

violence robs those involved of any legitimacy. They will be able to govern only through coercion and by shutting down the normal mechanisms for dissent and shared decision-making. Democracy by definition will have disappeared.

There are multiple alternatives to using violence in pursuit of political ends. One is to double down on efforts to bring about desired policy change within the law and within the system. This can be done through greater effort, be it by registering more citizens to vote or getting more registered voters out to the polls to cast their votes. It can also be sought by supporting policy change through legislation or executive action at the local, state, or national level. Constitutional amendment is an additional path.

There is as well another tack: civil disobedience, or nonviolent political action that contravenes the law. The term "civil disobedience" can be traced back to Henry David Thoreau, a mid-nineteenth century New England thinker who refused to pay taxes as a protest against slavery and the war with Mexico. Thoreau was prepared to go to prison for his stance and did. It turns out this willingness to accept the penalties imposed by existing authority is central to the concept. Civil disobedience as developed by Thoreau constitutes an action within the existing system, not a rejection of it or an attempt to replace or overthrow it.

Protest, in the sense of organizing rallies critical of existing legal and political arrangements seen as unjust, immoral, or misguided, can be a more active form of civil disobedience. Like

Thoreau's refusal to pay taxes, protest is not necessarily a revolutionary action, as it takes place within the existing order and seeks to change it. Such protest is what former civil rights leader and congressman John Lewis termed "good trouble, necessary trouble." A protester acting within the order is prepared to pay a price (be it a fine or imprisonment) for their behavior—and they carry out their protest or actions peacefully.

Among the leading practitioners of nonviolent protest in history were Mahatma Gandhi and Martin Luther King Jr. Gandhi was a lawyer who more than anyone else developed the thinking and practices associated with nonviolent resistance in pursuit of political aims. For Gandhi, the aim was to bring about Indian independence from Britain. Gandhi employed marches, rallies, strikes, negotiations, and boycotts. He endured multiple arrests but never resorted to violence, believing correctly that occupying the political high ground would keep the focus on the immorality and costs of British policy rather than that of the Indians seeking independence. He also thought he could win over a substantial slice of public opinion in Great Britain if he acted with restraint on behalf of his cause. By 1947, helped in no small part by British exhaustion stemming from World War II, Gandhi achieved his goal.

Martin Luther King Jr. was trained as a minister and became one of the leaders of the American Civil Rights Movement. He too espoused nonviolence and opted instead for marches, rallies, speeches, boycotts, and acts of defiance, for example taking a seat in the front of a bus when Black people were required to sit in the

rear or demanding food service at a lunch counter reserved for Whites only. Like Gandhi, he appealed to the conscience and pocketbook of the nation. His goal was not revolution but rather reform. In the end, he proved largely successful, as many of the barriers based on race were taken down and made illegal by a series of laws passed in the 1960s that protected the rights of all Americans regardless of color.

What both of these movements had in common was that they sought to win over relevant public opinion by shining a light on existing practices that were fundamentally discriminatory and unfair. Violence was mostly avoided as it would have meant forfeiting the high ground and having the message lost amid the mayhem. It was also anything but clear that violence would have achieved the desired end.

I want to make clear that I am not suggesting that civil disobedience and nonviolence are always the best route to desirable political change. Indeed, they require a context in which authorities are prepared to act with restraint when it comes to ordering police and military units to use force against protesters. Civil disobedience also has a much better chance of advancing political aims if there is an active, free press and social media ready to shine a spotlight on conditions that gave rise to the protest, spread the word among protesters, and call out any abuses of power by state authorities. The two successful historical cases cited above—colonial India against Great Britain and the American Civil Rights Movement—all succeeded in no small part because of what the

government was unwilling to do when it came to crushing dissent. It is far from evident that such tactics would succeed in reforming authoritarian or dictatorial political systems in countries such as North Korea, Russia, China, or most countries of the Middle East that are willing and able to do whatever is required, no matter the toll in lives, to maintain control and power. But one of the things that makes democracies unique is their openness to challenge and their capacity for change. The change may not be sufficiently fast or dramatic for some, but some change now with the potential for more later is infinitely preferable to anarchy or civil conflict.

Much of this discussion has concerned itself with those advocating for change. But there are as well obligations for those who hold power and exert influence. It goes beyond the necessary condemnation of any who resort to violence for political ends and willingness to see that those involved pay the required legal price. What happened in Washington on January 6, 2021, for example, cannot be allowed to be swept under the rug. The notion, as the Republican National Committee put forward in a statement on February 4, 2022, that what took place constituted “legitimate political discourse” is preposterous; infinitely closer to the truth was the characterization of Mitch McConnell, the Republican leader in the Senate: “It was a violent insurrection for the purpose of trying to prevent the peaceful transfer of power after a legitimately certified election.” Such politically inspired violence meets the definition of terrorism. Those who incite political violence

should also be held accountable; free speech is protected but is not an absolute. The Supreme Court has ruled that those calling for "imminent lawless action" are little or no different from those who carry out the violence and are liable. The problem with the imminence threshold, however (and the associated point that what is said must be shown as "likely to incite or produce such action"), is that it is virtually impossible to prove it has been met. Courts lean in favor of protecting free speech even when it tips over into encouraging dangerous, irresponsible actions. One could fairly argue that regardless of this legal threshold those with power and influence should not be advocating for political violence in any situation. If because of the fine points of the law those who advocate for violence do so in a form that allows them to escape legal and civil penalties, they should still pay a political price. That is something only citizens can bring about.

But responsibility does not end there. The need to minimize political violence also requires that a premium be placed on making the political and legal system fair and responsive, that there be a level playing field. This holds especially true for those entrusted with special power, such as the police. Acceptance of the legitimacy of the state and its monopoly on the use of force is predicated on its willingness to exercise restraint, to use force lawfully, and to hold anyone who is an officer of the state accountable. This is necessary to reduce the chance that American democracy will fall victim to widespread violence.