

THE EARLY HISTORY OF THE BLACK LIVES MATTER MOVEMENT, AND THE IMPLICATIONS THEREOF

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INTRODUCTION

From quarterbacks to hashtags, from mall demonstrations to community vigils, and from the streets of New York to the courts of Texas, the Black Lives Matter movement undisputedly has made its mark on America's consciousness. But what is this "movement"? Where did it come from? Does Black Lives Matter stand for civil rights, or human rights? What are the movement's goals? What are its motivations? With the onslaught of media attention given to Black Lives Matter, I found the magnitude of these questions troubling. Black Lives Matter has garnered widespread awareness; yet, many know almost nothing about its origins. Black Lives Matter's ultimate place in the historical narrative of our time is uncertain. Part viral social phenomenon, part civil rights movement, Black Lives Matter draws on common themes from previous civil rights movements, but is a marked departure from previous chapters of the centuries-long struggle for Black freedom and equality in America.

As a matter of clarification, and with all due respect to those who were responsible for the inception of the Black Lives Matter ("BLM") movement, this Note addresses Black Lives Matter in the context of America's history of civil rights movements. In an article for *Time Magazine*, one of the originators of the movement, Opal Tometi, specified that the aspirations of the movement go beyond civil rights and that the movement characterizes itself as a human rights movement for "the full recognition of [Blacks'] rights as citizens; and it is a battle for full civil, social, political, legal, economic and cultural rights as en-

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shrined in the United Nations Universal Declaration of Human Rights.”¹ However, this Note focuses on BLM’s role in the history of American civil rights movements because of its focus on race, particularly (as the name implies) on the equal treatment of Black people.²

This Note explores the early history of the Black Lives Matter movement, in an effort to craft a historical narrative of the movement, within the context of America’s history of racial inequality. Parts I–III examine the catalyst that sparked the creation of the Black Lives Matter movement, the very beginning of the movement and its founders’ diverse backgrounds, and the early, gradual development of Black Lives Matter from a simple phrase, into a civil rights movement. Throughout, the Note will illustrate the national consensus that has driven Black Lives Matter from the beginning and compare and contrast the movement, in its early stages, to other civil rights movements from American history. Finally, Parts IV–V will analyze some of the issues and implications that have become evident in the early history of the movement. This Note’s ultimate goal is to present a clear notion of what Black Lives Matter really means, and what ideals drive it as a movement.

I. THE CATALYST: TRAYVON MARTIN AND GEORGE ZIMMERMAN

A. *The Killing of Trayvon Martin*

BLM began as a response to a court case—much like the direct-action campaign that followed *Brown v. Board of Education*, and other civil rights movements throughout American history³—specifically, the verdict in *State of Florida v. George Michael Zimmerman*.⁴ George Zimmerman’s killing of Trayvon Martin and the jury’s verdict in Zimmerman’s criminal trial sparked outrage among many and brought light to what would become a disturbing trend . . .

On February 26, 2012, George Zimmerman, a local resident and member of the neighborhood watch shot Trayvon Martin, a seventeen-year-old African American man who was visiting his father in Sanford, Florida,⁵ to death.⁶ Before the shooting, Zimmerman called 911 to report a suspicious person—

¹ Opal Tometi & Gerald Lenoir, *Black Lives Matter Is Not a Civil Rights Movement*, TIME (Dec. 10, 2015), <http://time.com/4144655/international-human-rights-day-black-lives-matter> [https://perma.cc/BP4W-Q7ZS].

² *Id.*

³ See generally MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY (2004).

⁴ *State v. Zimmerman*, No. 12-CF-1083-A (Fla. Cir. Ct. July 13, 2013).

⁵ *Trayvon Martin Shooting Fast Facts*, CNN (Feb. 8, 2018, 12:05 PM), <http://www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts> [https://perma.cc/3C VV-BZR5].

⁶ *Id.*

Martin.⁷ Despite the 911 operator instructing him to stay in his vehicle, Zimmerman confronted Martin.⁸ What followed would become the centerpiece of a media frenzy for the next year and a half. Recordings from the 911 call painted a vague, yet disturbing picture of the confrontation between Zimmerman and Martin.⁹ A cry for help, and the gunshot that followed, were the only evidence of what happened between the two.¹⁰

On March 19, 2012, the Justice Department and FBI announced the launch of an investigation into Martin's death.¹¹ A petition on Change.org calling for the arrest of Zimmerman surpassed 1.3 million signatures three days later.¹² The next day, less than one month after Martin's death, President Obama made a public statement regarding the shooting, saying that the incident required "soul-searching."¹³ On March 26, 2012, one month after Martin's death, rallies were held across the country.¹⁴ Finally, on April 11, 2012, Zimmerman was formally charged with second-degree murder.¹⁵

B. *The Trial of George Zimmerman*

The media attention building up to George Zimmerman's trial raised tensions even further. At the end of April, Zimmerman entered a written plea of not guilty to the charge of second-degree murder.¹⁶ In July, Zimmerman fought to get the Judge to recuse himself for making disparaging remarks during the bail order, and also made a television appearance on Fox News in which Zimmerman said that he would not have done anything differently during the incident.¹⁷ In December, Zimmerman sued NBC Universal for allegedly editing the 911 recordings to make Zimmerman appear to be racist.¹⁸ In February of 2013, the Justice for Trayvon Martin Foundation held a "Day of Remembrance Community Peace Walk and Forum" in Miami.¹⁹

The trial finally began on June 24, 2013.²⁰ Inside the courtroom, the discussion focused on whether Zimmerman's actions constituted self-defense.²¹ Outside, the nation watched with a sense of urgency because the discussion in-

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

involved racial violence. News outlets focused on Zimmerman and the allegations of racism, on Martin's family, and on the community at large.²² Finally, on July 13, 2013, after deliberating for more than sixteen hours, the jury returned its verdict: George Zimmerman was not guilty.²³

C. Responses to the Verdict

The jury's verdict may have been not guilty, but to many outside the courtroom, George Zimmerman's acquittal was a miscarriage of justice. The verdict was not only the topic in newspapers, television programs, and tabloids; it was also the topic of intense social media discussion. One person in particular, Alicia Garza, saw this as a defining moment for her generation.²⁴ Garza recalled in an interview, "'It was as if we had all been punched in the gut.'"²⁵ Garza was further perturbed by the response to the verdict that she saw on social media.²⁶ She saw many people justifying and excusing Zimmerman's actions.²⁷ In particular, Garza was upset with what she deemed "the mainstream respectability narrative," which looked to Martin's family, personal life, and behavior, as the reason for his death.²⁸ This racial rationalization for what Garza, as well as many others, saw as the murder of a black child, represented a much more devastating feeling of racially-rooted hopelessness in the American justice system.²⁹

Garza's feelings were echoed around the country by others who would eventually call for social reform.³⁰ At a vigil held for Trayvon Martin in New York on July 21, 2013, just over one week after the verdict was released, people came from all over the country to show their discontent with what had happened.³¹ In various interviews, people referred to the jury verdict as "an abomination," and remarked that they "weren't surprised but were very, very

²² See, e.g., Jelani Cobb, *Zimmerman, Everyman*, NEW YORKER (July 10, 2013), <https://www.newyorker.com/news/news-desk/zimmerman-everyman> [<https://perma.cc/4BNC-WEEP>].

