

Last Ditch Efforts: An Analysis of Civil Disobedience and Climate Change Law

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I. Introduction

This essay tackles the issue of whether non-violent civil disobedience is an appropriate means of addressing climate related issues. On one hand, civil disobedience is a tool used by modern environmental activists to address issues that otherwise go unaddressed due to constitutional restraints. On the other hand, civil disobedience, when inappropriately applied, does not benefit society in any way and should be forbidden. This essay therefore promotes a balancing test, with one side of the scale weighing the democratic benefits of peaceful civil disobedience, and the other side weighing the negative impact on the democratic system of accountability in place. Ultimately, the essay will address both sides of the coin, and highlight the situations when civil disobedience is becoming more popular due to constitutional restraints and lengthy un-even decisions.

II. Definitions of Civil Disobedience

First, the analysis will address the definitions of civil disobedience, including moral justifications, the relation to raising a necessity defense when partaking in non-violent civil disobedience, and examples of civil disobedience in modern day. This includes a brief overview of several cases relevant to civil disobedience and climate related harm. I also discuss the importance of trends in modern day activism, in which I refer to a scholarly article from the Lancet which argues that the oath nurses and doctors take, in part, would require them to engage in certain acts of civil disobedience to prevent climate related harm.¹

¹ *This Essay is mainly focused on indirect civil disobedience, and the defense of necessity in tort cases. It does not discuss criminal law considerations or necessity as a defense to violent actions. Nor is this essay an endorsement of civil disobedience. Instead, it is an analysis of how civil disobedience is used by climate change activists, focused on the justifications used inside and outside the courtroom for engaging in indirect civil disobedience. It is important for any attorney to be familiar with the*



Civil disobedience can be defined generally as the refusal to obey the demands or commands of a government or occupying power, without resorting to violence or active measures of opposition.² In the context of climate change, it is more generally a form of protest that, while peaceful, enables protesters to break the law. Other legal scholars have defined it as “The deliberate violation of law for a vital societal purpose”.³ Examples of modern civil disobedience include abortion-clinic occupations, constructing road/highway blockades, or in more severe cases the destruction of private property. As in law, popular media references in the last decade including controversial movies and literature have also been published on the pros and cons of civil disobedience. Safe to say, civil disobedience must be defined in the context it finds itself within. When we define climate-related civil disobedience, we are also not discussing race-related civil disobedience or labor-related topics. Each issue has its own categories of civil disobedience and crime.

Civil disobedience has been discussed at length throughout history by some of the greatest minds. Rosa Parks, Martin Luther King, Ghandi, and Harvey Milk are some figures that come to mind when thinking of large movements backed by disobedient actors. Civil disobedience is, however, impossible to define in form or category. What we consider civilly disobedient depends

small yet growing field of law since activists are made up of everyday layman and may one day be your client. Thus, while this is not an objective essay, I aim at remaining as objective as possible when discussing the reality of civil disobedience and what it looks like in 2024.

²To cite the webpage "Civil Disobedience" from Encyclopedia Britannica, you can follow this format according to The Bluebook:

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"Civil Disobedience," Encyclopedia Britannica (<https://www.britannica.com/topic/civil-disobedience>) (last visited Apr. 30, 2024).

³"Civil Disobedience," Stanford Encyclopedia of Philosophy (<https://plato.stanford.edu/entries/civil-disobedience/>) (last visited Apr. 30, 2024)



entirely on the context of what the participants are trying to achieve, what society deems to be acceptable/unacceptable. The definition also depends on contemporaneous moral trends. Some posit that Thoreau is the grandfather, or creator of civil disobedience in the political and legislative sphere.⁴

Regardless of opinion, these figures have different perceptions of what constitutes true civil disobedience, as opposed to what constitutes simple crime.⁵ That is why it must be defined in the context of climate change for any discussion to proceed methodologically. The best way to define civil disobedience is therefore in the context of how it is used today. A dearth of literature in the past 10 years has illustrated an increase of indirect civil disobedience aimed at combatting climate change.⁶ In either case, it is not only laypeople, but professionals of all fields calling for your average citizen to take part in minor criminal acts.⁷

As an example, take the story of Leonard Higgins. Self admittedly, he is not an activist. He also was not a criminal, until he trespassed and was charged with shutting down the tar sands pipelines.⁸ Leonard was simply an I.T. guy for most of his life. Once retired, he decided he wanted to do something impactful for the rest of his life. Soon after he found himself blocking oil trains and trespassing on private property. When asked why he does it, he has been quoted as wanting to

⁴ Henry David Thoreau, *Civil Disobedience* (1849) [hereinafter *Civil Disobedience*].

