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A Martin Luther King Jr. Amendment to the U.S. Constitution: Toward the Abolition of Poverty

Theodore Walker Jr.

Prepared with help from Justin Barringer, Mark Grafenreed, Michael Greene, Lillie R. Jenkins, D. Stephen Long, Darryl M. Trimiew, and Michael W. Waters.

Abstract -

Rev. Dr. Martin Luther King Jr. prescribed that we add an economic bill of rights to the U.S. Constitution. A King-Inspired bill of rights should include a constitutional amendment that enumerates a natural human right to be free from economic poverty, and appropriate enforcement legislation.

For the sake of abolishing slavery, the Thirteenth Amendment says:

(Section 1) *Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*

(Section 2) *Congress shall have power to enforce this article by appropriate legislation.*

Similarly, for the sake of abolishing poverty, a King-Inspired Amendment should say:

(Section 1) *Neither slavery nor involuntary servitude, nor economic poverty, shall exist within the United States, or any place subject to their jurisdiction.*

(Section 2) *Congress shall have power to enforce this article by appropriate legislation.*

Legislation appropriate to King's prescriptions for abolishing economic poverty will seek to "create incomes" by providing well-paid jobs and new forms of work that "enhance the social good" supplemented by "guaranteed income" for all and special measures for those who are disadvantaged (MLK Jr.).

Key words – abolition of poverty, economic poverty, economic bill of rights, human rights, International Covenant for Social, Economic and Cultural Rights.

Abolishing poverty was a major theme in King's June 1967 book—*Where Do We Go from Here: Chaos or Community?* [Reprinted in 2010]. Going beyond civil rights, King insisted that his proposed program for the "abolition of poverty" was "*not a 'civil rights' program*, in the sense that that term is currently used" (2010 [June 1967]: 174, italics added; 170-175). In that—still currently used—sense, "civil rights" are constitutionally protected political rights (including voting rights), not economic rights. Constitutionally defined civil rights do not include economic rights. Hence, King went beyond the scope of civil rights to prescribe adding a "social and economic Bill of Rights, to supplement the Constitution's political Bill of Rights" (King 2010 [June 1967]: 211).

[For a historical, critical, and constructive account of “economic rights,” with particular attention to President Carter’s support for economic rights, and including ethical and theological contributions to debate about economic rights, see *God Bless the Child That’s Got Its Own: The Economic Rights Debate* (c1997) by Darryl M. Trimiew.]

Until such supplements were in place, King recognized that, in calling for economic rights, he was going beyond presently enumerated constitutional rights, and hence, beyond our sense of the term “civil rights.” King wrote: “We have left the realm of constitutional rights and we are entering the area of human rights” (2010 [June 1967]: 138). And for King, economic justice and economic rights are essential to the human right to be free from poverty.

Freedom-from-poverty and economic rights are *not* enumerated in the Constitution. Nevertheless, according to the ninth of ten amendments in the Bill of Rights (ratified in 1791), we should not construe this non-enumeration to mean such rights cannot be federally protected.

The Ninth Amendment says:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

These “others retained by the people” are other rights. They are unenumerated, yet undeniable, unalienable natural human rights. Hence, adding (enumerating) a poverty-abolishing-social-and-economic Bill of Rights is a constitutionally appropriate action.

[Natural human rights, including economic rights, can be supported by natural law and natural theology (Gamwell 1990, 2015; Long 2000; Long and Fox 2007).]

King’s friend and co-marcher Floyd McKissick,* a constitutional lawyer, affirmed the constitutional appropriateness of social and economic rights. In Part 2 “The Constitution and Social Change” of his book, *Three-Fifths of a Man* (1969), McKissick argued that, in seeking to abolish *every* form of slavery by allowing *neither* slavery *nor* involuntary servitude, the Thirteenth Amendment (ratified in 1865) requires abolishing poverty.

The Thirteenth Amendment says:

Section 1

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2

Congress shall have power to enforce this article by appropriate legislation.

According to McKissick, economic poverty is “a form of involuntary servitude” and part of “a system of economic, political, and social slavery” that “must be abolished” in order to “give life

to the Constitution” (1969: 80-81). Moreover, McKissick prescribed that the courts abandon the kind of judicial self-restraint “that avoids the decision of constitutional issues whenever possible” in favor of “affirmatively” protecting constitutional rights (1969: 78).

