

Civil Disobedience and State Anxiety

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Abstract: Political philosophers writing about civil disobedience have tended to neglect the anxiety of the state about such disobedience. I identify three components of state anxiety – *Contagion*, *Fragility*, *Value* – concerning the contagiousness of disobedience, and the fragility and value of public institutions. I argue that state anxiety can be substantiated or specious, depending on the plausibility of *Contagion* and *Fragility*. It can also be significant or trivial, depending on the plausibility of *Value*. Finally, and focusing on John Rawls’ influential discussions of civil disobedience, I show how political philosophising can mirror state anxiety about disobedience and, in doing so, bolster it.

Keywords: civil disobedience, state anxiety, John Rawls, civil rights movement

Introduction

Many political philosophers accept that civil disobedience (henceforth “disobedience”) has a place in liberal democratic societies. Many justifications are offered for this position. For instance, protesters might have the right to disobey, where such a right is grounded in their more fundamental right to freedom of conscience or expression (Brownlee 2012; Rawls 1999). Protesters might even have a duty to disobey in unjust circumstances, where the duty is grounded in the very principles that ordinarily support compliance with the law in just conditions (Delmas 2018). More generally, disobedience is justifiable on the basis of its potential contributions to democratic debate or deliberative democracy more broadly (Dworkin 1985, 104–116; Gutmann and Thompson 1996; Rawls 1999, 335–343). And so on. However, such justifications appear to hold little sway with the state and its agents. Indeed, recent years have seen various governments introduce draconian restrictions on many forms of disobedience, and often even on legal protests. Philosophers must face what they have hitherto neglected – the anxiety of the state concerning disobedience, which supports such restrictions contra the philosophical justifications available for disobedience.

In this essay, I articulate an account of state anxiety about disobedience, provide a framework to evaluate it, and show how political philosophising can inadvertently mirror state anxiety. The work here is intended to pave the way for future work that delves into the intricacies of state anxiety, and their implications for our justifications of disobedience. In Section 1, and with reference to how state agents describe and conceptualise disobedience, I excavate and reconstruct the key constituents of a general account of state anxiety. In Section 2, I argue that we can evaluate state anxiety with reference to two distinctions – whether it is substantiated or specious, and whether it is significant or trivial. In Section 3, and focusing on John Rawls’ influential account, I show how political philosophising can inadvertently mirror state anxiety about disobedience.

Before proceeding, some preliminary remarks are in order. First, what I characterise as state anxiety is not restricted to disobedience. Indeed, it can be (and often is) expressed in response to acts of

political resistance that do not involve law-breaking. My focus on disobedience is pragmatic; state responses are typically issued in response to disobedience – acts of protest that violate the law – rather than to its legal counterparts. However, exposing state anxiety about disobedience can in turn illuminate its subtler manifestations in the context of protest and political resistance more broadly. Second, I sidestep questions about the bases of disobedience. Whether disobedience is undergirded by conscientious moral or religious convictions, or by principled or policy disagreements, is immaterial for my current purposes. Third, and relatedly, I set aside questions about the forms of disobedience. As we shall see, state anxiety fixates on the threat posed by disobedience (or resistance) to its institutions. While different forms of disobedience might augment or diminish such anxiety, they do not eliminate it.

I. Exaggeration and Anxiety

In this section, I examine and thematise some state responses to the disobedience of some activists within the Civil Rights Movement in the United States in the 1950s to 1960s. My primary aims are neither historiographical nor exegetical. Instead, they are to excavate and reconstruct the key features of a general – and thus generalisable – conception of state anxiety about disobedience.

We begin with the landmark case of *Walker v. City of Birmingham*, in which the United States Supreme Court affirmed the contempt-of-court convictions of Martin Luther King, Jr. and his fellow civil rights activists for their violation of an Alabama Circuit Court's *ex parte* injunction. The injunction – which was of indefinite duration – was issued pursuant to a bill of complaint filed by Birmingham officials, seeking to prevent King and his associates from participating in mass peaceful demonstrations, by making them illegal. In its opinion, the Supreme Court argued that protesters should have challenged (the constitutionality of) the injunction in the (Alabama) courts, rather than have proceeded in violation of it. To proceed as they did was to express contempt towards the judicial process and, with it, the lawful authority of the courts. The opinion culminated in a high-minded pronouncement that 'respect for judicial process is a small price to pay for the civilizing hand of law, which alone can give abiding meaning to constitutional freedom' (*Walker v. City of Birmingham*, 388 U.S. 307 1967).

This decision is mentioned approvingly by the influential 1969 *Report of the National Commission on the Causes and Prevention of Violence*, chaired by Milton S. Eisenhower (henceforth, "Eisenhower Report"), and convened by US President Lyndon Johnson in the wake of widespread civil unrest after the assassinations of Martin Luther King, Jr and Robert F. Kennedy (1969, 90). The Eisenhower Report also cites Richard Cardinal Cushing's statement, that the 'observance of law is the eternal safeguard of liberty, and defiance of law is the surest road to tyranny' (1969, 91).¹ It claims, in a similarly high-minded tenor, that 'much of the current disobedience to law is disastrous from the standpoint of the maintenance of a democratic society' (1969, 101). Disobedience threatens not only some public institutions, but society writ large. The earlier 1968 *Report of the National Advisory Commission on Civil Disorders*, chaired by Otto Kerner (henceforth, "Kerner Report"), and also established by Johnson (in this case, to investigate race

¹ The authors of the Report provide no citation for this attribution. A longer version of the quote appears in John F. Kennedy's, *Radio and Television Report to the Nation on the Situation at the University of Mississippi*, on 30 September 1962 (1962). This version makes it clear that the Eisenhower Report stakes a claim about the disobedience of laws in general, rather than of court injunctions in particular.

