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Essay: Is There a Science of Being Human?

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ESSAY: IS THERE A SCIENCE OF BEING HUMAN?

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IN THE twenties and thirties when an infant would cry in the night, its mother would either steel herself to endure the child's wails or rush to comfort the child. In each case the mother thought she was acting on the best scientific advice. Yet in each case there were misgivings: the first, because she could not shake the feeling that she was being cruel; the second, because she feared she might be "spoiling" the child. On the basis of what we now consider to be the "best" scientific advice, both reactions were correct.

In the forties and fifties (and to this day), many American mothers raised their children with Spock's manual on infant care always at hand.[1] Recently there has been much talk about the "Spock Generation," referring to the crop of challenging, vigorous young men and women who are eager to take on the establishment and who were diapered, fed and weaned according to Spock. But what about the young men and women who toppled de Gaulle on the Boulevard Saint Michelle?[2] What about those college students who thumbed their noses at Russian tanks in the streets of Prague?[3] What about the high school students who dared to protest against a one party "democracy" in Mexico City?[4] Were they all raised according to Spock? I doubt it. It would be safer to say that something

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1. *See* SPOCK, THE COMMON SENSE BOOK OF BABY AND CHILD CARE (rev. ed. 1968).

2. *See, e.g.*, Lejeune, *Student Anarchy in France*, NAT. RPTR., Apr. 8, 1969, at 341-43; *France in Trouble and DeGaule?*, 64 U.S. NEWS AND WORLD REP., May 27, 1968, at 14.

3. *See, e.g., Shift to the Center*, 72 NEWSWEEK, Dec. 2, 1968, at 44-45.

4. *See, e.g.*, Glanville, *Memory of Mexico*, COMMENTARY, March 1969, at 77-79; Goodsell, *Mexico: Why the Students Rioted*, 56 CUR. HIST. 31-35 (1969).

beyond our understanding is asserting itself in the hearts and minds of our young people and that we will—and are—responding to it with something in ourselves which we do not fully understand. Social change does not wait for the latest scientific findings; in fact, it has a greater influence over science, than science has over it.

In an epoch-making Supreme Court desegregation decision,[5] a number of social science studies were cited to support the judgment that separate school facilities for black and white were not equal, but, in fact, black students suffered from the *mere fact* of being kept apart from whites.[6] The reasoning as well as the findings were clear: black children saw themselves as emotionally inferior to whites because they were put off by themselves. If asked to select a doll for herself, a black little girl would more likely pick a white doll than a black one. If shown pictures of blacks varying in skin color, black college students would rate the lighter skinned Negroes ahead of the darker skinned Negroes. And if this were not enough, the back pages of *Ebony* were once full of advertisements for products which were supposed to straighten kinky hair and lighten dark skins.[7] Segregation as such is an evil which unwittingly forced black children to want to be white, and, failing that, to accept an emotionally inferior status as a "dirty white." The Supreme Court decided that separate facilities could not be equal and ruled segregation laws affecting education to be unconstitutional.[8]

Now in the streets of Ocean Hill and Brownsville, from college campuses and night club stages, a new cry is heard—a demand for black control of community facilities including schools.[9] Segregation is returning but under black, not white, control. Black

5. Brown v. Board of Education, 347 U.S. 483 (1954).

6. *See* Clark, *Effect of Prejudice and Discrimination on Personality Development*, MID CENTURY WHITE HOUSE CONFERENCE ON CHILDREN AND YOUTH (1950); WITMUR & KOTINSKY, PERSONALITY IN THE MAKING ch. VI (1952); Deutscher & Chein, *The Psychological Effects of Enforced Segregation: A Survey of Social Science Opinion*, 26 J. PSYCH. 259 (1948); Chein, *What are the Psychological Effects of Segregation Under Conditions of Equal Practices?*, INT. J. OPINION AND ATTITUDE RES. 229 (1949); BRAMELD, EDUCATIONAL COSTS IN DISCRIMINATION AND NATIONAL WELFARE 44-48 (1949); FRAIZER, THE NEGRO IN THE UNITED STATES 674-81 (1949).

7. *See* EBONY MAGAZINE, December, 1960, at 165-68.

