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Climate change and civil disobedience

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Contestation in the Anthropocene

Climate Change and Civil Disobedience

Gerrit Schaafsma

CONTESTATION IN THE ANTHROPOCENE

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Cover image: The stripes on the cover represent the global average temperature from 1884 to 2022 with blue colours for colder years and red colours for hotter years. This image is based on a data visualisation created by Ed Hawkins, but has been creatively reinterpreted by means of AI processing using Midjourney.

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Contestation in the Anthropocene

Climate change and civil disobedience

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Table of Contents

Introduction.....	1
<i>Climate change.....</i>	<i>1</i>
<i>Environmentalism and civil disobedience.....</i>	<i>5</i>
<i>The ethical challenges of climate change.....</i>	<i>10</i>
<i>Climate justice and civil disobedience.....</i>	<i>13</i>
<i>Thinking with the (global) streets.....</i>	<i>16</i>
<i>Outline of the argument and the chapters.....</i>	<i>17</i>
Chapter 1: Principled resistance in a globalised world.....	21
1. Introduction.....	21
2. On civil disobedience.....	22
2.1 Civil disobedience and the nation state.....	22
2.2 Contemporary examples of civil disobedience.....	26
<i>Extinction Rebellion.....</i>	<i>26</i>
<i>The Valve Turners.....</i>	<i>27</i>
<i>Les Désobéissants.....</i>	<i>27</i>
3. Defining civil disobedience.....	28
3.1 A ‘minimal’ definition of civil disobedience.....	28
3.2 Theoretical commitments.....	31
<i>3.2.1 A pluralist, practice-based account.....</i>	<i>31</i>
<i>3.3.2 Demarcating civil disobedience.....</i>	<i>35</i>
3.3. Alternatives to a ‘minimal’ conception of civil disobedience.....	39
<i>3.3.1 Civil disobedience as an ‘essentially contested’ term.....</i>	<i>39</i>
<i>3.3.2 Civil vs uncivil disobedience.....</i>	<i>41</i>
3.4 Defending the minimal definition of civil disobedience.....	44
4. Using the minimal definition.....	48
4.1 Evaluating disobedience.....	48
4.2 Domestic, transnational and global disobedience.....	49
5. Conclusion.....	51

Chapter 2: Democracy, disobedience and climate change	53
1. Introduction	53
2. Democracy, disobedience and climate justice	54
3. Deliberative democracy and the fossil fuel industry	58
3.1 Civil disobedience and democracy	58
3.2 Civil disobedience and deliberative democracy	59
3.3 Scientists and civil disobedience	64
4. Children and future generations	67
4.1 Fridays for Future.....	67
4.2. Disobedience as democracy-sustaining practice.....	70
5. Conclusion.....	74
Chapter 3: Climate disobedience beyond borders	77
1. Introduction	77
2. Transnational civil disobedience	78
2.1 Global justice and cosmopolitanism	78
2.2 Cosmopolitanism and civil disobedience.....	82
2.3 Examples of transnational civil disobedience	83
2.3.1 The Seattle WTO protests	83
2.3.2 The COP21 protests in Paris	84
2.3.3 Greenpeace actions against Japanese whalers	85
2.3.4 Transnational and International Disobedience.....	85
2.4 Two notions of ‘civil’ in the transnational context	87
3. Necessity, deliberation and future generations	88
3.1 Civil disobedience beyond borders	88
3.2 Necessity and disobedience	89
3.3 Necessity and the climate	91
3.3.1 The Valve Turners	93
3.3.2 The Credit Suisse tennis case:	95
3.3.3 Alternatives to necessity	96
3.4 Necessity as an intervention in public deliberation	97
3.5 The All-Affected Principle and civil disobedience.....	99
3.6 Cosmopolitan intergenerational justice and civil disobedience.....	101
4. The duty to disobey?.....	104
4.1 Political obligation and civil disobedience.....	104
4.1.1 Fairness.....	105

4.1.2 <i>Natural duty</i>	108
4.2 Law-breaking in support of law	112
5. Conclusion	118
Chapter 4: Civil disobedience and resisting climate injustice	121
1. Introduction	121
2. Determining the appropriate means	122
2.1 Direct and indirect civil disobedience	122
2.2 Prefigurative politics	123
2.3 The consequences of disobedience	125
2.4 Prefiguration, pragmatism and disobedience	128
2.5 How far can civil disobedience go?	130
3. Structural injustice and the duty to act	134
3.1 The duty to act	134
3.2 Structural injustice and the duty to disobey	135
3.3 Responding to structural (climate) injustice	137
4. Difficulties with action-guiding principles	140
4.1 The burdens of judgement	140
4.2 Civic virtues: vigilance and open-mindedness	141
5. Civil disobedience as a creative political act	144
6. Conclusion	147
Conclusion	149
Reference list	153
English Summary	169
Nederlandse samenvatting	173
Author contributions:	177
Acknowledgements	179

Introduction¹

Climate change

Since the turn of the millennium, climate change has gone from being seen as a vague future threat to an issue requiring immediate attention. Every year seems to bring higher temperatures, more severe droughts and more powerful storms. Plants and animals around the world are disappearing so rapidly that it has been argued that we are living through a ‘Sixth Extinction’. Never before in human history, and only five times in the history of the planet, has species loss on such a large scale occurred (Kolbert, 2015). The cause of our current climate crisis is known and understood reasonably well: the amount of carbon dioxide and other greenhouse gases in the atmosphere has increased dramatically since the advent of the Industrial Revolution. The tremendous increase in the quantities of these gases result almost entirely from human activities, like the burning of fossil fuels. At the same time, Earth’s ability to absorb these gases has decreased dramatically due to human activities such as deforestation. A scientific consensus about the effects of increased greenhouse gases in the atmosphere has existed for more than 20 years (Oreskes, 2004; National Academy of Sciences, 2001). Consensus also exists about the consequences of the continuing accumulation of these gases in the atmosphere. There can be no reasonable doubt that this situation will lead to further climate destabilisation, with grave consequences for both human beings around the world, as well as the environment more generally (IPCC, 2023).

The incredible impact of human activity on the processes of the Earth – mostly due to the emission of carbon dioxide – has led scientists to argue that we have entered a new geological epoch: the Anthropocene. The term was originally coined by Dutch chemist (and Nobel Prize winner) Paul J. Crutzen and marine biologist Eugene F. Stoermer (2000). They argued that the effects of human activities had become so pervasive that the geological period in which human beings had evolved (the Holocene) had ended. The Anthropocene denotes a new period in which human beings are the

¹ The introduction contains information that was first published online. Schaafsma, G. (2021). ‘Civil disobedience and the climate crisis’, *Medium*. June 22. Available at: <https://medium.com/@gerritschaafsma/civil-disobedience-and-the-climate-crisis-c4e55935339b> (Accessed 22 June 2021).

dominant geological force on the planet. Most prominent among the changes that distinguish the Anthropocene from the Holocene is the concentration of carbon dioxide in the atmosphere. Since the onset of the Industrial Revolution (proposed as the starting date for the Anthropocene) the amount of carbon dioxide in the atmosphere has increased by almost 50%, from 280 to 420 parts per million (PPM). The main consequence of this massive increase in carbon dioxide is that it increases the amount of solar radiation that is trapped by the atmosphere. This leads to the warming of the planet on a global scale and affects the planet's climate system.

It is sobering to consider some of the consequences of the already destabilised climate, and positively terrifying to imagine the effects of not taking rapid action to prevent further climate change. There can be no doubt that taking immediate, drastic action to prevent further planetary heating is of paramount importance. Consider the following description by David Wallace-Wells (2019, p.12), a journalist who has written one of the most well-researched books about the consequences of a warming planet:

At two degrees [centigrade], the ice sheets will begin to collapse, 400 million more people will suffer from water scarcity, major cities in the equatorial band of the planet will become unliveable, and even in the northern latitudes heat waves will kill thousands each summer. There would be thirty-two times as many extreme heat waves in India, and each would last five times as long, exposing ninety-three times more people. This is our best-case scenario. At three degrees, southern Europe would be in permanent drought, and the average drought in Central America would last nineteen months longer. In northern Africa, the figure is sixty months longer — five years... [A]t four degrees, there would be eight million more cases of dengue fever each year in Latin America alone and close to annual global food crises. There could be 9% more heat-related deaths. [I]n certain places six climate-driven natural disasters could strike simultaneously, and, globally, damages could pass \$600 trillion — more than twice the wealth as exists in the world today. Conflict and warfare could double.

It has been clear since at least the 1980s (arguably much earlier²) that increasing the quantity of greenhouse gases in the atmosphere would have the consequences that we are experiencing today:

² In 1896 the Swedish scientist Svante Arrhenius predicted that burning fossil fuels in great quantities would affect the climate around the world. For a more modern discussion of this issue, see the IPCC report of 2007.

more numerous and extreme weather events like droughts, floods and fires, as well as a growing climate refugee problem. It has also been well-known since that time what needs to be done to avoid these consequences: human beings need to produce fewer greenhouse gases, and the natural processes which remove these gases from the atmosphere must be allowed to function unhindered. What has happened is the opposite: human beings have increased emissions, while at the same time doing great damage to the natural processes of the Earth that remove these emissions from the atmosphere. In fact, one half of the total emissions from burning carbon sources of energy (like coal and oil) have occurred in the last 30 years. Since 1990, more carbon emissions have been released into the atmosphere than during the preceding two centuries. It is clear that a better understanding of the dangers posed by the rapid build-up of greenhouse gases in the atmosphere has not had any appreciable effect on the amount of carbon being emitted.

In 2015, the Paris Agreement was signed. Its aim is to limit the increase in global average temperature to below 2 degrees centigrade. Although several countries (and many corporations) have pledged to reach the peak of their carbon emissions in the next few years and reach net zero emissions by 2050 or 2060, on current trajectories some of the terrible effects of climate change cannot be avoided. A recent United Nations Environmental Programme report (2019, p.1) issued the following warning:

Unless mitigation action and ambition are increased immediately and profoundly through enhanced nationally determined contributions (NDCs) and supported by ambitious long-term mitigation strategies, it will not be possible to avoid exceeding the 1.5°C goal, and it will become increasingly challenging to achieve the well below 2°C goal.

Reaching this target seems extremely unlikely. During 2020, when the global economy experienced an unprecedented downturn due to COVID-19, carbon emissions declined by only 5.8%. This is less than the amount by which emissions need to decline *every year* for the next decade in order to avoid planetary warming of approximately 1.5 degrees centigrade. Research from the International Energy Agency (2022) shows that carbon emissions for 2021 increased by about 6%, which means that they have already returned to pre-pandemic levels.

The fact that emissions rebounded rapidly, even while the pandemic still raged, is a reason for concern. It raises serious questions about the ability of governments to meet their net-zero commitments. Climate policy think-tank Climate Action Tracker (2021) has calculated that based on current policies and actions taken by governments, the planet is likely to experience 2.5-2.9 degrees centigrade of warming by the end of the century. Even under extremely optimistic scenarios it is likely that the world will experience at least 1.8 degrees centigrade of warming within the next 80 years.

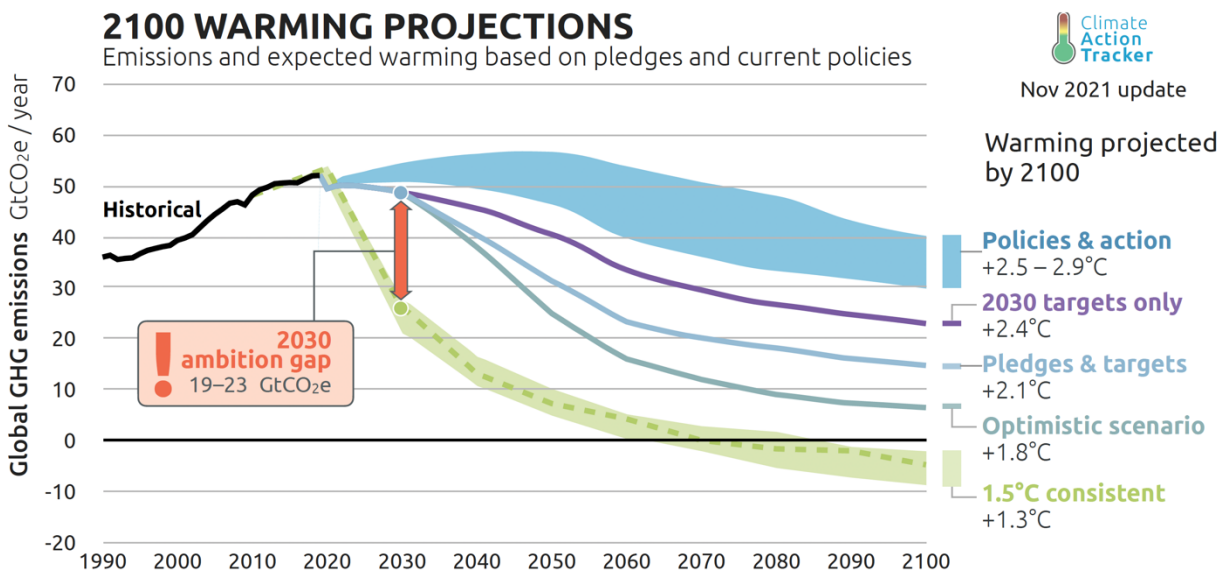


Figure 1 (Source: Climate Action Tracker, 2021)

The disturbing prospect of a significantly warmer planet and the lack of credible action to prevent it from happening is a cause for global concern. Questions about the means by which emissions could be reduced (or even removed from the atmosphere) are of a technical nature, but the problem of global warming is fundamentally an ethico-political one. How to individually and collectively respond to the facts about the changing climate are difficult ethical and political questions.

One of the most prominent ways in which activists have tried to bring attention to these questions is by using civil disobedience. Campaigns by movements like Extinction Rebellion, 350.org and many others have brought millions of people to the streets to call for greater action on climate

change. Though most of their actions take place within the bounds of the law, the use of civil disobedience has become increasingly common. In this dissertation, I will explore how the emerging climate crisis has led to new questions related to civil disobedience. There are (at least) three interesting questions connected to climate justice civil disobedience worth investigating. Firstly, when, if ever, is civil disobedience in (more-or-less) liberal democratic states a permissible means to pursue climate justice objectives? Secondly, if civil disobedience is a permissible way of pursuing climate justice in these types of states, who can participate in this civil disobedience, and on whose behalf can they claim to be acting? Lastly, what are the methods and tactics that those engaging in climate justice disobedience can permissibly use?

My aim is to explore these questions and provide (tentative) answers. It is not my intention to give a full account of what climate justice³ might entail, or what the specific institutions are that it might require. Instead, I am interested in the ways in which individuals and organisations⁴ can respond to the evident injustice with which they are confronted, the reasons they could give for their response to this injustice, and how they should conduct themselves when responding. In doing so I aim to contribute to the discussion about the globalisation of disobedience (cf. Peeren et al, 2017; Smith, 2017; Cooke, 2019; Scheurman, 2016) and the way in which acts of civil disobedience are being used in new ways, and in service of causes which have only recently emerged.

Environmentalism and civil disobedience

To understand how and why civil disobedience has become an important mode of political contestation in the developing climate crisis, it is necessary to take a step back and briefly look at how it became part of the repertoire of environmental groups in the West and parts of the Global South during the 1970s and 1980s . In the following section I briefly sketch some of the

³ 'Climate injustice' refers to the inequitable distribution of harms brought about by anthropogenic climate change. This includes the change in weather patterns causing droughts and flooding, as well as rising sea levels that make certain areas (or even entire countries) uninhabitable (de Shalit, 2011, p.311).

⁴ Since the 1990s, several groups have used tactics associated with civil disobedience to draw attention to the injustice of climate change. The most well-known of these have been Greenpeace and 350.org, both of which have coordinated global protest actions. Equally interesting are the indigenous peoples' movements in the United States and Canada, who have worked together to prevent the construction of the transnational Keystone XL pipeline, as well as the various groups associated with the Buen Vivir movement in South America. These are only a few of the more prominent new transnational groupings fighting for climate justice that have emerged over the last three decades.

developments in environmental-related civil disobedience, before expanding on the specific questions that motivated the writing of this dissertation.

The use of principled law-breaking⁵ by groups within the environmental justice movement in the West emerged in the 1970s with organisations like the Earth Liberation Front and Greenpeace. Both organisations were founded out of frustrations about the limited results achieved by using more traditional, legal protest tactics like marches or petitions, and because of the increasing level of human intervention in areas that were previously relatively ‘wild’.⁶ Inspired by (among others) Rachel Carson’s *Silent Spring*, Arne Naess’s deep ecology and Peter Singer’s call for animal liberation, several environmental groups started using illegal means to try and achieve their objectives. This ranged from relatively minor inconveniences (e.g., blocking roads) to more militant actions, such as destroying logging equipment or burning down laboratories (Loadenthal, 2017). Environmental concerns in the Global South, driven by rapid urbanisation, industrialisation and deforestation can be traced back to the colonial period, but began to gain more attention only in the 1970’s. For example, in India, the Chipko ‘tree huggers’ in the Garahwal Himalayas became famous for their non-violent resistance in defence of forests they hold to be sacred and valuable not only for themselves, but also future generations (Tewari, 1995, p.133). Similarly, civil resistance to Shell’s oil operations in the Niger delta by the Ogoni people in the early 1990s grew from a local protest to a transnational campaign that continues to this day (Carter, 2007, p.130). These examples show that civil disobedience has long been part of the repertoire of environmental groups around the world.

In recent decades the militant deep ecology and animal liberation movements largely faded from the scene, and the overriding environmental concern has become climate change. In the United States, despite vigorous disinformation efforts by the fossil fuel lobby, a majority of citizens now recognise that climate change is due to human activity, and 48% believe that they are being harmed

⁵ There is some debate about the terminology that should be used to describe some of the activities described below. They have variously been described as eco-sabotage, ecotage, environmental defence, and more.

⁶ There is a lively discussion in philosophy and environmental history about the distinction between nature and culture, the role of Western imperialism and colonialism in shaping contemporary ideas about so-called ‘wilderness’, and a host of related issues (see, for example, Callicott & Nelson, 1998). It is not my intention to discuss this topic here.

by the warming of the planet (Ballew et al, 2019). Similarly, a 2021 Eurobarometer survey of European citizens revealed that climate change is considered to be the most serious problem facing the world. In the developing world there is a similar recognition of the problem posed by climate change. A 2019 Afrobarometer survey of citizens in 38 African states found that a majority of respondents believe that climate change is making their countries worse. As these surveys make clear, climate change is widely understood to be a source of harm to human wellbeing.

Despite the widespread public understanding of the dangers posed by climate change, the amount of action taken by political leaders to prevent, or even slow climate change, has not been nearly enough to prevent warming of less than 1.5 degrees centigrade. There have been no shortage of opportunities for politicians to get together and discuss what should be done about climate change, but too little has been accomplished in terms of reducing emissions. Gatherings like the Rio Summit in 1992, the Kyoto Summit in 1997, and the COP21 Summit of 2015, are all examples of global initiatives aiming to protect the natural world and regulate harmful greenhouse (and other) emissions. While there have certainly been some successes, such as the Montreal agreement to regulate chlorofluorocarbons which cause great damage to the ozone layer, these summits and the agreements made have had little effect on preventing the build-up of greenhouse gases in the atmosphere. They have also not had a significant effect on protecting the natural processes of the Earth, which could help to remove these gases from the atmosphere.

Consider the much-lauded COP21 Summit, and the associated climate treaty that was signed in 2015, often referred to as the Paris Agreement. The treaty, named after the city in which it was signed, encourages signatories to reduce their emission of greenhouse gases such that the Earth warms by no more than 2 degrees centigrade (preferably 1.5) by the end of the century. Very little progress has been made to meet the targets set out in the treaty, and the treaty provides no mechanism for enforcing commitments that have been made. No substantial reduction in emissions has occurred since the treaty was signed. In fact, emissions have continued to increase every year except during 2020, when COVID-19 caused widespread disruption. It is disheartening to think that it requires a global disaster like a pandemic to help slow the rate at which we are heading towards an even greater catastrophe.

The lack of action on climate change by political leaders has spurred the creation of environmental groups around the world. In the United States, a group called 350.org⁷ was formed by famed environmental writer Bill McKibben and others to generate more political action on climate change at a global scale. This group has used civil disobedience in several of its campaigns. Most notable has been their protest (together with indigenous communities and other environmental groups) against the Keystone XL pipeline, which would have brought oil from the Canadian Tar Sands in Alberta to refineries in the United States. Their members have also been influential in putting an end to fracking projects in Argentina, Brazil and the United States. In the United Kingdom, the group Extinction Rebellion was founded in 2018 to help organise mass civil disobedience events protesting government inaction on climate change. It has since spread to many other countries and its members have used civil disobedience to disrupt traffic, close government buildings and interrupt corporate activities. Extinction Rebellion received an enormous amount of global media attention by shutting down much of the centre of London (and other cities in the United Kingdom) in a series of coordinated actions involving thousands of protestors from around the country. The protestors claimed to be engaging in non-violent civil disobedience with the aim of forcing the government to declare a ‘climate emergency’. They further called on parliament to constitute a citizens’ assembly to tackle the climate crisis.

Another influential group, Ende Gelände,⁸ was formed in 2015 in Germany to oppose continued coal mining. They have coordinated several ‘occupations’ of fossil fuel infrastructure, notably shutting down the massive Hambach coal mine in 2017.⁹ It has since grown into a large movement and is active in several countries. In the United States, a group known as the Valve Turners has targeted fossil fuel infrastructure. Activists from this group have targeted pipelines carrying oil from Canada to the United States and shut them down by illegally engaging the emergency stop valves of these pipelines. Also in the United States, members from the Climate Disobedience

⁷ The group is named after the concentration of carbon dioxide in the atmosphere that is considered to be a safe level — 350 parts per million.

⁸ The name literally means ‘end of terrain’, but conveys the idea of ‘to here and no further’.

⁹ The Hambach coal mine is one of the largest single sources of emissions in Europe. It has been the site of repeat action by protest groups (Watts, 2017).

Centre have targeted fossil fuel infrastructure projects with civil disobedience, staging ‘die-ins’¹⁰ at construction sites, making it impossible for work to continue.

Groups like Extinction Rebellion, 350.org and others argue that their actions are in response to the failure (in their view) of states and corporations to adequately respond to the dangers posed by climate change. However, the emergence of these environmental groups has been met with a hostile response in some quarters. In the United Kingdom, a report by the think-tank Policy Exchange (Wilson & Walton, 2019, p.5) argued that the use of civil disobedience serves to ‘mark Extinction Rebellion’s campaign out as an extremist one that seeks to break down the established civil order and liberal democracy in the UK’. In July of 2021, police officers in London preemptively detained Extinction Rebellion members suspected of preparing to engage in illegal acts like blocking traffic during an upcoming climate protest (Rawlinson, 2021). In the United States, several states have recently passed laws imposing draconian penalties on protestors who gather at ‘critical infrastructure sites’ — which are now deemed to include all fossil fuel infrastructure, including pipelines. Trespassing in these designated areas could result in a 10-year prison sentence, and \$20,000 in fines. These and other measures have made engaging in protest much more dangerous, and are a clear attempt to prevent the climate justice movement from disrupting the fossil fuel industry.

Engaging in climate justice civil disobedience has also not been without consequence. Although many activists engaging in climate justice civil disobedience have had charges against them dismissed, several have received jail time or suspended sentences for their actions. One member of the Valve Turners group, Michael Foster, received a three-year prison sentence. A fellow activist who filmed him, Sam Jessup, was sentenced to two years in prison. Foster eventually only served one year, while Jessup received a suspended sentence. Another climate activist from the United States, Tim deChristopher, who disrupted an oil rights auction, spent two years in prison for his actions. New legislation and more aggressive policing of protests means that it is likely that many more climate activists will face arrest and prison.

¹⁰ This is a form of protest in which participants occupy a space and then lie down as if they were corpses, to simulate the deaths caused by continued fossil fuel usage.

The increase in the public interest (and participation) in climate justice civil disobedience has not yet resulted in a similar increase in philosophical attention being paid to the topic. Compared to other movements which have employed similar tactics, such as the anti-war movement in the United States during the 1960s and 1970s and the anti-nuclear movements (e.g., the Ploughshares), the issue of civil disobedience by environmental groups has received relatively little attention in the philosophical literature.¹¹ This is disappointing, given the interesting questions raised by this new wave of civil disobedience. The purpose of this dissertation is, in part, to contribute to the literature on the use of civil disobedience by discussing some of the new normative questions raised by climate justice civil disobedience. These are, to some extent, new questions about what civil disobedience can be used for and by whom. However, the problems posed by climate change are so different from those contexts in which civil disobedience has been used in the past (there are transnational, intergenerational and other elements), that the normative frameworks used to make sense of previous incarnations of civil disobedience are inadequate for understanding this new wave of disobedience. To better understand how the use of civil disobedience might fit into the struggle for climate justice, we will need to briefly discuss some of the ethical problems raised by climate change.

The ethical challenges of climate change

Given the seriousness of the effects of climate change, it is imperative that action be taken to prevent the worst outcomes from occurring and shield the vulnerable from the consequences which are now unavoidable. However, as the preceding sections have made clear, very little has been done to mitigate the impacts of the climate crisis. Our seeming inability to respond to climate change, argues Dale Jamieson (2014, p.178), is not a matter of lacking the technological means or an economic rationale to reduce our emissions. Instead, the problem lies with our ways of thinking (or not thinking) about our ethical responsibilities and how they should be translated into political action:

¹¹ The topic of eco-sabotage (ecotage) has received some attention but compared to the scale of activity which has taken place in recent years, civil disobedience being used in support of environmental issues has not received much attention.

Our failure to prevent or even to respond significantly to climate change reflects the impoverishment of our systems of practical reason, the paralysis of our politics, and the limits of our cognitive and affective capacities. None of this is likely to change soon.

Despite Jamieson's lament, there has been some progress during the last two decades about how to approach the ethical issues raised by climate change. Some of the fundamental questions about the rights and obligations of certain nations or groups of people have received considerable attention from philosophers. There is a lively and robust discussion about the appropriate response to the climate crisis in the philosophical literature (Caney, 2005 and 2010; Gardiner, 2011; Jamieson, 2014; Moellendorf, 2014 and 2022; Page, 2008 and 2011; McKinnon, 2015; Wainwright & Mann, 2017; Latour, 2017 and 2018). Three central questions have animated the debate about climate justice:

1. How should responsibility for historical emissions be assigned?
2. How can rights to future emissions be apportioned fairly among states or individuals?
3. Which rights and basic interests are threatened by climate change, and what forms of mitigation and compensation are owed by who to whom as a matter of justice?

While this discussion is ongoing, the concentration of greenhouse gases in the atmosphere continues to increase, leading to ever more dire consequences, both in the present and for future generations. This fuels a sense of urgency that something ought to be done about greenhouse gas emissions as quickly as possible. The failure of past political gatherings to meaningfully reduce greenhouse gas emissions has given rise to a new question: which actions may citizens permissibly engage in when pushing governments and others to act to avert the worsening climate crisis?

It should come as no surprise that one of the most radical forms of collective action, civil disobedience, has become an increasingly popular mode of political action to contest the climate crisis. Activists using civil disobedience to fight for climate justice have scored several notable legal victories, and social science research has shown that civil disobedience has been an effective tool for political mobilisation and the raising of public awareness about the issue (Thackery et al, 2020).¹² Given these successes, it appears likely that activists will continue to use tactics and

¹² Also of interest is the admission by the British politician and Minister for the Environment, Zac Goldsmith, that climate justice civil disobedience has an effect on governmental decision-making (Waugh,

language associated with the civil disobedience campaigns of the past to challenge the lack of sufficient action on the part of political and corporate leaders.

Civil disobedience is but one of many responses to climate injustice available to citizens. A different response would be to think about ways to reduce one's personal emissions, while also advocating politically for policies that curtail collective emissions (Frangiere, 2006). Theorists like Walter Sinnott-Armstrong (2005), John Broome (2012b) and David MacLean (2019) all argue against any kind of strong obligation on the part of individuals to try and prevent climate change through lifestyle changes. For example, MacLean claims that a 'morally decent person living in a developed, carbon-based society has no moral obligation to change the way she lives, but we all have strong moral duties to pressure our governments (and large corporations and institutions) to enact effective policies to limit carbon emissions' (2019, p.1). In a similar vein Broome argues that, as an individual, your moral duties are limited to reducing your greenhouse gas emissions 'only insofar as you can do so at a very small cost' (2012b, p.8), and that your primary duty is to offset (by means of compensation) the gases that you do emit.

Theorists like Broome, MacLean and Sinnott-Armstrong all commit to a sharp distinction between public and private morality when it comes to climate justice. On their view, states are largely responsible for addressing any harms that may arise from climate change. This is not to say that they do not recognise the importance of citizens advocating for changes in governmental policy, exercising what Broome (2012b) calls 'civic morality', but these types of actions typically take place via state mechanisms. The role of citizens is to support state mechanisms, or to advocate for their creation, but the scope of these obligations does not seem to go beyond ordinary political activity, and it is unclear how demanding they are. For example, Broome (2012a, p.65-66) argues that at an individual level, your political duty is to encourage your government to act in ways that contribute to climate justice, but does not say very much about what this would entail. From his subsequent discussion, it would appear that these duties are in fact not particularly burdensome.

2022). Speaking to the BBC, he admitted that 'that kind of pressure does work. It may be annoying, but it works. I've seen even as a minister, the increased pressure that we get from constituents onto their MPs and then back onto their ministers as a consequence of activities that some of these organisations get involved in'.

The worsening climate crisis has given rise to an alternative to the state-centric model of responsibility. Some, like Simon Caney, have argued that those who have (or are about to) experience serious harms brought about by climate change may take forceful action against the agents responsible for wronging them, or to change the political environment which shapes decision-making. Caney argues that ‘those with the power to compel, induce or enable others to act in climate-friendly ways have a responsibility to do so’ (2014, p.1). He includes civil disobedience as one of the appropriate strategies for getting others to act. In a similar vein, Francisco Garcia-Gibson (2022) argues that even coercive, illegal climate protests can be justified when undertaken to protect basic rights threatened by the climate crisis. Even more radical suggestions are made by Andreas Malm (2021), who argues that actively sabotaging fossil fuel infrastructure may be the only way to prevent the continued rise in emissions. Others go further still, arguing that pre-emptive war to prevent an environmental catastrophe could be justified (Betz, 2019).

Caney, Garcia-Gibson, Malm and others argue for more forceful action, such as engaging in sabotage or taking part in resistance campaigns that include the use of violent tactics. However, it is becoming clear that the use of civil disobedience has already become one of the most widespread and important tools used by climate activists around the world (Berglund & Schmitt, 2020). While the topic of environmental civil disobedience has received some attention in the literature (Humphrey, 2006; Martin, 1990; Welchmann, 2001; Scheuerman, 2021), questions about the moral permissibility of using civil disobedience to advance climate justice claims remain under-theorised. My aim is to bring insights from academic debates about civil disobedience and apply them to the political challenges posed by the developing climate crisis.

Climate justice and civil disobedience

Thinking about how to appropriately respond to climate change presents a unique challenge. As Stephen Gardiner (2011) argues, climate change is the perfect moral storm: it is both a global and an intergenerational problem, and we do not have any ‘robust general theories’ to help us make sense of what to do. This means that climate change is very different from previous injustices which have been contested by means of civil disobedience, but also makes clear why this new

wave of contestation is often transnational in character and intergenerational in its concern. It is transnational in two senses: the first is that disobedient actions sometimes take place across borders (e.g. shutting down cross-border pipelines); the second is that disobedient actions against climate injustice often involve individuals from different states acting together. At the same time, many engaging in climate-related disobedience are motivated by concerns of intergenerational justice. The transnational and intergenerational character¹³ of many of the recent acts of climate justice civil disobedience raise some interesting questions about the normative basis upon which these actions might be defended. Much of the philosophical work on civil disobedience deals with the question of how the *pro tanto* obligation to obey the law could be legitimately ignored in specific situations that relate to issues that take place on a limited time horizon. This work has largely focused on the reasons that citizens of a given state might have for engaging in civil disobedience *in their own state*.

Making sense of civil disobedience that involves cross-border elements has only recently begun to receive attention. Work by Smith (2017), Ogunye (2015), Cooke (2019) and Cabrera (2021) has begun to investigate the grounds upon which trans-state civil disobedience could be justified, but considerable work remains to be done. Is it possible that cross-border movements engaging in civil disobedience could justify their actions by appeals to global norms? Or are their actions best understood as morally permissible political acts by agents who have been systematically prevented from taking part in decision-making at a global level? Could groups claim new rights based on the effects of globalisation and use civil disobedience as a catalyst to spur wide-ranging political reform at a global level? More generally, could civil disobedience be a justified means by which to make appeals for intergenerational justice?

In dealing with these questions, I will make use of some recent examples of transnational civil disobedience. I will discuss actions by groups like Extinction Rebellion, 350.org, the Valve Turners, Ende Gelände, the Climate Disobedience Project, and others. The fact that many of these groups echo the language and tactics of the Suffragists, the Civil Rights Movement in the United

¹³ There is a vast (and rapidly growing) literature on intergenerational justice, as well as global and transnational justice. Much of this work is aimed at defending certain fundamental principles related to these issues. My aim in this dissertation is to inquire as to how civil disobedience, as a means of responding to injustice, is connected to these concerns.

States, and Gandhi's civil resistance campaign in India, has spurred my interest in investigating the way in which the language, tactics and normative motivations of previous civil disobedience campaigns are being harnessed to pursue new objectives. What is of particular interest, is the question of the grounds upon which protestors could argue for using civil disobedience in pursuit of environmental objectives. The climate crisis and the way in which activist movements around the world have responded to it raise some particularly interesting new questions about political obligation, especially when there are conflicts between domestic politics and global norms or aspirations.

Some of the most well-known civil disobedience campaigns have been about securing rights for those within an existing political community. For example, the Civil Rights Movement and the campaign for equal rights for African Americans in the United States and the campaigns by the African National Congress (ANC) and other political movements in South Africa against the Apartheid government, both largely worked to secure rights for citizens within a given state. The campaigns by Extinction Rebellion, 350.org, Ende Gelände and others differ from these historical civil disobedience campaigns in that these groups act and communicate in ways that indicate that their objectives are global in scope. Their ambition is not simply to secure rights for those who are threatened by climate change in one country, but to reform the governance relations between people, states and corporations on a global scale. The climate justice movement is not the only one to engage in transnational civil disobedience campaigns. The Black Lives Matter (BLM) movement, as well as the campaign against genetically modified foods, have become global in their reach. These developments deserve more philosophical reflection because they raise difficult questions about political obligation and democratic law-making. My hope is that investigating the ways in which climate justice activists have been using civil disobedience will also shed light on how we should think about the transnational character of these other movements.

For the purposes of this dissertation, I have restricted myself to investigating civil disobedience in states that can be described as (more-or-less) liberal democratic in character. My reason for doing so is twofold. Firstly, I take it to be easier to justify civil disobedience in non-democratic states. I take it as a given that the rights violations experienced by those living in non-democratic states are so serious that it is relatively uncontroversial that civil disobedience (and likely other resistance) can be justified in those contexts. Thus, if civil disobedience in pursuit of climate justice can be

successfully argued for in democratic states, it should be relatively simple to show that these arguments would also hold for less democratic contexts. Secondly, much of the recent activism in support of climate justice has taken place in states that can be described as liberal democratic. Understanding and analysing how this activism fits into the existing repertoire of political action and how these types of actions should be understood is a matter of urgent concern in these types of states.

Thinking with the (global) streets

In addition to thinking about the moral permissibility of using civil disobedience, a further question about the definition of civil disobedience itself needs to be addressed. This is a topic which has received a significant amount of attention, especially in the last decade. Some have argued in favour of a more expansive understanding of civil disobedience that focuses on the democratising role that it can play in politics (Celikates, 2016), or on its fundamentally communicative character (Brownlee, 2012). Others have argued against attempts to move away from the ‘legal contours’ that have shaped the understanding of civil disobedience in the liberal tradition (Scheuerman, 2015). Recent political trends also point to the importance of rethinking the role of civil disobedience as a means of political participation. As trust in traditional democratic political institutions declines in liberal democracies and the influence of authoritarian populists increases (Hosking, 2019), more groups are turning to unconventional forms of political action, often civil disobedience, to press their claims. At the same time, civil disobedience has become a ‘genuinely global practice’ occupying a ‘relatively privileged political and discursive status’ (Scheuerman, 2021b, p.1) that needs to be re-evaluated in light of the different geopolitical conditions in which it is being employed.