riots with a focus on the 1967 Detroit riots), takes the description of disobedience to even greater heights. Speaking of disobedience, disorder, and violence in the same breath, the Kerner Report proclaims that the ‘few who would destroy civil order and the rule of law strike at the freedom of every citizen’ (1968, 15). Disobedience puts at risk not only democratic society, but also civil order and even individual freedom.²

A striking feature of these statements about disobedience is that they go far beyond the fact of law-breaking. Acts of disobedience are not *mere* violations of the law. Instead, they express contempt for the civilising hand of law, erode the judicial system, threaten democratic society, destroy civil order, and attack the freedom of citizens, among others. In this regard, these statements bear the imprint of Hobbes’ worry about disobedience – that disobedience (on the basis of private judgements, rather than relying on the law as the judge of good and evil) leads the commonwealth to be ‘distracted and weakened’ (1994, 212) or even overthrown (1994, 366), or that those who seek to reform the commonwealth through disobedience instead ‘thereby destroy it’ (1994, 222), among others. And insofar as the Reports appear to be intolerant of *any* disobedience – contra Hobbes who accommodates some exceptions – they also resemble Kant’s seemingly absolute prohibition against lying. For instance, Kant claims that lying is the ‘*greatest* violation of a human being’s duty to himself’, that it ‘throws away and, as it were, *annihilates* his dignity as a human being’, or that it is ‘*a renunciation* by the speaker of his personality’ (2009, 522-3 [6:429-430], emphasis mine), among others. Whether Hobbes or Kant, these are instances of rhetorical exaggeration that raise the stakes of engaging in disobedience, in a bid to discourage their audience from such engagement, and to diminish sympathy with those who engage in it.

I contend that the state’s rhetorical exaggerations can be understood as similarly undergirded by – and moreover expressive of – an anxiety about disobedience. There are two payoffs of introducing an account of state anxiety. First, exaggerated state descriptions of disobedience are often used to justify a plurality of state actions – including taking repressive measures against disobedience, severely punishing disobedients, and enacting restrictive policies regulating disobedience and protest, among others. However, such descriptions often refer to a broad range of seemingly disconnected issues – from the behaviour of activists, the character of disobedience, or the threat to public institutions, among others. An account of state anxiety – concerning the character of disobedience and its impact on valuable public institutions – allows us to see these descriptions and issues as systematically connected, and moreover in a deeper sense. This overarching concept of anxiety also opens up the possibility of identifying additional contributors to state anxiety, beyond those to which the state typically refers. Second, positing the existence of state anxiety about disobedience – which counsels against disobedience – highlights the additional work that political philosophers have to do. They cannot rest content with proffering philosophical justifications of disobedience, without also considering whether those justifications are sufficiently weighty relative to state anxiety. It is of little consolation that a justification of disobedience is rigorous and sophisticated, if it is consistently defeated by state anxiety.

Focusing on the Eisenhower and Kerner Reports, I argue that state anxiety has at least three main components – concerning the character of disobedience, and the fragility and value of public institutions. I discuss them in turn.

² For further discussions of state responses to disobedience during this period, in the context of the ideology of law and order, see (Souza dos Santos 2024).

The first component of state anxiety is the assumption that acts of disobedience are contagious. Call this, *Contagion*. There are (at least) two related forms of *Contagion*. One is that acts of disobedience are likely to be copied by others, leading to widespread repetition of the same acts (or same kind of acts). Call this, *Contagion (Mimicry)*. The Eisenhower Report observes that inappropriate – by which they mean illegal – protest tactics are often ‘copied even more inappropriately’ by others, even though the context in which the copied acts are embedded are saliently different from that of the original act. They mention, for instance, that the ‘[violently] disruptively tactics’ employed by American university students was copied – in different contexts – by European university students, and even by those in high schools and churches. The Eisenhower Report worries that these ‘extreme, unlawful tactics’ will be copied so widely that they may even ‘replace normal legal processes as the usual way of pressing demands’ (1969, 67).³ Another form of *Contagion* is that acts of disobedience are unlikely to stop at acts of protest; instead, they are likely to result in illegal acts (that are *not* plausibly characterisable as protest) more generally. The assumption here is that acts of disobedience are chaotic and will “spill over” to other domains. Call this, *Contagion (Spillover)*. Consider, for instance, the bill of complaint which led to the Alabama’s court issuance of the aforementioned injunction. The bill claims that the planned mass demonstrations of King and his associates ‘will likely cause injuries or loss of life to Police Officers of the City of Birmingham’, will likely ‘cause damage to property owned by the City of Birmingham in the operation of its Police Department’, ‘will lead to further imminent danger to the lives, safety, peace, tranquillity and general welfare of the people’, and that the participants ‘will continue to conspire to engage in unlawful acts and conduct’, among others (*Bill for Injunction, City of Birmingham vs. Wyatt Tee Walker et al*, 10 April 1963). That is, King and his associates’ demonstrations will not merely consist of illegally blocking streets and hindering traffic. Instead, they will likely result in further law-breaking acts, which moreover involve harms to persons and property.⁴ The clearest encapsulation of *Contagion (Spillover)* is the Eisenhower Report’s description of disobedience as a ‘cancerous growth’ (1969, 89) – potentially spreading to multiple domains and disastrous to the whole system if left unchecked.⁵

As should be clear, acts of disobedience do not necessarily lead to mimicry or spillover. Yet those who assert *Contagion* rarely explain how these consequences will result. Systematic empirical data is often eschewed in favour of alarming anecdotes. An undefended assumption about disobedience’s contagiousness lies in the place where an explanation should be.

