

2021

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### Recommended Citation

Kendall, Walter J. (2021) "Uncivil Disobedience and Democracy: An American Perspective," *The Journal of Social Encounters*: Vol. 5: Iss. 2, 19-30.

Available at: [https://digitalcommons.csbsju.edu/social\\_encounters/vol5/iss2/3](https://digitalcommons.csbsju.edu/social_encounters/vol5/iss2/3)

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## **Uncivil Disobedience and Democracy: An American Perspective**

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*From the time of the Athenian democracy there has been the debated question of whether protest and dissent, especially uncivil disobedience to the law was supportive or destructive of a people's democracy. The debate continues unabated today.*

*In a recent collection of essays titled *Protest and Dissent*, Professor Susan Stokes offered an answer to the question *Are Protests Good or Bad for Democracy?* (Schwartzberg, 2020, p. 269). After considering both possibilities, she concludes, as had James Madison in *Federalist 10*, that protests “are a natural by-product of freedoms of expression and association which, if curtailed, would threaten democracy itself.” (Schwartzberg, 2020, pp. 281).*

*Building a society that is democratic and recognizes the need for frequent reform is challenging. In meeting those challenges difficult and profound moral choices often confront us.*

This essay will begin by presenting very summarily a number of perspectives on the essentials and meaning of democracy: that of Gordon Wood on the American founding; that of James Kloppenberg on the struggle towards democracy in Europe and America; and that of Josiah Ober's recent thought experiment creating a democracy before liberalism.

Wood begins his 1991 book *The Radicalism of the American Revolution* challenging the widely shared view “of our Revolution as not being radical; indeed, most of the time we consider it downright conservative” (Wood, 1991, p. 3). To the contrary, Wood sees the American Revolution as doing more than creating the United States.

It transformed American society...In 1760 America was...economically underdeveloped outposts existing on the very edges of the civilized world...monarchical subjects (whose) society was and ought to be a hierarchy of ranks and degrees of dependency (with) most people bound together by personal ties...Yet scarcely fifty years later... far from remaining monarchical, hierarchy-ridden subjects...Americans had become, almost overnight, the most liberal, the most democratic, the most commercially minded, and the most modern people in the world. And this astonishing transformation took place without industrialization, without urbanization, without railroads, without any of the great forces we usually invoke to explain ‘modernization’” (Wood, 1991, pp. 6-7).

And he added with emphasis “the Revolution made possible the anti-slavery and women's rights movements of the nineteenth century (Wood, 1991, p. 7).

Most importantly for our purposes he establishes that the Revolution “brought respectability and even dominance to ordinary people long held in contempt and gave dignity to their manual labor...it made (their) interests and prosperity the goal of society and government. (It) was the most radical and far-reaching event in American history.” (Wood, 1991, p. 8). Liberty, non-dependence, virtue,

ultimately equality, self-rule (participation), self-interest, and empathy were the core values or norms

James Kloppenberg in his book *Toward Democracy* (2016) found the essential principles of democracy to be popular sovereignty, autonomy, equality, and equity. The foundational premises were deliberation, participation, reciprocity and the absence of a single right answer to questions about the good life. He was troubled by the diminution of the role of religion, of mercy and forgiveness. (p.16). He ends the book with a 56 page reflection on “the tragic irony of democracy” that results from the fact that “self-interest never meshes smoothly with the ideal of reciprocity” (p. 710).

Josiah Ober is a prolific student of Athenian democracy. In the recent book *Demopolis: Democracy before Liberalism* (Raaflaub, Ober, and Wallace, eds., 2017) Ober tries to envision such a democracy. He finds the measures of successful governance must include security (physical, and psychological-recognition and civic dignity); prosperity beyond subsistence; and non-tyranny (no fixed hierarchy). To achieve these end-results democratically there must be collective self-governance, actualized by rules, norms, and customs that provide equal access to public goods. Participation in the making and enforcement of those recognized guide rails is important. All must be revocable. He recognizes that there will be a diversity of religious views and practices. The necessary accommodations required are achieved through procedural legitimacy and civic education grounded in shared participatory governance.

