

The Virtual Sit-In

Thesis

Master Political Science: The Philosophy of Inequality, Leiden University
Prof. N. Vrousalis

Richie Bartels (1039180)
Final Version June 8th

Table of Contents

1. Introduction.....	3
2. Civil Disobedience.....	4
2.1 Nearly Just Societies	8
3. Nonviolence	10
3.1 Persuasion & Coercion.....	10
3.2 Violence in Civil Disobedience.....	11
3.3 Judgement.....	13
4. Electronic Civil Disobedience	15
4.1 Violence in ECD	19
4.2 Who Owns Cyberspace?	23
4.3 DDoS Attacks & Virtual Sit-ins.....	25
5. Practical Examples	26
5.1 Lufthansa Case	27
5.2 German Court Ruling	29
5.3 ECD's Current Legality	30
6. Transition	31
6.1 DDoS as Civil Disobedience.....	32
6.2 The Ancillary and Integral	35
6.3 Inheriting ACD's Values.....	36
7. Conclusion	38
Reference list:	41
Appendix.....	43

1. Introduction

“Before I take up these matters, a word of caution. We should not expect too much of a theory of civil disobedience, even one framed for special circumstances. Precise principles that straightway decide actual cases are clearly out of the question. Instead, a useful theory defines a perspective within which the problem of civil disobedience can be approached; it identifies the relevant considerations and helps us to assign them their correct weights in the more important instances. If a theory about these matters appears to us, on reflection, to have cleared our vision and to have made our considered judgments more coherent, then it has been worthwhile. The theory has done what, for the present, one may reasonably expect it to do: namely, to narrow the disparity between the conscientious convictions of those who accept the basic principles of a democratic society” (Rawls 1971, 362).

What Rawls wrote nearly forty-five years ago bears repeating. It struck me as a profound guide to the efforts which follow. The theory he developed with regards to civil disobedience has since become central and influential in political theory. Yet already in 1971 he was acutely aware of how different cases require different judgement. He seemed, with the humility that is evident in the words above, to have made room for advances which he could hardly predict.

Now that these advances have come, they necessitate that we think about the new grey areas of political protest. Digital technology has created an increasingly ubiquitous infrastructure important to all those living within Western liberal democracies. More and more of our social, professional and private lives are taking place on the internet and through the use of digital devices. Importantly, recent years have seen the implementation of these technologies to aid political activism: from collecting support for uprisings in Cairo and Tunis to preserving net neutrality in the United States. An array of new means has thus arisen. Reflecting traditional political protest, they range from peaceful and non-intrusive, like online petitions and blogging, to criminal and with far reaching consequences, like identity theft. Electronic civil disobedience is somewhere in the middle of this varied spectrum, but as of yet the symbolism and naming surrounding it remain vague and unsettled as it is the subject of a polemic of different groups which try to appropriate it.

While civil disobedience entails per definition some targeted breach of law, as a means of protest it has a “history and legal doctrine to support their legitimacy as valid and protected political speech” (Sauter 2014, 95). In contrast, popular methods of electronic civil disobedience largely remain criminalized. My proposal is that electronic civil disobedience is a credible inheritor of its analogue fore-bearer. Therefore, if the relevant criteria are satisfied, legitimacy claims ought to be transferrable from analogue civil disobedience to electronic civil disobedience.

In a similar vein to Rawls, the ambitions in this thesis are limited. Accordingly, the scope I choose is narrow. I want to show that electronic civil disobedience is acceptable, justifiable and even desirable in the same way as traditional civil disobedience has been. I defend the passing of an equal respect and legitimacy from the analogue to the electronic form. Even though new civilly disobedience happens on a novel platform, through the digital medium, the tactics and goals remain comparable. Two aspects are most prominent in the following investigation. The first is determining what violence, if any, is acceptable. The second is the issue of online property and the rights associated with them figures prominently.

This work is built like a stairwell; the idea is that each step leads up logically into the next. Following this introduction I will describe civil disobedience in general in chapter 2. Then, in chapter 3 I will go into the nonviolence criterion Rawls describes and how violence can convincingly be defined. Following this will be the analysis of electronic civil disobedience and how the preceding findings map onto it in chapter 4. I will discuss important practical examples in chapter 5. In final and 6th chapter I will describe various aspects of the transition from analogue to electronic civil disobedience. As we reach the top of the metaphorical stairway, we will have a found final conclusion as to what extent we ought to accept electronic civil disobedience.

2. Civil Disobedience

As posited by John Rawls (1971, 364-5), civil disobedience is described as being a “public, nonviolent and conscientious breach of law undertaken with the aim of bringing about a change in laws or government policies”. Rawls’ definition has five elements. Three of these are underlying criteria, one is a condition of the action itself and finally there is an aim.

The first criterion is that it is public; acts of civil disobedience should not be secret

operations. A main reason for this is that civil disobedience aims to attract the attention. Rawls describes it as the civilly disobedient group engaging in their act openly and with fair notice (1971, 366). He compares it to holding a speech out in public, which “a form of address, an expression of profound and conscientious political conviction, it takes place in the public forum” (1971, 366). The disobedients hope then is that this leads to those seeing, hearing and hearing about their undertakings having discussions. As the issue gets increased media coverage, the eventually goal is to gain more support.

The second criterion is nonviolence; the means of protest should be peaceful. In a number of the following sections I will more deeply explore the controversy surrounding its conceptualization. It will feature repeatedly as it is the main aspect of ECD I will discuss.

The third criterion is that acts of civil disobedience should be conscientious, as opposed to whimsical or frivolous; there is a responsibility to justify the disobedient act. This responsibility ties in with securing public support. But a strong and convincing rationale of why disobedience is necessary not only to sway the public, it strengthens the movement in and of itself as it demonstrates its “seriousness, sincerity and moral conviction” (Brownlee 2009). “Conscientiousness” implies that the civil disobedients have a sincere and serious belief that a law or policy warrants re-examination by the government, and that the risk of an injustice allows for a law-breaking action in order to communicate such a belief” (Moraro 2007, 5). It is sincere, because disobedients refer to principles of justice, where they could have also have referred to other, less important, values; such as monetary profit. It is also serious, because there is “genuine concern about a diversion from the shared conception of justice that underlies the political society” (Moraro 2007, 5). Piero Moraro then puts the conscientious criteria most strongly when he says: “Under these circumstances, individuals would be *morally inconsistent* in denying having reasons to engage in civil disobedience against that law or policy” (2007, 5, italics in the original). Moral individuals seem therefore, if they place any value in acting in accordance with and upon their moral principles, forced to undertake civilly disobedient acts in the face of certain persistent injustices. A person who claims to be moral, but fails to act in accordance with her outlined moral values, can hardly justly call herself moral¹. That would be hypocrisy.

¹Of course, there is an exception possible when there are constraints on one’s acts. If a person is held prisoner, she can hardly act on her moral value to feed the ducks outside her house or combat sexism.

In summary, what constitutes conscientiousness is to act in accordance with morality. Conscientious disobedients want to communicate to the onlookers and hearers their “sincerity, seriousness and moral consistency” (Moraro 2007, 5). Moraro adds a caveat in that what civilly disobedients believe can be sincere and serious, but untrue. They might wrongly interpret what they perceive as injustice, while it is not so in truth. However, concludes Moraro, their undertakings can still be conscientious, even though they are wrong (2007, 5).

Furthermore, there is a condition for an action of dissent before it can be termed civilly disobedient, namely that there a breach of law. Whereas the criteria present the framework for the “civil” part, this condition is where the “disobedience” part becomes evident. Usually however, the breach of law is on a very specific and narrow ground, the disobedients do not aim to overthrow the entire system against which they protest, they only want to change that part which they find unjust.

There is an important distinction to be made here when it comes to this breach of law and the respect which remains to the legal system. A recurring feature in civil disobedience which illustrates this stance is the acceptance of punishments. The most famous examples of these are those of Gandhi and Martin Luther King Jr.² who spent time in jail. By accepting the rulings of the judicial system, disobedients still obey the rule of law in all parts, excepting the specific part where they breached it. This is what is termed “fidelity to law”. Even though they break the law, disobedients are willing to accept the legal consequences of their behavior. Furthermore, with this willingness they reinforce the public and nonviolent nature of the act (Rawls 1971, 366).

It is an overarching theme for disobedience movements; these nonviolence and publicity criteria and the submission to the legal repercussions of actions: “are often regarded as marks of disobedients' fidelity to the legal system in which they carry out their protest. This is part of what distinguishes them from rebels” (Brownlee 2009). This is not to say (as is similar for all of this

² Martin Luther King Jr. writes about this in his Letter From A Birmingham Jail when he says: “I hope you can see the distinction I am trying to point out. In no sense do I advocate evading or defying the law as the rabid segregationist would do. This would lead to anarchy. One who breaks an unjust law must do it openly, lovingly (not hatefully as the white mothers did in New Orleans when they were seen on television screaming, “nigger, nigger, nigger”), and with a willingness to accept the penalty. I submit that an individual who breaks law that conscience tells him is unjust, and willingly accepts the penalty by staying in jail to arouse the conscious of the community over its injustice, is in reality expressing the very highest respect for law” ([1963] 2011, 833-4)

entire definition), that this is uncontested. Howard Zinn disagrees with Rawls and would like to define civil disobedience more broadly. In this instance, his claim is that fidelity to law is not required. In response, Rawls writes that although he accepts there is some room for some latitude, in his view an imprisoned civil disobedient would not “accept the punishment as right, that is, as deserved for an unjustified act. Rather one is willing to undergo the legal consequences for the sake of fidelity to law, which is a different matter” (1971, 366). This speaks of his view of fidelity to law as inherently valuable; it is necessary component of a well-ordered and well-functioning society. A society in which all people are so honest and just that any breaches of law would be conscientious and defensible acts only exists in theory (Rawls 1971, 367).

