

Civil Disobedience in the Era of Climate Crisis — Companion Paper

The Double Asymmetry: Risk, Disposition and the Legitimacy of Protest

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Abstract

This paper presents the core thesis of the book *Civil Disobedience in the Era of Climate Crisis* (FORSCH-PROV0466). The climate crisis is a paradigm case of the risk–disposition asymmetry: those who bear the consequences do not decide; those who decide do not bear the consequences. Civil disobedience can be read as an attempt to restore this coupling in the political sphere. Disruptive protest, however, creates a second asymmetry by shifting immediate costs onto third parties who hold no disposition either. The paper proposes assessing the legitimacy of ends and of means separately and outlines seven assessment criteria for doing so.

Keywords: civil disobedience, climate policy, intergenerational justice, legitimacy, Rawls, Arendt, Habermas, risk–disposition asymmetry

1 Research question

The question is not whether protest against environmental destruction is permitted — freedom of assembly and expression secure that. The question is whether the severity of the climate crisis can ground a moral obligation to resist laws and decisions that perpetuate ecological harm, and which means can be justified for this, and to whom.

2 Theoretical background in brief

The tradition runs from Thoreau’s separation of legality and morality (1849) through Gandhi’s and King’s method of nonviolence, Arendt’s understanding of disobedience as collective political practice (1970) and Rawls’s conditions of justification (1971) to Habermas’s account of disobedience as a “test case for the democratic constitutional state” (1983). More recent approaches (e.g. Celikates 2016) criticise the liberal standard model as too narrow. The book reconstructs these lines in detail.

3 Legal and empirical setting in brief

The German Federal Constitutional Court’s climate decision of 24 March 2021 (1 BvR 2656/18 et al.) framed the intergenerational question in constitutional terms as the intertemporal safeguarding of freedom; on 9 April 2024 the ECtHR, in *KlimaSeniorinnen* (no. 53600/20), found for the first time a violation of Article 8 ECHR through insufficient climate protection. The criminal-law treatment of blockades differs considerably: in Germany, the offence of coercion applies via the second-row case law; in Austria, the Supreme Court (OGH) rejects § 105 of the Austrian Criminal Code for mere sit-in blockades, and cumulated administrative penalties dominate. Empirically, nonviolent campaigns have historically succeeded more often than

violent ones (Chenoweth/Stephan 2011); for disruptive climate protest a positive radical flank effect in favour of moderate organisations has been documented (Ostarek et al. 2024), but not a direct increase in support for climate policy.

4 The double asymmetry

First level (climate asymmetry). Legislators and emission-intensive companies hold extensive disposition and bear low, temporally deferred risks. Young people, future generations and people in highly exposed regions bear high risks with little or no disposition.

Second level (protest asymmetry). Those who plan an action dispose of its place, time and form. The immediate disruption is often borne by third parties — commuters, delivery traffic, people on their way to treatment or work — who hold no more disposition over climate policy.

Criterion. An action is the better justified, the more it targets those who dispose at the first level and the less it shifts risks onto uninvolved parties without disposition.

5 Assessment criteria

Three exclusion limits precede any weighing: violence against persons, concrete danger to life and limb, and concealment of authorship as a principle. Seven criteria follow:

No.	Criterion
P1	Severity of injustice
P2	Necessity
P3	Proportionality under uncertainty
P4	Nonviolence
P5	Democratic accountability
P6	Proximity to the addressee
P7	Controllability of third-party burden

Guiding questions, assessment levels, reading rules and typified case patterns are set out in the book (chapters 13 and 14).

6 Conclusion

Disobedience that reduces the climate asymmetry without enlarging the protest asymmetry stands in the tradition from Thoreau to Habermas. Disobedience that merely shifts burdens from one powerless group to another falls short of it, even when its aim is justified. Emergency conditions do not remove the need for democratic justification; they raise the standard it has to meet.

Disclosure

This paper is an openly accessible summary. The full book — 15 chapters, a legal comparison of Germany, Austria and the United Kingdom, the complete assessment framework, case patterns, chronology and evidence register — is published as a licensed edition on syntagma-

science.com. Independent research, privately funded, without institutional affiliation. No conflicts of interest. No legal advice and no instructions for actions.

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