8. Brown v. Board of Education, *supra* note 5.

9. *See*, Cohen, *Price of Community Control*, 48 COMMENTARY 23-32 (1969).

is beautiful, and not dirty white. But what about all those studies showing that segregation of races is detrimental, especially to blacks? What about the judgment that there cannot be separate but equal facilities? The answer is not difficult to find and no study is needed to establish it—segregation is unequal if it is used as a social instrument for suppression; segregation is equal (if not superior) when it is used as a social instrument for developing group cohesion. Some groups have zealously practiced self-segregation as a justified means for insuring group unity and persistence. For example, the Jews have been condemned and persecuted for this; the Amish and Hutterites have been hounded for it. We have a strange and seemingly contradictory picture of people being persecuted *by* segregation and *for* segregation. Some of us may believe that segregation on any basis is ultimately bad, that no group should set itself apart for whatever reason. Nevertheless, it matters greatly whether the segregation is imposed from without or from within and with what end in mind. Thus, it is not correct to say that segregation in and of itself leads to inequality. Jim Crow and Black Power, "dirty nigger" and "black is beautiful," are not opposite sides of the same coin, as some maintain, but are utterly different. Jim Crow is a means for political oppression, economic exploitation, and social ostracism: its intent is to keep the Negro politically powerless so he can be easily fleeced and his picked bones kept out of sight. This is the way oppressed people have been treated over the millenia. In this respect the white middle class American is a "soul brother" of the Greek and Roman patrician, and for that matter of the kingly rulers of the black African Bennin Empire and of the black chieftains who sold their tribesmen into slavery. No sociologist, psychologist, or psychiatrist need tell us all this, any more than Macbeth needed Banquo's ghost to remind him of his crimes. But just as in Shakespeare's age a ghost had a special authenticity, a certain knack for goading the laggard Elizabethan conscience, so in our own time the social scientist has fallen heir to that ghostly right. And there is the rub: the job of scientist and the job of revenant are not exactly compatible. A scientist follows the truth wherever it leads; a ghost drags the chain of the past and reproaches us for falsehood. A scientist is concerned with unknown truth; a ghost with ignored truth.

In a number of fields like law, the social scientist has often arrived as a pundit whose true aim has, however, a ghost-like transparency. He finds himself trading on his scientist's objectivity. Often the scientist himself forgets in what role he is performing. Halleck observes:

> Although there are some exceptions, it is generally true that the psychiatrist who is politically liberal, psychoanalytically oriented and deeply concerned with social justice, will be more likely to find a given offender non-responsible than the psychiatrist who is more politically conservative, more biologically oriented and more concerned with individual rights and privileges.[10]

He further notes:

> The history of the criminal-insanity issue suggests some psychiatrists and some attorneys have, out of humanistic zeal, sought a liberal solution, a compromise in which efforts were made to temper the harshness of punishment for a few mentally disturbed offenders, but in which the plight of the mass of offenders was ignored.[11]

There is nothing wrong in fighting for what you believe in, but *it should not be dressed up in the form of scientific findings.* The scientist finds himself forgetting that the quest for knowledge is a cantankerous business in which the truth of today is often the folly of tomorrow. The science of human nature is more likely than most to be ruffled by the varying winds of change because we know so little for sure and our scientific task is onerous.

Yet, each of us is charged with another and more basic task—the task of being human, of acting, not solely on the basis of knowledge (that is relatively easy), but on the basis of values, needs and expectations. Often, I suggest, the lawyer or the judge may turn to the psychiatrist, psychologist or social scientist in order to sidestep tough decisions with the hope that some new insight will make an active choice unnecessary. And too often, I suspect, the social scientist is ready to offer his own choice disguised in scientific terms. Tapp, for example, talks about the ripe scientific fruit psychology has to offer:

> The contention is that basic and applied research should focus on the major responsibility and preeminent concern of both lawyers and psychologists—the establishment of norms and the assessment of established norms—in short, normative human phenomena. Identification of central issues by both lawyers and psychologists must be sought in criteria of relevance and centrality employed, if the psychologist is to func-

10. Halleck, *The Psychiatrist and the Legal Process,* 2-9 PSYCHOLOGY TODAY 26 (1969).

11. *Id.* at 27.

tion for law as the pathologist functions for medicine . . . The task is to reconceptualize the problems of the legal system through empirical, systematic research and not by appeals to authority, historical precedent or "logic."[12]

My point is that if we take "appeals to authority," "historical precedent," or "logic" out of the legal system we may also act as if to remove moral choice and commitment. I say *as if* to remove because we cannot really dispose of them; moral choice and commitment are intrinsic to the human condition. They will simply reappear in another guise.

