



Much uncivil disobedience is presumptively impermissible. It describes both Sanctuary assistance to irregular migrants and anti-migrant border vigilantism, both conscientious illegal provision of abortion services and intimidation of women in the no-protest zone outside clinics. In general, some acts of uncivil disobedience can be justified, if, as I argue in the book: (1) they better realize the norms at the basis of the duty to obey the law than legal compliance or civil disobedience does; (2) they can be supported by the same rationales used to justify civil disobedience (e.g., its justice-enhancing function); (3) they express something valuable and which civil disobedience cannot usually convey, such as a contestation of the rules of democratic engagement and distrust of political and legal authority. But in order to properly assess particular acts, we need to disaggregate uncivil disobedience into different techniques of resistance and articulate distinct justificatory accounts, depending on the nature, goals and effects of the given tactic and the context in which it is used.

Scheurman (2018a, b), Erin Pineda (2019), and other theorists, who are eager to reclaim civil disobedience's subversive power, deny the need to conceptualize uncivil disobedience. They point out that what is justified uncivil disobedience on my account is civil disobedience on their view anyway. It is true that they and I end up defending similar disobedient actions, such as Snowden's whistleblowing and Standing Rock resistance. But we take a different route to do so, and I believe mine is more politically useful, as a contribution to philosophical and public debates, because it adopts the dominant liberal framework and seeks to change people's ways of thinking about civil and uncivil disobedience from within their own conceptual and normative parameters.

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## Disobedience and the ideology of civility

'Civility' has always been an ideological weapon, a stick with which the moral majority beats unruly subjects into conformity, attempts to control protest by dividing it into good and bad, and justifies the silencing of dissent especially by minorities. Current discussions about the ongoing 'incivility crisis' in the age of Trump and rising right-wing extremism seem to confirm this, as critics often target protests supposedly 'crossing the line' rather than the cruel policies they are confronting. The sense that civility is in crisis is, of course, not new, and accusations of incivility have long singled out vulnerable groups such as racialized minorities, feminists, and LGBTQI people.

Drawing the line between the civil and the uncivil is, therefore, never a purely theoretical or conceptual exercise but part of the essentially political 'boundary work' and 'boundary struggles' taking place in society at large (Braunstein, 2018).



How these struggles unfold concretely has eminently practical implications for how dissent and protest are normatively assessed, policed, embraced, co-opted, or repressed. Even whether a protest is recognized as protest, i.e., as political, is at stake in these struggles. Once protest is framed as, for instance, a riot, i.e., a disturbance of public order, it becomes a security problem – a police matter rather than a political one to be engaged with in the public sphere: from Parisian banlieues to the suburbs of Baltimore, this framing has depoliticized contestation and silenced the voice of already marginalized communities.

From a naïve point of view, it might appear as if civility and incivility concern the form rather than the substance of political claim-making. Indeed, this is what liberals often argue in order to show their sympathy with radical causes while objecting to their modalities of engagement. This distinction between form and substance, however, is a sham, and supposed attacks on form usually target political substance just as much. In this context, we do well to remember that Martin Luther King, Jr., saw not the KKK but ‘the white moderate ... who constantly says: “I agree with you in the goal you seek, but I cannot agree with your methods of direct action” as the great stumbling block in his [the Negro’s] stride toward freedom’ (2015, p. 135). In most cases, precisely those claims that fundamentally challenge the *status quo* are seen as uncivil, whereas those that do not threaten it are tolerated or even celebrated as exemplars of civility, in line with hegemonic class-, race-, and gender-specific social norms. The same holds for the subjects of claim-making. As Linda Zerilli notes, ‘throughout American history, disenfranchised minorities such as women and African Americans have been regularly accused of incivility just by virtue of daring to show up in public and press their rights claims’ (2014, p. 112).

Against this background, it is understandable that some reject civility discourse in principle as it ‘enforces a false equation between incivility and violence that works to mask everyday violence as a civic norm’ and uses depoliticizing calls for civility as ways to ‘seek to evade ... calls for change’ (Nyong’o and Tompkins, 2018). Partially in response to such concerns, Alejandra Mancilla (2013) and Candice Delmas (2018) have suggested dropping the ‘civil’ in ‘civil disobedience,’ or, at least to also embrace categories such as ‘non-civil’ or ‘uncivil’ disobedience. Thus, they bring forms of political contestation previously excluded by the narrow and moralized understanding of civil disobedience into the focus of the philosophical debate.

