Reflections on the Study of Violence

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We are in the midst of a quickening, if inchoate, dispute as to whether Americans are an inherently violent people. Whatever the merits of this metapsychological discussion, there is no disagreement that Americans have a propensity to interpret both officially and unofficially the violence we do have (Waskow, 1966; Silver, 1968).[1] The final report of the "violence commission" stands in this tradition, and by its size and scope, taken together with its supporting studies, aspires to culminate it.

This essay is a reflection on the basic orientation of the Final Report of the National Commission on the Causes and Prevention of Violence (hereafter: FR). Our principal contentions are: (1) that the operative definition of "violence," in addition to determining the purview of FR or of any similar endeavor, also determines to a great degree the basic analysis and suggested remedy; and (2) that with all its legal and scholarly buttressing, the final report remains a political instrument with political objectives. The orientation of the final report is then appraised in relation to a broad liberal tradition, at least fifty years old, of responses to domestic disorder. Such an appraisal will enable us to make a tentative judgment: what contribution is this commission likely to make to ongoing public policy? The ways in which the

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commission defined its task emerge initially from an account of its creation, and its Presidential mandate.

The Problem of Violence

Wednesday night, June 5, 1968, Robert Kennedy lay near death in Good Samaritan Hospital in Los Angeles. He had been gunned down the night before while leaving a celebration for his victory in the California Democratic Primary. Two months earlier, his friend Dr. Martin Luther King had been slain in Memphis. That evening Lyndon Johnson, who had come to office when Senator Kennedy's brother was assassinated, addressed the nation. Max Frankel (1968) of *The New York Times* described his speech as an "emotional and at times even angry statement on television." The President said:

> There is never—and I say never—any justification for the violence that tears at the fabric of our national life; that inspires such fear in peaceful citizens that they arm themselves with deadly weapons; that sets citizen against citizen, or group against group.

> A great nation can guarantee freedom for its people and the hope of progressive change only under the rule of law.

> So let us, for God's sake, resolve to live under the law [Johnson, 1970]!

He then announced the establishment and membership of what became the National Commission on the Causes and Prevention of Violence. This was its charge:

> The commission will look into the causes, the occurrence and the control of physical violence across this nation, from assassination that is motivated by prejudice and by ideology, and by politics and by insanity; to violence in our city streets and even in our homes.

> What in the nature of our people and the environment of our society makes possible such murder and such violence?

> How does it happen? What can be done to prevent assassination? What can be done to further protect public figures? What can be done to eliminate the basic causes of these aberrations [Johnson, 1970]?

The President's response was immediate; he named the commission less than 24 hours after the shooting of Senator Kennedy. While its assignment was very broad, there was no doubt that the commission's *raison d'etre* was the tragedy in Los Angeles.

This initial ambiguity in the assignment was intensified by a second problem. President Kennedy's assassination was investigated by a Presidential commission which made an exhaustive, if controversial, report in 1964 (the Warren Commission). Following racial violence in Detroit, Newark, and other cities, the President appointed an advisory commission on civil disorders which reported in February 1968 (the Kerner Commission). Its report was widely publicized and sold over two million copies in various editions. Finally, the President's Commission on Law Enforcement and Administration of Justice (the Crime Commission) submitted to Mr. Johnson in February 1967 a report with nine task-force studies which constituted the most thorough investigation of the criminal justice system in American history. It was not clear what remained for the new commission to study.[2] President Johnson was aware of this history. He appointed to the new commission men who had sat on each of its predecessors. But the problem was left to be solved by the commissioners themselves.

Two solutions appear in the progress report submitted to the President on January 9, 1969.[3] The violence commission announced a program of research which surpassed all previous studies in scope and volume. Seven task forces were assigned to study historical and comparative perspectives, group violence, individual acts of violence, assassination, firearms, media, and law and law enforcement. In addition, study teams were assigned to five major incidents, including violence at the Democratic National Convention in Chicago. The initial solution, then, was justification by breadth of coverage and comprehensiveness.

More importantly, the commission announced its majestic intention to see violence from an all-encompassing perspective. The principal goal of the progress report was to define and defend minimal assumptions that would make all the complex manifestations of violence accessible to study. "We have had to find a vantage point from which we can see all the forms of violence and their causes in a perspective broader than our individual day-to-day concerns" (FR: 285). According to the progress report, this perspective begins with the recognition that some violence is necessary and inevitable. Violence inheres in human nature, and it is requisite to the maintenance of a community in which large numbers of people live together. Traditionally government has drawn legal and ethical distinctions between "legitimate" and

"illegitimate" forms of violence. But the distinction has been challenged throughout history, and the progress report calls attention to situations which throw it in doubt. If we deplore assassination, would we have deplored the assassination of Hitler? Did not Englishmen call the American Revolution rebellion and treason (FR: 286)?

