

European Master's Degree
In Human Rights and Democratisation

Awarded Theses
of the Academic Year
2014/2015

"Duty to disobey? A perspective on the new civil
disobedience, between international actors
and digital media"

Thesis *by* Elettra Repetto



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the contribution of the European Commission
which made this publication possible.

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DOI 10.7404/eiuc.ema.20142015.04

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FOREWORD

The *European Master's Programme in Human Rights and Democratisation* (E.MA) is the first Master's course in human rights and democratisation launched and financed by the European Commission that later served as model for establishing other Regional Master's around the world. Since January 2013 these are all connected and managed by the *European Inter-University Centre for Human Rights and Democratisation* (EIUC) under the *Global Campus of Regional Master's Programmes* (GC).

E.MA is a one-year master's course aimed at preparing professionals to respond to the requirements of daily work in international organisations, field operations, governmental and non-governmental bodies, and academia. The programme offers an action and policy-oriented approach to learning about human rights, democratisation and international relations from legal, political, historical, anthropological, and philosophical perspectives. This interdisciplinary nature and wide-ranging scope of E.MA reflect the benefits of true European inter-university cooperation in human rights education. It is an interdisciplinary programme that reflects the indivisible links between human rights, democracy, peace and development.

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- Repetto, Elettra, *Duty to Disobey? A Perspective on the New Civil Disobedience, Between International Actors and Digital Media*, Supervisor: Dr. Graham Finlay, University College Dublin - National University of Ireland.

- Ruppacher, Raphael, *Not That Kind of Gay. Credibility Assessment and the Concept of Sexual Orientation in European Asylum Law*, Supervisor: Prof. Helena Pereira de Melo, New University of Lisbon.

This volume includes the thesis *Duty to Disobey? A Perspective on the New Civil Disobedience, Between International Actors and Digital Media* by Elettra Repetto, and supervised by Dr. Graham Finlay, University College Dublin - National University of Ireland.

BIOGRAPHY

Former philosophy student and ecologist activist, I have always been interested in promoting and widening political participation, revising the concept of membership. Expert in the use of social media and passionate about photography and documentaries, after working in an asylum

seekers facility centre in Italy for Caritas, I decided to work on migration and participation using also videos as advocacy tools.

ABSTRACT

The aim of this thesis is to analyse the concept of civil disobedience and to give a justification for it, to finally assess whether or not it is possible to claim that there is a duty to disobey. The initial focus will be on the definition of the concept of civil disobedience itself, to move then to the actors involved, from social movements, to non-governmental organisations, and power holders, and show how the nation-state is not the only entity that counts in the political sphere, nowadays. I will then question the idea of a non-violent civil disobedience, to include violence in the definition of it, maintaining however the difference between civil disobedience and revolution. Afterwards, I will consider the concept of responsibility and the reasons of the dissenters, before turning to Internet as the new space where new actors, such as Anonymous and the whistle-blowers, make a more pluralistic politics. So, I will justify civil disobedience on the basis of democracy as an inclusive system, and on the respect that the institutions should have for our moral agency. I will consequently derive from this the idea that dissenters should be punished in a more clement way than common criminals. Finally, I will conclude by arguing that, under certain circumstances, we might have a duty to disrespect the law. I will base this claim on the fact that, to be full individuals, we have to be political individuals, ready to act.

Like past editions, the selected theses amply demonstrate the richness and diversity of the E.MA programme and the outstanding quality of the work performed by its students.

On behalf of the Governing Bodies of EIUC and E.MA and of all participating universities, we congratulate the author.

PROF. MANFRED NOWAK
EIUC Secretary General

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**European Master's Degree
in Human Rights and Democratisation**

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EIUC gratefully acknowledges
the contribution of the European Commission
which made the release of this thesis possible

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First edition: xxxx 2016
DOI XXXXXXXXXXXX

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ELETTRA REPETTO

DUTY TO DISOBEY?
A PERSPECTIVE ON THE NEW CIVIL DISOBEDIENCE,
BETWEEN INTERNATIONAL ACTORS AND DIGITAL MEDIA

I owe a special thanks to Professor Graham Finlay, for having been so kindly patient and having supervised my work, which I am sure gained a lot from his critical analysis.

I am grateful to Heidi Reily for having been so helpful for the entire period of my staying at UCD, and having invited me to some interesting conferences that widened my view on the role we can have as human rights activists.

My gratitude goes to my family, that has always pushed me to follow my convictions, even in difficult situations and whose support is priceless.

A special thanks goes also to Virginie and Serena, for their time and their friendship.

I am in debt with Michela, Zoë, Hedda, Athina, for having supported me from all over Europe until the very end of this thesis, and in particular with Athanasia with whom I have shared long talks around this topic and around “the good society.”

Finally, I would like to thank all my friends, all those that during these years discussed with me of politics, justice and freedom. This thesis is just the continuation of our discussions.

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INTRODUCTION

Obedientia Civium Urbis Felicitas
Dublin city motto

As story shows us, being a human rights activist often implies being also a disobedient. Nelson Mandela and Gandhi fought their battles also using illegal means and they are acknowledged for being fundamental figures in creating a culture of respect among human beings. Indeed, fighting for human rights worldwide often means opposing the *status quo*, which could entail also resorting to disobedience, for the sake of changing a state of affairs perceived as unjust. This is precisely what civil disobedience is, an illegal act brought about by conscientious agents in order to change the law, or part of the system they are opposing, because they consider this system to be unfair, unequal, unjust. The way I conceive it, disobeying means to be so highly committed to an ideal of justice, to be ready to resort to illegal means to fight for this ideal. A disobedient, in this framework, cares more about the cause she is disobeying for, than only about her personal interest, and she is ready to be responsible for disobeying. Human rights practitioners, defenders and worldwide activists, often find themselves protesting, gathering together to achieve a common goal in defiance to an unjust system. They are ready to face the consequences of their actions, hoping for a better society to come. In so doing they serve a higher idea of justice than the one enshrined in the legal codes of which, on the contrary, they question the legitimacy.

In the past the disobedients were citizens of the state they opposed, nowadays the situation is changed and the subjects and context of disobedience are quite different, as well as the methods used to disobey. The disobedients are not simply citizens but also migrants, international

actors, Non-Governmental Organisations (NGOs) members and international movements, such as Occupy, but also digital actors, gathering in a digital space. If the streets remain the main meeting points for the disobedients, other forms and spaces to protest are appearing and the fight has become more international and immaterial than it used to be. At the same time the objects of disobedience are changed as well and together with states, global institutions, international companies and corporations have now to face critiques and attacks. Moreover, people do not simply demonstrate for their own direct interests, but also on behalf of others, of people that might be even really far away from them. They invade the streets or block the net for e.g. environmental causes that may not even affect them, but future generations.

What is civil disobedience then, more precisely what is now civil disobedience is the central theme of this work. A work that considers the analysis of civil disobedience the way it has been conceived and theorised so far, to then open itself to the present, in order to achieve a new understanding of the phenomenon in the contemporary international and digital world. Understanding and finding a way to justify such a phenomenon means understanding the way to be active members of a changing world where everyone is connected and may influence others' life.

In the first chapter I will then start dealing with the elements that define traditionally civil disobedience, namely its publicity, its actors and its non violence. I will claim that civil disobedience is a public and a communicative act, so a political act that involves a minority addressing those in power. Later, I will focus on the actors that disobey, not anymore simply citizens, but also migrants and transnational actors gathered in movements such as Occupy. In the present work of research, what will appear clear is that the state is not anymore the only entity to face, but rather one among the others. Finally, I will pass on the analysis of violence, revising the definition of disobedience as non-violent and arguing for a more comprehensive concept of it that may include violence as well, instead.

The core concept of the second chapter is responsibility, a fundamental issue in the understanding of civil disobedience. Indeed, people engaged in acts of civil disobedience are ready to face the consequences of their acts and this is precisely what distinguishes them from common criminals and, in certain cases revolutionaries. They are ready to bear the burden of disobeying because of the deep commitment of what they

are fighting for and what they believe in. They oppose the economic, social and political power following the *diktat* of their conscience. The reasons they have to disobey are indeed quite strong and relate to the idea of what is good for achieving a good society. It is precisely this essential idea that pushes people to contrast the incumbent power, sometimes on behalf of others, even facing imprisonment.

Nonetheless, if publicity and taking responsibility for one's acts seem to be two interrelated concepts in the matter at stake, this does not seem the case when it comes to the digital space. I will discuss this in the third chapter, taking Anonymouse as an example in this regard. I will show that although masked, Anonymouse plays publicly, and even if at first it might seem that in doing so it tries to avoid its responsibility, I will argue that it is not entirely the case. New tactics and new actors are now appearing in the political arena, where activists are replaced by hacktivists and street demonstrations by distributed denial-of-service attacks (DDos). The new political space is international and digital and so is disobedience, which I will claim should be justified in both cases.

The reasons why disobedience as an illegal disruption of the system should be justified are several and different. In the last chapter, on the one side I will argue that, in a democratic system, this act must be justified because of the very same concept of democracy as a system that includes different opinions and positions. On the other side, to justify disobedience, I will focus on the respect due to individual agency. People make choices, following their conscience, in a conscientious way and they have to be respected as agents, even when acting illegally. Precisely because disobedience is a conscientious act it should be treated in a different way from other breaches of the law, that is it should not be equally punished.

Finally, having justified disobedience and having shown its positive aspects, I will try to go further, wondering whether there is a duty to disobey or not. To do so I will refer to *The Human Condition* by Hannah Arendt, and claim that our duty to disobey derives in the first place from our being political individuals.

I.

TOWARDS A NEW DEFINITION OF CIVIL DISOBEDIENCE

1. DISOBEDIENCE AS A PUBLIC ACT

*If a tree falls in the forest, and there's nobody around to hear,
does it make a sound?*

One important account of civil disobedience where to start from in this dissertation can be found in Rawls' "Theory of Justice," where civil disobedience is defined as "a public, non-violent, conscientious yet political act contrary to law usually done with aim of bringing about a change in the law¹." More precisely, civil disobedience can be direct, when a law is opposed by breaching this very same law, or indirect, when a law is contrasted by disobeying another law, e.g. occupying the streets to demonstrate against the anti-abortion law. This act aims at questioning and triggering a change in the society, but not a complete transformation of it. Such an act consists of different practices and direct actions, such as sit-ins, occupations, blockades, or trespassing.

The definition given by Rawls is quite important as it points out some of the salient aspects of the nature of civil disobedience. Firstly, it highlights the public character of civil disobedience that, as it will be clearer soon, distinguishes an act of civil disobedience from one of personal disobedience. Civil disobedience has, indeed, to be seen and to gain the attention of those under the attack of the disobedients. Secondly, Rawls puts the attention on the non-violence aspect that plays such an important role in many definitions of civil disobedience and that I am going to question later. Thirdly, this definition considers the fundamental concept of conscientiousness that justifies and characterises civil disobedience as

¹ Rawls, 2002, p. 104.

such. Finally, it presents the core idea that civil disobedience is a political and illegal act, illegality being precisely its distinctive trait, that aims to change the law. It is its illegality that renders civil disobedience what it is, and that makes it such an interesting topic of discussion². It is not so obvious to think about an illegal act that nevertheless could be the only way, sometimes, to achieve justice and fairness. Civil disobedience seems in fact to put us in the position of questioning the same society we are part of, whose rules we normally follow and accept for the sake of creating a better society. It does so, taking control of public spaces, inviting people to join, to express themselves in the *αγορά* (agorà).

Keeping for the moment Rawls' definition as our landmark, the first issue to discuss is then the publicity of an act of civil disobedience. Before doing so, a first remark is needed though: if this research departs from Rawls' definition, it is important to clarify that my understanding of publicity here differs in part from Rawls' account. If Rawls seems to consider publicity as an *ex ante* attribute of an act of civil disobedience³, I follow Brownlee in considering it more closely to the idea of communication, as it will be clearer in a moment. I do not consider that for an act to be public it has to be public from the beginning, i.e. from its conception. Many of the actions of disobedience are planned secretly precisely because of their illegality: if they were public from the beginning they would not have taken place at all. Greenpeace could not share its plans about climbing up the Colosseum to protest against oil companies, because its activists would be stopped before even starting. Still, the moment the action takes place is visible, it happens in the public domain, under the scrutiny of all society, questioning clearly the policy of a certain actor and exposing it. So, an act of civil disobedience is public as a clear expression of dissent against a state of affairs, historically a law, perceived as unjust, even when it is not announced previously. Its aim is to change part of the system within the system, more generally the law, remaining nevertheless within the rule of law. Such an act is then public and it has then to be public since it addresses an audience, mainly those in power, those who are perceived as responsible of the unjust situation and who can change it, in its protest or claim. An act of civil disobedience

² "Its [of civil disobedience, author's note] exceptional character lies precisely [...] in the fact that it is (in liberal states) one type of political action to which one has no right." Raz, 1979, p. 269.

³ Cf. Brownlee, 2012.

is in this sense a communicative act and as such, again, it has to be public. So, this is to say that it is not sufficient that this kind of act is public, it is better to say that its communicative nature makes it public.

It is an illegal act performed by an agent, in general by a minority group⁴, that wants to be heard by the majority that normally is out of reach and/or does not pay attention. But the act is directed also to gain the attention of the public opinion, to draw its interest on a certain issue. Indeed, that was the case for women's and black people rights movements in the USA in the 1960s. Being the majority the entity in power, the one that represents the *res publica*, in the Latin sense of common thing, this communication cannot be, but public. As Brownlee says "we breach the law *for the purpose of* communicating our condemnation of a law or a policy⁵." Our act is public, not private, although it can be planned secretly. The minority expresses itself publicly since it has some requests, some complaints: it wants to be heard in order to obtain something, to

⁴ "According to a definition offered in 1977 by Francesco Capotorti, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, a minority is: A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language (United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, Study on the Rights of Persons Belonging to Ethnic, Religious, Linguistic Minorities by SR Francesco Capotorti, E/CN.4/Sub.2/384/Rev.1, para. 568). While the nationality criterion included in the above definition has often been challenged, the requirement to be in a non-dominant position remains important. In most instances a minority group will be a numerical minority, but in others a numerical majority may also find itself in a minority-like or non-dominant position, such as Blacks under the apartheid regime in South Africa. In some situations, a group which constitutes a majority in a State as a whole may be in a non-dominant position within a particular region of the State in question. In addition, it has been argued that the use of subjective criteria, such as the will on the part of the members of the groups in question to preserve their own characteristics and the wish of the individuals concerned to be considered part of that group, combined with certain specific objective requirements, such as those listed in the Capotorti definition, should be taken into account. It is now commonly accepted that recognition of minority status is not solely for the State to decide, but should be based on both objective and subjective criteria. The question often arises as to whether, for example, persons with disabilities, persons belonging to certain political groups or persons with a particular sexual orientation or identity (lesbian, gay, bisexual, transgender or intersexual persons) constitute minorities. While the United Nations Minorities Declaration is devoted to national, ethnic, religious and linguistic minorities, it is also important to combat multiple discrimination and to address situations where a person belonging to a national or ethnic, religious and linguistic minority is also discriminated against on other grounds such as gender, disability or sexual orientation. Similarly, it is important to keep in mind that, in many countries, minorities are often found to be among the most marginalized groups in society and severely affected by, for example, pandemic diseases, such as HIV/AIDS, and in general have limited access to health services." Source: Office of the High Commissioner of Human Rights, *Minority Rights: International Standards and Guidance for Implementation*, HR/PUB/10/3, p. 2.

