


Winter 2007

The Beloved Community: The Influence and Legacy of Personalism in the Quest for Housing and Tenants' Rights, 40 J. Marshall L. Rev. 513 (2007)

Lloyd T. Wilson Jr.

Follow this and additional works at: <https://repository.law.uic.edu/lawreview>

 Part of the [Civil Rights and Discrimination Commons](#), [Housing Law Commons](#), [Law and Philosophy Commons](#), [Law and Politics Commons](#), [Law and Psychology Commons](#), [Law and Society Commons](#), [Legal Ethics and Professional Responsibility Commons](#), [Legal History Commons](#), [Legislation Commons](#), [Property Law and Real Estate Commons](#), and the [Social Welfare Law Commons](#)

Recommended Citation

Lloyd T. Wilson Jr., *The Beloved Community: The Influence and Legacy of Personalism in the Quest for Housing and Tenants' Rights*, 40 J. Marshall L. Rev. 513 (2007)

<https://repository.law.uic.edu/lawreview/vol40/iss2/6>

This Symposium is brought to you for free and open access by UIC Law Open Access Repository. It has been accepted for inclusion in UIC Law Review by an authorized administrator of UIC Law Open Access Repository. For more information, please contact repository@jmls.edu.

THE BELOVED COMMUNITY: THE INFLUENCE AND LEGACY OF PERSONALISM IN THE QUEST FOR HOUSING AND TENANTS' RIGHTS

LLOYD T. WILSON, JR.*

INTRODUCTION

One of the two conferences this Volume celebrates is entitled “*What King Wrought*” — *The Impact of the Summer of 1966 on Housing Rights: A Forty-Year Retrospective and Prospective*.¹ This title is informative, but for readers who were not able to attend the conference, a brief explanation is in order. “King,” unsurprisingly, refers to the Rev. Dr. Martin Luther King, Jr., and the “Summer of 1966” refers to the march on Chicago that King organized to “challenge[] the city’s and the nation’s commitment to civil rights in the housing market, both in terms of fair housing and the protection of residential tenants.”² The reference in the conference title to “housing rights” thus has a dual focus, a fact made all the more appropriate as 2006 was both the fortieth anniversary of King’s march on Chicago and the twentieth anniversary of the enactment of Chicago’s landmark Residential Landlord and Tenant Ordinance (RLTO).³

In addition to signaling the dual focus of the conference, the title also signals a dual perspective — retrospective and prospective — from which the state of fair housing and tenants’

* Associate Professor of Law, Indiana University School of Law—Indianapolis; Director, Central & Eastern European Law Program; B.A. Wabash College, 1977; M.A. Duke University, 1978; J.D. Indiana University School of Law — Bloomington, 1982. I want to acknowledge the contributions made to this Article by Dragomir Cosanici, Head Reference Librarian, Ruth Lilly Law Library, and my research assistants, Suzanna K. Hartzell-Baird and Jennifer A. Girod, Ph.D.

1. The conference took place on September 8-9, 2006, at The John Marshall Law School and was sponsored by the Fair Housing Legal Support Center and the Center for Real Estate Law, both of which are located at The John Marshall Law School.

2. Conference Registration Brochure, “*What King Wrought*” — *The Impact of the Summer of 1966 on Housing Rights: A Forty-Year Retrospective and Prospective 2*, available at http://www.jmls.edu/academics/re_law/pdf/WhatKingWrought.pdf (last visited Apr. 8, 2007).

3. CHI. ILL. MUN. CODE §§ 5-12-010 to -200 (2006).

rights was viewed. The retrospective focus gave due recognition to the advances that have been made in the past four decades toward securing homeownership and leasing rights and identified the methods and strategies that are currently being used to secure those rights. The prospective focus enabled speakers to identify areas where further reform in the law is necessary to overcome the barriers that continue to deprive too many people of decent and accessible housing.⁴

The topic of legal reform lent itself to questions about the role of law in securing housing and tenants' rights. A framing question that emerged was "Does the law matter?" This provocative question engendered further questions, including: *How* does the law matter?; *Which* law are we talking about — the law as written or as experienced in the neighborhoods and courts of our cities?; and, *What end* should the law seek — procedural justice or distributive justice? These questions highlight the instrumental possibilities and limitations of the law. *Can* the law remove the barriers to fair housing and tenants' rights? Are those barriers the result of deficiencies in the content or administration of the law or are they the result of structural forces in American society? Do we need a change in legislation or a change in inclination?⁵

4. For example, one presenter, Mary Spector, Associate Professor of Law, Southern Methodist University, Director of the SMU Dedman School of Law Civil Clinic and Co-Director of the Clinic's Consumer Advocacy Project, called for a simplification of eviction court procedures on the ground that the complexity of current rules and forms causes tenants to lose the benefit of laws intended to protect them. Mary Spector, Associate Professor of Law, Address at The John Marshall Law School's Conference: "What King Wrought" — The Impact of the Summer of 1966 on Housing Rights: A Forty-Year Retrospective and Prospective (Sept. 8-9, 2006); accord Mary Spector, *Tenant Stories: Obstacles and Challenges Facing Tenants Today*, 40 J. MARSHALL L. REV. 415 (2007). Another presenter, Mary Marsh Zulack, Clinical Professor and Director of Clinical Education at Columbia Law School, demonstrated the uses and value of technology in the courtroom, both for vividly conveying substandard conditions of rental units and for keeping track of successive violations at a given unit. Mary Marsh Zulack, Clinical Professor and Director of Clinical Education at Columbia Law School, Address at The John Marshall Law School's Conference: "What King Wrought"—The Impact of the Summer of 1966 on Housing Rights: A Forty-Year Retrospective and Prospective (Sept. 8-9, 2006); accord Mary Marsh Zulack, *One Large Step for the Warranty of Habitability, A Couple of Skips and a Hop for Court Information Systems, and One Giant Step for Judges' Information Management*, 40 J. MARSHALL L. REV. 433 (2007).

5. As posed, these questions imply that reform in housing and tenants' rights is a matter of binary choices. An "either-or" approach is inadequate; a "both-and" approach is required. For the law to "matter," it must address both procedural and substantive issues, must seek both formal justice and distributive justice, and must be experienced in the neighborhoods as intended in the legislature. In addition to reforming deficiencies in the law, structural forces in society that were formed during segregation must also be reformed.

As the preceding paragraphs indicate, the conference sought to explore the historical and legal aspects of “What King Wrought” as a result of his march on Chicago. There is, however, another dimension along which King’s contribution to the movement for housing and tenants’ rights can be, and should be, recognized — the ethical dimension. Consistent with the retrospective focus of the conference, the philosophical foundation of King’s ethical and moral convictions—personalism—should be recalled and celebrated. Consistent with the prospective focus of the conference, the continuing influence of that philosophy should be claimed as a noteworthy legacy of “What King Wrought.”

Broadly stated, the goals of this Article are explanatory, instructive, and hortatory, as it seeks: (1) to acknowledge the role the philosophy of personalism played in defining King’s social ethics and to recognize echoes of personalism voiced (whether intentionally or intuitively) by persons who continue King’s work for civil rights; (2) to emphasize the interrelationship between one’s epistemology (the way one understands reality or the world) and one’s ethics (the way one acts in the world); and (3) in light of this interrelationship, to encourage readers to be intentional about developing a systematic philosophy and about living out the moral and ethical imperatives that flow from it.

Along with stating the specific goals of this Article, it is also important to identify three limitations on its scope and approach. First, this Article discusses the philosophy of personalism and its influence on King in the context of a readership consisting of legal professionals rather than philosophers or theologians. As a result, this Article does not attempt to describe the historical development of personalism, account for its varying forms, or determine whether King’s personalistic thought was shaped more by formal influences (King’s educational experiences in college, seminary, and graduate school) or by informal influences (King’s family, the black church, and black culture). This Article will draw heavily from two sources, both of which specifically study the impact of personalism on King.⁶ Readers who wish to pursue related topics are invited to consult these sources and the bibliographies included in them.⁷ This Article will describe

6. RUFUS BURROW, JR., *GOD AND HUMAN DIGNITY: THE PERSONALISM, THEOLOGY, AND ETHICS OF MARTIN LUTHER KING, JR.* (2006); WALTER E. FLUKER, *A COMPARATIVE ANALYSIS OF THE IDEA OF COMMUNITY IN THE THOUGHT OF HOWARD THURMAN AND MARTIN LUTHER KING, JR.* (1989).