In exploring these questions I’ve drawn on the history of civil disobedience movements in countries around the world, as well as the ongoing academic discussions about how civil disobedience should be defined, understood and justified. What I will try to do in the chapters of this dissertation is to draw on both the history of civil disobedience movements and recent academic work on how to theorise about civil disobedience, so as to shed some light on how to make sense of climate justice movements using civil disobedience. Alexander Livingston (2020) calls this type of theorising ‘thinking with the streets’, by which he means that there needs to be a

constant back-and-forth between the protestors claiming the label of civil disobedience and academic discussions of how civil disobedience should be understood. This style of theorising, in which there is a dialectic between academic discussions and actual political practice, is a particularly fruitful way of studying evolving forms of political action like civil disobedience. As Robin Celikates (2015, p.65) argues, the discussion of civil disobedience in the academic literature suffers from ‘systematic shortcomings’ which are a result of ‘theorists’ systematic ignorance of the complex reality of disobedience, leading them to a simplified and depoliticized understanding’. It is only by engaging with the ways in which principled law-breaking is used and understood by those employing it, that we can get a clearer understanding of how we should think of civil disobedience and the normative questions that it raises.

The choice to take a more action-orientated approach is a philosophical one. The action-orientated perspective that I have adopted is particularly appropriate for types of political action that are evolving, or have been adapted for new circumstances, as is the case with civil disobedience and the climate justice movement. It allows for a more direct engagement with the practical aspects of the form of political action which I am interested in understanding, namely civil disobedience. It puts me, as a theorist, in a position where I can both learn from those engaging in the type of political action which I am interested in, while at the same time allowing me to share with a wider audience the insights that I develop. Working in this way, I aspire to be what James Tully (2012) describes as a ‘citizen philosopher’ — someone who is in a horizontal relationship with their fellow citizens (broadly defined) and learns and develops an understanding of events with them, rather than attempting to assume a privileged epistemic position. It is in this spirit that I approach the questions that I will investigate.

Outline of the argument and the chapters

Before giving a brief description of each chapter, I will provide an overview of the central argument put forward in this dissertation. In short, the argument presented by this dissertation is that civil disobedience in democratic states is a morally permissible way for individuals to act together in pursuit of climate justice. My claim is that individuals have a personal responsibility to work with others to establish just institutions that would bring about climate justice, and that in the context of insufficient action by the states in which they reside, they have a *pro tanto* duty to

engage in civil disobedience to pursue this objective. Furthermore, I claim that those engaging in climate justice civil disobedience should be guided by both prefigurative and pragmatic considerations when making decisions about the specific form their disobedience should take. The argument is presented across four chapters. Chapter 1 deals with the question of how civil disobedience can best be defined. Chapters 2 and 3 discuss civil disobedience as a response to climate injustice at the domestic and transnational level, and why civil disobedience is a morally permissible response at both levels. Finally, Chapter 4 argues that a combination of prefigurative and pragmatic concerns provide a framework for thinking about what form climate justice civil disobedience should take. It also identifies the agents who may have *pro tanto* duties to engage in climate justice civil disobedience, and discusses the role civil disobedience could play in the political transformation needed to address the climate crisis. Having provided an overview of the argument we can now take a closer look at the issues discussed in each chapter.

In Chapter 1, I deal with the question of how to define civil disobedience. While it is not my intention to review the entire history of the debate about how best to define civil disobedience, it is necessary to provide a brief overview of some of the most prominent positions and provide an argument for the approach I have selected. I start by explaining what is at stake in this debate, and then go on to explain why the rather minimal definition that I favour is preferable to the alternatives. Together with the argument for the minimal definition, I make clear my methodological commitments and explain what they entail for discussions in subsequent chapters.

Chapter 2 discusses different ways of arguing for the moral permissibility of using climate justice civil disobedience in (more-or-less) democratic states. I start by discussing the possibility of using what may be termed ‘the irreversibility argument’, which claims that the potential of irreversible harms occurring due to climate change justifies political intervention in the form of civil disobedience. Next, I turn to the epistemic argument for climate justice civil disobedience. This argument claims that the political system has immunised itself against the facts about climate change and that normal political practices have been unable to communicate the seriousness of the dangers posed by the climate crisis. Lastly, I deal with what could be called the ‘democratic’ argument for climate justice civil disobedience. Here the argument is that young people today (as well as those not yet born) are not adequately represented by existing political systems, which constitutes a democratic deficit. Individuals or groups acting on behalf of those not adequately

represented use civil disobedience in an attempt to remedy this deficit. I argue that, taken together, these three arguments offer substantial support for the moral permissibility of using civil disobedience to oppose a lack of action on climate change at a domestic level.

Chapter 3 deals with the issue of civil disobedience at the global, or transnational level. Here, the focus is on arguments that could justify climate justice civil disobedience by appealing to reasons related to transnational or global concerns, rather than domestic reasons. I begin by discussing two ways of trying to justify climate justice disobedience at the transnational level. The first uses the idea of a climate emergency to claim that civil disobedience is a necessary response to inaction. The second appeals to the idea of the All-Affected Principle to justify the use of civil disobedience in widening the forum for democratic decision-making. I argue that neither approach offers an entirely convincing way to defend the use of climate justice civil disobedience at a transnational level. In the final part of the chapter, I argue that an appeal to the natural duty of justice does provide a well-grounded justification for using civil disobedience as a means of addressing the climate crisis at a global level.

In Chapter 4, I deal with the question of how we are to evaluate the actions of groups using civil disobedience to further climate justice aims, and whether certain individuals may have a duty to engage in this type of disobedience. I discuss the difficulties that come with any decision to engage in civil disobedience and tentatively put forward some ways of thinking about them. I develop a framework for moral decision-making that offers guidance on how to act for those who believe that they may be justified in using civil disobedience to advance climate justice goals. I argue that those wishing to engage in climate justice civil disobedience should use the notion of prefiguration to think about the types of actions they plan to engage in, but that they must also take pragmatic political concerns into account. I then go on to argue that the idea of structural injustice can help to explain who has a (*pro tanto*) duty to engage in climate justice civil disobedience. I end the chapter by discussing the contribution that climate justice civil disobedience can make in responding to the climate crisis.

Finally, in my concluding remarks I discuss the ways in which climate justice civil disobedience can contribute to the idea of global citizenship and transnational solidarity, as well as the role it has already played in reshaping the political imaginary within which we make sense of climate

change. I also make suggestions about avenues for further research, such as the possibility of using just war theory and migration studies to think about other forms of justified resistance, and the need for more social science research on the effectiveness of civil disobedience.

Chapter 1: Principled resistance in a globalised world¹⁴

1. Introduction

On 9 June 2021, climate justice and indigenous rights activists finally claimed victory in their long-running battle against the KeystoneXL pipeline. The struggle started in 2008, when a Canadian company, known as TransCanada (since rebranded as TC Energy), proposed the building of a new pipeline to carry oil from the Canadian province of Alberta to refineries in the United States. This new pipeline, named KeystoneXL, would massively increase the amount of oil being pumped across the border and greatly facilitate the expansion of extracting oil from the so-called ‘tar sands’ in Alberta. Tar sand extraction is one of the most environmentally destructive and polluting forms of fossil fuel extraction. Extracting the oil from the tar sands and burning it would release gigantic quantities of carbon dioxide into the atmosphere. In July of 2011 James Hansen, a former NASA scientist and one of the world’s foremost experts on climate change, explained that the KeystoneXL pipeline was the ‘fuse to the biggest carbon bomb on the planet’ (McGowan, 2011), and that the building of the pipeline had to be prevented if the worst effects of climate change were to be avoided. The following month Hansen joined a civil disobedience campaign in Washington D.C. that aimed to put pressure on President Obama to cancel the permits which would allow for the construction of the pipeline. Hansen, along with 139 others, were arrested and fined for breaking trespassing laws and ignoring commands from law enforcement officers.

What are we to make of the actions by Hansen and his fellow protestors? Bill McKibben, a journalist and environmental activist who was arrested alongside Hansen, described their actions as a continuation of the tradition of civil disobedience, connecting it to the Civil Rights Movement, the Abolitionist movement, and to Henry David Thoreau’s principled resistance (Stephenson, 2012). Writing later about the effects of climate justice civil disobedience, McKibben (2018) claimed that ‘like peaceful protest during the civil rights movement, civil

¹⁴ This chapter contains information that was first published online. Schaafsma, G. (2021). ‘Civil disobedience and the climate crisis’, *Medium*. June 22. Available at: <https://medium.com/@gerritschaafsma/civil-disobedience-and-the-climate-crisis-c4e55935339b> (Accessed 22 June 2021).

disobedience has helped shift the zeitgeist away from the idea that coal, oil and gas are the natural and obvious sources of power for our societies'. McKibben and others in the climate justice movement argue that the illegal actions which they use to protest against a lack of action on climate change are examples of civil disobedience, but it is not always clear what these actions share with, for example, the Civil Rights Movement or the struggle for Indian independence. To establish a foundation upon which more explicitly normative theorising can take place in subsequent chapters, I argue for a particular definition of civil disobedience in this first chapter. To do this, I engage with the debate (both inside and outside academia) about how civil disobedience should be understood.

To start with, I briefly review some of the main issues associated with the liberal understanding of civil disobedience which has been so influential in academic circles. I then give a brief introduction to the theoretical framework from which I approach the question of how the concept of civil disobedience should be understood. I then make clear what role this particular definition plays in addressing more explicitly normative questions in the following chapters. Having addressed the question of how civil disobedience should be defined, it becomes possible to make judgements about the ways in which this particular mode of political contestation can appropriately be used.

2. On civil disobedience

2.1 Civil disobedience and the nation state

Most liberal conceptions of civil disobedience are circumscribed by the contours of the modern nation state: those engaging in civil disobedience address themselves to their fellow citizens about domestic issues and aim to reform an existing domestic social order or policies. The oft-cited formula of Rawls (1990, p.99), which he had already developed in the 1960s, is that civil disobedience must be '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 [by appealing to] the sense of justice of the majority of the community'. At the same time, those engaging in civil disobedience must maintain 'fidelity' to the law in the way they convey their demands and by accepting punishment for their actions and recognising the basic legitimacy of

the system of government as a whole. Hugo Bedau (1961, p.654), a contemporary of Rawls, describes civil disobedience in a similar way:

Anyone commits an act of civil disobedience if and only if he acts illegally, publicly, non-violently, and conscientiously with the intent to frustrate (one of) the laws, policies or decisions of his government.

Rawls, Bedau and other liberal theorists of the time such as Carl Cohen (1970) argue that civil disobedience is to be understood as a purely domestic affair in which one group of citizens with a grievance, which cannot be dealt with through existing political channels, force the public to hear them out. This view (which still holds a certain sway in academic circles) sees civil disobedience as a means to engage with the existing political order when it fails to extend to all members of the political community the basic rights embodied in its conception of justice. Civil disobedience is an attempt to draw attention to failures by the state to adequately protect these rights. Understood this way, the function of civil disobedience is fundamentally ameliorative.

I will take Rawls to be an exemplar of the broadly liberal view, though of course there are some differences between his views and, for example, Bedau and Cohen. For the moment, it is useful to examine his views in order to help bring to light the advantages of the alternative view of civil disobedience that I will use. The distinction between the definition of civil disobedience which Rawls advances (that it be public, non-violent, and appeal to the sense of justice of the majority) and its justification is derived from the theory of civil disobedience which he connects to his larger project of arguing for a theory of justice that is both liberal and egalitarian. This theory of civil disobedience, argues Rawls (1999, p.319), needs to provide guidance about how to define civil disobedience, the conditions under which it is justified, and the role it can play within a society.

The type of society which Rawls discusses is one which he calls ‘nearly just’. He describes a ‘nearly’ just society as a democratic state in which there is a shared conception of justice, but where departures from the requirements of justice do occur.¹⁵ On Rawls’s account of justice, the shared conception of justice entails a commitment to two principles: the principle of liberty and

¹⁵ Since the publication of *A Theory of Justice* there has been extensive discussion about what would constitute a nearly just society, even in Rawls’s own terms. For the purposes of this paper, I simply accept Rawls’s definition in which he assumes that ‘the principles of justice are for the most part publicly recognized as the fundamental terms of willing cooperation among free and equal persons’ (1999, 335).

the principle of equality. Rawls argues that civil disobedience is only appropriate in cases where the principle of liberty has been imperfectly recognised, or not extended to all citizens in the appropriate way. In these cases, citizens are entitled to use acts of law-breaking as a way of engaging the sense of justice of the majority, and to make them reconsider the way in which institutions are structured or policies implemented. For Rawls, civil disobedience is only appropriate in societies that can be described as nearly just and in which violations of the principle of liberty occurs, and can only be practised by national citizens addressing their co-nationals.

There are several fronts on which Rawls's theory of civil disobedience has been challenged. Many of the challenges object to the 'narrowness' of the definition, but do so in different ways. Some have argued in favour of a more expansive understanding of civil disobedience that focuses on the democratising role that it can play in politics (Celikates, 2016a; 2016b), or on its fundamentally communicative character (Brownlee, 2012). Others have argued for a new typology of principled resistance that adds conceptual categories like 'uncivil' disobedience as a counterpart to the more established notion of civil disobedience (Delmas, 2018; Mancilla, 2012). There has also been resistance to moving away from a Rawlsian understanding of civil disobedience. Some have warned of the dangers of abandoning certain key features of the liberal definition (Scheuerman, 2015), or have tried to adapt the understanding of the definition in light of later work done by Rawls (Allan, 2018). It is my intention to argue that the concept of civil disobedience can be used to describe and make sense of many of the illegal activities related to climate injustice. For this reason, I focus on a different motivation for moving beyond the narrow confines of the Rawlsian definition, namely that a state-centric approach does not make sense in the context of the political and economic conditions that have emerged around the world since the end of the Second World War. As Scheuerman (2021, p.16) points out, '[m]any of the inherited views about civil disobedience... rest on implicitly national-statist, yet increasingly anachronistic institutional premises'. These premises have come under increasing pressure as activists around the world have adopted the language and tactics associated with historical civil disobedience campaigns to address a global public on matters of global concern. This is partly as a result of the scope of the problems which they are trying to address (e.g. climate change), but also due to the changing role of the state.

The changing role of the state has been pointed to by Hardt and Negri (2000), Gray (1999), and others who have argued that globalisation has led to (some) sovereignty draining away from the nation state. State power has been replaced by undemocratic and largely unaccountable multilateral organisations and agreements. These organisations, like the World Bank and the International Monetary Fund (IMF), place the levers of power far beyond the reach of citizens. These organisations can have a significant effect on the lives of ordinary citizens because of their regulatory power, particularly in spheres like trade, migration and the governance of environmental commons such as the oceans and the atmosphere. At the same time, the challenges that states need to address have become global in scope. Many of these challenges are environmental and often relate to climate change, but others are linked to the global economy. Dealing with these challenges requires significant transnational cooperation.

My aim is to contribute to the debate about civil disobedience by arguing that the concept does describe some of the ways groups have been responding to the changing role of the state and the scope of the challenges now being faced. Discussions about the definition of civil disobedience and the moral permissibility of its use must recognise this new reality and the challenges it poses. With this opening chapter, it is not my intention to adjudicate the ongoing debate about exactly which types of actions (under what conditions) could be classified as civil disobedience (although much of the rest of the dissertation is devoted to conceptual questions). Instead, my aim is simply to show that there are good reasons for using a less restrictive and normatively loaded definition than has often been accepted in the liberal tradition, and this definition should include at least some acts of principled law-breaking which aim at transnational, rather than (exclusively) domestic objectives.

The term ‘civil disobedience’ has been used so widely and in so many different contexts that it is impossible to arrive at a concise definition that would satisfy everyone. What I will try to show is that relying on a narrow interpretation deprives us of a concept that could help us engage with important moral and political questions. Instead, we should embrace a definition of civil disobedience which itself makes limited normative claims (but not none), and which is historically informed (but not determined) by the actions of those claiming to be acting disobediently. Before giving an extended defence for using a particular definition, I will provide

three examples of principled law-breaking which would not be accepted as examples of civil disobedience on the accounts a liberal theorist like Rawls. However, I will argue that these *are* in fact cases of civil disobedience. These examples are helpful for thinking through what a particular definition of civil disobedience might mean for theorising about normative questions which are connected to it. These questions include a consideration of the ways civil disobedience might be justified, or what limits should be imposed on how it is conducted. I will then make clear some of the prior conceptual and methodological commitments that have informed my choice, which I will call the ‘minimal’ definition of civil disobedience.

2.2 Contemporary examples of civil disobedience

Extinction Rebellion

On 31 October 2018, members of the Extinction Rebellion movement called for ‘repeated acts of disruptive, non-violent civil disobedience’ (Kirby, 2018). What followed were a series of illegal gatherings, mainly in the United Kingdom, in which protesters assembled peacefully with the aim of bringing attention to the dangers posed by climate change to humans and other species around the world. According to protestors, the main objectives of this activity were:

1. to encourage the government to declare a ‘Climate Emergency’;
2. to encourage the government to commit to net-zero carbon emissions by 2025; and
3. to encourage the government to establish a citizens’ assembly to oversee climate action in the United Kingdom.

This widespread campaign involved thousands of protestors across the United Kingdom engaging in unlawful activities such as occupying public spaces, disrupting traffic and failing to abide by police instructions. Some of the more notable examples included the blockading of several bridges across the river Thames in London, and of protestors gluing themselves to buildings and trains. These and other illegal actions led to dozens of arrests. The following year an even larger campaign paralysed traffic in central London and several other cities in the United Kingdom. Hundreds of protestors were arrested. In the months that followed, cities around the world were targeted by protestors flying the flag of Extinction Rebellion. From Bogotá to Berlin, activists

broke traffic and other laws and ignored administrative orders, protesting what they saw as global inaction against climate change.

The communication team of Extinction Rebellion (2018) explain that they use ‘non-violent civil disobedience in an attempt to halt mass extinction and minimise the risk of social collapse’. They further claim that their struggle for a zero-carbon future can be linked to the history of social movements going back to Gandhi’s activism and the Civil Rights Movement in the United States. One of the founders of Extinction Rebellion, Roger Hallam, describes the movement’s campaigns in 2018 and 2019 as ‘the biggest civil disobedience actions for decades’ (2020, p.45). Jay Griffiths, a writer who took part in protests (and was arrested), describes his participation as ‘non-violent civil disobedience’ (2019, p.96). These are but two examples of individuals who took part in Extinction Rebellion activities who described their activities as civil disobedience.

The Valve Turners

In October of 2016, a group of climate activists known as the ‘Valve Turners’ engaged in what they called an act of ‘climate disobedience’ by stopping the flow of oil from the Alberta tar sands in Canada to the United States. The Alberta tar sands project is one of the most environmentally destructive fossil fuel projects on the planet. Extracting the oil buried there wreaks havoc on the local environment and contributes massively to global warming. A group of five individuals (the ‘Valve Turners’) targeted three emergency stop valves which control the flow of oil through pipelines from Canada to the United States. To access these valves, activists cut through fences and unlawfully trespassed on private property. They then proceeded to activate the emergency stop valves, and in doing so temporarily halted the flow of oil through the pipeline. They then waited to be arrested by law enforcement. In their subsequent trial, the activists explained that they engaged in these illegal acts and specifically targeted the Canadian oil infrastructure firm Enbridge in order to prevent further and more significant harm to the planet.

Les Désobéissants

The United Nations’ 21st annual climate change meeting, the Conference of Parties (COP) held in Paris in 2015, is now chiefly remembered for the signing of the Paris Treaty. Prior to the conference a number of climate activism groups got together to plan a series of civilly disobedient actions in the French capital, to draw attention to the dangers posed by climate change and what

they worried would be an insufficiently ambitious response (de Moor, 2018). Groups like Reclaim the Power from the United Kingdom, Ende Gelände from Germany, and the French branch of the Climate Action Network, together with other groups from around the world, joined forces in Paris to protest¹⁶ against what they saw as dangerous inaction. However, due to the terrorist attacks in November of that year, the French government declared a state of emergency. This made it particularly difficult and risky to engage in large-scale unlawful protests. Nonetheless, a local group called ‘Les Désobéissants’ ignored the prohibition on public gatherings and called for protesters to take to the streets. Several thousand protesters (including a number from countries around the world) clashed with the police.

None of the above-mentioned actions conform to the requirements of the liberal conception of civil disobedience. Violence, in the form of damage to property, accompanied some of these actions. These actions did not necessarily appeal to the sense of justice of the political communities in which they took place. In fact, some protesters were not motivated by human concerns at all, but instead claimed to be acting for non-human lifeforms. In some cases, the disobedience was aimed not only at the government of the state where the protest took place, but rather at a global public. Furthermore, not all of those taking part in these actions were willing to face the legal consequences, nor were the authorities always given advance notice of their intentions. Nevertheless, I will argue that these actions, and similar actions which I will discuss in upcoming chapters, do in fact constitute acts of civil disobedience.

3. Defining civil disobedience

3.1 A ‘minimal’ definition of civil disobedience

My aim is to defend a definition of civil disobedience that is capacious enough to deal with principled law-breaking at a global level, yet restrictive enough such that allows us to differentiate between civil disobedience and, for example, revolutionary action or conscientious objection. I will begin by defending what I call a ‘minimal definition’ of civil disobedience and explaining the theoretical commitments to which it is connected. Once the question of *what civil*

¹⁶ Note that not all of these groups planned to take part in acts of civil disobedience.

disobedience is has been placed on a firmer footing, we will be in a better position to think through the normative questions raised by the acts of principled law-breaking engaged in by climate justice activists. Only with clarity about the concept will it be possible to productively think about the conditions under which civil disobedience might be morally permissible, or which means those engaging in civil disobedience should use.

The definition of civil disobedience that I will use throughout this dissertation relies on work in the more radical tradition of civil disobedience done by Robin Celikates. He defines civil disobedience (2016b, p.39) as:

[A]n intentionally unlawful and principled collective act of protest (in contrast to both legal protest and ‘ordinary’ criminal offenses or ‘unmotivated’ rioting), with which citizens – in the broad sense that goes beyond those recognized as citizens by a particular state – pursue the political aim of changing specific laws, policies, or institutions (in contrast to conscientious objection, which is protected in some states as a fundamental right and does not seek such change) in ways that can be seen as civil (as opposed to military).

This definition leaves open questions about the ways in which civil disobedience may be connected to violence, or what the appropriate sphere is in which civil disobedience can take place (domestically vs. transnationally; state vs. private activities). For the purposes of this dissertation it can be reformulated in a shorter form:

Civil disobedience is a constrained, collective act of intentional law-breaking for a principled political purpose that aims at changing specific laws, policies, or institutions.¹⁷

The definition by Celikates is minimal in the sense that the normative commitments associated with this definition are limited. Unlike the Rawlsian definition, it does not require participants in civil disobedience to appeal to the sense of justice of the majority, nor does it require that the acts

¹⁷ William Smith and Kimberly Brownlee (2017) put forward a similarly minimal definition, in which civil disobedience falls under the category of *conscientious disobedience* whereby it is ‘a constrained, communicative protest, contrary to law, that people engage in to support a change in governmental or nongovernmental practices’ that is motivated by principled reasons.

of civil disobedience be public in the way that Rawls (and other proponents of the liberal tradition) require. It also leaves open the question about the range of issues for which civil disobedience can be used as a means of communicating the grievances of those engaging in the disobedience.

This is not to say that the concept is entirely without normative content. As Candice Delmas (2018, p.22) points out, by referring to a prohibited act as ‘civil’ the work of justification for the act has already begun. What this normatively less-demanding definition does, is push the normative theorising to those claiming the label of civil disobedience for their actions, rather than having strong normative commitments as part of the definition itself. What the type of minimal definition I use allows for is the discussion of normative issues to take place at a remove from questions about the definition itself. As Celikates (2016a) argues, making use of a less normatively-loaded definition ‘leaves open whether civil disobedience always has to be public, nonviolent, directed only at state institutions, limited in its goals, and restricted to transforming the system within its existing limits as well as whether accepting punishment is a necessary criterion’. Questions about whether a particular act was a last resort, or proportionate to the issue being contested, do not form part of the definition of civil disobedience, but are dealt with when discussing the justification for a particular act. I will show that this less normatively-loaded definition allows for a more productive engagement regarding the moral permissibility and political status of many contemporary examples of principled law-breaking.

One of the principal advantages of separating questions of justification from those of meaning is that it allows the moral analysis of an act of civil disobedience to be conducted separately from the conceptual analysis of the act itself. What this means is that the label ‘civil disobedience’ could be claimed by activists that have not traditionally been seen as acting in a civilly disobedient manner. For example, anti-abortion protestors could be seen as engaging in civil disobedience when they stage an illegal protest outside an abortion clinic. That this is the consequence of employing the minimal definition will not appeal to everyone. The ‘folk understanding’ of civil disobedience is that it is something done only by those who have a righteous cause. Separating the question of how a specific instance of civil disobedience is motivated from questions about the form the illegal action takes, means that it is possible for there to be instances of unjustified

civil disobedience. This is a more productive way of thinking about the problems posed by civil disobedience and is preferable to a definition where the normative reasons for the civil disobedience are tied directly to the definition of civil disobedience itself. At the end of the following section, I will return to this issue and argue that the notion of civility sets some limits to the types of motivations for which it can be used.

Another advantage of the minimal definition of civil disobedience is that it allows for a broader range of public motivations on the part of those engaging in civil disobedience. On the liberal account, public motivations for engaging in civil disobedience must be tied to appeal to the sense of justice of the majority, and can only be used to contest violations of the basic liberties. This leaves no room for less strictly political reasons for engaging in civil disobedience. As Maeve Cooke (2021, p.243) points out, protesters concerned with environmental issues may understand their motivations in very different ways than the liberal account allows for:

[S]ome ecological activists may be motivated not by a sense of obligation or the voice of conscience but by feelings of connectedness with non-human natural entities; or again, subjugated individuals and groups may be driven to engage in civil disobedience, not because they feel commanded to do so by conscience or bound by obligation but because they perceive their condition of subjugation as unbearably detrimental to their exercise of agency.

As I will show in the following sections, accepting a definition of civil disobedience which can accommodate a broader range of motivations on the part of those engaging in the disobedience is an advantage both in terms of accounting for the self-understanding of those individuals, and in making sense of the way in which civil disobedience has become a transnational phenomenon.

3.2 Theoretical commitments

3.2.1 A pluralist, practice-based account

The contested history of civil disobedience and the ongoing debate about how it should be understood provides a challenge to any theorist wanting to discuss the subject. There are different ways in which to proceed, each of which come with certain commitments. For example, civil disobedience has a particular meaning and takes on a certain normative status in virtue of the role that it is meant to play in a liberal theory of justice like that argued for by Rawls. I have already

pointed to some of the difficulties associated with this approach. My reasons for making use of the minimal definition that I argued for above is, in part, inspired by the approach to political philosophy advocated for by James Tully (2008). Tully approaches conceptual questions about the use and meaning of contested terms in a dialogical, historical and practice-oriented way that seeks to uncover the normative commitments that accompany the use of these terms. This is not to say that philosophers occupy a privileged position from which they can examine and come to conclusions about what terms ‘really’ mean.

Tully argues for an approach to political philosophy which places philosophers in a horizontal, two-way relationship with the issues that they are dealing with. He argues that ‘political philosophers are political actors engaged in the problems and conventions of their age’ (2008, xii), and that the concepts they employ to understand or resolve particular questions have histories or genealogies. Tully draws our attention the way meaning has been shaped over the course of time, often in service of particular aims, and makes understanding these changes a central theme of his approach, which he calls public philosophy (2008, p.3):

The specific role of this public philosophy is to throw a critical light on the field of practices in which civic struggles take place and the practices of civic freedom available to change them. It does this by means of historical and critical studies of the field and the given theoretical forms of representation of it.

This approach is critical in that it seeks to bring to the surface the way in which particular taken-for-granted practices and ways of employing language are used to set the limits on the relationships between agents, particularly between the governed and those doing the governing. For example, those defending the capitalist order present concepts like ‘the free market’ or ‘the invisible hand’ as objective descriptions of neutral phenomena, rather than as features arising from a mode of living underpinned by a specific ideology. The approach is historical in that it brings to the fore the contingent historical circumstances and actors that gave rise to the governance relationships being investigated. This genealogical investigation uncovers the history of particular political or social practices and the way they have served to further particular interests.

Uncovering these genealogies allows for the meanings and uses of certain terms to be challenged. Tully presents this approach as a way of shedding a critical light on governance relationships which influence public contestation and democratic will-formation. This approach to philosophy is democratic in the sense that philosophers do not stand in a position of authority 'above' their fellow citizens. They do not enter in dialogue 'under the horizon of a political theory that frames the exchange and places the theorist above the demos' (2008, p.10), but are instead active fellow citizens who bring their particular skills to bear on the issues at hand. This practice of critical genealogy has not only revelatory power (in the sense that it helps to explain why we understand terms in particular ways) but can also have emancipatory power. As Amia Srinivasan (2019, p.145) has argued, this type of genealogical work shows us how power has been exercised through particular understandings of certain terms, and also how that power could be challenged:

A critical genealogy is a guide to worldmaking when it not only diagnoses our representations in terms of the oppressive function they serve, but moreover shows us the role that agential powers - individuals, groups and institutions - have played in the emergence and continued dominance of those representations. For then we might be able to exercise our own agential powers to make our representations, and thus our world, anew.

Applying Tully's public philosophy approach encourages us to look at the manner in which terms have been employed, and the way that different actors have tried to appropriate specific terms in service of particular ends.

What this means is that making sense of political concepts like 'civil disobedience' cannot simply be a matter of gaining a 'true' understanding of the term and then uniformly applying it in the 'right' way. Arguing about what civil disobedience (or other general political terms) mean, consists in being able to give reasons for using that term in one way or another, in being able to substantiate claims for applying it to novel cases, while at the same time being aware of the history, usage and the normative implications of adopting a particular meaning. The debate about the use of terms must take place on a principled basis that, in so far as possible, draws on a shared history of use and is sensitive to political commitments held by those arguing about whether it is being appropriately applied.

The Tullian public philosophy approach makes it clear that the debate about the exact meaning of the term ‘civil disobedience’ can never be settled decisively in favour of one definition or another. However, there are some ways of using a particular term that are ruled out. Deciding how to use a term and whether it makes sense to broaden or restrict its application is an exercise of practical reason. Practical reasoning is the ‘manifestation of a repertoire of practical, normative abilities, acquired through practice, to use the general term, as well as to go against customary uses in actual cases’ (Tully, 2008, p.27). Arguing about the appropriate meaning of a particular term thus means giving reasons for using it in a particular way (p.27):

This [understanding a general term] is done by describing examples with similar or related aspects, drawing analogies or disanalogies of various kinds, finding precedents, drawing attention to intermediate cases and seeing the similarities among them; thereby being both conventional and creative in the use of criteria that hold our normative vocabulary in place.

What this means is that the concepts that we use when discussing particular normative questions are themselves contestable and open to reinterpretation. Applying this insight to the debate about the proper meaning and use of the term ‘civil disobedience’ allows us to make sense of the many disagreements in a different way. By drawing attention to the historical process that led to particular understandings of civil disobedience, as well as the way the term has been employed by different theorists in larger discussions about justice, legitimacy, political obligation and democracy, it becomes clearer why the debate about the use of the term appears so intractable. These disagreements matter because they inform our political and ethical commitments and determine the types of action we may or may not be willing to endorse.

The fact that competing interpretations could exist need not lead to the conclusion that ‘anything goes’. It is not the case that participants using alternative definitions should be thought of as necessarily talking past one another. Disagreements are often real and follow from underlying commitments. Following Tully’s public philosophy approach, we can do our best to approach the use of terms critically while at the same time applying a historical lens to the way the term came into use by particular actors. This puts us in a position to advance arguments about either narrowing or broadening the scope of the application of the term, which in turn opens up the proposed new application to further critical and historical scrutiny. In doing so, we take ‘more

seriously what those actually struggling understand themselves to be struggling for' (Celikates, 2004, p.227). Thus, we orientate ourselves in ways that are better able to bring new forms of political struggle into focus. Opponents of this approach will argue that without a sufficiently rigid definition, it becomes impossible to speak sensibly about distinct social phenomena and to make any kinds of claims (least of all normative claims) about them. This is a worry that cannot be dealt with in an entirely satisfactory manner. It will always be the case that incommensurable, parallel understandings of terms may develop in separate paradigms. No absolute boundary to meaning exists; there is a constant process of negotiation and renegotiation about how terms can and should be used.

3.3.2 Demarcating civil disobedience

By examining the normative commitments of those arguing about the appropriate extension of the concept of civil disobedience, it is possible to (tentatively) say something about demarcating civil disobedience from other, more difficult to justify, forms of political contestation by looking at the ways in which the notion of civility can be understood. Those who claim to be acting in civilly disobedient ways often lay emphasis on the 'civil' part of their disobedience. But what exactly does this mean? Writing about the protests against the Vietnam War, Christian Bay (1971, pp.77-78) argues that there are at least five ways in which the notion of civility can be understood. Firstly, it can refer to the 'recognition of general obligations of citizenship and thus to the legitimacy of the existing legal order'. Secondly, the notion of 'civil' can be understood in opposition to 'military'. Thirdly, 'civil' can be contrasted to 'uncivil', in the sense that to be civil is to behave in a certain manner. Fourth, 'civil' can refer to the distinction between public and private. Lastly, the term can refer to rights or policies which affect the citizenry more broadly, as opposed to referring only to specific groups or individuals. Each of these senses of the term 'civil' relate in some way to the conduct and motivations of those engaging in civil disobedience in a way that seeks to reform, through non-coercive means, the broader political community.

Each of these understandings of the term 'civil' has some bearing on how best to understand civil disobedience. For the purposes of this chapter, I wish to focus on two aspects: the idea of broadening the notion of 'civil' to go beyond membership of a single state, and of contrasting civility with violence. These aspects of civility are directly connected to the definition of civil

disobedience which I defend in this chapter, as well as the types of actions which I discuss in Chapter 4. Recovering a broader understanding of the notion of civility, as going beyond membership of a single nation state, is important for the arguments I present in Chapter 3, when transnational civil disobedience is discussed. Calling for a critical rethinking of the ‘civil’ in civil disobedience, Natasha Basu (2019, p.56) argues for an understanding of the term which goes beyond a narrow focus on citizenship (understood as being an ‘official’ member of a political community). She argues that ‘dominant notions of civility tend to ignore the asymmetrical power relations between those for whom citizenship and civility were developed, and those who have always been excluded’ (2019, p.61). This exclusionary logic needs to be undone in order to arrive at a broader understanding of civility, one which extends the notion of the civil to also include non-citizens. Undoing this exclusionary logic is an important part of coming to what she calls a ‘hermeneutically just’ account of civil disobedience, one which recognises the political agency of those who have historically been marginalised (Basu, 2019, p.62). Basu argues that this broader understanding of the notion of civility allows us to interpret acts like irregular migration, in which non-citizens cross borders without making use of official procedures, as forms of civil disobedience. In a similar way, this broadened understanding of ‘the civil’ allows us to understand cases where non-citizens engage in illegal climate protests as a form of civil disobedience.

In discussing civil disobedience and the climate crisis it is not only the transnational element that requires us to rethink the meaning of civility, but also the particular tactics used by the climate movement. Due to the ineffectiveness of state-led measures to reduce greenhouse gas emissions, some parts of the climate movement have called for more confrontational tactics to be employed. Most influential among the scholars calling for more radical action is Andreas Malm, whose manifesto *How to Blow Up a Pipeline* (2021) has received considerable attention. In the context of calls for more militant action on the part of the climate movement, it is important to think about the relationship between the idea of civility and that of violence. Celikates argues 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’ (2020, p.532). This accords (broadly) with the history and practice of civil disobedience, in which it is often engaged in as a means for reforming and/or broadening the political community. It also explains why there can be

‘conservative, reactionary and even right-wing disobedience... [but] no hard-right, fascist or Neo-Nazi civil disobedience’ (Celikates, 2020, p.532). As Tony Milligan (2013, p.34) points out, civil disobedience’s connection to the notion of civility means that it is not entirely without normative content:

[T]here are some causes, some goals and some claimed entitlements whose promotion cannot plausibly be regarded as civil disobedience because commitment to them automatically places supporters beyond the bounds of civility. It would, for example, be difficult to regard neo-Nazis singing “We Shall Overcome” while peacefully blockading a synagogue as dissidents engaged in civil disobedience. And here it would not matter if they were in all other respects wonderfully cheerful and impeccably polite.