²³ See *Trayvon Martin Shooting Fast Facts*, *supra* note 5.

²⁴ Jessica Guynn, *Meet the Woman Who Coined #BlackLivesMatter*, USA TODAY (Mar. 4, 2015, 4:16 PM), <http://www.usatoday.com/story/tech/2015/03/04/alicia-garza-black-lives-matter/24341593> [<https://perma.cc/2JRT-PLFW>].

²⁵ *Id.*

²⁶ Alicia Garza & L.A. Kauffman, *A Love Note to Our Folks*, N+1 (Jan. 20, 2015), <https://nplusonemag.com/online-only/online-only/a-love-note-to-our-folks> [<https://perma.cc/98MK-5YMB>].

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Alex Gangitano, *Five Questions: A Vigil for Trayvon Martin*, NEW YORKER (July 21, 2013), <http://www.newyorker.com/news/news-desk/five-questions-a-vigil-for-trayvon-martin> [<https://perma.cc/LGC9-U3GB>].

³¹ *Id.*

angry.”³² One person in particular, Kai M. Green, an activist without direct ties to the Black Lives Matter movement, captured this feeling.³³ When asked about his first thought after hearing the verdict, Green commented that he felt the need to “use this moment to build a movement. . . . It’s about change, it’s about justice. . . . And it’s about black lives and black bodies, but it’s not just about black people. It’s about all people. Right? Because injustice anywhere is injustice everywhere.”³⁴ Matthew Knight, in a July 22, 2013 article in *The New Yorker*, echoed these feelings.³⁵ In his article, Knight reflected on the Zimmerman verdict and specifically stated, “[T]he absence of empathy toward black men from our political, law-enforcement, and judicial systems is nearly beyond comprehension.”³⁶ What Green and Knight had articulated was the widespread feeling that racial inequality in America needed to be addressed, and the time for doing so had come.³⁷

D. *A Love Letter to Black People*

In response to the verdict, Garza began drafting a series of social media posts, which she called collectively “A Love Letter to Black People.”³⁸ In her posts (reproduced below without correction of punctuation, grammar, etc.), Garza conveyed her disappointment and frustration, stating “stop saying we are not surprised. that’s a damn shame in itself. I continue to be surprised at how little Black lives matter.”³⁹ Garza’s final July 13, 2013 message was concise, simple, and powerful: “black people. I love you. I love us. Our lives matter.”⁴⁰ Garza’s close friend, Patrisse Cullors, saw the post and recognized the significance of its message.⁴¹ Cullors then posted on her own Facebook page a message that reflected an angrier feeling of discontent, sparked by the verdict, “declaration: black bodies will no longer be sacrificed for the rest of the world’s enlightenment. i am done. i am so done. trayvon, you are loved infinitely. #blacklivesmatter.”⁴² Two days after the Zimmerman verdict, and Gar-

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Matthew McKnight, *Before and After Trayvon Martin: How Power Flattens Humanity*, NEW YORKER (July 22, 2013), <http://www.newyorker.com/news/news-desk/before-and-after-trayvon-martin-how-power-flattens-humanity> [https://perma.cc/F866-KR5G].

³⁶ *Id.*

³⁷ See *supra* notes 24–31.

³⁸ Jelani Cobb, *The Matter of Black Lives*, NEW YORKER (Mar. 14, 2016), <http://www.newyorker.com/magazine/2016/03/14/where-is-black-lives-matter-headed> [https://perma.cc/HU9D-GHEH].

³⁹ *Id.*

⁴⁰ Jennings Brown, *One Year After Michael Brown: How a Hashtag Changed Social Protest*, VOCATIV (Aug. 7, 2015, 5:41PM), <http://www.vocativ.com/218365/michael-brown-and-black-lives-matter> [https://perma.cc/QYC4-42TP].

⁴¹ *Id.*

⁴² *Id.*

za's first post, Cullors posted another message on Facebook.⁴³ This time, Cullors posted a direct call to action and became the first to characterize Black Lives Matter as a movement:

Alicia Garza myself, and hopefully more black people than we can imagine are embarking on a project. we are calling it #BLACKLIVESMATTER

#blacklivesmatter is a movement attempting to visiblize what it means to be black in this country. Provide hope and inspiration for collective action to build collective power to achieve collective transformation. rooted in grief and rage but pointed towards vision and dreams.⁴⁴

These Facebook messages would be the start of what would eventually grow into the BLM movement.⁴⁵

E. *Civil Rights Sentiment*

The importance and significance of the early BLM social media posts reveal much of why the movement became a center-point of traditional and social media coverage in America. The combination of love and anger, and the feeling that racial tensions had reached a breaking point, was shared by people throughout the nation. In the week following the Zimmerman verdict, many communities responded by holding public prayers, protests, and other demonstrations. In Atlanta, more than two thousand people gathered in front of CNN Center.⁴⁶ In Sanford, Florida, where the trial was held, pastors held a prayer service.⁴⁷ In Washington, D.C. demonstrators outside the Justice Department called for civil rights charges against Zimmerman⁴⁸ (though these requests would ultimately be formally denied in February, 2015).⁴⁹ Similar demonstrations took place in Times Square.⁵⁰ The Black community particularly echoed feelings that have reverberated throughout each generation's civil rights struggle, yet the community lacked a cohesive rallying cry.

The acquittal of George Zimmerman inspired feelings of anger and disillusionment throughout the Black community, which, in turn, inspired action and activism outside of the courtroom, in much the same way that the Supreme Court's decision in *Brown v. Board of Education* inspired the direct-action campaign of the early 1960s. Following *Brown*, many young African Ameri-

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Michael Pearson et al., *Verdict Doesn't End Debate in Trayvon Martin Death*, CNN (July 15, 2013, 9:36PM), <http://www.cnn.com/2013/07/15/justice/zimmerman-verdict-protests> [<https://perma.cc/YF6W-YWCE>].

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Trayvon Martin Shooting Fast Facts*, *supra* note 5.

⁵⁰ Pearson et al., *supra* note 46.

cans felt that the legal system could not supply the large-scale reform that more direct, non-legal action could.⁵¹ This feeling led to the sit-ins and large-scale public demonstrations that are commonly associated with the civil rights movement in the 1960s.⁵² As discussed in greater detail below, these same feelings are inherent in Garza and Cullors's social media posts, as well as many others, following the Zimmerman verdict. And, as they did in the 1960s after *Brown*, these feelings ultimately inspired the activism outside of the courtroom.