⁵ Brownlee, 2012, p. 26.

start a change in the entire society. Being the disobedient agents a part of the community⁶, gathered together as such and not simply as private individuals, and the recipients of the message the ones that run the system, any kind of communication between the two has to be, and is, naturally, in *foro societatis*. It is precisely the publicity of these acts that empowers people, and obliges those in power to somehow answer to the disobedients. They are clearly confronted with their deeds and they cannot escape from the public opinion in this way. The publicity of an act of civil disobedience is then the precondition for engaging in a dialogue with those we are confronting. We do publicly disobey so, to expose our complaints and wait for a political answer. Civil disobedience, precisely as a political act, once again has to occur then in the public space, be it physical or digital. This is the case of course, given that through civil disobedience actions, the aim of those that disobey, as moral agents, is to change partially the society, to change those aspects considered unjust and unfair not simply for a private interest. So, a civilly disobedient act is public not simply because it is performed in public, it is public in the first place because the very same relation between the two subjects, the challengers and the power holders, makes sense only in the public sphere where people are not simply individuals with their differences and idiosyncrasies, but rather agents endowed with certain rights and subjected to certain duties. This means that an act of civil disobedience is communicative by nature and consequently public given the subjects and the content of its claim. In addition to this, publicity serves another aim, namely letting people know about the movement, even more about the problems that pushed people signing petitions first and occupying the streets later. Publicity is then a way to inform people, to spread the news over something otherwise not necessarily discussed in a proper way or not at all, having at the same time the effect of advertising the movement. Greenpeace actions usually gain a lot of media attention, precisely for their being so creatively public. In fact Greenpeace “uses peaceful protest and creative communication to expose global environmental problems and to promote solutions that are essential to a green and peaceful future⁷.” When people see Greenpeace activists trying to climb

⁶ I am not here necessarily referring to a national community, rather to the community involved in the decision-making process and its effects. It could be then a national, international or global community and it is as agents of such a community that disobedients act.

⁷ <http://www.greenpeace.org/usa/en/about/>, accessed on 3 July 2015.

up an oil platform it is likely that they start wondering why they are doing this, what is at stake. They might even find their fight something they want to be part of. Seeing people disobeying might trigger in others a desire of joining them and fighting with them, considering their cause a worth one fighting for. Indeed, the interests at stake are presented as regarding all: they are not an exhibition of personal needs or ideas, but of shared interests among the dissenters⁸ and beyond them⁹.

By engaging in civil disobedience a minority forces the majority to consider whether it wishes to have its actions construed in this way, or whether, in view of the common sense of justice, it wishes to acknowledge the legitimate claims of the minority¹⁰.

Publicity in this way is one important feature of civil disobedience, a feature that distinguishes it from another kind of disobedience, the personal one¹¹, known as well as conscientious objection, which is conversely private. Examples of personal disobedience are the cases of the doctor that refuses to perform an abortion or the soldier that refuses to go back to the battlefield¹². These people can have strong convictions and act following their conscience, but their acts are private, in the sense that do not aim at engaging in a communication and so they do not constitute acts of civil disobedience. The aim pursued by these people is completely different from the one civilly disobedients try to achieve: if the latter fight on a political level, the former challenge the system privately, on an idiotic¹³ level.

As Brownlee rightly argues:

When we engage in personal disobedience, we do seek to distance ourselves from the laws that we oppose, but we do not do so communicatively either *in order* to remedy or *because* it will remedy perceived injustices¹⁴.

⁸ Although everyone considers those needs and ideas she is disobeying for, as important ones for herself personally. “We were in Seattle for the world and for justice. But we were also there for ourselves, to create new culture.” Shepard & Hayduk, 2002, p. 248.

⁹ Disobeying is not necessarily something everyone would like to do, for different reasons. Nonetheless, even those that do not actively engage in civil disobedience may support the cause of the disobedients and share their concerns and ideas.

¹⁰ Rawls, 2002, p. 106.

¹¹ I will use here the expression “personal disobedience” as conceived by Brownlee, 2012.

¹² Cf. *ibidem*.

¹³ In the Greek sense of the term – ἰδιώτης (idiotes) –, that is private citizen.

¹⁴ Brownlee, 2012, p. 28.

If civil disobedience arises with personal commitments, it then flourishes when our personal commitments are shared and understood within the broader concept of justice. It is precisely when we engage in public debates, when we test our ideas and confront them with the ones of others that we can perceive our fight as part of a wider movement for justice. It is when feeling part of a group we share common interests with, that we understand our fight as a fight for an ideal that exceeds ourselves, that we are ready to fight side by side with others, for others, on behalf of others. This idea of sharing a common moral horizon people are ready to fight for, qualifies civil disobedience in a way that lacks in the definition of personal disobedience. This is not to say that people who engage in personal disobedience cannot share the same idea of justice of others, simply, in the precise act they are engaged in, they do not act for the sake of justice. In other words they act illegally without publicly questioning the legality of the act or of the system they are going against. In this sense their act is a-political, even if undoubtedly it remains an expression of liberty and freedom¹⁵.

2. THE DISOBEDIENTS.

FROM NATIONAL ACTORS TO INTERNATIONAL MOVEMENTS

Ventimiglia, Italian border with France. Monday 15 June 2015¹⁶.

Hundreds of migrants are seated on the grass, sleeping on cardboards under the bridge that connects Italy with France. They hold a banner saying “Urgence humaine nous attendons une réponse politique de l’Europe now¹⁷.” They are young men, women and children from Darfur, Eritrea, Ethiopia and many more countries of the Horn of Africa. After walking through the desert, facing the sea and escaping from death, they are finally here, in Ventimiglia. They would like to

¹⁵ On the concept of liberty see Mill, 2001.

¹⁶ I witnessed myself the situation in Ventimiglia, where I went to understand what was happening after reading about the arrival of the migrants in Ventimiglia on the news cfr. http://www.huffingtonpost.it/2015/06/13/ventimiglia-migranti-francia_n_7576066.html. It is precisely from the talks I had with the police, with some journalists, local people and the migrants on the border that I was able to gather the information I am basing on my claims here.

¹⁷ Human urgency: we are waiting for a political response from Europe now (my translation).

cross the border and go to the UK, to Germany, to France, but the French border is closed. So they remain on the rocks. Officially they have been here for weeks, officially only for a couple of days, living in poor conditions, in a limbo situation that is quite strange to understand, for me at least. Still, they want to remain on the border until the border is not open again. They could go to the train station where there are toilets and places to sleep for mothers and children, but they do not want to. They do not move because they want to protest, to criticise the European policy on migration. They keep saying that they are not going back, they are ready to stay months on these rocks until someone will listen to them. “It is not fair for a person to live like this” – they say, while showing that there are no toilets, nor blankets for them. They are peaceful, but determined. They do not understand why France does not leave them pass. “We are human beings, we are trying to escape from war, poverty, violence. Nobody should live in such a situation” – they say. That is why they fled their countries, looking for peace and better living conditions. Some of them have already tried several times to cross the border and every time they have ended up on these rocks again, after the French police pushed them back once more. Some cross up to ten times a day, unsuccessfully and yet, they are every time even more convinced on remaining on these rocks, to be seen, to be heard. They are ready to die for this fight. This is what they proudly say.

The protest of migrants on the rocks in June saw them expressing themselves politically, as moral agents. They were engaging a debate with the EU to ask for the respect of fundamental rights and not simply for their own private interests. They showed their commitment to the cause they were fighting for, resisting and being ready to die for being heard. However, although I define this act as a civilly disobedient one, I think it differs from those of the past, in one important respect at least. This act of disobedience is quite an interesting act. It seems quite particular to me since it highlights how the subjects of the topic of this research are changing these days. If traditionally a discussion about civil disobedience was about a group of citizens protesting against a law of their state, this pattern is changing now. In the past, the group that drove the change was in general a minority group within the nation-state, and even when they did not enjoy all the rights guaranteed to the majority, e.g. black people in the USA in the 1960s, nonetheless they belonged there. They “did define themselves in terms of the state and

its borders¹⁸.” Now, as it appears clearly in the case reported above that anticipated what happened in Hungary on September-October 2015, the agents of these disobedient actions are not necessarily citizens. The disobedients in Ventimiglia were not Italian nor French, and they were protesting and asking for something to entities, more in general to the European Union (EU), they did not belong to. It could be said then, that non-citizens, apart from the fact that they are human beings and deserve to be treated accordingly, they should not have any special claims as they are foreigners. Still, in the case at stake, from a legal perspective they should respect the Italian and French laws if on the territory of such states, under their jurisdiction. They were then passive of being arrested since they were occupying illegally a public space. This is to say, quite obviously, that, in general terms, if from the fact of not being citizens follows that people’s rights are restricted, nonetheless this does not mean that they do not have the power to go against the state. The migrants were facing the law, defying the system, even without being members of the community they were going against. They were presenting themselves as political actors in an arena they normally do not have a part in. They were and still are on other borders, disobeying from the outside¹⁹. They disobey to become part of that community that is pushing them back. The focal point here is that these disobedients from the outside were and are not simply asking for something, what they were/are saying is rather that they have a *right* to something, that they have a say in how certain rights and resources are distributed globally, also outside their home country. If it is true that civil disobedience was born within the national borders as an act brought about by citizens, it is also true that this act goes way beyond the nation-state these days²⁰.

¹⁸ Della Porta & Diani, 2006, p. 43.

¹⁹ “However, underneath the conservative popular base is the substratum of the outcasts and outsiders, the exploited and persecuted of other races and other colors, the unemployed and the unemployable. They exist outside the democratic process; their life is the most immediate and the most real need for ending intolerable conditions and institutions. Thus their opposition is revolutionary even if their consciousness is not. Their opposition hits the system from without and is therefore not deflected by the system; it is an elementary force which violates the rules of the game and, in doing so, reveals it as a rigged game.” Marcuse, 2002, pp. 260-261.

²⁰ I finished working on this research in July 2015. Since then, my study on the new political role of migrants sadly proved to be well founded during what has been called the new migrants’ crisis. During this terrible humanitarian crisis thousands of people fled from the Middle East, escaping mainly from Syria to Europe to be then stopped in Hungary. Impeded from passing the border, they started disobeying and protesting to fight for their human rights. I am not studying this case in particular here, but I think it is of extreme importance in the understanding of “agency and membership” relationship.

This is the case because the world the way we perceive it is changing as well as the way we perceive ourselves in relation to it, not simply as national actors, but rather as global ones, politically and economically, owing rights as individuals before than as citizens. At the same time the relations between states and states and people are different from the past. People travel more and more, people migrate and settle far from their native country, people are citizens of a country but subjected also to international legislations²¹. They move to a new area of the world with the idea of becoming part of the community they are trying to enter in, and in so doing they may end up being citizens of a country and residents of another²². Moreover, states impose burdens and limits not only to their nationals, nor states pass laws in a *vacuum*, not considering their neighbouring countries. On the contrary, as it is quite banal to highlight, states enact laws that regulate their relations with the outside, with other states, norms which affect precisely also those that do not belong to the nation-state. This is the case when one's desire to reside in a country is opposed by a national law, something which can constitute a good reason to fight for, indeed. More important the state is not anymore the only entity that counts in the international system: intergovernmental organisations are now more and more powerful and they also have a say in the domestic policy of a country. Besides national laws there are international norms and international conventions to respect. Furthermore, the nation-state does not hold the monopoly of the use of force anymore. As Della Porta clearly points out: "the growing interdependence among states and the strengthening of some Inter Governmental Organisations (IGOs) have weakened the idea of the states as the only relevant units in the international system"²³.

It seems then evident that "dissidence in general and civil disobedience in particular are increasingly directed towards these new configurations of multi-level governance which may include nation states but also regional and private actors"²⁴. In fact, in the Ventimiglia case reported above those that disobeyed were not simply asking Italy or France

²¹ The very same concept of citizenship is questioned: not simply people travel more and more, working in different countries, but states themselves gather together in political supranational entities their citizens belong to. The EU is a good example in this regard since it exemplifies how people can be both national citizens and somehow international ones.

²² On this idea of people moving and settling elsewhere, see Tarrow, 2005.

²³ Della Porta & Diani, 2006, p. 43.

²⁴ Zueger, 2014.

for help, they were referring to Europe, more precisely to the EU, an intergovernmental organisation, for answering their claims. Indeed, it is exactly because of this emerging power of the EU that migrants seek a dialogue with it rather than with nation-states, and worth nothing, it is on the higher hierarchy of human rights treaties that they base their claims on. The more the decision-makers are international and global, the more the protest is becoming the same.

Indeed, the world we live in obliges us to confront with several actors, national, international and global ones and with their decisions, that although taken globally have a global and a local impact. This concerns the political as well as the economical realm, as it appears evident from how the World Bank (WB) and the World Trade Organisation (WTO) influence local economies. Powers on the ground are not simply political ones *strictu sensu*, indeed. Companies and corporations have their own codes of conduct and hold a tremendous power worldwide, influencing not simply the economy, but precisely also the politics. There is an array of actors, public as well as private, bigger than ever, to face that obliges to rethink and revise the relation inside/outside, private/public.

Train Station of Ventimiglia. Monday 15 June 2015, 7 pm.

Different social centres from different cities in Italy gathered to discuss the situation in Ventimiglia and to listen to the migrants' requests. Italian and some French people talk with the migrants present at the station. A man translates in and to Arabic. People clap their hands every time a person leaves the floor, they talk about justice and dignity and wonder how to help these people, how to support their cause. Some suggest to manifest together with the migrants on the rocks, they are not happy about the idea of going to prison, but they are ready to do it to manifest their dissent against a policy their countries are supporting.

The evolution of the protest of migrants was unexpected to me, I would not have thought that the migrants' protest would have interested so many people, so much to push them to discuss the issue all together. What I got from the media was the impression that people were not so concerned about the living conditions of the people there, but luckily I was wrong.

The fact that people coming from different parts of Italy and France gathered to support the cause of the migrants sheds a light on an important point in the matter at stake, that is that what matters to

someone might matter to someone else as well. This is exactly the case with issues such as pollution and migration²⁵.

More important, this exemplifies how people might desire to be involved in the political process that decides over certain issues, and expect to be included in it on the basis that the discussion matters to them as well. Indeed, they expect and demand to be part of the decision-making process, because of the importance of those decisions for them. And this is the case, in virtue of their being part of the δῆμος (dēmos)²⁶, of those on which these decisions will rebound, but *in primis* precisely as belonging to the δῆμος itself, by definition the precondition of the the very same possibility of democracy as an inclusive decision-making system. It is worth noting though, that being part of the δῆμος does not mean to be part of a homogeneous group, nor to always have the truth on your side, rather it means to be entitled to participate in the decisions that concern you as a political individual. Choices that may not simply affect one directly as a right-holder, but also as a duty-bearer, as an instrument of justice towards the others. So, if this demand of participation cannot be expressed by legal means, people can resort to illegal means and be justified in their claim, rightly because of the right to political participation, but also on the ground of the deep moral commitments they have in the issue at stake. As Singer highlights, civil disobedience can be justified as a way to express “the intensity of its [of the minority] feelings to the majority²⁷.” This is not say, however, that every commitment, although deep, can justify the resort to civil disobedience on the basis of political participation. The essence of justification, as it will be discussed later, lies not simply in the possibility of sharing the ideas that push people to act, but above all in making power holders, and the others understand them. This means conceiving disobedience within the political sphere, where our actions can be judged and where we act not as private individuals, but as members of the political community. Only conceived in this way, being public and engage in a dialogue with all the stakeholders matters a lot and

²⁵ One example among others is the massive participation in demonstrations to raise awareness on climate change and ask governments reunited in Paris at COP21 to make binding decisions on reducing pollution and exploitation of the natural global resources.

²⁶ In the present case δῆμος (dēmos) has not to be considered as an equivalent of ἔθνος (ethnos) but rather conceived as the political community that subtends to the very essence of democracy.

²⁷ Singer, 2002, p. 123.

disobedience can be conceived as civil, indeed. We can, in fact, make people understand our commitments precisely if we consider ourselves as political beings among others. As Arendt makes clear “human plurality, the basic condition of both action and speech, has the two-fold character of equality and distinction²⁸,” which means that we perceive ourselves as agents and we recognise the others as such, while considering our differences as individuals. What this implies is fundamental: on the one hand we can have different claims as individuals, on the other, it is precisely because in our opposing claims we include the others and equally respect them as agents that they can understand, although not necessarily share, our ideas. This leads to emphasise once more how, for an act of civil disobedience to be as such and so justified, it must be communicative, open to the public scrutiny. So, in Ventimiglia the protest was a personal and political one on dignity and respect that addressed all, and by asking publicly for a change included the powerholders as a fundamental element of reference within the protest itself.

