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Martin Luther King, Jr. Lecture

FROM MARTIN LUTHER KING TO BILL COSBY: RACE AND CLASS
IN THE TWENTY-FIRST CENTURY

JAMES FORMAN, JR.*

THANK you for joining me on this important day. You cannot imagine what an honor it is for me to give this year's Martin Luther King, Jr. keynote lecture. I am, in every sense, a child of the civil rights movement. My mother, Constanca Romilly, dropped out of Sarah Lawrence College in 1962 to join the Northern Friends of SNCC. SNCC was the Student Non-Violent Coordinating Committee. It was made up of young people, and they thought of themselves as the shock troops of the civil rights movement.

After joining, my mom met the organization's leader, a man named James Forman. Eventually she moved to SNCC headquarters in Atlanta, and there, working close together in a tiny office on Raymond Street, my mom and dad fell in love. History will remember them for many great things, but for me, among the greatest was the decision to have two children.

Martin Luther King was born January 15, 1929. If he were alive today he would be 76 years old. As many of you know, my father, James Forman, died last week. He fought cancer valiantly for fourteen years. He was seventy-six when he died. My remarks today I offer in his honor.

I want to talk today about how we, as a society, characterize the problems of some of our most disadvantaged citizens, and the implications that those characterizations have for public policy. I am going to do this by drawing on a highly publicized series of comments by Bill Cosby concerning teens, poverty, crime and education. I suggest that Cosby's analysis is emblematic of the dominant perspective in policy discourse today, particularly in the area of education. This perspective roots both the causes and the solutions to the problems of poor communities as being internal to those communities. This perspective does not draw connections to the larger society or the state. I will argue that this approach is not wrong, but instead is incomplete. I will then conclude by turning to the

* Associate Professor of Law, Georgetown University Law Center. This talk was originally presented January 19, 2005 as the Martin Luther King, Jr. keynote lecture at Villanova Law School. I have modified it slightly for the purposes of publication. I received helpful comments from Arthur Evenchik, Vicki Jackson, John Mikhail, Jim Ryan, Mike Seidman and Gerry Spann. Nicole Devero and Mollie Farrell provided wonderful research assistance and Jennifer Locke and the staff of the Edward Bennett Williams Law Library were, as always, fantastic. Heather Fullerton provided tremendous help with the manuscript.

philosophy of Martin Luther King, whose teachings provide us a way to move toward a collective approach that gives each of us, and the state, a role and responsibility for addressing the needs of our most vulnerable citizens.

This past year was the fiftieth anniversary of *Brown v. Board of Education*¹ and its companion case from Washington, D.C., *Bolling v. Sharpe*.² During his lifetime, King himself often spoke about *Brown*'s importance, and on this fiftieth anniversary everyone—lawyers, activists, academics, students, writers and commentators of all kinds—offered analysis. It was hard to stand out on this crowded stage. But Bill Cosby did.

In May 2004, at Constitution Hall in Washington, D.C., Bill Cosby (comedian, actor, Philadelphia native and “America’s dad” to many) was being honored for his philanthropy. Upon receiving his award, Mr. Cosby stood up and told the black tie audience that, fifty years after *Brown*, “the lower economic and lower middle economic people are not holding their end in this deal.”³ The heart of Cosby’s argument was that the multiple problems affecting the black poor are not primarily the result of racial discrimination, structural inequities or state policy, but rather are due to individual and collective behavioral dysfunction in that segment of the black community. “*Brown v. Board of Education* is no longer the white person’s problem,” said Cosby.⁴ “It’s not what they’re doing to us. It’s what we’re not doing.”⁵ Pointing to high incarceration rates for blacks, Cosby argued that the heart of the solution was better parenting. “In the neighborhood that most of us grew up in, parenting is not going on,” he said. “I’m talking about these people who cry when their son is standing there in an orange suit. Where were you when he was two? Where were you when he was twelve? Where were you when he was eighteen, and how come you don’t know he had a pistol?”⁶

1. 347 U.S. 483 (1954).

2. 347 U.S. 497 (1954).

3. Bill Cosby, Address at the Fiftieth Anniversary Commemoration of the *Brown v. Topeka Board of Education* Supreme Court Decision (May 17, 2004) [hereinafter Transcript], available at http://www.eightcitiesmap.com/transcript_bc.htm. Cosby later said that he meant that “some” lower economic and lower middle economic blacks were not holding up their end. See Bill Cosby, *Tavis Smiley Show*, (National Public Radio Broadcast May 26, 2004); see also Transcript, *supra*.

