Session II: Remarks on Martin Luther King's Lawyers

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SESSION I: REMARKS ON MARTIN LUTHER KING’S LAWYERS

PROFESSOR CARSON: Good morning to all of you. I want to not only plagiarize your last remark about plagiarizing his remarks. This is a morning of civil disobedience, I guess, but I think that as Aldon was speaking, and this is not a surprise to me, he was saying many of the things that I would say in terms of the Movement. But before getting to that though, I think it’s important to take a few minutes to just celebrate the lawyers. And I want to do that personally as well as in terms of an analysis of the role.

Back in my misspent youth, I was arrested a few times. And in all of these cases, I learned to be very thankful for the person getting me out of jail. And in some cases; I was
mentioning to Len last night about one of my arrests that led to a major case that went to the California Supreme Court when I was passing out anti-war leaflets in a train station, and I was arrested. And it established some law in California, which he told me is not necessarily applied throughout the nation, but about the right to protest on private property.

So I think on a personal level, I’m very thankful for lawyers. My son is a lawyer. I’m thankful for that. And it’s also the case that in studying Martin Luther King, one of the things that becomes very clear is that Martin Luther King really needed lawyers. It doesn’t surprise me that there were more than 60 lawyers involved.

During his career, as a leader, not only did he need lawyers for incidents of civil disobedience and basically movement activity, he needed lawyers because often, the courts are used as a pretext to stop leaders, using other kinds of laws that have nothing to do with civil rights protest.

And certainly, this was the case with Martin Luther King, who was arrested for driving without a license. He was arrested for tax evasion. He was arrested for many other activities that had very little to do with his movement activities, but nonetheless, were attacks on his movement activities. And I think that’s an important point to make. So we are thankful for those 60 lawyers.

And I think, furthermore, when I think of lawyers in the Movement, one of the things that I think makes my remarks converge with Aldon’s is that I think there were lots of different types of lawyers who helped the Movement and helped Martin Luther King.

It’s not a surprise that I would look at their activities, based on my perspective of the Movement that came from what I was doing before I became editor of Martin Luther King’s Papers, and that is studying SNCC. I’ve always looked at the Movement from the bottom up, rather than the top down. And it occurs to me that I look at lawyers and lawyering from the bottom up as well as the top down.

And the fact that Martin Luther King had 60 lawyers is a point of pride for the lawyer, for your profession, many of you in this room, but it also must be a matter of some concern because there were other people who Aldon mentioned, other people who played equally important roles in terms of initiating and sustaining the Movement, who found it very difficult to find one lawyer to take their case.

And that is a concern to me today, that we have a situation in which we have many lawyers who volunteer part of their time for high-profile cases. And yet, most of the movement does not consist of cases that attract a great deal of publicity.

So as we look at the role of lawyers, I think that we need to examine one of the basic aspects of any mass movement for social change, for social justice, and that is this notion of disrupting the system and that tension that Aldon referred to. What would be the role of a Movement lawyer, and what was it in the 1960s?

I think, first of all, it was an understanding that the Movement was about much more than civil rights reform. Part of what I’ve worked with in terms of Martin Luther King is trying to get across the idea that Rosa Parks made him into a civil rights leader. You had this wonderful person who would have become a wonderful social gospel minister. And in the King Papers—by the way, there are seven volumes now, not six—in one of the earlier volumes, I have a paper that King wrote in 1948 in which he lays out his agenda as a minister. He mentions slums, unemployment, and economic security. He
doesn’t mention civil rights. Think of what he is doing 20 years later. He’s in Memphis, dealing with economic issues, dealing with the system.

I also published the love letters that he wrote to Coretta. And that’s in the memoir outside. And in there, he lays out in the early 1950s, his trilogy of evils: racial injustice, militarism, poverty. These were the central concerns of his life before Rosa Parks turned him into a civil rights leader and after the major objectives of the Civil Rights Movement were achieved in 1965.

The way I look at his career increasingly is that he went on a detour because of Rosa Parks. That for ten years, he did take on that role. He was drafted into the Civil Rights Movement. And for ten years, I think all of us would agree, he did a pretty good job of it, achieved a great deal of success.

But the point I would make is that the day after the Voting Rights Act was passed, he was still at work. He did not retire. He did not move on and rest on the laurels of the victory over Jim Crow.

Instead, in some ways, the final three years of his life were I think the most meaningful ones in terms of his mission that he lays out very early in his life, this dealing with these triple evils that he sees as not simply American problems, but global problems.

So I would definitely endorse this notion that to be a civil rights lawyer requires a new kind of lawyering. There is this tension between a movements that is designed to deal with the injustices inherent in the system. And the point that Jim Crow was legal would lead us to suspect that maybe there might be some things that are very legal today that are nonetheless unjust, and that lawyering has to be about not simply dealing with people who run afoul of the law through disrupting the system, but using the law and using the skills of a lawyer to disrupt the system. And that’s a very difficult thing to do sometimes. And one of the aspects of the history of the struggle that I think needs more attention paid to it, and that is the relationship with the Cold War to lawyering.

It is, I think, crucial for any person, any American who is studying American history, but certainly any lawyer to understand the impact of the Cold War and McCarthyism on the kind of lawyering that could be done in support of the Movement.

That is partly the case because unlike Martin Luther King’s lawyers, the ones who were most helpful to SNCC tended to be the Lawyers Guild, which, as some of you know, was not on the Attorney General’s list of subversive organizations, but many people wanted to put it there. And it was investigated and seen as a subversive organization.