Let me illustrate what I mean by way of the Supreme Court desegregation decision of 1954.[13] As I understand it, the decision concerning the cases before the Court could have been based on three grounds: (1) the history of the fourteenth amendment which most have interpreted to mean that all caste distinctions were outlawed; (2) the legal principle that all classification by law must be reasonably related to proper governmental objectives and that racial classifications are not so related; and (3) segregated education necessarily implies inequality because of the harmful effects on the hearts and minds of school children.[14] The Supreme Court decided the cases presented from the states on the grounds of educational inequality; the decision with respect to the District of Columbia, however was decided on the grounds that racial classification is improper.[15]

I am not a specialist in the social psychology of prejudice; nor am I thoroughly acquainted with the vast outpouring of research and opinion on this issue, but it is of some interest to cite a review of the literature on prejudice since the *Brown* decision.[16] First, there is some question about the methodological rigor of some of the early, pre-1954 studies (doll studies);[17] second, there has always been evidence that the effects of prejudice on white and black children begin well before school (by age three);[18] third, with desegregation, racial

12. Tapp, *Psychology and the Law: The Dilemma*, 2-9 PSYCHOLOGY TODAY 21 (1969).

13. Brown v. Board of Education, *supra* note 5.

14. HILL & GREENBERG, CITIZENS GUIDE TO DESEGRATION, ch. 7, at 78-87 (1955).

15. Bolling v. Sharpe, 347 U.S. 497 (1954).

16. Carithers, *School Desegration and Racial Cleavage, 1954-1970: A Review of Literature*, J. OF SOC. ISSUES 25-47 (1970).

17. *Id.*

18. *Id.*

tensions in many instances have increased with unhappy effects on both black and white children.[19]

Should we now resegregate the schools? Obviously not! But could it not be argued forcefully on the basis of new evidence and a revised view of the old that: (1) the effects of segregated schools are not specific to prejudice; (2) schools are secondarily and not primarily involved in the development of prejudice; (3) desegregated schools have not resulted in a substantial improvement in the way in which black children view themselves; and (4) many black groups now wish to resegregate themselves. Clearly, constitutional decisions which are based on rapidly changing patterns of scientific research and equally rapid shifts in society at large may themselves be questionable. And yet what sure basis can there be—appeals to authority, precedent, or logic? Many would consider these to be "unscientific."

First, I should emphatically state that I believe that the Supreme Court decision was correct and long overdue. Let no one be tempted to interpret my argument as a conservative defense of the strange southern comfort our society has found in oppressing blacks and other groups in our midst. Rather, my interest is to separate, for the sake of examination, the legal, moral and scientific issues involved in these complicated matters.

Before I go further it is necessary for me to advance a few ideas about what I mean by morality—an issue usually discussed with some distaste by social scientists. Regardless of the recent emphasis on a so-called "situational" morality, historically morality has been concerned with the absolutes governing human action. Moral codes have usually been based on religious grounds which in itself is a matter of some interest. Why have God and morality been so closely inter-related? I suspect it is because the creators and interpreters of moral codes intuitively recognized that there must be some supra-individual, supra-national agency which authenticates these codes. For if these codes depended on the will of any one man or group they could readily be subverted for personal ends. The whole attack on idol worship and the rise of monotheism is, I believe, based on this significant intuition: that moral principles depending on a particular individual or special group must sooner or

19. *Id.*

later be corrupted. An *idol,* in whatever shape or form, is too concrete, too specific, to symbolize the high level of abstraction and authentication necessary for a universally applicable morality. Thus, polytheism in the West gave way to monotheism and monotheism was steadily rarified so that God had to become more abstract and thus less of a solace and more of a repository of moral power. There have been many reversions along the way because two antithetical functions are served by the concept of a deity—to authenticate morality on a transcendant basis and to protect, console, and lift up the worshiper. The maxim that, "no man should be above the law" is a modern, secular version of this first function. The law, the body of legal precedent, or if you like, "authority," has taken the place formerly served by a monotheistic abstract deity. The significant similarity is that law and God transcend any one individual or group. It is thus part of a continuing effort to preserve a hard-earned insight into the human condition in the form of precepts which exist apart from our private wishes and aspirations. They are in that sense as "objective" as scientific findings and rest on a far firmer, enduring base built upon the millenia of human social experience. All this is not to say that, despite these efforts at establishing a law above men, men have not subverted individual laws and succeeded in using them for their own ends, or that laws should not always be interpreted in the light of particular circumstances; this is the lawyer's main task—to make justice part of the bone and marrow of life. But without law as a transcendant reality governing men with their acquiescence, justice would always be defined as the will of the strong, and there would be no objective guide for ordering the particulars in any given case.

