

Transnational Civil Disobedience: Understanding illegal political dissent beyond borders

By

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DECLARATION

I, undersigned Elettra Repetto hereby declare that this dissertation contains no materials accepted for any other degrees, in any other institutions. The dissertation contains no materials previously written and/or published by any other person, except where appropriate acknowledgment is made in the form of bibliographical reference.

Vienna, the 28th of February, 2022

Elettra Repetto

A handwritten signature in black ink, reading 'Elettra Repetto'. The script is cursive and fluid, with the first name 'Elettra' and the last name 'Repetto' clearly distinguishable.

To the women in my life,

And to those who risk being imprisoned for protesting the war

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I have closed my thesis in a moment of war when food and shelter and being able to communicate with loved ones are the important things to worry about, surely not philosophy. My last days of revision, the days I had left for being able to concentrate on the minutia, the formatting, the acknowledgments, those days I had figured as being relaxing, have been completely absorbed by the news about Ukraine and waiting for messages that confirmed me my friends were safe. Friends I would not have met if I had not entered CEU and whose names belong here, in the acknowledgments. Revising my work seemed such a trivial activity, but then I realized that even in war people need more than food and shelter and that any work of abstraction remains important even when others are the main necessities for survival. For this thought alone already, some people know I owe them my gratitude.

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ABSTRACT

This thesis reviews the concept of *civil disobedience* as defined by Rawls, expanding it beyond borders, and focuses on its consequences, especially the unintended harmful ones. The main features associated with civil disobedience, its political and civil nature, its nonviolence, and its communicativeness are analyzed and tested transnationally while I also focus on the agents of illegal political dissent and their motivations. Departing from an understanding of civil disobedience where citizens were the agents par excellence, I introduce migrants but also digital actors such as hackers and whistleblowers as the new agents of change, alongside social movements and NGOs. Their disobedience is transnational in its crossing borders in diverse ways I will explore, as it addresses transnational targets and denounces problems that affect the world or different states in the same way, like climate change. To justify such acts, on the one side, I focus on the wrongs civil disobedience normally contests, i.e. violations of rights, the lack of political participation, the unconstitutionality of the law, but I also introduce the possibility that civil disobedience is justified when it legitimately responds to a serious threat in a preventive manner. On the other, I deal with the natural duties that each of us has and that apply globally, and that in some cases can justify civil disobedience or even make it an obligation when we cannot discharge our duties otherwise. The last part of my thesis is dedicated to the consequences of *transnational* civil disobedience (TCD), and explores whether TCD could still be justified the moment it causes damage to people, who are not bystanders, and who are already disadvantaged or are exactly those protesters wanted to help. My answer involves considering human beings as autonomous and forces protesters to take into account the interests of the people they are protesting for or who might be in some way affected by their civil disobedience. This requires protesters to take into account the possible affected parties in planning their protests, both making

sure protesters do not act on others' behalf without them knowing, and, later, discharging the duty to redress those they may affect. This holds true even when their protest is morally motivated and all things considered just and good. Here, the specific agents on whom the duty of reparation falls, as well as the methods to redress people are only hinted at, and open to a new direction of research.

FOREWORD

At the time of writing, Ukraine is under attack. Russia has decided to invade the independent Republic of Ukraine and has started bombing indiscriminately the entire country, hitting airports, public buildings, schools, and hospitals. People are hiding in schools basements transformed into bomb shelters and sleeping in the metro. Before such a horror, Russian people went to the streets and protested. Thousands have been already arrested and many more will be. Anonymous, a collective of hackers, has taken down Russian governmental sites to oppose the decision to wage war. Legal protests and demonstrations of support are being organized everywhere in Europe. My thesis ends these days, not only with an unjust war but also with the images of the people who oppose it, by being ready to be put in prison to defend others, to support others, to not be associated with a war of aggression that, like any war, will only bring poverty and sufferings, wounding people long after the explosion of the last bomb.

INTRODUCTION

Let your life be a counter-friction to stop the machine.

(Thoreau in Bedau 2002, 36)

I entered CEU when it was still in Budapest before the government decided that it was an institution non grata. A few months later, protests to save CEU started and accompanied my own research for months. At the same time, Donald Trump got elected as President of the United States, which prompted other protests, and the Black Lives Matter movement grew after yet another killing of a Black man, George Floyd. While the demonstrations and occupations I witnessed and took part in were legal, they helped me shape the argument I am presenting to you here, and obliged me to question the legitimacy of the agents that could occupy a square and of the means they could legitimately use, not to mention the question of power and privilege I was confronted with, especially while in the US, i.e. should I have participated in the Black Lives Matter movement, am I acting superficially when voicing someone else's claim? It is confronting what was happening in the world with old definitions and justifications of civil disobedience that pushed me to rethink the concept of civil disobedience to render it more adequate to an already changed world.

Thus, while concentrating on the expansion of civil disobedience beyond borders and its consequences, this work will address the following questions: Is it legitimate to use violence to advance a just cause in a decent political system? How can corporations be disobeyed if they do not pass laws themselves? What does it mean to act politically in a transnational arena with no global lawmakers nor global representatives to address? Should you intervene in someone else's

life in solidarity, and should you care if some people end up being worse-off because of your intervention, provided your actions are promoting justice overall?

In particular, this work revises the Rawlsian paradigm and applies it beyond borders, recognizing certain transnational illegal political acts as forms of transnational civil disobedience (TCD), and focuses on the problem of unintended harms transnational civil disobedience might generate, especially when protesting on behalf of unaware third parties. Departing from the evidence that we already live in a world where politics transcends borders and corporations heavily influence the lives of people worldwide, my research provides reasons to revise civil disobedience, as a political and collective expression of dissent and to consider it in transnational terms. In our globalized world, individuals protest for reasons that concern them as persons and not merely as citizens, and have a growing influence on each other also as consumers, regardless of borders. This renders them more capable to harm, but also to help which in turn makes their reciprocal moral duties more stringent, and might oblige them to resort to civil disobedience as a way to discharge them. At the same time, people in the richer part of the world run the risk of playing the role of unrequested saviors, intervening in situations they do not know in-depth, and causing more harm than good to those who are already suffering from those same wrongs protesters combat. Thus, while I propose a broader understanding of civil disobedience and justify acts even beyond borders, my work also intends to cast a light on the harmful consequences transnational civil disobedience may have. Despite the just causes that motivate disobedients, there is the risk that protests become the acts of privileged agents who play the revolution at the expense of others, namely exploited workers whose life prospects could worsen if civil disobedience is successful in its demands. Therefore, to minimize the harm produced by an act of all-things-considered justified civil disobedience and show respect for the agents involved, I claim demonstrators need to face the consequences of the success of their civil disobedience, and not simply of their illegality, even when their disruption brings more good than harm, and be ready to support those they contribute making less economically independent.

The matrix of civil disobedience

In Chapter 1, after establishing we do have a duty to obey the law grounded in our necessity for coordination, the respect we owe to our fellows, and our reciprocal duties, I present a definition of domestic civil disobedience, highlighting the differences between civil disobedience and revolution on the one side, and conscientious objection on the other. I then depart from the definition of civil disobedience given by Rawls to dissect it and revise it. Rawls defined civil disobedience as “a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government” (Rawls 1999, 320). Citizens, in this framework, are the only ones justified in resorting to civil disobedience when the majority in power disregards certain minority’s rights, or in general, before cases of rights violations they themselves suffer, when acting nonviolently, in concord with other minorities and as a last resort after other legal mechanisms have failed. Disobedients are justified only insofar as they are responsible for their acts, which for Rawls means that they have to accept the punishment that follows their illegality, as a way to demonstrate the sincerity of their commitment. In the Rawlsian framework, civil disobedience is a tool against the state that disobedients themselves, in their capacity as citizens, have contributed to empowering or whose decisions they have to bear.

This understanding of civil disobedience is surely not apt to account for the world as it is now, nor to capture the nuances of contemporary civil disobedience in the present globalized arena. If we followed the Rawlsian state and citizen-centered paradigm, many actors that now occupy the streets, migrants among them, would not qualify as civil disobedience actors, and the secrecy and anonymity utilized by some would disqualify acts that I conversely include in the definition and also justify. In my framework, civil disobedience includes acts that while remaining political and morally motivated, are not primarily communicative, nor do they imply an ex-ante disclosure of the plans of the disobedients, nor are necessarily nonviolent, but rather mostly so. Indeed, I claim that a limited amount of violence does not necessarily disqualify an act from being civil, nor does

the avoidance of legal punishment do it either. There are various ways in which people can be responsible for their acts and show the sincerity of their intentions, by enduring to live in exile for instance, such that legal punishment is not a necessary, not even a sufficient requirement in this regard. As for the sense of justice of the majority, I intend it as a moral capacity, rather than referring to a specific understanding of what justice requires. The idea that a civilly disobedient act, to be as such, has to be political, remains nonetheless central. At the same time, what changes is the way I intend the polity of reference, not conflated with the nation-state, but understood it also in transnational terms. Even for those who criticize Rawls (Brownlee 2012; Celikates 2016a), the attention has been mostly on the boundaries of civil disobedience, rather than on its borders, with few exceptions (Cooke 2019; Allen 2017; Ogunye 2015) but even in these cases, their analysis differs from mine in their approach and in the questions they pose. Still, not all political protests fall in the category of civil disobedience, and yet I acknowledge they can be justified in their own terms, such as the case of anti-fa, which I briefly touch upon.

Taking disobedience beyond borders

The conceptual analysis that occupies the first part of my work is propaedeutic to Chapter 2, since it leaves us with a revised and more inclusive understanding of civil disobedience we can test beyond borders. Transnational civil disobedience includes as its expressions those illegal political and morally motivated acts that are brought about by non-members, contest transnational wrongs, such as climate change, or target transnational entities. More precisely, with transnational civil disobedience, I intend illegal, political, and morally motivated acts brought about by citizens, but also migrants, by individuals acting alone, or jointly in non-governmental organizations, but also by digital disobedients, protesting as people, and not always as citizens, attacking practices and policies beyond borders. Following the conclusions I have reached in Chapter 1, I contend these agents exhibit the fundamental characteristics to be civilly disobedient even when they act

anonymously or do not always undergo trial. Understanding civil disobedience in transnational terms matters as it highlights the global scope of the expressed grievances, the relevance they do have for individuals regardless of their membership status, and the fact that disobedients urge the responsibilities to be borne globally. Even more, this inclusiveness is important given the particular moral position of civil disobedience, whereby its agents are recognized as morally motivated and are therefore distinct from common criminals, which also suggests that leniency should be used in the courts. Still, it is not obvious that civil disobedience should be justified, especially beyond borders, and we still need justifications for the disruption protesters cause, which I will develop in Chapter 3.

Legitimizing Disobedience

Drawing from the definition of civil disobedience and the analysis of its transnationalization I have given in the previous chapters, in Chapter 3 I approach the justifications of civil disobedience domestically and beyond borders. This chapter is divided into two different sections, the first one dedicated to the wrongs that might justify civil disobedience, the other to the duties that might not simply justify it, but also require it. When the wrongs I detail in the first section are committed, the duties I present in the second part activate. For instance, the first section details the infringements that correspond to the harms that might activate the duty not to harm, the duty of solidarity or Samaritanism, and the natural duty of justice that occupy the second section.

Justifying civil and transnational civil disobedience (TCD) requires us to confront both the liberal tradition that sees civil disobedience as a remedial right to fight for political and civil rights, and the democratic one that justifies civil disobedience as an occasion to participate more democratically (Markovits 2005), or sees it as a right when the classical, legal, participatory avenues we have a right to, are not available (Lefkowitz 2007). Thus, provided and assuming civil disobedience is chosen as the last resort, always trying to minimize the harm caused to others, I

specifically focus on the wrongs that constitute a morally valid reason, or a just cause, to resort to civil disobedience. So, I claim that basic rights violations, the unconstitutionality of the law, and the lack of participatory avenues both domestically and transnationally are among the wrongs that legitimately justify the resort to civil disobedience. I also claim that we might have a right to participate even across borders, which can then also ground a right to transnational civil disobedience. The wrongs that might justify civil disobedience activate also our natural moral duties, such as the duty not to harm, the duty of solidarity, and the natural duty of justice. These, might not simply justify, but demand TCD (Delmas 2018a; Ogunye 2015). At the same time, these very same infringements might also justify civil disobedience as a preventive mechanism of defense. Still, although I have established certain wrongs justly motivate civil disobedience, this is not sufficient to justify it, especially when it occurs transnationally. It is on the limits of the justifications we can adopt for TCD that I work on in Chapter 4.

Out of proportion or the risk of being a white savior

In this last chapter, I want to question whether regardless of the just causes we have discussed in Chapter 3, there are cases in which protests are unjustifiable, or could give rise to additional duties given the harm they cause. I will show that a very successful civil disobedience campaign, while being all things considered justifiable, can have harmful results for some of the people involved. While some have written about the consequences that disobeying has for the activists, in terms of their growth as political agents (Scheuerman 2021), there has been a lack of thinking about the practical results of civil disobedience for those disobedients disobey for, beyond borders. Aside from bystanders, the attention has never been on those harmed by civil disobedience, partly because the harm caused is, by assumption, very limited, and so proportionate to the good produced, partly because in a domestic framework there are already redressing mechanisms that support those made worse-off. However, these are absent in the transnational framework, which

is why in the fourth and last chapter, I argue for a duty to redress those people disobedients make worse-off, regardless of the overall good protesters may bring about. So, by drawing a parallel with just war theory I will contend that TCD can be justified if it has a just cause, if it is proportionate and is likely successful, but also if it properly considers the plans of life of those involved. More in detail, I will highlight the importance of treating people with dignity as autonomous agents and of not speaking on their behalf, especially when their life could be worsened by the results of our actions. As for the proportionality requirement, I consider it is fulfilled only when those affected are granted the means to live a life as good as the one they had before civil disobedience occurred, and not simply when all things considered, the harm averted is superior to the one caused.

Indeed, while this work aims at justifying more acts of civil disobedience than past theories did, it also wants individuals to be cautious when disobeying especially transnationally and on someone else's behalf. While we cannot simply accept an unfair status quo fearing harming a few people, not all forms of civil disobedience are equally respectful of all the people involved, nor do they solve the root causes of injustice. To properly respect people implies protecting their plans of life, which might impose duties to redress them the moment they are harmed, even by a just civil disobedience. Transnational disobedients should not be saviors, acting as a *deus ex machina*, without considering the consequences their well-intended and overall just acts may have on these. Instead, while fighting for what they believe to be a fairer world, they have to be ready to bear the burden of their success and help those that might suffer even from important and valuable changes.

Worth noting is that the approach of this entire work is informed by the cosmopolitan literature. I am not interested in dwelling on subtle distinctions (Moellendorf and Widdows 2015; Brock 2009; Ypi 2013; Brock 2015; Pogge 2002a; Brock and Brighouse 2005), which are quite superfluous here, but rather in specifying that humans have obligations and moral duties beyond borders

towards other people and not simply toward fellow citizens and that institutions should look after every person and redistribute rights and goods globally.

1 THE MATRIX OF CIVIL DISOBEDIENCE

“I think that it is a good thing if, on the whole, people obey the rules of the societies to which they belong. There are cases in which they may or should disobey, but these are exceptional. Obedience is healthy. It reminds us of our dependence on others. It marks the fact that we are members of one another-not unconditionally-but on terms”

(Honoré 1981, 44).

By its very etymology disobedience implies obedience. Discussing and defining civil *disobedience*, first of all, requires questioning whether, beyond the lexical implications of the term, there is a moral duty to obey¹ and, if so, what grounds it and what are its limits. Before proceeding, it is important to bear in mind two things: 1 we are here discussing decent states that value and promote fundamental rights, states that, for the way they treat their own citizens, can be called decent; 2. this work does not have the aim to develop a new theory of political obligation, but to find its place within an already established one as its framework of reference to then pass and define the components of civil disobedience. This implies that what follows is not a compendium of all the theories of obligation nor of their justifications and revisions.

¹ For a more detailed account on the matter see (Edmundson 2004; Simmons 2001, 1979; Greenawalt 1989; Raz 1979).

1.1 THE DUTY TO OBEY

So, is there a duty to obey? Philosophical anarchists argue that the state is not and cannot be legitimate, and therefore cannot give rise to any duties of obedience (Gans 1992; Simmons 1979, 1987; Wolff 1998). Still, philosophical anarchists believe, differently from political anarchists, that obedience might be beneficial and that there might be reasons to comply. The reason for compliance resides for them in the fact that the law is the expression of certain interests, or the means to achieve coordination or settle disagreement. Still, they do not believe there is a general moral duty to obey². Even those laws that protect valuable interests, i.e. the laws against sexual harassment, rape, genocide are considered to not have value in se, since we ought to refrain from these acts whether there is a legal prohibition against them or not. It would be morally abhorrent, says Raz, to avoid such acts because they are illegal and not because of their vicious nature (Raz 1985). In any case, as Honoré notes, even those who oppose a *prima facie* duty to obey the law, “do not think that the adoption of their views would have very radical consequences in practice. In most cases, people would do what the law requires, and in that sense they would obey the law, but not [...] out of a sense of obligation towards the legal system” (Honoré 1981, 42). Surely, this is a thought I share, however, the law does not merely prohibit morally abhorrent acts, but it also

² In Honoré’s words, “Provided that everybody does the same thing, it matters little what practice they adopt. If the practice is uniform, however, it is immaterial whether it is brought about by law, custom, or exhortation. Hence the ground for conforming is not the existence of a law, if there is one, but the desirability of a uniform practice” (Honoré 1981, 42). To quote Raz, “The alleged moral obligation to obey arises from these independent obligations to act as the law requires. Since the obligation to obey the law derives from these other moral obligations, its weight or strictness reflects their weight. The stricter they are the stricter is the obligation to obey” (Raz 1985, 140).

establishes a clear and appropriate punishment whenever these are committed, without leaving the culprit at the mercy of the mob, but also judges on non-abhorrent cases.

Contrary to anarchists, I believe we do have a general, although not absolute, obligation to obey the law. I argue that there is a need for having clear rules and regulations to organize our life within the community and achieve common goals, rules that demand obedience. Disagreement, the need for coordination, and for being assured of others' compliance render it necessary to have laws, and even more so, having institutions in place that implement these laws and so provide justice (Waldron 1999). As Waldron states, "justice is partly a matter of cooperation" (Waldron 1993, 23) and it is precisely as a tool enabling cooperation that the law can promote justice and should be obeyed. Justice is here to be intended as a pre-institutional principle, as the duty to do good, to respect the dignity, equality, and freedom of every individual. This in turn necessitates a system of rights and duties regulated by institutions, one that has to exhibit equal concern for people, treating them equally in the process (Christiano 2008). The need for institutions to uphold justice depends on the empirical analysis of the world, on how the division of labor works, on how individuals are and have learned to be organized and discharge their reciprocal duties. Institutions are the frameworks within which interactions occur and are regulated via a set of norms backed by enforcement mechanisms and bodies, but they are also the means through which individuals comply with their duties. Clear compulsory rules, and institutions that mediate and address the needs of people, distributing and redistributing goods and services, but also impose due, foreseeable, and known penalties upon transgressors are needed for justice and fairness. Through institutions, a person is assured that others will fairly cooperate and this gives a reason to people to act justly or to define what counts as just (Waldron 1993). Highlighting the role of institutions is fundamental since, as we have seen, those who contend there is no *general* duty to obey the law do not simply construct their argument on the supererogation of the law, but they also, when not mainly, question the source of authority, i.e. the ruling institutions. These, although often deficient

are, in general, legitimate, democratic states in particular. This is so, since I do not believe we should focus on how the power was acquired in the first place, which might dismantle the legitimacy of a great number of, if not all, states (cf. Ypi 2012), but rather in how it is exercised today. In other words, if the authority respects, promotes, and fulfills human rights I consider it to be legitimate. In particular, I consider democratic societies to be the most legitimate given the highest respect they have for political rights for all. I borrow the words of Christiano in saying that “because all citizens have rights to an equal say and because the democratic assembly is the institutional method by which these equal rights are exercised, the democratic assembly has a right to rule” (Christiano 2008, 248).

Some laws are simply useful in guiding people’s actions in their living together within a community. This touches upon a point the anarchists miss, namely the fact that the law organizes many domains of life, domains where choosing a given law rather than another is quite arbitrary, e.g. choosing which way to drive, and does not always formalize what is already independently morally valuable. Laws function as the arbiter and tell all the people what to do. It is quite uncontroversial to think about laws that prohibit genocide as good laws to respect well beyond their legal force. Simmons himself was of the idea that there were certain natural and positional duties that did not require any voluntary acceptance to be binding (Simmons 1979). At the same time, to decide e.g. whether to respect the environment and what such respect entails or should entail is a different story and our understanding of right and wrong might differ to the extent that, if we were to follow our own individual judgment, we would not be able to reach any conclusion.

The law then helps in these cases of pervasive disagreement, cases that do not qualify as moral cases, and are not necessarily easy to agree on. It might be said that the result, that the law that is finally imposed, is not necessarily better than others, or that it could be just one option among others to achieve the same result. However, as Parry notices, “Obeying an authority across a range

of cases can still be the optimal overall means of conforming to reason, even if a subset of its commands fails to track tight reason”(Parry 2017, 185).

Beyond being the optimal choice overall, we have another reason to generally follow these fallible laws, which lies in the already mentioned fact that they come out of a legitimate state, as an expression of a democratic will. Laws are the rational expression of the democratic body. It is not simply a matter of respect for the others, considered as lawmakers, but rather a matter of not putting yourself above the others that obliges a person to respect the law. It is then in this sense that we have a duty to obey the law *because* it is the law. Precisely because it is the result of an egalitarian process, so to avoid disrespecting the equal value of our fellows who participated in the decision-making. Of course, the decision-making process is not as perfect as I am describing it, and individuals, when they vote, vote for a program that is presented to them, a program in which they cannot rank their preferences, nor eliminate points they dislike. Elections bring a program to the forum, not a precise idea, nor even a precise set of means to achieve that end. However, as imperfect as this system can be, it is the only one where individuals are treated equally in the process, as autonomous individuals with different plans of life, and because of that, their decisions hold legal force. At the same time, the duty to obey depends on the duties we have to other people, the state and its laws being the intermediary through which we discharge them.

So, in my understanding, the law is meaningful, even when certain rules seem trivial, because it is the expression of a democratic body that aims at coordinating and settling disputes among its members and helping them discharge their mutual duties. The importance of such an obligation to obey rests on the fact that while we are obeying the state, we are so doing given the duties we owe to each other (Wellman, Christopher and Simmons 2005). Moreover, by setting a set of rules *everybody* is expected to follow, the law renders the consequences of given acts foreseeable and certain penalties less arbitrary than in a lawless state of affairs. Also, the law creates the right

relationship of accountability and answerability between the individuals and the state. At the same time

“By addressing the self-interest of those who fail to be properly moved by moral considerations, the law reassures the morally conscientious. It assures him that he will not be taken advantage of, will not be exploited by the unscrupulous” (Raz 1985, 143).

All of the above explains why we have a general duty to follow certain rules, even when we disagree with them. We have mentioned how laws should be respected to keep a level of coordination that allows the society to achieve certain goals, or when they formalize other rights and duties. Our duties though are not owed to the law in itself, but to the law as a means to respect our fellow humans. Given there are reasons to obey, and a general obligation to comply grounded on a multiplicity of principles and duties we owe to others, it remains then necessary to justify civil disobedience whenever it occurs. Nonetheless, besides obeying the law, we have moral duties that might exceed or supersede our legal obligations, such as the duty of aid that could be interpreted in broader or in narrower terms, for example. These duties, even when transnational, might even contrast with our duty to respect the law. This should not be surprising though, given that the general obligation I have just subscribed to, is not an absolute obligation. Moreover, it is important to mention that, often, the very same principles supporting obedience might call for civil disobedience instead. As Lai writes “Disobeying the law may be the best way of realizing the substantive or procedural values that underpin the duty to obey the law”(Lai 2019).

1.2 THE COMPONENTS OF CIVIL DISOBEDIENCE

After having established there is a general duty to obey, it is time to turn to civil disobedience and dissect its defining components. To orientate ourselves a bit, broadly speaking, when we talk about

civil disobedience, we talk about a constrained morally motivated, although illegal, political act of dissent, whose more precise definition occupies the entirety of this chapter. In general though, worth noting is that the political and civil nature of civil disobedience excludes that certain forms of dissent could be possible expressions of civil disobedience, or of freedom of speech³, most notably racist and fascist gatherings and protests. Indeed, the political and civil nature of disobedience assumes that people deserve equal respect in their being humans and participants in the political community, and it is precisely this idea that “racists and fascists challenge” (Scheuerman, 2018, 159). Moraro adds that if we take autonomy as a grounding value in today’s democracies

“one who promotes a racist agenda denies the very notion of equality that grounds the concept of individual autonomy; hence, the idea of civil disobedience in defense of racism is self-contradictory. A citizen cannot consistently claim to be committed to the value of autonomy, as the principle underlying the legal system, when supporting racist policies” (Moraro 2019a, 117).

So, any form of illegal opposition that diminishes others’ rights and aims at undermining others’ self-respect and their chances to participate as equals within societies does not qualify as civil disobedience⁴ (Scheuerman 2019a). Even a more radical understanding of civil disobedience, such as Celikates’ “presupposes a civil bond with the adversary [...] and is incompatible with the attempt to destroy or permanently exclude an enemy from the political community” (Çıdam et al. 2020). Having established this ground rule, let us now go back to defining civil disobedience. At this point, two observations are in order.

³ This thought is echoed in law, since, although freedom of speech protects expressions that can also “offend, shock or disturb the State or any sector of the population” (ECtHR *Handyside v. the United Kingdom* judgment of 7 December 1976, § 49), given that “[T]olerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society...it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance.” (ECtHR *Erbakan v. Turkey* judgment of 6 July 2006, § 56).

⁴ This possibly includes also sexist discourses whose aim is to dominate women and treat them as less competent decision-makers than men.

First, it is essential to understand the space of appearance of civil disobedience. As we will see, the kind of society within which civil disobedience generally occurs and it has sense that it occurs, pace Raz (Raz 1979), is a decent society where people are granted civil and political rights and where, on a normal basis, they have the right to participate and to communicate, but that remains morally deficient. To be more precise, using Sabl's words, civil disobedience occurs in a piecewise just society "one in which justice is prevalent - indeed, in the limit case it may even be practiced perfectly or nearly perfectly - in relations within a powerful 'in' group but is practiced to a very small degree, if at all, in dealings with an excluded or oppressed group"(Sabl 2001, 311–12). Such a society is capable of staining itself with severe violations of rights and this is precisely one of the reasons why civil disobedience might occur, however, it passes a certain threshold of decency and avoids widespread violations of rights. In a piecewise just society, we expect the state to respect its population's freedom of expression and participatory rights, since disregarding them would call for a more radical reform than the one civilly disobedients usually try to bring about⁵.

Second, I claim civil disobedience to be more radical than its Rawlsian understanding while being different from a revolution. A revolution does not simply aim at changing the power relations between subjects, nor to simply substitute those in charge. A revolution establishes new rules for the future whilst it disrupts the system⁶. This means that the beginning revolutionaries give rise to is justified since it carries within itself its justificatory principle (Arendt 1963, 212). In other words, a revolution creates the same new rules through which it can be understood, it finds outside of the common, traditional political structure the values it fights for and that justifies it. For instance, it is impossible to find within a monarchic government a justification and the tools to comprehend the republic, and it is precisely the revolution that creates that hiatus in which new concepts and

⁵ However, this does not necessarily means that non-violent protests would be a failure, for a more in-depth analysis on this: (Chenoweth and Stephan 2011).

⁶ Although many revolutions have been extremely violent, not all were. The democratic revolution that changed Eastern Europe in the '90s after the collapse of the USSR is an example of this, I thank Zoltan Miklosi for highlighting this very important point.

new words for a new world justify the new beginning. Civil disobedience, on the contrary, even though it questions and changes the dynamics that govern a community, finds its own justification within the structure it opposes. Civil disobedience, as disruptive and as culturally revolutionary as it can be, maintains a certain continuity with the established set of norms, which often wants to be applied more broadly to protect disenfranchised minorities, i.e. women, LGBTQI members, Black people, and indigenous people. An important indication of this is that often civil disobedience contests not the substance of the norms, but rather the lack of implementation of the same.

Now that we have established the framework we are working in, let us focus on the constitutive elements of civil disobedience by departing from the *Theory of Justice*, which has served for long as the framework to think about civil disobedience and its justifications. There, Rawls prominently defines civil disobedience as “a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government” (Rawls 1999, 320). According to Rawls civil disobedience is justified only in given circumstances and for given reasons, such as when “serious infringements of the first principle of justice” occur, when civil disobedience is the last resort when it is a concerted act of minorities facing similar issues, and when it has a likely chance of success. While we witness a world where eco-crimes are common and tortures against animals are quite widespread, for Rawls what counts as a justificatory reason to disobey has to do with violations against humans only. This implies that such a set of justifications, as Milligan aptly points out “is anthropocentric as well as secularized” (Milligan 2013, 14).

Several critiques have been moved against the Rawlsian understanding of civil disobedience and its justifications, most notably by Brownlee and Celikates (Celikates 2016b; Brownlee 2012), but earlier also by Carter and Singer (Carter 1998; Singer 1973), and it is precisely also considering these broader definitions that I will develop my tentative one. The beginning of this research corresponds then to a reconsideration of the main features that are expected from domestic civil

disobedience, from conscientiousness, to political and civil, to communicative and public, to nonviolence and respect for the sense of justice of the majority, to the acceptance of punishment. This conceptual analysis serves the purpose to differentiate my interpretation of civil disobedience from others, challenging their limits, and clarifying what I consider to be the main features of civil disobedience and its possible justifications, to then apply them transnationally. It is indeed not possible to simply apply the old paradigm beyond borders, since, even domestically, it is not an adequate representation of current protests and their motivations.

1.2.1 Conscientiousness

The civil disobedient, though is usually dissenting from a majority, acts in the name and for the sake of a group; he defies the law and the established authorities on the ground of basic dissent, and not because he, as an individual wishes to make an exception for himself and get away with it (Arendt 1972, 76).

Beyond the obvious illegality, the defining feature of civil disobedience is, still today, its conscientiousness. This means that civilly disobedient actors ought to disobey out of their deep moral commitments, being ready to communicate with their fellows the reasons for their system disruption (Brownlee 2012). As Brownlee aims to make clear, conscientiousness is not the same as conscience, a moral property requiring “both sensitivity to the complex pluralistic nature of morality and an awareness of the actual moral quality of our own and other’s conduct” (Brownlee 2012, 2). Conscience is more of a self-reflective competence over the “nature of our hearts and minds” (Brownlee 2012, 2), similar somehow to the capacity of self-reflection, to the understanding of one’s motives for action and autonomy (Raz 1979, 1986; M. Cooke 2016).

Differently from conscientiousness, conscience is a moral property one has to cultivate, while conscientiousness, which she calls conscientious conviction, is a descriptive one, which “emphasizes non-evasion and dialogic effort as well as consistency and universal moral judgement” (Brownlee 2012, 1). This distinction is important since it is then conscientious conviction more than conscience in Brownlee’s sense that we will refer to here. Also, it is as conscientiousness that I understand what Walzer calls conscience, a sort of “moral knowledge that we share with other men” (Walzer 1970, 131). Surely both conscientiousness and conscience are necessary for our life as moral agents, conscience possibly being the precondition for conscientiousness. However, what I take to be particularly relevant here is that disobedients have an idea of what is right which is what makes them oppose the law and endure the deriving consequences of their illegality.

Referring to an agent as being morally motivated and conscientious highlights that the reasons for civil disobedience cannot simply be based on preferences or tastes, but instead, they have to be rather serious and appealing to one’s sense of justice. At the same time, these “shared principles and mutual engagements” (Walzer 1970, 131) even when shared with a smaller group than the nation itself, do not simply signal the relevance and importance of a topic, but the very same communicability of it. Although this might be taken to suggest that disobedients necessarily have to share the sense of justice of the majority, as Rawls, in particular, claimed, this rather indicates that people have to understand the reasons that bring a person to disobey, although they might disagree on them. The fundamental issue is, quoting again Brownlee that “a person who has a conscientious moral conviction has a sincere and serious, though possibly mistaken, moral commitment that she is willing both to articulate to others and to bear the costs for holding” (Brownlee 2012, 1). Also, to be a conscientious actor, in the given framework, “requires that a person’s convictions and her conduct be consistent” (Smith & Brownlee, 2017, 2), which might lead us “to act in ways which conflict with the majority, with the State and with our own interests and preferences as private citizens who would like nothing better than to be left alone” (Milligan

2013, 69). Conscientiousness also implies that a person is willing to express her deep moral commitment and be ready to bear the consequences of her act, but not necessarily in the sense of not questioning future punishment (cf. Brownlee 2012; Moraro 2018). In this sense civil disobedience is a conscientious act, not in the sense of being the *only* way a person might resort to in following her conscience, but rather in being an act that, *when* chosen by an agent will be performed as a morally motivated act for which one is ready to engage in communication with the power-holders and their audience, taking responsibility for her breach of the law.

This clarification matters since it helps distinguish civil disobedience from self-interested acts of personal gains on the one side and another form of morally motivated action, namely conscientious objection, on the other, although this distinction is not always easy to make.

1.2.2 Civil Disobedience & Conscientious Objection

Traditionally, while civil disobedience is associated with protests and mass demonstrations, conscientious objection is coupled with doctors refusing to perform abortion procedures or with citizens asking to be exempted from military service. If civil disobedience is characterized as a political, communicative act of people wanting to change society by questioning its laws and practices, conscientious objection is on the contrary defined as a personal act, although not necessarily hidden or evasive. However, this does not imply that conscientious objectors are self-interested as if they simply wanted to avoid duties in a whimsical way. They rather fight for having an exemption out of their moral or deep religious commitment, as it is in the case of those exempted from military service, such as Jehovah's witnesses. Borrowing from Dworkin's distinction (R. Dworkin 1985), we could say that conscientious objection is a form of integrity-

based civil disobedience, i.e. a way to avoid doing what one cannot, with integrity, in good conscience, do.

Contrarily to civil disobedience, conscientious objection is not a public appeal to the community whose rules objectors do not oppose or believe are unchangeable. Indeed, objectors do not necessarily aim at achieving a deeper social change through their nonconformity, or, although they might want to change the rules “they may entertain no expectation of changing laws or policies” (Rawls, 1999, 324). Instead of engaging in practices they believe fruitless, whilst keeping the desire to avoid being associated with what they perceive as wrong, objectors choose personal acts that seem more effective, or the only possible option available to them given their circumstances. Often civil disobedience could be too dangerous a path to be undertaken, as for those contesting the government in Israel, and so conscientious objection might carry with it a political and communicative dimension that would normally lack in common examples of conscientious objection. This is exactly the point made by Vaclav Havel (Havel 1999) when he says that once there are no other options available but passive resistance, then passive resistance, or I would say conscientious objection is the way forward.

At the same time, the choice of conscientious objection might signal disinterest in effectively changing a policy based on the recognition and respect for moral pluralism (Ceva 2015), e.g. considering a policy, not in line with one’s moral or religious belief, but acceptable for others. For example, medical doctors might disagree with abortion practices on religious or other morally motivated grounds, be unwilling to perform them, and yet not oppose others from performing these same practices in their hospital.

Worth noting is that, although civil disobedience carries traits that are not shared traditionally by conscientious objection, the latter can be more political than it is usually perceived, and it is not always easily distinguishable from civil disobedience. Besides their differences, the two have a lot in common, in fact, “there is, of course, in actual situations no sharp distinction between civil

disobedience and conscientious refusal. Moreover the same action (or sequence of actions) may have strong elements of both”(Rawls 1999, 326). A fitting example of the difficulty to distinguish between conscientious objection and civil disobedience is given to us by Henry David Thoreau.

Thoreau was a US citizen in the XIX century who,

“refused to pay his poll tax on the basis that he was unwilling to help finance the US war with Mexico and thereby to give support to an extension of slavery to the south of the country. As a result of this non-payment, Thoreau was arrested and spent a night in jail” (Milligan 2013, 61).

Had it not been for the fact that Thoreau decided to give a lecture about his experience in a Concord prison, discussing the reasons that brought him to avoid paying taxes, later referred to as Civil Disobedience (Bedau 2002), his act would have easily remained in the realm of conscientious objection. However, Thoreau did not simply want to avoid paying taxes, as a citizen, he did not want to be involved in supporting his country perpetuating actions he could not do anything but condemn. As a religious person who wants to avoid going to war, he wanted to be coherent with his own conscience and beliefs, which obliged him to abhor slavery and the killing of Mexican people. As Milligan reminds us, Thoreau, while fiercely opposing the state, had a religious, almost pagan understanding of the world, and in his battling the state he thought right to follow his conscience. At the same time, he did not simply want to make an excuse for himself, he wanted to make it harder for the state to pursue its political goals, to signal that its actions were wrong, and to promote others to follow him in refusing cooperation (Lyons 2013, 140). According to Thoreau the right rests with the individual, while the state is a means to organize our collective life. As such, the state cannot or rather should not expect us to be respectful of its laws if by doing so, we become a tool of injustice towards others. It is then to avoid people becoming a tool of injustice, that he wrote about his motivations to withdraw his support to the state, and his act, the moment he made it public, became much more political than personal, it became civil disobedience.

In the end, the distinction between civil disobedience and conscientious objection is hard to make, but if we stick to the broad definitions civil disobedience aims at changing society, while

conscientious objection is a personal act through which, for different reasons, people try to be exempted from acting in ways that go against their moral or religious beliefs. So, while often the two are interrelated and acts of conscientious objection can transform into more political events, in this work I am not interested in discussing personal objections cases, and I am instead going to focus on political acts of civil disobedience.

1.2.3 Political and Civil

“Calls for civility ignore and obscure the different levels of power – the fact that it is easy for those in power, and harder for entrenched minorities, to speak and be listened to and therefore to be civil”.

(Delmas 2018a, 34)

As we have just seen, the political nature of civil disobedience is one of its defining characteristics, together with its *civil* nature. In other words, civil disobedience is civil in the sense that it is political. These two terms are essential to define civil disobedience in its domestic and transnational dimensions and they require to be considered as a pair, starting to understand the political aspect of civil disobedience in the domestic context.

The political nature of civil disobedience is manifested in its attention to the policies of the polity and its members, and in its being concerned with public interests and not merely private ones. Individuals do not fall under the category of civilly disobedient if they disobey for their own personal gains, or against individuals in their private capacity, but rather if they intend to change certain practices within their communities or countries, addressing the political representatives in their demands. The etymology of the words used clearly manifests that civil disobedience is then civil insofar as it is political. Civil disobedience is *civil* precisely because it is political, and it is *civil*

in the sense of “pertaining to the *civitas* and *the civis* – the city and the citizen, or using the Greek terms, the πόλις (polis) and the πολίτης (polites)” (Repetto 2016, 22). Being political in the context of civil disobedience means to bring to the fore issues that are relevant for the community although they might have been set aside, even for morally unjustifiable reasons, and to do so implies allowing the others to be part of a common project. Hence, although I am well aware that in its more common usage, civil stands for mannered, respectful, courteous, polite, I deem it is important to use the term as related to politics, or rather with the community of members as a collective (cf. Adams 2018, 477). The last point to add to this is that for some, stressing the political dimension of civil disobedience helps us highlight the systemic dimensions of the issues fought by protesters (Lyons 2013).

Still, while I question the narrower uses of “civil”, I do not go as far as using civil in opposition to “military”, as Celikates does, nor do I claim that anything goes as long as the protest has to do with the collective or is “political”. Rather, I also understand the “civil” of civil disobedience as leaving open the possibility to collaborate with the opponents, with the rest of the polis, to rebuild society after the uprising, as critical as this might have been. In my view, politics dies when the other is annihilated: even in opposing the other, we need the other to be there, recognized as a participant in the action (Adams 2018). Being open to collaborating with the opponents, to communicating with them does not mean not being profoundly critical or radical in one’s demands though, as King taught us. Back in the ‘60s, civil disobedience was often more radical than it was (and still is) perceived to be, having as its aim to achieve a series of profound law changes, most notably desegregating the US and allowing Black people to vote, without necessarily aiming at rebuilding everything ex nihilo. As Scheuerman reminds us

“King—regularly appealed to the law (and, specifically, the US Constitution) because they thought it provided a potential stepping stone for politically radical change, indeed, to getting rid of “the system,” which for King included not only racism but also militarized capitalism” (Scheuerman 2019b, 56, cf. King 2016).

Such an understanding of civility qua political opens the possibility to conceive civil disobedience in broader terms than those proposed by those who equate its civil nature with its non-violence (R. Dworkin 1985; Rawls 1999), but also by those who separate clearly between civil *and* political disobedience (Harcourt 2012a). For Harcourt, while civil disobedience accepts the legitimacy of the political structure, political disobedience “resists the very same way we are governed [...]”. It turns its back on the political institutions and actors who govern us all” (Harcourt 2012, 34). In a sense, political disobedience, in Harcourt’s interpretation, is more disruptive and revolutionary than civil disobedience. Surely, I agree on the need to distinguish between different degrees of disruption, but I believe Harcourt is wrong in creating a distinction in these terms. I do not concur with it since it removes a radical intent from civil disobedience that, on the contrary, characterized it also in that past taken as a paradigm of peaceful demands. In particular, the conceptualization of civil disobedience that Harcourt provides is grounded on a reading of Martin Luther King that is misled and misleading. The passage from *Letter from a Birmingham Jail* that Harcourt quotes, “One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty” (Bedau 2002, 74), is used to highlight the respect for the law that Reverend King allegedly fostered. However, I share a different interpretation of the passage, one that I borrow from Livingston and that preserves the radical nature of King’s demands. Livingston affirms that

“Fidelity to love ... constitutes the moral core of King’s political vision and spiritual strategy... And its moral core is not a higher law that commands but a revisionary retelling of the life of Jesus Christ that exhorts. Where civil disobedience oriented around the fidelity to law is a defensive strategy of stabilizing the status quo, civil disobedience in pursuit of the fidelity to love is a transformative practice of reconstructing social order from the inside out” (Livingston 2020b, 861).

This quote reminds us that King was fighting against an unjust distribution of power within a severely racist community first and foremost as a spiritual man. If we consider the way he distinguishes between a just and an unjust law, the former being one “that uplifts human personality”, the latter one “that degrades human personality”(King 2002, 73), it is obvious he saw

the US laws of the time as unjust, so not deserving love or respect. In fact, while many understood this *lovingly* way to defy the status quo, as a way to respect the law, I understand it, following Livingston and Scheuerman (Scheuerman 2015a), as a way to self-respect oneself and the higher moral law one is serving. In King's view, just laws are those in harmony with religious commands, unjust laws lack this harmony and, if respected, have to be respected more for strategic reasons than out of reverence. This reference to King also suggests that the vision of civil disobedience as being complacent to the established order is based on a very partial understanding of those movements taken as paradigmatic examples of civil disobedience. Surely, King and others wanted to change the system from within, and not pulverize it. King recognized the value of the American Constitution while questioning its scope and its interpretations. It is also known that King himself thought it was important to have the white American on board, even if for instrumental reasons.

However, the change he wanted to promote was deeper than what Harcourt claims. Desegregating a country and granting a great part of the population access to housing and the right to vote were quite radical demands. Less radical were, conversely, the means used to advance these claims. At the same time, Gandhi himself wanted his country to obtain independence from the British Empire and if it is true he advocated for non-violent means, yet what he aimed at cannot be understood if not as a radical change. By subverting the authority the British Crown had over India, his final goal demanded a change in the way political and economic power was distributed. Similarly to Harcourt, Rawls holds a separation between disobedients and militant actors, the former thought to be civil, respectful of the rule of law, and non-violent, the latter aiming "to fundamentally reorder the terms of social cooperation" (Livingston 2020a, 708). In Rawls' words, the militant "seeks by well-framed militant acts of disruption and resistance, and the like, to attack the prevalent view of justice or to force a movement in the desired direction... trying to arouse the public to an awareness of the fundamental reforms that need to be made" (Rawls 1999, 323). Nevertheless, if we follow Singer in viewing civil disobedience, as I do, also as a plea for

reconsideration (Singer 1973), then the Rawlsian militant is a disobedient already. King himself is then a militant/disobedient, since he believed “Negroes have illuminated imperfections in the democratic structure..., and have forced a concerned re-examination of the true meaning of democracy”(King 2010, 1).

Highlighting the radical dimension of King’s and Gandhi’s protests does not mean denying that civil disobedience differs from mainly violent protests and revolutions. It is worth noting that preserving a radical dimension of civil disobedience does not imply saying that every form of protest falls under the definition of civil disobedience. So, my understanding of civil disobedience, as inclusive as it might be, still imposes certain limits to be respected for an act to qualify as civil, political disobedience which are nicely summarized by Milligan:

“A plausible list of such norms will include the following: (i) respect for others or, if we have no fondness for the language of respect, the recognition that other humans are fellow humans, i.e. members of the same moral community; (ii) the rejection of hate-speech; (iii) the avoidance of acts which are driven by hatred; (iv) the largely successful commitment to try to avoid violence and threats of violence, although an exception may be drawn here for systemic violence in which many of us may be complicit; (v) the avoidance of cruelty; and finally (vi) the recognition of a duty of care or an avoidance of the reckless endangerment of others, although recklessness and its avoidance may turn out to be a matter of degree” (Milligan 2013, 36).

The mistake of Harcourt and Rawls is not to have identified more militant forms of dissent, but to have conflated radical means and radical ends, depriving less violent forms of protest, such as civil disobedience, of the radical intent they had. While civil disobedience remains mostly non-violent, it might be radical⁷ in its demands. While civil disobedience might aim at changing laws that do have a profound and lasting impact on society, the means it uses are limited to mainly non-violent protests, occupations, sit-ins, and trespassing. Indeed, civil disobedience “presupposes a civil bond with the adversary [...] and is incompatible with the attempt to destroy or permanently

⁷ For an interesting conceptualization of radical disobedience see (Carter 1998).

exclude an enemy from the political community” (Çıdam et al. 2020), which generally brings to avoid violence.

Differently, a desire to raze to the ground the previous political structure is typical of revolutions e.g. the Arab Spring, which usually, although not necessarily, includes armed rebellions and severe use of force and violence in the streets. More importantly, even, revolutions do not find in the established system the rules that might justify them (Arendt 1963), civil disobedience does. At the same time, while adopting less radical means, civil disobedience is way more challenging to the status quo than some theorists could see. Furthermore, since the same civil disobedience comes in degrees, it is important to distinguish between the demands and scope of a protest and those of another, without necessarily considering them as manifestations of different political phenomena. This is of course the case if they remain within certain limits.

Thus, if I am skeptical of the civil/political dichotomy, I am similarly unconvinced about the recent distinctions between civil and uncivil disobedience. Surely, I do believe there are actions that do not qualify as civil disobedience, nor as revolutionary, to take the other end of the spectrum, but are rather something in between and that might be justifiable in their own terms. Nonetheless, given my broad conception of civility, I do not agree with the demarcation line between civil and uncivil that has been drawn so far, in particular by Delmas, nor with the term uncivil per se. Whilst I do understand she, like others, focuses on uncivil actions to dignify and justify them, I believe we need something else to achieve this same goal, namely to rethink the paradigm of what is civil. Delmas defines uncivil disobedience as an ensemble of “acts of principled disobedience that are covert, evasive, anonymous, violent, or deliberately offensive” (Delmas 2018a, 17). From this definition, we can derive her understanding of civil disobedience as something that is conversely public, non-evasive, non-anonymous, non-violent and respectful⁸. Following Delmas, Ten-Herng

⁸ Delmas recognizes this definition has been shaped by an inaccurate analysis of the civil rights movement in the past (Delmas 2018a).

Lai enlists among “paradigm examples of uncivil disobedience... whistleblowing, hacktivism, ecotage, and the use or threat of violence in protests [which] includes politically motivated vandalism, resisting arrest, threats to escalating to more radical measures, and the actual damaging of property or harming of persons” (Lai 2019). Differently from Lai, I do consider most of these examples, putting violence to people aside, to be good examples of a revised understanding of civil disobedience. For instance, let us take Black Lives Matter (BLM) as an example. Delmas mentions that it has been considered uncivil given its association with rioting (Pasternak 2018), and she herself highlights that BLM activists “hint at the rupture between their work and understandings of civil disobedience” (Delmas 2018, 38). However, for the majority of cases, BLM acted peacefully. In fact, data prove that the methods of BLM were not violent in the majority of cases⁹. If we consider the claims of BLM, they could not be more civil in reminding the community to uphold its same rules. Surely the change they advocate for is radical, as I myself claim when I discuss King, but what they are trying to do is to ask for the respect of regulations and rights that are already in place. And, even if the issue is the level of violence for the few cases that were not peaceful, I have already mentioned and I will later show, that I believe violence is not in itself a sufficient reason to disqualify an act of civil disobedience as such. BLM then could not be more civil-qua political than to ask for police training and body cameras and policies that protect rights that are already recognized by international and domestic documents. Certainly, the US as well as many other countries are behind in implementing certain rules, as racist and biased and unaccountable as they are when it comes to police violence against minorities. This is not news though and King himself had to face a biased and ghettoizing culture. Needless to say, a cultural shift is in order, even before a legal one, since *de jure*, people are protected *now*. The needed radical cultural change is less urgent than the changes – legal ones as well – that King was advocating for, and yet he is considered among the fathers of civil (and not uncivil) disobedience. If BLM is uncivil,

⁹ BLM was mostly non-violent, according to the Armed Conflict Location & Event Data Project (ACLED 2020).

then King was as well, because what really seems to be taken as distinguishing the two forms of disobedience, i.e. civil/uncivil, is not just the different ways they are brought about, but rather the reasons that convince people to disobey and the goals they want to attain. Therefore, it seems to me that for Delmas is not just the use of violence, but the opposition to the status quo to work as a defining point. But if this is the case then King opposed it much more strongly than BLM, although the latter might appear more confrontational.