These scholars all agree that difference and controversy are essential to democracy. The uniqueness of each person, and the equal worth, but different endowment of these persons make controversy inevitable. The goal of reasonably harmonious living together requires both recognition of the value of that goal, and of the need for harmonizing processes to achieve it. In a sense, solidarity, not singularity is the goal.

If democracy is to work properly, everyone bound by that system is to have a voice and a realistic (equal?) chance of it being heard and acted upon. This notion was set forth powerfully by Thomas Rainsborough in 1647 at Putney. He said “ I do think that the poorest man in England is not at all bound in a strict sense to that government that he hath not had a Voice to put himself under...” (Brailsford 1983, p. 274). But in the real world that is seldom, if ever, the case. While each person has equal moral worth and equal inherent capability to participate in governance, natural and systemic endowments make big differences in each person's voice and chance of their voice being heard and acted upon. The activism of people with disabilities has highlighted many attitudinal and structural barriers to the exercise of one's voice. Importantly, one of today's most daunting impediments to full participation, the exercise of one's voice, is the opacity of democratic governance; knowing who gets to be heard; how interests are evaluated, who decides, when and where; the source of norms, and how they are enforced (Domhoff 1979).

### **Democracy I**

In the recent collection of essays titled *Protest and Dissent* (Schwartzberg, 2020), several of the authors distinguish governments or societies on a scale of justice: 1. Just; 2. Near-Just, and 3. Unjust. Very broadly speaking, civil disobedience in a just society is limited to disobeying only unjust laws. In a near-just system, disruption of norms, by uncivil disobedience, to get the attention

of the broader society, is often necessary and therefore permissible. In an unjust society less civil means, perhaps even destructive or violent means, may be justifiable. Stated somewhat differently, particular policy change, system reform, and revolution describe the different forms of permissible civic engagement depending on how unjust the system is (Schwartzberg, 2020).

During the 1960s at the time of the Civil Rights movement, the war in Vietnam, the “war” on poverty, and the debate about nuclear weapons, U S Supreme Court Justice Abe Fortas published a booklet titled *Concerning Dissent and Civil Disobedience* (1968). Howard Zinn a professor of history, and civil rights and anti-war activist responded with a short book *Disobedience and Democracy: Nine Fallacies on Law and Order* (1973) that I will use to think through both just how unjust the Americans system is, and what tactics of protest and dissent are tolerable for a democracy. (Yes, that way of framing the question does put the burden of persuasion on the protesters. I do believe the success, perhaps survival, of democracy requires that all share the view that there is a duty to obey just laws, as Plato wrote about in Crito).

### **Martin Luther King, Jr., and civil disobedience**

The classic form of nonviolent civil disobedience is exemplified by the work of Dr. King. Until relatively late in his life his activity targeted only specific laws that were unjust, in that they violated the racial equality requirements of the constitution. The ancient natural law point is that an unjust law is not law at all. Thus under any definition of “violence/violation” there was no violence in this law breaking. Civil disobedience done with respect for other social norms; including the willingness to accept any punishment required by law, meant that physical injury, bombings, jail time, job loss, and more harms to protestors were accepted by them. This last requirement is very important. It assumes that there can be some communication between the protestors and the established power-holding members of society. It is thought that the suffering of the demonstrators is redemptive in that it shows their profound commitment to the justice of their cause; and it also helps the oppressors to put down, in John Lewis’ often used phrase, the heavy burden of hate (Kendall 2019). But Dr. King recognized that Jim Crow was systemically unjust. Thus, the system of Jim Crow norms had to go. He recognized that moral suasion was not enough. As early as the Montgomery bus boycott the importance of the economic power of the black community, that resulted from their large numbers and their purchasing power as consumers, was recognized as opening up possibilities for effective social change (Morris, 1993).