The history of the struggle for black freedom in the United States is punctuated by relative rises and falls in racial tension. The response to the Zimmerman verdict came after a relative calm in racial tension, which highlights the movement's position in this struggle. The direct-action campaign that led to the Civil Rights Act of 1964 and general tension with continued school segregation that dragged into the 1970s was followed by a relative easing of tensions in the 1980s. In 2013, the Zimmerman verdict drummed up feelings in the civil rights movement that had lain relatively dormant in previous years, but in no way, had entirely subsided. Not since the early 1990s had there been such open, nationwide discussion of the prevalence of racism in America. Notably, the last times that America was directly confronted with the notions of racially motivated violence and unequal treatment in the courtroom were the Rodney King police-brutality incident and the O.J. Simpson trial. Interestingly, Garza, in one interview, explicitly compared the Zimmerman trial with the Simpson trial, to describe how intently the Black community was watching.⁵³ The stark contrast between the facts of these two trials cannot be overstated, and yet, for the Black community, both cases elicited similar concerns and feelings about the value of Black life in the American legal system.

During the Simpson trial, the issue of race increasingly polarized the nation.⁵⁴ For example, polls at the time indicated that the majority of the Black community believed that Simpson was innocent and that a racist officer in the Los Angeles Police Department framed Simpson.⁵⁵ The majority of the white community, on the other hand, believed that Simpson was guilty.⁵⁶ In fact, Simpson's attorney, Johnnie Cochran, Jr., explicitly drew on the racial overtones of the case in his televised closing statement to the jury, in which he im-

⁵¹ Christopher W. Schmidt, *Divided by Law: The Sit-ins and the Role of the Courts in the Civil Rights Movement*, 33 L. & HIST. REV. 93, 93–102, 112–18 (2015); KLARMAN, *supra* note 3, at 428–42.

⁵² Schmidt, *supra* note 51, at 93–102, 112–18.

⁵³ Garza & Kauffman, *supra* note 26.

⁵⁴ Roger Rosenblatt, *A Nation of Pained Hearts*, TIME (Oct. 16, 1995), <http://content.time.com/time/subscriber/article/0,33009,983568-1,00.html> [<https://perma.cc/33Z6-TJZN>].

⁵⁵ Janell Ross, *Two Decades Later, Black and White Americans Finally Agree on O.J. Simpson's Guilt*, WASH. POST (Mar. 4, 2016), <https://www.washingtonpost.com/news/the-fix/wp/2015/09/25/black-and-white-americans-can-now-agree-o-j-was-guilty> [<https://perma.cc/SLX6-J9B7>].

⁵⁶ *Id.*

plored the jury to right the wrongs of racism in their verdict.⁵⁷ The Simpson case, and the verdict that followed, polarized the nation in 1994 and 1995, much in the same way the Zimmerman case would in 2013.

In the interim between the early 1990s and 2013, racial tension in America had relatively calmed. The election of Barack Obama in 2008 seemed to further move notions of racial inequality towards the back burner.⁵⁸ Even in the era of mass incarceration, it seemed, racial inequality was commonly referenced in the past tense on the national level.⁵⁹ However, this did not mean that the problem was solved. And with the death of Trayvon Martin, the acquittal of George Zimmerman, and the instances of violence with racial implications that would follow, questions of racial inequality in America would dramatically change. Post-Zimmerman America needed a rallying cry to express its discontent and communicate the message behind this generation's civil rights movement. Black Lives Matter would become that cry.

II. THE START OF THE MOVEMENT

Seeing Garza's and Cullers' social media posts, Tometi recognized the potential of "Black Lives Matter," and suggested creating an online space for the movement to grow, and for others to join and spread awareness.⁶⁰ From there, Tometi, with input from Garza and Cullors, created various social media pages on Facebook, Tumblr, and Twitter, where people could share "what they were doing to build a world where black lives matter."⁶¹ The women's involvement in Black Organizing for Leadership and Dignity, which was also calling for action at that time, also influenced this decision.⁶² This need for solidarity in the form of a movement like BLM could also be seen in the numerous nationwide protests and demonstrations that occurred in the days following the Zimmerman verdict. In fact, on July 15, 2013, protestors in Minneapolis, Minnesota were reported carrying signs that said, "Black Lives Matter" as well as "End Racism Now."⁶³ And while the words "Black Lives Matter" were not yet asso-

⁵⁷ James Walsh, *The Lessons of the Trial*, TIME (June 24, 2001), <http://content.time.com/time/magazine/article/0,9171,133250,00.html?https://perma.cc/V2JX-JPXP>].

⁵⁸ Nick Bryant, *Barack Obama Legacy: Did He Improve US Race Relations?*, BBC (Jan. 10, 2017), <http://www.bbc.com/news/world-us-canada-38536668> [https://perma.cc/K4B6-VJ8D].

⁵⁹ DEVAH PAGER, MARKED: RACE, CRIME, AND FINDING WORK IN AN ERA OF MASS INCARCERATION 87–88 (2007).

⁶⁰ Garza & Kauffman, *supra* note 26.

⁶¹ *Id.*

⁶² Mychal Denzel Smith, *A Q&A with Opal Tometi, Co-Founder of #BlackLivesMatter*, NATION (June 2, 2015), <https://www.thenation.com/article/qa-opal-tometi-co-founder-blacklivesmatter> [https://perma.cc/ZEE7-AA4Q].

⁶³ Associated Press, *Hundreds in Minneapolis Protest Zimmerman Verdict*, BEMIDJI PIONEER (July 16, 2013, 9:17 AM), <http://www.bemidjipioneer.com/content/hundreds-minneapolis-protest-zimmerman-verdict> [https://perma.cc/PG72-SRP7].

Spring 2018]

BLACK LIVES MATTER

1099

ciated with a large-scale civil rights movement, the fact that people were already using the phrase in connection with civil rights protests indicated the near-inherent nature of the words “Black Lives Matter” as a rallying cry for civil rights reform. Within days after the Zimmerman verdict, Garza, Cullors, and Tometi had created small but powerful cohesion in #BlackLivesMatter as a means to bring the community, and the nation, together to directly address what racism meant in the new millennium.

A. *Starting the Discussion*

Black Lives Matter spread rapidly, using social media and the internet to facilitate widespread awareness. However, #BlackLivesMatter remained an article of social media.⁶⁴ In terms of the Black Lives Matter movement, 2013 generated little in the way of action or reform. However, the issue of racial violence and inequality had been exposed, and had again become part of the national conversation. In November of 2013, *The Daily Show*, hosted by Jon Stewart, showed a satirical video containing tips on how to avoid racial profiling while shopping, called “Black Friday Profiling.”⁶⁵ While the video was parodic, it shone light on the increasing racial tension in post-Zimmerman America.⁶⁶

By the end of 2013 #BlackLivesMatter had not yet become a civil rights movement in the traditional sense, despite its frequent social-media presence and the backlash to the Zimmerman verdict. But #BlackLivesMatter had become a conversation point, more and more frequently seen in social media posts, as well as occasionally receiving traditional media attention, because it touched on the growing discontent with racial inequality in the legal system. And in 2014, America would witness the transition from social media discussion to rallying cry, as Black Lives Matter, the movement, came into existence.

B. *Ferguson, Staten Island, and the Disease of Racial Police Violence*

On August 9, 2014, Michael Brown, a black teenager, was shot and killed by a white police officer, Darren Wilson, in Ferguson, Missouri.⁶⁷ What followed were demonstrations that devolved into full-blown rioting, and which went on for weeks.⁶⁸ The rioting became so intense that Governor Jay Nixon

⁶⁴ Sara Sidner & Mallory Simon, *The Rise of Black Lives Matter: Trying to Break the Cycle of Violence and Silence*, CNN (Dec. 28, 2015, 8:28 AM), <http://www.cnn.com/2015/12/28/us/black-lives-matter-evolution> [https://perma.cc/7D9S-MTHS].