By understanding the notion of ‘civility’ (in part) as committing one to a certain type of relationship with others, it allows for a distinction to be drawn between different groups who wish to claim the mantle of civil disobedience to characterise their actions. For example, there is a difference between the activities of Extinction Rebellion and the hard-right anti-immigrant Identitarian movement. While Extinction Rebellion seeks to expand the scope of political participation and build a more inclusive, democratic and global decision-making process to deal with climate issues, the Identitarian movement draws on notions of racial identity to exclude ‘non-Europeans’ from what they consider to be ‘their’ political community. While there will undoubtedly be edge cases where reasonable interpretations about the civility of a particular movement differ, it is possible in most cases to distinguish between movements that seek to expand democratic participation and have a concern for maintaining civil bonds, and those who aim at the opposite.

Any discussion of civility understandably also raises questions about the relationship between non-violence and civil disobedience. While non-violence has often been described as one of the core elements of civil disobedience, the issue is more complex than it might first appear. As both Celikates (2016b) and N. P. Adams (2018) have argued, there has long existed an approach to civil disobedience which does not presuppose that some forms of violence are incompatible with the notion of civility. It is not my intention to engage with the long and detailed academic literature that deals with how to define the concept of ‘violence’. Following Celikates, Adams,

and Brownlee (2004, p.349), it is sufficient for my purposes to argue that the notion of civility constrains the type of violence used, but that civil disobedience does involve what Celikates calls ‘moments of real confrontation (that will in many instances be seen and categorized as violent)’ (2016b, p.42). Although the relationship between violence and civil disobedience is one of tension, they do not automatically exclude each other.

When violence does not do serious harm to the idea of a shared political project that includes those engaged in civil disobedience and those harmed by the violence, violence and civil disobedience may be compatible. This rules out direct interpersonal violence (though not self-defence), but leaves open the possibility that some form of property destruction (of both private and public property) does not necessarily disqualify an action as civil disobedience. As I will argue in the next section, the way in which the ‘civil’ in civil disobedience is defined can also play an ideological role, potentially serving to delegitimise certain forms of protest, or to frame them as acts of criminal anarchy or armed rebellion. Acts of civil disobedience, because they involve the breaking of laws for a political purpose, are always subject to attempts at resignification by those opposed to the changes. As Sommier, Hayes and Ollitrault (2019, p.125) argue, civil disobedience invites conceptual contestation:

Perhaps the most theoretically determined of all modes of protest action, civil disobedience is never free of the material circumstances in which it develops; rather, it is located in the cultural, relational, and material circumstances of action, in which collective social actors - protest movements, countermovements, public institutions, political and economic elites, media organisations - seek to define the nature of the struggle, reinforce asymmetries of power and legitimacy and exploit the weaknesses of their adversaries.

What is ‘civil’ about civil disobedience is constantly being negotiated by those involved in and opposed to the practice of principled law-breaking. It is not possible to demarcate, in an uncontested way, what separates civil disobedience from other forms of opposition.

Even examples of principled law-breaking which today are considered paradigmatic cases of civil disobedience, such as Martin Luther King Jr.’s campaign in the United States, or Gandhi’s anti-imperialist movement in British-governed India, contained elements that are difficult to reconcile

with ‘folk’ understandings of civil disobedience. These ‘folk’ understandings often see civil disobedience as an effort to reform an existing system, rather than to radically re-make it. Yet both King and Gandhi sought to bring about radical change. As Adam Fairclough (1983, p.120) argues, by 1966 King had ‘categorically rejected the idea of piecemeal reform within the existing socio-economic structure’. His own views on the political and economic changes needed to bring about a more just society (which would have required significant wealth redistribution) go beyond merely reforming aspects the existing system. Similarly, Gandhi did not seek to reform the British Raj, but rather to replace it with a system of self-sufficient villages organised on what might be called ‘anarchist’ principles. What sets civil disobedience apart from other forms of opposition is that it is conditioned by the idea of a shared civil bond and rooted in the desire to convince or persuade, rather than to force.

3.3. Alternatives to a ‘minimal’ conception of civil disobedience

Before proceeding to an extended discussion of the minimal definition which I am in favour of, I will briefly consider alternative ways of approaching the question of how we should define civil disobedience. There are two alternatives that I believe are worth examining. The first is William Scheuerman’s description of civil disobedience as an ‘essentially contested’ term, and the consequences which follow from understanding it as such. The second is based on Candice Delmas’s argument that civil disobedience only describes a severely circumscribed class of political action, and to instead opt for a new term (in her case, ‘uncivil disobedience’). This new term can be used to describe and make judgements about a broader class of political activities which fall outside the narrow definition of civil disobedience. Each of these approaches offers a different way of thinking about definitions in general, and the meaning of civil disobedience in particular. I will argue that both of these approaches lead to confusion and ignore the historical reality which gave rise to the notion of civil disobedience in the first place.

3.3.1 Civil disobedience as an ‘essentially contested’ term

William Scheuerman argues many of the recent debates about civil disobedience are not so much about substantive issues, but rather attempts by opposing sides to outflank each other using exclusionary definitions of civil disobedience. Using competing definitions of civil disobedience, argues Scheuerman, means that theorists simply talk past one another, and enables them to ignore

deeper questions about how and when civil disobedience might be justified. His solution is to understand civil disobedience as an ‘essentially contested’ concept. He takes the idea of essentially contested concepts from W. B. Gallie (1956), who uses it to describe a range of terms about which there are conflicting interpretations. An essentially contested concept is one which has a number of features, the most important being that it is evaluative, internally complex, that opposing reasonable interpretations about the concept can co-exist, and that changing circumstances can lead to a change in the understanding of the contested term, or one or more of its constitutive parts.

Scheuerman argues that civil disobedience is an essentially contested concept given that it is evaluative, internally complex, that rival reasonable interpretations exist, and that the understanding of the term has undergone change in response to historical circumstances. He goes on to argue that ‘battles about how best to make sense of a contestable concept can in fact generate some modest conceptual (and normative) gains and perhaps even something like theoretical progress’ (2020, p.521). On Scheuerman’s view, the battle over essentially contested terms like civil disobedience leads to a refinement in our understanding of how the term should be used, and of the consequences of preferring one definition over another.

It certainly cannot be denied that the meaning of civil disobedience has a contested history, but it is unclear what the benefits are of labelling it as an essentially contested term. To do so might help us to be more sensitive to the way the term has been used in different times and places, but it does not help us to make judgements about the permissibility of using civil disobedience in the present. If we were to accept that the term is simply essentially contested, any disagreements about the normative basis for the reasons for disobedience, or the manner in which disobedience is carried out, could not be adjudicated. This is because those with opposing views could simply appeal to different definitions of civil disobedience, rather than arguments about the reasons for acting disobediently.

There is also reason to be sceptical of Scheuerman’s claim that there can be some sort of progress to a better definition of civil disobedience. What would the measure of such progress be, and who would be in a position to make judgements about it? The broadly Tullian approach allows us to take note of the competing uses of the term. However, instead of viewing changes in how the term

is understood as progress, the Tullian approach presents these changes as part of a continuous re-signification of certain terms, which is in turn part of a political struggle in which competing interests seek to appropriate language to further their objectives. This allows us to better understand what is at stake when, for example, it comes to disagreements about the normative grounds for engaging in civil disobedience.

3.3.2 Civil vs uncivil disobedience

A different way to approach the issue of how to define contested terms (like civil disobedience), is simply to create new terms which share some (but not all) of the features of the contested term, and then start a new discussion about how and under which conditions this newly created class of act could be justified. This is the approach taken by Candice Delmas (2018). Instead of arguing about the exact definition of civil disobedience and how acts of civil disobedience might be justified, she proposes that new classes of political action be created. These new classes of political action share some, but not all, of the features of the Rawlsian understanding of civil disobedience. She concedes the claim made by proponents of the narrow view of civil disobedience that it already has a clear definition that allows unambiguous judgements to be made about it (in most cases).

To proponents of the narrow view of civil disobedience, it is of little consequence that their definition does not accord with the history of how the term has been used, or that many people using the term today do so in ways which do not conform with their definition. People who (in their view) use the term incorrectly are accused of trying to shoulder the mantle of civil disobedience for political gain. Proponents of a narrow definition of civil disobedience argue that acts must include the essential components of the narrow definition, like fidelity to the law, in order to qualify as civil disobedience (Scheuerman, 2015; Morano, 1971). The narrow definition of civil disobedience has many adherents, especially in the United States, where certain forms of principled law-breaking have gained a type of acceptance and a degree of understanding in the court system, including cases that relate to broader environmental concerns (Fallan, 2018).

In order to address the arguments of those in favour of a narrow definition of civil disobedience, Delmas (2018, pp.21-22) simply admits that civil disobedience might only describe a very limited class of action, but then argues that much remains to be said about acts of principled law-breaking

which do not meet this definition. She simply avoids the question of what civil disobedience is by introducing a new term which covers acts of law-breaking which are neither mere criminality nor revolutionary in their aims, but that do not fit within the parameters of the narrow definition. Delmas advocates for a new typology of what she calls ‘principled disobedience’. Acts of principled disobedience include what she calls civil disobedience, uncivil disobedience, and other forms of law-breaking such as armed, violent opposition.

The advantage of this approach is that it sidesteps the debate about how the term ‘civil disobedience’ should be understood and simply creates a new conceptual category. Creating a new term allows for the debate about the definition of civil disobedience to be put to one side, and for discussions about the justifications and legitimacy of actions that do not fit within the narrow definition to unfold without getting caught up in disagreements about the meaning of civil disobedience. In the interests of simplicity, it would be preferable to limit the creation of new terms, but given the way the debate has evolved and the prominent position occupied by the narrow definition, there are good reasons for employing a new term to describe a set of actions which exceed the parameters of the Rawlsian definition, but that would not qualify as being revolutionary or insurrectionist.

Following the logic of creating new terms where there is some disagreement about what a given definition refers to would allow for the creation of a host of new conceptual categories. For example, the term ‘digital disobedience’ could be used to describe principled, but illegal acts that occur in the digital realm. Daniel Markovits (2005) and Bernard Harcourt (2012) employ this strategy to argue for ‘democratic disobedience’ and ‘political disobedience’ respectively. Similarly, Claire Moulin-Doos (2011) argues for the virtues of using ‘civic’ disobedience to describe a larger set of disobedient actions which do not conform to the strictures of the Rawlsian definition. Another example might be to call principled acts of law-breaking which aim at promoting climate justice ‘climate disobedience’, and to place them in a separate category to civil disobedience. Each of these separate categories would have their own rules for use and be subject to separate discussions about their legitimacy and justification.

This strategy of creating conceptual ‘silos’ and differentiating between them may be appealing from an analytic perspective, but it harbours dangers. Most worrisome is that the meaning of the term ‘civil disobedience’ in academic parlance may become totally divorced from the way the term is commonly used. Jennifer Welchman warns against this possibility and argues that more attention needs to be paid to the way in which the term is actually employed by those claiming to be engaging in civil disobedience (as well as those responding to it), rather than being overly constrained by the way the term has evolved in the liberal philosophical tradition (2001, p.99):

The gap between the [narrow, liberal] definition and social practice [of civil disobedience] is substantial. Since the point of creating and recognizing a social category like “civil disobedience” is presumably pragmatic—we want a conceptual instrument which will allow us to regularly and reliably distinguish a form of social behavior for legal, political, or moral purposes — continued reliance on a category so at odds with social practice seems unwarranted.

Welchman’s point is well-supported by contemporary evidence in which many different groups have used the term ‘civil disobedience’ to describe their actions. This is not to say that a group claiming to be engaged in civil disobedience should automatically be accepted as indeed being deserving of the term. There are strategic reasons why groups may want to present their actions as being a form of civil disobedience, given the positive normative associations that the term evokes. Therefore, it does not make sense to rely exclusively on the self-description of those engaged in acts of law-breaking to determine whether they are actually engaging in civil disobedience. For example, in the United States, environmentally-orientated activism (often by groups claiming to be engaged in civil disobedience) has been branded as one of the biggest domestic ‘terrorism’ threats by the FBI (Vanderheiden, 2005). The fact that these groups label their activities as ‘civil disobedience’ while the FBI claims they are terrorist activities shows how much is at stake when it comes to understanding the term ‘civil disobedience’. However, it does make sense to draw, to some extent, on the way the term is actually used by various groups. What this shows is that meaning is always being negotiated, and that the normative positions and interests of different groups need to be interrogated and brought to light in order to have a meaningful discussion about the appropriateness of engaging in a particular form of political contestation.

3.4 Defending the minimal definition of civil disobedience

A close examination of the actual practices, objectives, and rhetoric of many of the so-called ‘paradigm’ cases of civil disobedience makes it clear that the term has rarely (if ever) been understood in the sense used by the canonical theorists of the liberal tradition, like Rawls and Bedau. The historical reality is simply that many of the so-called ‘paradigm cases’¹⁸ of civil disobedience do not meet the requirements of the standard liberal account of civil disobedience. In fact, the leaders of several movements which are closely associated with civil disobedience have understood the term far more broadly than is often thought. Writing about Martin Luther King Jr., Erin Pineda (2015, p.21) argues that his advocacy of civil disobedience was a strategic choice, rather than merely a moral or political commitment. She explains in detail how many of the practices of the Civil Rights Movement had more than one justification. The ‘jail, no bail’ strategy, for instance, was in part a tactical choice that aimed to overwhelm the law-enforcement system of the South and bring greater attention to their cause, and was not adopted simply because of a commitment to the idea of ‘fidelity’ to law. Furthermore, she argues that King’s acceptance of arrest and punishment were in part motivated by his desire to undercut the arguments of law-and-order conservatives who wanted to portray the Civil Rights Movement as a dangerous, insurrectionist threat to the country, and not by a desire to display fidelity to the law in the sense that Rawls uses the term.

In other parts of the world, the term has also been used in a broader sense than is often assumed. David Lyons (1998, pp.41-42) has argued convincingly that much of the writing about civil disobedience is premised on the notion that the practitioners of civil disobedience accept the prevailing society as being ‘nearly’ just, and that their actions are aimed at repairing the system, rather than overthrowing it. This premise then forms the basis from which certain assumptions are made about what can legitimately be counted as civil disobedience. Chief among these is the notion of fidelity to law, which requires that those engaging in civil disobedience show their commitment to the system of law by not evading arrest and submitting to punishment. Gandhi’s resistance movements in South Africa and India are often cited as paradigm cases of civil

¹⁸ Kimberly Brownlee (2004) uses the idea of a ‘paradigm case’ of civil disobedience to try and avoid some of the methodological issues which stem from using a ‘definitional approach’. It is not possible to discuss this argument in detail here, but as will be argued in the following sections, it is difficult to see how one may even determine what counts as a paradigmatic example of civil disobedience.

disobedience. Gandhi advocated for non-violent resistance and for accepting arrest and punishment by the authorities. However, these commitments were not based on an underlying commitment to the rule of law. In fact, Gandhi argued that Indians had both a right and a duty to disobey the unjust British regime. His use of non-violent tactics and of inviting arrest were strategic decisions which seemed to offer the best chance for opposing the system and mobilising further support against it, rather than a respect for the law as such. As Livingston (2018, p.513) argues, Gandhi's theory of civil disobedience placed what he calls 'fidelity to truth' above the liberal requirement of fidelity to the law. This meant that his commitment to civil disobedience was significantly different to the narrow understanding which emerged in the United States during the 1960s.

A historically-informed approach can be usefully applied to the question of why the definition of civil disobedience in academic and legal discourse in the United States has assumed such a narrow form. One may wonder, given the fact that two of the paradigmatic cases of civil disobedience (the movements associated with Gandhi and King) do not meet its requirements, why the narrow conception became so influential at all. Bernard Harcourt argues that the emphasis on a particular understanding of civility (e.g. the idea that protesters must be non-violent and accept punishment) can be explained, in part, by the desire of those in positions of political authority to exercise control over dissent. Harcourt's discussion of civility and incivility explains the ideological function that a particular definition of civil disobedience can have (2012, p.348):

The faculty to define certain speech as uncivil, to castigate a speaker, to call for, urge, or demand civil discourse - and to get away with it - is intimately connected to one's place in the political realm. It is also, unquestionably, a political stratagem... Calling out incivilities and urging greater civility in political discourse are arrows in the quiver of the political arts. Although they are presented as neutral, they are not... Often, they serve the interests of the more dominant or mainstream political voices.

Harcourt's analysis of the political tactics that are at play when appealing to the notion of civility make it clear why there is so much at stake in the debate surrounding the definition of civil disobedience. A narrow definition of civil disobedience greatly reduces the scope for effective

opposition to unjust institutions and policies. By applying rigid standards of what constitutes civil disobedience, those who stand to gain from the status quo can de-legitimise the movements which challenge them. This attempt at political de-legitimation is particularly evident in the responses to the Black Lives Matter movement in the United States, as well as the response to protests against fracking in the United Kingdom.¹⁹ In the case of Black Lives Matter, conservative pundits have worked to create the idea that it would be wrong to draw analogies between the current movement and the Civil Rights Movement, on the basis of the supposed incivility of the participants of Black Lives Matter gatherings.²⁰

What the examples of Gandhi and King show, is that even the so-called ‘paradigmatic’ cases of civil disobedience were based on a far broader and less demanding notion of civil disobedience than has held sway in the academic world since the 1960s. It seems appropriate that, at the very least, a definition of civil disobedience should be conceptually capacious enough to accommodate what are commonly accepted as paradigmatic cases of civil disobedience. We need to be more sensitive to the way the term has been used by practitioners in the past, or run the risk of creating a conceptual schema that is so far divorced from historical reality that communication between theorists and those engaging in principled law-breaking becomes impossible.

There are, however, certain dangers in relying on the self-understanding of those engaging in what they describe as ‘civil disobedience’. It may be argued that the self-understanding of those engaged in an act of law-breaking is of no consequence in the legal realm. The law does not recognise the category of civil disobedience and there can therefore be no legal defence which appeals to it. In response, it could be argued that the self-understanding of those who have broken the law is of utmost importance in making decisions about the possible sanctions that may be applied. In many cases it is intent (i.e., the self-understanding of the lawbreaker) which is the key factor in determining which sanctions are to be applied. Of course, it is important to note that there is a difference between a theorist trying to make sense of a particular form of political action by those engaging in it, and a judge attempting to interpret these actions. The judge is certainly

¹⁹ For example, note the extremely harsh sentences handed down to protesters that had non-violently opposed the expansion of fracking (Gayle et al., 2018). These were later overturned on appeal.

²⁰ Commentators on the conservative Fox News Channel have (amongst other things) called for Black Lives Matter to be classified as a hate group (Blidner, 2015).

less interested in the self-understanding of the accused; what matters is whether, in light of the evidence, an intention can be ascribed to the accused. It may even be that the self-understanding of the accused has an adverse influence on their case (see for example *United States of America v. Tim DeChristopher*, 2012). Furthermore, self-understanding may be contested, even by members of the same group (O'Sullivan et al., 2017), or it could be that a certain self-understanding only develops after the fact.

It could also be argued that assigning a role to self-understanding when trying to identify acts of civil disobedience is of no consequence to academic debates about the meaning of the term. If a term already has an established meaning in academic discourse, then it simply does not matter if used 'incorrectly' by those who believe they are engaging with it. However, the self-understanding of those engaged in principled law-breaking is at least of equal importance to those in the academic sphere trying to make sense of civil disobedience. As Livingston argues, theory and practice are more closely linked than many in academia would like to admit (2020, p.542):

Activist practices and scholarly discourse do not occupy two parallel universes, one experiential and the other theoretical: they are, rather, mutually entangled in a mediated process of co-constitution, for better or worse.

The meaning of civil disobedience is thus shaped from above and below. Given the historically-informed approach which I have advocated for, it makes sense that we should take seriously the self-understanding of those claiming to be engaging in civil disobedience. This is not to say that we should uncritically accept every claim that protestors make about being engaged in civil disobedience. There needs to be a constant (critical) dialogue between 'the streets' and academia. This interplay, argues Livingston, 'promises protection against the dangerous seductions of moralism, and the slope that leads from the pursuit of ideal theory to the codification of ideology' (2020, p.542). The benefit of bringing political theory and activist practice together more directly is both pragmatic and enriching of theory. As I argued earlier, following Welchman (2001), it makes practical sense to have conceptual categories for different types of political action. This allows us to make judgements that are connected to popular understandings of those actions. A too-narrow understanding of civil disobedience would mean that insights developed by political

theorists would have virtually no bearing on the contemporary activities of those claiming to be engaging in civil disobedience.

At the same time, understanding civil disobedience from ‘above and below’ allows scholars to identify the ways in which concepts have become contested or appropriated by different groups in service of particular ideological ends. For example, as I have tried to show in the previous sections, an attempt by conservatives in the United States to argue for an overly-narrow understanding of civil disobedience can be understood as a means of delegitimising contemporary protest movements. By paying attention to voices from beyond academia, we have a better-informed understanding of both the practice of civil disobedience and how it is being utilised in new political struggles. Having a clearer idea of how the concept of civil disobedience is put to work in political struggles puts theorists in a better position to think through normative questions related to the use of illegal protest, such as the conditions under which it could be justified and what the particular forms are that it could legitimately take.

4. Using the minimal definition

4.1 Evaluating disobedience

Now that I have given arguments for the definition of civil disobedience that I intend to use, I want to return to this definition and make some very brief remarks about the implications of using it. First, let me restate the definition:

Civil disobedience is a constrained, collective act of intentional law-breaking for a principled political purpose that aims at changing specific laws, policies, or institutions.

The most important implication, for the purposes of my research, is that it allows for acts of principled law-breaking which aim at climate justice to be dealt with under the rubric of civil disobedience. This means that the kinds of arguments that I will be advancing about the moral permissibility of using principled law-breaking to advance climate justice objectives are understood to apply to a particular (if rather broad) category of political action, which can be relatively easily differentiated from other types of principled law-breaking (e.g., insurrection, terrorism) — although there will of course be difficult-to-decide edge cases. The ability to

identify a particular form of political action allows for a more detailed investigation of those actions. As Milligan argues, it is necessary to have a clearly articulated understanding of civil disobedience to make further judgements about specific instances of civil disobedience (2013, p.34):

[A] plausible account of civil disobedience should allow that when some relevant threshold of civility has been reached then the special standing of an instance of protest or dissent ought to be recognized by those who are politically neutral and by those political opponents who are capable of reasonable levels of honesty and candour.

Having this relatively clearly differentiated category makes it possible to work out a general theory about the types of justification which can legitimately underpin acts of civil disobedience aimed at climate justice.

Another advantage is that this definition allows for questions about whether there are good grounds for a particular instance of civil disobedience, separately from the question of whether a particular act ‘counts’ as civil disobedience. An important implication that follows from this is that by using this definition, it becomes possible to speak about civil disobedience for which there may be defensible grounds, and civil disobedience that cannot be justified. This might seem counter-intuitive given the strong positive feelings that are often associated with the term (in the sense that those engaging in civil disobedience are acting on the side of justice), but as I mentioned in the previous section, it makes sense that we consider the possibility that there may be unjustified acts of principled law-breaking²¹ that could still qualify as civil disobedience. This also allows us to differentiate between justified and unjustified means that could be used to carry out civil disobedience. This is an issue to which I will return in the following chapters.

4.2 Domestic, transnational and global disobedience

Another advantage of making use of a minimal definition is that it allows us to speak of transnational civil disobedience. Drawing on the work of Luis Cabrera (2021), I will argue that there are different ‘levels’ at which civil disobedience can take place. These ‘levels’ are

²¹ Even Rawls admits the possibility of illegitimate disobedience (1999, p.328). For example, he claims that when too many minority groups engage in civil disobedience at the same time, it can have a destabilising effect. The advantage of the approach to understanding civil disobedience which I have argued for is that the question of whether engaging in civil disobedience is justified or not is determined by the reason for which it is employed, rather than the manner in which it takes place, or how many other groups might be using similar tactics for their own ends.

determined both by the location of the disobedience and the set of governance relations at which it is aimed. Traditionally, civil disobedience has been understood in the context of the nation state, in which a group that feels itself disenfranchised engages in civil disobedience to appeal to their co-citizens. It is this ‘level’ which has been the subject of concern for most liberal theorists of civil disobedience. However, I will argue that it also makes sense to speak of civil disobedience taking place at the transnational level.

The concept of transnational civil disobedience is proposed by Cabrera in his discussion of civil disobedience in a globalised world. He uses term ‘transnational’ civil disobedience to describe the ‘principled violation of a state’s law or policy by individuals who are not citizens or authorised permanent residents of that state’ (2021, p.328), or by citizens of a state who violate the laws of their state on behalf of outsiders. An example of this type of civil disobedience might be the work of refugee activists working to help asylum seekers. A good example might be the work of Cédric Herrou, a French farmer who helped illegal migrants cross from Italy to France. He was sentenced to four months in prison (later overturned) for his actions. Transnational civil disobedience is defined by claims on the part of those acting disobediently that the policies and/or laws of the state are in opposition to the moral principles which underpin the global system. In engaging in transnational disobedience, those participating in it can be thought of as acting as ‘global citizens’. Cabrera (2010, p.73) describes the practice of global citizenship as one where individuals:

- reach out across international boundaries, or internal boundaries of differential citizenship;
- act in order to help secure those fundamental rights that would be better protected if there were a just system of global institutions in place; and
- work to help put such a system in place.

Based on the idea of acting as global citizens, Cabrera goes on to make a distinction between transnational civil disobedience and global civil disobedience. In his discussion, he differentiates transnational civil disobedience from global disobedience by the latter’s emphasis on the misalignment between the ‘structural principles of the global system itself’ and ‘its foundational moral principles’ (2021, p.322). In other words, in cases of what he calls ‘global’ civil disobedience, protesters take aim not at the specific laws or policies of a state, but rather at the

larger structural forces which represent the opposition between the foundational global moral norms (which ought to govern global relations) and existing relations (which do not meet these norms). With global civil disobedience, the appeal is aimed at correcting the mismatch between global moral norms (embodied in treaty documents like United Nations charters) and the actions by states and other entities who violate these norms. In cases of transnational civil disobedience, acts of disobedience are aimed only at a single state which fails to live up to its obligations in terms of the global moral norms to which it is purportedly committed.

The concepts of ‘transnational’ and ‘global’ civil disobedience may be analytically useful in making sense of certain types of illegal protest action, but for the purposes of my dissertation I will only distinguish between domestic and transnational civil disobedience. Domestic disobedience refers to civil disobedience by residents of a state protesting against policies of that state. Transnational disobedience involves violations of a state’s laws by non-residents, or acts which seek to cause transnational disruption. In reality, many protests related to climate justice involve both domestic and transnational elements at the same time. For example, a blockade of the ministry of finance may simultaneously be about objecting to subsidies to fossil fuel interests at a domestic level, and opposing energy treaties which protect the interests of the fossil fuel industry at a global level. Similarly, the occupation of a coal-fired power plant might be about local air pollution and national carbon dioxide reduction targets, but also raising awareness about the threat to human rights in low-lying island states. In practice these different concerns often appear together. However, for the purposes of analytic clarity I will deal with domestic issues separately from transnational issues. The reason for this is to attempt to clarify the normative issues raised by civil disobedience that makes different kinds of appeals. In the following chapter, I will discuss the moral permissibility of climate justice civil disobedience at a domestic level; in Chapter 3, I deal with the question at a transnational level.

5. Conclusion

My aim in this chapter has been to show how we might come to a working definition of civil disobedience that is historically informed and sensitive to both academic theorising and activist practice. By investigating the development of the term and the way in which it has been used in different contexts by different actors, I have argued for a minimal definition which focuses on

the practice of disobedience and the underlying ideal of civility which animates it. The definition is not given from ‘above’ in the sense that it forms part of a larger, independently argued-for theory of justice or political obligation. It is rooted in practice, conscious of historical precedent, and accepts that it will not always be possible to draw clear boundaries between civil disobedience and other means of opposition. Despite these difficulties, the proposed definition and the accompanying discussion of civility provide the means to pick out a form of political action in a relatively clear way. I have also tried to show why a minimal definition is preferable to creating new conceptual categories, or accepting that it is an essentially contested concept.

Using the minimal definition, I described three instances of what I take to be climate justice civil disobedience – that is, civil disobedience which aims at climate justice objectives. These are examples of the kinds of political action I wish to investigate further. I also discussed a typology of civil disobedience in which distinctions between domestic and transnational disobedience can be drawn. These distinctions facilitate the discussion of various examples of climate justice disobedience in the following chapters. By making a distinction between domestic and transnational civil disobedience, it is possible to ask questions about the normative basis upon which different kinds of claims are being made when protestors engage in climate justice civil disobedience.

The minimal definition of civil disobedience argued for in this chapter leaves open the question of what the proper means of expressing civil disobedience are, and under which conditions it would be legitimate to employ it. While the commitment to civility allows for distinctions to be made between civil disobedience and other forms of principled resistance, a commitment to civility itself does not allow us to answer questions about whether a particular instance of civil disobedience is justified in terms of the aims being pursued, or the tactics being employed. These questions, together with the question of who can legitimately take part in civil disobedience, will be dealt with in the following chapters.

Chapter 2: Democracy, disobedience and climate change

1. Introduction

In the previous chapter I argued for a ‘minimal’ definition of civil disobedience. I showed that this definition depends less on normative questions about what civil disobedience is used *for*, and more on the *form* that the disobedience takes. I pointed out that the definition is not totally divorced from normative questions, but that it does allow for the specific normative issues which motivate a particular act of civil disobedience to be discussed separately from questions about whether the motivation itself may disqualify a particular act as civil disobedience. In this chapter, I discuss different ways of arguing for the moral permissibility of using climate justice civil disobedience in (more-or-less) democratic states. The focus in this chapter is on climate justice civil disobedience that takes place and calls for reforms at the domestic level. Many of the examples I discuss are concerned not only with the local effects of climate change, but also its global impact. However, my aim in this chapter is to discuss what grounds residents of democratic states may appeal to when engaging in civil disobedience, so as to challenge the insufficient measures taken by their own states in addressing the climate crisis.

I begin by discussing the tension between civil disobedience and democracy, and the way in which climate justice concerns complicate attempts to justify civil disobedience. Next, I present three arguments for the moral permissibility of using civil disobedience to address the climate crisis in the domestic context. The first argument appeals to the ideals of a deliberative conception of democracy. I argue that in many states, the deliberative process has been unduly influenced by fossil fuel interests and that civil disobedience may be a morally permissible way to restore the integrity of collective decision-making procedures. The second argument is based on the notion that the prospect of suffering irreversible harms provides citizens with the grounds to use disruptive, illegal tactics to contest the governance relationships that impose these harms. Finally, I argue that even a minimal commitment to intergenerational justice offers a compelling reason for using civil disobedience in order to safeguard democratic institutions for future generations.

I aim to show that each of these arguments for the moral permissibility of climate justice disobedience is independently successful, but that taken together they form a compelling case for

a broad coalition of groups to use civil disobedience to oppose climate inaction at a domestic level. All of these arguments support the position that climate justice civil disobedience can be defended on grounds that already enjoy broad support in democratic societies. I conclude by arguing that climate justice civil disobedience is compatible with democracy and may in fact be essential to restoring the integrity of democratic decision-making processes.

2. Democracy, disobedience and climate justice

Philosophical discussions about how to reconcile the deeply-held beliefs of individuals or groups with the policies of a democratic state date back to the trial of Socrates in ancient Athens. In his discussion with his friend Crito, Socrates argues that he must hold firm in his beliefs, yet also accept the punishment of the state for holding those beliefs. The tension which arises when individuals or groups hold firm and deep beliefs that cannot be reconciled with decisions made by the ruling majority, has long been a challenge for democratic theory. One of the ways in which those holding dissenting views and who believe that no legal recourse is available to them have responded, is to turn to civil disobedience to express their opposition. Those engaging in civil disobedience have the desperate hope that their law-breaking will get their fellow citizens to reconsider the policy or law which the disobedients oppose. As I argued in the previous chapter, civil disobedience is primarily communicative; its aim is to convince others, not compel them. This is not to say that acts of civil disobedience cannot also include some elements of ‘cost-levying’. Arguably, this is also a fundamental part of civil disobedience’s effectiveness: it forces the majority to pay attention to a particular issue because some kind of cost is being imposed upon them (e.g. blocking traffic).

In order to justify their actions, those engaging in civil disobedience must provide reasons as to why their prima facie obligation to obey the law is overridden. Proponents of civil disobedience in democratic (or semi-democratic) states have often tried to explain their actions as part of the process of justifying them and amplifying their message. The most famous of these is perhaps Thoreau’s essay ‘Resistance to Civil Government’, in which he justifies his refusal to pay his taxes as a form of opposition to slavery and the Mexican-American War. In democratic states the burden is on those engaging in civil disobedience to show how their refusal to abide by democratically enacted law can be justified. At this stage I do not wish to take a strong position on the nature of

political obligation in democratic states. It is obviously not the case that the mere fact that a state is democratic could be the basis for an infeasible claim of obedience on the part of its citizens. However, the fact that a state is democratic raises challenges for those wishing to engage in civil disobedience. Those wishing to use civil disobedience must show that they have good reason to oppose majority rule, to consider themselves (partially) exempt from democratic law-making procedures which they may take part in. They must also show that the lawful channels for opposing legislation or government policy can be bypassed.

Discussions about the justification for engaging in climate civil disobedience have become an important part of the climate movement's attempt to influence public policy, especially in several recent court cases related to climate protests. Unsurprisingly, many in the climate movement have looked to the history of civil disobedience to formulate arguments that justify their use of civil disobedience. One historical episode that is often drawn upon is the struggle for civil rights in the United States. For example, in his famous letter from Birmingham Jail, King justifies the use of civil disobedience as a means of bringing the necessary attention to an issue which has for too long been ignored by the powerful (2009 [1963], p.182):

You may well ask: "Why direct action? Why sit ins, marches and so forth? Isn't negotiation a better path?" You are quite right in calling for negotiation. Indeed, this is the very purpose of direct action. Nonviolent 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 to dramatize the issue that it can no longer be ignored. My citing the creation of tension as part of the work of the nonviolent resister may sound rather shocking. But I must confess that I am not afraid of the word "tension." I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension which is necessary for growth.

Parts of the climate justice movement make similar claims to justify the use of civil disobedience to bring about the political conditions that would allow for the climate crisis to be adequately addressed. For example, Roger Hallam (one of the founders of Extinction Rebellion) argues in his manifesto, *Common Sense for the 21st Century*, that civil disobedience is the only way (short of revolution) to bring the necessary attention to environmental concerns (2020, p.38):

[M]aterial disruption needs to be designed to provoke a transformational national conversation and debate on what is going on with the climate emergency and ecological crisis. This animation of the public sphere is created through a national moral drama driven by the enactment of transgressive sacrificial and symbolic action on a large scale. Action which leads to arrest and prison.

There are clear similarities between the types of argument used by the climate justice movement and those of previous struggles like the Civil Rights Movement. As Scheuerman (2021, p.4) points out, there is great value in ‘tapping a rich tradition that includes universally admired historical figures and familiar elements’ and that in doing so ‘the movement speaks to those who otherwise might shy away from getting involved’. However, he goes on to caution the climate movement about dangers of an oversimplified understanding of civil disobedience, and what this might mean for the broader climate movement.

Scheuerman raises two main concerns about the way elements of the climate movement have engaged with the history of civil disobedience. The first relates to the expectations of those engaging in civil disobedience. Drawing on a number of selected historical examples and some recent work in political science investigating the effectiveness of non-violent social movements, it has become somewhat of an article of faith among certain activists that by mobilising a relatively small share of the population (as low as 3.5%), the climate movement can bring about the creation of a new political order that can address the crisis.²² This naïve, technocratic view of political action by parts of the climate movement ignores the complex realities of power and politics that determine how social change happens. Scheuerman’s worry is that ‘exaggerated expectations will disappoint and sap activists’ political energies’ (2020, p.3). The misreading of the history of civil disobedience campaigns may lead climate justice activists to adopt a narrow focus on tactics, rather than on broader strategic view which takes into account the larger political and economic picture that makes addressing climate change so difficult.

²² Many activists refer to the work of Erica Chenoweth and Maria Stephan (2011; 2019) to argue that only a small percentage of the population needs to engage in non-violent action to bring about rapid and widespread political change. For a critical review of their position, see Anisin (2020).