⁵ A Patchwork of Perceptions, "Thoreau, Gandhi, and King on Civil Disobedience," *A Patchwork of Perceptions* (<https://apatchworkofperceptions.wordpress.com/2020/01/20/thoreau-gandhi-and-king-on-civil-disobedience/>) (last visited Apr. 30, 2024).

⁶ Matthew K. Wynia, M.D., M.P.H., "Professional Civil Disobedience — Medical-Society Responsibilities after Dobbs," *N Engl J Med*, vol. 387, no. 11, pp. 959-961 (Aug. 24, 2022), DOI: 10.1056/NEJMp2210192

⁷ See "Scientists Again Call for Civil Disobedience to Spur Climate Action, Saying 'Time is Short,'" *InsideClimate News* (<https://insideclimatenews.org/news/30082022/scientists-again-call-for-civil-disobedience-to-spur-climate-action-saying-time-is-short/>) (last visited Apr. 30, 2024). *OR SEE* Matthew K. Wynia, M.D., M.P.H., "Professional Civil Disobedience — Medical-Society Responsibilities after Dobbs," *N Engl J Med*, vol. 387, no. 11, pp. 959-961 (Aug. 24, 2022), DOI: 10.1056/NEJMp2210192

⁸ "Leonard Higgins Walks Free," *Civil Liberties Defense Center* (accessed May 3, 2024), <https://cldc.org/leonard-higgins-walks-free/>.



“put himself in the way of the harm that is being done.” Unfortunately, Leonard is now a criminal. The district court of Montana refused to “put the US energy industry” on trial, even though Leonard set out a bullet-proof defense of public necessity. Or so, that is what Leonard Higgins claims, but others may claim the legal defense mattered least to Higgins.⁹

Another example of what climate related civil disobedience looks like is the Valve Turners case in Washington.¹⁰ In 2018, four activists raised the defense of necessity in relation to their climate demonstration 2 years prior. The activists, referred to in the case as the “Valve Turners,” entered onto a private petroleum company’s premises and attempted to turn off their pipelines before they were arrested. This is a prime example of modern civil disobedience in the current day, when applied to prevention of climate related harm. Many view the valve turners as simply what they are: Criminals. But what turned these everyday citizens into criminals? Did they believe civil disobedience to be a final effort? Some legal scholars believe that the message is the main goal of activists who participate in civil disobedience, and less important is the outcome of their actual trial. More on that in the next section on Necessity.¹¹

It could be because of inconsistent rulings in the Supreme Court, such as in the 9th circuits seminal Juliana v United States.¹² In that case, several activist groups, representatives, and children sued the government for enabling climate related harm which deprived them of a constitutionally guaranteed future. The district court found for plaintiffs in part, acknowledging a real and

⁹ Long, Lance N. & Ted Hamilton, The Climate Necessity Defense: Proof and Judicial Error in Climate Protest Cases, 67 J. Legal Stud. 215 (2023).

¹⁰ State v. Ward, No. 97182-0, Order (Wash. Sept. 4, 2019).

¹¹ The Issues surrounding legal defenses to civil disobedience are discussed in the next section at length, but in this section, necessity will only be mentioned as much as it is needed to illustrate the different definitions of civil disobedience.

¹² Juliana v. U.S., 217 F. Supp. 3d 1224 (D. Or. 2016) *rev'd and remanded*, Juliana v. U.S. 947 F. 3d 1159 (9th Cir., 2020). For more, see also, Dana Neacșu. The aesthetic ideology of Juliana v. United States and its impact on environmentally engaged citizenship. 12 J. ENVIRON STUD. SCI. 28 (2022). <https://doi.org/10.1007/s13412-021-00731-z>.



threatening harm to the climate by the United States carbon market.¹³ Unfortunately for the plaintiffs, the 9th circuit court of appeals found that the proposed injunction on the government’s carbon activity failed a two-prong test.¹⁴ The first prong, redressability, was found to be met. The second prong, which considers whether congress is constitutionally allowed to redress the harm in the proposed manner, is where the plaintiff’s fell short.¹⁵

The court found that placing such an injunction, whether practical or hypothetical, was just simply not within their power.¹⁶ It was back to square one for the activists. In this context, what the valve turners did in 2018 seems more like a last-ditch effort to save the climate. A “plan-B” of sorts, with the previous “plan-A” being a failed legal remedy. The death knell blown to the plaintiffs in Julianna v United States may be to blame. It is no coincidence that this ruling made regular activists consider less than savory means of protecting our planet.

