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“Lex Mulla Lex Nulla”

The pervasiveness of racial inequity and injustice in what many Americans consider a “post-racial” era has opened up the floodgates for a more sincere conversation on race as well as confronting the racial status quo. The Black Lives Matter Movement (BLMM) has been at the forefront of growing racial tensions in the United States for over four years, vigorously fighting for freedom and justice for Black people and, by extension, all people. Now, with a new borderline fascist administration in office the movement is under more scrutiny than ever, with opponents describing it as a “terrorist organization.” Even so, the Black Lives Matter Movement’s display of nonviolent civil disobedience is justified, contrary to what some believe, because not only do unjust laws and institutions spur this social resistance in the first place, the resulting social resistance itself is what forces the creation of new, moral laws. Too much reverence for certain laws and the status quo allow the persistence of corruption and oppression in American society. Therefore, as Henry David Thoreau signifies in his essay, *Resistance to Civil Government*, it is better to have dogged respect for justice and morals than an irrational “respect” for law and order.

The first consequence of having a stalwart adherence to laws is that it can lead to perverted morals and ignored consciences among both government workers and everyday citizens. The best example of government workers who work hand-in-hand with the law, and

who are likely to be demoralized by it, are police officers. It is literally the police's job to uphold the law--even if the it is contrary to their own morals. In this case, it's as Thoreau says

“A common and natural result of an undue respect for the law is, that you may see a file of soldiers, colonel, captain, corporal, privates, powder-monkeys and all, marching in admirable order over hill and dale to the wars, against their wills, aye, against their common sense and consciences, which makes it very steep marching indeed, and produces a palpitation of the heart.” (6)

Police may not be soldiers in title, but they are often seen as such due to the residual images of aggressive policing of Black communities that took place throughout the eighties and nineties during the “War on Drugs”. In this particular instance, American lawmakers decided to treat drug addiction as crime rather than a health crisis and passed policies that made police officers responsible for rounding up both drug dealers and drug abusers. During this time, some officers also had the frequent tendency to use excessive force when interacting with people of low income areas whether they were drug dealers or not. Now, not every officer agreed with laws in place or how they were executed, but at the end of the day, they still upheld those standards, doing little to nothing subvert or change the laws they so fastidiously upheld. Fast forward to the present, and much of the situation is the same. Animosity between law enforcement and black communities is still present and incarceration rates are at an all time high. The only difference is that now, all the anger and rage felt by these abused communities has come together to form the BLMM which openly asks the question, “Is there truly such thing as a ‘good’ cop?”. If one

forsakes their morals in the name of the law can they truly “serve and protect”, or in fact, achieve the opposite? When posed this question, many people are to jump to the defensive conclusion that “not all police are bad” and that there’s “at least one bad apple in every bunch”. However, this debate over whether police are “good” is not about the actions of individual cops--anyone can argue about the details of 900,000 individuals doing their jobs, some with the best of intentions. Instead, it's about a *system* — a system cops *voluntarily* participate in — that both perpetrates and perpetuates injustice (Giliand). In other words, there is a such thing as good men, but there is no such thing as good cops, because the system under which they work is inherently corrupt. Until Americans can acknowledge the original discriminatory environment in which the criminal justice system was created and strive to rewrite the system itself, Americans will be the benefactor of a police force that moves without conscience or mercy.

Following the trail of distorted morals, not just officers, but the American public as well, can lose their conscience to the law. In the case of the BLMM, and even of the Civil Rights Movement of the 1960s, white moderates are often the most vocal, yet perplexing, to criticize direct action methods. In 1963, Martin Luther King Jr. wrote his famous *Letter from Birmingham Jail* to explain the need for public demonstrations to several Alabama clergymen and in it he writes

I have almost reached the regrettable conclusion that the Negro's great stumbling block in his stride toward freedom is not the White Citizen's Council or the Ku Klux Klanner, but the white moderate, who is more devoted to "order" than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says: "I agree with you in the goal you seek, but I

cannot agree with your methods of direct action"; who paternalistically believes he can set the timetable for another man's freedom; who lives by a mythical concept of time and who constantly advises the Negro to wait for a "more convenient season." Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.