The second component of state anxiety is a claim about the fragility of the public institutions that are the targets of acts of disobedience, or which would be affected by such acts. These institutions are unable to withstand the damages imposed by, and thus are likely to breakdown in the face of, acts of disobedience. The character of the breakdown is variously stated – ranging from the

³ The Report acknowledges, later, that ‘the evidence is insufficient to demonstrate that acts of civil disobedience of the more limited kind inevitably lead to an increased disrespect for law or propensity toward crime’. Yet this acknowledgement does not appear to have sufficient force to rein in the Report’s earlier claims about mimicry, or their subsequent deployment of a crude picture of Indian politics as a cautionary tale of where American society will end up if disobedience were left unchecked (1969, 99–103). I set aside the issue of how we can resolve this internal tension in the Report.

⁴ Further examples abound. Consider, for instance, that ‘the crowd moved by noble ideals today can become the mob ruled by hate and passion and greed and violence tomorrow’ (*Brown v. Louisiana*, 383 U.S. 131 (1966)’ 1966), that disobedience would lead to drug addiction (Souza dos Santos 2024), or rising crime rates and even riots (Flamm 2005).

⁵ For further discussions of the growing apprehension towards the civil rights movement’s tactics concerning this case, see (Kennedy 2017).

authority, effectiveness and integrity of the targeted institutions, to their very existence. Call this, *Fragility*. Two aspects of *Fragility* are salient. First, *Fragility* refers to the targets (or “victims”) of disobedience, at different levels of generality. The target can be highly specific – centring on some particular institution being targeted by protesters. Consider, for instance, the Eisenhower Report’s claim that ‘the effectiveness of our judicial system is eroded’ by disobedience (1969, 90). Call this, *Fragility (Institution)*. The target can also be highly general – referring to the broader system in which the targeted or affected institution is embedded. Consider, for instance, the Eisenhower Report’s claim that our ‘individual freedoms would be threatened and social progress retarded’ (1969, 90), if we fail to exercise disciplined control over our actions. Or the Kerner Report’s claim that civil order and the rule of law will collapse under the threat of disobedience (1968, 15). Call this, *Fragility (System)*. Second, *Fragility* identifies some trigger that causes fragile institutions to break. The trigger can be identified as singular acts of disobedience. Here, consider the Eisenhower Report’s claim that the effectiveness of the judicial system is eroded ‘each time an injunction is violated’ (1969, 90). Call this, *Fragility (Single Trigger)*. The trigger can also be mass disobedience – the targeted or affected institutions are damaged by, and will breakdown in the face of, widespread acts of disobedience. Consider, for instance, the Eisenhower Report’s claims that the law would be eroded by ‘widespread civil disobediences’ (1969, 88), and that the ‘judicial system cannot face the wholesale violations of its orders’ while retaining its efficacy or possessing its authority and power (1969, 90), among others. Call this, *Fragility (Mass Trigger)*.

The Reports – as do many state responses to disobedience – oscillate between various specifications of the different aspects of *Fragility*. These specifications of the target, trigger, and breakdown are rarely differentiated or defended.

The final component of state anxiety is a claim about the value or worth of the institutions in concern. Call this, *Value*. For instance, the target institutions are often described as being fundamentally legitimate or just, or simply as valuable. It is important to note, however, that *Value* is not coextensive with the institutions being legitimate or just. States can concede on the point of legitimacy or justice, while asserting the value (or valueness) of the target institutions. As with *Fragility*, *Value* can refer to specific institutions or the broader systems in which specific institutions are embedded. *Value* is often left implicit and operates in the background of state discourse on disobedience. Its existence best explains the claims associated with *Fragility*, and moreover the lengths to which some states go to pre-empt or prevent disobedience in defence of the status quo. However, it is sometimes made explicit. For instance, the Supreme Court in *Walker v. City of Birmingham* judged that the judicial process was legitimate and should be protected at the expense of potential delays or setbacks to the goals of the dissenters. The Eisenhower Report ‘[agrees] with the overwhelming majority of the people in this country that our problems, serious as they are, are not of the kind that make revolution even thinkable, let alone justifiable’. This is because those problems are not ‘intrinsic to our system’ but are instead ‘amenable to change within the system’ (1969, 102–3). And while the Kerner Report identifies the basic causes of (the spread of) disobedience as due to white racism, frustrated hopes, a climate in which violence is approved and encouraged, the beliefs of Black Americans that there is no effective redress within the system, and so on (1968, 91–93), it does not see them as impugning the value of the system as a whole. Instead, it describes the protests as being ‘aimed at the inclusion of Negroes in American society on a basis of full equality, rather than at a fundamental transformation of American institutions’, and as being

‘firmly rooted in the basic values of American society, seeking not their destruction but their fulfilment’ (1968, 113).⁶

Contagion, *Fragility*, and *Value* are key constituents of what I characterise as state anxiety about disobedience. In a slogan, state anxiety concerns the impact of disobedience upon fragile but valuable institutions. While the context from which I have reconstructed state anxiety is narrow, these constituents of state anxiety are easily identifiable elsewhere. Consider, for instance, the United Kingdom’s *Police, Crime, Sentencing and Courts Bill 2022*, which imposes several restrictions on citizens’ right to protest. At the Second Reading of the Bill in Parliament, Home Secretary Priti Patel described protesters as ‘exploiting gaps in the law which have led to disproportionate amounts of disruption’. An environmental group’s blocking newspaper printing presses – and which resulted in delays in the distribution of several national newspapers, was described as ‘a clear attempt to limit a free and fair press, a cornerstone of our democracy and society’ (HC Deb 15 March 2021). Here, *Fragility (Single Trigger)* and *Fragility (System)* are explicit, while *Contagion (Mimicry)* and *Value* are implicit. More generally, these constituents of state anxiety can also be excavated from the way that states justify their practical responses to disobedience – especially when those responses involve tough regulations of protests or harsh reprisals against law-breaking protesters. Indeed, such reprisals appear to be a common theme across a plurality of contexts. Further examples of state anxiety are easily found. While a more extensive survey is needed to verify the robustness of my account, these brief remarks suffice to establish its *prima facie* generalisability across contexts.