4. Transcript, *supra* note 3.

5. *Id.*

6. *Id.* As Michael Eric Dyson first pointed out, there was some irony to Cosby’s dismissal of parents who cried for their sons when they are “standing there in an orange suit,” given that Cosby had attended Martha Stewart’s trial to support her. Michael Eric Dyson, Analysis of Bill Cosby Controversy, *Tavis Smiley Show* (National Public Radio Broadcast May 27, 2004) [hereinafter Dyson, Cosby Controversy] (“I didn’t see . . . Dr. Cosby taking to task rich people who are doing most of the abuse of what I can see now as American economic resource, [such as] his dear friend Martha Stewart, for whom he went to court and stood by her side.”); see also Patricia Hurtado, *Martha Stewart Trial*, NEWSDAY (New York), Feb. 24, 2004, at A7 (“[C]omedian Bill Cosby paid an afternoon visit to the courtroom and sat directly

Cosby also claimed that bad parenting was responsible for high school drop out rates, the prevalence of improper grammar in the black community and other educational problems. “[T]hese people are not parenting,” he said, “[t]hey’re buying things for the kid. \$500 sneakers, for what? They won’t buy or spend \$250 on Hooked on Phonics.”⁷ (For those of you who aren’t familiar with it, Hooked on Phonics is a popular early learning reading program.) In the months following the *Brown* anniversary event, Mr. Cosby has largely stood by his comments. He has since reiterated his analysis at various public events, including at a standing room only education panel sponsored by the Congressional Black Caucus this past fall.⁸

The fact that Cosby’s critique is being taken so seriously means that *we* have to take it seriously. First of all, although this will not be my principal focus today, it is worth situating Cosby’s critique within the historical class divisions in the black community. We still do not talk very much about class today in America. For example, when I speak to the students in my education law class at Georgetown, even those who openly identify as being on the left side of the political spectrum are much more comfortable seeing hierarchies of race than of class.

Despite the fact that class divisions among blacks have existed since slavery (when, of course, there were small numbers of black slaveholders),⁹ it is especially tricky to discuss intra-racial class issues. But Cosby’s comments remind us of the unpleasant fact that contempt for the poor by

behind Stewart. During a break outside the jury’s presence, Cosby said he came ‘to support a friend.’”).

7. Transcript, *supra* note 3. Cosby reiterated this parenting theme the next month in an op-ed piece. See Bill Cosby, *Parents Hold Key to Building Equality*, DETROIT NEWS, June 13, 2004, at 15A (explaining his remarks at recent *Brown* gala). Cosby noted:

Parent power! Proper education has to begin at home. We must demand that our youth have an understanding of spoken and written English, math and sciences. We must transform our communities with a renewed commitment to our children, and that means: parents must show that they value education. . . . What we need now is parents sitting down with children, overseeing homework, sending children off to school in the morning well fed, clothed, rested and ready to learn.

Id.

8. See, e.g., *ABC World News Tonight: A Closer Look: Race in America* (ABC television broadcast, July 2, 2004); *Bill Cosby and His Controversial Comments to the African-American Community, Talk of the Nation* (National Public Radio broadcast, July 7, 2004); Bill Cosby, Response to “Dirty Laundry” Criticism in *Time* Magazine in Statement Released by the Brokaw Company (June 7, 2004) (transcript available with author); see also Kevin Merida, *Cos and Effect*, WASH. POST, Feb. 20, 2005, at D1 (“Bill Cosby had come to give a stern lecture—free of charge—about the failures of black parents, and the failures of black Christians, about how systemic racism can’t explain everything that drags down some African Americans, about how too many black youths are ‘standing on the University of the Corner’ and how too many black adults are serving as poor role models.”).

9. For a beautiful fictional work on this topic, see EDWARD P. JONES, *THE KNOWN WORLD* (2003).

wealthier blacks has a long history.¹⁰ Consider Cosby's remarks on lower-class black kids. He called them "it" and said:

It's standing on the corner. It can't speak English . . . Everybody knows it is important to speak English except these knuckleheads. You can't land a plane with "why you ain't . . ." Where did these people get the idea that they're moving ahead on this. Well, they're not, they're just hanging out in the same place, five or six generations sitting in the projects when you're supposed to stay there long enough to get a job and move out.¹¹

What came to my mind when I heard Cosby's comments were earlier examples of the black elite expressing anger or dissatisfaction with lower class members of the race. As historian Kevin Gaines has written, the desire to "uplift the race" has always been a central tenet of black middle and upper class thinking.¹² The commitment to uplift has often been accompanied by hostility toward poorer blacks.¹³ In her sociological study of a

