

# The Spiritual Dimension of Social Justice

Peter Gabel

I want to talk today about the spiritual dimension of social justice. And in that spirit, let me begin with an eloquent formulation by Martin Luther King, Jr.: “Justice is love correcting that which revolts against love.”<sup>1</sup>

That’s one very beautiful way that Dr. King tried to capture the existential grace and recognition and affirmation that comes through the experience of justice and the work of justice in a culture. He also said famously that “the arc of the moral universe is long but it bends toward justice.”<sup>2</sup>

Both of these ways of talking about justice begin with the assumption that we are already connected, that we are anchored to each other in our common humanity, and that the work of law and justice is something like the work of a mountain climber, who throws his pick to the top of a mountain, pulls strongly on the rope of conviction that links us to a common vision—our common destination—and then finds his or her steps as a result of that anchorage in a future vision based on our already existing social bond.

The foundation of that social bond is what I call the desire for mutual recognition. In our world as it exists, we all spend much of our lives encapsulated in private separate spheres, living out our private destinies in a kind of mutually imposed spiritual prison. But in reality we are always animated by the desire for an authentic mutual connection with another human being, or with many other human beings. Through the experience of mutual recognition, one can sense the other as a Thou, as Martin Buber famously put it in his book *I and Thou*.<sup>3</sup> That is, we attempt to realize in human

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1. Martin Luther King Jr., Address to 1st Montgomery Improvement Association (MIA) Mass Meeting, at Holt Street Baptist Church, Dec. 1955, available at [http://mlk-kpp01.stanford.edu/index.php/kingpapers/article/address\\_to\\_first\\_montgomery\\_improvement\\_association\\_mia\\_mass\\_meeting\\_at\\_hol/](http://mlk-kpp01.stanford.edu/index.php/kingpapers/article/address_to_first_montgomery_improvement_association_mia_mass_meeting_at_hol/).
2. Martin Luther King Jr., Out of the Long Night, *The Gospel Messenger*, Feb. 8, 1958, available at <http://quoteinvestigator.com/2012/11/15/arc-of-universe/>.
3. Martin Buber, *I and Thou* (Martino Fine Books 1923) (2010).

interaction the full human presence we are through recognition of the other as he or she really is and through being recognized by the other in precisely this same grounding way. That desire for mutual recognition is a fundamental longing within all human beings that is central to how we act really at every moment. Any of us who have children know this with clarity, because as soon as children are born, the integrity and authenticity of their animated presence immediately pulls us into their gaze, and one principal joy of having children is rediscovering in ourselves the capacity for that spontaneous sense of being connected to another human being, not mediated by fear or distance.

The problem in our culture is that the desire for mutual recognition is, to a large degree, everywhere denied. It's denied when we pass each other with blank gazes on the street. It's denied when we stare at each other through restaurant glass windows, as if in a zoo, at the person on the other side. And it's denied in the distribution of and internalization of roles we play within the culture that withdraw us deeply within ourselves and disable us from making manifest the longing that we really are.

When I was in law school, in the late 1960s, I used to watch the evening news in Boston. Every night the newscaster would come on and would say things like, "The Red Sox win and a fire in Rochester; back in a moment!" with a glassy-eyed stare, with his gestures just a little bit too far behind. His finger was a little bit late following his hyped-up words, and watching him "perform himself" made me feel very uncomfortable, pushed back into the couch. I felt like I was confronting a persona that was a great mystery to me. I wanted to solve what was going on with this newscaster. What was the nature of his being, how was he manifesting himself? And what I came to see was that he was attempting to enact a role in which he sought to be anonymous by playing a part, and to remove his own authentic presence from the persona that he was playing, in order to "get over on" the activity he was engaged in—to make it as a newscaster. That was a denial of his desire for human recognition; it was a learned condition, a way of manifesting himself in the world that was not actually who he was as a vulnerable, spontaneous, human presence. At the same time, as he was alienating himself from himself—feeling the need to do so based on his history, or by the media he was in—at the same time, at a meta-level, he was transmitting to others, to the viewer, that "this is who I really am." It became impossible to say to him what I'm saying right now, because the newscaster was saying simultaneously—"I'm at a distance, I'm playing a role, and this is who I really am." So at the meta level, that doubling of his artificiality and his denial of that artificiality sealed him within himself and manifested that core aspect of playing roles that separates us from each other, and makes us unable to see and recognize each other.

Underlying this situation that I'll call mutual distance to the extent that we all, in part, are encapsulated by these roles is a fear of the other, a fear of being humiliated by the other, a fear that the other will not recognize us in our own authentic or true humanity. And this fear as a chronic existential condition endemic to all of us generates an anxious continual movement from part to

part, from role to role, throughout the course of our lives. And because this transmission of fear and denial of our deepest longing to see and be seen by the other moves in a circle—from each of us to the other—across and through the culture, I call the social-spiritual prison that we are in the circle of collective denial. We each internalize the way we experience the world, and unwittingly, we externalize that alienation or separation from the other in our selves so that we each become inadvertently one of the others to each other, participating in the co-creation of a human universe in which the deepest longings within all of us cannot be manifested. Or so we feel.