Finally, the aim of policy change defines the movement, namely through what it stands for and from what it draws its rationale and support. Civil disobedience is a political act (Rawls 1971, 365) because, in addition to being addressed to the majority which is in political power, it is being “guided and justified by political principles” (Rawls 1971, 365). With these principles Rawls refers to principles of justice which “regulate the constitution and social institutions generally” (Rawls 1971, 365). When civil disobedience is to being justified, it is in Rawls view, not appropriate to refer to personal morality or religion, even though there might be some overlap³ (1971, 365). This is similar to how conscientiousness was presented with regards to being a criterion hereinabove; the underlying appeal throughout civil disobedience is to justice. Moreover, civil disobedience cannot be in the interest of just one private individual (Rawls 1971, 365). However, this does not mean per se that one person alone cannot carry out a civilly disobedient act. If the person acts in order to repair justice where she finds it broken, her act can be defended, as it is in the interest of the entire society, not solely this one individual.

The appeal is to a shared idea about justice which exists not only in the disobedient minority, but in the majority in political power as well. Rawls assumes that in a “reasonably just democratic regime there is a public conception of justice by reference to which citizens regulate their political affairs and interpret the constitution” (Rawls 1971, 365). He claims that the basic principles of justice here are “fundamental equal liberties” (Rawls 1971, 366). When these principles are wittingly violated over a long period of time there can be two responses. The first

³ This has potential for further study, seeing as Gandhi and Martin Luther King Jr. were both well known as being deeply religious men. An investigation in how much their religiosity has influenced and guided their political protest could reveal a conflict with Rawls’ position hereon.

is submission and the second is resistance. It is unsurprising that in a group then springs into action, taking to the latter response: resistance. With the civilly disobedient act, then, the minority asks the majority to consider whether “it wishes to acknowledge the legitimate claims of the minority” (Rawls 1971, 366).

Understanding all this, it becomes increasingly clear that the initial pithy definition excludes other acts which may contain one or parts of the criteria, condition or aim, but which are fundamentally different acts. The three criteria distinguish it from other forms of political dissent or plain crime. Let us look at a few short examples. I can imagine criminality being in some cases argued to be public and nonviolent. However, the explicit formulation of the aim being policy-change as well as the element of conscientiousness distinguishes it from civil disobedience. Militancy can be public, aim to bring about change in policy through breaches of law and in some cases even be conscientious, but it is excluded as it is violent. Finally, legal protest can be very similar when it is public, nonviolent and conscientious and can aim to bring about a change in laws or government policies, but it is distinguished by the absence of a breach of law.

The choice for relying solely on Rawls definition of civil disobedience has three main reasons. The first reason is one of scope, to compare and contrast different definitions would be too tangential for my aims. My attention here will be directed mainly at electronic civil disobedience; to rehash old debates would take away from that. Second, to say Rawls’ definition of civil disobedience is the golden standard might be too much praise, but it is hard to deny its influence and importance within the realm of political theory (Brownlee 2009). The third and final reason is that it is practical in for the investigation of the issues critics brings up, as these are all in relation to Rawls’ definition.

2.1 Nearly Just Societies

Rawls’ theory of civil disobedience discusses the “appropriateness of civil disobedience to legitimately established democratic authority” (Rawls 1971, 363). He specifies that civil disobedience is legitimate only in nearly just societies. Rawls stresses that such societies ought to have democratic rule (Rawls 1971, 363). Furthermore, nearly just societies are those which are “‘well-ordered’, regulated by a constitution based on the shared conception of justice, but in which there is the presence of ‘some degree’ of injustice” (1971, 363). This means that

disobedients think the majority which is political power has used their power in order to subvert an underlying and constitutional justice (Moraro 2007, 5).

Hopefully, this majority can still be open to change its stance when it becomes fully apparent to them that they have acted unjustly. A scenario can be imagined in which such injustices flow from neglect. Some constitutional rights might slowly, but gradually erode so that when an unacceptable point is reached it is not per se through deliberate action, but through ignorant inaction. In a nearly just society “citizens would still accept the majority in power as legitimate, and would still believe in future cooperation with it [...]” (Moraro 2007, 5). Just because they disagree at the moment of the disobedient act, does not mean all political association, communication or cooperation is dismissed. This is part of civil disobedience as a political act, to dismiss the possibility of all these options would make the act apolitical. Therefore, “in essence, they would assume that communication is possible” (Moraro 2007, 5). One can construe civil disobedience itself as a communicative act and thus when one engages in it, it is with the underlying assumption that communication is possible. Just achieving serious engagement in dialogue on controversial, forgotten or suppressed issues might even already be considered a triumph in certain cases.

But all of these claims of what constitutes a nearly just society can be criticized. Moraro says for instance that this conceptualization of a nearly just society can be too restrictive. He takes the example of Nazi Germany as being antithetical to the just society and says that in between those two there is a wide middle ground (Moraro 2007, 4). The examples of Gandhi and Martin Luther King Jr. were both in societies which were clearly not nearly just in this sense. Still, both preferred civil disobedience to other forms of political protest. “Rawls [...] does not deny that a nearly just society may involve “serious” injustice, that those practicing it may be ‘immovable and apathetic’ [...] willing to enforce the injustice with the use of illegitimate force. The problem seems to be that it would be hard to define a society like this as ‘nearly just’” (Moraro 2007 4.). Therefore, civil disobedience should also be a possibility in societies which would be deemed unjust in Rawlsian terms. We will, however, stay within the contexts of the nearly just societies, as a means of limiting scope.

3. Nonviolence

The main underlying point of interest in this investigation is Rawls' inclusion of the nonviolence criterion. This has become a central identifier for civil disobedience movements: "nonviolence may very well be the notion most often associated with civil disobedience both in the public imaginary and in theoretical discussions" (Celikates 2015, 9). However, not all agree that it is rightfully included. As seen already in earlier criticism, some argue for a broader and more inclusive conceptualization. Hence, there are multiple ways in which nonviolence being a necessary component of civil disobedience is defended and attacked. Therefore, before we can proceed, we must lay the foundation for our discussion by investigating what violence in this context means.

In this chapter I will first distinguish persuasion and coercion. In the section following this, I will describe a satisfying description of violence in the context of civil disobedience. I will conclude with my judgement of to what degree violence is acceptable.

3.1 Persuasion & Coercion

One important distinction which recurs in the literature on violence in civil disobedience is the difference between persuasion and coercion. The first is an appeal to public conscience and the second relies on the use of threats (Moraro 2007, 5). This distinction is especially relevant for electronic civil disobedience when for instance we separate it from hacktivism in section 5.1.

A blockade is an example of the persuasion. In a blockade access and use of a space, which can be either public or private, is limited. Blockaders want to expand awareness with regard to their perceived injustice in society and to influence public opinion. A threat is an example of coercion. If the goals of the disobedients are not met, they threaten to respond with some "dire consequences" (Falcon Y Tella 2004, 316).

There is a difference in attitude here, namely that coercion is of a more forcing and uncompromising nature, whereas persuasion is less confrontational. When the defining goal is persuasion, the aim is specifically towards the majority in political power and in convincing them that change is necessary (Moraro 2007, 5). Persuaders would rather charm than harm the majority in political power, believing that solid arguments and a demonstration of the issues' vitality will be convincing. Persuaders' acts are more likely to be temporary, whereas coercers' acts are last longer. Moreover, coercers would act quicker and more often repeat their actions

which can involve lasting or even irreversible damage. Although coercers certainly aim to influence public opinion on the issue of a perceived injustice they are, in essence, are saying “or else”.

One final note here is that in reality this distinction presents itself not so much as a dichotomy, but as a spectrum. Political protest can for instance be predominantly be either more persuasive or coercive yet contain elements of the other. As an example, of a large group of peaceful protestors some sympathizers may take to violent action.

3.2 Violence in Civil Disobedience

The definition of violence upon which I have settled and determined that it encompasses relevant and important aspects is taken from the literature specifically on violence in civil disobedience. It is based specifically on Moraro (2007) and Morreal (2005). The aspects they stress, which are also important here are psychological violence, as well as violence to the free ownership of property. These are important because the former is sometimes neglected while at times it can be more impactful than physical violence. The latter is especially important seeing as the following chapters on electronic civil disobedience have to do specifically with potential violation of property rights. I have chosen to sub-divide this into what is relevant to persons and what is relevant to property.

To persons

Violating values, integrity or sacredness is all part of violence according to Morreal. His position is that these constitute prima facie individual rights which can per definition be less important than other, more important or absolute rights⁴. This goes further by far than just bodily harm, which is especially evident in the addition of sacredness seeing as this is usually part of a personal religious belief. Doing harm to any part of a person important to her religious view of herself would necessarily be deemed violent as well then. For example, the hair hijab or nikab of

⁴ The most important point of contention is which rights or duties outweigh one another per case. In this context Morreal would be more inclined to allow for violence when it serves a superseding moral claim (Morreal 2005, 37-9) whereas Moraro is opposed to that because as he follows the Kantian Formula of Humanity (Moraro 2007, 7) according to which no one can be treated as a mere means. This does not mean that Moraro never allows for violence, but it does mean that he ascribes more relative worth to the mentioned values, integrity and sacredness for Moraro than Morreal.

a Muslim woman is sacred to her, as is the long hair of the Sikh. Psychological violence is also included as this stops individuals being able to make decisions freely and to then carry them out.

To property

There is a basic right to control and own property in a liberal democratic society. According to Morreal this is not to be interfered with and doing so can be considered violent. Moreover, as there is no specific distinction made by him between public and private property, his definition applies to both. Using this definition of violence is problematic when one sees occupation or trespassing as nonviolent, as these tactics interfere with these basic rights, especially where it pertains to private property. For example, in this definition, occupation of the area in front of my door can be seen as violent as it takes away my right to freely access my home.

Things become less clear when we look at public property. This is for me the most problematic aspect of violence. Earlier, we have concluded civil disobedience to be a public, communicative act. But there is one difference with holding a speech in a public forum; we must remember that for an act to be civilly disobedient, it must break some law. Protest in public spaces can lead to a disruption of the normal flow of traffic. This is a tactic which is easy to understand, as it would certainly lead to big gain of attention. It is just as easy to imagine that doing this can involve breaches of law. But seeing as the goal of the civilly disobedient protest is influencing public at large, their attention is a most valuable currency.

