In May 2016, the membership of the American Society for Political and Legal Philosophy selected the topic of “Protest and Dissent” for the 2017 conference. This selection predated Trump’s election and Brexit, and the ensuing protests. It occurred before the anti-Erdogan protests in Turkey, before the Iranian economic demonstrations, before the Venezuelan “La Madre de todas las marchas,” and before the French gilet jaunes. Although the selection surely reflected the salience of Occupy Wall Street and the emergence of #BlackLivesMatter, it was hard to imagine then that, by spring 2018, one in five Americans would claim to have participated in a protest or rally during the intervening two years, according to a poll conducted by the Washington Post and the Kaiser Family Foundation.¹

Like all NOMOS volumes, Protest and Dissent brings together the work of philosophers, legal scholars, and political scientists to shed light on themes of enduring importance. Rarely, however, are the volumes quite so timely, and the chapters so unified in their sense of what questions matter, while reflecting sharp (if civil) disagreements among the authors. The core themes of the volume include the ethics of civil and uncivil disobedience, asking whether distinguishing between civil and uncivil forms of disobedience is tenable; whether we should distinguish liberal and radical forms and justifications of protest; whether the means of protest can or should be distinguished from its ends; and when we can expect protests to elicit increased engagement in democracy and when it might undermine, or substitute for, other forms of participation. The authors turn repeatedly to African American political
thought—from Frederick Douglass to Martin Luther King Jr., to contemporary leaders of the Movement for Black Lives—to challenge received understandings of the Civil Rights Movement, to question the communicative potential of protest under conditions of injustice, and to defend uncivil and radical forms of dissent.

The first section of the volume analyzes the justification of uncivil forms of disobedience and the challenges posed by more radical forms of political dissent, particularly as a means of remedying racialized forms of injustice. It begins with a careful conceptual analysis by Candice Delmas in “Uncivil Disobedience,” in which she examines the scope of civil and uncivil disobedience, justifying forms of uncivil disobedience and defending the value of incivility for marginalized or subordinated community members. John Rawls’s now-standard account held that, to be justified, principled civil disobedience must be conscientious, nonviolent, public, and respectful; that it should call for the reform of a law or policy; and that the agent must acknowledge legal responsibility for the action. Challenging Rawls, Delmas argues that even paradigmatic cases of civil disobedience do not meet these demanding criteria. Moreover, Delmas argues that there may be good reason to reject civility and, under certain conditions, to embrace the value of constrained forms of incivility for both practical and intrinsic reasons.

In “Disobedience in Black: On Race and Dissent,” Juliet Hooker argues that African American thinkers have often been skeptical about the value of civil protest. Whereas Delmas highlights the potential communicative and democratic benefits of uncivil disobedience, Hooker suggests that the value of communication presupposes a receptive audience, but receptivity itself may be mediated by injustice. A dominant group may fail to recognize, or seek to justify, profound injustice even when presented with straightforward evidence, as, in Hooker’s example, efforts to identify the moral failings of unarmed black child victims of police violence. Indeed, Hooker argues that democratic theory in general overstates the ability of protest and dissent to induce shame or effect any moral suasion among dominant group members. Better, perhaps, to characterize black protest and dissent as beneficial and productive for black citizens themselves—enabling the expression of anger and pain—rather than as a means of communication to an only partially receptive audience. Yet uncivil expressions of
disobedience may further redound to the harm of marginalized
groups, who may not merely receive further incivility in turn, but
whose uncivil behavior may be met with disproportionate and vio-
lent responses.

Amna A. Akbar turns to the specific case of the Movement for
Black Lives in her chapter, “The Radical Possibilities of Protest,” to
identify the distinctive value of radical protest movements, which
she argues the categorization of disobedience into civil and uncivil
forms fails to capture. That is, efforts to limn the boundaries of
permissible lawbreaking mischaracterize the radically emanci-
patory visions of radical racial-justice movements. Akbar chal-
lenges Delmas’s insistence that uncivil disobedience must reflect
respect for people’s interests in a stable, secure system of rights,
because such rights may reify a status quo that reflects inequali-
ties of resources, in particular racialized inequalities. Moreover,
she argues that abolitionist movements, which call for an end to
prisons, policing, and criminalization, seek to transform the wider
legal structure of a liberal order, rather than to reform individual
norms through principled resistance.

The second section of the volume focuses on the strategy of
protest: the means, nonviolent or otherwise, by which protests
may be most effective in attaining their ends, and the relationship
between means and ends in political contestation more broadly.
The section begins with Karuna Mantena’s chapter, “Competing
Theories of Nonviolent Politics,” which challenges a sharp dichot-
omy between strategic and principled nonviolence. Principled non-
violence, associated with pacifism and with leaders such as Gandhi
and King, is typically defined as an ethical practice, whereas stra-
tegic nonviolence, associated most centrally with the war resister
Gene Sharp, focuses on developing a repertoire of techniques. On
a distinctive understanding of the dynamics of political mobiliza-
tion and protest, Mantena reconceptualizes nonviolence by distin-
guishing instead between collective power and disciplined action, each
of which constitutes a strategic theory of nonviolent politics. Non-
violence in the form of collective power undermines existing chan-
nels of popular consent and establishes and displays new forms
of social power through organized mass assembly. Challenging
standard accounts of Gandhi and King, Mantena emphasizes that
their defense of disciplined action—eschewing coercive displays
of collective power—itself constituted a strategy, one that relied on performative practices of self-restraint and self-discipline. The function of discipline, especially in the form of conscious suffering, is to mitigate passions that would exacerbate political conflict: Discipline is a more effective strategy for nonviolent protest, one more likely to persuade opponents, than other forms of mass demonstration.