Scheuerman's other worry relates to groups that are less interested in non-violent civil disobedience, and are prepared to use more disruptive tactics of blockades or sabotage to achieve their aims. These groups, he argues, risk 'inviting avant-gardism and authoritarianism' (2020, p.3) and may lead to political setbacks for the larger climate movement. Looking back to the history of the environmental movement in the United States in the 1980s, he points out that radical action by groups like EarthFirst!, the Earth Liberation Front, and others was not well-received by the broader public. Instead, it resulted in a political backlash that tainted the larger environmental movement. Some activist-scholars, like Andreas Malm, have argued that more militant campaigns can be politically useful to moderate movements because of the radical flank effect which they produce. The idea is that the existence of a more radical group may make a (comparatively) moderate group a more attractive negotiating partner for state authorities.

The example often used to illustrate this phenomenon is the difference between the groups affiliated with the leadership of Martin Luther King Jr., and the Black Panthers under the leadership of the more militant Malcom X. The argument is that political leaders like President Kennedy and President Johnson found dealing with King to be a more attractive political prospect, given that the alternative was dealing with Malcom X. In fact, King used the prospect of a more militant form of resistance under Malcom X's leadership as part of his negotiating strategy, going so far as to claim that if 'tangible gains are not made soon all across the country, we must honestly face the prospect that some Negroes might be tempted to accept some oblique path [such] as that Malcolm X proposes' (King, cited in Baldwin, 1989, p.103). There are, of course, significant differences between the movement for racial justice in the United States, and the climate justice movement in contemporary democratic states. Nonetheless, the danger that a militant wing of the climate movement may undermine the moral legitimacy of the movement as a whole and encourage state repression is one that needs to be taken seriously. There is limited (and contradictory) empirical evidence for the effectiveness of radical flanks (Tompkins, 2005), and any arguments making claims about the effect it may have on the climate movement as a whole need to be carefully interrogated.

Scheuerman is right to worry about these issues and is correct in pointing out that, however sympathetic scholars might be to the concerns raised by social movements, they have an

‘obligation to investigate the movements and identify possible problems’ (2020, p.2). This chapter is, in part, an attempt to fulfil this obligation. My aim is to investigate the extent to which civil disobedience which aims at climate justice can be justified at what I have called the ‘domestic’ level. This means looking at the ways in which climate-related disobedience can be justified by analysing older arguments about the moral permissibility of using civil disobedience and the ways in which they could be adapted to address the climate crisis, and by formulating new arguments that are specifically connected to the crisis.

3. Deliberative democracy and the fossil fuel industry

3.1 Civil disobedience and democracy

There are several ways of making sense of the relationship between civil disobedience and democracy. An approach rooted in liberal theory emphasises the importance of fundamental individual rights and their relevance for all citizens. According to Rawls, civil disobedience is only justified when it responds to violations of his first principle of justice (the principle of liberty), which is meant to guarantee the equal enjoyment of the basic liberties. Republican approaches to civil disobedience centre on the importance of ‘collective self-determinations and the effective participation of citizens in decision-making procedures’ (Hayes & Ollitrault, 2019, p.133). Whereas liberal accounts of civil disobedience look to rights violations as grounds for civil disobedience, republican accounts look to procedural issues. For example, Markovits (2005, p.1902) argues that his idea of ‘democratic’ disobedience ‘aims to render plausible the counterintuitive claim that disobeying the laws of a democratic state can serve democracy’. Civil disobedience can do this, he argues, because political legitimacy depends on active political engagement by citizens. Given that the mechanisms for citizen engagement required for democratic sovereignty are ‘necessarily imperfect’ (p.1903) and will ‘misfire’, civil disobedience is a necessary part of the political process that can play an important remedial role.

The idea of radical democratic account of disobedience also recognises the importance of giving ‘new life’ to democratic processes, but differs from the focus of the liberal account and Markovits’s account by taking a broader view of what the appropriate ‘site’ of disobedience might be and who can participate in it. As Celikates (2022, p.139) argues:

[T]he radical democratic model... is guided by the aim of a more intensive and/or extensive form of democratic self-rule, that is, a democratisation of democracy that makes self-determination more effective and extends it into more areas of social life.

Understood in this way, civil disobedience can play a vital generative role that serves as a catalyst for bringing new political possibilities into existence. In this role, civil disobedience does not merely seek to remedy violations of rights or procedures guaranteed by the existing political order, but also to serve a more transformative role, in which the ‘vertical form of state authority or (constituted) power is confronted with the horizontal (constituting) power of the association of citizens’ (Celikates, 2023, p.144).

The democratic and radical approaches articulated by Markovits and Celikates both point to the role of civil disobedience in challenging the shortcomings of ill-functioning or sclerotic democratic procedures. In different ways, they argue that the use of civil disobedience is a (sometimes) necessary corrective for the shortcomings of democratic governance, and point to the importance of broad public participation in decision-making procedures. In the following section I build on these insights, but look specifically at the role of deliberation in democratic decision-making processes. I will argue that a deliberative account of democracy offers particularly compelling reasons for the justification of climate justice civil disobedience, given the history of climate disinformation.

3.2 Civil disobedience and deliberative democracy

William Smith, writing about the relationship between democracy and deliberation, argues that when public deliberation fails to meet a certain normative standard, a deliberative conception of democracy entails a set of justificatory reasons for engaging in civil disobedience. Civil disobedience may be justified, he argues, when one or more of the key features of deliberative democracy are violated. These features include the following (2004, p.356-360):

- Public deliberation should include all members of the relevant political community
- Citizens must publicly deliberate with one another on the basis of their sincere and reasonable beliefs to decide law and policy

- Participants should seek to incorporate and assess as much relevant information and data as possible within the ongoing process of public deliberation

Civil disobedience as a response to violations of these ideals may be morally permissible, argues Smith, even in cases where there is no active attempt by powerful forces to disrupt the proper functioning of the deliberative process. It is enough for those wishing to use civil disobedience to show that ‘actual deliberation has proceeded with insufficient or no information over a particular issue’ (2004, p.364). Using the example of the United States, I will argue that in deciding how to deal with climate change, the proper functioning of democratic deliberation has fallen short of the necessary standard in two different ways. First, I will argue that powerful fossil fuel interests have actively distorted the deliberative process. They do this by engaging in political lobbying which seeks to directly influence political decision-makers. The other way the deliberative process is distorted is because of actions by fossil fuel firms to actively repress and undermine scientific findings. There are therefore two ways in which the deliberative process has been undermined: (i) the political arena where deliberation about climate change takes place has been unduly influenced by fossil fuel interests; and, (ii) information crucial for a properly informed deliberative process about how to respond to climate change has not been made available.

Although there are many ways in which corporate interests have shaped public policy in detrimental ways, the activities of the fossil fuel industry are amongst the most notable, both because of the reach they have due to their funding and types of harms the industry imposes. The fossil fuel lobby is one of the most well-funded groups in Washington D. C. Between 2007 and 2017, fossil fuel companies spent more than \$1 billion supporting candidates who endorse their views, whether those candidates are Republican or Democrat. Open Secrets, an NGO which tracks lobbying efforts in the United States, found that there was not one environmental group ranked among the 20 biggest lobbying groups in Washington D. C. Of the 20 issues targeted most by lobbyists, the only environmental issue to make the list is clean air and water, and that is only listed twentieth (Open Secrets, 2022). Surveys have shown that a majority of citizens support initiatives that would significantly alter the mix of energy resources, moving away from hydrocarbons and toward cleaner and more sustainable sources, with even those who do not believe in the existence of anthropogenic climate change supporting these measures (Funk &

Kennedy, 2017). Time and again the fossil fuel lobby has used its influence to prevent this from occurring.

There can be no doubt that the fossil fuel industry has procured influence in Congress that is exercised on their behalf against the general interest of the majority of Americans. In fact, the fossil fuel industry in the United States received subsidies from the state which totalled more than \$20 billion in 2017 alone (Redman & Trout, 2018). The pernicious influence of fossil fuel companies is not restricted to the United States. Research by Aviel Verbruggen, an energy systems scientist, shows that over the last five decades the oil and gas industry has generated profits of \$2.8 billion *per day* (Carrington, 2022). With sums this large at stake it should come as no surprise that oil and gas firms have exercised undue influence over the political system, and have tried to hobble their opponents in the environmental movement. There is compelling evidence that large fossil fuel firms have used illegal tactics to target their opponents, including stealing the data of environmental campaigners by having their digital accounts hacked (Mathews, 2023).

Not only have fossil fuel interests intervened in the deliberative process that has occurred, they have also actively suppressed research on the predicted effects of climate change that would have been a crucial consideration for those engaged in the deliberative process. It has been established that fossil fuel firms are well aware of the consequences of the continued use of fossil fuels due to research they have conducted themselves, starting in the 1970s and 1980s. In fact, a recent review of the global warming research conducted by ExxonMobil's own scientists from as long ago as 1977 shows that they were remarkably accurate in predicting temperature increases around the world. Instead of communicating this information, the firm 'worked to deny it—including overemphasizing uncertainties, denigrating climate models, mythologizing global cooling, feigning ignorance about the discernibility of human-caused warming' (Supran, 2023, p.6). By withholding crucial information and undermining research by academic and government scientists, fossil fuel firms undermined the very basis for effective deliberation. This type of action has facilitated what Gardiner (2012, p.457) calls 'epistemic corruption'. Epistemic corruption is the process whereby the knowledge-producing mechanisms that are meant to regulate a particular practice have been co-opted or undermined by those who stand to benefit from the ill-functioning of that system. Fossil fuel firms have an interest in preventing policies that would reduce their

profits, making their participation in debates about the appropriate response to climate change particularly susceptible to epistemic corruption.

I do not intend to offer (more) evidence to show that there is a long history of undue political influence and propagation of misinformation by fossil fuel firms like Shell, BP and Total.²³ Sufficient evidence has been provided to make the case that it is inordinately difficult for those who are concerned about climate change to influence policy-making that is commensurate with the public concern surrounding these issues. This inability of a large portion of the citizens to have their views represented in public, forces them to turn to other means to secure access. One of the means available to under-represented groups is civil disobedience. The disruptive and sometimes shocking tactics employed by protest groups have the potential to garner the kind of media attention that would not otherwise be available to activists. Smith argues that it can be a useful way for such groups to add their ‘voice’ to public deliberations (2013, p.84):

As well as being a potentially justifiable response to rights-violating laws and policies, civil disobedience can also be justified as a challenge to inequalities in social power that magnify the opportunities for powerful citizens to influence democratic deliberation and/or that inhibit the opportunities for less powerful citizens to exercise their communicative freedom.

This is not to say that every act of principled law-breaking which aims to give voice to the views of a group that is substantially under-represented is necessarily justified. Whether or not a particular act is justified will depend on the specific political circumstances. What matters is firstly, whether citizens who are acting disobediently have indeed been wrongfully denied access to an adequate share of the public sphere; and secondly, whether civil disobedience (rather than some other form of political action) is the appropriate response.

What would constitute an ‘adequate’ share of the public sphere is difficult to determine. One answer would be to argue that citizens in a democratic society have an effective right to equal access. Rawls (1999, p.43) takes this position when he argues that citizens are entitled to

²³ For examples, see the work of Oreskes and Conway (2011), who have documented the pernicious influence of the fossil fuel industry.

something akin to fair equality of opportunity to take part in the political process. This means that similarly situated citizens need to be guaranteed a roughly equal voice in the political process, irrespective of their background or wealth. Rawls suggests that this would require the public funding of elections, rules governing coverage in the media, and other measures. There is considerable debate about what the specifics of such an arrangement would look like, but Rawls is clear that the system that he was most familiar with (namely, the United States) certainly fell far short of this ideal. This shortcoming is clearly visible when it comes to the debate about climate change in the United States. Rawls does not explicitly say that civil disobedience is a legitimate response to the lack of fair equality of opportunity for political participation. However, direct violations of his principle of liberty (which include many of the rights that seem necessary for participating fairly in the political process) would be grounds for civil disobedience.

The benefit of relying on the deliberative democracy argument to establish that there is a legitimate basis for engaging in principled law-breaking is that it only requires protesters to show that the integrity of the deliberative process has been undermined. Climate protesters do not have to prove their case (that carbon emissions should be drastically reduced), but only that the position they hold has not received a fair hearing given how widely-held this position is. This makes it a particularly attractive argument for those concerned about climate change, but that are prevented from effectively taking part in the public sphere due to the influence of special interest groups backed by the fossil fuel industry. However, this may open the door to a wide variety of interest groups engaging in civil disobedience, because they feel that the view that they hold has not received the required attention during the deliberative process. For example, in the Netherlands during 2022, the agricultural community engaged in large-scale civil disobedience to protest proposed government policies that would regulate the emission of nitrogen. These proposed policies would have a significant impact on the livelihood of many farmers. Their major complaint has been that their concerns did not receive adequate attention during public deliberations, in particular that not all of the relevant information about the emission of nitrogen and the possible means of reducing emissions had been considered. If true, this would seem to violate the third principle argued for by Smith, namely that as much of the relevant information be incorporated and acted upon in the process of democratic deliberation.

3.3 Scientists and civil disobedience

If Dutch farmers can justify their civil disobedience by an appeal to deliberative democracy, what about scientists working to understand climate change? Scientists are particularly well-placed to articulate the dangers of climate change and the consequences of not acting on the data, because they are responsible for providing the information which policy-makers are supposed to use in their decision-making. The scientific method, which aims at producing verifiable results, insulates scientists to a large extent from claims that they are biased in some way by their own interests. Scientists do decide what to study and how to approach research, and it has long been accepted that science is not a value-free endeavour. However, work by organisations like the IPCC, which draws on the efforts of thousands of researchers, is shielded from accusations that scientists are supporting their own agenda because their primary aim is to provide information about emissions pathways and their consequences.

Earlier, I argued that climate-related civil disobedience can be justified by appealing to deliberative grounds, given the ways in which fossil fuel interests have undermined the deliberative process. I will now argue that the second violation of the deliberative process (access to information necessary for adequately informed deliberation) means that those responsible for providing that information may have morally permissible grounds for engaging in civil disobedience, so as to bring this information to broader public attention. In the case of climate change, those responsible for providing the necessary information would be members of the academic community. If we accept that the research produced by climate scientists and other academics working in related fields holds a special epistemic place in the deliberative process regarding climate change, it raises questions as to what their political duties might be when this information is suppressed or ignored.

This issue has recently begun to receive attention from scientists themselves. Writing in the journal *Climate and Development*, three climate scientists argue that after decades of scientific work on the causes and consequences of climate change, it is time for scientists to adopt a new approach with regard to policy-makers who fail to respond to the evidence. They argue that the unwritten social contract between scientists and society, in which ‘public investment in science will lead to an improved understanding of our world and help achieve outcomes that are deemed beneficial to

society' (Bruce et al., 2021, p.2), has broken down. The authors point to the relentless rise in greenhouse gas emissions over the last five decades as evidence that the scientific consensus about the need to reduce these emissions has been ignored. They argue that in responding to the breakdown in the social contract, scientists have three options. One option is simply to continue with research. The second option is to shift more resources to social science research, to understand the social and political factors that make emissions reduction so difficult. The third option would be for scientists to go on a knowledge strike, to stop producing new knowledge about climate change as a form of protest against inaction.

The three options presented by the authors of the article in *Climate and Development* are not meant to be exhaustive. While more social science research would certainly be valuable and a strike by scientists would draw attention, I argue that there is a fourth option: civil disobedience, where scientists intervene more forcefully in the process of public deliberation. As I have argued by drawing on the work of Smith, civil disobedience can be a morally permissible means of intervening in the deliberative process when deliberation has taken place without the necessary information. Engaging in civil disobedience could allow scientists to more forcefully take part in the process of public deliberation, demonstrating to the broader public the significance of their findings. It could also offer an additional means of counteracting the misinformation campaign that fossil fuel interests have used to challenge scientific findings about climate change. Attacks on the credibility of scientists by the fossil fuel lobby have been well-documented (Oreskes & Conway, 2011), and there is evidence stretching back decades that shows how fossil fuel firms have systematically distorted and suppressed findings by scientists – even those working directly for them. Effective access to information is as important as the information itself. As Caycedo (2019, p.101) argues, drawing on the work of James Bohman, 'information is one among the many resources people need to successfully participate and to be effectively (and not only formally) included in the democratic process'. When scientists engage in climate activism as scientists, they can play an important role in making available, in an authoritative way, information the public needs to inform their deliberation. Though there is a danger that scientists acting as activists may result in questions about credibility, there is little evidence to show that this is in fact the case (Kotcher et al., 2017). Civil disobedience on the part of scientists may be a powerful means to

counteract the epistemic corruption brought about by the misinformation campaigns of the fossil fuel industry.

In addition to justifying a campaign of civil disobedience as a means of confronting the ongoing misinformation campaign by fossil fuel interests, scientists could also justify it on more utilitarian grounds. A version of this type of argument has recently been made by Capstick et al. (2022, 773) in the journal *Nature Climate Change*, in which the authors call on scientists to engage in civil disobedience because it can be ‘effective as a strategy for change’ and that ‘it is reasonable and ethical’ for them to do so. Given that scientists occupy a privileged position in society (a more authoritative one than the general public with regards to the effects of climate change), it makes them one of the most effective groups for communication about the issue. Because normal modes of communication have been insufficient for realising meaningful change, and given that civil disobedience can be an effective tool for communication, it follows that engaging in climate disobedience may constitute one of the best ways for scientists to ‘repair’ the social contract between science and society.

It is not my intention in this chapter to discuss the specific form that civil disobedience by scientists should take, but it is important to say something about the effect that it might have on political culture and practices (especially on practices of public deliberation). It is possible that by engaging in civil disobedience, scientists undermine the position of trust which they have been accorded by the public.²⁴ If they are perceived to be using civil disobedience as means to pursue partisan interests, they may lose their standing in the public sphere. This may have negative consequences for the process of public deliberation on other issues in the future. The possible loss of societal standing needs to be weighed against the potential efficacy of using non-legal means to gain a greater stake in the deliberative process. However, there is good reason to believe that in many instances principled law-breaking is unlikely to have an effect on larger issues of societal stability (Smith, 2011, p.163). Even if it were the case that civil disobedience by climate scientists was destabilising to the deliberative process in some way, the potential harms of their actions would

²⁴ Recent research shows that this is indeed something to be concerned about. As Zhang (2023) and Lupia (2023) point out in their respective studies on the impact of an editorial in *Nature* on public trust in science, there is a danger that by acting in what is perceived as partisan ways, scientists may undermine the trust which is accorded to them.

have to be weighed up against the harms of inaction. Given that the deliberative process (at least with regards to climate change) is already functioning sub-optimally, further degradation would have to be balanced against the possibility of helping to accelerate significant climate action.

4. Children and future generations

One of the biggest difficulties in dealing with climate change is the speed at which its effects have an impact. Although there is an increased understanding of how greenhouse gases in the atmosphere affect the climate in the present, and even the extent to which these gases may contribute to particular events like droughts or floods,²⁵ most of the harms that climate change will cause will take place decades in the future. It is clear that future generations will bear the brunt of the harms brought about by climate change. Recent research has shown that those born in 2020 will be affected by up to seven times more cases of extreme weather events than those born in 1960 (Wim et al., 2021). The knowledge that climate change is likely to have these drastic negative effects on future generations is often cited by climate justice groups like ‘Fridays for Future’ as one of the reasons for engaging in civil disobedience. ‘Fridays for Future’ uses disobedient tactics to draw attention to the fact that children will inherit a degraded planet. Actions by groups like this raise some interesting questions about the basis upon which they justify their actions. In the following section, I will discuss two sets of reasons that children and those claiming to be acting on behalf of future generations can use to justify their actions. The first deals with the irreversibility of the changes brought about by climate change, while the second deals with the conditions necessary for sustaining a democratic society.

4.1 Fridays for Future

Fridays for Future started with Greta Thunberg’s lone act of protest outside the Swedish Parliament when she was 15 years old. It has since turned into a global movement of school children numbering in the millions. Participants in the Fridays for Future movement are often children who decide to skip going to school in order to participate in a protest event. These protest actions are often very large and receive significant media coverage. Part of the attention that these so-called ‘school strikes’ get is because those participating in them do so in opposition to state

²⁵ See, for example, the work of the World Weather Attribution projects, which attempts to determine the likelihood of certain events happening in the absence of human interference in the climate.

policies aimed at keeping them in school. Writing about the relationship between children and civil disobedience, Nikolas Mattheis (2022, p.468) argues that children are ‘especially justified in using civil disobedience due to their unjustified exclusion from empowered forms of political participation’, and that this form of political participation may perhaps be more easily justified than alternatives that would expand their options for political participation (such as lowering the voting age). To begin with, Mattheis (2022, p.468) argues that children are currently excluded from political participation. They are excluded due to age requirements for voting, running for office, and to access judicial redress. They depend on the goodwill of others to secure their rights in the present and implement policy that will not negatively affect them in the future. The current mechanisms for representing their interests are limited because there is no direct link of accountability between children and those who are exercising power on their behalf. Mattheis thus argues that the options for political participation on the part of children is unduly restrictive and that they are entitled to more active forms of participation. What he shows is that civil disobedience by children can be justified by appealing to the lack of options they have for political participation in general, rather than by making a specific appeal to climate justice-related considerations.

There may be good reasons (discussed in detail by Mattheis) for limiting political participation by children. However, climate justice considerations offer good grounds for youth civil disobedience even in the face of strong arguments against political participation by children in general. In other words, even if there are good reasons to exclude children from the political process, specific issues related to climate change may trump these reasons. One of the issues related to climate change is that it will bring about changes that are significant and irreversible. Sea-level changes cannot be reversed in decades, or even centuries, and large-scale habitat loss will lead to species extinction on an even greater scale than is currently happening. These changes are significant and irreversible. If we take the reversibility of policy choices to be one of the constitutive elements of democratic politics, then any policy choices which foreclose significant options for the electorate (or in the case of children, the future electorate) are deserving of special consideration (Humphrey, 2006, p.321). Decisions made by the current generation are leading to irreversible changes, and those who will be most affected by them have no political recourse. The fact that children do not have the opportunity to participate in the decision directly entitles them to having special attention

paid to their interests. In situations where their interests do not receive the consideration that is due to them, civil disobedience may be a morally permissible form of political action to draw more attention to those interests.

It could be argued that there are many policies that have significant effects on the type of world children will grow up to inherit, and that the mere significance of public policy on children or future generations should not be grounds for it to be challenged with civil disobedience. For example, one could imagine lawmakers adjusting pension requirements in such a way as to drastically increase the burden on those who are now children in order to provide for a more comfortable standard of living for those now nearing retirement age. A change in the pension scheme that allocated large benefits in the present while imposing large burdens on the future could also significantly affect the life prospects of those who are now children. The effect of a pension scheme change might not be quite as drastic as the effects of climate change, but it could still be very significant.

However, what matters is not simply the material significance of a policy, but the extent to which the effects of such a policy are reversible. In the case of the altered pension scheme, it is conceivable that in the future a new majority may decide to reverse or alter the pension policy to make it less burdensome for those children who have now entered the workforce. It may be some time before such a majority is formed, and in the meantime, it may be that the policy is especially burdensome on those who were children when it was enacted; but ultimately, democratic politics allows for the policy to be contested (Humphrey, 2006, p.322). It may even be the case that a new majority decides to compensate those who were children when the policy was enacted, relieving them of some of the burden which was imposed upon them. The same cannot be said of climate change. The changes brought about by a significantly warmer planet, such as the submergence of low-lying islands and coastal areas, are irreversible on a human timescale. There is simply no way in which those who will lose their homes can be adequately compensated. As de Shalit argues, the loss of place caused by climate change is not equivalent to a person choosing to move from one location to another. Rather, the 'suffering of the person relates to the displacement itself' (2011, p.324). This irrevocable displacement is not something that can be compensated for. Many of the changes brought about will be of a similar kind in that there is no way that future democratic

majorities can restore to those who have been impacted by climate change that which they have lost.

Climate change is not the only issue to which special standing for political participation on the part of children could be argued for. There are several sufficiently far-reaching and irreversible courses of action which might justify civil disobedience by children. For example, new genetic engineering technologies may make it possible for parents to choose the characteristics of their future children. This would have far-reaching consequences for the interaction between the current generation of children and the cohort that would come after them. The same could be said of nuclear power (because there is no safe way of disposing of waste material), or the widespread use of genetically modified organisms. What matters is whether there is a sufficiently inclusive political mechanism in place to account for the interests of children. In the case of climate change, this is not the case.

4.2. Disobedience as democracy-sustaining practice

The concern about the irreversibility of some of the changes to be brought about by climate change, which gives special standing to children, applies similarly to those who have not yet been born. Those who are engaging in civil disobedience on behalf of the interests of those who have not yet been born rightly point to the additional scrutiny that needs to be given to decisions which have irreversible consequences. This is not to say that using civil disobedience as a means of challenging the types of policies that will lead to irreversible changes for those yet to be born is justified in every case. It may well be that certain decisions need to be taken that lead to irreversible changes for future generations, but that those decisions were justified because, for example, they were the least-bad option available. However, in addition to concerns about the irreversible effects of climate change in terms of species loss, loss of habitable areas and other environmental effects, it is also important to note that the environment is the stage upon which politics takes place.

The environment (broadly understood as including the climate, natural features of the world, and other species) forms the background where all human interaction takes place. Some environments are more conducive to human cooperation, others less so. Some environments can support large numbers of people, others only a few. Given the importance of the background conditions for the

practice of politics, it makes sense that policies which will dramatically alter those conditions are deserving of additional scrutiny and of being challenged more robustly than is currently the case. Integrating a concept of intergenerational justice into public discourse would allow for these concerns to receive more attention. In the discussion about what exactly the duties to future generations might be, there are a number of competing approaches that specify what it is that future generations are owed and also why they are owed something at all (Caney, 2018). However, most accounts maintain that it is the duty of the current generation to provide the material means for subsequent generations to sustain themselves at a similar level to the current generation, including the ability to maintain existing political institutions.

The obligation not to degrade the environment applies even on rather minimal accounts of intergenerational justice, like that argued for by Rawls (2001, pp.56-61). He argues that no generational cohort would wish to be born into an undemocratic society, or one in which there are insufficient resources to provide for basic needs to be met. This means that each generational cohort has the duty to use resources in a responsible manner that allows for the next cohort to meet their basic needs and to continue as a democratic society.²⁶ Using a different approach, Edward Page (2007) argues that an approach to intergenerational justice based on capabilities, rather than basic liberties, would mean that each generation has a duty not to create conditions such that it becomes more difficult for individuals to exercise their key capabilities: namely, political and material control over the environment. A similar conclusion can be reached by appealing to a deliberative ideal of democracy. If we take the decisional agency of future generations into account, it follows that we must embrace ‘precautionary public reasoning in order to minimize seriously harmful effects on the democratic conditions of the future’ (Johnson, 2008, p.82). Each of these approaches starts with different assumptions motivating a concern for future generations, but they reach a shared conclusion that there is the obligation on the part of current generations not to act in ways which negatively impact the future functioning of democratic institutions.

If the predictions about the consequences of climate change turn out to be correct, a serious challenge will be posed to the continued survival of the democratic character of many states. There

²⁶ It is not clear that the state’s failure to fulfil this duty would constitute grounds for civil disobedience on Rawls’s own account of when civil disobedience is justified.

are several ways in which climate change may make it more difficult to sustain democratic institutions. For example, rising food prices are linked to political instability, and the effects of climate change are already affecting crop yields in some of the most water-stressed and politically unstable countries (Arezki & Brückner, 2011). Competition over water is also becoming a significant source of conflict between groups within states, as well as between states (Gleick & Shimabuku, 2023). Research on climatic effects on aggression levels suggests that warmer temperatures can substantially increase both interpersonal and intergroup violence (Hsiang et al., 2013, p.341). The possibility that the failure to address climate change may undermine the legitimacy of existing democratic states and pave the way for authoritarianism is a genuine concern. Mittiga (2021, p.2) argues that the failure of democratic states to act on climate change means that ‘political legitimacy may require adopting a more authoritarian approach’, in which political obligation follows from the state’s ability to provide safety and security, rather than a commitment to basic rights and democratic government.

Given the potential seriousness of climate change, it makes sense to consider very carefully the policy choices of governments. When the continued democratic character of a state is put at risk by its policies – even though those policies are democratically enacted – it becomes easier to justify actions like civil disobedience, which challenge these policies. If it is the case that a minimal conception of intergenerational justice requires the safeguarding of the material means to sustain democracy, then justifying civil disobedience which aims at addressing the climate crisis becomes easier because it would be linked directly to specific rights entailed by an intergenerational conception of justice.²⁷ At present, it is becoming clear that an appeal to intergenerational justice may not even be necessary when arguing for the moral permissibility of civil disobedience: new research shows that even relatively limited increases in temperature will have much more profound effects than previously anticipated. Even relatively small increases in average global temperature – below the 1.5 degrees centigrade target aimed for by the Paris agreement – are likely to have much larger impacts than previously estimated, and these impacts will occur within the lifetimes

²⁷ For the moment I set aside concerns about whether it is in fact possible to harm those who are yet to be born. I will engage with this issue in the following chapter, where I discuss intergenerational climate justice in a cosmopolitan context.

of those already alive (Vargas Zeppetello et al., 2022). This means that many of the worries about damaging the interests of future generations have shifted to those who are already alive.

Given the seriousness of these concerns, it could well be argued that a type of ‘necessity’ defence for civil disobedience may be appropriate. This is the claim that a particular action, though illegal, is justified because it prevents a serious harm, one which is more significant than the potential harm caused by the breaking of the law. Indeed, a version of this type of argument has frequently been used by environmental activists protesting against a lack of action on climate change. In the following chapter I will discuss a version of this argument in a transnational context, but many of the issues which I discuss there would also have bearing if the argument were made on a domestic level. I set aside (for the moment) those issues and focus here only on the connections between climate justice civil disobedience and issues related to democratic governance.

The argument for using civil disobedience as a *democracy-preserving* form of political contestation connects it with a long history of arguments about the *democracy-enhancing* effects that it may have. For example, Howard Zinn (1997, p.183) argues that civil disobedience is a way of reviving democratic governance when the normal mechanisms of exercising power have become atrophied:

Protest beyond the law is not a departure from democracy; it is absolutely essential to it. It is a corrective to the sluggishness of “the proper channels,” a way of breaking through passages blocked by tradition and prejudice. It is disruptive and troublesome, but it is a necessary disruption, a healthy troublesomeness.

The potential for civil disobedience to contribute to a richer, more inclusive democratic process is well-established. For example, as Celikates (2016a) points out, civil disobedience can offer disempowered groups an opportunity to engage in the political process, and allow them to challenge power in ways which traditional democratic mechanisms do not. Much of the academic discussion up until now has been about how civil disobedience has been used in struggles for political recognition, and as a tool for greater democratic participation. By connecting it to concerns about future generations, this chapter shows that it can play an important *democracy-preserving* role, both for the current generation and on an intergenerational basis.

5. Conclusion

This chapter evaluated a number of arguments advocating for the use of civil disobedience to contest the lack of an effective response to climate change in a democratic society. Drawing on a deliberative account of democracy, I argued that civil disobedience may be a morally permissible way of trying to restore the integrity of the deliberative process in cases where that integrity has been undermined. Using the example of the United States, I showed how fossil fuel interests have had a disproportionate influence on public policy and have unduly influenced the deliberative process by means of disinformation campaigns. Using civil disobedience to counteract the influence of the fossil fuel industry is therefore a legitimate way of making climate justice concerns part of the process of public deliberation.

In the second part of the chapter, I examined two related arguments about the long-term impacts of climate change, and how these impacts can be used to justify civil disobedience. The first dealt with the irreversibility of the changes that climate change will bring about. I argued that this irreversibility is a way for children and those acting on behalf of those not yet born to justify their use of civil disobedience, and thus contest insufficiently ambitious climate policy. I also showed that even a minimal conception of intergenerational justice commits the present generation to ensuring the continuation of democratic politics. This requirement justifies civil disobedience which challenges climate policies, when such policies fail to adequately preserve the conditions necessary for democracy in the future.

The aim of the chapter was to establish that there are *prima facie* reasons for permissible civil disobedience in response to issues raised by climate change at the domestic level. The arguments discussed in this chapter show that there are grounds for the residents of democratic states to use civil disobedience to contest a lack of climate action by their own states. Of course, each argument may not hold for every state. There may be states where the deliberative process functions well, or where the interests of future generations, or the irreversibility of certain policies, are accounted for in political deliberations. However, there is good evidence that at least one of these conditions (and often all three) are not met, and thus are reasons for climate justice activists to consider engaging in civil disobedience. An organisation that tracks the progress of individual countries in meeting the goals of the 2015 Paris Agreement, Climate Action Tracker (2023), has found that *no*

country has made sufficient progress in achieving those goals. This means that all states still need to do work to meet the (relatively weak) climate goals agreed to in Paris. The most recent IPCC synthesis report (AR6 of 2023) suggests that it is unlikely that the 1.5 degrees centigrade goal of the Paris Agreement will be met, which means that there will be considerable climate change impacts on countries around the world.

It is clear that ‘ordinary’ politics (at least in democratic states) is not up to the task of putting policies in place to adequately address the climate crisis. I have shown that civil disobedience is a morally permissible way of responding to this lack of action. Concerns about public deliberation, the plight of children, and maintaining democratic institutions for future generations, all provide reasons for turning to civil disobedience to try and secure what ordinary politics cannot. Each of these concerns is sufficient for justifying the use of civil disobedience at the domestic level, but taken together they offer good reason for a widespread and sustained campaign of civil disobedience in response to the lack of action in tackling climate change.

Chapter 3: Climate disobedience beyond borders

1. Introduction

Illegal protest actions carried out by groups across borders, or in international waters, have become increasingly frequent. Many of those involved in these actions claim to be participating in civil disobedience, arguing that their actions should be understood in the same way as the campaigns of Martin Luther King Jr., Mahatma Gandhi, and others. However, in contrast to the Civil Rights Movement in the United States or Satyagraha in India, these transnational protests have not yet been the subject of extensive academic investigation. In part, the reason for this relates to the way civil disobedience has been conceptualised, especially in the liberal tradition. Thinkers like John Rawls and Jürgen Habermas argue that civil disobedience outside the domestic political sphere is an incoherent concept. For Rawls, civil disobedience can only take place ‘within a more or less just democratic state’, in which citizens ‘recognise and accept the legitimacy of the constitution’ (1999, p.399). In a similar vein, Habermas (1985, p.103) argues that civil disobedience can only take place within a constitutional democratic state.

My aim with this chapter is to show that there is good reason to move beyond the narrow confines of the state-centric model when discussing how civil disobedience could be justified. De-privileging the state-centric approach leads me to argue that some acts of transnational and global illegal protest should be accorded a morally privileged status equivalent to that which is granted to some acts of civil disobedience that take place within states. In the two previous chapters, I argued that it does make sense to employ the concept ‘civil disobedience’ in the context of climate justice, and that climate-related disobedience can be morally permissible on what I have called the ‘domestic’ level in democratic societies. With this chapter, I extend my analysis to the issue of climate justice at the global level, and argue that it makes sense to categorise certain illegal protests as examples of transnational civil disobedience.

In the first section of the chapter, I use a cosmopolitan approach to make sense of the connection between climate change and global justice. I give a brief overview of different cosmopolitan approaches and argue that an institutionalist, rights-oriented cosmopolitanism can help us understand the specific wrongs wrought by climate change. Next, I briefly revisit the definition of

civil disobedience that I put forward in Chapter 1. I argue that civil disobedience be used to describe protests undertaken by groups which aim to change government or corporate policy in states where at least some of the members of the group are not citizens. I use several recent examples to show that civil disobedience can take on a transnational character.

Having argued that we can indeed classify some instances of protest as transnational civil disobedience, I turn to the question of how the moral permissibility of these protests might be established. First, I discuss the so-called ‘necessity defence’. I argue that this attempt at justifying climate justice civil disobedience relies on an overly-broad understanding of necessity, and that it should instead be seen as an attempt at intervention in the global deliberative process. I then discuss attempts at justifying transnational civil disobedience by appealing to the All-Affected Principle and by appealing to the notion of intergenerational harms. I argue that these attempts provide some grounds for defending climate justice civil disobedience, but that a more robust justification can be found by appealing to the natural duty account of justice. I argue that a natural duty account also provides guidance as to who may have a duty to engage in disobedience. This provides a foundation for the final chapter, in which I discuss in more detail who should engage in climate justice disobedience and what form their actions should take.