### **Dr. King’s Uncivil Disobedience**

Towards what was the end of his life Dr. King emphasized that war and poverty were evidence of a linked, broader, systemic injustice. Perhaps, recognizing also that systemic racism was a problem different from white supremacy, there appeared to be a shift of focus. With the Poor People’s Campaign it was thought that he began to adjust his tactics, moving in the direction of more confrontational tactics (Kendall, 2019). This view is contested by some who see King from the beginning as “the Radical King”. (West, 2015).

The question has been raised: would he have gone as far as the anti-war and anti-nuclear weapons activists of the 60s who used property destruction, believing nuclear weapons were inherently immoral, and other coercive and violent means? Anti-war activists, for instance the Berrigan brothers and others in the Ploughshares Movement, believed that the Vietnam war was unjust; thus it was permissible to disrupt the operations of the draft offices and destroy draft records. They also

held government employees hostage during their destructive raids on government draft boards. They debated and rejected, among other tactics, blowing up the local Customs House (Polner & O'Grady, 1998). Considering what they did, one cannot know for sure if Dr. King would have adopted similar tactics; but based on his tactics in Birmingham, one can doubt it.

It seems important to share a 1982 quote from Daniel Berrigan (a Jesuit priest): "I believe with all my heart that the best thing we can do in such places as you describe (nuclear weapons stockpiles) is to celebrate the Eucharist....I prayed where prayer was forbidden because death was in charge" (a 3/11/82 letter to Bill Wylie Kellerman in a Facebook post by Terrence J Moran).

Dr. King's non-violence campaigns regularly ignored the unjust laws of the white majority. It was always in the context of the protesters acting as if the unjust norm or law being violated did not exist. Classic examples are the lunch counter sit-ins, and the freedom rides. During the Birmingham sit-in confrontations, the City obtained from a local Judge an injunction prohibiting the continuation of the protests. Rather than appealing the injunction to the higher courts Dr. King and others violated it by continuing their protest. In the past he had complied with such injunctions. Here he argued that the injunction was invalid as a violation of the first amendment.

In 1967 the US Supreme Court ruled that such appeals to higher courts were a necessary precondition to challenging the injunction; even if it was invalid. This otherwise troubling view was justified by the Supreme Court as necessary to the maintenance of orderly judicial procedures (*Walker v. City of Birmingham*, 388 U.S. 307 (1967)).

However, random violation of valid, i.e., just laws (most trespass laws) is different. Destroying property even if it is to disrupt activity considered unjust (burning draft board records to disrupt the Vietnam war effort) also seems inconsistent with King's tactics. Certainly, inflicting actual physical harm on people, such as taking them temporarily hostage, is fundamentally and clearly not consistent with Dr. King's principled nonviolence.

In the very important article by Aldon Morris, referred to above, he examines in detail Dr. King's uncivil disobedience tactics, specifically during the movement activities in Birmingham. Professor Morris argues against the "violence thesis" formulated by other scholars, that the success of those efforts was the result of the organizers' plan to provoke violence from the City's elites, so that the Kennedy administration would feel the need to intervene. Rather Morris persuasively argues that success came from a preexisting local movement infrastructure, mass mobilization of thousands, and creative, dynamic tactics introduced sequentially to build increased pressure on the business establishment. The leaders of the Birmingham movement felt that success required creating a total social breakdown in order to pressure business leaders to comply with their demands. . It was the breakdown, not the violence, that would bring in the Kennedy administration. Morris persuasively argues that Kennedy's involvement was not the main factor bringing about change in Birmingham, -- the pressure on the business leaders was.

The desire to create a complete breakdown of society highlights the important question: just how far, in fact, was Dr. King willing to go tactically to achieve racial justice at this early point in his career? It appears that this goal, and the apparent use of creating false fire alarms to add to the chaos and confusion resulting from a mass presence in the downtown shopping area by large

numbers of young people innocently roaming around the downtown area, raise serious questions about the nature of nonviolence favored by Dr. King. (Morris, 1993, p. 624).