7. For discussion of King’s intellectual training and his exposure to the leading minds of personalism, see BURROW, *supra*, note 6, at 83-86, and FLUKER, *supra*, note 6, at 100-07. For discussion of the relative importance of intellectual versus experiential influences on King’s personalistic philosophy, see BURROW, *supra* note 6, at 73-83, and FLUKER, *supra* note 6, at 86.

personalism conscientiously, but not so abstrusely that readers are unable to recognize its presence in their own lives.

Second, this Article draws on three presentations made at the Housing Rights conference⁸, but it does so to support the thesis that one aspect of “What King Wrought” is the dissemination of the principles of personalism into our civic and legal culture, especially the culture of public interest lawyers and other advocates. I intend to use each speaker’s words fairly, but the reader should note that I draw on them for a purpose almost certainly not intended by the speaker. Third, this Article discusses personalism as a philosophy (which it certainly is) but, in so doing, the discussion is not fully faithful to King’s version of personalism, which was inseparable from his theology and his religious faith.⁹

8. Kathleen K. Clark, Executive Director of the Chicago-based Lawyers’ Committee for Better Housing (LCBH), Address at The John Marshall Law School’s Conference: “What King Wrought” — The Impact of the Summer of 1966 on Housing Rights: A Forty Year Retrospective and Prospective (Sept. 8-9, 2006); Michael Pensack, Executive Director of the Illinois Tenants Union, Address at The John Marshall Law School’s Conference: “What King Wrought” — The Impact of the Summer of 1966 on Housing Rights: A Forty Year Retrospective and Prospective (Sept. 8-9, 2006); John Relman, Address at The John Marshall Law School’s Conference: “What King Wrought” — The Impact of the Summer of 1966 on Housing Rights: A Forty Year Retrospective and Prospective (Sept. 8-9, 2006).

9. King was, of course, an ordained minister and Pastor at Ebenezer Baptist Church in Atlanta and Dexter Avenue Baptist Church in Montgomery. FLUKER, *supra* note 6, at 90. King’s Christian faith meant that his personalistic philosophy was inseparable from his theology and Christology. BURROW, *supra* note 6, at 69. Accordingly, to be true to King, the list of fundamental tenets of personalism set forth in this Article should include a sixth tenet. *See infra* Part I.B. That tenet, which would be listed ahead of all others in most descriptions of King’s version of personalism, is that ultimate reality, God, is loving and personal. For theistic personalists, God is not an impersonal “clockmaker” who created, set in motion, and then withdrew from a mechanical universe, nor is God an “unmoved mover,” able to affect any aspect of creation but unaffected by it. FLUKER, *supra* note 6, at 118. Instead, the God of King’s personalism is “immanent enough to care about what happens to persons in the world,” is present in our lives to such an extent that God both responds to our problems and prayers, including “making a way out of no way,” and is affected by humanity. BURROW, *supra* note 6, at 109.

On an intellectual level, King affirmed the personal nature of God in his Ph.D. dissertation at Boston University. Martin Luther King, Jr., A Comparison of the Conceptions of God in the Thinking of Paul Tillich and Henry Nelson Wieman (Apr. 1955) (unpublished Ph.D. dissertation, Boston University). In that dissertation, King refuted the views of two renowned theologians, Paul Tillich and Henry Nelson Wieman, who described God in abstract metaphysical terms, such as “process” and “being-itself.” *Id.* at 106. On an experiential level, perhaps the most famous example of King’s belief in, and encounter with, a personal and engaged God is King’s “vision in the kitchen.” BURROW, *supra* note 6, at 105. In this encounter, which occurred at a particularly low point in the civil rights struggle, King realized that the metaphysical and philosophical principles he had learned in seminary and graduate school could not sustain him. Instead of concepts of God, King

In exchange for this infidelity, I hope to emphasize the accessibility of personalism to a diverse body of readers. With regard to each of these caveats, I am sensitive to the fact that "every simplification is an oversimplification"¹⁰ and "[t]he minor truth may beget the major evil."¹¹

This Article contains two principal sections. Part I will establish the influence of the philosophy of personalism on King's social ethics.¹² Following a brief discussion of the importance of one's world view to one's ethical choices, this Part will distill the foundational principles of personalism and provide examples of King's acceptance of them, especially in his vision for society that he called "the beloved community."¹³ Part II will demonstrate the continuing legacy of personalism by offering three examples where personalistic tenets were detected in presentations made at the Housing Rights conference. The Article concludes by noting that a consciously developed and systematic philosophical framework is not only indispensable for ethical decision making that is intentional, but also helps keep us connected to and focused on the large and noble goals that the law should serve. The Article closes

discovered that he needed the personal experience of God as companion and source of strength. For a more complete description of this important moment in King's life, see BURROW, *supra* note 6, at 105-06 and, FLUKER, *supra* note 6, at 134-35.

King's theism not only supplied an additional tenet for his personalistic thought, it also informed the tenets that I identify and discuss in this Article. For example, although the universe (reality) is friendly to the achievement of good, the achievement itself requires not only the intentional and active efforts of human beings with each other, but also requires that humans work cooperatively with God. Non-theistic personalists, as Burrow points out, contend that "persons have only themselves to look to, and not to cosmic or other outside support, to realize their highest values." BURROW, *supra* note 6, at 248.

10. ALFRED NORTH WHITEHEAD, *ADVENTURES OF IDEAS* 221 (The Free Press 1967) (1933).

11. *Id.* at 243.

12. Personalism scholar Rufus Burrow states that while King received much from personalism, he also contributed much to the philosophy, especially his "concrete application" of personalistic principles to civil and human rights issues. Burrow writes that King's "most original and creative contribution to the personalist tradition was his persistence in translating it into social action by applying it to the trilogy of social problems — racism, poverty/economic exploitation, and militarism." BURROW, *supra* note 6, at 86. Burrow adds:

King was without peer when it came to applying the basic principles of personalism to concrete social issues If his personalism and doctrine of human dignity mean anything for us today, it is that these must be *lived* each and every day. What is important is not the theory of personalism and dignity, but what these require of us in our interpersonal and communal relations

Id. at 245-46.

13. See *infra* notes 39-55 and accompanying text for a description of the nature of "the beloved community."

with a brief Epilogue, which places King's personalism and social ethics in the context of general social progress.

I. PERSONALISM AND KING — THE INFLUENCE

A. *Prologue: Our Epistemology Determines our Ethic*¹⁴

"Epistemology" is for many people a discomfoting word, one that conjures up arcane concepts that are comprehensible only with extraordinary effort. The word "ethics" is only marginally more welcoming; we may be comfortable judging a particular act to be either ethical or unethical but uneasy about discussing a generalized and systematic theory of values. Because both terms are important for this Article, I will provide approachable working definitions.

Epistemology has been defined as "the branch of philosophy that inquires into the nature and the possibility of knowledge"¹⁵ and as the "[i]nquiry into the nature and ground of experience, belief and knowledge."¹⁶ For this Article, epistemology can be thought of as describing the way one understands the nature of reality and as describing truths that inhere in it. In other words, epistemology describes the way one sees the world and what one believes to be true about it.

Ethics can be understood "in a number of related senses, which have to be distinguished to avoid confusion."¹⁷ Two of these senses are normative ethics, which is the "rational inquiry into, or a theory of, the standards of right and wrong, good and bad, in respect of character,"¹⁸ and metaethics, which "treats ethical concepts, propositions and belief-systems as objects of philosophical inquiry."¹⁹ For normative ethics, the "primary concepts are . . . ought, obligation, duty, right, [and] wrong," while for metaethics the "primary topic is value and the primary concepts are the valuable, the desirable, [and] the good in itself."²⁰

14. The source of this heading, as the reader will discover *infra* note 23 and accompanying text, is PARKER J. PALMER, TO KNOW AS WE ARE KNOWN/A SPIRITUALITY OF EDUCATION 21 (1983). I have replaced Palmer's verbal phrase "is quietly transformed" with the active verb "determines" to emphasize the strength of the influence of epistemology on ethic.

15. THOMAS MAUTNER, A DICTIONARY OF PHILOSOPHY 132 (1996).

16. A.R. LACEY, A DICTIONARY OF PHILOSOPHY 56 (1976). For an additional helpful definition, with numerous cross-references, see Peter D. Klein, *Epistemology*, in ROUTLEDGE ENCYCLOPEDIA OF PHILOSOPHY 3:362 to -365 (Edward Craig, ed., 1998) [hereinafter ROUTLEDGE ENCYCLOPEDIA].