For these reasons the commission proffered a definition of violence said to be ethically neutral:

> For purposes of commencing our study we defined "violence" simply as the threat or use of force that results, or is intended to result, in the injury or forcible restraint or intimidation of persons, or the destruction or forcible seizure of property [FR: 286].

The definition is designed to embrace war, maintenance of law and order, police brutality, violent crime, and physical abuse of children. It implies that "illegitimate violence, like most deviant behavior, is on a continuum with and dynamically similar to legitimate violence." To understand violence thus entails an understanding of the institutions which legitimize or condemn its various forms.

All this appears reasonable, but a careful reading of the progress report discloses that this supposed elision of value premises was accomplished by sleight of hand. First misgivings arise with the intention of the report to find a perspective "broader than our individual day-to-day concerns." It is more accurate to say: "broader than diverse political perspectives of citizens which impel them to identify or stress or condemn different kinds of violence." Some of these differences are itemized in the progress report (FR: 285). Why not grant that the definition of types of "violence" meriting condemnation is emotionally disputed? And that the dispute is political through and through?

The commission's definition is strikingly broad. Reference to "destruction or forcible seizure of property" extends "violence" to include police seizure of narcotics, and sit-ins, the archetype of nonviolent direct action. Analytically, we have a confusion of three salient tests: intentions of the perpetrator, the act itself as a chosen means, and the consequences of the act. Each of these, in turn, is blurred in favor of broadness. If the act is intended to result in injury, but does not, it is "violent." If injury was not intended by an act, but did in fact result, the act is "violent." And

any use of force resulting in injury, regardless of context, intent, or causal relation to other circumstances, is "violent." Physical violence need not occur; it can be a "threat" which has an "intent," successful or not, of injury, restraint, or seizure of property.

This definition rules out any sensible ordering of the most serious components of "violence" considered as "problems." In the end, the greatest single cause of violent death in America, highway and traffic accidents, is ignored in the recommendations of the final report.[4] This gives us a clue that the real "problem" of violence for the commission is an array of disruptive and injurious tactics which may serve political purposes. Such an interpretation is confirmed by the use of "legitimate" and "illegitimate" as descriptions for the degree of sanction by the state. We are told:

> Maintaining a system of law enforcement capable of eliminating all illegitimate individual and group violence might so increase the level of legitimate violence that harm to other values would be intolerable. A totalitarian police state, however efficient its use of violence might be in preserving order, would destroy the freedom of all [FR: 287].

The term "legitimate" is used to refer to the violence which supports a totalitarian police state. This would be acceptable if "legitimate" is intended only to mean "official." But the commission tells us in addition that their task is to diagnose and propose remedies for "illegitimate" violence.[5]

The matter of legitimacy is controversial and profoundly in doubt. To define "legitimacy" is to take an ideological position, as the commission did.

> Unfortunately ... the existence of legitimate violence—from shooting in lawful self-defense through international warfare—sometimes provides rationalizations for those who would achieve ends or express grievances through illegitimate violence [FR: 290].

People adduce value premises to support a war just as they adduce them to support an assault on a draft board, or an attack upon buses transporting pupils for purposes of integration. The values behind these definitions of "legitimate" in the final report are given no defense, since the commission would have us understand that its enterprise is value-neutral.

One must conclude that the commission was attempting to fulfill two contradictory objectives. The first was to develop an

interpretation of violence from a minimum of carefully defended assumptions. The second objective, suggested by the anguished words of Mr. Johnson on the night of April 5, was to diagnose and propose a cure for extralegal violence. These objectives are contradictory for reasons stated by the commissioners themselves: "a widespread conviction of the essential justice and decency of the social order is an indispensable condition of civil peace in a free society" (FR: 292). Such conviction is not a matter for political debate or empirical inquiry where official uses of violence are by their nature legitimate.

The Sociology of Violence

The problem of violence exists on two levels: a level of incidence of violent acts; and a perceived level of community fear, uneasiness, and response to those acts. Crucial to an understanding of violence is a sensitivity to the ways these two phenomena interact.