2. Transnational civil disobedience

2.1 Global justice and cosmopolitanism

Proponents of the so-called ‘realist’ school of international relations argue that ethics has no place in international politics, and claim that states are driven solely by self-interest.²⁸ However, there is a strong argument to be made that morality matters, even in the international arena. No state wishes to be viewed as acting immorally. Even a country such as the United States, which has a long history of rejecting any attempt to regulate emissions, uses moral language to voice its objections to proposed agreements. The failure of the United States to ratify the Kyoto Protocol was based on arguments that it was ‘unfair’, rather than only claiming that it might negatively affect the strategic interests of the country. Clearly, the ethical framework within which states justify their actions in the international arena matters. A well-articulated normative framework within which to discuss

²⁸ See Vanderhedien (2008) for a discussion of this issue.

the issues raised by climate change is essential for formulating an adequate response to deal with those issues. In the same way that states try to present their actions in moral language, activists concerned with climate change also use ethical arguments to justify their actions.

In the first part of this section, I argue that a cosmopolitan institutionalist approach offers us a compelling way to re-think the moral and political duties (including engaging in modes of political action like civil disobedience) that individuals have with respect to the ethical issues raised by human-induced climate change. The cosmopolitan approach argues that duties of justice have bearing not only on members within a particular community, but also on others beyond the borders of the political entity of which they are part. Several justifications for the extension of justice have been put forward. For example, Thomas Pogge (2007) argues that the obligations of justice are established by causal relationships between agents around the world, while Simon Caney (2011) argues for a humanity-centred cosmopolitan egalitarianism. Peter Singer (1972, p.2002) has argued that the same moral principles which guide ethical decision-making amongst human beings within a political entity should be extended in a consistent manner to include other human beings, wherever they are, as well as other life forms. The various cosmopolitan approaches offer different ways to think about the issues raised by climate change. Often they point in the same direction: for example, both Singer and Pogge argue for greater redistribution on a global scale; however, the arguments that underpin the calls to action do not necessarily align with one another. Two broad categories can be identified within the cosmopolitan framework: consequentialist approaches, and deontological approaches.

The consequentialist approach evaluates acts or policies on the basis of the outcomes that they are likely to deliver. The justification for a given action is dependent on the degree to which it is likely to further a particular ethical goal or goals. The goal itself is defined independently of the course of action which is meant to bring it about. This goal could be the maximising of collective well-being; the maximising of the well-being of the worst-off; or the maximising the well-being of whichever group is deemed to have moral significance with regards to the issue at stake. The cosmopolitan consequentialist argument has been hugely influential in public policy debates, with economists like William Nordhaus (2007, 2008) and Nicholas Stern (2007)²⁹ employing versions

²⁹ Nordhaus and Stern have been involved in a protracted public debate about the merits of their competing economic models and the extent to which these models take account of ethical issues. Stern

of this approach to calculate how the process of decarbonisation can deliver the greatest utility on an intergenerational timeframe.

The major alternative to the consequentialist approach is the deontological approach. This approach evaluates decisions and policies not in terms of the outcomes they produce (though this is not to say that the outcomes are irrelevant), but rather use standards that are independent of the desired outcomes to make ethical judgements about a particular course of action. Deontological approaches to the ethical issues raised by climate change are grounded in a commitment to the substantive equality of all the relevant parties, and to matters of procedural justice. Issues of fairness, the intrinsic value of human beings, and the legitimacy of the ethical decision-making procedure take precedence over questions of economic efficiency or the selection of the best technical solution to dealing with environmental issues.

Simon Caney is one of the leading exponents of a human rights-based deontological cosmopolitan approach to dealing with the issues raised by climate change. He argues that human beings have certain inalienable human rights, and that climate change threatens at least some of these rights. Therefore, there exists a moral duty to prevent serious climate change. The three rights Caney is concerned about are the right to life, the right to health, and the right to subsistence. In the case of the right to life, the possible effects of climate change include an increase in the likelihood of severe weather (e.g., heat waves, hurricanes) that may lead to a considerable increase in the number of avoidable deaths. Similarly, the right to health is violated when threats are created that actively endanger the wellbeing of humans. The right to subsistence is threatened when changes in the climate caused by global warming make it impossible for individuals to meet their basic nutritional needs.

Caney (2011) argues in favour of a humanity-centred cosmopolitan egalitarianism that recognises that there are certain ethical duties that apply to all human beings, and that in order for these duties to be met, global institutions are required. Similar to Caney's rights-based approach is P. G. Harris's 'world ethics' approach (2010). Harris argues that the ethical issues raised by climate

argues for a high social discount rate, while Nordhaus argues for a relatively low social discount rate that assigns significantly less weight to the interests of future generations.

change cannot be dealt with fairly or justly when only focusing on the rights and duties of states. Instead, the focus should be on individuals as citizens of the world. Focusing on individuals means that there are special obligations on certain individuals around the world (especially the affluent), irrespective of their nationality. Harris argues that ‘cosmopolitan aims should be incorporated as an objective of climate change policy and diplomacy’ (2010, p.159), in order to secure global cooperation that recognises the equal moral worth of individuals, wherever in the world they may be.

The cosmopolitan deontological approaches offer (relatively) clear guidance as to how public policy and global institutions should be reformed in order to take into account the responsibilities which, on the cosmopolitan view, are shared by everyone (although to differing degrees). In the case of climate change, there are a range of suggestions regarding the institutions necessary for regulating greenhouse gas emissions, and how the benefits and burdens of these institutions should be distributed. What is not clear and has not received nearly the same level of attention, is what individuals are obligated to do in situations where these institutions do not exist (or function very poorly).

Kok-Chor Tan (2015, p.133-134) suggests that in responding to a lack of action on climate change in a setting where no institution has yet been created to manage greenhouse gas emissions, individuals have four options. The first option is simply to do nothing. Given that the responsibilities for addressing climate change only make sense in the institutional context, the lack of a properly functioning institution means that individuals have no responsibilities with regard to climate justice. The second option is for individuals to do as much as they possibly can to meet the requirements of climate justice. This would entail reducing emissions as much as possible. The third option is to do what would be required if just institutions existed. In other words, individuals should act as if a global institution existed that regulated emissions in a just way. The last option is for individuals not to focus on trying to act in ways that would be required by just institutions, but to help create just arrangements where they do not yet exist. Tan argues that it is only the final option – acting in ways that help to bring about just institutions – that is the right way to make sense of our duties in a situation like the one which we currently face, namely one in which existing arrangements are unjust and ineffective. Tan limits his argument to establishing that, on an institutionalist cosmopolitan view of climate justice, individuals have the duty to try and bring

about just institutions to regulate greenhouse gas emissions. My intention is to go beyond this and argue that one of the most important ways in which individuals can fulfil this duty is by engaging in transnational civil disobedience.

2.2 Cosmopolitanism and civil disobedience

In Chapter 1, I argued for using a more expansive notion of civil disobedience than is accepted in liberal theory. The purpose of defending this definition and employing it throughout this study, is that it better describes a particular form of political action that we may want to make judgements about for moral, political or legal reasons. As I have already argued, this definition allows for a greater range of actions to be considered as civil disobedience than do the definitions of Rawls, Bedau, and others associated with the liberal tradition. The definition of civil disobedience which I argued for in Chapter 1 is worth restating again:

Civil disobedience is a constrained, collective act of intentional law-breaking for a principled political purpose that aims at changing specific laws, policies, or institutions.

One of the benefits of the definition is that it allows for questions about the practice of civil disobedience to be discussed separately from questions about the justification for a specific civilly disobedient action. To be clear, this is not to say that questions about the justification are completely separate from questions about the practice of civil disobedience, only that the definition I employ allows us to grapple with the moral issues related to each of these questions in a more productive way, in the sense that it allows us to think more clearly about whether civil disobedience can be justified in a particular context.

Keeping with the historically-informed and practice-based approach to the use of contested concepts that I defended in the first chapter, I will offer three examples that show that transnational law-breaking does fit within the wider tradition of civil disobedience, and that those engaging in the acts of principled law-breaking see themselves as acting in ways which are connected to the tradition of civil disobedience. The first two examples deal with cases in which domestic laws were broken to challenge global governance relations. In the third example, I examine a case in which international law was broken to contest global governance relations. Although these examples are relatively recent, transnational civil disobedience has a history that stretches back

much further. As Pineda (2022, p.12) points out, the idea that civil disobedience is a ‘constitutively domestic concept that now requires spatial and normative stretching so that it can step beyond borders and outside of its nation state container is one which is challenged by the historical record’. In a detailed discussion of the connections between the Civil Rights Movement in the United States and anti-colonial activists in Africa and Asia, she shows that there has been a transnational component to civil disobedience which predates (and has not been recognised) by much recent theorising on the subject. In the brief sketches that follow, my intention is simply to show that the transnational aspect continues to be an important part of activist thinking about civil disobedience, and that attempts to defend the moral permissibility of civil disobedience need not be restricted to reasons which are connected exclusively to the domestic context.

2.3 Examples of transnational civil disobedience

2.3.1 The Seattle WTO protests

One of the most significant acts of illegal protest against transnational governance relations took place in 1999 at the World Trade Organisation (WTO) meeting in Seattle. Groups from around the world travelled to the city to protest against the policies (or even existence) of the WTO. In what became known as the ‘Battle of Seattle’, protesters from around the world acted together to break numerous local laws, in order to gain the attention of the media. This was not the first transnational event organised by the global justice movement. In 1998, several meetings by international financial institutions like the International Monetary Fund and the World Bank were targeted by activists seeking to disrupt the neoliberal world order, which they argued was represented by these organisations. However, the 1999 protest during the second day of the meeting of the WTO was an order of magnitude larger than what had taken place previously. Also, at the same time that thousands of protesters congregated in Seattle, more than 100 other protest events that raised the same concerns about neoliberalism took place in other cities around the world.

The protests in Seattle and those in other parts of the world were organised and linked together by a variety of social movement networks. These included Reclaim the Streets (RTS), which has been described as a ‘Zapatista-inspired, anti-neoliberal’ movement that aimed to draw attention to the ‘links between neoliberalism, environmental concerns, and the politics of urban space’ (Wood, 2012, p.26). Other groups included the trade union movement, the International Confederation of

Free Trade Unions, and the People's Global Action movement. Although the protesters from the various groups (both in Seattle and at affiliated events in other cities around the world) had different issues which they wished to express their opposition to, there was a clear collective effort to use civil disobedience to communicate their opposition to what they perceived as an unjust global order (Herbert, 2007). The fact that demonstrations took place in Seattle and many other cities at the same time, and were based on the same concerns, means that it does make sense to think of this as an example of transnational civil disobedience.

2.3.2 The COP21 protests in Paris

Another example of domestic laws being broken with the aim of challenging global governance relations (or rather, a lack of governance) occurred at the United Nations' 21st annual climate change meeting, the Conference of Parties (COP), held in Paris in 2015. Prior to the conference, a number of climate activism groups got together to plan a series of civilly disobedient actions in the French capital, to draw attention to the dangers posed by climate change and what they worried would be an insufficiently ambitious response on the part of conference delegates. Groups like Reclaim the Power from the United Kingdom, Ende Gelände from Germany, and the French branch of the Climate Action Network, together with other groups from around the world, joined forces in Paris to protest against what they saw as dangerous inaction.³⁰

However, due to the terrorist attacks in November of that year, the French government declared a state of emergency. This made it particularly difficult and risky to engage in large-scale unlawful protests. Nonetheless, a local group called 'Les Désobéissants' ignored the prohibition on public gatherings and called for protesters to take to the streets. Several thousand protesters (including a number from other countries around the world) clashed with French police. An analysis of the public reception of this protest and others that took place in Paris at this time found that the protesters did not achieve the goals which they had aimed (de Moor, 2018). The climate negotiations and subsequent agreement received favourable coverage in the media, while the civil disobedience was either ignored or received unfavourable coverage. In spite of the ineffectiveness of the protest, it serves as a clear example of transnational civil disobedience.

³⁰ Note that not all of these groups planned to take part in civil disobedience.

2.3.3 Greenpeace actions against Japanese whalers

The third example that I argue should be understood as an instance of transnational civil disobedience involves the breaking of international law at sea. The environmental groups Greenpeace and Sea Shepherd³¹ have both been involved in attempts to disrupt Japanese whaling activities in the Southern Ocean, to the south of Australia. These activities took place in international waters and involved members from these groups interfering with the Japanese whaling activities. These anti-whaling activities took place in international waters, which are governed by the United Nations Convention on the Law of the Sea (UNCLOS). This is a system of treaties which governs the actions of nation states in international waters. As O'Sullivan et al. (2017, p.262) point out, 'citizens have no direct recourse within this framework', and must depend on states to deal with potential wrong-doing. Greenpeace and Sea Shepherd have harassed Japanese whaling ships by getting in between the whales and the ships, as well as by using other methods to physically interfere with the whale hunt.

In disrupting the Japanese whalers, Greenpeace and Sea Shepherd took upon themselves what they saw as the duty to uphold their interpretation of UNCLOS, rather than depending on the Australian government to do so. (In the view of these groups, UNCLOS prohibits the hunting of whales.) Although some members of the crews see themselves as vigilantes rather than as engaging in civil disobedience, it could be argued that they are practising a form of global citizenship, in which they act in ways they believe UNCLOS should be enforced in international waters.

2.3.4 Transnational and International Disobedience

Each of the examples mentioned above involve, in different ways, groups acting as global citizens. These actors are reaching out across boundaries to secure (what they believe to be) fundamental rights, and are working to implement a system that would protect these rights. Each case makes it clear that these groups are using acts of principled law-breaking to contest global governance relations. In other words, they are engaging in transnational civil disobedience. What I have tried to show with these examples is that it does make sense to use the term 'civil disobedience' to describe principled transnational law-breaking. In keeping with the normatively limited definition

³¹ The Sea Shepherd organisation does not consider its actions as civil disobedience, but rather as a form of justified vigilantism.

of civil disobedience that I have been advocating, I have not yet said anything about whether these acts of civil disobedience are morally permissible. This is a question to which I will turn shortly. For the moment, it is sufficient to say that the term ‘transnational civil disobedience’ describes a class of protest actions which transcend the borders of nation states, or involve individuals from different states working together with a common aim.

In an effort to ward off any potential conceptual confusion, I wish to briefly discuss another way of making a distinction between different forms of civil disobedience. Michael Allen (2011) makes a distinction between transnational and international civil disobedience, to enable a discussion of how the idea of civil disobedience might function at the global level. He defines international civil disobedience as situations in which *states* protest global injustices in a way that is ‘analogous to that of citizens protesting injustices within the borders of their own state in the case of domestic civil disobedience’ (2011, p.133). This type of action assigns to the state the role of the protester. States, acting on the global stage, protest against an internationally-recognised and enforced policy (e.g. the global intellectual property rights regime) by not adhering to the policy, framework or rules. An example of this might be the actions of the Brazilian state during the 1990s, when international patent rules on anti-retroviral drugs were ignored in order to provide affordable medication to HIV/AIDS patients. It could be argued that this analogy stretches the notion of civil disobedience beyond recognition: casting states as being civilly disobedient does not make sense, given that they are not aiming to persuade other states by means of their actions. They are simply acting in their own self-interest. In contrast to international civil disobedience, Allen argues that transnational civil disobedience should be understood as ‘a form of non-violent, symbolic, and illegal protest that specifically engages the concepts of global citizens and a global public’ (2011, p.135). What this means is that an act of transnational civil disobedience is one where individuals act together as global citizens to address global issues using civil disobedience. This understanding of transnational civil disobedience is linked to Cabrera’s (2022) discussion of transnational civil disobedience and is the understanding of civil disobedience which I use in this chapter.

2.4 Two notions of ‘civil’ in the transnational context

Before continuing with a discussion of how to think about the moral permissibility of engaging in transnational civil disobedience, I want to deal with some possible objections to this approach. Firstly, it could be objected that all three examples might well be principled acts of illegal protest worthy of being granted a morally privileged status, but that they should not be seen as civil disobedience. That is because they are missing a connection to citizenship and political action communicated by at least one of the senses of the term ‘civil’. Influential accounts of civil disobedience, like those of Rawls, Bedau and Habermas, frame civil disobedience as an act whereby citizens appeal to their co-nationals in trying to overturn some domestic policy or law. However, as Cooke points out in his discussion of what he calls ‘cosmopolitan disobedience’, there is no *prima facie* reason why this should be the case. He argues that the exclusionary definition of civil disobedience within ‘the liberal canon has developed as part of broader theories of justice restricted to idealised conditions in closed political communities’ (2019, p.12). This narrow focus has led not only to the exclusion of environmental concerns from the discussion about civil disobedience, but also limited discussions about who may engage in civil disobedience, such as migrants, refugees, online activists and non-citizens (Basu & Caycedo, 2018).

To remedy the overly-narrow focus of the liberal tradition, we need to look again at the way in which the ‘why’ and the ‘who’ of civil disobedience have been understood. On traditional liberal accounts of civil disobedience, the ‘who’ (those participating in civil disobedience) are connected to the ‘why’ of their cause by virtue of their citizenship relation. Within a self-contained democratic system it makes sense that this relation is of primary concern. However, as I argued in Chapter 1, this is an overly-narrow and exclusionary understanding of what constitutes civil bonds. Given the facts about increasing globalisation, it is not clear that the citizenship relation should be given the prominent status it has, or at the very least we need to rethink the different ways in which individuals and groups can claim citizenship rights (or at least participation rights). As I argued at the beginning of this section, the notion of global citizenship allows us to make sense of the ways individuals and groups can act transnationally to claim rights denied to them.

3. Necessity, deliberation and future generations

3.1 Civil disobedience beyond borders

Questions about how civil disobedience could be justified have traditionally focused on the moral standing of citizens with a given polity, and the reasons that they could give for disobeying the laws of that polity. Moreover, as I argued in Chapter 1, much of the discussion around civil disobedience in Anglophone philosophy since the 1960s has been concerned with how citizens in a liberal democracy could justify laws which have been passed in a procedurally legitimate way. In the remainder of this chapter, it is my intention to deal with a question that presents a different set of challenges. I will argue that climate justice concerns give both citizens and non-citizens of a legitimately constituted democracy moral grounds for engaging in civil disobedience that disrupt activities in that state.

Arguing for the moral permissibility of transnational civil disobedience is a more demanding task than arguing that citizens within a democracy have grounds to employ civil disobedience. This issue deserves attention because it is precisely this type of protest which has become more prevalent during the last two decades. Two causes in which transnational civil disobedience have been employed stand out: one is the global climate justice movement and the fight against climate change; the other is the issue of unauthorised migration from less developed nations to wealthier states. In both cases, civil disobedience is used to challenge prevailing global governance relations. In the follow sections I provide arguments that build on recent work by Ogunye (2015), Cooke (2019), O’Sullivan et al. (2017), Cabrera (2020) and Allen (2018) that has, in different ways, grappled with the issues raised by transnational civil disobedience.

The first argument involving transnational climate disobedience that I will discuss has been termed the ‘climate necessity defence’. This argument is based on the view that environmental catastrophe linked to climate change is imminent, and immediate action is required to prevent it. The specific harm that is purportedly going to be prevented varies, depending on the group employing the defence. It could be a threat to human beings, to non-human species facing extinction, or a threat

to the planet as a whole.³² Those who turn to the necessity defence try to show that civil disobedience is the only way to prevent an imminent harm of some kind. Using two examples, I examine these claims and argue that the notion of necessity as it has traditionally been understood in the legal context does not allow for a strong connection to be made between climate-related civil disobedience and climate change.

3.2 Necessity and disobedience

Using the so-called ‘necessity defence’ to justify civilly disobedient actions in response to the climate crisis has received increased attention in the last decade. The necessity defence is a strategy used by defendants in court to argue that their actions, though illegal, are excusable because the context in which the actions took place offered them no reasonable alternatives. This type of defence is usually employed in situations where defendants had to choose between two bad options. For example, if someone were to illegally enter a building that had caught fire to save the life of a child trapped inside, they could claim that the alternative to the illegal trespassing (namely, the potential loss of life) justified their actions. One of the more famous cases in which the necessity defence was used by activists engaging in civil disobedience, involves the daughter of former United States president, Jimmy Carter. Amy Carter and a group of fellow activists staged a sit-in at the University of Massachusetts-Amherst to protest against the Central Intelligence Agency (CIA) using a campus event as a recruiting opportunity. At their trial, Carter and her fellow activists successfully convinced a jury that trespassing and disrupting the activities of the CIA recruiters was the only way in which they could prevent certain wrongful harms from being inflicted by the CIA in Central America. They convinced the jury that the harms they sought to prevent were immediate, serious in nature, and that no legal alternative course of action was available to them to prevent them from occurring.

Several prominent legal cases involving climate justice activists have seen the use of a version of what has become known as ‘the climate necessity defence’. The necessity defence has been

³² There is another version of this argument associated with views linked to the deep ecology movement. Deep ecology arguments rely on non-anthropocentric normative frameworks and seek to make drastic changes to social, economic and political structures around the world. It is beyond the scope of this dissertation to discuss these issues.

articulated most clearly by a group of activists associated with the Climate Disobedience Centre³³ in the United States, but in the last ten years there have also been important cases in France, Switzerland and the United Kingdom. In its simplest form, the climate necessity defence claims that the dangers posed by climate change are extreme, imminent, and a threat to public interest, which is not being adequately dealt with by the competent authorities. Proponents of the climate necessity defence argue that this justifies extreme, even unlawful acts to remedy the situation.

It is not only climate- and war-related issues that have drawn attention to the connection between the necessity defence and civil disobedience. Alejandra Mancilla (2012), writing about the relationship between what she calls ‘noncivil’ disobedience and necessity, discusses the case of impoverished farmers in Paraguay. The farmers, suffering from the effects of a severe drought, use illegal means to take food from wealthier commercial farming operations in order to ward off starvation. Drawing mainly on the work of Samuel Pufendorf (1934 [1672]), she argues that the right of necessity can explain how certain forms of principled law-breaking could be justified if the material conditions that allow for the proper functioning of a legal system were to collapse. Pufendorf argues that the political obligation of citizens to respect a system of private property rights may start to unravel if the material conditions make it impossible for an individual to support themselves (despite their best efforts).

Pufendorf proposes four conditions that must be met if the necessity defence is to be successful. The first is that the material need of those considering whether to break the law must be urgent. This condition is met when circumstances prevent a person from living a minimally decent life. This would mean an almost complete lack of access to sustenance and shelter. Secondly, the agent engaging in the law-breaking must not be guilty of getting themselves into the position that they are in.³⁴ Thirdly, the victim of the agent’s law-breaking must be in a position that is considerably

³³ Members of this group include the so-called ‘Valve Turners’, who briefly shut down the flow of oil from the tar sands of Alberta, Canada, to the refineries in Texas. Tim DeChristopher, who was sentenced to two years in prison for disrupting an auction of gas exploration permits held by the federal government in the United States, is also associated with this group.

³⁴ This is a difficult requirement to judge. It is often not clear to what extent people are responsible for the situation they find themselves in. For the purposes of this study, it is not necessary to delve into this question further.

better off than the agent's. The reason for this is the presumption that those who are in an equally bad position should not be made worse off. Lastly, the law-breaking must be the last resort of the person breaking the law. Given the extremely disruptive nature of this type of law-breaking, it makes sense that alternative courses of action must be exhausted before this route is taken.

Pufendorf's argument is based on a social contract approach to the justification of private property. In his view, the private ownership of property is justified on the basis that this institution furthers human well-being by giving secure tenure and allowing for interaction to take place without the threat of violence. This allows wealth to be multiplied both by trade and by giving individuals the security of knowing that the fruits of their toil will not be summarily appropriated by others. The justification for private property rests on the ability of this institution to further the interests of all who are bound to obey it (Beever, 2013). Pufendorf bases his argument for morally permissible law-breaking on the idea that the institution of private property loses its legitimacy when circumstances arise in which individuals are in a condition even worse than they would be, had the institution of private property not existed. In such cases, the normal rules governing private property cease to be binding on those who are worse off than they would have been, had these rights not existed.

3.3 Necessity and the climate

Writing about civil disobedience and the necessity defence in the context of the United States, W. P. Quigly (2003, p.55) argues that, similar to Pufendorf's requirements, there are four criteria that must be met if a necessity defence is to have any chance of succeeding. The defendant must prove:

1. that they were faced with a choice of evils and chose the lesser evil;
2. that they acted to prevent imminent harm;
3. that they reasonably anticipated a direct causal relationship between their conduct and the harm to be averted; and
4. that they had no reasonable legal alternatives to violating the law.

In discussing the history of appealing to the necessity defence in the United States, Quigly notes the 'vital' and 'successful' role it has played at the state level. He discusses several cases involving activities at nuclear power plants and nuclear weapons facilities in which activists have been

acquitted of charges related to civil disobedience on the basis of the necessity defence. There are also several examples in which activists successfully used the necessity defence to justify actions such as anti-apartheid marches and protests against United States military activity in Central America. Quigly's survey of litigation in the United States shows that judges (at state level) have often allowed necessity defences to be employed, and that juries have often proven to be sympathetic in such cases.

Drawing on the history of the successful use of the necessity defence in civil disobedience cases in the United States, the Climate Disobedience Centre has advocated its use by defendants in climate justice-related cases that involve civil disobedience. In a document outlining their view, they argue that presenting a climate necessity defence can make for a powerful political statement:

Climate activists are driven by concern for society and the planet. By presenting a necessity defence — that is, describing the dangers of climate change, the lack of effective legal remedies, and the importance of individual action — activists in effect put the government on trial. If such an argument succeeds, it sends a very powerful message about the need for political change and the value of personal initiative.

However, in order for the climate necessity defence to be convincing to a jury, activists need to show that their actions meet the criteria discussed by Quigley. In cases involving climate justice, all of these criteria are open to challenges on what could be called epistemic grounds. To illustrate some of the difficulties with this defence, I will use two recent examples of climate justice disobedience carried out by groups in the United States and Switzerland. My aim is to show that the necessity defence, in appealing to the facts about climate change, fails to make a convincing case for the permissibility of climate justice civil disobedience. However, this failure is instructive, as it points to the limitations of framing the problem of climate change as something that primarily requires a change in the activities of individual fossil fuel firms. As I will argue after having discussed the necessity defence, the moral permissibility of climate justice civil disobedience needs to be grounded in more explicitly political terms that go beyond a response to individual actors.

3.3.1 *The Valve Turners*

In October 2016, a group of climate activists known as the ‘Valve Turners’ engaged in what they called an act of ‘climate disobedience’ by stopping the flow of oil from the Alberta tar sands in Canada to the United States. The Valve Turners argue that the threat posed by the exploitation of the Alberta tar sands is real and ongoing. To prevent the tar sands from being further exploited, they covertly accessed the emergency stop-valves of the pipelines and stopped the flow of oil. Their claim was that they were acting to prevent a serious harm from continuing. There is significant scientific support for the claim that the danger from the tar sands is serious: James Hansen, one of the world’s foremost climate scientists, has described the exploitation of the tar sands as a ‘carbon bomb’ that would irrevocably change the climate on earth, causing serious harm to human beings and many other species. Hansen and other scientists have argued that in order to avoid dangerous climate change, the majority of the carbon resources still beneath the surface of the earth must remain untouched. Given these facts about the exploitation of carbon energy, the Valve Turners argued that in shutting down the pipeline from Alberta to the United States they were acting to:

1. prevent an immediate, identifiable harm from occurring;
2. that no alternative course of action was available to them; and
3. that their actions were in the public interest.

All three of these claims are open to challenge. Firstly, the non-linear relationship between carbon output and the harms that may be caused by an increase in the concentration of carbon dioxide in the atmosphere make it impossible to link specific amounts of carbon to specific harms.³⁵ It is not possible to draw a direct line between the exploitation of carbon energy extracted in Alberta and the harms to be suffered by an identifiable group of individuals. Furthermore, these harms are likely to take decades to materialise (that is, harms over and above those caused by the warming

³⁵ Broome (2012) has argued that a direct causal link between specific carbon emissions and specific harms can be established. This argument has been challenged by Gardiner (2011) and MacLean (2018), who argue that the non-linearity of the harms, as well as the irreducibly collective nature of the way in which the harms are produced, makes it impossible to determine a direct causal link between specific individual emissions and harms. See, however, the article by Daniel Bressler (2021), which tries to quantify the carbon emissions connected to an individual death caused by climate change.

that the planet has already experienced). Even if the tar sands were not exploited, many of the harms may yet come to pass due to other sources of hydrocarbons being exploited.

The second difficulty is proving that no alternative course of action is available to those engaging in the unlawful activity. Again, in the case of climate change it is difficult to think that there were no alternatives open to those taking part in the closing of the pipeline valves. In relatively open societies like the United States, it is conceivable that there are alternatives available, some of which may be more effective in directly preventing the harms associated with climate change. This could include participating in collective efforts to provide aid to communities that have been affected by climate change, or working with others to shift to a carbon neutral lifestyle. Of course, climate activists might argue that these options are in principle available, but that they are not effective due to the prevailing political conditions. For example, it could be that even if legal challenges are likely to be successful, they require resources that activist groups are unable to muster. Or it could be that activist groups representing environmental concerns are not accorded a share of media attention proportionate to how widely their concerns are shared, and so are systematically stymied in efforts to build public support for their cause. These concerns about access to the deliberative process may be reasons to resort to civil disobedience, but they are more directly connected to issues of inclusivity in public deliberation than they are to the issue of necessity. It makes more sense to argue directly for civil disobedience from a concern about the deliberative process, than it does to claim that civil disobedience is justified by necessity and that the necessity exists because access to the deliberative process is less than adequate.

Lastly, those employing the climate necessity defence argue that their actions are in the public interest. This raises some difficult issues for those employing the defence: determining what the public interest is when it comes to complex issues like the energy policy of a particular state is extremely difficult (even more so, when it comes to the public interest of citizens globally). On a pluralistic account of public interest, the public interest (or common good) is defined simply as the welfare or wellbeing of the general public, as expressed through their collective decision-making. On this notion of the public good, it is difficult to see how a group acting in ways contrary to democratically enacted law can claim to directly further public interest except for an extremely limited set of cases. Even on a non-pluralistic account of public interest, in which the public

interest is presumed to exist independently of democratic decisions about how best to achieve it, justifying civil disobedience with an appeal to necessity is problematic. It would make more sense to try and justify civil disobedience by pointing to its ability to influence democratic deliberation about the common good, rather than claiming that disobedient action in some way directly promotes the public interest.

3.3.2 *The Credit Suisse tennis case:*

A more recent case involving a group of activists using the necessity defence comes from Switzerland. In November 2018, twelve activists entered a Credit Suisse branch in Lausanne and staged a symbolic game of tennis. Their aim was to draw attention to the continued financing of transnational fossil fuel projects by the bank, which they claimed was at odds with the 2018 IPCC report that called for a drastic reduction in the use of carbon-based energy. The activists used the symbolic game of tennis to draw attention to the sponsorship deal between the bank and the tennis star, Roger Federer.

The activists were arrested and charged with trespassing. They faced fines of 21,600 Swiss Francs. In a trial during January 2020, the activists appeared in court and argued their case. Their legal representatives presented evidence (supported by numerous Swiss academics) that Switzerland would not meet the requirements of the Paris Climate Agreement of 2015, and that only urgent and drastic action would remedy the situation. The court then considered whether the action of violating the law (in this case the law of trespass) was necessary in order for the climate emergency to be addressed. Writing about the judgement, legal scholar Saskia Stucki (2020) discusses how the court reasoned about the necessity of the action on the part of the activists:

The court considered four hypothetical alternatives, all of which it deemed futile in the present case:

1. *lawful demonstrations* on public ground: would have likely not been authorized, and would certainly not have attracted the kind of media attention necessary to create public pressure;
2. *formal communication* with the bank: this path had been exhausted by both the activists and other NGOs, but to no avail (the bank had never even responded to such inquiries);
3. *political means*: the court held that the ordinary political process (which has so far proven slow and ineffective in this regard) does not afford a suitable other means in

the face of the climate emergency ('le temps politique ... n'est plus compatible avec l'urgence climatique avérée');

4. *judicial means*: even though a legal framework for fighting climate change exists, it is at present not sufficiently respected or enforced, and furthermore not enforceable by the activists.

The court concluded that there were no legal alternatives available to the climate activists and that their actions were therefore justified.

Based on evidence presented, the judge acquitted all twelve activists. Judge Philippe Colelough explained that defendants had shown that 'the imminence of danger is established... The act for which they were incriminated was a necessary and proportional means to achieve the goal they sought' (Climate Case Chart, 2023). However, in 2020 the case was overturned on appeal, with the appellate court judges dismissing the necessity defence and levying fines on the activists. This decision was then appealed, and the case was heard by the Swiss Federal Court. The Federal Court upheld the decision to convict the activists, arguing that climate change could not meet the requirements of necessity, because the notion of necessity pertains only to events that happen on the timescale of hours, rather than months or years (Reuters, 2021). This ruling aligns with legal precedents in other countries. An example from the United States is the 1992 case of *United States v. Schoon*, in which protesters were arrested at a tax office for throwing fake blood in the lobby and refusing police commands to vacate the building. The protesters were demonstrating at the tax office to protest against the use of federal funds to support violence in El Salvador, and attempted to use the necessity defence in court. The federal court ruled that those wishing to use the necessity defence could only do so in cases of direct disobedience, in other words in cases where the disobedience is directly connected to the law being opposed. This ruling effectively bars the use of the climate necessity defence at the federal level in the United States (Nosek, 2019, p.259).

3.3.3 *Alternatives to necessity*

The combination of reasons given above – that is, the difficulty of classifying climate change as an imminent threat and the problem of appealing to the notion of the public good – casts doubt on whether the notion of necessity offers a convincing justification for action on the part of those engaging in climate disobedience. This is not to say that the strategy is without merit. As a tactic to win over jury members in cases involving climate justice, it may well be successful on occasion.

For example, in 2007, activists in the United Kingdom trespassed on the grounds of a coal-fired power station in Kent and engaged in illegal activities to draw attention to the scale of carbon emissions at the plant. They mounted a legal defence that argued for the necessity of their actions and were ultimately acquitted by a jury (Vidal, 2008). However, as I have shown with the two examples in the above section, using the notion of necessity to link climate justice disobedience to the harms of climate change is tenuous, at best.

3.4 Necessity as an intervention in public deliberation

One may wonder why, given the limited prospects for success in the legal arena, protesters continue to appeal to the idea of necessity in defence of their actions. Two connected reasons suggest an answer. The first is that the public seems to have a broader understanding of what ‘necessity’ means. Those trying to use the necessity defence have received considerable supportive media coverage for their struggle, and several jurors and even judges have admitted that the discussions in court have made them realise the importance and urgency of dealing with the climate crisis. This points to the second reason why activists might use this type of defence: in addition to the civilly disobedient action itself, the court proceedings provide another opportunity for them to influence the public discussion of what ought to be done about climate change. In a sense the necessity defence is not about arguing for the moral permissibility of using civil disobedience to prevent a certain activity from happening. It is rather a means of showing that existing political processes have been unsuccessful in addressing the climate crisis and that urgent reform is required. If we were to interpret the appeal of necessity not as a good-faith defence of the illegality of the actions, but as simply part of a communicative strategy to intervene in the global deliberative process, it could be possible to see the disobedience as being morally permissible on deliberative grounds in a way that is similar to the domestic case.

For example, protests on both sides of the United States-Canadian border which aim at stopping the flow of oil from the tar sands of Alberta to the United States have included citizens from both nations (as well as others from around the world), and aim to not only communicate opinions about energy policy in those countries, but about the global system that allows for the transportation of fossil fuels. Canadians who protest in the United States need not be seen as trying to usurp the sovereignty of the United States when they do so. Instead, they could be seen to be performing an

act of global citizenship which seeks to remedy what might be termed a ‘blockage’ of the deliberative process at the level of both the domestic and global public sphere. Similarly, the British, French, German and other nationals protesting at COP21 and breaking French laws can justify their actions by portraying them as an intervention in public deliberation that brings to light the mismatch between what negotiators agreed to, and what climate scientists have shown is necessary to prevent the worst impacts of climate change. In the previous chapter, drawing on Smith’s (2013) work on deliberative democracy and civil disobedience, I showed that this type of argument could be used to justify climate change disobedience at the domestic level.

Smith himself has argued that civil disobedience, understood as transnational disruption, can be justified by appealing to the ‘normative standards that are an appropriate source of authority in international or global contexts’ (2017, p.485). What this means is that transnational civil disobedience could be a morally permissible way of objecting to actions that threaten interests which should be protected by the global normative order (such as human rights). I am broadly in agreement with Smith’s views about transnational civil disobedience and that they can, in many cases, be defended by appeals to the global normative order. However, in the case of climate justice issues, I will argue that transnational disobedience need not only appeal to these global sources of normativity, but that it can be a morally permissible way to help bring into existence the institutions or treaties that provide the normative grounding for addressing the climate crisis. In other words, I will argue that civil disobedience can be a morally permissible way of trying to create new governance structures where they do not yet exist. In the final part of this chapter, I argue that a natural duties account of justice offers the best means of defending civil disobedience that aims to create such governance structures for climate-related concerns.