10. Various authors argued that Cosby's comments reflected both classism and elitism. Professor Dyson argued that Cosby's comments were "classist and elitist and rooted in generational warfare." Dyson, *Cosby Controversy*, *supra* note 6. Similarly, Village Voice columnist Ta-Nehisi Coates argued that although "Bill Cosby has been many beautiful things—brilliant humorist, anti-apartheid activist, champion of historically black colleges, to name a few," he has also "played one ugly role that his activist friends like to ignore—patron saint of black elitists." Ta-Nehisi Coates, *Ebonics! Weird Names! \$500 Shoes*, VILLAGE VOICE, May 26, 2004, available at <http://www.villagevoice.com/news/0421.coates,53761,1.html>; see also Ta-Nehisi Coates, *Mushmouth Reconsidered*, VILLAGE VOICE, July 13, 2004, available at <http://www.villagevoice.com/news/0428.coates,55026,1.html>.

11. Transcript, *supra* note 3, at 4. Cosby has long attacked what some call "black English" or Ebonics. See Bill Cosby, *Elements of Igno-Ebonics Style*, WALL ST. J., Jan. 10, 1997, at A10. It is worth pointing out that Cosby's claim that "black English" is grammatically deficient is no longer endorsed by a majority of linguists. See STEVEN PINKER, *THE LANGUAGE INSTINCT: HOW THE MIND CREATES LANGUAGE* 16–19 (2000); see also James Baldwin, *If Black English Isn't a Language, Then Tell Me, What Is?*, N.Y. TIMES, July 29, 1979, at E19 (discussing historical role of "black English"). Closely related to the false claim that "black English" is bad grammar is the true claim that in America today, everyone—including lower-class blacks—will improve their life chances by learning the prestige dialect of elite society. Cosby, like many who address this issue, frequently conflates the two arguments.

12. See generally KEVIN K. GAINES, *UPLIFTING THE RACE: BLACK LEADERSHIP, POLITICS, AND CULTURE IN THE TWENTIETH CENTURY* (1996).

13. See *id.* at 15. There is a substantial literature examining historical class divisions among blacks. See HORACE R. CAYTON & ST. CLAIR DRAKE, *BLACK METROPOLIS* 521–721 (1946); E. FRANKLIN FRAZIER, *BLACK BOURGEOISIE: THE RISE OF A NEW MIDDLE CLASS IN THE UNITED STATES* 228 (1957); see also Orde Coombs, *Soul in Suburbia*, in *VOICES IN BLACK & WHITE: WRITINGS ON RACE IN AMERICA FROM HARPER'S MAGAZINE* 149–60 (Katharine Whittmore & Gerald Marzorale eds., 1993); DOUGLAS HENRY DANIELS, *PIONEER URBANITES: A SOCIAL AND CULTURAL HISTORY OF BLACK SAN FRANCISCO* 171–73 (1991); EVELYN BROOKS HIGGINBOTHAM, *RIGHTEOUS DISCONTENT: THE WOMEN'S MOVEMENT IN THE BLACK BAPTIST CHURCH 1880–1920* 187–207 (1993); ROBIN D. G. KELLEY, *HAMMER AND HOE: ALABAMA COMMUNISTS DURING THE GREAT DEPRESSION* (1990); ROBIN D. G. KELLEY, *RACE REBELS: CULTURE, POLITICS, AND THE BLACK WORKING CLASS* (1994); GILBERT OSOFSKY, *HAR-*

southern city in the 1930s, Allison Davis found that upper and middle class colored persons felt that lower class individuals were “boisterous,” “murderous,” “stupid,” “sexually promiscuous,” “shiftless[],” “laz[y]” and “dirt[y].”¹⁴ Cayton and Drake found similar attitudes among middle class Negroes in Chicago. A half century before Cosby, these Chicago blacks thought that less privileged members of their race did not speak properly (their speech is “full of slang about gates, cats, and other jive talk”), were prone to lawlessness (“razors and knives as weapons are always associated in my mind with lower-class persons”), did not care for their children properly (their “children run wild, with little respect for parents”) and did not push themselves or their children to succeed (“most of them appear to be satisfied for themselves and their children to remain as they are”).¹⁵

Hostility toward the black poor in general has been accompanied by a particular concern for the behavior and attitudes of lower class youth.¹⁶ For example, compare Cosby’s comments to those of William Scarborough, the black classicist of Wilberforce University, who spoke to the American Negro Academy in 1903 about the problem of lower class blacks migrating to northern cities. According to Scarborough, “there are too many Negro youths to-day, who seem lacking in ambition, in aspiration, in either fixedness or firmness of purpose. We have too many dudes whose ideal does not rise above the possession of a new suit, a cane, a silk hat,

LEM: THE MAKING OF A GHETTO 40–44 (1971); HOWARD RABINOWITZ, RACE RELATIONS IN THE URBAN SOUTH 1865–1890 245–49 (1980). In addition to these academic studies, bell hooks has written movingly of how she felt as a working class black student arriving at Stanford University. According to hooks:

I was also encountering for the first time a black bourgeois elite that was as contemptuous of working people as their white counterparts were . . . This was the most difficult truth to face. Having been taught all my life to believe that black people were inextricably bound in solidarity by our struggles to end racism, I did not know how to respond to elitist black people who were full of contempt for anyone who did not share their class, their way of life.

