>11</sup> Followers "jump on the bandwagon" in response to government actions. When few concessions are made by government, Chong argues, we have few followers. In his supply-demand model, more followers join if government is responsive.<sup>12</sup> The rate of joining, or "contagion rate" is also a function of the current level of mobilization. "People will join at a faster rate when more people are already in the movement."<sup>13</sup>

In the critical early stages of the civil rights movement, the division between leaders and followers was much less distinct than Chong's model suggests. The level of personal commitment to non-violence was such that followers took no less personal responsibility than leaders in most instances. The history of the Montgomery bus boycott and the public philosophy on which it was based illustrate the dangers of oversimplifying the relationship of leaders and followers in a self-governing setting.<sup>14</sup>

#### **Leaders and Followers in Montgomery**

On December 1, 1955, police arrested Rosa Parks for refusing to comply with Montgomery's segregation laws that required her to give up her seat in a section of the bus reserved for white passengers. This incident sparked what would become a year-long boycott of the municipally chartered bus lines by nearly all of Montgomery's African-American citizens. The manner in which events unfolded illustrates the moral basis of participation that compelled followers and leaders to correct the injustice of segregation.

When word of Mrs. Parks's arrest reached E.D. Nixon, a past president of Montgomery's National Association for the Advancement of Colored People (NAACP), he contacted Clifford Durr, a white lawyer and racial liberal whom Mr. Nixon and Mrs. Parks had known for many years. Nixon and Durr immediately laid the groundwork for a case to test Alabama's segregated public transit laws against the May 1954 United States Supreme Court *Brown v. Board of Education of Topeka* finding against

segregated educational facilities. Taking this step with the Parks case continued the NAACP tradition of using constitutional tests to destroy segregation's "separate but equal" doctrinal foundations. What Thurgood Marshall had done as an NAACP lawyer to show the unconstitutionality of the doctrine in education arguing *Brown*, Nixon and Durr hoped to do with the issue of public transportation.

Rosa Parks became a symbol of non-violent resistance, but her arrest for refusing to comply with segregation laws was not uncommon and hers was not the first opportunity to pursue a constitutional test of these laws.<sup>15</sup> Her case was the most suitable choice for litigation because she had offered no resistance, was well-known to have an impeccable character, and projected tremendous self-confidence as a defendant. While court tests raised new possibilities to give these individual acts wider political meaning, the opportunity to engage in constitutional tests came from the moral stand taken by individuals such as Mrs. Parks. As an ordinary citizen Rosa Parks took a leadership role, challenging others to join in the larger action of the bus boycott. But, as the history of the boycott suggests, Mrs. Parks was a leader among many.

Although Rosa Parks's day in court became the immediate impetus for the bus boycott, this was not the first occasion to discuss such a strategy. In 1949, Mrs. Jo Ann Robinson had moved to Montgomery to teach English at Alabama State College. That year at Christmas she had been ordered to give up her seat on the bus, a traumatic experience she learned was common among her friends and neighbors. Finding that no response had been made in any individual instance of such abuse, Mrs. Robinson decided that the Women's Political Caucus (WPC), of which she was President and a founding member should target segregation in transportation for political action.

Throughout the early 1950's the WPC met with Montgomery's City Commissioners complaining about the seating policy and the abusive enforcement of them. Mrs. Robinson offered numerous alternative segregated seating policies in an effort to comply with segregation laws while improving conditions for African-American passengers. With the *Brown* decision and continued lack of response from city officials Robinson wrote to Montgomery mayor W.A. Gayle, advising him that the idea of a bus



boycott was becoming popular within the African-American community.<sup>16</sup> Robinson, Nixon, and other representatives of the African-American community continued meeting with city commissioners, the bus company manager and attorney as well as the city attorney to devise a new seating arrangement, as support for the boycott grew. Prior to Rosa Parks's arrest, Mrs. Robinson could claim that more than 25 local organizations were considering the action.<sup>17</sup>

The boycott's early history reveals a community in which citizens turned to friends and neighbors for solace from injustices and learned that their experiences were not isolated incidents. When these grievances were shared individuals began to work within the community devising strategies for addressing these problems. No longer isolated, these individuals now could act as community representatives in negotiations, with the distance between these leaders and the community remaining minimal. By the time Rosa Parks was arrested, organizations members had the capacity to coordinate a community-wide response. David Garrow recounts the story of the proposed one-day boycott precipitated by Rosa Parks's arrest.

When Mrs. Robinson learned of the arrest late that Thursday night from Fred Grey [an African-American attorney who had been part of the bus negotiations group], she immediately phoned Nixon. Together they agreed that this was just what they had been waiting for. 'We had planned the protest long before Mrs. Parks was arrested,' Mrs. Robinson emphasized years later. 'There had been so many things that happened, that the black women had been embarrassed over, and they were ready to explode.' Also, 'Mrs. Parks had the caliber of character we needed to get the city to rally behind us.' Robinson told Nixon that she and her WPC colleagues would begin producing boycott leaflets immediately, and the two agreed that the flyers would call on all black people to stay off the buses on Monday, the day of Mrs. Parks's trial. They also agreed that the black community leadership should assemble on Friday. Nixon would organize that meeting, while Robinson would see to the leafleting.

Robinson alerted several of her WPC colleagues, then sat down and drafted the leaflet. She called a friend who had access to Alabama State's mimeograph room, and they rendezvoused at the college and began running off thousands of copies. They worked all night, and when morning came, WPC members, helped by some of Robinson's students, began distributing the announcements to every black neighborhood in Montgomery.<sup>18</sup>

The events that carried the proposed boycott through fruitless negotiations, mass indictments for breaking newly created anti-boycott laws, and bombings until the Supreme Court decision that ended transportation segregation 12 months later, also reveals the complex nature of leadership in a self-organizing context. Garrow's account shows the organizational capacities of the African-American

church and the creative problem-solving of its members who were often the source of inspiration that boosted the morale of church leaders. As Garrow recounts the story, E D Nixon knew that a city-wide boycott depended on the enthusiastic support of Montgomery's black ministers, a group that eventually did become a source of leadership. In the proposal's initial stages, however, this group might be most accurately portrayed as getting on the bandwagon of an existing movement.

Martin Luther King, Jr., the individual who would come to represent Montgomery to the world, had to be convinced to lend more than good wishes to the protest. He protested that his new baby and heavy responsibilities at his church prohibited his engagement in collective action. Later, convinced by fellow pastor Ralph Abernathy that Parks's arrest represented a great opportunity, King agreed to support the effort by hosting a meeting of 70 African-American ministers at his church. He agreed to participate only if he did not have to do any organizational work to create or sustain the boycott.