There is, however, an alternative response to the justified critique of both civility discourse in general and the way it has distorted conceptions of civil disobedience in particular. This alternative aims at reclaiming the radical potential of the ‘civil’ from the history and present of political struggle by giving it a decidedly political and radically democratic meaning (Celikates, 2020). In short, 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.

There are at least three reasons why both the practice and the label of *civil* disobedience should be central to a critical understanding of political protest. First, although political philosophers have often gestured at the legitimacy of more militant forms of protest under non-ideal (unjust, undemocratic etc.) circumstances, in contrast to the rich philosophical debate on civil disobedience involving such diverse philosophical figures as Hannah Arendt, John Rawls, Jürgen Habermas, and Étienne Balibar, there is only a relatively small (albeit slowly growing) body of conceptual and normative work on resistance and other forms of contestation. Given that this rich philosophical debate has already resulted in a rather strong case for the legitimacy of civil disobedience and its fundamental role in any democracy, it seems more fruitful to build on and further this discussion, rather than to abandon civil disobedience and turn to non- or uncivil forms of protest.

Second, and more importantly, the practice of civil disobedience, from Thoreau, Gandhi, and the Civil Rights Movement via the ‘new social movements’ of the 1970s and 1980s, to the more recent wave of protest movements in the wake of the ‘Arab Spring’ and Occupy, is much more complex and radical than what narrow conceptions of the ‘civil,’ and of civil disobedience, might suggest. Recovering the radical potential of disobedience can thus serve to develop a more radical, and capacious, understanding of the ‘civil’ that builds on subaltern and counter-hegemonic forms of ‘counter-civility.’

Third, the label ‘civil disobedience’ has a political cachet carrying a normative surplus that gives rise to symbolic struggles, first and foremost, about the label itself. As indicated above, the outcomes of these struggles have tangible political and legal consequences. It matters whether a given protest is successfully framed as ‘civil disobedience,’ not just in terms of how the public perceives it, but also in terms of who might be mobilized to join it, which types of political dynamics it can trigger, and how the police, prosecutors, and courts approach it. Participants in struggles, protests, and movements are not passive bystanders to civility discourse but actively intervene in it, appropriating, resignifying, and using established notions of both civility and incivility for their own purposes, e.g., by trying to catch public attention through the strategic and controlled use of ‘incivility’ or through highlighting state incivility (e.g., in the form of police violence) by contrastive practices of civility.

A critical theory of civil disobedience cannot stand apart from these struggles about terminology and framing that are so clearly part of any political struggle, and it seems to me that it would be a mistake – both theoretically and politically – to give up the ‘civil’ in ‘civil disobedience’ because of the way in which hegemonic civility discourse has co-opted, normalized, and depoliticized the civil, or at least has tried to do so. More specifically, turning to the ‘non-civil’ or ‘uncivil’ faces at least two related risks: first, destabilizing the intuitive association, in the public’s



mind, of ‘non-’ or ‘uncivil’ with ‘unjustifiable’ (at least under relatively peaceful conditions) is no easy task; second, and more importantly, the argument for moving beyond the civil tends to presuppose an overly narrow understanding of civility (see Delmas’s ‘decorum’) that excludes not only those activists who themselves reject that category (whether they are right to do so, both conceptually and strategically, is another question) but also movements, such as Black Lives Matter, which often self-describe as civil but engage in repertoires of protest that would have to be categorized as uncivil on the proposed understanding. A methodological implication of taking this risk seriously is to refuse clearly demarcating the civil from the uncivil as a task the philosopher or theorist would be well equipped to achieve, thereby acknowledging the essentially political character of the civil.