II. Evaluating State Anxiety

We should not take state anxiety about disobedience as it is. In this section, I sketch a framework for evaluating state anxiety, on the basis of two distinctions. I argue that state anxiety can be substantiated or specious, depending on the plausibility of *Contagion* and *Fragility*. State anxiety can also be significant or trivial, depending on the plausibility of *Value*.

Before proceeding, two clarifications are in order. First, the assessments of state anxiety are made on the basis of the best available evidence about the characters of disobedience and the affected institutions, rather than the state’s beliefs or expressed statements about them. Only by doing so, can we judge if state anxiety is tethered to reality. This methodological commitment allows us to reject the relevance of the state’s motivations for expressing such anxiety, for the purposes of evaluating state anxiety. Briefly returning to Kant clarifies the point. Kant’s exaggerated rhetoric about lying is connected to his anxiety about the crooked timber of humanity – that it tends towards vice without corrective measures (Wood 2008, 258). This rhetoric is then pressed in the service of a moralising and even pedagogical aim, directed at people who might otherwise not refrain from such behaviour (Wood 2008, 252). Call this, *Moralisation*. A similar gloss might be given of the state’s rhetorical exaggerations – it is connected to an anxiety about disobedience, and expressed in order to moralise and educate. For instance, the Eisenhower Report calls for protesters to exercise disciplined control over their actions, to ‘ponder’ whether they can preserve the aims that they seek to secure through disobedience, to reflect on whether they would allow the conscience of sinners to be the basis of disobedience, or to engage in ‘realistic appraisal’ of their actions, among many others (1969, 90, 99,

⁶ Here, we see the budding distortion of the civil rights movement – presenting it as non-radical and affirmative of the system, contrary to the claims of its key figures. The literature is extensive. See, for instance, (Theoharis 2018).

103, respectively). Thus, the state exaggerates in order to impress upon its audience the ills of disobedience. However, the evaluation of state anxiety should not depend, even in part, on *Moralisation*. This is because whether *Moralisation* is substantiated or significant (or otherwise) depends – in turn, and as earlier stated – on the evidence that is available about the characters of disobedience and the affected institutions. For instance, *Moralisation* is unfitting if it is made in response to acts of disobedience that are unlikely to break non-fragile institutions. I set it aside. Relatedly, attending to the evidentiary bases of state anxiety allows us to sidestep questions about what the “real” motivations of the state are, concerning disobedience. For instance, it allows us to set aside questions about whether expressions of state anxiety about disobedience are made disingenuously or in bad faith, in order to consolidate or retain power, among other things. While the discovery of answers to these questions can be important, doing so is often irrelevant to – and indeed a distraction from – the issue of whether state anxiety is itself tethered to reality.

Second, the evaluation of any instance of state anxiety is a highly context sensitive project. Two aspects of context sensitivity are salient. One is that such an approach allows us to take heed of, rather than ride roughshod over, the complexity interactions between disobedience and public institutions. For instance, different acts of disobedience, or the same acts undertaken in different contexts, will have different likelihoods of contagion. Different institutions can also be variously fragile to different acts of disobedience in different contexts, but not others. A context sensitive approach is needed to deliver evaluations that properly account for – rather than obscure – these differences. The other is that a context sensitive approach can block unlicensed inferences about disobedience *in general*. Specifically, it can block the possibility of relying on the contagiousness of some acts of disobedience to make general statements about disobedience in general, or the fragility of some institutions under some circumstances to make general pronouncements about the fragility of those institutions in general, or even the fragility of the entire system, among other things. That such claims are often used to support repressive state policies against disobedience or even protest in general, gives us additional reason to block them.

We begin with the issue of state anxiety’s grounding, which is connected to *Contagion* and *Fragility*. Our entry point is the observation that anxiety can be better or worse substantiated by the evidence about the disobedience and institutions in concern. Since a plurality of evidence can support or mitigate anxiety, and moreover to different extent, we should regard the groundedness of state anxiety as a scalar (rather than binary) property. Where state anxiety falls on the spectrum depends on the plausibility of *Contagion* and *Fragility* at the point where they are made.⁷ On one end of the spectrum is fully substantiated anxiety. This occurs when all the relevant forms of *Contagion* and *Fragility* are plausible – that is, when the acts of disobedience in concern are very likely to be mimicked and moreover spill over to other domains, and when the affected institutions and system as a whole are indeed likely to be damaged by such disobedience. On the other end of the spectrum is fully specious anxiety. This occurs when *Contagion* and *Fragility* in all their forms are false. I discuss each aspect of *Contagion* and *Fragility* in turn – (non-exhaustively) identifying several considerations that render these claims unlikely to be plausible.