Even this simple formulation courts several objections. The best estimates of the incidence of violence should not be mistaken for the "actual" amount of violence which occurs in a given time series. And perceptions of violence in the community are always resistant to measurement—they may or may not give rise to articulation and action. Sometimes violence is planned carefully, but very often it emerges suddenly from a context which might as easily *not* have caused it; a context of rage, confusion, fear, mistaken expectations of a friend's or an adversary's intentions. All the "data" we have on violence grow out of the past. The historian who wants to "explain" violence must take care that he does not make it appear inevitable. He would be forewarned from a glance at predictions of violence by social scientists and public officials. Generally, the prediction record is very poor; and where predictions by officials have been validated, self-fulfilling prophesy cannot always be ruled out.

Violence is a contingent phenomenon and, even in the most extreme utterances of its admirers, it is always a means. It cannot be studied apart from the purposes it serves in specific contexts. An attempt to understand violence "generally" overlooks the instrumental quality crucial to all violence. Two examples may illustrate. A man discovers his wife in sexual partnership with

amother man and kills the wife or the lover. Second, a group of young men break into a selective service board and destroy records, then hold a press conference to explain their intentions and expose themselves to arrest. Both incidents fit the definition of violence used by the commission. But the implications of the two acts are radically different. One would be inclined to say that more harm was done in the first instance, but in some states a killing in that context is not considered a crime. The first instance poses no threat to public order. It can almost always be assumed that the man acted out of anger, and his act is likely to be followed by expressions of regret. The second case was carefully planned. It is more expressive than injurious by intention, and thus challenges the law. If we disregard the level of destructiveness and attempt to devise a simple typology, nearly all violence could be arranged in relation to these polar types.

Diversity makes the study of violence difficult, but should not rule it out. If we wish to observe the two problems of violence—the violent act and community perceptions of it—a few key points where they come into contact merit analysis.

The police are one key, since they stand between the two groups. They attempt to deter and apprehend the one and attempt to protect the other. The wisdom of Skolnick's observation (1966: 6 ff.) that law and order are often conflicting objectives for police is confirmed by the experience of collective violent disorder. It cannot be assumed that widespread violence and disruption simply increase the need for police work. They introduce an increasingly urgent pressure from the community. This can affect the nature of police response as the disorder progresses, and it is almost certain to affect their response to subsequent disorder. In some cases, the responsibility of the police to operate within the law will be compromised (National Commission [11]: "Summary": 1FF.). The community is a constituency for the police, and the violator, whose interests are often served by legal rules and procedures, is a natural antagonist for them. We need to know not only what can improve the quality, skills, and efficiency of the police, but whether the objectives of law and order can in fact be reconciled within existing police organization, particularly in periods of collective violence.

Mass media are another key, for they medi-ate between the two groups by reporting, stressing, or overstressing the violence which actually occurs. They are as fully a creature of their audience as of their subject matter, and they can tell us much about both. In the hypothesized attack upon selective service files, a principal motive was the communication of a certain intensity of feeling to a broad public. If the media tend to publicize violence, and not peaceful protest, they may encourage violence among groups seeking a public hearing. Unfortunately, the violence commission devoted its chapter on media to a critique of the portrayal of violence in television entertainment programs (FR: 187-207). The mediation function between those who perpetrate violence and those who only see or read about it was given scant attention.

The violence commission fails to capture the dynamic of aggressor and imperiled witness because it divides into separate chapters (and consequently, for the most part, separate problems) violent crime, group protest, media, and police. Its policy proposals follow from these divisions almost as a matter of course. For the broader public, alarmed by violence, it advocates strong and efficient measures of control. For the violent actor, it assures that legitimate grievances ought to be heard; and to that end it advocates substantive reforms. Still, if it is possible to speak of two audiences, violence is a unitary problem which both of them significantly affect. To address the audiences separately is to invite inconsistency:

> Although we have an open political and social system, more dedicated than most to the dream of individual and group advancement, the majority are sometimes unwilling to hear or to redress just grievances of particular minorities until violent advocacy or repression calls them to the forefront of our attention. [FR: 63].

> It is no doubt true that in the 1960s policy changes advantageous to dissident groups have sometimes followed in the wake of urban riots and campus disturbances. These gains, however, may have been attributable more to the validity of the protest goals than to the violent outbreaks when they came [FR: 66].

Violence and Deviance

This ambivalence owes something to the contributions of social scientists to the commission's work. Recent studies of domestic

disorder have been influenced by two kinds of "conceptual" approaches to deviance (Gibbs, 1966), which correspond roughly to the two "problems" of violence already discussed. One approach holds the mechanisms of identification and control constant and studies the violators disclosed by that mechanism. The other approach finds the *cause* of violations in the labeling and controlling activities of the wider public.