Having said all that, the newscaster, the real presence and person, is still there. The desire for mutual recognition pulses through him anyway. No one is ever completely robot-ified by these roles that we play. And there is a struggle within the society as a whole at every moment, a co-presence between fear and hope, fear and longing that is always trying to make itself manifest in every two-person interaction, and also in society, politics and the development of culture. So, that's the human situation as I see it—the human situation in society and in history. This struggle is not all that we are but it's a very important part of shaping the existence of the social universe.

As intractable as this repetitive struggle may seem, there are many occasions when people are able to break on through to the other side, when the power of hope and the realization of our loving and good natures really does overcome the fear, the risk of humiliation and non-recognition. One such occasion is in the generation and manifestation of social movements. Some of you are about my age and you likely experienced the upsurge of connectedness that was manifested in the social movements of the 1960s. For you, let me recall the power of the civil rights movement as a redemptive movement of being in which out of the black churches came an upsurge of solidarity, of connection and courage that manifested itself in a way that drew many of us into that historical moral and social upheaval. In the process of being drawn toward and then into that movement of being, many of us had the experience of becoming present for the first time, of feeling the vitality of idealism, of being motivated by a moral vision of human good that we could help to bring into being by becoming active participants in and manifestations of it—rather than being detached, passive observers withdrawn into ourselves, watching the world as something outside of us. For those of you who have not directly experienced that, I hope you can get a sense of it just from the resonance of my words, as a feeling you yourselves aspire to simply because you are human and because this longing, as I have said, exists within all of us.

Now let me shift to my reason for being here at Georgetown Law School, and the importance of law and legal culture to the forward motion of the movement as a transformative energy. What has happened, and what happens, when a social movement animated by the spiritual force of the longing for mutual recognition and authentic connection enters into the legal arena?

Every movement must enter the legal arena because the very basis of the movement is to make a claim on the community as a whole for justice. And the

social context in which that moral claim must express itself is in law, in trying to assert the movement's justice claim in the legal arena. At that moment, the movement for social change faces a significant challenge because the legal arena that we have inherited, and that we live enveloped by, is a legal arena which is de-spiritualized. By this I mean that the framework of American law is based upon the assumptions of what we often call liberal political theory, or the liberal paradigm, a world-view based upon a secular/empirical view of the known universe and an individualistic view of the social compact. But seen from the perspective of the socially connected framework that I have articulated, this liberal model or set of assumptions about the world is actually a social description of the world in which people are disconnected from one another—not inherently in relationship to one another as an existential, ontological reality, as I am claiming we truly live it. The communal longing that I have been emphasizing as inherent in our very being and the desire for mutual recognition expressive of it is not manifested in our inherited legal paradigm. Like other forms of the denial of the desire for mutual recognition, our inherited legal culture denies this desire by assuming we are ontologically separated individuals whose bond is purely after the fact and voluntary, rather than constitutive of who we are in our very essence before we even become individuals. Important though the liberal paradigm has been to the accomplishments of the 16th, 17th and 18th centuries in establishing the integrity of the individual's freedom of speech, freedom of religion and the protection of the person against the group through the medium of individual rights, it has now become an expression of the very problem we must overcome if we are to realize our true social nature as inherently loving and generous social beings.

So to reiterate: When I say that our law as it is represents us as disconnected, what I mean is that the picture of the social world transmitted through law's discourse and processes is one of floating separate spheres who may come into connection through voting separately to create the government, or through the formation of contracts and a whole variety of other voluntary activities, but who are not inherently already connected in the sense of being constituted by the social bond that I'm trying to describe. The liberal legal world is a representation of the social world that corresponds to and expresses our fear of each other, and masks, obscures, denies our inherent bond and our longing for mutual recognition. Our law institutionalizes, ontologizes, takes-for-granted-as-inevitable the existential separation that we live out painfully in our everyday private existences.

Now we do feel separate. There's a lot of truth to the fact that we do exist as separate beings, and we do have an authentic individuality that liberal political theory correctly recognized and established within historical social thought, freeing the individual from the coercive, authoritarian imagery of prior forms of group life. But when that individuality is severed from the social bond of recognition, the bond of love by which we actually become whole persons, the liberal model conveys to us a sort of entropy of eternal separation: we appear

to each other like an unraveling sleeve, like a collection of people constantly moving away from each other, guarding ourselves against each other rather than moving into authentic, empowering connection with each other.