17. MAUTNER, *supra* note 15, at 137.

18. *Id.*

19. *Id.*

20. LACEY, *supra* note 16, at 60; see also Roger Crisp, *Ethics*, in ROUTLEDGE ENCYCLOPEDIA, *supra* note 16, at 3:435 to -437 (differentiating between ethics and meta-ethics, including the prominent understandings of

Ethics can also be thought of as the actions that one takes or avoids based on a previously formulated system of values (however incomplete or inarticulate this formulation might be), in which case we speak of an individual's ethic.²¹ This Article will employ these meanings of ethics and ethic in connection with the relationship between one's concept of "the life good to live"²² and the decisions one makes about the proper way to live in the world.

One's epistemology and one's ethic — one's view of the world and one's view of the proper way to live in it — are interconnected, with the former impacting the latter. Philosopher and educator Parker J. Palmer describes this connection:

The shape of our know[ing] becomes the shape of our living . . . The way we interact with the world in knowing it becomes the way we interact with the world as we live in it. To put it in somewhat different terms, our epistemology is quietly transformed into our ethic. The images of self and world that are found at the heart of our knowledge will also be found in the values by which we live our lives.²³

Stated succinctly, "Our seeing shapes our being."²⁴

Within the context of university-level research and teaching, Palmer contrasts an "objectivist theory of knowing" with a "personal and communal conception of truth."²⁵ The former approach emphasizes the "objective" description of facts that exist "out there" waiting to be discovered and maintains "a rigid distinction between the observer and the observed."²⁶ The latter approach acknowledges the interdependence of the knower and the known; what is "out there" is inseparable from what is "in here." The observer and the observed are inseparable and influence each other. Palmer identifies the repercussions of each approach on the relationship that develops between teacher and

each view).

21. In his book, *LEST INNOCENT BLOOD BE SHED: THE STORY OF THE VILLAGE OF LE CHAMBON AND HOW GOODNESS HAPPENED THERE* (1994), ethicist Phillip Hallie says, "Ethics is concerned with praising some sorts of character and blaming other sorts." *HALLIE, supra*, at 11. Hallie's book is about the "life-and-death ethics" lived out by the villagers of Le Chambon as they rejected violence even as they opposed Nazi forces by harboring and facilitating the escape of Jews from occupied France.

22. *BURROW, supra* note 6, at 248, 264. Burrow's phrase "the life good to live" contrasts with the concept of "the good life," which for too many people in "advanced" societies has taken on a meaning dominated by consumerism, materialism, and the pursuit of the maximization of personal utility. *See also* ROBERT N. BELLAH ET AL., *HABITS OF THE HEART: INDIVIDUALISM AND COMMITMENT IN AMERICAN LIFE* 82-84 (Univ. of Cal. Press 1996) (1985) (discussing the social effects of an excessive emphasis on individualism).

23. *PALMER, supra* note 14, at 21.

24. *Id.* at xi.

25. *Id.* at xiii-xiv.

26. *Id.* at 23.

student and on the understanding of the nature of knowledge that students come to acquire. He concludes that the “objectivist epistemology becomes an ethic of detachment and manipulation,” while a communitarian epistemology produces an ethic of “participation and accountability.”²⁷ Palmer’s observations provide a useful model for approaching the connection between King’s personalistic philosophy and his system of social ethics, including the moral and ethical imperatives to work for justice.

*B. The Foundational Principles of Personalism
and Their Influence on King*

King’s keen intellect and academic accomplishments are well documented.²⁸ Following an accelerated path through high school, King graduated from Morehouse College and subsequently from Crozer Theological Seminary. He then studied at Boston University, where he earned a Ph.D. in Systematic Theology. King read widely in both philosophical and theological theory, but for him it was personalism that best described reality. Personalism has been identified as the “defining motif” of King’s life and work,²⁹ as his “fundamental philosophical point of departure,”³⁰ and as providing his “coherent methodology and philosophical formulation.”³¹ Indeed, one scholar has noted that “[o]ne can hardly read any of King’s writings and not see reference to one or more personalistic ideas.”³² For that reason, “an understanding of the meaning and basic principles of personalism is [a] prerequisite to an understanding of, and appreciation for, King’s thought and work that goes beyond mere surface level.”³³

Personalism resists easy reduction to a list of propositions, as there are “at least a dozen types of personalisms.”³⁴ Some versions, like King’s, are strongly theistic, but agnostic and non-theistic versions also exist.³⁵ It is similarly challenging to reduce King’s particular version of personalism to a fixed list of propositions, as the number of principles and their precise phrasing vary from

27. *Id.* at 51.

28. See BURROW, *supra* note 6, at 17-31, 83-86 (discussing King’s development while at Morehouse College, Crozer Theological Seminary, and Boston University); FLUKER, *supra* note 6, at 87-89, 100-07 (documenting King’s education and intellectual development).

29. FLUKER, *supra* note 6, at 81.

30. BURROW, *supra* note 6, at 13.

31. FLUKER, *supra* note 6, at 113.

32. BURROW, *supra* note 6, at 245.

33. *Id.* at 71.

34. *Id.* at 7; see also RUFUS BURROW, PERSONALISM: A CRITICAL INTRODUCTION 36-90 (1999) (discussing eight variations of personalism).

35. As examples of non-theistic versions of personalism, Burrow mentions the atheistic personalism of John M.E. McTaggart and the existential personalism of Jean-Paul Sartre. BURROW, *supra* note 6, at 93, 176.

scholar to scholar and can even be given different expressions by a single scholar.³⁶ For purposes of this Article, five principles are offered as descriptive of the philosophy of personalism:

- (1) the universe (reality) is grounded on moral order;
- (2) the universe (reality) is fundamentally good and is friendly to the achievement of good;
- (3) persons possess the highest intrinsic value and are inherently precious;
- (4) persons are interrelated and interdependent in community; and
- (5) persons are free and self-determining moral agents and as such are under a moral and ethical imperative to uphold the intrinsic value of all other persons.

These five principles can be seen as responding to three fundamental questions about the nature of reality, the nature of human beings, and the moral and ethical principles that can be derived from the nature of reality and the nature of people. The five principles also display the connection between epistemology and ethics. To see the universe as morally ordered and fundamentally good and to see human beings as inherently precious, interrelated in community, and morally autonomous produces a moral and ethical framework — and corresponding moral and ethical imperatives — that would not be created by a contrary view. For King, the principles of personalism determined the principles of his social ethics, including his commitment to non-violent resistance and to redeeming the oppressor as well as uplifting the oppressed. King acknowledged that, if he were to be faithful to his personalistic philosophy, he could not act otherwise as the “means and ends must cohere because the end is preexistent in the means.”³⁷

36. For example, Burrow identifies “the four fundamental themes of King’s personalism,” “at least five” personalistic ideas “at the center of King’s theology and ethics,” and “personalism’s two fundamental dicta.” BURROW, *supra* note 6, at 80, 86, 2. I do not mean here to imply that these descriptions are in any way inconsistent or contradictory. Each is offered for a different purpose. I mean only to point out that identifying the tenets of personalism is not a mechanical task.

37. FLUKER, *supra* note 6, at 143 (quoting MARTIN LUTHER KING, JR., *Christmas Sermon on Peace*, in *A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS OF MARTIN LUTHER KING, JR.* 255 (James Melvin Washington, ed., 1986) [hereinafter *A TESTAMENT OF HOPE*]). It is not unusual to find identical or nearly identical phrases in multiple publications by King. In a sermon entitled, *How Should a Christian View Communism?*, King wrote, “Destructive means cannot bring constructive ends, because the means represent the-ideal-in-the-making and the-end-in-progress. Immoral means

The principles of personalism unite in the goal to which King dedicated his ministry, his civil rights work, and, ultimately, his life — the actualization of a “transformed and regenerated society”³⁸ that he characterized as the “beloved community.”³⁹ King’s conception of the beloved community has been described as a “community of love”⁴⁰ in which “all persons are brothers and sisters”⁴¹ and as “an inclusive human community”⁴² where “human values are the supreme values.”⁴³ These characteristics are expressed in the idea that the beloved community is “a society based on the agapé love imperative.”⁴⁴ *Agapé* love is “other-directed.”⁴⁵ It “goes beyond the natural desire for personal security” and “insist[s] on community even when [another person] seeks to break it.”⁴⁶ *Agapé* love is demanding. It involves “a willingness to go to any length to restore community”⁴⁷ and “a willingness to forgive, not seven times, but seventy times seven” to accomplish that restoration.⁴⁸

Although King modeled his beloved community on the realm of God concept⁴⁹ of his faith, his community ideal was decidedly

cannot bring moral ends, for the ends are pre-existent in the means.” MARTIN LUTHER KING, JR., *How Should a Christian View Communism?*, in STRENGTH TO LOVE 99 (Fortress Press 1981) (1963).