My reading of Taylor Branch's relevant first volume of his masterful three volume study of the King years indicates that Dr. King did not in any way approve of the fake fire alarm tactic (Branch 1988). King himself at that time was openly concerned that many of the demonstrators were untrained in non-violence, and worse, had no real involvement with the movement; they were "bystanders". (Branch, 1988, p. 778). Morris mentions the fake fire alarms several times (Morris, 1993, pp. 631, 636) without mentioning the fact that that tactic was the brainchild of Wyatt Walker. Walker developed the basic Birmingham strategic plan; without any mention of fake fire alarms. At that time he feared that violence by the demonstrators would be "fatal" (Branch, 1988, p. 690). The Plan was reviewed and adopted by King and the leadership team. As the movement was cresting, the date was May 7, Walker "by means of underhanded tactics he had concealed from King" unleashed the fake fire alarm tactic (Branch, 1988, p. 779).

As regards trying to create a complete breakdown of the social system, the use of random acts of violence, even of non-violence, for that purpose, is arguably not consistent with democratic governance in either a just or near-just society. By definition, in those societies there are alternative paths to positive social change. Secondly, such tactics are attempts to impose on the larger society the demonstrators' own priorities without giving the other persons a voice, so to speak. Such "coercion" is antithetical to democratic processes.

Democratic processes, as set out earlier, require some semblance of majority acquiescence. But because the Jim Crow system in Birmingham at that time was neither just, or even near-just, such a goal and tactic of total social breakdown may well have been required. Certainly Gandhi's goal in India was to create enough of what John Lewis called "good trouble" that the British would recognize that their continued unjust control in India had to end.

## **Democracy II**

Today's new activists, exemplified by groups like Black Lives Matter, the Standing Rock anti-pipeline movement, and Me-Too, face a similar, perhaps broader range of dysfunctional government policy and systemic discrimination than existed earlier. Scholarship over the last half century or so has established that none of the major structuring or ordering systems of society work as they should. Each "should" work in a way that a good and just society results. Yet, markets, regulation, litigation, and democracy itself have both endogenous and exogenous limitations that prevent achieving that goal (Kendall 2004).

Some say our problems come from "bad" people; that if folks would just play fair and obey the law, all would be well. James Harrington, an often forgotten 17th century political theorist wrote in response to such assertions "Give us good men, and they will make us good laws is the maxim of a demagogue... But give us good orders (i.e., structures-rules and processes), and they will make us good men is the maxim of a legislator and the most infallible in the politics" (Harrington, 1656). James Madison echoed this insight when he wrote his famous "If men were angels..." in the Federalist Papers # 51.

The failings of those societal sub-systems mean that there is much private and public action and policy that is arguably unjust, in that it is not serving the greater good of the people. I would suggest that the evidence of whether a “system” is corrupt, or unjust can be found by looking at the racial, gender, or other “justice” consequences of the policy one is troubled by. From that perspective, today the rich are getting richer, while the poor are falling further behind. The health index, the maternal death rate, the school dropout rate, and too many other measures of the good life are dramatically worse for people of color.

Rather than the market and economic matters, which are widely discussed and debated daily in the newspapers, I want to highlight the impact of the Supreme Court during roughly the past 60 years. Fortunately there are two recent best-selling books that go into great detail on how the law segregated our society and discriminates against people of color and the poor (Rothstein 2017; Cohen 2020). Richard Rothstein’s book *The Color of Law* is focused on housing and “zoning” policies and practices. Adam Cohen’s book *Supreme Inequality: The Supreme Court’s Fifty Year Battle for a More Unjust America* looks specifically at the Court over a wider range of policies. He has separate chapters on poverty, education, campaign finance and democracy, workers, corporations, and criminal justice.

Because the legitimacy of our democratic form of government comes largely from process (elections, jury trials, participatory rights i.e., due process) I have highlighted Cohen’s summary of how the recent Court has undermined the legitimacy of our laws. In addition to making trials and access to lawyers more difficult by requiring arbitration in many cases, and limiting class action law suits,

The Court’s election law decisions starting with *Bush v. Gore* and its campaign finance rulings ... are a potent anti-democratic combination. The campaign finance decisions have expanded the rights of wealthy individuals and corporations to use their money to gain influence over government. The election law decisions on partisan gerrymandering, voter ID, the Voting Rights Act, and voter roll purges have diminished the ability of those with less money to use the one thing they have at their disposal to win influence over government: their votes (Cohen, 2020, p. 190).