* Floyd McKissick participated with King in the James Meredith March against Fear (Hawkins: 2016), a march that forged a “peripatetic friendship” (Barringer: 2016). In *Where Do We Go from Here: Chaos or Community?* (June 1967) King describes his June 1966 collaborations, conversations, and debates with Stokely Carmichael (and others from the Student Nonviolent Coordinating Committee [SNCC]) and Floyd McKissick (and others from the Congress of Racial Equality [CORE]). These conversations and debates occurred while King, Carmichael, and McKissick were continuing James Meredith’s march through Mississippi. Indeed, while Meredith was in the hospital recovering from a sniper’s gunshot, the march he initiated continued under the tripartite leadership of late-comers: McKissick, Carmichael, and King. “Floyd, Stokely and I,” wrote King, “agreed that the march would be jointly sponsored by CORE, SNCC ... and SCLC ...” (2010 [June 1967]: 25). After the Meredith march, the leaders continued their conversations and debates via three books: [1] *Where Do We Go from Here: Chaos or Community?* (June 1967) by Martin Luther King Jr.; [2] *Black Power: The Politics of Liberation in America* (1967) by Stokely Carmichael and Charles V. Hamilton; and [3] *Three-Fifths of a Man* (1969) by Floyd McKissick.

Central to “King’s proposed economic bill of rights,” says economist Michael Greene, is a “progressive full-employment/right-to-work agenda” (2014: 38; also 35-48). And where full-employment is not possible (some people are not able to work), we must provide other forms of “guaranteed income.” King wrote:

In addition to the absence of coordination and sufficiency, the [antipoverty] programs of the past all have another common failing—they are indirect. Each seeks to solve poverty by first solving something else.

I am now convinced that the simplest approach will prove to be the most effective—the solution to poverty is to abolish it directly by a now widely discussed measure: the guaranteed income.

(King 2010 [June 1967]: 171)

It is important to note that when King spoke of “guaranteed income,” he did not mean guaranteed poor income. Rather, King prescribed a guaranteed income that is adequate to human flourishing. Furthermore, unlike with past generations, King judged that we now have the financial, material, and technological resources needed to abolish poverty. King wrote:

There is nothing new about poverty. What is new, however, is that we now have the resources to get rid of it.

(King 2010 [June 1967]: 187)

The curse of poverty has no justification in our age. . . . The time has come for us to civilize ourselves by the total, direct and immediate abolition of poverty.

(King 2010 [June 1967]: 175)

And King called for constitutional and legislative measures designed to achieve “the total, direct and immediate abolition of poverty” (2010 [June 1967]: 175).

Similar to the Thirteenth Amendment abolishing slavery and involuntary servitude, abolishing economic poverty should be enumerated in a constitutional amendment inspired by Rev. Dr. Martin Luther King Jr.

A King-Inspired Amendment should say:

Section 1

Neither slavery nor involuntary servitude, nor economic poverty, shall exist within the United States, or any place subject to their jurisdiction.

Section 2

Congress shall have power to enforce this article by appropriate legislation.

Legislation appropriate to King's prescriptions for abolishing economic poverty will seek to "create incomes" by providing well-paid jobs and new forms of work that "enhance the social good" (King 2010 [June 1967]: 172) supplemented by "guaranteed income" for all ["universal basic income" (Bergman 2017)] and "special measures" for those who are "disadvantaged," including the "lost generations" (King 2010 [1963]: 162-63; Waters 2014, 2017).

[In *Why We Can't Wait* (2010 [originally 1963]) King appealed to the Marshall Plan and to the "GI Bill of Rights" in calling for "a broad-based and gigantic Bill of Rights for the Disadvantaged" (King 2010 [1963]: 163; 158-167). Also, see King's foreword to *A "Freedom Budget" for All Americans: A Summary* (January 1967) by A. Philip Randolph.]

King prescribed massive federal support for national and international efforts to abolish poverty, militarism, and war throughout "the world house" (June 1967). Accordingly, Congress should ratify the International Covenant for Social, Economic and Cultural Rights, signed by Jimmy Carter in 1976, but not ratified by Congress, and therefore not in force (Trimiew 1997).

[Concerning power to enforce: Mark Grafenreed notes that the Twenty-Seventh Amendment (ratified in 1992) protects Congressional compensation. It says, "No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened." Also, the Fair Labor Standards Act of 1938 requires a federal minimum wage. According to Grafenreed, these laws demonstrate that Congress has power and authority to provide incomes and enforce compensation.]

In addition to ratifying the International Covenant for Social, Economic and Cultural Rights; following King *today* includes ratifying "a contemporary social and economic Bill of Rights" (King 2010 [June 1967]: 211). And a King-Inspired Bill of Rights should include a constitutional amendment that enumerates a natural human right to be free from economic poverty, and appropriate enforcement legislation.

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