So the movement when it enters into this “legal world,” which is to say when it enters into an imago or collective image of the world that shapes our thinking and our reasoning within law, when the movement must express itself within this framework and discourse, the dimension of our connectedness is hidden, suppressed from the outset in the very world-view embedded in the images and thinking that we have inherited from the project of earlier centuries. Consider, for example, the law of contracts with its emphasis on each transaction as a bargain entered into by two individuals at arm’s length, pursuing their respective self-interests. In reality, we as a community constantly cooperate to co-create the entire socio-economic world through these contracts. In reality, the social economy is a vast cooperative encounter. But mediated through law, this cooperative reality is understood as if it were the result of socially separated self-interested activities—bargainers in the marketplace seen seeking only to realize the benefit of their bargains—rather than to form a cooperative relationship with another in order to bring about a social good.

Tort law, to give another example of precisely the same socially separated image that is used to interpret our civil obligations to one another, is mainly about not intruding upon or causing harm to each other’s separate existences, about protecting ourselves from each other. In the operating room, we have a right not to be harmed by improper medical practice; on the highways, we have a right not to have our cars smashed into recklessly; when we sit down at the dinner table, we have the right not to have the chair pulled out from under us. But this vision of tort law does not describe any positive duty of care, does not call upon any inherent duty to rescue others in distress. There’s no civil notion embedded in tort law that affirms our inherent bond with each other, and instead the framework is the socially separated one.

The law of property is about the exclusion of people from parcels of land that are demarcated by imaginary lines we institutionalize in the concept of “title,” but not about sharing land, sharing the resources of the land together. To cite a well-known example from every first-year course in the subject, consider the law of adverse possession. I’ve always found it strange that if people inhabit your land for a required legislated period in an open, notorious and hostile way, they get a claim to it, but if they’re there out of your generosity—they do not. So no affirmation of a bond occurs because of the shared use of the property, but rather the possessor’s rights accrue only out of the antagonistic use of the property.

Or finally, consider the way the very same image of collective separation is manifested in the law of corporations: In American law, corporations are the creations of socially separated and discrete investors who don’t know each other and who don’t necessarily share a vision for the corporation, seeking instead as isolated individuals to maximize their short-term profits. The idea that the corporation would be commonly understood to accomplish a shared

social purpose so that the legal form would be enlivened with the expression of our social bond is utterly foreign to the present-day liberal conception, and because of this, the potential social meaning of such a coming-together-for-social good is a priori excluded or hidden from view.

When I say that this core image of the socially separated individual, and of society as a mere collection of such individuals, forms a kind of collective “imago,” what I mean is that legal discourse as a whole transmits what is literally a co-existing imaginary world, internalized by the culture as a whole, “alongside” the existential reality of the nexus of human relationships that constitutes the actual world. And as I have said, a central part of the significance of this interpretive, imaginary world, and what gives it its character as “law,” is that we understand it to be binding on all of us. That is precisely why every social movement enters the legal arena to do battle in the first place and why it must do so: By appealing to “law,” the movement is seeking to make its justice claim binding on the entire community. But if you have followed what I’ve said thus far, if I have made myself clear, you can see what happens when a movement of social being founded upon the affirmation of our human connection enters a conceptual arena in which people are perceived as inherently separated and as not embodying any spiritual bond. The collectively shared mental image of “society” embedded in our legal discourse presupposes that no such inherent spiritual bond exists, that we only become socially connected by virtue of contracts, or legislative democratic action, or in some other way that follows upon our inherent, ontological individual natures. The inherently connected nature of social reality as it really is, with its foundation in the desire for mutual recognition and affirmation, is represented in existing liberal law through an interpretive schema that begins with our inherent separation.

An example of the consequence of this disjunction is reflected in the history of affirmative action, as expressive of, on the one hand, a movement for social justice, and on the other a legal claim founded upon the Fourteenth Amendment. When the affirmative action remedy emerged from the civil rights movement, it was intended as a morally compelling call based on our common recognition of the suffering of 400 years of slavery, of the massive injustice that had been done to the African-American community over that historical time. And this vision of injustice was not just embraced by the African-American plaintiffs who happened to bring the lawsuits; it was a vision that was expressive of the movement itself as it radiated through the culture. When I say radiated through the culture, I ask you to remember that everything happened all at once during the historical movements of the 1960s. The civil rights movement, the anti-war movement, the women’s movement, the gay and lesbian movement, the environmental movement—they all sprang into being more or less at once. Why did they all happen at once? Because there was a breakthrough of empowered connection between human beings—a sense we could shake the world out of its everyday lethargy and separation and pain and depression, and a common feeling of responsibility and presence to one another accompanied by an idealistic aspiration to create a truly good

world. The force of human connection that was released by this upsurge of social being was overwhelming, in its connotative, desire-realizing power and in its capacity to create change and heightened awareness across the culture as a whole. That's why the Beatles got so much better so fast—I love the early Beatles but I'm saying the remarkable, increasing sophistication of the music they produced over time was not just because they were great musicians, but because there was an expressive force in the culture at that time which generated this creativity.