The traditional means of civil disobedience are occupation and trespass; trespassing onto private property breaks a law in and of itself. This fulfills the breach of law condition of the action as we discussed in the section on Rawls's definition. The law here is not broken frivolously. It is broken specifically at a certain point or in a certain place to address a certain issue. Civilly disobedience protestors with an environment cause might choose to trespass and occupy the premises of a refinery which is causing pollution. They are specifically breaking the law against a corporation in a certain location in order to address their perceived injustice. Moreover, the civilly disobedient act is doing this, as we recall from chapter two to rectify or repair or improve a sense of overarching justice which seems to be lacking. Saving the surrounding areas from potentially disastrous pollutants can certainly fall within that category.

However, having taken Morreal's view of what constitutes violence; this means that the traditional means of trespass and occupation which occur often in disobedient movements are

deemed violent when done on private property. There must be clear limits, however, and fidelity to law must hold. For instance, if occupation (in)directly damages a small business, the owner must be recompensed. Operating under the civilly disobedient banner ought never give license for whimsical or frivolous destruction and always be governed by the disobedients conscientiousness. Therefore, knowing and willing damage which is unrelated to the civilly disobedient act is simply criminal and unacceptable. Occupation of a factory might serve to address the injustice of not abiding by labor laws, but destroying the appliances does not.

If we accept damage to property as part of civil disobedience, this poses a problem for its nonviolence criterion. There are two plausible options, which are not per se incompatible. The first is to deny this view of violence and to deny that damage to property actually count as violent. However, I find this difficult to do as I side with Morreal and hold the (uncontroversial, but not uncontested) view that you can hurt someone severely by taking away or damaging their property. The second option is to say that curtailed damage to property is acceptable in some cases, while violence to persons is never acceptable.

A practical problem might arise in the form of some damage to property causing psychological damage. If there is a reasonable and realistic claim of this, then this is to be avoided, as much as possible. Here Moraro's caveat of treating people as ends should prevail.

3.3 Judgement

As Celikates made clear, our conviction of what is acceptable behavior depends in part upon our definition of violence. What is more, the narrowness or broadness of the selected definition comes with political and theoretical trade-offs (2015, 12). The definition I selected includes psychological violence and damage to the free ability to control and make decisions about property. However, as made clear earlier, although the definition definitively frames the parameters of the discussion, it does not force me into either the violent or nonviolent camp per se.

A clarifying distinction is given by Moraro, who describes two factions. The first is the moderate one which affirms that "violence should be excluded entirely from civil disobedience" (Moraro 2007, 6). The second faction is described as a radical one, by which violence is admitted, when directed against the State and also against "its representatives and third parties directly or indirectly linked to the state". As became clear in the previous sections, violence

against persons is what is at issue here.

Radicals see civil disobedience not per se as nonviolent. “They assumed that, although civil disobedience cannot aim at moral or physical destruction of the adversary, a certain risk of violence -on occasion and always as a secondary condition is to be accepted” (Moraro 2007, 6). What is most important to them is to carefully choose effective and efficient means while staying within proportions to the injustices against which the disobedients act (Moraro 2007, 6).

Historically and usually, civilly disobedient breaches of law which infringe upon the freedom to control and make decisions about property have fallen into the category of nonviolent civil disobedience. For example Gandhi’s Salt March was considered an effective nonviolent act. Gandhi and followers broke a specific unjust law, transparently and publicly providing a rationale (Meikle 2008, 6). Yet, in my definition, it was violent against the property laws of the time. He was stealing what was British property. So here is an issue, and I feel that continuing to describe violating property rights as being nonviolent is at the very least misleading.

To be sure, there must be serious, but reasonable, caveats. As we should remember from the start of chapter 2, definition of civil disobedience which is adhered to here is that of civil disobedience is described as being a “public, nonviolent and conscientious breach of law undertaken with the aim of bringing about a change in laws or government policies” (Rawls 1971, 364-5). The surface simplicity and brevity of this definition carries a profound depth. One of the aspects of this depth pertaining here especially to the nonviolence criterion is the interconnectedness of these criteria. Frivolous, whimsical or wanton destruction can under no circumstances be allowed as they collide head-on with the conscientious criterion. Moreover, in the same way of reasoning, theft can never be justified either. Property damage which occurs must be visible to the public, so as to also abide by Rawls first criterion. The public can then even be in a position to judge the sincerity of the disobedients’ conscientious convictions. And so they ought to keep within restrained limits, violating only those property rights they needed to draw attention to the particular perceived injustice they mean to address. Additionally, damage done in secret, even if done conscientiously, does not serve the movement.

In keeping with the line being drawn at violence against persons, any direct, or a reasonable expectation of in-direct, physical injury or harm against a person is to be prevented as much as possible. Moreover, psychological violence done to those affected by occupation or trespass is more difficult to predict and measure, but is to be limited as much as possible as well.

I am not denying that under certain circumstances oppression might be so severe, bloody and unjust that there is little reasonable alternative to violent resistance. However, this resistance then is categorially separate from civil disobedience.

4. Electronic Civil Disobedience

The work thus far has all been a lead-in as I have built up a fundament upon which we can discuss the titular issue. My judgement has been that violence to property in civil disobedience is acceptable under certain limited circumstances. In the following sections the attention will be on whether this acceptability carries over from “traditional” or analogue civil disobedience (from now on: ACD) to electronic civil disobedience (ECD). Furthermore, to determine whether this judgement can be transposed it is necessary to assess whether this new environment can allow for the same Rawlsian definition to apply. It is a test which is necessary to pass in order for us to keep applying similar norms.

Investigating transposability is important, because it is imaginable that the nature of a novel platform is limiting insofar as that it excludes the opportunity of one of the criteria. For example, early on in the development of the internet it would be a poor platform for civil disobedience, as communication of a perceived injustice to the public would be nigh on impossible since few would even have the means to be communicated to. Similar problems might occur with ECD on telephone networks, although in both of these cases creative acts of communication can appeal to the public. During a telephone sit-in, for instance, it is imaginable that the conscientious basis for the protestors’ actions is communicated by protestors calling broadcast media, which can effectively disseminate their message. If protestors online act in accordance with the other tenets of the definition of civil disobedience as we set out, namely their breach of law having the aim of policy change and abiding by the conscientious, public and nonviolent criteria, then the transposition becomes a more credible option. As the digital infrastructure is fitted especially well for communication, ECD can perhaps be an even better suited and effective tool for political communication of perceived injustices.

First then, I will describe in this section what I understand as electronic civil disobedience. Following this, I will address the question of property ownership in cyberspace and what consequences this has. Then, I will tackle various aspects of the Distributed Denial of Service (DDoS) attacks and virtual sit-ins as they constitute the most noteworthy tools of ECD.

Electronic Civil Disobedience is the term given to political action using electronic technology, which in practice is mostly digital technology and most often specifically happens on the internet. An encompassing definition is given by Stefan Wray in a seminal essay on electronic civil disobedience:

“Acting in the tradition of nonviolent direct action and civil disobedience, proponents of Electronic Civil Disobedience are borrowing the tactics of trespass and blockade from these earlier social movements and are experimentally applying them to the Internet. A typical civil disobedience tactic has been for a group of people to physically blockade, with their bodies, the entranceways of an opponent's office or building or to physically occupy an opponent's office -- to have a sit-in. Electronic Civil Disobedience, as a form of mass decentered electronic direct action, utilizes virtual blockades and virtual sit-ins. Unlike the participant in a traditional civil disobedience action, an ECD actor can participate in virtual blockades and sit-ins from home, from work, from the university, or from other points of access to the Net” (Wray 1998).

The reason why ECD is intriguing is that it is relatively young; it is still very much in its developmental stage. Contention has arisen about which way this development ought to go. Should ECD remain true to analogue criteria or should the new possibilities of a changed environment encourage adaptation. There are two main ways in which influential groups have argued ECD should develop. These can be broken up into as advocacy for either discontinuity or continuity. The first influential group, the Critical Art Ensemble (CAE), advocates discontinuity. The CAE argues for instance for a more secretive approach, preferring ECD as “an underground activity that should be kept out of the public/popular sphere (as in the hacker tradition) and the eye of the media” (CAE 2001, 14). In their eyes the changing environment gives new tools which should be used. Their manifesto on this topic (*Electronic Civil Disobedience and Other Unpopular Ideas* 1996) has a number of critical points on a gradual transition from ACD to ECD in which values and norms are carried over. First of all, they say analogue civil disobedience is decreasing in value and strength. As information has become the most important source of “power-capital” (CAE 1996, 9) physical acts of protest have become less effective. The most

important aspect of the political protest then is to be effective through the act itself. “[The] CAE has said it before, and we will say it again: as far as power is concerned, the streets are dead capital! Nothing of value to the power elite can be found on the streets, nor does this class need control of the streets to efficiently run and maintain state institutions” (CAE 1996, 11). The environment for political protest is changing

The Critical Art Ensemble firmly placed themselves in the camp of the coercers, as typologized in section 3.1. This becomes evident in the expression of the following sentiment: “For CD to have any meaningful effect, the resisters must appropriate something of value to the state. Once they have an object of value, the resisters have a platform from which they may bargain for (or perhaps demand) change” (CAE 1996, 11). With this it goes further than the limits of nonviolent civil disobedience as here it condones the use of threats, encourages theft.

The aims of electronic civil disobedience ought not to be, as was the case for Rawls, to be a political tool for the communication of injustices, but even be the basis for insurrection as likely targets which are mentioned are not only the government and corporations, but also the military (CAE 1996, 13). Instead of singular or insulated issues of injustice, the CAE is radically against the entire system. In its call to insurrection it presents that increasing wealth inequality and the related problems of crime, disease and poverty leave little choice but to resist (CAE 1996, 10-1). Electronic means, then, are included and a part of a type of “any means necessary” protest. The CAE would protest strongly against the notion that much of the western liberal democracies are nearly just environments. The tools of ECD should be the most effective and it does not matter whether they are violent. The CAE justifies this, in summary, with their concern for the effect of a growing power disparity. Clandestine, violent and non-conscientious actions then all become acceptable in an effort to resist an authoritarian tyranny.