Many acknowledge the stalemate between climate related issues and federal court rulings.¹⁷ Those same citizens, who once simply advocated for the environment, are beginning to find themselves stuck between the legality of existing in a society and the morality of protecting it. For example, take Doctors and Nurses. As climate-related harm continues to persist, those who dedicate their livelihood to the health of their patients have by proxy found themselves upholding an oath to protect our planet.¹⁸ To these doctors, it is only logical that to protect a person is to protect their environment. They too are finding themselves at odds with current court rulings and

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Oliver Geden, "Environment: Climate Stalemate," *Nature*, vol. 526, p. 194 (Oct. 7, 2015).

¹⁸ Matthew K. Wynia, M.D., M.P.H, "Professional Civil Disobedience — Medical-Society Responsibilities after Dobbs," *N Engl J Med*, vol. 387, no. 11, pp. 959-961 (Aug. 24, 2022), DOI: 10.1056/NEJMp2210192



finding the list of options too narrow to fulfill their duties. As part of the Hippocratic oath, some have argued over the years that health-care professionals have an ethical duty to address societal matters which affect population health.¹⁹ The American Medical Association Code of Medical Ethics is quite clear: in cases of conflict between ethical and legal duties, a doctor's ethical responsibilities will always outweigh any legal duties.²⁰ The code specifies that the first attempt shall always be to try and change any unjust/unfair laws through legislation. In circumstances where it is impossible to change the law which conflicts with their ethical duties, the code states: "In exceptional circumstances of unjust laws, ethical responsibilities should supersede legal duties."²¹ In the context of climate change, a strict interpretation of the oath would lead healthcare professionals to consider civil disobedience to promote societal wellbeing. Thus, civil disobedience plays a unique role in the professional realm, as it is more modernly being used as a tool by previously law-abiding citizens. Should we be critical of these healthcare providers for being over-zealous in their roles? The answer is no. We should encourage doctors and nurses to uphold the Hippocratic oath in a way that confirms their passion and dedication to keeping the country healthy.

III. The Defense of Necessity and How it Relates to Civil Disobedience

The next portion of this essay deals with necessity, harm, and the constitution. The issues that surround civil disobedience in the court room are heavily couched in discussions around harm to current and future generations. Whether or not necessity is an appropriate defense is beyond the point of this essay; case law shows that necessity is becoming more important as a tool for activists

¹⁹Matthew K. Wynia, M.D., M.P.H, "Professional Civil Disobedience — Medical-Society Responsibilities after Dobbs," *N Engl J Med*, vol. 387, no. 11, pp. 959-961 (Aug. 24, 2022), DOI: 10.1056/NEJMp2210192

²⁰Code of Medical Ethics (AM. Med. Ass'n 2022)

²¹Id.



and thus the law must get used to the change. Instead, this essay focuses on what necessity is used for by climate activists and why it is so intrinsic to civil disobedience. This portion of the essay defines necessity, exemplifies local pollution that could theoretically rise to the level of harm required for such a defense, and discusses why other options have already been shot down.

Getting a jury to hear climate related issues is the large hurdle that activists must figure out once they are brought to court for the minor crimes they commit, but it is also the hurdle that most activists see as victory.²² Using two tools, the activist achieves the result of a jury hearing. First, they use civil disobedience to bring attention to the climate, and then they raise the defense of necessity to progress their cause legally. As will be explained below, the defense of necessity is the activist's second tool.