I am suggesting that the human capacity to think in abstractions, the same function used by scientists, is also at the basis of law. Science has no monopoly on truth and logic. The scientific method is a fairly recent attempt to apply reason to the understanding of phenomena. Its greatest triumphs have been in understanding the natural world. With respect to human nature, psychologists too often succeed only in rediscovering what is already part of our larger human wisdom, or in bringing us fragments which have little relevance to the human condition. Freud broke new ground, but even here we are richer in hypotheses than in sure knowledge. My point

is that as a psychologist I cannot in good conscience cast aside "authority," "historical precedent," and "logic;" they represent not only the cumulative wisdom of the species, but embody the human striving for a transcendant standard which I, as a scientist, must respect.

For these reasons, I think that a social scientist must beware of trading on his reputation as an "objective" pursuer of truth. His merchandise may be a collection of idols which represent his own particular biases, laudable as they may be. Moreover, he may be attacking inadvertently the independent, objective basis of law itself and thus impair the human striving, subject to imperfections as it may be, toward a supernal standard of justice. I would argue that the Supreme Court acted more wisely when it based its decision, in the District of Columbia case, *Bolling v. Sharpe*, on the due process clause of the fifth amendment and ruled that classification by race is not "reasonably relevant to any proper governmental function," than when it ruled, on the basis of a variety of social science findings, that segregation cannot result in equal treatment.[20]

How indeed could race be justified as "*reasonably* related to proper governmental objectives?" I take special note of that modest yet strong word "reasonably"—this word resounds the most fundamental appeal of all. It is the appeal to reason which all men possess, scientist and non-scientist alike. Now, I submit, if the Court had pursued the matter further and chosen to illuminate the real basis for racial classification and why governments arrogate for themselves this right to classify by race, they would have discovered a snake pit of rationally and morally repugnant reasons for which no studies would have been necessary, or would have been relevant. Does one, for example, need to demonstrate that slavery is bad for people? Does one need studies to show that murder, robbery, and pillage are harmful to the "heart and mind"? Yet, at bottom, these and other crimes have been repeatedly condoned by governmental classifications by race. The real aim of such governments has been to maintain a subject people by the arbitrary use of state power for the benefit of a few—an unfortunate though classic maneuver in politics.

20. Bolling v. Sharpe, *supra* note 15. *Compare* Brown v. Board of Education, *supra* note 5.

To classify by race is as arbitrary as to classify by ear size; but it is not without its own logic when it is seen in historical perspective. Negroes were first brought to this country as a slave class for economic purposes.[21] The removal of the caste distinction, "slave," did not change that function.[22] It simply meant that a new way would need to be found to achieve the same end—and this was Jim Crow. What must be struck down and declared unconstitutional is the arbitrary exercise of power which abuses law for the purpose of personal gain at the expense of others in whatever form it might appear. It is this abuse that strikes at the heart of law as a transcendant standard of values governing human relations, and thus constitutes a threat to all human society of whatever color, caste or creed. We are not only dealing with the plight of black children, but with the foundations of society for all people. I think this is what was really at stake in the Supreme Court decisions on this point. The Court approached this issue closest in *Bolling* and missed it altogether in *Brown*. For even if segregation could be demonstrated to preserve equality of education, it would still be morally reprehensible because it rests on an arbitrary use of power in the service of reprehensible ends. And conversely, even if desegregation brings about a whole host of problems it is morally desirable. The problems involved in desegregation need to be faced and ultimately resolved, even at the cost of our own comfort and treasure because we are propelled by an ideal, justice, which is not a nominal term subject to "culture," "class," and the accidents of history, but is a universal applicable to all men through all time.