⁶⁵ The Daily Show with Jon Stewart, *Black Friday Profiling*, COMEDY CENTRAL (Nov. 21, 2013), <http://www.cc.com/video-clips/kqm9ge/the-daily-show-with-jon-stewart-black-friday-profiling> [https://perma.cc/S5YM-D99E].

⁶⁶ *Id.*

⁶⁷ *What Happened in Ferguson?*, N.Y. TIMES (Aug. 10, 2015), <http://www.nytimes.com/interactive/2014/08/13/us/ferguson-missouri-town-under-siege-after-police-shooting.html> [https://perma.cc/2EX9-U5HM].

⁶⁸ *Id.*

eventually declared a state of emergency and deployed the Missouri National Guard to deal with the riots.⁶⁹ Just weeks before, in Staten Island, New York, Eric Garner, a forty-three-year-old black man, died after being placed in a chokehold by a white police officer, while in police custody.⁷⁰ With these deaths, and their aftermath, the issue of racial violence in America reached its boiling point.

Again, the nation, and particularly the Black community, was horrified by the violence that had occurred in Staten Island and Ferguson, and the racial undertones that plagued each death.⁷¹ And again, the utter lack of legal consequences for the deaths made them all the more disturbing. On September 16, in Ferguson, Officer Wilson testified before a St. Louis County grand jury tasked with deciding whether Wilson should be indicted on criminal charges.⁷² On November 24, the grand jury announced that it would not indict Officer Wilson in the shooting of Michael Brown.⁷³ In Staten Island, though continuing investigations are allegedly being conducted, the only official inquiry was a similar grand-jury proceeding.⁷⁴ In spite of the chokehold being explicitly banned by police policies, the grand jury found that Officer Pantaleo committed no crime when he killed Eric Garner.⁷⁵ Where the Zimmerman verdict had jump-started the feelings of racial inequality, and Black Lives Matter with them, the egregious deaths in Ferguson and Staten Island dramatically intensified the tension. What happened in Ferguson and Staten Island were merely instances of systemic, institutionalized racism that had become a way of life in many communities, without drawing national attention. These deaths brought light to a dark and disturbing problem in America.

C. *Unified by Black Lives Matter*

The deaths of Eric Garner and Michael Brown sparked widespread demonstrations in cities all over the country. Even after the initial rioting in Ferguson had subsided, demonstrations continued across America.⁷⁶ Throughout the weeks and months that followed, through the fall of 2014, the discussion of po-

⁶⁹ *What Happened in Ferguson?*, *supra* note 67.

⁷⁰ *Medical Examiner Rules Eric Garner's Death a Homicide, Says He Was Killed by Chokehold*, NBC N.Y. (Aug. 1, 2014), <http://www.nbcnewyork.com/news/local/Eric-Garner-Chokehold-Police-Custody-Cause-of-Death-Staten-Island-Medical-Examiner-269396151.html> [<https://perma.cc/7E8J-URZU>].

⁷¹ *Id.*

⁷² Emily Brown, *Timeline: Michael Brown Shooting in Ferguson, Mo.*, USA TODAY (Aug. 10, 2015, 3:47 PM), <http://www.usatoday.com/story/news/nation/2014/08/14/michael-brown-ferguson-missouri-timeline/14051827> [<https://perma.cc/MMX9-RTB6>].

⁷³ *Id.*

⁷⁴ Al Baker et al., *Beyond the Chokehold: The Path to Eric Garner's Death*, N.Y. TIMES (June 13, 2015), <http://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html> [<https://perma.cc/YEG6-JPAV>].

⁷⁵ *Id.*

⁷⁶ Brown, *supra* note 72.

Spring 2018]

BLACK LIVES MATTER

1101

lice violence and racial injustice resonated around the nation in social media and traditional media outlets, alike.⁷⁷ More and more, people were including #BlackLivesMatter in their personal posts and in publicized discussion.⁷⁸ Other hashtags emerged during this time as well, such as #HandsUpDontShoot, and Eric Garner's last words, #ICantBreathe.⁷⁹ But none of these phrases fully captured the heart and complexity of the issue in the same way that "Black Lives Matter" did.

Just days after Brown's death, in an interview on CNN, Paul Raushenbush, author of an article entitled "What White People Can Do about the Killing of Black Men in America," commented on what was happening in Ferguson.⁸⁰ In the interview, Raushenbush states, "This is all of our problem. This is the suffering of our brothers and sisters, in Ferguson, in Staten Island . . . And that's everybody's problem. We need to show up, show solidarity and be part of creating . . . long-term solutions."⁸¹ When asked about taking action beyond "sitting on a computer with hash tags and tweeting," Raushenbush conceded "there is an awareness that comes from social media."⁸² But Raushenbush went on to quote Reverend Tony Lee, an activist seeking a more direct approach to fighting "systemic racism," who called social media discussion "a moment, not a movement."⁸³ Raushenbush concluded the interview by stating, "Black people matter. Black bodies matter. Black lives matter."⁸⁴ What Raushenbush and Reverend Lee were discussing was the same discontent and disillusionment articulated by Garza, Cullors, and Tometi in the efforts they had begun a year earlier: Black Lives Matter.

As previously mentioned, "Black Lives Matter" also began appearing on signs at demonstrations, and in rallying chants among demonstrators during this time.⁸⁵ In one such demonstration, on August 23, 2014, in New York, demonstrators were noted as carrying signs that said, "Black Lives Matter" along with "'Hold Killer Cops Accountable.'"⁸⁶ When interviewed, one demonstrator commented "It is not a black and white . . . We are not against the police . . . It

⁷⁷ Guynn, *supra* note 24.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *CNN Newsroom: Interview with Amb. Joe Wilson; Ferguson, Missouri, Described as War Zone; Robin Williams Had Parkinson's Disease; Problems in Ferguson, Missouri, Need Solving by All Americans* (CNN television broadcast Aug. 14, 2014), <http://www.cnn.com/TRANSCRIPTS/1408/14/cnr.06.html> [<https://perma.cc/9VRC-DYF5>].

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Ray Sanchez, *Police Chokehold Death Sparks New York Protest March*, CNN (Dec. 8, 2014), <http://www.cnn.com/2014/08/23/us/new-york-choke-hold-rally/index.html> [<https://perma.cc/KLQ2-NPZH>].

⁸⁶ *Id.*

is about wrong. . . . We have to stop this.”⁸⁷ These comments and protests overwhelmingly demonstrated a growing urgency in the need for reform and solidarity in a movement that could motivate and inspire that reform.