Contrary to Delmas, I argue that civil disobedience is a political, principled, morally motivated act brought about by responsible agents. However, taking the responsibility for one's action does not necessarily entail being public *ab initio*. Disobedients can be masked, and anonymous, without being evasive. Similarly, they can be violent and offensive, without being uncivil. Most importantly, although I consider communication to be a necessary feature of civil disobedience, I differ from Delmas who departs from a conception of civil disobedience as merely or *primarily* communicative, as Rawls does. Moreover, by classifying offensive acts as uncivil, Delmas suggests civility requires decorum (Delmas 2018a, 42) which I oppose. Civility is not, in my analysis, a synonym for nonviolence or courtesy, rather it hints at the political agenda of those who are involved in it, which translates into a more capacious definition of civil disobedience that includes most of the examples recently taken as uncivil disobedience. I do not believe that an act, simply for being violent, is not civil, as we will see later. Also, being vulgar and offensive might be uncivil in the common sense of the term, i.e. opposed to mannered, but it can remain civil in a political sense. To rethink civil disobedience to include acts that in the liberal, Rawlsian tradition, did not find space means to be able to capture the political events unfolding before us. In particular, I am convinced we do not need another, separate, category of disobedience, civil versus political versus uncivil/militant, at least not for the cases Harcourt mentions and Lai and Delmas lists, such as graffiti or whistleblowing (Delmas 2018a).

This is not to deny there are episodes of protest that are not captured by civil disobedience nor by revolution, but that remain morally motivated and politically defined, such as political rioting. Nonetheless, while I recognize the existence of these other manifestations of dissent. I am not entirely convinced there is the need to add uncivil disobedience as a category given the existence of labels such as resistance or direct action, or political rioting. Surely, uncivil disobedience could be the umbrella under which these other forms of dissent that do not qualify as civil disobedience could be subsumed. In this case, it is not entirely clear to me what is the added value of such a category, if not to highlight the moral motivations behind such acts, which seem to me to be quite evident and manifested already.

On the contrary, while I believe there is an added value in defining a protest as an expression of civil disobedience, I think the label of uncivil disobedience diminishes the intentions of the protestors. To quote Tony Milligan, “a claim of civil disobedience is ordinarily, generally, and perhaps always, a claim of special standing, a claim of entitlement to a certain kind of tolerant response such as the restriction and occasionally the waiving of legal penalties” (Milligan, 2013, 30). Conversely, defining certain groups as uncivil is a way to “silence and stigmatize protesters—especially when these are Black” (Milligan 2013, 44). If, as Delmas argues, civil disobedience might be a label some “activists may explicitly reject [...] in order to expose the falseness of the presumption of equal standing within the *standard* [italics mine] conception of civil disobedience”, (Delmas 2018a, 39), I believe ‘uncivil disobedience’ does even worse, using in a somewhat negative sense a term that remains the reference point in the discussion. Even more, it is precisely because BLM was deemed uncivil that we need to reclaim the title of civil and civility not to be used as a label imposed by those in power to the sympathetics to the status-quo. Surely, it is not Delmas who has coined this label and her aim is to reclaim it as being politically meaningful and morally acceptable still, I believe we do not have to reject civility but to re-understand it. Instead of redefining incivility, we should reappropriate ourselves of civility. We have to shift the paradigm

and show that those uncivil in the Delmasian sense of offensive, are not those in the square, but those who denied them their rightful rights. It is important to remember that historically, “the ability to brand a particular discourse as uncivil [or as civil] is itself a political accomplishment that reflects a certain position of privilege” (Harcourt 2012b, 348). Calling certain movements uncivil was precisely intended as a way to discard them and deem their claims not worth listening to. The feminist movement and the civil rights movement in the US suffered precisely from this.

“The idea of civility has always relied on a highly homogeneous conception of the public, a conception in which mostly white, mostly male citizens found themselves in an unsurprising agreement about the fundamental moral and political values of American liberal democracy” (Zerilli 2014, 116).

Being civil was easily equated with being mannered and opposed to being rude, violent, or bossy and when new agents imposed themselves on the fora of discussions, being in disagreement with those who ruled, they were defined as the opposite of civil. “The accusation of incivility...has been a familiar means for denying the political (and thus common) quality of those claims [of minorities, e.g. women and ethnic minorities] and making them sound instead as if they were “merely subjective” outbursts of one sort or another” (Zerilli 2014, 116). The idea behind these accusations seems to have been that either you played by rules defined by others, the same you wanted to oppose, or else you were deemed uncivil and so not worth listening to. Given this and since some could not or did not want to play by those rules, to be included these people needed to forge new ways of participating, taking power disregarding the way civility was coined by the majority. As Celikates points out “the civil in civil disobedience needs to be understood in terms of the political logic of practices of citizenship and the civil bonds they create and transform – rather than the disciplinary logic of hegemonic notions of civility as proper political comportment often operating along (neo-)colonial and statist lines” (Celikates, 2020, Critical Exchange). Redefining civility as being political opens the way to include radical movements, individuals who have no place, in the community that is allowed to have a voice. Also, it allows us to simply understand the same historical root of the term and the power dimension and biases it carries with it.

To respond to Delmas then, if one, as others (Çıdam et al. 2020) and I do, rejects the *standard* conception of civil disobedience this might not create the problems she mentions. Second, discussing uncivil disobedience cannot be done without a comparison with civil disobedience, a comparison from which uncivil disobedience comes out as deficient, rather than radical. This is the case since there are already other terms to be used for different forms of protests, e.g. resistance, direct-action that are not related and derived from other, politically and morally loaded, terms, but that nonetheless convey a political and morally motivated message. If the stress is on the deep change disobedients want to bring into the world, then radical disobedience, as conceived by Alan Carter, could be a better term to use. For him “ we must be disobedient with respect not only to the preservation of the prevailing political relations but also to the continuation of the predominant economic relations, economic forces and political forces” (Carter 1998, 45).

Finally, as we have seen, using ‘uncivil disobedience’ as a term could mean to help disqualify such actions despite all the philosophers’ efforts to justify them. Surely, there are other forms of protest that can be justified and that, for a reason or another, do not fall under the civil disobedience umbrella, such as Antifa actions, but we can justify them using other labels than uncivil disobedience, labels that describe them better and do not have to confront them with a paradigm they do not fit it.

So, I believe civil disobedience can include covert, partially violent, offensive acts and I also consider it to be quite a radical way of contestation. However, for cases that are more directly in opposition to the power, I consider resistance or direct action or political rioting, or even radical disobedience as conceived by Alan Carter as a better term than uncivil disobedience.

How to know which acts fall in the civil disobedience category and which do not? Provided the agents are morally motivated and advance political requests, my demarcation line rests on whether or not disobedients want to have and can likely have a possible future collaboration with their opponents (Sabl 2001). This means that disobedience cannot be too violent to avoid disrupting

that civic bond between members and that protesters have to bear their responsibilities for their illegal acts. Again, this is the reason why, although I consider King quite radical in his desire to profoundly change the US, I consider him to be civilly disobedient. Indeed “King ultimately resisted the conclusion that this power could be generated exclusively in opposition to the white majority. Freedom is an empty ideal without a ‘mutuality of power’” (Livingston 2020a, 709). Again, this does not mean that more oppositional acts would not be possibly justifiable as revolutionary events or else, but they would not be as civilly disobedient acts.

To conclude, instead of creating sub-categories of disobedience, what I suggest is that we conceive civil disobedience in broader terms, not to reduce its strength and meaning, but on the contrary to acknowledge its transformative nature. Defining disobedience as civil insofar as political highlights the criticisms towards what pertains to the polity, which concerns *also* its internal power structure. It is then political although it does not aim at the re-foundation of the entire political system, retaining an element of direct confrontation that occurs beyond the legal available means. The fact of challenging the norm and yet being ready to face the sanctions deriving from illegal behavior does not mean not having the desire to change the current political system, but to respect the rule of law, which movements such as Occupy respected, and goes well beyond a given political structure or a set of laws. To respect the rule of law while being quite aggressive is in line with an understanding of obedience as owed to our fellow citizens and to the state only insofar as it respects our rights and it is the means through which we discharge our reciprocal duties. This justifies then, as we will see later, disobedience as a way to respect the rule of law vis à vis a country or a set of countries that do not, subverting the role of who is sanctionable and who is acting according to civility, “operating within the bounds of basic civil norms” (Milligan 2013, 52), which has very little to do with the formal domestic legality and more with customary law.

Civil disobedience is then political, it confronts those who rule through the actions of people who belong to the community and who act within it, taking part in those processes that constitute

decision-making moments or that set the future debate, triggering questions, doubts, and criticisms with regard to how certain resources – goods and rights – are to be shared. As for the means used, civil disobedience, in such a framework, includes the political element in Harcourt’s definition and leaves the more radical contestation to other forms of protest, red terrorism à la Italian Red Brigades, and proper revolution. To focus on this political and community aspect of civility separates my work from an understanding of civility as mannered, as I have already said, which, in turn, implies allowing violence to play a role, as we will see in the following sections. This does not mean anything goes, but that we cannot rule out an act as not civil disobedience, and so not worthy of the protection civil disobedience normally is granted, without firstly distinguishing different degrees of violence and contextualizing the events. Redefining civility in these terms is also a way to define more movements as civil, questioning the narrowness of previous definitions and their motivations. There is an important power dimension to acknowledge when distinguishing civil from uncivil and defining a group as acting within the limits of civil disobedience means also being more ready to listen to it and possibly justify it. While I do not want to stretch the concept to the point of depriving it of meaning, I am interested in problematizing the way it has been understood, also considering the partial reading of the phenomena it was coined to describe. At the same time, I acknowledge there are other forms of dissent, resistance, closed rescues as opposed to open rescues, and protests that want to shatter the entire system and have no interest in maintaining an open communication channel with those in power.

1.2.4 Communicative

I believe that civil disobedience should not necessarily be *primarily* communicative. Nonetheless, I still consider communication to be an important and necessary element to it. Communication is

necessary for two reasons. Firstly, quite obviously, to obtain a change in the law is necessary to communicate one's level of condemnation with regard to such a law to those in charge. Secondly, to have more chances of success is fundamental to advertise a cause and gather consensus around a campaign. Being communicative serves thus the scope of informing the general public over the issue at stake and gathering attention and consensus over a specific battle, increasing the opportunities of being taken seriously by the incumbents. At the same time, being communicative renders explicit that the illegal actions are morally motivated and signals to bystanders that the actors act out of a sense of justice. However, being communicative does not require that the state or the targets be informed before the action takes place, as Rawls expects, which would risk the event not occurring, rather it means being informative about the reasons for civil disobedience and open to debate. This is important because it establishes a level of secrecy to be naturally part of the act of civil disobedience, on the one side, while expecting agents to be explicit about the motives of their illegality, on the other. Indeed, to have policy-related consequences and affect society in any relevant sense, it is necessary to manifest the reasons for one's contempt and suggest solutions. Importantly, the communicative element adds the society as an interlocutor and expected agent and guarantees that certain issues that have not been properly discussed will be at least considered in the public debate. As Martin Luther King, Jr. himself observed: "[Non-violent] direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored" (King 2002, 71).

Surely, communication can take different forms, it can be done via the internet, by explaining why a certain act has taken place, as Anonymous do, it can take the form of posters attached around the city, or even of writings left in a lab. Nonetheless, there are some ground rules to be considered.

In particular, I agree with Milligan in saying

"While it is arguable that civil disobedience need not be strongly or primarily communicative, there is nonetheless a case for saying that if it is strongly communicative, then the manner in which

communication is carried out and the content of what is said should itself conform to basic levels of respect for others and that it should not begin to involve, or approximate to, hate speech” (Milligan 2013, 45).

To be communicative for a disobedient means more than simply expressing one’s ideas publicly.

It rather implies a readiness to discuss and confront one’s opponents, treating them “as interlocutors with whom reasoned discussion is possible” (W. Smith and Brownlee 2017). If this is not possible, then other forms of opposition might be the ones needed, among them, revolution. This recognition of the opponents as participants to the debate translates into allowing them the space to discuss, to listen, and be listened to.

Being committed to communicating excludes treating the others as morally inferior or undignified participants or submitting them to a degree of violence that leaves them speechless. Confronting one’s opponents with a certain degree of violence though, precisely because violence comes in degrees and not all violent acts amount to a breach of one’s fundamental rights, does not correspond to the deprivation of one’s freedom of expression, as Brownlee also highlights (W. Smith and Brownlee 2017; Brownlee 2012). Nor being covert in action means such action is communication-less. Including violence to a certain degree opens the way to a more critical reading of civil disobedience as not limited to the articulation of criticism to the power-holders, but as inclusive of acts that are more directly confrontational or disruptive (Welchman 2001). Welchman, following Bedau (Bedau 2002), unsurprisingly understands civil disobedience as an illegal act that aims at frustrating the law, and not simply or mainly as another form of debating between two different sides of society, which is the conception of civil disobedience I find closer to my own perspective. Welchman broadens then the definition of disobedience, so to include more covered and less publicized acts, such as sabotage. She perceives these acts to be more immediately pursuing the goal of obstructing a given practice, than establishing a dialogue with those in power, while remaining within the “boundaries of civility” (Welchman 2001). Even Dworkin (R. Dworkin 1985) considered non-persuasive means of civil disobedience, intended as costs imposing, to be acceptable in particular circumstances of rights infringements. For instance, claims Aitchison,

whenever the channels of political participation do not grant fair access to all, it might be justifiable to use coercive methods, not simply as a tactic “to gain a fair hearing” (Aitchison 2018a), but also as a direct obstruction method (Aitchison 2018a, 2018b).

“The fact a particular issue has been brought to public attention through an act of protest does not ensure it will be given proper consideration in a context where relations of power systematically bias the terrain of collective decision-making. It may simply be ignored by those disinclined to deliberate. The use of coercive resistance in this context is therefore a means to push for change by making the existing arrangements more costly to maintain” (Aitchison 2018a, 58).

It is precisely through this broader reading of civil disobedience as possibly coercive that we understand it as being communicative, but not necessarily primarily so. Certainly, our societies are more biased than we idealize them to be, and the opportunities granted to people are not equal, nor are equal their opportunities to be heard, even when disobeying. This state of affairs might then suggest that a limited degree of coercion, intended as “the threat of sanctions to *deter* an agent from choosing some course of action or the direct use of force to *prevent* them” (Aitchison 2018a, 51) could be acceptable and not in contradiction with the communicative dimension of civil disobedience. After all, it is evident that this cost-rising strategy is among the most used in contemporary civil disobedience, given that both corporations and states try to avoid costly decisions, both in economic and electoral terms.

In any case, even in more confrontational and coercive cases of civil disobedience, such as during illegal strikes in the past, or factories occupations, these acts have to remain within the bounds of civility. This implies that even “the use of coercive disobedience should raise the cost of laws and policies deemed objectionable without using fear as a weapon to compel opponents into submission” (Aitchison 2018b, 11). To stay civil in communicating one’s disagreement requires, in my reading of it, a certain level of respect towards the other participants of society which limits violence, without ruling it out altogether, and restrains also the possible means someone resorts to

in her civil disobedience. It becomes then a matter of establishing a threshold, something that might result important the moment people need to find justifications for their civil disobedience.

For instance, what about sabotaging animal testing labs Welchman refers to (Welchman 2001)? It remains communicative in the relevant sense here, not simply because of the level of sociability she believes needs to be maintained, but also because the final interest of the disobedients is, even in these cases, to communicate their willingness to see a change in the policies they try to obstruct by sabotaging. If the disobedients simply destroyed one laboratory without explaining their reasons, or rendering public their motives, their act could be and should be classified as pure vandalism. The fact that they share their reasons, by releasing statements or filming their acts classifies them as communicative as other forms of civil disobedience, such as Occupy's occupation. What really characterizes these more direct practices is not necessarily that they fall short of communication, but rather that their primary goal is to immediately avoid that something they oppose might take place. They do not free animals to send a message, but simply to free them, and they do it *also* because they believe their actions will promote a change in the entire system they oppose. Such disobedience falls under the category of assistive disobedience in Brownlee's account (Brownlee 2012). When activists enter a lab that uses cavia and free them, their goal is to communicate their disrespect for a law that permits animals to be used in labs, and to force a change worldwide. As Brownlee observes, this kind of disobedience is communicative but does not breach the law only *for the purpose* of condemning the law, but rather breaches the law firstly *for the purpose* of e.g. saving cavia, and they do so publicizing their act *because* this will additionally shed also a light on a practice they want to outlaw (Brownlee 2012).

In the end, communication is necessary, but it does not have to be the primary reason one resorts to civil disobedience. Nonetheless, to consider an act an example of civil disobedience and not of vandalism or simple action of disruption, those who disobey must make their reasons explicit, so that they can be addressed by those in charge.

1.2.5 Law Making Violence or Non-violence?

The violence of our time is made by obedience

(Howard Zinn, 1971 interview)

My answer here is a simple one: violence is what the State does. It is not all that the State does, but as Tolstoy and Thoreau understood (and King too in his own way) it is part of the story.

(Milligan 2013, 155)

The reason non-violence has always characterized civil disobedience as one of its main features is that civil disobedience has often been presented as a political act contesting a specific aspect of a set of laws it normally accepted and whose legislators it normally needed as interlocutors. In general, on the one side, non-violence is taken as the way to show respect to fellow community members, on the other, it seems to be a requirement for a future of cooperation with those people civil disobedience directly opposes and with the bystanders that are affected by the protesters' disruption (Sabl 2001). Also, following Brownlee, non-violence recognizes the addressees as dignified participants to the communication (Brownlee 2012). At the same time, although non-violence has to be preferred over violence, I believe civil disobedience does not exclude, a priori, a certain *degree* of violence, rather "needs only be largely non-violent or aspirationally non-violent and even then primarily with regard to persons and not necessarily with regard to property" (Milligan 2013, 14).

Violence can in fact present itself in degrees and I believe that a limited amount of violence against objects, and never other-directed, does not impede communication (Lai 2019; Adams 2018), nor shows disrespect towards the participants to the conversation e.g. limiting “the civil liberties of our addressees” (W. Smith and Brownlee 2017). On the contrary, at times violence is the only viable way to create the conditions for meaningful communication, such as when the state or those in power do not show any sign of interest in listening to the requests of those protesting if not after being confronted with stronger actions. For certain groups in particular “The force and urgency of the message is, again, intimately related to its articulation through violent and destructive means, and would be severely diluted if participants relied instead upon conventional avenues or civil tactics” (W. Smith 2020, 16). In other words, violence in itself can convey a message.

There are six points to be made.

First of all, we need to understand the movements that have been taken as paradigmatic in their use of non-violence and focus on their reasons. Nor Gandhi, nor King always opposed violence in principle. King, in Livingston’s reading, believed that violence “provides no alternative to fear. It only serves to intensify white fear and relieve whites of the guilt they ought rightly to feel. Nonviolence, by contrast, represents the last chance for emancipatory transformation by attenuating the rage of white fragility” (Livingston 2020a, 712). Even Gandhi, besides promoting inner discipline and fearlessness, *satyagraha*, was not a pacifist and he was well aware that “scuffles, low-level violence and sometimes not-so-low-level violence [followed him] wherever he went” (Milligan 2013, 11). What mattered to Gandhi was to promote non-violence to de-escalate the violence of the British and create different relationships with the colonial power, not of subservience on the one side and unchecked power on the other. The use of non-violence was for Gandhi and King, as for other movements around the world, such as the Chiapas movement, “a strategic choice, a kind of opportunist pragmatism that doesn’t affect the ideological charge of

their claims directed against the government” (Bentouhami 2007, 264). The obvious and evident power imbalance is an essential element to understand the choice of non-violence over violence which, as Chenoweth reminds us, has a participatory advantage over violent means and allows for the movement to grow (Chenoweth and Stephan 2011). Non-violent movements challenge the top-down idea of power, by opposing the materialist idea of power as having the capacity to harm and kill (Chenoweth and Stephan 2011). Moreover, resorting to non-violence assures a smoother passage of authority, since both in case of a victory and a loss the opponents will not likely have developed hatred, fear, or resentment towards the disobedients and will not go after them so that people are more likely to swell the ranks of the movement (cf. Sabl 2001). At the same time, it is important to recall that non-violence can impose economic and political costs to the societies it is performed in. It is not an armless tool of resistance, but rather a mechanism of political pressure exercised also through a certain degree of coercion. This is precisely the case of India under British rule: it is also through the impositions of growing economic and political costs that India became independent (Aitchison 2018a).

Two last points on the instrumental choice of non-violence have to do with the public image of the state or the actor opposed. If a group resorts to non-violence and is welcomed with violent means, this makes appear the state quite bad in the public eye. Using non-violence makes violence more costly for the state and it is consequently strategic in safeguarding the well-being of those who disobey, rendering a violent response from the powerholders less likely.

Second, non-violence was also used as a means of self-improvement, rather than a way to show respect to the law. For Gandhi, as well as for King, at least for a certain period, non-violence became a way to achieve the truth and transform people into fearless, virtuous individuals. Through non-violence minorities discover their own agency and self-liberation, they impose themselves in the forum by gaining freedom from the fear of dying e.g. a gun cannot compel you if you are not afraid of dying. In a more personal and individualistic sense, but along similar

transformative lines “Thoreau does not go on to propose a bloody rebellion, not because he champions non-violence, but because he believed at the time that the revolution must first occur in the individual” (Lyons, 2013, 192).

Third, we can add, although not all are in agreement (Chenoweth and Stephan 2011), that non-violence works insofar as it is seen as an alternative to violence (Pasternak 2018). Without the threat of violence, non-violent means would *probably* be less victorious. Martin Luther King could indeed promote non-violence and become a discussion partner for the US government especially because of the threat posed by the Black Panthers. Having to choose one interlocutor of the African-American community, it goes without saying that President Johnson preferred Reverend King to the rebellious Malcolm X. So, we could say that “in some of the most prominent instances, the success of civil disobedience seems to depend at least in part on the deliberate threat, provocation, or use of violence by one group or other” (Celikates 2016b, 42). This does not justify violence, but makes justice to history and manifests the very same logical possibility of non-violence as a winning means towards achieving power for disenfranchised minorities.

Fourth, it is important to remember that not all violence is the same and that violence comes in degrees. There is a line to be drawn between threats, physical and psychological violence, violence to people, and violence towards objects, which does not necessarily qualify as *proper* violence (Morreall 1976, 38). My approach on this point is similar to Brownlee’s. As Brownlee points out “violence [...] includes a wide range of acts and events, major and minor, that sometimes only risk damage or injury” (Brownlee 2012, 198). It is obviously important to consider the degree of violence of one’s action, the intentions of the agents and its actual consequences before condemning it or justifying it. Considering as the fundamental background the reasons one contends she has to resort to disobedience, an important line to draw is the one between acts that actually endangered one’s physical and mental integrity or one’s property. Property damages are less severe than acts against the person and I do believe there

might be good reasons to excuse them if the disobedients have strong morally motivated reasons for their disobedience and if violence is a reaction before great injustices. I agree with King in saying that “there are many who wince at a distinction between property and persons—who hold both sacrosanct. My views are not so rigid. A life is sacred, property is intended to serve life, and no matter how much we surround it with rights and respect, it has no personal being” (King 1967, 56–57). In general, there is a difference between violence that gets at people and violence that does not do that (Walzer 1970), be it against people directly or their property. This translates into “a significant difference between damaging impersonal property (locks, gates, windows and fences) and damaging personally significant property (such as someone’s front door)” (Milligan 2013, 123), the difference being between an act of generalized violence and a targeted attack towards a specific person. Even damaging someone’s property as a symbol, e.g. “the gold-encrusted jet of a plutocrat”, provided they do not threaten the person, is acceptable if they do it because that possession represents e.g. a dominating power (Adams 2018, 489).

Applying this line of thinking to recent demonstrations implies that setting one’s home on fire, causing a family to lose their livelihood does constitute a violation of personal being and subtracts to the person the means to be political (Adams 2018) while tearing down statues do not (Scheuerman 2020). At the same time, even acts committed against persons, e.g. pushing someone, do not always amount to acts of violence that are morally relevant, and if it is sure that people do have a right not to be physically confronted, these are *prima facie* rights that are “not absolute and can be superseded by higher moral claims” (Morreall 1976, 43), which might require a certain degree of violence to be tolerated. These differences are important to make, so to avoid inviting “militants of various sorts to move beyond the bounds of civility altogether” and to prevent the police “to respond always as if they were confronting criminals” (Walzer 1970, 25). In a nutshell, severe violence directed against people is to be condemned when not in self-defense, while

violence against objects or that involves property destruction is not always morally reprehensible and does not disqualify civil disobedience ipso facto.

Fifth, also worth mentioning are those cases where violence is a reaction to state violence, as it manifests in circumscribed events i.e. the attempt to impose a limit to the protesters' contestation using force, and intended as systemic violence exercised via institutional means. In those cases, the use of violence by the protesters has a communicative symbolic value. In this regard, the interpretation of what happened in one of the Civil Rights Movement Demonstrations King wrote about is surely quite telling. Not simply do we see, once again, the distinction between violence against people and attacks against property but, most important, we see appearing the important dimension of power.

“The military forces were treating acts of petty larceny as equal to murder. Far more rioters took chances with their own lives, in their attacks on property, than threatened the life of anyone else. *Why were they so violent with property then? Because property represents the white power structure, which they were attacking and trying to destroy.* A curious proof of the symbolic aspect of the looting for some who took part in it is the fact that, after the riots, police received hundreds of calls from Negroes trying to return merchandise they had taken. Those people wanted the experience of taking, of redressing the power imbalance that property represents. Possession, afterward, was secondary” (King 1967, 57, stress is mine).

In the case at stake, the symbolic and highly communicative element of civil disobedience is quite evident. Also, it is quite obvious that white and institutional power are two interchangeable terms, or rather they are superimposable. When King speaks of the power imbalance Black people were experiencing, he refers to white people being in economic and social positions that allowed them to access goods institutionally not accessible to minorities (Repetto 2020). Indeed, the institutional violence I am referring to does not necessarily manifest in the form of physical attacks, but also in constant acts of belittlement, silencing, or disempowering. Violence can be experienced and perpetrated in various forms, as we have hinted at before, and its psychological dimension does not have to be discarded. A more encompassing vision of violence renders even more manifest the violence the state and other actors cause, including policies that mask abuses or promote

discrimination, and the systemic exclusions or disenfranchisement they encourage. Violence in such cases is engrained in the institutional mechanisms that slowly attack one's personal integrity and capacity to sustain oneself and protesters' violence is then a response.

Moreover,

“A narrowing down of our concept of violence, so that it involves only bodily harm, will also exclude recognition of institutional violence and will thus automatically exclude any entitlement to make claims about violence against the planet, which is precisely what most eco-activists claim is taking place” (Milligan 2013, 110,111).

Furthermore, the state allows big corporations to influence the *res publica* to the level that corporations' interests are more protected than those of minorities. The result of this, especially in countries already facing poverty, is that local producers, traders and farmers are suffering from hunger and losing their homes to the advantage of big companies. Economic inequalities are rampant and violent themselves, and I believe this is a valid reason to resort to a certain level of violence, while remaining within the bounds of civility and maintaining that civic bond we have already discussed. In these situations, responding with violence could be the only way to be heard, and it could manifest the will to not succumb.

As we have hinted at already quoting King above, there is a symbolic value attached to violence. Particular acts of violence, such as destroying a bank shop window or burning a police car (with no people inside), “the very symbol of prowling oppression, is a precise, clear symbol of outrage and condemnation” (Adams 2018, 488). Especially in cases where other participatory means are in place, choosing violence forcefully expresses the desire to highlight the frustrations against a system and the seriousness of the disobedients' requests and criticisms. If resorting to civil disobedience proves the intensity of a claim, using violence demonstrates, even more, the depth of the demonstrators' demands and the urgency to address them, while at the same time it is used instrumentally to impose higher costs on society and give it objective reasons to change unjust

policies. Choosing violence is a political statement that is not necessarily beyond what is justifiable, nor civil.

At the same time, if we think of disobedients throwing rocks at policemen in riot gear, we know as well as they do, that they have no possibility to change their fate, nor to self-defend themselves at that moment. In such cases, given that the throwing of rocks will not likely change anything in terms of power balance, the throwing per se becomes a symbol against total capitulation. So, on the one side, demonstrators' violence could be a symbol of total outrage, on the other and at the same time, it could represent defiant resistance, a way to keep one's agency, even when material defeat is inevitable.

This bleak picture I have just sketched is not exhaustive but helps us to understand violence as a response to the violence states or even economic actors subject people to. In the end, although it seems that this more violence-accepting approach is quite recent in the civil disobedience literature, this is not. Even Thoreau, the "inventor" of civil disobedience was of the idea that if "through slavery and war the payment of taxes enables the State 'to commit violence and shed innocent blood'...[it was not possible to] discount the possibility that acts of peaceful law-breaking might at some point give way to more violent conflict (Milligan 2013, 66).

This leaves us with an important new element to consider. Disobedients do not have the monopoly of violence, quite the contrary. Violence does not equate with illegality and many legal actions end up being quite violent, being the actions of corporations or states. State violence can happen as a disproportionate response before civil unrest, but it is most often a planned way to deal with non-aligned people. The outrageous use of force of the police is the result of training, it is the manifestation of the way the government in office deals with extra-institutional opposition. We should not be confused though. Although this use of force is legal, it remains highly condemnable and violent in an often, not justifiable, nor excusable way. Illegal violence seems to require extra justifications and it might seem surprising that more and more scholars support a more open

approach when it comes to violent disobedience (Delmas 2018a; Scheuerman 2019a; Moraro 2007; Brownlee 2012; Morreall 1976; Celikates 2016a; Milligan 2013; Çıdam et al. 2020), but I believe legal violence should require as much as a justification.

Sixth and final point, given the level of violence the state usually subjects disobedients to regardless of their being non-violent and given the evident power imbalance which prevents people from being heard or taken seriously, at times limited violence can be the *only* way to obtain the attention of those in power, not merely a symbolic gesture. Before a power that does not listen to them and that approves (or not) laws that are in line with what protestors deem just, violence is almost an existential mechanism of affirmation and opposition. The importance of the issues discussed coupled with the indifference the minority suffers, requires violence, both to show that certain issues are fundamental and cannot be easily dismissed, but also to give the minority the occasion to be seen.

This does not mean disobedients will obtain what they campaign against, but at least they will have a stronger chance to be taken into account. This is exactly what happened in the summer of 2020 in the USA. After decades of constant mistreatments, police killings, and racist policies (Rothstein 2018), and faced with the last tragic killing of an African-American and the lack of an adequate response from the government, people gathered in the Black Lives Matter movement and resorted *also*, not only and surely for a minority of cases (Beckett 2020), to violence. When used, violence was the response to the systemic racism that pervades the USA and that is reified by the constant police killings of Black Americans. Although violence is not to be promoted, responding by showing the other cheek to never-ending killings could be seen as belittling the gravity of the events. Surely, finding an institutional channel to convey one's anger and start a conversation over reforms to be made could be more productive, but when such a chance of debate has not ever been considered over the past decades of racial profiling, wrong incarcerations, or murders, it is difficult not to see such violence as the appropriate response.

The reforms these people were and are asking for are urgent and serious and the violence that sometimes was attached to their demonstrations was justifiable given the violations constantly endured and the secondary role they have always occupied in the polis. As Aitchison highlights, where domination is entrenched and severe, as it is for certain minorities in the US, most notably the Black community, coercion, intended as a cost imposing method expressed via occupations, sit-ins, but also more confrontational acts, is justified (Aitchison 2018a, 2018b). Coercion and even more violence are the triggers that oblige the states to make some adjustments and although I cannot prove it, in the case of BLM I am convinced that the violent attitude of some members of the movement resulted in pushing some municipalities to defund the police and starting new police training. This does not mean the world is changed already, nor that these defund mechanisms are the right ones to pursue, but that institutional racism has become a crucial and inescapable topic that informs the policy discourse, not only in the US but everywhere in the world. Naturally, every type of injustice or unfairness requires a different mode of addressing and might justify a stronger or weaker way of confrontation.

All of the above does not mean that violence should be justified under all circumstances, nor that non-violence should not be preferred over violence. On the contrary, non-violence should be always the first option (Raz 1979) when the conditions allow for it, but I do not exclude that a limited amount of violence could be used without per se delegitimizing civil disobedience. In particular, the use of a limited amount of violence does not even remove the communicative intent from civil disobedience (Lai 2019). Rather, this dimension is not equated with deferential and mannered speech, nor, consequently, civil disobedience has to necessarily be non-violent to be, indeed, civil.

1.2.6 Sense of Justice & Rule of Law

Disobedients, in the famous Rawlsian definition, appeal to the sense of justice to the majority. In my understanding, contra Celikates (Celikates 2016b), this does not mean that they appeal to a sort of moral status quo within society (Celikates 2016b; Singer 1973), but rather to the moral capacity of people to recognize the good from the bad, to appeal to principles that are justifiable to others (cf. Scanlon, T., 1998). Quite importantly, Rawls himself believed that

"We are not required to accept the majority's acts unconditionally and to acquiesce in the denial of ours and others' liberties; rather we submit our conduct to democratic authority to the extent necessary to share the burden of working a constitutional regime, dictated as it must inevitably be by men's [and women's] *lack of wisdom and the defects of their sense of justice*" (Rawls 1999, 131–32).

The audience addressed by civil disobedience, namely the other members of the community, might not espouse the cause of those who disobey, even less so if they resort to less persuasive ways to convince them of the goodness of it. However, this does not constitute a problem, not even in the Rawlsian tradition, given the *defects* of the sense of justice of the majority. Also, the fact that moral judgments might not necessarily coincide, not even partially, with those of the disobedients, does not make civil disobedience pointless. Certainly, even though the audience might disagree with the disobedients, it remains possible for them to appeal to the sense of justice of the majority, i.e. the moral power individuals have of forming and *revising* a sense of justice. As Sabl points out "civil disobedience [...] is designed to appeal to the sense of justice precisely to challenge existing moral sentiments about justice" (Sabl, 2001, 316) or to enforce them. Such an appeal is made possible also by the fact that those who engage in disobedient acts, although acting illegally, show their fidelity to the rule of law.

Most importantly, the rule of law does not have to be confused with a set of laws or the Constitution of the state itself, although its principles are usually the codification of the rule of

law. Rather, it has to be intended as those basic principles of justice that underpin the legal system as the tool through which duties and rights are assigned, and people can live together. The rule of law calls for governments to remain within limits in the exercise of power towards those subjected to it. Such limits are defined in terms of respect for individuals' rights (cf. Dworkin, 1985), our fellow citizens' rights, which are the ones we have an obligation to respect, and which ground political obligation towards the state in the first place. This translates into the need of having an independent, accessible-to-all judiciary system, a government that is accountable before its citizens and transparent in the way it makes its decisions, and a set of public, stable, fair laws (cf. Raz, 1979). So, civil disobedience, in its acting, does not primarily show respect to the law and the government which passed it, but rather to the fellow members of the community, and to the rule of law protecting them, which means that its respect is not paid to the incumbents and that its requests can be quite radical, even when non-violent. This exemplifies, once more, that being *civilly* disobedient does not mean that those who disobey accept the power structure of the state as it is (Harcourt 2012a), but indicates the respect disobedients have for a set of fundamental rights that protect them, as well as their fellow citizens and that allow them, like others, to express their dissenting opinions, free from the state interference. When certain practices brought about by the government disrespect certain rights, it is also by referring to the rule of law that civilly disobedient actors can justify their civil disobedience.

For instance, Martin Luther King did not believe that white US Americans shared his sense of justice, and it would be quite hard to sustain that Jim Crow's US America was taken as an almost just society. Nonetheless, he himself appealed to "the Declaration of Independence and the Constitution. But he stressed that America's commitments had not been translated into practice. He did not confuse promise with achievement. He praised our ideals but condemned our practice" (King quoted in Lyons 2013, 144). In this case, King not only appealed to the sense of justice of the majority, but to documents that the majority signed and did not translate into practice, nor, at

times, into law. Racist practices were widespread, discrimination was a daily obstacle and yet King believed that civil disobedience could empower those who disobeyed. He thought defying the law could give protesters new respect for themselves as agents that valued themselves at the point to choose to act, instead of accepting their second class seat within society, while being a means of change for the witnesses of such disobedience.

1.2.7 Publicity

To change people's minds and affect society, civil disobedience needs to be known, which necessitates publicity. The questions to ask at this point revolve around the meaning of publicity and the need for such a concept. If we accept a conception of publicity as requiring "the illegal act be carried out without attempt to conceal identity or escape arrest and, when possible, with an advanced warning to the authorities" (Delmas 2017, 210; cf. Smith, 2004), then I believe we can discard publicity as one of the necessary features of civil disobedience. At the most, we can consider it as a necessary element provided one needs to communicate in a given manner. Publicity is not even required, at least not in the way it has been presented above, to achieve *successful* communication.

However, I do not share this vision of publicity and espouse another understanding instead. If we go back to the root of the term publicity, we will not surprisingly see that this means to render public. More interesting is to discover that making something public is to put it before everyone's eyes, but also to draw attention to it as it concerns everyone – publicus. Although public could also mean to be made or to occur before everyone, it does not necessarily mean so. Putting something before someone's eyes indeed does not require an event to occur in public, to be seen the moment it takes place, although the action and its motivations are required to be shared, in

due time. In fact, I am convinced that being public does not imply sharing one's plan of civil disobedience beforehand, nor printing a list of the participants to an event. Rather, publicity implies that a given act is out there for people to see, i.e. it is not hidden, and neither are the intentions behind it. For an act to be seen, in my understanding of it, it is not necessary that it is revealed at the exact moment it is done, or that it happens before the public, but that eventually its result is seen or known, such as when protesters leave banners on public buildings. Equally important is to share the reasons of the act, to make them known.

Nonetheless, this does not imply there is one and one way only to express one's reasons for acting, nor that people wearing masks or avoiding revealing their identity do not qualify as acting publicly. While civil disobedience must be seen, as so is public, I do not think that its agents have to be seen to be communicative in their protests. The act has to be public, not the agent. Although it might seem problematic to associate anonymity with civil disobedience, my intuition is that also the actors that conceal their faces, although only those who explain their reasons and morally justify their acts, should be considered conscientious and responsible actors. In particular, when digital actors such as Anonymous, are caught e.g. DDossing, they do not escape from their responsibilities, nor do whistle-blowers (Coleman 2014). Although they do not necessarily face trial, they bear their burden of judgment in other ways, e.g. suffering exile for their choices (Scheuerman 2015b, 2014; Delmas 2014b). In particular, in the same way, as it is not possible to conceive of ex-ante publicity in the offline world, pace Habermas and Rawls, so in the online world, it is impossible for certain acts to even be brought about if not in anonymity, because of the sensitivity of the activity itself e.g. leaking secret information. Here anonymity creates the very same conditions for acting and allows a higher level of diversity among the agents. While it is true that not everyone can be e.g. a hacker, a hacker could be anyone sharing the same ideal or fight, from everywhere in the world, including people that would not necessarily have the chance to participate otherwise as agents (Coleman 2014).

To go back to our main discussion, being public serves two aims: a) to effectively engage with the people, i.e. the audience, and gain momentum so that protests cannot be simply dismissed by the power-holders, i.e. the target, and b) to get the floor to express the reasons that brought people to disobey. Quoting Delmas, “public denunciation can serve [...] improving the community’s conception of justice and understanding of democratic equality, communicating protest and frustrating wrongs through exposure that may lead to cessation” (Delmas 2018a, 98,99).

The government is generally the target of domestic civil disobedience given the power it has to make laws and to change them, also forcing other actors, namely corporations, to abide by its own rules. Being public, being in the fora of discussion is essential for civilly disobedients to give reasons for their deeds, obtain attention from the rest of the society, engage those in power in dialogue and face them with their requests. By being public people can convince other people to join their cause, making explicit their (good) reasons to do so. Usually, in civilly disobedient actions, protesters engage in a dialogue with the audience, but also with their targets, recognizing their equal moral worth and so considering them as participants in the communication.

What about covert disobedience such as the experiences of the Underground Railroad, the famous network of people opposing slavery and helping slaves to escape (Foner 2015; Stierl 2020), or cases of eco-sabotage then (Welchman 2001)? Since I see civil disobedience as a communicative act, but not necessarily as first and foremost communicative, I believe these cases fall under the umbrella of civil disobedience. They are also covert, but they are so since they are not possible otherwise. Also, in the case of slaves’ liberation, the covertness of the acts was necessary to provide safety to those running from slavery, and secondly for those helping them, so allowing them to help others escape towards freedom. It is true that the communicative dimension of slaves’ liberation was not the primary goal, and yet this does not suffice to disqualify these acts as civil disobedience. These acts were illegal, morally motivated and challenged the policies in place, frustrating the law, as

Bedau would say¹⁰. Moreover, these acts had and have a clear political aim. Even those who participated in the Underground Railroad, usually seen as a hidden network, had political goals, clearly made evident and pursued through “day-to-day activities like organizing committees, raising funds, and political and legal action. Many of these activities took place in full public view, not ‘underground’” (Foner 2015, 20). If this seems to stretch the definition, we have to remember, as Welchman does, that “For writers in the 1960s, the Underground Railroad’s efforts to make the “Fugitive Slave Law” unworkable, by making fugitive slaves unrecoverable, was not infrequently offered as a historical example of civil disobedience, despite its covert character”(Welchman 2001, 103).

Moreover, the difficulty to comprehend such acts as civil disobedience derives, I believe, not simply from their covertness, and the idea that it was not aiming at a political change, but rather from the fact that civil disobedience is usually taken as an event, as a singular expression, while the Underground Railroad can be taken as civil disobedience only if we consider civil disobedience as a collection of acts, as a process. While I do not want to go into details about the ontological difference between an event and a process, I believe that it is worth asking whether civil disobedience is necessarily one or the other. While I am not yet sure I agree with Pineda in saying that civil “disobedience can retain its relevance...only insofar as it operates not simply as protest, but as an ongoing, iterative practice within and beyond the event” (Çıdam et al. 2020, 30) I am convinced it is important not to quickly dismiss the possibility that civil disobedience is also a process and not simply an event. If we look at the more inclusive and less communicative Bedauian version and keep open the “process” option then, even the Underground Railroad, considering its

¹⁰ On the contrary, Dworkin classifies these acts as integrity-based disobedience, i.e. a type of defensive disobedience that does aim at political reform, differently from justice-based disobedience (R. Dworkin 1985).

willingness to change the policies, its members' writings, and its morally loaded illegality, could be (again) a civil disobedience example.

1.2.8 Accepting Punishment

"In the cause of truth, the prison was a palace to them and its doors the gateway to freedom"

(Mahatma Gandhi 1996, 52)

"Under a government which imprisons unjustly, the true place for a just man is also prison."

(Thoreau in Bedau 2002, 37)

The fact that a civilly disobedient accepts the legal outcomes of her illegal act has been traditionally considered a sign of her moral conscientiousness, which distinguishes her from a common lawbreaker. Accepting punishment has been taken as the proper manifestation of responsibility, of being ready to fully commit to an act. Such a readiness, according to Rawls in particular, proves the depth of the protesters' moral values, their sincerity, and their commitment (Rawls 1999). Accepting punishment is considered a way to abide by the community rules and to respect, in turn, our fellow citizens. Nevertheless, I am not convinced that accepting punishment necessarily testifies to the moral conviction of those who resort to civil disobedience. For instance, in my understanding of civil disobedience, asking not to go to jail would not be a request made out of fear or to escape from one's responsibilities, but could be motivated by a more radical opposition to the system. Also, a more conventional reading seems to forget that often accepting to undergo

trials has been used for instrumental and communicative reasons rather than for moral ones¹¹. However, before asking whether people should be ready to go to jail, we should ask whether civil disobedience ought to be punished in the first place. I will not get too much into details here, but I think it is important to at least pose the question. In general, I would say that civil disobedience is mostly punished. i.e. jailed, to deter, rehabilitate or correct¹² and retribute those who disobey.

Of these, deterrence is the most common reason used to justify punishing disobedients. After all, to rehabilitate people who act out of their morally held convictions and for the sake of the community does not seem the adequate response in the current discussion. Disobedients are not criminals acting out of greed, they do not have the intention of harming others, nor do they constitute a threat to the society in the sense of acting regardless of the good of society, quite the contrary, henceforth the rehabilitation argument does not really seem to apply here. We might turn then to the retributivist argument, which might seem to be more fitting. Setting aside the complications related to retribution per se, if we consider a common disobedient act, such as occupying a street, or trespassing, which does not leave any visible trace of one's passage afterward, it is hard to imagine what must be corrected. To pose the question in a different way, we could ask what harms require retribution and whether there is a threshold below which the harm caused does not amount to a morally significant violation, which is, in general, the case when it comes to civil disobedience. The idea behind retributivist views is in fact the *lex talionis*, i.e. you cut a finger, I will cut you a finger, a law that would be particularly hard to be applied in civil disobedience instances. Most importantly, I believe the *right* kind of wrong believed to be punishable violates

¹¹ It is the trial, rather than the mere going to jail that allows protesters to be communicative. Indeed, says Moraro, it is “the agent’s unwillingness to answer to the state for his conduct, rather than his unwillingness to be punished, which may impair the communicative aims of civil disobedience” (Moraro 2018, 518).

¹² Tadros identifies another reason for punishing, namely societal self-defence, which I consider a reason that fits in between the deterrence and the retributivist accounts. His theory of punishment states that individuals who commit crimes incur in duties towards their own society, that, as a way of defending itself, can impose punishments on them (Tadros 2011).

someone's important rights, which is not the case for civil disobedience. Therefore, the retributivist argument also seems to fail in giving us a good reason as to why disobedients ought to be punished.

Also, worth mentioning is the fair-play argument for punishing, which says that punishment is due whenever people take unfair advantage of others by acting as free-riders, i.e. not respecting the law. In this case, I have an easy job since I agree in its entirety with Moraro's claim that states that

“a citizen may fulfill his fair-play duty towards his fellows by engaging in a law-breaking act, aiming to communicate a serious concern with the government's performance in protecting citizens' autonomy. It is therefore incorrect to claim that a civil disobedient must accept the punishment following his breach of the law: the mere illegality of an action may be insufficient to establish the agent's failure to cooperate with his fellows” (Moraro 2019b, 309, 310).

Going back to deterrence, its aim is to prevent further disobedience by providing prudential reasons to avoid it. Still, disobedients have serious reasons to go against the law and while they know their acts might bring them to prison, they value their reasons to be more important than following the law. So, punishing for deterring people does not seem to achieve any good, since it is unlikely it will in general prevent disobedience to occur. Surely, fewer people might decide to join the protests, but given the serious reasons that cause disobedience to erupt and the fact that people know already they are acting illegally and are ready to bear the consequences of it, which they account for when deciding to disobey, deterrence seems quite useless. We could still wonder whether punishment for deterring people is morally appropriate. I think it is not.

In general, crimes are wrongful conducts that are taken to threaten the community since they infringe on serious rights. As a general comment punishment comes in general in the form of censorship after an act believed to be wrong (Feinberg 2003). There is an element of denunciation that goes along with the burden imposed on people who broke the law, the idea being the crimes committed caused a wrong that society cannot accept and needs to defend itself from. In the case of civil disobedience though, such censorship might be morally unjustifiable. Punishing actors who act in illegal, but constrained manners, lacks consideration for people's autonomy and competence

as moral agents (Lefkowitz 2017; Brownlee 2008, 2012). Given their moral motivation, the fact they act in mostly non-violent ways, causing low-level disruption, and the fact that, as we will explore further below, civil disobedience might be the way to enjoy a right to political participation that is formally available, but institutionally deficient, domestically, or absent although unjustifiably so, transnationally, the state ought to avoid punishing civil disobedience. Still, disobedients could be subjected to a penalty, such as paying a fee, that recognizes they might have imposed a burden on their society (Lefkowitz 2017, 2007)¹³, but as a necessary instrument to avoid frivolous and constant civil disobedience, without supposing “that it is anything other than a necessary evil that fails to respect public disobedients as autonomous persons who contribute to collective decision making in legitimate ways”(Brownlee 2008, 716). Indeed, while punishment brings with it an element of blame and public condemnation that has also long-term consequences, penalties do not. Penalties are useful for deterrence and retributive purposes, but they do not cause people to have a criminal record and they do not have the intent to shame and blame those who committed the crime. Demonstrators might be obliged to pay a fine to have illegally occupied a private parking slot owned by a rights-infringing company, to avoid anybody occupying private spaces as they please, but they might still be considered praiseworthy to have done it. In the same case, if they were removed in handcuffs the state would have sent a clear image that that particular action is unacceptable and will be treated as any other criminal offense.

To conclude this brief section, I think civilly disobedients generally should not be punished, but at most penalized in given circumstances¹⁴, but without having the time and space to focus on this, I

¹³ If in practice such a difference is blurred, punishing holds a moral evaluation of the act that assigning a penalty does not (Feinberg 1965). So, while a penalty recognizes the possible inconvenience for the society for something a person has a moral right to do, a punishment aims at dissuading the author from indulging in that act, considered something not to be done.

¹⁴ For those interested in a more detailed argument against punishing disobedience: (Moraro 2018; Lefkowitz 2017; Brownlee 2012; R. Dworkin 1968).

will pass to the core of this part, namely to discuss the acceptance of punishment, and whether it always signals respect for the rule of law and as such ought to be expected.

Although it seems that accepting punishment is a traditional feature of civil disobedience, it is not clear

“that previous practitioners of civil disobedience followed this orthodox view of punishment. Thoreau neither advertised his illegal acts nor sought punishment for them; his readers will look in vain for a celebratory description of the legal penalty meted out to him by his Massachusetts jailers” (Scheuerman 2014, 619).