Long before studies on racial prejudice were undertaken, Mr. Justice Harlan of the Supreme Court declared:

> In view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste system here. Our Constitution is color blind, and neither knows nor tolerates classes among its citizens . . . . We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with the state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizens, our equals before the law.[23]

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21. *See, e.g.*, CAREY, THE SLAVE TRADE, DOMESTIC AND FOREIGN: WHY IT EXISTS, AND HOW IT MAY BE EXTINGUISHED (1967).

22. *See, e.g.*, WEATHERFORD & JOHNSON, RACE RELATIONS: ADJUSTMENT OF WHITES AND NEGROES IN THE UNITED STATES (1934).

23. MUSE, TEN YEARS OF PRELUDE, 5-6 (1964).

Thus argued this Justice, a southerner from Kentucky, who was the lone dissenter in *Plessey v. Ferguson,*[24] which established the separate but equal doctrine reversed in 1954 by the Warren Court. But the grounds chosen by the Warren Court were significantly different from Justice Harlan's—and thus an opportunity for a powerful blow at the heart of the moral issue was lost. It is reassuring to learn that Professor Edmund Cahn believes that the 1954 decision did not depend on the "labored attempts by plaintiff's experts to demonstrate . . . 'scientifically' that racial segregation under government auspices inevitably inflicts humiliation,"[25] and yet one wishes that *Brown* had at least echoed Justice Harlan's strong pronouncement. Perhaps the fact that it did not was already an indication of the way the Court would hesitate to require quick and full compliance to its decree. Ironically, the social science evidence might have been used to support a narrowly based decision having to do with education and not with the root of the matter. As stated by Justice Harlan, "there is in this country no superior, dominant ruling class of citizens."[26]

What would be a productive relationship between the law and the social sciences? I am very opposed to the position advocated by Tapp that the psychologist should provide the lawyer with the same service that the pathologist provides to the physician.[27] Not all human endeavors are, should, or can be scientifically based. We would think it monstrous to turn art, literature, and music into sciences; it would be incompatible with their spirit. Yet art can benefit from advances in paint technology, as literature has in the past from the invention of the printing press, and music from the creation of new instruments. But the aims and the values of these creative endeavors remain intact. Similarly, in politics and law the relevant sciences should provide alternatives but not undermine the independent basis in human experience for these activities. I have already suggested one reason for this: much wisdom is built into legal institutions, along with much folly. Unfortunately when we undermine an institution we deprive ourselves of the wisdom as

24. 163 U.S. 537 (1896).
25. *Supra* note 23.
26. *Supra* note 23, 559.
27. *Supra* note 12, at 16-22.

well as rid ourselves of the folly. And if we have no new wisdom, we are like a child who has destroyed one toy because he wanted another. Revolutions often come to grief just on this point. But there is also another reason which bears on the title of this piece: there cannot be a *science of being human*, there can only be a *science of human beings*. Human nature can never be so thoroughly understood that the improvisations of living will be totally preempted by the execution of scientific plans, like programs for a computer. Aside from the hard fact that our understanding is far short of completeness and will remain so long into the future, there are too many contingencies which make up the concrete here and now which demand a unique solution, derived from past experience but requiring a new adaptation—a creative act, in short—for any pre-packaged plan to work.

As a psychoanalyst who is committed both to a point of view—a program, if you will—and to helping fellow sufferers, I know that the frustrations and pleasures of clinical practice derive from the unique challenges out of which a new melding of theory and practice emerge. In principle, this is no different than the task of the artist, the lawyer or the judge. Any one who would hold up, as an ideal, the substitution of empirical research for legal precedent or logic is asking us to forego not only a vast accumulation of human wisdom but is demanding that we surrender the capacity to envision new solutions to unforeseen circumstances. And lastly, perhaps my main point, all the science and all the empirical research in the world will not relieve us of the responsibility of passing judgment on the actions of others when these actions become a matter for social concern. A moral judgment is in another category from scientific enquiry. A psychoanalyst and sociologist, in a joint examination of scientific and social issues, concluded that

> the moral correctness of a value position cannot be derived from the substance of psychoanalysis, of sociology or the two together, or of the two combined with other existing organization of knowledge . . . our value preferences must arise from all the exigencies that occur in our struggle to exist together as communities of human beings, rather than from our attempts to understand the basis on which we do so.[28]

However, psychoanalysis and sociology can be of help (and have

28. Wallerstein and Smelser, *Psychoanalysis and Sociology: Articulations and Applications*, 50 INT'L J. OF PSYCHO-ANALYSIS 693, 707 (1969).