Consider *Contagion (Mimicry)*. For it to be a plausible assumption about a given act of disobedience, it must be likely for that act to be mimicked by others. Mimicry relies on accurate presentation of such acts to the public. This mechanism can be hijacked by state actors, who can control – and importantly, distort – how protesters are presented to the public. Protesters who

⁷ I set aside complications arising from retrospective assessments of *Contagion* and *Fragility*.

engage in law-breaking protests may be presented as thugs or mere criminals, rather than as being guided by their conscientious beliefs or principled disagreements. This distortion is especially common in response to acts of disobedience that are regarded as “radical” – such as those involving property damage or harms to persons (Medina 2023, 109–120; Terwindt 2020). Such distortions can prevent others from regarding the relevant acts of disobedience sympathetically, or even understand what they are about. This, in turn, can reduce the likelihood of such acts being mimicked. The importance of accurate presentation for mimicry also partly explains why protesters tend to establish and rely on their own communicative channels across contexts, rather than rely on the mainstream news. More generally, even if the protesters’ messages are fully and accurately presented, they may not be widely disseminated. For instance, reports on the protest may be brief and made in passing, or relegated to sections of the news that are easy to neglect or overlook. These moves of downplaying acts of disobedience can also reduce the likelihood of contagion. The plausibility of *Contagion (Mimicry)* should also be assessed in light of the state’s outsized influence over public political culture. Systematic distortion of certain acts of disobedience can prevent them from being legible as protest to begin with or diminish sympathy for protesters. The state’s harsh responses to disobedience can also create chilling effects that discourage audiences from mimicking acts of disobedience, even if they regard those acts favourably. To the extent that accurate presentation and wide dissemination are absent, *Contagion (Mimicry)* is likely to be implausible.

Establishing the plausibility of *Contagion (Spillover)* is also likely to be beset with difficulties. One cluster of problems centres on the state’s control of public spaces, especially through the police or other security forces. Some public spaces – especially those that are deemed significant, such as around important state buildings or memorials – are heavily guarded or policed. Security forces can often quickly contain or terminate acts of disobedience in these spaces if they are required to.⁸ More generally, the efforts of such security forces can be undergirded by a repressive policing ethos that is intolerant of any kind of disruption, and which prioritises lawful public order over citizens’ right to engage in political action (Smith 2012, 2018, 2022; Waddington 1994, 75–90). As should be clear, this can also affect lawful protests. Insofar as these elements are present, it is unlikely for acts of disobedience within such spaces to spill over to other domains. Beyond these external factors, some features of acts of disobedience can increase or reduce the likelihood that they will be contagious. For instance, whether those acts are connected to broader social movements, or directed by established political groups, has direct impact on whether they will be mimicked by others. Acts which are not part of broader movements or groups are less likely to be mimicked, compared to those that are (Medina 2023). Some features of social movements or political groups – in terms of their aims, organisational structure, and ability to control their members’ actions, or their reception among the public, among others – in turn have implications on the likelihood of spillover effects in other domains. In many cases,

The different considerations that are relevant to the plausibility of *Contagion (Mimicry)* and *Contagion (Spillover)* need not neatly align with each other. For instance, acts of disobedience can be widely mimicked without spilling over to other areas. This can occur when those acts are situated in highly localised contexts – such as university campuses or specific professional settings, among others. Acts of disobedience can also have drastic spillover, without being widely mimicked. This can occur when those acts are widely spurned – such as riots motivated by racist beliefs in a

⁸ The prompt termination of acts of disobedience can also deny the public of visibility that is required for protesters to achieve their goals – including drawing attention to the injustice at hand, and garnering support for their actions. This, in turn, can render *Contagion (Mimicry)* less likely.

generally tolerant society. The interactions between these considerations are beyond the scope of this essay to consider. Nonetheless, and considering the existence of forces that restrain or contain acts of disobedience in many societies, it is possible that in many cases neither form of *Contagion* is plausible.

Difficulties also arise for those who seek to establish the plausibility of *Fragility*. Here, the key question concerns the stability of the institutions which are purportedly threatened by acts of disobedience in response. In general, institutions are built upon ideational and material foundations that are variously susceptible to breakdown, or even to any change at all. Examining the likelihood that these institutions will breakdown, require us to look at those foundations and their susceptibility to alteration. Among other things, we need to examine the mechanisms within those institutions that allow them to perpetuate themselves, and those that allow them to accommodate minor changes without impairing their integrity, everyday operations, or even existence (Thelen 1999). We must also examine the relative bargaining power of the institutions relative to the disobedient actors or the social movements of which they are a part (Lindner 2003). This can depend on the public perception of the legitimacy of the institutions, or, more generally, public confidence in them (Useem and Useem 1979), among others.

More generally, institutions are typically bolstered by a complex structure of extra- or non-legal sources of support. One such support consists in the general tendency of those whose lives are regulated by these institutions to develop and adopt certain attitudes in support of them.

Specifically, they take the existence of the rules set by those institutions as providing for them (and others within the polity) justifications for the behaviour required or proscribed by those institutions. Departures from such behaviour are moreover seen as constituting grounds for criticism. These attitudes constitute a complex internal point of view from which the rules of the institutions, and those institutions themselves, are accepted (Hart 1994, 55–61).⁹ In many ways, these attitudes can entrench institutions and, with that, the injustices that the latter contribute to. In many contexts, we can have good reason to think that public institutions are generally resilient to breakdown, or even to change in general. Indeed, and as even the Eisenhower Report acknowledges – albeit without fully appreciating its significance – ‘political and social organizations are, by their nature, resistant to change’ (1969, 92).