Certainly, neither Rawls (and contemporary Rawlsians) nor Habermas (and contemporary Habermasians) simply equate the ‘civil’ in civil disobedience with ‘civility’ in the sense of socially contingent, conventional norms of politeness that primarily serve to delegitimize dissent. Nevertheless, their understanding of the civil presupposes an understanding of civility and of citizenship that is, ultimately, limiting and domesticating regarding actual practices of contestation. Understanding these practices primarily in terms of reasonable public claim-making by recognized members of the political community indeed obscures many agents who claim the label of civil disobedience with good reason. In this way, the predominant understanding of the ‘civil’ – an understanding shared by both mainstream liberals and their critics – inherits some of the semantic ballast of the broader discourse on civility. The effects of this understanding – which ties the civil to non-violent and purely symbolic protest by fully recognized citizens – reach beyond mainstream liberal political philosophy. It clearly shapes, or rather, distorts, much public debate where contemporary protest movements, from Black Lives Matter and Extinction Rebellion to migrant activism, are measured against idealized instances of civil disobedience from the past (especially mythologized figures like Gandhi and King) aiming to discredit and discipline those in the present. In the name of an absolutized ideal of non-violence, this strategy ends up deploying symbolic violence with regard to both past and present protest movements (Theoharis, 2018). The history and the present of civil disobedience are significantly more complex: Gandhi’s and King’s commitment to non-violence was embedded in a broader set of ethical and political convictions, theoretical arguments, strategies, and ‘realistic’ assessments of the field of struggles that address important questions about the meaning of both violence and non-violence (see, for example, Mantena, 2012; Pineda, 2015; Livingston, 2018). Liberals routinely sidestep these questions by stipulating that civil disobedience is and has to be non-violent. In the absence of further elaboration, however, making non-violence part of the definition of civil disobedience is theoretically and politically suspect.

A politically radical and theoretically open-ended reconceptualization of the ‘civil’ in civil disobedience needs to avoid these traps of the ideology of civility.



This alternative conceptualization can start from the baseline that civility pertains to the logic of genuinely political in contrast to military action, rooted in a notion of civil society as a plural space of political self-organization. This space is not reducible to interactions between private individuals, nor to the congealing of political relations in state institutions, nor to a mythical, substantial vision of the people as a homogeneous actor: civil disobedience is a practice of *political* subjects or agents – including those who are subjected to a state but not recognized as its citizens. As such, it is not limited to challenging individual laws or policies but aims at reconfiguring the relations between citizens and the state. As migrant and refugee activism that mobilizes the repertoire and discourse of disobedience demonstrates, this reconfiguration of citizenship and political relations more generally can occur beyond the confines of the nation state and its citizenry. Despite involving breaking the law, and thus suspending the civil bond to some degree, civil disobedience presupposes a civil bond with the adversary, however strained and contested, and is incompatible with the attempt to destroy or permanently exclude an enemy from the political community.

Practices of contestation that aim at excluding individuals or groups on the basis of the assumption that the political community is grounded in a pre- or extra-political bond that is culturally, historically, or ethnically defined therefore do not fall under the label of civil disobedience. Invoking such a presumably preexisting bond clearly demarcating the community is not only antidemocratic but antipolitical, and hence ‘uncivil’ in a fundamental sense. This is why, although there may well be conservative, reactionary, and even right-wing civil disobedience, there is no hard-right, fascist, or Neo-Nazi civil disobedience, despite attempts by such groups to claim the label. In turn, political contestation aiming at the exclusion of groups such as Neo-Nazis in self-defense can convincingly claim to be civil, since such exclusion follows from, rather than contradicts, the strictly political logic of the civil. In this way, we can avoid both the danger of under-inclusiveness afflicting the liberal model, as well as the inverse danger of conceptual overstretch preoccupying those who – like Scheuerman (2018a, b) – argue for sticking with the more restrictive definition by insisting on the principled, law-abiding and civil character of disobedience.

Civility in this sense can be spelled out further in a variety of ways, all of which imply certain forms of self-limitation and self-restraint that are more flexible and less constraining than the liberal emphasis on the non-violent, purely symbolic, and otherwise law-abiding character of civil disobedience. At the minimal end of the spectrum of civility lies the distinction between civil and military forms of interaction; at its maximal end, the idea of prefiguration, that is, the claim that the end has to be present in, or prefigured by, the means – e.g., a democratic society cannot be established through non-democratic means. In both cases, those who disobey are seen as trying to resist certain escalations of the friend–enemy-logic and to maintain civility in the face of often massive state incivility, but this civility



is both a (potentially radical and militant) commitment and an achievement – rather than an expression of loyalty or deference to the authority of a state that has often systematically failed them.

