

Three Readings of Violent Protests

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ABSTRACT

Violent protests against state injustice have gained increasing attention from political philosophers in recent years. One view which has emerged here is that many real-world states' claim to legitimate authority—including liberal democratic states—is undermined by the pervasive social and racial injustices that mar them, and that—against this background—violent protests may have an important political role to play, even in democratic societies. This paper compares three framings of that role. I argue that we can draw parallels between these three framings and the three leading justifications of legal punishment in the democratic state. This comparison exposes problems with some existing defenses of violent protests, and points to the most promising framing of violent protesting.

TABLE OF CONTENTS

I. INTRODUCTION	791
II. FIRST FRAMING: RETRIBUTIVE JUSTICE	794
III. SECOND FRAMING: FITTINGNESS	796
IV. THIRD FRAMING: PROTECTIVE HARM AND LIABILITY	799
V. POLICE LIABILITY TO PROTECTIVE HARM.	802
VI. CONCLUSION	805

I. INTRODUCTION

On June 27, 2023, Parisian police shot at point-blank range and killed Nahel Merzouk, a seventeen-year-old French teenager of North African descent. An initial police report on the incident suggested that Nahel was threatening a police officer, but a video recording of the shooting, which was widely shared online, contradicted that account. Shortly after the circulation of the video, tens of thousands of people, angered by yet another incident of lethal police brutality against racial minorities in Paris, took to the streets. While many demonstrators were peaceful, many others were not. They attacked public properties—from townhalls, to police

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stations and schools—breaking windows, setting fires, and spraying them with graffiti. They set fires to cars, buses, and trash cans and violently clashed with police officers. The violence spread from Paris to other major towns in France, from Toulouse to Lille.

These protests were spontaneous, unorganized outbursts of collective violence and lawlessness in response to pervasive police discrimination and brutality against racial minorities. Protests of this nature have erupted both in France and in other Western democratic states (the states this paper focuses on) with a remarkable degree of frequency in recent decades. Other notable examples include the widespread public disorders in the United Kingdom in 2011 after the killing of a British Black man by the London Metropolitan police; the 2014 protests in Ferguson, Missouri; the 2015 protests in Baltimore, Maryland; and the 2020 protests in Minneapolis, Minnesota—all of which erupted after the killings of unarmed African-Americans during police arrests. All these protests involved widespread violence, lawlessness, and destruction, carried out mostly by young men, usually themselves members of marginalized racial minorities and often from socially- and economically-disadvantaged communities.

The sociological dynamics underlying violent protests—from the factors that ignite the violence, to the typical profile of participants and their crowd dynamics—have long been a source of fascination for sociologists and criminologists.¹ However, political philosophers have rarely taken an interest in them. For much of its modern history, liberal political thought has rejected incivility, violence, and confrontation as permissible means to secure political ends, at least in democratic states. Indeed, the very legitimacy of the modern state rests on the premise that it enables citizens to resolve disagreements through politics rather than violence. Modern justifications of state authority argue, then, that the state has the normative monopoly over the use of force, as long as it uses it in the service of legitimate ends. In states with legitimate authority, it is commonly thought, citizens have a moral duty to abide by the law and to appropriately constrain their activities when they seek to achieve political goals. Many political philosophers accept that when legal avenues of dissent have been exhausted, citizens may permissibly resort to civil disobedience. However, as John Rawls famously argued, the unique features of civil disobedience—public, non-violent, and non-evasive—situate it “within the limits of fidelity to the law”² and therefore it does not constitute a violation of citizens’ political obligations. In contrast, protests that involve violence and incivility—from clashing with police officers, to vandalizing state property, looting, and destroying commercial or private properties—are, on this view, clear violations of protestors’ political obligations.

But more recent scholarship has begun to challenge this consensus. To a large extent, this emerging literature is part of a growing interest amongst political philosophers in non-ideal theory. While ideal theory (like Rawls’s *Theory of Justice*) defines the principles governing just or nearly just states, non-ideal theory engages

1. See Steven I. Wilkinson, *Riots*, 12 ANN. REV. POL. SCI. 329, 330 (2009).

2. JOHN RAWLS, A THEORY OF JUSTICE 322 (2d ed. 1999).

with the normative and ethical challenges that arise in the political reality of real-world states.³ Here, many political philosophers agree that most real-world states' claim to legitimate authority—including many liberal democratic states—is undermined by the pervasive social and racial injustices that mar them.⁴ These general claims have opened the door to reexaminations of the role that even violent protests may play in democratic societies.

My goal in the current paper is to add to these ongoing discussions by comparing three possible framings of the role that violent protests like the Paris 2023 protest play in democratic societies. As I will show, we can draw parallels between these three framings and three leading justifications of legal punishment in the democratic state. This comparison is useful, in my view, because it helps to expose the problems with some existing defenses of violent protests. It also demonstrates what, in my view, is the most insightful framing of this political phenomenon.