Moreover, the broader and more extensive the institution – and the more sources of support it receives – the less likely that some specific act of disobedience will disrupt its authority and even existence. With regards to such institutions, *Fragility (Single Trigger)* is straightforwardly implausible. Furthermore, in some circumstances, even widespread disobedience of such institutions may have little impact on their authority and existence. For instance, the widespread violation of a law mandating the use of seatbelt (as a protest against it) may have little impact on the authority of the ministry of transportation with regards to other areas. In such circumstances, disobedience might have ‘no ill-effects whatever the scale’ (Barry 1989, 41), and *Fragility (Mass Trigger)* would be implausible.¹⁰

⁹ We must not overstate the force or uniformity of this internal point of view. Within any society there will always be a heterogeneity of views arising from internal differentiation of its members, along the lines of race, gender, class, ability, and so on (Becker 1997; Moody-Adams 1997). The point here is that such divergent perspectives need not – and often do not – threaten the stability of common institutions.

¹⁰ For discussions of mass disobedience and changes in policy and even regimes, see (Chenoweth and Stephan 2011).

Given our preceding discussions about the sources of support enjoyed by institutions, we see why *Fragility (Institution)* is also likely to be implausible in many cases. Most people who disobey the law do not disrupt or damage the affected institutions, and typically are no more than mere nuisances. This is because the situation that most public institutions find themselves in is not one of continuous crises, such that the disobedience of individuals or even small groups can threaten their authority and existence (Simmons 2013, 346–349). And insofar as the supporting mechanisms of broader systems are even more extensive than those of specific institutions, the same assessment can be made, *a fortiori*, of *Fragility (System)*. Indeed, *Fragility (System)* might be implausible even if *Fragility (Institution)* were true of some specific institutions. In this regard, consider the Eisenhower Report’s claim that widespread use of ‘extreme, unlawful tactics’ such as disrupting traffic, engaging in massive sit-ins, or dumping rubbish on the streets, will threaten a ‘healthy society’ (1969, 67, 102). Insofar as a healthy society receives a plurality of support, it is unlikely for it to be so fragile in the face of these acts of disobedience¹¹. We should be suspicious of claims to the contrary.¹²

As should be clear, the plausibility of *Contagion* does not entail the plausibility of *Fragility*, and vice versa. Their plausibility, and the interactions between them, will vary depending on the specific contexts in which they are made. Our evaluations of the duo, contribute to our judgement of whether state anxiety is overall substantiated or specious. Such evaluations are, however, beyond the scope of this essay.

This issue of the grounding of state anxiety is distinct from that concerning its significance – which concerns *Value*. The plausibility of *Value* depends, in turn, on our background theories of justice and legitimacy, and the value of those things which the institutions enable and protect, among others. I do not take a stand, here, on what the right theories might be. For my purposes, it is enough to distinguish the issue of the substantiation of state anxiety from that of its significance. Depending on which theories we adopt, we may find that *Value* is implausible for some institutions or systems – they are simply not worthy of protection. In such circumstances, state anxiety is trivial, and we can safely and moreover permissibly ignore it in our deliberations about whether and how to act. Of course, it is possible for *Value* is plausible for some institutions and systems – in which case state anxiety is significant, and we have reason to avoid provoking or exacerbating it. The two issues, when taken together, present us with four possible combined assessments of state anxiety – (i) substantiated and significant; (ii) substantiated and trivial; (iii) specious and significant; (iv) specious and trivial. Different institutions – which can coexist within the same state – will occupy different areas of this quadrant.¹³

¹¹ My discussions here constitute an elaboration of Brian Barry’s brief remark that there is likely to be a continuum of stability in a society rather than a single point of collapse (1975, 151).

¹² Activists sometimes express – and moreover are guided by – the hope that their actions will bring about the collapse of unjust institutions or even regimes. However, the existence and expression of such hopes and goals are tangential to whether *Fragility* is plausible.

¹³ My concern here is with the substantiation and significance of state anxiety, as it pertains to state descriptions and understandings of disobedience. I leave aside questions of the permissibility of the state’s *acting on* its anxiety. While I think that acting on state anxiety is permissible only if the latter is substantiated and significant, I neither discuss nor defend this view here. I leave room for the potential permissibility of acting on state anxiety that does not meet such standards, based on other considerations. For instance, it may be permissible to act on specious but significant anxiety with regards to acts of disobedience that are directed at stable institutions, if doing so is very likely to deter attacks on fragile institutions. I set these complications aside for future work.

By way of concluding this section, let us briefly return to the aforementioned state exaggerations. Several features are notable. First, my analysis reveals that their claims are made at different levels of granularity – lumping together and oscillating between claims about single and mass acts of disobedience, about mimicry and spillover, and about specific institutions and broader systems, among others. This prompts further questions about whether and how these moves can have the effect of making disobedience seem more dangerous than it is, and the effect of garnering support for disproportionate or repressive state responses, among others. Second, a detailed context sensitive empirical examination of the various forms of *Contagion* and *Fragility* might reveal that their plausibility is often overstated. In particular, acts and movements of disobedience may be presented as far more powerful and uncontrolled, and institutions and the broader system may be presented as far more fragile and prone to breakdown, than is plausible given the circumstances. This is a technique of escalation – in which disobedience is conflated with violence, and inconvenience conflated with serious harms (Pineda 2021, 180). Indeed, and looking at the various setbacks faced by those social movements, and the myriad forces that were readily available to be marshalled against them, these assumptions might well often be specious rather than substantiated. Third, and most obviously, *Value* is likely to often be implausible – insofar as many of the institutions and systems targeted by activists' disobedience were pressed in the service of injustice.