been) in "uncovering goals and values that people are generally unaware that they are pursuing."[29]

When the lawyer turns to the social scientist he should be clear about whether he is looking for an ally or a resource. When the social scientist holds forth on the psychology or sociology of some legal issue he should be clear whether he is an advocate or an expert. In our adversary system of justice the distinction between advocate and expert is often difficult to maintain. A number of people have suggested that the courts be assisted by panels of court-appointed experts, who, once guilt had been determined, would consider the mental status of the defendant in order to aid the courts in arriving at a disposition.[30] When the lawyer and the social scientist confuse their roles, objectivity, morality and legality suffer. Much is heard these days of the need for scientists to be activists. I have no quarrel with this as long as those who are committed to this view keep clear distinctions between their scientific and political preoccupations. If they fail to do so, then their science will suffer, for each science has its own inner logic of development; their politics will also decline into an amateurish pastiche of intellectual pronouncements altogether laughable to the professional politician. Certainly scientists can no longer feign innocence concerning the moral implications of science. Physicists, chemists, biologists, psychologists, psychiatrists, and psychoanalysts have long ago eaten of the apple of knowledge. Society has banished them from that peculiar ivory tower Eden in which the scientist can ignore issues of morality. Rather, scientists must become increasingly sensitive to the relationship between morality and science. In an interesting paper, Ehrenreich has explored the moral values of the psychoanalyst with respect to such issues as sexuality and responsibility.[31]

As a psychoanalyst I have wondered about the psychological basis of our concepts of justice, law and equality. In *Totem and Tabu*[32] Freud speculated that once the sons had disposed of the father in the

29. *Id.*

30. Smith, *Ihe Ideal Use of Expert Testimony in Psychology*, 6 WASHBURN L.J. 300-06 (1967).

31. *See* Ehrenreich, *The Moral Values of a Psychoanalyst*, 26-5 HUMANIST 152-56 (1966).

32. *See* FREUD, TOTEM AND TABU, THE STANDARD EDITION OF THE COMPLETE WORKS OF SIGMUND FREUD 13 (1955).

primal horde, which he postulated to have existed at the start of man's social development, the sons were forced to work out a way of treating each other equally. Social cohesion was guaranteed by the need to keep any one member of the group from assuming paternal powers. Thus, democracy in this view is ultimately insured by the fear of power being exercised by any one man. One thinks immediately of checks and balances and the pluralistic distribution of power. Also, one is reminded of how young siblings work out the problems of sharing within the family as each one zealously protects his interests against the others. School age youngsters are sticklers for rules and will argue over their interpretation as assiduously as any lawyer. Again we can see that when men forego a primal source of power, they must work out a rule of law whether it is on the playground or in a court of law. If such were the sole beginnings of society—and many would contest Freud's hypothesis—it is hard to account for the way in which social organization has since developed. Like a number of Freud's ideas, they are often rich in their relevance to appreciating the depth and strength of our impulses, but thin in their appreciation of so-called ego functions. In some instances, Freud returned to his initial ideas and corrected this imbalance (as in his theory of anxiety, for those who might have some special interest in this point); in many instances he himself did not return and it was left for others to complete.[33] Erickson has written most cogently on the role of social and institutional forces in the development of the individual and of civilization without surrendering the biological basis underlying psychoanalysis.[34] He has stressed the importance of the biological idea that man is indeed one species, despite his efforts to brand one group or another as either non or sub-human. The ethologist would agree with Erickson.[35] Man can interbreed freely and sire viable and fertile offspring; moreover, there is no adaptation to a special ecology which one group of men can make but another group cannot also achieve if called upon to do so. We can, if we choose, live like Eskimos or Australian aborigines and they could live as we do. Different species have different ecological niches, while man essentially

33. *Supra* note 32.
34. ERICKSON, CHILDHOOD AND SOCIETY (2d ed. 1963).
35. *Id.*

lives in one potentially sharable surrounding. Thus, on genetic and behavioral grounds man must consider himself to be one species. He has always intuitively recognized this. As he was putting his "sub-human" enemy to the sword, he would rape his wife, take her as his concubine, and father children by her. While the southern white plantation owner mawkishly defended the purity of the "white race," he indulged in a remarkable extra-curricular program of interbreeding so that the American Negro today is considerably lighter than his genetic brethren in West Africa. Our instincts in these ways talk more convincingly than our pronouncements. The very fear of miscegenation reflected in some monstrous state laws is a tribute to these impulses which recognize no boundaries between groups of men. Marriage is a voluntary act; if the members of one "race" are clearly inferior, why should the members of the superior "race" be attracted to them? (Psychoanalytically, we suspect that there is an element involved here that has to do with the intricacies of our sexual life which is not relevant in this context to explore.)