Feelings of shock and distress were not limited to citizens and the media. Just days after Michael Brown’s death in Ferguson, Missouri, both the Attorney General, Eric Holder, and President Obama made statements about the death, and about the tension in Ferguson.⁸⁸ While the President’s statement focused on sympathy for the family, and a call for unity in the community, the Attorney General announced that a federal inquiry would be launched to supplement the local investigation.⁸⁹ Within a month, the Department of Justice had begun a full investigation into the patterns and practices of the Ferguson Police Department.⁹⁰ Its report was ultimately released on March 4, 2015, and contained findings that shocked the nation: “This investigation has revealed a pattern or practice of unlawful conduct within the Ferguson Police Department that violates the First, Fourth, and Fourteenth Amendments to the United States Constitution, and federal statutory law.”⁹¹ This characterization of an entire police department reflected the feelings of disillusionment and distress not only of poor, black citizens, but rather, of the nation at every level. The nation as a whole was discontented with the systemic racial bias that these events illuminated.

In the wider historical lens, the responses to Staten Island and Ferguson reflected similarities between Black Lives Matter in 2014 America, and civil rights movements of previous American eras. As previously discussed, discontent with the Supreme Court’s inability to enforce the rights conveyed in *Brown* contributed to the beginning of the direct-action campaign that eventually led to the Civil Rights Act of 1964. Similarly, in 1883, the Supreme Court’s decision in the *Civil Rights Cases* sparked widespread rallies and public meetings in New York, Philadelphia, Pittsburgh, Cleveland, St. Louis, Chicago, Columbus, Louisville, Birmingham, and communities in Missouri, Connecticut, and Texas.⁹² In 2014, once again, the perceived failings of the American legal system had ignited a movement calling for civil rights reform.

III. BLACK LIVES MATTER BECOMES A MOVEMENT

With the palpable racial tension in the weeks and months following the events in Ferguson and Staten Island, and the increasingly widespread consen-

⁸⁷ *Id.*

⁸⁸ David Hudson, *President Obama Issues a Statement on the Death of Michael Brown*, WHITE HOUSE (Aug. 12, 2014, 5:02 PM), <https://www.whitehouse.gov/blog/2014/08/12/president-obama-issues-statement-death-michael-brown> [<https://perma.cc/5R4X-M57L>].

⁸⁹ *Id.*

⁹⁰ U.S. DEP’T OF JUSTICE CIVIL RIGHTS DIV., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT I (2015).

⁹¹ *Id.* at 1–6.

⁹² Marianne L. Engelman Lado, *A Question of Justice: African-American Legal Perspectives on the 1883 Civil Rights Cases*, 70 CHI.-KENT L. REV. 1123, 1129–30 (1995).

sus that a cohesive movement was needed to address the racial evils that America was facing, Black Lives Matter was ripe for evolution. In this environment, the first major demonstrations for which Black Lives Matter took credit occurred. Though Cullors, in a November 22, 2014 interview, referenced involvement of Black Lives Matter in the demonstrations in Ferguson immediately following Brown's death,⁹³ the first major Black Lives Matter demonstrations began in October of 2014. Demonstrators at an October 13, 2014, St. Louis Rams football game chanted and displayed banners reading, "Black Lives Matter."⁹⁴ On October 24, 2014, demonstrators identifying themselves as Black Lives Matter Boston began the "'Newbury Street Shutdown' protest in Boston."⁹⁵ This event had been orchestrated through a Facebook event that announced that Black Lives Matter Boston, a local chapter of the movement, was organizing the event "[i]n solidarity with #FergusonOctober and the Black Lives Matters [*sic*] Week of Action[.]"⁹⁶

Then, on November 28, 2014, Black Friday, a particularly notable demonstration took place in Oakland, California.⁹⁷ There, Black Lives Matter demonstrators, all wearing "#BlackLivesMatter" T-shirts, chained, locked, and otherwise affixed themselves to the Bay Area Rapid Transit (BART) trains and station platform, in West Oakland.⁹⁸ Even the devices that locked the demonstrators' arms together displayed the words "BLACK LIVES MATTER."⁹⁹ The demonstrators called for the indictment of Officer Wilson for Michael Brown's death.¹⁰⁰ This demonstration was significant for a number of reasons. First, those behind Black Lives Matter were directly involved in the planning of the demonstration as a specific Black Lives Matter movement demonstration.¹⁰¹

⁹³ Monica J. Casper, *Black Life Matters: A Conversation with Patrisse Cullors and Darnell L. Moore*, FEMINIST WIRE (Dec. 1, 2014), <http://www.thefeministwire.com/2014/12/black-lives-matter-black-life-matters-conversation-patrisse-cullors-darnell-l-moore> [https://perma.cc/AL73-Z94T].

⁹⁴ Travis Waldron, *Ferguson Protesters Raise 'Black Lives Matter' Banners at Rams Monday Night Football Game*, THINK PROGRESS (Oct. 14, 2014, 1:58 PM), <https://thinkprogress.org/ferguson-protesters-raise-black-lives-matter-banners-at-rams-monday-night-football-game-1530bd87dfc0#.o6v428iy4> [https://perma.cc/6RNL-8K4J].

⁹⁵ Morgan Rousseau, *Black Lives Matter Protest Shuts Down Newbury Street*, METRO (Oct. 26, 2014), <http://www.metro.us/boston/black-lives-matter-protest-shuts-down-newbury-streetnbs/zsJnjz--bXIC1PVzpUVk> [https://perma.cc/TW4B-39P5].

⁹⁶ *Id.*; *Newbury Street Shutdown*, FACEBOOK (Oct. 25, 2014), <https://www.facebook.com/events/540613642738823> [https://perma.cc/JE2L-YTGR].

⁹⁷ Lisa Fernandez & Christie Smith, *#Blackout Black Friday Protest Shuts Down BART*, NBC BAY AREA (Nov. 28, 2014, 5:29 PM), <http://www.nbcbayarea.com/news/local/Black-out-Black-Friday-Protest-Shuts-Down-BART-284160231.html> [https://perma.cc/9HRV-THN6].

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Heather Smith, *Meet the BART-Stopping Woman Behind "Black Lives Matter,"* GRIST (Dec. 4, 2014), <http://grist.org/politics/stopping-a-bart-train-in-michael-browns-name> [https://perma.cc/BCK8-RW7M].

Furthermore, Garza, on behalf of Black Lives Matter, intentionally chose the West Oakland BART station because of its significance to the Black community and its significance to the problem of police violence with racial undertones (one of the first officers convicted of murder in Oakland had killed Oscar Grant at a BART station).¹⁰² Second, this particular demonstration was significant because Garza, in addition to orchestrating the demonstration, was present at the BART station in West Oakland, and took part in the demonstrations.¹⁰³

The timing of the Black Friday BART demonstration was also key to its significance. Aside from the nickname for the day after Thanksgiving, Black Lives Matter chose Black Friday for its demonstration, in part, because of the amount of transit that the BART trains facilitate for people shopping on Black Friday: more than 400,000 people, on average, travel on the BART on Black Friday.¹⁰⁴ Therefore, shutdown of the West Oakland station would sufficiently disrupt transit and bring attention to the demonstration. Additionally, the grand jury decision not to indict Officer Darren Wilson for the shooting of Michael Brown was announced just four days before the demonstration. These elements all influenced the strategic decision of the organizers to schedule the BART demonstration for November 28, 2014, and helped solidify its significance in the early actions of the Black Lives Matter movement.¹⁰⁵