Moreover, the protest was supported by others than migrants precisely because it touched upon fundamental values such as dignity and freedom. As this case suggests, bringing the attention again to the actors and reasons to disobey, there are reasons to protest that are shared among people, regardless of geographical boundaries. People share common interests and they publicly demonstrate to achieve common goals, be it ending deforestation in the Amazon forest, ending death penalty in the world or avoiding the explosion of the war in a certain country²⁹. People demonstrate worldwide for the same problems, as some patterns repeat themselves everywhere, but also given that our world shows a high degree of interdependence between states. This means that a state can (badly) influence another, giving reasons to citizens to protest on one side as right holders and on the other as indirect duty bearers, but this also suggests that there is a growing feeling among people of belonging to the same planet and not simply to the nation-state. This entails a widening of the political sphere or action for agents and with that a global perspective on civil disobedience to protect what is perceived as a common good, be it our common living space or our common dignity as human beings.

²⁸ Arendt, 1958, p. 175.

²⁹ It was hopeful to see hundreds of thousands of people in the streets in 2003, protesting all over the world to end the war in Iraq. In Rome more than one million people invaded the city asking for peace.

As Zueger rightly recalls “Bentouhami observes civil disobedience today as a ‘transversal’ movement that consists of a wave of attention and concern, carried by political participation around a specific topic rather than state borders or international relations³⁰.” Attention and concern also raised by an improved and global net of communication. The fact that now we know that the levels of consumptions in Western countries influence how people live in the South, is an aspect of globalisation we came to know thanks to the free media, informing us more, everyday.

The world we are part of is a globalised world where new technologies help us communicating more and travelling more and more. There are commuters that live in London and have a job in New York, people who have more than one citizenship, dislocated industries all over the world. In such a frame the protest and the actors cannot be, but global themselves, as I already mentioned. Moreover, from a human rights perspective, also the perpetrators are global, which is why people address more and more corporations, together with IGOs in their demands. If the nation-state does not hold the monopoly of force anymore, it is also true that it is not the only one tarnishing itself with violations of rights. On one side there is the state, together with intergovernmental organisations and global institutions, but also with companies and corporations, on the other side there are citizens, migrants, transnational workers, social organisations, civil movements, NGOs. Global powers on one side and the global civil society on the other. It is quite evident that the nation-state is not the only objective of those that protest, much less so every day. The very same contemporary disobedients are what Tarrow calls “transnational activists, [...] the connective tissue of the global and the local³¹.” This idea of a protest that connects local interests and international ones is shared and embodied by the activists that take part in different demonstrations all over the world. Even more, the idea that circulates is that, being the world so connected, the new struggles cannot be but everywhere, to succeed. This is also due to the fact that the last years protests have been mainly, although not only, directed towards those multinational corporations that are the expression of capitalism all over the world and that put profits over social, civil and political rights. From the battle in Seattle against the WTO in 1999 to G8 in Genoa in 2001, from Occupy

³⁰ Zueger, 2014.

³¹ Tarrow, 2005, p. 206.

to the *Indignados* – 15M it seems that it is precisely the market, even more the idea of capitalism to be questioned overall. An idea that shapes the way politics is conducted worldwide, affecting everyone. Such a protest cannot be but global and ramified and so this explains the mushrooming of groups such as Occupy around the world, or the 15M in Spain. These movements are composed by different people, coming from different experiences, but fighting for the interests of all. In a certain way, they even present themselves as representing anyone.

Quoting from the Manifesto of the 15M in Spain:

We are ordinary people. We are like you: people, who get up every morning to study, work or find a job, people who have family and friends. People, who work hard every day to provide a better future for those around us.

Some of us consider ourselves progressive, others conservative. Some of us are believers, some not. Some of us have clearly defined ideologies, others are apolitical, but we are all concerned and angry about the political, economic, and social outlook which we see around us: corruption among politicians, businessmen, bankers, leaving us helpless, without a voice. This situation has become normal, a daily suffering, without hope. But if we join forces, we can change it. It's time to change things, time to build a better society together.

A quite striking thing, yet to remember when studying social movements, is precisely their heterogeneity. These movements are constituted by people that stay together as long as they want, as long as their goal is achieved or it is interesting to them. People come from different backgrounds and can have different interests and be associated with different small organisations. A disobedient can be a feminist activist, an ecologist, and a pacifist and be engaged in different activities to promote and protect different rights. This heterogeneity is both a strength and a shortcoming of these movements. Being so open and different they can attract more and more people, but they can also dissolve more easily than a movement where a stronger link exists between its members. However, for the moment, it seems that this plurality of voices, that such movements allow, is a strength. Occupy Wall Street gained so much attention and support precisely because it was open for anyone to join. From the first year university student to Noam Chomsky, a big supporter of the movement³², from unemployed to lawyers, from Democrats to Republicans. This heterogeneity, kept together by the aim of formulating

³² Cf. Chomsky, 2012.

something new, creating a shift in the power and a better distribution of wealth, made possible the spreading of the movement around the world. Occupy Wall Street was born as a response to the financial crisis that exploded in 2008, following the steps of 15M and soon spread over the ocean, to Italy, the United Kingdom, Germany. Occupy had the same requests that the new global movement had ten years before gathering in Genoa, asking for a new way of constructing globalisation, a fair and even one. In 2011 as well as in 2001 people were together, not as citizens of a nation-state, but rather as citizens of the world, asking big corporations and states to do no harm, to respect the human dignity of people all over the world in their trade agreements. They were there also on behalf of those who could not raise their voice, on behalf of those indigenous populations suffering from climate change, deforestation, pollution, child labour and slavery.

In the end, what it is important to focus on is the multiplicity and diversity of the political agents involved in the protests. If in the past the disobedient was a national going against the law of her nation-state, now the actors on this stage are many and the protest could not be more international and pluralistic.

3. ON VIOLENCE

In the way civil disobedience has been framed by Rawls it seems that civil disobedience cannot be, but non-violent. This same idea is the one brought about by Gandhi and Martin Luther King. Still, I do think there could be room for violence in a definition of civil disobedience. Even more, I will argue that certain acts that according to a general definition of violence, as simple use of force against people or property³³, could be considered violent, are not so within the framework I am moving in.

The point made by Rawls was linked to the idea that an act of disobedience, to be civil, had to be non-violent. In other words, disobedience could be violent, but civil disobedience could not. Nevertheless, if the attribute civil is considered not as a synonym of “educated” and “mannered,” but rather as opposed to “private,” I argue that the concept of civil disobedience can include both non-violent and violent acts. In

³³ Cf. Greenawalt, 1989.

other words, if the attribute civil is considered in its etymological sense, as pertaining to the *civis* – the citizen, or in the Greek sense the πόλις (polis) and the πολίτης (polites) – the city and the citizen – then, even a violent action, as long as political, can be rightly considered civil. Civil in this case is not opposed to uncivil, but to private disobedience, it is the opposition between πολίτης – the active citizen and so political – and ιδιώτης (idiotes) – the private citizen – that matters here.

Said so, if violence is considered as political violence, not simply as an act of force against someone or something, but also as an act directed towards an aim, within a certain context, I argue that violence could be acceptable to a certain extent at least. In particular I consider violence towards property as generally less damaging than violence towards persons. At the same time I consider violence as manifesting itself in degrees, so I claim that even those actions that may fall within the above definition, nevertheless do not necessarily amount to violence in a relevant sense here.

Given this clarification, it is important now to define what I mean here by violence. In the present context I understand violence as political violence, i.e. violence used as a means aimed at social, economic, political change, which means that I will not consider here what Walter Benjamin called divine violence³⁴. Political violence is an act of force directed either against persons or property that aims at attracting attention on a specific matter and so causing a change in the system. Of course, when it comes to violence it is important to note that this can be either physical and psychological, but in the matter at stake it is more often the case that violence is expressed in physical terms by the demonstrators³⁵ and it is mainly in these terms that I will refer to it. So, I do agree that such a violence has to be a “considerable or destroying use of force³⁶,” since I consider a small use of force, as for example trespassing a private property, not amounting to violence. However, I do not agree with the idea that political violence is only the one that is “[...] prohibited by law³⁷,” as I think that such a use of force does not have to be illegal to be political. I do think that even

³⁴ Cf. Benjamin, 1986.

³⁵ Notably physical violence can produce psychological effects, still, given the concept of violence that I am defining here with regard to civil disobedience, and the limited space at my disposal, I will not linger on this in details.

³⁶ Honderich, 1976, p. 9.

³⁷ Ibidem.

the legal use of force such as the police one can be indeed violent, and it can be so also in a political sense, although in a different way from the one explained above. The use of force exercised by the police, apart from being possibly violent as it seems quite clear by the way police happened to treat demonstrators³⁸, can indeed be political in the sense that it represents the way the government deals with certain affairs. Police actions, when the police acts following the rules and not when it acts illegally, which is unfortunately often the case³⁹, are the concrete manifestation of the government will. Such a use of force is then political, since it conveys a message to the population, setting the physical boundaries of people's actions. It is in fact fundamental to keep in mind that people manifest their ideas not simply virtually, as it is more and more the case nowadays, but physically, occupying the streets, shouting slogans and confronting the police *vis-à-vis*. It is then physically that the police reacts and sets a limit to the demonstration, to one's freedom to express one's idea. It is not the freedom of conscience that is impaired though, but the freedom to express it that is limited until new forms of dissent are found. In this sense a physical action, both demonstrators' resistance and police contrast, is a political action and it is in this same sense that violence can be understood politically. The actions of FEMEN, an international women's movement born to set an end to patriarchy in the world, as they define themselves, show an aware use of the body as a political means of protest, a protest that is presented as non-violent, but still aggressive⁴⁰. As Judith Butler⁴¹ points out, freedom entails also mobility of bodies and mobility in the streets.

³⁸ What happened during the G8 in Genoa in 2001 can serve here as an example. It is precisely during the three days of the summit that hundreds of demonstrators were beaten up, even tortured by the police (violation of Art. 3 ECHR) according to the European Court of Human Rights (*Cestaro v. Italy*, ECtHR, 7 April 2015). This example, in particular, highlights the political value of such a violence. I am not claiming here that torture was used as a programmatic means to scare the dissenters, nor that torture was planned by those in power at that time. However, it is quite evident that the use of violence, of brute violence in general, was undoubtedly encouraged by the government of Berlusconi. The idea was to send a message to the demonstrators, to show them who got the power and who did not, to set a limit to demonstrators' actions and freedom. For the future as well.

³⁹ It is sad to remember here how police mistreats Afro-American people in the USA. The case of Eric Garner is just one in a series of killings that occurred these years. Eric Garner, 43, died for suffocation on 17 July 2014 during the arrest, after a police officer put him in an illegal chokehold.

⁴⁰ <http://femen.org/about>, accessed on 3 July 2015.

⁴¹ J. Butler at Trinity College Dublin at the conference *Vulnerability and Resistance Revisited*, 5 February 2015.

Violence, in such an understanding of freedom, can physically express the opposition between contrasting ideals.

Violence, as commonly understood, includes any acts of force, which means that “violence [...] includes a wide range of acts and events, major and minor, that sometimes only risk damage or injury⁴².” As I have mentioned before I do not share this idea, thinking instead that only those acts that exceed a certain threshold in the use of force, amount to acts of violence. So, for example, when Greenpeace opens a banner on the Colosseum in Rome, entering a private property and risking to damage the façade of the Colosseum, to protest against oil companies, I do not think that this act could be considered a violent act. Again, when Greenpeace activists tried to climb on an oil platform to raise the attention on the Arctic drilling⁴³, their acts were not violent at all in my view, as claimed on the contrary by the Russian authorities. They did not damage anything or anyone, but the reputation of Gazprom. The examples I just gave are what I consider non-violent: they did not cause damage even if they could have, and if they limited others’ activities this limit was not diminishing others’ fundamental freedoms. More importantly, trespassing was a means and not an end.

The same can be said also in some cases when a certain violence comes in the picture, e.g. when, during G8 demonstrations, people hit some bank windows: if I have no doubt that among those who did it some did not even think about what they were doing, some others thought carefully about it. They did it for the sake of expressing an idea they thought no one would ever have listened to otherwise. Violence⁴⁴, is not the only way at one’s disposal, sure, but sometimes it has proved to be “the most important vehicle through which the power of established social forces can be suppressed⁴⁵.” If the interests at stake are vital and the authorities or the subjects addressed, be it the state or a company, do not show any interests about the requests of the people, violence could be a way to gain their attention. Violence was and is in this way instrumental to convey a message, to bring a change in the system. In particular, the political violence I include in the definition of civil

⁴² Brownlee, 2012, p. 198.

⁴³ Eshchenko & Dougherty, 2013.

⁴⁴ As commonly understood. From now on I am referring to the definition given above by Brownlee. See note 42.

⁴⁵ Ginsberg, 2013, p. 33.

disobedience is never an end and it is never directed towards people. This is a really important point to stress, as it is simply as a limited means that violence finds its place in this framework and that can be somehow justified.

At this point it is useful to remember that civil disobedience is an act brought about by a minority: those that demonstrate are not those in power, they are not those that make decisions. In particular violence can be the (only effective) tool at disposal of the vulnerable people to oppose the incumbents since, as pointed out by Arendt⁴⁶, people resort to violence when they are powerless. Violence in this framework is a means used to be heard by the majority that otherwise has proved not to pay attention to the requests of the minority. More importantly, it could be a means in the case where the power has shown to be violent itself and not willing to take seriously any form of dissent. If it is in fact true that violence could at first obscure the reasons behind itself and undermine the civil disobedient movement⁴⁷, it is also true that in the end these same reasons become evident and violence can become a powerful tool of communication. If civil disobedience can be the minorities' leeway of participation in the decision-making process, violence in particular can serve as "a powerful catalyst for political mobilization, bringing new or previously marginal groups into the political arena⁴⁸." Violence, so understood, is then "a major tool of social and political transformation⁴⁹." This can preoccupy the authority, namely the idea that not simply people disobey, but that they can do it even using violent means and so triggering a change within society. Especially, what should be stressed is that violence questions part of the system in a direct way, because the other means have proved to fail or it is very likely that they will fail and people have good reasons to continue fighting. In this sense, the use of violence has to be considered not on absolute terms, but rather in comparison with the attitude of the government itself. Also, if the police faces the protesters with a tank, as happened during the G8 in Genoa, throwing a stone does not seem so violent in context. A protest is always a reaction to something, even in the way people choose to disobey and contest the power.

⁴⁶ Arendt, 1972.

⁴⁷ Cf. Rawls and Singer, in Bedau, 2002.

⁴⁸ Ginsberg, 2013.

⁴⁹ Ibidem.

Furthermore, if violence disrupts the social peace, there could be good reasons behind it. Engaging in a violent act is something people do for something they deeply believe in. Disobeying poses the disobedient in front of the authority, it exposes those that disobey. This is the case in a peaceful demonstration and even more when disobeying includes a violent act. The exposure is higher because the risks and costs to bear are higher. Being a disobedient is difficult, “only those with strong views and preferences are likely to be sufficiently motivated to take part⁵⁰.” Again, to disobey, even more to engage in violent acts, someone has to have good reasons, so good that, all things considered, could eventually justify them. This does not mean that violence is justified anytime, rather this signifies that, quoting Morreall:

[...] an act of civil disobedience can be justifiable when it violates the *prima facie* rights [...] of persons because these rights are not absolute and can be superseded by higher moral claims⁵¹.

Nonetheless, the use of violence in the present context has to be the *extrema ratio*. As Raz pointed out⁵² non-violence is to prefer over violence indeed and, I suggest, it has to be always limited. If crashing a shop window could be acceptable under certain circumstances, setting on fire the city cannot, at least not in the current framework. The more violent an act is the more it departs from civil disobedience and becomes something else, a revolution.

Differently from civil disobedience, as violent as it might be, a revolution aims at overthrowing the existing economic and political structure, replacing it with a new one, normally resorting to a great use of violence. The revolutionaries do not recognise the system at all and so are ready to engage in highly violent actions to subvert it. Their willingness to turn to violence is generally due to the fact that those in power show a complete lack of respect for the basic rights of the population and so violence appears to be the only way to contrast them. Again, when the state turns out to be unbearably violent, non-violence may be useless and civil disobedience might not work. What happened in North Africa during what has been called the Arab Spring in 2010, has then rightly been considered more a revolution than an example

⁵⁰ Ibidem.