If it is certainly true that Thoreau, as well as King and Gandhi, ended up in prison, it is not at all obvious that they did it to respect the law or to prove their conscientiousness. Multiple and different are the reasons behind a refusal to enter the jail and undergo punishment.

First, the system could be so corrupt that the imprisonment per se, the legal procedure itself, could be morally wrong and therefore would not require a person to morally accept it. As Scheuerman highlights, the duty to accept punishment is conditional on the moral virtue of the system of laws itself (Scheuerman 2019a).

“A disobedient who accepts the legitimacy of criminal proceedings which are secret, irregular, arbitrary, or unduly brutal does not, in fact, necessarily uphold legality. On the contrary, by participating in them she risks becoming complicit in the regime’s attack on the rule of law. Precisely such attacks, as Snowden astutely grasped, are what politically motivated conscientious disobedients have to avoid if they are to demonstrate their very ‘highest respect for the law’ (Scheuerman 2015b, 963).

Not being willing to be put in prison might also signal a particular disrespect for the incarceration system in itself, not as one, the most direct, of the manifestations of an unjust state, but as in itself a place where justice is disregarded and evil prevails. Moreover, opposing incarceration might then be a tool to prevent further injustices to be committed, and to communicate to the other institutional bodies that the prison system requires a profound reform and it does not comply with the standards of justice and fairness of a commonly decent society. It would then be a contradiction for a disobedient to abide by rules she expressly wants to oppose and change precisely by illegally

disobeying. Accepting punishment, in this case, would be to accept a system that disobedients wanted to oppose for its wrongness. People might claim that the system of incarceration embodies and is part of the same logic that disenfranchises minorities and perpetrates injustices and might oppose going to jail to not simply avoid punishment, but to be morally consistent. It is to signal that they are not those who are acting unjustly and to act coherently with their own principles, that people might avoid arrest. Surely Thoreau said that “in an unjust society, the only place for a just man is prison” (Thoreau 1849), but people might want to change the society and be recognized as morally conscientious, and *precisely* because of this not to be liable¹⁵ before what they believe to be a wrong system.

At the same time, even going to jail does not necessarily manifest respect for the overall structure, but might be chosen, as it was the case of Martin Luther King, i.e. so to make the system collapse. Along these lines, David Lyons reminds us that Thoreau, Gandhi, and King “did not regard themselves as morally bound to obey unjust laws” (Lyons 2013, 138) nor they accepted their punishments to respect societies that did not uphold standards of justice, but for practical reasons mainly. Martin Luther King underwent punishment not because he wanted to show respect for the racially biased system he was opposing, but to render it impossible for that same system to work properly. “The trip to jail was a means of withholding cooperation from an oppressive tangle of laws, practices, customs, and beliefs. It was a creative strategy, therefore, for multiplying, extending, and amplifying protest—for bringing the fight for equal justice into the heart of the racial order” (Pineda 2015, 21). Mass civil disobedience and mass arrests caused the prisons to be submersed by people and incapacitated to accept other prisoners. “If we fill up his jails, the white man will have no place to put us,” wrote King in *The Progressive*. Surely he wrote that disobedients should be ready to accept punishment *lovingly*, but I agree with Pineda when she says that “for

¹⁵ To note that there is an important distinction between responsibility and liability (cf. Moraro 2018).

King, acceptance of punishment also met particular pragmatic and strategic needs...willingness to suffer punishment might perform a moral function, but it also puts the various coercive mechanisms of an unjust system into sharp relief—provoking a ‘crisis’ and ‘creative tension’ that would force the pressing demands of justice and equality to be addressed" (Pineda 2015, 8–9). At the same time, going to jail could be calculated to get more publicity and as a constitutive part of a communicative strategy. In this sense, King, but also Greenpeace have often transformed cases of imprisonment into cases to use to further the battle for e.g. climate justice.

From a principled perspective, going to jail might signal the withholding of consent from a society that disobedients deem unfair and unjust. Or, accepting being put in prison could be “linked to an enactment of courage and dignity, and thereby, to liberation” (Pineda 2015, 9). In this sense, it is important to cite once more the “jail, no bail” movement that Martin Luther King promoted and through which he transformed an occasion of self-deprecation and stigma – going to jail – into a political event of informed choice and empowerment. Martin Luther King tried to fill in jails, “because filling the jails and denying municipalities bail money could offer activists an effective means of disrupting a system of domination, it could also provide avenues for the reclamation of the agency. As well, because historically the jail was the epitome of legalized racial oppression, choosing to stay there could function as a defiant and liberating act" (Pineda 2015, 22). More important even, in this regard, is the Gandhian experience. Gandhi *embraced*, and not simply accepted, punishment as a way towards self-empowerment and courageous citizenship rather than respect for the law. Livingston captures this when he highlights that “the pursuit of truth reorients political action inwards towards a transformation of the self rather than primarily outwards as an appeal to the law” (Livingston 2018, 524). Accepting jail time was for Gandhi a principled way to achieve Satyagraha, the virtue of fearlessness (Pineda 2015). From the perspective of a subject of the British empire, Satyagraha implies that nobody can hurt you and you are not subjected to anybody. Instead of showing fidelity to the law, Gandhi aimed at being a truth-seeker (Livingston

2018), showing fidelity to the truth. Ending up in jail was then seen as instrumental to achieving satyagraha, by practicing non-harm (ahimsa), it was in itself a demonstration of inner strength and courage.

Or, following Brownlee¹⁶, disobedients might be required to simply be ready to accept the *risk* of being punished for instance.

“The willingness to accept that risk flows from the non-evasive and communicative qualities of our conscientious conviction. And, to be justified in civilly disobeying, we must have a good cause, a good set of motivations, and a suitably constrained set of practices with modest consequences, but we need not be willing to accept punishment by turning ourselves in or embracing punishment as a legitimate response” (Brownlee 2012, 8).

All the above problematizes the acceptance of punishment in the civil disobedience framework and suggests that we need to further question civil disobedience events before using them as signaling respect for the law or a certain readiness to undergo punishment. The very same idea of accepting punishment requires further elaboration. Its meaning seems to be quite vague, or rather, it seems it has always been simply equated with non-avoiding punishment, e.g. not running away, not acting covertly. If we consider that a disobedient has to accept the legal consequences of her acts to be seen as a morally conscientious and serious actor, is she less conscientious if she appeals or criticizes the choices of the judge? In other words, is *contesting* punishment acceptable?

This question serves the purpose of better understanding the punishment proviso. If we believe accepting punishment is a way to test the moral depth and conviction of disobedients, then it seems that the deriving implication is that disobedients should gracefully accept their punishment. Said so, an appeal against a sentence does not square with the respect of the system disobedients are expected to have. However, if one’s conviction is so strong to bring her to disrupt the system,

¹⁶ Brownlee’s argument is grounded on her conception of civil disobedience as being primarily a communicative act, which requires the risk of being punished not to evade the consequences of one’s act so to signal our deep convictions, but which does not need that one “ensure that they are punished” (Brownlee 2012, 38).

then, she might accept going to court, but she might reject the conclusion that she is guilty (Moraro 2018, 2007), considering the others guilty of e.g. not protecting minorities. Her believing she is morally right constitutes the reason why she ended up in the streets chanting or occupying and is also a strong reason for her to contest the punishment. Indeed, “An unwillingness to be punished, by publicly defending one’s own conduct during the prosecution, might at times be more ‘civil’ than a passive submission to the sentence” (Moraro 2018, 518). In general, accepting punishment is not necessary nor sufficient for conscientiousness, which could be conversely expressed by strongly opposing punishment. Moraro claims that disobedients should be ready to appear before a court but should not be expected to accept or follow the sentence. Moraro conceptualizes responsibility as answerability and not as blameworthiness so he claims “the disobedient should submit to that authority by accepting to answer to his community for his illegal conduct” (Moraro 2018, 507). The moral duty to answer her community is justified by the respect that one ought to have for others’ autonomy and therefore the state regulations that protect and are the expression of such autonomy¹⁷, but does not imply the submission to punishment.

"The civil disobedient...as a citizen, he owes that explanation to his fellows; however, this does not imply submission to the punishment. A civil disobedient may contest the charges, and plead not guilty; he may argue that while he is responsible for disobeying the letter of the law, he should not be deemed liable to punishment " (Moraro 2018, 511).

To conclude, the idea of accepting to be put on trial, while not necessarily accepting the outcome, although quite unfeasible suggests that what matters in the evaluation of one’s act of disobedience is the readiness to accept the consequences of one’s actions. Similar outcomes seem to have the risk argument put forward by Brownlee. This also implies that avoiding legal punishment does not mean ipso facto evading the outcomes of one’s actions. In fact, we should understand punishment in broader terms, not limit it to the legal sphere. What appears to be morally relevant is not that people are willing to end up in court, but that they are ready to face the consequences of their

¹⁷ In the sense of being the end result of a collective decision-making.

actions, without, for this, necessarily accepting them as right or “deserved”. Not wanting to go to jail does not necessarily mean that individuals are not morally motivated or that they are not serious in their requests, nor does it mean they want to act illegally at the expense of others without any consequence.

On the other side, considering the state decisions, treating protesters with leniency and bearing their disruption is something a state and its members should do out of the respect they ought to have for their autonomy, for their status as self-deciders deeply motivated by moral – and reasonable (Lefkowitz 2007) - reasons to act¹⁸. Our societies in particular should value autonomy and promote it at the highest degree possible compatible with our life in a community of free and equals.

1.2.9 Agents

Historically, the agents of civil disobedience used to be citizens of the state they were disobeying against. More specifically, civil disobedience was associated with minorities¹⁹ fighting for their rights. Even in the ‘60s, during the civil rights movement era in the US, African – Americans, who lacked civil rights and were victims of institutional and personal discrimination, still perceived themselves as belonging to that same state that refused them the right to politically and socially participate as equals. They “did define themselves in terms of the state and its borders” (Della

¹⁸ This is not to say that all disobedients end up doing good or that they are always right, but that they have strong moral convictions they are ready to share with others, and that could also lead them to bear harsh punishments against their own direct and immediate interest, in order to convince them of the value of their actions.

¹⁹ A minority is here to be intended not merely in terms of group size, rather in terms of power, e.g. during the apartheid black people used to be the minority, given their lack of decision making power within the state, even though they outnumbered the white population.

Porta and Diani 2006, 43) and protested as US Americans against the US. The government was *the* accountable entity before its citizens or subjects, as it was also in the case of Gandhi against the British empire, with due and important differences. Disobedients and non-disobedients were seen as future or past voters, or as individuals whose degree of satisfaction mattered, to a certain level, to maintain stability and avoid civil unrest. The citizens themselves had, as they still do, a special relationship with each other: those who disobeyed were part of the same community of those they disobeyed against or caused discomfort to – the nation – and had to consequently bear, all together, the effects of a given policy. At the same time, this meant, for people on both sides, that they had to face directly those they opposed, being questioned in their actions and obliged to promptly offer reasons for them, considering their consequences. It is precisely the very peculiar relationship of dependence and power between those individuals and the state itself that is likely to have given civil disobedience the potential of being a successful act.

Today, I claim that individuals find themselves protesting not simply in their capacity as citizens, but also as individuals endowed with rights *qua* persons and might find themselves fighting for other individuals' rights, for the sake of the planet (cf. Carter 1998) or animals' rights (Singer 1973), while remaining capable of promoting political change. Some of these new agents of dissent are migrants, others are social movements members, others are hackers and whistleblowers who make us think again about the concept of responsibility, and whose acts have transnational effects. Since I believe discussing these types of agents falls within a more transnational discussion of civil disobedience, I will develop this important section in the following chapter.

Nonetheless, before passing to discuss transnational civil disobedience, it is worth mentioning those cases of principled dissent that do not qualify as civil disobedience, but that might still be morally justifiable on their own terms.

1.2.10 Otherwise Resisting

...we should remain vigilant against any and every manifestation of fascist politics.

(Bray 2017a, 171)

While I have already explained that I do not support the civil/uncivil distinction that some scholars have adopted lately (Delmas 2018a, 2017; W. Smith 2020; Lai 2019; Adams 2018), I do support the claim that among those cases that do not qualify as civil disobedience, there are forms of protest and dissent that can be justified on their own terms. Distinguishing between what is civil and what is *not* civil disobedience does not, ipso facto, mean that only civil disobedience is justifiable, but that only certain acts are justifiable *as such*. To be sure, civil disobedience in its domestic and transnational dimensions is by no means exhaustive of all the possible forms of protests, nor of all the justifiable expressions of dissent.

A case among others is the one represented by anti-fa groups. Anti-fa groups are not associations or organized groups. Rather, to be anti-fa means to be following an anti-fascist ideology. Thus, when I refer to anti-fa groups, I have in mind people who share the same anti-fa ideology and gather on specific occasions to contrast fascist, or Nazi groups. Anti-fa groups are more confrontational in their behavior and usually more violent than civil disobedience activists. However, as we have seen already, violence is not a sufficient, nor a necessary condition, if used within the limits we have discussed, to disqualify an act from being civil. What is civil has to do with the political and the interest that the community at large is taken to have over a given topic, with the systemic injustices of a system, or with the level of affectedness suffered by the community because of an event, or a policy. In this sense, anti-fa is civil qua political like civil disobedience. However, anti-fa movements are at odds with a definition of civil disobedience since they appear to be more directed towards Nazi groups rather than institutions. They aim at directly

confronting neo-Nazis and fascists and opposing their violence, rather than modifying policies or practices. Their primary goal remains to tackle directly neo-Nazis and shut their meetings down, even when they address the powerholders who inflame the crowds, and whose actions might find an echo in a growing mass and communicate to them that certain demonstrations and acts are not and should not be tolerated.

As to why anti-fa should be justified, being illegal in its tactics and often violent, the answer lies in the threat posed by the groups they confront. In the case of neo-fascists and neo-Nazis, it is easy to assume they are interested in pursuing discriminatory policies²⁰, while it is more than obvious that their rallies, in se, cause harm to those they target, e.g. mainly migrants these days. In Europe, we have already witnessed the horrors caused by these ideologies and how they came about. Given the past, the WWII wrenching experience, but also the more recent neo-Nazi protests in the US and Europe, anti-fa protestors are likely right in considering these gatherings as possibly leading to even greater violence than the one they exercise at first. Anti-fa groups directly oppose fascist groups whenever they are already violent, but they also confront them before they become more aggressive and I believe they are justified in acting on both occasions, precisely because of the clear and well-known danger their opponents represent. Such a danger is recognized by communities beyond borders and the defense against it is also enshrined in law, most notably in Italy and Germany. In other words, the wrong anti-fa is opposing is something people in general and state institutions, in particular, agree is wrong. As we have already mentioned, in the case of the alt-right, it is quite easy to predict their violence because we have already witnessed it. We are aware of the consequences of the rise of fascism and Nazism in the '40s and the ones of black terrorism

²⁰ To see how violence and xenophobia are part of the DNA of neofascism is interesting to read the description of neofascism that the Encyclopaedia Britannica gives: "Like their fascist predecessors, the "neofascists" advocated militant nationalism and authoritarian values, opposed the liberal individualism of the Enlightenment, attacked Marxist and other left-wing ideologies, indulged in racist and xenophobic scapegoating, portrayed themselves as protectors of traditional national culture and religion, glorified violence and military heroism, and promoted populist right-wing economic programs"(Britannica 2022).

in Italy in the '70s with banks and train stations blowing up, leaving bodies on the concrete (Drake 1984). Today, we read about violent aggressions at the hands of the alt-right, and at the expense of migrants and minorities. As Mark Bray points out in his commentary on Etzioni's article in the *Boston Review* (Bray 2017b) we are already witnessing too many cases of violence and intolerance, with assaults perpetuated on a quite regular basis (Center on Extremism 2019). So, while often illegal and disruptive, anti-fa presents then itself as a bulwark against discriminatory violence and harassment.

In particular, there is an important sense in which anti-fa protects minorities, that is by promoting their self-respect and autonomy. Anti-fa does so via its contrast to epistemic injustice, especially testimonial injustice. Testimonial injustice occurs when the speaker is "wrongfully undermined in her capacity as a knower" (Fricker, 2007, 16)²¹. This might happen when people are falsely believed to be less competent as a knower than they actually are, so less credible. This would mean that a person could be less trusted and less considered as capable of making independent judgments than others, simply because of prejudice (precisely taken as a pre-judgment, indeed).

This implies that the victims of such an injustice cannot, de facto, act consistently with the projects they have identified as their own (cf. Dworkin, 2011) having to face a form of prejudice that puts them in circumstances where these are particularly hard, if not impossible to pursue. People who suffer from epistemic injustice will not simply be less considered and lose their equal status within a given community once the others think less of them, but they also will think less of themselves. The same victims of epistemic injustice will not pursue their plans of life, because they will not consider them worth pursuing in the first place, nor they will trust their desires and interests to the same degree as they consider others'. Epistemic injustice erodes the social bases of self-respect

²¹ As Fricker herself notes: "credibility deficit can constitute such a wrong [to be wrongfully undermined in our capacity as a knower], but while credibility excess may (unusually) be disadvantageous in various ways, it does not undermine, insult, or otherwise withhold a proper respect for the speaker *qua* subject of knowledge; so in itself it does her no epistemic injustice, and *a fortiori* no testimonial injustice" (Fricker 2007, 20).

that are fundamental for a person to act within her society, to stand up for what she believes is important, and to identify with her second-order beliefs and volitions.

This injustice towards individuals is socially determined and can be confirmed and reaffirmed especially by people in powerful positions. The power these hold, notably before less educated individuals, is generally taken to legitimize a belief and to render it closer to a true fact, than to what it really is, a mere prejudice. As Waldron forcefully argues (Waldron 2012), certain acts and movements, namely those that stain themselves with hate speech and threaten other communities, endanger the ideal of inclusiveness of our societies, and the dignity of those they target. The harm they cause does not depend on whether or not their call for action is successful, rather, it is linked to the very same statements they make and the immediate effect they have.

The spread of such prejudice does not have to be evident, migrants or women do not have to be directly called stupid or ignorant to generate in the public the idea that they are less of a knower than others. It is enough that they are defined in terms that underline certain aspects instead of others, e.g. sensitive instead of professional, to reaffirm that they are less competent. Nonetheless, neo-Nazi, fascists and parties that more or less evidently support sexist and racist ideologies are not subtle in their diminishing others' competencies. Testimonial injustice is committed by these groups when they call certain minorities ignorant and thieves so impacting minorities' interactions with others in a quite serious way. When neo-Nazi and fascists oppose the role of women in certain positions because they believe in a natural hierarchy that sees the white man at the top, and the woman relegated to the kitchen, the message they send is one of intellectual discrimination. This way of talking about a given group, e.g. women, migrants embodies per se a way of thinking about people that constitutes an injustice, regardless of the actual effects that this speech might generate. As Waldron says, when talking about hate speech, "the concern is not about incitement; it is about the dispelling of an assurance given by society to its most vulnerable members" (Waldron, 2012,

168), the assurance being to protect their dignity, in this particular case their dignity specifically qua knowers and autonomous agents.

Thus, anti-fa, by the very simple fact of arising, signals that certain behavior is questionable, and prevents the creation of an environment that elevates certain prejudices to uncontestable heuristic mechanisms. This form of dissent, expressing with intensity the interests of the protesters, opposes a discriminatory way of looking at people and treating them with less respect and it does not simply defend the dignity of the victims directly, but also sends them the message that they are not less of an agent than anyone else. If we consider that a person forms her idea of herself also based on what the others think of her, it is easy to understand how anti-fa can be in this case very beneficial for people's self-respect. Protesters confirm the victims' self-respect by combating those groups that affirm certain stereotypes, precisely because they express these stereotypes. Anti-fa answers to this injustice and this has the twofold effect of preventing the normalization of a certain dismissive way of thinking of certain groups, and of directly reflecting a more respectful understanding of these very same groups.

As for the tactics, the aim of interrupting events that are not immediately violent and that are defended as manifestations of free speech, as many neo-Nazi supporters usually argue, is also to avoid these groups to grow in number. As Bray tells us "when left uncontested, such events become spaces for "alienated" racists to meet each other, mingle[...]" (Bray 2017a, 177). The very same appearance of these gatherings assures people that are like-minded people who are ready to oppose e.g. minorities and frees them from feeling ashamed of being racist or xenophobes. Contrasting them is then a way to conversely express the moral condemnation of society.

As for the level of violence used by anti-fa, it is important to say that their use of violent means is often a self-defense mechanism, a response to violent attacks. Surely, when violence is used before the other acts violently, this requires further examination. Here, I agree with Mark Bray in thinking that, at times, a certain amount of disruption is in order, before the opponents hit. He points out,

“anti-fascists don’t wait for a fascist threat to become violent before acting to shut it down, physically if necessary”(Bray 2017a, 159). The seriousness of the threat then justifies the resort to a certain degree of violence, beforehand.

Given the above, anti-fa is justified in disobeying to oppose certain specific groups promoting certain agendas and they are justified in using a certain amount of violence to oppose them, even before they engage in violent activities. The harm neo-Nazi and fascists cause by stating that some individuals’ worth is less than others’, and the threat they pose to democratic institutions and values constitute valid reasons to, at least, question them. Undeniably, while neo-fascists might not be a serious threat at first, they might become a dangerous one to face in the future. The threat they pose, and the harm they have already caused to minorities and in general to less represented and less empowered groups is a justification for the resort to actions such as the ones anti-fa brings about, e.g. disrupting their rallies and defending those attacked. As we have discussed already, they are justified because of the threat the group they are contrasting constitutes and the harm this could likely cause. Their direct targeting neo-Nazis, instead of the institution, and their use of violence, at times not proportionate, does not make them civilly disobedient, but this is not necessary to justify them as being valuable for upholding the same liberal and democratic values that are the foundations of our societies.

FINAL THOUGHTS

From all the above, I consider civil disobedience a political, morally motivated, public, mostly-non violent, and illegal act, brought about intending to defy laws or practices directly and indirectly. It is necessarily communicative, although not primarily so, possibly coercive, and public in the sense of being necessary for its results to be seen. This does not mean people or officials have to be

informed of the action beforehand, nor that the action needs to happen in public. Rather, this implies that the action cannot remain secret. This caveat, however, does not apply to the agent. Indeed, publicity allows for anonymity, which is here considered as not in contrast with agents being morally committed or responsible for their own act. While responsibility is key also in my framework, this does not necessarily coincide with abhorring anonymity and accepting punishment. Certain actions cannot be brought about if not without concealing one's identity, and others pose such a high danger, e.g. since they expose highly sensitive information, that I believe disobedients are justified in not going public. These anonymous disobedients who act out of a moral duty to what they believe is just, bear the responsibility of breaking the law in other, serious ways, e.g. through exile and losing their way of life. Furthermore, although I believe non-violence to be preferred, my conception of civil disobedience does not rule out a limited amount of violence as incompatible with civility and civil disobedience. Finally, restricting civil disobedience to citizens seems to me to not recognize that other agents already do play an important role in our societies, migrants for instance. This is why, although I believe we still have many domestic-bound civil disobedience cases, we cannot avoid talking about a more transnational dimension of politics and so of contestation.

In what comes next, I will develop a definition of transnational civil disobedience that departs from the revised understanding of domestic contestation I have just presented. If my cosmopolitan perspective makes me see the world as a place we all share and on which we all have duties towards each other and where civil disobedience becomes possible and needed, the mere and evident fact that one political community depends heavily on others renders illegal political dissent already efficacious. It is on this precise note that I end this chapter and I connect with what follows, introducing the passage from domestic civil disobedience to a transnational way of participating.

2 TAKING DISOBEDIENCE BEYOND BORDERS

“Civil disobedience as transnational disruption, according to this line of thought, might be justifiable as a protest against failures to protect persons, peoples or species from serious threats that are recognized as appropriate concerns of a global normative order”.

(W. Smith 2017, 488)

Revising the Rawlsian conception of civil disobedience is insufficient to capture the recent waves of demonstrations and illegal occupations and to account for a world that differs greatly from the ‘70s. These years, more than ever, every country is connected to the others via a network of trade, military, and diplomatic relations formalized in norms and international regulations, whose implementation is controlled by international bodies such as the World Trade Organization (WTO), or the World Bank (WB), to mention a few.

At the same time, states are expected to follow certain standards of decency and respect human rights as defined by the various transnational UN conventions most countries have signed, although they often disregard them. Corporations have also started to participate more in dictating the international policies of several countries through their lobbying activities. As Linklater reminds us “Increasingly, with the continuing global expansion of capitalism, the greater portion of human harm has been transmitted across frontiers by world market forces rather than exported from one society to another through conquest and war” (Linklater 2001, 271).

Moreover and most importantly for our discussion, injustices are not confined within a single state, nor are the responsibility of one single state, but happen beyond borders affecting people around the world and requiring a transnational answer. The role of people as consumers is also to be considered, together with their having access to information like never before, which means both

that they impact the lives of people who live far, and that they get to know what happens worldwide and what their own actions contribute to.

As Pogge's arguments about the role played by the global economic order in contributing to global poverty demonstrate, there are very few instances where responsibility is purely domestic because all domestic policy is conducted within a global context as well. So, for instance, if a population in one country experiences hunger or severe poverty it may be due to any number of factors including domestic mismanagement (or worse) or it may be due largely to external factors attributable to one or a diffuse range of sources (Shapcott 2008, 203).

The state not only is not the main perpetrator but, alone, is not the "appropriate unit for thinking about issues of justice...[nor] citizens of such states are the pertinent subjects" (Fraser 2009, 14). Thus if injustices cross borders and those who commit crimes and pass laws that do affect us are not simply our own state, but a kaleidoscope of agents, this means that 1. There are reasons to complain globally 2. Some agents that do not coincide with our state are responsible or complicit in wrongdoing 3. We are affected, not simply qua citizens, by the same problems all around the world (e.g. climate change) or by different manifestations of the same issue (e.g. exploitation. Also, given the interdependence and power imbalance between states, a part of the world is responsible for the sufferings of another part of the world and common people have a certain bargaining power to end or change the state of affairs they deem unjust.

Given the above, it is not surprising then that protests have expressed the need to tackle economic, social, and environmental issues from a perspective that while it does not exclude the state, inserts it in a global scheme of interests, duties, and rights. Before the rudimentary nature of supra-national institutions, the increasing influence of non-state actors, and the lack of other proper and adequate institutional avenues for political action, people have started exploiting the new means of communication to gather and protest collectively around the world to claim their different rights and directly participate. So, while issues and powerholders have become more and more

transnational in their scope, protests have also gone beyond borders thanks to the increasing possibility to act transnationally in different ways, to get informed and inform others who live far from us, creating communities of activists worldwide.

There is then not simply the need to look beyond the liberal understanding of civil disobedience, but to extend the definition to account for the metamorphosis of the world and include phenomena of resistance and actions that, while occurring in a transnational dimension, maintain the peculiar features of civil disobedience. This expansion of the term matters because framing a protest as civil disobedience legitimizes it more, invites people to participate, and redefines the political terms of engagement in the polis.

However, I cannot simply state the existence of transnational civil disobedience (TCD), rather, I have to test its logical possibility (Ogunye 2015) and normative justifiability against the necessary features of civil disobedience we have seen in the previous chapter. How can disobedience be civil, political, and indeed, illegal beyond borders? Which or whose legal codes apply and are infringed? Who is a legitimate agent and what or who can be a possible target of transnational civil disobedience? While domestically it is evident which and whose laws we are disrespecting while trespassing, how can one person disobey transnationally, since the world is still divided in territories organized in nation-states? By departing from the revised definition of civil disobedience we have seen above, this chapter aims at addressing all of these questions and poses the basis for the last part, concerning the duties to which transnational civil disobedience might give rise.

2.1 FROM CIVIL DISOBEDIENCE TO TRANSNATIONAL CIVIL DISOBEDIENCE

*“Indeed, what is at stake with the resort to civil disobedience is the definition of the frontiers of
the political sphere”*

(Bentouhami 2007, 267)

To start our query, it is essential to specify what I have in mind when I speak of transnational civil disobedience (TCD). Examples of transnational civil disobedience would be, for instance, Greenpeace activism spreading in different countries against the same target, or towards different national states for the same transnational injustice, or border crossing taken as an act to manifest the wrongness of borders, or again national civil disobedience targeting a transnational actor, be it state-like or economic, or supporting others elsewhere, so targeting a foreign entity in solidarity. More in detail, transnational civil disobedience is an act that surpasses borders, not necessarily in a physical sense of individuals entering a new territory, although it might also be²², but rather in the sense that the participants, the targets, and the addressees of the message do not reside in the same territory, that injustices per se cut across borders (Fraser 2009) or that disobedients make reference to universal principles or rights they have qua humans, i.e. that are equally possessed by everyone.

In my view, whilst we can trace similar motivations, similar stress on the dialogic/public nature, and the same reasons-giving commitment between domestic civil disobedience and transnational civil disobedience, the latter surely differs from its domestic counterpart in the issues it wants to stress, the principles it addresses, its audience, its targets and its agents. If civil disobedience

²² For an argument which considers illegal border crossing as an act of civil disobedience see (Basu and Caycedo 2018; Benli 2018).

confronts citizens and their political representatives within the borders of the state, *transnational* civil disobedience arises as an event *only* with the crossing of borders and with *individuals* communicating with a global audience, while contrasting inter-governmental organizations (IGOs), third states, and economic actors above and beyond the nation-states. People find themselves disobeying against IGOs, multinational corporations, and states considered directly responsible for violations of rights or indirectly, tacitly sustaining such violations committed by private bodies with their inaction. These bodies become the targets not simply because they are those that commit injustice, but also because they are considered capable to rectify them. Disobedients address non-state actors directly, not in a mediated way, not taking the state as the *only* institution to promote justice anymore. This suggests that non-state actors are recognized as agents and that the locus of justice does not reside only in the state.

2.2 QUESTIONING THE POLITICAL & ILLEGAL DIMENSION OF TCD

In the world we live in today, our life is regulated by local and international laws. This means, from a disobedient perspective, that one can disobey locally and disrupt an international law, as when people cross frontiers to explicitly condemn their very existence. Indeed, even though, *de facto*, civil disobedience still occurs within borders (Ogunye, 2015), transnational civil disobedience clearly addresses the global as the political space of appearance, explicitly reframing the polity, i.e. what regards the citizen, as global. In this way, what is *civil* and political is not constrained by borders. Surely, if civil disobedience occurs within borders and a clear set of rules and institutions that impose formal sanctions or commit crimes, TCD does not. While civil disobedience is an illegal act brought about by citizens against a well-defined target, the state, at the same time the object of criticism, the instrument of change, and the one that can enforce the law against disobedients,

TCD confronts various entities filling these positions. This multiplicity of agents involved mirrors the different levels at which civil disobedience and TCD operate, respectively, but also the diverse sense in which they can be political and civil. While the political nature of domestic civil disobedience is quite evident, with agents addressing established institutions and referring to a given legal code, the political dimension of TCD is less obvious and the lack of a regulated participatory global arena and a transnational law-maker could suggest that TCD cannot be anything but an informal mechanism (Allen 2011) of disruption that cannot aim at changing laws, nor can disrupt them beyond the state level.

This view is mistaken though, as it disregards the real nature of the global political arena and its norms, and cannot then account for the different senses in which TCD is civil and thus political. First, there are clear political interests that are transnational in nature and people who already act to protest their rights as citizens and humans. Whilst civil disobedience confronts citizens and their political representatives within the borders of the state, *transnational* civil disobedience “engages the concepts of global citizen and a global public” (Allen 2011, p. 135). The issues discussed regard more states or the global economic order and are evidently political although in a sense that goes beyond the concept of what pertains to a border-constrained polity. Disobedients address political issues, e.g. economic injustice, rights abuses, directing their *doléances* to individuals and institutions holding political power, although not necessarily political offices, whose decisions have an evident impact on people’s lives in different parts of the world. Or, they do contest the lack of a better political representation to institutions whose policies do have a transnational scope, such as the EU or the UN. So, they do have precise and formal targets to address not merely in their capacity as citizens of a country, for interests that touch people across borders.

Second, there is already a set of international and transnational laws that are enforced, most notably migration laws. The absence of a global government does not mean, with Ogunye and contra Allen (Ogunye 2015; Allen 2011), that the main feature of transnational civil disobedience lies in its

informality, i.e. in its “prospects for achieving justice through illegal action without directly engaging the formal institutions of law” (Allen, 2011, p. 136), since transnational civil disobedience, at least partially, retains the formality assigned to its domestic counterpart. De facto, TCD does engage with the formal institutions of law as its immediate targets of disruption or as its reference point, although it does not necessarily always engage with them as their primary elected audience. Certain cases are already transnational not simply because the crimes cross borders, but because they amount to violations that are considered abhorrent around the globe and that are sanctioned domestically by laws that are receptions of international conventions.

A good example of how civilly disobedient actors refer to transnational laws is represented by the case of Edward Snowden. Snowden, a former contractor with the US National Security Agency (NSA) leaked information about the extent of the surveillance activity done by the NSA itself²³. Fearing repercussions, Snowden quit his job and flew to Hong Kong. Since his act was considered in breach of the US Espionage Act, he was consequently left without a passport. He then decided to seek asylum in Russia to avoid being imprisoned in the US. Interestingly, before flying to Russia, Snowden asserted that the NSA surveillance constituted a breach of domestic and international law, “including the Fourth and Fifth Amendments to the US Constitution (prohibiting unreasonable searches and seizures, and guaranteeing basic due process), article 12 of the Universal Declaration of Human Rights (providing basic legal security), and various other statutes and treaties banning legally unchecked state surveillance, which he views the NSA as having recklessly pursued” (Scheuerman 2014, 612). This quote does not simply highlight the role of international norms in formally regulating our life and protecting our interests as individuals, but it also stressed the formality of TCD, which Snowden’s act is an example of. Another interesting case that proves

²³ Through the NSA, it seems that the US government collected information on many countries, such as Brazil, France, Mexico, Britain, China, Spain and Germany and on many heads of state. The NSA was not alone in its spying activities, since the British, the Australian and the Canadian agencies collaborated with it (Snowden 2019; Greenwald 2014).

the formality of transnational civil disobedience is the anti-whaling laws one. In 1946 several UN members signed the Convention for the regulation of whaling, while in 1982, the International whaling commission moratorium prohibited whaling in the world. Australia has always been a party member of the Convention and respected the prohibition of whaling. However, throughout the years, Australia negligently allowed Japanese boats to fish whales off its coast, which pushed the environmental NGO Greenpeace to organize an anti-whaling civil disobedience campaign in 2005-2006. The objective was to oblige Australia to control its waters more severely and avoid whales being killed, which was not merely the result of what was considered an immoral act, but of an *illegal* one as well (O’Sullivan, McCausland, and Brenton 2017). The protesters wanted Australia to abide by existing rules and aimed at changing the laws of Japan, so to make them conform with what other states already signed in and abode by. The direct reference to formal laws and institutions was more than clear.

Third, the existence of global documents implies a global oversight mechanism and a global institution that implements decisions. Whenever the state is not capable or not willing to prosecute those who commit crimes, there are already international courts and conventions in place that individuals and civil society organizations can address. As Scheuerman reminds us “even if the global system remains messy and contradictory – too often driven by old-fashioned power politics, even when faced with shared tasks suggesting its obsolescence – its main features nonetheless rest on some identifiably cosmopolitan moral and political aspirations” (Scheuerman 2014, 622). So, again, it seems a mistake to say there are no formal bodies at a transnational level. Acknowledging the transnational dimension of civil disobedience as a political act beyond borders follows simply from the understanding of the world as it is already: governed by transnational regulations and policies²⁴.

²⁴ To go back to the whaling case we have briefly discussed above, it is interesting to note that when Japan created a whaling program, the “Jarpa II”, was precisely a formal and legal global body, the UN International Court of Justice, that declared such a program not in accordance with the

That being said, disrupting one country's law could also be used to pressure that same state to push for a change at a transnational level, having in return domestic social peace. Even in this case of direct confrontation with a single state, civil disobedience would retain its transnational character given the aim it wants to achieve and the universal principles it might appeal to, while engaging more directly with the formal institutions of that singular state.

Given all the above, it is evident that one of the aims of transnational civil disobedience can *also* be changing the law, both nationally and internationally. Naturally, others can be the pursued aims, among them, trying to pressure the targets in complying with already existing regulations, or trying to augment the salience of a topic generally absent from the political debates by better informing the public and persuading it to take action. Still, TCD would maintain its formality and capacity for changing regulations and policies, despite the absence of a global parliament. The very same absence of a transnational lawmaker could, on the contrary, be a reason to resort to civil disobedience and constitutes in itself a justification for it (Ogunye 2015), as we will explore in the following chapter.

2.3 COMMUNICATIVE

In the first chapter, we have seen that the communicative dimension of civil disobedience is a fundamental, and yet not necessarily primary, aim of civil disobedience. I support this claim even in the transnational arena, although there are important differences between certain forms of

International Convention for the Regulation of Whaling. Both the judging body and the document on which the ruling was based are the representation of formal institutes and regulations beyond borders, the same disobedients appeal to or try to change.

dissent and others. From a mere means perspective, the Internet helped the people in organizing better their movements, with Twitter being *the* tool aspiring revolutionaries resorted to. At the same time, the net became the main vehicle of information and participation and therefore of civil disobedience (Coleman 2014). From a communicative perspective, however, what distinguishes civil and transnational civil disobedience has to do with the agents involved in this communication, rather than in the tools used. To whom does TCD talk and address its messages? To whom does it make sense it does? In the words of Scheuerman:

“The internationalization and post-nationalization of decision-making strain the implicit assumption that civil disobedients, publics (and political majorities) to which they appeal, and the relevant political authorities overlap within the borders of a single territorially bound polity” (Scheuerman 2016a, 244).

The relevantly placed audience (Brownlee 2012) is now the global public, although the sense in which I believe it can be the *relevantly* placed audience is different from the way the domestic majority used to be. The global public is the relevant participant in this communicative action given it is a. a collection of individuals interconnected with one another and influenced by events happening elsewhere from where they reside b. global actors who retain their domestic political rights and so a certain bargaining power face their state, so able to promote a local change, globally inspired – “glocal” (Tarrow 2005; cf. also Della Porta et al. 2006; Della Porta and Tarrow 2005) c. influenced, although in various degrees, by the decision taken by non-state and IGOs actors d. an ensemble of consumers whose desires affect the market and the production chain. These last two points are revelatory of how “political functions are sometimes placed immediately in private hands” so that “it potentially makes sense for disobedients to take aim at non-state institutions” (Scheuerman 2016a, 247). The very same state acts somehow as a private actor in the global market, blurring the boundaries between the public interest and the private one (Mattei 2013, 2011). Thus, disobedients target both the state and the corporation, given that more often than not laws depend on lobbying activities carefully crafted by private entities. Corporations dictate the policymaking

of a country, be it in more subtle and natural ways, be it in more evident, malicious ways. It is precisely because non-state actors do play an important role in determining our choices and shaping our lives that they are now targets of disobedience. Economic actors (Markoff 2015) have agendas that are directly determining the adoption or rejection of certain policies by domestic institutions²⁵. Trespassing on a corporation's property becomes then a meaningful way to send a message to a relevant stakeholder, as well as protesting the EU policies (Della Porta 2013) that retain the final word on given economic decisions and humanitarian plans. Pushing for a revision of the EU decisions could be done either by pressuring different states at the same time, so to give them a reason to confront the other member states on issues deemed urgent, or by directly assembling before the headquarters of the EU.

In the first case, the state is not anymore the final audience of disobedients' claims, nor its final target, since its decision-making power is not sufficient. In the second case, the state is bypassed, and protesters confront directly the symbols of a power whose usage they do not agree with. Either way, even beyond borders, it is evident that communication is still relevant and possible since targets are not unreachable. The same is true for more contested protests such as the ones brought about by hackers, e.g. Anonymous or whistleblowers. Although digital activists do not occupy squares or appear publicly offline, they still communicate. For instance, Anonymous is famous for releasing videos in which it takes responsibility for certain hacking activities, and many whistleblowers, after their act is gone public, express in interviews or webpages the reasons that brought them to disregard certain policies. Anonymous and digital whistleblowers are new agents

²⁵ In this regard, the way the US Congress deals with certain issues, e.g. gun control, casts a very grim light on the degree to which corporations influence and guide politics.

of civil disobedience and yet they represent only one of the three categories of transnational political activists I have identified²⁶. It is them that I am going to present in the next section.

2.4 TRANSNATIONAL AGENTS

As Celikates notes (2019) one of the most distinguishing features of transnational civil disobedience are the agents involved in it. These can be divided into three broad categories, namely, transnational activists, hackers and digital dissidents, and migrants. Although they all share the same important feature of being transnational, this applies to them for different reasons deriving from their own distinctive traits. Transnational activists are indeed transnational for the causes they fight, i.e. global justice causes, environmental problems, the commons, in other words, issues that affect communities beyond borders. Digital protesters exhibit transnationalism in their being anywhere, acting virtually and so crossing borders as they please, and because of the tools they use and the entities they target. Similarly to hackers, migrants also cross borders, although in a very different way, and it is precisely their being crossing individuals, non-members acting to enforce documents protecting human rights and not merely citizens' rights, that they do belong to the transnational agents I am depicting here. Importantly, all of them target transnational institutions and/or make reference to transnational documents – or the lack thereof – or to domestic policies that are the reception of international ones. The question is though whether these activists are properly civil in a civil disobedience sense. This requires proving that they act illegally but politically, mostly, and aspirationally non-violently, moved by morally motivated

²⁶ Hackers and whistleblowers are not necessarily, nor inherently, transnational agents, but they can be, not simply because they have the technical competences to cross borders online, but also because of the causes they fight for.

reasons they should be willing to explain and being ready to risk bearing the burden of their illegality.

2.4.1 Transnational Activists

In the last decades, we have witnessed the creation of venues where to get informed and address global justice-related issues, allowing the formation of interest-based groups all over the world (cf. Gould, 2004, 2014). Thousands of people gathered around topics such as the environment, i.e. the young adults of Fridays for Future among others, or migration and organized sit-ins, occupations, and direct actions around the world.

Some of them are among those I define as transnational activists. These are individuals²⁷ or groups, including transnational social movements and organizations,²⁸ which share common aims, make collective claims based on global justice debates, and oppose common targets (Tilly and Wood 2016; Tilly 2004). More precisely, drawing from Tarrow, the activists I am referring to here are people who have a cosmopolitan understanding of the world and try to create venues where to discuss transnational issues and violations. To these, we have to add people who act in solidarity with others beyond borders and people who try to export their domestic grievances transnationally, whenever they cannot be addressed locally or when they parallel with similar grievances elsewhere. As Tarrow suggests, transnational activists appear to be the link between the local and the global, they externalize their contention and share with others aims and means of protest (Tarrow 2005).

²⁷ Such as Cédric Herrou, whose story has been covered by many newspapers, such as *The New York Times*, (Morenne 2017).

²⁸ Tilly and Tarrow, distinguish between transnational social movements and advocacy organizations, focusing on the former, rather than on the latter, while here I refer to both with the term “transnational activists” (Tilly and Wood 2016; Tarrow 2005).

An ensemble of such activists could be found, for instance, in the World Social Forum, which since the 2000s put together civil society organizations from all over the world, calling “for global social justice and solidarity, democracy and transparency, electoral and participatory democracy, and the struggle against dictatorship” (Tarrow 2005, 131). Putting aside the organizational problems the forum is now having, its very same appearance signaled the need to discuss certain issues beyond borders, the urgency to have accountability mechanisms in place, and the presence of agents interested in doing it in an inclusive and transparent manner.

Surely not all social activists were or are necessarily civilly disobedient actors, since not all are acting illegally, nor those who do are necessarily civil or moved by moral considerations or are responsible for their own actions. So, while Amnesty International, Fridays for Future, and other NGOs with a transnational scope are transnational agents but not necessarily civilly disobedient actors, Greenpeace, as well as Extinction Rebellion and Sea Shepherd usually act as transnational disobedient agents, given their use of illegal tactics.

These organizations are evidently political in their addressing policies adopted worldwide, most recently the EU Green Deal, and they do so qua citizens of the world, or rather humans. Such actors make clear reference to the commons (Bailey and Mattei 2013) and global justice principles, referring to the common belonging to this planet and to the common belonging of certain goods to us, qua inhabitants of the earth e.g. the Arctic, rather than in their capacities as citizens. They claim the commons they try to protect belong to every individual, and that they act because their duties as humans morally oblige them to do so. While they act illegally, they try changing a policy or instituting regulations protecting goods they believe essential, for morally motivated reasons and mostly non-violently, with no intention of causing harm. Greenpeace, in particular, is an organization for which nonviolence is essential, as well as Extinction Rebellion whose auto-definition is of a “decentralized, international and politically non-partisan movement using non-

violent direct action and civil disobedience to persuade governments to act justly on the Climate and Ecological Emergency” (“Extinction Rebellion” 2022).

Furthermore, they bear the burden of their acts, and are ready to take the responsibility that comes with their illegality. These groups are interested in changing laws well beyond those they are directly affected by, at the same time claiming that certain decisions, taken elsewhere from where they vote, also affect them in different respects. In particular, for Extinction Rebellion the very same way these decisions are made is deficient and requires that a more democratic and inclusive politics is created.

To conclude this brief section, transnational activists are those who act to change the policies of countries different from their own, either because these policies affect them directly, or to act in solidarity. Furthermore, this category includes those who act concertedly with others to change transnational policies, such as EU laws, or laws that happen to be the same in the different countries they disobey, for the sake of common goods.

2.4.2 Hackers, Whistle-blowers & co.: the digital actors

There is no justice in following unjust laws. It's time to come into the light and, in the grand tradition of civil disobedience, declare our opposition to this private theft of public culture.

(Aaron Swartz, Guerrilla Open Manifesto 2008)

There is nothing more transnational than the Internet and it is then not surprising that contemporary disobedients resorted to the net²⁹ to protest transnational injustices. Using the Internet means avoiding being bound by borders while being able to directly target multiple entities at once, wherever they and you are. Interestingly enough, the web is not simply a tool to organize a protest or where to get informed about alleged crimes. As a new political space in itself, it can be an arena of protest and, as such, it also presents its actors with new causes for civil disobedience. Surely, the Internet is a highly codified source of information³⁰ and while it provides access like never before to news and data, it is not as free as many had hoped. While allowing people to interact at an incredible speed, it also deprives them of their right to privacy in ways once thought impossible. If the web is open to all individuals, it is equally, if not more, open to states and corporations, making it the easiest and most efficient control and manipulation tool ever invented. Also, not all the information is truly available to all equally, and knowledge is still a good to pay for. So, the net is at the same time a tool and a political space whose control disobedients fight about and whose regulations, or lack thereof, they question. To make a few examples, on the one side, we can see movements such as the Hong Kong umbrella movement and its subsequent spinoffs which mostly used Twitter as an organizing device (Agur and Frisch 2019). On the other, we have Anonymous and others that disobeyed through the net but using it as a new political arena (Coleman 2014) primarily fighting over freedom of speech online and highlighting privacy concerns.

²⁹ For a more detailed analysis of the different actors that belong to the digital disobedience family see (Wong and Brown 2013; Calabrese 2004; Delmas 2018b; Serracino-Inglott 2013; Coleman 2014; Ensemble 2001; Wray 2011).

³⁰ It would be interesting to discuss the reliability of such information and the fake news phenomenon that spread thanks to the web and the new technologies available, but this is not a topic I can address here. However, I find important to point out that while internet gives access to information to people that could not get this access before, there are serious epistemic issues connected to this, not ultimate the threat that this might pose to the achievement of a more serious, well-informed and objective knowledge.

Although these political agents made their appearance quite a relatively short time ago, bringing dissent online is not a recent event. Since the late '80s, with the birth of the Critical Art Ensemble (CAE), civil disobedience has been brought about online as well as offline. As a response to the dispersion of power itself, CAE dispersed its disobedience as well, challenging institutions, precisely by attacking them online (Critical Art Ensemble 2001). Considering information to be the real source of power, CAE blocked information online, with the intention and result of damaging institutions also offline (Isin and Ruppert 2015).

However, it is with the emergence of political subjects such as Edward Snowden and Aaron Swartz and the already mentioned movements such as Occupy and Anonymous, that we see a dissemination of what I call digital civil disobedience, from now on simply digital disobedience. Digital disobedience is a broader phenomenon compared to the electronic disobedience of the '80s. It is similarly political, communicative, illegal, and conscientious, but it has a broader scope and it is not merely the digital translation of the Rawlsian framework (Delmas 2018; Himma 2006). The difference is not simply in the abundance of the tools available, which already allows for a broader political engagement, but in the causes disobeyed for that these days are not immediately related to the web, but exploit the net to make their message heard.

These days digital disobedience encompasses different forms of political protest with different types of agents and different political agendas. Among those new disobedients, we then have hackers, as is the case of Aaron Swartz who made public more than a million publications downloaded from JSTOR against the privatization of knowledge (Swartz 2008; Ludlow 2013) and sadly ended his life once he knew he risked up to 35 years of jail under the US 1986 Computer Fraud and Abuse Act (CFAA). But we also have to mention collectives of hackers, such as Anonymous, whose main interest is freedom of speech and the main instrument of disruption is crashing websites by flooding them with many requests at the same time (DDOssing). To these, we have to add whistleblowers. The latter use the Internet to access and illegally or unauthorizedly

disseminate private information of firms or other actors believed to act immorally or illegally at the expense of the wider public.