Before I turn to examine these conceptual frameworks, two terminological clarifications are in order. First, the phenomenon I am discussing here is often referred to as “riots” or “political riots.”⁵ But there are reasons to avoid the usage of these terms. First, they carry a clear pejorative connotation in common speech. Furthermore, protestors tend to abhor their use to describe their actions. Some scholars prefer the terms “uprisings” or “rebellions.”⁶ But these terms are conceptually muddled. I prefer the more general term “violent protests.”

Second, not all instances of widespread public disorders fall under the category of violent *protests*, as they are discussed in the philosophical literature. Crowds can become disorderly and violent for a variety of reasons. Sometimes the violence is “issueless.”⁷ Other times it is committed on behalf of nefarious goals, such as targeting ethnic minorities.⁸ Such episodes are of little normative interest, as violence on behalf of nefarious or nihilistic goals is clearly prohibited. My concern here is limited to violence that is triggered by, and responds to, real and pervasive injustices. This means that while, for example, the George Floyd violent protests fall within the remit of the discussion, the 2024 wave of violent protests in the UK do not, as protestors there—motivated by misinformation and racist/anti-immigrant sentiments—were not responding to real and serious injustices.

The paper develops as follows. Sections 2 and 3 explore two possible framings of violent protests: violent protesting as retribution and violent protesting as a

3. Laura Valentini, *Ideal vs. Non-Ideal Theory: A Conceptual Map*, 9 PHIL. COMPASS 654, 655 (2012).

4. See CANDICE DELMAS, A DUTY TO RESIST: WHEN DISOBEDIENCE SHOULD BE UNCIVIL (2018); Charles Mills, *White Ignorance*, in RACE AND EPISTEMOLOGIES OF IGNORANCE 11 (S. Sullivan & N. Tuana, eds., 2007); TOMMIE SHELBY, DARK GHETTOS: INJUSTICE, DISSENT, & REFORM (2016).

5. E.g., Matthew Chrisman & Graham Hubbs, “*The Language of the Unheard*”: *Rioting as a Speech Act*, 49 PHIL. & PUB. AFF. 379 (2021); Jonathan Havercroft, *Why Is There No Just Riot Theory?*, 51 BRITISH J. POL. SCI. 909 (2021). Avia Pasternak, *Political Rioting: A Moral Assessment*, 46 PHIL. & PUB. AFF. 384 (2019).

6. E.g., Etienne Balibar, *Uprisings in the Banlieues*, 14 CONSTELLATIONS 47, 47 (2007).

7. Gary T. Marx, *Issueless Riots*, 391 ANNALS AM. ACAD. POL. & SOC. SCI. 21, 21 (1970).

8. DONALD L. HOROWITZ, THE DEADLY ETHNIC RIOT (2001).

fitting response to state injustice. Through comparison with the retributive and expressive theories of punishment, I demonstrate their conceptual shortcomings. Sections 4 and 5 turn to the framing which I find more promising—violent protests as a form of protective harm. Drawing on Victor Tadros’s duty view of punishment, I argue that violent protesting framed in this way assumes the duty of fellow citizens and police officers to incur harm in the service of valuable political goals. In Section 5, I demonstrate how police officers specifically might be liable to harm in violent protests. My goal here is not to give a full-blown justification of violent protesting, but merely to point to the most plausible route, in my view, for building such a defense. Section 6 concludes the discussion.

II. FIRST FRAMING: RETRIBUTIVE JUSTICE

Much work has been done by sociologists to identify the motives of violent protestors. As these studies demonstrate, there is no single answer to this question, given that we are dealing with unorganized, heterogeneous groups. However, one claim that repeats itself with some frequency in the literature is that violent protestors are motivated by a desire for vengeance and retribution. One testimony for such sentiments is, perhaps, the common chant amongst violent protestors “Fuck the Police.” More tellingly, researchers who conducted interviews with participants in the London 2011 protests reported that “Rioters [sic] recounted how they sought revenge by wanting to hurt, intimidate, target and indiscriminately attack officers.”⁹ As one interviewee explained,

Now was the opportunity to get revenge. It wasn’t just the police, just the whole government. Like, Everything they do. They make things harder for us. Like, they make it hard for us to get jobs. Even like when we do get benefits they cut it down . . . I knew if we get back to England and we actually damage, like do a lot of damage to the point where, forget all the benefits they cut off, they’ll have to pay like twenty times worse than that. So it was just our way of getting revenge.¹⁰

The protestor quoted here cites pure vengeance and revenge as their motivation for the resort to violence. Framed in this way, it is hard to see how their actions could be justified. Few philosophers are willing to defend pure vengeance as a morally acceptable motive, especially for violent actions. As Trudy Govier sums up the concern, vengeance assumes “it can sometimes be right for a person to be the agent of deliberately bringing harm to another person, for the sake of enjoying having brought that harm.”¹¹ Most of us would agree this is an odious moral motivation.¹²

9. PAUL LEWIS ET AL., *READING THE RIOTS: INVESTIGATING ENGLAND’S SUMMER OF DISORDER* 19 (D. Roberts, ed., 2011).

10. Tim Newburn et al., “*The Best Three Days of My Life*”: *Pleasure, Power and Alienation in the 2011 Riots*, 14 *CRIME MEDIA CULTURE* 41, 55 (2018).