BELL HOOKS, WHERE WE STAND: CLASS MATTERS 35 (2000).

14. ALLISON DAVIS ET AL., DEEP SOUTH: A SOCIAL ANTHROPOLOGICAL STUDY OF CASTE AND CLASS 230 (1941).

15. These examples are taken from a longer list of characteristics “of lower-class life as defined by the upper class.” See CAYTON & DRAKE, *supra* note 13, at 559–62 (discussing characteristics of “lower class”).

16. Evelyn Higginbotham, for example, discusses how Progressive-era reformers, including the black Baptist churchwomen, were concerned with “the growing self-indulgence and independence of youth.” HIGGINBOTHAM, *supra* note 13, at 198–99. In 1909, the Women’s Convention’s executive board report denounced the freedom of young girls:

They go in pairs or in shoals, string themselves in a line across the sidewalk, making it almost impossible for others to pass, and are exceedingly boisterous in their conduct . . . and their mission seems to be grin, chew gum and get company to patrol the streets until late in the night.

Id. at 199; see also CAYTON & DRAKE, *supra* note 13, at 684 (“Bronzeville’s devouter church people are almost unanimous in their belief that ‘our young people are on the road to Hell.’”).

patent leather shoes, a cigarette and a good time.”¹⁷ Writer Paul Laurence Dunbar was appalled by the young people he saw during a visit to turn-of-the-century New York’s impoverished Tenderloin district. “They are great, naughty, irresponsible children. Their highest ideal is a search for pleasure, and they think they have found it when they indulge in vice.”¹⁸

Though important, antipathy towards today’s ghetto residents does not alone explain either Cosby’s comments or their resonance on the fiftieth anniversary of *Brown*. Instead, I want to suggest that Cosby’s analysis has found such a welcome audience because it is consistent with today’s prevailing narrative concerning urban policy, and urban education policy in particular. At its essence, Cosby’s argument internalizes the causes and the solutions of poverty, crime and educational failure. The core problem for him is the individual—that is, the individual parents who do not teach and discipline their children and individual children who do not speak proper grammar or study hard in school. One step more general than the individual, but still internalized, is Cosby’s second explanation for failure: the ghetto community. That is, the neighbors and friends in impoverished areas who do not step up and demand that parents parent and that kids go to school.¹⁹

Specifically absent from Cosby’s list of explanations is anything to do with the social and economic structures in which the lives of ghetto residents are situated. Accordingly, he does not make any claims regarding allocation of society’s goods. He does not argue that ghetto residents deserve, as a matter of morality, greater resources. Nor does he make the alternative argument that it is in larger society’s self-interest to share more with poor communities.

In this regard, Cosby’s analysis dovetails with the prevailing wisdom regarding urban educational policy. Fifty years after *Brown*, few are satisfied with the quality of schools in many poor and working class neighborhoods. The crisis is so severe that concern with addressing it has crossed some rarely bridged political boundaries. For example, it was striking that

17. WILLIAM S. SCARBOROUGH, *THE EDUCATED NEGRO AND HIS MISSION: OCCASIONAL PAPERS* NO. 8 6–7 (1903).

18. Paul Laurence Dunbar, *The Negroes of the Tenderloin*, N.Y. SUN, Dec. 19, 1898. Dunbar had few kind words for the adults of the Tenderloin either. “One looks at the crowds of idle, shiftless negroes that throng these districts and the question must arise, What is to be done with them, what is to be done for them, if they are to be prevented from inoculating our civilization with the poison of their lives?” *Id.*

19. While Cosby’s analysis suggests that these are the two most important groups that have failed, he does at times suggest that there is a third group, the black elites, who in his view should devote more energy to saving the ghetto from itself. For example, Cosby argues that parents can “forget telling your child to go to the Peace Corps,” because the need for help is “right around the corner.” Transcript, *supra* note 3. In this respect, Cosby’s argument is a modern-day example of the “uplift” philosophy that historian Kevin Gaines suggests is central to black elite thinking. See generally GAINES, *supra* note 12, at 67–77.