⁵¹ Morreall, 2002, p. 139.

⁵² Raz, 1979.

of civil disobedience⁵³, both in terms of the resort to violence, and of the objectives aimed at. Of course, civil disobedience and revolution share some common traits, in particular in the use of certain tools, e.g. the media, which Occupy has widely used as well as the revolutionaries in North Africa to organise itself. Still, “to have a revolution [...] you need a substantial majority of the population who recognize or believe that further reform is not possible within the institutional framework that exists. And there is nothing like that here⁵⁴.” Moreover, precisely because revolutionaries repudiate completely the political framework they live in, they are reluctant, not to say contrary, to be tried afterwards. They do not recognise the legitimacy of those who are in power or their representatives, and they do believe they are fighting for the public interest⁵⁵. Being responsible before a court is not an option for them.

In this first part I showed how civil disobedience is a public and a communicative act, brought about by individuals acting politically and not privately only for their own interest. I then outlined how such an act is not anymore a national act, brought about by citizens against the state, but rather a national and international act against states, IGOs and corporations, whose agents are individuals gathered in social movements for the sake of a moral principle they are deeply committed to. Finally, I pointed out how such an act does not have to be necessarily non-violent to be civil, if violence, as commonly understood, does not pass a certain threshold. I will now pass to the concept of responsibility and to the reasons people advance for disobeying.

⁵³ This is the reason why, unfortunately, I will not deal with the Arab Spring here.

⁵⁴ Chomsky, 2012, p. 59.

⁵⁵ In fairness I do believe that in the majority of cases, at least in the Arab Spring case and not considering the outcomes, they were acting in the interest of the entire population.

II.

THE CONCEPT OF RESPONSIBILITY.
CONSEQUENCES AND REASONS OF DISOBEDIENCE

*One has not only a legal, but a moral responsibility to obey just laws.
Conversely, one has a moral responsibility to disobey unjust laws.
Martin Luther King Jr., Letter from the Birmingham Jail*

1. FACING THE CONSEQUENCES OF DISOBEDIENCE

As mentioned before, being public means also being ready to face the consequences of one's acts. In the case presently discussed, where one's acts are illegal ones, bearing the consequences could mean being ready to face arrest and trials. It goes without saying then that publicity and responsibility appear to be two sides of the same coin. In publicly expressing one's thought a person is ready to be seen, judged and confronted with her ideas and actions. Eventually she is ready to pay for them. The willingness to take the risk to be put in jail shows the high commitment to one's ideal of justice.

This does not mean that those who disobey think it is right to be put in jail, they could question vehemently the decision of the police and the court, but they may accept the risk to end up in prison⁵⁶.

⁵⁶ I do endorse the idea of Brownlee that disobedients have to be ready to face the risk of being punished, but I do also claim that they might have to be ready to face punishment and not simply the risk of it, as well. In fact I argue that even those that accept their punishment do not agree on it, because they think they were doing the right thing to do, under the circumstances they were in. The acceptance of punishment in this case seems determined by the fact that in a system that works in such a punishment framework, as questionable as it can be, people are ready to accept the idea of being punished, which is usually the normal end of their actions, to prove their point. Moreover, accepting the risk of being punished means thinking seriously about the possibility of being punished and eventually the reality of such an event. This signifies that when one person is ready to take the risk of being punished, she accepts the idea that this could eventually happen for real. However, I am not denying

Whoever disobeys in public does so because she believes in what she is fighting for. She is responsible in a two-fold sense: she is not simply ready to take the responsibility for her acts, rather she is responsible also in the sense that she is an agent responsible for her thoughts and acts. Those that disobey are not forced to do so, they decide to do it and in so doing they take a responsibility not simply facing the state, but themselves *in primis*, as autonomous moral agents. They decide to act on the basis of what they think being right and wrong and they are ready to bear the consequences of it. The willingness to take the risk of one's acts shows the sincerity of the intentions⁵⁷ of the agent and it makes possible for the society as a whole to justify these acts and even support them.

Sometimes, the very same fact of ending up in jail could also become a tactic, a means to obtain more visibility in the media and to gain more support⁵⁸. In this case ending up in jail would be the highest form of protest and the highest form of showing a deep commitment to the cause. The idea being being ready to submit oneself to punishment, deliberately, to prove people that what it has been fought for is worth finishing in jail.

An individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for the law⁵⁹.

The law an individual is paying respect to when disobeying, is not the civil law, though. Rather, this respect is paid to an higher idea of

the existence of a difference between the willingness to take the risk that something might happen and the actual occurrence of it. Still, I claim that this distinction does not hold so importantly when it comes to people choosing to engage in civil disobedience. In other words, this distinction is fundamental to question the punishment policy, but it is not so central when it comes to consider the reasons behind one's choice to disobey. This is the case because those who decide to disobey consider seriously the possibility of ending up in jail and they accept it. It is not possible to accept the risk and then step back from punishment when it occurs for real: a risk is such because it foresees a real possibility. Furthermore, subjecting oneself to punishment does not mean not to question it and not to claim to have grounds to ask for a lighter punishment, or no punishment at all.

⁵⁷ This idea has been already expressed, among others, by Rawls, 2002.

⁵⁸ Gaining more support can in fact be an unintended, even though appreciated, outcome of punishment, as it seems to be the case in Ireland for some of the water charges protesters. See <http://www.irishtimes.com/news/crime-and-law/imprisonment-will-galvanise-support-in-anti-water-charge-groups-1.2110406>.

⁵⁹ King, 2002, p. 74.

law, the good law, the one that is based on an ideal of justice. It is for respecting this ideal of justice enshrined in the good law, people should fight for when the authority in power is acting unjustly, contrary to the law. In other words, it could be said that the debate that takes place in the streets, on the web, is a debate over the legitimacy and legality of the law and the authorities' acts. People gather to protest when their idea of what is legitimate does not correspond to what is legal, to what has been done by their representatives. Once more, disobeying is public and has to be public, since it concerns the public body and the public authority over public interests. Not any interests, but those interests that highly matter for the individual and the society as a whole at the point that people are ready to face punishment for them. Being ready to bear the consequences of one's deeds, or even submitting oneself to punishment as a means to communicate dissent are key concepts in the understanding and justification of civil disobedience. This is not to say that civil disobedience has to be punished, as it will be discussed later, but this helps in deeply understanding what lies behind one's act.

This strong commitment to one's ideals in fact draws a clear line between civil disobedience as a conscious and conscientious act and common criminal acts. "There is all the difference in the world between the criminal's avoiding the public eye and the civil disobedient's taking the law into his hands in open defiance" as rightly pointed out by Hannah Arendt⁶⁰. The risk at stake for disobedients is high: in recent years we have witnessed cases of police violence and brutality during peaceful demonstrations, not to mention the hundreds of demonstrators arrested⁶¹. Being this the situation, it seems that if someone would ever engage in any act that could send her in jail or end with a broken nose, it is because she has a good reason to do it. When a disobedient defies the law to ask for a change, willing to take the risks that this implies, she does so because she cannot do no other⁶². She does so because she cannot go against her conscience and what her conscience tells her to be right. If risks are high, her reasons are strong and motivated to bear them fiercely. In Hannah Arendt's words:

⁶⁰ Arendt, 1972, p. 75.

⁶¹ One recent example: 12 April 2014. More than 200 people were arrested in New York because they took part in the demonstration asking justice for Eric Garner. See note 39.

⁶² Quote attributed to Martin Luther King.

DUTY TO DISOBEY?

Civil disobedience arises when a significant number of citizens have become convinced either that the normal channels of change no longer function, and grievances will not be heard or acted upon, or that, on the contrary, the government is about to change and has embarked upon and persists in modes of action whose legality and constitutionality are open to grave doubt⁶³.

Civil disobedience does not arise anytime, it arises under certain circumstances and this is why these acts deserve our attention. People do not go in the streets if they do not feel seriously threatened, simply because doing so could cost them a lot, in the best case a day of paid work. They invade the streets and demonstrate, they occupy squares and banks, if they perceive around them a situation that is putting them in a far bigger danger than the one of being beaten up or put in jail. They also do not always engage in such illegal activities since they have other means to address the power and ask for what they want, although civil disobedience does not necessarily have to be the last resort.

Those that disregard the law do not want to change the system completely, they want to change it partially with regard to a particular aspect. Civil disobedience takes place, it is important to stress this once again, as an illegal act that nevertheless remains within the rule of law. Such an act, for illegal as it may be, occurs within the boundaries of the established system. A system that normally has room for different opinions and freedom of speech and dissent and that includes in itself the possibility of being questioned. In fact I argue that civil disobedience can take place only where, normally, there is room for democratic confrontation with the authority. Where this dialectic is not possible the protests that may arise against the power look more like a revolution. Civil disobedience arises in a democratic system⁶⁴, not under a regime. So, to resort to illegality people have and give good reasons, at least in their own view, to do what they do.

Civil disobedients do not claim an absolute right to disobey; they claim that disobedience is permissible only under defined conditions⁶⁵.

The very same reasons that lie behind an act of civil disobedience distinguish it from any other illegal act. This is why the intentions play

⁶³ Arendt, 1972, p. 74.

⁶⁴ And even in a democratic society civil disobedience is facilitated when the repressive capabilities of the government are not so strong. Cf. Della Porta & Diani, 2006, pp. 198-199.

⁶⁵ Zashin, 1971, p. 56.

here a tremendous role in the understanding of the phenomenon and in the judgement of it. Understanding the reasons that push to disobey could get to share these very same reasons and consequently join the disobedients. From a legal perspective the analysis of the reasons behind an illegal act play a primary role in the determination of the punishment, if any⁶⁶. This stress on the reasons behind a civilly disobedient act touches upon the core concept of the definition of civil disobedience, namely the fact that civil disobedience is a conscientious act.

As clarified by Arendt:

The civil disobedient, though he is usually dissenting from a majority, acts in the name and for the sake of a group; he defies the law and established authorities on the ground of basic dissent, and not because he as an individual wishes to make an exception for himself and get away with it⁶⁷.

2. AGAINST THE LAW FOR THE LAW. THE IDEA OF THE GOOD SOCIETY

What morality requires of us in morally difficult circumstances is not something to be mechanically determined by an examination of our office. We must on some occasions have the courage to rise above all that and obey the dictates of conscience⁶⁸.

What does it mean for an act to be conscientious then? To understand it, I consider important to refer to Brownlee and her important work *Conscience and Conviction*. It is precisely in this work that it is possible to find an account of civil disobedience as a breach of the law “motivated by steadfast, sincere, and serious, though possibly mistaken, moral commitment⁶⁹,” a commitment that could be so strong to overcome the illegality of the action itself and makes it morally acceptable. According to Brownlee an act of civil disobedience can in fact be justified referring to either conscience, either conscientiousness, two concepts I interpret as being two sides of the idea of conscientious act expressed by Rawls.

Saying that an act is conscientious implies the idea that there is a reason

⁶⁶ For a discussion about the legitimacy of punishing civil disobedience see Chapter IV.2 below *Punishment. The Legal Answer to the Breach of the Law*.

⁶⁷ Arendt, 1972, p. 76.

⁶⁸ Brownlee, 2012, p. 98.

⁶⁹ *Ibidem*, pp. 23-24.

behind it, a reason we can justify to ourselves and our audience. This reason, in Brownlee's terms, could either be a dictate of our conscience or it could be based on our deep moral convictions. This leads to the definition of conscience given precisely by Brownlee, who considers it as the "interdependence between cultivating wholesome states and developing fuller and more accurate practical knowledge of the state of our mind, body, intentions and conduct⁷⁰." This specific definition of conscience is really important to understand how people act and why they act in a certain way. In particular, conscience "makes us sensitive to the complexity of the moral decisions we make and help us privilege certain values over others in light of our personal moral situation⁷¹." Said so then, it is quite evident to understand how the reasons why we choose depend on values that have passed the close examination of our conscience, i.e. values we attach a great importance to. When we choose we choose carefully, and when we decide to protest, we do it after pondering the situation and the outcomes of it, as far as possible. We expose ourselves for something that we think is worth fighting for. From what I tried to outline in the previous chapters it seems evident that there are different reasons that pushed and still push people to disrespect the law, even when they still have other means to use at their disposal⁷².

As already pointed out, the subjects involved are several: there is not simply one actor against one state, but rather an array of actors involved in protests that call into question corporations and states, intergovernmental organisations and companies. This suggests that there are several reasons to disobey.

The first reason that comes out when discussing about civil disobedience is the fact that people do not see themselves represented by the institutions under which they live. They disobey because they do not agree with the policies taken by their politicians on their behalf. In this sense law is perceived as not being anymore people's will expression and so it is protested against by disobeying it. People dissent, resorting to illegal means, because they think that what is legal, the power that should represent them, the very same law, is wrong,

⁷⁰ *Ibidem*, pp. 52-53.

⁷¹ *Ibidem*, p. 10.

⁷² It is important to stress here that even in a democratic system, disobedience has not necessarily to be the last resort if it is more than likely that legal means will not be effective.

is not legitimate and so they argue they are not bound to respect it. The problem of representation is an important one in a democracy since the individual is legitimate in participating in the political life and checking what the government does⁷³. Problems arise when the legislative authority acts in a way that is not considered legitimate: it is precisely in this case that people try to express their dissent, exercising their freedom of conscience. When people think that what their state, or even a company, is not acting in a legitimate way then they have a good reason to protest. This is exactly what happened in Spain: the *Indignados* took the square, the *αγορά* (agorà), trying to create spaces of direct democracy, trying to bring back the political discourse into the street. Like in Spain also in Bosnia in 2014, in Greece and in Turkey popular assemblies were held, forums of discussion were opened. Different social groups found themselves gathered for the same aim: achieving social justice. This happened because inequality, oppression and privatisation of services were rendering even more difficult to live a decent life. Social justice, respect for people before desire for profit is what people asked and keep asking for. A government that does not defend society is a bad government⁷⁴, people said in Madrid, and this is why they thought it was up to individuals to do something to protect their rights. They were outraged, still are, by the way their governments did not seem to act in the interests of their population. In general, there is one thing people seem to really care about, that is corporations and bank accountability. As I tried to highlight in the previous part, corporations hold an immense power and determine a great part of our life. Unfortunately, it seems that these corporations are more interested in increasing their assets than in respecting human rights. Monsanto is in this respect a (bad) good example. What this corporation does is quite simple: it imposes its genetically modified seeds everywhere, so farmers are obliged to buy them at prices they cannot afford after a short time and get themselves into debts. For some of the farmers working in India this has meant losing everything, which consequently has turned out in many cases of suicide. Not all the people that manifest against Monsanto are Indian farmers though. Actually the majority of them are not. They are activists⁷⁵ from all over the world, interested in

⁷³ On this point see Zashin, 1971.

⁷⁴ Cf. *Everyday Rebellion*, a film by the Riahi Brothers, 2013.

⁷⁵ E.g., Greenpeace activists.

Genetically Modified Organisms (GMO) and firmly against them, but not only. They demonstrate their sense of outrage against a policy that seems to be nothing, but disrespectful of human labour. This interest in such an issue from internationals shows how people do not disobey simply when they are directly involved, sometimes they do even support a cause on behalf of others, precisely when these others do not have the possibility to do it themselves. They do engage in direct actions because of the ideal of human dignity that pertains to every person, and because they think this principle is threatened by certain policies. It is then an ideal of global justice the one that drives people in their resistance, for themselves as well as for others. When people, the global society, boycott a product e.g. because it has been produced causing deforestation in Indonesia, they do so on the ground that the planet is of every human being, present and future⁷⁶, but also from a perspective of global justice that considers the indigenous groups living in the forest and losing their house.

[...] solidarity based movements are mobilizing proactively on distant issues that are not immediately connected with their own national context⁷⁷.