Before turning to the natural duties account, I first discuss two other ways in which transnational climate justice civil disobedience could be justified: the All-Affected Principle, and appealing to the idea of cosmopolitan intergenerational justice. I will offer some support for the moral permissibility of transnational climate justice civil disobedience, but note that these remain vulnerable to objections. Discussing these objections helps to bring into focus the benefits of turning to the natural duties account to defend the moral permissibility of climate justice civil disobedience.

3.5 The All-Affected Principle and civil disobedience

One way of overcoming the objection that transnational civil disobedience usurps democratic sovereignty would be to argue that a more important moral principle supersedes it. This is the route taken by Cooke (2019) in advancing what he calls ‘cosmopolitan civil disobedience’. Drawing on R. E. Goodin’s idea of the All-Affected Principle (AAP), Cooke argues that transnational civil disobedience could be justified in cases where the issue being protested in some sense ‘affects’ those outside the borders of the state where the protest is being staged. At the heart of the AAP is the idea that decision-making should include all those who are to be affected by the decision being made (Goodin, 2007). Goodin’s argument for the AAP is an attempt to ground the bounds of the *demos* in a principled way, and avoid the circularity which he argues characterises much theorising about democratic legitimacy. Cooke suggests that if Goodin’s argument is accepted, then transnational decision-making about a broad range of issues ought to be accepted.³⁶ Cases where significant decisions have been taken that affect those outside the group within which they were taken, argues Cooke, might provide grounds for decisions to be contested, and civil disobedience is one of the ways in which this could be done. In other words, citizens in Country A, who are affected by decisions made in Country B, would have the right to participate in that decision. In cases where they cannot participate, they should be able to challenge that decision in some form. If this holds, then it seems that civil disobedience should be at least one of the options open to those citizens of Country B who wish to register their opposition in Country A, but have no legal or practical way of doing so.

Goodin’s AAP has already received sustained discussion in the literature, but it is useful to briefly discuss an issue raised by David Miller (2009) that is also addressed by Cooke, because it is connected to the issue of transnational disobedience. Miller objects to the AAP on the grounds that it is circular: it is impossible to know which decisions will be made and who will be affected by a particular decision until the decision-making body is itself constituted. In other words, the decisions made by a particular body depend on the members who constitute that decision-making body. The only way to avoid this circularity would be by accepting the necessity of a global constituency for all decision-making. Miller objects to this possibility on the grounds that such a

³⁶ It is not my intention to discuss the merits of Goodin’s argument. My interest extends only to Cooke’s use of the argument in trying to justify transnational civil disobedience.

global constituency would undermine the sense of solidarity (which Miller claims can only be effectively generated by nation states). This sense of solidarity makes it possible for large collective decision-making institutions to function effectively. This response may well be correct in the current geopolitical climate, but that need not always be the case. It is surely conceivable that a relatively well-functioning global state might well one day emerge. If that were to happen, the possibility of transnational civil disobedience disappears and this question is no longer of interest. However, until such a time, the question of how transnational civil disobedience can be justified, remains.

On Goodin's view, 'we should give virtually everyone a vote on virtually everything, virtually everywhere in the world' (2007, p.56). If this is indeed a defensible view, as Cooke argues, then it would give groups the world over reason to engage in widespread civil disobedience. For if it were the case that the AAP is to be accepted, then at the very least civil disobedience would be one of the ways that those who are currently disenfranchised could exercise their right to participate in decision-making procedures. This would obviously be the case with regard to climate justice issues. On the basis of the AAP, citizens of states that will be seriously impacted by climate change (e.g., the Pacific island states) would be justified in protesting in countries which are largely responsible for their predicament (e.g., the United States). However, relying on the AAP to justify transnational civil disobedience might lead to some counterintuitive results. As Cooke notes, the AAP may offer more reason for non-nationals to protest against an unjust law than citizens from the state in which the law is passed. If the citizens of a well-functioning liberal democratic state have fair access to the public sphere and access to all the necessary legal channels, then it would be difficult for these citizens to justify engaging in civil disobedience on the basis of the AAP. Instead, it is those who are to be affected by the decision, but from which they have been excluded from participating, who, on the basis of the AAP, would have greater standing for engaging in civil disobedience.

Another problem with the AAP is that, in some ways, it is too broad in that it offers up too many issues which might become the subject of civil disobedience. Given the difficulties in existing democratic states of trying to adequately include all those that might be affected by a decision, it is likely that a global requirement to extend voting rights and ensure their proper use would pose

even greater issues. It might lead to permanent political gridlock, making it virtually impossible for decisions to be made. In another sense, the AAP is actually too narrow, in that it cannot be used to justify acts of transnational civil disobedience by those who are not affected by the particular policy of a state, but who nonetheless feel they have reasons to employ civil disobedience to object to it. One can imagine protestors from Country A travelling to Country B and protesting the mistreatment of, for example, a minority group in that country. For the purposes of this argument, let us assume that there is no special relationship between the protestors of Country A and the minority group in Country B. In this example, the AAP would not provide grounds for engaging in civil disobedience because those protesting are not ‘affected’ by the mistreatment of the minority group. A proponent of the AAP-view could argue, along with Martin Luther King Jr., that ‘an injustice anywhere is a threat to justice everywhere’. This would, however, seem to stretch the notion of ‘affected’ beyond recognition. Not only would it stretch the concept too far, but it is also a roundabout way to express the normative concern which arises in these types of cases.

3.6 Cosmopolitan intergenerational justice and civil disobedience

A different way of trying to justify transnational civil disobedience is to argue that there are intergenerational duties of justice which must be respected, and that civil disobedience is one of the ways in which a failure to do so could be contested. In the previous chapter, I discussed the possibility that the rights of future generations to a democratic society might be used as a way of justifying civil disobedience within the confines of a single nation state. In this section I build on an argument by Allan Carter (1998) that tries to show that an appeal to intergenerational justice can also be used to justify transnational civil disobedience. In trying to justify what he calls ‘Radical Disobedience’, Carter uses an argument based on intergenerational justice. This argument claims that in cases where it is clear that our collective actions are causing significant harm to those not yet born, we have a duty to try to prevent this harm (1998, p.38):

Some of our present actions will, as a matter of fact, harm persons who will exist in the future. If our present actions lead to the destruction of the life support systems of this planet, billions of people who do not yet exist will die in horrific conditions. As they do not yet exist, they have, as of yet, not undertaken any actions. In a word, they are wholly innocent. And to harm, needlessly, wholly innocent persons, is wrong.

Acting in ways to prevent the needless harming of wholly innocent persons (even if they are only potential persons) would then justify, at the very least, some forms of civil disobedience against those entities which facilitate or enable the harm to occur, argues Carter. In the context of Carter's argument, these entities would be both corporate actors who directly harm future generations (e.g. fossil fuel firms) and the state, which allows them to operate.

For some version of this argument to succeed, another argument is necessary to establish that there are indeed moral obligations to future generations that can be violated. This is a contentious issue. Most influential among the opponents of this view is Derek Parfit. Briefly stated, Parfit (1986, pp.351-352) argues that future generations cannot be harmed because it is not possible to harm those that do not exist. If, as Parfit argues, future generations only exist because of the choices made by those alive today, then the very same actions which harm them also bring them into existence. If the current generation were to make different (less ecologically harmful) choices, then those who will be born as a result of the different choices are a different set of individuals. Whatever choice is made does not affect the same person, because the very existence of the future person comes to be by the making of the choice. This is known as the Non-Identity Problem.

The Non-Identity Problem raises difficulties not only for thinking about whether civil disobedience in defence of future generations is justified, but for all questions relating to the possible harm of future generations. It seems to suggest that acting in ecologically harmful ways is equivalent to acting in ways that prevent harm to future generations — neither matter. There is no consensus about how the Non-Identity Problem can be overcome. Most approaches in moral philosophy rely on the notion of harm being connected to a specific, identifiable agent, but as Parfit points out, picking out such an agent is an impossibility when thinking about future generations.

One way of avoiding the issues with Parfit's Non-Identity Problem while salvaging Carter's argument that civil disobedience on behalf of future generations is justified, would be to reframe the argument in political, rather moral terms. Instead of worrying about finding a specific, identifiable future agent that may be harmed by climate change, we could instead draw on the cosmopolitan tradition to articulate our political responsibilities to future generations, regardless of who or where they might be. If we take a cosmopolitan approach to climate justice by widening

the circle of our moral and political concern, it becomes possible to think of ways of answering Parfit's challenge. The cosmopolitan tradition has many strands, but as Thomas Pogge (1992, p.48) argues, there are three features that are almost universally accepted:

First, *individualism*: the ultimate units of concern are *human beings*, or *persons* – rather than say, family lines, tribes, ethnic, cultural, or religious communities, nations, or states. The latter may be units of concern only indirectly, in virtue of their individual members or citizens. Second, *universality*: the status of ultimate unit of concern attaches to *every* living human being equally – not merely to some sub-set, such as men, aristocrats, Aryans, whites, or Muslims. Third, *generality*: this special status has global force. Persons are ultimate units of concern for everyone – not only their compatriots, fellow religionists or such like.

By making a small 'friendly amendment' to Pogge's characterisation of the cosmopolitan view to include future generations, it is possible to overcome Parfit's Non-Identity Problem. If we expand Pogge's view of universality to include moral concern not only for every living human being equally, but every generational cohort equally, the cosmopolitan view brings our duties towards future generations into focus. In a sense, future generations would be like the inhabitants of a recently discovered continent, but one to which we cannot ourselves travel. However, we know with a reasonable degree of certainty what life is like for the inhabitants of this continent and we have the ability to send them aid, or to harm them. On the cosmopolitan view, human beings in such a position relative to us would, at the very least, be entitled to not having their basic rights harmed by us. However, the inability of the current generation to reduce carbon emissions is equivalent to harming their basic rights.

Although Carter does not discuss the matter of *transnational* civil disobedience in defence of the wholly innocent, it appears that his argument would apply for the same reasons that it does on the domestic basis. If the justification for civil disobedience is based on preventing harm to future generations due to the deficient actions of a government, then surely it should not matter whether those protesting are not subjects of that government, if the harms being imposed are global in scale, and the government being protested against is partly to blame. It seems plausible that in cases where the harms being caused by a given government are transnational in scope, those using civil disobedience are justified in doing so. If a government were committed to a course of action that

would only harm the inhabitants of that country, then on the basis of Carter's argument, civil disobedience might only be justified for those who have a direct relation (as subjects) with the government in question.

Although we have established that the harms caused by the continued emission of greenhouse gases are of a transnational and intergenerational kind, these harms are, in a sense, diffuse. Justifying specific acts of civil disobedience in response to these diffuse harms faces the same difficulties discussed in relation to the necessity defence in the previous section. A justification for civil disobedience based on future climate harms also makes it difficult for the intended audience of the disobedience to make the conceptual connection between the harm and disobedience in cases where no direct harm is being prevented. Attempting to shut down a coal-fired power station may be directly connected with climate-related harms, but many other forms of disobedience do not allow for such a direct connection to be made. It also makes it difficult to justify disobedience against entities which do not directly contribute to climate harms, but who may have the capacity to help prevent those harms from occurring. For example, one can imagine situations in which states that have a history of virtually no carbon emissions (and thus no history of harm) refuse to take part in global climate accords. Doing so would increase the likelihood that states with high emissions who continue to do harm also decide not to take part in climate justice negotiations. A different approach is needed to justify transnational climate disobedience; one which would offer a justification for disobedience, even in cases where no direct harms are associated with the target of that disobedience.

4. The duty to disobey?

4.1 Political obligation and civil disobedience

In the previous section I argued that a different way of justifying transnational climate justice disobedience is needed, so as to overcome the difficulties associated with an approach connected to the prevention of harm. In this section, I try to do this by way of thinking about who should engage in climate justice disobedience. Given what we know about climate change, I begin by asking (i) who may engage in climate disobedience, and (ii) who has a duty to do so? One way of

thinking about who might have a duty to engage in civil disobedience is to approach the issue by starting with the question of political obligation. There are a number of promising routes to follow in this line of argument (Delmas, 2018), two of which would seem to apply specifically to questions of climate injustice. The first approach relies on a fairness-based account of political obligation. This approach, in which our obligation to obey the law is grounded in the fairness of the benefits distributed by the law-making authority, offers an interesting way of thinking about our obligations in contexts where there is unfairness in the distribution of benefits, but no authority which is directly responsible for addressing that unfairness. The second approach is based on a natural duty account of political obligation. On this account of political obligation, just institutions must be supported in cases where they exist, and there is a duty to help create them where they do not yet exist (if it is possible to do so at relatively little cost to oneself). I will try to show that this positive duty can be used to argue that certain individuals may have an obligation to engage in climate disobedience, in order to create the institutions necessary to regulate global emissions. In the following sections I discuss these approaches. I will also prepare the foundations for an argument in the next chapter, which states that certain individuals have more demanding moral duties to engage in civil disobedience to try and prevent climate injustice.

4.1.1 Fairness

One duty that may require individuals to act against injustice can be derived from the fairness account of political obligation. On the fairness account, political obligation is based on the fact that cooperation is essential for providing the public goods necessary for citizens to maintain the basic structure of society required for a minimally decent life. Writing about climate justice and civil disobedience, Simo Kyllönen (2014) argues that having a stable climate could be counted as an indispensable public good.³⁷ If a stable climate is indeed such a good, argues Kyllönen, ‘the principle of fairness requires that all countries and their citizens do their fair share’ (2014, p.604) to maintain it. Assuming that a stable climate is indeed a public good, this would create what he calls a ‘global justice community with distributional requirements resembling the interstate case’ (p.605). In other words, if a stable climate is an indispensable public good, and the only way to secure this good is by states acting collectively, then the same type of duty that requires

³⁷ Kyllönen argues that it might be the case that having a stable climate is a precondition for creating effective political communities, thus making sure that the climate remains stable is an indispensable public good.

cooperation among citizens within a state, hold between states as well. Kyllönen then argues that if we accept that a global justice community is established by this requirement, then we can justify civil disobedience against actions or policies which violate the fair terms of atmospheric cooperation.

Kyllönen's argument proceeds by showing that bonds of political obligation are generated by the indispensable public good of a stable climate. This line of reasoning builds on arguments derived from a collective goods justification of the state. This type of reasoning has long been a mainstay of liberal political theory, from Thomas Hobbes and John Locke down to David Hume and Adam Smith. Collective goods are also known as public goods, and have certain characteristics which make it impossible for any other entity but the state to provide them. Firstly, they are non-rivalrous. This means that the consumption of the good by one person does not prevent any other person from also enjoying that good. For example, by standing on a pavement at night which is brightly lit by publicly provided street lighting, I do not reduce the opportunity of anyone else wishing to make use of public lighting. Secondly, they are non-excludable. This means that it is not possible to exclude specific people or groups from using the good. An example might be a public road system, which, in most cases, can be accessed by all who want to use it. Goods which are non-rivalrous and non-excludable can only be efficiently provided by entities like states because only states (representing all their citizens) have the right incentives to provide these goods. Non-state actors, like firms, would not be able to provide these goods because, given that they are non-excludable, it would not be possible to provide them in a profitable way. Providing these goods is therefore part of the justification for having a state in the first place.

Kyllönen argues that a stable climate is a type of public good and that states therefore have a duty to provide it. If some states fail to do their part in securing this indispensable public good, then their failure must have consequences. Kyllönen only discusses the duties that citizens of states who fail to provide this indispensable public good may have toward their own government. He argues that citizens of such states have the right to act in ways which will help to establish a fairer distribution of burdens when it comes to providing for a stable planetary climate. This includes allowing citizens to use civil disobedience against their own governments in an attempt to change their position. It is the fairness criterion, by which all states are required to do their fair share to

maintain a stable climate, that authorises the use of civil disobedience by citizens against their governments in cases where those governments fail to satisfy the fairness criterion.

Kyllönen does not discuss any cases of citizens from one country committing civil disobedience in another country, but from his argument it follows that the same justification (and duty) is open to them. If citizens of Country A performing civil disobedience in their own country justify their actions by an appeal to global fairness, then surely citizens of Country B could also take part in the civil disobedience in Country A and offer the same justification for their actions? It could be argued that the fairness criterion only binds citizens to their own states and that non-citizens have no right to use civil disobedience to challenge the laws of a state where they do not reside, because they are not in the same type of relationship with the state as a citizen is. However, there is reason to doubt this claim. If the fairness criterion applies to a public good which is realised at a global level, such as a stable climate, then it would be wrong to argue that non-citizens should not be engaging in civil disobedience in states which are undermining the provision of that good, because the provision of that good affects everyone. If citizens have a right to challenge their government with civil disobedience when it undermines the provision of this good, then citizens of other states who are similarly affected by the actions of a foreign power have a similar right, based on the same reasons.

The argument put forward by Kyllönen does offer grounds for transnational civil disobedience, but only in cases where it can be argued that the fairness criterion of political obligation applies across borders. In situations where this criterion does not hold, there may not be justification for transnational civil disobedience. This greatly restricts the scope of transnational civil disobedience. There are a number of environmental and geographical issues where the fairness criterion could be argued to apply. There are, for instance, states that share an important waterway (e.g. Ethiopia and Egypt sharing the Nile), where citizens from one state might have fairness-related reasons to engage in civil disobedience in the other, but there are not many of these types of situations (outside of climate-related issues). Furthermore, the fairness criterion itself is open to challenge. An alternative route that avoids some of these issues is to base political obligation — and challenges to it — on the natural duty account of political obligation.

4.1.2 Natural duty

In this final section on who may have the right (or even the duty) to engage in transnational climate justice civil disobedience, I put forward an argument based on the natural duty account of political obligation. The argument proceeds in two steps. In the first step the claim is made that political obligation is derived from the natural duty of justice. This is to say that natural duties of justice make demands on us, even though those demands arise outside of a system of cooperation. The second step is to show that climate justice civil disobedience could be an appropriate way to fulfil these duties (in certain circumstances).

For the argument to work, it must be shown that political obligation can arise from the natural duty of justice. This claim needs to be substantiated in order to avoid the counter-argument that those engaging in climate justice civil disobedience simply do not have the political standing to contest the laws and policies of states which contribute to the climate crisis. By basing the ‘standing’ of the protestors on an appeal to the natural duty of justice, I hope to put the concept of transnational climate justice civil disobedience on firm ground. Once established, this will allow me to show that certain individuals may have the duty to engage in civil disobedience in virtue of their privileged position. It is not my intention here to give an extended argument in favour of a natural duty account of political obligation. However, to make the case for climate justice civil disobedience, it is necessary to give a brief overview of the argument in favour of a natural duty account and to deal with some objections.

In the liberal tradition there are, stated briefly, two main ways of thinking about how political obligation arises: obligations are either acquired, or they are derived from the natural duty of justice. The acquired obligations argument takes several forms, but there are two main variants. The first and most commonly articulated is that political obligation arises from some form of consent. Consent-based theories claim that political obligation binds only those who have consented to it in some form. This could be actual or hypothetical consent. On this theory of political obligation we are bound only when consent has been given. The second way of thinking about acquired obligation relies on the principle of fair-play. As discussed in the previous section, it is the fact that individuals derive benefits from some set of shared political institutions that

generates the obligation that they do their fair share to uphold those institutions. Political obligation thus arises from the benefits which accrue from participating in a scheme of mutual benefit.

If either of those accounts of political obligation were exhaustively correct (in the sense that either of them could successfully deal with all issues raised by questions of political obligation), then it would mean that the natural duties account is unnecessary and that it would be impossible to ground a justification for climate justice civil disobedience upon it. However, as I will show, the natural duties account does offer a coherent way of justifying climate justice civil disobedience. Stated simply, the natural duties account requires us to support just institutions where they exist, and to create them where they do not yet exist. This is the argument made by Rawls in explaining how political obligation toward a particular set of institutions is generated (2007, p.117):

This duty requires us to support and to comply with just institutions that exist and apply to us. It also constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves. Thus, if the basic structure of society is just, or as just as it is reasonable to expect in the circumstances, everyone has a natural duty to do his part in the existing scheme. Each is bound to these institutions independent of his voluntary acts, performative or otherwise.

What this means is the natural duty account of political obligation requires that everyone contribute to just institutions where they exist, and to help establish them where they do not yet exist. In the context of climate change, this could mean that individuals are required to support institutions that mitigate the harms caused by climate change, irrespective of where those institutions are based. Even if institutions that aim at mitigating the harms caused by climate change do not yet exist, people could be duty-bound to support organisations that are trying to bring about their existence.

The natural duties account of political obligation is quite radical, and has implications for global justice that Rawls himself did not accept (Pogge, 1989, p.204). If it is the case that natural duties require us to support just institutions where they exist and *further* them where they do not yet exist, it may require citizens to engage in justice-furthering acts which transcend the borders of the state that they find themselves in. This runs against the grain of Rawls's own attempts to theorise what a just global society of states might require. For example, Rawls did not accept that the principles

of justice he argued for in *Justice as Fairness* had any application beyond the borders of a given political community. However, it could be argued that he did not appreciate the implications of his reliance on the natural duty of justice to ground political obligation.

Jeremy Waldron (1993) takes up Rawls's natural duty account and uses it to argue for a more radical understanding of what we owe one another as global citizens. In the following sections, I discuss Waldron's argument in favour of the natural duties account and show that it can be used to ground a defence of transnational civil disobedience. I will argue that in the context of climate justice, Waldron's natural duty account makes it clear why citizens and non-citizens alike have the right and sometimes the duty to use civil disobedience to advocate for climate justice.

Waldron begins by comparing his interpretation of the natural duty account with two competing accounts: the fair-play account, and the consent account. To illustrate why the consent and fair-play theories are lacking, Waldron uses the following example (1993, p.10):

Suppose a rich playboy with a taste for anarchy contrives to corrupt the judiciary of a foreign country for the sheer fun of it. He bribes the judges to return false verdicts in an array of cases that have nothing to do with him, so that later he can expose yet another legal system as rotten. Surely this action is wrong. The only explanation of its wrongness is that the rich anarchist has violated a duty he has not to undermine the administration of justice — anywhere. Neither consent theory, nor the principle of fair play can explain what is wrong with his gratuitous interference.

The argument presented here is that it is only by appealing to the natural duty of justice that it is possible to explain the duty the rich playboy has not to interfere with the just institutions of states other than his own. It might be objected that his own state could prohibit him from engaging in this type of behaviour, and could impose sanctions on him for disobeying this injunction. However, it is interesting to note that this prohibition could only be justified by appealing to some other principle of obligation. In neither the fair-play account nor the consent account is there a direct link between the principles which underpin those accounts, and the duty not to interfere in the workings of the just institutions of another state. Such an injunction could be enforced on the basis of the aforementioned accounts, but it does not follow directly from them. On the natural duties

account, it *necessarily* follows that individuals cannot interfere in a gratuitous manner with the functioning of just institutions in other states.

My intention is not to recount Waldron's entire line of argument, but given the importance of the natural duty of justice for my own argument about climate justice and civil disobedience, it makes sense to look quite closely at some of the issues he raises. Chief among these issues is his argument that the natural duty of justice is not a range-limited duty. Unlike the fair-play or consent-based theories, the natural duties account, as presented by Waldron, does not recognise borders. Waldron admits that the strange thing about the natural duty account of justice is that it is binding irrespective of our consent or any advantage we may gain from it.³⁸ What then of new organisations or institutions which purport to be acting to realise some aspect of the natural duty of justice? Do they gain an entitlement to our compliance? Waldron argues that they do if the organisation is 'effective and not competing with any other organisation to address the problem' (1993, p.30) What does this mean for the climate justice movement and their use of civil disobedience?

If the natural duty account is correct and the duty of justice can command compliance across borders, then individuals and groups are duty-bound to use civil disobedience to fulfil their natural duty of justice wherever they are (assuming that other means of political action have failed, or would be ineffective in the timeframe available to prevent significant harm from climate change). This is provided that their actions do not seriously undermine the justice-enhancing institutions which already exist. In other words, in situations when civil disobedience would be the most effective way to advance climate justice objectives without undermining existing justice-enhancing institutions, there is a compelling reason to take part in civil disobedience. In fact, if the

³⁸ Much has been written about the difficulties associated with the natural duties account, especially with regard to its demandingness and particularity. For example, Simmons (1979) has argued that the natural duty account would require individuals to contribute to any institutions purporting to promote justice and claiming those individuals as subject to them. On the topic of demandingness, Klosko (2005) points out that the natural duties account suggests that the requirement to create just institutions is presented as a 'weak' duty, but that once such an institution is established, it generates strong duties on the part of those that are subject to it. To take Rawls's account as an example: he claims that the natural duty of justice requires that 'we further just arrangements not yet established, at least when this can be done without too much cost to ourselves', but once the institution is established, it immediately has the potential to demand our compliance. It is not my intention to engage in this debate, although I believe that these (and other) objections can be overcome.

natural duty account is taken seriously, some individuals are required to take part in civil disobedience because doing so would further the creation of just institutions at little cost to them. On this view, when they use civil disobedience to encourage governments and organisations to act against climate change, groups like Extinction Rebellion, 350.org, Greenpeace and others can be said to be acting in ways that are in compliance with the natural duty of justice. It is precisely by using civil disobedience that they are trying to bring into existence the institutions which will prevent or mitigate the injustices caused by climate change.

4.2 Law-breaking in support of law

In this section, I build on Waldron's insights about the natural duty of justice, and present an argument in favour of law-breaking which aims to facilitate the creation of a representative global institution which is meant to regulate greenhouse gas emissions. I will term this argument the 'constructive' civil disobedience argument. This argument is based, in part, on Kant's social contract writings, particularly on his claim that there is a moral duty to leave the state of nature and enter what he calls a 'rightful condition'. A version of this argument was first advanced by Leslie Green (2006) in an unpublished article discussing the anti-globalization protests which took place at the 1999 World Trade Organisation meeting in Seattle, but I will try to show that it is even more appropriate when applied to questions about climate justice. Green's account of civil disobedience offers a new way of thinking about the basis for engaging in civil disobedience that takes into account the globalised world in which we now live. It is one of the first attempts to understand how civil disobedience has evolved from a form of political action aimed mainly at domestic issues, to one which stretches across borders.

The protesters attempting to disrupt the proceedings in Seattle in 1999 had widely divergent aims: some were protesting the loss of American jobs to countries with lower labour costs, some were opposed to Western-imposed cultural homogenization, and others voiced environmental concerns. There seemed to be no overall purpose or coherent message that united these protesters. The lack of a coherent overall message and the occasional eruptions of violence that accompanied the protests led some commentators to claim that this movement fell outside the civil disobedience tradition. Other factors also contributed to the view that the events taking place in Seattle could not be classified as civil disobedience. For example, some of the protesters were not American

citizens and were not specifically opposed to government policies, but were there to protest against the power of non-state actors like multinational corporations. Green explains that it is difficult to make sense of these events within the classic liberal tradition of civil disobedience where ‘forms of principled law-breaking took place within a single society, with a functioning system of political authority, the injustice or illegitimacy of which was judged to be at least tolerable’ (2006, p.11). He argues that the protests in Seattle were different from classic cases of civil disobedience, and that the justifications usually employed in civil disobedience cases were not being employed by many of those participating in the events that came to be known as ‘The Battle in Seattle’.

Green locates the difference between the classic civil disobedience movements and the anti-globalization protesters in their respective aims. The classic movements, claims Green, are remedial in nature, whereas the anti-globalization civil disobedience movement can be thought of as having a ‘constructive’ intent. According to the remedial view, the aim of civil disobedience is to repair a ‘breach of the social contract’ (2006, p.6). This type of civil disobedience is a way for citizens to signal to a basically just (in the Rawlsian sense) government that the principles that animate the social contract have been imperfectly interpreted by those making or enforcing laws. Unlike the remedial approach, constructive civil disobedience is a response to the absence of a set of institutions to regulate interactions between individuals or groups. Green argues that the anti-globalization protests taking place in Seattle, despite the lack of a unified message, were about the absence of a set of global political institutions necessary to regulate international interaction. What united the protesters was the fact that they believed that the global order was not regulated by a just or legitimate institutional structure. Their complaints were, in large part, linked by a deep unhappiness about the chaotic state of affairs in the international arena. They were, in effect, protesting the lack of just institutional arrangements at the global level. This is what leads Green to define the Seattle protest as being constructive: it is constructive in the sense that it aims to create a set of just institutions where only unjust or ineffective institutions presently exist.

To explain how the anti-globalization protests could be thought of as being constructive, Green draws on the social contract writings of Immanuel Kant. In particular, he focuses on Kant’s discussion of the duty to leave the state of nature. Kant argues that individuals have a moral duty

to enter into what he calls a ‘rightful condition’ with others when they have unavoidable contact with them (1979 [1797], p.137):

[E]ven if we imagine men to be as benevolent and law-abiding as we please, the a priori rational idea of a non-lawful state will still tell us that before a public and legal state is established, individual men, peoples and states can never be secure against acts of violence from one another, since each will have his own right to do what seems right and good to him, independently of the opinion of others. Thus, the first decision that the individual is obliged to make, if he does not wish to renounce all concepts of right, will be to adopt the principle that one must abandon the state of nature in which everyone follows his own desires, and unite with everyone else (with whom he cannot avoid having intercourse) in order to submit to external, public and lawful coercion. He must accordingly enter into a state wherein that which is to be recognized as belonging to each person is allotted to him by law and guaranteed to him by an adequate power (which is not his own, but external to him). In other words, he should at all costs enter into a state of civil society.

This is a mandatory duty of justice imposed by reason and cannot be escaped. This is because outside a system of right there simply is no law and therefore no rightful possession of objects, nor can the innate rights of individuals be protected. Kant’s point is that justice between human beings who unavoidably encounter one another is impossible outside of an effective and legitimate institutional arrangement. Kant’s argument is part of the classic social contract tradition of political theorising that offers a conceptual analysis of how property comes to be established, but it is also a normative argument about why some form of state authority is necessary to regulate interaction between individuals.

The atmosphere itself is a place where all the inhabitants of the Earth now ‘encounter’ one another, because the massive emission of greenhouse gases will affect the lives of everyone on the planet. Of course, this is not direct contact, but the effects of the emissions are so significant that it is not absurd to describe them as ‘interactions’ whereby we have some effect on the lives of others. The scale of the impact is such that we can compare it to one farmer dumping toxic waste over the fence to pollute the fields of his neighbour. If the atmosphere is understood as a space where human beings have now ‘unavoidably’ come into contact with one another, then by Kant’s reasoning, there is a moral duty to enter into an institutional arrangement to regulate this interaction.

By pointing out the non-existence of a rightful condition at a global level, climate justice activists are communicating the dangers of this state of affairs to others and trying to convince them to create the institutional arrangements necessary for justice. Using civil disobedience to try and bring about the creation of a global rightful condition does not require that protesters necessarily have a clear plan about what a global regulatory mechanism looks like, nor need they restrict their actions to the states of which they are citizens. As Green argues in the context of the Seattle protests, law-breaking in defence of law ‘does not require the usual showing that the substantive policies of the protesters are correct. It is enough that they [the protesters] are morally entitled to participate in decisions from which they are now excluded, and to do so under clear, stable, open and effective laws that provide for such participation’ (2006, p.7). In the case of climate justice civil disobedience, the law-breaking engaged in by protesters would be covered by the same defence.

Returning to the question of climate-related civil disobedience, we can see how the natural duties account of political obligation generates a *pro tanto* duty for individuals to further climate-justice aims by means of civil disobedience. They can justify their actions by pointing to the fact that their intention is to fulfil their moral duty to create a just institutional arrangement to regulate carbon dioxide and other greenhouse gas emissions, and that using civil disobedience is the most effective way (within the available timeframe) for achieving this goal. By pointing out the non-existence of an effective institution at a global level, climate justice activists are communicating the dangers of this state of affairs to others and trying to convince them to create the institutional arrangements necessary for justice. As Ogunye argues with respect to protests challenging global injustices, it is ‘the absence of an authoritative, decision-making body that might itself be the injustice which justifies the protest’ (2015, p.12). Using civil disobedience to try and bring about the creation of a global institution to do this does not require that protesters necessarily have a clear plan about what a global regulatory mechanism looks like, nor need they restrict their actions to the states of which they are citizens. It is enough that they are protesting the fact that at present there is no legitimately constituted institutional arrangement which regulates the emission of greenhouse gases into the atmosphere.

It could be argued that, prior to the signing of the 2015 Paris Agreement, the argument about the natural duties of justice that I have been advancing had some merit. But because there is now a

global agreement about limiting climate change, the duty of justice to establish just institutions where they do not yet exist is no longer applicable. However, I wish to resist this conclusion by pointing out two important facts about the Paris Agreement that leave room for arguments connected to the natural duty of justice. First, the signatories to the agreement only aspire to keep global warming below 2 degrees centigrade. The agreement does not provide a mechanism to compel members to adhere to this goal, and each state is free to set its own nationally determined contributions to reducing greenhouse gases. As yet, none of the signatory states have made adequate commitments to reach the goals they have set for themselves. In fact, most states (and especially some of the largest emitters) are far from reaching their own goals, and their actions alone will mean that the 2-degree mark will be passed (Carbon Action Tracker, 2023). For this reason, the Paris Agreement cannot be considered an effective mechanism to promote climate justice. Furthermore, the agreement does not (yet) make provision for the loss and damage that is a result of climate change. That means that there is no way for those affected by climate change to claim compensation for their losses. The Paris Agreement is therefore not an effective instrument for guaranteeing rights. Until these issues have been addressed, it does not make sense to view the treaty as contributing to the establishment of the set of just institutions necessary to address climate change. When protestors use civil disobedience to protest against the lack of action by their states they are, in a sense, acting out of necessity, in order to secure the rights to which their governments have already committed. Consider the recent example from Wales, where Extinction Rebellion activists shut down the Ffos-y-Fran coal mine, preventing any coal from leaving. Given that continued fossil fuel expansion is at odds with the goals of the Paris Agreement, local residents and activists took measures to bring about the closure of the mine (Corbett, 2023). The residents and activists forced the shutdown of the mine because they were not able to rely on their government to secure the rights to which it had committed itself.

There is some similarity between Green's account of constructive disobedience and William Smith's (2017) attempt to 'reconfigure' civil disobedience for the global stage. It is useful to compare these two attempts, to bring into focus what is at stake when thinking about the ways in which civil disobedience can be justified. Smith argues for understanding civil disobedience on the global stage as 'transnational disruption'. Pointing to the complex and interrelated nature of the global system of trade, finance, migration and other issues governed by international treaties,

Smith argues that transnational civil disobedience which appeals to the principles that underpin these treaties can serve as a justification for undertaking disobedient action. In justifying their transnational disobedience, protesters appeal to already existing principles embodied in treaties and the commitments that states have made in those treaties. These moments of ‘transnational disruption’, as Smith calls them, are thus conceptually linked to domestic disobedient acts in which protesters call on the state to recognise commitments which they have already made but are not effectively implementing. In this sense their disobedience is ‘remedial’ in character. This differs markedly from ‘constructive’ disobedience. What Green calls ‘constructive’ civil disobedience challenges existing governance relations without appealing to the normative basis on which those relations are supposedly already based. Instead, the appeal is to a not-yet-existing normative standard that is yet to be decided.

It is not my intention to discuss the specific demands of those using civil disobedience to further climate justice aims. There are different groups, many of which are leaderless and do not have a clearly articulated set of demands. It is not possible to articulate all their aims here and judge their merit. Those engaging in transnational civil disobedience to protest against climate justice are, in a sense, seizing what Cabrera (2010) calls ‘global citizenship’. The protesters are reaching across international borders in order to secure their own fundamental rights (and the rights of others), and working to put into place a global system of institutions to protect those rights. In doing so, protestors are expressing ‘the horizontal constituting power of citizens or those who are governed’ (Celikates, 2016, p.989), in an attempt to bring into existence new institutional structures that provide a way of democratically dealing with the climate crisis. In a sense their disobedience can be read as an attempt to enact their collective duty to regulate the atmosphere in the absence of an effective institution that should exist for that purpose. There is wide disagreement about exactly what this institution should look like, or which principles of atmospheric fairness should guide it. What is universally accepted amongst climate protesters and, importantly, scientists, is that some form of global emissions regulating institution must be put in place. Given that no institution of this kind exists, those using transnational civil disobedience can justify their actions as a way of bringing into existence an institution that fulfils this necessary role.