Within this milieu of awakened and heightened consciousness, affirmative action had a universal appeal because it was redemptive of the suffering and injustice of slavery not just to African-Americans, but to many, many whites as well. When affirmative action first emerged, its connotative, metaphorical meaning was that “we” could all engage through “affirmative action” in the collective common “affirmative” act of redemption, through the act of affirmatively reaching out to people who had been unjustly oppressed over hundreds of years. That was affirmative action's meaning as expressive of the social movement that gave birth to it and that radiated through the culture as a whole.

But when the legalized remedy of affirmative action as a Fourteenth Amendment claim was interpreted through the prism of the socially separated, de-spiritualized individuals of the legal universe, it was instantly given a different cast. The spiritual dimension of affirmative action as a resonant, redemptive force that could play a part in “affirmatively” healing the culture of its own injustice was replaced, or better, overshadowed, by a conception in which one person, subject to past discrimination, was asking to have that impediment removed, so that he or she could compete in the marketplace against other individuals on a fair basis. In this latter cognitive schema, expressive not of the movement but of the liberal-legal image-world, you can see that there is no evocation of a pre-existing communal bond that has been ruptured by slavery and its legacy and that must be healed by the affirmative action of the entire group, but rather a conception in which no pre-existing spiritual/communal bond exists. Instead, the history of racial oppression is narrowly understood as an imposition of “bias” or discrimination among a disconnected collection of abstract individuals. Understood from within this liberal-legal paradigm, it was quite natural for working class whites and others to resent affirmative action, to believe that if we are living in an individualistic, competitive world in which everyone is pursuing his or her private destiny they should not be “singled out” to bear the burden of the remedy of the “past discrimination” of others because they didn't cause this harm to the African-American community. In other words, the very conception of an antagonism between competing individual claims within the legal framework presupposed the erasure of the spiritually interconnected meaning that had been generated by the civil rights movement itself as a morally transcendental presence, the presence of the legacy of unjust suffering of the African-American community exerting an ethical call on all of us as co-existing social beings. Once that

immanent spiritual bond was presupposed away through the image-world of legal discourse, it was inevitable that the hostility that developed between individuals to affirmative action would lead to a loss of consensus behind it. The issue of affirmative action as a corrective to past discrimination recast the meaning of the impulse toward healing historical injustice as a mere equity issue between two ahistorical individual people (or the groups they represented), each with their respective claims in a competitive, privatized, abstract, and individualistic universe. So for some it became humiliating to advocate for affirmative action or make a claim based upon it because it became a kind of “handout,” a stigma of inadequacy, instead of being a source of righteousness, recognition and healing. It became a source of anger for those who felt that “no one had helped them,” that they had not engaged in discriminatory conduct, and that they deserved what they had achieved based on their “better credentials” in the normative competitive universe.

Thus as affirmative action entered into and was appropriated by the interpretive schema of legal discourse, it largely lost its spiritual meaning (although the connotation of that deeper meaning can never be suppressed completely). And one result is that this legalization of the moral appeal to justice to some extent caused the movement to lose itself. As the movement came to see itself through the legal mirror held up to it, it came to define itself in terms of its rights, and in terms of whether it deserved to have more rights vis-a-vis those who are resisting the rights claims because the powerful spiritually connecting and redemptive meaning of affirmative action was not reflected back to it. There was an alteration of the existential phenomenological field so that the movement no longer could see itself as a morally transcendent upsurge of social being, as it did during its generative moments when each person saw herself connected to and constituted by being with the others in the movement. As a result, entry into the legal arena partly undermines a movement’s own power; the life-force within it is, so to speak, absorbed into a despiritualized external representation of itself with no immanent historical and concrete bond uniting its members.

So what do we do about this? How could we change law so that this most “binding” of our cultural institutions could affirm the spiritual dimension of our common existence rather than contribute to obscuring its presence? What could we do to transform the liberal paradigm so that we can build a vision of, for example, our Constitution that emphasizes the importance of community rather than the importance of protection of the individual against the other, and that emphasizes the other as the source of our completion rather than as a threat that we must guard ourselves against?

The Project for Integrating Spirituality, Law, and Politics<sup>4</sup> is one such effort that I have helped to organize with a number of other lawyers, law teachers, law students and some non-lawyer “spiritual activists.” Our goal is to help build, as part of many other such efforts within legal culture, a way of

4. The Project for Integrating Spirituality, Law, and Politics is a Washington D.C.-based 501(c)(3) non-profit corporation. See the Project’s website at [www.spiritlawpolitics.org](http://www.spiritlawpolitics.org).