It is the sense of outrage that strikes us, it is the disrespect for those rights that we consider fundamental, e.g. the right to education for which so many people have been demonstrating from the 1960s on⁷⁸, the right to a fair wage, to health care. The desire to protect these rights, to protect our freedom as moral agents, as capable of taking our life in our hands, is a reason why we consider disobedience as a political tool at our disposal. People manifest then also on behalf of others, because even if they are men they do think women should be treated with respect, even if old they do strongly believe young children should not work. People speak for others, disobey for others, also because often the victims cannot speak for themselves. But in particular, this willingness to disobey arises when it is our state the one that affects our and others' life. We might not be affected, not directly, not immediately, by a decision taken by our state, but we might disagree on such a decision, on the basis

⁷⁶ For reasons of space and because such a topic falls outside the scope of this dissertation, I will not deal here with the matter of intergenerational justice, considering a just and fair practice taking care of this planet for future generations.

⁷⁷ Della Porta et al., 2006, p. 132.

⁷⁸ The May '68 started precisely after the closure of the Sorbonne University in Paris.

that, rephrasing Thoreau's principle⁷⁹, we do not want our state to be an instrument of injustice to others. So, when people demonstrated in 2003 to ask their countries not to be involved in the Iraqi war, they did so because they did not want to pay, with their taxes, not a single killing of a single person. They did not want their country to be involved in a war causing pain and sufferings. They felt responsible for what their country could have done in Iraq or elsewhere⁸⁰. Lots of people took the streets during those months, all together protesting for a common goal, even though every one was different and came from a different background.

This is similar to what happened in Ventimiglia when European activists decided to deal with something they perceived as an injustice, not done to them, but somehow by the institution they belong to. Furthermore, people engage in such a disruption of the system more easily when they think their opposition will serve the aim better than the victims' itself. When those representatives of the social centres declared themselves ready to go to jail, they said so, I guess, also because they thought it would have been more useful for the cause to have them in jail rather than the migrants themselves. Indeed, the media play a tremendous role in our society and it is for the attention of the media that people have to fight for to be heard. Poor people, already deprived of their rights do not interest the media so much. On the contrary, a group of white, well off people does interest and this sheds a light on the issue that is protested against. In addition to this, in this same case, the idea of protesting together with them was also linked to the presumption that manifesting together would have prevented violence from the police. In general the ideal was to help giving a voice to those that normally do not have one, those that are not even seen, not considered by the media as agents asking for rights, but rather simply as victims, objects rather than subjects.

In the end, the reasons why someone protests can be then summed up saying that people protest for saving and promoting their idea of justice. People can be so shocked and disgusted by what they see happening around them to consider it profoundly wrong and necessary to be changed. It is then a sense of outrage that convinces people to actively disobey, aiming at an idea of the good. An idea that is solidly

⁷⁹ Thoreau, 2002.

⁸⁰ Something similar to what Thoreau did when he did not pay the taxes he owed, to avoid supporting a state that still had slavery.

based on moral convictions they consider valuable, not just for them, but for all.

Of course they might be wrong. Still, what really matters is their profound belief and the right to express it as agents, willing to promote a change they consider good.

As Chomsky says:

If someone makes an assertion saying, “Here’s what I believe”, that’s fine [...] that’s an expression of his belief and he is entitled to make it. We have no idea, nor does he have any idea if it’s true or false. But it really doesn’t matter; whatever the truth turns out to be, we will follow the same policies, namely, trying to optimize and maximize freedom, justice, participation, democracy⁸¹.

Indeed, from what they themselves say, disobedients are trying to build a good society based on moral values and on a new global structure considering people as ends and not simply as means. Offline and online.

⁸¹ Chomsky, 2012, p. 67.

III.

THE DIGITAL ERA. THE DEMOCRATIC NET

We are everyone and we are no one.
Anonymous

1. ANONYMOUS AND THE NEW HACKTIVISM

If the discussion has been so far around the offline world, now it is time to see what happens online. The digital space is vast and provides amazing tools to act anywhere by anybody⁸². In a world that is more and more online, it is quite obvious that even the political debate shifts to the virtual space, and so does civil disobedience as well. Of course any of the offline actors from the *Indignados* to Occupy, from Greenpeace to FEMEN, from the Greek movements to the Green movement in Iran have now a webpage, a Facebook account and a Twitter profile. They are both offline and online and normally they use these pages to keep informing people about their protest and the reasons behind them or to organise sit-ins or demonstrations. In other words they use Internet, they use the net as a fast and simple way to inform, connect and communicate with people, but they do not act through the web, in the web. Twitter in particular, given its structure – 140 characters for an instant message – has been particularly useful and so used during

⁸² Of course it could be said that not everybody has access to Internet or to a computer, or a tablet or even a smartphone, still there are more and more people who have access to the net and even the members of Anonymous are not all coming from a well-off background. Internet has reached all the continents, and although in the rich West 75% of the population is online, whereas in the global South only 20% uses Internet, behind a screen there could be anybody, from an Afghan woman, to a Catholic priest. Cf. Coleman, 2014 and United Nations International Telegraph Union, ICT, Facts and Figures, available at <http://www.itu.int/en/ITU-D/Statistics/Pages/facts/default.aspx>.

the protests in Athens, but simply to organise rallies and keep being informed and informing those years of demonstrations.

Although the use of the media, not simply as a tool to spread the news from within a movement, but also as a way to gain publicity from the outside, is really interesting and it changed the way people interact and perceive things, this is something I will not deal with in details. In this chapter I will try to get a better understanding of the world of the hackers, of those that use the new media, the tools provided by the net, to act within the net to disrupt the system. In particular, Anonymous is one of the most interesting phenomenon of the last years with regard to digital civil disobedience, and more in general to virtual political participation, and this is why I will focus mainly on it.

Who is Anonymous is quite an interesting question to start with even if it is not an easy one to answer. Anonymous was born as a collective of hackers mainly interested in trolling⁸³, with no specific philosophy nor political aim to achieve. The fact that their struggle did not seem principle-based, honestly did not seem anything but a way to have fun, at first did not make them appear as civilly disobedients, but just as annoying. However, from 2008 on, Anonymous has undergone an important change: “adherents to a new vision for Anonymous took Scientology to task [...] and realized their power to impact global struggles⁸⁴.” Scientology was their first political target, representing somehow their nemesis: faith v. technological progress, dogma v. critical thinking and freedom of speech. Anonymous started being interested in human rights violations allegedly committed by Scientology members and then became more and more involved in other political struggles. From Tunisia to New York they fought and fight for freedom of speech and started influencing the political arena on copyright issues and freedom of the net. Freedom of speech and freedom of Internet is what they started fighting for, being Internet their place, the place where hackers find their reason to be. This explains why, when Internet

⁸³ “In Internet slang, a troll (/ˈtrɒl/, /ˈtrɒl/) is a person who sows discord on the Internet by starting arguments or upsetting people, by posting inflammatory, extraneous, or off-topic messages in an online community (such as a newsgroup, forum, chat room, or blog) with the deliberate intent of provoking readers into an emotional response or of otherwise disrupting normal on-topic discussion. This sense of the word troll and its associated verb trolling are associated with Internet discourse, but have been used more widely. Media attention in recent years has equated trolling with online harassment.” Source: https://en.wikipedia.org/wiki/Internet_troll#Trolling.2C_identity.2C_and_anonymity, accessed on 4 July 2015.

⁸⁴ Coleman, 2014, p. 3.

is somehow misused to spread terror and fear Anonymous decides to intervene, as it has happened recently with #OpISIS, the biggest operation ever conceived by Anonymous against the Islamic State. As Anonymous declared in a video after the attack against *Charlie Hebdo* in Paris:

It is time to realize social media is a solid platform for ISIS communication as well as for neutering their idea of terror among youth, but at the same time social media is proven that it is an advanced weapon. We must all work together and use social media to eliminate the accounts belonging to terrorists. [...] ISIS we will hunt you, take down your sites, accounts, emails, and expose you. From now on no safe place for you online.

#OpISIS continues: after the attacks in Paris Anonymous published other videos to express its intentions to expose ISIS and its members.

Its participants remain anonymous, net users hidden behind nicknames, while they undermine the system mainly by taking down accounts and sites and by DDos – distributed denial of service – attacks, which are, of course, illegal. DDossing consists of interrupting the access of websites by invading them with requests. This does not simply cause a loss in economic terms, even worse, it attracts publicity and the attention of the media, without even going in the streets. It is precisely using this tool that Anonymous hacked the Tunisian government to show support with the demonstrators in the streets, announcing it with a press release on the new channel #OpTunisia:

A time for truth has come. A time for people to express themselves freely and to be heard from anywhere in the world. The Tunisian government wants to control the present with falsehoods and misinformation in order to impose the future by keeping the truth hidden from its citizens. We will not remain silent while this happens. Anonymous has heard the claim for freedom of the Tunisian people. Anonymous is willing to help the Tunisian people in this fight against oppression. It will be done. It will be done⁸⁵.

Internet free from tyranny was and is their main concern, in the same way as freedom of speech matters offline. Indeed, Anonymous mirrors the same attitude, and its actions of protest and dissent the same reasons that lie behind an act of offline disobedience. In this sense the hackers and non-hackers that call themselves Anonymous are similar to those

⁸⁵ Cited in *ibidem*.

that use their bodies to close the entrance of a building. Still, there is an important difference to be drawn. While those that decide to protest offline expose themselves physically, Anonymous does not. Anonymous acts behind a mask. It acts publicly though, in the virtual space, in a space that it has created for people to freely interact. It is public, but people do not expose themselves. Still, I argue that Anonymous acts as a responsible actor in the sense that, when its participants are faced with their actions they do not escape from their responsibilities. Moreover, they do not usually reveal any other details that could put in danger others and undermine their protest, even if this normally could reduce their penalty. Therefore, they know that, although not exposed, they might be discovered, as it has actually happened to some of them, and they run the risk anyway.

Finally, it is undoubtedly true that people have good reasons to engage in this protest also online, and that they do so mindfully. As Gabriella Coleman was able to reveal, before engaging in a political act, the members discuss the issue through and in their web channels, considering pros and cons and the interests they might have in engaging in a DDOs attack in a certain case⁸⁶. The very same fact of creating a space where to interact, to maintain it working, to stay hours in front of a screen to DDoS show the deep commitment to a cause these people have. Moreover, in the case of Anonymous it does not seem that concealment is simply instrumental in getting away with its actions. It rather seems part of the idea enshrined in the phrase “We are everyone, we are no one,” which suggests that Anonymous represents Internet itself. So, naturally for this very same reason it cannot have a name, nor an age, nor a sex, nor an ethnicity. Even when some of the participants of the collective gathered offline to protest against Scientology, they covered their faces with the mask of Guy Fawkes, precisely because they were embodying the net. Another thing to be said with regard to the act of concealment is that hiding could also be a method of disobeying in a society that is normally highly exposed: anonymity could be a principled choice in a world to the fore. Furthermore, anonymity could be a choice not simply

⁸⁶ For the majority of the information regarding the world of Anonymous I referred to Coleman, 2012 and the papers she presented in two different lectures, *Weapons of the Geek* and *Weapons of the Geek? Anonymous and Civil Disobedience*, on 8 May 2015, during the conference *Civil Disobedience beyond the State II. The Digitalization of Disobedience from Whistleblowing to Anonymous*, Berlin, ACUD.

dictated by the idea of representing an abstract actor only, that is the Internet, but also more than one actor, that is anybody. Anonymity in fact allows diversity, increases the possibility for different people to join the collective. A possibility that is even greater in a virtual space where even the body does not count. So, as Geoffroy de Lagasnerie said in a conference on civil disobedience in Berlin⁸⁷: “the practice of anonymity allows one to act politically without becoming an identifiable subject,” which does not mean that there is no agent performing such an action, but rather that this agent is not evident. The agent then is not alienated, rather is even more empowered by not revealing himself/herself.

Again, “the anonymous subject operates in a gap between what one is and what one does⁸⁸.” This is not to say that these subjects’ actions do not fall under the definition of civil disobedience because the agents are masked. They do fall within the category of civil disobedience precisely because anonymity is not simply chosen as a way to protect themselves. In certain situations anonymity, e.g. in the Manning case I will refer to later on, was the only way to achieve the important goal of informing people. Anonymity was chosen because there were no other feasible options to reveal certain secrets, and still these secrets were considered of such a relevance for the public interest that they had to be revealed. Anonymity and Internet opened the way to new forms of disobedience, to new people to raise their voice, precisely because their faces could remain in the dark. However, what I am trying to say here is not that everybody could be Anonymous, indeed most of the members, although not all of them, belong to the hackers community and they know how to get the best out of the net, something not everybody can do. Neither anyone can be a whistle-blower, without the due access to relevant information. What I am pointing out instead is that those who are members of Anonymous can be part of this community and meet online as if they were in the same place, even though they do come from very different backgrounds. These people gather and create a new way of making politics, being far away one from each other and not knowing one about the other anything more than what each one wants to share. If offline movements, such as Occupy, welcomed anyone, the

⁸⁷ Geoffroy de Lagasnerie presented his paper, *Beyond Citizenship: Snowden, Assange, Manning* on 9 May 2015 during the conference *Civil Disobedience beyond the State II. The Digitalization of Disobedience from Whistleblowing to Anonymous*, Berlin, ACUD.

⁸⁸ See note above.

same happens online, where anyone who has the capacity of DDossing may join if she wants, regardless of any other feature that defines her offline and that influences her agency. Anonymous is interested in the protection of civil liberties, in the freedom of expression and information before anything else, rights that a lot of people wants to enjoy and keep enjoying. This means that the face behind the mask of Anonymous is as heterogeneous as it could be. Behind Anonymous there are high school students, workers, second generation migrants, Christians, Muslims, rich, poor, homosexual, heterosexual, right wing, left wing. Anonymous has no label. This virtual space is in fact open to anybody, accessible in anytime from any part of the world. Anonymous members from the USA intervened in Tunisia, sitting on their couch they were able to block the site of the Tunisian government. However, if this apparent facility to access information and to enter sites at first seems to allow anybody to say anything, also for this idea of being covered by the screen, in the end this has not been the case. For what concerns the topic discussed here, only those that are really interested in engaging into a discussion, in rethinking the system take their time and think about what to do seriously. This seems to be the case in particular with #OpISIS that is putting them to the fore as never before.

From a certain perspective the virtual space is way more democratic than the offline world, allowing for more diversity and plurality and giving people the chance to choose how to present themselves, to what extent expose themselves. Still, the two remain connected and naturally influence one another. Even those that disobey online do so hoping to have an offline effect. This was precisely what happened when Anonymous decided to start “the first popular uprising on the Internet. Strangers were reaching out to work toward a common goal⁸⁹.” This uprising referred to an event that became soon a popular one outside the net: the Assange case. Julian Assange, an Australian computer programmer, hacker and founder of WikiLeaks, became famous as he published some USA top secret military and diplomatic documents that showed the abuse of power of the USA military force, in particular in Iraq and Afghanistan. This action, widely appreciated by the hackers community as being an act against censorship, was not appreciated at the same level by others, such as the USA government. Sarah Palin arrived at asking

⁸⁹ Coleman, 2014.

“Why was he not pursued with the same urgency we pursue al-Qaeda and Taliban leaders?⁹⁰” Then, some companies such as PayPal and MasterCard refused to accept donations to WikiLeaks, which of course was considered unacceptable by the community behind Anonymous.

To illustrate the hypocrisy of it all, people pointed out that while MasterCard refused to process payments for WikiLeaks, racists around the world remained free to donate to their racist organization of choice, like the Klu Klux Klan⁹¹.

So, the DDos attacks started. Considered by some as an act that impedes freedom of communication, DDossing does not stop the activities of the “victim” for a long period of time, neither blocks every channel of communication at its disposal. Still, it is quite annoying and costs money not to have a site functioning for a while. DDos represents in the virtual world what direct actions are offline, “having the goal of directly halting activity or impacting and inconveniencing the targeted party⁹².” Anonymous engaged in such a battle because it thought in the legitimacy of what Assange was doing in the interests of the right to information.