38. FLUKER, *supra* note 6, at 110.

39. For extended discussions of King’s concept of beloved community, see BURROW, *supra* note 6 at 155-79 and FLUKER, *supra* note 6, at 110-13.

40. BURROW, *supra* note 6, at 156.

41. *Id.* at 160.

42. *Id.* at 170 (quoting KENNETH L. SMITH & IRA G. ZEPP, SEARCH FOR THE BELOVED COMMUNITY: THE THINKING OF MARTIN LUTHER KING, JR. 119 (1974)).

43. *Id.* at 160 (quoting BENJAMIN E. MAYS & JOSEPH WILLIAM NICHOLSON, THE NEGRO’S CHURCH 64 (Ayer Co. 1984) (1933)).

44. *Id.* at 167.

45. FLUKER, *supra* note 6, at 138. *Agapé* love is often contrasted with two other forms of love — *eros*, which describes “aesthetic or romantic love” and *philia*, which describes the “reciprocal affection between friends.” *Id.* at 137-38.

46. BURROW, *supra* note 6, at 160.

47. *Id.*

48. *Id.* The phrase “seventy times seven” (which is also sometimes translated as “seventy-seven times”) refers to Mt 18:21-22, in which Peter asks how many times he must forgive someone who has sinned against him. One point of the passage is that if one forgives the acts of another 490 times, forgiveness ceases to be a discrete act and becomes a way of being.

49. Burrow describes the realm of God concept as “humanity organized according to the will of God.” *Id.* at 167 (quoting WALTER RAUSCHENBUSCH, A THEOLOGY FOR THE SOCIAL GOSPEL 142 (Westminster John Knox Press 1997) (1917)); see also FLUKER, *supra* note 6, at 110; Richard H. Hiers, *Kingdom of God*, in THE HARPERCOLLINS BIBLE DICTIONARY 567-70 (Paul J. Achtemeier, ed., HarperSanFrancisco 1996) (1985) (describing the kingdom of God as “the new era . . . of peace and blessing for all creation [in which] humans and other animate beings will enjoy life together . . . in that transformed world sometimes known as the peaceable kingdom” (internal quotation omitted)). *Id.*

historical as well as eschatological; that is, the beloved community was a state to be sought in this world as well as in the “end time.” The “beloved community is, and is also that which is to come.”⁵⁰ People are expected “to live and behave in ways that contribute to the actualization of the community of love,”⁵¹ which means that people must “live each day as if such a community already existed.”⁵² Ethically speaking, the “key question that [*agapé*] love asks in . . . situations requiring neighborly concern for others is not, ‘What will happen to me if I act lovingly in this situation?’ Rather it asks, ‘What will happen to my neighbor if I fail to act on his/her behalf?’”⁵³ The accompanying teleological question is “[W]hat kind of society must human society be when human society truly becomes?”⁵⁴ The vision of the beloved community was “the ultimate norm and goal” for King’s struggle for civil rights, economic justice, and world peace,⁵⁵ and the epistemological foundations of his beloved community can be located in the five principles of personalism.

1. *The Universe is Grounded on Moral Order*

Personalism maintains that there is an objective moral order to the universe or, as it is often phrased, that the universe hinges on a moral foundation. This tenet, which makes a metaphysical claim about the nature of reality, considers moral order to be “legislated into the very nature of things”⁵⁶ and to be the “ground of all other certainty.”⁵⁷ Further, moral order is characterized by universal application and value objectivism. Moral order is universal because it is “woven into the very fabric of reality and consequently appl[ies] to everyone.”⁵⁸ Moral order includes

at 568. Because of the male-oriented and militaristic connotations of “kingdom,” many contemporary theologians substitute “realm” for “kingdom.”

50. See BURROW, *supra* note 6, at 166. Burrow makes this statement in the context of discussing the meaning of the beloved community for African American theologian Howard Thurman, but Thurman was “an influential person in King’s life,” and “there is nothing in [Thurman’s] description that is not also in King’s conception of the beloved community.” *Id.* at 165-66.

51. *Id.* at 163.

52. *Id.*

53. See FLUKER, *supra* note 6, at 138 (describing *agapé* love as exhibiting universal altruism, dangerous altruism, and excessive altruism). King also makes this point in a sermon entitled, *On Being a Good Neighbor*, in STRENGTH TO LOVE, *supra* note 37, at 34.

54. FLUKER, *supra* note 6, at 127.

55. *Id.* at 137.

56. BURROW, *supra* note 6, at 181.

57. *Id.* at 181 (quoting RUDOLPH HERMANN LOTZE, MICROCOSMUS: AN ESSAY CONCERNING MAN AND HIS RELATION TO THE WORLD 675 (E.E. Constance Jones, ed., Elizabeth Hamilton & E.E. Constance Jones trans., 4th ed. 1885)).

58. BURROW, *supra* note 6, at 186.

objective moral values because:

To say that the universe is grounded on a moral foundation, and thus is fused with value is to suggest that right and truth are grounded in the structure of things. This in turn means there are moral absolutes, things that are absolutely right and things that are absolutely wrong.⁵⁹

These moral absolutes provide the “norms or standards by which all values should be measured.”⁶⁰

For King, the moral order of reality is a force that cannot be altered or ignored. Life functions best when we act in harmony with the values of moral order; we act contrary to them only at the peril of personal and societal pain. As King put it, “There is a law in the moral world — a silent, invisible imperative, akin to the laws in the physical world — which reminds us that life will work only in a certain way.”⁶¹ The problems of persons and of society are traceable to the fact that “the ‘isness’ of our present nature is out of harmony with the eternal ‘oughtness’ that forever confronts us.”⁶² Society is in harmony with the moral order of the universe only when it sacralizes human personality and recognizes persons as possessing the highest intrinsic value. Because the beloved community animates the moral order of the universe, it is the “norm and goal of the moral life”⁶³ and “the principle of principles,” the standard by which all morality ought to be judged.⁶⁴

2. *The Universe is Fundamentally Good*

A second metaphysical claim of personalism is that reality is not only “fused with value,” it is also inherently inclined to the attainment of value.⁶⁵ It is in this sense that the universe is said to be friendly.⁶⁶ Because “the universe itself is on the side of justice and right” and on the side of “all efforts to achieve good,”⁶⁷ every action consistent with the moral order is “in harmony with the

59. *Id.* at 247.

60. *Id.* at 186.

61. *Id.* at 185 (quoting I HAVE A DREAM: THE QUOTATIONS OF MARTIN LUTHER KING, JR. 79 (Lotte Haskins, ed., 1968) [hereinafter I HAVE A DREAM]).

62. See FLUKER, *supra* note 6, at 132 (quoting MARTIN LUTHER KING, JR., *The Drum Major Instinct*, in A TESTAMENT OF HOPE, *supra* note 37, at 260).

63. *Id.* at 148.

64. BURROW, *supra* note 6, at 162.

65. *Id.* at 186.

66. There are socio-ethical implications of a friendly universe, in which “the very grain of the universe is on the side of right and of justice. With such companionship, the poor and the oppressed need never be overcome by apathy and the temptation to cease struggling against the forces of evil and injustice.” BURROW, *supra* note 6, at 190.