In tort law, necessity is an affirmative defense.²³ For this essay, the focus will be on public necessity, which asserts that a defendant believed interference with a plaintiff's private property was necessary to prevent an imminent emergency.²⁴ The defendant must also reasonably believe that disrupting a plaintiff's private property is necessary to prevent an imminent emergency.²⁵ Finally, the defendant must take care to avoid causing greater harm than the harm that was averted.²⁶ The first use of necessity defense in a climate related action was not until as late as 2009, when Tim Dechristopher disrupted a bureau of land management auction where bidders were bidding on gas and oil rights.²⁷ Then, in 2012, the tar sand pipelines were shut down by a group of

²² John Alan Cohan, Civil Disobedience and the Necessity Defense, 6 *Pierce L. Rev.* 1 (2007).

²³ Restatement (Second) of Torts § 197 (Am. Law Inst. 1965).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *United States v. DeChristopher*, No. 11-4151 (10th Cir. 2012).



activists, one being Leonard Higgins who is mentioned earlier in this essay.²⁸ Soon after there was a dearth of cases where courts were beginning to consider the validity of necessity defenses in climate related issues.

The defense of necessity is usually not so bulleting proof, and it is even less so practical when used to defend larger societal issues. For one, the harm requirement is often reliant on causation.²⁹ Plaintiffs who demonstrate a direct link between climate-related harm and large-scale corporate pollution are few. Illegal dumping, which can be traced topographically to a farmer's crops/livestock would be a fitting example of an instance where causation can be readily found.³⁰ Trying to prove the "un-seen" however, such as through air quality index demonstrations or the use of ozone layer experts, is where causation often fails. Thus, the defense of necessity is double edged sword for activists participating in civil disobedience; Even if the defense is likely to fail, it introduces the courtroom to conversations which measure and weigh harm that they previously disregarded. Issues which would often be discounted in the previous decades as political questions are finding power when couched in the language of the constitution.

An example of the kinds of harm contemplated in a necessity analysis could, for example, come from factories like the Shell Ethelyne plastics plant in beaver county.³¹ Currently, it is Pennsylvania's second highest hazardous air polluter and the 20th largest in the country.³² Unfortunately for residents of Beaver County, the American Lung Association gave Beaver an F

²⁸ Alleen Brown, "Environmental Extremism" or Necessary Response to Climate Emergency? Pipeline Shutdown Trials Pit Activists Against the Oil Industry," *The Intercept* (accessed May 3, 2024),

²⁹ Giancarlo Pasquini, Alison Spencer, Alec Tyson, and Cary Funk, "Why Some Americans Do Not See Urgency on Climate Change," *Pew Research Center* (August 9, 2023).

³⁰ *Dark Waters* (2019).

³¹ Dana Drugmand, "Outrage over Fresh Chemical Leak at Shell Plastics Plant," *The New Lede* (2023)

³² Kiley Bense, "A Plastics Plant Promised Pennsylvania Prosperity, but to Some Residents It's Become a 'Shockingly Bad' Neighbor," *Inside Climate News* (April 30, 2024).



in air quality circa 2020.³³ These air quality issues plague millions, with cancer rates in Beaver exceeding other county and national averages. These are real, present harms affecting everyday people.

One can envision how powerful this information would be in swaying a jury made of local people in the community. Activists would argue that they can directly trace the pollution these plants put out into the air. These shell plants constitute the largest source of volatile inorganic compounds in southwestern PA.³⁴ These pollutants, known as VOC's, are known to be irritants, exacerbating issues related to asthma, organ failure, and cancer.³⁵ The harm is there, and due to the scale of the pollution, we should be able to target specific companies to get legal remedy. But if the legal remedy is unavailable like in Juliana³⁶, and if the defense of necessity is denied before getting to the jury, law-abiding citizens will begin considering minor criminal offenses as tools to their cause. This is not a call for residents of Allegheny to engage in civil disobedience, rather, it is an astute observation Allegheny is more akin to an open wound; an untreated issue ripe for heated response from the community.