More in details, what Assange was doing was something called whistle-blowing, an act of disclosing meaningful information for the public society, from a private or a public institution. Such a term has become quite known these years thanks also to Chelsea Manning and Edward Snowden. Chelsea Manning was in fact the one that passed to Assange and WikiLeaks the documents later published. She is now in jail, serving a 35 years term of imprisonment after being spied on another hacker, Adrian Lemo. Edward Snowden is even more famous. After being a Central Intelligence Agency (CIA) and a National Security Agency (NSA) contractor, he leaked some information that showed the world how the USA government was massively spying on people.

Indeed, something worth noting is that if the web is really open for citizens around the world, it is also really open for corporations and states. What Snowden showed was in fact the other side of the coin of the web: if on one side Internet sets people free, on the other it puts them more under control.

After his revelations the media went crazy, people called him a

⁹⁰ Beckford, 2010.

⁹¹ Coleman, 2014.

⁹² Ibidem.

hero, some a traitor, and now he is seeking asylum all over the world to avoid prison, or worse, in the USA. All of them, Assange, Manning and Snowden, leaked some important and relevant information, information they had access to, to reveal the world something they thought profoundly unjust. They had the knowledge to do it, being hackers, and the expertise to assess the gravity of the information at their disposal. They did so to expose the responsables and make them somehow answer for what they did. They did not go public from the beginning for the simple fact that, as any action of civil disobedience teaches, not every part of an action can be revealed in order to guarantee the success of the action. However, leaking needs publicity to achieve the desired effect and so the results of those actions, planned in secrecy, went public in the end. An act of whistle-blowing is then a communicative act by nature, although it could be said that it is not dialogic in the way dialogue is conceived by Brownlee as “a progress-oriented, verbal exchange marked by mutual respect and reciprocity⁹³,” where “we must also be willing to adjust what we say to ensure that successful communication is likely to occur⁹⁴.” In particular, it is the fact that an act of whistle-blowing occurs in a precise moment in time and cannot change itself through time, nor it cannot be modified in its scope, that makes it non dialogic. Not merely in the sense that it is not progress-oriented, of course those that reveal secret information do not do it for the sake of it, but to trigger a change in how the power deals with certain affairs and to empower people in their decision-making. Nor it lacks respect in the sense that whistle-blowers do not consider the opponents they are referring to as agents, capable of autonomous choices, on the contrary, it is just thinking that things can change and that the power will respond to these disclosures somehow, that they go public. However, once the information has been revealed there is nothing else to do from the perspective of the whistle-blower. The whistle-blower does not change his/her attitude in relation to the reaction of the state or the company. His/her act completes itself before he/she knows how the state or the company will answer to his/her revelations. While other means of disobedience imply actions that last over time and so e.g. an occupation can end if the requests of the challengers are met, whistle-blowing is different in this respect, it does

⁹³ Brownlee, 2012, p. 9.

⁹⁴ *Ibidem*.

not wait for an answer and so for this it cannot be fully dialogic, although it remains necessarily communicative.

What Manning and Snowden did was illegal, they did it pushed by a sense of outrage for what they knew was happening, and even though they tried to escape imprisonment, by being anonymous or seeking asylum elsewhere, nonetheless their actions were aimed at changing the society for the best. By the simple fact of leaking they all went through the risk of being arrested and they faced it. Moreover, being arrested is not the only risk of being disobedient, there are other forms that could be considered as punishment, even not on legal terms. The focal point, from a civil disobedient perspective, is to be ready to face the possible consequences of one's act and all of them did. The fact that they tried to avoid imprisonment did not show that their act was not conscientious. In the end Manning ended up in prison, and both Snowden and Assange are living a life of paria, Snowden asking for asylum, and Assange living closed in an embassy. In this regard it is interesting to mention what Geoffroy de Lagasnerie pointed out, saying that "we are witnessing the birth of a new political category for individuals who are not defined by their membership [...] to a territory, but rather belong to [...] democracy"⁹⁵. What Lagasnerie meant here is that all of them were faithful to an ideal, the one of democracy that entails participation and access to relevant information for the sake of the community, a principle that goes beyond one's nationality. In this sense I interpret the words of Lagasnerie as highlighting that being devoted to democracy comes first than being a citizen of a certain country. A devotion that can put people in situations where they have to go against their government – not against the nation though – for the sake of this ideal. From what has been presented so far, I then consider also the act of whistle-blowing as a civilly disobedient act. As Gabriella Coleman wrote:

In orchestrating protests across a range of issues – in particular civil liberties – they transformed policy, law, media representations, and public opinion. While certainly unique in its bombast and capriciousness, Anonymous was clearly part of a wellspring of hackers and geeks who were taking political matters into their own hands and making their voices heard⁹⁶.

In the end, who are the disobedients then? Who are we referring to,

⁹⁵ See note 87.

⁹⁶ Coleman, 2014.

when we talk about them? Nowadays, by now it should be evident, we do not simply refer to people who invade the streets, who physically expose themselves in the public domain, holding banners or climbing up a monument. Rather, we are addressing a wider and more heterogeneous group that comprises offline actors, but also online ones. Anyone can be a disobedient, with the good reason, the good occasion and a deep sense of commitment. This does not imply that everyone wants to, but still the means are several. The group is already wide and it goes from FEMEN, that mark their presence with their naked body, to Anonymous, who has no face and no name.

2. INTERNET. A NEW POLITICAL SPACE WITHOUT BORDERS, WITHOUT BODIES

Internet. The net through which people interact, exchange ideas, get influenced, inform, get informed and get to know the rest of the world. Internet has changed the way we see things and the way we live everyday. People can see the effects of a war happening in a place of which they cannot even pronounce the name. As it has been highlighted, people can organise rallies, they can invent new spaces where to have digital assemblies, virtual forums, a virtual public space. If Greenpeace activists block the entrance of a company headquarter with their bodies, hacktivists have proved to be able to do the same online, closing the access to companies' websites.

Needless to say, the net has influenced the way people are engaged in politics worldwide. Internet has no physical boundaries, no border to cross, no documents needed to enter and so it seems to be the free space *par excellence*, where everybody can share anything, knowing that that information will potentially reach a global audience. No boundaries means freedom of information, which entails receiving and spreading news. At the same time, however, it is worth noting that this could also turn out in an excess of information. In its easy use, not the smart use done by hackers, Internet remains a medium without content, but the one everyone chooses to upload. A plurality of voices entails a plurality of points of view, that could also be in contrast with one another. Freedom can thus be chaotic and this poses the old problem of verifying the sources. An old problem that can be solved with new tools, though. Again, thanks to the rapidity and the plurality of technological devices, it seems that the truth can be unveiled more easily and rapidly

than before. Everybody can contribute with a piece of information to the puzzle, as Indymedia, the Independent Media Centre, proves.

The Independent Media Center is a network of collectively run media outlets for the creation of radical, accurate, and passionate tellings of the truth. We work out of a love and inspiration for people who continue to work for a better world, despite corporate media's distortions and unwillingness to cover the efforts to free humanity⁹⁷.

Internet then seems to be the key to a broader participation in the very same constructing of the society itself. Internet is a tool to convey a message, but it is also a space where to create such a message. The very same fact that we use Internet changes the perception we have of our world and of us in relation to it. Internet is a space that makes possible an incredible number of interactions between different people and others, potentially even with the representatives of the power itself. Internet gives the impression of closeness, it redefines the geographical boundaries and the concept of membership. By widening the options of communicating Internet has changed our relation with our society. A society that the net is defining as an international one. Indeed, Internet has not the territorial boundaries of a nation-state, it has its own time and its own space and every person belongs to this space and time in the same way. Everywhere. There are no illegal migrants on the Internet, every person has the same basic access. Of course the use of the Internet can be limited, e.g. in China, and of course the access to the net depends on the access to a device, still, given that, people's ability of communicating and evading the system remains⁹⁸. This does not imply that everyone can browse the net in the same way: those who know more how Internet works will have a better and more profound understanding of the system and will be able to get the best advantage of its use. The network is international, people influence one another from New York to Tokyo, from Sudan to Norway. People gather information, study them, share them. In particular, when this information is of a certain interest, e.g. because it regards abuses, then the power of the net shows itself at its best. If in the past local abuses were condemned by a local community, now local abuses are condemned by a global audience. People are more

⁹⁷ Available at <https://www.indymedia.org/en/static/about.shtml>, accessed on 3 July 2015.

⁹⁸ In North Korea the situation is way worse and people do not have access to Internet at all. Said so, those who are free to use it can use it in the same way everywhere, anytime.

and more exposed and have less chances to get away with what they do, at least before the public. As the crowd reunited for Eric Garner shouted in the streets of New York “the whole world is watching.” This phrase has never been so true: what this entails for criminals should be more accountability⁹⁹. In this respect, it is then worth mentioning how the Italian police, at the end of G8 in Genoa in 2001, took away from Indymedia all the documents and files that proved the police violence used during the summit¹⁰⁰.

Getting to know what happens in the other part of the world, moreover in a way that is not mediated by a third party, the classical media, gets people to be involved in the decision-making process that takes place abroad. This interest is due to a sense of closeness with others known online, e.g. through their posts and pictures, but also to a growing awareness that what happens in the world interests and affects everybody and that our deeds matter beyond our borders. Politicians know that the public opinion to take care of is not domestic anymore. Politicians and corporations know, or should know, that they face a global community capable of organising itself rapidly, in a network that has as its key factor its own diversity and multiplicity. The public debate is then a global public debate that takes place outside the institutional headquarters, beyond the category of citizenship used in the past. It is then a political debate that interests people in their individuality as autonomous moral agents. A discussion on matters that interests people in their being human beings endowed with human rights that do not consider belonging to a certain place a limit in their agency. Moreover, the net questions the same political identity of the subject which is redefined and thus it is not based upon imposed citizenship, but on voluntary membership instead.

Not even the body is a limit as the actions themselves, as shown by Anonymous, even only performed online can have an impact. So, the net fosters this idea of global participation that seems to be the key for achieving the ideal of democracy. More, the ideal of global democracy. Such an idea, based on freedom and equality is then antithetic to authori-

⁹⁹ It is not necessarily the case yet, but exposing a crime worldwide increases the chances that this crime will be punished. I hope.

¹⁰⁰ To have a quick, but still precise, understanding of what happened in the Indymedia Centre in Genoa during the G8 see https://en.wikipedia.org/wiki/2001_Raid_on_Armando_Diaz.

tarianism in any form, be it economical or political. The net space is a space constructed not to be closed, not to be defined and so trapped, not to have a leader, but instead peers.

In this regard what Maekelbergh says about social movements can be applied here as well. In her words global justice movements create *horizontality*, and I do think this is something the net creates as well, being a virtual open square, where even the limits of the body cannot stop people from participating, even disobeying.

First, horizontality is premised on the rejection of fixed representation as a political structure. Second, it functions through the political structure of networks and not the geographically delineated space of the nation-state. Third, it embraces a rejection of uniformity as the guiding ideal of democratic deliberation in favour of a system that fosters diversity. Finally, the movement takes equality to be always desirable but never fully achievable and equality is therefore treated as something for which each member of the polity has to take active responsibility. This creates a decision-making process in which the participants are continuously challenging (with varying degrees of success) inequalities and discriminations as they arise within their own structures of governing¹⁰¹.

Discriminations arise in particular outside the net, where people are exposed with their body, physically present before the police or the opponents. In this sense Internet avoids the exposure that is implied in a public offline appearance. This means that digitally disobeying is easier than doing so otherwise, so in a way those who physically expose themselves face a more direct challenge. So, digital places enable more people to act more freely because they pass boundaries, those physical limits that offline seem insurmountable. That is why Internet seems to be, with all the limits that it has, being at the same time free for citizens and for companies, the place where also marginalised people can find their voice. Behind a screen all those features that make a person the person she appears to be, do not count. What counts is what a person is interested into, what she wants to raise her voice for. Those characteristics people are usually discriminated against disappear, as well as all the details of a person that a person does not want to disclose. Personal beliefs matter as far as they bring a change or add something to the discussion, the attention is not on the subject embodied, but on her

¹⁰¹ Maekelbergh, 2012 (a).

ideas instead. The disembodiment that the net requires and gives, helps then the participation of those that are not empowered offline: women and ethnic minorities in particular. Of course the majority of the hackers remains white, middle-class men, still the chance of participating for all the others are increasing rapidly. The net eliminates, because it does not show, those characteristics that culturally relegate some members of the community to secondary roles, i.e. the colour, the sex. The role of the body has profoundly changed: precisely because it retains such an amazing importance offline, it has become in-existent online. The new public space, the virtual space, allows participation to a more diverse mix of people, preserving heterogeneity. The net welcomes people coming from all over the world in their magnificent diversity and opens up a possibility for new answers and new questions. Knowledge and freedom pass also through the net nowadays.

From what has been exposed so far it seems that Internet cannot be, but a great tool to enhance democracy and improve our knowledge. If this can be surely the case, it is also important to remember that it is not necessarily so, not only. Internet can in fact be used for the sake of freedom and democracy, but also for personal interests that could be meaningless from a political point of view or even collide with others' rights. Hackers can act for the good, but also for their own personal interests, having the ability to enter almost anywhere. They can be perfect virtual criminals, entering private bank accounts or stealing private information on the web.

Internet itself, being an unlimited source of information is a great tool for looking for anything, from the news around Niger, to the latest Prada collection, to child pornography videos.

Given the fact that Internet is such an amazing tool to keep connected with others, not only peaceful movements are using it to organise themselves, but also terrorist groups are doing the same. This also applies with publicity: anyone can advocate for anything before a global audience, to call for new members or to spread fear among the ones considered as enemies. An example among the others is represented by the Islamic State which has proved to be highly competent in the use of the media to gain attention. In addition to this, the control over the information that can be found online is not so strict as anyone can participate in creating it, e.g. Wikipedia, and so every information has to be critically analysed and cannot be blindly trusted. Technology helps in unveiling the truth, as I said, but it can also contribute in creating a false news,

something that has already happened with regard, again, to the Islamic State. However, people might say that the goodness of an instrument depends on how we use it, so, we can use Internet for signing a petition to free the journalist Raif Badawi in Saudi Arabia, or we can look for videos to learn how to create a bomb. It is up to you, to the kind of person you are to use it in the best way possible, which however, is something Internet has no power on.

They might be partially right, still, on Internet we are not simply actors, in the sense of being active participants, we are also subjects, in a passive sense, as recipients and subjects of study ourselves. Indeed, Internet, and I do think this is one important thing to consider to use Internet in a more responsible way, spies on us. Google has thousands of personal information on us, it collects information around our tastes by the videos we watch online, the research we do. It has the power to deviate our interests or to foresee them, but, even more preoccupying, the net can be controlled by someone who might want to control us in the end.

Finally, a last comment on this, also being active online might be quite meaningless. Earlier, I discussed the facility of going online, being informed online and acting online. Putting aside Anonymous which acts through the net in the net and in this way uses Internet not simply as a tool, but also as the, and not one among the others, space where to express its agency, the others use Internet mainly as a medium¹⁰². A medium to inform, to get informed, to show interest in a cause. Still, if this interest is not shown in a more profound way than by simply putting a “Like” on Facebook, it does not trigger any change. People might be counted among the supporters of a cause, but in the end they are not necessarily committed to the cause by the simple fact of liking it online. There are millions of people who are ready to put a “Like” on anything, since it is effortless, it does not cost them anything. There are fewer people ready to engage in an activity that takes time, that may be a failure, that costs them something on different levels. Being online and incapable of acting offline is maybe one of the problems we will have to face in the near future. If not in the present.

In *Espèces d'espaces* Georges Perec asked himself “What is it possible

¹⁰² Of course also the whistle-blowers use Internet as a medium, but their use is way different from the use that common people make.

to know about the world? From birth to death how much of space can our eyes hope to embrace? How many square metres of the planet Earth will our shoes have touched?¹⁰³” The answer now is way different from the one he could have thought about in the past. Now, it is not necessary to go to a certain place to see it, to know it, to be almost familiar with it. This is the same with relations between people. We do not need to be there where they are to fight with them, to protest for their same values. Now, we have a space that is not simply a medium that links us and gives us the tools to engage in political debates wherever they take place. Nonetheless, technology can empower people, but at the same time it can be a dangerous instrument of political control and apathy. It is only a matter of getting to know how to make the best use of it, to create a good society. Offline.

