

Critical Dialogue

Seeing like an Activist: Civil Disobedience and the Civil Rights Movement.

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In her important book, *Seeing like an Activist* (SA), Erin Pineda argues that our standard narrative of the “short” civil rights movement’s nonviolent civil disobedience is erroneous. The standard narrative refers to civil rights activists’ commitment to civility, how they distinguished their conduct from militancy or rebellion, and how they stood peacefully but firmly with a moral commitment to face arrest to demonstrate to the nation and the world how principles enshrined in the Declaration of Independence and the Constitution were being systematically violated by racist violence perpetrated by police and vigilantes in the southern states of the former Confederacy. The standard narrative is then deployed by contemporary political leaders or right-wing media outlets to discipline if not condemn current-day protesters—for instance, when such leaders or outlets blame Black Lives Matter protesters for failing to live up to the high standard set by civil rights activists during the 1960s. Provocatively, Pineda contends that the standard narrative distorts the practices of the civil rights movement and that political theorists repeat this distortion in their discussions of civil disobedience. By reframing 1960s civil disobedience as *decolonizing praxis* (p. 16), Pineda’s work encourages academic political theorists to view activists as political theorists engaged in the imaginative enterprise of experimenting with tactics and repertoires to rebuild a better world (p. 21; see Lester Spence, “Ella Baker and the Challenge of Black Rule,” *Contemporary Political Theory* 19[4], 2020). Pineda persuasively shows how distributive theories of justice neglect forms of systematic oppression by neglecting structures of power, and she demonstrates how the civil rights movement’s civil disobedience is a complex mix of communication and coercion.

The standard interpretation of civil disobedience is heavily influenced by John Rawls (*A Theory of Justice* [TJ], 1971). Pineda describes how Rawls’s justification of civil disobedience begins from the “moral obligation to obey” in a “society such as ours,” which is “reasonably”

or “nearly” just (SA, pp. 32–33). The civil disobedient individual, when faced with serious and blatant injustices, is relieved of the default duty to obey. The individual who engages in civil disobedience does so with a nonviolent public and conscientious act that violates the law yet nevertheless expresses fidelity to the law by accepting legal punishment. This act is a “mode of address” appealing to society’s principles of justice, and it highlights a contradiction between its commitments and particular practices (TJ, pp. 364–67). It is justified only after normal political appeals or demonstrations to change the law or policy have failed (p. 373). By engaging in a nonviolent act and by accepting legal punishment, civil disobedience is distinguished from militancy or revolution by its acceptance of the legitimacy of foundational principles (SA, pp. 34–36). According to Pineda, Rawls’s justification of civil disobedience, which distinguishes such conduct from ordinary criminality (conservatives viewed the civil rights protests of the early to mid-1960s as mass criminality), on the one hand, and revolutionary action or rebellion, on the other, is significant because it has influentially provided a script that political theorists have used in their analyses of civil disobedience ever since (p. 37).

Although Rawls was writing a deontological theory of justice, rather than offering a theory of the civil rights movement per se, political theorists’ discussions of the civil rights movement’s civil disobedience chime deeply with Rawls’s theorization of civil disobedience (SA, pp. 38–39). Moreover, Pineda’s archival research demonstrates that Rawls’s “thin” ontological foundations for his theory were informed and thickened by the practices of the civil rights movement (pp. 38, 211–12, n. 57–59). Because Rawls situated his justification of civil disobedience on presuppositions of a reasonably just society and the legitimacy of the state and its laws, Pineda criticizes the approach to civil disobedience Rawls set in motion as one that is “seeing like a white state” (40ff). This approach sees like a state because it presupposes the legitimacy of the state, and it sees like a white state because it minimizes racial hierarchy and “white entanglement” with these structures of oppression, and obscures the “centrality of white supremacy” to the state by “confirming its democratic *bona fides*” (pp. 41–43). These apt criticisms contribute to discussions in political theory regarding the limits of a theory of justice rooted in the distribution of goods that remains blind to

structures of oppression, though an explicit connection might have been drawn here to the important work of Iris Marion Young (*Justice and the Politics of Difference*, 1990).