Thus while the debate between Justice Fortas and Professor Zinn is now over 50 years old, the present sense of democratic failure is comparable to the time of their debate about dissent and protest. Professor Zinn’s arguments are tracked by young activists today. Many share his sense that the entire system is corrupt and unjust. They share the hostility of Professor Zinn to hierarchy, maybe even authority generally (“defund the Police”). Rather than reviewing all of Professor Zinn’s arguments I will focus on those that have direct relevance to the more uncivil, even revolutionary thinking and tactics of today’s protesters.

### **Language Matters**

Before discussing the specifics of the Fortas-Zinn debate one thought about rhetoric. Two expressions are particularly relevant:

- “No justice, no peace” (often seen on signs and heard at protests); and
- Fiat Justinian rust caelum - let justice be done though the heavens fall.

These statements are each presented as unconditional, moral absolutes, and thus revolutionary. That they imply revolution follows from the recognition that no human institution can be perfect. Further, they seem to presume there are only two sides to whatever question they are addressing. However, in a democracy there are always more than two sides. It is “on the one hand, on the other hand, on the other hands.”

Language matters. These two statements can reasonably be understood to “justify,” even require, an aggressive, even extreme form of “uncivil” disobedience, perhaps even violence, against persons. Such a conclusion is most troubling. Yet, it must be acknowledged that no fundamental change will occur until it is recognized that the current justice system was built on racism, as shown concretely by Rothstein (2017) and Cohen (2021). And as Kraditor points out in her study of Abolitionist debates, “politics is the art of the possible, agitation is the art of the desirable...each must be judged by criteria appropriate to its role” (Kraditor, 1989, p. 28).

Significantly the Rothstein and Cohen books are really exposing two distinct social agents. The government operated unjustly through the law-making processes, and through the courts. This seems an appropriate place to acknowledge the judgment of R.H. Tawney that “a civilized society (is) marked by its determination to eliminate inequalities arising from its own organizations” (Goldman, 2013, p. 192).

Importantly, the second consequence of those injustices benefitted to a greater or lesser degree the white majority community. The protesters often make a case that those beneficiaries need to be shaken up and made to recognize those benefits they received as a consequence. The risk to the protesters from using very disruptive tactics focused on systemic injustices, tactics such as closing down essential transportation means or blocking access to important private, or public business activities, is that rather than reaching the conscience, or at least the sense of fairness, of the majority, they may evoke a hostile defensive backlash.

The essential point of democratic theory implicated here is that all government rests on opinion. The founders knew it; earlier; the Greeks did also. The notion means that there are few if any “innocent” people, especially in a democracy. That is because in a justly functioning democracy, the people can change the system. If the government commits an injustice, the people are implicated, if not guilty themselves.

From this perspective Dr. King’s goal of complete social breakdown is permissible, as the entire normative system of the Birmingham/US society was unjust. Today, it can be said that the system of the US is more open to democratic methods of reform than it has been (Cohen 2021). Whatever the fact is, the tactic of fake fire alarms is different from Dr. King’s regular tactics. It puts at risk the lives of people. Such personal, physical violence was never approved by Dr. King. And in the Birmingham situation he did not even know of its use, and if he did, certainly would have rejected it. Walker himself recognized this as evidenced by his surreptitious use of the tactic.

### **The Fortas-Zinn Debate**

Justice Fortas’ fourth fallacy: “that civil disobedience must be absolutely nonviolent”. (Zinn, 1973, p. 39).