With the first procedure, the social scientist is given a series of rates—e.g., rates of violent crime. He knows that more people were able to commit violent crimes and had compelling reasons to do so than actually did commit crimes. He sets out to identify those characteristics of the violent criminal which are not shared by people who refrain from violent crime. The scientific ideal would be to identify characteristics—social, economic, perhaps genetic—which infallibly suggest that an individual will commit violent crime.

In some cases, the use of this perspective led the commission to harmless pseudoinformation, such as the composite portrait (FR: 124) of presidential assassins. (The main problem here is size of the sample. With vastly more information and a larger sample, no one has attempted a composite portrait of American Presidents.) A more basic criticism is that the perspective aspires to a determinist interpretation of deviant behavior. To the extent that it succeeds in isolating characteristics unique to the violent deviant, it minimizes the element of personal choice in the violent act. The violence commission uses this approach to deviance in a strict way only in discussing individual crimes of violence.

> Violent crime occurs in many places and among all races, but we have just shown that it is heavily concentrated in large cities and especially among poor black young men in the ghettos. We must therefore focus on the conditions of life for youth in the inner city to find the root causes of a high percentage of violent crime [FR: 27].

Alternatively, deviance can be studied as the result of labeling activity by nondeviants and the organizations designed for identification and control.[6] A difficulty with this perspective is that it cannot hope to give a complete explanation of deviant acts (see Gibbs, 1966: 11-14). Without a penalty prescribed for murder and without an apparatus to identify and punish murderers, one

presumes that murders would still occur. The perspective can nevertheless have considerable explanatory power. It eludes the violence commission formally because it would require attention to the role of media, police, the criminal justice system as *creators* of rates of violence. It eludes them tactically, or politically, because it renders problematic some deep and pervasive public policies. Jerome Skolnick's (National Commission [3]) task force report, *The Politics of Protest,* sets out in its second chapter to give an "analysis" of protest against the Vietnam war. Rather than describe the war protester in profile, the task force examines the effects of the war, its stated justifications by public officials, and a compendium of what "protesters say" about it. The result is a powerful indictment of American policy, couched in the third person (National Commission [3] : 21-61).[7]

The commission's discussion of group protest relies upon a sophisticated variant of the first approach to deviance. Alan Silver (1968) pointed to a basic affinity between liberal reformism and what he called "diagnostic sociology" in the study of racial disturbances. He contended that, in order to justify a liberal response from the majority when the desire for domestic peace was deeply felt, commissions have wanted to see "collective violence as remorselessly caused rather than an active choice of an oppressed people" (Silver, 1968: 153). For this approach to achieve the desired response from the community, it has been necessary to contend not only that aggrieved persons were driven "remorselessly" to violent means, but that *their grievances have merit.* The first approach to deviance comes into use because those who are violent are those who have grievances which bear close relation to socioeconomic characteristics. The second approach is used when the grievances are said to owe their existence to undesirable beliefs and practices in the larger community (for the Kerner Commission, "white racism").

Because the violence commission is generally unwilling to weigh grievances, or to credit them, its analysis is confined to the first approach. Grievances are reported *as a belief system* which influences violent behavior. From this perspective, it is not racial discrimination which is problematic, but the wide belief among minorities that they are being discriminated against. We learn that ". . . white police patrols in predominantly black neighborhoods are

frequently resented, reviled, and attacked, verbally and physically" (FR: 32). But this explains nothing. Why are they reviled and attacked? Is there a basis in fact for community hostility? Or might community hostility create its own justification as police learn to respond to it? In the same spirit the commission makes little attempt to conceal its distaste for the war in Vietnam. "We recognize that substantial amounts of funds cannot be transferred from sterile war purposes to more productive ones until our participation in the Vietnam war is ended" (FR: xxv). It is not prepared to say that American involvement in Vietnam has been morally wrong or misguided. In the commission's analysis, it follows that whatever else it is, Vietnam protest is preeminently a problem, because it sometimes results in violence.

That the commission took this position is explainable partly by the diversity of violence within its purview: racial disorder, white militancy, student disturbances, and a diversity of violent confrontations. There is a sacrifice of concrete issues in any attempt to speak about these activities in general terms. The sacrifice is increased with the commission's definition of "group violence":

> . . . the *unlawful* threat or use of force by any group that results or is intended to result in the injury or forcible restraint or intimidation of persons, or the destruction or forcible seizure of property [FR: 57: italics added].