In “No Justice, No Peace: Uncivil Protest and the Politics of Confrontation,” José Medina rejects the veneration of the strategic value of purity and disciplined actions, defending a confrontational account of protest. Medina takes the basic strategic question to be: What are the most effective means available to us to resist injustice? The range of responses to that question lie on a continuum between civil and uncivil forms of protest that overlap with a second continuum, between nonviolent and violent forms. Although physical violence must be a last resort, justifiable only to stop or reduce already existing violence, other forms of coercion—psychological, emotional, symbolic—may be required in activist practices. Disciplined protest, avoiding confrontational direct action, may itself become complicit in injustice: Defiant, antagonizing tactics—as in the die-ins of ACT UP activists in the face of the AIDS crisis—may be crucial to halt structural violence.

Richard Thompson Ford’s chapter, “Protest Fatigue,” argues that the overuse of protest threatens to undermine the efficacy of mass demonstrations when warranted. Paradigmatic protests such as the March on Washington or the Montgomery Bus Boycott, he argues, are politically legitimate, aiming at just causes and warranted, because other formal or informal channels of advocacy were unavailable; effective; and self-sacrificial. In contrast, many contemporary protesters evince “Selma envy,” attracted to the experience of social protest. Their protests are primarily self-regarding, preaching to the choir or providing their participants with psychological gratification. They may also serve as an additional means for powerful agents to secure benefits. To address most issues, other forms of dissent—social media campaigns, consumer activism, humorous counter-protest—will be more effective and will enable us to save the use of mass demonstrations for when they are crucially needed.

In a reply to Ford, “‘No Ways Tired’: An Antidote for Protest Fatigue in the Trump Era,” Susan J. Brison argues that Ford
wrongly denigrates the experiential value of protest. Valuable protests dignify participants, who may themselves be marginalized; energize those who might otherwise be fatigued by their effacement; make visible invisible injustices; and unify protesters through performance, including singing and dancing.

The third section of the volume addresses the democratic significance of protest: its constitutional history, its most vibrant forms, and its political consequences more generally. In “Defining Nonviolence as a Matter of Law and Politics,” Tabatha Abu El-Haj emphasizes the centrality of disruptive protest to American politics since the Founding. Contemporary protests—from Occupy, to Black Lives Matter, to Standing Rock, to the Women’s March—have been intentionally disruptive, and in so doing, have joined a distinguished American tradition of “peaceable” assembly. In response to these tactics, state legislatures recently have sought to enhance criminal penalties for blocking traffic and for engaging “economic terrorism” such as obstructing pipelines, and to require disciplinary action against members of university communities who engage in “boisterous” or “loud” conduct, interfering with the free speech of others. Against Richard Ford, Abu El-Haj argues that public protest itself constitutes a form of the normal political process, enshrined by the First Amendment, not an alternative to such procedures. Responding to Karuna Mantena, she worries that to valorize Gandhi’s or King’s conceptions of nonviolence may contribute, if unintentionally, to political efforts to render certain forms of protest tactics unlawful.

John Medearis defends the distinctive value of the right to strike as an exemplary form of political protest in “On the Strike and Democratic Protest.” He argues that the power of the strike consists in collective action: not merely the activity of ceasing labor, but in the wider mobilization on which strikes depend, and in the strike’s ability to form individual workers into a collective to negotiate with employers. Like Hooker, Brison, Mantena, and other contributors, Medearis emphasizes the value for resisters—here, striking workers—in helping them to achieve consciousness of their own agency: in this context, the centrality of their contribution to their workplaces’ enterprise. The strike enables workers to replace the hierarchies of the workplace with horizontal egalitarian ties, as a means of resisting economic domination and achieving a form
of collective management of the terms of their labor. Similarly, a democratic protest constitutes a form of *work*: It demands mobilization and constitutes an activity in which ordinary people may come to recognize their capacities. Strikes, as well as other forms of political protests, are not mere means to certain ends, whether in the workplace or in democratic life more generally: In deploying their skills and agency, workers come to recognize their efficacy, their capacity to choose and revise their ends.

In the final chapter, “Are Protests Good or Bad for Democracy?,” Susan Stokes examines protest from a comparative perspective, turning to cases from Argentina, the Ukraine, and Turkey, among others, to provide a nuanced account of the benefits and risks of protests, especially in fragile democracies. She argues that protest may enhance democracy by enabling the inclusion of the voices of those excluded from voting and by informing voters and officeholders about especially salient questions. Protests may also destabilize democracy in a variety of ways: Protestors may seek repugnant aims, provoke undemocratic sentiments through what Ford termed “protest fatigue,” elicit the types of legislative action described by Abu El-Haj or violent reactions on the part of police, and undermine elections and other key democratic institutions.

As Stokes and other contributors argue, despite the costs of protest, the survival of democracy requires that leaders resist the temptation to suppress mass protests, or to seek to undermine the free press and rights of assembly and dissent. But whether our leaders will find themselves capable of such restraint in the face of persistent resistance, in the United States or elsewhere, is far from clear.

**Note**