What I would stress is that concepts such as equality and justice, which need no scientific justification, are rooted not solely in our philosophies and legal codes but reach deep into our biological beings. We should not be surprised to discover that the origin of these concepts antedates man himself. Not long ago the National Geographic Society presented a TV documentary on the life of a chimpanzee band observed in their natural surroundings. Among many fascinating episodes there was one that was of remarkable import: a female from another band, clutching an infant to her breast, had wandered across the path of the band under study; apparently she had become separated from her own band. Swiftly the band formed a circle around the intruder. The narrator commented that her life and the life of her child hung in the balance because she could not survive in the jungle alone. She had to be accepted into this new band or perish. She extended her free hand toward the band in a gesture of entreaty. There were several minutes of silence and inactivity—of indecision, of judgment, we would say. Finally, the leader of the band, a grizzled male, stepped forward and took her hand. She had been accepted into the band. There was little doubt that an act of mercy and justice had occurred. The viewer felt his kinship. Our species is not alone in cherishing the worth of a weak, embattled individual.

One is tempted to believe that the wellsprings of all ethics, of a natural respect for lawfulness based on fellow feeling, is to be found in that unique mammalian bond—the relatively prolonged nurturant tie between mother and infant. Since we have all experienced weakness, dependence and the need for compassion and care, at our best moments—like the grizzled male—we respond sympathetically to the weakness in others. And being men, and thus more capable than chimpanzees of abstract thought independent of any momentary feeling, we also recognize that we have our worst moments when we wish to take advantage of this weakness for our own immediate satisfaction. Laws are efforts to preserve what we do at our best moments as a protection against ourselves at our worst moments. For the psychoanalyst each individual develops his own "laws" in the form of a super-ego, which is not only a punitive guardian but also serves as an ego ideal—a standard of what is highest and best in the individual and toward which he strives because he desires to act in accord with what is best in his nature. One might say that laws are society's super-ego and ego ideal. As in the individual they can become corrupted, that is, placed in the service of our own ever-present urge to look out for number one, to line our own pockets, to increase our own power, etc.—ultimately to insure our own immediate satisfaction and security at no matter what cost to others and, equally important, at no matter what debasement of our own ideals. The separate but equal doctrine was such a corruption against which Justice Harlan spoke out eloquently in behalf of our society's "ego ideal."

The future of the species, as its past has demonstrated, depends on the unique adaptability of man—our saviors come from many sources and are of many types. In this respect man's range of variability while maintaining his specificity is of fundamental value. Although our envy and jealously, as Freud suspected, may lead us to insist that everyone have an equal share of the pie, our reality testing —another important psychoanalytic concept—tells us that there is a sounder reason, that of preserving the malleability of our species. To this end, no man is a supernumerary and thus each man must have his place in the sun. No man can arrogate to himself the power to judge that another man's life is less important than his own, and hence murder is biologically untenable. No man can decide that

what another man needs he needs more, and hence all forms of forced dispossession, from robbery to economic exploitation, are biologically untenable. From a genetic point of view, even in the lowliest of us (as defined by some currently adaptable pecking order) there are hidden possibilities which may prove invaluable under other conditions. The mere perpetuation of the fittest would result in a narrow adaptation to the currently prevailing ecology. Our crown ing achievement is that we may have found a way of insuring a multifaceted adaptive potential. We need not go the way of the saber-tooth tiger or the dinosaur as long as we treat this multifaceted potential with respect and preserve those institutions which insure that each man, woman, and child is treated as a rare chalice into which some few drops of our shared immortality have been entrusted, and if we recognize that it is altogether possible that out of any one of these chalices we may all need to drink. Western religions have been based on the model of the family—the biological unit which creates and preserves life. Perhaps we are ready now to extend the family to include all mankind. What has been best in the tradition of law has always intuitively recognized this biological fact. The sciences of human nature can affirm this fact but cannot provide the moral basis for it.