The commission begs the question of what circumstances give rise to or call attention to illegality. It also begs the question of why this broad realm of events, not all of them injurious *in fact,* looms as a problem. It disregards the use which group violence—by campus militants or by segregationists—might serve in seeking redress of grievances from officials, even though this is the most basic level at which it can be distinguished from a great variety of other phenomena—from excessive bail practices to enactment of unconstitutional statutes which specify imprisonment for certain classes of criminal acts—which satisfy the definition.

Once grievances are confined to a cognitive plane they can be seen to ally themselves with other notions about respect for law and authority, quite apart from the empirical world where the administration of policies and the acts of men might *merit* respect or disrespect. True to its assignment the commission seeks to

understand why people resort to violence (as defined) as a tactic among other tactics. Their question is not, what does it mean, but, how is it possible? The answer is to be found in the effects upon attitudes of widespread secular change. More specifically,

> In recent years a number of forces have converged to weaken the legitimacy of our institutions. . . . the spectacle of governors defying court orders, police unlawfully beating demonstrators, looters and rioters going unapprehended and unpunished, and college youth attacking society's rules and values, makes it easier, even more "logical" for disadvantaged young people, whose attachment to law-abiding behavior is already tenuous, to slip into law-breaking behavior when the opportunity presents itself. Too the pervasive suspicion that personal greed and corruption are prevalent among even the highest public officials has fed the idea among the poor that nearly everyone is "on the take," and that the real crime is getting caught. [There are also] the beliefs that some claim to be widely held among poor young ghetto males—that the "system" in the United States is collectively guilty of "white racism" and of prosecuting an "immoral" war in Vietnam [FR: 42].

(Parenthetically, might these ghetto youth have derived their alleged belief in "white racism" from reading the Report of the National Advisory Commission on Civil Disorders?)

In the chapter on violent crime, we are given these attitudinal "reasons" on the one hand, and a breakdown of law enforcement power on the other. The departure from "liberal reformism" described by Silver should be obvious. If poverty and racial discrimination are the cause of violence, they are also intolerable in this particular modern state. The Kerner Commission was inflamed by the reformer's zeal. But if the cause of violence is a belief by some groups—true or false, who can say?—that the system has dealt with them unfairly, together with attitudes of permissiveness and a collapse of police efficiency, then the beliefs in question may or may not respond to or warrant reform. The one sure remedy to the problem of violence viewed in this way is unflagging police power. For these reasons, the violence commission's exhortations to reform and to modernize are as unconvincing as they are expansive. Nowhere in their analysis do we find a persuasive argument why domestic peace might as hopefully come from urban renewal as from the policeman's billy.

In conclusion, the manner in which the violence commission defined its task prevented it from considering in a general way the interaction of violent individuals and community response. There was no attempt, for example, to determine whether the high incidence of violent crime among blacks was related to the racial attitudes of police and to different policing methods in the inner city and the suburbs. The commission's singular failure was to miss in the legal *system,* as it makes laws real in the lives of men, a central problem. An interpretation is needed which regards the law as a crucial, but not the sole, mediator between those aggrieved to the point of violence and those anguished for their safety, and for the sanctity of values affirmed by the community at large.

This interpretation is precluded if one assumes, with the commission, that what is done illegally is what is problematic. This assumption entails a pious norm of universal compliance which has no precedent. More fundamentally, it forecloses analysis of key preconceptions. Should the "problem" be recognized as an incidence of known and unknown acts of violence, or should stress be placed on why and when community fears and community reactions to a supposed level of violence fluctuate? In choosing an explanation of deviance, should we assume a wrongness about violence, and look to pathology for explanation, or should we see violent actors in constant commerce with official and unofficial witnesses, and attribute violence to the qualities of their interaction? When civil disorders occur, should we study grievances as a belief system and investigate their merit, or should we ignore them? These are the hardest questions, but that does not excuse the fact that on the five-foot shelf of modern riot commissions, they are decided in advance by ideology.

Civil Disobedience

The political orientation of the commission members may be seen most clearly in the chapter on civil disobedience. There, consensus was impossible and members split seven to six on the principal statement. Civil disobedience is not commonly injurious to persons, though it can be fitted to the definition of violence employed by the commission. The majority statement argues that law and respect for the law are inevitably eroded by acts of civil

disobedience (FR: 87-91). The "civil libertarian in good conscience" may find his disobedience countered by that of an adversary—for example, a segregationist—and the community may be propelled into general disorder:

> Is each group to be free to disregard due process and to violate laws which it considers objectionable? If personal or group selectivity of laws to be obeyed is to be the yardstick, we shall face nationwide disobedience of many laws and thus anarchy [FR: 89-90].