11. TRUDY GOVIER, *FORGIVENESS AND REVENGE* 11 (2011).

12. See Alice MacLachlan, “*Hello. My Name is Inigo Montoya*”: *Revenge as Moral Address*, in *REASONABLE RESPONSES: THE THOUGHT OF TRUDY GOVIER* 128, 130 (Catherine E. Hundleby ed., 2016).

But while some protestors are motivated by pure desire for revenge, others' framing of their actions has a different, albeit closely related, meaning. What I have in mind here is the idea of retributive justice, which is not quite the same as vengeance. While vengeance consists of the desire to bring harm for harm's sake, retributive justice seeks to punish those who *deserve* it, and in a restricted and proportionate way.¹³

Retribution is a familiar justification of legal punishment. On one common interpretation, it demands that "the state should punish those found guilty of criminal offences to the extent that they deserve, because they deserve it."¹⁴ In a similar way, one might argue that the protestors are responding to a real and serious injustice, which they have good reasons to argue is unlikely to be appropriately addressed by existing state institutions. Consider the words of this protestor:

"Cos look, look. Even the other day that Smiley Culture died in Brixton. They [police] trying to say he stabbed himself in the chest while he was cuffed. How's stuff like that happening? And they just keep getting away with it. They are just getting away with it."¹⁵

The protestor suggests that the Metropolitan Police have been acting without sufficient accountability, a claim that is not ungrounded. As the sociologist Cathy Schneider's comparative study of violent protests concludes, such protests tend to erupt precisely when accountability practices in the police are failing to protect racial minorities from abuse.¹⁶ Perhaps, then, at least some protestors are acting out of a sense of justice: reasonably lacking belief in the system's willingness to serve justice to those who engage in serious rights violations against racial minorities, they are taking matters to their own hands. On this reading, violent protests are a form of vigilante justice—"the extra-legal prevention, investigation or punishment of offenses."¹⁷ As Suzanna Siegel explains, vigilantes are acting on behalf of "a kind of political initiative done for the sake of enacting an immediate realignment of power in a polity in accordance with a political vision."¹⁸ The protestors who go out to the streets to "get back at police" are challenging existing patterns of legal accountability, which they see as woefully wanting, and are enacting an alternative vision. They are aiming to inflict pain on those who deserve to be punished. They wish the violators of rights to suffer, because they deserve it.

The retributive justification of punishment has been subject to much debate and criticism.¹⁹ Regardless of its merits with regard to legal punishment, the

13. WOJCEICH SADURSKI, *GIVING DESERT ITS DUE: SOCIAL JUSTICE AND LEGAL THEORY* 223 (1985).

14. Zachary Hoskins & Antony Duff, *Legal Punishment*, STAN. ENCYCLOPEDIA PHIL. ARCHIVE (Spring 2024 ed.).

15. Clifford Stott, et al., *The Evolving Normative Dimensions of 'Riot': Towards an Elaborated Social Identity Explanation*, EUR. J. SOC. PSYCH. 834, 841 (2018).

16. See generally CATHY LISA SCHNEIDER, *POLICE POWER AND RACE RIOTS: URBAN UNREST IN PARIS AND NEW YORK* (2014).

17. Regina Bateson, *The Politics of Vigilantism*, 54 COMPARATIVE POL. STUD. 923, 923 (2021).

18. Susanna Siegel, *Vigilantism and Political Vision*, 2 WASH. U. REV. PHIL. 1, 3 (2022).

19. See THOM BROOKS, *PUNISHMENT* 15-33 (2012).

claim that violent protests could be justified as a form of retribution quickly runs into problems. In the first instance, there are the familiar problems with the idea of *vigilante* justice—can a disorganized group acting in the heat of the moment, and without any procedure, deliver justice? That the state fails to do so does not imply that such a group is better situated to act with the necessary restraint. Second, and relatedly, violent protestors rarely, if ever, direct their violence at the direct perpetrators of police brutality. Typically, the protests erupt in the *aftermath* of an incident of police brutality, and the violence is directed at the officers sent there to calm things down.²⁰ As Joel Feinberg has famously argued, we cannot reconcile the core tenets of moral individualism with the idea of punishing one person as retribution for the wrongdoing of another.²¹ One might argue, perhaps, that the agent to whom the protestors aim to punish is not the direct individual perpetrators but “the police” as a single body. But even if the police, as a body, can be an appropriate target of retributive justice, there are still clear objections to the claim that this punishment is to be executed through physically harming individual police officers.²² This idea too is in tension with our core moral intuitions about the separate moral integrity of individuals who should not be treated as one when assigning punishment. For all these reasons, it is hard to see how the justification of protestors’ actions as a form of retributive justice could be morally acceptable.