5. Conclusion

In the first part of this chapter, I argued that it does make sense to use the concept of transnational civil disobedience to describe instances of principled law-breaking which cross international borders or take place in international waters. By arguing in favour of the notion of transnational civil disobedience, it is possible to begin asking questions about how actions of this type might be justified and given a morally-privileged status. Next, I discussed the use of the necessity defence in cases of transnational civil disobedience, and argued that the notion of necessity does not offer convincing grounds for climate justice civil disobedience. I then discussed how transnational civil disobedience aimed at climate justice might be justified by appealing to the All-Affected Principle and the concept of intergenerational harms. I argued that appealing to either of these concepts offers some grounds for transnational climate justice civil disobedience, but that uncertainties about the scope of the All-Affected Principle and the diffuseness of harms on an intergenerational timescale render them vulnerable to objections.

In the second half of the chapter, I argued that the moral permissibility of transnational climate justice civil disobedience could be put on a more solid footing by appealing to the fairness and natural duties accounts of justice. While both the fairness account and the natural duty account offer grounds for defending climate justice civil disobedience, I argued that only the natural duties account makes it clear that individuals have duties of justice that extend across borders. This obligates them to act in politically ‘constructive’ ways to bring about the establishment of new institutions to secure justice in domains where they do not yet exist. I then argued that civil disobedience aimed at climate justice is one of the ways to discharge this duty.

While the natural duty of justice does not specify what these institutions should look like, it does make clear that there is a duty to bring them into existence. It also makes clear who is obligated to carry out this duty: those who are able to do so at relatively little cost to themselves. This finding, that a broad constituency has good reason to engage in climate justice civil disobedience at a transnational level, supports the conclusion reached at the end of Chapter 2, which is that there is a good case to be made for a broad-based and sustained climate justice campaign using civil disobedience at the domestic level. Having established that transnational climate justice civil disobedience is morally permissible, both at the domestic and transnational level, I am now in a

position to take up the difficult question of what form the disobedience should take, and say more about who has the duty to engage in climate justice disobedience. In the next chapter I will attempt to develop a moral framework for determining which types of disobedient actions are appropriate in the context of trying to bring about climate justice.

Chapter 4: Civil disobedience and resisting climate injustice

1. Introduction

Civil disobedience is not to be undertaken lightly. It often involves substantial risks, ranging from fines to imprisonment or worse, depending on the political conditions and the laws broken. Civil disobedience can also cause harm to bystanders, from property damage to bodily harm. Given the seriousness of the potential effects and the attendant punishments, it is crucial for those wishing to engage in civil disobedience to carefully consider their decision and their proposed plan of action. There are several questions to think about. One is the question of the legitimate *means* those opposed to climate injustices may use when engaging in civil disobedience. In other words, protestors wanting to engage in climate justice civil disobedience need an account of what types of actions are and are not permissible when acting disobediently. Next, there is the question of who has the right to engage in civil disobedience and on whose behalf they may claim to be acting. Lastly, there is the issue of spelling out in more detail who may have a responsibility, or even a duty, to engage in climate justice disobedience.

Drawing on the work of Robin Celikates, in the preceding chapters I argued that civil disobedience is a constrained, collective act of intentional law-breaking for a principled political purpose that aims at changing specific laws, policies, or institutions, and that this definition allows us to discuss a range of actions that would not fall under the traditional liberal definition of civil disobedience. Furthermore, I argued that using civil disobedience can be a morally permissible way to oppose climate injustice, both on a global and domestic level. With the assumptions from the previous chapters in place, I will argue that the way to think about the form that climate justice civil disobedience should take, is to draw on the notion of prefiguration. In the first part of this chapter, I will briefly discuss how a pragmatic prefigurative approach can provide a normative framework for decision-making about the form that disobedience should take. In the second part of the chapter, I deal with the question of who has the right, and perhaps the obligation, to engage in climate disobedience. I argue that there is a right to engage in civil disobedience against climate change,

but that there is also a defeasible duty on the part of certain individuals who, in virtue of their position, have a *pro tanto* duty to oppose climate injustice by means of civil disobedience.

2. Determining the appropriate means

2.1 Direct and indirect civil disobedience

Before discussing how one might think about the form that climate disobedience should take, it is useful to make a conceptual distinction between direct and indirect disobedience. In the history of civil disobedience, it has sometimes been the case that those engaging in acts of civil disobedience have broken only (or mainly) those laws which they considered to be unjust. Examples include the Freedom Riders, who broke racial segregation laws in the southern states of the United States while using interstate bus services. These racial segregation laws were broken by simply ignoring them, and refusing to follow rules about which bathrooms or dining facilities passengers were allowed to use. In doing so, they directly challenged the laws they were opposed to (namely, segregation) by breaking those specific laws with acts of civil disobedience. This type of civil disobedience is referred to as ‘direct’ civil disobedience, and is sometimes justified on the grounds that it would be a greater evil to obey an unjust law than to break it.

Those wishing to protest against the climate crisis have great difficulty in pointing to specific legislation which they can plausibly claim are instances of grave injustice. It is the complex interaction between the system of law at a national and global level, various property rights regimes, as well as economic and political incentives which has allowed for (and continues to incentivise) activities which contribute to the climate crisis. Although environmental activists have pointed to, for example, the harmful effects of public subsidies for the carbon extraction industry, it is difficult or impossible to directly challenge the laws which enable the harmful behaviour engaged in by fossil fuel firms. This is because most laws and policies to which climate justice activists object are those that permit certain activities to take place. Examples include the right that airports and airlines have to increase the number of flights, or the access to financing that fossil fuel interests enjoy. Directly objecting to these types of laws is difficult: they are not like laws about racial or gender segregation that an activist can simply refuse to obey.

In order to register their opposition to the laws and policies that permit the activities which they find objectionable, activists have turned to using what has become known as ‘indirect’ civil disobedience to try and make an impact. This typically involves breaking laws (such as traffic directives) to cause disruption, and then using the resulting attention to try and influence the public sphere. Much climate-related civil disobedience is of the indirect kind, which means that it can be more complicated to think about how it may be justified. In the case of direct disobedience, those engaging in the disobedience can rely on their intended audience to make a direct connection between their actions and the law to which they are opposed. This is not the case with indirect disobedience, because there is a greater need for protesters to justify why the particular law they decided to break makes sense in the context of their political aims. Theorising about the permissibility of indirect civil disobedience is of particular importance for the climate justice movement, because most instances of climate justice civil disobedience will be of an indirect kind.

In the Introduction I argued that the benefits and burdens of climate change are being distributed in a highly unequal way, with those contributing least to its effects suffering the most serious harms. How should those affected by this injustice respond? In Chapters 2 and 3 I argued that acts of civil disobedience undertaken at a domestic or transnational level may provide a legitimate way to contest this injustice, and that a variety of plausible reasons can be used to motivate climate justice disobedience. I will now say something more about how those wishing to engage in civil disobedience should think about what they may be entitled to do. I will argue that there are certain moral and prudential principles based on the idea of prefiguration which can be relied upon to provide guidance about the appropriate course of action for those wishing to engage in climate-related civil disobedience.

2.2 Prefigurative politics

Prefiguration is the idea that political action should be guided by the ‘experimental implementation of desired future relations and practices in the here and now’ (Raekstad & Grandin, 2020, p.10) What this means is that ‘when agents engage in acts of resistance, they should appeal to the values that they think people ought to adhere to in an ideally just society they are trying to realize’ (Caney, 2015, p.64). In other words, when opposing a particular injustice, people must act in ways which embody the values of the future relations which they wish to bring about. Although the notion of

prefiguration is often used in the context of anarchist practice (Boggs, 1977; Graeber, 2009 & 2013), it is not itself a normative concept. It can be thought of as a modulating mechanism that, depending on the outcome being pursued, regulates the conduct of those trying to bring about the particular outcome. For example, climate justice protesters who claim to care about future generations, global inequality and transnational solidarity should not act in ways which place additional burdens on future generations, or engage in activities which make global cooperation more difficult, or that would increase global inequalities. The notion of prefiguration does not itself place restrictions on the types of actions that those engaging in political action must perform – it does so only on the basis of the particular end that political action is in service of. The rationale for committing to prefiguration is both to avoid charges of hypocrisy and to demonstrate the possibility (as well as the benefits) of different ways of organising society.

However, as Caney (2015, p.64) points out, prefigurative politics can be dangerously naive and may expose those engaging in disobedient acts to (even more) severe repercussions than those they may already face. It is unreasonable to act on certain values when it is clear that others may be willing to exploit one's commitment to these values. In the worst-case scenario, acting prefiguratively on the basis of certain principles may be counterproductive and could actively set back the struggle for justice. An example from the history of civil disobedience demonstrates the difficulties raised by committing oneself to prefiguration: Gandhi's infamous editorial directed at Jews living in Germany in November 1938. In his newspaper, *Harijan*, he provides advice to Jews living in Hitler's Germany (quoted in Kling, 1991, p.177):

If I were a Jew and were born in Germany and earned my livelihood there, I would claim Germany as my home even as the tallest gentile German may, and challenge him to shoot me or cast me in the dungeon; I would refuse to be expelled or to submit to discriminating treatment... I am convinced that if someone with courage and vision can arise among them [the Jewish community] to lead them in a non-violent action, the winter of their despair can in the twinkling of an eye be turned into the summer of hope.

Shortly after the publication of the editorial Gandhi received a reply from Martin Buber, an Austrian-Jewish scholar prominent in the Zionist movement, who had direct experience of living in Hitler's Germany. He pointed out the consequences of non-violent resistance in that context. In

his letter to Gandhi, he argued that ‘ineffective, unobserved martyrdom, a martyrdom cast to the wind – that is the fate of innumerable Jews in Germany’ (Buber, cited in Kling 1991, p.178). Gandhi’s prediction regarding the effectiveness of non-violent resistance in Nazi Germany proved to be naive, and it was only by violent means that the Third Reich was eventually brought to an end.

If a prefigurative approach can be dangerously naive, what then is the appropriate way for those engaging in climate justice civil disobedience to orientate themselves? I will argue that both political pragmatism and prefiguration can play a role. Prefiguration provides a framework for deciding between which types of action are permitted, and which are not. It is prefiguration that provides activists with the list of actions that they can choose from, while pragmatic considerations (such as the number of people reached by a particular action, the expected reception by third parties, the difficulty of successfully executing the action) dictate which specific actions are ultimately selected. However, this general principle is difficult to apply in practice. Before saying more about prefigurativism and pragmatism, and the role that they should play in deliberations about civil disobedience related to the climate crisis, it is worth noting the difficulties involved in making these kinds of judgements. Below, drawing on the work of Engler and Engler (2016), I use two examples to illustrate how difficult it is to know what the effects of a specific disobedient action will be, especially in the longer-term.

2.3 The consequences of disobedience

Consider the case of Gandhi’s famous Salt March. In 1930, Gandhi launched a campaign to end state control over the production and sale of salt in India. At the time, Indians were prohibited from collecting salt from natural deposits, or from collecting it via the evaporation of seawater. Though the issue was not a particularly serious injustice when compared to the many other injustices of the British Raj, it was one which affected all Indians. Gandhi campaigned on the issue and marched over 200 kilometres to the ocean with a growing group of followers, to defy the authorities and produce his own salt. This act of defiance spurred a general boycott of British goods, led to mass arrests, and resulted in many Indians leaving the civil service. After nine months of action, the highest-ranking British official, Lord Irwin, invited Gandhi for talks. Gandhi agreed and after a

meeting with Irwin, called off the campaign. In exchange, Irwin agreed to release the protesters that had been arrested and offered some minor concessions.

The immediate consequence of the talks between Irwin and Gandhi was that the Salt Act, which prevented Indians from collecting their own salt, would *not* be repealed. Only a minor amendment would be made that allowed for the local production of salt on a small scale in selected areas. Initially, many in the Indian independence movement felt disappointed by the result: after months of struggle in the face of increasing British brutality, they had achieved very little in the way of concrete results. However, the long view offers a different perspective. It was a turning point in the struggle for Indian independence because the British Viceroy, Lord Irwin, had been forced to negotiate on equal terms with one of the leaders of the independence movement. As Winston Churchill put it, it was ‘alarming and also nauseating to see Mr. Gandhi... striding half-naked up the steps of the Vice-regal palace... to parley on equal terms with the representative of the King-Emperor’ (Engler & Engler, 2016, p.128). It was a symbolic victory, in which Gandhi had been able to use a relatively minor grievance like the salt tax to score a significant political blow against the British.

Although the campaign of civil disobedience achieved little in terms of reducing the injustices inflicted by the British in the short term, in the long term it proved hugely important in setting the stage for Indian independence. Of course, Gandhi could not have foreseen how consequential the Salt March would be. It is not only the expected effectiveness of this particular campaign that, on a prefigurative approach, would justify the particular actions employed during the Salt March. Rather, the campaign was conducted in a way that was attentive to practical considerations and prefigurative concerns. On the practical side, Gandhi realised that the salt tax was an issue which affected huge numbers of ordinary people and was a useful political ‘hook’, while on the prefigurative side the ideals of *satyagraha* were compatible with the actions of the Salt March.

A similar point about the difficulty of anticipating the long-term consequences of a civil disobedience campaign can be made with reference to the protests of 1963 that took place in Birmingham, Alabama. The protesters wanted city officials to desegregate the city and give African Americans more of a chance to participate in the local economy. To press their claims,

protesters boycotted local stores and engaged in unauthorised marches across the city. Thousands were arrested and many were injured, often by the authorities. After weeks of increasingly violent police repression, city leaders entered into negotiations with civil rights activists. The national media attention was negatively impacting the city and there was increasing pressure from leaders in the federal government to resolve the issue. The agreement reached was limited in scope: it did promise to end lunch-counter segregation, but left public facilities like parks unchanged. On the face of it, the protest had achieved little. Writing about the effectiveness of civil disobedience campaigns, Mark and Paul Engler note that although ‘significant instrumental gains were not an immediate result of the activists’ campaign, it turned out they were not far off’ (2006, p.133). Later events proved that the Birmingham campaign was hugely influential in bringing public attention to the issue of racial justice and mobilising the political forces that would lead to the passing of the Civil Rights Act the following year. The relatively minor victory scored at Birmingham paved the way for larger victories further down the road.

These two examples show how difficult it is to determine how ‘effective’ (in terms of reducing a given injustice) a particular course of action will be. Despite this difficulty, it is not unreasonable to hold those wishing to engage in civil disobedience to a standard of some sort. At the beginning of this section, I argued that those wishing to engage in climate justice civil disobedience should be guided by prefigurative and pragmatic considerations. What I mean is that protestors should act according to the principles they wish to see enacted in the world. An undercurrent of prefigurativism can be detected in many discussions about civil disobedience (e.g. Maekelbergh, 2011; Yates, 2015), and for good reason: it is understood by protesters that part of their moral appeal relies on them putting forward and adhering to principles which they believe should replace the prevailing norms. This is part of the communicative effectiveness of civil disobedience. It is by showing onlookers that they are prepared to enact the principles to which they are committed, in spite of the costs that they may incur, that those engaging in civil disobedience communicate the sincerity and seriousness of their beliefs. However, prefiguration only goes so far: the principles one wishes to live by do not always provide clear guidance about how one should go about resisting the injustices of the present. For this reason, it is important to invoke pragmatic considerations that allow the effectiveness of various strategies to be compared. Prefiguration acts mainly as a limiting condition that prevents certain forms of law-breaking on the basis that those acts would run counter

to the principles which those engaging in civil disobedience would like to see enacted. The notion of prefiguration ensures that protesters calibrate their disobedient actions with the goals at which they aim.

2.4 Prefiguration, pragmatism and disobedience

To understand how protesters could get their protest action ‘wrong’, consider the following case. In 2014, a United Nations event was held in Lima, Peru to discuss climate change and possible responses to the crisis. To draw attention to the importance of ending the use of fossil fuel energy and switching to renewables, Greenpeace activists entered the historic site where the Nazca Lines are found (Collins, 2014). These are land-art installations created by the indigenous people of Peru over a period of hundreds of years, and are of priceless cultural heritage value. Some of the images drawn on the landscape are over one hundred metres in length, and have existed for more than one thousand years. Greenpeace activists illegally entered the area where the Nazca Lines are found, and unfurled a huge banner which read: ‘Time for change, the future is renewable’. In doing so they did damage to the famous ‘Hummingbird’ image. Although the event drew widespread media attention, it could be argued that the activists did not allow themselves to be guided by their opposition to injustices, or by pragmatic considerations about the course of action most likely to put a stop to those injustices. Illegally entering and then doing damage to the cultural heritage of indigenous people seems at odds with some of the key principles of climate justice (namely, that groups that have historically contributed the least to climate change deserve special consideration when deciding on the allocation of the burdens of dealing with the crisis). The action also seems to have violated other principles endorsed by Greenpeace, such as their emphasis on trust, respect and care for the environment.

The Nazca Lines incident seems a clear-cut case where civil disobedience was used in a way that does not conform with legitimately opposing climate injustice. There are many similar cases in which it is not clear that incidents of civil disobedience targeted at climate injustice meet the standards I have argued for. One of the main difficulties involves the extent to which protesters can legitimately target bystanders. A good example of this is the Extinction Rebellion action which took place in London in 2019. Two Extinction Rebellion members climbed on top of a train and unfurled a banner reading: ‘Business as Usual = Death’. Angry commuters then pulled them from

the train and savagely beat them (Middleton, 2019). By climbing on top of the train, the Extinction Rebellion protesters had imposed costs on the commuters (in delaying their journeys) in a way that did not discriminate between those who are most-responsible for the harms of climate change, and those who are not. Their actions affected tens of thousands of ordinary people, many of whom are working-class, use public transport, and are not major carbon emitters. To what extent is it legitimate to impose costs on these people, especially those using public transport? Given that massively increasing the availability of public transport is an important part of the move to a low-carbon society, it seems unjustified and politically unwise to engage in these types of actions. One of the Extinction Rebellion spokespersons, Robin Boardman, said the movement did not want to inconvenience people, but that this type of action was the only way for the government to take notice.

How are we to think about these types of actions in which costs are imposed on bystanders? Consider a related recent case in which a group of women from Extinction Rebellion targeted HSBC bank offices in London, with what they called civil disobedience. A number of the women brought chisels and hammers to the event. They arrived together and, without warning, used their tools to smash the large glass facade of the bank building. Windows were broken at a cost of tens of thousands of pounds. After their destructive acts, they sat down with posters and engaged with the public to explain their actions. One of the women, Susan Reid, explained her reasoning (Extinction Rebellion, 2021):

I shouldn't be having to do this, but I think we owe it to our children and grandchildren to act in whatever way we can. I would like to enjoy my retirement with my grandchildren, but instead I have to spend it fighting for their future because banks like HSBC are happy to keep making money from fossil fuels no matter the risk.

The bank, she correctly argued, was responsible for financing more than \$100 billion worth of fossil fuel projects since the signing of the Paris Climate Agreement, and has plans to continue with this type of investment activity. It was therefore, in her view, a legitimate target.

What are we to make of actions like those by Susan Reid? When it comes to the facts about climate change, Susan Reid is correct. In 2021, the International Energy Agency released a detailed report

explaining that in order to avoid more than 2 degrees centigrade of warming, there can be no new fossil fuel projects embarked upon anywhere in the world (2021, p.20). However, an appeal to the facts is not, on its own, sufficient for thinking about the extent to which this particular act of disobedience can be justified. What is required is a combination of prefigurative and pragmatic considerations. On the prefigurative side, protesters can point to the natural duty account to create just institutions where they do not yet exist. Doing so requires that people are made aware of the need to create political institutions that adequately deal with the climate crisis, and also that people withdraw their support from social and economic governance regimes that do not take these duties seriously. Prefigurative considerations related to climate justice also put strict limits on their effects for bystanders. Actions should not make it more difficult to create institutions that further climate justice. If burdens are imposed on bystanders, this should be done in ways that lead to the heaviest burdens being imposed on those most responsible for climate change. On the pragmatic side, protesters need to take into account the second-order effects of how their actions will be received. As Celikates (2023, p.105) points out, social movements need to be adaptable and capable of reacting to changing circumstances. In his discussion of the need for social movements to be responsive, he mentions how blockades of roads may generate a negative response on the part of the public due to a (false) belief that ambulances are being obstructed, and that injured people are dying because hospitals cannot be reached. In situations like these, even when the narrative is false, the means of protest needs to be adapted to the changing political situation. Of course, it is not possible to know in advance exactly how a particular action will be received, but it seems reasonable to expect that targeting working-class commuters on a train would lead to backlash, whereas targeting large financial firms would not.

2.5 How far can civil disobedience go?

I have used a minimal definition of civil disobedience which requires protesters to act in a constrained manner when breaking the law, and have argued for an approach to law-breaking grounded in prefigurative and pragmatic considerations. Climate justice-informed prefiguration sets limits to acceptable action, while pragmatism helps protesters choose the most effective means available. But in (more-or-less) democratic states there is a further consideration that I argue should guide decision-making by protesters. Drawing on Guy Aitcheson's discussion of coercive tactics and civil disobedience (2018), I argue that in addition to prefigurative and pragmatic

considerations, protesters need to be aware of the possible effect of their chosen course of action on the larger political order. This constraint is one which is derived from ‘an understanding of disobedience as a democratic practice for contesting relations of domination within the context of a shared political order’ (2018, p.675). The definition of civil disobedience which I have been using does implicitly recognise this constraint, in the sense that it requires protester to recognise the civil bonds that they share with their opponents, but Aitchison’s point helps to make clear the essentially communicative intent of civil disobedience.

Aitchison is not the first to point out the importance of taking into account the stability of the democratic order when deciding when to engage in civil disobedience. Rawls, writing about the requirements for engaging in justified civil disobedience, points out that too much civil disobedience may do damage to the democratic order (1999, p.328):

If a certain minority is justified in engaging civil disobedience, then any other minority in relevantly similar circumstances is likewise justified... It is conceivable, however, even if it is unlikely, that there should be many groups with an equally sound case (in the sense just defined) for being civilly disobedient; but that, if they were all to act in this way, serious disorder would follow which might well undermine the efficacy of the just constitution. I assume here that there is a limit on the extent to which civil disobedience can be engaged in without it leading to a breakdown in the respect for law and the constitution, thereby setting in motion consequences unfortunate for all.

The worry for Rawls is that too much civil disobedience, even if justified, could undermine the existing political order. In other words, it would be wrong for everyone who was entitled to engage in civil disobedience (protesting the violation of their basic liberties, on his account), to do so if there were too many other groups planning to do so at the same time. This concern seems well-founded, but there is little empirical evidence to show that civil disobedience leads to greater levels of lawlessness in society (Dworkin, 1968), or that it does damage to the democratic order. However, the argument made by Rawls draws attention to the ways in which civil disobedience could have detrimental effects on the democratic order. Those wishing to use civil disobedience need to consider the possibility that their actions may have destabilising effects. This must serve as a constraint on the moral permissibility of their civilly disobedient actions.

To avoid doing damage to the democratic order, Aitchison argues that there are two principles of engagement to which protestors should adhere. The first is that any action or campaign should be ‘consistent with the political order itself remaining intact’ (2018, p.675). What this means is that civil disobedience campaigns should not be organised in a way that might lead to the disintegration of the democratic order, because doing so would lead to worse consequences than allowing for the injustice which is being protested against to continue.³⁹ Aitchison’s limiting condition is a sensible one, if we take ‘political order’ to mean democratic institutions for exercising power and holding it accountable. However, it is conceivable that cases could arise where an oppressive majority acts in ways that are so harmful to others that engaging in mass civil disobedience, even at the risk of damaging the political order, would be better than continuing to accept the prevailing situation. Of course, in cases where oppression is so extreme, it may not be difficult to justify more robust forms of resistance than civil disobedience, and thus a discussion about the limits of disobedience becomes irrelevant.

The question of the extent to which those engaging in civil disobedience have moral reason to limit their actions to preserve the democratic order is a fraught one. Roger Hallam, one of the early leaders of Extinction Rebellion, addresses this question in his pamphlet ‘Common Sense’ (2020, p.30). He argues that civil disobedience should be used because the evidence shows that it is more effective than alternative methods. He quotes political scientist Erica Chenoweth’s research to support his point. Chenoweth and Stephen (2012) suggest that non-violent campaigns are more likely to be successful than those that are violent, and that once at least 3.5% of a state’s population join a campaign of non-violent resistance, they are very likely to bring about many of the changes for which they campaigned. Those protesting against climate change may be put in the difficult position of choosing between not having their objectives realised at all (because political leaders take too little action too late to prevent the worst effects of climate change), or having to engage in methods that could undermine the democratic political order.

³⁹ This point is related to Rawls’s argument that rule of law under a generally just constitution is preferable to the anarchy that may result from excessive civil disobedience. One may wonder about the need for a limiting condition in Rawls’s discussion of when civil disobedience is justified, given that he assumes a nearly-just society. It seems counter-intuitive that, in a nearly-just society, the situation could arise where there are so many groups having their basic liberties violated that if all of them engaged in civil disobedience at the same time, it would destabilise society.

The second constraint that Aitchison suggests, is that ‘movements should not themselves become sources of private domination in relation to other citizens and residents of the state’ (2018, p.668). In other words, those engaging in civil disobedience must put constraints on themselves in terms of the power that they are able to exercise in the course of conducting their activities. This is another limiting condition which feeds into the prefigurative and pragmatic decision matrix which (I argue) should guide decision-making regarding the form that civil disobedience should take. Civil disobedience, though it may impose costs on others, is primarily a communicative tool that seeks to convince rather than coerce. There are many ways in which civil disobedience could be used to further justice-related objectives, but these means need to be balanced against other ends which are of equal importance, such as the continuation of a democratic society. Making judgements about the appropriate course of action is difficult and requires a constant pragmatic balancing of means and ends about which reasonable people may differ.⁴⁰

Earlier I argued that protesters engaging in civil disobedience should be guided by prefigurative and pragmatic considerations. In the examples above I have tried to show that although it is difficult to predict what the consequences of a specific disobedient action might be, it is both desirable and possible to combine pragmatic considerations with prefigurative principles. By combining prefiguration with pragmatism, protesters have the best chance of effectively communicating the importance of the principles to which they are committed. Combining prefiguration with pragmatism can help protestors gain clarity about how best to communicate their beliefs in a way that is consistent with the ends for which they aim. This is particularly important in situations where ‘direct’ disobedience is difficult – as is the case with climate change. In the previous section, I argued that those engaging in civil disobedience should be guided by prefigurative and pragmatic considerations. This was an argument to show that these considerations should apply to civil disobedience undertaken in service of any cause. I now want to focus more specifically on climate justice and discuss who may have the responsibility or duty to engage in civil disobedience in response to the climate crisis.

⁴⁰ See, for example, John Dewey’s (1938) discussion of the interdependence of means and ends in response to Trotsky’s views about how the class struggle is to be waged.

3. Structural injustice and the duty to act

3.1 The duty to act

In the previous section I discussed how the combination of a commitment to prefiguration and the use of pragmatic reasoning can orientate those thinking about the specific form that civil disobedience should take. I will now turn to the question of who should engage in climate justice civil disobedience in democratic states. The immediate problem faced by protesters wishing to oppose the injustices caused by the climate crisis, is that they will have difficulty finding unjust laws related to the climate which they can directly break. This means they will rely on indirect disobedience. This is problematic, as Temi Ogunye points out in his discussion on transnational civil disobedience (2015, p.5):

[G]iven the fact that most people only have access to domestic laws as potential targets of illegal protest, the duty to engage in civil disobedience against global injustice might then be seen to involve a clash between global and domestic duties.

This tension between the need to uphold just domestic institutions and accepting that the natural duty of justice requires action (as I argued in the previous chapter), presents a prospective protester in a democratic state with a dilemma: the only way to oppose the inadequacy of the global response to climate change is to target domestic institutions.

Given that there are other, less demanding, and less risky ways of registering opposition to the injustices of climate change, why should any citizen of a democratic state engage in civil disobedience rather than other forms of activism? Part of the answer to this question is connected to the specific issue I identified in Chapter 3, namely that it is the absence of a necessary law-making authority to regulate greenhouse gases at a global level that gives protestors the standing to demand its creation. In using civil disobedience, they articulate a form of constituent power (Neisen, 2017) that calls for the creation of transnational institutions where they do not yet exist. This articulation of constituent power differs from other methods for combatting the injustices associated with climate change, as it directly channels the law-making authority of those engaging in civil disobedience. It is not a plea for reforming the existing order, but a demand for something that does not yet exist.

Using civil disobedience to articulate this constituent power is not without cost to those engaging in it. Given these potential costs, could it be that there is a duty to engage in civil disobedience to resist climate injustice and to try and bring into existence the institutions necessary to regulate it? Writing about the broader struggle against global injustice (mainly the distributive effects), Ogunye suggests that a large portion of the global population may be required to engage in civil disobedience to combat global injustice. The specific individuals who have the duty to engage in the disobedience are determined by their standing in the global social order (2015, p.13):

The agents that have the duty to engage in civil disobedience against global injustice, therefore, are the individuals with the wealth and influence required to change the current situation for the better, while also discharging their other fundamental duties. I take these individuals to include the majority of the citizens of what is commonly referred to as the ‘developed’ world and the wealthy elites of the ‘developing’ world.

This is a rather expansive claim that he justifies by arguing that in using civil disobedience, members of this group can help to bring about global justice while still effectively carrying out other duties that apply to them. It also calls for action from those who are currently the main beneficiaries of the unjust global system. On the natural duties account that I have been advancing, everyone would have the *pro tanto* duty to contribute to the establishment of institutions to secure climate justice. In practice, this would not apply to many people because of the constraints of the natural duty account, namely that acting on the duty should come at a reasonable cost. While I agree with Ogunye’s view that we can identify those who may have a duty to engage in civil disobedience, this need not take place only on the basis of their effectiveness or their ability to simultaneously fulfil other duties they may have. In the following section, drawing on the work of Iris Marion Young, I characterise climate-related harms as a form of structural injustice. I argue that understanding the climate crisis as a form of structural injustice can tell us which agents have a greater responsibility to act, including using civil disobedience.

3.2 Structural injustice and the duty to disobey

Iris Marion Young’s notion of structural injustice can help us to understand the harms wrought by climate change, and think about the responsibility that individuals may have to respond to it.

Structural injustice differs from other accounts of injustice in that it allows for responsibility for an injustice to be assigned to an agent, without the agent being held blameworthy for the injustice. This is useful in cases where it is difficult to trace a direct causal relationship between those who are suffering harm and those who contribute to the harm (2006, p.52):

Structural injustice, then, exists when social processes put large groups of persons under systematic threat of domination or deprivation of the means to develop and exercise their capacities, at the same time that these processes enable others to dominate or to have a wide range of opportunities for developing and exercising capacities available to them.

Structural harms are of a specific kind, which are difficult to categorise using existing ethical and legal approaches. Young points out that the 'liability model', where a direct connection between causal responsibility and culpability needs to be established in order to generate the duty to offer redress, draws our attention away from other ways in which injustices manifest themselves.

While Young does not advocate for the abandonment of the liability model, she argues for its inadequacy in contexts of structural injustice on four related grounds (2006, pp.97-104, p.107). Firstly, by focusing on liability, we single out individual perpetrators while ignoring the structural factors that enabled the wrongdoing to occur in the first place. In doing so, it draws our attention away from the political choices that created (and continue to reproduce) the social structures which lead to structural harms. Secondly, a focus on liability further places emphasis on individual wrongdoing, while ignoring the larger environment that allowed or even incentivised the wrongdoing. Thirdly, the liability model is backwards looking. It takes into account only the events of the past and the actions necessary to offer redress for past wrongs, instead of looking to the actions necessary for preventing harm in the future. In so doing, it also cannot take into account actions which, on an individual level, are not harmful, but that collectively inflict serious harms. Lastly, focusing only on liability is not politically productive for those wishing to address injustice, because it directs attention away from the need to reform structures (which requires society-wide cooperation) and toward individual wrongdoing.

Climate change, as Young pointed out, is a form of structural injustice. Changes in the climate that we are now experiencing result from the actions of millions of people taking place over decades,

most of the time acting on a set of incentives that make alternative options to burning fossil fuels unattractive. Not only is it undesirable from a political perspective to try and apply the liability model to climate injustice, it is also difficult. The liability model simply cannot capture most of the harms that are being (and will be) wrought by climate change. There have been several heroic efforts by lawyers⁴¹ to use the courts to assign damages to climate harms, based on the contributions of energy firms (or their executives; Bressler, 2021). Academics have also sought to assign a mortality cost to carbon emissions. However, these attempts at linking harms to emissions do not capture the scale of the injustice caused by emissions and the broader societal changes needed to prepare for the future effects of climate change.

3.3 Responding to structural (climate) injustice

The notion of structural injustice captures the types of harms that are being brought about by climate change, and can also tell us about how to respond to them. To explain how we should orientate ourselves with regards to structural injustice, Young explains how our ordinary day-to-day actions tie us into a web of interaction with others with whom we have no direct contact, but to whom we are nonetheless accountable in a political sense. She calls this the social connection model (2006, p.105):

The social connection model of responsibility says that 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 realise projects.

In the social connection model, the responsibility for fighting against climate injustice falls to everyone who is part of the social process that makes the injustice possible (including those who are harmed by it), even if they do nothing that directly affects the climate, for example by living a carbon negative life (contributing nothing to carbon emissions over the course of their lives). This is because the political responsibility for dealing with climate injustice arises simply in virtue of having the potential to act in ways that alter the larger social structures that generate the injustice.

⁴¹ See, for example, the case of the Peruvian farmer suing German energy firm RWE (Elfar, 2022).

Young uses the notion of structural injustice to describe a particular type of harm and then uses the social connection model to explain how the responsibility to respond to that harm is generated. Understanding the harm of structural injustice and the responsibility to respond to it does not yet provide clear enough guidance about how those who are responsible are to act and what kinds of efforts can be expected from them. Young is aware that this is a difficult issue to address, given the scale of global injustices like climate change. She argues that guidance about what to do can only be provided in broad terms, using what she calls ‘parameters of reasoning’. These parameters offer guidance about what a particular agent ought to do to respond to structural injustice based on their position. Young suggests that the power, privilege, interests and collective ability of agents can all offer some guidance about what is required to address structural injustice. For example, those with power and in positions of privilege may have a greater responsibility to respond to structural injustice than those who lack the same resources. Those who are members of collective entities like trade unions likewise have a greater degree of responsibility than do those who are self-employed or in precarious work. In addressing the climate crisis, there are common but differentiated responsibilities based on the position of the individual in the larger social structure.

The fact that the social connection model establishes that there is a broad responsibility for addressing climate injustice, supports the argument that runs through this dissertation, namely that there is a political responsibility to confront climate change. However, Young stops short of declaring that there may be a duty to respond to structural injustice, arguing that there is a difference between responsibility and duty (2006, p.146):

Taking responsibility... involves exercising more discretion than enacting a duty does. It is up to the agents who have a responsibility to decide what to do to discharge it within the limits of other moral considerations.

This distinction between duty and responsibility means that agents must decide for themselves (guided by the parameters of reasoning) how to discharge their responsibilities, but nothing commits them firmly to a particular course of action. Civil disobedience may be one of the ways to respond to the structural injustice that is climate change, but on Young’s view, no one is duty-bound to engage in it.

I reject the conclusion that there are no duties to resist the harms generated by climate injustice. As I argued in the previous chapter, the natural duty of justice requires the establishment of institutions to deal with the emission of greenhouse gases on a global scale, as well as the effects which they will have. The fact that no such institution has been created is a serious failure. Agents that are in a position to help bring into existence such an institution are obligated to do so. While it is true that climate treaties of various kinds have been negotiated, they do not provide mechanisms for holding parties accountable when they fail to adhere to their commitments. I do not wish to claim that a single, authoritative institution is necessary to secure climate justice. It is conceivable that a combination of multilateral treaties and international organisations can provide the means necessary to secure climate justice. However, given that 40 years of climate diplomacy and tens of thousands of legal protests have not been effective in creating the institutions necessary for regulating the emission of greenhouse gases, it seems clear that continuing to rely on those methods to secure climate justice is unwarranted.

The natural duty of justice requires that individuals support just institutions where they already exist and help to create them where they do not yet exist, as long as this can be done at relatively little cost to them. In the previous chapters it was established that:

- i. legal protests and diplomatic initiatives have been ineffective in creating the types of institutions necessary for securing climate justice;
- ii. that relatively little time remains for preventing disastrous climate change from occurring;
and
- iii. that many of these harms are irreversible and/or impossible to compensate.