The initial meeting of the ministers disclosed that many of Montgomery's African-American leaders could not put aside their rivalries and desires for self-advancement long enough to forge the foundations for a community-wide organizational effort. Reverend L. Roy Bennet, president of the Interdenominational Ministerial Alliance, who had been asked to preside at the meeting, told the 70 ministers that their meetings would be brief, for he knew how to organize a boycott and would see to it Bennet refused to let others speak, causing an exodus of frustrated ministers. The boycott's main organization, the Montgomery Improvement Association (MIA) was created as a means of ousting Bennet without insulting him. Creating a new organization also created new problems for the community's leaders. Compounding the leadership question were two rival factions in the African-American community, represented by E.D. Nixon and another community leader, Rufus Lewis. Choosing either as President meant losing the other and possibly his supporters. To resolve this factional dispute, the mantle fell to Martin Luther King, Jr. who, at 26 and new to the community, had no clear alliances with any of Montgomery's leaders.<sup>19</sup>

Backed by an organization able to give the blessings of the African-American clergy, Jo Ann Robinson, Ralph Abernathy, and Martin Luther King, Jr. mimeographed hundreds of boycott leaflets, notifying the African-American community not only of the boycott, but also of a mass rally to be held the Monday evening of Parks's trial. Several hundred volunteers were deployed to canvas neighborhoods with leaflets.

E.D. Nixon alerted a reporter for the white newspaper, the *Montgomery Advertiser* and stories carried by the *Advertiser* and Montgomery's smaller paper, the *Alabama Journal* helped make the boycott a major event. White city officials had first become aware of the impending boycott when a bus driver reported finding a leaflet on his bus. When journalists called with news of the boycott, city officials offered fear and invective. Local television coverage of white officials denouncing the boycott created news for the world outside Montgomery. News coverage also informed African-American citizens who had missed the leaflets, for those who knew of the impending action the coverage demonstrated the serious challenge such a boycott posed to institutionalized segregation. As a result, the boycott was an unprecedented success, informal morning surveys found hundreds walking to work and fewer than a dozen free riders.

Media coverage also unintentionally promoted the evening rally. Thousands of Montgomery's African-American citizens converged on the Holt Street Baptist Church following the Parks verdict. The gather was so large that loudspeakers were set up to broadcast the event into the streets. In his first speech to the movement, Martin Luther King, Jr. addressed 1000 people seated inside the church and another 4000 in the streets outside.

The broadcast, picked up by local media and transmitted nationally, established King in the minds of many as the movement's leader. News of the boycott, now framed in King's oratory as a movement based on principles of non-violence, yielded a global response in the form of letters to the *Advertiser* calling for an end to segregation and letters to King advising him in non-violent practices. Volunteers such as James Lawson, a Methodist missionary in Nagpur India who would become a major civil rights

figure. learned of King and the movement in their local papers and made the pilgrimage to Montgomery, as did Fellowship of Reconciliation members, Bayard Rustin and Glen Smiley, who would later become King's ghost writers. Although King was presented in the media as the boycott's leader (and certainly his skills in oratory set him apart from many), the protests were organized from the beginning by a community of leaders working from a widely discussed public philosophy of non-violence. The boycott faced legal challenges, as thousands of participants were indicted for breaking state anti-boycott laws. King and others not only spent their first nights in jail, but also had their non-violent philosophy tested by bombings and other violence

Through out the protests. King's speeches and sermons stressed the protester's personal responsibility in taking political actions that were motivated by a desire for greater justice. This desire could ultimately be quenched only by a dramatic change in the consciousness of protesters and segregationists alike. While material conditions in society might mirror such a change, a new material state alone did not necessarily indicate that protests had achieved the justice it sought. The protests demanded fundamental changes not simply from government but, through self-government, from the hearts of citizens themselves.

At the Monday night rally Martin Luther King outlined what would become the public philosophy that articulated this view. The short speech he presented that evening opened by placing the Montgomery struggle in the larger context of the obligations of democratic citizenship

We are here this evening for serious business. 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. We are here because of our love for democracy, because of our deep-seated belief that democracy transformed from thin paper to thick action is the greatest form of government on earth.<sup>20</sup>

King continued to develop a theme of citizen responsibilities throughout the Montgomery campaign. Again on March 21 and March 22, he praised constitutionally protected rights of assembly and speech and discussed the citizen's consequential duties.<sup>21</sup> These responsibilities extended to acts of civil disobedience as well as constitutional tests. The goal of direct action in each case was increasing

justice King clearly articulates this position at the December 20, 1956 mass rally announcing the Supreme Court decision and the boycott's end.

Often our movement has been referred to as a boycott movement. The word boycott, however, does not adequately describe the true spirit of our movement. The word boycott is suggestive of merely an economic squeeze devoid of any positive value. We have never allowed ourselves to get bogged in the negative; we have always sought to accentuate the positive. Our aim has never been to put the bus company out of business, but rather to put justice in business.<sup>22</sup>

Selective incentives of a moral sort do seem to have been an impetus for collective action. King explained the boycott's enormous success this way,

For more than twelve months now, we, the Negro citizens of Montgomery have been engaged in a non-violent protest against injustices and indignities experienced on city buses. We came to see that, in the long run, it is more honorable to walk in dignity than ride in humiliation. So in a quiet dignified manner, we decided to substitute tire feet for tired souls. . . .<sup>23</sup>

In these early days of civil rights, King also began to discuss the ultimate purpose of non-violence.

I cannot close without giving just a word of caution. Our experience and growth during this past year of united non-violent protest has been . . . such that we cannot be satisfied with a court 'victory' over our white brothers. We must respond to the decision with an understanding of those who have oppressed us and with an appreciation of the new adjustments that the court order poses for them. We must be able to face up honestly to our own shortcomings. We must act in such a way as to make possible a coming together of white people and colored people on the basis of real harmony of interests and understanding. We seek an integration based on mutual respect.<sup>24</sup>

For the decade following the Montgomery action King provided an eclectic amalgam of scripture, theology, and liberal political theory to civil rights demonstrators. These ideas drew on African-American church traditions and King's formal theological training at Crozier University and at Boston University. Even the scholastic sources of King's thought spoke directly to his audiences at the mass rallies, tapping the faith of people with a shared religious and political heritage.

#### **Moral Foundations for Non-Violent Civil Disobedience.**

Martin Luther King, Jr. drew his philosophical understanding for non-violent civil disobedience from Christian theology. As a seminary student and Ph.D. candidate King worked to synthesize Christian pacifism and the Christian realism of theologian Reinhold Niebuhr.<sup>25</sup> Niebuhr explored the wide gap between individual moral behavior and the immoral actions of groups, describing individual choices that reap collective harm in terms that are compatible with rational theories of collective action. He

demonstrated that human imperfection made it impossible to govern the world by a good intentions and a Christian ideal of love. Only in heaven, that is, only through the perfection that is God, could love suffice to produce right action. The material world required coercive political force to bridle human ambition. Christians, Niebuhr argued, were not only naive if they turned the other cheek, they were dangerous. By adopting pacifist strategies, the "children of light" abdicated power to the "children of darkness." Compassion could motivate the just use of force, Niebuhr concluded, but force could never be eliminated from the human community.