How should we think of state anxiety and its many manifestations in the aforementioned context, if it turns out to be specious and trivial? My analyses reveal that either the state (or its officials) have no clear grip on the facts of the matter, or they are making such anxiety manifest for nefarious purposes – to exploit the public's fear of institutional breakdown to garner additional support for unworthy institutions, or to rely on them to justify harsh reprisals of protesters, among others.

My evaluations of state anxiety are of course not comprehensive. Nonetheless, they constitute a useful framework and starting point for subsequent fine-grained analyses of state anxiety. A quick clarification is important. I have hitherto focused on state anxiety about disobedience. However, the constituents of anxiety which I have identified are likewise applicable to acts of political resistance that do not involve law-breaking. That is, state anxiety can also be triggered by lawful acts of protest and resistance more broadly. Even more generally, state anxiety can also be triggered by acts of collective organisation that has yet to (or may not) lead to acts of resistance.¹⁴ Those who counsel against disobedience in favour of legal resistance, may therefore be mistaken or overly sanguine about the constituents and expressions of state anxiety. Needless to say, the same anxiety is, *a fortiori*, present in response to uncivil disobedience.

III. Anxious Theorising

In this section, and focusing on John Rawls' influential discussions of civil disobedience, I show how political philosophising about disobedience can mirror constituents of state anxiety about disobedience and, in doing so, bolster it. While I focus on Rawls, I take the problem to be present elsewhere in contemporary discussions. Given this, we should rethink how we conceptualise disobedience.

¹⁴ For a discussion of the contiguity of acts of disobedience and the organisational work undergirding them, see (Pineda 2020). A question, which I do not consider here, is whether such an understanding of disobedience can heighten state anxiety.

It might be thought that one connection between Rawls and state anxiety turns on his assumption that the institutions (of the United States) of his time were reasonably just – in agreement with the state’s assertion of *Value*. For instance, Rawls claims – in an essay first published in 1964, in the thick of the mass protest movements surveyed by the Eisenhower and Kerner Reports, and before the end of *de jure* racial segregation – that he ‘shall assume, as requiring no argument, that there is, at least in a society such as ours, a moral obligation to obey the law’ (1964).¹⁵ His discussions of the sit-in movements – that they appealed to the just Constitution of the United States – bolsters this impression (Forrester 2019, 66; Pineda 2021, 38–39). His discussions of the (hypothetical) well-ordered and nearly just society also, arguably, reflect his assumption that those institutions were basically just (Pineda 2021, 33–34). Or even more drastically, that his ideal theorising betrays his blindness to, or potentially denial of, the injustices of his time (Mills 1997, 2005, 2009). However, Rawls also argues that he ‘would find it very difficult to see how anyone who has lived in this country for the past decade or so could think that it is a just or nearly just society as I define justice’ (cited in Forrester 2019, 126). His theory of justice also contains the resources – the principles of justice – to deny the truth of *Value* for United States institutions (Lyons 2013, 31 n. 1; Delmas 2018, 28–29; Jubb 2019). I set aside this exegetical issue, noting, however, that this is one way in which his theory can mirror state anxiety.

My primary concern in this section centres on one of Rawls’ three conditions for acts of civil disobedience to be justified – that minorities should form a cooperative political alliance to regulate the overall level of dissent in society. This coordination requirement is partly backed by a concern with stability.¹⁶ Specifically,

‘if [law-breaking protesters] were all to act in this way, serious disorder would follow which might well undermine the efficacy of the just constitution. I assume here that there is a limit on the extent to which civil disobedience can be engaged without leading to a breakdown in the respect for law and the constitution, thereby setting in motion consequences unfortunate for all. … if they all do so [engage in civil disobedience], lasting injury may result to the just constitution’ (1999, 328–29).

This concern bears several marks of the state anxiety discussed above. Insofar as that is so, and insofar as it leaves state anxiety unchallenged, it can bolster such anxiety about disobedience. Or so I will argue.

First, and in claiming that ‘serious disorder would follow’ from widespread disobedience, Rawls asserts *Contagion (Spillover)* – mirroring state anxiety about the character and threat of disobedience. However, and as with the aforementioned Reports, the certainty with which Rawls makes this claim about the character and tendency of disobedience, is not matched by the depth (or indeed even existence) of any explanation. Indeed, his own descriptions of civil disobedience detract from the plausibility of the claim. Per his own account, protesters who engage in civil disobedience undertake a public and non-violent address to the their audience, and are guided and justified by the principles of justice that regulate the political institutions (1999, 320–21). Their communicative actions are moreover persuasive rather than coercive, ‘designed to make an effective appeal to the wider community’ who are likewise committed to those principles of justice

¹⁵ For discussions of Rawls’ views on the (racial) injustices of his time, see (Terry 2021).

¹⁶ Rawls provides two reasons for the requirement. The other reason centres on the limits of the public’s attention and capacity to understand and handle dissent (1999, 328). For further discussions of Rawls’ discussion of civil disobedience, see (Lim and Brownlee 2026).

(1999, 330).¹⁷ Insofar as civil disobedients aim to make such an appeal – and thus strictly regulate their behaviour during their acts of civil disobedience – they are likely to be cautious about causing the kind of serious disorder that would render their appeal less effective. Some explanation – now absent – is needed for how such actions would lead to serious disorder. In asserting *Contagion (Spillover)* in this manner, Rawls mirrors state anxiety about the threat of disobedience.