67. *Id.* at 190.

grain of the universe" and, accordingly, will succeed in the end.⁶⁸ This claim provides the "ground of hope" that humanity can be transformed and the beloved community ideal can, one day, be attained. Precisely because "the universe itself is on the side of justice and right," we can live in the hope that "at the end of the day injustice and wrong will not and cannot succeed."⁶⁹ Personalism's view of reality as inclined toward the achievement of good is captured in the famous phrase: "The arc of the universe is long, but it bends toward justice."⁷⁰

However, to say that the universe is friendly to the attainment of good is to "mak[e] a statement about its fundamental nature and not about the daily experiences of persons and groups in the world."⁷¹ The inclination of the universe toward justice and good does not mean that justice and good currently prevail or that their realization is inevitable. The lives of millions of people who live in poverty, oppression, hunger, illness, fear, and desperation are all too visible testaments to humankind's disregard for moral laws. The "friendliness" of reality does not mean that the world is perfect; it means only that the ideal of perfectibility is preserved.⁷² Because the moral order is not self-actualizing, the beloved community is comprised of people who act intentionally and persistently to bring it into being.⁷³

3. *Persons Possess the Highest Intrinsic Value*

A foundational anthropological claim of personalism is that persons are the highest intrinsic value, which means that each person has inherent and immeasurable worth. For theistic personalists, like King, persons possess this value because they are imbued with the *imago dei*. Every person "is a being of absolute worth, because every person is created and loved by a supremely personal God."⁷⁴ Philosophically, the intrinsic value of persons is rooted in the postulates that "personality is the clue to

68. *Id.* at 183.

69. *Id.* at 189.

70. *Id.* (quoting I HAVE A DREAM, *supra* note 61, at 63). Burrow makes the case that this phrase was not original to King and that it originated with nineteenth-century abolitionist preacher Theodore Parker, who is quoted as writing, "I do not pretend to understand the moral universe; the arc is a long one, my eye reaches but little ways; I cannot calculate the curve and complete the figure by the experience of sight; I can divine it by conscience. And from what I see I am sure it bends toward justice. Things refuse to be mismanaged long." *Id.* (emphases omitted). For a general discussion of King's appropriation of sources, see *id.* at 8-10.

71. *Id.* at 247.

72. *Id.* at 191 (quoting EDGAR S. BRIGHTMAN, AN INTRODUCTION TO PHILOSOPHY 363 (Harry Holt 1951) (1925)).

73. *Id.* at 193.

74. *Id.* at 7; see also FLUKER, *supra* note 6, at 114 (discussing the nature of persons).

reality” and that “conscious personality is both the supreme value and the supreme reality in the universe.”⁷⁵

Attributing the highest intrinsic value to persons dictates the way persons should, and should not, be treated. Because intrinsic value is common to all humanity, the value of each person “goes beyond external accidents of race, class, and nationality.”⁷⁶ Additionally, as the teleology of life is the attainment of fullness of personality, one should live his or her life in a way that promotes that end and should refrain from acting in ways that impede the progress of others toward that goal. In the beloved community, the value of human personality demands that “[a]ll men must be treated as ends and never as means.”⁷⁷

4. *Persons are Interrelated and Interdependent in Community*

The interrelationship of life is both a metaphysical and an anthropological claim of personalism. It is a metaphysical claim as it describes the nature of reality; it is an anthropological claim as it describes the formation of human identity. In personalism reality is understood as “through and through social, relational, or communal.”⁷⁸ Individuals are understood as persons-in-community, rather than as atomistic. Individual persons “have neither their basic cause nor their chief characteristics in themselves,”⁷⁹ but instead find their cause and characteristics only in their relations with other persons and as members of a community.

These claims about reality and humanity have two important ramifications. First, “[a]ll life is interrelated,” so “all [people] are interdependent.”⁸⁰ King wrote that all persons “are caught in an inescapable network of mutuality, tied in a single garment of destiny.”⁸¹ Thus, “[w]hatever affects one directly affects all indirectly.”⁸² King is often quoted as saying that “[t]he universe is so constructed that things do not quite work out rightly if men are not diligent in their concern for others.”⁸³ Because the reality in which we exist is structured on interdependence, “[t]o treat even a single person unjustly . . . is an affront to *all* persons.”⁸⁴

Second, the interdependence of life shapes each person’s

75. FLUKER, *supra* note 6, at 114.

76. *Id.* at 138.

77. *Id.* at 114.

78. BURROW, *supra* note 6, at 157 (emphasis omitted).

79. *Id.* at 158.

80. MARTIN LUTHER KING, JR., *The Man Who was a Fool*, in *STRENGTH TO LOVE*, *supra* note 37, at 72.

81. *Id.*

82. *Id.*

83. MARTIN LUTHER KING, JR., *The Ethical Demands of Integration*, in *A TESTAMENT OF HOPE*, *supra* note 37, at 122.

84. BURROW, *supra* note 6, at 159.

being. People do not exist individualistically; instead people exist as individuals-in-community. Thus, "I can never be what I ought to be until you are what you ought to be, and you can never be what you ought to be until I am what I ought to be. This is the interrelated structure of reality."⁸⁵ The formation of our identities in community and our dependence on community are captured in King's words: "The self cannot be self without other selves."⁸⁶ In the beloved community, disregard for the wellbeing of others is not an option because interrelationship creates an imperative of concern and because interdependence conditions the fulfillment of each person's personhood on the fulfillment available to others.

5. *Persons are Free and Self-Determining Moral Agents*

Personalism holds that inherent in human personality is the freedom to be self-determining moral agents. Freedom includes "the capacity to deliberate or weigh alternatives"⁸⁷ and to call one thing acceptable and another unacceptable, but it does not end there. Freedom presses beyond choice because self-determination inescapably "expresses itself in decision" and "is always wedded to responsibility."⁸⁸ The universe may hinge on a moral foundation and may be friendly to the achievement of good, but good is not self-actualizing.⁸⁹ Persons must choose to abide by moral laws and then act upon that choice. The beloved community will be achieved only if people are:

intentional about living in accordance with the meaning of *agapé* love. It is not enough to just bring diverse groups of persons together in a community The members and community must *intend* to be together and to live in those ways that acknowledge and respect the humanity and dignity of every person. What is more, persons must *want* to live in this type of community, and be willing to work cooperatively to achieve, sustain, and enhance it as far as possible.⁹⁰

By connecting choice with decision making, and decision making with responsibility, personalism generates moral and ethical imperatives to which we are all subject.

II. PERSONALISM AND KING — THE LEGACY

Although the influence of personalism on King's life and work is widely acknowledged, is it similarly appropriate to claim that the dissemination of personalistic principles is part of King's legacy? In other words, has King wrought not only good legislation

85. KING, *supra* note 80, at 72.

86. KING, *supra* note 83, at 122.

87. FLUKER, *supra* note 6, at 115.

88. *Id.*

89. *Id.* at 120-21.

90. BURROW, *supra* note 6, at 160.

that helped put an end to Jim Crow laws and to legal segregation, but has he also wrought a good epistemology that directs many people, perhaps unaware of its influence, to strive for the actualization of the beloved community? I believe it is entirely appropriate to ascribe such a legacy to King and to honor it. In support, I offer three presentations made at the Housing Rights conference, each of which contains themes expressive of the tenets of personalism.⁹¹

A. *The Inherent Worth of All Persons*

“Dignitary harm” is a prominent phrase in the materials that accompanied the presentation of Kathleen K. Clark, Executive Director of the Chicago-based Lawyers’ Committee for Better Housing (LCBH).⁹² In December of 2003, the LCBH, in conjunction with the Chicago-Kent College of Law, issued a report entitled *No Time for Justice: A Study of Chicago’s Eviction Court* (2004 LCBH Study).⁹³ This report presents and analyzes the observations made

91. The echoes of personalism identified in this Article were but three of a number of examples detected at the “What King Wrought” housing rights conference. These three were chosen for two reasons. First, there is a striking eloquence to the phrases that dominate each — “dignitary harm,” “the sinew of social cohesion,” and “the unenforceable obligation to love.” Second, these three presentations are not being recast into published articles, so by discussing them here, I am able to preserve and call attention to their messages.

92. See Clark, *supra* note 8. For information about the LCBH, see Lawyers’ Committee for Better Housing, <http://www.lcbh.org> (last visited Apr. 8, 2007).

93. LAWYERS’ COMMITTEE FOR BETTER HOUSING, CHICAGO KENT COLLEGE OF LAW CLASS OF 2004 HONORS SCHOLARS, *NO TIME FOR JUSTICE: A STUDY OF CHICAGO’S EVICTION COURT 1* (2003), available at http://www.lcbh.org/pdf/full_report.pdf [hereinafter 2004 LCBH STUDY]. The 2004 LCBH Study succeeds a 1996 LCBH study of eviction court, which resulted in a report entitled, *TIME TO MOVE: THE DENIAL OF TENANTS’ RIGHTS IN CHICAGO’S EVICTION COURT* (1996 LCBH Study). *Id.* at 9. The 1996 LCBH Study succeeds a study completed in 1976 by the Legal Assistance Foundation of Chicago, the Chicago Chapter of the National Lawyers Guild, and the Chicago Council of Lawyers, which resulted in a report entitled, *JUDGMENT LANDLORD: A STUDY OF EVICTION COURT IN CHICAGO* (1976 LAF Study). *Id.* at 9.