Significantly, Pineda broadens our comprehension of the civil rights movement's use of civil disobedience as a decolonizing praxis involving self-transformation and outward-oriented tactics that were not only communicative but also disruptive and coercive. Those active in the civil rights movement were attentive to anticolonial struggles globally. Civil rights leaders traveled to discuss nonviolent civil disobedience with Gandhi in India and were attentive to the use of civil disobedience in anticolonial struggles in Ghana, as well as in South Africa before the African National Congress (ANC) was outlawed and forced to operate underground. African Americans' use of civil disobedience was part of a global decolonizing struggle against white supremacy (SA, p. 87).

Civil disobedience, as Pineda describes it, has two faces: one directed inward and the other directed outward. Its inward face is a praxis of self-transformation as the oppressed overcome fear and gain a capacity for political action (SA, p. 125). Its outward-facing praxis, Pineda compellingly argues in her portrayal of the Birmingham protests and the infamous response to those protests by Bull Connor's police, diverges both from Rawls's justification of civil disobedience and Jürgen Habermas's conception of discourse ethics (p. 129). It uses disruption—that is to say, a form of coercion—to disclose the violence rooted in white supremacy that enforces everyday routines. Pineda contends that the Birmingham campaign, by instigating a crisis, proves that the civil rights movement's use of civil disobedience *forced* the better argument. The worldwide broadcast and publication of images of racial violence leveraged the Cold War, in part, to compel the Kennedy administration's involvement in pressuring local officials to negotiate and make concessions (149, 153). The civil rights movement's civil disobedience was a complex intertwining of communication and coercion, of nonviolence and violence. With this analysis of the Birmingham campaign, Pineda narrows the gap between the civil rights movement of the 1960s and Black Lives Matter protest actions.

The great strength of Pineda's book—the way it brings forward how the civil rights movement's civil disobedience was a complex mixture of communication and coercion—reopens an important question for her readers: When or what sort of force or violence is legitimate? Though Rawls justifies civil disobedience and outlines principles for its legitimate exercise, he limits its use to situations where a majority has a sense of justice or where there is an overlapping consensus regarding fundamental principles of justice. Where those shared commitments do not exist, he finds that the conditions for civil disobedience are lacking: "should circumstances of this kind not obtain, the wisdom of

civil disobedience is highly problematic" (TJ, p. 386). Rawls further elaborates that in "partitioned" societies where division exists over the mutual extension of fundamental principles of toleration or equal liberty, the conditions for civil disobedience do not exist. Nor do they exist in "fragmented" societies (p. 388). Civil disobedience is premised on a complicated combination of principles of legitimacy and of conditional utility, implying that there are occasions when one may understandably calculate that principles of justice will need to be compelled by other means. Pineda acknowledges the conditions Rawls places on the exercise of civil disobedience (SA, p. 211, n. 48). For the reader, the acknowledgment opens the question of what forms of coercion might be legitimate and when.

On the one hand, late medieval political thought and modern political theory justify rights of resistance and of revolution. Americans during the revolutionary period likewise referred to legal doctrines justifying (and criticizing) uses of force (John Philip Reid, "In a Defensive Rage: The Uses of the Mob, The Justification in Law, and the Coming of the American Revolution," *New York University Law Review* 49 [December], 1974). On the other hand, international conventions criminalize certain uses of violence during times of war and peace. Pineda's argument showing how civil disobedience entangles communication and coercion to force the better argument is not averse to certain exercises of force. Yet the problem of legitimacy falls by the wayside, thereby leaving the reader with the coercion of forcing the better argument but lacking the better argument in the absence of a discussion of legitimacy. The reader is left with the aesthetic or affective power of images of violence against Black demonstrators—an aesthetic force that, as Pineda acknowledges, has very uncertain effects given white supremacy's routine acceptance, if not enjoyment, of anti-Black violence (SA, p. 155). In sum, however abstract or inadequate or underenforced or unenforced, can Pineda's argument do without a constitutional principle of equal protection, or international human rights covenants and declarations, or theoretical principles of equality or justice, or some of the principles Martin Luther King Jr. put forward in "Letter from Birmingham Jail," and therefore pay attention to legitimation? Will the gap between principle and performance be collapsed by cynicism into the stasis of an eternal present of resentment and pessimism? Or will the gap represent a discontinuity between principle and practice that is nevertheless narrowed by faith, commitment, and organization? That is, a political commitment to justice means questions of right and power are mutually inextricable; this commitment is both a struggle seeking to make that which is powerful more just and one seeking to make that which is just more powerful (Jacques Derrida, "The Force of Law: The 'Mystical Foundation of Authority,'" in Gil Anidjar, ed., *Acts of Religion*, 1992).