Addressing the fear of those who believe that imposing the label of civil disobedience to digital protests might prevent us to capture the novelty of such events (Scheuerman 2016b), I claim that 1. certain hacktivists themselves adopted this label, Swartz and Snowden, among others; 2. this problem does not arise if we adopt the revised understanding of civil disobedience I have proposed in the first chapter. In this way, the most controversial aspects of digital disobedience, i.e. accepting punishment and anonymity, are more easily comprehended and can be part of the framework. In other words, digital disobedience can be civil, in the way I interpret the term, despite its controversial anonymity and the fact that some activists avoided prison. Surely, as Scheuerman warns us “we need to be careful about using the term ‘civil disobedience’ in an overly expansive and thereby indeterminate fashion”(Scheuerman 2016b, 304), also to avoid depriving it of its moral force, I add. At the same time, it is important to recognize the civil disobedience features in acts that do exhibit them and to not exclude a priori that digital actions might be an expression of transnational or domestic civil disobedience. Most importantly, it is pivotal to recognize certain digital acts as belonging to the family of civil disobedience to grant them that particular moral status and recognition that civil disobedience has also in courts. Contrary to Scheuerman, I believe we need to acknowledge that certain digital lawbreaking does *not* lack “a moral and political legitimacy [compared to] the standard model of civil disobedience as it emerged in the 1960s and 1970s” (Scheuerman 2016b, 304). Civil disobedience in the ‘60s is not the one we have now, but this reflects the changes the world has undergone. The model of the ‘60s has to be revised as we have already seen, and in any case, digital lawbreaking can show those features that are necessary and sufficient to be considered morally motivated civil disobedience. To mention them once more, these are the political nature, the moral commitment and seriousness of the fight, the willingness of protesters to explain their reasons, the readiness to face the consequences of one’s actions and the requirement that protests are mostly and aspirationally non-violent (Milligan 2013). This

implies that, like in the offline world, not all illegal protests, as politically motivated as they might be, fall under the civil disobedience umbrella. This means that wondering whether whistleblowing (Scheuerman 2014) or hacktivism, as manifestations of digital activism, represent the new civil disobedience or not (Delmas 2018b) needs to be qualified to be meaningful (Serracino-Inglott 2013). Because, in itself, hacktivism includes a too wide array of actions to be univocally defined. For instance, online trolling, i.e. disrupting a system or a website just for fun, does not qualify, nor do unnecessarily violent acts, especially if directed towards people. Indeed, I do not consider hacking per se to be a civilly disobedient act, as I do not consider an act to be civilly disobedient simply because it is illegal and politically motivated. So, certain acts might be disobedient, but might not be necessarily civil, nor justifiable, as we will see later.

Whistleblowing qualifies as an act of civil disobedience insofar as it is brought about to address an issue perceived to be of public interest and the same goes for digital vigilantism (Serracino-Inglott 2013; Delmas 2018b) à la Anonymous. What I want to highlight is that digital disobedience or hacktivism, used in the broad sense Delmas adopts it (Delmas 2018b) *can* be an instance of civil disobedience, one with a transnational scope. If we focus on whistleblowing and leaking, we note that often one single leak affects different countries and that the authors, although often anonymous, act for well-motivated reasons, not for their personal gain, which is a typical civilly disobedient trait. Even Anonymous, which started as a platform of trolls, now “more explicitly breaks law in its pursuit of principles, and in defense of the disempowered, it deems to have been wronged by the powers that be” (Wong and Brown 2013, 1022). In the summer of 2011, it is Anonymous that intervened to hack the Tunisian government website in response to the way it handled the anti-regime protests in the squares (Wong and Brown 2013; Coleman 2014; Serracino-Inglott 2013). It is always Anonymous that took down Russian governmental sites after “Kremlin’s

brutal invasion”, which has caused already hundreds of deaths³¹. Whistleblowers-wise instead, a case of digital disobedience that is particularly exemplary is the Panama Papers one. This case helps us shed a light on the definition of leaking as an instance not simply of civil disobedience, but of transnational civil disobedience. The Panama Papers are documents that have been leaked and exposed the illegal transactions directed by a law firm in Panama, the now infamous Mossack Fonseca³², of more than 210,000 companies in 21 offshore jurisdictions. The leaked documents contain personal information of the owners of the companies who used Mossack Fonseca to evade taxes and avoid international sanctions. Among the wealthy people whose names appear in these files, many are political leaders, heads of state, and ministers, from Ukraine to Morocco, and from Australia to Iceland. If we look at the names in these documents it is not surprising, given the power these people retain, that the person or the people who leaked these documents are, to these days, anonymous and I do not think they should be morally blamed for this. When discussing anonymity as a feature that disqualifies an act from being civilly disobedient, considering it a way to evade one’s responsibility and not being fully accountable, theorists rarely focus on safety concerns, for one’s life and someone’s family. The question of how much a person has to bear to be considered a responsible agent is seldom discussed. The dangers they face, once known, are way beyond what is proportionate for the acts they have committed, considering they are exposing illegal acts that should not have occurred in the first place. Being anonymous has not to be equated with non-responsive or non-collaborative. While keeping their anonymity, John Doe did not simply propose to collaborate with the authorities, but decided to share their manifesto, meaningfully titled “The Revolution will be Digitized”³³.

³¹ The revendication of the act was made by Anonymous on Twitter and reported by several international newspapers, such as *the Guardian*, (A. Smith 2022).

³² More information can be found online, on the page of the International Consortium of investigative journalists (ICIJ 2021, 2017).

³³ As they wrote “I, however, would be willing to cooperate with law enforcement to the extent that I am able. That being said, I have watched as one after another, whistleblowers and activists in the United States and Europe have had their lives destroyed by the circumstances they find

While Snowden was mostly concerned with online freedom and the right to privacy (Coleman 2014), we then discover that John Doe acted motivated by the desire to expose those who, already rich and powerful, tried to evade their duties towards the poor. Income inequality is, in the words of John Doe, “one of the defining issues of our time” (Doe 2016), and civil disobedience, by exposing people who are not simply to be blamed morally, but also happen to be criminals, is a way to make them and their accomplices accountable. Leaking, making public their deeds is a way for “[Mossack Fonseca] founders, employees and clients...to answer for their roles in these crimes”(Doe 2016). Interestingly enough, John Doe criticizes the firm in a twofold manner: because it acted immorally even when it acted within the law, and because it violated local and international laws. In John Doe’s eyes “Hopelessly backward and inefficient courts have failed. Judges have too often acquiesced to the arguments of the rich, whose lawyers—and not just Mossack Fonseca—are well trained in honoring the letter of the law, while simultaneously doing everything in their power to desecrate its spirit”(Doe 2016). This quote invites us to think that this leaking was the last resort before an inefficient and biased system and touches upon the respect for the rule of law we have discussed for domestic civil disobedience. My interpretation of John Doe’s argument here is that while the law might have formally been respected, the rule of law was not. Hence, it seems disobedients are those upholding the rule of law, when not the law itself, acting illegally to oppose other more severe illegal acts³⁴. In this grim panorama sketched by Doe, leaking presents itself as one means to protect the rule of law, a response when banks, the media, but even more disconcertingly, lawyers “have failed”. As I have discussed in the first chapter, the respect for the rule of law is not to be conflated with the respect for a single document, i.e. the constitution, but rather it is the compliance to a series of rights and duties that regulate our life

themselves in after shining a light on obvious wrongdoing. Edward Snowden is stranded in Moscow, exiled due to the Obama administration’s decision to prosecute him under the Espionage Act”(Doe 2016).

³⁴ This is the line of argument brought about by Sea Sheperd which claims that “it is the whalers who are breaking the law. A claim of civil disobedience might well obscure this fact”(Milligan 2013, 27).

within our local and also transnational communities and that limit the power exercised by states (Dworkin 1985; Raz 1979).

This story, regardless of the anonymity of the agent(s) behind it, renders explicit how whistleblowing and leaking can be conscientious acts that rightfully amount to civil disobedience. So much so that following this and other episodes, states around the world have approved documents to protect them³⁵, although many are still the countries where whistleblowers face imprisonment and heavy charges. If we think about Snowden, he now lives in exile to avoid being prosecuted under the US Espionage Act, as is the case for Julian Assange.

Julian Assange is a publisher and an activist who is particularly famous for being the founder of Wikileaks, a media outlet that over the years has published classified information on wars, spying, and corruption. Among the published files, Wikileaks shared material regarding the activities of the CIA in various cases, the treatment of prisoners in Guantanamo, and the human rights violations related to wars in Iraq and Afghanistan. Since sharing such private information was considered by the US government as jeopardizing the safety of the US, Assange is now confined in a maximum security facility in London, awaiting extradition to the US.

To those who cannot conceive of civil disobedience to be separated from giving oneself up to a court, the cases of Assange and Snowden give me the pretext to highlight two points we have already lingered on domestically. First, an additional consideration on the respect for the rule of law. When courts decide on “harsh penalties likely to be meted out by bogus judicial proceedings inconsonant with basic rule of law commitments” (Scheuerman 2016b, 310) not surrendering to the court is *not* incompatible with the respect for the rule of law. Second, as we have hinted at already, serving jail time is not the only punishment that one can suffer. The example of Snowden

³⁵ See the EU Directive 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (L 305/17).

is quite telling in this regard and can teach us a lot because if it is true that he is in exile precisely to avoid prosecution in the US, he hardly can be defined as a person who broke the law and got away with it. Indeed, he lost his highly paid job as a contractor for the NSA and had to leave Hawaii to find refuge in Russia. At the same time, Snowden seems to know quite well the law and appears to be willing to respect it, if not to uphold it. In a famous statement he released, he defended his actions as being in defense of the US constitution and of the human rights documents he believed NSA did not abide by. He abandoned, consciously and conscientiously, his comfortable way of living to expose something he believed both to be morally wrong and illegal on a domestic and international level.

“In sync with the standard liberal model of civil disobedience, his actions can be interpreted as representing an attempt to counter serious and indeed systemic infringements of basic liberties...On the other hand, Snowden’s acts also fit the republican view, which envisions civil disobedience as a joint or collective undertaking by political actors working in concert, outfitted with express political purposes” (Scheuerman 2014, 615).

Also, Snowden took precautions to avoid unnecessary harm to people, being sure all the documents were in the public interest, and could not inflict gratuitous harm, so acting in a mostly non-violent way. Regardless of this, Obama decided to enforce the espionage act against him, a decision which seems to “rest on vague and poorly defined legal norms, suffer from excessive politicization so as to impair the possibility of a fair trial, and regularly mete out draconian sentences” (Scheuerman 2014, 620). In such a context, the same decision to seek asylum seems to be “potentially supportive and not destructive of the rule of law” (Scheuerman 2014, 620). In fact, abiding by rules that do not comply with what the rule of law asks might mean being complicit in this very same anti-rule of law system (Moraro 2019a). In the end, whistleblowing, especially government whistleblowing is an essential tool to keep in check our democracies, to expose “illegal or morally reprehensible government practices”(Delmas 2014b, 104) and it remains justifiable even when its actors remain in the shadow.

Most importantly, although it is true that whistleblowing could be harmful, and so, in other words, violent, it is justifiable all things considered, when such violence is unavoidable. Many whistleblowers collaborated with newspapers and covered the names of people involved in scandals, but others could not. Chelsea Manning, the former US soldier who leaked documents related to a deadly US army airstrike in Baghdad and others concerning Guantanamo, later published by WikiLeaks, failed to minimize the harm that such information could cause. However, given the importance of these documents for the political debate and the comparatively small harm possibly produced, this lack of care is justifiable (Delmas 2014b). A no-harm policy is not possibly sustainable. What is instead conceivable is a non-gratuitous harm policy, which, I believe all the agents I presented here, followed, whether by conscious plan, or not.

Worth mentioning is the special burden these actors bear. If it is true that virtually anybody, anywhere could participate in these illegal activities, in the end only those with certain capacities, or with a certain amount of information or special access to it, can do so. Such a reflection then opens up the case of the special responsibility such actors bear, given the impact their acts will have on others' lives, but also on the duty they have, given their special access to private and relevant information. This is precisely what Snowden himself was aware of when he decided to disclose information to the public, being careful to disclose those documents that were of national and international interest, but only those, so trying to avoid unnecessarily harming people. Given this power and the important implications these acts might have for a great number of people, these actors, more than others, should exhibit an extraordinary level of understanding of their own moral judgment and of others' as well, together with a level of understanding of the world as it is. So far, it seems they have done it.

Finally, the examples I made and the ones of Manning and Snowden in particular, are useful here for another, already mentioned, reason. Manning's exposure of the US military documents had an important impact on how the war in Iraq, involving the US and other countries, was looked at and

brought about. The horrible pictures we all saw of Guantanamo had a perduring influence on how certain topics were treated worldwide and got many people involved in fighting for prisoners' conditions, not to mention Amnesty International's involvement. Snowden's case makes evident the globalized dimension of civil disobedience as a response to a transnational issue regarding privacy.

"Snowden's appeals to international law and the principle of legality transcend national borders; they seem to have hit a raw nerve with people around the world. His cause has become a rallying cry for emerging transnational publics outraged by intrusive surveillances policies not just in the US or UK but elsewhere as well" (Scheuerman 2015a, 448).

Being Anonymous

Before passing to the other actors of civil disobedience, a few additional words on anonymity are in order. We have said that anonymity is not to be conflated with evasion or lack of responsibility. These actors explain their reasons and morally justify their acts, and for that should be considered conscientious. Moreover, although they do not necessarily face trial, they bear their burden of judgment in other ways, e.g. living in exile for their choices. In particular, in the same way, as it is not possible to conceive of ex-ante publicity in the offline world, pace Habermas and Rawls, so in the online world, it is impossible for certain acts to even be brought about if not in anonymity, because of the sensitivity of the activity itself e.g. leaking secret information. Here anonymity creates the very same conditions for acting and preserves the opportunity to further act for those with the capacity and the opportunity to do so.

Anonymity also embodies the very same cause of privacy protection. Many digital disobedients act moved primarily by the desire to have more privacy, not to have their data exposed or bought by corporations. Concealment, in the case of Anonymous, seems an implied and necessary element

of the idea “We are everyone, we are no one,” which suggests that Anonymous aims at embodying and representing whoever might have similar ideas.

“Anonymity and pseudonymity are part of the culture of this movement, not merely a means of protection against recrimination. This culture is built upon the importance attached to the ability to express oneself freely. The group is opposed to individual celebrity and highly values communal processes of generating knowledge. Personal privacy is paramount” (Serracino-Inglott 2013, 219).

Acting behind a mask does not mean not acting publicly though, the public sphere of appearance being the web, where they act and protest, blocking websites of regimes and protesting every instance of freedom of speech curtailment. Also, thinking about whistle-blowers, there is nothing more public than exposing wrongdoing, so even though the actor might be secret, the action and the motivations never are. Whistle-blowers belong to the hackers’ family but act in a different way from Anonymous and other digital agents. Leaking means precisely to expose, to reveal, in this case, the wrongs committed by corporations or governmental organizations. Leaking is public or it is not at all. Being public and being anonymous are then not to be confounded, nor do we have to mix the action and the agent.

It is now time to discuss the last category of transnational agents, migrants.

2.4.3 Undocumented Migrants and Asylum Seekers

New agents are not simply those who use new tools to cross borders, but also individuals who cross borders themselves, as it is shown by the emergence of transnational political practices of asylum seekers and refugees (M. P. Smith 1994). Migrants³⁶ have become more and more important political agents of civil disobedience (Basu and Caycedo 2018; McNevin 2009; Nyers

³⁶One case among others is the one of the *Sans Papiers* in France, see, in particular: (Zevnik 2015, Lenard 2010, McNevin 2006).

and Rygiel 2012; Fine 2014; Repetto 2016) which questions the traditional framework. It is precisely by discussing undocumented migrants that considering civil disobedience as a transnational act becomes more relevant than ever. This is the case because undocumented migrants not only do not have a personal, direct voice within the system, but they do not even have an institutional channel that voices their claims, which often makes civil disobedience the first resort for them. To be sure, “a clandestine can’t fight legally for the right to be recognized as a citizen since he isn’t precisely entitled to this or that claim (capacity which relies indeed on citizenship)” (Bentouhami 2007, 265). Migrants are then the transnational actors par excellence, the outsiders, those who act in their capacity as individuals and not as citizens and bring their own claims across borders.

While hackers act digitally, mostly in support of others, migrants bring new issues where they go, crossing borders and questioning wealth distribution from North to South (Fraser 2009), shedding a light on human rights violations and asking for political recognition (Fraser 2000). As Sheila Benhabib rightly highlights concerning the EU “the EU is caught in contradictory currents that move it toward norms of cosmopolitan justice in the treatment of those who are outmoded Westphalian conceptions of unbridled sovereignty toward those who are on the outside” (Benhabib 2006, 47).

To discuss undocumented migrants’ protests though, it is important to distinguish between protests brought about by migrants already on the territory, e.g. the *sans papiers* in France, and those at the borders, namely the marches of asylum seekers throughout Europe (Benli 2018). Although the final aims of these protests might be similar, i.e. legal recognition and subsequent hospitality, the conditions of the agents are different and so are the duties of the hosting country.

To be sure, I will not here develop an argument on open borders (Carens 2005, 2008). I would rather try to see whether undocumented migrants’ protests pass the test to be defined as acts of civil disobedience, more precisely transnational ones.

First of all, I will start by putting aside crossing borders as an act of civil disobedience, to then turn to it later, to focus instead on those protests brought about by people who have already started to live in a given country or that are at the border, e.g. asking for entering. Their disobedience is usually public and communicative, not to mention illegal by the very fact that it is brought about by undocumented migrants. The most contentious points are however whether it can be political and conscientious and not driven merely by personal considerations.

Being political is of course the conundrum, since illegal migrants are not, in classical terms, recognized members. However, following Isin, by engaging in certain activities, which are typical *of the citizens*, they act as if they were political subjects, using disobedience as a way to enact a right to participate as members (Isin 2012). Celikates believes understanding migrants' protests as civil disobedience instances "pushes us beyond statist understandings of citizenship in terms of formal status to an understanding of citizenship as a practice that can involve acting as if one is a recognized political subject, and in this way claiming political standing that one might not (yet) have" (Celikates 2019, 76). Even more, through their struggle, they do not simply fight for their rights, e. g. decent housing, but they create them, e.g political participation. While not having full political rights migrants have other basic rights and are protected and bound by global documents and regulations that apply to them as humans regardless of their territory of residence. What they *create* is their legitimacy to ask for being recognized as subjects of rights. In the struggle of the *sans-papiers* movement in France (Zevnik 2015; McNevin 2006), in the buildings occupations in Germany and in the Netherlands (Dadusc 2016; Fadaee 2015), it seems evident that individuals protest expecting to be included in a decision-process that matters to them, whose results will affect their lives. In so doing they change already the political sphere, questioning who should belong to it (cf. Marcuse 2002). Exposing their presence and asking for rights and resources, they surely risk a lot, first of all, deportation, which is something they fear but are ready to risk for advancing requests concerning their life conditions. Indeed, in the EU, many undocumented migrants are employed in the fields, most notably in Italy, picking up vegetables for ridiculous

wages, and living in precarious conditions. Surely, when they disobey, they do it for their own sake, to avoid being exploited again. At the same time, they refer to human rights documents and accuse the state of being unjust or absent. However, regardless of the immediate personal interest, they might have, “The coexistence of interests and a sincere and serious belief that the law is unjust does not undermine the degree of conscientiousness of the act. Otherwise, we would have to accept the unintuitive conclusion that no agent with vested interests can be conscientious” (Benli 2018, 9). They act then politically and conscientiously, to combat abuses that amount to violations of important rights and constitute a sufficient moral reason for a person to disobey. Moreover, given the harm they face and the mere fact that they are *de jure* illegal they use disobedience since it is their first and last resort.

As for their legality or fidelity to the law “at times, non-members may have the standing to show fidelity to the international law. Respect for an international rule of law may then be an important means for non-members to show their cooperative intentions” (Benli 2018, 15). Regardless of their legal status, undocumented migrants are political and civil, since what is civil is not what is of the citizens, but what pertains to the polity, which also includes the record of respect for international documents, the rule of law, and human rights. Migrants act politically in the only way they can openly be political, that is disobeying, acting illegally for a political goal. “They use the tactics of civil disobedience above all to demonstrate that those who are *de facto* excluded can still impose their participation in the public debate by using very limited means” (Bentouhami 2007, 267). To sum up, the mere fact of being undocumented does not prevent migrants from being political agents, in particular disobedients, quite the contrary.

However, I do not consider all migrants’ acts as civilly disobedient acts, in particular not all the crossings of borders, contrary to what Celikates argues (Celikates 2019). If it is true that borders crossing is usually a communicative and public act, it is not at all obvious it is a political act aimed at dismantling the borders, as unfair as they might be, as Celikates seems to imply. Asylum seekers

and refugees might agree with a certain border system, but be obliged, out of necessity, to illegally cross the borders anyway. They might even think it is generally right to have a certain borders control in place, and they might be the most fervent supporters of it once they are safe where they want to arrive. Applying the label of political and civilly disobedient, i.e. defiant, to anything done by those who, not having a recognized right to stay, still act within the polity incurs the danger of idealizing the subjects we are talking about. We would run the risk of passing from excess, not considering migrants as being agents at all, to another, considering non-members as special revolutionary and morally right agents who will destroy the pre-existing political framework.

Surely, whether or not migrants have the intention of radically changing things, by the simple fact of doing what is not for them to do and appearing on the political stage they already change our own perception of the community we live in and the duties we owe towards them. At the same time, it is important to consider migration in more concrete terms and to not over-politicize events. This does not mean that crossing borders cannot be a political and civilly disobedient act (Benli 2018). Still, it is important to say that not all crossing is necessarily to be interpreted as a political statement, being often the end result of necessity. In the end, it is precisely because they are outsiders that their disobedience becomes transnational, it is by referring to documents protecting them qua individuals and targeting the state where they reside, and those transnational bodies they recognize as those that should be the protectors of their rights, that they expand the borders of the polity.

Acting in *primis* qua individuals than qua citizens, the actors I presented above widen the concepts of the polity and politics. Such actors can be seen as political actors, who are capable of setting things into action, of being able to start something new (Arendt 1998). They become political by a poietic act through which their very same political space of appearance is created. Through these agents, civil disobedience finds its transnational dimension and becomes a political, conscientious,

and dialogic breach of the law, mostly non-violent and respectful of the agency of others, aimed at changing a law or the way it is interpreted or implemented by state and non-state actors, not simply within a single nation-state, or asking for the respect of the rule of law and international documents. An act that, because of its illegality on the one side, and its conscientiousness and communicative form on the other, differs from legal protests and radical acts of contempt characterized by the lack of dialogue between the parties, but also from mere illegality.

2.5 TCD AND THE APPEAL TO THE SENSE OF JUSTICE

Addressing a global audience is not the same as addressing a democratic assembly we are part of, which is why it might seem more difficult to appeal to a *global* sense of justice than to the sense of justice of the majority of our community. Nonetheless, worth recalling is that when we refer to the sense of justice we are referring to a moral power. Contra Celikates (2016b), it is essential to remember that the sense of justice has to be understood as “a general capacity held by human beings rather than a contingent opinion that differs from place to place” (Sabl, 2001, 316). As in the case of domestic civil disobedience, taking as our basis our equal moral worth, which I assume to be a core element recognized by all, we can see ourselves and the others as individuals capable of forming a sense of justice, and *revising* it when confronted with information that challenges our moral judgments.

Recalling Sabl “civil disobedience [...] is designed to appeal to the sense of justice precisely to challenge existing moral sentiments about justice” (Sabl, 2001, 316). Civilly disobedient agents engage in a dialogue with the rest of the community with the aim to change people’s opinions, informing them about issues that are not salient in the public debate but that *should* be, according to them. It is then evident how this appeal to the sense of justice can work also in a global

framework, notwithstanding the important cultural differences between countries. The very same fact that TCD arises in the first place, with people gathering to protest for the same issues all over the globe, suggests that we do share a common capacity for moral judgment, and some fundamental moral values as well. The sense that harm should be avoided is, for instance, shared throughout different communities, and despite the lack of a common understanding of what counts precisely as such, we can take our shared feeling of what generally counts as harmful as the basis for a duty to avoid harm. And, if human rights documents are for sure limited and open to very different interpretations leading to a wide variety of implementations, I take the very same fact that they have been signed by several different countries to indicate the possibility to share, if not a refined or a developed sense of justice at least an unrefined version of it. Quoting Smith, “The invocation of global normative standards [...] introduces a transnational dimension [...] in the sense that protesters attempt to enhance the credibility of their complaint through reference to norms that transcend local or national levels” (Smith, 2017, 482-483).

2.6 RESPONSIBILITY

Discussing responsibility in the domestic context, I stressed that disobedients do not have to necessarily accept punishment to be considered, indeed, responsible, conscientious, and morally motivated in their actions. I have said there are other ways to show one’s responsibility and consequent full commitment towards an act, such as being ready to accept exile, or a different, more modest, life. The same considerations apply to the transnational context. However, there is an additional point I want to make here.

We have previously mentioned that accepting punishment has been taken as a way, although not always, to accept the overall structure in its executive expression, in its deciding what is good and

what is wrong, and in its consequential imposition of punishments and penalties. Nonetheless, if in the domestic dimension the acceptance of punishment can be read *also* as a way to show respect for the system, and conversely not accepting it might signal the lack of such respect, things become more complex in the transnational dimension.

Disobedients act on two different levels in the transnational arena and confront different kinds of actors. On the one side, there is the state where people are disobeying, on the other, there is the target of criticism, another state, a multinational corporation, or an inter-governmental organization. The disruption maintains a local dimension and, whatever political or economic group is opposed, the streets of a very particular country are the ones that are going to be flooded with people and whose traffic is going to be interrupted. Still, while people disobey on a given territory, with a given set of rules, they do not necessarily want to criticize that state, but might want to inform or to render salient violations occurring elsewhere, possibly done not simply by or in the state where they are disobeying, but by a collection of actors, including economic agents. Also, people might disobey in a given country because the system their own country belongs to, e.g. the EU, does not have the adequate transnational venues to discuss issues that cannot be simply tackled domestically, such as migration or climate change. So, it is not always true that when they disregard a country's law they do it to oppose the policies of that country.

So, given these specifications, if they undergo punishment, or choose not to, which overall structure are they showing respect to or opposing? They might want to show respect to the structure of their own state, the one that imposes fines on them and possibly jails them, while at the same time wanting to oppose the transnational structure. In this case, what should we expect them to do then? Ought they accept the punishment? Or better, in this transnational dimension should we consider the respect of the domestic structure as one reason for them to undergo punishment, or not, if they want to highlight their opposition against the transnational dimension?

A way to solve the problem could be to say that in certain cases the transnational structure is nothing else but the combination of single different domestic structures that can be opposed domestically. In this way, the issue would become domestic again, and the acceptance of punishment or lack thereof would then regard the opposition between the citizen and her state only. Such an understanding of the transnational dimension is limited though, given that the transnational sphere is not merely an aggregate of states, but a common structure transcending its singular components. The targets of disobedience are the different organizations and intergovernmental entities that participate in making this transnational structure, not simply its member states. What to do then, when borders still exist and people are obliged to act within them, being subjected to domestic laws, while at the same time trying to express a profound opposition to the transnational political sphere, its practices, and its methods?

There are two options here. If the country where civil disobedience occurs is also a target, this does not create any problems in our discussion, since refusing to face trial or go to jail might be a conscious way to signal disrespect precisely for the local laws. If the country they disobey in is conversely decent, i.e. respects fundamental rights and guarantees a certain level of participation, they might have good reasons to accept their punishment for the disruption they cause as a means to show respect for that particular system, but most importantly to their fellow citizens, while still disagreeing with the transnational structure. At the same time, they might also want to avoid punishment to prevent their submission to the domestic law to be taken as a way to show fidelity and accord with the sense of justice of the transnational majority. Disobedients might claim that the transnational system is unacceptable and since it cannot be disrupted if not disrupting the domestic peace, they might consequently claim they are justified in locally disobeying, and also in avoiding punishment, not having other means to participate transnationally, but believing they should.

However, if a burden has to be imposed on disobedients, it should be in the form of a penalty that does not have the same moral blameworthiness element that punishment conversely has (Lefkowitz 2017). If collective action is needed and there are no other viable ways of participating in contexts in which we imagine participation should be granted, even transnationally, then punishing people for illegally protesting might disrespect them qua self-deciders. Still, a penalty might be required not merely for the illegality of the act, but for the degree of disruption civil disobedience caused and those who disobey might have a stronger reason to appear in court, so to prove they are morally motivated agents.

Finally, civil disobedience might be the first and only resort before the lack of legal means to participate in the transnational political area. In such a case, expecting disobedients to be imprisoned because they are upholding a right whose lack might be a violation in itself, could be against the rule of law. In this case, imprisonment and most importantly, the expectation of surrender from the disobedients side, seems to me to require a strong justification, or at least, not to be all things considered right.

FINAL THOUGHTS

In the end, it seems not only that transnational civil disobedience is formal in its addressing state and non-state actors, but its agents do indeed qualify as civil disobedient actors in their being illegal, political in their demands, and morally motivated, regardless of their membership status or geographical location. Even when acting anonymously, they show a profound moral commitment and face responsibility for their acts, if not being imprisoned, being obliged to radically change their life. Also, whenever it is possible for them, they act in ways that limit the harm caused to the

parties involved. While means and ends might have changed, these actors share those characteristics that put them alongside the activist in the '60s.

Now that we have established that civil disobedience can be transnational, it is necessary to focus more precisely on the wrongs that might indeed justify it. In other words, we have to analyze the reasons for its appearance and its justness.

3 LEGITIMIZING DISOBEDIENCE

This chapter is divided into two parts, both having as their objective the justification of civil disobedience, at the domestic and transnational levels.

The first part is dedicated to the analysis of the injustices to which civil disobedience responds, from the lack of fundamental rights, which I consider inclusive of economic rights, to environmental crimes, and lack of participation, up to the injustice of the law itself. To these, we must add the cases in which the law is uncertain and therefore opens to the interpretation of the disobedient who, by opposing it, could be in the right, and those in which the serious threat of future violations legitimizes preventive civil disobedience.

After having established the violations that count as harm, in the second part, I suggest that civil disobedience might be the way to discharge important moral duties that prevent these harms, such as the duty not to harm, the duty of solidarity, and the natural duty of justice. These duties justify civil disobedience and even demand it when other, legal, mechanisms are not available. To have a duty to disobey is not a new claim, rather follows Delmas and Ogunye, but its growing importance makes it essential and worth mentioning in my research, and it becomes especially interesting to evaluate when passing to the transnational sphere.

As we will see, while some justifications are similar in domestic civil disobedience cases and transnational ones, others strictly depend on the transnational dimension of the phenomenon. The fact is that transnational civil disobedience occurs in different ways, exhibiting a significant diversity, not simply in terms of actors, targets involved, or strategies, but also in terms of reasons, and causes to be deemed just or duties that might apply. In particular, one question that arises, given the transnational dimension we are working in, is why people should be justified in disobeying when the violation happens elsewhere. In the case of domestic abuse, it is more intuitive

to understand the act of civil disobedience as a response to the breach of a given right, with disobedients that address the state where they are, *because* it is also responsible for such crimes. In the case of transnational civil disobedience, this relation between the actors involved is loose and the disruption of the law seems harder to justify. This is precisely a conundrum some examples of transnational civil disobedience pose and it is also considering this point that I am going to construct my argument.

3.1 OPPOSING WRONGS

This section focuses on the wrongs, what in just war theory terms would be just causes, that might justify civil and transnational civil disobedience. The reason why I specifically put the attention on the wrongs is their diversity and the fact that different theories have focused more on one or the other injustice, while I want to consider them as integrating each other. Nevertheless, while I focus on the wrongs, these are by no means a sufficient justification for civil disobedience. There are other necessary conditions that need to be jointly satisfied in order for civil or transnational civil disobedience to be justified. These are for disobedients to turn to illegality as their last resort and to be sufficiently sure they will be successful to a degree, at least. The last resort principle does not require, as it is generally thought, TCD to be the last resort in any case, but to be the last viable and reasonably effective way people might adopt, to condemn a policy³⁷. The understanding of the last resort principle is context-based. Using civil disobedience as the last resort might signify that

³⁷ This means that in a highly corrupted society where certain minorities are constantly denied access to legal remedies, civil disobedience has to be considered the last resort even when it is the first political action undertaken by those disenfranchised minorities or their supporters. Such a clarification helps understanding how civil disobedience can be justified as a way to politically participate when such a right is de facto denied or limited, especially for marginalized communities, such as Roma people or LGBTQI members, or when there are no proper venues where to address issues of a transnational relevance. I thank Professor Janos Kis for highlighting this point.

the protesting group has exhausted the legal remedies at its disposal before choosing civil disobedience. Or, in cases where the group is marginalized and traditionally ostracized from the institutional system of remedies, civil disobedience might be *the only and* last meaningful resort. There might even be a certain urgency to address a certain issue such that it would not be possible to resort to legal ways, due to time constraints. Illegality could not be a choice before a set of equally meaningful options, but a necessary way to express one's grievances.

Moreover, in addition to the other requirements, agents must be morally motivated and sincere in their beliefs and be sufficiently certain of the success of their illegal protest, so that the burden they impose on others serves a purpose, at least. This requirement is particularly stringent when civil disobedience will likely cause an evident disruption, but there are specific occasions in which is not necessary to justify civil disobedience. Thus, whenever I consider a cause as necessary for justifying civil disobedience, I assume all these other parameters hold.

Provided these conditions are satisfied then, we are left to investigate the causes, the wrongs, as the last element to legitimately motivate and justify civil disobedience, domestically and transnationally. To note is that the causes I take to constitute a valid reason for disrespecting the law, be it defending rights, or advocating for more participation, are each sufficient for justification. Surely, there are cases in which disobedient acts cannot be defined solely as a response to a democratic deficit or a lack of participation, in such cases, we will be facing a case of overdetermination, having multiple sufficient causes that justify one single act. As evidence tells us, acts of civil disobedience often combine different claims, so that multiple justificatory conditions apply simultaneously. Consequently, I do not privilege a liberal understanding of civil disobedience as a remedial right whenever political and civil rights are at peril, but I rather place it together with the republican and democratic paradigms that see civil disobedience as a way to participate more democratically. These two perspectives are complementary rather than in opposition, I believe, and combining them helps to have a clearer, more adequate grasp of the

complexity and heterogeneity of the expressions of civil disobedience. Let us now pass to evaluate the merits of each cause.

3.1.1 Defending Basic Rights and Interests

Civil disobedience occurs in a society that is, by assumption, a piecewise just society. “A piecewise just society is one in which justice is prevalent - indeed, it may in the limit case be practiced perfectly or almost perfectly - in relations within a powerful “in” group, but is practiced to a very small degree, if at all, in dealings with an excluded or oppressed group” (Sabl 2001, 311–12). Consequently, civil disobedience does not occur in a regime where violations are so severe to require a whole change within society, but rather in a community that generally demands obedience. This obliges us to have special and weighty reasons or particular wrongs to oppose whenever we disobey, reasons people have to commonly understand as being valuable. For instance, quoting Rawls, “in justifying civil disobedience one does not appeal to principles of personal morality or to religious doctrines, though these may coincide with and support one’s claims.” (Rawls 1999, 365).

At the same time, civil disobedience does not take place in a perfectly just society either where it would not be necessary and opens society to changes and revisions of old practices and moral norms. A piecewise just society is, for instance, the US in the ‘60s, i.e. one in which civil disobedience could serve as “an invitation to the powerful to extend the sphere of justice to those currently unjustifiably excluded. The rationale for the invitation is the fact that those in power seem to recognize justice and seek to practice it amongst themselves” (Ogunye 2015, 8). The same goes for TCD. TCD occurs within an imperfect and yet not entirely morally abhorrent legal order, a piecewise just society beyond borders. Most states in the world are signatories to several

conventions protecting a variety of more or less fundamental rights and the environment, which I take as an indication that states belong to the same community of intents and have and share an idea of the good. Yet, many countries commit violations and are not capable or interested in upholding standards they themselves signed into law. Even those that are law-abiding lack important laws promoting minorities' rights, i.e. they lack laws regulating homosexual partnerships and marriage, do not have abortion rights, or constantly attack reproductive rights in various forms. The world has greatly improved in the past decades, the number of people living in poverty has decreased³⁸, women and homosexuals have seen their rights recognized in more countries, and yet this world is far from being perfect. Thus, while the existing transnational mechanisms and covenants give TCD formal institutes to confront, the leeway of improvement and the shortcomings of our different societies make it justifiable and possibly required.

More in detail, the violations that give rise to and justify civil disobedience are, and here I agree with Rawls, "substantial and clear injustice...serious infringements of the first principle of justice and...of the principle of fair equality of opportunity" (Rawls 1999, 326). However, differently from Rawls, I do justify people resorting to civil disobedience also in defense of other principles and rights. So, while believing that violations of basic rights constitute a justification for domestic as well as for transnational civil disobedience, I intend them as encompassing socio-political, environmental, and economic rights alike (cf. also Allen 2017). Indeed, the justifications should include global distributive justice matters, violations of the difference principle in particular. This is the case for two reasons, namely that "some of the violations of the difference principle will be no less clear than violations of the other two principles...[equal liberty and fair equality of opportunities] and violations of the difference principle will if they exceed a certain measure, affect the fair value of the basic liberties (especially of political freedom) emphasized by Rawls

³⁸ According to the World Bank the amount of people living below the poverty line (set at 1.90 US dollar per day) has passed from almost reaching two billion in 1990, to almost 700 million in 2017 (The World Bank 2022).

himself”(Celikates 2016b, 40). Needless to say, being able to relate as an equal necessitates having the means to express oneself and to stand as an equal in society, which depends also on the economic conditions of a person. The very same fathers of civil disobedience, Gandhi and King, contrary to what seems to be thought today, were heavily concerned about economic injustice (Milligan 2013). Applying the difference principle globally responds to the duties we have towards each other, regardless of the borders. Although we are still lacking institutions that can fully support the application of distributive principles³⁹ (Moellendorf 2009), there are enough bodies that could work *towards* their implementation. Moreover, the mere absence of institutions should not constitute a reason not to support such principles. On the contrary, such a lack might be in itself a justification for civil disobedience (Ogunye 2015). As Pogge says, we have a “negative duty not to uphold injustice, not to contribute to or profit from the unjust impoverishment of others” (Pogge 2002c, 197, cf. also 2005, 1994) which gives us weighty reasons to implement a redistributive principle beyond borders. In the end, although aware of the problems connected with the implementation of such distributive principles, not least the fact that the worst-off people of a given society might see themselves “competing” against those who are globally worst-off, I think that the reasons to apply a distributive principle globally outweigh the reasons for not implementing it and that the absence of any redistributive principle could justify illegal protests.

Beyond the first and second principle of justice, however, there are other rights-related issues that I believe also justify the resort to civil disobedience and that are not captured by the Rawlsian framework. Among these, are environmental crimes (Carter 1998) and animal rights abuses (Welchman 2001; O’Sullivan, McCausland, and Brenton 2017; Milligan 2017), both within and beyond borders. While human rights infringements directly refer to those disobeying as moral agents, animal rights and environmental damages do not and so they should not be taken to justify civil disobedience, if we followed Rawls. Nevertheless, whether or not we fancy animals or we love

³⁹ Which is, in itself, a reason and a justification for disobeying, as we will see in the coming pages.

our pets, animals can suffer and as alive beings have claims on us⁴⁰, which I take to constitute a just cause to resort to civil disobedience to end their suffering (Singer 1987). The environment, on the other side, cannot suffer like a human or non-human animal, still, crimes against the environment amount to serious violations of human and non-human rights (von Essen 2017) the moment such damages impede a decent life to current and future generations⁴¹. Surely, the lack of proper consideration for the environment and the consequent climate crisis are valid reasons to disrespect the law, even more considering the powerholders have often declined to take serious action to tackle a problem that is affecting every being in life-threatening ways. Following Nussbaum, we can then consider the standard of living in terms of “capacity for (1) life, (2) health, (3) the avoidance of pain, (4) use of the five senses, (5) human relationships, (6) the deliberation about and pursuit of personal ideals, (7) relations of care for others, (8) access to the natural environment, (9) experiencing enjoyment, and (10) independence” (Nussbaum referred to in Caney 2001, 121; see also Nussbaum 1992). Then, if we take Nussbaum’s standard as ours, the seriousness of the crimes and violations against this standard of living and against animals do then justify the resort to civil and civil disobedience whenever other means have proved not accessible or inefficient.

From a specifically transnational perspective, on the one side, civil and political rights are curtailed to a terrifying degree in many countries and limited transnationally or recognized in a country only and not in another, as for the same-sex marriage recognition. On the other, the rampant economic inequality constitutes an evil that requires to be addressed especially given that the global economic

⁴⁰ For a more detailed analysis of animal rights see (Fischer 2020; Kymlicka and Donaldson 2011, 2014; Singer 1987).

⁴¹ There is an interesting debate both in philosophy and in legal studies on whether the environment is important in itself or only as a means to safeguard human life. In other words, as Boyle (2007) puts it, the question is whether we can talk about environmental rights or human rights only. The matter is fascinating and yet cannot find space in this work. I then refer to Boyle (2012, Boyle 2007) for further investigation.

structures systemically fail “to protect persons from serious threats to their security and well-being, such as climate change and global poverty” (Smith, 2017, 496).

To go back to our original discussion, both violations of the first principle of justice and of the second constitute a sufficient reason to resort to civil disobedience, domestically as well as transnationally. When it is clear and evident that global distribution is severely violated, e.g. the global difference principle is hugely disregarded, and people suffer from poverty and are prevented from participating as equals and from enjoying their political rights⁴² (Gould 2004), civil disobedience is justified. However, as much as the protection of liberty also depends on the guarantee of economic interests, the protection of important rights cannot be isolated from the protection of the environment. It is more than evident that a preserved environment influences the quality of life of people, from them being able to drink clean water, to breathe clean air, to the very same possibility of growing food. Environmental issues are indeed the ones that prompt transnational civil disobedience the most, being the protection of the environment a matter that regards the globe and not isolated communities only. More specifically, it involves the world in its being connected, e.g. the pollution of a river concerns all the states along its waters.

Greenpeace Environmentalism

An example of environmental civil disobedience among others is the one of Greenpeace. Greenpeace is an environmental organization using civil disobedience and creative tactics to shame corporations and states into acting rightfully. In 2013 Greenpeace’s activists protested the oil

⁴² Here intended not merely as domestic rights, but rather as participatory rights that include institutional and non-institutional forms of participation in matters that go beyond the state, climate change, multinational corporation exploitation, and which include also the enjoyment of the resources that render the exercise of political rights possible in the first place, education among others.

platform owned by the Russian Gazprom to call attention to the peril of oil drilling in the Arctic and its effects on climate change, not having other *meaningful* means to being taken into consideration by Gazprom. The boat of Greenpeace, the Arctic Sunrise, was boarded by Russian authorities who arrested thirty people, the so-called Arctic 30, with the accusation of piracy and put them for two months in prison before releasing them following a court sentence⁴³. Taking Greenpeace as an illustration of civil disobedience manifests two things. First, its activists embody the broadening of the Rawlsian paradigm, by admitting to using civil disobedience to protect also the environment. Second, Greenpeace disobeys to safeguard certain global goods and refers to the world as commonly shared between all those who inhabit it, beyond memberships or frontiers (Singer 2007; Hayward 2000; Risse 2014, 2009).

“The Greenpeace activists saw themselves as protesting not as Germans or Norwegians or even northern European citizens, but as global citizens engaging with a global public on an issue of global importance”(Ogunye 2015).

Those who disobey to protect the forest, or the ocean justify their acts precisely on the basis that that forest and that ocean contribute to the wellbeing of the entire world population, providing oxygen and food to everyone, themselves included. The case of Greenpeace renders evident the reference to the global community and global interests of the activists (S. Cooke 2019) as opposed to the domestic scope of domestic, civil disobedience.

At the same time, disobeying is a way to put the accent on the fact that the very same standards all the countries have set for themselves are disregarded. While in the domestic context, “civil

⁴³ From the Greenpeace International website: “They were eventually released on bail and later granted amnesty. Russian security services abseil from a helicopter onto the deck of the Arctic Sunrise (19 September, 2013). After regaining their freedom, the Arctic 30 filed their complaints with the European Court in Strasbourg, arguing they had been detained unlawfully and their right to freedom of expression had been breached. The Government of the Netherlands also filed a case of its own before another international tribunal, asserting that the seizure of the *Arctic Sunrise* – which flies the Dutch flag – and those on board had breached the rights of the Netherlands under the international law of the sea. The Dutch Government won its case in July of 2017, providing a measure of symbolic justice to the Arctic 30”. Source: (Golubok and Simons 2018).

disobedience communicates a disconnect between the values underlying the political project and how that project is being carried out in practice” (Adams 2018, 478), transnationally it stands out as being “a means of upholding normative standards that have been incorporated into a dense network of treaties, conventions and global regulatory frameworks” (W. Smith 2017, 480). Domestic and transnational civilly disobedient actors are the voice of the people reminding power-holders of their same promises, telling them they did not respect them, reversing the role of who is infringing the law and who is not⁴⁴. In other words, civil disobedience is a response before cases of law infringement.

In the end, when civil and political rights are infringed one has a good reason to resort to illegality, especially when legal means are not available or effective. Nonetheless, economic rights are also, when disregarded, an important matter to bring up in the streets, as well as environmental causes and animal rights. Still, this does not imply that civil or TCD can be justified before any violations. This rather implies that, when considered as the result of a morally motivated protest, not necessarily right, but always reasonable, chosen as a way of communicating relevant claims of justice as the last resort, then TCD should be justified.

To summarize, whenever a multinational corporation, a state, or an IGO jeopardize those that are considered to be serious interests of people worldwide, basic rights attached to goods that are necessary to achieve one’s plan of life, people, in their being victims or supporters, have serious reasons to disobey and may be justified in doing so. As David Blunt puts it

“...if the international institutional system produces massive systemic harm to millions of people and if it is legitimate for individuals to resist social institutions that inflict a ‘long train of abuses’

⁴⁴ In this regard it is interesting to read the declarations of Sea Shepherd affirming not to be civilly disobedient, since *they* are upholding the law, (Milligan 2013). At the same time, it is interesting to look at prisons’ protests, such as the prisons uprising of 2011 in the US. Prisoners started a hunger strike in order to “end group punishment and administrative abuse, abolish the debriefing policy, comply with the US Commission on Safety and Abuse in America’s Prisons 2006 recommendations regarding an end to long-term solitary confinement, provide adequate and nutritious food” (Reiter 2014, 580) that are requests in line with what domestic and international law require, and yet they are not respected.

upon them, then it is necessary to take a cosmopolitan right to resistance seriously” (Blunt 2011, 7).

3.1.2 Unconstitutionality and Immorality of the law

If it is obvious that the claim which a law makes upon me is an immoral one, then my public disobedience of that law can be justified, because my prima facie obligation to obey the law has been superseded by a higher moral obligation.

(Morreall 1976, 42)

Moving forward in our justifications analysis, another important issue requires our attention. I am here referring to the justification of civil disobedience on the basis of the vagueness and uncertainty of the law. Quoting Dworkin, “the officials and judges may believe that the law is valid, the dissenters may disagree, and both sides may have plausible arguments for their positions”(R. Dworkin 1968). When the law is uncertain or vague in its formulation it is indeed complex to assess its validity and understand it in just one manner, such that it is hard, when not impossible, for judges to clearly say whether disobedients are right or wrong in their reading of it. In other words, disobedients and judges might have equally valid reasons to interpret the law one way or another. This is exactly what Dworkin claims occurred when a vast part of the anti-Vietnam war protests was deemed unjust in opposing laws whose clarity was doubtful and whose constitutionality was open to interpretation (R. Dworkin 1968). In such cases, the courts were wrong in punishing disobedients, since, claims Dworkin, given the lack of clarity and the doubtful partiality “a citizen who follows his own judgment is not behaving unfairly” and “any statute that appears to compromise that morality raises constitutional questions, and if the compromise is serious, the constitutional doubts are serious also” (R. Dworkin 1968). This same idea is echoed

by Habermas who highlights how the “constitutional state as a whole appears...rather as a susceptible, precarious undertaking which is constructed for the purpose of establishing or maintaining, renewing or broadening a legitimate legal order under constantly changing circumstances. Because this project is incomplete, the constitutional organs [Verfassungsorgane] themselves are by no means exempt from this precariousness” (Habermas 1985, 104). A person’s morality is then right in guiding one’s actions, especially because “a citizen’s allegiance is to the law, not to any particular person’s view of what the law is, and he does not behave improperly or unfairly so long as he proceeds on his own considered and reasonable view of what the law requires” (R. Dworkin 1968). Thus, insofar as there cannot be a clear and absolute consensus over certain laws when these laws are dubious and refer to important values and people’s interests, people might be justified in disobeying following their conscience.

Importantly, these reflections point to the volatility of certain decisions and to the imperfect nature of the very same institutions that legislate and adjudicate and are not to be separated from the consideration that civil disobedience could be a plea for reconsideration. To be sure, if the law can be broad and open to interpretation, it can also be blatantly unconstitutional. Injustices faced by civil disobedience are indeed derived from the law being disregarded, from it being interpreted in ways that oppose civil disobedience without solid grounds to do so, but also from it being unjust in its own terms, giving voice to a wrong sense of justice. This is exactly the position of both Carter (1998) and Singer who, departing from the Rawlsian’s recognition that the sense of justice of the majority is fallible⁴⁵, proposes to look at civil disobedience as “a useful tool to reconsider certain policies and *improve* the sense of justice of the majority” (Singer 1973).

⁴⁵ "For we are not required to accept the majority's acts unconditionally and to acquiesce in the denial of ours and others' liberties; rather we submit our conduct to democratic authority to the extent necessary to share the burden of working a constitutional regime, dictated as it must inevitably be by men's [and women's] lack of wisdom and the defects of their sense of justice" (Rawls, 1999, pp. 131,132).

Again, to quote Carter: “If [the majority] sense of justice is imperfect, surely civil disobedience could be undertaken not merely to induce the majority to reconsider whether or not its decisions satisfy the principles of justice it currently accepts but also to reconsider whether or not its conception of justice is adequate”(Carter 1998, 32,33). The fallible sense of justice of the majority manifests into a fallible set of rules, interpreted by fallible individuals. There are then two levels of intervention, connected to the wrongs directly connected to the law:

- the law may be interpreted wrongly or being open to different, equally valuable interpretations, or be so broad and imprecise as to be applied in unpredictable manners or too vastly⁴⁶;
- the law may be wrong or unconstitutional⁴⁷.