President Bush, who does not generally promote an urban agenda and who rarely speaks of poverty, nonetheless campaigned on problems of failing schools and his reform plans for them.²⁰

But while school reform has been a central agenda item for public policy, it is essential to see the narrow way in which many (including, importantly, the party in power and our President) have articulated the problems and solutions. The current leading educational policy reforms are premised on the same assumption that underlies Cosby's analysis—they localize the cause of school failure within poor neighborhoods and their schools, and do not place demands on the larger society.²¹

In this analysis, the problem is internal to the schools and those who run them: the enemies are teachers, administrators and unions that do not care enough.²² The *Wall Street Journal* offers a version of this argument when it claims, "today urban public schools seem to be little more than excuse mills, teacher job machines that focus on self-esteem, gummy-brained diversity projects, and union overtime negotiations—in short, anything but performance."²³

This analysis allows for no external explanations. The problem is not, for example, that urban schools need substantially greater funding than they currently get.²⁴ It is not that, though children from poor neighborhoods often have wonderful gifts, many also need extra academic and other supports far beyond the small supplements that Title I currently pro-

20. See, e.g., George W. Bush, Remarks Accepting the Presidential Nomination at the Republican National Convention in New York City (Sept. 2, 2004), in WKLY. COMPILATION OF PRESIDENTIAL DOCUMENTS, Sept. 6, 2004, at 3 [hereinafter Bush, Remarks Accepting Nomination]; George W. Bush, Remarks in a Discussion on Education in King of Prussia, Pennsylvania (Sept. 24, 2004), in WKLY. COMPILATION OF PRESIDENTIAL DOCUMENTS, Sept. 27, 2004, at 4–7.

21. For a discussion of current leading educational policy reforms, see *infra* notes 28–29 and accompanying text.

22. See Thomas Sowell, *Ignoring the Experts Often Works*, TIMES UNION (Albany, N.Y.), May 27, 2000, at A7 (arguing that public schools are "succeeding in substituting self-serving agendas for the task of conveying the accumulated knowledge of the past to today's younger generation"). Sowell notes:

From the standpoint of the education establishment in general, and the teachers' unions in particular, our education system is not a failure, even though American children usually finish at or near the bottom in international tests. The public school system is a success for those who run it, in terms of protecting their jobs, their turf, their dogmas and—above all—their power to use vulnerable children as guinea pigs for the fads that come and go.

Id.

23. Editorial, *No Excuses*, WALL ST. J., June 1, 1999, at A22.

24. According to House Education and the Workforce Committee Chairman John Boehner (R-OH), "If we are serious about closing the achievement gap in America's schools, it requires changes in attitudes, not changes in spending levels." Press Release, Committee on Education and the Workforce, Report Shows U.S. Is Tops in Education Spending, But Lags in Education Results (Sept. 16, 2003), available at <http://edworkforce.house.gov/press/press108/09sep/oacdreport091603.htm>.

vides. To make this argument, we are told, is to indulge in the “soft bigotry of low expectations.”²⁵

Under this analysis, the problem is not racial and economic segregation of schools.²⁶ It is not that the larger society—including those with wealth and privilege—needs to ask what role *we* might play in improving schools by helping poorer children get access to the middle-class schools to which we often send our own children. This argument, we are told, ignores the reality that a few high-poverty, highly segregated schools succeed mightily.

And the problem is most certainly not that schools can only do so much on their own. It is not that there are inherent limitations on the ability of schools to close educational and earnings gaps in the absence of a concomitant societal commitment to remedying inequality in other areas, such as housing and health care.²⁷

Instead, having internalized the problem as one of obstinate or ineffective school officials, it becomes natural to adopt a narrow set of solutions—either increased accountability through testing and sanctions, as envisioned by the federal No Child Left Behind Act,²⁸ or school choice, including charter schools and vouchers.²⁹ I cannot do justice here to those reforms, aspects of which I am quite sympathetic to.³⁰ But for the purposes of today’s talk, my point is that those reforms do not demand that we address any of the larger problems I just identified. They do not

25. President Bush frequently uses this phrase to chastise those who, in his view, do not expect enough of kids, especially minority and low-income students. See Bush, Remarks Accepting Nomination, *supra* note 20, at 1799.

26. See, e.g., ABIGAIL THERNSTROM & STEPHAN THERNSTROM, NO EXCUSES: CLOSING THE RACIAL GAP IN LEARNING 187 (2003) (“The racial composition of schools does not explain the racial gap in academic achievement. What matters in a school is not the racial mix, but the academic culture, and a culture that nurtures learning can be created in schools . . . that are entirely African-American.”); Abigail Thernstrom, *A Taboo Erodes*, NAT’L REV., Dec. 20, 1999, at 22 (rejecting claim that “black underachievement” is caused by “black poverty, racial segregation and inadequate funding”).