III. SECOND FRAMING: FITTINGNESS

A second framing of violent protests has been advocated by some recent commentators. It suggests that, rather than a form of vengeance or retributive justice, violent protests are a “fitting response” to state injustice in general and to police brutality in particular. This idea receives the most detailed treatment in Edmund Tweedy Flanigan’s work.²³ As he explains, when we protest against a wrongdoing, our protest should be fitting, adequate, or appropriate, and it should be adequately severe and forceful to communicate the apt level of rejection or denunciation of the wrong in question. For example, we commonly think that a mere disapproving look is not an adequate or fitting response to a colleague using a racial slur against someone. One should do more to express their denunciation: say something, perhaps even act (leave the room, report the incident, and so on). Flanigan argues that the demand of fittingness serves both to explain and to justify *violent* protesting in response to widespread police brutality. The violence, he tells us, “may be the only way to adequately express rejection of wrongs which

20. This is not to deny that officers at the scene can inflame the violence. *See generally* Jake Monaghan, *Policing Disobedient Demonstrations*, 17 CRIM. L. & PHIL. 653 (2023).

21. Joel Feinberg, *Collective Responsibility*, in *COLLECTIVE RESPONSIBILITY: FIVE DECADES OF DEBATE IN THEORETICAL AND APPLIED ETHICS* 53, 60 (Larry May & Stacey Hoffman eds., 1991).

22. *See generally* Richard Vernon, *Punishing Collectives: States or Nations?*, in *ACCOUNTABILITY FOR COLLECTIVE WRONGDOING* 287 (Tracy Isaacs & Richard Vernon eds., 2011).

23. *See* Edmund Tweedy Flanigan, *From Self-Defense to Violent Protest*, 26 CRITICAL REV. INT’L SOC. POL. PHIL. 1094 (2023).

cannot be averted and which themselves express the most serious disregard for their victims' basic moral and political claims."²⁴

Interestingly, the fittingness argument has important parallels with another leading justification of legal punishment—the expressive theory. Expressive theories of punishment shift the emphasis away from desert and retribution towards the role of punishment in expressing public disapproval of the crime.²⁵ Accordingly, the harm inflicted on a perpetrator (most commonly through imprisonment) is necessary in order for the public to be able to adequately express its strong disapproval of the crime. Here too, it is thought, mere reproach or harsh words are just not serious enough to communicate the right level of disapproval, especially of severe crimes that involve a serious disregard to the victim's moral standing. Thus, the more we condemn the crime or wrongdoing, the more serious or taxing the harm we inflict on the perpetrator should be.²⁶

Once we draw the link between Flannigan's framing of violent protests and expressive theories of punishment, it becomes apparent that his account is particularly vulnerable to critiques that are parallel to the leading critiques against the expressive theory of punishment. First, we have the problem of identifying what precisely is being expressed through the infliction of damage to public and private property and harm to police officers. This is a familiar problem for the theory of the expressive function of punishment, and it presents itself in even fuller force in the case of violent protesting.²⁷ Recall that defenses of the expressive role of punishment attempt to explain *legal* punishment, set and delivered by the state, through its formal procedures and institutions. Even in this context, scholars disagree on what it is that legal punishment is meant to express. Public anger? Restoration of the moral status of the victim? Disgust of the crime? If the problem exists for legal punishment, where the punishment is set through formal means and can be explained by a judge, it is all the worse for the fittingness account of violent protests. For as we saw, violent protests are by their nature collective events, and disorganized and spontaneous. How could we settle on the message that they aim to express? Is it that of rejection of police treatment of racial minorities? Anger at the state? Disgust? Defiance? There are many options here, and it is not even clear that the crowd itself is settled on one meaning.

These questions expose a deeper problem with the fittingness account, which concerns the very justifiability of the recourse to violence in response to state injustice. Flannigan persuasively argues that sometimes a fiercer and more costly response is required in order to express our genuine and apt rejection of some morally objectionable behavior. This argument has fairly straightforward practical implications in small-scale interactional social scenarios, where the "norms of

24. *Id.* at 1105.

25. See BROOKS, *supra* note 19, at 106.

26. There are various theories of the expressive function of punishment, some focusing on the negative, denouncing message, and others on positive communications. Flannigan's theory is closer to the negative theories.

27. See BROOKS, *supra* note 19, at 106–11.

fittingness” are perhaps unambiguous (such as the case of a colleague using a racial slur). But the picture becomes much more complex in the context of protests against state injustice. For not only it is not clear what message the protestors are expressing (if they are indeed expressing one core message), it is also not clear why violence is needed to express that message, in the first place, and what levels of violence are necessary in order to express which message. For example, why does the message of rejecting practices of police brutality have to be expressed via violence towards state officers rather than through verbal abuse? And what role does the targeting of private property have in communicating that message? The fittingness theory, which struggles to answer these questions even when the agent expressing the message is an institution using in a unified voice, seems inadequate to offer answers to these questions in the highly fluctuating context of violent protests.