Shortly after the Black Friday demonstration, on December 20, 2014, between 1,500 and 3,000 demonstrators filled the rotunda of the Mall of America in Minneapolis, Minnesota as part of a demonstration organized by Black Lives Matter Minneapolis.¹⁰⁶ In spite of the peaceful nature of the demonstration, twenty-five people were arrested for failing to disperse after being warned about violating the Mall of America's policy regarding protests.¹⁰⁷ This demonstration marked further significance for the Black Lives Matter movement because it signaled nationwide organization. Black Lives Matter Minneapolis gained recognition as a local chapter of the movement, and was also credited with organizing two demonstrations prior to the Mall of America demonstration.¹⁰⁸ The Mall of America demonstration was also significant because the circumstances echoed those of demonstrations from the classic civil rights movement of the 1960s. Black Lives Matter brought together thousands of people to engage in a peaceful protest, and those demonstrators were willing to

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *BART 2015 Factsheet*, BART (2015), <https://www.bart.gov/sites/default/files/docs/2015%20Fact%20Sheet.pdf> [<https://perma.cc/4ND3-B2DY>].

¹⁰⁵ Smith, *supra* note 101.

¹⁰⁶ Curtis Gilbert & Brandt Williams, *#BlackLivesMatter Protest Fills Mall of America Rotunda; 25 Arrested*, MPR NEWS (Dec. 20, 2014, 8:34 PM), <https://www.mprnews.org/story/2014/12/20/moa-blacklivesmatter-protest> [<https://perma.cc/ZWA7-SHTA>].

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

Spring 2018]

BLACK LIVES MATTER

1105

be arrested in order to convey a unified message.¹⁰⁹ The country had once again been shocked by the grand jury's decision to not charge Officer Pantaleo for the death of Eric Garner, which was announced only one week earlier, and, once again, Black Lives Matter had answered with protest.¹¹⁰

The end of 2014 marked the successful and widely acknowledged transition of Black Lives Matter from a call to action on social media to a nationwide, organized civil rights movement.¹¹¹ From the early demonstrations in St. Louis and Boston in October, through the demonstrations in November and December, Black Lives Matter had established itself as more than just a talking a point. The movement had grown and developed local chapters in key metropolitan areas.¹¹² It was responding to the growing unrest about racial tensions brought on by the deaths in Ferguson and Staten Island during the summer months, and the subsequent refusal of legal action against the officers responsible. In taking these steps, Black Lives Matter overcame its previous status of viral phenomenon and showed its potential as a significant civil rights movement.

IV. A NEW TYPE OF CIVIL RIGHTS MOVEMENT

Since 2014, the Black Lives Matter movement has consistently maintained its position in the public eye. Demonstrations, interviews, social media presence, and frequent discussion in traditional media sources have perpetuated the movement to the present. However, Black Lives Matter's self-proclaimed identity as "'not your grandfather's civil rights movement'" has a wide range of implications, which can be seen in the movement's early history, and may be indications of where the movement is headed in the future.¹¹³ The rapidity of the movement's growth, combined with its lack of a major leader figure or figures, have channeled Black Lives Matter in directions that past civil rights movements have not taken, and that, for better or worse, seriously impact public opinion of the movement.

A. *Issues and potential pitfalls*

The early years of the movement have revealed certain issues and potential pitfalls that are inherent in the structuring of BLM. These problems are largely the result of the "horizontal" approach to leadership, as well as the movement's

¹⁰⁹ *Id.*

¹¹⁰ J. David Goodman & Al Baker, *Wave of Protests After Grand Jury Doesn't Indict Officer in Eric Garner Chokehold Case*, N.Y. TIMES (Dec. 3, 2014), <http://www.nytimes.com/2014/12/04/nyregion/grand-jury-said-to-bring-no-charges-in-staten-island-chokehold-death-of-eric-garner.html> [<https://perma.cc/CK8S-XFNL>].

¹¹¹ Rousseau, *supra* note 95.

¹¹² *Id.*; HerStory, BLACK LIVES MATTER, <https://blacklivesmatter.com/about/herstory> [<https://perma.cc/A2JV-L2HY>] (last visited Apr. 22, 2018); Cobb, *supra* note 38.

¹¹³ Cobb, *supra* note 38.

foundational ties to social media, and have already created certain issues for the movement.¹¹⁴ In particular, the founders have consistently emphasized the importance that the movement remain “decentralized,” in order to keep the movement alive and adaptive.¹¹⁵ One issue that has resulted from this structuring is rooted in discontent at the credit given to Garza, Cullors, and Tometi for founding the movement.¹¹⁶ Others involved in the movement, like Johnetta Elzie of St. Louis, feel that BLM should remain grassroots, and that crediting the movement’s inception detracts from the work and sacrifice contributed by others involved.¹¹⁷ Not only has this issue already resulted in general dissent in different chapters of Black Lives Matter, but it has even led to the cancellation of events by the founders.¹¹⁸

The horizontal model, although strongly advocated by Garza and Cullors, has also resulted in problems with planning demonstrations.¹¹⁹ For example, Black Lives Matter members planned a demonstration at an August 11, 2015 Hillary Clinton rally; however, the demonstrators arrived at the rally late and were denied access.¹²⁰ Clinton later granted the demonstrators a private audience, but this incident has contributed to concerns about the potential for disorganization in future efforts.¹²¹

B. Black Lives Matter in the Courtroom

Unlike civil rights movements from our nation’s past, which placed heavy emphasis on strategic legal attacks on systemic racism, Black Lives Matter has yet to incorporate any such legal strategy. This may partially be the result of the general disillusionment with the American legal system that is a foundational theme within Black Lives Matter, and its focus on responding to perceived failings of the legal system to deliver justice after the deaths of Trayvon Martin, Michael Brown and Eric Garner. Additionally, the absence of initiating legal actions is not entirely inconsistent with the grassroots or “horizontal” approach that the founders have often cited as an important aspect of Black Lives Matter.¹²² Yet, the failure to take an assertive approach to battles in the legal arena has left the movement susceptible to attacks, one of which was launched in July of 2016.

¹¹⁴ *Id.*

¹¹⁵ *HerStory*, *supra* note 112.

¹¹⁶ *Cobb*, *supra* note 38.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Dan Merica, *Black Lives Matter Videos, Clinton Campaign Reveal Details of Meeting*, CNN (Aug. 18, 2015, 6:06 PM), <http://www.cnn.com/2015/08/18/politics/hillary-clinton-black-lives-matter-meeting> [<https://perma.cc/RBP5-X5N7>].

¹²¹ *Id.*

¹²² *Cobb*, *supra* note 38.