In his dissertation King explored the conjunction of love, compassion, and justice, as a theological concern. He grappled with these ideas well beyond his graduate work, when events in Montgomery, Alabama provided an occasion to link love and justice in practical politics. At the first mass rally of the Montgomery bus boycott King told the crowd

It is not enough for us to talk about love. Love is one of the pinnacle parts of the Christian . . . faith. There is another side called Justice. Justice is really love in calculation. Justice is love correcting that which would work against love.<sup>26</sup>

His formulation of justice as love is derived from the work of Paul Tillich. Tillich writes of justice not only in the context of political rights, but as a form of love, reuniting human beings separated from each other and God. Tillich, as King explains, understands sin as estrangement from God. This initial separation causes a fractured sense of self and exploitive relationship with others. Interpreted in this way, sin simply means objectifying others, diminishing them from ends to means, an act that is opposed to the basic commandment of the Jewish and Christian faiths to love God, and one's neighbor and self for the sake of God. The Golden Rule, for instance, is mistakenly reduced to "enlightened self interest." "The commandment speaks not simply of reciprocity, but of agape, a love that transcends calculating love or enlightened interest. Love, Tillich says, is the ultimate foundation for justice. Justice is the form in which and through which love reconciles humanity and reunites us with love, what love reunites justice preserves.

King, too, argued that the proper functioning of democratic institutions requires the greater concern for other's well being embodied in *agape*. While government might function productively on the basis of enlightened self-interest to achieve some goals, King believed that enlightened self-interest without this transcendent basis for concern will result in an "anemic democracy." Justice requires the constant correction of humanity's inevitable failures. The will necessary to persist in this essential act of self-government, King argued, must spring from a deeper moral impetus than reciprocal interests. While Niebuhr correctly identified the necessary role of force in society, Tillich was also right. To exercise force legitimately, societies needed individuals with a profound understanding of the foundations of justice. King believed these foundations were universal and eternal. God's law informed natural law and each could be found at the heart of American constitutional documents.

King applied these theological precepts in political action by translating them into a public moral philosophy. He was compelled by critics and practitioners of direct action to find an intellectually satisfying and practical interpretation of the maxim "turn the other cheek." Civil disobedience was said by many to be a forerunner of anarchy. More damning still, civil disobedience, sit-ins, marches, and other forms of direct action such as the bus boycott were assailed as no different from the tactics of the White Citizens Council and other hate groups. Prohibitions on physical self-defense seemed to increase the victimization of African-Americans. In speeches, sermons, interviews, and debates, whether distinguishing the conscientious objection and civil disobedience from anarchy and terrorism or convincing protesters to love their enemies, King's message concerned the conjunction of love and justice.

He expressed this philosophy in its fullest form in the 1963 "Letter from the Birmingham City Jail."<sup>27</sup> The Letter, like so much of King's writing answered specific criticisms leveled in this case by "white moderates" who asked King to stop the protests in Birmingham and allow electoral politics to promote desegregation through legislative change.<sup>28</sup> King's open letter responded to criticisms that the Birmingham protests were untimely, unwise measures, led by outsiders who precipitated violence.

The "Letter's" exposition of this public philosophy expressed segregation as one of many manifestations of humanity's separation from God. Reconciling this relationship was the movement's ultimate goal, expressed by King in the term Beloved Community. To achieve this goal and the movement's material goals required, King believed, a change of heart as much as a change in policy. The consciousness change represented by the concept "self purification" emphasized personal responsibility for correcting injustices by reconciling political justice with transcendent moral claims.

#### Segregation As Separation

The "Letter" presents segregation as a moral as well as political problem, one of many manifestations of humanity's estrangement from God.<sup>29</sup> Just as slavery is a tragic example of objectifying other human beings and failing to see our essential connectedness, King explains, segregation also opposed a cosmology of wholeness and is, in its essential nature, sinful.<sup>30</sup> Segregation denies humanity's essential unity and the equal worth of each person as a result of God's creation. Consequently, segregation denied God's wholeness and perfection. In ridding the polity of segregation as in all political actions, the moral charge was clear.

There must be a recognition of the sacredness of human personality. Deeply rooted in our political and religious heritage is the conviction that every man is an heir to a legacy of dignity and worth. Our Hebraic-Christian tradition refers to this inherent dignity of man in the Biblical term *image of God*. This innate worth referred to in this phrase the image of God is universally shared in equal portions by all men. There is no graded scale of essential worth; there is no divine right of one race which differs from the divine right of another. Every human being has etched in his personality the indelible stamp of the Creator.<sup>31</sup>

Not only was each individual of equal moral worth, all people were viewed as joined in an inescapable "web of mutuality, a single garment of destiny."<sup>32</sup> Protest goals and the protesters' motivations to participate were influenced by understanding segregation in this religious context. The protesters not only struggled for political rights in the legal arena, struggling for political rights, their work also included the moral charge not to separate themselves from the segregationist. Integration, for King, meant a fundamental reconnection and moral transformation. Desegregation, enforced integration, and other legislative solutions were vital, but incomplete approaches to America's race problem.<sup>33</sup> The



protesters goals and actions had to address injustice in a way that transformed these relationships. Recognizing humanity's basic interconnection not only compelled non-cooperation with injustice, it also demanded the creative act of reformulating community. The protesters' actions were neither passive nor pacifist in the way that Niebuhr had abhorred. Instead King spoke of resistance through non-violent confrontation.

To achieve these goals, participation in the protests was motivated by deeper concerns that self-interest. Participation must come from a more compelling motivation than self interest to achieve these goals. King explained his own motivation to join the struggle in Birmingham

I am in Birmingham because injustice is here. . . I am cognizant of the interrelatedness of all communities and states. Injustice anywhere is a threat to justice everywhere.<sup>34</sup>

The obligation to correct injustice is neither determined by the happenstance of geographic or demographic location, nor is it mitigated by our proximity or distance from those harmed. Arguing that our natural condition is one of interrelationship, King presents the citizen's obligation to right injustices as a moral obligation governing every person's life. Not only is King not an outsider, but, where moral obligation is concerned, none of us is.

The goal of reconciliation required direct action, a method of resistance that depended on soul force rather than physical force. Soul force engaged protesters and segregationists in a transformative process. Rather than using external means of coercion, soul force focused on self-control, shared principles of justice, and universal moral precepts concerning the right treatment of other human beings. The first action in this process was the protesters own act of self-control and enlightenment, self purification.