A final problem with the fittingness theory, in my view, concerns its potential reducibility to retributive justice. This is a familiar problem for the expressive theory of punishment, and it applies in full force in the context of violent protests as well. In the context of legal punishment, the issue revolves around the question of why carceral punishment is a fitting response to serious crime. According to the expressive theory of punishment we should measure the appropriate severity of punishment in light of the severity of the crime, and the corresponding appropriate level of condemnation. But how severe should the condemnation be? As Thom Brooks has argued, it would not make sense to rely on people’s subjective views on the severity of crime, given that such views can differ and be biased in different ways. Instead, we ought to rely on an idealized version of the public view, which would take into account all the relevant facts and considerations.²⁸ But once we engage in that thought process, Brooks explains, we discover that the core consideration that would do the moral weightlifting is that of *desert*. For example, a murderer should get a life sentence because his crime expresses complete disregard of his victim, and that kind of disregard merits (or deserves) a very serious condemnation. In other words, the fittingness view seems to collapse into the desert or retribution view, which raises the concerns I discussed in the previous section.

This problem applies to the fittingness defense of violent protests as well. Here too it seems that if the purpose of violence is to communicate condemnation of state wrongdoing and disrespect, then it should target those who themselves have acted in ways that communicate that disrespect. In other words, it should target agents who deserve to be targeted, in light of their share of the blame for the wrongdoings that spark the protests. However, as we saw in the previous section, it is precisely that condition that violent protests struggle to comply with. Indeed, violent protestors are often condemned precisely because it appears that their violence is indiscriminate and arbitrary. In other words, it is not clear how it communicates condemnation of the wrongdoings if it does not target “deserving” agents.

28. See *id.* at 110–11.

Thus, the worry remains that violent protests inevitably fail to communicate what the fittingness theory argues they should communicate.

IV. THIRD FRAMING: PROTECTIVE HARM AND LIABILITY

The third framing I discuss here treats violent protesting as a form of “protective harm.” I have defended this view at length elsewhere and my goal here is merely to point to its relation to a third theory of punishment, as a way of highlighting its departure points from the two other framings I discussed above.²⁹

According to the protective harm framework, protestors’ actions are aimed at protecting or defending them or people like them from unjustified attacks. By harming police and causing damage to public and private property, protestors aim to deter the government and police from continuing to act as they have.³⁰ The tactics protestors use can achieve this goal in two related ways. First, they draw public attention to their cause, and that could translate to electoral pressure on policy makers. Second, given the various costs that disruptive violence entails for the state and society, it can wrestle concessions from policymakers.³¹

We can find this motive expressed in the words of some protestors, who say they go out to the streets because they can no longer stand the current state of affairs and want to see immediate change. As one protestor in the Ferguson protests explained, Comment to the team: I notice the formatting of the quote is different here than in elsewhere in the text. Why is that?

[I]t’s a decision I made, to make for my own people, that got me here. When I first hit Ferguson, that’s when my decision started. I told myself: “I’m not going to leave until something changes. And if it’s not going to change, then I’m going to still be out there.”³²

This reading of violent protests has important parallels with the idea of defensive violence, or violence as a form of self-defense. Defensive harm, namely harm that is inflicted in self- or other-defense against a wrongful attack, has been extensively discussed by philosophers and ethicists of war. However, I prefer the term “protective violence” or “protective harm.” The main reason is that the term defensive harm is typically used to describe responses to imminent, kinetic, direct attacks (such as a person facing an attacker intending to kill her, or a state facing a military attack by its neighbor). In contrast, violent protestors are not responding

29. For a more detailed analysis of this view see AVIA PASTERNAK, *NO JUSTICE, NO PEACE: THE ETHICS OF VIOLENT PROTESTS* (2025).

30. I believe that protestors’ symbolic and expressive goals also have instrumental benefits for protestors and their communities, and in that sense are protective as well. But I lack the space to develop that claim here. See discussion in *id.*

31. For related readings of violent protests, see Havercroft, *supra* note 5; Ten-Herng Lai, *Justifying Uncivil Disobedience*, in 15 OXFORD STUD. IN POL. PHIL. 90 (David Sobel et al. eds., 2019).

32. Zach Baron, *Jailed Ferguson Protestor Joshua Williams Wants to be Out There with Everyone*, GQ.COM, (June 5, 2020), <https://www.gq.com/story/joshua-williams-ferguson-2020-interview> [https://perma.cc/WT62-8Z2U].

to direct and imminent attacks by police officers. Rather, they are responding to attacks that have occurred in the past and to the ongoing processes and policies that enabled them, with the goal of preventing such attacks in the future. Hence, the term “protective harm”—which denotes harm for the sake of protecting one’s rights—is more appropriate here.

The framing of protective harm differs from the other readings I discussed earlier. Rather than inflicting harm for the sake of it (as in the case of vengeance), the harm is inflicted because (arguably) it is necessary to achieve protective goals. Rather than having the backward quality of retributive justice—determining desert in light of past wrongs—the protective harm account has a forward-looking deterrence goal. And rather than focusing merely on the symbolic condemnation of wrongdoing, this view seeks to prevent future wrongdoing and ameliorate the condition of the wrongdoing’s victims.