interpreting and working through social problems as matters of moral justice embedded within an inherently moral universe and grounded in our common longing to fully recognize one another's humanity. We hope to transform law into the building of a binding culture in public spaces—in public rooms like courthouses and courtrooms and in written discourses like law books and legislation—that fosters empathy and compassion and human understanding, a force of healing and mutual recognition, rather than the mere parceling out of rights among solitary and adversarial individuals. Among our efforts is participating in and providing support to the development of the restorative justice movement, a remarkable attempt to shift the framework of the criminal law away from identifying the crime, finding the wrong-doer, and punishing him or her—the traditional model which presupposes that a crime is the act of a detached individual against the State—to one that fosters direct victim/offender encounters which seek to encourage people who cause harm to address directly the suffering of their victims. The point is to bring intersubjective concreteness to the infliction of human suffering in a way that makes a call upon those who inflict harm to take responsibility for it, to apologize for it and provide restoration, if possible, for the harm, and in some circumstances to be forgiven for it and to be reintegrated wherever possible into the community. At its best, restorative justice also incorporates the historical community out of which social harms occur, helps to illuminate the broader origins of the rupture of human connection that leads to the infliction of harm, and helps to heal and transform whole communities as well as those immediately involved in the criminal act itself, the victim and the offender.

I'll tell you one story that reveals how powerful restorative justice can be when contrasted with the liberal model of crime as an abstract and decontextualized individual act. Several years ago in Des Moines, Iowa, two teenagers who identified themselves as skinheads defaced a synagogue with swastikas. They were more or less caught in the act, or just after the act, and a creative prosecutor, instead of simply pleading them out or seeking a conviction for vandalism or even prosecuting a hate crime, asked the defense attorney if the defendants would be willing to meet with the synagogue's rabbi in order to find an alternative to simply sending these teenagers to jail for a short time and then back to the same fearful subculture within which they were immersed. The defense attorney and the defendants accepted, even though this meant the defendants' acknowledging their responsibility for what they did, rather than engaging in the more customary liberal rights-based approach of pleading not guilty, attacking the evidence, and eventually negotiating a plea. It turns out that the synagogue included a number of members who were Holocaust survivors, and who were willing to meet with the offenders to explain the trauma that the swastika triggered in them. These survivors did meet with the two young people, a young man and young woman who dressed and identified as "skinheads," thought they were neo-Nazis, but actually didn't know anything about the Holocaust in reality. Through face-to-face discussions with the survivors, they learned about the pain of the swastika

and the suffering of the camps. This process evidently opened their eyes, not only to what had really happened to the Jews as real human beings, but to the bitterness, pain, and anger in their own lives that had led them to become skinheads in the first place. Following the “victim-offender mediation” as it is called, the young couple acknowledged what they had done and apologized for it. As part of the spiritual plea agreement that resolved the case, the teens performed restitution by cleaning the building, and they studied Jewish history, learning something of the pogroms and the history of the persecution of the Jewish people. They were apparently transformed by the experience, and as an extraordinary aspect of the overall outcome, the synagogue’s rabbi officiated at their wedding.<sup>5</sup>

Not every restorative justice process produces this kind of utopian outcome, but it is important to see that the very nature of the intervention is based upon a view of harm, of healing, and of what constitutes justice that differs sharply from the liberal model which identifies a decontextualized bad act by an individual actor in a despiritualized human universe. Instead of an intervention that would have sent these two people right back into the same system that produced them with no change to their spiritual-political selves—the probable outcome of a normal plea bargain or of a conviction followed by a jail sentence—the resolution of this human problem provides an example of how the legal arena can manifest a community response to a harmful event that transforms all the participants, fostering a new kind of mutual recognition, empathy, compassion and elevated understanding that is uncommon in the traditional liberal model. Everyone involved in the Des Moines case took a risk by suspending or setting aside the fear-saturated image-world of the separated and abstract rights-bearing individuals, instead proceeding on the assumption that we are inherently connected beings, bound together by our moral presence in a complex historical set of circumstances—here, the circumstances not only of the Holocaust, but also of the social conditions in our present-day society that produce skinheads. And it is the affirmation of this moral presence inherent in our very social-spiritual make-up that makes possible the resolution that was actually achieved, the moral resolution that the situation itself immanently requires and calls forth. The story powerfully illustrates the deep meaning of Martin Luther King’s words with which I began this talk: “Justice is love correcting that which revolts against love.”

The Project for Integrating Spirituality, Law, and Politics focuses on several areas: restorative justice; transformative mediation emphasizing the capacity to foster empathic and cooperative resolutions of civil disputes; the development of remedies that minimize the role that money transfers (or “damages”) play in the resolution of conflicts; and maximizing the healing and transformation of human relationships themselves by an understanding of the factors that have caused these relationships to break down. We also aspire to transform the way law is taught so that the next generation of lawyers develops what

5. For a full discussion of the Des Moines case, see David Lerman, *Restoring Justice*, Tikkun Sept/Oct 1999 at 13.

might be called a “post-liberal” conception of human relationships. We want to bring the inherent cooperative force that exists within all of us into the teaching of contracts, torts, property, the Constitution, subjects that are now exclusively taught from the adversarial rights-based point of view. And we’re trying to help build new kinds of law practice that incorporate the spiritual dimension of justice into the work of a lawyer, of which perhaps the best example is the Georgia Justice Project (GJP), a remarkable Atlanta-based law firm representing poor people in criminal cases from what we consider a “spiritual-political” perspective.<sup>6</sup>