¹⁰³ Percec, 1989 (2011), p. 92 (translation of the author).

IV.

JUSTIFICATIONS AND DUTY

1. DISOBEDIENCE, AUTONOMY AND FREEDOM FOR THE SAKE OF DEMOCRACY

*The only obligation which I have a right to assume
is to do at any time what I think right.*

H. Thoreau

I will now take into consideration the bases on which civil disobedience and digital civil disobedience can be justified. For simplicity I will refer to “civil disobedience” in both cases.

I will start following Raz¹⁰⁴ in assuming that in a liberal society people enjoy the right to political participation, and I will argue that it is precisely from this right that derives one of the justification for civil disobedience. The right to political participation is a fundamental one and so, as argued by Peter, I firmly consider that it should be included even in a minimal list of human rights “to secure political legitimacy¹⁰⁵.”

In a liberal state, so, people can take part in the political life, they are legitimated to do it, and this is a key point in the justification of civil disobedience. Said so, in fact the right to take part in the conduct of public affairs becomes substantial in the fact that people can decide who will represent them, but moreover, in their right to judge by themselves the behaviour of the power holders. This means that, when those in power act in a way that show disrespect for the universal principles of justice that renders possible the very same political participation between agents deserving equal respect, not simply this creates the conditions,

¹⁰⁴ Raz, 1979.

¹⁰⁵ Peter, 2013, p. 1.

but also gives people a reason to disobey. Because, as many political thinkers now say¹⁰⁶, the obligation to follow the law is not absolute, and so the law itself has to be respected *as far as* it is not unjust, so we might have a duty to respect certain laws, but not the law *per se*¹⁰⁷.

The aforementioned justification, based on political participation, it is important to remember, applies in a liberal society where people normally have other means to oppose the system, but may nevertheless resort to illegal means, also when they have not exhausted all the other possible remedies. This may happen when the violations are evident and spread, and the legal means at disposal have proved to be ineffective or it is really likely that they will be. Even Rawls, that supported the last resort principle, argued that “some cases may be so extreme that there may be no duty to use first only legal means of political opposition¹⁰⁸.”

However, it is worth noting that referring to political participation to justify civil disobedience does not mean that people are justified in protesting only when they oppose those who legislate or enact the law. On the contrary, this means that people are justified in contrasting what they think is wrong, from a moral point of view, *within* the political community of reference that concerns them. In this sense, political participation means participation in the life of the πόλις (polis), which means dealing with different actors, from the legislator to companies and corporations, i.e. anyone that has an interest in the πόλις itself and that could influence those that are part of it. Again, with πόλις I am not making necessarily a reference to the nation-state, rather to a national or international political community a person might belong to, e.g. the EU. So, as it has just been said, from the right to participation in the affairs of the community, derives the justification for civil disobedience, an act which could then be directed against the state or against a corporation, or even an inter-governmental organisation, as it has been the case in Greece where people protested against the austerity measures imposed by the EU. They were justified precisely because of their right to participate in a political debate that concerned them all.

Above all, it is even the liberal society itself, especially the democratic society that takes advantages from the very same existence of civil

¹⁰⁶ Cf. Brownlee, 2012; Raz, 1979; Smith, 1973; Dworkin, 1968.

¹⁰⁷ Cf. Smith, 1973. Furthermore, we have already witnessed in the past what can cause following the law without questioning it: the atrocities of totalitarianism.

¹⁰⁸ Rawls, 2002, p. 110.

disobedience. Democracy in fact does not correspond with the right to vote, rather it implies participation throughout all the process. Indeed, democracy is by nature the space where contrasting and opposing views coexist, it is the meeting point of diverse perspectives, of a plurality that is the substance of democracy itself. Democracy progresses by unorthodox means as well, it strengthens itself when it is challenged.

Indeed, civil disobedience (and conscientious refusal as well) is one of the stabilizing devices of a constitutional system, although by definition an illegal one. [...] A general disposition to engage in justified civil disobedience introduces stability into a well-ordered society, or one that is nearly just¹⁰⁹.

On the other hand, from the fact that engaging in civil disobedience is one of the different ways people have to participate in the political discourse they are concerned with, it does not derive, nor it should, the legalisation of civil disobedience. So, Raz rightly says that there cannot be a legal right to civil disobedience in a liberal society¹¹⁰, precisely because the essence of civil disobedience is to be illegal. It is illegal exactly because it goes against the established power and it can do so by being somehow outside the institutionalised power. If the power can justify the resort to illegality, it cannot codify it within its legal system. Therefore, there is no legal right to civil disobedience, although there is a moral right to it, that is “a right which is not the product of community legislation or social practice, which persists even in the face of contrary legislation or practice¹¹¹.”

Such a moral right is not simply based on political participation though, but also on the respect of the agency of persons. Respecting the agency of people as autonomous and free individuals, capable of making decisions on their own is precisely the other ground for the justification of civil disobedience.

Civil disobedience appears then as an act that defines itself also through the intentions of those that disobey. In other words, to distinguish such an act from other acts that may use the same tools, it is fundamental to refer to the agents and to understand their reasons, what pushes them to act. This is not to say that civil disobedience can be justified only on the grounds of the content of people's beliefs, rather if it can be justified, it

¹⁰⁹ Ibidem, p. 114.

¹¹⁰ Cf. Raz, 1979.

¹¹¹ Frey, cited in Brownlee, 2012, p. 121.

can be so, also because of the way people formed those beliefs. As I have presented above, the reasons people refer to when justifying their acts, lie on the fundamental concept of conscience. This is the case either for conscientious objection, that I am not discussing here in details, either for political, open civil disobedience. As Brownlee says:

[...] conscience enables us to become responsive to our special moral responsibilities. It enables us to recognize that often the only morally acceptable way to honour them is to disobey formal norms¹¹².

It is precisely also as an act of conscience, even more as a dictate of conscience, that an act of disobedience can be then justified. Conscience, the way Brownlee presents it, makes it something that not all can have, since it implies a deep understanding of our mind and heart, impossible for some people e.g. for those suffering from mental illness. This characterisation of conscience points out how those that disobey are agents in their full possession of their faculties, capable of reasoning and how the causes for which people may decide to oppose the law must be of a certain relevance. Those that decide to protest do it for a reason that has passed the scrutiny of their conscience, e.g. for serious breaches of human rights, that is not for futile motives, or not for motives they consider futile. Making such a choice may be difficult and implies a deep analysis of ourselves and our goals. Dissenters' seriousness is the basis for the justification of the same act of civil disobedience. It is the profound commitment, the fact of being ready to face the consequences of an act that could be successful as well as a failure, the coherence that people have towards their ideals that constitute a good reason to justify a civilly disobedient act. Considering also that those that disobey do not want to place themselves above the law: they act outside a certain law, against this same norm or another, but within the rule of law. This means that the disobedients do not see the others as enemies, but as political opponents they have to address in their demands. As already mentioned civil disobedience includes the others, because it implies a communication in the political arena with them. So, again not only democracy needs civil disobedience to come properly and fully into its own being, but civil disobedience itself is democratic by nature, insofar as political. From what has been discussed earlier then civil disobedience

¹¹² Brownlee, 2012, p. 126.

appears as a political choice in a two-fold sense: because it makes sense only in the political sphere, namely public, and as an act brought about by a political agent, for well motivated reasons. This action is illegal, but it is the result of a considered moral choice.

Therefore, it is also to respect our being capable of such an understanding of ourselves and the others, and our capacity of making autonomous moral decisions, that society has to justify civil disobedience. In this sense, in fact, civil disobedience appears to be as a conscientious act, expression of the agency of the individuals, of their full autonomy and freedom¹¹³. Justifying civil disobedience means then respecting the moral commitments people have proved to be bound to by the act of disobedience, whether they turn out to be wrong or right. It is the simple fact of having and being capable of having deep moral convictions that have to be respected. To justify such an act, to herself and the others, of course a person has to think that what she is fighting for is right, but, as Raz highlights there is no “moral authority to judge which causes are right and which are wrong¹¹⁴.” So, it is the agency in itself that has to be respected, by justifying civil disobedience as one of its manifestation.

Respecting dignity and agency requires respecting, as well as possible, the fact that genuine moral conviction has a communicative element, which can include constrained, communicative disobedience of law¹¹⁵.

This does not justify the resort of civil disobedience in any case where people prove to have a deep commitment towards a certain cause, though. Indeed, as already mentioned, given the nature of civil disobedience precisely as civil, and so political, any act that is not political, in the sense of not addressing the community and not acknowledging the existence of the others, cannot be justified. Also because in this case those that start such an act would not be ready to give justifications for it, themselves. Then, by not being political and not being communicative an act cannot be justified. At least not as an act of civil disobedience. So, if a group of animal-rights activists, without exposing themselves as such, would rob all the furs from a shop without explaining their reasons for doing it, without asking for something and

¹¹³ Cf. *ibidem*.

¹¹⁴ Raz, 1979, p. 264.

¹¹⁵ Brownlee, 2012, p. 2.

without trying to involve the community into a change, their act would be a criminal act and not a civilly disobedient one. It would be illegal without having that fundamental character of communication that defines any act of civil disobedience and renders it political, indeed. So, it is not sufficient for an act to be public, it has also to convey a message, to have an expressed aim and to address a recipient, to be considered a civilly disobedient act.

Also, a civilly disobedient act cannot undermine the agency of people which lies at the core of democracy and renders civil disobedience itself possible. In fact a civilly disobedient act, to be as such, must be conscientious, which means that we must then be aware of our morality, but consider the morality of others as well¹¹⁶. This entails that only those acts whose means and ends do not nullify the others as agents, can be justified as civilly disobedient. So, if a group of people would claim that torturing should be included in the legal system and they start protesting to achieve their goal, although deeply committed to their demand, their protest would not meet the criteria to be considered an act of civil disobedience. It would not meet them, precisely because its aim annihilates the very essence of democratic political participation that renders civil disobedience possible and whose civil disobedience itself is an expression. In the same way, those acts whose violence exceeds a certain limit, cannot be considered under the definition of civil disobedience. They cannot be, because the resort to grave violence would deny and cut the communication between the parties as agents equally participating in it. These violent acts could be legitimate revolutionary acts, instead.

For what concerns cases of indirect civil disobedience on behalf of others, on the other hand, it could be said that people are justified in disobeying because of their very same humanity. Human beings deserve to be respected and they have to respect each other as ends. Those rights that every person enjoys by the simple fact of being a human being are superior to any other rights and deserve respect. To justify civil disobedience we can then make what Brownlee refers to as *pro tanto* moral judgements, that apply when we are disobeying for others as well as in our own name. “A *pro tanto* moral judgement says that some act is wrong to a certain extent, but outweighing or overriding

¹¹⁶ Cf. *ibidem*.

moral reasons may vindicate that wrong and make it not wrong all things considered¹¹⁷.”

This means that when any of the most fundamental rights is violated, people, also those that are not the direct victims, do have a justification for protesting. People in fact have a more urgent obligation towards their fellows than towards the state, which is exactly the reason why they are justified in disobeying a domestic law, e.g. trespassing, to preserve the dignity of a person wherever she is in the world. Respecting, protecting and promoting human rights is hierarchically superior to respect, protect and promote any other domestic or international law. So, even when bound by certain other obligations, those regarding human rights are more fundamental and we have a moral duty to fulfil them first of all. Raising concern for the situation of people living in very poor conditions and mistreated comes first than abiding by a domestic rule that says do not trespass, or do not invade the square.

Preserving one’s dignity of course is not limited to intervening only in cases when a person is short of basic goods, rather it implies helping her also in her participating in the public sphere as an agent, deserving to be heard.

We can claim necessity when our civil disobedience is animated by a legitimate concern for people non contingent basic needs and rights. These needs include not only brute survival needs, but also the equally fundamental humanistic needs of basic political recognition, social inclusion and respect¹¹⁸.

Disobeying might be seen as wrong, but the wrongness of such an act is exceeded by higher moral considerations, referring to our common humanity and dignity.

To conclude, our participation in civilly disobedient acts can be seen, on the one hand as a way to promote and ask for fundamental rights, on the other hand, precisely being a tool to conscientiously express dissent, it can be seen itself as a manifestation of autonomy and freedom of people. For these reasons I am deeply convinced that civil disobedience should be justified.

¹¹⁷ *Ibidem*, p. 35.

¹¹⁸ *Ibidem*, p. 11.

2. PUNISHMENT. THE LEGAL ANSWER TO THE BREACH OF THE LAW

Human history begins with man's act of disobedience which is at the very same time the beginning of his freedom and development of his reason.
Erich Fromm, *Psychoanalysis and Religion*

Normally, when a law is not respected, people expect the responsible to be punished by the Court. This is a common understanding of how law works and what this entails. Generally speaking, people think that to a certain illegal action should correspond a legal reaction, according to a retributive idea of punishment. Or they think that those acting against the law should be punished, otherwise anyone would feel free to do the same. According to them punishing would serve the maintenance of social peace, as a deterrent. Another reason why people normally think that punishment is the right way to handle illegal activities is linked to the idea of rehabilitation. Punishing in this case is seen as a way to correct the behaviour of those considered criminals.

On the contrary, I will argue here that punishing should not necessarily apply for what concerns civilly disobedients. From the justifications given in the previous chapter, I will argue that there can be good reasons not to punish civil disobedience, at least not in the same way as other criminal acts. As outlined before, civil disobedience is a conscientious act people are responsible for. By opposing the law people express their deep moral commitments: indeed, disobedients do not act for greed, rather for being consistent with their own conscience. This is, by now it should be quite evident, the core, the substance of a civilly disobedient act which precisely by being conscientious differs from a common criminal act. This is exactly the focal point: being civil disobedience different from a common criminal act it should be treated differently. This means that even according to the retributive idea of punishment civilly disobedients may be treated in a more lenient way than criminals acting simply in their own interests.

Those that breach the law in this case do not do it for their own sake, but rather they expose themselves for an ideal that is not private, and it is directed towards the common good. It is precisely this distinction between personal interests and political interests that should be considered by the judge, also taking into account the outcomes of such a disobedience, that normally, apart from formally disrespecting the law, do not cause severe damages. So, for example when, on 18 September

2013, thirty activists of Greenpeace were imprisoned for more than three months in a Russian detention facility for having attempted to climb a Gazprom oil platform “to protest against imminent drilling¹¹⁹,” this imprisonment was undoubtedly excessive. Not only this action was deemed illegal by the International Tribunal for the Law of the Sea, it was also, in broader terms, an inadequate, inappropriate response to the alleged crime. It was not at all proportionate to what the activists did, since they were not even able to climb up the platform and the majority of them did nothing but staying on the boat, distant from the platform itself. Besides, the effect that it obtained was raising an incredible attention over the issue of drilling and making Greenpeace appear as the green hero, gaining support from all over the world for its actions. Precisely what Greenpeace wanted.

Moreover, even when Greenpeace is able to complete its actions, what its activists do, is normally opening up a banner, or in the case of a boat, painting its side, which is not damaging, nor for the structure, nor for those who work there. Indeed, the dissenters, not only Greenpeace activists, do not want to destroy the system and consequently their actions do not aim at destroying, but at creating a better system to live in, starting from the one that already exists. So, even the idea of punishment to rehabilitate is difficult to be applicable in this case, given the moral reasons behind the act of the disobedients, who act conscientiously not simply for their good. Even more their own conscientiousness makes their act something not to be rehabilitated, and I think impossible to rehabilitate.

More importantly, there is another remark to (re)make, that is that civil disobedience does remain within the rule of law, that the judge represents.

Thus, as suggested by Rawls:

Courts should take into account the civilly disobedient nature of the protester’s act, and the fact that it is justifiable (or may seem so) by the political principles underlying the constitution, and on these grounds reduce and in some cases suspend the legal sanction¹²⁰.

Furthermore, the very same fact that people do engage in civil disobedience to actively communicate with those in power, creating a

¹¹⁹ Cf. <http://www.greenpeace.org/international/en/news/features/From-peaceful-action-to-dramatic-seizure-a-timeline-of-events-since-the-Arctic-Sunrise-took-action-September-18-CET/>.