#### Self Purification and Reconciliation

Self purification represented the pivotal act in four steps that guided non-violent civil disobedience. Protesters first determined the nature of injustice by collecting the facts of the situation. Negotiation followed and usually continued throughout the campaign. Whatever the results of negotiations, each participant engaged in self purification, reflecting on the campaign's purpose, the relationship between its

immediate goals and the more ultimate ends of the community, and the individual's role in pursuing these ends. If negotiations did prove fruitless, it was only after this stage of reflection that the group undertook collective direct action.

In the process of self-purification, the potential protesters prepared to present their "very bodies as a means of laying [their] case before the conscience of the . . . community."<sup>35</sup> This preparation required workshops in non-violence in which participants practiced accepting blows without retaliation and made the conscious choice to endure the ordeals of jail. More than physical capacities were involved in this training. In a published form on one of King's speeches, "Love, Law, and Civil Disobedience," King described the moral reasoning on which the participants reflected:

Each individual must understand that the ends of the struggle could not be separated from the means of protest. As King put it "immoral destructive means cannot bring about moral constructive ends."<sup>36</sup> The protesters could not inflict injury in any form. Not only must they avoid physical retaliation, each person must avoid the internal violence of hateful thoughts. In addition to non-violent behavior, the protesters must respond to violence with love, "redemptive creative good will."<sup>37</sup>

To return love for violence and hate required each protester to engage in the on-going intellectual and spiritual process of discerning the deepest causes of human suffering and the deepest cravings for peace. A more superficial analysis would result in simplistically identifying the segregationist with segregation, an error that reduced the moral complexity of human relationships by objectifying the segregationist. While King believed the act of segregation to be an evil, he viewed the person committing the act as fundamentally good, as God's creation who could never wholly forfeit the capacity to do good. "There is within human nature," King believed, "something that can respond to goodness." For the protester to refuse cooperation with evil then not only required refusing to cooperate with segregation and injustice, but also demanded the protester to respond empathetically to the segregationist's situation.

In identifying the segregationists responsibility for segregation, the protester continued to avoid harm, encouraging the necessary change of heart through a sense of moral shame, instead of seeking retribution through condemnation and humiliation.

[I]t does not seek to defeat or humiliate the opponent, but to win his friendship and understanding. The nonviolent resister must often voice his protest through noncooperation or boycotts, but he realizes that noncooperation and boycotts are not ends within themselves; they are means to awaken a sense of moral shame within the opponent. The end is redemption and reconciliation.<sup>38</sup>

Those who correct injustice through a nonviolent confrontation must be pure in their attitudes about their "opponents", caring for them as part of the community that will be built, rather than understanding them as obstacles to justice, separated from those seeking justice. A new relationship with these opponents must be part of the end desired and must be obtained for the good of others, regardless of its immediate impact on those seeking justice. Others, including one's opponents, must be ends, not means, and ends must be sought not for self-interest, or even mutual benefit, but for the sake of others alone.

King believed that this moral effort allowed God to work through the heart of the oppressed person to change fundamentally the oppressive situation. By offering the empathetic response, the protester broke the chain of suffering or, in King's words, used suffering to redeem and transform the relationship between protester and segregationist.<sup>39</sup> King spoke of his own unmerited suffering as revealing the kind of choices that every human being faces.<sup>40</sup>

As my sufferings mounted I . . . realized that there were two ways that I could respond to my situation: either to react with bitterness or seek to transform the suffer into a creative force. . . . Recognizing the necessity for suffering, I have tried to make of it a virtue. If only to save myself from bitterness, I have attempted to see my personal ordeals as an opportunity to transform myself and heal the people involved in the tragic situation [of race relations] that now obtains. I have lived these last few years with the conviction that unearned suffering is redemptive.<sup>41</sup>

Self purification taught the protesters to choose creative action over bitterness, as the inescapable relationship between segregationist and protester demanded. Self purification showed that every human being errs, every human being suffers, and every human being has the capacity to respond morally to

suffering. In place of separation, the protester must persist in the transformative relationship that created the beloved community.

### Beloved Community and Justice

The goal of nonviolence is to correct injustice by evoking universal moral principles, and witnessing to the truth of human integration. Through direct action, including civil disobedience, King sought a new kind of relationship, the "beloved community."<sup>42</sup>

[N]onviolence is vital because it is the only way to reestablish the broken community. It is the method which seeks to implement just law by appealing to the conscience of the great decent majority who through blindness, fear, pride or irrationality have allowed their consciences to sleep. The nonviolent resisters can summarize their message in the following simple terms: We will take direct action against injustice without waiting for other agencies to act. We will not obey unjust laws or submit to unjust practices. We will do this peacefully, openly, cheerfully -- because our aim is to persuade. We adopt the means of nonviolence because our end is a community at peace with itself. We will try to persuade with our words -- but if our words fail we will try to persuade with our acts. We will always be willing to talk and seek fair compromise but we are ready to suffer when necessary and even risk our lives to become witnesses to the truth as we see it.<sup>43</sup>

"Awakening the conscience" implies a change of heart that results from seeking the truth through the spiritual process of direct action. The purpose of Direct Action is to "create a crisis that establishes a creative tension that forces the confrontation of problems."<sup>44</sup> The creative tension caused by direct action leads not only to negotiation about rights, but also to a searching for reasons for the oppressors' behavior. Confrontation and negotiation concern more than bargaining over the material situation at hand. In the process King described, all parties confront and communicate the truth of their situations. The alternatives to this transforming process are either the passive acceptance of injustice, or violent retaliation and the perpetuation of injustice by the protesters themselves. Each of these approaches led not only to frustration and violence, but diminished oppressor and oppressed alike.

Through direct action, King engaged human conscience to evaluate ordinary law against constitutional law and both of these against universal moral claims. From the perspective of correcting injustice through politics, King describes the obligations that citizens must be willing to undertake to

secure and protect their rights in democratic government. Individuals, he believes, must be willing to assess ordinary law against constitutional law, which must itself square with a higher level of law.

In no sense do I advocate evading or defying the law as rabid segregationists would do. This would lead to anarchy. One who breaks an unjust law must do it *openly*, lovingly, and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and willingly accepts the penalty by staying in jail to arouse the conscience of the community over its injustice is in reality expressing the very highest respect for law.<sup>45</sup>

King described three types of injustice, evaluated from this perspective of human law. First he discusses laws by which a majority binds a minority, but not itself.<sup>46</sup> Injustice also occurs when laws are made without minority participation.<sup>47</sup> These two instances of injustice can be handled through constitutional tests. In such cases civil disobedience acts as a constitutional corrective for unjust ordinary law. In King's case, however, a just law has been used to conceal injustice. King has been jailed for marching without a parade permit, the just law requiring a permit has been used to thwart protests that would bring segregation's injustice to light. In this situation, the constitution cannot be the sole criterion for evaluating human justice. King's critics understand this and seem able to argue justifiably that the protests border on anarchy. Defying an injunction against a march is not the same as defying a segregation law. To prevail against such criticism King must legitimate this indirect attack on segregation. He cannot do so simply by appealing to the Constitution. Instead he argues his case in terms of shared moral precepts that he believes transcend and inform constitutional law. Moral reasoning, he argued, was required to exercise the political judgment that determined whether a law was just or not.