The GJP’s office is directly across the street from Martin Luther King’s Ebenezer Baptist Church. When the GJP takes on a new client, the two enter into a kind of permanent contract, in which support for the client as a whole person, rather than as the carrier of a mere discrete legal problem, is understood to be at the heart of the representation. If the client is convicted, the GJP lawyers commit themselves to visiting him or her throughout the course of any prison term; to support the client in rebuilding his or her life by helping identify work opportunities and a community for the client after release; to manifest love and solidarity; and to provide concrete help in the rebuilding of his or her life. If the client is acquitted, he or she may work in local businesses affiliated by agreement with the GJP, learning life skills and experiencing the validation of his or her essential humanity and worth. These experiences may help overcome the internal feelings of worthlessness or permanent marginality that may have led the client to engage in the activities that got him or her into trouble in the first place. A powerful metaphor for how different GJP’s form of practice is from the conventional liberal firm is that the law office has a kitchen and the lawyers and staff periodically hold communal meals for all their current and former clients. With the Georgia Justice Project as our model, we aspire to help shape a generation of open-hearted lawyers capable of seeking spiritually-informed justice, lawyers different from the clever manipulator of concepts that we currently hold as an ideal in our law schools: that glassy-eyed “arguer” who conforms more closely to my example of the newscaster than to one engaged in a calling to heal and transform the world. Through the Project for Integrating Spirituality, Law, and Politics we are trying to show in theory and practice that law and legal culture in its next evolutionary incarnation must begin with the affirmation that the longing for mutual recognition, for social meaning and purpose animated by a moral vision of life grounded in our connection to each other as social beings, is what the pursuit of justice requires. Justice itself can only be fully achieved by going beyond the winning of individual rights toward the bringing into existence of the Beloved Community—the incarnation in the present of who we already are but whom we have not yet been able to make manifest in our social reality.

6. A full description of the Georgia Justice Project is *available at* [www.gjp.org](http://www.gjp.org). An excellent presentation of the nature and purpose of the Project’s work is found in Doug Ammar & Tosha Downey, *Transformative Criminal Defense Practice: Truth, Love, and Individual Rights—The Innovative Approach of the Georgia Justice Project*, 31 *Fordham Urb. L.J.* 49 (2003).

Finally, since this is the annual Georgetown Scholarship lecture and since I am speaking to you as law teachers, let me conclude with a few comments about the relevance of what I have said to legal scholarship and to the link between that scholarship and legal education. If law's legitimacy derives from its relationship to justice, and if justice is an inherently spiritual and moral effort to transform that which is into that which ought to be, then our legal scholarship and teaching should be understood as inherently spiritual and moral work that envisions a just future shaping our legal interpretations of the present moment.

In the context of legal scholarship, this means transcending the inherited paradigm of scholarship as a neutral and detached, despiritualized and purely rational activity aimed at uniting the disembodied minds of writer and reader, in favor of an impassioned scholarship addressing the reader as a spiritual and moral being. This means beginning with the assumption I have made here that we human beings are all profoundly connected and no matter what you are writing about, that you as the writer seek to inform your analysis of specific legal doctrine and policy with an engaged, impassioned interpretation, grabbing us by the collar, no matter what you are writing about, and pointing us toward a more socially connected, more loving and caring world.

As an example of the kind of scholarship I'm advocating, I refer you to Rhonda Magee's exceptional article, "Racial Suffering as Human Suffering: An Existentially-Grounded Humanity Consciousness as a Guide to a Fourteenth Amendment Reborn."<sup>7</sup> Rhonda urges us to see that the Fourteenth Amendment emerged from a specific form of suffering in the black community—the non-recognition of African Americans as fully human—made visible by the life-force and moral voice of the abolitionist movement. Non-recognition caused an existential, spiritual suffering, and Rhonda argues, the only way the Fourteenth Amendment can address this suffering and redeem its original meaning is to transcend the current jurisprudence that treats justice for African-Americans as merely overcoming discrimination that impedes their ability to compete in the marketplace (or "achieve equality of opportunity"). She argues instead for a Fourteenth Amendment jurisprudence that aims for equality as human dignity, which to Rhonda means a future post-racial "humanity consciousness" to be achieved in part through legal interpretations that seek to eradicate the alienating and dehumanizing effects of racialized consciousness. She rejects the abstract color-blindness of present constitutional interpretation in favor of a grounded interpretation of the suffering engendered by racialization and a recovering of our true universal humanity through qualitative, healing interventions.