It is not long until residents of Allegheny decide that their voices are not being heard. In such an instance, one can envision activists trespassing, tampering with the plant, and harming themselves or others in the process. Surely this is not the result that anyone would want, but

³³ American Lung Association, "Pennsylvania," American Lung Association Website, <https://www.lung.org/research/sota/city-rankings/states/pennsylvania/beaver> (accessed May 3, 2024).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Juliana v. U.S.*, 217 F. Supp. 3d 1224 (D. Or. 2016) *rev'd and remanded*, *Juliana v. U.S.* 947 F. 3d 1159 (9th Cir., 2020). For more, see also, Dana Neacșu. The aesthetic ideology of *Juliana v. United States* and its impact on environmentally engaged citizenship. 12 J. ENVIRON STUD. SCI. 28 (2022). <https://doi.org/10.1007/s13412-021-00731-z>.



between the ruling in Juliana³⁷, and the persistent threat burdening Allegheny's air quality, it may be soon that we will have our own version of the valve turners. If an easier solution to the threatened pollution exists, surely that should be enacted first, but if not, it is unlikely to work out in the State's favor. This analysis concludes that whether it will happen is immaterial. What matters is that Pittsburgh will begin seeing an uptick in civil disobedience and arguments surrounding those events in the courtroom.

When someone participates in an act of civil disobedience to protest, it must be distinguished legally as either direct or indirect civil disobedience. This is important because in some cases, this distinction will determine whether activists can even raise the defense of necessity in the first place. A direct act of civil disobedience "involves the intentional violation of a specific law that, in and of itself, is challenged as unjust." Indirect civil disobedience "involves violating a law or interfering with a government policy that is not, itself, the object of the protest. Most of the time, the examples and discussions surrounding climate related civil disobedience revolve around indirect acts, as opposed to direct disobedience.

This is an issue for activists because of a ninth circuit case which found that indirect acts of civil disobedience do not qualify for the necessity defense. These indirect acts, which often involve blockades to chemical/oil plants to protest climate harm, do not meet the required element of direct harm. Specifically, the element that requires there to be no other legal remedies. The ninth circuit case that controls this ruling is United States v Schoon³⁸, where activists trespassed onto IBM property and spread blood on the walls of the building to protest the conditions of El Salvador

³⁷ *Juliana v. U.S.*, 217 F. Supp. 3d 1224 (D. Or. 2016) *rev'd and remanded*, *Juliana v. U.S.* 947 F. 3d 1159 (9th Cir., 2020). For more, see also, Dana Neacșu. The aesthetic ideology of *Juliana v. United States* and its impact on environmentally engaged citizenship. 12 J. ENVIRON STUD. SCI. 28 (2022). <https://doi.org/10.1007/s13412-021-00731-z>.

³⁸ *United States v. Schoon*, 971 F.2d 193, 955 F.2d 1238 (9th Cir. 1991).



at that time. In court, when attempting to raise the defense of necessity, the activists “explained their acts in protest of American involvement in El Salvador and how their demonstration was necessary to avoid further bloodshed in that country.”³⁹ The court found that their act was indirect as opposed to direct and barred any activists in the future from attempting the same defense in similar situations.⁴⁰ Thus, any activist who attempts to raise a necessity defense to climate related civil disobedience is going to face many obstacles in the court room, and to discuss all of them would go beyond the purpose of this essay.

IV. Consequences of Peaceful Public Civil Disobedience: The Balancing Test

There are profound consequences of using civil disobedience and the defense of necessity as tools to change policy. These consequences are both positive and negative. The consequences range from minor inconveniences levied onto the common person, such as someone trying to reach their job through a blockade. Other consequences, however, have much larger impacts on political structures, such as allocation of public funds, and can be catalysts to larger events which influence foreign policy. Whether these are negative or positive may be up to public opinion, but the analysis begs a balancing test in which the pros and cons of these consequences are appropriately weighed. On the one hand, the harm associated with climate change and pollution is weighed, while the consequences of civil disobedience are weighed in another. The consequences for civil disobedience can at times be theoretical, like when they aim at shifting whole policies. The consequences can also be tangible, like when they result in jail time. For the purposes of this

³⁹ *Id.*

⁴⁰ *Id.*



analysis, the consequences can be broken into three categories: 1) Individual Consequences, 2) Political Consequences, and 3) Cultural Consequences.⁴¹