One of the aspects of that is that I think the movement lawyers, the ones who understood the need to disrupt the system, were more in tune with Martin Luther King than they realized it at the time.

Part of what I see in terms of our understanding of King is a failure to understand how radical he was, how much he was concerned about not just ending Jim Crow, but ending all of the kinds of oppression that accompanied Jim Crow.

Martin Luther King, by the end of his life, I think—well, from the beginning of his life, one of the first—you mentioned, “The Autobiography of Martin Luther King.” One of the things that I think is, to me, very interesting, the number of people who feel he became radicalized late in his life.

And part of what I tried to do with the autobiography in the very first sentence is to point out that he was an anti-capitalist from almost the beginning of his adult life and
throughout his adult life, and that that was a central part of his understanding of the need for change.

I would also point out that perhaps the closest person in terms of his advisors was a lawyer who doesn’t get mentioned very often, and that is Stanley Levison. And I think that in understanding that a former Communist who was himself investigated became the lawyer that Martin Luther King, in some ways, depended on for a wider variety of needs than any other lawyer.

Now, that was something that was going to be very harmful to Martin Luther King because the FBI’s investigation, surveillance, illegal surveillance of Stanley Levison and my colleague, Clarence Jones, because of his relationship with Stanley Levison, eventually led to surveillance of Martin Luther King himself.

But to me, for us to truly understand not only where movement lawyering was then, but where it needs to go today, I think we need to understand that history, or else, I think we’re likely to repeat it in terms of handling, for example, the issue of terrorism in the present.

So where does that leave us? In Aldon’s term, what would movement lawyering look like, a new kind of lawyering? I think, to some degree, it is a matter of whether the lawyer perceives himself or herself as being part of the movement or part of the legal system.

And I know that that’s always going to be a tension. I can see that my son is involved in legal aid and does a lot of that. In fact, he headed the Legal Aid office, Foundation office in south central Los Angeles. And that tension between the role of the lawyer as being the officer of the court and being part of that, of the institution, which the movement is designed to change, to transform into a more just system, how do you do that?

Well, I think part of what we could do in a session like this is review that history; and to understand, through these case studies, how it was that each of these wonderful lawyers that we’ll hear about during these sessions today, how each of them managed to maintain that tension between being inside the system and being part of the system to some degree, but also being outside the system and understanding the goals of the movement.

Perhaps the most significant kind of conversation that could take place, and I hope that there is a time, maybe—it might not be in this day, but soon after this—we can begin to think about what are the contemporary implications of this discussion we’re having.

If Martin Luther King is seen as a person who was trying to achieve a broad range of goals on a global level, and his last book was, “Where Do We Go From Here,” with an understanding that the goals have not been achieved through civil rights reform, then we are still in that questioning period, where do we go from here?

And I think that we see so many signs that the questioning of the significance of those goals by people like Michelle Alexander in “The New Jim Crow,” and in a book like—I forget the person’s name [Ed: Douglas Blackmon], but, “Slavery by Another Name,” you know, these books remind us how the issues that fuel the struggle, we haven’t even put a name on what the oppression is, the system of oppression that is facing us today.

I think that’s our job as scholars, to try to find out for the people in Ferguson, for example, how do you define the oppressive forces that are still keeping you down, and
how do lawyers become part of a mass struggle that is going to find answers to King’s question, “Where do we go from here?” I think if we can begin that kind of a discussion, a session like this can be very, very useful. And I’m just very pleased to participate in it.

Just as a final word, I would say that my first book on SNCC, the Student Nonviolent Coordinating Committee, to me was a wonderful experiment and movement building from the bottom up.

And SNCC had an interesting relationship with lawyers. Part of its initial strategy of jail, no bail, was aimed at the dependence that they felt often happened when people who were arrested relied on lawyers to get them out of jail. And that was because SNCC could not afford lawyers. And there were not very many lawyers willing to volunteer their services, especially in the early days of SNCC, so they developed this tactic of: We’re not going to leave jail. We’re going to stay there. And we’ll stay there as long as necessary.

Now, I bring that up because that suspicion of dependence on lawyers I think is still one of the crucial issues that the profession has to deal with. Lawyers are expensive. Some lawyers volunteer their services, and that’s wonderful, but the needs of the movements of the present as well as the past go well beyond that. And one of the crucial needs we have is how do we deal with that dependence on legal assistance without resources. How are movements today going to deal with that?

I think that today is a wonderfully experimental time when movements throughout the United States are challenging the system in so many different ways. But because there is no Martin Luther King as the symbolic leader of all of that, we don’t have 60 lawyers for one person. We’re still searching for any lawyer for 60 people or 600 people or 6000 people.

And I leave you with that challenge in the hope that you will give some thought to that during your deliberations.

Thank you very much.

(Applause.)

PROFESSOR RUBINOWITZ: Thank you. More plagiarism. I’m going to be spending the day plagiarizing all of you. Thank you.

We’re going to take a short break. There is food out in the lobby, grab some, come on back. And soon, we’ll start the discussion about Fred Gray, Rosa Parks' lawyer and Martin Luther King’s first lawyer.

(WHEREUPON, a recess was had.)
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I, PATRICIA ANN LAMBROS, a Certified Shorthand Reporter, C.S.R. No. 84-1790, of the State of Illinois, do hereby certify that I reported in shorthand the proceedings had at the symposium session aforesaid, and that the foregoing is a true, complete and correct transcript of the proceedings as appears from my stenographic notes so taken and transcribed under my personal direction.