This is a perfect example of what Thoreau means when he criticizes the fact that many white Americans believe that civil obligation should be maintained for the sake of expediency and that government should be obeyed simply to preserve the services they enjoy. This belief completely lacks common decency and empathy as it ignores the plight of those who do not fit into the status quo. As for why people act this way, one reason is fear of change. It is common knowledge that people often do not like change, for change brings fear of what is different and unknown. Many people are willing to trade their conscience and sense of justice in exchange for safety and security, hence the lack of empathy and regard for other people. Many white moderates, while claiming to have good intentions, have a subconscious fear of losing the privileges and advantages that their whiteness affords them if the playing field were "truly leveled". Another reason white moderates shirk at the idea of direct action, is that they come from a place of privilege. From the Jim Crow era, to the War on Drugs, to today's struggle with police brutality, white moderates continue to exhibit the same condescending and dismissive attitudes towards an American experience they themselves have not lived through. It's easy to discount the lives and frustrations of others when one cannot fathom the injustices and pain they've suffered. The push for "law and order"

desperately tries to keep this anger and pain “in line”, making it easier for white people to overlook and ignore. Ultimately, ignorance and fear of paying the price of past transgressions is what keeps moderates at bay, however, if what Thoreau says is true, “expediency does not take precedence over justice; people must do what justice requires regardless of cost--indeed, even if the cost is one's own life” (10).

Now, many opponents of the BLMM argue that the movement’s direct action methods demonstrate a complete disregard for the law, as well as the safety and well-being of innocent non-protestors. The way many see it, without the laws and systems that are in place today, there would be chaos and disorder, making society unsafe for everybody--as demonstrated by looting, property damage, and criminal opportunism that take sometimes takes place at the same time as the protests (Esposito & Romano 162). However, besides the fact that there is a visceral difference between looters and protestors, clearly the laws and institutions in place are not working for, and at times work against, a significant portion of the population. If these laws and practices are not there to help and protect all citizens equitably, then what are they there for? This is a question posed by both the 1960s Civil Rights movement and today’s BLMM. According St. Thomas Aquinas, famous philosopher and theologian, “human law is law only by virtue of its accordance with right reason; and thus it is manifest that it flows from the eternal law. And in so far as it deviates from right reason it is called an unjust law; in such case it is no law at all, but rather a species of violence” (ST I-II 93.3 ad 2). In other words, a law that is “unjust” for a few is not “just” for anyone--it can’t be unless it is truly fair for everyone. This concept of “unjust laws” is another reason why it is better to heed justice over pure legislation.

To say there are such things as “bad laws” seems like an undeniable supposition. For example, legal slavery, and all the laws that supported it, appear to be obvious instances of United States’ lawmakers’ failure to come to a consensus and “do thing right thing”. The same could be said for racial segregation laws regarding public facilities in the Jim Crow South. However, during both time periods, much of the American public saw this oppression as right and moral and they ultimately equated this morality with lawfulness because the laws in place supported their ideals. Nowadays, laws are not always so straightforward with their biased nature. To the privileged and sheltered eye, many of the laws and institutions erected in America in recent years appear to be as infallible and fair as they are intricate. Because they have made it through the lengthy law-making process, stood a test of time, and have no negative repercussions for the privileged, these laws and institutions, according to this line of reasoning, must be functioning proficiently and sincerely for everybody. This is one of the reasons why many opponents of the BLMM, a movement based on the resistance of certain unfair laws and systems, see it as a “terrorist organization” or as “inherently criminal”. Time and time again, “morality continues to be reduced to or con-fused with legality. In civil society we are encouraged to assume that legal behavior is the measure of moral” (Diamond 389). As a result anything that goes against the law, is then going against morals. So tightly are A good example of recent laws whose consequences BLMM oppose is “get tough on crime” measures passed throughout the Eighties and Nineties that many white people saw as necessary for “saving” American communities and, to a few, Black lives. Many whites cannot fathom the idea of dismantling laws that “keep criminals off the streets” or “keep citizens safe” but clearly these laws have not taken into consideration the fact that they perpetuate the current state of Black America, where one in