The protective harm framework has important parallels with the duty-based justification of punishment, developed by Victor Tadros.³³ Tadros’s starting point is an empirical assumption, advocated by deterrence-based justifications of punishment, that carceral punishment is a necessary and efficient way to deter people from committing crime in modern societies.³⁴ Punishment, then, is necessary to protect the population’s wellbeing. Classic deterrence theories, however, face the familiar deontological critique that they are unable to preclude the punishment of the innocent, if doing so would yield beneficial results. Tadros’s response to this important concern adds deontological principles and qualifications to the account. As he explains, punishment is justifiable to the extent that perpetrators of crime are *liable* to it. As he further explains “the fact that a person is liable to be harmed does not imply that there is a non-instrumental reason to harm her” (as is assumed by both the retributive and the fittingness views of violent protests, corresponding to the retributive and expressive views of legal punishment). Rather, liability implies that “if the person is harmed for a certain end, she is not wronged.”³⁵

Next, Tadros argues that those who perpetrate crime are indeed liable to punishment, given its deterring effects. Perpetrators of crime incur an enforceable duty to serve the ends of preventing further crime and of protecting fellow citizens, and they have this duty given their own wrongdoing. That duty is directed towards their victims. Their duty to the victims, to restore what they have violated, translates into the duty to incur the costs of punishment (as long as these are appropriately restricted) in order to prevent further harm to the victims and to those whom they care about or have a duty to care for.³⁶

While there are further important details to Tadros’s defense of punishment, the core idea that matters for my analysis is the shift which Tadros offers, from

33. See generally VICTOR TADROS, *THE ENDS OF HARM: THE MORAL FOUNDATIONS OF CRIMINAL LAW* (2011).

34. *Id.* at 28–40.

35. Victor Tadros, *Punishment and the Appropriate Response to Wrongdoing*, CRIM. L. & PHIL. 229, 230 (2017).

36. See generally *id.* at 265–311.

backward-looking accounts of punishments to the forward-looking perspective of deterrence, and from the justificatory grounding of punishment in desert or expressive value, to its grounding in duty and liability. Tadros argues that we can justify the harm imposed on criminals in light of their duty-based liability for it. Similarly, I believe we should assess the protective harm imposed by protestors in view of the potential liability of their targets to incur that harm. Thus, to assess the permissibility of violent protests on this framework, we must examine their compliance with the three constraints on legal punishment in Tadros's duty-based account: necessity, proportionality, and effectiveness.

Whether violent protesting is an effective and necessary means to achieve protective goals is an *empirical* question. Elsewhere, I have pointed to empirical evidence that suggests that uncivil protesting can be an effective way to wield pressure on the public and on policymakers.³⁷ I have also suggested that violent protesting can sometimes be necessary in order to garner public attention in circumstances where public debate fails time and again to notice the concerns of marginalized groups. A background empirical assumption here is that, in the far from ideal democratic societies we live in, effective peaceful political action is not readily available to marginalized groups, due to, *inter alia*, mass incarcerations, voter suppression, gerrymandering, and redlining, which *de facto* reduce their ability to have real impact on mainstream politics.³⁸ I should point out that these empirical assumptions are much debated amongst political scientists and not all agree with them. For example, Erica Chenoweth has argued that non-violent campaigns are significantly more effective than violent campaigns in affecting regime change,³⁹ and Omar Wasow has argued that—specifically in the American context—images of violent and disorderly protestors against racial oppression tend to push white voters to support more repressive “law and order” policies.⁴⁰ These debates are ongoing, and it is quite possible that, based on the empirical evidence, violent protesting is hardly ever justified, at least in liberal democracies, as a necessary and effective means for bringing about policy change.

Nevertheless, I believe that the protective harm framework remains the most plausible framing of the internal logic of violent protests, for it can explain how and why violence, as an effective means for preventing future wrongdoing, may sometimes be directed even at agents who are not the direct perpetrators of the wrongs the protestors are set against. As we saw, both the retributive and the fittingness frameworks struggle to justify such harm, and therefore struggle to explain the internal logic of violent protests. The framework of protective harm makes better sense of it (even if, in the final judgement, it too reaches the

37. See generally Pasternak, *supra* note 5.

38. See generally Chrisman & Hubbs, *supra* note 5.

39. See generally ERICA CHENOWETH, *CIVIL RESISTANCE: WHAT EVERYONE NEEDS TO KNOW* (2021).

40. See Omar Wasow, *Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting*, 114 AM. POL. SCI. REV. 638, 650 (2020).

conclusion that the violence is typically impermissible). In the next section, I turn to demonstrating this claim, focusing specifically on harm to police officers.

V. POLICE LIABILITY TO PROTECTIVE HARM⁴¹

Violent protests such as the Paris 2023 protest typically involve harm directed at police officers. Protestors throw projectiles at police, smash police cars (thus risking harm to nearby officers), and clash with officers. Such clashes typically inflict bodily and not lethal harm on police (given police protective gear and capacity to defend themselves). On the protective harm framework this harm is not easily justified, as the clearest argument for one's liability to protective harm is one's own blame for the original wrongdoing. Thus, Tadros's account justifies punishment on wrongdoers—people who culpably committed wrongs. Similarly, *defensive* harm is most clearly permissible when one is defending oneself from a wrongful aggressor. As Jeff McMahan famously argued, unjust aggressors are liable to necessary defensive harm that is equivalent and even greater than the harm they aim to inflict.⁴² Such defensive harm is “narrowly proportionate.” But the police that face protestors are often not direct aggressors who threaten the protestors in the here and now.