Professor Zinn recognizes that Thoreau, Gandhi, and Dr. King were committed to the view that he is challenging (p. 39). As his argument unfolds, he recognizes that the question of the practice of nonviolence is “open and complex” and that there is a vast range of tactics between strict non-violence and physical violence against people (p. 52). To make this claim concrete, Zinn very briefly summarizes twenty-three protests and their tactics during the sixties; for example, property take-overs, tax resistance, sending medical aid to North Vietnam, disruption of religious services, and resistance to military orders.(pp. 109-113). (See also Ackerman and Du Vall 2000 for twentieth century examples of nonviolent conflict in over a dozen countries). A recently published monograph, *Civil Resistance Tactics in the 21st Century* by Michael Beer, Director of Non-violence International, updates Gene Sharp’s 1973 classic *Methods of Nonviolent Action*. Beer lists 148 additional tactics to complement the 198 Sharp had originally listed.

Zinn importantly acknowledges that Thoreau wrote two powerful positive essays about John Brown. “A Plea for Captain John Brown,” and “The Last Days of John Brown” (Zinn, 1973, p. 41). Zinn also noted that Gandhi wrote “no rules can tell us how this disobedience may be done and by whom, when and where, nor can they tell us which laws foster untruth” (Zinn, 1973, p. 42).

Professor Zinn finds a fundamental contradiction in Fortas’ argument, in that the Justice sees no wrong in the use of violence in Vietnam as violation of international law (p. 44). He concludes his refutation of this fallacy by saying “Mr. Fortas has given us grounds neither for the immorality nor the impracticality of violence in civil disobedience“ (p. 52).

Zinn challenges those who would say he was making a case for violence. While ultimately dismissing Fortas as a “legalist” (p. 52), Zinn adopts a central legal principle of analysis - who has the burden of proof? - and asserts “the burden of proof should rest on that person who wants to stray from non-violence” (p. 43).

Having said all of that, Professor Zinn boldly proposes a principle to guide activists in concluding when violence may be justified. He writes “whenever civil disobedience, in situations of urgency where very vital issues are at stake, and other means have been exhausted, may move from mild actions, to disorder, to overt violence: it would have to (be) guarded, limited, aimed carefully at the source of injustice, and preferably directed against property rather than people” (p. 48). Zinn’s criteria to determine if the use of violence would be consistent with the requirements for Democracy as understood by our three scholars, is that the “last resort” determination would have to be made through due process to insure some element of objectivity. It would also require limits, and precise targeting (specification of both the source of injustice and goal of protest).

Justice Fortas’ fifth fallacy “that the political structure and procedures in the United States are adequate as they stand to remedy the ills of our society”(p. 53). And fallacy number 6 “that we can depend on the courts, especially the Supreme Court, to protect our rights...” (p. 68).

Zinn writes thirty-four pages refuting these views of Justice Fortas. He asks what does Fortas use as evidence for his convictions? Zinn says the answer Fortas gives, “the situation of the Negro in American society” is to Zinn “astonishing” (p. 55). Zinn cites as his authority for dismissing Fortas’ Panglossian fifth conclusion the then Kerner Commission report on civil disorders. To

again mention Zinn's awareness that these matters are not simple, Zinn quotes the Kerner Commission's recognition that while things are moving in a wrong direction, the matter is not yet settled: "This is our basic conclusion: Our nation is moving toward two societies, one black ,one white — separate and unequal" (p.56).

Zinn's conclusion about the sixth fallacy is that "the record of the courts, including the Supreme Court, does not justify such complete confidence" (p. 68). Zinn does see reason for "confidence" that positive change is possible. Frankly, on this point I think that Adam Cohen's book makes a compelling, if depressing, case that the Courts today provide us with less confidence of that.

### **Conclusions**

It seems to me that Black Lives Matter (see Segura, 2021) and the other organizations I mentioned earlier see American society as did Zinn, as "near-just," certainly not entirely "unjust," otherwise why their organized, disciplined, reasonably targeted, nonviolent protests, and their extensive advocacy work?

That said, some of the rhetoric of some demonstrators could be understood as saying systems are totally unjust. Certainly the decrepit state of our systems as described above, both private (the markets), and public (the Law and our politics) needs to be democratized broadly, deeply, and quickly. The fierce urgency of now requires such change (Ornstein & Mann 2012).