27. Richard Rothstein is the leading proponent of the claim that other disparities—including income, wealth, employment and housing—all serve to reinforce educational disparities, and that, as a result, educational reforms will have minimal impact without major economic and social reforms. See RICHARD ROTHSTEIN, CLASS AND SCHOOLS: USING SOCIAL, ECONOMIC, AND EDUCATIONAL REFORM TO CLOSE THE BLACK-WHITE ACHIEVEMENT GAP 5–9 (2004). For a thoughtful collection of responses to Rothstein’s thesis, see POVERTY & RACE RESEARCH ACTION COUNCIL, Symposium, *Schools and the Achievement Gap* (Sept./Oct. 2004), available at <http://www.prrac.org/newsletters/sepoct2004.pdf>.

28. No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (2002) (codified as amended in scattered sections of Title 20 of the United States Code).

29. See 20 U.S.C. § 5201-07 (2005) (outlining federal scheme to increase funding for development of charter school programs throughout United States).

30. See, e.g., James Forman, Jr., *The Secret History of School Choice: How Progressives Got There First*, 93 GEO. L.J. (forthcoming May 2005) (arguing that liberals should develop progressive vision of choice).

demand additional funding; they do not demand race or class integration; and they do not demand that we improve not only schools, but also the communities around them.

Now, I want to be clear about one thing regarding my critique of what I have been calling the internalized explanation for failure epitomized by Cosby and President Bush. I do not claim that this analysis is wrong; rather, it is incomplete. What do I mean when I say it is not wrong? I have spent ten years working closely with children from underserved neighborhoods and their families in Washington, D.C. You cannot spend ten minutes in these communities without learning that when parents lack the political power to demand reform and the economic power to exit for the private system, when they lack both voice and choice, the result is too many schools that are not accountable to anybody outside of the bureaucracy.

In my years as a public defender, I went into alternative schools for kids in the District of Columbia in which teachers played movies for kids rather than teaching because it was easier, kids feared walking down the halls for fear of being jumped and “barbering” was actually offered as a high school major—as if teaching kids to cut hair was a reasonable alternative to a meaningful academic or vocational curriculum. These were places that had low or no expectations for the children, and of course, as a result, the children had low or no expectations for themselves. These were places that former Education Secretary Riley said “should never be called schools at all.”³¹ And there are far too many of them, still.

I believe that we should have no more patience for this abuse of poor children than we would have had for the segregated systems that *Brown* condemned fifty years ago. Similarly, we should have no patience for anyone who defends it by claiming that the system does not have enough money to do any better. There are still too many who do just that. There are still too many defenders of a dysfunctional educational *status quo*. There are still too many people who may pay lip service to the need for reform, but who, when push comes to shove, inevitably externalize the causes and solutions, and end up saying to any change, “wait,” “not yet” or “we need more money first.”³² The result is that we continue to find our-

31. See Diane Ravitch, *Somebody's Children: Educational Opportunity for All American Children*, in *SOCIAL POLICIES FOR CHILDREN* 84 (Irwin Garfinkel et al. eds., 1996) (recounting Secretary Riley's speech entitled “State of American Education,” that author attended at Georgetown University on February 15, 1994).

32. In 1997, Bob Chase, then President of the National Education Association, gave a speech in which he expressed regret at past union opposition to educational reform initiatives. See Jeanne Ponessa, *NEA Head Sets New Course*, *TCHR. MAG.*, Mar. 1, 1997, available at <http://www.edweek.org/tm/articles/1997/03/01/06nea.ho8.html?querystring=NEA> (noting that Chase argued to members of National Education Association that “NEA had at times been ‘too quick to dismiss’ criticisms of those who care deeply about education and had used its power to protect members’ interests rather than those of students and schools”).

Individual accounts of such behavior are legion. In his detailed look at new charter schools in the San Francisco Bay Area, Jonathan Schorr discusses one Cali-

selves in an unhelpful, antagonistic and irresolvable set of arguments in which one side internalizes the problems and solutions in a Cosby/Bush fashion, while the other side externalizes the problems and solutions and refuses to accept responsibility for their roles.