One is tempted to add: *if* police nationwide are asleep at the switch. The merit of this position is that it resolutely follows out the implications of the commission's definition of violence. It cannot distinguish between violators who are prepared to accept punishment and those who violate the law precisely because the prospect of punishment is remote. It follows that no issue of high principle is high enough to merit disobedience to law, even for those who embrace a jail sentence as the test of their intensity of belief.

The six members who could not agree with this perspective stated that their views were better expressed by the second chapter of the task force study *Law and Order Reconsidered* (National Commission [10]). That chapter was endorsed by the majority as well, making it unanimous. The task force reminds us that disobedience to properly enacted law has a long history in moral philosophy (FR: 91-104). But the law cannot make distinctions between the moral principles of "saints and sinners." "At the level of individual morality, the problem of disobedience is wholly intractible" (FR: 98).[8] Tractible, though, are the consequences of widespread use of this technique: "There is every reason to believe that the lesson taught by much of the current disobedience to law is disastrous from the standpoint of the maintenance of a democratic society" (FR: 101).

This interpretation reflects the biases of American social science. A stand on moral principle cannot be operationalized and evaluated; disorders resulting from disobedience can. Sound public policy should rest upon what is measurable, and civil disobedience is measurably harmful to orderly legal processes. But there is a difference between a position being nonoperational and one being wrong. In fact, the task force has denied the possibility of a stand

on moral principle being *right* in any meaningful sense. For the majority, it is wrong to affirm moral principle over law. For the task force, it is only meaningless. For both, the goals of disobedience can never outweigh adverse social consequences.

Four members of the commission filed separate statements, all of which contradict the task force statement which they also endorsed. In each case, disobedience to the law was judged permissible under some circumstances, but only if it remained nonviolent and only if those who disobeyed were willing to accept the penalties for their disobedience. Mrs. Patricia Harris, former Dean of the Howard Law School and herself a participant in legal sit-ins during the civil rights movement, wrote:

> Willingness to incur the wrath and punishment of government can represent the highest loyalty and respect for a democratic society. Such respect and self-sacrifice may well prevent, rather than cause, violence [FR: 106-107].

The split views on civil disobedience were the result of differing political interpretations of the nonviolent civil rights movement of the past fifteen years.[9] All the contemporary examples cited by the dissenters were drawn from that experience. Sit-ins and other forms of selective noncompliance during the civil rights movement are an easy case for advocates of civil disobedience. Like the Boston Tea Party, they were both widely regarded as justifiable acts out of high moral feeling *and* eventually successful in changing the law. A more difficult case would be disobedience inspired by high principle, but unable to alter community sentiment (e.g., defiance of conscription since the Civil War).[10] We are left in doubt as to whether the dissenters could support this kind of disobedience, and this illustrates the extent to which their positions are rooted in differing political perspectives. Mrs. Harris is very explicit (FR: 106):

> Those who adopted Section I [the majority statement] have never belonged to a group required to sit in the back of the bus, or excluded from restaurants because of race, with the approval of legislatures, courts and administrators.

We can infer one other point of division. The majority, with its authoritarian vision of the rule of law, was composed of six of the

seven white lawyers on the commission and Mr. Eric Hoffer. The minority was composed of the two Negro lawyers, three of the four nonlawyers, and Senator Philip Hart, a lawyer. That is not conclusive evidence that the lawyer brings a peculiar perspective to this kind of task, but the whole tone of the final report is a broad affirmation of the rule of law. Prominent men who have been creative actors within the law would seem less likely than others to stress alternative power arrangements which challenge or depreciate the instrument of their success.[11]

Problem and Purgation

In 1679, a formal synod of clergy and lay elders assembled in Boston to prepare a report on why the land suffered. As Perry Miller (1964: 7) described it:

> The result of their deliberations, published under the title, *The Necessity of Reformation,* was the first in what has proved to be a distressingly long succession of investigations into the civic health of America, and it is probably the most pessimistic.

The synod published a long list of crimes and sins which testified to corruption and to the urgency of reform. Of this list Miller (1964: 9) said:

> Whatever they may signify in the realm of theology, in that of psychology they are purgations of the soul; they do not discourage but actually encourage the community to persist in its heinous conduct. The exhortation to a reformation which never materializes serves as a token payment upon the obligation, and so liberates the debtors.

The parallel with the National Commission on the Causes and Prevention of Violence may be strained if only because, as Miller looked through these jeremiads, he found them "not at all depressing." In the epoch in which men have expanded instruments of violence to include nuclear weapons, the need to understand violence at every level is ineluctably a serious one. Nevertheless Miller sounds a warning and poses a properly severe test for the violence commission. Has it, by explaining, relieved us of the burdens of fear and responsibility, or has it given us directions for renewal?