Given these facts about the situation, it would be unreasonable to continue using existing legal means of protest if they are extremely unlikely to be effective, or would only be effective on a timescale where the harms they are meant to prevent have already occurred. If it is the case that civil disobedience is likely to be as effective or more effective than legal means of protest, and if those who engage in the civil disobedience are likely to suffer relatively mild consequences for their disobedience, it suggests that those individuals have a duty to disobey. Using Young's

parameters of reasoning, we can furthermore say that those occupying social roles of power and privilege, where there is a capacity for collective action, are duty-bound to engage in civil disobedience in pursuit of creating the kinds of institutional structures which could effectively deal with the harms posed by climate change. This is provided that engaging in such activities does not prevent them from fulfilling their other natural duties, such as the duty of mutual aid and respect. A legitimate worry is that this duty might be overly-demanding and that participating in civil disobedience carries significant risks. However, these risks are relatively small for most (though certainly not all) residents of wealthy liberal democratic states. Furthermore, the duty is limited by the other duties or responsibilities that an individual may have, such as the need to care for dependents.

The argument that I have put forward relates largely to the duties of privileged inhabitants in wealthy states. I have little to say about the inhabitants of less-wealthy states who are most directly the victims of injustice. I take it as a given that these individuals have the right to resist the injustices being imposed on them and that there are less strict conditions which determine the appropriate course of action for them to take (Caney, 2015). My interest is in the ways in which climate injustice can be opposed by means of civil disobedience in democratic states.

4. Difficulties with action-guiding principles

4.1 The burdens of judgement

In this, the penultimate section of the chapter, I wish to discuss some further difficulties and objections to the claim that there is a (*pro tanto*) duty to engage in climate justice civil disobedience. The arguments that I put forward in the previous section all point to the duty that individuals in wealthy democratic states have: a *pro tanto* duty to engage in civil disobedience. However, there is a serious concern that in making this argument I may be asking too much of these individuals. It seems taxing to ask individuals, even those in privileged positions, to make judgements about local and global issues affecting diverse groups of people. Oftentimes it may be difficult to collect the necessary information about possible injustices, making it impossible to come to a sound judgement about them. There are many examples of these kinds of difficulties

where there is simply an epistemic deficit that no amount of research by an ordinary person could hope to overcome.

Another major problem is that in many of these cases, it is difficult to point to a specific instance of injustice, because the injustices are structural in nature or occur over timescales which challenge human cognitive abilities. This is a real problem in wealthy democratic states, where many of the injustices are difficult to point to because they are not the direct result of state or corporate policy. In the United States during the 1960s, activists could point to laws in the Jim Crow southern states which explicitly withheld certain rights from African American citizens, such as requiring separate educational facilities. Turning to the present, it is clear that African Americans are disproportionately targeted by law-enforcement, but there is no specific law that can be pointed to as the basis for this injustice. The injustice is the result of structural forces, which combined together result in systemic injustice for African Americans.

These types of problems have been well documented in the environmental sphere by Rob Nixon in his book *Slow Violence and the Environmentalism of the Poor* (2011). He shows that many kinds of environmental harm take place gradually and are often obscured from public view, yet are the cause of immense suffering. In many instances, this ‘slow violence’ is not perceived as violence at all because of the timeframes involved and the ways in which the origins of the harms result from multiple actors who are not acting in concert. This ‘slow violence’ often causes significant harms and distributes these harms in ways that are deeply unfair. The harms of climate change are perhaps the best example of this type of slow violence, which, over decades, inflicts disproportionate harms on those least able to bear them, and that are least responsible for causing them. Identifying and then finding ways of preventing these types of harms poses a great challenge.

4.2 Civic virtues: vigilance and open-mindedness

The difficulties involved in identifying injustices and then determining the appropriate means of responding to them, places a heavy cognitive load on the inhabitants of democratic states who, I have argued, ought to respond to climate injustice. How then, are these individuals to fulfil these second-order duties of collecting information about injustices and deciding how and when to tackle them? This is a question which has not received much attention in the academic literature. One

answer, proposed by Candace Delmas, is to cultivate the civic virtues of vigilance and open-mindedness. Vigilance, argues Delmas, is what allows individuals to identify injustices that they may otherwise overlook (2018, p.212):

Vigilance encompasses many subtraits — not only the duty to form one’s beliefs responsibly, which itself implies the disposition to self-reflect and think critically, but also certain affective capacities and habits that are implicated in an attentive approach to our social world and alertness to its dangers.

It is vigilance, with its requirement to form one's beliefs responsibly, that allows one to correctly identify injustices when encountered. In democratic states, this duty to be vigilant (that is, properly informed) stems from one’s membership of the citizenry, who are ultimately responsible for law-making. Given that the practice of law-making is shaped by one’s beliefs about the world, to be a good law-maker requires that one has accurate beliefs about the world for which one is legislating.

The second virtue Delmas argues for is that of open-mindedness. This is partly to temper excessive vigilance, which could undermine the standing of those making claims. Excessive vigilance about the status of those claims could lead to epistemic harms where the standing of those making claims is constantly challenged in ways that makes it impossible for claims to receive a proper hearing. This must be guarded against by the cultivation of a civically-inspired open-mindedness in which individuals attempt to take up the perspective of those making claims in order to give them a fair hearing. The practice of being open-minded in the civic sense ‘combines a host of attitudes and dispositions, including moral deference to others, desire to engage in dialogue and collaboration, and openness to one’s own transformation in the process’ (Delmas, 2018, p.214). Only when individuals can engage with others in a spirit of open-mindedness, will they be able to comprehend the injustices faced by others (and think about what could be done to correct them).

These civic virtues of vigilance and open-mindedness are second-order duties which flow from first-order duties. First order duties, such as the requirement that cooperation take place on a fair basis and the duty that everyone has to maintain (and create) just institutions where they exist and further them where they do not yet exist, serve to explain why the second-order duties exist. Fulfilling all of these duties might seem overly-burdensome, but they need not be. It is not unreasonable to require the wealthiest individuals of the wealthiest states to make an effort to

understand what is being done in their name by their governments. In part, this is what is being demanded by climate justice organisations like Extinction Rebellion and 350.org. One of their main claims is simply that the truth (the facts) about climate change become part of public discourse, and that states use those facts to determine policy-making. That states have not been doing this is evidenced by a number of recent legal decisions in the Netherlands and Germany. In the ‘Urgenda Case’ in the Netherlands, the Supreme Court found that the government’s carbon reduction plans were not ambitious enough. The court required the government to rely on data gathered by its own scientists to set new targets for reducing carbon emissions (Urgenda, 2019). In a similar case the German Supreme Court ruled that carbon emission reduction targets needed to be updated in light of scientific evidence about the speed at which climate change is occurring (Olterman & Harvey, 2021).

It also does not seem burdensome to require individuals in democratic states to practise open-mindedness, to make sure they are not blinded by their prejudices and act in ways which harm others. Indeed, much of the recent debate spurred by the Black Lives Matter movement has been about getting people in privileged positions to understand the perspectives and life-experiences of minorities. These calls for greater understanding on the parts of minorities can be read as a need for greater open-mindedness, in which more effort is put into making sense of the lives that others live and understanding their perspective on the way they are treated.

In the case of climate change, the practice of the civic virtues of vigilance and open-mindedness would alert individuals in democratic states about the injustices which are occurring. Vigilance would lead them to discover information which shows that the dangers of climate change have been known for decades, and that large energy companies have waged a disinformation campaign to hide these dangers (Mann, 2021; Oreskes & Conway, 2011). It would alert them to the fact that carbon emissions are predicted to continue rising and that major banks continue to finance the expansion of fossil fuel projects, even though research from International Energy Agency (2021) shows that the opposite needs to happen. These facts, and a host of others, would alert them to injustices being permitted in their name by the states in which they live. Likewise, exercising open-mindedness would alert them to the harms already being inflicted on the inhabitants of poorer parts of the world where climate change is already having an effect. This open-mindedness should allow

them to understand the harms experienced by those affected by climate change, and spur them on to act in ways that would help to prevent these harms from occurring.

5. Civil disobedience as a creative political act

The immensity of the challenges associated with climate change mean that no single nation or single set of policy changes will be able to adequately address it. The threats posed by climate change are enormous, but at the same time diffuse. The impacts will arrive slowly when considered on a human timescale, but in a geological sense they are happening almost instantaneously. Climate change is at once immediate and distant. Getting to grips with it is challenging – it seems too large to comprehend entirely, but too imminent to avoid. Timothy Morton (2013) uses the term ‘hyperobject’ to describe phenomena like climate change. Hyperobjects have several interesting properties, two of which are of particular interest when thinking of climate change. First, they are viscous, sticking together all those that are connected to the hyperobject; and second, they are non-local, which means that although they have direct impacts on a local level, no singular impact ‘is’ the hyperobject (Morton, 2013, pp.38-48). Climate change exhibits both of these properties. Through the global system of trade and the fact that the atmosphere is a shared environmental common, people in every part of the world are connected together by a web of greenhouse gas emissions. The web of production and consumption that drives the global economy is blanketing the earth with a layer of warming gases, the consequences of which no can entirely escape. Some are certainly more vulnerable than others, but for the moment the Earth is our only home. At the same time that we are beginning to become aware of this web that ties us together, we are beginning to experience its consequences in the form of more powerful hurricanes, longer and more intense droughts, and more severe flooding. No single hurricane, drought or flood can be attributed to climate change, but taken together they paint a picture of a changing planet. Slowly, we are beginning to come to terms that we are dealing with a hyperobject, something so vast, distributed, and slow-moving, which has such a powerful impact that we have not yet been able to organise an adequate response.

Given the magnitude of the challenges posed by climate change, why should we turn to civil disobedience? Civil disobedience is a form of political contestation that is rarely ‘effective’, in the sense of achieving the outcomes hoped for by those engaging in it. Even optimists about the

possibility of civil disobedience acknowledge that the effectiveness of movements has been declining. As Chenoweth (2020, p.75) notes, the success rate for mass campaigns in the decade from 2010 to 2019 has declined to 34%, from a high of 65%. This figure only includes what she calls ‘maximalist mass campaigns’, which are those that seek regime change or territorial independence, but it seems safe to assume that the climate justice movement can be considered maximalist in the sense she uses the term because of the vast scale of the transformation at which it aims. The success rate for campaigns that are not maximalist in their aims are much lower. Is it appropriate to turn to civil disobedience when the stakes are so high, and the chances of success so slim?

It is precisely because the stakes are so high that we *must* turn to civil disobedience. Though the prospects of success are slim, there is ample evidence to demonstrate that ordinary politics using long-established political forums is not up to the task of bringing into focus the hyperobject that is climate change. Though much of this dissertation has discussed the ways in which civil disobedience can be justified as a response to the climate crisis, what I think this discussion about disobedience shows us is that, at a global level, there is no legitimate political order that is capable of dealing with climate change. Climate justice disobedience can, as I have argued, be defended on ‘creative’ or ‘constructive’ grounds. It aims to bring into existence a legitimate order where one does not yet exist. Writing about the Civil Rights Movement in the United States, Pineda argues that activists ‘envisioned their activism as the bridge leading from the world they inhabited to the one they desired’ (2021, p.197). Climate justice civil disobedience is an attempt at this type of bridge building. It is the practice of political solidarity not only for resisting and rectifying injustices in terms of the existing order, but also for creative imagining of what a new order might look like.

The fact that civil disobedience is unlikely to succeed, and the fact that it comes with significant risks for those engaging in it, brings together people in ways that ordinary politics does not. It requires a level of commitment that far exceeds that needed for ordinary political activities like protesting, political organising and petitioning. This shared commitment communicates to onlookers and affected parties that they need to reconsider their existing political allegiances. In the case of climate change, civil disobedience forces people to stop and ‘look up’ at the hyperobject

which has enveloped them. In pointing to the dangers of climate change, the use of civil disobedience makes the case that traditional methods of dealing with collective action are not up to the task of confronting a problem of this magnitude. This is true for domestic cases of civil disobedience, but even more so when they involve transnational elements. Civil disobedience actions that cross borders, or which involve non-citizens, contribute to the communicative power of these events. They force citizens going about their lives to confront the fact that climate change does not recognise borders, and that it is only through collective action that goes beyond ordinary politics that its consequences can be managed.

Civil disobedience in response to climate change is not only about getting others to pay attention to the evolving crisis, but can also be politically transformative for those engaging in it. Though much of the discussion in this chapter has been about the appropriate way to engage in climate disobedience, there is also the question of what civil disobedience can do for those engaging in it. The discussion, planning and execution of a civil disobedience campaign gives participants the chance to engage politically in ways that are not often possible in the market-dominated systems most people experience in ordinary life. Thinking about how to act collectively outside of the market mechanisms that structure most large-scale collective action offers the opportunity to relate to others in new ways. In planning these disobedient actions, groups need to develop decision-making procedures and forms of democratic governance in order to act together. In acting together during a disobedient action, they demonstrate to others a commitment to solidarity and collective decision-making.

Building solidarity and practising collective decision-making is precisely what is required to adequately respond to the climate crisis. Although those engaging in climate-related civil disobedience seek immediate results and are searching for ways to bring about change outside the atrophied traditional channels, the lasting impact of the movement may be the way it brings together a diverse group of people and offers them a means of acting together. This may well lay the foundation for new, more democratic transnational politics and institutions.

6. Conclusion

My aim throughout this chapter has been to show that it is possible to give answers to difficult questions about how concerned individuals and groups in democratic societies can respond to the continuing climate crisis. I have argued that it is morally permissible to use civil disobedience for challenging the lack of action on the issue of climate justice. Other questions, about what entities can be targeted by civil disobedience and which tactics are legitimate to use, cannot be answered with precision. However, the notion of prefiguration, together with pragmatic reasoning, provides the outlines of an answer. In the second part of the chapter, I argued that the natural duty account of justice and its application to the problem posed by the climate crisis (developed in Chapter 3) shows why certain individuals have not only the responsibility, but the duty to engage in civil disobedience in certain circumstances.

In the second half of the chapter, I discussed some of the difficulties associated with the idea that there may be duties to resist injustice, and that these duties may make certain individuals in democratic countries responsible for using civil disobedience to oppose climate injustice. This contentious idea places a significant burden on citizens in wealthy states. This burden relates both to the efforts that they need to understand injustices (domestic and global), as well as the cognitive and organisational efforts required when confronting these injustices. One may ask whether this is simply too demanding of them. In response, I argued that cultivating the civic virtues of vigilance and open-mindedness would help individuals meet these challenges. The cultivation of these virtues, as second-order duties, would put individuals in a position to identify and confront the injustices which affect the society they live in, or the injustices they may have been participating in unknowingly.

To end the chapter, I argued that questions about the moral permissibility of climate justice civil disobedience, or which actors might have a duty to engage in such disobedience, are not the only issues that matter. I made the claim that civil disobedience can be a transformative tool which helps to bring into view climate change as something that requires a political response. Turning to civil disobedience to do this is not only a necessary response – it can be a politically transformative one as well.

Conclusion

The purpose of this dissertation has been to investigate whether, in democratic states, civil disobedience is a morally permissible response to the climate crisis. The argument that I presented answers this question in the affirmative. Furthermore, I argued that this moral permissibility applies in the context of residents of a state contesting the lack of action in their own state, and also to non-residents who cross borders or act transnationally in another way. These actions, I have argued, are not only morally permissible, but for some individuals it may even be a duty to use civil disobedience to contest the climate crisis. These findings indicate that there are grounds for a broad-based campaign of civil disobedience that seeks more urgent action in addressing the climate crisis. I argued that prefigurative and pragmatic considerations should guide those engaging in climate justice civil disobedience in their decisions about the specific means they should employ when engaging in disobedient actions. Finally, I suggested that climate justice civil disobedience may be transformative, in a political sense, for those engaging in it.

To make the argument that civil disobedience is a morally permissible response to the climate crisis, I first made clear what I meant when using the term. This was done in a way that is historically-informed, and took into account both academic and activist perspectives. I argued in favour of a minimal definition in which the practice of disobedience and the ideal of civility are the determining factors that distinguish it from other forms of principled resistance. With this definition in place, I was able to argue that climate justice civil disobedience can take place at either the domestic or the transnational level. This distinction provided the foundation for the arguments which followed in the next two chapters.

The purpose of Chapter 2 was to establish that climate justice civil disobedience is a morally permissible response at the domestic level. This was done by providing three mutually supportive arguments. The first argument, using the example of the United States, showed that civil disobedience is a justified response to the corruption of the process of public deliberation. I argued that this corruption resulted from the actions of fossil fuel interests, and that civil disobedience is a way to restore integrity to deliberative practices. I also argued that the possibility of irreversible harms brought about by climate change, and the fact that climate change will negatively impact

the continued functioning of democratic institutions, provide convincing grounds for using civil disobedience to oppose those outcomes. Each of these arguments is individually sufficient to show that climate justice civil disobedience is justified, but taken together they offer support to the idea that a broad-based campaign of civil disobedience would be morally permissible at the domestic level.

In Chapter 3, I argued that the concept of transnational civil disobedience can be used to describe instances of principled law-breaking that cross international borders. In the context of climate change, I discussed several arguments that are available to those seeking to argue for the moral permissibility of using transnational civil disobedience. I showed that the necessity defence may initially appear to be an attractive option, but that the appeal to the notion of necessity does not offer convincing grounds for climate-related civil disobedience. Appeals to the All-Affected Principle and the notion of intergenerational harms were also discussed and found to offer some support for climate justice civil disobedience, but that they suffered from limitations. The chapter concluded with an argument for the moral permissibility of climate justice civil disobedience based on the natural duty of justice. This argument showed both that climate justice civil disobedience is morally permissible at the transnational level, and also that some individuals, in virtue of their privileged positions, have *pro tanto* duties to use civil disobedience to help bring into existence the institutions necessary to secure climate justice.

Finally, in Chapter 4, I argued that the idea of prefiguration can offer some guidance when thinking about the means that should be used when engaging in climate justice civil disobedience. The commitment should however be tempered by pragmatic concerns about the likely political effectiveness of any given action. I then deepened my discussion of who may have *pro tanto* duties to engage in climate justice civil disobedience, and discussed the specific virtues citizens should cultivate in order to develop the capacity to identify injustice and make informed decisions about how best to respond to it. I ended the chapter by showing that participating in climate justice civil disobedience can be a transformative process, allowing for new and potentially more democratic and solidaristic forms of transnational cooperation to arise.

My academic contribution with this dissertation has been to extend the discussion of how civil disobedience should be defined, and to add to the debate about the conditions under which it may be used. Throughout the dissertation, I have tried to connect my own arguments to the expanding discussion about the appropriate role for civil disobedience, both at a domestic and transnational level. My intention has been to contribute to the academic discussion about the use of civil disobedience, but also to contribute to theorising by activists thinking about how to address the climate crisis. In making the argument for a broad-based campaign of civil disobedience to contest the lack of action in response to the climate crisis, I hope to challenge those who are committed to less radical action to respond to these arguments and contribute to the public deliberative process about the appropriate response to climate change.

Based on the findings of this dissertation, there are two avenues for future research that are of particular interest. The first is social science research about the effectiveness of different types of protest movements. Pioneering work by Gene Sharp (1973) in cataloguing different types of disobedient tactics has been very useful for activists thinking about how they can act against injustice. Likewise, research by scholars like Chenoweth and Stephen (2012; 2020) provides activists with inspiration for turning to civil disobedience, rather than armed insurrection, in achieving their aims. However, while some progress has been made in identifying factors that contribute to the success of a movement in achieving its aims, much of this research is statistically underpowered, or reliant on datasets that are not comprehensive enough for robust conclusions to be drawn. As I pointed out in Chapter 2, many proponents of climate justice civil disobedience have come to accept as gospel the idea that, by engaging a relatively small number of people in a civil disobedience campaign, it is virtually inevitable that they will achieve their aims. This assumption is mistaken and may be harmful. What is needed is a better understanding of the ‘levers of power’ that are likely to effect political change and disrupt ‘business as usual’ (see, for example, Young et al., 2020; Chenoweth, 2023). Far more social science research is needed to make even tentative claims about the effectiveness of various types of protest action.

The second avenue for further research that appears important, is developing a clearer understanding of the connection between what climate justice is, and what is required to achieve it. In other words, we need more robust non-ideal theorising. While some progress has been made

(see for example Mills, 2017; Valentini, 2012), more work remains to be done. A promising place to start would be to use insights from just war theory and migration studies to think about how states and people most affected by climate change can legitimately respond to their predicament. Work that deals with these themes has begun to emerge, but the worsening climate crisis will lead to increasing interest in the question of how the injustices associated with it should be responded to. If, as seems very likely, the planet warms beyond 1.5 or even 2 degrees centigrade, what are the rights of those affected, and how can they claim those rights? In this dissertation I have argued that, in the absence of just institutions to regulate the emission of greenhouse gases, a transnational civil disobedience campaign is a morally permissible way to try and bring about the establishment of the necessary institutions. However, there is a very real possibility that such a campaign never grows to the required size, or that powerful vested interests find ways to prevent it from achieving its aims. What normative frameworks should those interested in climate justice then turn to? Drawing on the resources of just war theory may offer a way of thinking through some of these problems, as will research from migration studies.

In writing this dissertation it has been my hope that approaching the climate crisis from a philosophical, rather than economic or technological point of view, will provide some perspective regarding our responsibilities to respond to the climate crisis, as individuals, members of communities and states, and finally as citizens of the world. So much has been written about what ought to be done in an economic or technological sense: carbon taxes, cap and trade, geo-engineering, carbon capture, mass electrification, green hydrogen, and much more. These are presented as part of the solution to climate change, but very little has been said about what we ought to do when, as has so often been the case, we are unable to effectively implement these solutions, and the climate crisis continues to worsen. With this dissertation I hope to have shown that there is something that can and must be done in response to our failure to act: civil disobedience.

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English Summary

CONTESTATION IN THE ANTHROPOCENE:

Climate change and civil disobedience

Despite the widespread public understanding of the dangers posed by climate change, action taken by political leaders to prevent, or even slow climate change has not been nearly enough to prevent significant planetary warming. It is widely acknowledged that more needs to be done to reduce the emission of greenhouse gasses. The Paris Treaty of 2015 commits all the signatories to try and prevent warming of more than 2 degrees centigrade, with 1,5 degrees of warming set as an aspirational goal. Despite this commitment, adequate political action to deal effectively with climate change has not been forthcoming. In response to this lack of action, some individuals and groups have turned to civil disobedience as a way of trying to bring about the change necessary to deal with climate crisis. This is a relatively new development and differs in important ways from previous issues where civil disobedience played an important part in the struggle for justice. What sets climate justice civil disobedience campaigns apart from previous struggles is its transnational character and its intergenerational concern.

It is transnational in two senses: the first is that disobedient actions sometimes take place across borders (e.g. shutting down cross-border pipelines); the second is that disobedient actions against climate injustice often involve individuals from different states acting together. At the same time, many engaging in climate-related disobedience are motivated by concerns of intergenerational justice. The transnational and intergenerational character of many of the recent acts of climate justice civil disobedience raise some interesting questions about the normative basis on which these actions might be defended. Much of the philosophical work on civil disobedience deals with the question of how the pro tanto obligation to obey the law could be legitimately ignored in specific situations that relate to issues that take place on a limited time horizon. This work has largely focused on the reasons that citizens of a given state might have for engaging in civil disobedience *in their own state*.

Making sense of how cross-border movements engaging in civil disobedience could justify their actions raises a host of interesting and under-theorised conceptual and normative questions. The aim of this dissertation is to investigate some of these questions in the context of liberal democratic states. The central argument put forward in this dissertation is that civil disobedience in democratic states is a morally permissible way for individuals to act together in pursuit of climate justice. My claim is that individuals have a personal responsibility to work with others to establish just institutions that would bring about climate justice and that in the context of insufficient action by the states in which they reside, they have a pro tanto duty to engage in civil disobedience to pursue this objective. Furthermore, I claim that those engaging in climate justice civil disobedience should be guided by both prefigurative and pragmatic considerations when making decisions about the specific form their disobedience should take. The argument is presented across four chapters.

In Chapter 1, I deal with the question of how to define civil disobedience and discuss why this matters for thinking about acts of principled law-breaking motivated by concerns about climate justice. I review some of the key issues in the debate about how to approach the definition of civil disobedience. I reject the normatively loaded definition favoured by Rawls, as well as attempts to formulate new categories of resistance (e.g. ‘uncivil disobedience’). Instead, I embrace a rather minimal definition of civil disobedience that allows for a wide variety of principled acts of law-breaking to be understood as civil disobedience.

In Chapter 2, I discuss different ways of arguing for the moral permissibility of using climate justice civil disobedience in (more-or-less) democratic states. I start by discussing the possibility of using what may be termed ‘the irreversibility argument’, which claims that the potential of irreversible harms occurring due to climate change justifies political intervention in the form of civil disobedience. I then turn to the epistemic argument for climate justice civil disobedience. This argument claims that the political system has immunised itself against the facts about climate change and that normal political practices have been unable to communicate the seriousness of the dangers posed by the climate crisis. Lastly, I deal with what could be called the ‘democratic’ argument for climate justice civil disobedience. Here the argument is that young people today (as well as those not yet born) are not adequately represented by existing political systems, which constitutes a democratic deficit. Individuals or groups acting on behalf of those not adequately represented can use civil disobedience in an attempt to remedy this deficit. I argue that, taken

together, these three arguments offer substantial support for the moral permissibility of using of civil disobedience to oppose a lack of action on climate change at a domestic level.

Chapter 3 deals with the issue of civil disobedience at the global, or transnational level. Here the focus is on arguments that could justify climate justice civil disobedience by appealing to reasons related to transnational or global concerns, rather than domestic reasons. I begin by discussing two ways of trying to justify climate justice disobedience at the transnational level. The first uses the idea of a climate emergency to claim that civil disobedience is a necessary response to inaction. The second appeals to the idea of the All-Affected Principle to justify the use of civil disobedience to widen the forum for democratic decision-making. I argue that neither approach offers an entirely convincing way to defend the use of climate justice civil disobedience at a transnational level. In the final part of the chapter, I argue that an appeal to the natural duty of justice does provide a well-grounded justification for using civil disobedience as a means of addressing the climate crisis at a global level.

In Chapter 4, I deal with the question of how we are to evaluate the actions of groups using civil disobedience to further climate justice aims, and whether certain individuals may have a duty to engage in this type of disobedience. I discuss the difficulties that come with any decision to engage in civil disobedience and tentatively put forward some ways of thinking about them. I develop a framework for moral decision-making that offers guidance on how to act for those who believe that they may be justified in using civil disobedience to advance climate justice goals. I argue that those wishing to engage in climate justice civil disobedience should use the notion of prefiguration to think about the types of actions they plan to engage in, but that they must also take pragmatic political concerns into account. I then go onto argue that the idea of structural injustice can help to explain who has a (pro tanto) duty to engage in climate justice civil disobedience. I end the chapter by discussing the contribution that climate justice civil disobedience can make in responding to the climate crisis.

The most important insights developed by this dissertation is that approaching the climate crisis from a philosophical, rather than economic or technological perspective will provide important insights about our responsibilities to respond to the climate crisis.

Nederlandse samenvatting

CONTESTATIE IN HET ANTROPOCEEN:

Klimaatverandering en burgerlijke ongehoorzaamheid

Ondanks het wijdverspreide publieke inzicht in de gevaren van klimaatverandering, zijn de maatregelen van politieke leiders om klimaatverandering te voorkomen of zelfs maar af te remmen bij lange na niet genoeg geweest om een significante opwarming van de aarde te voorkomen. Het wordt algemeen erkend dat er meer moet worden gedaan om de uitstoot van broeikasgassen te verminderen. Het Klimaatakkoord van Parijs uit 2015 verplicht alle ondertekenaars om te proberen een opwarming van meer dan 2 graden Celsius te voorkomen, met 1,5 graden opwarming als streefdoel. Ondanks deze toezegging zijn adequate politieke maatregelen om klimaatverandering effectief aan te pakken uitgebleven. Als reactie op dit gebrek aan daadkracht hebben sommige individuen en groepen hun toevlucht gezocht tot burgerlijke ongehoorzaamheid als een manier om te proberen de verandering teweeg te brengen die nodig is om de klimaatverandering aan te pakken. Dit is een relatief nieuwe ontwikkeling en verschilt in belangrijke opzichten van eerdere kwesties waarbij burgerlijke ongehoorzaamheid een belangrijke rol speelde in de strijd voor rechtvaardigheid. Wat campagnes voor burgerlijke ongehoorzaamheid op het gebied van klimaatrechtvaardigheid onderscheidt van eerdere conflicten is het transnationale karakter ervan en de intergenerationele bezorgdheid.

Hedendaagse toepassingen zijn transnationaal in twee opzichten: ten eerste gaan deze acties in sommige gevallen letterlijk over meerdere landsgrenzen heen (bijv. bij het stilleggen van pijpleidingen); ten tweede betreft het vaak samenwerkende individuen uit verschillende staten. Tegelijkertijd worden velen die zich inzetten voor klimaatgerelateerde ongehoorzaamheid gemotiveerd door zorgen over intergenerationele rechtvaardigheid. Het transnationale en intergenerationele karakter van veel van de recente burgerlijk ongehoorzame acties tegen klimaatonrechtvaardigheid roepen een aantal interessante vragen op over de normatieve uitgangspunten waarmee deze acties verdedigd zouden kunnen worden. Veel filosofisch werk over burgerlijke ongehoorzaamheid gaat over de vraag hoe de pro tanto verplichting om de wet te

gehoorzamen legitiem genegeerd zou kunnen worden in specifieke situaties die betrekking hebben op kwesties die zich afspelen tegen een beperkte tijdshorizon. Dit werk heeft zich grotendeels gericht op de redenen die burgers van een bepaalde staat kunnen hebben om burgerlijke ongehoorzaam te zijn *in hun eigen staat*.

De kwestie hoe transnationale bewegingen die zich burgerlijk ongehoorzaam opstellen hun acties zouden kunnen rechtvaardigen roept een groot aantal interessante en onderbelichte conceptuele en normatieve vragen op. Het doel van dit proefschrift is om enkele van deze vragen te beschouwen in de context van liberaal-democratische staten. Het centrale argument in dit proefschrift is dat burgerlijke ongehoorzaamheid in democratische staten voor individuen een moreel toelaatbare manier is om samen te werken aan klimaatrechtvaardigheid. Mijn stelling is dat individuen een persoonlijke verantwoordelijkheid hebben om samen met anderen te werken aan de oprichting van rechtvaardige instellingen die klimaatrechtvaardigheid tot stand zouden brengen en dat ze in de context van onvoldoende actie door de staten waarin ze verblijven, pro tanto de plicht hebben om burgerlijk ongehoorzaam te zijn om dit doel na te streven. Verder stel ik dat degenen die zich burgerlijk ongehoorzaam opstellen omwille van het klimaat zich moeten laten leiden door zowel prefiguratieve als pragmatische overwegingen bij het nemen van beslissingen over de specifieke vorm die hun ongehoorzaamheid moet aannemen. Het betoog wordt gepresenteerd in vier hoofdstukken.

In hoofdstuk 1 behandel ik de vraag hoe burgerlijke ongehoorzaamheid gedefinieerd moet worden en bespreek ik waarom dit van belang is voor het denken over principiële wetsovertredingen die gemotiveerd zijn door bezorgdheid over klimaatrechtvaardigheid. Ik bespreek een aantal van de belangrijkste kwesties in het debat over hoe we de definitie van burgerlijke ongehoorzaamheid moeten benaderen. Ik verwerp de normatief geladen definitie die Rawls voorstaat, evenals pogingen om nieuwe categorieën van verzet te formuleren. In plaats daarvan omarm ik een betrekkelijk minimale definitie van burgerlijke ongehoorzaamheid die het mogelijk maakt om een grote verscheidenheid aan principiële wetsovertredingen als burgerlijke ongehoorzaamheid op te vatten.

In hoofdstuk 2 bespreek ik verschillende manieren om te argumenteren voor de morele toelaatbaarheid van burgerlijke ongehoorzaamheid omwille van klimaatrechtvaardigheid in (min of meer) democratische staten. Ik begin met het bespreken van de mogelijkheid om gebruik te maken van wat 'het onomkeerbaarheidsargument' genoemd kan worden, waarin gesteld wordt dat de mogelijkheid van onomkeerbare schade als gevolg van klimaatverandering politieke interventie in de vorm van burgerlijke ongehoorzaamheid rechtvaardigt. Vervolgens ga ik in op het epistemische argument voor burgerlijke ongehoorzaamheid in verband met klimaatrechtvaardigheid. Dit argument stelt dat het politieke systeem zichzelf immuun heeft gemaakt voor de feiten betreffende klimaatverandering en dat de normale politieke praktijken niet in staat zijn geweest om de ernst van de gevaren van de klimaatcrisis duidelijk te maken. Tot slot ga ik in op wat je het 'democratische' argument voor burgerlijke ongehoorzaamheid op grond van het klimaatrecht zou kunnen noemen. Hier is het argument dat jongeren vandaag de dag (net als degenen die nog niet geboren zijn) niet voldoende vertegenwoordigd worden door de bestaande politieke systemen, wat een democratisch tekort vormt. Individuen of groepen die optreden namens diegenen die niet adequaat vertegenwoordigd zijn, gebruiken burgerlijke ongehoorzaamheid in een poging dit tekort te verhelpen. Ik beargumenteer dat, alles bij elkaar genomen, deze drie argumenten substantiële steun bieden voor de morele toelaatbaarheid van het gebruik van burgerlijke ongehoorzaamheid om zich te verzetten tegen een gebrek aan actie tegen klimaatverandering op binnenlands niveau.

Hoofdstuk 3 gaat over burgerlijke ongehoorzaamheid op mondiaal, of transnationaal niveau. Hier ligt de nadruk op argumenten die burgerlijke ongehoorzaamheid omwille van klimaatrechtvaardigheid zouden kunnen rechtvaardigen door een beroep te doen op redenen die te maken hebben met transnationale of mondiale zorgen, in plaats van binnenlandse belangen. Ik begin met het bespreken van twee manieren om te proberen klimaatrechtvaardige ongehoorzaamheid op transnationaal niveau te rechtvaardigen. De eerste gebruikt het idee van een klimaatnoodtoestand om te beweren dat burgerlijke ongehoorzaamheid een noodzakelijk antwoord is op het uitblijven van actie. De tweede doet een beroep op het idee van het All-Affected Principle om het gebruik van burgerlijke ongehoorzaamheid te rechtvaardigen als middel om het forum voor democratische besluitvorming te verbreden. Ik beargumenteer dat geen van beide benaderingen een volledig overtuigende manier biedt om het gebruik van burgerlijke ongehoorzaamheid op transnationaal

niveau te verdedigen. In het laatste deel van het hoofdstuk beargumenteer ik dat een beroep op de natuurlijke plicht tot rechtvaardigheid wel een goed onderbouwde rechtvaardiging biedt voor het gebruik van burgerlijke ongehoorzaamheid als middel om de klimaatcrisis op mondiaal niveau aan te pakken.

In hoofdstuk 4 behandel ik de vraag hoe we de acties moeten beoordelen van groepen die burgerlijke ongehoorzaamheid gebruiken om klimaatrechtvaardige doelen te bevorderen, en of bepaalde individuen de plicht hebben om dit soort ongehoorzaamheid te betrachten. Ik bespreek de moeilijkheden die gepaard gaan met elke beslissing om mee te doen aan burgerlijke ongehoorzaamheid en stel een aantal manieren voor om daarover na te denken. Ik ontwikkel een raamwerk voor morele besluitvorming dat een leidraad biedt hoe te handelen aan degenen die geloven dat ze gerechtvaardigd kunnen zijn om zich burgerlijk ongehoorzaam op te stellen om klimaatrechtvaardige doelen te bereiken. Ik stel dat degenen die zich willen inzetten voor burgerlijke ongehoorzaamheid op het gebied van klimaatrechtvaardigheid de notie van prefiguratie moeten gebruiken om na te denken over het soort acties dat ze van plan zijn te ondernemen, maar dat ze ook rekening moeten houden met pragmatische politieke overwegingen. Vervolgens beargumenteer ik dat het idee van structurele onrechtvaardigheid kan helpen om uit te leggen wie (pro tanto) de plicht heeft om deel te nemen aan burgerlijke ongehoorzaamheid omwille van klimaatrechtvaardigheid. Ik eindig het hoofdstuk met het bespreken van de bijdrage die klimaatrechtvaardige burgerlijke ongehoorzaamheid kan leveren aan het antwoord op de klimaatcrisis.

Het belangrijkste inzicht dat in dit proefschrift is ontwikkeld is dat het benaderen van de klimaatcrisis vanuit een filosofische invalshoek in plaats van een economische of technologische invalshoek een belangrijke perspectief biedt op onze verantwoordelijkheden om te reageren op de klimaatcrisis.

Author contributions:

Introduction:

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Chapter 1:

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