Either way, whenever fundamental rights and interests are at stake it is then possible that a law, not any law, can impose regulations that are met with disobedience, e.g. the compulsory draft. So, the mere fact that a law is *the* law is not a sufficient ground for obedience. Even more, says famously King, “one has a moral responsibility to disobey unjust laws” (King 1964, 10) such that disobedients are not simply justified in disrupting the system, but might have a duty to do so to avoid harm being done and other people’s dignity being disregarded, as we will explore further below. So, while there are cases in which disobedients act against agents who act illegally, they more often contrast legal, but unconstitutional or immoral actions. If we take corporations as an example, while it is often the case that they act illegally, there are also clear examples of

46 This is the case of the infamous legal amendments done by the Hungarian government to their constitution, via a package known as LEX Ngo2018 aiming at penalizing migration. A vast array of actions could be then interpreted as unlawful, from physically helping people crossing, to doing research on migration, to informing migrants about how to submit an asylum application.

47 Quoting Dworkin again “In the United States, at least, almost any law which a significant number of people would be tempted to disobey on moral grounds would be doubtful—if not clearly invalid—on constitutional grounds as well. The constitution makes our conventional political morality relevant to the question of validity; any statute that appears to compromise that morality raises constitutional questions, and if the compromise is serious, the constitutional doubts are serious also”(R. Dworkin 1968).

corporations simply being allowed by states laws to act against their own constitutional principles or in shady ways⁴⁸. This happens both because the law itself is immoral or unconstitutional, and because it is interpreted, with the approval of the state, in ways that give ample space to the corporation to act in morally dubious ways. Especially in certain areas of the world, laws protecting workers and minorities are often loose and broad and permit serious violations. Being interpreted at the advantage of companies, or widely disregarded with the complacency of the state or in its indifference, these laws do not even allow for people to find justice in the courts. So, civil disobedience here occurs on two levels. First, it targets the state, asking it to pass new laws or revise the ones in power and to more closely control the operations of corporations, seriously implementing oversight and accountability mechanisms and avoiding legal interpretations that allow for violations to occur. Second, it directly aims at the corporations to push them to abide by the law or high moral standards even when they are indeed more stringent than the applicable regulations, to avoid damaging the planet or other people.

Transnationally, I believe migration laws and environmental policies have sometimes been drafted in precarious and blatantly unconstitutional ways, at least within the EU, so possibly giving rise to civil disobedience. A clear and sad example of this is given by the recent 2015 migration flows. During the Syrian war, millions were on the move, from Syria and beyond, trying to escape from torture, death, and misery and find refuge in the near EU. Many were able to reach the coast of Greece and move forward, others arrived and remained stranded on the Aegean islands. Many others were blocked before entering the EU, thanks to a deal the EU signed with Turkey. The approval of morally disappointing relocation programs, where people were simply notified about whether or not they had been accepted by an EU country without being given a reason and the signing of the EU Turkey deal disregarded EU's own internal regulations and the human rights

⁴⁸ The confirmation of this can be found in a report by Transparency International, the global coalition against corruption (Transparency International 2021).

standards it set for its member states. The consequences of that were asylum seekers disobeying at the borders and on the islands where they were stranded, or in Athens, a city that was already in distress financially. This EU decision disappointed many beyond those directly affected and demonstrated the EU's incapacity and unwillingness to take care and properly address a humanitarian crisis with the legal instruments at its own disposal.

3.1.3 Participation and Deliberation

“Negroes have illuminated imperfections in the democratic structure..., and have forced a concerned re-examination of the true meaning of democracy.”

(Martin Luther King, 1967 – “Where do we go from here, chaos or community”)

The point, at any rate, is that we are dealing here with organized minorities that are too important, not merely in numbers but in quality of opinion, to be safely disregarded.

(Arendt 1972, 76)

While the lack of constitutionality, fairness or implementation are among the reasons for the eruption of civil disobedience, it is more and more the case that civil disobedience comes about as a response to a lack of participatory mechanisms and “other important democratic requirements” (Markovits 2005, 1902). In the domestic settings, the lack of more inclusive decision-making procedures or the constant discrimination faced by certain groups might push people to disobey 1. to highlight these deficits and 2. to perform participation via illegal means. The reasoning is straightforward: at the national level, as citizens, our right to participate grounds our justification

and at times, right to disobey. To use Lefkowitz's words, the moment the legal participation is inefficient, in

"circumstances characterized by (a) the moral necessity of collective action and (b) reasonable disagreement over the specific form collective action ought to take, the moral right to political participation cannot be adequately recognized in law but instead entails a suitably constrained moral right to civil disobedience" (Lefkowitz 2007, 213)

Before proceeding any further, a caveat is in order: participation is here considered as having an intrinsic value and being of utmost importance within a community. From this derives that when opportunities for meaningful participation are lacking civil disobedience could be in order to restore them or create them. The value and right to participate depend on two main points, the affectedness of the people who are subjected to certain decisions, and the respect one ought to have for people's autonomy in their being self-governing. According to Lefkowitz, on a domestic level, "the non-instrumental value of an agent's exercise of autonomous choice, or authorship, over the form and direction her life takes does provide such a grounding for the moral right to political participation and so the derivative right to public disobedience" (Lefkowitz 2007, 226). Consequently, the moment the right to participation is not there to be fully enjoyed, there might be a derivative right to disobey as a remedial way to enjoy participation⁴⁹. As Young notes "processes of engaged and responsible democratic participation include street demonstrations and sit-ins, musical works and cartoons, as much as parliamentary speeches or letters to the editor" (Young 2001, 688).

To claim people have a right means individuals are free to exercise it, not because they will get to the truth, but because others do not have a claim against them doing it. Importantly, being aware of the disagreement that pervades our societies regarding what is the best course of action to achieve a given good, we cannot demand from disobedients to be always right, in the same way,

⁴⁹ Thus, for Lefkowitz, people do have a moral right to civil disobedience that derives from the right to participate, which entails that people should not be punished when disobeying, but rather receive a penalty (Lefkowitz 2017).

that we allow the right to vote for parties we do not like or that promote what we believe are mistaken policies. At the same time, if people might err, still they have to be reasonable. Reasonableness implies “respect other agents’ autonomy, to treat them as creatures whose conduct can be justifiably limited only in ways that they themselves would limit it to express their respect of others’ autonomy (if they were suitably motivated)” (Lefkowitz 2007, 207). This allows people to possibly do wrong, but also limits sanctioned political participation and civil disobedience to what is reasonable and excludes e.g. Nazi groups' actions. The right to disobey cannot be taken as a blank right to act illegally, in racist manners, or incite hatred, still, it allows views we do not necessarily agree on. Nonetheless, a necessary requirement, as Lefkowitz highlights, is that people have to sincerely believe that what they are fighting against is wrong and what they believe is, conversely, right. Moreover, “the agent must manifest a commitment to the pursuit of truth” (Lefkowitz 2007, 232), which does not mean she will be able to attain it. So, people might be wrong, and yet they have to be justified and possibly considered within their own moral rights in resorting to civil disobedience when certain conditions apply, namely lack of participatory mechanisms, biases, and given the pervasive disagreement such that people, even while acting reasonably, might be wrong in their judgments. Respecting different opinions, even when they are indeed wrong, is fundamental and it is essential to respect people’s autonomy in forming judgments.

In particular, *democratic* participation does not simply imply participation but requires equal participation of the community members that manifests respect for the equality among people and their legitimacy as equal decision-makers. Adopting a Kantian perspective, respect is owed to people in their being rational moral agents whose dignity imposes treating them as ends and not as mere means. Relationally, in a representative system, this implies the recognition of the others as having an equal standing and deserving respect, i.e. deserving being taken seriously and

considered in their opinions⁵⁰. Said respect manifests in treating people equally in the decision-making arena, granting them equal participatory rights. So, without denying the instrumental value of broad participation, such that “more heads are generally better than fewer” (Arneson 2009, 221), the account I am following considers participation also as having value in se, to promote autonomy and dignity, and not merely in its being outcome-based⁵¹.

What should an inclusive and functioning democracy look like then? A democratic, participatory space is one where through voting and other means, members can express their opinions, voice their claims and hold accountable those who commit crimes, injustices or break the contracts they once signed. So, for a democracy to properly grant participation, we need rights to protect people from abuse of power, liberty and equal opportunities, not simply in the political sphere. This also implies having a plurality of sources of information, i.e. not a monopoly of the press, and fair access to the news. The mere existence of elections is not enough to qualify a democracy as a well-functioning one, given “governments produced by elections may be inefficient, corrupt, shortsighted, irresponsible, dominated by special interests, and incapable of adopting policies demanded by the public good” (Huntington 1991, 9–10). Looking at these requirements, democracies are rarely as inclusive and open as they should be. First, there is the lack of participation *tout court*, such as when there are no participatory mechanisms in place to address given important issues. Second, there might be mechanisms available, but partial, inefficient or biased, that do not inform people, especially minorities, or do not allow them to present their own views to other stakeholders. Getting deeper into the matter, Markovits identifies two main democratic deficits. The first one arises because the procedures themselves are open to special interests and manipulations (Markovits 2005, 1922). As Aitchison highlights “In many existing

⁵⁰ “To say that persons as such are entitled to respect is to say that they are entitled to have other persons take seriously and weigh appropriately the fact that they are persons in deliberating about what to do.’ Such respect is recognition respect...” (Darwall 1977, 38).

⁵¹ This however does not deny that certain consequences might matter in the assessment of the goodness of democracy.

liberal states, powerful private agents are able to use their influence over the policy-making process to advance their preferences and interests with inadequate legal and constitutional constraints on their power” (Aitchison, 2018, 673). This translates into the restriction of the “political choices available to citizens so that decision-making takes place within a narrow spectrum of debate favorable to the interests and preferences of the powerful. Some important areas of policy-making are not put to voters at all and therefore escape democratic scrutiny altogether” (Aitchison, 2018, 673).

The second one depends on the democratic inertia built into the democratic political process that discourages a re-engagement and revision of issues that have not been properly discussed. Here, the democratic view of civil disobedience gets closer to the republican view according to which “civil disobedience’s main function is to challenge political complacency by bringing public attention to issues that may never have been meaningfully deliberated about in the first place, or where an overdue re-examination of policy is stymied by privileged vested interests and institutional stasis” (Scheuerman 2014, 615).

To expand on the first point above, if on the one side certain procedures are open to manipulation, on the other minorities, in particular, have little control over the participatory or communication tools (Lefkowitz 2007), which renders the decision-making process unbalanced. The very same access to information from prospective voters is unequal, while non-mainstream media find it difficult to spread their news to an audience. Precisely, while there is a serious inequality when it comes to having access to information, there is also an important unbalance when it comes to giving information and providing a plurality of arguments to the debate. Hence, whenever participation is flawed, either because there are no available participatory mechanisms or because these are biased, or there is a serious lack of plurality and diversity, civil disobedience might be the tool used not simply to criticize such lack, but to participate effectively. Autonomy and dignity are to be respected in the decision-making process, such that we might have good reasons to justify

civil disobedience when equal participation is not granted, not respecting equally the participants⁵². Participating via civil disobedience people signals the urgency to render clear and understandable to the people the choices made and the reasons behind these choices, opening these same choices to scrutiny and allowing for accountability mechanisms to be put in place in due time. More simply, civil disobedience helps to keep the discussion open and question the decisions. In the end, civil disobedience contributes to strengthening the democratic process, since the protesters' opinions and claims, either wrong or right, oblige the majority to face its reasons for its own choices, to revise its beliefs, or reinforce them and open itself to change (cf. John Stuart Mill 2003), not to fall in a deadly democratic stasis.

All of what has been discussed above perfectly justifies civil disobedience in a domestic setting. The argument, domestically, is quite easy to follow: we do have a right to participation, such that whenever the legitimate channels of participation are not available we have a remedial right of participation via civil disobedience. Broadening the discussion to the transnational framework makes the discussion more complex. To begin, there is an evident disanalogy with the domestic case here: while locally we do have a right to participate, such a right does not exist, at least not formally, transnationally. Thus, while civil disobedience might be, under particular circumstances, a way to exercise a right we have domestically, some might say that it is not evident why people should participate beyond borders, having already their national ballot.

As a response to this, I argue that people's transnational participation is fundamental⁵³, and it is based on two facts that have to do with autonomy: a. the evidence that the First World takes decisions that deeply affect everybody, but especially already disenfranchised groups in the South,

⁵² Rawls as well considers that without certain background conditions, such as the freedom of speech and reunion, the principle of equal political liberty is in jeopardy, but when he discusses civil disobedience, he does not develop his arguments considering the accessibility of democratic procedures and participation, but rather the respect of the principles of justice mentioned.

⁵³ Cabrera pushes the argument as far as supporting the creation of a global government (Cabrera 2004).

without them even knowing and b. the terrible inequality in wealth and power existing between the North and the South of the World such that people's interests are not equally taken into consideration by IGOs and corporations.

To say that someone's participation is justified by her being affected by a certain act first requires understanding what "being affected" means. Here, I will adopt as my reference point the version of the all affected principle⁵⁴ given by Gould for whom "the impact on the basic freedom, interests, and needs that are protected and realized by human rights provides a criterion for determining when someone at a distance is affected by a decision" (Gould, 2004, 212). This reception of the principle is not entirely satisfactory though, given that it excludes violations beyond those protected by human rights documents.

For our purposes then, people are affected in a morally relevant sense when certain important interests of theirs are in peril, or they believe they are. The relevant and protected interests exceed what is defended by human rights, including environmental and animal rights, but have to be recognized as being important for a given community or the global community. Such a definition remains broad but is nonetheless able to define a more limited scope of application, while at the same time it renders evident that what matters is not whether a person might be affected *per se*, but rather what kind of interest is at stake and the degree of affectedness.

With a clearer understanding of "being affected", it is now obvious how the power imbalance between states, but also corporations or inter-governmental organizations, and individuals affects people across countries. While the former seemingly have unlimited decision power, the latter find themselves being voiceless objects, rather than acting subjects in contexts where they are affected and ought to have a say. So, in certain cases, we could say people ought to have a right to participate

⁵⁴ I am aware of the complications connected with justifying participation based on the all affected principle and, although I will not address them here, I acknowledge that several versions of the all affected principle have also been presented to try to limit its scope, without lessening its justificatory power (Goodin 2007; Cheneval 2011; Gould 2004).

even transnationally, which grounds a moral right to transnational civil disobedience, when other means are not available. The transnational participation I am proposing here is not new, it suffices to look at the EU to see we already have European Parliamentary elections, although they are often insufficient. This insufficiency, or rather the lack of meaningful participation translates into a poor representation in the decision-making, but, most importantly, is connected with a high level of unaccountability and the lack of checks over the actions and decisions of these institutions. Besides the EU, the World Trade Organization (WTO), the World Bank (WB), the United Nations (UN) have repeatedly proven to lack participatory, accountability mechanisms and impartial oversight bodies or to be unwilling to seriously use them. One example among others is the case of the UN mission in Haiti. The UN peacekeeping units were sent to help the population after the tremendous earthquake that hit, but fathered hundreds of kids raping women or leaving them behind⁵⁵ and brought cholera instead. After the events, the highest UN representative at the time, Ban-Ki-Moon, claimed: “immunity from prosecution under a longstanding diplomatic treaty” as reported by Somini Sengupta for the New York Times (Somini 2016), so avoiding the necessary scrutiny in cases alike. This case would have required, and not simply justified transnational civil disobedience.

Similarly as in the domestic context then, the very same lack of a system of representation and oversight that crosses borders is the reason why civil disobedience occurred in many cases as the way to express ones’ complaints, being absent other means to do it.

Indeed, if in the domestic domain *some* people are excluded, in the transnational arena the lack of an effective decision-making process affects everybody. In the transnational dimension, the problem is even more complex and deeper since there are almost no mechanisms individuals can use to meaningfully participate, and the few existing, EU Parliamentary elections to name one,

⁵⁵ Elian Peltier, *U.N. Peacekeepers in Haiti Said to Have Fathered Hundreds of Children*, *New York Times*, Dec. 19, 2019 (Peltier 2019).

often are subjected to the same faults of the domestic ones. If we refer back to Markovitz's democratic deficits, it is evident how in the transnational dimension the threat of manipulation can be even higher than domestically. Moreover, the international bureaucracy can be even more burdening and complex to navigate than the national one, with fewer tools to make one's voice being heard and consequently giving people even stronger reasons to take the streets.

This imbalance between those in power and the others is even more dramatic and evident for ethnic minorities and disenfranchised groups. In fact, we do not have to forget how civil disobedience, even in the transnational arena, is necessarily a political act brought about by a minority, a group who is not in power, whose description sadly fits migrants, among others. In such a flawed system, migrants are particularly justified in disobeying given their social marginalization, precarious status, and discrimination. Were precisely migrants who after the EU/Turkey deal, arrived with no documents in the EU, stranded in Greece⁵⁶, and were deemed illegal. Deprived of their political rights, the obvious, justifiable and only way for them to voice their claims was illegal.

Importantly though, migrants, minorities in general, should have a right in having a say in certain fundamental matters, because this is the only way to try to oppose an unfair system where *de jure* their voice does not matter, but ought to. They are in fact subjected to decisions, the ones defining borders policies *in primis*, without having the chance to have a say and, once arrived in a country, they are again subjected to the laws of that territory, some of which specifically target them, without the right to participate. In Singer's words

“...the specifically democratic reasons for obeying the law which applied in our model democratic community apply only in part to the societies in which we live. The discrepancy is a serious one. Many groups and individuals, not having an equal share of power either through ‘pressure groups’ politics or elections, cannot be urged to obey...” (Singer 1973, 128).

⁵⁶ The EU/Turkey deal rendered illegal all the migrants on the Greek territory, given that considered Turkey a “safe place” and so unjustified those who decided to reach the Greek coast.

Participation is paramount, not merely as a way to protect one's rights, that could be equally protected by a benevolent company, state, corporation, but, mostly to avoid people being subjected to a decision they did not even know was taking place. Recognizing a right to participate and to conversely disobey is then necessary to defend one's autonomy, this one conceived as independence and as the ability to form certain ideas and comprehend the means to achieve them (Raz 1979, 1986), as well as respecting one's agency as decision-maker (W. Smith 2011; Markovits 2005; Brownlee 2012).

Said so, in a framework where individuals have a very different degree of influence and impact on how the world is organized, and where for the moment we still have a long way toward our conquest for justice, participation perfectly justifies also migrants' protests to have their rights recognized, but even more, their protests *for* entering a country⁵⁷ (cf. Basu & Caycedo, 2018). The presence of the voiceless group of migrants is striking if we consider the norms people, states, and corporations should abide by and the moral duties they should honor. It is precisely by following these duties and being aware of the deficits of the system, that I believe we need a reform in the way institutions and corporations are structured.

For instance, if we focus on climate change, I believe we all agree on the fact that institutional venues have proved to be inadequate to address the present catastrophic situation: People living along coastal areas will be forced to move out of their houses, islands will be lost and famines related to dry temperatures will be a constant issue, not to mention the loss of biodiversity that will drastically change and has already impacted our planet and the way we eat. The question to address is urgent, the threat is serious and immediate, and there is someone who can help. Those who are in the position to help though, do not do it, which grounds then a justification for people to resist and disobey to help those in need. As Smith highlights "The aim of protest in this situation

⁵⁷ This does not mean they should be allowed in, in the end, nor that they are right in asking to be let in, but that they should have the possibility to express their interests in staying or moving.

is to encourage governments to take necessary action to address problems that, after a full and informed process of opinion-formation, have been widely accepted as urgent”(W. Smith 2011, 158).

So, it seems to me that people are justified when not even possibly have a right to resort to civil disobedience in the transnational arena, where there is a clear absence of opportunities to participate, let alone discuss⁵⁸.

Surely then, I share with Ogunye the idea that the very same lack of a transnational political arena of participation is not simply the wrong *why* people are disobeying but also the wrong *against* which they are disobeying. It is the troubling feeling of knowing that one’s autonomy and freedom of choice cannot be fully exercised that sparked rage and pushed people not simply to organize but to organize in a given way. As Occupy Wall Street showed us, before the absence of participatory mechanisms and opportunities, transnational civil disobedience became and becomes the way to express one’s ideas and fight for one’s rights and resources, but also the tool to ask for these mechanisms to be put in place.

People should have the opportunity to participate and be adequately informed about decisions that affect them and be able to address the power-holders in appropriate venues. Indeed, even adopting the Rawlsian’ natural duty of justice, equal consideration for persons demands helping to ensure that they have access to institutions that protect their basic human rights. This will sometimes require creating new institutions and reforming existing institutions (Buchanan 2004, 88). In particular, when public discussion excludes governed minorities, or directly affected parties, when

⁵⁸ As Fung observes, “When persuasion fails, muscular political mobilization-by social movements, political parties, or interest groups-is warranted. Such non-deliberative power can advance deliberative ends in two ways. It can provide the pressure necessary to establish deliberative institutions of the sort just described. Such organized external social and political force can also create more equal external contexts that favor fair deliberation inside these institutions” (Fung 2005, 414, 415).

it is manipulated, or lacks necessary information, citizens might be legitimate in resorting to civil disobedience (W. Smith 2004). This is applicable both to domestic civil disobedience and to transnational civil disobedience, since people are governed transnationally as well.

TCD can be seen then as an institution per se, where to possibly experience a more horizontal (Maeckelbergh 2012b, 2012a) way of doing politics, a new way of being politically engaged and holding entities accountable for their deeds within and beyond borders. According to Tilly

“social movements promote democratization when either as explicit programs or as by-products of their action-they broaden the range of participants in public politics, equalize the weight of participants in public politics, erect barriers to the direct translation of categorical inequalities into public politics, and/or integrate previously segmented trust networks into public politics” (Tilly 2003, 143).

Occupy, 15M, and others created a more inclusive and participatory way of doing politics that could be headless in some way, although not anarchic. TCD not only contests politics but presents at the same time a way of doing politics that implies a radical change in the system.

To conclude, the lack of a transnational decision-making body is problematic because of all the reasons we have discussed so far: the troubling unaccountability of non-state actors, both economic giants and intergovernmental organizations such as the IMF and the WTO, the need to address injustices that cross borders with a well-timed procedure, and in general given the fact that in our interdependent world, our lives are connected as never before. If it is obvious why being treated as an equal matters domestically, having a say over how certain decisions are taken is also important transnationally. As I have pointed out, the world is as connected as ever, and decisions made far from us still have an impact on our daily life. Everyone should be then able to participate in how decisions that affect her are taken and in controlling that rights are respected in the world. Naturally, there are already certain international and global bodies in place to protect individuals' rights and alleged interests, but they have proven to be quite inefficient and subjected to the law of the strongest, the UN is no exception in this regard. Consequently, not having (satisfactory) participatory rights at a transnational level, TCD became and becomes a way to reduce the

democratic deficit (Markovits 2005) that we witness transnationally. At the same time, it is often the case that there might not be other means than civil disobedience to participate and be recognized as subjects of justice.

Until now we have listed the wrongs that we take to justify illegal dissent both within and beyond borders. We have seen that both the protection of basic rights, inclusive of economic rights and the protection of the environment and the lack of meaningful participatory mechanisms, even beyond borders, are just causes to resort to civil disobedience. To these, we have added the cases when the law is unjust in its own terms, or when it is so broad as to be open to manipulation. Nonetheless, civil disobedience is not simply a remedial right before cases of clear violations, but it could also be the political tool used to discharge important moral duties. In this precisely on them that I will focus on what follows.

3.2 FROM JUSTIFICATIONS TO DUTIES

In the end the only guarantee of human dignity is that we would, if pressed too far, be prepared to rebel, and, if we did so, would have right on our side. It would then be the duty of other members of our community to support us
(Honoré 1988, 54).

The section above has detailed the wrongs that we take to justify civil disobedience, the one that follows is instead focused on the duties that activate when these harms are committed, be it the duty not to harm, the duty of solidarity, the duty of Samaritanism, or the natural duty of justice. Beyond grounding a justification for civil disobedience, domestically and transnationally, they might even require illegal actions to be performed as a way to protect people and support just institutions, whenever legal ways are not viable, nor likely effective.

3.2.1 Avoid Wrong-Doing: not in my name, nor in yours

In benefiting from the fruits of exploitation and authorising their states to support a transnational system that foreseeably and avoidably causes harm the average citizen possesses dirty hands
(Blunt 2011, 4).

According to the World Bank, in 2015, 736 million people lived on less than \$1.90 a day (The World Bank 2018), and “much larger numbers must live in conditions of life-threatening poverty that make it very difficult for them to articulate their interests and effectively fend for themselves

and their families” (Pogge, 2010, p. 431). Some people do not have enough to stand as equals in society, and, worse, inequalities are such that there are some people who own a fortune while and often precisely *because* (Beitz 1999; Pogge 2012) others suffer from a lack of power in decision-making processes, and live in conditions of starvation or exploitation worsened by globalization (Singer 2002). This power imbalance between people and countries was made even more evident and aggravated by the pandemic. Not surprisingly, in 2020 and 2021 while many million were pushed into poverty (The World Bank 2020) or had to work in very dire conditions, billionaires kept enriching themselves.

Given the poverty of people, the value of the life of others, their inalienable rights our direct or indirect responsibility, and our capacity to help, I take that we have moral duties⁵⁹ to diminish harm or prevent it from occurring and not treat people as mere means and that these duties apply even across borders (Allen 2017). Henceforth, being persons the ultimate units of moral concerns (Pogge 2012), equals who interact with each other and influence each other also from afar, “it is possible that members of some states might have obligations of justice with respect to persons elsewhere” (Beitz, 1979, p.182). In particular, “the absence of a universal conception of justice should not provide an obstacle to the recognition of an obligation to limit transboundary harms” (Shapcott 2008, 185), given that imposed physical and mental vulnerability can be experienced by anyone, which “gives all human beings good reason to seek the protection of a harm principle”(Linklater 2006, 198). Rawls himself enumerates the freedom from psychological and physical oppression among the list of fundamental freedoms which individuals have to respect and protect, if not even foster, and I add, in a cosmopolitan perspective, regardless of membership and borders⁶⁰. Having a duty not to harm implies both a negative duty to avoid interfering in one’s life

59 I am not here saying we might not have other, more extended duties, but that we have at least these as the most basic ones, people worldwide tend – although this also could be contentious (Linklater 2006) – to agree on.

60 See, on this regard: (Shapcott 2017; Pogge 2012, 2002; Brock and Moellendorf 2005).

in harmful ways, which comprises a duty to get as much informed as possible about your actions and their consequences, and a positive duty to prevent harm from occurring, whether or not you are to blame for it (Moellendorf 2002; Young 2004, 2006). In other words, to avoid wrongdoing implies that I avoid committing wrongs, also vicariously as when my state acts in my name and that I also prevent others, namely other states, economic agents, and bystanders from committing them.

This duty, as I have already mentioned, does not depend on our being citizens, nor do we have it only towards our fellow citizens. Rather, it applies universally and generally to all, states, corporations, and individuals alike.

Given the duty not to harm and the evidence that states do cause harm, to their own citizens and to third parties, we might have a justification, when not even a duty to disobey to avoid harm to others. Other means being absent or not efficacious, civil disobedience could be the way to withdraw from the state, to not be associated with it. So, while in general civil disobedience could be justified as one of the ways to discharge our duty not to harm, the moment our state is responsible for causing harm, provided there are no other legal means to prevent it, we might then have a duty to disobey as our way to discharge our primary duties as human beings.

Certainly, by acting illegally, through tax evasion, or occupying the street, people manifest their opposition more clearly and strongly than by resorting to legal means. Not respecting the law, in the current discussion on avoiding wrongdoing, is the tool par excellence to contest the state and its decisions (Beerbohm 2012), questioning its legitimacy and expressing our non-allegiance to it. These reflections apply in the domestic as well as in the transnational dimension, but it is important to highlight the harm caused beyond the borders by our own states, or states we know of, to far away territories and our own responsibility as complicit. To be precise, we have four cases in which the singular person might feel she is sustaining wrong being committed elsewhere:

1. Her state is the actor to be blamed for violations occurring elsewhere;

2. Her state participates in a state of affairs that leads to violations;
3. The corporations registered in her territory are the main violators of rights in a given part of the world;
4. The corporations she buys from, violate rights elsewhere.

Let us start by taking, once again, the Vietnam war as an example of the first case. In the case of the Vietnam war, three elements need to be stressed, namely the three main reasons why protestors claimed to disobey. At first, they wanted to directly criticize their own state to be involved in a war that they believed to be morally unjust⁶¹. Secondly, they thought the war was unconstitutional (R. Dworkin 1968) and third, their reason for disobeying had also to do with their desire not to be directly, personally, involved, through the compulsory draft, in what they perceived as wrongdoing. Although the first and last points might seem identical, they are not. Surely the result disobedients wanted to achieve was the same: the withdrawal of the troops.

However, while the first point highlights the suffering of those dying under the bombs as the direct justification for protesting, the last point justifies the resort to civil disobedience on the ground that people did not want to be a tool of injustice since bombs were dropped in their name. This recalls the case of Thoreau (Thoreau 1849) who ended up in jail for having refused to pay taxes to his state to withdraw his support to the US war against Mexico, and to slavery. Thoreau did not simply want to materially stop financing the war and slavery, but he wanted to remove himself from a community that he thought was harming others and so from the wrongful agents. If we espouse the idea that individuals have duties towards other human beings plus the fact that they might discharge states' responsibilities in their capacity as members (Pasternak 2011a), we might more easily understand the derived duties I have just mentioned. Responsibility is here used in a

⁶¹ This is exactly the case of protesters in Moscow, Russia, now that Russia is waging war against Ukraine. While I am writing hundreds are already in prison because of their peaceful protests against Russia's illegitimate invasion.

twofold manner, both as having a duty to discharge and as being blameworthy. More in detail, if we define ourselves as a part of the collective, we might not simply be causally responsible, but also ashamed by harmful collective actions, although we did not even take part in the decisions we disapprove of.

“Because of my identification with a group, whether voluntary or involuntary, I bear a special reparative relationship to harm committed by a member of that group, though I do not imagine myself to be a wrongdoer or feel disgraced by the wrong” (Kutz 2000, 44).

When it is our state to act unjustly towards another, we might say that civil disobedience is *particularly* justified as it allows us not to be a tool of injustice as a member of that community. We then understand more easily the urgency of resorting not simply to passive resistance, but to active civil disobedience, whenever the state acts against someone else’s rights. Civil disobedience is chosen and possibly justified then, not simply because it is often the only way to express opposition in the transnational dimension, but because of the gravity of the evil and it being the adequate means to manifest the intensity of such contempt, and the desire not to participate in an exploitative system.

Nonetheless, while Thoreau had a clear interlocutor, his own state, and the relationship he had with the wrongdoer was evident, i.e. citizen of that state, things are more complex in a beyond-the-state dimension. Beyond borders, while there are cases in which the state, your own state, remains among the targets and the main interlocutors of civil disobedience, there are others that see other agents on the stage, such as a corporation. So, while my state acts in my name, another state or a corporation does not, which might suggest that civil disobedience can be justified *as a way to avoid wrongdoing* only with regard to one’s state actions. There are two points to be made though. First, our capacity and participation in doing harm is quite broad also via agents that are not our states, as we will see. Second, it is important to recall that “avoid wrong-doing” does not merely coincide with avoiding committing wrong myself or as part of a community. Everyone is somehow involved in how others end up living, regardless of our proximity, as citizens whose

countries are necessarily interrelated via trading agreements and military deals⁶² as well as consumers we participate in the wrongdoing committed by the states and companies we buy products from. By doing so we do not simply contribute to directly harming the person being e.g. exploited, but also in perpetuating a system based on wide-scale exploitation and inequality. Voters in the EU, who sustain candidates promoting restrictive anti-migration laws, or buyers who continue buying from ruthless companies enable these very same to make a profit from people's poverty and give no incentives to states to enact or implement more stringent rules protecting rights. And this happens, despite the cosmopolitan harm principle that recognizes that "treating others as ends in themselves requires not harming outsiders or making them suffer (which) at its simplest it means that 'our' economic well-being cannot come at the expenses of the survival or suffering of outsiders" (Shapcott 2008, 203).

So, even adopting the understanding of avoiding wrongdoing as simply avoiding a wrong done in my name, there are many instances in which it is possible to justify civil disobedience beyond the state, given the connection between agents and our possible complicity in a wrongful state of affairs. Moreover, when a state that is not mine acts wrongly, it does often so because the same web of diplomatic and economic relationships my state belongs to, allows it. This interdependence further permits me to justify my civil disobedience against that state as part of a system built and sustained in my name as well. So, if I cannot necessarily always disobey on the ground that my civil disobedience avoids my wrongdoing in the sense of wrong committed in my name, it is then evident that this justification holds for more cases than it might be imagined at first. Between civil disobedience in the traditional state/citizen sense and the one addressing corporations, there are

⁶² Surely citizens of developing countries can legitimately disobey, however not adopting the justification that they, via their countries, participate in wrongdoing, since it is unlikely it is the case. Still, they might resort to disobedience in solidarity with others, to defend others' rights and being justified in doing so, even in a territory that has not much to do with the harm being done, as I explain in other sections. At the same time, they still might claim their actions to prevent others, even far away, from acting wrongly.

a few distinctions to make, though. The first is to say that people cannot disobey a corporation law, i.e. civil disobedience against corporations is not brought about by disregarding their internal policies, but rather implies disrupting state laws that prohibit illegal occupations and trespassing and protecting private property. So, people occupy public spaces, and so disobey state laws, with the intent to express contempt against the way corporations are behaving.

The second point has to do with the fact that states represent citizens, while a corporation does not act in anybody's name, if not those who have chosen to be part of it, i.e. shareholders, and workers. So, while those who work for such a company or its shareholders might justify their disobedience, when they disobey, resorting to the "avoid wrong-doing" argument, it might seem that others cannot. Importantly, if we simply believe that avoid-wrongdoing corresponds to withdrawing support to a wrongful system and alienating ourselves from it, while as a citizen it is illegal not to pay taxes deciding to change your job, if you happen to work for a bad company, or stop being among its shareholders is not. In one case, you disobey, possibly even in a civilly disobedient manner, in the other, you simply exercise your right to choose. Intending the avoidance of wrong-doing merely in the sense of stopping supporting a wrongful system, when such a system does not oblige us to "stay" with it, does not amount to civil disobedience.

If withdrawing from a wrongful system could come in legal forms, except in particular cases such as tax evasion, why should we justify civil disobedience as a way to avoid wrong-doing? Couldn't we simply boycott a company instead of occupying the streets and making people late for work? The thing is that avoiding wrong-doing should be interpreted in a more capacious way as to mean to prevent wrong from happening, whether or not we are among those who commit it. So, those who support a company, e.g. by buying from it, might also have reasons, when not a duty, to disobey it to avoid wrong-doing being committed, beyond boycotting the company. Indeed, unless boycotting becomes part of a campaign, it is a personal and private choice, while people might want to show their concern for certain misbehavior publicly and forcefully ask for a change. There

are corporations that hold a de facto monopoly on the distribution of a certain good, and while wanting to keep using their goods we might want these goods to be produced respecting e.g. the environment or workers' rights. So, by participating in a large campaign that raises awareness around the contested topic, people might trigger the needed change and do it precisely to avoid being part of wrong-doing, e.g. saying they do not want *their* footballs to be sewn by children as well as letting others know their goods come from child labor. Civil disobedience makes public the reasons behind one's acts and the demands of people in a way that requires prompt answers. As I have repeatedly stressed, our choices as consumers can push a corporation to act in one way or another and if we cannot disobey against a corporation tout court, we can surely disobey to express our contempt against the way a corporation invests its money or treats its employees.

Civil disobedience is important here as a collective event that aims at changing the political discourse in a shorter time than the one required by legal mechanisms and as a direct way to remove oneself from the wrong committed.

Finally, we have to remember that the duty not to harm implies both a negative duty to avoid being implicated in wrongdoing ourselves and a positive duty to prevent others, e.g. bystanders specifically or even other states, to commit wrongs. While it ought to be expected that companies and complicit states be held responsible for their behavior, individuals bear their responsibilities as well.

“In fact both multinational corporations, and indeed individual citizens or consumers in wealthy countries, can be described as complicit in the impoverishment of people across the world, for they regularly buy resources obtained from undemocratic and tyrannical regimes – regimes which in many cases they otherwise criticize” (Armstrong 2012a, 146).

So, while disobedients have a duty to avoid harm to be committed in their name, they also have to avoid it being committed in someone else's name, or by others. On the one side, civil disobedience

becomes the direct way to keep the distance from wrongdoing and avoid sustaining wrongdoers, and on the other, the tool to prompt others to do the same.

Minuscule Harm

Holding individuals responsible for the harm done elsewhere is quite a contentious point. It could be said that individuals do not contribute that much, that the wrong they participate in cannot be traced back to them singularly. Moreover, individuals have their own life to live and cannot necessarily know all the outcomes of their actions, nor do they have the capacity or the opportunity to change much. Also, how can they be responsible as mere parts of a system they found themselves in, a system which encompasses every aspect, or so it seems, of one's life? These individuals do not harm anybody *directly* and sometimes it is quite burdensome for people to choose more ethical lifestyles, being in conditions not to choose but the cheaper and often least morally acceptable option.

To these concerns, I have a few replies. Firstly, I believe that a person should not contribute to harming others however minuscule her contribution to that harm might be⁶³. Although my buying low-cost goods, or my singular vote singularly taken, does not make the life of a worker miserable, it sustains certain background conditions of injustice and this is wrong. The way I see the role of individuals mirrors the social connection model of responsibility devised by Iris Marion Young:

“[...] individuals bear responsibility for structural injustice because they contribute by their actions to the processes that produce unjust outcomes. Our responsibility derives from belonging together with others in a system of interdependent processes of cooperation and competition through which we seek benefits and aim to realize projects” (Young, 2006, 119).

⁶³ A similar argument has been put forward by Broome (2012, 2016) in his debate on climate change and individual duties.

Even if it can be unclear whether your own act causes harm, “it is morally wrong to act in a way that *risks* doing an injustice” (Broome 2012, 79, italics mine). Going to the extremes “...one does not need to be personally engaged in violating human rights to bear responsibility; all that is required is that one co-operates with institutions that perpetuate injustices”(Blunt 2011, 2).

Secondly, we have to respond to the feasibility concern, i.e. one might say that certain decisions and choices are right but quite burdensome in economic terms to low-income individuals. In other words, it is important to protect workers’ rights, but if I do not have the money to buy elsewhere but from H&M, or I vote for a policy which will have harmful effects on others, but that I assume will help me out of poverty, what can I do⁶⁴? Moreover, I might have other duties to others, my sons, my parents, that I need to discharge and that might be more urgent.

You surely might have legitimate reasons to keep acting as you are used to and in any case, duties demand to be discharged provided doing so is not too burdensome on people (ought implies can). Nonetheless, you still have a duty to participate in asking companies to change the conditions they oblige their workers to live in and in requiring states to be human rights compliant. You still have a duty to hold them accountable and ask for systemic reforms, even though you cannot, or you have no means to change your individual consumers’ or voters’ choices. While being more ethical in our choices is a pro tanto moral duty consumers have, demanding change is a more stringent duty. The fact that this system is wrong and harmful for so many is a good enough reason for people not to support it, preventing harm to others (Moellendorf 2002) and pressuring for reforms (Shapcott 2008). So, even if not directly responsible in the sense of making choices, citizens as/and

⁶⁴ H. Shue distinguished between luxury and subsistence emissions discussing climate change issues and the difference in states’ responsibilities (Shue 1993).

consumers do have a duty to avoid people dying, or being harmed (Pogge 2005; Nagel 2005; Singer 2002). A duty they might not have other effective means to discharge but disobeying.

Thirdly, even though states and corporations are the ones bearing the highest causal and capacity responsibility⁶⁵, it should be evident by now how we are all part of this Leviathan imposing its rules on others, regardless of which exact, particular evil we cause. The problem of many hands, i.e. the problem of not knowing which specific action causes which specific evil, is not the insuperable problem it appears to be at first, or rather it does not seem to matter much in this debate. In the words of Young “where there is structural injustice, finding some people guilty of perpetrating specific wrongful actions does not absolve others whose actions contribute to the outcomes from bearing responsibility”(Young 2006, 120). So, although a single individual cannot be deemed responsible for the wrong or the harm in its entirety, but only partially or not even directly, she nonetheless shares her responsibility in this wrong being perpetuated, this harm being inflicted.

This does not want to imply that individuals share the same level of responsibility as companies. The access to information and level of responsibility a CEO and a consumer respectively have is different as well as the capacity to change the course of action. Consumers are less able to make completely informed choices⁶⁶. However, once people are aware of their role in the world and of what happens in it, letting die and killing⁶⁷, are both wrong, although, we might say, to different degrees. So, instead of removing responsibility, we could imagine a way to distribute it fairly, as Pasternak suggests discussing citizens’ responsibilities following state wrongdoing⁶⁸.

⁶⁵ Hart (2008) identifies four main senses of responsibility: role, causal, liability and capacity. To be causally responsible means to be cause of an event, or to be the person who has to answer for that given action. At the same time being responsible might mean to have the capacity to perform a given act.

⁶⁶ In a way, we could say, they are less autonomous (Cf. Moraro, 2014; Raz, 1986).

⁶⁷ I am not discussing this issue further, for a much more elaborated discussion on this very interesting and debated topic see (Dworkin, 2011; Moellendorf, 2002; Singer, 2002).

⁶⁸ When it comes to the state and the responsibilities of its citizens, vis à vis their state injustices, she says that burdens should be equally distributed since people recognize themselves as members

At the same time, a single contribution does not seem to change much in terms of justice or harm⁶⁹. Putting aside the argument for which we ought to avoid *any* wrong and harm because it is right to do so, one contribution, be it positive or negative, does not indeed modify much⁷⁰ in practical terms⁷¹. Unsurprisingly, “The structural processes can be altered only if *many* [*italics mine*] actors in diverse social positions work together to intervene in these processes to produce different outcomes” (Young 2006, 123).

Because of this, it is even clearer why a single effort of avoiding wrongdoing is not sufficient, e.g. boycott, to drive the necessary change. To achieve the set goal, more than one person has to act, a group that collectively either stops harming or starts demanding that those who do harm halt their activities or radically revise them. The duty not to harm then reifies itself in acts of civil disobedience that look for making others refrain from wronging and demanding those who make decisions to choose virtuous options.

of a group having a common goal (Pasternak 2011a). Surely things are different when it is a corporation misbehaving, but we could imagine consumers as a group having a similar common aim, although in a much more circumscribed manner than citizens.

⁶⁹ Look on this the debate on climate justice between (Broome, 2016; Sinnot-Armstrong, 2010).

⁷⁰ This does not account for the case when *my* particular action, being the final of a long series changes indeed something. Let’s imagine an action with a negative impact. Let’s imagine the case of a factory which asks people to overwork with no pay after the 100000th t-shirt being requested online and let’s imagine that that t-shirt is the one *I* order. In that case, *my* particular action would cause harm, but again, it would be possible for me to cause such harm, only because of the chain of others’ choices made before mine. We are still, here, in a case of a structure which supports injustice.

⁷¹ From a deontological perspective of course there are good reasons for that person to be just, namely justice requires so regardless of the minuscule or insignificant outcomes of her actions.

Let's make people talk about it!

To pressure states, IGOs, and bystanders into acting rightly and avoiding people being desensitized before certain wrongs, disobedients actions aim at making claims salient.

To be convinced to act rightly, people need the assurance that others will do the same, to know that their struggles and commitment will not be meaningless. The simple fact that a given matter is discussed makes it relevant to a good number of people and shows that there are already at least those in the streets who will devote their time and efforts to promote that particular cause. One of the effects of saliency is then the guarantee that people are not alone in their fight, even beyond borders.

Civil disobedience domestically, but especially transnationally, by making salient a given issue, serves to give the assurance to individuals that their efforts, no matter how minuscule, their positive contributions, no matter how small, will be part of a larger, collective action that has then a chance to make the debate shift and the policies change. Before harms that proved to be difficult to tackle otherwise, civil disobedience might be justified as a mechanism to convince more people to avoid wrongdoing by proving the relevance of their own fight. Saliency is pivotal because it confronts individuals with their choices, providing them with reasons to abide by the demands of justice. Consequently, the duty not to harm and not to treat people as mere means, once we know others take them seriously, are even more inescapable, since you have no reason not to abide by them yourself.

Harm, Shame, and Guilt

We have just seen that TCD contributes to the salience of a topic, while at the same time being a way to directly remind informed, but careless bystanders of the duties they are disregarding⁷². There are, however, other means to convince people to act according to their duties, which is blaming them. Blaming someone produces the result of making one feel guilty and/or ashamed. The perspective here is primarily instrumental. The goal is to avoid harm and TCD can be one of the valuable ways to generate sentiments that would make people compliant with what justice requires and in avoiding harming others. Guilt and shame⁷³ are feelings that I believe can indeed have a quite important moral and social function in providing reasons for action (Merkin 2017).

Confronted with people physically taking the streets, occupying spaces, opening banners, and flooding the media with their creative actions and claims, people are faced with inescapable moral choices. Civil disobedience puts at the forefront of discussion topics individuals have more occasions to confront themselves with, self-evaluating their own choices. As a consequence,

⁷²At the same time, by informing and making certain topics more salient and known, TCD advances the autonomy of bystanders presenting them with a wider set of elements to consider in their choices. Autonomy is here taken to necessitate the forming of true beliefs about the world, the capacity of desiring, with no imposition from outside, but also, importantly, the authenticity of one's desires. To meaningfully exercise one's autonomy a person has to be presented with different meaningful options to choose from. So, when activists disobey, by occupying the space and imposing their agenda in the political discourse we can say they do present people with more options to choose from. These options are not created by disobedients, but they are rendered more readily available by them. According to Moraro, civil disobedience, even violent civil disobedience, promotes "others' autonomous choice-making, by fostering self-identification or authenticity" (Moraro 2014, p.73). Still, while disobedience renders individuals more autonomous, more capable of self-ruling, it also makes them more responsible before their future choices. Thus, the more information a person has at her disposal, the more she can be considered a full agent acting on her well-motivated choices and so blamed whenever her actions fall short of what justice requires.

⁷³ Williams distinguishes between the two terms, but I am not here interested in distinguishing them since both work for my argument. Be it an internal feeling of guilt or a social response of shame, the end result is the same, that is to have feelings that might constitute a reason for people to act differently from what they have previously done, be it for being socially reinstated in the community or for a sense of internal coherence (cf. Calhoun, 2004; Gilbert, 2003; Manion, 2002; Williams, 1993; Kekes, 1988; O' Hear, 1976).

bystanders might find out they are complicit in injustices, and if they persist in their wrongdoing, this might suggest they do not take others' interests seriously into consideration (cf. Scanlon, T., 1998). If we believe individuals are acting wrongly when they know that what they are doing is wrong, but keep doing it, it seems justified to socially sanction them. Mill himself considers that wrongdoing ought to cause guilt and shame via social condemnation:

“We do not call anything wrong unless we mean to imply that a person ought to be punished in some way for doing it; if not by law, by the opinion of his fellow creatures; if not by opinion, by the reproaches of his own conscience” (J.S. Mill 2003, 321).

Guilt is “outward focused and is about responsibility and caring feelings for others” (Gilbert 2003, 1225), feeling guilty is the response of an individual before her failure to a duty not to harm she herself agrees on. The feeling of guilt emerges precisely when others think less of us, because of reasons we ourselves share. The feeling of guilt transforms into shame, whose moral aspect lies in “the identification of the [moral] standard as an essential component of our conception of a good life and the acceptance of the standard for the evaluation of our own character and conduct” (Kekes 1988, 295).

Feeling guilty and ashamed is not simply recognizing that we did not live up to the community's standards, but that we did not live up to standards that are ours as well. As Calhoun highlights, while discussing the value of shame, “moral criticism has practical weight when we see it as issuing from those who are to be taken seriously because they are co-participants with us in some shared social practice of morality” (Calhoun 2004, 139). When people transnationally disobey, they disobey before their own communities, they show their outrage also as part of that community, for things happening elsewhere and about which they care, as human beings, but also as participants of a given social group. At the same time, they disobey taking as their reference point values that are taken to be universal, such that we can say there is a shared understanding “about how to interpret when basic moral obligations [...] have been fulfilled” (Calhoun 2004, 140). TCD then reminds people of what morality requires, it forces them and the global community to

confront their moral duties, exposing their moral deficiencies to trigger them to modify their behavior. While disobedients open banners to shame big corporations for the way they treat their workers or destroy the planet, they are publicly exposing events for which CEOs have to justify themselves, and the need for such a justification derives from the fact that we share a conception of justice we are all accountable for, CEOs included. This shared conception of justice generates “indignation, disapprobation (whose) strength is, in general, proportioned to what is felt to be the magnitude of the injury and to the degree to which the agent’s will is identified with, or indifferent to, it” (Strawson 2013, 349).

TCD has not as its aim to mortify individuals though, but rather to convince them to act. What matters is that feelings of shame and guilt can be action-guiding, for private individuals as well as for corporations’ heads. As Strawson highlights, “it is far from wrong to emphasize the efficacy of all those practices which express or manifest our moral attitudes, in regulating behavior in ways considered desirable [...]” (Strawson 2013).

Certainly, shaming is not a distinctive trait of illegal morally motivated protests, but it is also a defining element of many disobedient acts. The publicity dimension we have discussed centers also around this aspect of shaming. The moment legal ways have been tried and failed, little remains to groups of activists if not to unmask a given corporation and expose it to public shame. Obviously, there is no way to be sure these people do indeed feel ashamed and guilty, nor we can prove they act out on these feelings when they do, but civil disobedience clearly provides them the occasion to abide by their duty of justice⁷⁴. Protestors are then justified in contesting their own state to oppose a corporation, especially considering that the very same possibility for a corporation to profit from the misery of a country often depends on conditions made possible, or not rendered impossible, by the international community.