By its volume and inclusiveness, the commission aspired to culminate a tradition of responses to domestic disorder which traces back at least as far as the Chicago Commission on Race Relations (1922). But frequent as were its references to immediate predecessors, it can fairly be said that the commission made no significant advance upon the insights of the Kerner Commission, or even the team of investigators inspired by the modern sociology of Robert Park in 1919. The violence commission did not build upon these efforts, but placed them in a broader context where the source of concern expands beyond violent death and injury to a capacious agenda of defiances to law, in which violence is a single, albeit disquieting, fragment. The implications of this analysis may be seen in three concluding problems.

The assumption that violence, to say nothing of general illegality, is a problem, should not be made covertly and without supporting argument. Above all, violence should not be treated as a disease: "Violence is like a fever in the body politic: it is but the symptom of some more basic pathology which must be cured before the fever will disappear" (FR: xix). The likelihood that violence will "disappear" is slim. The quoted passage confuses symptom with instrument. The first is a by-product, or a sign; the second is an aid in reaching an objective. And on the metaphorical level, the image is double-edged. Fever for the body is both symptom *and* instrument. It reflects illness and can itself be destructive. But it also has a curative function, which accounts for its existence. In this sense the "organic metaphors" are an invitation to political actors who would hold the surgeon's knife and so "promote violence in the end" (Arendt, 1969: 75).

The second problem is actually a prognosis about community response to the violence commission. They recommend improvements in the strength and efficiency of official reaction to crime and disorder. At the same time they call for reform and for responses to grievances by those who have used violence. It is urged that measures of control are a partial solution and a dangerous one:

> Indeed, if measures of control were this society's only response to violence, they would in the long run exacerbate the problem. The pyramiding of control measures could turn us into a repressive society, where the peace is kept primarily through official coercion rather than

> through willing obedience to law. That kind of society, where law is more feared than respected, where individual expression and movement are curtailed, is violent too—and it nurtures within itself the seeds of its own violent destruction [FR: xix].

But measures of control are effective in the short run. Reform—e.g., the dissolution of the crime-generating urban ghettos—is a long and complicated process. Moreover, reform, in contrast to repression, is very expensive. The impression of evenhandedness in arguing for both can thus be misleading. If repression is called forth by violence in the short run and is effective, violent means for expression of grievance will be closed. More importantly, the threat of that recourse will no longer be credible. It is possible that political leadership will then be less able to perceive wide and persistent demands for reform from groups whose access to power is already somewhat attenuated.

Thirdly, we are drawn to reflect upon the functions of riot and violence commissions generally. In his dissenting view on civil disobedience, Judge A. Leon Higginbotham quoted the now-famous statement by Kenneth Clark in testimony before the Kerner Commission:

> I read that report . . . of the 1919 riot in Chicago, and it is as if I were reading the report of the investigating committee on the Harlem riot of '35, the report of the investigating committee on the Harlem riot of '43, the report of the McCone Commission on the Watts riot.
>
> I must again in candor say to you members of this commission—it is a kind of Alice in Wonderland—with the same moving picture reshown over and over again, the same analysis, the same recommendations, the same inaction [FR: 117].

This would not be surprising if riot and violence commissions are not prescriptions but jeremiads, and this is what must concern us above all. It is at any rate to be regretted that the violence commission did not attempt the kind of vantage which might have suggested some of the reasons commissions have not moved us to the establishment of justice, the insurance of domestic tranquility. tranquility.

Throughout the final report, we are told of failures of will and failures of institutions to adjust to new realities. Grand proposals for reform are put forward. But the fact remains that institutions we now have are the outcome of a political process. After a commission without constituency and without power as a collec-

tivity (compare with Lipsky and Olson, 1969) has spoken, what grounds have we to believe that the political outcome will be different? The structures we have serve constituted powers and interests; likewise, the economy. If those with "a stake in the system," as the commission calls them, have not been persuaded hitherto that reforms will serve their interests, what grounds are there for believing that they can be so persuaded now? Is it possible that Hannah Arendt (1969: 78) is right?

> Nothing, unfortunately, has so constantly been refuted by reality as the credo of "enlightened self-interest".... Some experience plus a little reflection teach, on the contrary, that it goes against the very nature of self-interest to be enlightened.

This would apply to those in power for whom reform holds no interest *in the short run.* It would also apply to those who take to the streets. "To expect people, who have not the slightest notion of what the *res publica,* the public thing, is, to behave nonviolently and argue rationally in matters of interest is neither realistic nor reasonable" (Arendt, 1969: 78).