In *Klayman v. Obama*, Larry Klayman, a former prosecutor from Florida, filed a class action lawsuit on behalf of “police officers and other law enforcement persons of all races and ethnicities” for threats of violence and attacks on police officers.¹²³ In the amended complaint, filed in September, 2016, Black Lives Matter was named as a defendant, along with Garza, Cullors, Tometi, and others that have associations to Black Lives Matter.¹²⁴ Other named defendants included Barack Obama, Hillary Clinton, Eric Holder (the former Attorney General), the New Black Panthers Party, Reverend Al Sharpton, and the Nation of Islam.¹²⁵ The case is currently pending in the Northern District of Texas, and many of the parties have filed motions to dismiss on a wide variety of grounds.¹²⁶ But regardless of the outcome, this case signals a stark contrast to traditional legal battles associated with past civil rights movements. Unlike the hard-fought civil rights cases from the 1850s through the 1970s, such as the *Dred Scott* case,¹²⁷ *Plessy v. Ferguson*,¹²⁸ and *Brown v. Board of Education*,¹²⁹ the legal system does not seem to carry the weight that it once did for the Black Lives Matter movement. At this point, *Klayman v. Obama* is the one of a small number of legal actions that Black Lives Matter has been involved in, and similar to the other cases, the merits of *Klayman* seemingly have not warranted serious response from any of the defendants.¹³⁰ This shift away from legal action speaks volumes about the priorities of the Black Lives Matter movement, as well as a shift in attitude about the trustworthiness of the legal system in general.

In spite of the general avoidance of legal action by Black Lives Matter, the movement has also found its way into the courtroom in other ways. In Las Vegas, Nevada and Youngstown, Ohio, criminal defense attorneys have been held in contempt for wearing Black Lives Matter pins in the courtroom, and refusing

¹²³ Amended Complaint at 4, *Pennie v. Obama*, 3:16-CV-02010 (N.D. Tex. 2017).

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Pennie v. Obama*, 255 F. Supp. 3d 648, 652 (N.D. Tex. 2017).

¹²⁷ *Scott v. Sandford*, 60 U.S. 393 (1857).

¹²⁸ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

¹²⁹ *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

¹³⁰ These cases usually involve very broad legal attacks on BLM based on the conduct of individual members. See *Logan v. Black Lives Matter Org.*, No. 6:16-2599-TMC-KFM, 2016 U.S. Dist. LEXIS 186561, at *1, *7 (D.S.C. Aug. 30, 2016), reviewed in Civil Action No. 6:16-2599-TMC, 2017 U.S. Dist. LEXIS 71771, at *2 (D.S.C. May 11, 2017) (involving allegations of racist remarks by members of BLM); see also *Smith v. McKesson*, No. 17-00429-BAJ-RLB, 2017 U.S. Dist. LEXIS 178408, at *12 (M.D. La. Oct. 27, 2017); *Doe v. McKesson*, 272 F. Supp. 3d 841, 855 (M.D. La. Sept. 28, 2017). Also, one suit was filed by an individual, purportedly on behalf of BLM, though it turned out not to be an actual action on behalf of BLM, nor was it sanctioned or organized by BLM or its founders. *Black Lives Matter v. Trump*, No. 3T7-MC-003, 2017 U.S. Dist. LEXIS 197240, at *1 (S.D. Tex. July 19, 2017) (the case information sheet indicated “Black Lives Matter” as the filing party, the pleadings identified the plaintiff as “Pro Se Plaintiff Slave Negro Louis Charles Hamilton II”).

to remove them when instructed to do so by judges.¹³¹ In both cases, the dispute involved a black, female attorney wearing the pin and a white, male judge ordering the pin's removal in the courtroom.¹³² Although these examples should not be taken to indicate that race played a role in the judge's decision, in both instances, the dynamic between the parties calls forth both racial and gender equality issues. Additionally, the role of black women in both of these cases speaks, in some respect, to the often under-discussed female influence in Black Lives Matter. Again, these cases demonstrate further instances of Black Lives Matter generating unexpected influence and media attention without centralized, top-down organization, and without taking strategic action in the legal arena.

C. *The Evolution of the Principles Behind Black Lives Matter*

Finally, the movement's horizontal structuring, as well as its ties to social media, have resulted in consistently shifting ideals that don't always accurately represent the principles the founders intended. With new chapters of the movement come new perspectives, and, without a figurehead to rally behind, the media has turned to celebrities, social media figures, and demonstrators for comments on Black Lives Matter as a whole.¹³³ As a result, the underlying ideals and goals of the movement shift with each interview, as the people claiming to be voices of the movement often lack an intimate knowledge of the movement's origins or fundamental principles. The founders of Black Lives Matter have attempted to address these issues on their website, and in various interviews, by stating what the movement means to them, and what ideals they intended to represent with Black Lives Matter.¹³⁴ However, oversimplification by celebrities and other figures that participate in the movement overshadows these principles.

For example, one major element the media often overlooks when discussing Black Lives Matter is its deeply rooted ties to LGBTQ activism. All three of the founders have been involved in LGBTQ activist movements, and both Garza and Cullors are outspoken about their own nonconformity to traditional

¹³¹ John Locher, *Defense Attorney's "Black Lives Matter" Pin Sparks Protest in Vegas Court*, CBS NEWS (Sept. 20, 2016), <http://www.cbsnews.com/news/defense-attorneys-black-lives-matter-pin-sparks-protest-in-vegas-court> [https://perma.cc/3UWS-E2S2]; Cleve R. Wootson Jr., *This Attorney Wore a Black Lives Matter Pin to Court—and Went to Jail for It*, WASH. POST (July 26, 2016), https://www.washingtonpost.com/news/post-nation/wp/2016/07/25/this-attorney-wore-a-black-live-matter-pin-to-court-and-went-to-jail-for-it/?utm_term=.c2119b964080 [https://perma.cc/5BE6-F5H7].

¹³² Locher, *supra* note 131; Wootson, *supra* note 131.

¹³³ *Lil Wayne Says He Doesn't Feel Connected to Black Lives Matter Movement*, ABC NEWS (Nov. 1, 2016), <http://abcnews.go.com/Nightline/video/lil-wayne-feel-connected-black-lives-matter-movement-43231555> [https://perma.cc/3BLZ-5AWD].

¹³⁴ Alicia Garza, *A HerStory of the #BlackLivesMatter Movement*, FEMINIST WIRE (Oct. 7, 2014), <http://www.thefeministwire.com/2014/10/blacklivesmatter-2> [https://perma.cc/NSL5-CBP7].

gender norms.¹³⁵ Furthermore, in their own words, “Black Lives Matter affirms the lives of Black queer and trans folks, disabled folks, Black-undocumented folks, folks with records, women and all Black lives along the gender spectrum.”¹³⁶ This connection to gender-identity activism is interesting in its own right. Previous eras of civil rights movements have included similar ties between civil rights, labor, and gender equality activism.¹³⁷ The three founders also reiterate the importance of their focus on complex gender issues, and the LGBTQ community in their list of “guiding principles” which are: diversity, restorative justice, unapologetically black, globalism, black women, collective value, transgender affirming, black villages, empathy, black families, loving engagement, intergenerational, and queer affirming.¹³⁸ This list, in and of itself, demonstrates an often-overlooked complexity to Black Lives Matter, and what its true underlying ideals are—or at least were at the movement’s inception. The fact that these principles often are not addressed in the media’s coverage of Black Lives Matter is likely the product of individuals appropriating the movement’s rallying cry, without first seeking to understand the movement. But also, a movement that intentionally avoids any centralized leadership will have this kind of fluctuation and evolution of values over time.