⁷⁴ This at minimum imposes to not harm others and to not treat them as mere means, regardless of where they happen to be born and live.

In the end, not being compliant with the law contributes in avoid wrongdoing:

- a. By directly withdrawing from a wrongful state and so lessening to a certain extent the harmful impact the state or company has on a third party,
- b. By directly opposing the wrong, exposing it, and making others know about the consequences of their own actions with the aim of stopping them,
- c. By rendering salient the wrong being committed and giving utilitarian reasons to people to abide by what justice requires,
- d. By shaming people into acting as justice demands and responding before the community and their own conscience for their wrongdoing.

Disobeying to prevent harm to others is not simply a justifiable act. Under given circumstances, such as when there are no other viable mechanisms to resort to, disregarding the law can be a duty. Such a duty derives from our primary duty not to harm, which again includes avoiding others to harm third parties. If we are aware of a wrong being committed and we have the capacity to prevent harm from occurring, we have a duty to oppose it, whether using legal or illegal means. People might have an obligation to oppose the law, whenever legal means are absent or unreliable and whenever and wherever political, social, and economic rights are violated and people are physically and mentally harmed, and when the inequality between countries does not go to the advantage of the worst off.

However, civil disobedience is only the first step toward change. To prevent future harms and properly condemn present wrongdoing, we need a radical transformation whose results could last beyond the time a square is occupied. Indeed, “there is a duty to cease harming, which involves a duty to prevent further harm from the imposition of an equally bad alternative world order; thus we should stop harming and make sure we do not harm again” (Shapcott 2008, 202). This is possible only if we modify the current power dynamics between individuals and countries, and

impose upon companies that benefit from a country's workforce, to participate in cooperation and do their fair part⁷⁵. For implementation and oversight purposes, foreign states ought to have a say in how business is conducted even beyond their borders, if the related activities are conducive, if not actively imply, rights violations. Also, individuals ought to refrain from being indifferent and complicit. Most importantly, we need to

“...transform the structures and institutions of that [exploitative] scheme so that it ceases wrongfully privileging some at the expenses of others. The necessity reform is radical because it addresses the root (*radix* in Latin) of the unfair allocation of burdens and benefits, including the systems of norms and entitlements that underlie the scheme's practices” (Delmas 2018a, 127).

So, in cases where the system is unjust, to continue being part of and benefitting from it, without contesting it in the ways that are possible, grants the persistence of unfairness, which goes against the duty individuals have and what justice requires. In this framework, civil disobedience is not simply a way to oppose an unfair system and not subjugate oneself to it and its rules, but it is also a call to arms to the indifferent, to shame them into acting rightly. If the duty not to harm justifies civil disobedience, it could even demand it whenever it appears civil disobedience is the only available and reliable political mechanism to avoid and prevent harm.

3.2.2 From the duty not to harm, to the duties of Solidarity and Samaritanism

In our query over the perceived wrongs and duties that might justify illegal protests, drawing from Delmas' book *A Duty to Resist* (Delmas 2018a) it is important to briefly discuss the duty of Samaritanism and the duty of solidarity. Solidarity is a collaboration and reciprocal support between people who share values and goals (Delmas 2018a, 126) who can be part of the same

⁷⁵ Hsieh (Hsieh 2004) provides an interesting argument on how fairness would impose not simply negative, but also positive obligations on transnational corporations.

group, or of different groups, e.g. white people protesting alongside the Black community. For instance,

“Solidarity relations may be proximity relations, as in the case of the undocumented. Nevertheless, they can also extend to distant others with whom those in solidarity never personally encounter, as in the case of global economic inequities...or to those in a condition of suffering, as the victims of injustices worthy of moral consideration, wherever they are in the world”(Allen 2017).

The duty of solidarity is a strong one, based mainly on fairness-based considerations (Delmas 2018a) and/or the desire for future collaboration between people who perceive themselves as members of the same group, the group being not necessarily citizenry-based though⁷⁶. What happens in these cases can be the formation of groups based on identity, i.e. groups who fight together having the same experience of domination and oppression as a minority, and so the same interests. I am here referring to identity politics, the understanding that people demand certain rights to respect themselves as different (Kruks 2001, 85). It is precisely because of their membership that they are oppressed, and it is then for the same reason that they have a justification, if not even a duty to disobey, being part of that minority group, even when one, as a single individual, is not directly experiencing discrimination. Although to be supportive it is not necessary to be part of the same group, belonging to a group that is equally oppressed especially justifies people, even if not directly involved, to condemn certain policies and to do so *also* resorting to illegal actions. Plus, the fact that people around the world share significant features in terms of identity renders it particularly pertinent and fits the form of civil disobedience where those who disobey are those who share with the “disobeyed for” that significant feature, e.g. being a woman, being Black, being homosexual. This might be relevant for engaging in civil disobedience, and not

⁷⁶ “For instance, solidarity protests were organized around the world in the aftermath of the April 24th, 2013 factory collapse in Bangladesh, which killed more than 1,100 people. The goal of the protests was to denounce the dangerous and unfair labor conditions in Bangladesh’s booming garment sector, which, arguably, engender persistent Samaritan perils. Though most solidarity protests were legal, some of them involved acts of civil disobedience, for instance when protesters refused to comply with police orders to disperse, or when activists violated restraining orders. These protests may be viewed as instances of transnational Samaritan civil disobedience” (Delmas 2014a, 310).

being perceived as paternalistic. An example of solidarity might be the following. Country A passes an anti LGBTQI law following which the local community takes the streets and occupies the main square of the city. As a consequence of the news spreading around, in country B, the people who belong to the LGBTQI community decide to illegally protest before the embassy of country A to express their solidarity with A's protesters. Disobedients in B are not protesting with the explicit intent to add their political pressure to achieve the goal the protesters in A are seeking. Furthermore, they are doing it as part of a group that shares the same interests and with the same intents.

Thus, especially when those disobeying on people's behalf are not themselves victims, but somewhat related to the wrongdoers, it is essential that they consult the victims and take into account their interests. Indeed,

"Solidarity demands that we [wrongful beneficiaries] join in collective action for justice by organized out- groups; and that we do so in a way that defers to their best judgment about our role in supporting them" (Kolars 2014, 429).

But if solidarity justifies civil disobedience, we can claim there is a duty to disobey grounded on the duty of solidarity, a duty which falls on people in general and in specific, minority groups in particular. Suffragette Pankhurst's words are here quite apt: "To be militant in some way or other is . . . a duty which every woman will owe to her own conscience and self-respect, to other women who are less fortunate than she herself is, and to all those who are to come after her" (A letter from Emmeline Pankhurst to WSPU members, January 1913). But if people who act in solidarity have a duty to protest, this duty falls also on the direct victims of wrongdoing, according to

Delmas⁷⁷ and Dworkin⁷⁸. It is also by disobeying that people can show respect for their own dignity, and do their part in changing unfair conditions.

At the same time, focusing more on shared goals rather than identities, we could frame the discourse in associativist terms, highlighting how certain people have special obligations to the members of their community (Delmas, 2018, 186), whose goals they share. In particular, solidarity might be “a crucial way of expressing proper concern for everyone” (Delmas, 2018, 187) wherever dignity is endangered. As Dworkin reminds us, the reasons to care “about how your life goes are also reasons for you to care about other people’s lives” (Delmas 2018a, 188), since we are all equally humans and deserve respect and your own dignity is diminished when others’ is. This is a reasoning that I take to apply in communities that are not necessarily nation-state based and where relationships that create obligations are entertained by people across borders. Once again, the community where solidarity occurs and I make reference to is global in nature. As it is evident, we are not simply citizens of a country, we hold also dual citizenships, we are also family members, and members of associations dealing with global issues, and as such we have obligations towards others, we made promises and signed contracts. At times, these allegiances might contrast with our duties to abide by the law.

This “do ut des” principle morally obliges people to aid those they see as members of their elected group in their struggle, both from an identity perspective or an associativist one, with the knowledge that they will do the same in case of need (Rawls 1999). Importantly, the very same fact that people disobey across borders could result in making the affected ones feel they matter and

⁷⁷ When she discusses the duty of fairness, Delmas writes, “Victims of injustice, that is, exploited participants or harmed nonmembers of a social scheme, have a fairness- based duty to join existent resistance efforts that have a reasonable chance of success. Idle bystanders of such efforts would be free- riding on others’ activism, in violation of fair play”(Delmas 2017, 131).

⁷⁸ But for Bernard Boxill as well, see (Boxill 1976).

that their grievances are taken seriously, which benefits their self-respect, especially if at home they are discriminated against or not considered enough.

Such help from abroad, strengthening the domestic movement, has also the effect of promoting the autonomy of the disobedient group. I take here autonomy as being the possibility of acting on one's own, choosing between a set of meaningful and not simply available choices, and being able to act on these same choices. Publicizing a given matter renders it possible to those affected to have a stronger bargaining power before those they are contesting, which translates into having more choices at their disposal. Disobeying together with others, at the same time on the planet, for their cause, empowers people, granting them the capacity to act, rendering them capable of more fully exercising their own agency.

Before closing up this section, there is another important duty worth mentioning, the Samaritan duty. Samaritanism is generally discussed in a local framework since 'proximity, capacity and awareness' is the triad attached to it. Nonetheless, given the already discussed connectedness of our world, we are now aware of geographically far events, and we do also influence distant communities, which means the three conditions can be fulfilled also by people living far from each other. As it is widely known, the Samaritan duty is the duty to aid those in need whenever this does not constitute an unreasonable burden for oneself (Singer 1972; Delmas 2014a).

The conditions for the Samaritan duty, or the duty of beneficence, to apply are that the interests at stake are fundamental, the threat is serious and immediate and there is someone who can do something about it at no high cost and serious risk for herself (Singer 1972). To be true Samaritans or to act in solidarity, it is not enough to e.g. engage in NGO work or to pay our taxes, so acting in conformity with the law. Rather, we need to consider a deep restructuring of the way we treat others, which normally is not possible following legal ways, also because of the lack of time at our disposal. Being illegal can then be the way to be morally compliant with our moral duties. In fact, I do not simply agree with Delmas in saying that if such a duty holds at all "then it does so *even if*

fulfilling it forces an agent to break the law” (Delmas 2018a, 141), but I push the discourse further and say that helping those in need, the poor ones, *normally* requires us to oppose a perfectly legal system of exploitation that perpetuates injustices and domination.

Transnationally, to support others and to be effective in our protests then, especially in cases of civil disobedience across borders, it can be particularly significant to rely on the leverage power that certain countries have on others, which could lead to a positive result for those directly affected. It is hard to imagine a state that has nothing to do with certain injustices or that, with its indirect actions, it is not sustaining a rogue state or a bad corporation. It is precisely also with this idea in mind that disobedients occupy streets or trespass on private properties. The direct aim of illegality is indeed to convince states to stop trading with wrongful agents. The state itself, the place where civil disobedience occurs, may not directly be responsible for a given harm, and yet by economically or politically backing up those who are, may help create the structure that allows the perpetrations to go on. If other states or IGOs or corporations are not criticized by their peers or keep having the same good relationships they used to, they have no incentives to change the way they manufacture their products or treat their own citizens. Surely civil disobedience constitutes a good incentive for power-holders to abide by moral standards, but it is not the only way.

At the same time, even when a given state is not indirectly involved in sustaining wrong-doing, considering the power that states hold within big organizations such as the UN or the WTO, civil disobedience could pressure the political representatives to take positive actions and impose e.g. sanctions on those who misbehave. This is often the case with wars or with the curtailment of civil and political rights. In this sense, if a given population starts demonstrating against a given behavior of the political representative of another, the country where they disobey will have itself to deal with demonstrators in a way that will clarify internationally whether these same acts are condemned or accepted, so setting a precedence that would set the standard for the future. Moreover, if a person had “to accept an obligation to obey laws that denigrate certain groups, she

would fail to recognize the objective importance of other people's lives, as authenticity demands" (Delmas, 2018, 187), which means that civil disobedience is, at times, the way to show respect people and their agency more broadly⁷⁹. Additionally, considering that self-respect, as an essential element of autonomy, has a relational dimension such that, to refer to Kant and Dworkin, once again, being self-respecting entails being other-respecting (R. Dworkin 2011) it is easier to understand how, by disobeying, individuals might enhance their own self-respect. While protecting others' interests and helping others in advancing their own plans of life, disobedients enhance their own self-respect. The element of mutual recognition that is so fundamental to the equal standing of individuals and for one's autonomy plays a crucial role here.

To sum up, there is a sense in which solidarity makes the victims feel their claims are worth listening to, while at the same time granting that material support that renders their claims more likely to be listened to by those in power. *En gros*, if dignity is not respected, and this could mean that there is not an equal and reciprocal concern for all then, both those who are subjugated and the rest, have a justification, when not a duty to oppose the law.

3.2.3 The Transnational Duty of Justice

In this chapter, we have passed from defending civil disobedience, to suggesting that under certain circumstances it might be a derivative duty grounded on important moral duties such as the duty not to harm, or the duty of solidarity and Samaritanism. For the sake of completeness, we must add the natural duty of justice (Delmas 2018a; Ogunye 2015). Recalling Rawls, the Natural Duty of justice states that individuals have a duty of justice to uphold just institutions or, wherever they are

⁷⁹If this is easier to happen within borders, we can also imagine EU laws discriminating against individuals.

absent, create them (Rawls 1999). While we have explored that people might be justified in disobeying because of their identity or membership in a group, “the Natural Duty of Justice requires us to help ensure that all persons have access to institutions that protect their basic rights, simply because they are persons, not because we are connected to them by cooperative relationships or any other conditions of reciprocity”(Buchanan and Keohane 2006, 470). If we follow Rawls and we take the natural duty of justice as an unconditional duty which both “demands that individuals either support an order that is just or oppose it if it is not ... [then]civil disobedience should be seen as one possible instantiation of the latter disjunct which demands that individuals oppose an unjust order” (Ogunye 2015). To be more precise, civil disobedience might be a way to discharge our natural duty of justice, especially transnationally (Buchanan 2004; Ogunye 2015). To be sure, the natural duty of justice, in the transnational framework, has to be understood as a duty that obliges people to create just institutions. States are then urged not simply to be just, but to promote and help just institutions to thrive, internationally as well. It goes without saying that such a duty grounds also the duty to disobey, as Ogunye (2015) contends, not simply to directly tackle injustice but to pressure their own state and/or the multinational corporations to remain loyal to their own moral and legal duties and obligations and to sustain a morally right transnational institution to be implemented. If we take the institutions to be the locus of justice par excellence, the entities responsible and capable of promoting justice and effectively alleviating sufferings, by honoring the natural duty of justice and creating and upholding just institutions we discharge the duties we have towards our fellow human beings. More profoundly even, the natural duty of justice imposes a duty to create just institutions whenever they lack, and “civil disobedience could be a way of pressuring for reform of the global order” (Ogunye 2015, 2).

The natural duty of justice does not simply demand domestic civil disobedience, but also TCD, since “although the Natural Duty of Justice requires us to help build just institutions...it applies to us simply because we are persons. Moreover, the Natural Duty of Justice itself rests on a more

basic principle, namely, the obligation each of us has to treat every person with equal concern and respect” (Buchanan 2004, 27). Having said so, in the present framework, the natural duty of justice falls on individuals and states alike, while corporations are taken to have an obligation of assistance insofar as they benefit from the state of affairs of the country they voluntarily engaged themselves in (Hsieh 2004).

To conclude, civil disobedience can be justified and even be considered a duty on the ground that disobedients are upholding their cosmopolitan duties, among which the duty not to harm, and the natural duty of justice which “cannot be reduced to ‘rules of forbearance’; they also require duties of assistance, steps to dismantle ‘coercive regimes’ and efforts to create global political arrangements which can represent the voices of vulnerable people and communities” (Linklater 2006, 343).

At the same time, to avoid harm being committed, we need to anticipate its occurrence, and this is precisely why I believe civil disobedience can also be justified as a preventive mechanism.

3.3 PREVENTIVE DISOBEDIENCE

Civil disobedience, the way we have discussed it so far, is a response to a series of events or political decisions believed to be contrary to what is right by those who take the streets, occupy squares, or organize illegal sit-ins. If we consider civil disobedience as a reaction, as a remedial right before certain violations, or as a response to the lack of discussion or decision-making opportunities, we implicitly imagine it as an ex-post surgency and not as an ex-ante appearance. It seems obvious to say that it would not make sense to combat something that has not happened yet. However, I claim civil disobedience can also be a preventive mechanism between an ex-post response and an ex-ante act. I use here the definition of prevention given by Levy, while discussing war.

“Prevention is a response to a future threat rather than an immediate threat. It is driven by the anticipation of an adverse power shift and the fear of the consequences...The incentive is to forestall the power shift by blocking the rise of the adversary while the opportunity is still available” (Levy 2008, 4).

Thinking about civil disobedience in preventive terms changes the way we look at it. Civil disobedience remains a response, but one that would not be normally justified according to our discussions in the chapters above, given the lack of gross violations at the moment of its appearance. In a way, civil disobedience used preventively disrupts the system *too soon*, before it would be more clearly justifiable for it to do so. Nonetheless, although such a form of civil disobedience is not a remedial right, it still acts as a self-defense mechanism. My assertion follows, with due differences, the argument Walzer makes to justify preventive belligerent attacks. In *Just and Unjust Wars* Walzer states that

“the line between legitimate and illegitimate first strikes is not going to be drawn at the point of imminent attack but at the point of sufficient threat...I mean [the phrase above] to cover three things: a manifest intent to injure, a degree of active preparation that makes that intent a positive danger, and a general situation in which waiting, or doing anything other than fighting, greatly magnifies the risk...Under such circumstances it can fairly be said that they have been forced to fight and that they are the victims of aggression” (Walzer 1977, 83–85).

Needless to say, while in war the danger the other poses is great and evident and jeopardizes our very existence, at peace things are different and the extent of the preventive attacks one is legitimate in lashing out ought to be small. However, being at peace does not mean that the threat posed by certain groups cannot be serious or possibly bring, in the long run, to gross violations of rights. Nowadays, although small in scale, the violence that certain extremist groups use against minorities is brutal. Even at peace, there might be political groups that represent a serious menace to the existence of certain minorities and whose actions might escalate to cause more and more serious damage to the fabric of society. It is this framework and the evidence that state decisions

have an effect on people, in their legitimizing actions and behaviors, or condemning them, that help us understand preventive civil disobedience.

Preventing groups to act on their harmful premises is then the aim of those who, using illegal tactics, confront the state in the street to push it to pass new laws or change them, foreseeing certain actions and decisions will have certain negative effects. Here, civil disobedience has as its targets political, elected groups whose decisions or lack thereof might legitimize extremist actions or whose policies will have a direct impact on minorities. Importantly, in such cases 1. the threat has to come from an authority that has the means to act on it, 2. the threat has to be serious and evident, 3. we need to be somehow certain and able to prove that leaving unaddressed a certain action, or decision might endanger people or worsen their conditions, i.e. minorities and 4. as usual, with civil disobedience, the reasons why people decide to illegally protest have to be made evident. Civil disobedience is in this sense preventive and yet constrained in the danger it might legitimately pose. Being able to foresee the consequences of the state inaction and the peril posed by the groups the state is indirectly supporting, disobedients try to impede abuses from happening “while the opportunity is still available” (Levy 2008, 4). Still, the preventive attack must be lighter than the future damage it is opposing.

Let us imagine the case of a government or an intergovernmental organization, such as the EU, that does not want to discuss a law prohibiting transphobic and homophobic harassment that adds the discrimination element to harassment charges and promotes education over gender matters⁸⁰. Let us further imagine that the EU justifies its inaction saying that there are already other laws in place protecting certain rights and that there are other, more pressing, debates to have. Certainly,

⁸⁰This is loosely inspired by the case of the Italian law decree Zan (ddl Zan) against homophobia and transphobia and its long postponements that were justified by saying more pressing items on the agenda needed to be discussed.

if we had valid reasons to consider such a law as being essential to better protect people's interests, civil disobedience might be justified as a remedial right.

However, I want to discuss this matter from a different perspective. Not discussing a given law or postponing it indefinitely is not a serious violation of rights per se, provided other rights-defending laws are in place. Yet, the constant postponement signals a certain attitude towards specific infringements of rights which strengthens the idea that perpetrators are going to be easily pardoned. Avoiding the parliamentary discussion of such a law implies a lenient punishment for discriminating against specific groups, or rather that the discriminatory component is not considered in their cases. Also, the unwillingness to debate such a norm might delay the inclusion of cultural programs that could promote knowledge over gender matters and so inclusion. So, given the homo and transphobic culture we belong to and knowing the number of crimes that are reported without much consequence for the perpetrators, disobedient groups might indeed disobey once the discussion is again postponed, and ask for the law to be rapidly discussed and passed. The lack of discussion is a message, and its postponement is as well. Hence, using civil disobedience in the case presented is an unexpected way to stop ab initio the intention to leave an important issue unaddressed in ways that could lead to violations or make them continue in the near future. Moreover, whilst civil disobedience is a way to show the Parliament the intense interest the public has for the addressed topic, it is also a way to tell those who are in charge and the perpetrators, that such behavior is not tolerable. Using legal means would not be efficacious in conveying the intensity of the interests at stake, nor would be taken as a form of resistance. We know all too well the level of discrimination the LGBTQI community suffers around the world, EU included, with gender-based violence on the rise and data that shows LGBTQI members to be harassed daily, both mentally and physically (Fundamental Rights Agency 2012).

Moreover, we know that despite the existence of general laws prohibiting harassment, these do not properly consider the specificity of the gender dimension. What I am contending here,

however, is not simply that civil disobedience responds to an important lack in the law and in recognizing that violence depends on the victims being part of a specific group.

Rather, civil disobedience is sparked by the lack of interest in discussing this norm, which renders the matter even more important to debate. The unwillingness to discuss a certain topic is in itself a manifestation of intentions and, in this case, a clear stance in favor of those who use violence, be it verbal or physical. It is precisely this non written assumption that disobedients are fighting against, this unofficial standpoint that is taken to give free way to harm others, either because perpetrators feel those in power morally support them, or because they are somewhat assured they will not be found guilty of whatever crime aggravated by gender discrimination. Civil disobedience serves here to prevent a certain law might not pass, but also to prevent people from mistreating others on the basis of their gender or sexuality. Breaking a law is always costly and the readiness to bear the costs of such a disruption is a way to communicate the intensity of what is at stake, and to commit before the state and against its decisions.

The case at stake is particularly interesting here because it falls in a grey zone. The object of criticism does not constitute a proper and clear violation of rights, since other laws protect people from discrimination, and yet it might suggest a disinterest of those in power with respect to a particular group of citizens. In a case like this, we do not need to wait for the law to be finally discussed and possibly taken down. Nor, do we have to restrain ourselves before violence erupts. We all know what indifference or more lengthy replies might lead to, and we also know that there are not many institutional means the people can take in this case, but to wait and see. Waiting though might mean that certain violations will still happen without proper punishment or without the adequate tools for the victim to feel safe to accuse her stalkers and be considered. Waiting might also mean that the law will be postponed over and over, promoting a culture of bigotry and intolerance. Hence, in this framework, civil disobedience, in its being disproportionate in its illegality, could be the tool to prevent the state to abort the discussion altogether.

So, since we know that certain choices or lack thereof, while not constituting violations in themselves, can be conducive to the continuation of morally reprehensible behaviors, we can justify civil disobedience. The idea behind this course of action, quoting again Levy, is that for communities “faced with a rising and potentially hostile adversary, it is better to fight now rather than risk the likely consequences of inaction—a decline in relative power, diminishing bargaining leverage...” (Levy 2008, 1). When it comes to certain violations, most notably against minorities and especially in certain regions of the world, people know and have studied how state indifference or inaction could lead to harm and perpetuating abuses. History tells us that even in formally liberal societies there are groups who have been discriminated against and that remain without de facto protection in cases of third-party abuses. This is the case for Roma people, members of the LGBTQI community or migrants. These groups have been facing discrimination for decades and it is then particularly important to be vigilant when politicians engage in actions or political moves affecting them.

Let us further imagine the case of a state whose main political party proposes the reconstitution of the fascist party⁸¹, saying that such a party has nothing to do with Mussolini and that its aim is to care for the good of society only. If such a statement were welcomed with no more than surprise, this proposal might find good ground and actually be seriously discussed and possibly become reality. Even the law, at least in Italy, recognizes the dangers deriving from the reconstitution of the fascist party, even before clear statements and actions have been taken⁸². The danger is real, and democracy is a fragile good to protect, as many are those who still look at the past with wistfulness and confound law and order with the rule of law. In many countries, some parties are

⁸¹ In Italy such a reconstitution is forbidden. Article XII of the “Transitional and final provisions” of the Italian Constitution, states that “The reorganization, in any form, of the dissolved fascist party is prohibited”. (E’ vietata la riorganizzazione, sotto qualsiasi forma, del disciolto partito fascista). To be more precise, the law says that even the ostentation of fascist and nazi ideas and symbols is sufficient to be charged with the crime of reconstituting the fascist party as from the sentence of the First Criminal Section of the Court of Cassation of 18 March 2021, n. 10569.

⁸² See note above.

somewhat nostalgic of the Nazi or fascist past and support fascist gatherings and their ideologies in more or less evident ways. If in the past these parties usually did not make it to the government, remaining an extra-parliamentary fringe, these days they represent an important part of the executive branch in countries such as Italy, Spain, or France. While in Italy the leader of Lega Nord, the former Minister of the Interior Matteo Salvini, published his book with a fascist publishing house close to the infamous neo-fascist movement CasaPound, Trump did nothing to outdistance himself from white supremacists. His blaming equally right-wing violence and non-violent protestors for the death of Heather Heyer in Charlottesville, while it was evident a white-supremacist car had hit the crowd, suggested to many that his political views were somewhat in line with those of right-wing protestors, and instilled a sense of impunity in those committing hate crimes (Rushin and Edwards 2018).

So, a statement that would express the intention of removing the ban over having a fascist party would represent a clear threat before which atonement or shock would not be the appropriate reactions, because insufficient, while civil disobedience might be. Indeed, despite the statements that might defend this neo-fascist party, cleaned up and presented in democratic terms, fascism cannot be but associated with cruelty, racism, and the absence of freedoms. Whoever decides to use such a term, does it being aware and precisely because of the weight and the associations the term inspires and has to be seen as a serious threat. After all, Mussolini rose to power legally which is why I am convinced that we need to take seriously the neo-Nazis and fascist movements of today. Silence, before certain acts and statements, makes permissible certain events to occur again and the supporters' basis to widen, slowly, but steadily. It is fundamental to prevent acts to develop in ways we have grown to know as being libticide. Hence, being confrontational with political groups that do not present themselves as those who curtail rights, but that we can assume might have this goal or lead to it, should be considered legitimate. Such a disruption intends to prevent rights to be limited in the future and people to be disrespected, and to make clear to those in power

that given ideas will be met with fierce opposition. Again, the more opposition an idea encounters, the more unlikely it is that it will spread, also among possible supporters, because it will become more costly to choose. As for the permissible methods to be used, they depend on the severity of the threat posed by the state or other institutions. Surely, since we are imagining a case in which violations have not occurred yet, the use of violence cannot be but strictly minimal.

Civil disobedience can be seen as disproportionate in this particular instance, but I believe such a disproportion has to be justified by the evident difference in power that disobedients hold with respect to the decision-makers, considering the small harm disobedience causes in general and the threat it tries to avert. At the same time, resorting to illegality in such a preventive manner could damage the cause they are disobeying for and could strengthen the idea that civil disobedience is non-democratic⁸³ and does not respect disagreeing opinions. However, such a visible presence could prompt people to participate more, while obliging power-holders to realize they still have to seriously face the scrutiny of public opinion.

Prevention is justifiable even as a transnational mechanism, as when people resort to the streets before embassies, or corporations that have not yet committed crimes directly on that territory but elsewhere. Beyond disobeying in support of others, or because we see the entire world as our living space and we cannot bear injustices being committed, there is also the possibility of resorting to civil disobedience to impede a similar series of actions where we reside. Facing politicians or economic actors with civil disobedience, where it seems that the same germs of evil that people are trying to oppose elsewhere are present, sends a strong message, so strong that gives enough reasons to those in power to at least rethink their future steps. Such a preventive halt comes in the form of illegality 1. Given the seriousness of the menace people feel they are dealing with, but also

⁸³ The question of whether or not civil disobedience is democratic is explored in (Weinstock 2016).

2. Because disobedients use civil disobedience to vibrantly support the victims of an abusive system with the aim to prevent the same injustice to occur where they are.

Following Levy's definition and widening these reflections beyond borders, civil disobedience can then be interpreted as a conflict-dealing mechanism to communicate to the power-holders of the country where it occurs that certain acts or policies adopted elsewhere if proposed within borders, will not be silently accepted⁸⁴. Even more, it is not just an expression of idiosyncrasies, but a statement that manifests that these policies will be fought and heavily criticized and that people will not comply with them if passed. Disobeying and not simply legally demonstrating becomes important here because it shows the intensity and the seriousness and responsibility of the actors. The goal is to precisely prevent certain plans or projects to become something more concrete, to persuade those in power that those below them will not support their choices, if not strongly oppose them. Civil disobedience seems to be apt at demonstrating the critical engagement of the population with issues that happen elsewhere but that could also affect their own territory. Through such a risky way of participation, people demonstrate they are not dormant, but active, aware citizens. Certainly, the reasons people disobey have to be serious, i.e. the threat posed has to be significant and clearly be an infringement of some important interests. An important caveat is required though. In cases where the state where someone is disobeying is not responsible for what happens elsewhere, disobedients should restrain themselves to act in a non-violent way and not simply in a mostly non-violent way. In the case of TCD I am referring to, the minority is not necessarily disobeying against the majority, whose moral responsibility for the alleged wrong is less stringent than if it were the direct cause of harm or violence, and so when the minority, as a by-

⁸⁴ Of course, this does not exclude that disobedience might also be used to push politicians to be more engaged in certain matters beyond borders, as when asking one's country to be more involved in demanding the release of a prisoner from another country.

product of its civil disobedience, causes disruptions to the domestic life, it has a moral obligation to avoid violence, not simply instrumentally, but most importantly to show respect to the others.

In the end, civil disobedience acts as a preventive mechanism that sets the limits to what is permissible even across borders. It is not simply, as it is in other cases, a remedial right, but rather the expression of a promise of resistance, a manifesto of intentions.

3.4 A FORESEEN FAILURE

In the beginning, we have mentioned the probability of success, among the necessary justificatory elements of civil disobedience. It is thought that the disruption of a system we have assumed decent is legitimate only insofar as there is the chance that it will improve a given situation or bring the required change.

Nonetheless, I am skeptical about the necessity of this constraint, provided the disturbance is limited in space and time and the reasons that bring a person to disobey are particularly serious. First of all, from a pragmatic perspective, it is very hard to predict the success of a protest, especially given that it is uncertain how many people will participate in it. This is even more true now in the digital era where positive comments left on a digital platform or promises of participation often do not translate into action or serious commitment. Second, I believe that the seriousness of certain claims, and the importance they have for the disobedients, civil disobedience towards a better climate policy, for instance, justify disruption regardless of its success. Certain expressions of dissent are motivated by one's conscience and desire to stay true to one's moral values, which could be a moral imperative, and could be determined by the seriousness of the threat opposed. People do indeed resort to actions they know will likely be unsuccessful, either to show they are not in favor of the actions undertaken by their government or to follow their

morality and the duty they feel they have to try and do anything to improve a situation they believe wrong. Before great harm, people might legitimately think they must do whatever is in their power, regardless of the slim chances of success they might have, to improve the situation.

At the same time, we cannot forget that civil disobedience, be it domestic or transnational, is often caused by infringements of rights people suffer directly. Said so, although incapable of changing the situation they might disobey and be justified in so doing, to self-respect themselves

“...the powerless but self-respecting person will declare his self-respect. He will protest. His protest affirms that he has rights. More importantly, it tells everyone that he believes he has rights and that he, therefore, claims self-respect. When he has to endure wrongs he cannot repel and feels his self-respect threatened, he will publicly claim it in order to reassure himself that he has it” (Boxill 1976, 69).

This does not mean we are looking for an a priori justification that completely disregards the effects and consequences of disruption, but that the chances of success cannot be always considered as a necessary justificatory condition when the cause fought against is serious and disruption and the harm caused to bystanders and others remain very limited in extension and degree. So, we could say that civil disobedience, although not successful should be justified to respect people’s deference to their conscience and deep moral values. And this is the case also because civil disobedience has to be considered in its expressive dimension, such that it is taken as a way to communicate with intensity a certain criticism, and the commitment a disobedient has as an autonomous person (Simmons 1979), despite her act foreseen immediate failure.

At the same time, these intensity and autonomy-related considerations lead to another. Of course, numbers are essential to gain that relevance that could bring politicians and corporations to change things, but big numbers are usually reached in time. A series of protests can start seeing only a few people on a boat, as the early days of Greenpeace activism against nuclear testing, to then broaden and become a big, successful movement. As I have mentioned elsewhere, civil disobedience is indeed also a way to render a certain topic salient and so discussed in the public fora and among

common individuals. Civil disobedience is an instrument of persuasion and information that intrigues people the more they are exposed to it. As Habermas puts it, “sometimes the support of sensational actions, mass protests, and incessant campaigning is required before an issue can make its way... into the core of the political system and there receive formal consideration” (Habermas 1996, 381). That is to say, people might have to disobey on several occasions and fail in the majority of them, not simply in obtaining what they want, but also in being recognized at all, before being able to change anything. Still, this does not disqualify them, and I believe then that the success requirement has to be put aside when justifying an act of civil disobedience whose disruption remains very minimal and its actors are evidently moved by moral motivations and are reasonable.

FINAL THOUGHTS

In the end, the bare fact of being able to influence others’ life while being at home, imposes burdens and duties on individuals to bear beyond and across borders. On the one side, we can act and benefit from what happens far away. On the other, because of this capacity and this newly acquired awareness, we ought to refrain from spoiling others’ life. When harm is widespread and legal means are not satisfactory or absent, or again when people do not have the chance to participate in deciding how resources are shared or how decisions are made, in a world that is so interconnected when it comes to goods and not as much as when it comes to rights, civil disobedience might be justified. At the same time, civil disobedience might be the instrument to discharge moral duties. It is to respect the duty to not harm and engage others in respecting such a duty that civil disobedience and TCD often arise, which might also cause to “alter or extend the

shared conception of justice” and what counts as harming or respecting people for a given community (Singer, 1973, p. 88).

The duties not to harm and to prevent harm from occurring, together with our duties of solidarity, aid, and the natural duty of justice, justify and at times, demand the resort to civil disobedience when other measures have proven to be or are known to be fallible. Civil disobedience is certainly a way to discharge these duties on the part of the disobedients, the victims themselves, but also, to convince or coerce bystanders, by shaming them, to respect them.

Still, civil disobedience can also be used as a preventive mechanism against a wrong that is yet to come but perceived as a concrete threat. In this case, however, civil and transnational civil disobedience should restrain itself to non-violent means, not being directly confronted with injustice yet. Such an action, moreover, is not simply justified when its prospects of success are high, because of the expressive character of such a political act.

As for the targets of civil disobedience, given the great wealth inequality, these are mostly companies and states supporting them, since they are both morally and causally responsible for wrongs, but also those with the capacity to help. Reality presents us with cases of widespread injustice, where kids drown because of a system that does not distribute resources fairly and where help is not simply giving a hand to help her leave the pond, but trying to sustain a person in her survival throughout time. This requires resources and political will to change the distribution pattern and end exploitation.

Nevertheless, justifying civil disobedience, be it locally or transnationally, does not mean that it cannot be harmful. It is precisely the harmful effects civil disobedience can have when it is indeed able to promote a change, that I will investigate in the following and last chapter. I will question the justifiability of civil disobedience, by drawing a parallel with just war theory, and so introduce the idea that civil disobedience needs to be considered also in its consequences to properly morally assess it.

4 OUT OF PROPORTION OR THE RISK OF BEING A WHITE SAVIOR

Until now, civil disobedience has appeared as a mostly positive and beneficial action, one we might even have a duty to perform. However, I have so far omitted to discuss the unintended, harmful effects of its success. In its disruptive capacity, the worst consequences of civil disobedience seemed to be annoying traffic jams for bystanders. The focus was, as it is usually, on those who disobey, their motivations, and the political obligation to obey they have versus the state and their fellow citizens. There are other actors though, to whom we have not paid too much attention yet, most importantly those who are directly affected by the policies disobedients are attacking and by the results of civil disobedience themselves.

Hence, the dilemma I want to focus on here regards whether otherwise strongly morally justifiable civil disobedience, one we can agree is motivated by one of the just causes we have explored in the previous chapter, could be unjustifiable because of its bad consequences or/and give rise to reparation duties. While there are wrongs to oppose that in principle justify or even require civil disobedience, the harm that we assume TCD causes demands us to question whether these first-level justifications are sufficient to disregard the possible harmful consequences or if there is the need to add other conditions as well, such as ensuing reparations. The matter is a serious one and touches upon the teleological attitude of a group, versus the present interests of another. Or, we could see this issue also as being one of competing duties. While, on the one side we have a duty to protect the planet from e.g. pollution, on the other, we owe respect to people we end up harming as a result of our protests. Or, again, from another perspective, we could say it opposes a deontological approach, that focuses on rights protection, to a consequentialist one, that bases the justifiability of an action on its consequences.

To find a solution to this problem, looking at just war theory might help us. Indeed, while profoundly different in terms of goals, means, and desired and unintended results, wars and TCD share some characteristics that make it meaningful to refer to just war theory in this context. For instance, while at war, states need to justify their intervention as external agents, given the damages to third parties they will cause, which is exactly what we are discussing here. The necessary conditions that justify a belligerent act are similar to and answer the same questions we have when assessing civil disobedience both domestically and transnationally, that is whether it is just to intervene (*jus ad bello*), how it is just to proceed (*jus in bello*) and what consequences are morally acceptable (*jus post bellum*). These conditions for intervention are: just cause, necessity, legitimate authority, reasonable hope of success, proportionality, just peace. As it is evident, they respond to the need to minimize and justify the harm caused during and after a belligerent act. In particular, proportionality demands that we assess the moral principles and duties of the act, but that we also account for the lives affected by war, considering that every life counts equally and that everyone deserves respect. In this sense, just war theory is deontological in nature but considers consequences in their assessing the justness of an intervention as well.

Thus, provided the important and obvious differences between war and civil disobedience, similarly, as in a war, I will claim that for an act of civil disobedience to be justifiable it has to meet the justifiability criteria we have just mentioned. Here, we assume TCD to be necessary (last resort) and for its agents to have the necessary moral standing to intervene (legitimate authority). What remains to investigate is whether TCD causing harm has a sufficiently just cause (*ad bellum*) whether it is proportionate and treats people with dignity (*in bello*) and leads to a just peace (*jus post bellum*).

For instance, while I do believe that, e.g. disobedients fighting against exploitation, climate change, or pollution in certain parts of the world are doing a morally right action, worth justifying, I also think it is important that e.g. the affected people are considered as agents with plans of lives even after the acts of civil disobedience obtain success. To be sure, there is a danger, especially in TCD, given the distance between agents and targets, that civil disobedience might appear as the expression of the élitism of those who play at “making the revolution”, at someone else’s – those who actually will bear the costs of the policy change - expenses.

Therefore, I consider it necessary for TCD that its outcomes are proportionate to the harms that may derive from changed policies and practices, which implies also a moral duty to provide for those who end up being worse off, despite the righteousness of the cause fought for.

Although a detailed analysis of who is supposed to discharge these reparation duties falls outside the scope of this section, I will suggest that they fall on us, citizens of the richer countries, since we are capable to redress and usually also responsible for the wrongs which give rise to civil disobedience in the first place⁸⁵.

Furthermore, while in cases of civil disobedience that are responsible for a low level and morally irrelevant disruption, we have mentioned that the chances of success are not always necessary, here for our argument to make sense we have assumed civil disobedience to be successful. It is precisely because we imagine it achieving its goal and changing things that it might contribute to harming people affected by a generally just change. At the same time, given the harm we take civil disobedience brings with it, it is imperative that civil disobedience is successful to be proportionate. Of course, we could ask what happens if TCD fails and also harms people, but I believe the

⁸⁵ Usually, rich countries are both capable to redress and responsible for the wrongs committed. However, it is important to distinguish capacity and responsibility because it might be the case that some countries are capable to redress, but not responsible of the wrongs and because the arguments that support that responsible states have a duty to redress depart from a different series of assumptions from those grounded on capacity considerations. In my argument what matters is that countries have the capacity to help and this imposes on them a duty to help the worse-off.

question is less interesting if posed in these terms, while its answer can be easily deduced from what follows.

Before proceeding, it is worth highlighting that the harm I am discussing is not unique to civil disobedience. Indeed, legal actions such as diplomatic actions and boycotting⁸⁶ could have similar harmful results while trying to advance good causes. The fact of opposing the law simply renders the justification of civil disobedience also dependent on the expected (positive) consequences of the disruption of the system, and not merely on the effects of its success. Lastly, important to note is that this chapter deals with justifications and possible reparations, but does not touch upon people's moral responsibilities, if not tangentially.

⁸⁶ To be sure, unintended, but possibly foreseen harmful effects occur in a variety of cases, even legal ones, such as, most notably boycotting. Albeit generally legal and so not falling under the civil disobedience umbrella, boycotting is useful to point out the major aspects connected with a third-party intervention aiming at criticizing a corporation or a state. Surely, an important difference between civil disobedience and boycotting lies in the rupture of the domestic equilibrium which illegal disobedience causes and boycotting does not, nonetheless this aspect is not relevant for the moment. Boycotts occurred in a variety of cases, from the British boycotting of goods coming from the then apartheid South Africa, to the ongoing boycott campaigns against Israel to combat the Gaza occupation. These boycotts aimed and aim at supporting a population who is obviously suffering and who was and still is trying to fight back a system of clear, deep and rooted injustice. There is however another type of boycott, the one that is clearly exemplified by the carpet industry boycott in India. In India a lot of children are employed by carpet factories, where they are often mistreated and where their "occupation endangers (their) physical and mental development" (Ballet, Bhukuth, and Carimentrand 2014, 80). If boycotts are surely morally motivated and aim at producing a fairer society, they also reduce the income of the poorest families, thus increasing child labor in the long run, reduce children's income and simply shifts child labor to other sectors (Ballet, Bhukuth, and Carimentrand 2014). In other ways, they might cause more harm than good for already poor people, especially considering they are not targeting the root causes of the problem they want to combat.

4.1 WHY TCD AND NOT CD?

Why does it particularly matter to discuss the justifiability of civil disobedience when harm is caused to third parties in the transnational domain, while we have not lingered on it in the domestic one?

After all, even though domestic civil disobedience is taken to be brought about for certain specific causes only and its traditional non-violence is usually taken as a guarantee of a limited disruption, non-violence does not assure harmful effects will not be significant. There are cases in which peaceful civil disobedience could harm others, third parties the protesters intended to support, or workers whose condition gets worsened in the name of the ideal disobedients fought for. Their civil disobedience could be non-violent, morally justifiable considering its reasons and the way it is brought about, and yet have a harmful impact.

Still, even in such cases, the harmful impact would be less practically and morally significant in the domestic sphere, than in the transnational dimension given domestic and transnational civil disobedience are different in some important aspects. First, TCD, as we have defined it above, acts as a sort of third country intervention into foreigners' business, while domestic civil disobedience does not. Within local civil disobedience, harms and goods remain within the community, one where everyone belongs equally, and I assume everyone knows well in terms of culture and values. Moreover, interests are somewhat shared since the vicinity renders everyone involved and possibly directly or indirectly affected by e.g. the closing of a factory, the pollution of a river, or the lack of rights.

Second and most importantly for our discourse, the domestic and the transnational settings differ in the redistribution of resources. Indeed, if civil disobedience is successful in changing a law or else *domestically*, we might say this hardly poses an issue to a third party, at least in welfare

democracies. Resources are in fact redistributed within the community through a compensation scheme, in a more or less direct way. To better explain this, let us imagine the case of a factory that closes down also because of the pressure put on it by disobedients. In this case, the ex-employees have to be granted, by law, unemployment benefits. In a functioning welfare state, it is precisely by taxation that the community financially supports those who lost their job. Surely, we could discuss whether, even domestically, unemployed people ought to be supported more or in other ways, in-kind as well as economically, but the system to do so is already in place, as the embodiment of moral considerations that have established precise relations of responsibility and obligations between members.

An illuminating case in this regard is the one of the ILVA of Taranto. ILVA is a steel plant in Taranto, a city in Southern Italy, known to be the biggest steel plant in Europe and among the most polluting ones. Its production of dioxin accounts for more than 90% of the total Italian production, which, together with all the other fossil fuel emissions is responsible for a sensitive augmentation in cancer cases among the local population. Over the years, many organizations and citizens asked for the closing down of the plant, citing the unacceptable pollution and its deadly consequences as a reason to do so, while facing backlash from those working there, some of whom were put into layoffs. Notwithstanding the evident lethal effects of ILVA, the factory was not closed, but simply changed owners. However, when its closure appeared imminent, the state made clear it was ready to financially intervene for those put into layoffs and for all the workers who risked unemployment. The state, through taxes paid by all, disobedients included, was, and structurally is, organized to financially support unemployed people. So, in the case of disobedients changing policies and practices at the expenses of others, they would normally already contribute to compensate them which would allow them to conduct a similar life to the one they had.

In the transnational sphere, this is not the case and the relations between the stakeholders do not hold in the same way, as we do not belong to the global community as we do to our local ones. A

pertinent example is that we do not have transnational taxes covering unemployment benefits for people outside Europe yet. Surely, the countries where people are employed may have unemployment benefits⁸⁷, but these might be very limited to support all, and grant them a similar lifestyle to the one they had before. Nevertheless, even if this were the case, this money would not come from disobedients, i.e. those partially responsible for people's unemployment. Disobedients would still not participate in financially helping those they made worse-off, they would not offer them the means to live a life as they used to. This does not mean disobedients do not bear any costs for their illegality, since bearing the costs of the consequences of one's actions is not the same as bearing the cost of that act. This implies that, although transnational disobedients might not carry the burden of the consequences of their act, nonetheless they are expected to be responsible for their illegal conduct, and their disruption of traffic i.e. paying a fee, or else. So, even in the case in which disobedients would disobey on someone else's behalf, causing these same to lose their jobs, in a domestic context there is a direct relationship between the disobedients and their targets, such that the disobedients themselves are taken to bear the costs of the consequences of their actions. Conversely, in TCD, compensation cannot be assumed.

4.2 DISOBEDIENCE AS INTERVENTION

Let us imagine three cases of transnational civil disobedience.

The first one is a case of people disobeying in one country while others, in other parts of the world, simply join in solidarity. We can think of journalists protesting in Egypt for having their freedom of speech recognized while people or organizations all over Europe protest and occupy Egyptian

⁸⁷ I thank Professor Miklosi for highlighting this point.

embassies or disobey to ask their countries to avoid economic relationships with Egypt. In this case, Egyptian journalists know well that the risk of being jailed for protesting is high, if not a certainty. So, anyone who would protest and illegally march or organize sit-ins in solidarity would join a group of well-informed people who are aware of the risks their actions entail and are ready to accept them. From the perspective of those disobeying to assist, this case does not present too many problems. The act is justifiable if it is motivated by just causes and whether it remains within certain limits. Whether or not the external support will increase the chances of success of the local protest, the victims themselves are already committed to taking the streets and have made their conscious choice to disobey and bear the consequences of it. What they want is to be successful, and external help could be pivotal in achieving their aim. At the same time, if their acts do not lead to their desired goals, the support received will generally not damage them more, on the contrary, it might make them feel worth listening to. In this situation, external help does not add a burden on them, quite the contrary.

The second case occurs when people act in solidarity with a group whose fate is so bad it could hardly be worsened. This is the situation the members of the LGBTQI community face in Uganda and many other places around the world. Indeed, following Uganda's criminalization of homosexuality in 2014, people risk jail time if found "guilty" of being homosexuals. The same sadly goes for other African countries, some of which, Mauritania among others, prescribe the death penalty for homosexual activity. In this case, disobeyers intervene without necessarily responding to a manifest call for help, but out of indignation and as a sort of humanitarian intervention. The opposed laws and policies are so evidently in violation of human rights that is not morally relevant whether people asked for help. The severity of these human rights abuses constitutes a morally valid reason to help, and despite the lack of direct consent of those, we help we can quite safely assume they would welcome our support. Given the context, the despicable discrimination, and the harsh consequences this group faces, if people were to disobey in support

of the LGBTQI community, disobedients would hardly make their life worse. If their reasons were morally grounded, if they acted mostly non-violently and were ready to bear their own responsibilities, choosing civil disobedience when other means were not efficacious, they would be justified regardless of the outcomes of their political involvement. Given the unbearable situation the LGBTQI community is living in, it is very difficult to imagine a support group worsening their condition. Therefore, reflecting on the consequences, transnational disobedients are justified in acting if they are conscientious and respectful of the people they are disobeying for. If they win against the states or private actors discriminating against those they support, they will improve their situation. If they do not obtain anything from the power-holders, it is unlikely that the punishment for those they try to support could be harsher than death. If anything, they might raise awareness in the community and contribute to changing the policies ahead.

The third case is the one this chapter will revolve around. It is a case of people who decide to disobey for what we assume is a just cause and in so doing they worsen the conditions of those involved in the matter that prompted disobedience in the first place. To be more precise this case could be divided into three more subcases.