On the other side is the Electronic Disturbance Theater (EDT), of which Stefan Wray is a member and which has ideological ties with the influential Electrohippies movement. EDT proposes continuity. They believe that ECD ought to keep alive the core values, which we know from the Rawlsian definition. Where CAE might propose to include clandestine measures, the EDT advocates a “more transparent public spectacle which aimed to draw as many participants together as possible as sharing commonalities” (Meikle 2008, 6)⁵. In this early stage this issue is

⁵ It deserves mention that Meikle discerned a third way in which the transition to ECD is observed. That is namely as an act of terrorism. “one survey of Internet politics includes a brief

largely left unsettled. Still, how ECD is defined is exactly the point upon which its legitimacy and credibility hang. Meikle stresses the importance of this issue of naming and symbolism as he addresses the importance of what he calls symbolic power: “James Carey once argued that reality is ‘a scarce resource’ (1989, 87). In this, the ability to define reality is also, as Carey puts it, a ‘fundamental form of power’ (1989, 87). This ‘fundamental form of power’ is what Bourdieu calls ‘symbolic power’ — ‘Symbolic power is a power of constructing reality’ (1991, 166)” In other words, what words people use to describe phenomena and what connotations are attached to those words informs the perception of the phenomena. The act of describing an event can condemn the actors undertaking the act with the use of certain words. A salient example which recurs in media is that sometimes similar groups of militants, undertaking similar actions, are at times described as rebels while at others they are described as freedom fighters. “This is the ability ‘to intervene in the course of events, to influence the actions of others and indeed to create events, by means of the production and transmission of symbolic forms’” (Meikle 2008, 15).

I prefer the continuity to the discontinuity approach. First and foremost, where the Critical Art Ensemble goes, I cannot in good conscience follow, as they marry ECD to a whole host of increasingly violent and criminal acts: “For more radical cells ECD is only the first step. Electronic violence, such as data hostages and system crashes, are also an option. Are such strategies and tactics a misguided nihilism? CAE thinks not” (CAE 1996, 24). The Critical Art Ensemble was one of the strongest advocates of DDoS being an example of how analogue civil disobedience can be directly copied into the digital world and even go further. To them too, it was a logical transition, but they even want to achieve more potent protests as they propose that “blocking information conduits is analogous to blocking physical locations: however, electronic blockade can cause financial stress that physical blockage cannot and it can be used beyond the local level. [Electronic civil disobedience] is civil disobedience invigorated. What CD once was, ECD is now” (CAE 1996, 18). This expected escalation is unacceptable to me, as it devalues ECD. Introducing electronic violence into ECD categorizes it with different forms of protest. It is

account of the EDT and FloodNet in a chapter on ‘criminal activity in cyberspace’, which concludes that cyberspace ‘needs to be safeguarded against terrorist attacks’ (Margolis & Resnick 2000, 202). Terrorism analyst Bruce Hoffman also discusses ECD in a terrorism frame, quoting a human rights activist from an established NGO under the sub-heading ‘Terrorist and Insurgent Use of the Internet’ (2006, 201) (Meikle 2008, 15). While ECD disrupts, it certainly ought to, in the form as I describe it, takes care to stay away from violent behavior. Lumping it in with terrorism is either lazy or ignorant and probably both.

important to remain true to the criteria Rawls set out, here specifically the nonviolence criterion; as only in staying true is it realistic to reap the benefits of the respect analogue civil disobedience has. Moving away from those criteria takes away from legitimacy, esteem and erodes public support.

In addition, I cannot find a reasonable argument that this new medium necessitates a new moral schema. More specifically, the emergence of new pervasive digital technology does not mean that our pre-existing ethical system does not apply. Of course, new technology gives rise to new moral questions and in some cases these questions have not been seriously considered yet. However, this is not sufficiently the case where the transition towards electronic civil disobedience is concerned. Accepting a measure of commonality leads to the possibility transposing the judgement we arrived on with regards to nonviolence in ACD to ECD. At the same time structural differences implore in-depth re-examination. Having proved then that it is reasonably possible, the ensuing challenge is exactly how we can transfer the answers we found in the analogue world as it is undeniable that the new digital infrastructure is unique.

One further question can briefly be asked about the terminology. At times digital civil disobedience is also used, for instance in the research of Theresa Züger. Her definition does not significantly differentiate itself as describing a different sort of act and therefore seems to all relevant purposes interchangeable with electronic civil disobedience. I prefer electronic civil disobedience as it is the term most frequently used in the relevant literature, so this uniformity promotes theoretical and conceptual clarity.

4.1 Violence in ECD

As should be obvious to most contemporaries, the advance of digital technology and our increased reliance on the functioning of its infrastructure for the operation of our daily lives, into even the smallest of minutia, has given an increase in options for what can be termed broadly as digital dissent. Many innovative means for the sabotage of novel digital targets have been developed. Similar to my acceptance of violence under certain circumstances, such innovative means might at times be justifiable and effective, yet I advocate they be considered separate from ECD. In Rawls' words: "I do not at all mean to say that only this form of dissent is ever justified in a democratic state (1971, 364)". It is undeniable that violent acts can be effective. It might even be appropriate, when oppression is so terrible that the only way to relieve the pressure is to

lash out. Such situations and reactions to them might occur, as Rawls presents, even in democratic societies.

The days in which electronic and digital devices were mere additions to some of our lives have long since passed. For most of us in liberal democracies these devices are integral parts of our daily lives, conducting the management of infrastructure, communication and the transfer of currencies. These systems breaking down can have disastrous effects and cause serious harm. This brings to the fore the question of where the line is online, between peaceful and violent protest. When protesters go against the essential nonviolence criterion, their act cannot be called civilly disobedient. It can be a perfectly justified militant uprising against an oppressive regime, but is in a different category of political protest. Just as legal protest and bloody revolution flank civil disobedience on opposite extremes of a spectrum, electronic disobedience as a form of political protest is flanked by other forms of political protest online, such as legal electronic protest⁶ and cyber warfare. Moreover, recent years have seen the rise of “hacktivism” and internet vigilantism. Some political activists, like the CAE, would like to place all of these under the banner of ECD and so seek the legitimacy and respect which civil disobedience movements have historically received.

However, I object to these means as being or becoming part of ECD. The most important reason for this is that they are violent. For example, Ruining a bank’s digital system of operations and communications can have disastrous effects and lead to the poverty, hunger or severe psychological damage of many. In the same vein, online witch hunts or vendettas, which belong in the repertoire of hacker-groups such as Anonymous, can also never be part of ECD. The psychological damage, as described in sections 3.2 and 3.3, which can reasonably be expected as a result is not acceptable. Another, simpler, reason is that this separation increases conceptual clarity, which is important for theoretical discussion. Throwing all of online political protests into a mixed bag entitled ECD is nonsensical and unhelpful for further analysis. In addition, clarifying the identification of types of protest in theory could also help create an accommodating legal framework (i.e. ECD being under certain circumstances acceptable, or given at least similar lenience ACD typically received for their breaches of law, whereas violent

⁶ Examples of these are online petitions, commenting (i.e. online forum discussion) , content creation of multiple kinds (videos, images, live streams) and the use of digital means to mobilize activist groups. In short: much of online legal protest is only limited by the creativity and means of the protesters.

or destructive acts of hacktivism are not).

The main argument by the Critical Art Ensemble for including violence in ECD is that it is effective. As I repeatedly admit it is entirely imaginably that the injustices faced by protestors may be so severe, critical and urgent that any means necessary can be argued appropriate. However, this then becomes a different form of dissent and strays from the principles and ideational framework. The argument to stretch this framework is unappealing as it dilutes civil disobedience to something less potent. My main problem with violence in civil disobedience can be described as that it is a violation of democratic rule. Consider the following analogy.

Imagine two men stranded on the steppe. Their horses were stolen in a violent raid which they managed to fight off, but one of the men is now injured. Their home town is too far away to walk. Carrying the injured man is impossible and leaving him is out of the question in fear of the return of the raiders. The men will surely be missed in a couple of days and a search and rescue party will be sent. Water is hard to come by but thankfully they brought along enough water to survive the period they will likely have to wait. They agree to ration the water equally, both having 4 cups each day. The injured man stays in the tent while the other man forages. This works on the first day, but on the second day the foraging man notices his thirst. The injured man has been lying shaded in the tent, not exerting himself much. The foraging man has been out in the sun, causing him to sweat. He loses much more water than the injured man. That is why on the second day he does not believe the previous arrangement of splitting the water ration half and half is fair anymore, he is dehydrating much faster. Moreover, while the injured man is just lying in the tent, the foraging man is providing for the both of them. These are convincing arguments for a redistribution of the water ration. The foraging man deserves an extra cup and the injured man has to give up one cup daily. Let us call this the objectively most just distribution.

Now let us limit the foraging man to two ways of going about arranging this new ration. The first is persuasion and the second is coercion. The persuasive method is to communicate, to attract attention to why the current distribution is unjust and to present his reasonable arguments for a new distribution. However, when presenting logical and reasonable arguments for a new distribution in a bid for persuading the injured man, the injured man might turn out to react unreasonably or egotistically and disagree with it completely. The situation which would follow is that the foraging man is at the least less successful in his endeavors as he becomes increasingly dehydrated. At the worst he is simply unable to forage due to his extreme dehydration leads to

him being unable to continue to face the heat. A relatively small sacrifice by the injured man can alleviate some of the suffering for both as the pains of hunger are staved off. Alternatively the persuasive method also might only prove partially effective which will not lead to the objectively most just distribution, with the injured man agreeing for example to compromise by giving half of a cup a day to the other man.

The coercive method is to enforce a new arrangement. In this instance the foraging man would just take the 5 cups without any discussion, holding the water container hostage and out of reach for the injured man and only allowing him 3 cups a day. He thus enforces the objectively most just distribution. The injured man is unlikely to understand this new situation and is like to find it unfair. He is however in no position to seriously contest this new arrangement as he will be easily dealt with by the foraging man who is still in fighting shape. When coercing, the foraging man might even seriously harm the injured man if he does not cooperate. The foraging man is in the right and the coercive way is much more likely to work.