Although the 2004 LCBH Study notes some modest improvements from 1976 to 2003, the conclusions reached in the three reports about the deficiencies in Chicago’s eviction courts are consistent and disappointing. *Id.* For example, the average duration of an eviction hearing actually decreased between 1996 and 2003. *Id.* at 11. The effect of legal representation on average duration was mixed. *Id.* The 2004 LCBH Study also found that while “[l]egal representation increased the average length of hearings where the tenant was represented by an attorney” (to a whopping 3 minutes and 22 seconds!), legal representation actually “decreased the average length where only the landlord was represented.” *Id.*

The findings of the 2004 LCBH Study also confirmed that the prevalence of legal representation for tenants had not improved, as “[t]enants [were] represented by legal counsel only about 5% of the time, [a] factor virtually unchanged from the 1996 study.” *Id.* at 13. Landlords, on the other

by teams of Chicago-Kent Honors Scholars who attended 763 eviction cases over an eleven-week period.⁹⁴

The 2004 LCBH Study presents some very disturbing conclusions about procedures and outcomes in Chicago's eviction courts. For example, the report finds evidence that eviction court judges have a solicitous attitude toward landlords, which is evidenced by contrasting outcomes when one party fails to appear at the eviction hearing. If it is the tenant who fails to appear, entry of a judgment in favor of the landlord is automatic. On the other hand, if it is the landlord who fails to appear, only sixty percent of cases were dismissed for want of prosecution.⁹⁵ The report also characterizes the outcome of eviction cases as foreordained, as "[i]n *all* cases, in which a defense was raised[,] the tenant lost."⁹⁶

Perhaps the most shocking finding in the 2004 LCBH Study relates to the length of time dedicated to the eviction hearing itself. According to the study, "[t]he average eviction court case lasted 1 minute and 44 seconds, barely enough time for the parties to reach the bench, identify themselves, and state the nature of the dispute."⁹⁷ Often judges in eviction hearings appeared interested in the tenant's answer to only one question — "Did you pay the rent?"⁹⁸

The 2004 LCBH Study concludes that the brevity of eviction hearings produces both procedural and substantive law failures. Landlords were "seldom required specifically to establish the elements of the prima facie case entitling them to an order of possession."⁹⁹ The parties were sworn to testify truthfully in only eight percent of the cases.¹⁰⁰ In only twenty-seven percent of the

hand, were represented by legal counsel in 53% of the eviction cases monitored. *Id.* Although representation for tenants did little to alter the outcome of the case, the presence of tenant's counsel did appear to lengthen by six days the period in which the landlord's repossession of the leased premises was stayed. *Id.*

For a report on the effect of legal representation on eviction proceedings, see LAWYERS' COMMITTEE FOR BETTER HOUSING, A WEEK'S WEIGHT: THE EFFECT OF INCREASED LEGAL REPRESENTATION IN CHICAGO'S EVICTION COURT (1997) (on file with author). The LCBH issued this report in 1997 following a twelve-week pilot program "instituted to determine if expanded legal representation and high quality pro se assistance . . . could be quickly and efficiently mobilized on behalf of those tenants who have meritorious defenses to an eviction action." *Id.* at 2.

94. The methodology employed to gather the data included in the LCBH Study is described at 2004 LCBH STUDY, *supra* note 93, at 9-10.

95. *Id.* at 5, 17.

96. *Id.* at 5 (emphasis added); see also *id.* at 16 (reporting that regardless of the type of defense raised the tenant always lost).

97. *Id.* at 7.

98. *Id.* at 21.

99. *Id.* at 14.

100. *Id.*

cases monitored were tenants even asked if they had a defense to the eviction.¹⁰¹ This is a serious omission given that one of the fourteen “germane defenses” available under the RLTO is that “the landlord’s failure to maintain the premises in substantial compliance with applicable building codes reduced [the premises] value by an amount that exceeds the rent demanded in the [eviction] notice,”¹⁰² certainly not an uncommon situation in many urban apartment buildings.

The 2004 LCBH Study also concludes that the deficiencies observed in Chicago’s eviction courts impact the integrity of the legal system itself. The “destructive speed” of the eviction hearing creates an impression of bias in favor of the landlord and of injustice for the tenant and thus undermines the “three crucial components” of the legal system — equality, impartiality, and transparency.¹⁰³ As serious as that criticism may be, the 2004 LCBH Study identifies a failing in Chicago’s eviction courts that is even more fundamental and even more damaging — the infliction of dignitary harm on tenants who appear before those courts.¹⁰⁴

Inseparable from the 2004 LCBH Study’s statistical evidence and legal analyses is a recurring refrain lamenting the harm to human dignity.¹⁰⁵ The report criticizes the brevity of eviction hearings, not just because brevity indicates procedural and substantive law deficiencies but also because brevity belies the fact that eviction hearings involve “matters of profound impact on individuals’ human dignity.”¹⁰⁶ Procedural safeguards must be observed, even when observance will not affect the ultimate outcome of the hearing, because observing those safeguards “show[s] respect for the dignity of the defendant.”¹⁰⁷ When the legal system displays the crucial components of equality, impartiality, and transparency, “the system not only inspires confidence in those who do not prevail; more importantly, it conveys to the parties that their autonomy and dignity as persons is respected.”¹⁰⁸

Implicit in the 2004 LCBH Study’s emphasis on dignitary harm is the recognition that people are valuable simply by virtue of our humanity. Affronts to a person’s humanity are damaging precisely because they deny that value and thereby violate a universal moral law. By focusing on the dignitary harms inflicted

101. *Id.* at 16.

102. *Id.* at 8. For an overview of the eviction process in Chicago’s eviction courts, see *id.* at 7-8. See also *id.* at 8-9 for a description of the fourteen germane defenses.

103. *Id.* at 20.

104. *Id.*

105. *Id.* at 6-7, 20, 23.

106. *Id.* at 20.

107. *Id.*

108. *Id.*

on tenants in eviction court, the 2004 LCBH Study is both the inheritor of and transmitter of an authentic tenet of personalism.

B. *The Interrelation of All Persons in Community*

“The sinew of social cohesion” is a striking image from the conference presentation by Michael Pensack, Executive Director of the Illinois Tenants Union.¹⁰⁹ Pensack’s experiences in seeking to secure housing rights extend back to the summer of 1966. In that year, Pensack met King and participated in a protest march through the neighborhoods of Chicago, where white residents hurled rocks and bottles at the marchers. Pensack’s work to secure tenants’ rights began with the enactment of the first local-level landlord-tenant ordinances in the Chicago suburbs of Evanston and the Village of Mount Prospect.¹¹⁰ In both cities, Pensack defended the ordinances against a variety of attacks and worked for their effective enforcement.

The Evanston and Mount Prospect ordinances were based on the Uniform Residential Landlord and Tenant Ordinance (URLTO),¹¹¹ and while Pensack characterized the URLTO as “a huge improvement over tenants having no rights,” he also recognized that it contained deficiencies.¹¹² Thus, in 1979, when an alderman began work on the first version of Chicago’s landlord-tenant ordinance, Pensack recommended four substantive changes to remedy the deficiencies in the URLTO.¹¹³ When Chicago finally enacted the Residential Landlord Tenant Ordinance in 1986, it

109. For information about the Illinois Tenants Union, see generally Illinois Tenants Union, <http://www.tenant.org> (last visited Apr. 8, 2007).

110. Pensack’s presentation is documented in the form of the unpublished text of prepared remarks he delivered at the Housing Rights Conference: Michael Pensack, Prepared Remarks for the John Marshall Law School’s Conference: “What King Wrought” – The Impact of the Summer of 1966 on Housing Rights: A Forty-Year Retrospective and Prospective (Sept. 8-9, 2006) (on file with author). In 1975, Evanston was the first city in Illinois to enact a local landlord tenant ordinance pursuant to home rule powers granted by the 1970 Illinois Constitution. *Id.* at 1. The Village of Mount Prospect enacted its landlord tenant ordinance in 1983. *Id.* at 2.