Individual consequences are those that personally affect someone who participates in civil disobedience.⁴² This includes jail sentences and arrest records for breaking laws.⁴³ The effect of these experiences for some can interfere with healthy and regular relationships with family and friends. For some, however, these experiences are non-issues, and thus individual consequences become a mute argument against the merits of civil disobedience. Many activists will weigh the idea of individual consequence against the cause they are being disobedient for, and spectators may find this to be selfless. Thus, individual consequences will vary from activist to activist, and are not an effective measure of harm when looking at civil disobedience to support the climate. Instead, the collective harm that climate change poses make individual consequences seem less impactful each day. Another individual consequence would be the psychological change that a participant undergoes when they begin resisting the law and tradition of the United States.⁴⁴ For example, someone from a wealthy neighborhood may begin to sympathize or identify with minorities targeted by discrimination, encouraging them to participate in civil disobedience and resist figures of authority that otherwise they would be obedient towards. While this is offered as an example of a consequence, it is impossible to say whether these psychological changes are for the better/worse. Individual consequences seem to weigh in the favor of preventing climate harm as opposed to any psychological changes one would undergo if they opted out of political activities.

⁴¹ Scheuerman, William E., ed., *The Cambridge Companion to Civil Disobedience*, Chapters 1-2, Cambridge University Press, 2021.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Scheuerman, William E., ed., *The Cambridge Companion to Civil Disobedience*, Chapters 1-2, Cambridge University Press, 2021.



Political consequences are larger scale changes to our political systems and the democratic process.⁴⁵ Again, examples are the best way to illustrate the consequences for our political system. On its face, encouraging citizens to break laws, no matter how small, is both unethical and unamerican. But with nuance, the question becomes: What is more important? the slow-moving political machine, or the fast-acting relief that civil disobedience stirs?

That is why the political consequences of civil disobedience can best be analyzed through the context of several events in American history where civil disobedience shaped political action and legislation. For example, Rosa Parks partook in civil disobedience by refusing to get out of her bus seat, which in turn encouraged others in her community to participate in boycotts despite the numerous anti-boycott laws put in place.⁴⁶ Furthermore, Rose Park's attorneys initiated a motion that allowed the supreme court to review unconstitutional laws and reform them.⁴⁷ Here, in the most classic example, we see the landscape of justice form through an act of civil disobedience. It is certain however that her disobedience ended up benefiting African Americans in an expeditious manner that could never be outpaced. Other examples of political consequence include foreign policy shift such as Vietnam, or Iran Contra opponents which led to changes in Nicaragua.⁴⁸ The political consequences are exactly what climate related civil disobedience aims to achieve. Modern activist examples are strong and come in many forms across the world.

For example, activists in Australia were recently arrested in the hundreds after participating in a water blockade.⁴⁹ This event is Australia's largest demonstration of public civil disobedience;

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Scheuerman, William E., ed., *The Cambridge Companion to Civil Disobedience*, Chapters 1, Cambridge University Press, 2021.

⁴⁹ "Australia: More than 100 people charged after kayaking protesters block coal port ahead of COP28," (November 27, 2023).



thus, it is a good case study for where the trends of climate activism are leading. The protestors kayaked across and in front of the Newcastle Coal Port shipping lanes for about 30 hours. 3,000 people attended the demonstration of civil disobedience. The political consequence that the activists are hoping for will come from discussions at the 2024 COP28 conference taking place in Dubai this year. The activists timed this protest strategically, posturing towards the convention that they will continue to act unless their climate concerns are adequately addressed.

Opponents of civil disobedience claim that even if there is a political consequence that could be perceived as positive, it would only take effect if public opinion aligned with the cause for the disobedience. Thus, it may not be the civil disobedience as the catalyst for political consequence but the bubbling over of public demands. This is unlikely. Civil disobedience is a tool used to garner such public attention in climate change. It was used in Germany to bring attention to mining coal in the Rhineland. It was used by the standing rock Sioux to protest the Dakota Access pipeline. In an era of hyper-dramatized media and politics, civil disobedience is often the only thing that catches the eye of your average consumer. Thus, the political consequences of civil disobedience also weigh in favor of preventing climate related harm as opposed to any weight it gives towards protecting traditional systems of generating political change.

This brings the analysis to the final category of civil disobedience consequences: The cultural consequences.⁵⁰ These are usually the consequences that opponents of civil disobedience emphasize the most. This is for good reason, as societal detriments can be the most dangerous to

⁵⁰ Scheuerman, William E., ed., *The Cambridge Companion to Civil Disobedience*, Chapters 1-2, Cambridge University Press, 2021.



progression of any kind in a society. The cultural consequences are entirely holistic, and thus are the easiest for philosophers and politicians alike to posit when discussing the topic of civil disobedience. These consequences include ideations, literature, media, music, art, and any other pillar of cultural significance in which an activist can express themselves.