The coercive method seems to have all the advantages and little disadvantage. There is however, something which irks. Forcing a decision through with whatever means are serviceable is in conflict with the process of democratic decision making. The foraging man through the coercive instrument made himself a dictator. *Even though* he achieved the objectively most just situation, his use of violence against his previous partner is rapidly returning human affairs to a state in which, if all men would acts so, life would again be nasty, brutish and short.

Alternatively, the persuasive method has an additional option, one that incorporates breaking the agreement through non-violent protest. In this version of persuasion the foraging man reasons with the injured man for a re-distribution of the water. If the injured man were to disagree with the new and objectively most just distribution the foraging man would simply take an additional cup of water anyway. However, he will not forcefully stop the injured man from preventing him to take this additional cup. The foraging man breaks the initial agreement but does not use force to change the distribution to the objectively fair ratio. This would be akin to civil disobedience. It is an additional option for the persuasive method to protest an injustice while creating far less animosity than coercion. By virtue of trying to convince the other party the persuasive act is the superior method in the nearly just society (see section 2.1) as it shows a more democratic type of respect for others within your society as equals. This is akin to Gandhi's salt Satyagraha in which he violated the British ownership rights of Indian salt of the

time. The line then is always that the forager will not fight the injured man or hurt him for the extra cup. He keeps bringing to the attention of the other man his thirst until he sees the folly of his unreasonableness. Civil disobedience thus adds a tool to combating injustices while, while not merely relying on words, but also acting to attract attention and at the same time not letting the entire situation crumble into chaos through the use of violence. This only aids the process of deliberation in democracy as it fosters “discussion, reflection and debate, citizens” initially uninformed and possibly selfish views are changed for the better – into judgements close to the ‘right answer’” (Swift 224, 2014). This is not to say that coercers never attempt to justify their acts post-facto, but this justification is secondary to their acts’ efficacy.

ECD does harm the properties of website owners and is violent in the same way as taking another cup is or taking salt from the Indian beaches was. And as in analogue civil disobedience, this curtailed violence can still be considered to fall within acceptable boundaries.

4.2 Who Owns Cyberspace?

“‘Why’ the critique goes, ‘can’t you come up with a way to protest that doesn’t step on somebody else’s toes?’ But the internet as it were, is all somebody else’s toes” (Sauter 2014, 4).

One aspect which is important to make clear is what kind of space “cyberspace” is. Aside from its data being stored in a server room, a website is not a tangible place. So does ECD happen in a public or a private space?

This question matters for civil disobedience, especially with regards to trespass and occupation of websites, as we should know whose property is being trespassed or occupied. The symmetry claim I investigate is that ECD and ACD are similarly legitimate with regards to nonviolence, namely that just as much violence is acceptable for ECD as for ACD. For this claim to be acceptable it would be convenient if the spaces in which both occur are similar in relevant respects. For instance, if an area of cyberspace is considered public domain, then it can be compared to a public square. Consequently you can freely post political comments and content similarly to how the public square is open to be used for political speeches and legal protest. There is no breach of law there. In contrast, trespass onto and occupations of private areas do by definition breach laws. If, in that case, cyberspace is considered an agglomerate of private

holdings, then everywhere we go online we are figuratively stepping into someone's yard. In this yard metaphor, private holders of internet space have decided to share publicly only a particular sub-area and their services limit visitors in what they are allowed to do in that area. At times this even requires registration and agreement to terms of services.

Molly Sauter, author of a very recent investigation into DDoS actions, hacktivism, and civil disobedience on the internet, has some clear notions about what kind of space cyberspace is. She says that public spaces such as a square, a park or a sidewalk do not exist online: It is not what could be called a public forum in the traditional sense, even though some message boards seem to share similarity with these. Message boards, social networks and blogs are popular examples of online places where people can vent their opinions and standpoints to the world. But internet service providers own the content. Therefore they are partially responsible to keep that content within legal limits (Sauter 2014, 94). It is therefore questionable whether one retains the analogue freedoms on the internet. In the U.S. case in particular there is lack of some "crucial First Amendment⁷ protections" (Sauter 2014, 94). Sauter stresses that this has serious consequences for online activity. Although free press is well protected "the rights of assembly and speech of the average individual" are not (Sauter 2014, 94). This is deeply troubling to her, and I agree, as it threatens the internet as a "basic outlet of personal expression, association and communication" (Sauter 2014, 95).

Finally, then, the conclusion here is that the internet is exclusively the agglomeration of private properties. Although imaginable, as of yet we do not know any public spaces to exist online. Therefore, any protest on it will then per definition breach property rights. This tangibly separates ACD from ECD. The former namely has had a

"history and legal doctrine to support their legitimacy as valid and protected political speech" whereas "actions that take place in the online sphere can only ever infringe on privately held property. [...] As a privately held public sphere, disruptive acts of civil disobedience online will always be in conflict with dearly held doctrines of private property (Sauter 2014, 95).

⁷ "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances" (U.S. Const. amend. I).

I tend to agree with above conclusion and Sauter's view. Yet it is important to note that this view is not shared by all proponents of ECD. The view of the EDT is different for instance. Dominguez believes the web a public space and cites a Libertad! spokesperson who expresses that sentiment thus: "Although it is virtual in nature, the Internet [sic] is still a real public space. Wherever dirty deals go down, protests also have to be possible" (2008, 666). This matters a lot for the civilly disobedient act online. If one views the web is as a public space then trespass is much less of an issue. This would be a convenient supporting argument for a defense of ECD, it could potentially even make for a defense of DDoS as legal instead of it necessarily being a breach of law.

Seeing as my view is that websites are privately held property publicly available, such a defense is not open to me. An analogy here is that the Electronic Disturbance Theater sees the internet as more of a place of roads and public squares, whereas Sauter sees, and I with her, the internet as more of a collection of establishments such as lunchrooms, restaurants and bars. The former are open to the general public under the purview of a set of laws agreed upon by the relevant lawmakers. The rules in the latter establishments however are for a large part up to the property owners.

4.3 DDoS Attacks & Virtual Sit-ins

One of the most pertinent questions for electronic civil disobedience is whether distributed denial of service (DDoS⁸) attacks belong in its toolbox. Taking ECD as a whole is a rather abstract and large concept, looking at this particular prevalent tool limits the scope while presenting an interesting case in point through which we can introduce some of the relevant concepts and aspects of ECD, especially with respect to the differences in comparison to ACD. In addition, DDoS is by far the most relevant sub-topic as it is unquestionably the most used method of ECD.

DDoS can be simply described as a flooding of an "internet server with traffic in order to silence it" (Sauter 2014, xii). The idea is that an internet service has limited resources, which are more than enough most of the time to service visitors and deal with their requests. Only seldom does a large amount of unexpected traffic overloads the server capacity. This is exactly what a denial of service attack then does. For example, it makes sure such a large amount of visits are

⁸ Or sometimes just DoS to describe the more general practice or when the "distributed" aspect of the attackers' side does not apply

paid to a website, so that cannot handle the stress of so many tasks to perform. It is thus rendered inaccessible. The addition of “distributed” indicates that the attack is made from different sources, instead of just one. This is a relevant distinction to make, as in principle there are many ways in which a website can be crippled through only one source, i.e. only one computer.

One simple way of performing a distributed denial of service attack is what is called a virtual sit-in. An organized collective visits a website and hits the refresh button until the server is overwhelmed by the amount of work it has to perform. This is technically a distributed DDoS attack, although it is a technologically speaking straightforward and can be done manually by people without advanced computer skills. These people are not using “hacker tools”, moreover they are showing the vitality and urgency of the issue they aim to address by showing mass support. Meikle (2008), Sauter (2014) and Dominguez (2008) describe multiple occurrences in which tens of thousands join in. The largest occurrence of a virtual sit-in is described by Dominguez as having happened in 2005. A U.S. anti-immigration organization was the target of more than 78,500 people from around the world (2008, 662), who could participate from the comfort of their own homes. We will see some more prominent examples in the coming chapter.

ECD, just as ACD, cannot be in the interest of just one private individual (Rawls 1971, 365). This is not to say that it is necessary per se for there to be many participants. While it must be noted that having a wide base of support certainly helps bring vitality to the issue this is not a prerequisite per se of a civilly disobedient action. As I have argued in chapter 2 one person alone can carry out a civilly disobedient act. This is therefore also possible online. If a person acts conformingly to the definition I set out in chapter 2 in order to repair justice where she finds it broken, her act can be defended as civilly disobedient, as it is in the interest of the entire society, not solely this one individual.

5. Practical Examples

For the sake of clarity this chapter highlights a number of practical examples. These examples make clear how electronic civil disobedience works and what the state of legality of these online acts currently is. The first section deals with the prominent Lufthansa case, which serves as a role model for how electronic civil disobedience, as I have argued, ought to be done. The second section deals with the German court rulings in response to that case. The third and final section deals with some other example cases while discussing the legal responses to acts of ECD.

5.1 Lufthansa Case

2001 Saw a political protest called the “Deportation Class”. It was mainly undertaken by a cooperation of two activist groups: Kein Mensch ist illegal (No man is illegal) and Libertad! These organizations protested the use of Lufthansa’s planes by the German government to expel immigrants (Sauter 2014, 53).

For this protest, partakers used an altered version of the FloodNet tool (Sauter 2014, 53). This tool was created by the Electronic Disturbance Theatre for launching DDoS attacks. It was used to target Lufthansa’s main website. Participants numbered around thirteen thousand. This overwhelming amount of traffic caused, as would be expected, periods of the webpage being unavailable. In addition to this online action, there were concurrent protests at the stockholder meetings and press releases. The action was effective, causing Lufthansa to stop being a vehicle (in both the figurative and literal sense) for the deportation of immigrants (Sauter 2014, 53).

There are a couple of salient points which Sauter highlights about the protest which reflect well upon the action as a reflection of the principles I have proposed ECD should take with it in the transition from ACD. First, there was a conscientious aim. The aim of the protest action was stated to be to negatively affect the sale of airline tickets and influence public attention. This attention was to be targeted towards certain parts of the business model of Lufthansa. In this way activists aimed to achieve a change in the company’s behavior (Sauter 2014, 54).