How do we get out of this morass? Here is where, I suggest, we need the help of that great philosopher, activist and preacher born seventy-six years ago. Here is where we need King. King could live with a nuance and complexity that is too often missing in today's Crossfire culture, where intelligent discourse consists of staking out an extreme position and hurling invective at your opponent. King's analysis internalized *and* externalized the causes and solutions of poverty and racial injustice. He made demands of government *and* of the larger society *and* of various segments of black America *and* of each individual, of every race.³³

fornia school principal who opposed a "school within a school" proposal because it would diminish some of his control. See JONATHAN SCHORR, *HARD LESSONS: THE PROMISE OF AN INNER CITY CHARTER SCHOOL* 24 (2002). The same principal expressed his doubts in the reform's ability to change anything, arguing that the students would still be the same kids from the same neighborhoods. He said, "We all want something better . . . This is not an ideal situation. But it's reality. I mean, it's urban education." *Id.* at 25.

Schorr also describes union opposition to charter schools in Oakland. The proposed Oakland schools were supported by John Walton, one of the heirs to the Wal-Mart fortune. After a charter proposal was put forward, the local union requested that the California Teachers Association ("CTA") "provide money, resources, and a full-time staffer to combat charter schools in Oakland. In addition, the CTA should pay teachers to take time away from their classrooms to oppose charters." *Id.* at 61. The motion passed unanimously. *Id.* The state union heeded the request of the local, sending \$50,000 and a staffer to Oakland to help fight the charter proposals. *Id.* at 62. The local union campaigned against charters. Its leader claimed that the charter school proposal was part of Wal-Mart's business plan to make students buy supplies there and that the proposed charter school operator was linked to slave labor through the exploitative business practices of its "parent company" Wal-Mart. See *id.* at 63. Schorr argues that such "statements signaled that the union would stop at nothing in its struggle to defeat the charter schools." *Id.* at 63-64.

Sometimes local leaders outside of the school system take stances that appear to put other considerations above concern for children's educational futures. For example, in her study of school reform in Baltimore, Marion Orr describes school officials' plan to privatize nine of the city's public schools by contracting out their operation to a private firm. See Marion Orr, *The Challenge of School Reform in Baltimore: Race, Jobs and Politics*, in *CHANGING URBAN EDUCATION* 93-117 (Clarence N. Stone ed., 1998). The initiative was opposed by Baltimoreans United in Leadership Development ("BUILD")—an organization made up of black churches and labor unions that among other things, worked to improve public education. See *id.* at 107. In an attempt to learn more about the opposition to privatization, Marion Orr conducted interviews with some BUILD-affiliated, African-American ministers. See *id.* Orr learned that a major concern was that educators would lose their jobs. *Id.* When asked whether BUILD would change its position if there were a reputable, independent evaluation finding that the private firm significantly improved student performance, one minister answered "[w]e'd still be leery of the privatization of a traditional government function." *Id.* at 108.

33. My colleague Gerry Spann has pointed out to me that part of King's strategy may have been to tailor his message to his audience. Spann's argument is that

Regarding the United States, King told America that its Declaration of Independence was “a promissory note to which every American was to fall heir.”³⁴ But, he said, “America has defaulted on this promissory note in so far as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked ‘insufficient funds.’”³⁵ King’s demand to America was “[b]e true to what you said on paper.”³⁶ Not only did the government have the responsibility to end racial discrimination, but it could and must address economic injustice. King told America that the “federal government has enough money to get rid of slums and poverty and get rid of these conditions that make for riots.”³⁷

But King was not content to solely externalize the problem to the government. His vision implicated others. King said, “We know that there are many things wrong in the white world. But there are many things wrong in the black world, too. We can’t keep on blaming the white man. There are many things we must do for ourselves.”³⁸ King told his parishioners:

I know none of you make enough money—but save some of it.
 And there are some things we’ve got to face. I know the situation

when speaking to white audiences, those who hold King’s vision would need to emphasize the amount of undeniable racial discrimination that continues to exist in our white culture. In talking to whites, they must stress the need to take meaningful, systemic actions to help remedy that discrimination. When speaking to black audiences, by contrast, there is no need to stress the systemic discrimination that continues to exist in U.S. culture. We can take that as a given and emphasize that blacks and other racial minorities have to find a way to make the best of what appears to be a perpetually discriminatory situation. Rather than view it as an excuse for not trying harder, minorities must understand that continued discrimination means that we have to be better, smarter and more energetic than whites to progress. Of course, in King’s age, as in ours, one cannot realistically send a message to one audience that the other will not also hear about. Therefore, argues Spann, the next best thing is to tell each audience that different messages are appropriate for different audiences, so that each audience realizes that it has its own job to do. Cf. Meir Dan-Cohen, *Decision Rules and Conduct Rules: On Acoustic Separation in Criminal Law*, 97 HARV. L. REV. 625, 625–30 (1984) (distinguishing between decision and conduct rules and suggesting that legal system informs citizens of conduct rules and informs judges of decision rules).