For example, you have Professor and Author turned activist, Andreas Malm, who authored the controversial novel “How to Blow up A Pipeline.” In that book, Malm discusses the negative effects that pacifism plays in climate activism, advocating for more extreme versions of civil disobedience such as destruction of private property. This novel was later adapted into a film, duly controversial but adored by critics in its reception. This extremely modern example of cultural consequence is like the other two categories, neither good nor bad objectively. Memes and insular viral trends are micro examples of the cultural consequences associated with civil disobedience. Opponents raise certain issues with these cultural consequences⁵¹. These include but are not limited to 1) contempt for laws and systemic authority, 2) Promotion of Selfishness, 3) “rules for thee and not for me” attitudes, 4) threatens foundation of the law, 5) undermines the democratic system.

First, contempt for laws and authority are not at the core of civil disobedience at all, instead activists actively participate in their own arrests, and openly take the punishment. This martyr style of activism shows respect for the authority figures and basic societal norms. Instead, they take the arrest and show it off as proof that the system chooses to punish the wrong action and allows the public to carry the torch.

⁵¹ Scheuerman, William E., ed., *The Cambridge Companion to Civil Disobedience*, Chapters 1-2, Cambridge University Press, 2021.



The second argument, which states that it encourages the selecting laws is also inconsistent with the fact that civil disobedience is not aimed at breaking the law, but rather using the law to their benefit. Minor crime is not the goal of the activist. The goal is to get the message within the correct avenues so that those in power can change the law which better fits society. This is the same reason that civil disobedience does not threaten the foundation of laws, as it instead operates within the boundaries of them.

Similarly, the argument that civil disobedience promotes selfishness is mute. Becoming incarcerated for larger issues, sometimes issues which do not even affect your community, is often selfless. Activists claim that they are shouldering the burden of incarceration and arrest so that future generations may live healthier, happier lives. Activists today find that the individual consequences they may face are minor compared to the threat to generations of Americans yet to be born. At its core, it is a selfless display.

The final argument, that civil disobedience is undemocratic, deserves the least amount of merit. Civil disobedience is often the lifeblood for the American democratic system. The fact that the public feels comfortable enough to partake in minor offenses to express their beliefs means that democracy is still alive. The foundation of democracy and individual rights that we cherish today were paved by several acts of civil disobedience, some discussed above, and others taught at large in schools across America. Civil disobedience is not a threat to democracy, but a function of a healthy one.



V. ***Conclusion: Climate Related Indirect Civil Disobedience is the tool being used to combat climate change in the modern day***

This essay defined what civil disobedience is in several different contexts, landing on indirect civil disobedience aimed at large scale climate change. The essay also provided examples of modern acts of disobedience and those with historical relevance. This lays the foundation required to understand how necessity plays a role in spreading activist's cause. Necessity is the defense of lesser evils and has only recently become a serious avenue for discussing climate change. As time continues, more courts will find themselves allowing jurors to discuss the pros and cons of acts which may at times break minor laws. Whether this is good or not is up to the finders of fact, which is for the best, as these issues are threatening their communities. As courts continue to have these conversations, the pros and cons will be weighed like they have been in this analysis as well. Jurors will have to determine if the threat is real enough, and if the inconvenience of breaking certain laws outweighs the very actual harm we are facing today.

Opponents of civil disobedience often raise concerns regarding its cultural consequences, including contempt for laws and authority, promotion of selfishness, selective adherence to rules, threats to the foundation of law, and undermining of democracy. However, these arguments fail to grasp the essence of civil disobedience. Rather than displaying contempt, activists willingly accept punishment, showcasing respect for authority while highlighting flaws in the system. Moreover, civil disobedience aims not to break laws but to leverage them for social change, operating within legal boundaries. The accusation of selfishness overlooks the selfless sacrifice activists make for future generations, shouldering the burden of incarceration for the greater good. Far from being undemocratic, civil disobedience is a vital component of democracy, allowing citizens to express dissent and advocate for change within the framework of the law. It serves as a reminder of



democracy's resilience and the ongoing struggle to uphold individual rights and societal progress in the face of such fundamental anthropogenic crises as climate change if left unaddressed.