4.2.1 Disobeying on someone else's behalf

There is the case of protests on behalf of those whose situation could be worsened and who have *not* asked for help and therefore are not necessarily ready to accept the consequences of any protesting act. In this case, those who bear the burden of civil disobedience are not those who engage in it, but the very same people whom the protesters want to help, not simply bystanders temporarily annoyed by a blockade. So, those disobedients protest for, and those they end up harming coincide.

Let us imagine that a protest happening in the US has as its goal the protection of workers' rights in a factory overseas where people are exploited and mistreated. To better understand what I have in mind, suffices to recall what happened at the end of the '90s when people started protesting – not necessarily disobeying, but this does not invalidate the argument – against Nike because of its use of child labor⁸⁸ in its Cambodian factories. Everyone was appalled by the exploitation of young Cambodians and after a series of protests and boycotts, Nike left the country. When Nike left Cambodia, human rights activists were excited at first. Child exploitation is morally wrong, and combating it constitutes a good ground for civil disobedience. However, this enthusiasm did not last long. Although the cause was noble, i.e. to prevent Nike from exploiting people, especially children, the result was quite harmful to many. A lot of families relied on the wages provided by Nike. Cambodian families depended on the income of women and minors working in the city and when Nike left exploitation continued in other forms and exercised by other agents, while misery increased for those people protesters wanted to help.

4.2.2 Disobedience to protect common goods or third parties

While in the first type of civil disobedience there is a coincidence between the damaged people and those for whom civil disobedience broke out in the first place, in this second case there is not. Civil disobedience is here motivated by the protection of common goods, such as water or the forest, and its agents do not act on behalf of anybody but themselves. Furthermore, while in the first case disobedients were acting in support, here they might be directly affected by the policies they contrast. Not acting on someone else's behalf, this type of disobedience causes harm to people

⁸⁸ Child exploitation does not have to be conflated with child labor (Cook 2019; Satz 2003), although the latter often does imply the former, as in the mentioned case.

who are not the supported victims. In this second type of civil disobedience, you have 1 million people drinking water polluted by the results of the dyeing process of a clothes factory which will cause people to develop cancer in the next 30 years and die. Due to the international indignation prompted by TCD around the way corporations dispose of their post-production waters, the factory applies costly filters and stops additional pollution. In this same scenario though, given the costs sustained for the filters, 100 people are fired.

4.2.3 Disobeying for an ideal

Finally, there is civil disobedience opposing an ideal and its embodiments, e.g. capitalism, without necessarily protesting in favor of any specific group of people, but possibly worsening the conditions of those who work for the companies reifying such ideals. While in the first case, disobedients acted on behalf of a specific group, here they do not, but rather oppose a system because they believe it is wrong in absolute terms. Disobedients might think the governing principles of the economic order “constitute a harm; for instance, they are a cause of global hunger and poverty. As a result, there is a significant obligation upon those who have created this order, to address the harms it perpetrates” (Shapcott 2008, 202). If we go back to Occupy Wall Street, it was precisely a particular, accumulative, idea of economic progress that these people were contrasting, given the harm they believed it was causing in developing countries. Occupy Wall Street was a worldwide phenomenon criticizing the power of the banks and capitalism more in general. It is difficult to establish the practical consequences of such a phenomenon, but if Occupy were able to transform the way banks and corporations worked, limiting their power, we might imagine people losing their jobs and life prospects. If the manifestation of capitalism are working

places that are the only solutions for people to survive, it is not unlikely that once they close down, they let people unemployed and with no better prospects for their future.

Beyond the important differences distinguishing these three subcases, most notably their reasons and their targets, they all share the fact that they are interventionist in the sense of becoming involved in what happens in another country. Moreover, if successful, they might have unintended but serious effects on third parties. How such acts can be possibly justified given the harm they cause is the question I will answer in this chapter.

4.3 JUST CAUSE?

In light of the unintended consequences we have just mentioned, we need to have a new look at the wrongs we took to justify the resort to civil disobedience. As when we look at wars and their destruction we are inclined to justify them only for protecting certain specific rights and before given wrongs, so when we disobey transnationally and we likely harm people, we need to be sure our causes are sufficiently serious. Just causes in the just war theory context are, for instance, a response to aggression or providing humanitarian intervention⁸⁹, since the killing of people cannot be justified if not for attempting to prevent more deaths. In other words, the harm caused as a by-product needs to be, at maximum, of the same category of the harm averted⁹⁰. Moreover, war being annihilating as it is, it is justified when it has a decent prospect of success only, since the sufferings caused need to at least not be completely vain. Needless to say, since civil disobedience

⁸⁹ For having an idea of the debate surrounding war and its justifiability see: Parry (2017); Lippert-Rasmussen (2013); Øverland (2013); McMahan (2013a, 2013b, 2005); Rodin 2011; Levy (2008); Luban (1980); Walzer (1977;1970).

⁹⁰ I thank Professor Miklosi for helping me phrasing the problem this way.

does not come near the destruction, chaos, and harm of any war, it does not require the same strong and limited causes to arise. Still, people have to be highly convinced of the rightness of their action, also considering the place and people they are going to affect and be reasonably sure that their illegal acts will lead to at least some change. In addition, the harm we might legitimately cause has to be proportionate to the end we are confident to achieve. In the chapter above, we have already seen the wrongs we take to justify civil disobedience within and beyond borders. Certainly, the moral relevance of the wrongs disobeyed for does not assure disobedients to be right, as we have specified, but at least guarantees that the issues discussed are of a certain significance.

So, what constitutes a just cause in an interventionist case of TCD? Here, facing a specific case of transnational civil disobedience, we have two levels of justifications:

1. The general level of wrongs that in principle justify morally motivated illegal protesting, occupations and so on;
2. Given the special circumstances TCD confronts people with, there are additional considerations to make and that justify the analogy with Just War Theory.

For instance, besides considering wrongs in abstracto, we have to verify whether the harm we will likely cause responds or tries to avert greater harm (McMahan 2014), since even the definition of what counts as a just cause depends also on the expected consequences (McMahan 2005) of an act. Considering consequences is not a mere matter of numbers but of competing duties and respect for the dignity and worth of *all* the people involved.

Let us take civil disobedience on behalf of the environment and civil disobedience brought about for an ideal, to start this analysis. As we have seen from the chapter above, endangered species, climate change, or dire living conditions do infringe upon serious rights, directly or indirectly, and these violations often cannot be tackled if not in non-institutional and illegal settings and manners. Also, the duties we have to people and animals suffering from the effects of climate change, or from exploitation, in general, seem particularly strong. The fact that disobedients are acting to

preserve certain important rights is clear, and it is also clear these rights are worth disobeying. Surely, “to say that these are rights is to say precisely that there is no valid moral argument for trading them off against profits, or policies designed to foster economic growth, or the earnings of the workers” (Young 2006, 109).

This means that certain rights are morally superior to other interests and that we cannot harm people depriving them of such rights, even if by doing so, we make them or others better off or richer, for instance. What matters here, is not that these causes are simply just, but the degree of justness, compared to the foreseeable harm necessary to achieve them.

At the same time, when we are disobeying, affecting someone who lives in a different community from ours, it is important to be particularly wary of cultural differences. Transnational disobedients, usually coming from the West, would indeed apply their values and interests to others and get involved in matters on behalf of people whose culture they often know nothing about. As Shapcott warns us “beyond the basic harms of deprivation of life and physical well-being, harms need to be assessed in a dialogical process whereby cross-cultural understandings can be achieved, and consent to transborder practices can be sought” (Shapcott 2008, 200). Thus, it is surely crucial to apply a certain cultural sensitivity, and instead of imposing decisions, claiming civil disobedience to respond to harm being done, we should cooperate with those we believe need help⁹¹, while at the same time being ready to intervene whenever it is evident certain fundamental moral norms have been disregarded, especially to protect people’s autonomy, self-respect and plans of life⁹².

⁹¹ “Dialogue is the principle means by which harms generated by misunderstandings and ignorance can be averted and by which differing conceptions of harm can be translated. Dialogue is also the principle means by which consent or agreement to actions can be achieved. In many cases such consent is the only way of ascertaining whether a harm has occurred or is perceived” (Shapcott 2008, 200).

⁹² For instance, in the abovementioned cases of LGBTQI rights being infringed. In such cases, it is not wrong to interfere in another country, regardless of its cultural norms. On the contrary, these very norms might be the target of disobedience. It is not simply about preventing harm, but guaranteeing basic rights to all. For instance, if we intend harming as worsenin one’s condition

Moreover, disobedients are required to respect the agency of those involved, by not acting in paternalistic ways. This is essential to show respect for the dignity of the people who are going to be affected by the results of disobedients. To quote Shapcott once more “The core argument, which is consistent with anti-cosmopolitan and pluralist values, is that we ought not to impose harms upon other communities (and individuals) without their consent because imposing a potential harm upon another without this recognition constitutes another harm” (Shapcott 2008, 199). It is on this point that the three examples here mentioned differ. While civil disobedience aiming at the protection of the environment or against an ideal are examples of disobedience being provoked by a given matter and that cause harm to third parties, disobedience on behalf of others, who have not asked for help, is a case in which disobedience causes harm to those on behalf of whom it erupted unrequested in the first place. Also, while the first two cases are prompted by problems affecting disobedients as well, the third one is a non-requested act done on behalf of individuals who are not among the protesters, and yet they might see their conditions get worsened.

4.4 UNDERSTANDING PROPORTIONALITY

If an act of resistance, though it grievously harms innocent persons, could potentially help change the structure of the international system then it seems very difficult to argue that it is not justified on the basis of comparing harms
(Blunt 2011, 6).

from t1 to t2 or compared to an unchanged situation, we might think women who have never had rights were never harmed, however I claim they have always been harmed by not having been recognized as individuals worthy of rights. However, if the ends are morally worth pursuing and justify disobedience, still the means need to be, as much as this is possible and in line with the final end, respectful of the habitus of the place. A special attention would be required, as well as the local knowledge about customs and power hierarchies.

To be sure, the fact that civil disobedience might harm, or cause inconveniences is not news. On the contrary, this is precisely one of the reasons it is chosen in the first place. Powerholders listen to those in the streets because these become obstacles in politicians' daily business, their supporters' and common bystanders'. To annoy those in power does not respond to the need to be simply heard, but to directly impose a cost on the administration to coerce it into choosing differently, i.e. civil disobedience is directly used to make specific choices more burdening. The costs of this coercion directly fall on bystanders, who are also harmed by civil disobedience. However, the harm suffered by bystanders is usually very limited⁹³ in time and degree and does not normally amount to a morally relevant one. Such harm is, in a word, proportionate to the aim sought.

On the contrary, the kind and degree of harm I want to focus on are quite serious and the victims I am referring to are already disadvantaged people the protesting groups are trying to protect or do not intend to hurt in any way. If on the one side, we have bystanders, many of whom share the same living conditions as those who protest and possibly are they themselves complicit in wrongdoing, on the other, we have people who are not connected with the wrongdoer if not out of necessity and who are the direct victims of an exploitative, polluting, rights infringing system. It is then essential to evaluate whether the harm they suffer is proportionate to the overall good achieved by civil disobedience. It is not simply a matter of seeing whether a person "is rendered worse off than she was at some earlier time, or than she would have been had some earlier arrangements continued undisturbed" (Pogge 2002c, 4) but rather of understanding whether the

⁹³ This does not mean the harm caused to bystanders does not matter, and we have to remember that bystanders are intentionally harmed to be used as means, but they are not treated merely as means, something I will elaborate on further below. Moreover, given its low degree and the small affectedness it has on those subjected to it, it is generally morally outweighed by the morally motivated causes fought for. Also, the very same non-violence requirement contributing to the definition of civil disobedience limits the kind and degree of harm to be imposed to bystanders. Whenever bystanders suffer more than a mild harm, their concerns become more relevant and need a profound assessment.

overall good outweighs such harm. Surely, judging whether an act will be harmful is an exercise that needs to occur before the act itself despite all the limitations that this a priori analysis imposes. Still, we can evaluate the outcomes that are reasonably expected while being morally obliged to avoid as many errors as possible. This could be done by acquiring a profound knowledge of the context we are acting in, so as to be able to foresee the results of our actions with a certain degree of certainty. This knowledge would allow and morally oblige us to choose the least harmful way of intervention or minimize the worst possible results and show respect to the matter at stake and those connected to it.

So, what to choose? A disobedient act that might cause harm, but also help secure some morally valuable results, or do nothing? The three examples above mentioned highlight the conundrum in picking the morally right choice between accepting a wrong and often harmful status quo and fighting for change when doing so might also cause harm. They stress the dilemma to define what justice requires and balance long-term goals with short-term ones, global interests with individuals' present needs. While I do not want to prevent civil disobedience in favor of important rights and values, I also believe it is not possible to dismiss the sufferings of those affected by it, as few as they might be. We have mentioned the importance of having a just cause when interfering in someone else's life, possibly disrupting it, while saying this is a necessary but not a sufficient condition. It is important to evaluate the end goal when we contemporarily assess the harms we might cause, harms that are excusable as a side-effect of a given campaign and not of another, although both might be just, considering a given threshold. We have other parameters to consider, all connected to one another (McMahan 2005) and *jointly* sufficient to achieve a satisfying justification.

As we have anticipated, discussing consequences has to do with proportionality, which, in turn, requires our acts to produce or expect to produce less harm than the one averted or than doing nothing. Even more, it is not a mere utilitarianistic count that matters, since not all the goods count

equally from a moral perspective. Since not all harms are the same this requires us to evaluate the severity of the harm as well. Generally, the idea is this one

“Consider, for example, an illegal strike. This may impose burdens on some who are neither contributors to, nor beneficiaries of, injustice. Nonetheless, if the harm to the third parties is sufficiently small when compared to the importance of the cause then such action can be justified” (Caney 2015, 70).

Even within a consequentialist dimension, it is essential to consider the moral relevance of different harms. The meaning of relevance is more contentious (Lefkowitz 2008; Halstead 2016; Horton 2018; Lazar 2018; Rüger 2020; Tomlin 2017; Steuwer 2020; Voorhoeve 2014; van Gils and Tomlin 2020) than it might appear at first, but to put it simply let us say that while we might disregard some people being stuck in traffic because of the importance of our disobedience to protect the Amazon, we might have to reconsider our acts before people losing their jobs. My own perspective and what is necessary to know here is that to quote Temkin, “other things equal, it would be worse if fifty people suffered from AIDS, quadriplegia, severe psychosis, or being deaf, dumb, and blind, than if virtually any number of people suffered from a minor nosebleed, a slight cold, a sprained finger, or a short mild headache” (Temkin, Larry 2012, 33). Surely, things get complicated when the harms to compare are not the same and yet are close in gravity, as when we have to compare deaths and permanent physical impairments, but even in those cases, I assume it is possible to find adequate solutions applicable to real problems (Lefkowitz 2008; Tomlin 2017). This difference in the gravity of harm is exactly why bystanders might be justifiably harmed, while others might not. So, what counts is not simply the kind of harm we fight against, but also the kind of harm we cause as a consequence of our protests. Some rights are hierarchically superior to others and they justify more serious harms in their defense. So, without going into details about competing claims, there are serious harms that affect a few, which might morally impede us from causing them as a side effect of an otherwise morally right cause, and light harms that might not count against the justifiability of civil disobedience, even if imposed on many. At the same time,

respect for people's rights might, when not ought to, prevent us from disobeying. Nonetheless, both the severity of the harm suffered and the number of people affected count.

So, if we take the example of civil disobedience opposing capitalism as an ideal, we would have the chance to end it on a massive scale, by causing a few to be unemployed. In this case, I believe consequentialists would consider it preferable to have people ending up with no jobs than to have millions being exploited as a consequence of a capitalistic economy. The harm of workers being jobless for a protest combating capitalism is indeed less serious compared to the benefit deriving from the collapse of capitalism, assuming being jobless is morally less relevant than being exploited by an unfair economic system. Therefore, consequentialists and deontologists would justify civil disobedience on the basis that civil disobedience, which we take as being successful, would free more people from exploitation than those who would end up jobless.

The same seems to happen with civil disobedience brought about for protecting common goods where the good outcomes are reasonably expected to outweigh the bad ones. When people lose their job because of a climate strike that prevents further pollution in a given place, the good outcomes are more relevant than the harms. Going back to the water example we have mentioned earlier, we can then say civil disobedience is aimed at preserving a fundamental good, so for a just cause, and it is proportionate. Even considering that not every harm is equal, 1 million people having access to drinkable water outweighs 100 people losing their jobs. Drinkable water is essential for living and increases one's life expectancy, while losing a job, for as hard as it can be, it does not ipso facto, condemn a person to starvation. So, on the one side, we have a great number of people having access to a good we all consider valuable, on the other we have fewer individuals suffering serious, but less serious harm. Although the people who end up jobless suffer immediately from being without a stipend, while the others will die in 30 years, they are already harmed by pollution and we need to consider their claim alongside those of the workers. From a consequentialist perspective, this measurement would be sufficient to justify civil disobedience at

the expenses of the workers. From a deontological perception that considers we have a global positive duty to help others have access to drinkable water as a fundamental right, which is hierarchically prior to having a job, this civil disobedience would also be justifiable. The goal is morally good and while it is always hard to evaluate ex-ante the consequences of an act, we could say the positive results outweigh the negative ones. Still, these 100 people might find themselves unable to find another job or a similarly remunerative job, so although they might also avoid cancer in the future, in the present they do not have the means to sustain their plans of life or survive.

In these cases, it seems that all things considered, protests and civil disobedience for what we consider morally motivated and right causes should continue. There is a general agreement about certain violations being wrong, given they infringe on important rights, and it does not seem right to avoid tackling serious injustices, because of the unwanted and unintended although foreseen consequences, which affect a smaller number of people than those they benefit but most importantly affecting them in lighter ways. The discourse gets more complicated if we consider the exploitation case and this is why I dedicate what follows to a more in-depth analysis of it.

4.4.1 Exploitation

In the case of exploitation I have presented, civil disobedience is caused by the desire to protect people who do not simply have not asked for help, but coincide with those who might suffer more for the consequences of civil disobedience than gaining from it. This does not mean exploitation, as the act of unfairly using people at one's advantage, without necessarily physically and mentally abusing them, is not morally bad or that it is not right to oppose it. Indeed, "the morality of moral rules, including rules against exploitation, on the contrary, says that the fact that the act in question qualifies as exploitative establishes that the act is morally wrong or at least pro tanto morally

wrong” (Arneson 2013, 408). Even more, as Wood highlights, “proper respect for others is violated when we treat their vulnerabilities as opportunities to advance our own interests or projects” (Wood 1995, 151) which is exactly what happens in a case of exploitation. Furthermore, exploitation interferes with people’s capacity to act on their own desires. Consequently, it would appear that an act of civil disobedience aimed at contrasting exploitation should be valued and justified. In principle, we have a *pro tanto* moral duty to prevent exploitation, intended as a way to take unfair advantage of others and to do what we can to end it.

Though, if exploitation ought to be condemned for its unfairness, the consequences of acting against it on someone else’s behalf without being asked to do so and without having better opportunities to offer might be quite harmful, especially if civil disobedience targets a specific factory and not the root cause of the problem. The harmed people are not a side-effect of an action aiming at protecting different alleged victims, targets, or else, they are those victims, and they have not asked for external help. In particular, the people disobeying aim at saving are not a group of people risking death or severe immediate losses. This distinction matters because exploitation, even in the case at hand, is chosen and it is possible since it is advantageous both for the exploiters and the exploited. Even in its evident power imbalance, exploitation is the result of a choice of a person who knows that the unfair wage she is offered is still more than what she would get being unemployed or doing fair jobs but poorly paid. Surely, we could say exploitation is not voluntarily chosen as it is generally chosen “because no other acceptable alternative was available” (Olsaretti 1998, 54), although it is a free choice, in its being one a person has a right to make without others interfering⁹⁴. However, first, it is not always the case that exploitation is not voluntarily chosen, and second, even if it were, I am still unconvinced we could be justified in disobeying on behalf of people who have not asked for support, in this very particular situation.

⁹⁴ This is a rights-based account of freedom that both Nozick and Olsaretti (Nozick 1974; Olsaretti 1998) espouse, with different implications.

Let us focus on the UN interns. Each year the UN welcomes unpaid interns in its various headquarters around the world, most notably in Geneva and New York which are known to be very expensive cities. These interns are exploited as they are expected to work for free on the basis that being at the UN might give them future access to important career opportunities. Yet, it is unlikely a transnational act of civil disobedience might be morally acceptable on their behalf, without them asking for help. This is the case because the interns have voluntarily accepted such a transaction while they could have opted for similar, but paid positions. To be selected as UN interns, these young people have to be highly educated and polyglots, which gives them good chances to find a paid position, but they still accept a penniless job instead. The reason why they still prefer the UN, is that they know, with a good level of certainty, that these internships will grant them particularly interesting opportunities in the future. Since it is evident that their exploitation is the result of a free and voluntary choice, despite their unfair treatment, and given they are not treated like slaves or deprived of their basic rights, acting on their behalf without them knowing, disregards their autonomy as competent decision-makers, and this is wrong. To sum up, interfering in someone else's choices when these are free and voluntary is presumptively wrong.

A very different case is represented by people working in a factory in Bangladesh⁹⁵. There, they do not really have other better opportunities to choose from and are then easily treated as means towards an end – economic gain – from the corporations that employ them. It does not seem their choice was as voluntary as the one made by the UN interns, although I take it to remain free.

⁹⁵ A very important note here is that I exclude workplaces that do not simply exploit, but severely mistreat people, treating them like slaves, denying them basic rights and obliging them to live in unsanitary conditions. In this condition, we would have quite strong reasons to disobey on these people's behalf, and be justified doing so, regardless of their lack of consent. Their own rights as people would trump the consent requirement. When certain severe wrongs are committed they must be condemned and prevented. However, while physical and mental abuse require to be fought against, what I claim is that "bare" exploitation per se might require a further analysis before justifying external intervention, the moment people do not have better offers for the exploited.

The question is then whether interfering in someone else's choice, when this is free but not entirely voluntary is also wrong. I think it is, especially if we consider those who interfere have nothing better to offer. Even in this case people made a choice, although not in ideal conditions, nor exercising their full autonomy. Despite being proposed few choices, people preferred working for a company that pays them less than it should, than for others, because being exploited is still advantageous and may let them save for their kids to go abroad, or else. A person in dire conditions finds in a sweatshop the means to sustain her family and herself. To opt out and to avoid exploitation is to find a worse position. This is an evident fact every worker is well aware of, and this is precisely why they choose to work long hours for an unfair salary. These work-related choices, as Zwolinski points out, are important for one's life and demand respect, that is, non-interference, at least most of the time (Zwolinski 2007). Although people do not like working in these environments, differently from, I imagine, the interns at the UN, they still might prefer them given the alternatives and consider them beneficial for their plans of life. And even though they might be wrong in their choice, "The proper response to an autonomy-exercising choice is one of respect, and this respect seems to counsel non-interference with the agent's choice even if we believe the consequences of interfering would be superior for the agent" (Zwolinski 2007, 694–95).

In the end, companies in poorer parts of the world pay more than the average local salary and they might be the best way of surviving for many people, as we have seen with the Nike example. So, even if working for Nike is not a voluntary choice before a set of equally meaningful and valuable options, it is still the best way to get by for many and to retain their minimum autonomy and self-respect. Hence, depriving people of this only source of income makes them immediately worse off and even less autonomous and free than when they were exploited. Also, by disobeying on their behalf, even for a just cause, protesters might not be respectful of people's agency and plans of life in the present. Consequently, the issue here is not merely, as it immediately appears, the high

likelihood of harming those people disobedients meant to help, by possibly causing them to have nothing to survive with. Rather, what is particularly troubling is the disregard for people's agency and personal choice and consent. The exploited people chose exploitation, and by disobeying protesters disregarded they made such a choice in a context the exploited know better and where other options are not available, and it is unlikely they will.

Respecting people means to consider every individuality and every person's plan of life, but also that people, qua people, deserve to be taken seriously in their capacity for deliberating. This is what Darwall calls recognition respect (Darwall 1977) and it is an understanding of respect that dates back to Kant (Kant 1781, 1797). Kant famously believed that people were worthy of respect in their being intrinsically valuable moral entities capable of discerning right from wrong and deciding about their own lives. Humans demand respect in their being capable of setting ends for themselves and being ends in themselves. Although this principle is meant to apply to daily, interpersonal interactions, I think it can be applied on a more political level as well. Setting aside broad policies changes for which this principle is not applicable because of the anonymity of the relation, such that it is almost impossible to establish which people you are treating in which way, when there is an evident, more direct, and somewhat provable connection between a group action, i.e. protesting, and the harm or benefit suffered or enjoyed by another specific group e.g. the workers of a given factory, as its result, I believe the principle applies. In other words, we can refer to Kant, when we broadly know whom we are affecting and how. This implies that whatever our intentions when we disobey, we always have to respect people's dignity as decision-makers even when we might harm them. Having said so, we do not have a right to spoil people of their decision-making power, by speaking for them when they have not asked us to do so, implying what they have chosen, it is not what they have actually chosen. On the contrary, the less the power held by people, the stronger the duty not to subtract it from them.

Thus, surely exploitation ought not to be promoted and ought to be contrasted, but we ought to prevent a paternalistic approach to it as well. We must respect people's autonomy, their capacity to decide for themselves as independent individuals and not replace them in decisions that affect them directly. "To deny an adult the right to make their own decisions, as mistaken from some standpoint as they are, is to treat them as simply means to their own good, rather than as ends in themselves" (G. Dworkin 2020), reminds us, Gerald Dworkin. To reiterate the concept, dignity "insists that decisions about the best use of someone's life must be left to him" (R. Dworkin 2011, 295) and although certain conditions are not ideal for choice-making, the baseline is that we do not live in an ideal state, nor in an ideal world order. As we have said already this means e.g. people who lose their exploitative jobs are not likely to find another one, and the result of a well-intentioned and right political fight might be worse for them than keeping being underpaid. Given the world as it is, it is likely the e.g. accused corporation will relocate, as Nike did in fact, with all the harmful consequences this had. This is quite an obvious end, a scenario many have already witnessed and that is likely to happen again. So, by disobeying protesters removed from workers the only somewhat meaningful option they had, the one they chose, given the circumstances.

However, we might imagine a case of people who are not aware of being exploited⁹⁶ and that, consequently, have not chosen to be exploited as the lesser evil, but have simply accepted an unfair job. In this case, acting on behalf of these people might seem different, and we cannot really resort to autonomy-related arguments to defend people's choices. On the contrary, civil disobedience itself might be a way to let people know what *really* happens in the world and to them specifically, and this could contribute to rendering their choices more authentic and autonomous and possibly help them to change occupation. Acquiring knowledge of their situation could be empowering for them. Nonetheless, if civil disobedience is successful, the immediate result would still be for these people to appear as the defenseless victims, and to possibly lose their job, without the certainty of

⁹⁶ I want to thank Hong Do for raising this point.

finding another one, or an equally remunerative one. Also, on a different, but still negative note, for those who have no idea they were exploited, being represented as the victims might radically and negatively change the idea they have of themselves, while not being offered any means to improve their situation. Their idea of their own value and their conviction that their plans of life are worth carrying on (Rawls 1999) would be completely destroyed, while they would also be left unemployed and paradoxically less autonomous than they were before.

To conclude, from the point of view of the respect we ought to have for every person as an autonomous individual, civil disobedience should not be justified in the case of a group protesting on behalf of unaware others working for a precise company. So it is unjustifiable when civil disobedience acts in favor of unaware people against a circumscribed and clear target. At the same time, even from a consequentialist perspective, if we measure the good results with the harms caused, it is easy to see how people end up being worse off. Indeed, while in the two other examples the group to be helped did not coincide with the group harmed, here there is a perfect coincidence and it is evident that these people end up worse off. Civil disobedience here has the result of not simply treating already exploited people as less competent decision-makers, but it also leaves them jobless, so with even fewer resources to be autonomous. Surely, former workers are not treated unfairly anymore, but they are left with even fewer means to exercise their freedom of choice and pursue their plans of life. If treating people with no dignity ought to be condemned, it is not by acting in a way that has a high likelihood of subtracting them the few resources they have that we discharge our duty of assistance. At times exploitation is the best option, all things considered, and if we do not have anything better to offer, for the sake of people's lives, and for the respect we owe them in their knowing what is best for them given the circumstances, we might find ourselves morally obliged to avoid disobeying on their behalf targeting their workplace.

Still, I by no means intend to accept the status quo and exploitation as the lesser evil. Exploitation is not to be promoted for its unfairness and the rights abuses that are often connected to it, and

its duress. We should morally continue combating exploitation given its unfairness and avoid people being trapped in an exploitative trap⁹⁷ that imprisons generations to come. While it might be impermissible to act on workers' behalf without their consent, as doing so would not show respect for their agency, it might be permissible to tackle exploitation without treating people as lacking dignity as decision-makers. Thus, we might find different ways of disobeying and instead of participating in transnational disruption targeting a particular workplace on behalf of unaware workers, we might adopt strategies targeting the causes of exploitation and not its symptoms.

Instead of acting directly against a corporation on behalf of its workers, there could be more radical, lasting ways to address exploitation in one specific case. As an example, a protest against the way Nike treats its workers could be brought about 1. by occupying the headquarters of Nike, 2. by demanding that the state in which Nike operates imposes sanctions, 3. by requesting the International Labor Organization (ILO) to uphold global working standards that directly improve people's lives and that impede Nike from simply relocating elsewhere and so on. Instead of acting on behalf of workers who did not ask anything from us, we could protest against those states, IGOs, and corporations that made it possible for exploitation to occur as an advantageous and unfair interaction, by creating the conditions for exploiting people's vulnerabilities. Civil disobedience could be used on behalf of workers in a more general sense, not tackling one manifestation of a greater problem, but the root causes of the injustice, having as a final goal to make it impossible for corporations and states alike to profit out of the poorest ones. If the chances to exploit people diminish and new reforms are passed, states might want to invest and impose new regulations and people might have new opportunities worth exploring. We need to forcefully demand a change in the system, to render it impermissible to exploit people anymore, doing so in a way that minimizes the harm possibly caused as a side-effect of our protesting.

⁹⁷ I thank Hong Do, for her comment on exploitation as being a generational problem, a sort of life certain people in certain parts of the world are condemned to from birth almost.

In this way, civil disobedience would not be paternalistic as in the first case we have discussed, rather it would tackle exploitation from a different angle, possibly justifying the act as being a way to avoid wrongdoing and protestors' direct involvement in someone's exploitation, while demanding rules applicable to all and a much more profound and lasting reform. What is even more important, such a different approach would signal disobedients' consideration for people's autonomy and right to choose which seems absent in the other case. Whenever we protest, we are morally obliged to consider the agency and interests at stake, especially of those who already depart from the worse conditions. The way we disobey must always consider these, regardless of the morally valuable motives that might convince us to disobey.

Here, my goal is not to support the status quo, all things considered, fearing the harmful consequences deriving from a change, but I equally do not want to simply justify civil disobedience regardless of the harm, although unwanted, it might cause. Whilst, I want to justify acts that might cause harm and for which people cannot be deemed to blame, I also want to morally oblige them to deal with their aftermath because of the respect for the dignity of the people they harm and their plans, projects and future livelihood. This entails making sure we do not treat all the affected parties as mere means and that we assure them the means to live at least as decent as the one they had before our not requested intervention.

4.5 A RESPECTFUL DISOBEDIENCE

Drawing from just war theory, we could say that we have duties to abide by when we disobey, as well as after. This means that the same global duties that might justify or even oblige us to disobey are the same we ought to respect while disobeying and even after doing so, despite the just motives behind our actions.

This imposes protesters not to wrong people they disobey for, not depriving them of their rights, but it still allows for a certain degree of harm to be caused. Indeed, while harming, as worsening one's condition, might be permissible, wronging, intended as infringing someone's rights, is not since it expresses "disrespect or contempt for persons by not valuing them as ends in themselves" (Wood 1999). Thus, while disobedients happen to harm people, they usually do not wrong them, nor do they use them as mere means. Despite the cosmopolitan harm principle we have referred to earlier says that treating others as ends requires not to harm them (Shapcott 2008), harming someone is not in itself treating her as a means, let alone as a mere means⁹⁸. Since civil disobedience acts do not intentionally impose harm, they do not wrongly harm those they make worse-off, nor regard them simply as tools towards a goal.

Actually, in the case of civil disobedience brought about on behalf of exploited workers, those workers are the ends for whom illegal action is taken, i.e. it is to protect people from being deprived of their autonomy that people disobey and although, as we have seen, that civil disobedience is problematic, it is not because it treats people as mere means. In cases in which civil disobedience is brought about for the sake of the e.g. environment, not having as the immediate beneficiaries those who end up being worse-off, these people are not treated as ends, but neither as means or *mere* means. Whatever happens to those involved in these types of civil disobedience does not affect the result, it does not matter, to the final goal, e.g. the closure of a factory, whether people lose their jobs. People being harmed is a sad side-effect.

⁹⁸ Moreover, civil disobedience does not seem to share any distinctive feature with the examples Shapcott provides for cosmopolitan harm. On the contrary, it seems that these examples constitute the reasons and targets behind the rise of civil disobedience, domestically and transnationally. "Environmental harms such as greenhouse gas emissions and acid rain are perhaps the most notable of these activities, but they also include organised criminal activity, the drugs trade and sex tourism, the exporting or dumping of hazardous products on foreign markets, and allowing corporations to employ unsafe practices or benefit from harmful employment conditions such as forced labour in other countries" (Shapcott 2008, 192).

In general, there is an important difference between treating a person as a means and treating her *merely* as a means. We treat a person as a means, according to Parfit when “we make any use of this person’s abilities, activities or body to help us to achieve some aim” (Parfit, 2011, 213). Using someone as a means is not necessarily wrong, for example, I might use my professor to gain more knowledge, while merely using somebody is morally problematic. We treat someone as a *mere* means

“if we both use this person in some way and regard her as a mere tool, someone whose well-being and moral claims we ignore, and whom we would treat in whatever way would best achieve our aims. We do *not* treat someone merely as a means, nor are we even close to doing that, if either (1) our treatment of this person is governed in a sufficiently important way by some relevant moral belief, or (2) we do or would relevantly choose to bear some great burden for this person’s sake” (Parfit, 2011, 227).

This is the case, even when civil disobedience achieves its aim at the expenses of others. Still, this does not mean civil disobedience always treats people as ends, which does not imply, ipso facto, that TCD treats people wrongly. In fact, I follow Cavanaugh in proposing that “the end-not-means principle be read disjunctively as laying it down that one is to act either ideally for the sake of others, i.e. positively treat them as ends; or, one must not treat others as mere means to one's own end: one must treat them as ends negatively”(Cavanaugh 1999, 182). So, the majority of cases of domestic civil disobedience and TCD treat people as ends negatively. Surely bystanders⁹⁹ are treated as means, as those directly affected and annoyed by sit-ins and blockades to the point that the state might give in on some requests of the protesters, yet they are not treated as mere means, which is what is morally relevant.

To return to the discussion about exploitation then, the capitalist society we are living in and from which some of us immensely profit is wronging people in the South, intentionally and persistently. This gives us reasons to justify disobedients in opposing capitalism as an ideal, or, again, protesting

⁹⁹ We could even argue that disobedients do respect bystanders.

a harmful corporation that exploits people, even when this ends up being harmful, provided the act is not paternalistic nor disregards people's choices. The sufferings imposed by disobedients are different not simply in degree, but also in quality, from the one imposed by a corporation: a person being exploited and a person who ends up being unemployed do not seem to suffer the same kind of harm. This is true even though people might concretely suffer more for not having a wage than for working non-stop at a ridiculously low salary. This is because in one case they are treated as mere means, whose interests and personal plans are not considered, in another they are not. However, the fact that TCD does not treat people as mere means, but as ends negatively it is not sufficient to properly respect them, nor, as we have seen with the case of exploitation, this is the case when it treats them as ends.

To conclude, from what we have said so far disobedients are justified in these cases, even when the consequences might include harmful events, whenever *all* of these obtain:

- they are fighting following their moral cosmopolitan duties or/and for a morally worth cause, one that people generally can agree is a good one, brought about for the sake of people or the global community;
- there is a high chance of success and the expected good outcomes outweigh the expected bad ones;
- *and* they are treating people with dignity, considering their plans of life, and not using them as mere tools to an end.

Still, while avoiding treating people as mere means is necessary, not ignoring people's moral claims also requires us to compensate them when in distress because of our acts. Rendering people worse-off implies further diminishing one's capacity for autonomous decision-making, which has a severe impact on people's already dire chances to live the most decent version of the life they have. Therefore, such harms demand compensation. To be sure, to properly recognize people's plans of

life, we need to put them in the condition of acting on them, having the means to at least be as independent in the world as they were before our intervention. Justifications need to account for what happens after civil disobedience and it is only by seriously considering reparations in case of harm being done, that we can say protesters properly acknowledge the value of each person.

Before addressing reparation duties, however, it is worth briefly mentioning the doctrine of the double effect (DDE). DDE is a competing theory to justify a generally positive act that has harmful effects. DDE states that sometimes it is permissible to cause harm as a side-effect of an action aimed at doing good (Quinn 1989; Kamm 1992). This doctrine puts at its core the distinction between foreseen and intended harms and it is widely used to justify war episodes. Cases in which bombing is the way towards victory e.g. in a war against a regime, while at the same time being the reason for a series of civilian deaths are perfect for applying DDE. This doctrine is quite appealing and yet, as it seems evident “In articulating the ethical relevance of the intended/foreseen distinction proponents of double effect often rely on the Kantian intuition that it is wrong to treat another human being, an end-in-itself, merely as a means to furthering some other end – the end-not-means principle” (Cavanaugh 1999, 181). This means that DDE cannot do the work it is supposed to do alone, independently from the Kantian principle, nor, I believe does add much to the conclusions we can arrive at using the Kantian principle, coupled with harm considerations.

So, we have established that TCD does not treat people as mere means, and we have added that this does not necessarily imply it treats them as ends. Furthermore, we have stressed that although TCD might have harmful results, in most cases they are justified if the harm is limited compared to the good sought and if those harmed have been treated considering their agency. There are cases though, in which people’s agency can be diminished by civil disobedience, and this might make civil disobedience unjustifiable despite the systemic harm people are already suffering. In

this case, civil disobedience is justifiable if it is brought about maintaining its demands but changing its targets to show respect for those who have not asked others to act on their behalf. In general, we often are justified in fighting for the cause with better end results, given the gravity of the harm we face and the lesser harm we cause but this does not absolve us from having to consider those we made significantly worse off. All things considered, we are justified in disobeying even when we end up harming someone, and we might even be worth praising. However, those who are affected by our actions need to be taken into account. It is the consideration that people do have interests and basic needs that need to be met that ground our duty to redress them whenever they are harmed by disobedients' actions beyond borders.

4.6 OUR DUTY OF REPARATION – JUS POST BELLUM

Following the wording of just war theory, we could say that to properly justify an act of civil disobedience we have to guarantee a just peace whenever we interfere in another country's life. From what we have stated above, we can harm people, to a certain degree, if we are pursuing a just cause, provided we respect the proportionality clause, which establishes that the harm averted has to be more severe than the harm inflicted. We have also specified that people are never to be treated as mere means. Now, I add, innocent people have also to be the object of restorative justice to properly fulfill the proportionality clause. This duty contributes to lessening the bad outcomes of civil disobedience and in avoiding the harm we ought to prevent, conversely helping us to address it once it is done. Restorative duties apply whenever important negative duties, such as the duty not to harm, are infringed.

Although we can understand and morally support protesters' motives and even justify the actions they generate, disobedients remain causally responsible for the harm they cause, which, together

with the value of people's lives, obliges them to owe reparations to unintended victims. The duty of reparation helps to create what in just war theory literature is referred to as "just peace" or a *ius post bellum*. Reparations balance the harm caused in utilitarian terms, rendering the act more proportional, and introduce the obligation to satisfy the following condition: whenever people end up being relevantly harmed as a side-effect of an otherwise just civil disobedience they must obtain a form of economic support. Importantly, reparations do also embody the respect owed to the projects of lives of those unintendedly harmed by civil disobedience. They reify the respect and care we owe to people. To respect individuals in their dignity as competent agents we have to grant them the tools to fulfill their life projects.

Indeed, whether people might have been treated with dignity by disobedients is not sufficient the moment they are unemployed. Given the duty not to harm and the other duties we have with regards to our fellow humans, especially when we are the ones who caused others to suffer, combined with the respect we should have for every person on the planet as a person endowed with dignity – as an end in herself –, we owe them reparations. Moreover, even though we have disobeyed for valid reasons and trying to improve one's life, if we cause people to live in worse conditions than before, we have duties to uplift their status as those co-responsible for their misfortune. The focus here is not on assigning moral responsibilities or blaming actors, but to consider reparations, which means the attention is on the victims. This is important to note because we could be satisfied in saying disobedients cannot be blamed for some workers being left off, considering the importance of the cause fought for and the results of civil disobedience which everyone will enjoy e.g. clean water. But, as I have stressed already, people matter, and their dignity as individuals with plans is to be respected, such that when they end up worse-off, they have to at least regain the means they previously had to be in charge of their lives.

The problem is who should redress the worse-off.

Some might say that, if people end up being unemployed because of civil disobedience, it is up to the disobedients to support them. In the end, it is disobedients, together with others, who are causally responsible e.g. for the fact that a given person, once employed in the bleaching department of H&M is now unemployed because H&M does not bleach its clothes anymore for environmental reasons. The planet might be cleaner, but this person is now jobless and those who disobeyed are partially responsible. However, those who end up suffering because of the consequences of civil disobedience,¹⁰⁰ are people who are already exploited and disadvantaged because of corporations disrespecting human rights or polluting with the complacency of states. This is why it is not morally wrong to ask for reparation from the states and so from all of their citizens, whether they also disobeyed or not. In general, following Lyons “First, I can be morally bound to help redress wrongs for which I was not responsible if I have been unjustly enriched through them or—in any case—as a consequence of a general duty of justice. Second, both factors suggest a political approach to the redress of social wrongs” (Lyons 2013, 173). In fact, we *already* have, given the world as it is, a duty to redress people who are exploited for our own sake. Either we are members of exploitative communities or have unjustly benefitted from a certain distribution of resources or exploitation, or we are in a position to help, either way, I take from climate justice literature (Caney 2005; Sinnot-Armstrong 2010; Armstrong 2012b; Singer 2007, 2019) that the wealthier states and their citizens have duties of reparation. The justification of compensation is then grounded on a direct responsibility for the worsening of people’s conditions, and on an indirect political (Young 2006, 2004) and shared responsibility (Pasternak 2011a) for people’s poor living conditions. As members of communities that are responsible for “structural processes that produce injustice”(Young 2004, 388) we share political responsibilities with all the other members. At the same time, in the measure in which states are responsible for a given harm, there is a derived

¹⁰⁰ People who work for a polluting factory or for a capitalist venture.

consequential responsibility in sharing the “burdens which the injustice brought about, most importantly the duty to compensate the victims of the injustice”(Pasternak 2011a, 189).

It is well-known our states mistreat people with weaker bargaining power, and we benefit from it, so allowing this treatment to go on. As Satz argues, “we can legitimately hold people accountable to redress wrongdoing that they did not themselves commit by pointing to their responsibilities as members of a society that did commit wrongdoing” (Debra Satz quoted in Pasternak 2011, 192). So, the compensation duties fall on states and their citizens as beneficiaries when not even complicit, but also given their economic capacity to help. Thus, despite disobedients being casually responsible for a worsening of some people living conditions, their part in people’s sufferings is accidental and not intended, while the responsibilities borne by the countries are important and well-evident. People in the south of the world might find themselves to be worse off because of an act of civil disobedience that highlighted the miserable conditions of life nobody should be obliged to live in. Yet, these are often the conditions of processes the North created and for which richer states have to act and redress people, people whose standard of living is usually well below what is deemed acceptable to lead a decent life, even in the name of disobedients. Civil disobedience might simply add additional duties to redress them and disobedients might be expected to engage in symbolic reparation, publicly expressing their excuses, or organizing cultural events that promote awareness around those people living conditions, but also traditions, to not perpetuate degrading victimizing stereotypes.

More in general and in practical terms, I have here two suggestions on how reparations might work. The situation in which these people find themselves is at great lengths dependent on a series of factors connected with the current economic structure all the states in the world sustain. For the North to be so rich and for us to pay so little, others have to work a lot, in dire conditions where human rights documents have no factual power. One solution is then the one to organize a world fund for low-skilled workers living in developing countries. This fund should be financed

by the richest countries in the world and used to support financially e.g. people who end up unemployed as a forward-looking justice mechanism. Precisely following a similar logic, these people could be offered the possibility of migrating and be temporarily taken care of by the state people mostly disobeyed in.

“Slogans such as “We didn’t cross the border, the border crossed us” and “We are here because you were/are there” serve to highlight this historical connection and its political implications, reminding “us” in the West of our own agency and involvement, both past and present, in the production of the conditions under which people are migrating and fleeing—these conditions did not just come into existence *ex nihilo*, nor are they the outcome of processes to which we have only been passive bystanders” (Celikates 2019, 78).

At the same time, reparations have to take into consideration the duties disobedients have towards their own fellow citizens as well. Here again, rights and consequences need to be taken into account, always respecting dignity in every person. Surely, the solutions I suggest are complex and hardly feasible in the present political transnational context. The EU could not be more divided, while belligerent countries prepare to invade their neighbors. However, precisely because the world is as flawed and morally deficient as it is, it is important to offer solutions and plans that propose a different approach to the issues we are faced with.

FINAL THOUGHTS

Civil disobedience erupts in an imperfect world, where people’s rights are often discarded, states create walls and destroy bridges, laws are not respected or are morally dubious, and resources remain in few hands. While those defying the law are often improving the world and defending minorities, being in most cases justified in acting, they also ought to be aware that their actions create duties and that people have to be respected in their needs. Blinded by their just ideal, people might forget or avoid considering that those minorities they rightfully fight for, or that happen to

be affected by their civil disobedience, might see their plans of life jeopardized by the just, and yet harmful changes civil disobedience contributes to introducing. Moreover, whenever protesters act on someone else's behalf, they might disregard the fact that workers might have chosen to be treated in less than ideal ways, after a conscious choice dictated by the reality of the world. Instead of speaking for them, I have suggested that disobedients should try to tackle the causes that render certain, unfair, choices the best choices some people are offered. This means that instead of acting on someone's behalf, when they have not asked anything from us, protesters might disobey to demand fairer regulations, in general, across countries. This would not simply respect workers' agency, but at the same time would make it more probable to have more serious changes. Moreover, I have advanced the idea that civil disobedience creates duties to redress those who have been seriously affected by it and that these fall on richer states and their citizens and not necessarily only on disobedients.

So, to still allow people to disobey for just causes it is imperative we do our best to avoid possible harm to be unsustainable for those protesters might affect. We then have to be daring in our proposals, so as to allow people to design a different world, following principles of justice, while not forgetting that people, those we disobey for or happen to be touched by civil disobedience, have needs that are often more important and immediate than ours and our abstract ideals.

CONCLUSION

This work has redefined civil disobedience as a political act beyond borders that does not limit itself to targeting states, but further addresses inter-governmental organizations, and corporations in its demands. Transnational civil disobedience remains a morally motivated act, necessarily communicative and public, although in a revised sense that allows for the anonymity of the agents and for a certain degree of violence to be used, especially when protesters' demands have been repeatedly discarded by the majority in power. Violence, when used within limits, does not contrast civility *ipso facto*, since we have interpreted civility as being related to the political nature of civil disobedience whose requests are not restrained to the nation-state anymore, but include the globe as their implementation territory. The agents of civil disobedience have expanded as well, alongside citizens we see migrants, and people acting in their capacity as humans, exploiting offline and online resources to oppose laws and practices they deem wrong.

The reasons that I took to justify civil disobedience vary from being the infringements of basic rights to the lack of meaningful participatory mechanisms, whose absence in the transnational domain seems to particularly justify the resort to illegality across borders. After discussing the duties that civil disobedience might help discharge, most notably the duty not to harm, the duty of solidarity, and the natural duty of justice, I have introduced the idea that civil disobedience could be justified also as a preventive mechanism against serious wrongs, inspired by just war theory. It is again on just war theory that I relied on to construct my last chapter. In the conclusive chapter, I have claimed that transnational acts of civil disobedience, when they amount to interventions, have to satisfy the conditions that wars have to satisfy to be justified themselves. Provided they are successful, they do not simply have to have just causes, but their results have also to be proportionate and respectful of the agents involved, which means, in the case of civil disobedience, to respect people's agency and plans of life. Yet, to properly justify civil disobedience in the case

of harms being committed, I have also imposed duties of reparation on those who disobey. While I have advanced some proposals as to how these duties should be discharged in practice and who ought to do so, more work needs to be done in this regard.

Indeed, if this research has been occupied with a conceptual revision of civil disobedience and its transnational expansion, and with the imposition of duties on protesters derived from transnational civil disobedience success, it has not properly responded to the question about the distribution and the proper discharge of the duties it generates. The matter is a complex one and tackles the relationship between states and their citizens and requires a precise analysis of responsibility. While many have already written on the topic, they have mainly addressed the issue from the point of view of states imposing responsibilities on their citizens as a consequence of their wrongdoing (Pasternak 2011b, 2011a). Hence, I believe there is still room for more in-depth research when it comes to the opposite, i.e. when circumscribed groups of individuals, such as protesters, possibly impose costs on broader communities, be it their state or even international entities, as the EU. While the topic of transnational civil disobedience surely requires more work to be done, this question of responsibility is in particular the one I would like to investigate further and that constitutes the core of my future line of research.