Second, the action was entirely public. Beforehand, the actions were publicized, there were press releases (Sauter 2014, 53) and actions were announced beforehand as Ricardo Dominguez writes:

“All the activists and artists announced the dates and reasons for the actions online, in the streets and inside the shareholders’ meeting – nothing was hidden. This is important because ECD is about bringing together real bodies and digital bodies in a transparent manner that follows the tradition of Civil

Disobedience – that people are willing to break a law (like blocking the street) to uphold a higher law⁹” (Dominguez 663, 2008).

Here it is clear that Dominguez, who is the founder of the EDT, kept strictly with a second criterion of Rawls’s. An effect of publicizing this act beforehand which is interesting to note is that Lufthansa minimized downtime effectively by hiring additional server capacity for coping with the increased traffic (Dominguez 665, 2008). This protection was only possible because of the warning which was given. Limiting the effectiveness of the Denial of Service attack does not have to be adverse on the efficacy of the aims of the action. As bothered people look for the cause of a website’s unavailability they likely come into contact with the political protest. Less downtime can then be expected to lead to less attention. However, it is difficult to predict the degree of media and public attention given to the protest, perhaps the simple announcement draws many supporters. In fact, it is certainly preferable to achieve no downtime of a target website but receive a lot of media attention than to black out the website for a week but get no attention. The attack is but a means, public attention for addressing a perceived injustice is always the end.

There remains but one last condition to be satisfied, that of nonviolence. The Lufthansa website saw brief periods of downtime, this damage, or in other words violence to property, was unquestionably done. However, even though the website was at times unavailable for online access the corporation itself was not. The company was undamaged in its capability to use its airplanes, to proceed with standard operating procedures and furthermore was unaffected in its means to communicate. Communications were still available internally, from employees or parts of the company to one another, as well as externally, for public relations or press releases (Sauter 2014, 53). The basic functions of the company remained thus largely unaffected.

Notably, a sudden collapse of the means of communications especially in the example of airlines could be catastrophic when for instance the means for the deliverance of emergency messages to pilots are severed (more on this in section 6.2). The periods of downtime of the website though, and perhaps more importantly the media attention arising from these moments,

⁹ What Dominguez refers to here as a higher law I have referred to as a society-wide overarching shared conception of justice

led to media coverage and attention, which was all the activists were after, after all. This instance of a virtual sit-in is a shining example of nonviolent political protest.

5.2 German Court Ruling

Andreas-Thomas Vogel was the man behind the libertad.de website and pivotal in the organization and call to action. Therefore he was held responsible for the action and deemed the instigator of the various actions against Lufthansa. Vogel was brought up against charges of doing financial damage to Lufthansa, specifically by causing a drop in ticket sales and adding to Lufthansa's costs as they had to buy additional server capacity to deal with the attacks. In the 2005 trial the German lower court in Frankfurt ruled in favor of Lufthansa. They determined that Vogel was guilty of the use of force (Sauter 2014, 140). "The online demonstration was found to be a threat of an appreciable harm as defined by German Penal Code Section 240ⁱ; Vogel was therefore found to be inciting people to commit Coercion [sic]" (Dominguez 2008, 665).

The connection of this case to the section of the German penal code is interesting in and of itself. The section appended at the end of this thesis, reads that the use of force or threat of serious harm in order to have another person commit, suffer or omit an act is unlawful. In this case you could apply this penal code in two ways. In the first way, Vogel encouraged fellow activists to commit their act of protest and this act was in the judge's view serious harm. However, as encouragement is quite different from the use of force or threats this is not likely to have been the tack taken in this case.

The second interpretation is that the act itself, for which Vogel was deemed responsible, makes Lufthansa suffer financially and at the same time feel pressured to omit the act of deporting immigrants. A DDoS attack then, is a use of force in order to achieve this. As force is coercive it is not civilly disobedient. As we concluded in section 3.1, the tactics of civil disobedience are traditionally of a more persuasive nature. The goal is to communicate issues of injustices and to convince the political power majority that change is necessary. Threats and other coercive acts can also voice their disagreement with current policy, yet they undermine the likelihood of mutual respect in political negotiation. Moreover, in section 4.1 I dismissed violence as not having a place in ECD, with the exception of a curtailed violence against the target websites, which is very relevant here and will become more salient in the next paragraph.

He had to either pay a fine worth 90 days' pay or go to jail for 90 days (Dominguez 2008, 665). If the story would have ended here, it would be another example of government crackdown on online dissent, whatever its form. However, Vogel appealed the ruling in a Higher Regional Court.

This higher German court overruled the lower court's decision. Vogel was found not guilty of the coercive use of force. The higher court's judge brought into question the previous determination of the meaning of the use of "force". Moreover, Dominguez brings up that even in its violence against the website the action was unclear to have been very successful: "it remains unclear how long the website was actually slowed down and whether it ever went offline completely" (2008, 665). With this ruling the court set an important precedent for the building of legitimacy of ECD.

The Lufthansa protestors saw their action as comparable to traditional sit-ins. In this view virtual sit-ins are simply the updated version of what Civil Rights era protestors did in the United States. In retrospective comparison it is clear that sitting in a restaurant to protest segregationist policy also works through denying service to other customers and made it less likely the establishment received extra customers. But this is by far not the most important aim of the protest. The goal was never to incur financial disaster for the restaurant owner, but to spread awareness of an objectionable policy. And in that those traditional sit-ins have been more than successful as the images of sit-ins have been imprinted in the contemporary collective consciousness. Decades later their message still lives on. Denial of service attacks are but the next logical installment of the same type of act which still serve as a form of civil protest in reaction to perceived injustices. When both can be described as civilly disobedient acts through the use of Rawls' definition, it would be morally inconsistent to tolerate, allow for or even respect the traditional form but not the virtual form.

5.3 ECD's Current Legality

There is a different degree to which electronic civilly disobedient acts, such as a DDoS are punished in comparison to the analogue form. As of yet the charges and punishments sought for virtual sit-ins are considerably higher than those for the analogue predecessor. For instance, American sit-ins when criminally prosecuted are typically consisting of charges of criminal trespass (Sauter 142, 2014). The punishment for such trespass in Massachusetts is, for example,

is: “a fine of not more than one hundred dollars or imprisonment for not more than thirty days or both such fine and imprisonment” (Massachusetts General Laws Part IV, Title 1, Chapter 266, Section 120ⁱⁱ). Comparing this with the charges leveled at the partakers of virtual sit-ins reveals a shocking discrepancy. Against the instigators of Operation Payback charges went up to half a million dollars in fines and fifteen years in prison (Sauter 2014, 141). One particularly disconcerting example of the disproportional response is that of the case of Eric J. Rosol (Sauter 2014, 141). In 2013 he participated in a DDoS for about one minute. He was one of multiple people who participated in the DDoS, which was itself part of a larger protest against the Koch Industries. Rosol, a truck driver, protested against a decision made by the governor of Wisconsin “to strip public employees of their collective bargaining rights” (Sauter 2014, 141). The website was rendered inaccessible for only fifteen minutes. Yet Rosol was ordered to pay 183,000 dollars in fines and sentenced to two years probation. In the same year in which Rosol had to pay this fine Koch Industries, a global conglomerate, made 115 billion dollars in revenues (Sauter 2014, 114).

This might be justifiable if there is a different type of act taking place. It is certainly true that DDoS attack can be used for far more nefarious purposes and in the next chapter I will seek to disentangle these other types of actions from the political protest I am getting at. However, as I argue and as is the case in the Lufthansa example, the values of ACD can be and demonstrably have been maintained in the transition to ECD. If there is an adherence to the Rawlsian definition of civil disobedience, then it is certainly a similar enough act to be treated equally in a legal sense. My argument then, in the simplest form, is that the virtual sit-in is an appropriate name for an act which is the virtual (in both the literal and figurative sense of the word) equivalent of the analogue sit-in. There ought to be equal respect and legitimacy for equal acts, no matter what platform they take place on.

6. Transition

We have reached the figurative top of the stairs as we come to the last part of my discourse. In this final chapter I will first describe how the torch can be passed from ACD to ECD as DDoS attacks and virtual sit-ins become more respected and legitimate forms of online political protest. Following this, is the last section in which I tie together the preceding arguments and aim to present why and how ECD can inherit its predecessors’ values.

6.1 DDoS as Civil Disobedience

Somehow attention must be attracted, by which I mean there must be some appeal to majority in political power. Otherwise deviant, anti-establishment opinions are unlikely to be heard. They do not resort to these means because they fear then this issue which they feel is very important will be dismissed or forgotten. “For unpopular and dissenting causes to attract the attention of a news media industry that, for economic reasons, is often uninterested in covering them, disruption of some kind can be necessary [...] Online, that disruption may take the form of a DDoS action, while in the physical world it may take another, perhaps more familiar form. What is critical is that the status quo, the normal flow of information must be disrupted if dissenting voices are to be both voiced and hear” (Sauter 2014, 36).

Still, it is important to note that in law codes around the world, this disruptive behavior is considered criminal (Sauter 2014, 12-3). But even though DoS is in fact illegal, that does not mean that it ought to be. Sauter places herself firmly in the camp of those who believe that a virtual sit-in is comparable to ACD’s sit-ins. She endorses DDoS as a tool of ECD. As I will expound in the final chapter, I agree that DoS, and especially virtual sit-ins, can be tools of political protest, albeit under a set of clear restraints, so as to stay true to its purpose.

Yet there are those who criticize it vehemently, underlining its criminality for instance. In this section I will examine the arguments of both sides and contrast them. Central in this polemic is the censorship argument.

Oxblood Ruffin is one of the most vocal opponents of the use of DoS as a political protest tool. His is the strongest argument ECD which I have found. He is a founding Cult of the Dead Cow member, which is a hacktivist organization. Hacktivism, a portmanteau contracting “hacking”ⁱⁱⁱ and “activism” is related to the current topic under discussion here and is described by Sauter to be “technologically based activism, to be defeating state censorship and the disruption of online communication via the creation and distribution of tools to evade censorious regimes” (2014, 47). For hacktivists, censorship is an evil above all else. Free access to information, free transfer of information and freedom of speech are the most important values to hacktivists¹⁰.