How does one determine when a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. 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.<sup>48</sup>

In the terms of Thomistic theology on which King relied, segregation laws reflected a misuse of power for the sake of domination. As such, it was arrogant rule, rule not for the sake of those ruled, but for the purpose of maintaining their subjection. Segregation is out of harmony with God's authority known in natural law ideals of equal natural right. The injustice represented by segregation laws also

distort the personality, by relegating people to the status of objects. In King's democratic revision of the Thomistic argument, it is morally necessary to break unjust laws, laws that shield injustice, and perhaps even constitutional laws.<sup>49</sup>

### **Community, Collective Action and Civil Rights**

For King to argue successfully that civil disobedience can appropriately test law so fundamental as the Constitution he must assume not only the existence of transcendent principles of justice he must also believe that these principles are known and shared by a community that precedes the legal conventions forming a polity. In the case of civil rights, King's message was developed within such a community. King's presentations created an international forum for debating the public philosophy of non-violence. The civil rights movement's political philosophy provided not only a clear intellectual foundation for practical action but also created a public forum that reflected the vital community that practiced it.<sup>50</sup> The public philosophy of non-violence was articulated in word and deed by this community, in protests and, as the following example shows, in the details of organization operations.

In 1962, the Southern Christian Leadership Conference (SCLC) discovered that its office was located in a building where space was also leased to a segregated restaurant, a contradiction that the organization could not endure. King wrote to the building's owner, Ben Massell, on the organization's behalf, explaining that after prayerful consideration, they had decided to break the lease agreement and vacate the premises. The structure of King's letter is very like his letter to the Alabama clergy the following year. He describes their unsuccessful attempts to negotiate with the owner, his agent, and the restaurateur. They had met with the restaurant owner, Mr. Carswell, for three months, gained the support of the building's other tenants, and taken a statistical survey to prove that integration would bring no financial loss to the restaurant. When negotiations failed, the SCLC began a sit-in, a protest that brought them insults and threats of litigation from Mr. Massell. In the four page letter to Mr. Massell, King covered these grievances and described his personal frustration and humiliation. In addition to his own embarrassment, he explained, his children had suffered from this example of "America's greatest tragedy"

when he was forced to explain that their visit to his office could not include an ice cream cone from this restaurant that refused service to "colored people " He links his personal suffering to the political union that he and Mr Massell share as American citizens, explaining

I am convinced that segregation is evil It is against all of the noble precepts of our Judeo-Christian heritage Therefore, I cannot cooperate with this evil system in any form. I am willing to give every ounce of energy to get rid of it, and, if necessary, I am willing to die, to give a redemptive witness to the ideal of the brotherhood of man And may I say, Mr Massell, that I take this position not merely on behalf of my people . . . I take this position because of my devotion to democracy, justice, and truth. The festering sore of segregation debilitates the white man as well as the Negro. . . While sitting down, paradoxically . . . , we are standing up for the best in the American dream. I also believe that we were helping Mr. Carswell when we sat in his restaurant. We were helping him face truth and to know himself. . . . Mr Carswell will never know himself until he knows that every Negro, however dark his skin may be, is his brother <sup>51</sup>

The Montgomery protests established the foundation for a decade of civil rights action, drawing many common assumptions about leadership and citizenship into question in the process Followers could be no less committed than leaders in the protests; concepts like self-purification and soul force reflect the deep level of involvement required of every individual. Groups like the Student Non-Violent Coordinating Committee (SNCC) consciously developed the concept of "group-centered leadership," in which every participant facilitated the development of others For this reason, models of participation that present less conscientious "band wagon" or "contagion"-like motivations are inadequate for understanding participation in the civil rights movement.

Such models also present a false picture of the protest's goals, limiting them to demands for the most material of public goods In this representation the effects of government response are viewed as the protesters' focus, but these effects themselves are unclear. We cannot know when the selective incentives of success will encourage participation or, alternatively, when government concessions will lead to free riding Movements apparently wane in either accommodating or unresponsive environments, but surely not for the same reason and not with the same result.

King and other civil rights participants used non-violent civil disobedience and other forms of direct action to address serious breeches of fundamental civil rights. Many of these demands were accommodated by legislative change. Success in such a project might well portend the end of a campaign,

the resumption of the protesters' normal lives, and use of newly won civil rights in other forms of civic engagement. If the democracy in question is at all functional we should expect that citizens take to the streets in only rare emergencies. King envisioned a community in which citizens continued to bring injustices to light and correct them. This pursuit placed greater demands on citizens than on their government, however. Direct action's ultimate success depended not only on government but also on the moral response of the protester and the segregationist. Without this moral response government cannot deliver the ultimate benefit of collective action -- justice.



## BIBLIOGRAPHY

- Aquinas, St Thomas *De Regimine Principum*, (*On the Governance of Rulers*), trans Gerald B. Phelan, Ph.D. (London Sheed & Ward), 1938, orig. pub. 1265-1267
- \_\_\_\_\_. *Summa Contra Gentiles*, and *Summa Theologiae*, in *Introduction to St. Thomas Aquinas*, ed Anton C. Pegis, (New York: Modern Library), 1948, orig. pub 1259-64 and 1266-73
- Augustine, St Bishop of Hippo. *The City of God*, trans. Marcus Dods, (Chicago: University of Chicago Press), 1952, orig. pub. 413-416.
- \_\_\_\_\_. *On Christian Doctrine*, trans. D.W Robertson, Jr (New York: Macmillan), 1988, orig. pub. 397
- Allen, Barbara. "The Spiral of Silence & Institutional Design: Tocqueville's Analysis of Public Opinion & Democracy," *Polity*, 24:2 (winter), 1991, 243-267.
- \_\_\_\_\_. "Tocqueville's Analysis of Belief in A transcendent Order, Enlightened interest, and Democracy," *Journal of Theoretical Politics*, forthcoming.
- St. Augustine, *Concerning the City of God Against the Pagans*, trans. Henry Bettenson, (Baltimore: Penguin), 1977, orig. pub. 411.
- Branch, Taylor. *Parting the Waters*, New York, Simon and Schuster, 1988.
- Garrow, David. *Bearing the Cross*, New York: Vintage, 1988
- King, Martin Luther, Jr. "Letter From Birmingham Jail," *Liberation* 8 4 (June) 1963, 10-16+
- Niebuhr, Reinhold. *The Children of Light and the Children of Darkness* (New York: Charles Scribner's Sons), 1944.
- \_\_\_\_\_. *The Irony of American History*. (New York: Charles Scribner's Sons), 1962.
- \_\_\_\_\_. *Man's Nature and His Communities*. (New York: Charles Scribner's Sons), 1965.
- \_\_\_\_\_. *Moral Man and Immoral Society*, (New York: Charles Scribner's Sons), 1932.
- \_\_\_\_\_. *The Nature and Destiny of Man*, (New York: Charles Scribner's Sons), 1943 V 1-2.
- Tillich, Paul *The Courage to Be* (New Haven: Yale University Press), 1952
- \_\_\_\_\_. *Love and Justice*, (Cleveland: World Publishing), 1957
- \_\_\_\_\_. *The New Being*, (New York: Charles Scribner's Sons), 1955.