BIBLIOGRAPHY

- ACLED. 2020. "Demonstrations and Political Violence in America. New Data for Summer 2020." https://acleddata.com/acleddatanew/wp-content/uploads/2020/09/ACLED_USDataReview_Sum2020_SeptWebPDF_HiRes.pdf.
- Adams, N. P. 2018. "Uncivil Disobedience: Political Commitment and Violence." *Res Publica* 24 (4): 475–91. <https://doi.org/10.1007/s11158-017-9367-0>.
- Agur, Colin, and Nicholas Frisch. 2019. "Digital Disobedience and the Limits of Persuasion : Social Media Activism in Hong Kong 's 2014 Umbrella Movement." *Social Media + Society*, no. March: 1–12. <https://doi.org/10.1177/2056305119827002>.
- Aitchison, Guy. 2018a. "Coercion, Resistance and The Radical Side of Non-Violent Action." *Raisons Politiques* 69: 45–61.
- . 2018b. "Domination and Disobedience: Protest, Coercion and the Limits of an Appeal to Justice." *Perspectives on Politics* 16 (3): 666–79. <https://doi.org/10.1017/S1537592718001111>.
- Allen, Michael. 2011. "Civil Disobedience, Transnational." *Encyclopaedia of Global Justice*. Springer.
- . 2017. *Civil Disobedience in Global Perspective. Decency and Dissent over Borders, Inequities, and Government Secrecy*. Edited by Deen K. Chatterjee. Vol. 16. Dordrecht: Springer. <https://doi.org/10.1007/978-94-024-1164-5>.
- Arendt, Hannah. 1963. *On Revolution*. London: Penguin Books.
- . 1972. *Crises of the Republic. Lying in Politics, Civil Disobedience, On Violence, Thoughts on Politics, and Revolution*. New York: Harcourt Brace & Company.
- . 1998. *The Human Condition*. Second Ed. Chicago - London: University of Chicago Press.
- Armstrong, Chris. 2012a. *Global Distributive Justice: An Introduction*. Cambridge - London: Cambridge University Press.
- . 2012b. "Global Justice and Climate Change." In *Global Distributive Justice. An Introduction*, 189–219. Cambridge - New York: Cambridge University Press.
- Arneson, Richard J. 2009. "The Supposed Right to a Democratic Say." In *Contemporary Debates in Political Philosophy*, edited by Thomas Christiano and John Christman, 195–212. London: Wiley-Blackwell. <https://doi.org/10.1002/9781444310399.ch11>.
- . 2013. "Exploitation and Outcome." *Politics, Philosophy and Economics* 12 (4): 392–412. <https://doi.org/10.1177/1470594X13496752>.
- Bailey, Saki, and Ugo Mattei. 2013. "Social Movements as Constituent Power: The Italian Struggle for the Commons." *Indiana Journal of Global Legal Studies* 20 (2): 965–1013. <https://doi.org/10.1353/gls.2013.0032>.
- Ballet, Jérôme, Augendra Bhukuth, and Aurélie Carimentrand. 2014. "Child Labor and Responsible Consumers: From Boycotts to Social Labels, Illustrated by the Indian Hand-Knotted Carpet Industry." *Business and Society* 53 (1): 71–104. <https://doi.org/10.1177/0007650311416070>.
- Basu, Natasha, and Bernardo Caycedo. 2018. "A Radical Reframing of Civil Disobedience: 'Illegal' Migration and Whistleblowing." In *Global Cultures of Contestation. Mobility, Sustainability, Aesthetics & Connectivity*, edited by Esther Peeren, Robin Celikates, Jeroen D E Kloet, and Thomas Poell, 93–111. Amsterdam: Palgrave Macmillan. <https://doi.org/10.1007/978-3-319-63982-6>.

- Beckett, Lois. 2020. "Nearly All Black Lives Matter Protests Are Peaceful despite Trump Narrative, Report Finds." *The Guardian*, September 5, 2020.
<https://www.theguardian.com/world/2020/sep/05/nearly-all-black-lives-matter-protests-are-peaceful-despite-trump-narrative-report-finds>.
- Bedau, Hugo Adam. 2002. *Civil Disobedience in Focus. Routledge Philosophers in Focus Series*. London - New York: Routledge.
- Beerbohm, Eric. 2012. *In Our Name: The Ethics of Democracy*. Princeton: Princeton University Press.
<https://doi.org/https://doi.org/10.1515/9781400842384>.
- Beitz, Charles R. 1979. *Political Theory and International Relations*. Princeton: Princeton University Press.
- . 1999. "Social and Cosmopolitan Liberalism." *International Affairs* 75 (3): 515–29.
- Benhabib, Seyla. 2006. *Another Cosmopolitanism, with Commentaries by Jeremy Waldron, Bonnie Honig, Will Kymlicka*. Edited by Robert Post. Oxford: Oxford University Press.
- Benli, Ali Emre. 2018. "March of Refugees: An Act of Civil Disobedience." *Journal of Global Ethics* 14 (3): 315–31. <https://doi.org/10.1080/17449626.2018.1502204>.
- Bentouhami, Hourya. 2007. "Civil Disobedience from Thoreau to Transnational Mobilizations : The Global Challenge." *Essays in Philosophy* 8 (2): 260–69. <https://doi.org/10.5840/eip2007822>.
- Blunt, Gwilym David. 2011. "Transnational Socio-Economic Justice and the Right of Resistance." *Politics* 31 (1): 1–8. <https://doi.org/10.1111/j.1467-9256.2010.01396.x>.
- Boxill, Bernard. 1976. "Self-Respect and Protest." *Philosophy & Public Affairs* 6 (1): 58–69.
<https://www.jstor.org/stable/2265062>.
- Boyle, Alan. 2007. "Human Rights or Environmental Rights? A Reassessment." *Fordham Environmental Law Review* 18 (3): 471–511.
- . 2012. "Human Rights and the Environment: Where Next?" *European Journal of International Law* 23 (3): 613–42. <https://doi.org/10.1093/ejil/chs054>.
- Bray, Mark. 2017a. *Antifa: The Anti-Fascist Handbook*. New York - London: Melville House.
- . 2017b. "Notes for Amitai Etzioni from an Antifa Historian." *Boston Review*, November 29, 2017.
https://bostonreview.net/forum_response/bray-notes-etzioni-antifa-historian/.
- Britannica, The Editors of Encyclopaedia. 2022. "Neofascism." *Encyclopaedia Britannica*.
<https://www.britannica.com/topic/neofascism>.
- Brock, Gillian. 2009. *Global Justice. A Cosmopolitan Account*. Oxford - New York: Oxford University Press.
- . 2015. "Global Justice, Cosmopolitan Duties and Duties to Compatriots: The Case of Healthcare." *Public Health Ethics* 8 (2): 110–20. <https://doi.org/10.1093/phe/phu039>.
- Brock, Gillian, and Harry Brighouse, eds. 2005. *The Political Philosophy of Cosmopolitanism. The Political Philosophy of Cosmopolitanism*. Cambridge - New York: Cambridge University Press.
- Brock, Gillian, and Darrel Moellendorf, eds. 2005. *Current Debates in Global Justice*. Dordrecht: Springer.
- Broome, John. 2012. *Climate Matters. Ethics in a Warming World*. New York - London: W.W. Norton & Company.
- . 2016. "A Reply To My Critics." *Midwest Studies In Philosophy* 40 (1): 158–71.
<https://doi.org/10.1111/misp.12053>.
- Brownlee, Kimberley. 2008. "Penalizing Public Disobedience." *Ethics* 118 (4): 711–16.
<http://www.jstor.org/stable/10.1086/590538>.

- . 2012. *Conscience and Conviction. The Case for Civil Disobedience*. Oxford: Oxford University Press.
- Buchanan, Allen. 2004. *Justice, Legitimacy, and Self-Determination. Moral Foundations for International Law*. Oxford - New York: Oxford University Press.
- Buchanan, Allen, and Robert O. Keohane. 2006. "The Legitimacy of Global Governance Institutions." *Ethics & International Affairs* 20 (4): 596–624. <https://doi.org/10.1111/j.1747-7093.2006.00043.x>.
- Cabrera, Luis. 2004. *Political Theory of Global Justice. A Cosmopolitan Case for the World State*. London - New York: Routledge.
- Calabrese, Andrew. 2004. "Virtual Nonviolence? Civil Disobedience and Political Violence in the Information Age." *Info* 6 (5): 326–38. <https://doi.org/10.1108/14636690410564834>.
- Calhoun, Cheshire. 2004. "An Apology for Moral Shame." *The Journal of Political Philosophy* 12 (2): 127–46.
- Caney, Simon. 2001. "Cosmopolitan Justice and Equalizing Opportunities." *Metaphilosophy* 32 (January): 113–34.
- . 2005. "Cosmopolitan Justice, Responsibility, and Global Climate Change." *Leiden Journal of International Law* 18 (4): 747–75. <https://doi.org/10.1017/S0922156505002992>.
- . 2015. "Responding to Global Injustice: On the Right of Resistance." *Social Philosophy and Policy* 32 (1): 51–73. <https://doi.org/10.1017/S0265052515000072>.
- Carens, Joseph H. 2005. "The Integration of Immigrants." *Journal of Moral Philosophy* 2 (1): 29–46. <https://doi.org/10.1177/1740468105052582>.
- . 2008. "The Rights of Irregular Migrants." *Ethics and International Affairs* 22 (2): 163–86. <https://doi.org/10.1111/j.1747-7093.2008.00141.x>.
- Carter, Alan. 1998. "In Defence of Radical Disobedience." *Journal of Applied Philosophy* 15 (1): 29–47. <https://doi.org/10.1111/1468-5930.00071>.
- Cavanaugh, Thomas A. 1999. "Double Effect and the End-Not-Means Principle: A Response to Bennett." *Journal of Applied Philosophy* 16 (2): 181–85. <https://doi.org/10.1111/1468-5930.00120>.
- Celikates, Robin. 2016a. "Democratizing Civil Disobedience." *Philosophy & Social Criticism* 42 (10): 1–13. <https://doi.org/10.1177/0191453716638562>.
- . 2016b. "Rethinking Civil Disobedience as a Practice of Contestation-Beyond the Liberal Paradigm." *Constellations* 23 (1): 37–45. <https://doi.org/10.1111/1467-8675.12216>.
- . 2019. "Constituent Power beyond Exceptionalism : Irregular Migration , Disobedience , and (Re-) Constitution." *Journal of International Political Theory* 15 (1): 67–81. <https://doi.org/10.1177/1755088218808311>.
- Center on Extremism. 2019. "Murder and Extremism in the United States in 2018." <https://www.adl.org/media/12480/download>.
- Ceva, Emanuela. 2015. "Political Justification through Democratic Participation: The Case for Conscientious Objection." *Social Theory and Practice* 41 (1): 1–19.
- Cheneval, Francis. 2011. *The Government of the Peoples. On the Idea and Principles of Multilateral Democracy*. New York: Palgrave Macmillan.
- Chenoweth, Erica, and Maria J. Stephan. 2011. *Why Civil Resistance Works. The Strategic Logic of NonViolent Conflict*. New York: Columbia University Press.
- Christiano, Thomas. 2008. *The Constitution of Equality. Democratic Authority and Its Limits. The Constitution of Equality*. Oxford - New York: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780198297475.001.0001>.

- Çıdam, Çiğdem, William E. Scheuerman, Candice Delmas, Erin R. Pineda, Robin Celikates, and Alexander Livingston. 2020. "Theorizing the Politics of Protest: Contemporary Debates on Civil Disobedience." *Contemporary Political Theory* 19: 513–546. <https://doi.org/10.1057/s41296-020-00392-7>.
- Coleman, Gabriella. 2014. *Hacker, Hoaxer, Whistleblower, Spy. The Many Faces of Anonymous*. London - New York: Verso.
- Cook, Philip. 2019. "What's Wrong with Child Labor?" In *The Routledge Handbook of the Philosophy of Childhood and Children*, edited by Anca Gheaus, Gideon Calder, and Jurgen De Wispelaere. London - New York: Routledge.
- Cooke, Maeve. 2016. "Civil Obedience and Disobedience." *Philosophy and Social Criticism* 42 (10): 995–1003. <https://doi.org/10.1177/0191453716659521>.
- Cooke, Steve. 2019. "Cosmopolitan Disobedience." *Journal of International Political Theory* 00 (0): 1–18. <https://doi.org/10.1177/1755088219850196>.
- Critical Art Ensemble. 2001. *Digital Resistance. Explorations in Tactical Media*. New York: Autonomedia.
- Dadusc, Deanna. 2016. "Squatting and the Undocumented Migrants' Struggle in the Netherlands." In *Migration, Squatting and Radical Autonomy. Resistance and Destabilization of Racist Regulatory Policies and b/ Ordering Mechanisms*, edited by Pierpaolo Mudu and Sutapa Chattopadhyay. London: Routledge. <https://doi.org/https://doi.org/10.4324/9781315673301>.
- Darwall, Stephen L. 1977. "Two Kinds of Respect." *Ethics* 88 (1): 36–49.
- Delmas, Candice. 2014a. "Samaritanism and Civil Disobedience." *Res Publica* 20 (3): 295–313. <https://doi.org/10.1007/s11158-014-9249-7>.
- . 2014b. "The Ethics of Government Whistleblowing." *Social Theory and Practice* 41 (1): 77–105. <https://doi.org/10.5840/soctheorpract20154114>.
- . 2017. "Disobedience, Civil and Otherwise." *Criminal Law and Philosophy* 11: 195–211. <https://doi.org/10.1007/s11572-014-9347-9>.
- . 2018a. *A Duty to Resist. When Disobedience Should Be Uncivil*. Oxford - New York: Oxford University Press.
- . 2018b. "Is Hacktivism the New Civil Disobedience?" *Raisons Politiques* 69 (1): 63. <https://doi.org/10.3917/rai.069.0063>.
- Doe, John. 2016. "John Doe Manifesto." International Consortium of Investigative Journalists. 2016. <https://www.icij.org/investigations/panama-papers/20160506-john-doe-statement/>.
- Dworkin, Gerald. 2020. "Paternalism." *The Stanford Encyclopedia of Philosophy*. plato.stanford.edu/archives/fall2020/entries/paternalism/.
- Dworkin, Ronald. 1968. "On Not Prosecuting Civil Disobedience." *The New York Review of Books*, 1–18. <http://www.nybooks.com/articles/archives/1968/jun/06/on-not-prosecuting-civil-disobedience/>.
- . 1985. *A Matter of Principle*. Cambridge - London: Harvard University Press. <https://doi.org/10.1073/pnas.0703993104>.
- . 2011. *Justice for Hedgehogs*. Cambridge, MA - London: Harvard University Press.
- Edmundson, William A. 2004. "STATE OF THE ART: The Duty to Obey the Law." *Legal Theory* 10 (2004): 215–59.
- Essen, Erica von. 2017. "Environmental Disobedience and the Dialogic Dimensions of Dissent." *Democratization* 24 (2): 305–24. <https://doi.org/10.1080/13510347.2016.1185416>.
- "Extinction Rebellion." 2022. 2022. <https://rebellion.global/about-us/>.

- Fadaee, Simin. 2015. "The Immigrant Rights Struggle, and the Paradoxes of Radical Activism in Europe." *Social Movement Studies* 14 (6): 733–39. <https://doi.org/10.1080/14742837.2015.1070336>.
- Feinberg, Joel. 1965. "The Expressive Function of Punishment." *The Monist* 49 (3): 397–423.
- . 2003. *Problems at the Roots of Law. Essays in Legal and Political Theory*. Oxford University Press.
- Fine, Sarah. 2014. "Non-Domination and the Ethics of Migration." *Critical Review of International Social and Political Philosophy* 17 (1): 10–30. <https://doi.org/10.1080/13698230.2013.851481>.
- Fischer, Bob, ed. 2020. *The Routledge Handbook of Animal Ethics*. London - New York: Routledge.
- Foner, Eric. 2015. *Gateway to Freedom. A Hidden History of America's Fugitive Slaves*. London: Oxford University Press.
- Fraser, Nancy. 2000. "Rethinking Recognition." *New Left Review* 3 (May/June): 107–20. <http://newleftreview.org/II/3/nancy-fraser-rethinking-recognition>.
- . 2009. *Scales of Justice : Reimagining Political Space in a Globalizing World*. New York: Columbia University Press.
- Fricker, Miranda. 2007. *Epistemic Injustice: Power and the Ethics of Knowing*. Oxford - New York: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780198237907.001.0001>.
- Fundamental Rights Agency. 2012. "Survey on Fundamental Rights of Lesbian, Gay, Bisexual and Transgender People in EU." <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-fundamental-rights-lesbian-gay-bisexual-and>.
- Fung, Archon. 2005. "Deliberation before the Revolution toward an Ethics of Deliberative Democracy in an Unjust World." *Political Theory* 33 (3): 397–419. <https://doi.org/10.1177/0090591704271990>.
- Gans, Chaim. 1992. *Philosophical Anarchism and Political Disobedience*. Cambridge: Cambridge University Press.
- Gilbert, Paul. 2003. "Evolution, Social Roles, and the Differences in Shame and Guilt." *Social Research* 70 (4): 1205–30. http://www.jstor.org/stable/40971967?seq=1&cid=pdf-reference#references_tab_contents%5Cnhttp://about.jstor.org/terms.
- Gils, Aart van, and Patrick Tomlin. 2020. "Relevance Rides Again? Aggregation and Local Relevance." In *Oxford Studies in Political Philosophy, Vol. 6.*, edited by David Sobel, Peter Vallentyne, and Steven Wall, 221–55. Oxford: Oxford University Press.
- Golubok, Sergey, and Daniel Simons. 2018. "Arctic 30 Jailed in Russia Argue Their Case in European Court." Greenpeace.Org. 2018. <https://www.greenpeace.org/international/story/18119/arctic-30-jailed-in-russia-argue-their-case-in-european-court/>.
- Goodin, Robert E. 2007. "Enfranchising All Affected Interests, and Its Alternatives." *Philosophy & Public Affairs* 35 (1): 40–68. <http://www.jstor.org/stable/4623780>.
- Gould, Carol C. 2004. *Globalizing Democracy and Human Rights*. Cambridge - Malden: Cambridge University Press. <https://doi.org/10.1017/CBO9780511617096>.
- Greenawalt, Kent. 1989. *Conflicts of Law and Morality*. Edited by Tony Honore and Joseph Raz. Clarendon. Oxford - New York: Oxford University Press.
- Greenwald, Glenn. 2014. *No Place to Hide: Edward Snowden, the NSA, and the U.S. Surveillance State*. New York: Metropolitan Books.
- Habermas, Jürgen. 1985. "Civil Disobedience : Litmus Test for the Democratic Constitutional State." *Berkeley Journal of Sociology* 30: 95–116.
- . 1996. *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy*. Cambridge:

The MIT Press.

Halstead, John. 2016. "The Numbers Always Count." *Ethics* 126 (3): 789–802.
<https://doi.org/10.1086/684707>.

Harcourt, Bernard E. 2012a. "Political Disobedience." *Critical Inquiry* 39 (1): 33–55.
<https://doi.org/10.1086/668049>.

———. 2012b. "The Politics of Incivility." *Arizona Law Review* 54 (2): 345–74.

Hart, Herbert Lionel Adolphus. 2008. *Punishment and Responsibility: Essays in the Philosophy of Law. With an Introduction by John Gardner*. Oxford - New York: Oxford University Press.

Havel, Vaclav. 1999. *Open Letters: Selected Writings, 1960-1990*. New York: Alfred A Knopf.

Hayward, Tim. 2000. "Constitutional Environmental Rights: A Case for Political Analysis." *Political Studies* 48: 558–72.

Himma, K. E. 2006. "Hacking as Politically Motivated Digital Civil Disobedience: Is Hack-Tivism Morally Justified?" In *Readings on Internet Security: Hacking, Coun-Terhacking, and Other Moral Issues*, edited by Kenneth Eimar Himma. Boston: Jones & Bartlett.

Honoré, Tony. 1981. "Must We Obey? Necessity as a Ground of Obligation." *Virginia Law Review* 67 (1): 39–62.

———. 1988. "The Right to Rebel." *Oxford Journal of Legal Studies* 8 (1): 34–54.
<https://doi.org/10.1017/CBO9781107415324.004>.

Horton, Joe. 2018. "Always Aggregate." *Philosophy and Public Affairs* 46 (2): 160–74.
<https://doi.org/10.1111/papa.12116>.

Hsieh, Nien-hê. 2004. "The Obligations of Transnational Corporations: Rawlsian Justice and the Duty of Assistance." *Business Ethics in a Global Economy* 14 (4): 643–61.

Huntington, Samuel. 1991. *The Third Wave of Democratization*. London: University of Oklahoma Press.

ICIJ. 2017. "Explore the Panama Papers Key Figures." ICIJ.Org. 2017.
<https://www.icij.org/investigations/panama-papers/explore-panama-papers-key-figures/>.

———. 2021. "International Consortium of Investigative Journalism." 2021.
<https://www.icij.org/investigations/panama-papers/>.

Isin, Engin F., and Evelyn Ruppert. 2015. *Being Digital Citizens*. London: Rowman & Littlefield Publishers.

Kamm, F. M. 1992. "Non-Consequentialism, the Person as an End-in-Itself, and the Significance of Status." *Philosophy & Public Affairs* 21 (4): 354–89.

Kant, Immanuel. 1781. *Grounding for the Metaphysics of Morals*. Indianapolis: Hackett.

———. 1797. *The Metaphysics of Morals*. Edited by Mary Gregor. 1996th ed. New York: Cambridge University Press.

Kekes, James. 1988. "Shame and Moral Progress." *Midwest Studies In Philosophy* 13 (1): 282–96.
<https://doi.org/10.1111/j.1475-4975.1988.tb00127.x>.

King, Martin Luther. 1964. *Letter from Birmingham Jail*. 2018th ed. London: Penguin Books.

———. 1967. *The Trumpet of Conscience*. Boston: Beacon Press.

———. 2002. "Letter from Birmingham City Jail." In *Civil Disobedience in Focus*, edited by Hugo Adam Bedau, 68–84. London - New York: Routledge.

———. 2010. *Where Do We Go from Here? Chaos or Community*. Boston: Beacon Press.

- . 2016. *The Radical King, Vol. 11*. Boston: Beacon Press.
- Kolers, Avery. 2014. "The Priority of Solidarity to Justice." *Journal of Applied Philosophy* 31 (4): 420–33. <https://doi.org/10.1111/japp.12076>.
- Kruks, Sonia. 2001. *Retrieving Experience: Subjectivity and Recognition in Feminist Politics*. Ithaca, NY: Cornell University Press.
- Kutz, Christopher. 2000. *Complicity: Ethics and Law for a Collective Age*. Edited by Gerald Postema. Cambridge: Cambridge University Press. <https://doi.org/10.1215/00318108-111-3-483>.
- Kymlicka, Will, and Sue Donaldson. 2011. *Zoopolis: A Political Theory of Animal Rights*. Oxford: Oxford University Press.
- . 2014. "Animal Rights , Multiculturalism , and the Left." *Journal of Social Philosophy* 45 (1): 116–35.
- Lai, Ten-Herng. 2019. "Justifying Uncivil Disobedience." In *Oxford Studies in Political Philosophy Volume 5*, edited by David Sobel, Peter Vallentyne, and Steven Wall, 90–114. Oxford University Press.
- Lazar, Seth. 2018. "Limited Aggregation and Risk." *Philosophy and Public Affairs* 46 (2): 117–59. <https://doi.org/10.1111/papa.12115>.
- Lefkowitz, David. 2007. "On a Moral Right to Civil Disobedience." *Ethics* 117 (2): 202–33. <https://doi.org/10.1086/510694>.
- . 2008. "On the Concept of a Morally Relevant Harm." *Utilitas* 20 (4): 409–23. <https://doi.org/10.1017/s0953820808003245>.
- . 2017. "In Defense of Penalizing (but Not Punishing) Civil Disobedience." *Res Publica* 24: 273–89. <https://doi.org/10.1007/s11158-017-9362-5>.
- Lenard, Patti Tamara. 2010. "What's Unique about Immigrant Protest?" *Ethical Theory and Moral Practice* 13: 315–32.
- Levy, Jack S. 2008. "Preventive War and Democratic Politics." *International Studies Quarterly* 52 (1): 1–24. <https://doi.org/10.1111/j.1468-2478.2007.00489.x>.
- Linklater, Andrew. 2001. "Citizenship, Humanity, and Cosmopolitan Harm Conventions." *International Political Science Review* 22 (3): 261–77. <https://doi.org/10.1177/0192512101223004>.
- . 2006. "The Harm Principle and Global Ethics." *Global Society* 20 (3): 329–43. <https://doi.org/10.1080/13600820600816340>.
- Lippert-Rasmussen, Kasper. 2013. "Global Injustice and Redistributive Wars." *Law, Ethics and Philosophy* 1 (1): 65–86.
- Livingston, Alexander. 2018. "Fidelity to Truth: Gandhi and the Genealogy of Civil Disobedience." *Political Theory* 46 (4): 511–36. <https://doi.org/10.1177/0090591717727275>.
- . 2020a. "Power for the Powerless: Martin Luther King, Jr.'s Late Theory of Civil Disobedience." *Journal of Politics* 82 (2): 700–713. <https://doi.org/10.1086/706982>.
- . 2020b. "'Tough Love': The Political Theology of Civil Disobedience." *Perspectives on Politics* 18 (3): 851–66. <https://doi.org/10.1017/S1537592719004997>.
- Luban, David. 1980. "Just War and Human Rights." *Philosophy & Public Affairs* 9 (2): 160–81.
- Ludlow, Peter. 2013. "The Banality of Systemic Evil." *New York Times*, September 15, 2013.
- Lyons, David. 2013. *Confronting Injustice. Moral History and Political Theory*. Oxford - New York: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199662555.001.0001> Normal.
- Maeckelbergh, Marianne. 2012a. "Experiments in Democracy and Diversity within the Occupy

- Movement(S).” *Open Democracy*. <http://www.opendemocracy.net/marianne-maackelbergh/experiments-in-democracy-and-diversity-within-occupy-movements>.
- . 2012b. “Horizontal Democracy Now : From Alterglobalization to Occupation.” *Interface: A Journal for and about Social Movements* 4 (May): 207–34.
- Mahatma Gandhi. 1996. *Selected Political Writings*. Edited by Dennis Dalton. Indianapolis: Hackett.
- Manion, Jennifer C. 2002. “The Moral Relevance of Shame.” *American Philosophical Quarterly* 39 (1): 73–90. <https://doi.org/10.14812/cufej.2015.007>.
- Marcuse, Herbert. 2002. *One-Dimensional Man*. London - New York: Routledge Classics.
- Markoff, John. 2015. *Waves of Democracy. Social Movements and Political Change*. Boulder - London: Paradigm Publishers.
- Markovits, Daniel. 2005. “Democratic Disobedience.” *The Yale Law Journal* 114 (8): 1897–1952.
- Mattei, Ugo. 2011. “The State, the Market, and Some Preliminary Question about the Commons.” *IUC Research Commons*, 1–11. http://works.bepress.com/ugo_mattei/40/.
- McMahan, Jeff. 2005. “Just Cause for War.” *Ethics and International Affairs* 19 (3): 1–21. <https://doi.org/10.1111/j.1747-7093.2005.tb00551.x>.
- . 2013. “Preventive War and the Killing of the Innocent.” *The Ethics of War: Shared Problems in Different Traditions*, no. September: 169–90. <https://doi.org/10.4324/9781315239880-12>.
- . 2014. “What Rights May Be Defended by Means of War?” In *The Morality of Defensive War*, edited by Cécile Fabre and Seth Lazar, 116–56. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199682836.003.0006>.
- McNevin, Anne. 2006. “Political Belonging in a Neoliberal Era: The Struggle of the Sans-Papiers.” *Citizenship Studies* 10 (2): 135–51. <https://doi.org/10.1080/13621020600633051>.
- . 2009. “Contesting Citizenship: Irregular Migrants and Strategic Possibilities for Political Belonging.” *New Political Science* 31 (2): 163–81. <https://doi.org/10.1080/07393140902872278>.
- Merkin, Rebecca S. 2017. “From Shame to Guilt: The Remediation of Bullying Across Cultures and the US.” In *The Value of Shame: Exploring a Health Resource in Cultural Contexts*, edited by Elisabeth Vanderheiden and Claude-Hélène Mayer, 223–48. Cham: Springer International Publishing. https://doi.org/10.1007/978-3-319-53100-7_10.
- Mill, J.S. 2003. *Utilitarianism and On Liberty. Including Mill’s “Essay on Bentham” and Selections from the Writings of Jeremy Bentham and John Austin*. Edited by Mary Warnock. Oxford: Blackwell Publishing.
- Mill, John Stuart. 2003. “On Liberty.” In *Utilitarianism and On Liberty: Including Mill’s Essay on Bentham and Selections from the Writings of Jeremy Bentham and John Austin, Second Edition*, Warnock, M. Oxford: Blackwell Publishing.
- Milligan, Tony. 2013. *Civil Disobedience. Protest, Justification, and the Law*. New York - London: Bloomsbury. <https://doi.org/10.1080/14781158.2016.1114916>.
- . 2017. “Animal Rescue as Civil Disobedience.” *Res Publica* 23 (3): 281–98. <https://doi.org/10.1007/s11158-017-9360-7>.
- Moellendorf, Darrel. 2002. *Cosmopolitan Justice*. Boulder- Oxford: Westview Press.
- . 2009. *Global Inequality Matters*. London: Palgrave Macmillan.
- Moellendorf, Darrel, and Heather Widdows, eds. 2015. *Routledge Handbook of Global Ethics*. London - New York: Routledge. <https://doi.org/10.4324/9781315744520.ch8>.
- Moraro, Piero. 2007. “Violent Civil Disobedience and Willingness to Accept Punishment.” *Essays in*

Philosophy 8 (2).

- . 2014. “Respecting Autonomy Through the Use of Force: The Case of Civil Disobedience.” *Journal of Applied Philosophy* 31 (1): 63–76. <https://doi.org/10.1111/japp.12034>.
- . 2018. “On (Not) Accepting the Punishment for Civil Disobedience.” *The Philosophical Quarterly* 68 (272): 503–20. <https://doi.org/10.1093/pq/pqx058>.
- . 2019a. *Civil Disobedience. A Philosophical Overview*. London - New York: Rowman & Littlefield.
- . 2019b. “Punishment, Fair Play and the Burdens of Citizenship.” *Law and Philosophy* 38 (3): 289–311. <https://doi.org/10.1007/s10982-019-09346-6>.
- . 2019c. “The Moral Right to Civil Disobedience.” In *Civil Disobedience: A Philosophical Overview*.
- Morenne, Benoît. 2017. “French Farmer Who Aided Migrants Is Given Suspended Fine.” *New York Times*, February 10, 2017. <https://www.nytimes.com/2017/02/10/world/europe/cedric-herrou-farmer-france-migrants.html>.
- Morreall, John. 1976. “The Justifiability of Violent Civil Disobedience.” *Canadian Journal of Philosophy* 6 (1): 35–47. <https://doi.org/10.1080/00455091.1976.10716975>.
- Nagel, Thomas. 2005. “The Problem of Global Justice.” *Philosophy and Public Affairs* 33 (2): 113–47. <https://doi.org/10.1111/j.1088-4963.2005.00027.x>.
- Nozick, Robert. 1974. *Anarchy, State, and Utopia*. Oxford - Cambridge: Blackwell.
- Nussbaum, Martha. 1992. “Human Functioning and Social Justice: In Defense of Aristotelian Essentialism.” *Political Theory* 20: 202–46.
- Nyers, Peter, and Kim Rygiel, eds. 2012. *Citizenship, Migrant Activism and the Politics of Movement*. London - New York: Routledge.
- O’Sullivan, Siobhan, Clare McCausland, and Scott Brenton. 2017. “Animal Activists, Civil Disobedience and Global Responses to Transnational Injustice.” *Res Publica* 23 (3): 261–80. <https://doi.org/10.1007/s11158-017-9361-6>.
- O’Hear, Anthony. 1976. “Guilt and Shame as Moral Concepts.” In *Proceedings of the Aristotelian Society*, New Series: 73–86. Oxford University Press.
- Ogunye, Temi. 2015. “Global Justice and Transnational Civil Disobedience.” *Ethics and Global Politics* 8 (1). <https://doi.org/10.3402/egp.v8.27217>.
- Olsaretti, Serena. 1998. “Freedom, Force and Choice: Against the Rights-Based Definition of Voluntariness.” *The Journal of Political Philosophy* 6 (1): 53–78.
- Øverland, Gerhard. 2013. “602 and One Dead: On Contribution to Global Poverty and Liability to Defensive Force.” *European Journal of Philosophy* 21 (2): 279–99. <https://doi.org/10.1111/j.1468-0378.2010.00447.x>.
- Parry, Jonathan. 2017. “Legitimate Authority and the Ethics of War: A Map of the Terrain.” *Ethics and International Affairs* 31 (2): 169–89. <https://doi.org/10.1017/S0892679417000065>.
- Pasternak, Avia. 2011a. “Sharing the Costs of Political Injustices.” *Politics, Philosophy and Economics* 10 (2): 188–210. <https://doi.org/10.1177/1470594X10368260>.
- . 2011b. “The Collective Responsibility of Democratic Publics.” *Canadian Journal of Philosophy* 41 (1): 99–124. <https://doi.org/10.1353/cjp.2011.0002>.
- . 2018. “Political Rioting: A Moral Assessment.” *Philosophy and Public Affairs* 46 (4): 384–418. <https://doi.org/10.1111/papa.12132>.
- Peltier, Elian. 2019. “U.N. Peacekeepers in Haiti Said to Have Fathered Hundreds of Children.” *New York*

- Times*, December 19, 2019. <https://www.nytimes.com/2019/12/18/world/americas/haiti-un-peacekeepers.html?action=click&module=News&pgtype=Homepage>.
- Pineda, Erin R. 2015. "Civil Disobedience and Punishment: (Mis)Reading Justification and Strategy from SNCC to Snowden." *History of the Present* 5 (1): 1–30.
- Pogge, Thomas W. 1994. "An Egalitarian Law of Peoples." *Philosophy & Public Affairs* 23 (3): 195–224.
- . 2002a. "Cosmopolitanism: A Defence." *Critical Review of International Social and Political Philosophy* 5 (3): 86–91. <https://doi.org/10.1080/13698230410001702672>.
- . 2002b. "Moral Universalism and Global Economic Justice." *Politics, Philosophy & Economics* 1 (1): 29–58. <https://doi.org/10.1177/1470594X02001001002>.
- . 2002c. *World Poverty and Human Rights. Cosmopolitan Responsibilities and Reforms*. Cambridge: Polity Press. <https://doi.org/10.1017/CBO9781107415324.004>.
- . 2005. "Severe Poverty as a Violation of Negative Duties." *Ethics and International Affairs* 19 (1): 55–83. <https://doi.org/10.1111/j.1747-7093.2005.tb00490.x>.
- . 2010. "The Philosophy of International Law." In *The Philosophy of International Law*, edited by Samantha Besson and John Tasioulas, 417–35. New York: Oxford University Press.
- . 2012. "Cosmopolitanism: A Path To Peace and Justice." *Journal of East-West Thought* 2 (4): 9–32.
- Porta, Donatella Della. 2013. *Can Democracy Be Saved: Participation, Deliberation and Social Movements*. Cambridge: Polity.
- Porta, Donatella Della, Massimiliano Andretta, Lorenzo Mosca, and Herbert Reiter. 2006. *Globalization from Below. Transnational Activists and Protest Networks*. Minneapolis, London: University of Minnesota Press. <https://doi.org/10.1017/CBO9781107415324.004>.
- Porta, Donatella Della, and Mario Diani. 2006. *Social Movements. An Introduction*. Malden, Oxford, Carlton: Blackwell Publishing.
- Porta, Donatella Della, and Sidney Tarrow, eds. 2005. *Transnational Protest and Global Activism. People, Passions and Power*. Oxford, New York: Rowman & Littlefield Publishers. <https://doi.org/10.1177/009430610503400551>.
- Quinn, Warren S. 1989. "Actions , Intentions , and Consequences : The Doctrine of Double Effect." *Philosophy & Public Affairs* 18 (4): 334–51.
- Rawls, John. 1999. *A Theory of Justice. Revised Edition*. Cambridge: Harvard University Press.
- Raz, Joseph. 1979. *The Authority of Law. Essays on Law and Morality*. Oxford: Oxford University Press.
- . 1985. "The Obligation to Obey: Revision and Tradition." *Notre Dame Journal of Law, Ethics & Public Policy* 1 (1 Symposium on Law and Morality): 139–55. <https://doi.org/10.1093/acprof:oso/9780198260691.003.0015>.
- . 1986. *The Morality of Freedom*. Oxford: Clarendon Press. <https://doi.org/10.1093/0198248075.001.0001>.
- Reiter, Keramet. 2014. "The Pelican Bay Hunger Strike: Resistance within the Structural Constraints of a US Supermax Prison." *South Atlantic Quarterly* 113 (3): 579–611. <https://doi.org/10.1215/00382876-2692191>.
- Repetto, Elettra. 2016. *Duty to Disobey? A Perspective on the New Civil Disobedience, between International Actors and Digital Media*. Venice: EIUC. <https://doi.org/10.7404/eiuc.ema.20142015.04>.
- . 2020. "From Political Correctness to Justice Racism beyond Police Violence." *Rights!*, August 2020. <https://rightsblog.net/2020/08/13/from-political-correctness-to-justice-racism-beyond-police-violence/>.

- Risse, Mathias. 2009. "Common Ownership of the Earth." *Ethics & International Affairs*, 281–300.
- . 2014. "The Human Right to Water and Common Ownership of the Earth." *The Journal of Political Philosophy* 22 (2): 178–203. <https://doi.org/10.1002/9781119110132.ch4>.
- Rodin, David. 2011. "Justifying Harm." *Ethics* 122 (1): 74–110. <https://doi.org/10.1086/662295>.
- Rothstein, Richard. 2018. *The Color of Law: A Forgotten History of How Our Government Segregated America*. New York: Norton & Company.
- Rüger, Korbinian. 2020. "Aggregation with Constraints." *Utilitas* 32 (4): 454–71. <https://doi.org/10.1017/S095382082000014X>.
- Rushin, Stephen, and Griffin Sims Edwards. 2018. "The Effect of President Trump's Election on Hate Crimes." *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3102652>.
- Sabl, Andrew. 2001. "Looking Forward to Justice: Rawlsian Civil Disobedience and Its Non-Rawlsian Lessons." *Journal of Political Philosophy* 9 (3): 307–30. <https://doi.org/10.1111/1467-9760.00129>.
- Satz, Debra. 2003. "Child Labor: A Normative Perspective." *The World Bank Economic Review* 17 (2): 297–309. <https://doi.org/10.1093/wber/lhg015>.
- Scanlon, Thomas M. 1998. *What We Owe to Each Other*. Cambridge - London: Harvard University Press.
- Scheuerman, William E. 2014. "Whistleblowing as Civil Disobedience: The Case of Edward Snowden." *Philosophy and Social Criticism* 40 (7): 609–28. <https://doi.org/10.1177/0191453714537263>.
- . 2015a. "Recent Theories of Civil Disobedience: An Anti-Legal Turn?" *Journal of Political Philosophy* 23 (4): 427–49. <https://doi.org/10.1111/jopp.12055>.
- . 2015b. "What Edward Snowden Can Teach Theorists of Conscientious Law-Breaking." *Philosophy and Social Criticism* 42 (10): 958–64. <https://doi.org/10.1177/0191453716631169>.
- . 2016a. "Civil Disobedience in the Shadows of Postnationalization and Privatization." *Journal of International Political Theory* 12 (3): 237–57. <https://doi.org/10.1177/1755088215617192>.
- . 2016b. "Digital Disobedience and the Law." *New Political Science* 38 (3): 299–314. <https://doi.org/10.1080/07393148.2016.1189027>.
- . 2019a. *Civil Disobedience*. Cambridge: Polity.
- . 2019b. "Constituent Power and Civil Disobedience: Beyond the Nation-State?" *Journal of International Political Theory* 15 (1): 49–66. <https://doi.org/10.1177/1755088218806642>.
- . 2020. "Their Violence and Ours." Public Seminar. 2020. <https://publicseminar.org/essays/their-violence-and-ours/>.
- . , ed. 2021. *The Cambridge Companion to Civil Disobedience*. Cambridge: Cambridge University Press.
- Serracino-Inglott, Philip. 2013. "Is It OK to Be an Anonymous?" *Ethics and Global Politics* 6 (4): 217–44. <https://doi.org/10.3402/egp.v6i4.22527>.
- Shapcott, Richard. 2008. "Anti-Cosmopolitanism, Pluralism and the Cosmopolitan Harm Principle." *Review of International Studies* 34: 185–205. <https://doi.org/10.1017/S0260210508007985>.
- Shue, Henry. 1993. "Subsistence Emissions and Luxury Emissions." *Law and Policy* 15 (1): 200–214.
- Simmons, A. John. 1979. *Moral Principles and Political Obligations*. Princeton: Princeton University Press.
- . 1987. "The Anarchist Position: A Reply to Klosko and Senor." *Philosophy & Public Affairs* 16 (3): 269–79. <http://www.jstor.org/stable/2265268>.
- . 2001. *Justification and Legitimacy. Essays on Rights and Obligations*. Cambridge - New York: Cambridge University Press.

- Singer, Peter. 1972. "Famine, Affluence, and Morality." *Philosophy & Public Affairs* 1 (3): 229–43.
- . 1973. *Democracy and Disobedience*. Oxford: Oxford University Press.
- . 1987. "Animal Liberation or Animal Rights?" *The Monist* 70 (1): 3–14.
- . 2002. *One World. The Ethics of Globalization*. New Haven - London: Yale University Press.
- . 2007. "One Atmosphere." In *One World: The Ethics of Globalization*, 14–50; New Haven: Yale University Press.
- . 2019. "Will the Polluters Pay for Climate Change?" *Ethics in the Real World*, no. May 2020: 264–67. <https://doi.org/10.2307/j.ctvc77g39.70>.
- Sinnott-Armstrong, Walter. 2010. "It's Not My Fault: Global Warming and Individual Moral Obligations." In *Climate Ethics. Essential Readings*, edited by Stephen Gardiner M., Henry Shue, Dale Jamieson, and Simon Caney. Oxford: Oxford University Press.
- Smith, Adam. 2022. "Anonymous Launches Attacks against Russia and Pledges Support for Ukraine against 'Kremlin's Brutal Invasion.'" *The Guardian*, February 26, 2022. <https://www.independent.co.uk/tech/anonymous-attacks-russia-ukraine-invasion-rt-ddos-b2023177.html>.
- Smith, Michael Peter. 1994. "Can You Imagine? Transnational Migration and the Globalization of Grassroots Politics." *Social Text* 39: 15–33.
- Smith, William. 2004. "Democracy, Deliberation and Disobedience." *Res Publica* 10: 353–77.
- . 2011. "Civil Disobedience and the Public Sphere." *Journal of Political Philosophy* 19 (2): 145–66. <https://doi.org/10.1111/j.1467-9760.2010.00365.x>.
- . 2017. "Civil Disobedience as Transnational Disruption." *Global Constitutionalism* 6 (03): 477–504. <https://doi.org/10.1017/S204538171700020X>.
- . 2020. "Deliberation in an Age of (Un)Civil Resistance." *Journal of Deliberative Democracy* 16 (1): 14–19.
- Smith, William, and Kimberley Brownlee. 2017. "Civil Disobedience and Conscientious Objection." *Oxford Research Encyclopedia of Politics*. <https://doi.org/10.1093/acrefore/9780190228637.013.114>.
- Snowden, Edward. 2019. *Permanent Record*. New York: Metropolitan Books.
- Somini, Sengupta. 2016. "U.N. Apologizes for Role in Haiti's 2010 Cholera Outbreak." *New York Times*, December 1, 2016. https://www.nytimes.com/2016/08/18/world/americas/united-nations-haiti-cholera.html?_r=0.
- Steuwer, Bastian. 2020. "Aggregation, Balancing, and Respect for the Claims of Individuals." *Utilitas* 46: 17–34. <https://doi.org/10.1017/S0953820820000217>.
- Stierl, Maurice. 2020. "Of Migrant Slaves and Underground Railroads: Movement, Containment, Freedom." *American Behavioral Scientist* 64 (4): 456–79. <https://doi.org/10.1177/0002764219883006>.
- Strawson, Peter. 2013. "Freedom and Resentment." In *Ethical Theory. An Anthology*, edited by R. Landau - Shafer, 340–52. Malden, Oxford: Wiley-Blackwell.
- Swartz, Aaron. 2008. "Guerrilla Open Manifesto." 2008. <https://archive.org/details/GuerillaOpenAccessManifesto>.
- Tadros, Victor. 2011. *The Ends of Harm. The Moral Foundation of Criminal Law*. Oxford: Oxford University Press.
- Tarrow, Sidney G. 2005. *The New Transnational Activism*. Cambridge: Cambridge University Press. <https://doi.org/10.1353/cjs.2006.0074>.

- Temkin, Larry, S. 2012. *Rethinking the Good*. Oxford: Oxford University Press.
- The World Bank. 2018. "Poverty and Shared Prosperity 2018." https://openknowledge.worldbank.org/bitstream/handle/10986/30418/9781464813306_Ch01.pdf.
- . 2020. "Reversals of Fortune. Poverty and Shared Prosperity 2020." <https://openknowledge.worldbank.org/bitstream/handle/10986/34496/9781464816024.pdf>.
- . 2022. "Poverty & Equity Data Portal 2022." 2022. <https://povertydata.worldbank.org/poverty/home/>.
- Thoreau, Henry David. 1849. *On the Duty of Civil Disobedience*.
- Tilly, Charles. 2003. "When Do (and Don't) Social Movements Promote Democratization?" In *Social Movements and Democracy*, edited by Pedro Ibarra Guell, 21–45. New York: Palgrave Macmillan.
- Tilly, Charles, and Lesley J. Wood. 2016. *Social Movements, 1768 - 2012*. New York: Routledge.
- Tomlin, Patrick. 2017. "On Limited Aggregation." *Philosophy and Public Affairs* 45 (3): 232–60. <https://doi.org/10.1111/papa.12097>.
- Transparency International. 2021. "CPI 2020: Five Cases of Trouble at the Top." <https://www.transparency.org/en/news/cpi-2020-trouble-at-the-top-cases>.
- Voorhoeve, Alex. 2014. "How Should We Aggregate Competing Claims?" *Ethics* 125 (1): 64–87. <https://doi.org/10.1086/677022>.
- Waldron, Jeremy. 1993. "Special Ties and Natural Duties." *Philosophy & Public Affairs* 22 (1): 3–30.
- . 1999. *Law and Disagreement*. Oxford: Clarendon Press.
- . 2012. *The Harm in Hate Speech*. Cambridge - London: Harvard University Press.
- Walzer, Michael. 1970. *Obligations: Essays on Disobedience, War, and Citizenship*. Cambridge - London: Harvard University Press.
- . 1977. *Just and Unjust Wars. A Moral Argument with Historical Illustrations*. New York: Basic Books.
- Weinstock, Daniel. 2016. "How Democratic Is Civil Disobedience?" *Criminal Law and Philosophy* 10 (4): 707–20. <https://doi.org/10.1007/s11572-015-9367-0>.
- Welchman, Jennifer. 2001. "Is Ecosabotage Civil Disobedience?" *Philosophy & Geography* 4 (1): 97–107. <https://doi.org/10.1080/10903770124815>.
- Wellman, Christopher, Heath, and A. John Simmons. 2005. *Is There a Duty to Obey the Law?* Cambridge - New York: Cambridge University Press.
- Williams, Bernard. 1993. *Shame and Necessity*. Berkeley - Los Angeles - Oxford: University of California Press. <https://doi.org/10.1017/S0031819100047331>.
- Wolff, Robert Paul. 1998. *In Defense of Anarchism*. 9th ed. Vol. 7. Berkeley - Los Angeles - London: University of California Press. <https://doi.org/10.2307/4445512>.
- Wong, Wendy H., and Peter A. Brown. 2013. "E-Bandits in Global Activism: Wikileaks, Anonymous, and the Politics of No One." *Perspectives on Politics* 11 (4): 1015–33. <https://doi.org/10.1017/S1537592713002806>.
- Wood, A. 1995. "Exploitation." *Social Philosophy and Policy* 12 (2): 136–158.
- Wray, Stefan. 2011. "Electronic Civil Disobedience and the World Wide Web of Hacktivism." *Switch* 4 (2): 1–13. <http://nknu.pbworks.com/f/netaktivizam.pdf>.
- Young, Iris Marion. 2001. "Activist Challenges to Deliberative Democracy." *Political Theory* 29 (5): 670–90.

- . 2004. "Responsibility and Global Labor Justice*." *The Journal of Political Philosophy* 12 (4): 365–88. <http://web.mit.edu/sgrp/2007/no1/YoungRGLJ.pdf>.
- . 2006. "Responsibility and Global Justice: A Social Connection Model*." *Social Philosophy & Policy Foundation* 4 (4): 39–45. <https://doi.org/10.1017/S0265052506060043>.
- Ypi, Lea. 2012. *Global Justice and Avant-Garde Political Agency*. Oxford - New York: Oxford University Press.
- . 2013. "Cosmopolitanism Without If and Without But." In *Cosmopolitanism versus Non-Cosmopolitanism: Critiques, Defenses, Reconceptualizations*, edited by Gillian Brock. New York: Oxford University Press. <https://doi.org/10.1093/acprof>.
- Zerilli, Linda M.G. 2014. "Against Civility: A Feminist Perspective." In *Civility, Legality and Justice in America*, edited by Austin Sarat, 107–31. Amherst College, Massachusetts: Cambridge University Press.
- Zevnik, Andreja. 2015. "Maze of Resistance: Crowd, Space and the Politics of Resisting Subjectivity." *Globalizations* 12 (1): 101–15. <https://doi.org/10.1080/14747731.2014.971543>.
- Zwolinski, Matt. 2007. "Sweatshops, Choice and Exploitation." *Business Ethics Quarterly* 17 (4): 689–727.