The spiritual power of Rhonda's argument comes not from a dispassionate and disengaged rationality, but from its use of narrative in describing both the experience of blacks during slavery prior to the passage of the Thirteenth

7. Rhonda Magee, *Racial Suffering as Human Suffering: An Existentially-Grounded Humanity Consciousness as a Guide to a Fourteenth Amendment Reborn*, 13 *Temp. Pol. & Civ. Rts. L. Rev.* 891 (2004).

and Fourteenth Amendments and her own present-day experience or what she calls her “racialized existence”—growing up in Kinston, North Carolina, and Richmond, Virginia, and eventually becoming a law professor through a process of integration based on a concept of abstract universality that failed to address the injuries of her racial particularity. She accompanies her compelling personal narrative with a parallel social-historical presentation of Fourteenth Amendment doctrine that includes a critique of how the prevailing interpretation of the amendment fails to speak to the spiritual-moral meaning of its origins, and she proposes a new interpretive vision directed towards overcoming the actual historical alienation of racialization. The moral call evoked by the spiritually-enlivened narratives of both the human and legal histories in Rhonda’s article is thus “responded to” within her article and in her recommendations for legal reform by the inherently moral character of the new mode of Fourteenth Amendment interpretation that she advocates.

We can follow a similar path in our efforts to spiritualize legal education. The traditional approach conceives of law teaching as the transmission of an analytical technique consisting of identifying legally relevant facts, reasoning by analogy, and mastering and applying existing legal doctrine supplemented by process-based policy considerations. This “world” of legal reasoning is anchored in and given its foundation by the “common sense” of the existing system—for example, reasoning by analogy is only possible by intuiting the common understanding of a region of private or public social activity encoded in an area of legal doctrine, and then comparing two situations to each other within the framework of that common understanding. Thus it is possible to compare two situations under the consideration doctrine only by evaluating whether they both contain the requisite requirement of “bargain” based on some common understanding of what a bargain requires within the framework of “what is”—within the spiritual and moral contours of the existing system. Without usually addressing the matter, this approach takes for granted the legitimacy of the existing spiritual and moral environment of a world in which people are conceived as secular and socially separated individuals. This is the world we must transcend if we are to recognize and affirm the spiritual dimension of social justice based on the social-spiritual bond that actually unites us. Traditional legal education renders invisible our fundamental longing for the recognition and realization of this bond. And since law’s legitimacy inherently flows from its relationship to social justice, traditional legal education itself silently embraces a vision of social justice as its normative foundation that presupposes that this bond does not exist.

Overcoming what we might call this normative limitation in legal education requires recovering our memory of this suppressed spiritual dimension of our common human need as social beings and restoring this dimension to the teaching of each aspect of law. This means presenting ourselves as teachers as spiritual and moral beings who recognize the humanity of our students by treating them with empathy and compassion. It may mean, as the contemplative law movement in legal education argues, that we introduce a

minute of meditation into the beginning of classes that prepares us as teachers and students to experience the moral depth of the human situations we will be discussing. It means slowing down the recounting of “the facts” so that these situations recover their true narrative depth and expanding our notion of what is relevant in these situations beyond the restricted and flattened out information that suffices for analysis within the existing rule-system. It also means wherever possible redeeming the moral core of doctrinal concepts like “equal protection,” or “detrimental reliance,” or “duty of care,” so that doctrinal discussion and debate becomes capable of speaking to the spiritual and moral call that is present in the deepened presentation of “the facts.” Certainly, recognition of the spiritual dimension of doing justice means introducing into our courses remedies for broken relationships other than just money damages (remedies like transformative mediation and restorative justice). It also means reshaping our clinical curricula so that students learn to represent clients in a way that recognizes their full humanity and incorporates spiritual and moral understanding in the healing and repairing of their clients’ circumstances. The Georgia Justice Project is today working with Mercer Law School in Macon, Georgia, to create just such a legal clinic.

I have for several years been trying to bring this new approach into my Contracts class, and one case I teach that may illustrate what I mean is *O’Neal v. Colton School Board of the State of Washington*.<sup>8</sup> A traditional presentation of the facts of this case might be stated as follows: “In April, 1974, plaintiff entered into a written teacher employment contract with defendant Colton, Washington, Consolidated School District for the 1974-75 school year, but sought to be discharged from the contract in July, 1974, due to deteriorating diabetic eyesight that interfered with his ability to read students’ papers and assignments.” From this statement of the facts, a student would be expected to recognize that the issue of discharge of the contract would be based on impossibility of performance. Analysis in class might proceed by reasoning by analogy, with the teacher asking whether the diabetic condition was foreseeable to the plaintiff, whether the case was similar to or different from a deep sea diver who contracts to dive for pearls in a shark-infested area of the ocean (where the risk to health is foreseeable and likely assumed), and even assuming the risk of diabetes was foreseeable to the plaintiff, whether both parties reasonably were unaware of its severity rendering the aggravation of the illness a true changed circumstance. The degree of reliance by the school board coupled with the likelihood that O’Neal knew of the risk might be relevant to teaching the importance of not imposing a loss on an innocent party relying on a bargain when the other party knew that such a loss might occur, as opposed to a true unforeseen circumstance without fault. Since nobody would want to force a diabetic and near-blind school teacher to fulfill his contract, the teacher would likely end up agreeing with the court that the contract should be discharged based on the rule governing impossibility of

8. *O’Neal v. Colton Consol. School District No. 306*, 16 Wash. App. 488, 557 P 2d. 11 (Wash. App. Div 3 1976).

performance in employment contracts, namely that death or serious illness discharges the agreement. The moral foundation for this kind of classroom dialogue presupposes that we live in a socially separated world shaped by self-interested bargains that allocate risks to competing parties, and that justice is achieved by enforcing the bargain except under common sense circumstances when performance should be excused.