---

<sup>1</sup> Dennis Chong, *Collective Action and the Civil Rights Movement*. Chicago: University of Chicago Press, 1991, pp 93, 101, 121

<sup>2</sup> Ibid 121

<sup>3</sup> Ibid 234

<sup>4</sup> Ibid 93

<sup>5</sup> Such was the case in Chicago, for example. There the Daly machine had awarded patronage to loyal members of the African-American community for decades, making collective action against authority highly unlikely

<sup>6</sup> Chong, op. cit. p. 228

<sup>7</sup> Ibid. 122

<sup>8</sup> Ibid. 125

<sup>9</sup> Chong, op. cit. p. 92, See Mancur Olson, *The Logic of Collective Action*. Cambridge: Harvard University Press, 1971, p. 64

<sup>10</sup> Chong, op. cit. 97; See also Jon Elster, "Rationality, Morality, and Collective Action," *Ethics*, 96: 136-155.

<sup>11</sup> Chong, op. cit. 234

<sup>12</sup> Ibid, 150-151

<sup>13</sup> Ibid

<sup>14</sup> I draw this history from David Garrow, *Bearing the Cross*, New York: Vintage, 1988 and by Taylor Branch in *Parting the Waters*, New York, Simon and Schuster, 1988.

<sup>15</sup> Eight months earlier police dragged a 15-year old high school student, Claudette Covin, from a bus for refusing to yield her seat to a white patron. Covin made a riskier litigant, however because she had

resisted arrest, resulting in additional charges of assault and battery. She also was pregnant and unmarried and evidence suggests that the two lawyers believed these facts, too, might be damaging to their case.

<sup>16</sup> Garrow, op cit 15

<sup>17</sup> Ibid

<sup>18</sup> Ibid 16.

<sup>19</sup> Ibid.

<sup>20</sup> Martin Luther King, Jr., "Address Presented at the Holt Street Baptist Church, Montgomery Alabama," December 5 1956, Atlanta King Library and Archives, Series III, Box 1, p. 1.

<sup>21</sup> Martin Luther King, Jr., "On the Method of Protest," Montgomery, March 21, 1956, Atlanta King Library and Archives, Sound recording #43, p 1.; After being found guilty and fined for disobeying the state anti-boycott law, King told those assembled at a mass meeting not to be bitter, but to continue using non-violence to promote constitutional change. "Let us not lose faith in democracy," he cautioned, "for with all of its weaknesses . . . there is a basis of hope in our democratic creed." M L King, Jr. "Exerts from Address given by Dr. Martin L. King, Jr. to a Mass Meeting of the Montgomery Improvement Association," Holt Street Baptist Church, Montgomery, Alabama, March 22, 1956, Atlanta King Library and Archives, Series III, Box 1, p. 1

<sup>22</sup> Martin Luther King, Jr. "Statement by the President of the Montgomery Improvement Association." Montgomery, December 20, 1956, Atlanta King Library and Archives, Series III, Box 1, p. 1

<sup>23</sup> Martin Luther King, Jr., "Statement by the President of the Montgomery Improvement Association," Montgomery, December 20, 1956, Atlanta King Library and Archives, Series III, Box 1, p. 1.

<sup>24</sup> Martin Luther King, Jr., "Statement by the President of the Montgomery Improvement Association." Montgomery, December 20, 1956, Atlanta King Library and Archives, Series III, Box 1, p. 1

<sup>25</sup> Keith D. Miller ("Martin Luther King, Jr. and the Black Folk Pulpit," *Journal of American History* 78: 1, 1991, 120-123), James Cone, and Bernice Johnson Reagon ("Nobody Knows the Trouble I See", or "By and By I'm Gonna Lay Down My Heavy Load," *Journal of American History* 78: 1, 1991, 111-119) have each argued that the African-American church was the most important influence shaping King's thought. Although I agree with their persuasive evidence, it has been my purpose to show the importance of King's unique synthesis of a various schools of theology with liberal philosophical concerns with justice.

<sup>26</sup> Martin Luther King, Jr. "Address Presented at the Holt Street Baptist Church, Montgomery Alabama," December 5 1956, Atlanta King Library and Archives, Series III, Box 1, p. 2.

<sup>27</sup> King began his response to the eight clergy "in the margins of the newspaper in which [the clergy's] statement appeared . . . [and] continued on scraps of writing paper supplied by a friendly Negro trusty, . . . and concluded on a pad [his] attorneys were eventually permitted to leave [him]. (Martin Luther King, Jr. *Why We Can't Wait* (New York: New American Library, 1964, p. 76) "The letter was mimeographed and distributed by Wyatt T. Walker, and later 50,000 copies were distributed by the American Friends Service Committee for \$.10 each. (FBI 100-111180-9-176. Martin Luther King telephone call to Stanley Levinson, 5/23/63.) Several versions of the letter were published shortly after King's release from jail, including unauthorized reprints in *The New York Post* (*New York Post* (5/19/63) pp. 4,5.) and *New Leader* (*New Leader* (6/24/63) pp. 3-11.), a version submitted by King and edited by *The Christian Century* (Martin Luther King, Jr., "Letter From Birmingham Jail," *Christian Century*, 80:24 (June 12) 1963, 767-773.), the version edited as Chapter 5 in *Why We Can't Wait* (Martin Luther King, Jr. *Why We Can't Wait*, New York: New American Library, 1964.), and the version printed in the journal *Liberation* as part of editor and civil rights activist Bayard Rustin's work, "The Meaning of Birmingham" (Martin Luther King, Jr. "Letter From Birmingham Jail," *Liberation* 8:4 (June) 1963, 10-16+ (23). In tandem with Bayard Rustin, "The Meaning of Birmingham," *Liberation* 8:4 (June) 1963, 7-9+ (31)). The "Letter" has been anthologized in nearly a dozen college texts and the version appearing in *Liberation* is part of James M. Washington's *A Testament of Hope* (College anthologies include: Charles Muscatine and Marlene Griffith, eds., *The Borzoi College Reader*, 3rd ed. (New York: Knopf, 1976); Arthur M. Eastman et al., eds., *The Norton Reader*, 4th ed. (New York: Norton, 1977), Caroline Shrodes, et al., eds., *The Conscious*