The three founders frequently address the complexity of the movement in interviews, news articles, and other media outlets. In an interview with *The New Yorker*, Garza addressed the LGBTQ aspect of the movement, and the negative—sometimes hostile—reactions from those who are aware of this aspect, by stating that “[Black Lives Matter] is ‘a gay movement masquerading as a black one.’”¹³⁹ In this statement, Garza explicitly asserts that one of the fundamental aspects of the movement is to challenge the notion that the two are mutually exclusive.¹⁴⁰ Garza goes on to cite Kimberlé Crenshaw, a race-theory and legal scholar, as a major influence to the movement, and, in particular, Crenshaw’s principle of “‘intersectionality,’” which describes the coexistence of complex racial, gender, and sexual identities.¹⁴¹ Later, Garza states that Black Lives Matter’s purpose is to “‘organiz[e] people who are at the bottom’” and directly compares the movement to “‘what the labor movement has always done[.]’”¹⁴² Garza draws a parallel between the ideals behind Black Lives Matter, and the struggle for labor equality, which was a part of both the civil rights

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ See generally KYLE G. VOLK, MORAL MINORITIES AND THE MAKING OF AMERICAN DEMOCRACY (2014).

¹³⁸ *What We Believe*, BLACK LIVES MATTER, <https://blacklivesmatter.com/about/what-we-believe> [<https://perma.cc/F5DU-E3X2>] (last visited Apr. 22, 2018).

¹³⁹ Cobb, *supra* note 38.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

and women's rights movements.¹⁴³ In a similar interview, Tometi specifically speaks to the importance of the LGBTQ characteristic of the movement, and, more generally, the issue of gender-based violence in addition to racial violence.¹⁴⁴ These facets of the movement are foundational to the founders, yet often are overlooked by news coverage of the movement as a whole.

The founders have also been outspoken about the methodology behind the organization of the movement, as an important aspect of the identity of Black Lives Matter. As previously discussed, the founders have consistently emphasized the importance of foregoing centralized leadership. In an interview with CNN, Cullors spoke to the intentionality of this decision, stating that “[y]ou can’t kill the movement by killing the leader because there are many,” and that “‘decentralization does not mean disorganization. We are highly organized.’”¹⁴⁵ These statements illustrate the importance of this methodology to the movement, in spite of the problems that have occurred because of it.

Another important aspect of the organization model of Black Lives Matter is the universal acceptance policy. The founders have described this as a “grassroots” approach to activism.¹⁴⁶ Travis Gosa, a social science professor in Africana studies at Cornell University who has studied Black Lives Matter, directly contrasted this approach to that employed in the civil rights movement by saying that “‘Unlike the Civil Rights movement’s emphasis on the politics of respectability, Black Lives Matter has a populist, come-as-you are [*sic*] vibe that doesn’t police people’s sexuality, religion, age, race, dress and speech[.]’”¹⁴⁷ The founders of Black Lives Matter have not only embraced the “of-the-people” style of activism employed by the movement, but have actually encouraged it through their leadership style and organizing efforts.¹⁴⁸ This is also seen in the movement’s deep ties to, and use of, social media. And while giving wide latitude to those who choose to become involved in the movement has contributed to the success of Black Lives Matter, it has also been a source of concern for the founders as it has led to misappropriation of what the movement stands for.¹⁴⁹

The founders of Black Lives Matter have attempted to directly counteract both the misappropriation of the movement, and the potential for shifting ideals, by clearly articulating the ideals that they understand the movement to embody in both interviews and on their website, and also calling for responsible appropriation of those ideals. First, the founders, on their website, specifically address appropriation of Black Lives Matter by requesting “If you adapt Black

¹⁴³ See generally NANCY MACLEAN, FREEDOM IS NOT ENOUGH: THE OPENING OF THE AMERICAN WORKPLACE (2008).

¹⁴⁴ Smith, *supra* note 62.

¹⁴⁵ Sidner & Simon, *supra* note 64.

¹⁴⁶ Cobb, *supra* note 38.

¹⁴⁷ Guynn, *supra* note 24.

¹⁴⁸ Garza, *supra* note 134.

¹⁴⁹ *Id.*

Spring 2018]

BLACK LIVES MATTER

1111

Lives Matter, use the opportunity to talk about its inception and political framing.”¹⁵⁰ The site goes on to state that “[w]hen you adopt the work of queer women of color, don’t name or recognize it, and promote it as if it has no history of its own such actions are problematic.”¹⁵¹ These comments and others demonstrate the efforts by Garza, Cullors, and Tometi, to preserve the fundamental principles of the movement as it grows and changes.

In the “herstory” section of the movement’s website, the founders also address the frequent challenge to the movement which says that “all lives matter.” Specifically, the founders state that “[w]hen we deploy ‘All Lives Matter’ as to correct an intervention specifically created to address anti-blackness, we lose the ways in which the state apparatus has built a program of genocide and repression mostly on the backs of Black people[.]”¹⁵² This notion was also described in an interview, in which Garza said, “When we start to say ‘All lives matter’ we start to represent this post-racial narrative that quite frankly isn’t true. Of course all lives matter.”¹⁵³ On the website, near the end of the “herstory” section, the founders write: “Not *just* all lives. Black lives.”¹⁵⁴ This statement in particular calls out notions of color-blindness as a way of marginalizing the struggle for black freedom through purported inclusion that have been a source of resistance to civil rights reform since the 1960s.¹⁵⁵ In spite of these attempts to curtail the shifting of the movement’s fundamental ideals away from the founders’ initial intents, the structuring of Black Lives Matter creates an environment in which the principles that drive the movement are constantly evolving and changing.

CONCLUSION

Black Lives Matter has undoubtedly shaped the way Americans view racial inequality in the last three years. The movement’s approach to organization, and its roots in social media, mark Black Lives Matter as a novel chapter in the centuries-long struggle for Black freedom. However, this approach may create, and in some cases already has created, issues for the direction that the movement takes. Misappropriation, fracturing of ideals, and other issues may interfere with the movement’s effectiveness in the future.

Black Lives Matter has drawn comparisons to the “Occupy Wall Street” viral phenomenon, that ballooned from a hashtag into a brief set of demonstrations, then effectively vanished from public awareness.¹⁵⁶ However, in spite of

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ Smith, *supra* note 101.

¹⁵⁴ Garza, *supra* note 134 (emphasis added).

¹⁵⁵ See generally, MACLEAN, *supra* note 143.

¹⁵⁶ Ray Sanchez, *Occupy Wall Street: 5 Years Later*, CNN (Sept. 16, 2016, 3:50 PM), <http://www.cnn.com/2016/09/16/us/occupy-wall-street-protest-movements/index.html> [<https://perma.cc/T3N2-VZ9L>].

issues related to its organizational model, Black Lives Matter has shown, since its inception, and especially since the fall of 2014, that it is more than a mere social media fad for this generation. Black Lives Matter has made its mark on American history and has evolved from the passionate social media posts that marked its inception to a nationwide civil rights movement. Looking forward, given the impact that the movement made in its early history, and given the novel approach to civil rights reform that the movement takes, Black Lives Matter will likely find its way into future generations' textbooks as a historical chapter in this nation's struggle to achieve racial equality.