But to cite the title of my new book addressing many of the issues I have spoken about in this talk, there is “another way of seeing.”<sup>9</sup> It is possible to slowly and open-heartedly recount, or better to elicit from students by exploratory questions, the probable spiritual-social reality underlying Mr. O’Neal’s narrative. He has been a schoolteacher for over 30 years in the town of Colton, has taught virtually every student that has come through Colton High School and has influenced many if not most of the townspeople of Colton. Tragically, diabetes has caused him to lose his eyesight, disabling him from the calling that has shaped his identity and sense of self-worth. If you are his lawyer and all you do is win him a discharge under the impossibility doctrine, he may receive union-won health care for his diabetes, but he will most likely be consigned to his home to essentially wait to die, perhaps with a partner if he is married, but without a continuing sense of meaning or purpose. As a teacher, I ask my students, how should we as a community respond to someone in Mr. O’Neal’s position, and how should you as a lawyer stand beside Mr. O’Neal and speak for him before the community as his representative?

If the students have understood Mr. O’Neal’s story with empathy and compassion, if they’ve been able to let go of the disconnected analytics of what we might call the newscaster mode, they may see that Mr. O’Neal is an elder worthy of loving appreciation in the school community and possibly the whole town of Colton, that perhaps the people of Colton would respond to a call to create a special position for Mr. O’Neal as a mentor in the school, a position that made fewer demands on his deteriorating eyesight. Such a solution might redeem Mr. O’Neal’s life, and also help bring the community together out of love and affection for a venerated teacher. Such an approach might be part of a wider effort by the future lawyers in our classrooms to model new forms of legal and collective social activism that knit a town like Colton together in a spirit of collective meaning and purpose rather than reinforcing the assumption that we are spiritually imprisoned in our infinite separation, always raveling away from one another to suffer our private destinies.

Can a lawyer be the one who proposes this remedy, who seeks to organize the community, who approaches and speaks before the Colton School Board? If you have been educated to think that your universe of possible intervention is limited to a risk-based analysis of the impossibility doctrine—that that’s your “role”—then none of this will occur to you, much less seem like a possible course of action that you might embark on or that you might even have a responsibility to embark on. The impossibility doctrine pictures

9. See Peter Gabel, *Another Way of Seeing: Essays on Transforming Law, Politics, and Culture* (Quid Pro Books 2013).

a world in which a discrete employment relationship removed from any larger social context is either enforced or discharged—it has nothing to say about the immanent longing within an entire socially separated community to find a way for love to correct that which revolts against love. But if you have been educated to understand the limitations of the traditional doctrine and encouraged by your law teachers to reach a deeper awareness of the meaning of justice and law's necessary relationship to achieving that kind of justice, then you might be able to imagine creating a law practice in the midst of Colton as an embodied and real community. You could envision that your office might be designed aesthetically and socially to invite deeper conversations about what clients really aspire to in resolving their life-difficulties, and that there might be spiritual, political, and legal ways of proceeding that through your efforts might make that larger aspirational vision a reality. Certainly legal education could include teaching students how to create such an office, how to create such caring, compassionate, and lasting lawyer-client relationships; and how to organize teachers' union representatives and former students to approach the local school board. Using Colton as an example, students could be instructed in how to link the board's stated mission with its personnel and legal policies in order to facilitate implementation of that mission.<sup>10</sup>

This would be a new way of educating the next generation of lawyers that would incorporate the spiritual dimension of social justice into legal education, something that I'm saying we have a responsibility to do in light of law's inherent relationship to justice as the source of its legitimacy. To fully realize such a spiritual alignment of law and justice will eventually require a post-liberal transformation of our entire legal culture, in which the fostering of empathy, compassion and mutual understanding among human beings becomes central to what our constitution and laws and legal processes are meant to help bring into being. But it took 400 years of gradually transforming consciousness to bring about the liberal revolutions of the 18th century, and we should be excited/hopeful/enthusiastic that we have the opportunity and responsibility to begin the next evolutionary transformation of legal consciousness in our lifetime.

I'm getting older—I'm 65—but I am excited/hopeful/enthusiastic about it. Thank you.

10. The Colton School District describes its mission as to "foster a learning community for Colton where children, youth and adults are encouraged to . . . develop attitudes of mutual respect and acquire skills essential to ethical and productive living," available at <http://www.colton.k12.wa.us/MissionStatementPage.html>.