*Reader*, 2nd ed. (New York: Macmillan, 1978), Richard E. Young, et al., eds., *Rhetoric: Discovery and Change* (New York: Harcourt, Brace & World, 1970), Halsey P. Taylor and Victor N. Okada, eds., *The Craft of the Essay* (New York: Harcourt Brace Jovanovich, 1977); and Forrest D. Burt and E. Cleve Want, eds., *Invention & Design: A Rhetorical Reader* (New York: Random House, 1978). Martin Luther King, Jr., *A Testament of Hope: The essential writings of Martin Luther King, Jr.* James M. Washington, ed., (New York: Harper & Row 1986) 289-302.) The *New Leader* version is essentially similar to the one used by Rustin in *Liberation* and later collected into King's writings by Washington. David Garrow suggests that the *New Leader* version is the most reliable and, although he does not explain by what criteria he makes this evaluation, there is substantial support for this conclusion. David J. Garrow, *Bearing the Cross*, New York: Vintage, 1988, p. 671 note 18 to Chapter five. Richard P. Fulkerson ("The Public Letter as a Rhetorical Form: Structure, Logic, and Style in King's 'Letter From Birmingham Jail,'" *Quarterly Journal of Speech*, 65.2 (April) 1979, 121 note 4.) suggests that the alterations made are minor changes in diction and syntax from the early versions to the fifth chapter of *Why We Can't Wait* (The versions, which do seem largely edited for style have, however, lost some of the clarity of the argument pertaining to the key section on tyrannous law.) Although the *New York Post* version was apparently the first version to be published, substantial portions that appear in the *Liberation* and *New Leader* versions are omitted. In particular the section concerning just and unjust laws omits King's reference to Aquinas in connecting eternal and natural law to human law. Other important sections concerning the psychological effect of segregation on the oppressed and the segregationist, King's confessed disappointment in the white church's paternalistic attitude towards change in segregation, and King's analysis of time and destiny (See, Martin Luther King, "A Letter from Birmingham Jail," *New York Post* May 19, 1963, pp. 4-5). Particularly in the sections defining just and unjust laws, *Liberation*, and *New Leader* versions differ substantially from the *Christian Century* and *Why We Can't Wait* versions. The *New Leader* version carries several important explanations of obeying just laws and disobeying unjust laws not contained in *Liberation*. In the *Christian Century* and *Why We Can't Wait* versions the references to majority tyranny are obscured while they are quite clearly explained in the former versions. For example, *Christian Century* gives King's explanation as follows.

Let us consider some of the ways in which a law can be unjust. A law is unjust, for example, if the majority group compels a minority group to obey the statute but does not make it binding on itself. By the same token a law in all probability is just if the majority is itself willing to obey it. Also, a law is unjust if it is inflicted on a minority that, as a result of being denied the right to vote, had no part in enacting or devising the law. Martin Luther King, "Letter from Birmingham Jail," *Christian Century*, 769. *Why We Can't Wait* quotes the passage as follows:

Let us consider a more concrete example of just and unjust laws. An unjust law is a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself. This is *difference* made legal. By the same token, a just law is a code that a majority compels a minority to follow and that it is willing to follow itself. This is *sameness* made legal.

Let me give another explanation. A law is unjust if it is inflicted on a minority that, as a result of being denied the right to vote, had no part in enacting or devising the law. Martin Luther King, Jr., *Why We Can't Wait*, 83.

The version in *Liberation*, Washington, and *New Leader* are substantially similar to this version in King's book.

Let us turn to a more concrete example of just and unjust laws. An unjust law is a code that a majority inflicts on a minority that is not binding on itself. This is *difference* made legal. On the other hand a just law is a code that a majority compels a minority to follow that it is willing to follow itself. This is *sameness* made legal.

Let me give another explanation. An unjust law is a code inflicted upon a minority which that minority had no part in enacting or creating because they did not have the unhampered right to vote. Martin Luther King, Jr., "Letter from Birmingham City Jail," *Testament of Hope*, 294, *Liberation*, 12. *New*

*Leader 6* King is defining tyrannous, though non-arbitrary action -- legal majority tyranny in this instance

In *the Liberation* version, King is explaining that one part of "justice" is equality under the law. Both a majority and a minority are bound by the same law. Considering that a just law, in King's view, must meet a higher test of squaring with a universal moral code, it is doubtful that he meant that a law would "in all probability [be] just" simply because the majority was itself willing to obey it as the *Christian Century* version states it. On the contrary, equality under the law is one condition of justice, but not a sufficient condition. For example, such a law as establishes the religion of the majority as a state religion might bind majority and minority peoples equally, yet be unjust for those of the minority viewpoint. The context of King's writing in *Liberation* makes clear that he understands this, while such nuance is obscured in the version appearing in *Christian Century*. The *New Leader* version adds a discussion of the moral obligation to disobey unjust laws that does not appear in *Liberation*. There is also a typographical error at the beginning of the first quotation in which the *New Leader* repeats the phrase "Let me give another explanation," instead of "Let us turn to a more concrete example. . ." For these reasons this essay will refer to the *Liberation* article, with the addition of the discussion of moral obligations to disobey unjust laws considered from the *New Leader* version

<sup>28</sup> On Good Friday, April 12, 1963, Martin Luther King, Jr. was arrested and placed in solitary confinement, charged with defying an Alabama Court injunction prohibiting protests and marches for racial equality in Birmingham. During his confinement, King wrote the "Letter from the Birmingham City Jail," responding not only to this arrest, but to an open letter written earlier in the day by eight fellow clergy.

<sup>29</sup> King, "Letter," 10

<sup>30</sup> King op cit. 12

<sup>31</sup> King developed his belief in the sacredness of human beings as children of God in a 1962 speech before a church conference in Nashville King, 1962, 2

<sup>32</sup> King, "Letter," 10

<sup>33</sup> Hanes Walton, Jr. (*The Political Philosophy of Martin L. King, Jr.*, Westport, Conn: Greenwood Publishing Co 1971, p 7) argues that King's method attempts to create for Blacks in America what is impossible but necessary for any racial minority that hopes to participate politically, the opportunity to move from minority to majority status. But King does not seem to have this sort of model of dominance in mind. He argues that King was trying to find a way to have what American political democracy requires -- a way for a minority to become a majority. King in contrast writes, "[T]he present tension in the South is merely a necessary phase of the transition from an obnoxious negative peace, where the Negro passively accepted his unjust plight, to a substance-filled positive peace, where all men will respect the dignity and worth of human personality. Actually, we who engage in non-violent direct action are not the creators of tension. We merely bring to the surface the hidden tension that is already alive." Letter 13

<sup>34</sup> King, "Letter" 10

<sup>35</sup> "Letter" p 11

<sup>36</sup> "Love, Law, and Civil Disobedience," *The New South*, Atlanta: King Library and Archives, Dec 12, 1961, p. 5.