¹⁰ These values are important as well to hackers. In the description of them in the most positive light as some would describe themselves. This most positive light is as explorers and lovers of knowledge, white hat hackers. Hacking tools can certainly be used for malicious purposes, some would describe these as black hat hackers. In between are grey hat hackers.

The hacktivist way to deal with the problem of freedom of speech, namely that some people say or write disagreeable or even appalling things, follows from this attitude. The solution, which is certainly not an unpopular liberal view, is more speech. Oxblood Ruffin opposes the use of DDoS as it blocks free speech, it censors. If this is true then it is like mobs going around the internet and silencing their political opponents when they act in a disagreeable way or say certain disagreeable things. This is not the kind of behavior which fits the value system of the liberal democracy. Even if combatting a perceived injustice is the goal of an act of electronic civil disobedience, answering it with another unjust act is unsatisfactory, especially seeing as the appeal of ECD is to an overarching sense of justice.

Moreover, censorship in silencing political opponents is a natural enemy of the democratic process. A large part of making democratic decision beyond the merely procedural is in public discussion. As said in section 4.2: “discussion, reflection and debate, citizens’ initially uninformed and possibly selfish views are changed for the better – into judgements close to the ‘right answer’” (Swift 224, 2014). In western liberal democracies, which are examples coming to mind swiftest when talking about nearly just societies¹¹, having these discussion, reflection and debates are strong signs of the vitality of a democratic regime.

If a DDoS attack is analogous to silencing opponent you disagree with, the communication is a one-way, exclusionary affair. There is little place for dialogue or deliberation. Only side is speaking and gives the other no chance to respond. This criticism goes right to the heart of the matter, the view of what civil disobedience is. I have stated that it is a politically communicative act applied in what is called the near just society. Disallowing for the freedom of speech to respond to a politically communicative act online is fundamentally in conflict with the freedom of speech.

Ruffin expressed his sentiment as follows: “No rationale, even in the service of the highest ideals, makes [DDoS actions] anything other than what they are – illegal, unethical, and uncivil. One does not make a better point in a public forum by shouting down one’s opponent” (Sauter 2014, 47). Hacktivists value the free and uncensored flow of information which the web makes possible. Free speech on the web is a prime example. DDoS attacks then are objectionable as they are barriers to free expression.

¹¹ Although I am sure that the notion that Western liberal democracies is debatable it is outside the scope of this investigation.

Groups like the EDT see increased legitimacy in their actions when they are supported by large groups (Sauter 2014, 48). Having mass support namely confirms an issue being important to a large amount of people. Moreover, as the action is certainly illegal, some groups take care that their action is mostly symbolic. In this way they do not do deeply damage to the targeted system's functionality, while still aiming to get maximum media coverage of the issue they aim to address.

Nevertheless, what can be called the criticism of censorship can hold considerable weight, seeing as some targets mainly exist as online services. A good example would be a popular political blog. When a group decides that its writings propagate a perceived injustice, this group can resort to the use of DDoS. They might decide to flood it with so many visits that it renders the blog unable to respond to criticism, stalling any further debate. If the blog could respond, it could lead to rational deliberation which might even lead to both groups on opposing sides of the argument growing to understand one another's views while "agreeing to disagree". They might even eventually come to some compromise. The attack puts an end to the argument and silences the perceived wrongdoer. Thus it can be viewed as an illiberal tool to stymie free speech, and this ought never to be a goal of a civilly disobedient act.

Moreover, DDoS can be, and often has been, used for other purposes than political protest. Gamers who feel aggrieved attack the servers of popular online multiplayer games such as Minecraft or World of Warcraft in hopes to get back at those who banned them even if they knowingly and willingly violated terms of services and their bans from those games were legitimate. Commenters on websites who feel hurt since their elaborate comments did not receive moderator approval and decide to settle their personal grievances, or even just whimsical or frivolous attacks are all possible with the means of a DDoS. These are all examples of DDoS attacks which cannot be placed in the category of electronic civil disobedience. If we look back at Rawls' definition, these examples most often fail conscientious and public criteria. As these attacks are often private vendettas there is no larger scheme of overarching justice which is being addressed. A good measure to attempt to satisfy both criteria before the act is to write and disseminate a manifesto, or at least some form public statement with the intent of justification.

The censorship argument works rather well for the individual political blog. However, there are other counter-examples in which it does not hold up. Large multinational corporations have access to other means of communication for instance. While their website and e-mail is down,

they can still communicate through platforms like Facebook and Twitter. Sauter finds it important to recognize the “unequal power dynamics between targets and activists” (2014, 49) which exists in the example of a group of those performing the DDoS with regards to the large multinational corporation. Furthermore, the author dispels the censorship criticism further by saying that “in many cases [the censorship criticism] also fails to interrogate how censorship could be practiced, if at all, by entities not occupying a dominant position in the current power hierarchy” (Sauter 2014, 49). Sauter recognizes DDoS as a tactic of disruption, but this does not equate the destruction of free speech in many cases.

One relevant example is the attempt at the disruption of the World Trade Organization’s meeting in 1999. Although the WTO’s website was slowed down and the e-mail accounts of those working for the WTO were bombarded with large amounts of e-mail with big attachments, the event still took place largely unhindered. Press releases were still made and people attended; the conference largely took place as planned (Sauter 2014, 39-49). Certainly, there was a debilitating effect on parts of online communications, yet the activists did not sever the WTO’s free speech.

6.2 The Ancillary and Integral

One further specification is necessary about what I would like to call the ancillary and the integral. These are names I give to different types of targets of DDoS attacks. With the integral I mean to say those parts which are not reasonably vital to the safety, security or well-being of persons. In contrast, ancillary targets are not so essential, their temporary dysfunction is no more than a slight nuisance or hindrance in day-to-day affairs.

Note however, that attacks on ancillary targets might cause financial damage. It is hard to determine what amount of financial stress is acceptable and I will certainly not attempt such a feat here. The challenge lies in the fact that there are too many varying factors per case. One could for instance look at the damages done and compare that to yearly revenues of a target corporation or institution. One could also appeal to the greatness of the injustice protested again. But are injustices always expressible in currency? We have determined an act of ECD to be politically communicative and persuasive in essence. It ought not to be a financial attack by design, this is essentially a byproduct. In some cases this byproduct might get considerably out of hand. To the question of whether this is justified I cannot see another answer than the

disappointing: it depends on the case.

The following passage from a documentary on the United States' defense plans accurately describes the integral importance of certain digital networks.

“All of our weapon systems: our ships, our planes, our tanks, they depend on networks to function. [...]. [Terrorists] use networks to communicate among themselves, they use networks to advertise themselves and we use networks to combat them and detect them. So all over the whole spectrum from traditional state to state conflict down to the shadow wars of today, cyber pervades all of that.” US Secretary of Defense Ashton Carter¹²

My contention is that integral targets are off limits in electronic civil disobedience. In the context of the near just society especially (see section 2.1) attacking such targets has a serious potential to endanger fellow citizens or other innocents. Blacking out police communication is a prime example. Although there certainly might be injustices committed by a police force which are worthy of civilly disobedient protest, attacking their communication can cause disaster. Imagine that their communication falters just as a shooting breaks out; otherwise preventable deaths are likely to occur as the response force is uncoordinated and confused. Finally, the Lufthansa case (sections 5.1 & 5.2) is a good example of targeting the ancillary instead of the integral. We saw it explicitly mentioned that the acts of disruption targeted only the website, not any operation or communication technology responsible for safe flights.

6.3 Inheriting ACD's Values

There are a number of obstacles that are necessary to overcome before the torch can be passed to electronic civil disobedience. First of all, it has become clear that there are significant differences in the digital environment in comparison to physical environment. Virtual sit-ins always intrude upon private property. It is not at all like protesting in a public park or on a square. Inherently, electronic civil disobedience is violent with regards to property as it infringes upon private rights to freely make decisions about that which is owned. The act in and of itself is a breach of law.

The result of a virtual sit-in is for instance that the website owner can no longer provide

¹² “Cyberspies, Nukes, and the New Cold War: Shane Smith Interviews Ashton Carter (Part 1)”, a video interview by Vice News' Shane Smith. Available at: <https://news.vice.com/video/cyberspies-nukes-and-the-new-cold-war-shane-smith-interviews-ashton-carter-part-1>

the service she has built and for which she pays the cost, both in time and money, to keep operational. Whimsical, frivolous or wanton destruction are out of the question, similar to how they have no place in ACD. In ECD this requirement to self-regulate becomes of increased importance. This is why a convincing justification hinges upon whether there is such a strong rationale, buttressing actions with a conscientious conviction.

Moreover, in the current legal framework participating in a DDoS is criminal (see section 5.3). However, my investigation has led me to the conviction that electronic civil disobedience can be justified if it satisfies Rawls' definition. If protesters publicize their intentions beforehand, it strengthens their act. Furthermore, acting conscientiously means that such a rationale ought to be included in such a protest. In order to strengthen its position as political protest ECD is to stay far away from witch-hunting or pursuing personal vendettas online. The former is just attacking or harassing someone for holding different views whereas the latter is akin to vigilantism. Neither appeal to an overarching sense of justice. Both entail personal attacks with at least the possibility of serious psychological trauma. At times there can even be physically violent repercussion as participants of a witch-hunt take it upon themselves to follow physically visit "witches" and attack them.

In addition, as the similar means which are applicable in the transition from ACD are occupation and trespass and we have set limits on these, these limits should still hold. If a virtual sit-in (in-)directly damages a business, the owner must be recompensed. Operating under the civilly disobedient banner ought never give license for whimsical or frivolous destruction and always be governed by the disobedients conscientiousness. Therefore, knowing and willing damage which is unrelated to the civilly disobedient act is simply criminal and unacceptable.

As much as possible then, electronic civil disobedience is to be nonviolent. For one, this serves to extend and appropriate the historical associations. Calabrese writes that this is important for maintaining the meaning and relevance of the concept in our "a system of political thought" (2004, 335). It is my judgement that with careful consideration, caution and planning political protest under the banner of ECD can live up to those demands. Adding violence dismantles and discredits the possibility of the transition, by corrupting this inheritance. Moreover, "[n]ot only is nonviolence intrinsically virtuous, it also lends moral authority to the effectiveness of civil disobedience as a form of strategic action" (Calabrese 2004, 335).