34. Martin Luther King, Jr., *I Have a Dream*, Address Before the March on Washington, D.C., for Civil Rights (Aug. 28, 1963), in *I HAVE A DREAM: WRITINGS AND SPEECHES THAT CHANGED THE WORLD* 102 (James Melvin Washington ed., 1992) [hereinafter *WRITINGS AND SPEECHES*].

35. *Id.*

36. Martin Luther King, Jr., *I See the Promised Land*, Address Before Congregation in Memphis, Tennessee (Apr. 3, 1968), in *WRITINGS AND SPEECHES*, *supra* note 34, at 197. See generally ERIC MICHAEL DYSON, *I MAY NOT GET THERE WITH YOU: THE TRUE MARTIN LUTHER KING, JR.* 246–48 (2000) (portraying King’s patriotism as force behind his continuous and unabated plight for America to be “truly just”).

37. Audio tape: Martin Luther King, Jr., *A Knock at Midnight*, Address Before the Congregation at Mt. Zion Baptist Church in Cincinnati, Ohio (1967) [hereinafter *King Audio Tape*] (on file with author).

38. *Id.*

is responsible for a lot of it, but do you know that Negroes are 10 percent of the population of St. Louis and are responsible for 58 percent of its crimes? We've got to face that.³⁹

In *A Knock at Midnight*, a sermon that King gave many times throughout the 1960s, he uses the parable from Luke, Chapter 11, of a weary traveler who knocks on a man's door at midnight in search of three loaves of bread to tide him over till dawn.⁴⁰ "Millions of American Negroes," King said, "starving for the want of the bread of freedom, have knocked again and again on the door of so-called white churches, but they have usually been greeted by a cold indifference or a blatant hypocrisy."⁴¹

But it is not only the white church that has failed, says King. The Negro church too "has often left men and women disappointed at midnight."⁴² With an eye to the question of class within the black community, King says that some Negro churches, while "dignified," are so obsessed with counting how many "doctors," "lawyers," "school teachers" and "businessmen" they have, so obsessed with counting degrees that they become a church that "freezes up" and forgets its mission to answer the knock on the door.⁴³ So, while talking to the congregation at Mt. Zion Baptist Church in Cincinnati, Ohio in 1967, King said:

Mt. Zion, you have the bread of life. Keep the bread fresh. Don't let it get stale. Because somebody is coming by here, trying to find a little bread. . . . Some young person who has made a mistake in life, and is caught up in tragic guilt feelings will come by here. One day . . . some young person who tried to drown the guilt by finding an answer elsewhere, they tried to find it in the nightclub but didn't find it there, tried to find it in excessive drink, but didn't find it there, they tried to find it in sexual promiscuity, they didn't find it there, but one day they are coming by here wanting the bread of forgiveness, and you've got to keep it fresh. . . . Keep the bread fresh.⁴⁴

So I don't know, as I conclude here, if it is midnight. But I do know that today, almost 140 years since the Reconstruction Amendments were ratified, a half century since *Brown v. Board of Education*, and over forty years since King first gave his *Knock at Midnight* sermon, there are children

39. Martin Luther King, Jr., *quoted in* JAMES BALDWIN, *The Dangerous Road Before Martin Luther King*, in *THE PRICE OF THE TICKET* 251 (1985).

40. *See* Luke 11:5-13.

41. Martin Luther King, Jr., *A Knock at Midnight* (1963), in *A KNOCK AT MIDNIGHT: INSPIRATION FROM THE GREAT SERMONS OF REVEREND MARTIN LUTHER KING, JR.* (Clayborne Carson & Peter Holloran eds., 1998) available at http://www.stanford.edu/group/King/publications/sermons/630000.000_Knock_at_Midnight.htm.

42. *See* King Audio Tape, *supra* note 37.

43. *See id.*

44. *Id.*

still knocking at the door. We can say, like the householder in the parable, "Trouble me not: the door is now shut, and *my* children are with me in bed."⁴⁵ Or we can answer the door.

But in order to decide if we will answer the door, we must first face the question: who among us *must* answer the knock? Who among us is morally responsible for answering? Does responsibility lie only with somebody else? Is it only that of the parent, who needs to read to her child more? Is it only that of the child, who needs to get off the corner and get into class? Is it only that of the school teacher, who needs to raise his expectations and be accountable?

Or is it mine too? Is it yours? Is it the state's? Is it the church's? I want to suggest to you today, that we must all get up and answer the knock. Because we are all, as King said, "tied together in a single garment of destiny."⁴⁶ Because the child who knocks is our collective responsibility. More than that: the child who knocks is our child.

45. *Luke* 11:7 (emphasis added).

46. See King Audio Tape, *supra* note 37.