Second, consider Rawls' claim that the serious disorder that would follow from widespread civil disobedience 'might well undermine the efficacy of the just constitution', lead to a 'breakdown in the respect for law and the constitution' (1999, 328), and result in 'lasting injury' to the just constitution (1999, 329). Undergirding these remarks are *Fragility (Mass Trigger)*, *Fragility (Institution)*, and – depending on how one understands the role played by a constitution in a functioning system – even *Fragility (System)*. The question again arises of the plausibility of these claims. Recall that Rawls situates his discussion of disobedience in the context of a well-ordered society – one in which 'everyone accepts and knows that the others accept the same principles of justice, and the basic social institutions satisfy and are known to satisfy these principles' (1999, 397). Insofar as the well-ordered society endures over time, this conception of justice is stable. Moreover, in such a society, 'members have a strong and normally effective desire to act as the principles of justice require'. Given that the institutions satisfy these principles, in practical terms it means that citizens acquire the 'desire to do their part in maintaining them' (1999, 398). These desires are part of the aforementioned set of attitudes that typically can and do support and entrench institutions. We have little reason to think that the public institutions of such a society – the latter which engender attitudes in support of its institutions – are fragile in the face of widespread civil disobedience. We have even less reason to think that the constitution and system of such a society is at risk of breakdown – given the myriad sources of support it receives, and indeed given that civil disobedients (on Rawls' account) precisely appeal to it to regulate and justify their acts of disobedience.¹⁸

More evidence of the implausibility of these assumptions can be found in Rawls' requirement that civil disobedience as justified only as a last resort – when 'normal appeals to the political majority' and 'legal means of redress' have failed or are reasonably thought to be fruitless (1999, 327–28). These circumstances reveal that the need for disobedience is *the result of the stability of institutions* in the face of legal push for change, rather than their fragility. Rawls' diagnosis of the situation is that 'existing political parties have shown themselves indifferent to the claims of the minority or have proved unwilling to accommodate them' (1999, 327). But political parties do not operate – or refuse to operate – in a vacuum. They get away with their indifference or unwillingness only on the back of widespread support from those who contribute to the everyday operation of institutions in particular, and those who live under their auspices in general. Indeed, and as Rawls recognises, it is 'the majority' which may be immovable or apathetic (1999, 328). These people and their attitudes and behaviour are constitutive elements of the extensive supporting mechanisms that stabilise institutions against breakdown and change. We have little reason to think that such support which persists despite widespread legal action, suddenly evaporates in the face of disobedience. His claims about *Fragility* are implausible.

¹⁷ Elsewhere, Rawls describes coercive disobedience as an act of 'quasi-force or terrorism' (Forrester 2019, 66, citing handwritten notes from Rawls).

¹⁸ For discussions of the significance of stability for Rawls' account of civil disobedience and conscientious refusal, see (Lim and Brownlee 2026).

Third, suppose for the sake of the argument that *Fragility (System)* and *Fragility (Mass Trigger)* are plausible. That is, suppose that the institutions and system in Rawls' well-ordered society are somehow fragile in the face of widespread civil disobedience. Assuming that *Value* is true of them, their fragility gives us some reason to prevent widespread disobedience from occurring. That this is so, however, does not mean that we should impose requirements – as Rawls does – on *singular* acts of disobedience. Needing to contain widespread disobedience does not (yet) licence restraining singular acts of disobedience.¹⁹ As we have seen, in the context of the well-ordered society, singular acts of disobedience are unlikely to threaten specific institutions, and much less the broader systems in which those institutions are embedded. The missing link is, I contend, supplied by a further assumption about the connection between singular acts of and widespread disobedience – that the former is likely to lead to the latter. This is, in effect, *Contagion (Mimicry)*. Yet – and recalling Rawls' discussion of the general apathy of the majority of the public to whom protesters have made their legal appeal – it is unclear why or how singular acts of disobedience would be so widely mimicked to the extent that valuable institutions or even the system would collapse.

In sum, Rawls' account, which is situated in the well-ordered society, mirrors and appears to take for granted various constituents of state anxiety. In the context of the well-ordered society, these claims about *Contagion* and *Fragility* appear to be implausible. In addition to his failure to provide explanations or support for these claims, he is notably silent on the question of how the *state* can or should demonstrate that its anxiety is substantiated rather than specious, and significant rather than trivial. Instead, his discussions centre on the conditions imposed on acts of disobedience. This deflects our attention to how protesters ought to conduct themselves, so as to assuage or not provoke state anxiety – they must not behave in ways that create serious disorder that threaten political institutions. Yet we may reasonably wonder why we should take state anxiety for granted, or at the very least not turn our critical attention to it.

The aforementioned problems with Rawls' account are not unique within the literature. A large section of the contemporary literature on disobedience discusses its justifiability in terms of its payoffs or its value for individuals and society, while failing to engage with the state anxiety that makes these questions (rather than others) pertinent. This appears to be a mistake. For instance, even though the Eisenhower Report recognises a plurality of justifications for disobedience (1969, 96–99), its harsh verdicts are nonetheless motivated by its specious anxieties about disobedience – which are treated as defeating those candidate justifications for disobedience. Political philosophers have additional work to do – to excavate and evaluate state anxiety, alongside social scientists, as part of their attempts to vindicate at least some forms of disobedience or even resistance.

Conclusion

I have provided an account of the key constituents of what I characterise as state anxiety about disobedience – *Contagion*, *Fragility*, and *Value*. State anxiety can be substantiated or specious, depending on the plausibility of *Contagion* and *Fragility*. It can also be significant or trivial, depending on the plausibility of *Value*. Finally, and focusing on Rawls, I showed how political philosophising can mirror state anxieties about disobedience and, in doing so, bolster it. In many

¹⁹ For discussions of a holistic assessment of protesters' actions, rather than singular acts of disobedience, see (Lim 2021).

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ways, the work here is best seen as a prolegomenon for future work – which challenges state anxiety, rather than that which takes it for granted.

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