But as shown in the work of our scholars of Democracy, democracies are resilient, and capable of improvement. As Wood, Kloppenber, and Ober stress, in functioning democracies, most act with respect towards the needs and opinions of others; there is a shared commitment to deliberative decision-making; and an acceptance of majority rule. Because democracies are resilient, there can be some hope that systems will become more just.

A.O. Hirschman has written insightfully of the relationship between Voice, Exit, and Loyalty as the options available to people whose interests are challenged. The key for democratic governance is that all have a voice. Without a voice the voiceless have only limited choices. Exit is not very practical for most. Further, importantly, exit deprives the movement of the talents of the persons who leave. Nor is disloyalty an option, in this context. It is more like another word for revolution. (Hirschman, 1970). Subservience, a denial of their own equal moral worth is also not a democratic option; not an option at all. It seems to me that protest and dissent can best be understood as manifestations of Voice.

Susan Brison, when challenged by claims that there were too many demonstrations, wrote in the Protest and Dissent volume mentioned earlier that it is necessary to have "more, not less, protesting -- by more people, in more places, on more occasions" (Schwartzberg, 2020, p. 197). One can agree with her point, but if these "uncivil disobedience" protests are to be supportive of democracy it is important that the protestors and dissenters adopt the methodology of Dr. King's principled nonviolent action, which in addition to effectively achieving policy reforms, provides for self-determination and full participation by the participants in the determination of strategies and tactics, that is, they have a powerful voice.(Pope Francis 2015). Equally important, Dr. King's methodology recognizes the flawed nature of the activists, and also respects the dignity and the possibility of change in the attitudes of those equally flawed and limited persons opposing them.

In addition to the obvious importance of Dr. King's leadership, and his commitment to principled non-violence, recent scholarship on social movements indicates that more is required to be successful and supportive of democracy. It is necessary in a deeply divided society to begin to understand what others, beneath their rhetoric, are really moved by. For instance, Charles Taylor and co-authors recently called for mobilizations of randomly chosen persons at the local level; randomly chosen, to facilitate people engaging with others outside their usual political bubble. This form of engagement would be similar to a citizen assembly so that the engagement is focused on a specific, concrete problem (C. Taylor, Nanz & M. Taylor 2020).

Particularly important for building and mobilizing mass movements are structures, such as pre-existing social networks for outreach to other potential supporters; a flexible repertoire of tactics; cultural beliefs and practices to unite and sustain protestors; and gendering of the entire movement (Morris 1993). !

And a personal note. In 1996, four years after the first Iraq war, the State Department threatened to prosecute an organization (Voices in the Wilderness) and its leader (Kathy Kelly) for whom I was doing some legal research. The group had brought and continued to bring medicine and toys to children and families in Iraq. In August 2005, a federal judge ordered them to pay a \$20,000 fine. Refusing to pay the penalty as a matter of principle, Voices in the Wilderness closed its doors in the summer of 2005, reorganizing under the name Voices for Creative Non-violence. The August 2005 court ruling and the Georgia laws are further evidence that democracy can and does fail in its goal of achieving basic human flourishing. (Schwartzberg & Viehoff, 2020).

Protest, even civil disobedience, is not all that is required for a functioning democracy. Yes, to be sure, Douglass and King were correct. But life requires food, clothing, and shelter; and human companionship among other basic human goods. For most those mean family, and work. (Finnis, 2011). Not everyone is like Douglass or King, called to be a pastor, a leader, to live a life of protest. But it can be asked: aren't we all, if we really want a just democracy, to be at the very least, a Good Samaritan, to offer a helping hand when in our daily striving we come face to face with human suffering. A reminder that we do have a duty to walk with our hearts open.

In addition to action by good people, more is required. Joe Hill, early twentieth century labor organizer, said to his supporters as he faced a death sentence "Don't mourn, organize". It works. As stated in the title of a recent piece in Scientific American "Killings by Police Declined after Black Lives Matter Protests" (Daley 2021).

I close with a quote from Frederick Douglas, a view Dr. King has often repeated: "power concedes nothing without a demand. It never did and never will."

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