111. UNIF. RESIDENTIAL LANDLORD & TENANT ACT (amended 1974).

112. Pensack, *supra* note 110, at 2-3.

113. *Id.* at 3. The recommended changes were:

1. The tenant should be able to withhold rent from a landlord without the city having to cite the landlord for code violations;
2. The tenant should be able to collect damages from the landlord who failed to pay interest on the security deposit and larger damages from the landlord who wrongfully refused to return a security deposit after the tenant moved out;
3. The language “may” [contained in the draft of the ordinance] recover damages from the landlord who violated the ordinance should be changed to “shall;”
4. The language [contained in the draft of the ordinance] “may” recover attorney’s fees for a tenant who proved in court that the landlord violated the act should be changed to “shall.” *Id.*

included each of Pensack's recommendations. Two of these recommendations, mandatory and substantial damages for landlord violations and mandatory attorney's fees, have proven crucial to securing legal representation for tenants.

Although Pensack can speak authoritatively about the development of tenants' rights legislation and about trial strategies for enforcing those rights, his response to the question "What is the future of tenants' rights?" focused on neither legislation nor litigation.¹¹⁴ Instead, Pensack focused on the prevalence and damaging effects of individualism in this country, including the decline in sense of community.¹¹⁵ As an illustration, Pensack cited Robert Putnam's study *Bowling Alone*, which documents that "we do more things alone today than at any time in the past."¹¹⁶ Individualism isolates people from each other and weakens one's identity as living in community with others.

For Pensack, the future of tenants' rights is at risk unless there is a return to the kind of citizen involvement in public issues and citizen pressure for reform that characterized the era celebrated by the Housing Rights conference.¹¹⁷ Pensack noted that isolation from the public sphere of life results in an abdication of policy making to the marketplace and to established power structures, neither of which should be expected to be friendly to the future of tenants' rights.¹¹⁸ To avoid such abdication, Pensack calls on Americans to "recover the social net that [once] bound citizens together"¹¹⁹ and to repair the "sinew of social cohesion that makes a society strong," but which today "is being pulled apart."¹²⁰

Pensack is in good company in noting the destructive effects of individual isolation and the importance of remembering that our lives are lived in and shaped by community. In the acclaimed analyses of American culture, *Habits of the Heart*¹²¹ and *The Good Society*,¹²² Robert Bellah and his co-authors warn that individualism "isolate[s] Americans one from another and thereby undermine[s] the conditions of freedom."¹²³ The antidote Bellah offers for individualism is the principle of subsidiarity, which calls for locating decision making, including policy making, in the persons who will be most directly affected.¹²⁴ By encouraging "new

114. *Id.* at 5.

115. *Id.* at 5-6.

116. *Id.* at 6 (discussing ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000)).

117. Pensack, *supra* note 110, at 5.

118. *Id.*

119. *Id.* at 6.

120. *Id.*

121. BELLAH ET AL., *supra* note 22.

122. ROBERT N. BELLAH ET AL., *THE GOOD SOCIETY* (1991).

123. BELLAH ET AL., *supra* note 22, at xlii.

124. BELLAH ET AL., *supra* note 122, at 135.

forms of participation” in political and social institutions, subsidiarity transforms both institutions and persons.¹²⁵ Institutions are transformed as they reflect the concerns of those involved, and persons are transformed as they acquire a sense of accountability for maintaining social institutions that discharge public and social responsibilities.¹²⁶

Pensack’s call for grassroots participation, like Bellah’s call for subsidiarity, acknowledges the importance of the social nature of our existence. To the extent that the sense of community is damaged, we damage both the institutions that define and sustain our society and the source of our own self-formation. Pensack’s image of “the sinew of social cohesion” recognizes that we live not just as individuals but as individuals-in-community.¹²⁷ His message is thus consonant with the fundamental tenet of personalism that existence is interconnected and interdependent.

C. *The Ethical Imperative of Free Moral Agency*

“The unenforceable obligation to love” is perhaps unexpected language to encounter at a legal conference, but this vivid phrase is the organizing principle for John Relman’s response to the question posed to him at the Housing Rights conference: “The State of Fair Housing Today — What are the Critical Issues and Where Should the Fair Housing Movement be Heading?” Relman, who heads a public interest law firm in Washington, D.C. and teaches at the Georgetown University Law Center,¹²⁸ contends that the goal of an integrated society — as opposed to a non-segregated society — can be achieved only by acknowledging the complementary relationship between legal questions and moral questions.¹²⁹

For Relman, the distinction between integration and desegregation is embodied in the very fabric of the Fair Housing Act.¹³⁰ The goal of desegregation is addressed via a concrete

125. *Id.* at 136.

126. *Id.* at 135-38.

127. Pensack, *supra* note 110, at 6.

128. For information about the mission, practice, cases, and personnel of Relman & Associates, see <http://www.relmanlaw.com> (last visited Apr. 8, 2007).

129. Relman’s presentation does not exist in written form, but his remarks are preserved on a digital video disk produced by The John Marshall Law School. DVD: John Relman, Attorney, Address at The John Marshall Law School’s Conference: “What King Wrought” — The Impact of the Summer of 1966 on Housing Rights: A Forty Year Retrospective and Prospective (Sept. 8-9, 2006) [hereinafter Relman DVD] (on file with author). In addition, the author interviewed Relman by telephone on November 9, 2006. Telephone Interview with John Relman, Attorney (Nov. 9, 2006) [hereinafter Relman Interview].

130. Fair Housing Act of 1968, Pub. L. No. 90-284, Apr. 11, 1968, 82 Stat. 73, 78 (codified as amended at 42 U.S.C. §§ 3601-3619 (2000)).

mechanism, the “non-discrimination principle,” but the goal of integration, he notes, is not as fully developed or articulated with similar clarity. As a result, Relman says we are left with unresolved questions. What is the goal of the Fair Housing Act? Are desegregation and integration co-equal goals? Unfortunately, these unresolved questions create tensions, especially when the goals are placed in opposition rather than seen as complementary. As an example, Relman cites to the well-known case of *United States v. Starrett City Associates*.¹³¹ In *Starrett City*, the city’s manipulation of a prospective tenant waiting list was challenged as a discriminatory allocation of a race-based benefit, even though the city had concluded that the practice was a necessary and reasonable means to achieve integration.¹³²

One effect of the unresolved tension between the goals of integration and desegregation is that *de jure* responses tend to emphasize procedural justice and avoid questions of distributive justice. The assumption that lies behind reliance on a body of “neutral rules” is that if the law ensures a “level playing field,” each person, regardless of race or other cause of marginalization, will be free to rise as far as his or her talent and initiative permit. Equality is treated as coextensive with the opportunity to succeed on one’s own. Such a perspective ignores, of course, the structural barriers that exist in a society founded on segregation. One need only note the unemployment rate and the conditions in public schools in predominantly minority neighborhoods to recognize that neutral rules do not operate neutrally.

It is at this point that Relman returns to his message about the complementary nature of legal and moral responses to racial segregation and other forms of discrimination. Relman wholeheartedly agrees that housing advocates (and civil rights advocates in general) must work to enforce anti-discrimination

131. *United States v. Starrett City Assocs.*, 840 F.2d 1096 (2d Cir. 1988), *cert. denied* 488 U.S. 946 (1988). To maintain a racial distribution of tenants of sixty-four percent whites, twenty-two percent blacks, and eight percent Hispanics, Starrett City applied a racial quota system when selecting among applicants for available apartments. This procedure resulted in relatively stable percentages of whites and minorities between 1975 and 1998. The federal government challenged the legality of Starrett’s policy of limiting the number of apartments made available to minorities for the purpose of maintaining a prescribed racial balance. Starrett responded that its procedures were adopted at the request of the state solely to achieve and maintain integration and were not motivated by racial animus. The appellate court rejected Starrett’s argument, stating that “programs designed to maintain integration by limiting minority participation . . . are of doubtful validity.” *Id.* at 1102. The dissenting opinion noted that the Fair Housing Act “was intended to bar perpetuation of segregation. To apply it to bar maintenance of integration is precisely contrary to the congressional policy.” *Id.* at 1105.

132. *Starrett City Assocs.*, 840 F.2d at 1098-1100.

laws and be advocates for further legal reform. At the same time, however, Relman cautions us not to lose sight of the moral aspect of the debate. He urges us to keep in focus the teleological question, "What kind of society do we want to create and inhabit?" The answer, he contends, is a society that is inhabited by persons who respond to the "unenforceable obligation of love."