every three Black men will eventually experience being incarcerated--while the number among White men is 1 in 17 (Esposito & Romano 168). These laws and regulations are visibly biased and discriminatory, but because no one in power is willing to dismantle them, the American people end up taking their lives into their own hands by coming together to make change. This fits well with Martin Luther King Jr.'s assertion in his letter, "one has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws". This moral responsibility to reject the "wrong" is what creates a catalyst for change.

The last line of reasoning that defends the nonviolent strikes, protests and demonstrations organized by the BLMM, and the movements before it, is the intrinsic concept that laws do not make social change; social change makes laws. For example, after the Civil War, the United States government passed the a series of amendment to the Constitution that made former slaves citizens and gave all men the right to vote regardless of race. Even so, many Southern states created taxes and enforced laws that outright discriminated against African Americans as well as other people of color. Almost a century passed and the U.S. federal government ignored the plight of black people, refusing to pass any legislation that would remedy years of injustice. It was not until a series of lawsuits, protests, boycotts, and demonstrations initiated by the people suffering under these law that a solution was proposed. To be specific, the Southern Christian Leadership Conference's (SCLC) campaign in Birmingham, Alabama and the violent opposition it generated, helped spur the creation of the Civil Rights Act of 1964. The same could be said of the 1965 march through Selma, Alabama, whose similar violent backlash helped create the Voting Rights Act of 1965. In this particular case,

“[America’s] civil right laws advance racial justice only when these movements successfully contest the morality of racist structures, and challenge the legal and political narratives that justify those structures” (Lawrence 386). In the sense of being the ones to initiate and force the hand of change, the BLMM is an excellent example, as it challenges laws and institutions, like the criminal justice system, in order to truly alterate and improve the standard of living in society for *everybody*. Their demonstrations, “ask for, not at once no government, but at once a better government” and strive to, “make known what kind of government would command [their] respect, [ultimately taking] one step toward obtaining it” (Thoreau 5). Laws and social unrest go hand in hand, with the ladder amending the former, so ranking laws above the people who wish to change laws is trite. Without the civil unrest of the 60s, the civil rights laws seen today would not exist and the same theory can be applied to the BLMM in its attempt to further level the playing field and pursue justice. In the end, the path toward true equity comes from men who feel sincerity and seek the truth.

The debate between “law and order” and “justice” can be broken down to the bare emotions empathy and apathy. When one truly cares about the conditions and lives of other people in relation to oneself, the opportunity for justice, integrity and honesty to permeate every inch of society thrives. Fighting for those who cannot fight for themselves become second-nature when one strives to put oneself in the place of others. Being apathetic, on the other hand, makes it easier for people to focus on themselves and or people just like them. Corruption and malice can come from a variety of places, but they only get out of hand when apathy is involved and in the case of the United States, apathy plagues society at both the lawmaker and citizen level. In law terms, “A concern with reactions to breaking the law is a concern with justice; a

concern with etiology (the breaking of laws) is a concern with social order,” and empathy and apathy fit concisely with each (Karstedt). BLM supporters are concerned with justice, and all the freedoms that come with it, while the privileged, who have their freedoms, prioritize social “order” and detachedly scoff at those who seek it. At the end of the day, the laws and institutions of this country were designed to uphold the values on which this nation supposedly stands, “freedom and justice for all” and until the day they do, it will be the right of the people to stand up and demand a change.

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