By beginning from a duty to obey and neglecting white supremacy, Rawls's influential conceptualization of nonviolent civil disobedience sees like a white state. By demonstrating how the civil rights movement actively imagined its struggle in anticolonial terms, Pineda contends that political theorists should learn from the civil rights movement's understanding of civil disobedience as a form of decolonizing praxis. By showing how the Birmingham campaign's tactics succeeded less as an instance of Habermasian discourse ethics and more as forms of crisis-generating coercion to "force the better argument," Pineda indicates how disclosing white supremacy's embedded violence was integral to its success. All these strengths lead readers to more profound understandings of Rawls and Habermas, as well as the insights of civil rights activists. Readers led to appreciate the complex intertwining of communication and coercion in the Birmingham protests are left, nevertheless, with questions regarding which forms of force might be legitimate and when. Such questions, however, should not take away from *Seeing like an Activist's* important achievements.

Response to Paul A. Passavant's Review of *Seeing like an Activist: Civil Disobedience and the Civil Rights Movement*

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Paul Passavant's thoughtful, generous review of my book, *Seeing like an Activist: Civil Disobedience and the Civil Rights Movement*, raises an important question about the use of violence by protesters. Passavant asks, in short, "When or what sort of force or violence is legitimate?" It is a question that all theorists of activism recurrently face and one that I resist in my book. Without discounting the value of the question or the scholarly approaches that make it central, I would like to discuss why I appear to—and in fact do—place it on the sidelines in my book and then consider what is both gained and lost by doing so.

Passavant carefully reconstructs my critique of Rawls's influential treatment of civil disobedience, noting how the Rawlsian approach evades the constitutive entanglement of coercion and communication, placing the latter out of bounds for properly *civil* disobedience within societies that meet the condition of "nearly just." The question then becomes, If forms of coercion are operative within civil disobedience, what are the limitations on that coercion? As Passavant puts it, "the problem of legitimacy falls by the wayside, thereby leaving the reader with the coercion of forcing the better argument, but lacking the better argument in the absence of a discussion of legitimacy."

This lack, however, is precisely the one that confronted the activists and organizers of the long Black freedom struggle: How should we think about limitations on the use of dissenting force or violence within a society that is organized on the basis of anti-Black violence *and yet in fundamental ways* takes itself to be orderly, nonviolent, legitimate, and democratic? If we take the violence of US white supremacy and settler colonialism to be co-constitutive with the state's identity as a democracy—if it is, as Joel Olson theorized, not a democracy but a *white democracy*—then there is no immanent, already extant standard of legitimacy that can provide the measure.

To be sure, civil rights activists invoked equality before the law, the principle of equal personhood, and the value of freedom; yet on my reading they did so less as an appeal to a shared standard of legitimacy and more as a risky, creative, provisional act of construction—appealing to an idea not yet real, whose horizons not only lie beyond the United States and its founding documents but also require subjects and relations not yet brought into being. Their actions were ungrounded in this way; legitimacy would be the outcome perhaps but could not provide a starting point.

My worry has long been that engaging with questions of activist practice from the standpoint of justification and legitimacy—*when, where, and under what conditions are certain kinds of actions permissible or legitimate?*—crowds out questions about action: *What do certain forms of action (in this case, decolonizing praxis) do in the world?* Although the former is one question we might pose, in my view, it is too often the only one.

Yet Passavant is no doubt correct that the question of political violence is a meaningful one that should not be evaded. Instead of asking about legitimacy, however, I might ask about the ethical and political purposes of coercion, force, and violence as part of activist praxis. Thinking with the activist-theorists of the civil rights movement, we might ask what popular uses of coercion and force do to deconstruct a world already built on violence, and what they do to construct a different world. This is a question related to Passavant's but not reducible to it.

For figures like Martin Luther King Jr., uses of violence under white supremacy—that is, bodily or intense psychological harm against other persons—could not deliver the mutuality and reciprocity that, for him, provided the horizon of true liberation. This was his answer, but it is only one. Still, I find it instructive for how it orients our attention—not to the problem of justification but to the world-building capacities of action. It is there that I think we should begin, and I am grateful to Passavant for the provocation to do so.