Meikle presents the argument that the CAE aims for ECD to include, for instance,

surreptitious and clandestine hacking. Here is a significant break from Rawls' criteria. Whenever a breach of law is undertaken frivolously it can be dismissed easily as criminal as it breaks the conscientious criteria. The clandestine aspect clearly is in conflict with Rawls' criterion of civil disobedience having to be public. When political activists in cyberspace violates one or more of Rawls' criteria they might be placed under the novel header of "hacktivists", it should be clear that they are no civil disobedients and that to place them in the ECD camp would weaken the force of civil disobedience as a whole as the strength of civil resistance lies exactly in its adherence to its principles, namely Rawls' criteria. A virtual sit-in is certainly comparable to an occupation or a sit-in, as in those analogue examples services of the targeted organizations are obstructed in their usual functioning as well. However, as DDoS attacks have often seen use by criminals, some are offended by this comparison. This sentiment is most clearly expressed by Oxblood Ruffin: "It's like a cat burglar comparing himself to Rosa Parks. Implicit in the notion of civil disobedience is a willful violation of the law; deliberate arrest; and having one's day in court. There is none of that in DDoSing. By comparison to the heroes of the Civil Rights Movement DDoS tactics are craven" (Sauter 2014, 5).

Ruffin dismissing the tactics as craven would hold weight if simply the naming and symbolism were copied while the responsibilities which come with upholding the historical valuation were denied. Yet, as we have seen it is entirely imaginable that a virtual sit-in breaches a law with the aim to change policy and is public, conscientious and nonviolent. Moreover, fidelity to law does not suddenly go out of the window with the transition to ECD.

7. Conclusion

Looking back at Rawls quotation from the introduction, which I used as a guide in the introduction, I must assess whether I imagine this work would have been regarded by him as worthwhile. I believe I have offered a perspective from which to approach electronic civil disobedience. I have identified what are the most important considerations. The first question was what exactly violence is and the second was what constitutes violence to online property. To the first question we have found an encompassing definition of Morreal's, which includes psychological violence and damage to the ability to freely control and own property. This definition is tempered by Moraro's Kantian caveat to not use people merely as means. To the second question I have made clear that a denial of service always infringes upon someone's

property rights, it does some violence. Moreover I have analyzed the most salient cases in point, DDoS attacks and virtual sit-ins. Throughout, the aim has been to clarify and consider opposing arguments before I arrived at the judgement of allowing for electronic civil disobedience to inherit analogue civil disobedience's historical values and respect. And even further, I advocate an approach of continuity from ACD to ECD with regards to the theory proposed by Rawls albeit under curtailed conditions.

The importance of creating limits to political protest online has been evident for the violent actions which can be undertaken online. Some have advocated for the inclusion of these in the definition of ECD, but I have advocated against this repeatedly. Civilly disobedient protest, which per definition breaches a law, demands restraint, both on the web and in the street. Otherwise it undermines what is at its essence, namely a tool of civil political communication.

This is not to say violent political protest cannot be legitimized under certain oppressive regimes, but violence cannot be part of ECD as it takes away from the strength of the civil disobedience movement. It is useful for conceptual clarity for ECD to retain conceptual links with its predecessor for it to be recognized within our system of political thought. More importantly however, in this period of transition ECD has to take with it its analogue forbears' conscientiousness for it to retain its value. The appeal of civil disobedience is always to an overarching sense of justice. Frivolous damages, whimsical violence or wanton destruction can never be part of that. As much as possible ECD is to remain nonviolent.

There are two penultimate notes I want to make. The first is about ECD's damage to online property. DDoS actions harm the properties of website owners. However, it is violent in the same way as taking salt from the Indian beaches was in Gandhi's protest or sitting in a restaurant illegally in the Civil Rights era protests. And as in analogue civil disobedience, this curtailed violence can still be considered to fall within acceptable boundaries. The second note is that it would not be morally consistent to criminalize a type of act online, but allow for it to a considerably farther extent in the offline world. When two acts can both be described as civilly disobedient through the use of Rawls' definition, it would be morally inconsistent to tolerate, allow for or even respect the traditional form but not the virtual form.

As more of our communication is done online, so is our politics. And so it is only logical that political protest has not been slow in following. Although far from being the wild wild web it once was, there remain grey areas. Creating clarity in those areas is one of the major

challenges of our era. I advocate decriminalizing or tolerating DDoS in certain situations.

Allowing for ECD puts a powerful tool in the hands of conscientious political protesters, which is not to be taken up lightly. Yet, when their intent is to address, repair and communicate injustices to others, that tool being available should be desirable. It can be a potent vehicle for narrowing “the disparity between the conscientious convictions of those who accept the basic principles of a democratic society” (Rawls 1971, 362).

Reference list:

Bedau, H. A. 1961. On civil disobedience. In *The Journal of Philosophy*, Vol 58, p. 653-665.

Blankenship, Loyd. 1986. "The Conscience of a Hacker". In *Phrack*, Vol 1. Available at:
<http://phrack.org/issues/7/3.html>.

Bourdieu, P. 1991. *Language and symbolic power*. Harvard: Harvard University Press.

Brownlee, Kimberlee. 2009. "Civil Disobedience". In *Stanford Encyclopedia of Philosophy*.
Available at: <http://plato.stanford.edu/archives/spr2010/entries/civil-disobedience/>.

Calabrese, Andrew. 2004. "Virtual nonviolence? Civil disobedience and political violence in the information age". In *info*. Vol 6, p. 326-338.

Carey, James. 1989. *Communication as Culture: Essays on Media and Society*. Oxford: Psychology Press.

Celikates, Robert. 2015. "Rethinking Civil Disobedience as a practice of Contestation: Beyond the Liberal Paradigm". Available at:
https://www.academia.edu/4662439/Rethinking_Civil_Disobedience_as_a_Practice_of_Contestation_MS_ (March 27, 2015).

Critical Art Ensemble. 2001. *Digital resistance: Explorations in tactical media*. New York: Autonomedia.

Critical Art Ensemble. 1996. *Electronic Civil Disobedience and Other Unpopular Ideas*. New York: Autonomedia.

Falcón y Tella, M. J. 2004. "Civil disobedience and test cases". In *Ratio Juris*, Vol 17, p. 315-327.

Gandhi, Mohandas. 2008. "The Essential Writings". Judith M. Brown, ed. New York: Oxford University Press.

Hoffman, B. 2006. *Inside Terrorism, revised edition*. New York: Columbia University Press.

Kant, Immanuel. 1972. *Groundwork of the Metaphysic of Morals*. United Kingdom: Hutchinson University Library.

- Margolis, M., & Resnick, D. 2000. *Politics as Usual: The Cyberspace Revolution*. New York: Sage Publications.
- Meikle, Graham. 2008. "Electronic Civil Disobedience and Symbolic Power" Athina Karatzogianni, ed. In *Cyber-conflict and Global Politics*, p. 177-87. London: Routledge. Available at: <http://www.routledge.com/books/details/9780415459709/>
- Moraro, Piero. 2007. "Violent Civil Disobedience and Willingness to Accept Punishment". In *Essays in Philosophy*, Vol 8.
- Morreall, J. 1976. "The justifiability of violent civil disobedience". In *Canadian Journal of Philosophy*, Vol 61, p. 35-47.
- Luther King Jr, Martin. [1963] 2011. "Letter from a Birmingham Jail". In *Political Philosophy: The Essential Texts*, ed. Steven M. Cahn. New York: Oxford University Press.
- Raz, Joseph. 1979. *The Authority of Law: Essays on Law and Morality*. Oxford: Clarendon Press.
- Rawls, John. [1971] 2005. *A Theory of Justice: Original Edition*. Cambridge: Harvard University Press.
- Sauter, Molly. 2014. *The Coming Sward: DDoS actions, Hacktivism, and Civil Disobedience on the Internet*. New York: Nloomsbury.
- Swift, Adam. 2014. *Political Philosophy: A Beginners' Guide for Students and Politicians* Cambridge: Polity Press.
- Thompson, John, B. 1995. *The media and modernity: A social theory of the media*. Cambridge: Polity.
- Wray, Stefan. 1998. "Electronic Civil Disobedience and the World Wide Web of Hacktivism: A Mapping of Extraparliamentarian Direct Action Net Politics". In *Switch*, Vol 4. Available at: <http://switch.sjsu.edu/web/v4n2/stefan/>.

Appendix

ⁱGerman Penal Code:

Section 240

Using threats or force to cause a person to do, suffer or omit an act

(1) Whosoever unlawfully with force or threat of serious harm causes a person to commit, suffer or omit an act shall be liable to imprisonment not exceeding three years or a fine.

(2) The act shall be unlawful if the use of force or the threat of harm is deemed inappropriate for the purpose of achieving the desired outcome.

(3) The attempt shall be punishable.

(4) In especially serious cases the penalty shall be imprisonment from six months to five years. An especially serious case typically occurs if the offender

1. causes another person to engage in sexual activity;
2. causes a pregnant woman to terminate the pregnancy; or
3. abuses his powers or position as a public official.

ⁱⁱ Massachusetts General Laws Part IV, Title 1, Chapter 266, Section 120: “Entry upon private property after being forbidden as trespass; prima facie evidence; penalties; arrests; tenants or occupants excepted”. Available at:
<https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter266/Section120>

ⁱⁱⁱ For insight into the hacker mentality, an excerpt from the hacker manifesto:
“This is our world now... the world of the electron and the switch, the beauty of the baud. We make use of a service already existing without paying for what could be dirt-cheap if it wasn't run by profiteering gluttons, and you call us criminals. We explore... and you call us criminals. We seek after knowledge... and you call us criminals. We exist without skin color, without nationality, without religious bias... and you call us criminals. You build atomic bombs, you wage wars, you murder, cheat, and lie to us and try to make us believe it's for our own good, yet we're the criminals” (Blankenship1986).