Against the charge that we have been offered a "purgation of the soul," the violence commission bears a special burden. By expanding the definition of violence to include the broad realm of lawlessness, they place their remedies on a wholly different plane from that of their predecessors. A society lacking the problems discussed in the final report would not be merely reformed and updated. It would be a heavenly city. And the ominous assumption behind this position is more in keeping with Sir William Blackstone than with Kerner: that the heavenly city is to be found in the laws of the United States. The final report concludes with a peroration by Louis Heren, a distinguished British journalist, "The Strengths of America." Can we really accept that this is intended merely to counterbalance the unhappy narratives of the first ten chapters? The discussion of these strengths reads altogether like a high school civics textbook: popular sovereignty, checks and balances, the immigrant stranger assimilating through struggle in a strange land. If rioters are sometimes protesters; if, indeed, they are sometimes right; if the commission disclaims ability to weigh the justice of their claims put forward outside law; if the rule of law is not working in the lives of many Americans; if disillusionment has cheapened the value of citizenship; if at the root of the

malaise which accounts for violence is myopia at the top and self-interest run amuck—then this interpretation and this response will prove dangerously weak. We cannot respond alone in anguish to the assassin's bullet, but must set about to propound serious and detailed alternatives to the surgeon's knife.

NOTES

1. Compare the commission reports listed in the references. And see the recent anthology edited by A. M. Platt (1971).

2. Mindful of the Warren and Kerner Commissions, *The New York Times* dismissed the new investigation in a brief editorial (June 7, 1968): "It is difficult to see what good the report of a third commission can do while the report and recommendations of the second commission have still to be taken seriously by executive and legislative authority in Washington."

3. Reprinted as FR Appendix 2, pages 283-293. In this historical, sketch, we have omitted discussion of the language found in the President's executive order establishing the commission, June 10, 1968 (compare with FR: vii).

4. In contrast, highway deaths receive prominent attention in the chapter on violence in the *ex cathedra* but insightful *Honest Politician's Guide to Crime Control* by Morris and Hawkins (1970: 55-85).

5. "Recognizing this complexity, however, may well be the first step toward understanding—and toward convincing the American people that they must be uncommonly thoughtful, open-minded, and persevering if the challenge of illegitimate violence in our society is to be met" (FR: 288).

6. Two good readers with material using this approach are Rubington and Weinberg (1968) and Chambliss (1969).

7. ". . . serious analysis of the connection between protest and violence cannot focus solely on the character or culture of those who protest the current state of the American political and social order. Rather, our research finds that mass protest is an essentially political phenomenon engaged in by normal people; that demonstrations are increasingly being employed by a variety of groups, ranging from students and blacks to middle-class professionals, public employees, and policemen; that violence, when it occurs, is usually not planned, but arises out of an interaction between protesters and responding authorities; that violence has frequently accompanied the efforts of deprived groups to achieve status in American society; and that recommendations concerning the prevention of violence which do not address the issue of fundamental social and political change are fated to be largely irrelevant and frequently self-defeating" (National Commission [3]: "Summary": xxi).

8. Not so intractable, however, as to prevent them from passing judgment upon it, with respect to one issue, in the next sentence: "One is tempted to suggest that even if the war is immoral, the general level of morality in the country is not much improved by [militant or disruptive war protest]" (FR: 98-99). Given the importance of the war in Indochina and its consequences, if it is "immoral," their assertion is dubious.

9. Of course, one could reverse the statement and say that their view of civil disobedience determined their reaction to the civil rights movement. Not only is this less plausible, but it does not alter the basic conclusion that differing *political* perspectives made consensus impossible.

10. On refusal to comply with the draft out of opposition to the Vietnam War, see Dworkin (1968).

11. It should not be necessary to choose between "elite" and "legal" predispositions to explain the majority point of view. C. Wright Mills found a perspective rather similar to the majority's among social pathologists. In a 1943 essay he attributed it to middle-class, small-town backgrounds. "In another form the political is tacitly identified with the proper functioning of the current and unexamined political order; it is especially likely to be identified with a legal process or the administration of laws. If the 'norms' were examined, the investigator would perhaps be carried to see total structures of norms and to relate these to distributions of power. Such a structural point of sight is not usually achieved. The level of abstraction does not rise to permit examination of these normative structures themselves, or of why they come to be transgressed, or of their political implications. Instead, the literature discusses many kinds of apparently unrelated 'situations' " (Mills, 1967: 533-534).

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