Accordingly, insofar as the ‘civil’ in civil disobedience is linked to civility, its contrast is not the incivility of confrontational contestation or demands that are deemed too radical and hence unreasonable, but the incivility of organized violence following a military logic or of exclusions based on race, gender, or class. And insofar as the ‘civil’ is linked to citizenship, the latter is to be understood, not as a formal status assigned by the state, but as a practice, that is, in terms of political agents’ capacity to act together as citizens, not only within but also outside and against formal institutions (Tully, 2014). Both in its means and in its ends, civil disobedience can therefore take much more radical forms than the liberal model allows for. It can aim at systemic transformations, as arguably both the Civil Rights Movement and the Occupy movement did, and it can pursue these aims in ways that will be regarded as uncivil because of their confrontational or even violent character, including massive disruption, the destruction of property, and the use of restrained force in self-defense. In this sense, we can speak of ‘radical civility.’

Civility matters for this understanding of civil disobedience, because it is the civil bond with one’s adversaries that implies certain forms of self-limitation and self-restraint by excluding (quasi-)military action aiming at the destruction of an enemy. The civil bond that this notion of civility invokes is much more capacious than traditional conceptualizations of the civil bond in terms of bonds of (formal) citizenship. While being a member of the same political community certainly is one politically powerful (indeed hegemonic) way of understanding this bond, membership is not its only possible manifestation, nor is membership reducible to formal citizenship. Some members of the community are stuck in the ‘waiting room,’ permanently on the way to a citizenship that the state might hold out as a promise which it simultaneously makes increasingly difficult to achieve. Others are not even in the waiting room but stuck in the darkness of living without any status at all. By limiting civil disobedience to those formally recognized as citizens, because presumably only they can speak as part of a political community, political theory risks reproducing a denial of voice engineered by the state.

Furthermore, there are ways to think of the civil bond going beyond the bounded political community both temporally and spatially. Recent migrant and refugee activism provides plenty of examples highlighting both the temporal and the spatial extension of the civil bond beyond statist imaginaries. Migrants, activists, migrant-activists appeal to a bond beyond the narrowly civil, legally institutionalized, and ideologically dominant bond between citizens of the same polity. The bond their struggles appeal to is civil in a broader and counter-hegemonic sense as it ties the fate of migrants and refugees together with that of the citizens of wealthier states in historically deep and politically expansive ways – especially where they are



entangled through histories of colonialism and neo-colonialism (see Celikates, 2019).

The recent, and renewed, popularity of ‘calls to order’ in the name of civility that delegitimize and silence certain acts of protests, especially by marginalized minorities, not only supplants the political meaning of civility with a conventionalist and majoritarian one, but it also goes directly against the very logic of civil disobedience. The tension between radical promise and restrictive institutionalization is at the basis of democracy, and civil disobedience is one way to keep this tension alive and present, even when it appears uncivil as it goes against the claim that the tension has been successfully resolved and that no further struggles are necessary.

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### **Civil disobedience, between organizing and mobilizing**

Civil disobedience might be ‘back,’ as Alexander Livingston (2019, p. 591) has recently remarked, but in its return, it has been greeted in some circles with no small amount of ambivalence and skepticism. To be sure, civil disobedience in theory and in practice has long generated controversy – over how to define it, how to justify it, and how to think about its purpose and effects. At a basic level, disobedience to law inevitably rankles those who insist on a bedrock political obligation to obey the law, or who worry that any lawbreaking may degrade the rule of law. The invocation of civility raises concerns about the value of acting civilly in a context of profound injustice, and about the ways the charge of incivility often circulates to discipline and silence actors on the margins (Delmas, 2018; Zerilli, 2014). More fundamentally, if civil disobedience is an ‘essentially contested concept,’ as William Scheuerman suggests in this Critical Exchange, we can expect interpretive debates and controversies to continue, whenever and wherever civil disobedience reappears. What seems noteworthy in the present context, however, is the clash between the idea of civil disobedience more generally, as a form of spectacular protest, and an American activist culture inclined to question the political value of protest as such.

After the dissipation of the Occupy movement and, again, in the wake of the 2016 election of Donald Trump – as waves of rallies, marches, protests, and civil disobedience collectively dubbed ‘the Resistance’ emerged and subsided – commentary on the left increasingly questioned the relevance, efficacy, and purpose of these tactics. In one critique, Amber A’Lee Frost worried that all of this amounted to ‘resting on the laurels of feel-good symbolic outcry rather than the material victories that make our day-to-day lives better,’ a result that ‘suits the ruling class just fine’ (Frost, 2017). Demonstrations, in other words, at best perform