¹²⁰ Rawls, 2002, p. 118.

dialogue between themselves and the incumbent with the precise aim of pointing out a problem and discuss it, it is another reason why the court should not punish the dissenters harshly, or not at all. Not only the protesters are moved by reasons they deeply care about, but they are also engaged in an illegal act for the reason of changing something, by creating a space of direct confront, to deliberate about a certain issue. They clearly address the others and in so doing they respect their decision-making. This is fundamental and I do think this could constitute another ground for justification for national as well as for international protesters, those that may protest within a certain country, not being citizen of that country. During the G8 lots of people from all over the world reunite to demonstrate, as well as during Greenpeace actions or other form of dissent that may regard not simply one country. What I suggest here, is to consider the action of those that come from abroad in the same way as if they were citizens. This would entail then that we should treat these outsiders in the same way as the insiders, when it comes to disobedience. In other words, I claim that for everyone what counts is the conscientiousness of the action, before citizenship. This is something that seems banal to say, but it is not. During an act of disobedience those that do not belong to the state where they find themselves protesting, risk to be sent back home. This should not be the case, in particular, talking again about the demonstration of migrants in Ventimiglia: my claim is that their involvement in the protest should not constitute an aggravating factor not to grant them hospitality. The very same fact that these people are conscientious should be a reason to judge them with clemency. Moreover, in general terms, since we do not know which moral principles are right and which are wrong on absolute terms, someone who is now disobeying in the future could be considered acting within the legal system, and this should give an ulterior motive to judges for being indulgent. Through disrespecting the law people gained their civil rights, now protected in international covenants and domestic constitutions. In this regard the story of Rosa Parks, an Afro American woman who back in the 1950s, during the segregation in Montgomery, Alabama, refused to give up her bus seat to a white man, is quite striking and it gives a clear example of how culture and society change and so their law. Legal rules change and so the perception of certain acts. Judges should be capable of seeing the big picture and consider the dissenting acts within a perspective that includes moral values and human dignity and respect. Not simply the ones of those before the court, but also of

those the disobedients may have fought for. As we all know, legal rules come after the moral, cultural and social change occurred in a society. Law mirrors these cultural changes when they have already established themselves as customary law. To use Hannah Arendt's words: "the law can indeed stabilize and legalize change it has occurred, but the change itself is always a result of an extra legal action¹²¹."

For these very same reasons then, I do think that also punishing for deterring others to engage in a similar act does not necessarily serve the purpose of maintaining the social peace, either. In fact, not everybody, even those that support silently the protest, is ready to expose themselves. Not simply for the fear of being punished, but because in the end they are not necessarily so involved and committed to the cause. Disobeying requires commitment, time, efforts: it is not easy to disobey, it is a choice not everybody does. This is to say that even the deterrent argument according to which if we tolerate civil disobedience society might fall apart, is based on a false assumption. Vice versa, the ones that are really involved, those who have serious reasons to act and who base their decision to protest on deep moral commitments, will not be stopped by being punished.

So, for all the reasons above I do believe disobedients should be treated with clemency, they are well motivated, they are exposing themselves conscientiously before the others, knowing the risks and ready to face them, and finally, time might prove they are right.

The story does not end here though, since what has been discussed so far does not take into consideration digital disobedience, in particular whistle-blowing which deserves some reflections apart. As it is well known are now precisely those that faced the system through the net that are suffering the most. Some are imprisoned, as Chelsea Manning and some participants of Anonymous, others have been obliged to seek asylum to avoid punishment. It is quite evident how this kind of disobedience is not particularly justified, nor accepted by the authority. In particular what seems to preoccupy the governments is of course the act of whistle-blowing, for which the Council of Europe (COE) made recommendations¹²² to all the European states in order to protect whistle-blowers. In particular, the COE made recently a

¹²¹ Arendt, 1972, p. 80.

¹²² Parliamentary Assembly of the Council of Europe, Recommendation 2073 (2015), Improving the Protection of Whistle-Blowers, 23 June 2015.

recommendation to the USA to allow Edward Snowden to return home without fear of prosecution¹²³. Needless to say, for a system to be effective it has to be implemented, which is not always the case. Of course this kind of disobedience renders the states more vulnerable: a single person, with the right access to the right information, being capable of spreading that information, has the possibility of ruining the name of a government, a big company. Hackers as well have a great power, being able to introduce themselves where no visitor is accepted. They are not those in power in the sense that they cannot decide about the nation-state or the world policies, but still they have the capacity and the opportunity to disclose classified information. If on one side this is why they frighten states and companies, on the other this is precisely why the act of whistle-blowing is so important for the balance of power. As clarified by the COE in its recommendations: “individuals who report or disclose information on threats or harm to the public interest (‘whistle-blowers’) can contribute to strengthening transparency and democratic accountability¹²⁴.” Somehow, whistle-blowers can be seen, together with the media, as the watchdogs of democracy. This is why they should not be punished, even when disclosing really sensitive data.

At the same time, concerning hacktivists in general, I argue that the same arguments I exposed above regarding offline disobedience should apply online. The access to Internet is important for the participation in democracy and so, as civil disobedience offline, in the same way civil disobedience online is a means by which people participate in the political life of their community, expressing their agency. Again, punishment should not be harsh and it should not be the only way to face disobedience.

The simple Draconian propositions, that crime must be punished, and that he who misjudges the law must take the consequences, have an extraordinary hold on the professional as well as the popular imagination. But the rule of law is more complex and more intelligent than that and it is important that it survives¹²⁵.

¹²³ “The Assembly therefore calls on the United States of America to allow Mr. Snowden to return without fear of criminal prosecution under conditions that would not allow him to raise the public interest defence.” Committee on Legal Affairs and Human Rights of the Council of Europe, Improving the Protection of whistle-blowers Draft Report, AŠ/Jur (2015) 06, 18 March 2015, p. 2.

¹²⁴ Committee of Ministers of the Council of Europe, Recommendation CM/Rec(2014)7 and explanatory memorandum, adopted on 30 April 2014, p. 5.

¹²⁵ Dworkin, 1968.

3. IS THERE A DUTY TO DISOBEY?

Here I stand, I can do no other.
Martin Luther King

Having justified civil disobedience and shown that there are grounds for not prosecuting it, the following matter to be discussed is if it could be also argued that there is a moral duty to disobey. My claim is that there is.

I argue that this moral obligation derives from our being political individuals, namely active individuals, in Arendt's terms. Being a political individual means being involved in the life of the community, of the *πόλις* (polis), which means being a person ready to communicate with others, explaining oneself and listening, filling the life of the community with meaning. In other words, to act. Acting, in such a framework is not simply making, but rather "in its more general sense, [it] means to take an initiative, to begin, to set something into motion¹²⁶." Those that engage in such an activity are precisely acting in a political way, they are trying to influence, with their deeds and ideas, the world they live in. They are thinking human beings, capable of exercising their critical thought and to contribute to the progress of the place they live in. They act in a space, the political space, which by nature is public and dialectic, and in a point of time, the present, nevertheless thinking in terms of the future. They engage in certain actions considering them the starting point of something that will be unfolded after. People who act as political individuals are so passionate about what they do to change the society, to help the growth of the community, because they do think the changes they can make will be long-lasting. Of course, to be a political individual it is fundamental, needless to say, to be capable of forming coherent thoughts, having moral judgements and being willing to expressing them to others. So, being political, as greatly pointed out by Aristotle in his *Politics*, is also being capable of speech, because the ability of speaking is the way individuals establish relationships and so create bonds, but above all express and share their idea of justice to the others. Then this is what being an active individual should be, namely being capable of interacting with others, of forming and exchanging

¹²⁶ Arendt, 1958, p. 177.

ideas of what is justice, of pursuing actions in consistency with her thoughts and moral judgements. To be political implies acting, actively pursuing an ideal of justice. Following Arendt, being an active individual corresponds to being a full individual. Not everyone is, nor it could be said, desires to be. However, from what has been presented so far, to be a full individual, one has to be a political individual.

I claim then that to be as such, a person might have a duty to disobey under certain circumstances. Having the capacity of developing an idea of the good, when our moral judgements clash with the situation we are witnessing, either because the state passed a law we disapprove, either because a company is acting against what we think is right, then we might have a reason to disobey. In such a case, disobeying by acting in a certain way would be coherent with our moral judgements. We have a duty to disobey to exercise our agency when our commitments do not follow the legal path. This has been the case when the Spanish people occupied the squares in Spain, after having suffered from the austerity measures they were against. They decided to take the street to coherently express their opposition to these very same measures. People can choose not to do anything, at all. But if they want to be political individuals, responsible for their thoughts, coherent moral agents, full individuals, they have a duty to disobey.

People have a duty to disobey to respect their agency, their being political agents capable of moral judgements, that is, they have an obligation to disobey, to be coherent with their actions, to their same judgements. The obligation to disobey lies on the choice of what a person wants to be. Such an obligation is not absolute, though. It is rather a *pro tanto* moral duty that depends on what we are ready to achieve a compromise on. There could be other duties to fulfil, it is up to us to decide the hierarchy between them. Still, it is a moral duty that we have as well as the others in the same circumstances.

More in particular, we have a moral duty to disobey when the same essence of agency is put in danger, that is, when the content itself of the law passed by the state or of the act done by a corporation undermines the agency, the freedom and the autonomy of people. So, if someone wants to pass a law that discriminates against women, then I think there are the preconditions to argue for an obligation to disobey. We have a duty to disobey when it is evident that our participation, our possibility to take an active part in the political life of the community, is severely restrained. And again, we have not simply a right, but a duty

to oppose the situation to preserve our agency, and in some cases our dignity, considering of course that there are several factors to take into account and different values that matter. Also, it could be said, in a quasi paradoxical way, that the duty to disobey is a *hypothetical duty*, namely *if* a person wants to express herself as a political individual *then* she has a duty to be ready to disobey. To be a political person one has to be ready to disobey. This does not mean she has to, but if she does not, she does not express herself in her full individuality, as a political agent that stands for her rights and her vision of what is right. This duty is primarily an individual duty, since it regards us in our being agents, consistent with our moral commitments.

It is another thing to consider the duties that concern us in relation with the others. If, in the case above, a person may decide not to act, may decide what to do with her life, when the rights of others are seriously violated, then this person must do something. The duty to disobey arises also in another, important circumstance, indeed. Precisely when we are witnesses of such terrible human rights violations to be detrimental to human dignity itself. When the very same basis, not even of our agency, but of our humanity, risks to be crushed, then we have more than a simple right to disobey. We have a duty to preserve the others. My claim follows the principle exposed by Singer, that says that “if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it¹²⁷.” So, if by disobeying we can rise the attention over an issue that deeply affects others, then we have a duty to disobey. We have such a duty when the victims are speechless and so they cannot exercise their duty themselves, but also to preserve the plurality of the system we endorse. Preserving the agency of others is preserving the plurality of the πόλις (polis), the political essence of the system, namely its dialectic, from which only the progress can rise. This very same idea of protection derives also from the necessity of preserving the πόλις as the place where acting itself is possible. Where it is possible for an agent to exercise her agency, expose herself and become, again, a full individual.

This duty is based on our membership to the human specie, by the fact that we are all the same, all deserving equal respect. Again, this duty lies also on our nature as political individuals, by definition in relation to

¹²⁷ Singer, 1972, p. 231.

the others, part of a community whose members have a duty to protect each other. As already stressed out, our duty as human beings is superior to any duty we might have, it is precisely because we are human beings, living with other human beings, that we can take advantage of all the other goods in the world, so, of course, these duties have a priority over any other. They are the precondition for the enjoyment of any other good, of any other right, and so they have to be respected in the first place. If they are not, what conscience requires us in such a case is our disobedience. For the same reasons, we have also a duty to disobey to avoid being ourselves an instrument of evil to others. This duty is a *pro tanto* moral duty. Citing again Singer, we have a duty insofar and this duty does not mean “causing anything else comparably bad to happen, or doing something that is wrong in itself, or failing to promote some moral good, comparable in significance to the bad thing that we can prevent¹²⁸.” There could be other interests at stake, other duties that push in other directions, still there is at least one important duty to act against the law.

To conclude, in certain cases, to follow our conscience and be political agents we cannot do anything, but disobeying. It is our conscience that imposes us such a duty and renders us full individuals, ready to take our life in our hands.

¹²⁸ Ibidem.

CONCLUSION

I decided to devote my research to civil disobedience because I was, I am, fascinated by the agency that people show in their decisions, by the freedom of speech and action that people manifest when they defy the power. It is not easy to stand and say “Here I am, here are my ideas” and to fight for them against those that hold the economic, political, social, and most importantly during a protest, the military power. And still it is thanks to those who did it that we now enjoy some of our civil rights. As a woman, I owe a lot to the suffragettes and the women rights movements of the 1960s.

As a researcher I was then interested in understanding how these movements, how disobeying the law, even resorting to a certain violence, could enrich the law itself, the very same decision-making process. In particular, I found worthy of analysis the phenomenon of civil disobedience now, that the political arena where we express our agency is not anymore the nation-state, but the world. We travel more, we have a better access to information than in the past, we use technology to get informed and to discover and to shape the world. Not surprisingly, those who take part in the protests and the objects of dissent as well, are international, even global agents. Civil disobedience now appears as a pluralist act that includes citizens, migrants, social movements such as Occupy or the *Indignados*, that oppose nation-state laws, IGOs and corporations. The majority of times they deal with the powers mentioned above using peaceful means, nonetheless I argued that violence, as commonly understood, can be used as well and be justified as a political tool, provided that it does not pass a certain threshold. In any case, be it violent or non-violent what really matters is the responsibility of the subject while engaging in an illegal act to promote her ideas.

Focusing on the responsibility that an act of civil disobedience

implies, I claimed that people have to be ready to face both the risk and the punishment itself to prove their conscientiousness as agents. It is precisely their being conscientious that distinguishes them from common criminals and that makes their act an act that belongs to the political realm. Indeed, for an act to be conscientious it has to be based on deep moral commitments and to be communicative, which means that the agent has to be willing to give justifications for her act and engage in a communication with the stakeholders to prove she is right. Justifying an act means then discussing the reasons behind it, which can directly regard the protesters, or indirectly, when people protest to protect the rights of others, in a spirit of common belonging to the same human community.

If I started discussing the offline world because it is the one I am more familiar with, I was even more interested in discovering what happens online, with regard to political participation and disobedience. Consequently, I then centred my attention on Anonymous, on its reasons and its means and on the act of whistle-blowing, to discuss then anonymity and argue that it does not imply lack of responsibility, although it is a form of concealment. On the contrary, it is precisely the possibility of avoiding exposure that seems to guarantee a more diverse participation in the decision-making process. In general, it seems that Internet *in se* guarantees diversity and preserves heterogeneity by creating a new space, free from the “burden” of the body, for people to participate politically.

Finally, I justified civil disobedience as an expression of our agency, an expression that enriches democracy by contrasting the law within the law, and triggering in this way a change in society, that eventually could become part of it. So, I outlined how civil disobedience is needed by democracy and how it is in itself democratic, since it is communicative in a way that considers the opponents in its claims and addresses them as agents. The deep commitment of those that engage in such an act and the communicative nature of civil disobedience, which renders it a political act, as an act of the πόλις (polis), are then the main reasons why I suggested that civil disobedience may not be punished as any other illegal act, but rather with more clemency.

To conclude, I tried to answer to the question that gives the title to this thesis. If I suggested that civil disobedience can be justified, I also claimed how disobeying could be a duty as well. There is an obligation to disobey to protect our agency, to be full individuals, that is political

individuals, ready to act in the world and to change it, instead of being apathetic. Even more, there is a duty to protect the others, those who have no voice, that may oblige us to disobey, precisely because we are bound to the others, because we cannot be but political, ones among the others.

What disobedients think is that the society they live in is not as good as it should be from a moral standpoint. At the same time, civilly disobeying expresses a romantic idea. The idea that a better society can be achieved, that there is a good society to aim at, starting from the one that already exists.

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