<sup>37</sup> *Ibid* 6. In many sermons and speeches King explored the meaning of the Christian idea, love your enemies. The love that a protester returned to the segregationist was nothing sentimental, King said, "Love is understanding, redemptive, creative good will."

<sup>38</sup> King, "Letter to Mr. Ben Massell," June 9, 1962, Atlanta: King Library and Archives, 15:23, p 2-3.

<sup>39</sup> *Ibid*: See also Martin Luther King, Jr. "Creative Protests" 2/6/60 and "Social Organization of Non-Violence"

<sup>40</sup> King worked out these ideas in detail in sermons that were published in a series "How My Mind has changed" for *Christian Century*. The published texts and a text in King's hand show his concern that suffering not become narcissistic martyrdom. King explains, "It is possible for one to be self-centered in

his self-denial and self-righteous in his self-sacrifices " Martin Luther King, Jr "Suffering and Faith," *Christian Century*. holograph copy Atlanta: King Library and Archives, 4/27/60, p 1

<sup>41</sup> Ibid

<sup>42</sup> King " The Current Crisis in Race Relations," King papers 1958, 4, explains, "The aftermath of nonviolence is the creation of the beloved community, while the aftermath of violence is tragic bitterness."

<sup>43</sup> King, "The Case Against Tokenism," King Papers 1962, 5

<sup>44</sup> King, "Letter" 11

<sup>45</sup> Ibid 12-13

<sup>46</sup> King, ("Letter" 12) explains, "An unjust law is a code that a majority inflicts on a minority that is not binding on itself. This is difference made legal. On the other hand a just law is a code that a majority compels a minority to follow that it is willing to follow itself This is sameness made legal."

<sup>47</sup> Ibid. King says. "An unjust law is a code inflicted upon a minority which that minority had no part in enacting or creating because they did not have the unhampered right to vote."

<sup>48</sup> King, "Letter" 12

<sup>49</sup> Three aspects of Aquinas's theology are relevant for King's defense of non violence: the purpose of life and the manner in which political authority facilitates that purpose, Aquinas's perception of the relationship of God and humanity, and Aquinas's understanding of law Divine law is the foundation of this hierarchy, and exists because humankind cannot produce justice in history through human action without God's grace This cosmology underlies Aquinas's hierarchical model of law Aquinas's presentation of justice and love relies on a typology of eternal, divine, natural, and positive (human) law Aquinas considers a number of authority arrangements for delivering human justice and decides that the unitary authority of a king is best. It is in the context of concern for the chance that such a sovereign would institute a tyrannous reign that Aquinas considers the problem of tyrannous human law. Aquinas cites Augustine, and although King cites Aquinas correctly that a tyrannous law is no law at all , it is not clear that King and Aquinas mean the same action to follow on the part of individual citizens from that conclusion King has taken Aquinas out of the context of unitary rule and placed him in the context of democratic relationships. It is important to understand Aquinas's original meaning of these ideas in the context of a single sovereign. For Aquinas, it is the whole community that is the object of concern Looked at from this perspective, the individual is only a fraction of the whole, and is, in this way, an imperfect representation of the whole. Law, therefore concerns itself with the happiness of the community and individual rights are not an important focus of this discussion, although individual salvation might be. Aquinas, St Thomas *De Regimine Principum, (On the Governance of Rulers)*, trans. Gerald B. Phelan, Ph.D. (London: Sheed & Ward) 1938, orig. pub 1265-1267, 45.

Aquinas is aware that since the sovereign's will is law, there is the possibility for tyrannous law. He argues that tyrannous law is also adverse to reason; though he acknowledges that human reason is tainted by self love, he does not have a solution to the tyrannous King. (Ibid. 48)

By arguing that human law has the quality of a law only in so far as it is in accordance with right reason, and is therefore evidently derived from eternal law, Aquinas can name an unjust law "an act of violence" (Ibid), but has little to offer a solution to the dilemma of self interested Kings with terrible powers (Ibid 23)

The content of human law must be distinguished from the process of this discipline of law, because all human laws are not perfectly derived from Natural law

Saint Augustine says 'A law that is unjust is considered to be no law at all.' Thus its quality as a law depends on the extent to which it is just. A thing is said to be just in human affairs when it is right because it follows the rule of reason. Now as we have said, the first rule of reason is the law of nature. Hence every human law that is adopted has the quality of law to the extent that it is derived from natural law. But if it disagrees in some respect from the natural law, it is no longer a law but a corruption of law. (Ibid 53)

Aquinas asks in what way a human law obliges conscience In this context he explains,

---

A law may be unjust in two ways. First if it is contrary to human good — either in its object, for example when a ruler imposes onerous laws on his subjects which are not for the benefit of the community but for his own cupidity — or in its author as when someone makes a law that exceeds the power given to him — or in its form, for example, when burdens are placed on the community in an unequal fashion even if they are aimed at the common good. (Ibid 55)

Even though Aquinas calls these not laws, but acts of violence, it does not necessarily follow that citizens have the right to disobey. Citizens are bound to law if disobeying will bring "scandal or disorder." (Ibid 55) Laws that do not bind conscience are those that are "contrary to divine goodness. For example laws enforcing idolatry . . . under no circumstance may such laws be obeyed, for it says in the *Acts [of the Apostles]* 'We must obey God rather than men.'" (Ibid 55) It is not clear that segregation laws fit this description for Aquinas, particularly since he argues that suffering such as tyrannous rule can be God's punishment of humanity's sinful separation. It is for this reason that King must argue to heal hearts, not just change laws. Aquinas's view has a bearing on his conclusions that place the sovereign above the law and limit the actions that citizens might take to disobey unjust laws. (Ibid 55)

Aquinas's examples, involve limited individual discretion and good judgment, not acts of civil disobedience, however. He does not ascribe to citizens the capacity or right to make these latter judgments. In fact this sort of participation would be destructive to the type of system Aquinas describes (Ibid 56)

Laws can be changed if they no longer fit with what reason teaches, or if they are no longer useful. But one must be careful in changing laws, because change itself can be adverse to the public welfare, if they imply ideas that are not consonant with the customs that are associated with law. Injustice and tyranny can be addressed, but only through the institutional arrangements set up to do so; otherwise anarchy and the end of peace would result. For Aquinas, there were no institutional arrangements that permitted individual citizens to participate in this way. Such arrangements were available for King, and the use of these institutions furthermore necessitated a new way of thinking about eternal law and the individual's response to tyrannous human law. (Ibid 24-25)

<sup>50</sup> In addition to King's collaborations with well-known intellectuals, labor organizers, and activists, ideas were conveyed directly to King or indirectly through letters to editors of local newspapers by people from around the world, including a missionary in Nagpur India, an undergraduate at the University of Minnesota, and a homemaker in Atlanta

<sup>51</sup> King, "Letter to Mr. Ben Massell," June 9, 1962, Atlanta: King Library and Archives, 15.23 p 2-3