Relman's observations and message are closely aligned with the personalistic ideas and message of King. King recognized that the evil of racial segregation was sustained by spatial separation of the races, and he maintained that removing the spatial separation requires two approaches. One approach is *de jure* — governments must enact and enforce laws that prohibit discrimination and segregation. The other approach depends on personal transformation — people must embrace a change of heart so that they do not seek to live apart from others. The law serves an important and necessary function, but it is not sufficient. Law alone may achieve desegregation, but personal and social transformation are necessary to achieve integration.

King knew that love cannot be legislated, and he drew a distinction between enforceable and unenforceable obligations. Enforceable obligations are "demands (rules, laws, statutes) which are imposed from without,"¹³³ while unenforceable obligations "concern inner attitudes, genuine person-to-person relations, and expressions of compassion which law books cannot regulate and jails cannot rectify."¹³⁴ This distinction is the foundation for King's recognition of the limits of desegregation as an enforceable demand and of the nature of integration as an unenforceable demand. Although King noted that desegregation "will break down the legal barriers,"¹³⁵ he also realized that laws prohibiting segregation will "bring men's elbows together but leave their hearts separated" and will result in "spatial togetherness and spiritual apartness."¹³⁶ According to King, integration will occur only when we exercise our free moral agency to embrace the imperative of *agapé* love, because exhibiting such love is the only way to live in harmony with the moral laws on which reality hinges and which recognize the highest value intrinsic in all persons. In King's words, "something must touch the hearts and souls of men so that they will come together spiritually because it is natural and right."¹³⁷

Echoing King, Relman calls for us to see the state of our hearts as a critical issue affecting the fair housing movement and

133. FLUKER, *supra* note 6, at 139.

134. KING, *supra* note 53, at 37; FLUKER, *supra* note 6, at 139.

135. KING, *supra* note 53, at 37-38.; FLUKER, *supra* note 6, at 139.

136. Martin Luther King, Jr., *The Ethical Demands of Integration, in A TESTAMENT OF HOPE*, *supra* note 37, at 118; FLUKER, *supra* note 6, at 121.

137. KING, *supra* note 53, at 38.

to follow the unenforceable obligation to love. Relman thereby reflects the moral autonomy of personalism as his call includes both decision and praxis. By encouraging us to look to the state of our hearts, Relman expresses personalism's acknowledgement of each person's moral autonomy and ability to choose to be guided by the unenforceable obligation to love. By summoning us to follow that unenforceable obligation—both by promoting the value of diversity and inclusiveness in housing and by acting on that value by living in diverse and inclusive neighborhoods—Relman unites choice with intentional action. In so doing, he restates personalism's insight that autonomy must necessarily result in action. When Relman speaks of the unenforceable obligation to love as the guide to "the type of society we want to live in," he refers us to personalistic ideals and to the beloved community.

CONCLUSION

As this Volume seeks to reflect on the impact of King's 1966 march on Chicago, it is appropriate to acknowledge the influence of the philosophy of personalism on King's social ethics, including his commitment to fair housing opportunities for all. "What King Wrought" — what he sought to accomplish — is inextricable from what King thought about the nature of reality and of persons. A further aspect of "What King Wrought" is the echo of personalism that can be detected in persons active within the housing rights movement. Those echoes likely have less to do with an awareness of the formal tenets of personalism than with the fact that King actively lived out those tenets and thereby modeled them for the rest of us. King's life is a powerful testimony to personalism because his incorporation of its tenets was systematic and his commitment was intentional. That is an approach we would all benefit from emulating. What is the nature of reality? What is the nature of human beings? These are not idle questions, for as we see in King's life the answers determine the moral and ethical imperatives that direct our daily lives and define the kind of society we want to bring into being.

EPILOGUE

This Article has discussed the role of the philosophy of personalism within the framework of the retrospective and prospective views of King's 1966 march on Chicago for fair housing. I have attempted to employ personalism, and King's acceptance of it, as a concrete demonstration of the connection between the epistemology expressed in one's guiding philosophy and the ethical decisions one makes in daily life. I also believe it worthwhile, however, to step outside this concrete example and to offer a suggestion for placing personalism within the larger context of the relationship of ideas to general social progress. This

suggestion draws on the relationship noted by philosopher and theologian Alfred North Whitehead between “philosophic ideas of high generality” and “particularized ideas” of specialized expression.¹³⁸

According to Whitehead, human civilization has progressed by way of a dialectic exchange between philosophic ideas and particularized expressions of those ideas:

There will be a general idea in the background flittingly, waveringly, realized by the few in its full generality But this general idea, whether expressed or implicitly just below the surface of consciousness, embodies itself in special expression after special expression. It condescends so as to lose the magnificence of its generality, but it gains in the force of its peculiar adaptation to the concrete circumstances of a particular age. It is a hidden driving force, haunting humanity, and ever appearing in specialized guise as compulsory on action by reason of its appeal to the uneasy conscience of the age.¹³⁹

One of the philosophic ideas of high generality that Whitehead considers is “the valuation of human beings as such,”¹⁴⁰ which he also identifies as the love of “mankind, merely as such.”¹⁴¹ The words “as such” mirror personalism’s valuation of persons as the highest intrinsic value.

The invaluable contribution of a philosophic idea of high generality to the progress of society is that the idea is a continuous force for its own realization.¹⁴² An idea of high generality, Whitehead writes, “is always a danger to the existing order. The whole bundle of its conceivable special embodiments in various usages of society constitutes a program of reform.”¹⁴³ So long as philosophic ideas remain unrealized, “so long they must spread the infection of an uneasy spirit.”¹⁴⁴ The dual nature of philosophic ideas is captured in Whitehead’s characterization that philosophic ideas “are at once gadflies irritating, and beacons luring.”¹⁴⁵

For Whitehead, the valuation of human beings “as such”

138. WHITEHEAD, *supra* note 10, at viii.

139. *Id.* at 16.

140. *Id.* at 10.

141. *Id.* at 30. Whitehead offered his view of the intrinsic value of human beings as a deliberate rebuttal to David Hume’s contention that “[i]n general, it may be affirm’d that there is no such passion in human minds, as the love of mankind, merely as such, independent of personal qualities, or services, or of relation to ourself.” *Id.* at 30 (quoting DAVID HUME, A TREATISE OF HUMAN NATURE, Book III, Part II, § I, at 1739-40).

142. Whitehead expressed this concept, saying that an idea “has a creative power, making possible its own approach to realization,” WHITEHEAD, *supra* note 10, at 42, and that “[t]he world dreams of things to come, and then in due season arouses itself to their realization.” *Id.* at 279.

143. *Id.* at 15.

144. *Id.* at 17.

145. *Id.* at 18.

impels “a growth, slow and wavering, of respect for the preciousness of human life” and an “increased sense of the dignity of man, as man,”¹⁴⁶ which he collectively labels the “humanitarian ideal.”¹⁴⁷ In the mid-nineteenth century in this country, the philosophic idea of high generality captured in the phrase “the humanitarian ideal” manifested itself in the special expression of the abolition of slavery, an institution irreconcilable with the preciousness and dignity of human personhood. But the abolition of slavery was an insufficient expression of the philosophic idea and did not remove the irritation of spirit caused by Jim Crow laws, which continued to deny the full personhood of African-Americans. Removal of those laws arose as the next special expression, but their eventual invalidation was still an insufficient expression of the philosophic idea, as *de facto* segregation continued where *de jure* segregation left off. So the irritation persisted, leading to further special expressions in the form of anti-segregation laws affecting many important areas of life, including housing, employment, and education. But the irritation persists still, as anti-segregation laws have not produced integration, and we continue to find more circumstances — the prevalence of predatory lending in minority neighborhoods, the rate of unemployment or underemployment for minorities, and gun violence, to name but a few examples — that call for additional expressions of the philosophic idea.

The seemingly inexhaustible number of circumstances that call for special expression after special expression of the philosophic idea can be disheartening, as each circumstance signals a denial of some aspect of a person’s full humanity. At the same time, the achievement of each special expression has the fortunate consequence of making possible the next advance toward the humanitarian ideal, or as King named it — the beloved community.

146. *Id.* at 83.

147. *Id.* See also Chapter III, *id.* at 26-42, which is entitled “The Humanitarian Ideal.”