And yet, while McMahan (especially in his earlier work) focused on liability to defensive harm that flows from the target's culpability and moral responsibility for the initial attack, more recent discussions on the ethics of defensive harm argue that there can be other sources for such liability.⁴³ As some authors here have argued—in the context of just war theory—one such source is nonblame-worthy participation in organizational groups that commit wrongdoing.⁴⁴ In what follows, I apply these ideas to the case of police, and argue that police officers who face protestors are liable to some necessary protective harm, given their participation in the police force itself.

The starting point of this claim is the notion of participation in collective wrongdoing. As Christopher Kutz has famously argued, such participation involves, at some level, action that is guided by shared intentions: to be part of a collective act, one must intend to “do [one's] part of a collective act,” or intend to perform “the task I ought to perform if we are to be successful in realizing a shared goal.”⁴⁵ For example, a group of criminals taking part in a bank heist all intend to do their role in ensuring that the heist is successful—from guarding the doors to keeping the engine of the getaway car running.

41. The discussion here draws on my previous work. See generally AVIA PASTERNAK, NO JUSTICE NO PEACE: THE ETHICS OF VIOLENT PROTESTS (2025).

42. See generally JEFF MCMAHAN, KILLING IN WAR 41–42 (2009).

43. Victor Tadros, *Duty and Liability*, 24 UTILITAS 259, 260 (2012).

44. See, e.g., Saba Bazargan, *Complicitous Liability in War*, 165 PHIL. STUD. 177 (2013); Cécile Fabre, *COSMOPOLITAN PEACE* (2012); Christopher Kutz, *The Difference Uniforms Make: Collective Violence in Criminal Law and War*, 33 PHIL. & PUB. AFFS. 148 (2005).

45. CHRISTOPHER KUTZ, *COMPLICITY: ETHICS AND LAW FOR A COLLECTIVE AGE* 81 (2000). There are other accounts of shared intentions, but the disagreements between the various accounts do not matter for the discussion here.

The picture is more complex, however, when we deal with structured organizations (like the police force). Two problems arise here. First, in such organizations, not all members directly contribute to the execution of the centrally-made decisions. For example, not all those who serve in the police force contribute to the policy of raising arrest rates. Second, in complex organizations, some group members might not endorse all of the organization's policies. For example, some officers might believe that the goal of raising arrest rates leads to serious discriminatory biases and is deeply wrong for that reason.

Still, as Kutz and others have argued, members of an organization participate in some fundamental sense in the activities of their organization, even if they do not directly contribute or endorse them. First, it is common for us to see ourselves as participating in group endeavors even when we did not directly take part in them. Imagine our Philosophy department decides to buy a gift for the birth of a colleague's baby. We all took part in some sense in the endeavor even if the Chair is the one who made the purchase and handed the gift. As long as the Chair was authorized by us, we are all part of the "we" who is owed thanks. Moreover, together with Kutz, I do not believe acting together requires that an agent endorses the collective end. We commonly do together things that we do not avow and even detest, and yet we see ourselves as part of the "we" who performs them. For example, a university professor can plausibly say "we do not hire enough women in this Department," even if she herself is not part of the hiring committee nor agrees with its oversights. What matters for her seeing herself as part of the "we" here is that she is aware that the performing of her role in the Department contributes, or at least potentially contributes, to the organization's ability to act on its decisions. Having that "deliberative self-awareness" is sufficient to ground her participation in the group.⁴⁶

Let us now turn to ordinary police officers and their participatory intentions. Ordinary police officers do not participate directly in each and every policy decided upon by the command chain. But, in taking up the job and acting as police officers, they do intend to perform the role that is allocated to them within the organization. In other words, they intend to contribute to the maintenance of the police force and its ability to make policies and act upon them. Not only that, but ordinary police officers know that it is possible that they will disagree with some of the policies decided by their organizations, or that these policies will lead to unjustified harm—such as racially discriminatory arrest policies. Yet these officers continue to play their instrumental role in the organization. As such, they are part of the group that is responsible for the injustices that instigated the protest. For example, a Parisian police officer circa 2023 could plausibly say, "we

46. *Id.* at 84. See further discussions in Christopher Kutz, *Causeless Complicity*, 1 CRIM. L. PHIL 289, 289-305 (2007); CHIARA LEPORA & ROBERT E. GOODIN, ON COMPLICITY & COMPROMISE (2013); AVIA PASTERNAK, RESPONSIBLE CITIZENS, IRRESPONSIBLE STATES: SHOULD CITIZENS PAYFOR THEIR STATE'S WRONGDOINGS? (2021).

have a racist culture in our force” or “we do not do enough to address racial biases,” even if she herself disagreed with these formal or informal policies.

We can now go back to the question of liability and duty. One of Kutz’s core suggestions is that participation in collective wrongdoing (even when marginal and even when we do not endorse the group’s goal) has moral implications. According to what he terms “the complicity principle,” “I am accountable for what others do when I intentionally participate in the wrong they do or harm they cause. I am accountable for the harm or wrong we do together, independently of the actual difference I make.”⁴⁷

What accountability precisely amounts to in this context is a subject of debate, but as Kutz explains, it often involves some remedial obligations to the victims of the group’s wrongdoing. A mundane example he uses describes friends who while out on a picnic inadvertently lay their blanket on a flower bed, destroying it. In such scenarios, the group as a whole, which is inclusive of all its members, is accountable to the outraged gardener, in the sense that they owe her an apology, and each ought to do their share in “putting this right” helping her restore her flower bed, and so on.⁴⁸ It matters not, in such cases, who precisely is to blame for the accident. The gardener has a claim against the group as a whole, and each member ought to do his share, in a way that mirrors his participation in the group.⁴⁹

As I have argued elsewhere, the normative intuition behind this duty is that each participant chose to be part of the group, and as such is bound to receive some credit, or benefit, for the good outcomes of the group’s actions, and some discredit, or costs, when the group’s actions lead to bad outcomes, even if she is not personally to blame for them. Put differently, when we choose to act with others, or in the service of a collective goal, we consciously give up full control over what these others will do, and over the outcome of our shared endeavor. In doing this, we accept that we will be credited if our joint endeavor leads to beneficial outcomes, but we will also be burdened if it does not. Given that each participant makes the choice to act with others, it is only fair that each share in the burdens of the group’s remedial responsibility for the outcomes of the group’s action.

In our picnic example, each member’s remedial duty to “put things right” translates into the duty to assist the gardener, in the aftermath of the picnic, to restore her garden. However, clearly, this duty need not necessarily come into play only in the *aftermath* of a group wrongdoing. It is plausible to argue that group members have closely related obligations to doing their share in putting an end to the group’s wrongdoing and in preventing future wrongdoing. Imagine, for example, that some members of the group of picnic-going friends have gotten into the nasty habit of catcalling women doing their picnic outings. Regardless of their remedial obligations to the already harassed victims, it is clear that the other group members also have an ongoing obligation, by virtue of their participation in the

47. KUTZ, *COMPLICITY*, *supra* note 45, at 122.

48. *Id.* at 143.

49. *Id.* at 200.

group and the complicity principle, to do their share in putting an end to this practice, even at some cost to themselves. Of course, the duty to bring about change falls first and foremost on the perpetrators. But when they fail to act, other members of the group have a duty to do what they can to bring an end to the harmful practice.

Going back to the case of police officers, we might think that it is first and foremost the duty of policymakers within the police to tackle bad policies and bring about change. However, in the cases that interest us here, changes to police culture and practices have not been made, and oppressed citizens—such as those who took to the street in Paris—find that they have no choice but to act themselves. Assuming that their resort to violent protesting is necessary to achieve a change, and potentially effective, it follows that the protective harm they inflict during the protest on police officers is necessary in order to “set things right” and to combat the problem of racial discrimination and police brutality. As with the picnic examples, police officers who are intentionally participating in the police force are liable to some of the costs involved in putting the injustices right. This liability can translate into incurring some protective harm, assuming that other alternatives for bringing about change are not open or have been tried and failed. Police officers have a duty to incur these costs given that they participate in the organization that perpetrates the original wrongdoings that spark the protests, and incurring these costs would contribute to much needed changes in that organization.

To conclude the point, I have outlined in this section one route by which the forward-looking reading of the role of violent protests in democratic societies could explain why such protests can involve harm against individuals who are not directly involved in rights violations against oppressed minorities. In doing so, my goal was to demonstrate how the protective harm framework has the potential to explain the internal logic of what seems, on the face of it, an indiscriminate and disproportional violence in street protests like those that erupted in Paris in 2023. The protective harm framework has the best potential, in my view, to explain if and why such violent protests can be permissible, precisely because—unlike the two other readings I discussed here—it does not require that protestors necessarily target individuals who are themselves personally to blame for the wrongdoings that instigated the protests. I have focused in this section on the way in which mere *participation* in the police can ground liability to protective harm. But it should be noted that once we introduce the ideas of duty and liability in this context, we may be able to identify other potential sources for the duty to incur protective harm, which do not involve around participation. I leave such questions for future research.

VI. CONCLUSION

This paper aimed to contribute to the growing literature on uncivil and violent political action in democratic states. My goal was not to offer a detailed defense of such activities, but rather to examine what might be the best framing of violent protests, given the nature of the violence they inflict. Through comparisons to three readings of the practice of legal punishment, I have suggested that the most

promising framing of violent protest focuses not on the backward-looking ideas of condemnation and retribution, but rather on forward-looking political goals, and on the extent to which violent protesting could achieve them. The full assessment of violent protests then requires an in-depth examination of both empirical and normative questions—including the political circumstances in which the protestors operate and what they are owed, and owe in return, to other members in their society.